

Docketed 12/11/2025

**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**

**Leave to file excess pages granted  
December 9, 2025**

**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 UNOPPOSED MOTION  
FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT**

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Plaintiffs Constantine Kossifos, William Biscan, Tennie Komar, Lisa Smith, Amanda Johnson, Christine Cambria, Courtney Horgan, Kenneth Vandam, Peter Shea, and Maria Melo (“State Plaintiffs” or “Plaintiffs”), individually and on behalf of all others similarly situated, and pursuant to Mass. R. Civ. P. 23, respectfully move this Court for final approval of the proposed Class Action Settlement Agreement (“Settlement Agreement” or “S.A.”),<sup>1</sup> resolving their claims against Defendant Shields Health Care Group, Inc. (“Shields” or “Defendant”). The Settlement Agreement is attached hereto as **Exhibit 1**.

Final Approval should be granted because the Settlement provides substantial relief for the Settlement Class, including reimbursement for out-of-pocket losses and time spent responding to the Data Incident or, alternatively, a single cash payment. Pursuant to the Settlement Agreement, Shields shall pay \$15,350,000 into a non-reversionary Settlement Fund which will pay for: (1) Administration and Notice Costs; (2) Approved Claims of all Settlement Class Members in both the Federal Action and State Action; (3) Service Awards to Settlement Class Representatives, as approved by the Court; and (4) Attorneys’ Fees and Expenses, as approved and awarded by the Court. S.A. ¶ 3.3. In addition to monetary payments from the Settlement Fund, Shields has also

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<sup>1</sup> Unless otherwise defined herein, all capitalized terms have the same definitions as those set forth in the proposed Class Action Settlement Agreement, Dkt. No. 40.0, Ex. 1. The Settlement Agreement intends to resolve the claims of the above-mentioned State Plaintiffs that are, were, or could have been asserted in the litigation in the above-captioned actions (the “State Action”), along with the claims of the State Action Settlement Class. In addition, the Settlement Agreement also intends to resolve the substantially similar claims of Plaintiffs James Buechler, Julie Colby, John Kennedy, Sharon Pimental, and Cindy Tapper (“Federal Plaintiffs”) in *In re Shields Health Group, Inc. Data Breach Litigation*, Case No. 1:22-cv-10901-PBS, pending in the United States District Court for the District of Massachusetts (the “Federal Action,” and, collectively with the State Action, the “Litigation”), along with the claims of the Federal Action Settlement Class. The Settlement is a global resolution and is contingent upon final approval in both the State Action and Federal Action. Plaintiffs provide details about the Federal Action for this Court’s information only and do not request that this Court exercise jurisdiction over the Federal Plaintiffs or Federal Action Settlement Class.

already invested significantly in remediation, security enhancements and business practice changes to prevent future data security incidents and has committed to maintaining those investments and measures for the foreseeable future. *Id.* ¶¶ 5.1-5.3.

This Court granted preliminary approval of the Settlement by order dated September 11, 2025. Dkt. 47. Pursuant to the Court’s Order of Preliminary Approval, Notice was effectuated to the Settlement Class, notifying them of the proposed Settlement. *See* Declaration of Richard W. Simmons (“Simmons Decl.”), attached hereto as **Exhibit 2**. Additionally, Notice was provided to the Massachusetts IOLTA Committee pursuant to Mass. R. Civ. P. 23. *See* Dkt. 50. To date, 1,922,085 of the 2,382,578 Settlement Class Members have received direct notice of the Settlement, a notice rate of 82.41%. Simmons Decl. ¶ 17. As detailed below, the Settlement is an excellent result for the Settlement Class; the Court should find that the Settlement is fair reasonable, and adequate; and the Court should therefore grant final approval of the Settlement.

## **BACKGROUND**

### **I. History of the Litigation<sup>2</sup>**

Plaintiffs’ claims in the Litigation arise out of a March 2022 incident (“Data Incident”) where third-party cybercriminals gained access to Shields’ network. S.A. ¶ 1.1. An investigation determined that these unauthorized actors may have accessed files that included State Action Settlement Class Members’ Personal Information. S.A. ¶ 1.2. Shields began providing rolling notice of the Data Incident to impacted individuals in July 2022, and notice continued for the next several months. S.A. ¶ 1.4. By April 2023, Shields determined that the total number of individuals

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<sup>2</sup> For a more comprehensive history of the litigation, *see* Plaintiffs’ Memorandum of Law in Support of Unopposed Motion for Preliminary Approval, Dkt. No. 40.1.

impacted was approximately 2,382,578, including 2,132,692 residents of Massachusetts and 249,886 out-of-state residents. S.A. ¶ 1.5.

Class action complaints asserting claims arising out of the Data Incident were filed in the Superior Court of Massachusetts starting on June 16, 2022 and were thereafter consolidated on this docket. S.A. ¶¶ 1.20–1.22. The State Plaintiffs filed a Consolidated Class Action Complaint (“State CAC”), the operative complaint, on September 7, 2023. S.A. ¶ 1.23. The State CAC consolidated the facts and claims of the actions brought in Massachusetts courts on behalf of a proposed statewide class.<sup>3</sup> *Id.* The Parties engaged in motion practice related to the State CAC, which resulted in this Court’s Order of July 11, 2024, granting in part and denying in part Shields’ motion to dismiss. Dkt. 31. The Parties thereafter engaged in targeted discovery and mediations. S.A. ¶¶ 1.30-1.33.

## **II. Negotiation of the Settlement**

During the early procedural phase of this litigation, Plaintiffs’ Counsel and Counsel for Shields agreed to mediate claims with Hon. Wayne Andersen (Ret.). The Parties engaged in an all-day mediation session on April 5, 2024, but failed to reach an agreement in principle during that session. S.A. ¶ 1.30. After additional case activity, including informal discovery and motion practice, the Parties scheduled a second mediation on November 15, 2024. S.A. ¶¶ 1.31–1.32. The second mediation resulted in a mediator’s proposal that ultimately led to this settlement of the Litigation.

The Parties subsequently finalized their agreement, and Plaintiffs moved for preliminary approval of the Settlement on May 22, 2025. Dkt. 40.0. This Court granted preliminary approval

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<sup>3</sup> Citizens of U.S. states and territories outside of the Commonwealth of Massachusetts are represented by the Federal Plaintiffs in the parallel Federal Action brought under the Class Action Fairness Act, 28 U.S.C. § 1332(d)(4).

on September 11, 2025. Dkt. No. 47. The Court preliminarily certified the following State Action Settlement Class for purposes of settlement:

All persons residing in Massachusetts that Shields identified as potentially having their Personal Information impacted by the Data Incident.

The United States District Court for the District of Massachusetts also granted preliminary approval of the Settlement in the Federal Action by Order dated September 9, 2025.

### **III. Terms of the Settlement**

Under the Settlement Agreement, Shields agreed to pay \$15.35 million into a non-reversionary Settlement Fund to resolve Plaintiffs' and Settlement Class Members' claims against the Released Parties. S.A. ¶ 3.1. The Settlement Fund will pay for: (1) Administration and Notice Costs; (2) Approved Claims of all Settlement Class Members in both the Federal Action and State Action; (3) Service Awards to Settlement Class Representatives, as approved by the Court; and (4) Attorneys' Fees and Expenses, as approved and awarded by the Court. S.A. ¶ 3.3. The Settlement also requires Shields to make business practices changes specifically designed to prevent future data incidents. S.A. ¶ 5.

#### **a. The Proposed Settlement Benefits Plan**

All Settlement Class Members who submit a valid and timely "Approved Claim" using the "Claim Form" (Dkt. 42.3, Ex. C) are eligible to receive: (i) reimbursement of up to \$2,500.00 for "ordinary" out-of-pocket losses and/or five hours of "ordinary" attested time at \$30.00 per hour; and (ii) reimbursement of up to \$25,000.00 in "extraordinary" out-of-pocket losses and/or twenty hours of "extraordinary" attested time at \$30.00 per hour. S.A. ¶¶ 4.2–4.34.<sup>4</sup> Alternatively, Settlement Class Members may elect to receive a flat cash payment of \$50.00. S.A. ¶ 4.5. All

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<sup>4</sup> These reimbursements are subject to an aggregate per-individual cap of \$25,000.00.

payments are subject to *pro rata* increases or reductions. S.A. ¶ 4.7. The total amount of any *pro rata* increase may not exceed \$400 over the claimed amount. *Id.*

Approved Claims will be paid via electronic payment or check mailed to the Settlement Class Member. Settlement Class Members will have ninety (90) days to cash the checks or electronically receive the payments, after which any uncashed checks will be void and the ability to receive electronic payments will expire. All funds remaining in the Qualified Settlement Fund Account after the disbursements to Settlement Class Members, payment of Notice and Administration costs, and payment of Attorneys' Fees, Costs, and Service Awards, and following the preparation of any required tax documents, will become the Remainder Fund for *cy pres* distribution to the Massachusetts Local Consumer Aid Fund, subject to approval by the Courts. S.A. ¶¶ 2.41, 4.8.

Since the Data Incident, Defendant has invested significantly in remediation, cybersecurity enhancements, and expansion of its IT workforce ("Data Security Enhancements"), and has committed to maintaining those investments and measures for the foreseeable future, details of which were confidentially shared with Plaintiffs' Counsel during settlement negotiations. S.A. ¶ 5.1. Actual costs for the implementation and maintenance of the Data Security Enhancements will be paid by Defendant apart from the Settlement Fund described in Section 3 of the Agreement. S.A. ¶ 5.2. Defendant provided Settlement Class Counsel with a confidential declaration detailing all Data Security Enhancements implemented as a result of the Data Incident, which shall be filed under seal only upon the Courts' request. S.A. ¶ 5.3.

b. Dismissal and Release of Claims

Upon the Effective Date of the Settlement, the Representative Plaintiffs and Settlement Class Members shall be deemed to have released any and all liabilities, rights, claims, actions,

causes of action, damages, penalties, costs, attorneys' fees, losses or demands, whether known or unknown, liquidated or unliquidated, existing or potential, suspected or unsuspected, legal, statutory, or equitable, based on contract, tort, or any other theory, that result from, arise out of, are based upon, or relate to the conduct, omissions, duties, or matters that were or reasonably could have been asserted against Defendant Released Parties related to the Data Incident. S.A. §§ 2.38–2.40. These releases were described in the Court-approved Long Form Notice, Dkt. 42.2, Ex. B at 10.

#### **IV. Results of Settlement Administration and Notice Plan**

The Court-approved Settlement Administrator is Analytics Consulting LLC (“Analytics”). Following the Court’s issuance of the Preliminary Approval Order, Analytics successfully completed the Notice plan set forth in the Settlement. *See* Simmons Decl. ¶¶ 6–17. The Notice plan was designed to reach as many Settlement Class Members as possible. *See* S.A. at Ex. D. The Notice included the required description of the material terms of the Settlement; the date by which Settlement Class Members could object to the Settlement; the Final Approval Hearing date and time; and the Settlement Website address at which Settlement Class Members could access the Long Form Notice, Settlement Agreement, Claim Form, and other related documents and information. *See* Simmons Decl. ¶ 4 and Exs. A–D.

The Notice also included information regarding the ability, process, and deadline for both State Action and Federal Action Settlement Class Members to Object to the Settlement and informed Federal Action Settlement Class Members of their right to exclude themselves from the Settlement.<sup>5</sup>

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<sup>5</sup> Massachusetts Rule 23 does not permit opt-outs.

Pursuant to the Preliminary Approval Order, Shields provided Analytics with the Class List containing the names and last known mailing addresses, where available, of all Settlement Class members—in other words, information sufficient to provide Settlement Class Members with direct notice. Simmons Decl. ¶ 6. Analytics then deduplicated the records in the Class List, identifying 2,332,092 unique Settlement Class Members. *Id.* ¶¶ 8–10. Analytics also processed the names and addresses through the United States Postal Service National Change of Address database in order to ensure notices were sent to the correct addresses. *Id.* ¶ 7. The Short Notices were then mailed directly to 2,041,255 State Action Settlement Class Members and 257,656 Federal Action Settlement Class Members on October 6, 2025. *Id.* at ¶ 15. For any Short Notice that was returned as undeliverable, Analytics performed an advanced address search in an effort to find a current address and re-mail the Notice. *Id.* at ¶ 16. Out of 564,374 returned Notices, Analytics was able to successfully locate an updated address and re-send 187,548 of those Notices. *Id.*

On October 6, 2025, Analytics implemented the Notice plan. In total, the postcard Short Notice was disseminated via USPS mail to 2,041,255 State Action Settlement Class Members and 257,656 Federal Action Settlement Class Members. *Id.* at ¶ 15. For any Short Notice that was returned as undeliverable, Analytics performed an advanced address search in an effort to find a current address and re-mail the Notice. *Id.* at ¶ 16. Out of 564,374 returned Notices, Analytics was able to successfully locate an updated address and re-send 187,548 of those Notices. *Id.*

In conjunction with the Notices, Analytics established an informational Settlement Website, <https://www.shieldsdatasettlement.com/>. The address of the Settlement Website was included on the Short Notices mailed to Settlement Class Members. Settlement Class Members could file their claims on the Settlement Website as well as review detailed information about the Settlement, including the Long Form Notice with additional detail to that included in the Short

Notice, the Claim Form, the Settlement Agreement, the Preliminary Approval Order, and the Motion for Attorneys' Fees. *Id.* ¶ 11. The Notices also included a toll-free number and email address for contacting Analytics. *Id.* ¶ 11. The Final Approval Motion will also be posted to the website.

As a result of the Notice plan, more than 82% of the identifiable Settlement Class Members received direct notice of the Settlement. *Id.* ¶ 17.<sup>6</sup>

#### **V. The Reaction of the Settlement Class to The Settlement**

The reaction of the Settlement Class to the Settlement has been overwhelmingly positive. The deadline for Settlement Class Members to file claims (in both the State and Federal Actions) was December 3, 2025.

Analytics continues to receive and process Claim Forms. *See* Simmons Decl. ¶ 21. As of today, 211,147 Claim Forms were submitted, resulting in a claims rate of 9.1%. *Id.* Analytics has currently processed about 84,000 of those claims—73,637 of which were submitted by State Action Settlement Class Members and 10,117 by Federal Action Settlement Class Members. *Id.*

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<sup>6</sup> The Notice plan also provided for sending reminder notices by email to any Settlement Class Members whose email addresses were known and readily available to Defendant. S.A. ¶ 8.2. Email addresses were not readily available to Defendant and so were not provided to the Settlement Administrator with the Class List. Defendant has determined that with potential data examination and manipulation, some email addresses may be extracted from the original product of Defendant's data mining, which may potentially be able to be used to send reminder notices to some Settlement Class Members. Accordingly, counsel wishes to examine the viability of that data review process to maximize the opportunity of class members to make claims. The unrefined data has been provided to the Settlement Administrator, which is examining whether it can reasonably determine whether any email addresses can be connected to Settlement Class Members, as well as the validity of the email addresses. The Parties will be prepared to provide further information to the Court at the December 16, 2025 hearing and, to the extent email addresses are able to be connected to Settlement Class Members, will be prepared with an update regarding email reminder notices and processing of any related late claims.

Any Settlement Class Members that are found to have deficient Claim Forms will receive notice of the deficiency and an opportunity to cure the deficiency. *Id.* at ¶ 22.

The deadline to submit any objection to the Settlement in either Action was November 25, 2025. *Id.* ¶ 19. The deadline for Federal Action Class Members to Opt-Out was also November 25, 2025. *Id.* ¶ 18.

Out of the more than 1.92 million Settlement Class Members that received direct notice of the Settlement, only two State Action Settlement Class Members and no Federal Action Settlement Class Members<sup>7</sup> submitted a timely and valid Objection.<sup>8</sup> *Id.* at ¶ 19 and Exs. G–H. One individual also sent a letter to Analytics, which did not meet the requirements to be a valid objection, but is addressed by Plaintiffs herein as though it is valid. *Id.* at ¶ 20 and Ex. I.

Only six Federal Action Settlement Class Members submitted a timely and valid exclusion request. *Id.* at ¶ 18 and Ex. E.<sup>9</sup>

As shown below, the minuscule number of Objections do not provide grounds for denying final approval. The Objections merely state, in conclusory fashion, that the Settlement should provide more compensation, without identifying any procedural, factual, legal, or other deficiency in the negotiation process or the Settlement itself.

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<sup>7</sup> Objector Joseph Pedulla, a State Action Class Member, filed an objection on the Federal Action docket. Mr. Pedulla is a resident of Massachusetts and is part of the State Action Settlement Class only. *See id.* at Ex. G.

<sup>8</sup> An additional Objection was received from an individual who is not a Settlement Class Member in either of the Federal or State Actions. *Id.* at ¶ 23 and Ex. J. Because he is not a Settlement Class Member, he will not release any claims he may have against Defendant related to the Data Incident. *See S.A.* ¶ 14.1.

<sup>9</sup> Analytics also received an exclusion request from one State Action Settlement Class Member. *Id.* at ¶ 18 and Ex. F. Settlement Class Counsel spoke with the State Action Settlement Class Member by phone and explained that exclusions were not available under Mass. R. Civ. P. 23 and that he could submit and claim and/or object, or do nothing and be bound by the Settlement and Release.

The Settlement is a product of extensive, informed, and good faith, arm's-length negotiations overseen by an experienced mediator and former judge. The excellent resolution avoids considerable risk, delays, and expense inherent in continued litigation of the Released Claims, and the Settlement confers substantial benefits on Settlement Class members who have overwhelmingly reacted favorably to the Settlement. Settlement Class Counsel respectfully submit that final certification of the Settlement Class and final approval of the Settlement by both the State and Federal Court are warranted.

## ARGUMENT

### **I. The Legal Standard for Final Approval**

In Massachusetts, there is a “well-established public policy favoring the private settlement of disputes.” *Cabot Corp. v. AVX Corp.*, 863 N.E.2d 503, 512 (Mass. 2007); *see also Moloney v. Boston Five Cents Sav. Bank FSB*, 663 N.E.2d 811, 814 n. 7 (Mass. 1996) (noting that “[s]ettlement is favored because it minimizes the transaction costs of litigation”); *Williams v. First Nat'l Bank*, 216 U.S. 582, 595 (1910) (“Compromises of disputed claims are favored by the courts.”).

A class action in Massachusetts brought pursuant to Mass. R. Civ. P. 23 may not be settled without final approval of the court. *See* Mass. R. Civ. P. 23(c). In making a determination as to final approval, a court must evaluate whether the proposed settlement is “fair, reasonable and adequate.” *Sniffin v. Prudential Ins. Co. of America*, 480 N.E.2d 294, 297 (Mass. 1985) (citation omitted). In addition, when making determinations regarding a proposed settlement, the court must analyze “whether the interests of the class are better served by settlement than by further litigation.” *See In re Relafen Antitrust Litigation*, 360 F. Supp. 2d 166, 194 (D. Mass. 2005).

Although no set standard exists for determining the fairness, reasonableness, and adequacy of a proposed class settlement, courts will often look at the following: (1) the complexity, expense,

and duration of litigation; (2) the amount of the proposed settlement compared to the amount at issue; (3) reaction of the class to the settlement; (4) the stage of proceedings and the amount of discovery completed; (5) Plaintiffs' likelihood of success on the merits and recovering damages on their claims; (6) whether the agreement provides benefits which Plaintiffs could not achieve through protracted litigation; (7) good faith dealings and the absence of collusion; and (8) the settlement's terms and conditions. *See, e.g., Sniffin*, 480 N.E.2d at 297–98; *Fortin v. Ajinomoto U.S.A., Inc.*, No. 022345C, 2005 WL 3739852, at \*2 (Mass. Super. Dec. 15, 2005) (the court considered “(1) whether the proposed settlement was fairly and honestly negotiated; (2) whether serious questions of law and fact exist, placing the ultimate outcome of the litigation in doubt; (3) whether the value of the proposed settlement outweighs the mere possibility of future relief after protracted and expensive litigation; and (4) the judgment of the parties that the proposed settlement is fair and reasonable.”); *In re Relafen Antitrust Litig.*, 231 F.R.D. 52, 72 (D. Mass. 2005); *In re Lupron Mktg. & Sales Practices Litig.*, 228 F.R.D. 75, 93–94 (D. Mass. 2005); *M. Berenson Co. v. Faneuil Hall Marketplace, Inc.*, 671 F. Supp. 819, 822–23 (D. Mass. 1987). A “strong initial presumption” of fairness arises where the parties can show, like here, that “the settlement was reached after arm’s-length negotiations, that the proponents’ attorneys have experience in similar cases, that there has been sufficient discovery to enable counsel to act intelligently, and that the number of objectors or their relative interest is small.” *Rolland v. Cellucci*, 191 F.R.D. 3, 6 (D. Mass. 2000); *see also City P’ship Co. v. Atlantic Acquisition Ltd. P’ship*, 100 F.3d 1041, 1043 (1st Cir. 1996).

A review of the relevant factors supports a finding that the Settlement is fair, reasonable, and adequate, and should be finally approved.

## II. The Proposed Settlement is Fair, Reasonable, and Adequate and Should be Finally Approved

### a. The Complexity, Expense, and Duration of the Litigation

Courts have recognized that data breach class actions are inherently complex and “involve[ ] thorny issues regarding the emerging field of data breach litigation.” *Holden v. Guardian Analytics, Inc.*, No. 2:23-CV-2115, 2024 WL 2845392, at \*5 (D.N.J. June 5, 2024); *see also Fulton-Green v. Accolade, Inc.*, No. 18-274, 2019 WL 4677954, at \*8 (E.D. Pa. Sept. 24, 2019) (recognizing data breach litigation as complex, risky, and uncertain). Because the “legal issues involved in [data breach litigation] are cutting-edge and unsettled ... many resources would necessarily be spent litigating substantive law as well as other issues.” *In re Target Corp. Customer Data Sec. Breach Litig.*, No. 14-md-2522 (PAM) (JJK), 2015 WL 7253765, at \*2 (D. Minn. Nov. 17, 2015), *rev’d and remanded on other grounds*, 847 F.3d 608 (8th Cir. 2017), *amended*, 855 F.3d 913 (8th Cir. 2017), *and aff’d*, 892 F.3d 968 (8th Cir. 2018).

Another issue attendant in the analysis is the expense of conducting further litigation. In complex class cases, including data breach and privacy cases, these costs can be especially extensive between discovery, multiple expert witnesses, class certification, and trial preparation. *See Carter v. Vivendi Ticketing US LLC*, No. SACV 22-01981-CJC (DFMx), 2023 WL 8153712, at \*5 (C.D. Cal. Oct. 30, 2023) (early resolution of data breach action favored final approval where “[s]ubstantial discovery, including document discovery and depositions, would be required” along with “[e]xtensive and expensive expert analysis [that also] would be needed.”); *In re Yahoo! Inc. Customer Data Security Breach Litig.*, No. 16-MD-02752, 2020 WL 4212811, at \*9 (N.D. Cal. July 22, 2020) (noting that discovery is one of the significant expenses for continuing a data breach litigation).

This data breach case, as discussed above, necessarily involves complex and risky legal and factual issues. Given the highly technical nature of a data breach case, it is very likely that continued discovery in this action would be substantial. Such costs would have been amplified by the involvement of experts to further analyze and explain the data and their relevance to the case. *See Bezdek v. Vibram USA*, 79 F. Supp. 3d 324, 344 (D. Mass. 2015) (noting that potential expenses stemming from further discovery can “decreas[e] the net benefit of any damages award obtained at trial”). Moreover, the parallel Federal Action poses the risk of adding cost, complexity, and duration above and beyond a routine data breach case. Should the Parties continue litigation, they would have to navigate each of the above issues with a careful eye on the distinctions between federal and Massachusetts procedural rules and potentially legal precedent as well. In addition, Plaintiffs in both the Federal and State Action would have faced numerous substantive hurdles at class certification and summary judgment, leading to the potential for inconsistent rulings and outcomes for Federal and State Plaintiffs. Moreover, if both actions went to trial, the results could have been inconsistent, at the very least, adding an immeasurable risk and uncertainty to the viability of recovery.

Accordingly, while Plaintiffs are confident in the strength of their case, by reaching a favorable settlement at this stage of the litigation, the Parties will avoid significant expense and delay and will provide immediate and tangible relief to the Settlement Class. *See Holden*, 2024 WL 2845392, at \*5 (“Although Plaintiffs believe they would ultimately prevail, litigation of this matter through trial would be complex, costly, and time-consuming. The Settlement eliminates the costs and risks associated with further litigation. The Settlement Class would also receive prompt compensation.”). Accordingly, this factor strongly supports final approval of the Settlement.

b. The Amount of the Proposed Settlement Compared to the Amount at Issue

The issue for the court to consider under this factor is not whether the settlement represents the best conceivable recovery, but how the settlement relates to the strengths and weaknesses of the case. *See City of Detroit v. Grinnell Corp.*, 495 F.2d 448, 455 (2d Cir. 1974). As such, courts consider and weigh the nature of the claims, the possible defenses, the situation of the parties, and the exercise of business judgment in determining whether the proposed settlement is reasonable. *Id.* Put differently, the focus is on whether the settlement “represents a reasonable one in light of the many uncertainties the class faces.” *Hall v. ProSource Techs., LLC*, No. 14-CV-2502 (SIL), 2016 WL 1555128, at \*8 (E.D.N.Y. Apr. 11, 2016).

Here, the \$15.35 million Settlement for the approximately 2.3 million Settlement Class Members provides substantial and immediate relief to compensate them for past injuries and the continued risk of harm, along with injunctive relief that is tailored to reduce the risk of a similar security incident occurring in the future. Such relief is comparable, if not better, than other data breach settlements that have received final approval. *See, e.g., In re Harvard Pilgrim Data Sec. Incident Litig.*, No. 1:23-cv-11211 (D. Mass. Aug. 4, 2025) (ECF 114) (granting final approval of a \$16 million settlement agreement that would benefit approximately three million class members); *Harbour v. California Health & Wellness Plan*, No. 5:21-CV-03322-EJD, 2024 WL 171192 (N.D. Cal. Jan. 16, 2024) (granting final approval to \$10 million data breach settlement that provided credit monitoring, a cash payment, or a documented loss payment to a class of 1.5 million); *In re Forefront Data Breach Litig.*, No. 21-CV-887, 2023 WL 6215366 (E.D. Wis. Mar. 22, 2023) (granting final approval to \$3.75 million data breach settlement that provided credit monitoring, and reimbursement for documented losses and lost time to a class of 2.4 million); *In re Cap. One Consumer Data Sec. Breach Litig.*, No. 1:19-MD-2915 (AJT/JFA), 2022 WL

18107626 (E.D. Va. Sept. 13, 2022) (approving proposed allocation plan for a \$190 million settlement that allowed 98 million class members to submit claims for out-of-pocket losses, lost time, and credit monitoring services); *In re Lincare Holdings Inc. Data Breach Litig.*, No. 8:22-CV-01472-AAS, 2024 WL 3104286 (M.D. Fla. June 24, 2024) (final approval granted to a \$7.25 million settlement fund that would benefit approximately 2.9 million class members); *Sherwood, et al. v. Horizon Actuarial Services LLC*, No. 1:22-cv-01495 (N.D. Ga. Apr. 2, 2024) (ECF No. 94) (final approval of a \$8.73 million settlement fund that would benefit approximately 1.3 million class members); *In re MOVEit Customer Data Sec. Breach Litig.*, No. 1:23-md-03083 (D. Mass. Apr. 3, 2025) (ECF No. 1432) (granting final approval to \$2.8 million settlement agreement that provided credit monitoring, and reimbursement for documented losses and lost time to 2 million class members). Given the risks of continued litigation compared to the Settlement's substantial and immediate benefits, these factors also favor final approval, and, thus, the Court should find that the amount of the Settlement is reasonable when compared to the amount at issue in the litigation.

c. The Reaction of the Class to the Settlement

The third factor is the reaction of the Settlement Class to the Settlement. It is important to note that the existence of an objection to a settlement does not by itself prevent the court from approving the agreement. Rather, this factor weighs in favor of granting final approval so long as the reaction of the class is "positive." *In re Tyco Int'l, Ltd. MDL*, 535 F. Supp. 2d 249, 261 (D.N.H. 2007) (noting that "only a small number" of class members had raised objections and that their objections were "without merit"); *accord Bussie v. Allmerica Financial Corp.*, 50 F. Supp. 2d 59, 77 (D. Mass. 1999) ("[The low] number of requests for exclusion from the settlement, as well as the number and substance of objections filed ... constitutes strong evidence of fairness of proposed

settlement and supports judicial approval.”). Even in cases where a small portion of class members respond to the notice of settlement, this factor can still weigh in favor of approval where the responding class members react positively and offer little objection. *See Roberts v. TJJ Companies, Inc.*, No. 13-cv-13142-ADB, 2016 WL 8677312, at \*6 (D. Mass. Sep. 30, 2016).

Here, the positive reaction of the Settlement Class weighs in favor of final approval. The Notice advised Settlement Class Members of their right to object to the Settlement. *See Simmons Decl.* at ¶ 4. Settlement Class Members had until November 25, 2025, to object to the Settlement, and, as of that date, no Federal Action Settlement Class Members and only three State Action Settlement Class Members—a small fraction of a percent of the Settlement Class—submitted objections. *Simmons Decl.* at ¶¶ 19–20. In addition, in the Federal Action where Settlement Class Members may exclude themselves (“opt-out”) from the Settlement and thus maintain the ability to pursue individual relief, only six have chosen to do so. *Simmons Decl.* at ¶ 18.

This exceedingly low number of objections (and Federal Action opt-outs) supports a finding that the Settlement is reasonable. *See, e.g., Bezdek*, 79 F. Supp. 3d at 347 (characterizing three objections and 23 opt-outs in a class of 279,570 an “overwhelmingly positive” reaction); *Relafen*, 231 F.R.D. at 72 (granting final approval to class settlement with 140 opt-outs and 10 objections); *Lupron*, 228 F.R.D. at 96 (granting final approval to class settlement with 49 opt-outs and 10 objections). Moreover, the Objections do not provide grounds for denying final approval. The Objections merely state, in conclusory fashion, that the Settlement should provide more compensation, without identifying any procedural, factual, legal, or other deficiency in the negotiation process or the Settlement itself. Nor could they. The Settlement is a product of extensive, informed, and good faith, arm’s-length negotiations overseen by an experienced mediator and former judge. The excellent resolution avoids considerable risk, delays, and expense

inherent in continued litigation of the Released Claims, and the Settlement confers substantial benefits on Settlement Class Members who have overwhelmingly reacted favorably to the Settlement.

Additionally, Analytics has received 211,147 Claim Forms to date, resulting in an exceptional claims rate of approximately 9.1%. *Id.* at ¶ 21. This claims rate far exceeds the claims rate in many other data breach class actions that have been granted final approval. *See, e.g., Carter*, 2023 WL 8153712, at \*9 (finding claims rate of 1.6% “in line with claims rates in other data breach class action settlements that courts have approved”); *Desue v. 20/20 Eye Care Network, Inc.*, No. 21-CIV-61275-RAR, 2023 WL 4420348, at \*9 (S.D. Fla. July 8, 2023) (granting final approval to a data breach settlement with a claims rate of 0.66%); *Forefront*, 2023 WL 6215366, at \*4 (“A claims rate of 1.46% is generally in line with the rate experienced in other data breach class actions.”); *Schneider v. Chipotle Mexican Grill, Inc.*, 336 F.R.D. 588, 599 (N.D. Cal. 2020) (“Here, the 0.83% claims rate ... is on par with other consumer cases, and does not otherwise weigh against approval).

Given the overall positive reaction of the Settlement Class, this factor weighs in favor of final approval of the Settlement.

d. The Stage of the Proceedings and the Amount of Discovery Completed

The fourth factor considers the stage of the proceedings and amount of discovery. In evaluating the stage of the case and the discovery taken, courts do not require that discovery be complete, rather the relevant inquiry is whether “sufficient discovery” was conducted “to make an intelligent judgment about settlement.” *Hochstadt v. Bos. Sci. Corp.*, 708 F. Supp. 2d 95, 107 (D. Mass. 2010). Put differently, while the parties need not engage in extensive discovery, they must conduct “a sufficient factual investigation . . . to afford the Court the opportunity to ‘intelligently

make ... an appraisal' of the Settlement.'" *Diaz v. FCI Lender Servs., Inc.*, No. 17-CV-8686 (AJN), 2020 WL 4570460, at \*4 (S.D.N.Y. Aug. 7, 2020) (citation omitted).

Here, the Parties reached the proposed Settlement after engaging in a sufficiently adequate amount of informal discovery via the mediation process, and after Class Counsel engaged in an in-depth factual investigation into the claims underlying the Federal and State Actions. Joint Declaration in Support of Preliminary Approval ("Joint Decl."), Dkt. 40.2 at ¶¶ 28–30. The information received from Shields in informal discovery, along with Settlement Class Counsel's experience litigating data breach actions, provided sufficient grounds to evaluate the strengths and weaknesses of the claims and defenses in this case, and to assess the reasonableness of the Settlement. *Id.* at ¶¶ 37–39. Based on the same, Settlement Class Counsel believes the Settlement to be fair, reasonable, and adequate. *Id.* Because the information produced during the mediation process adequately informed the Parties about their respective litigation positions, this factor weighs in favor of final approval. *See, e.g., Holden*, 2024 WL 2845392, at \*5 (in data breach settlement, recognizing that the parties adequately appreciated the merits of the case through their factual investigation and mediation process even though case settled prior to the parties engaging in formal discovery).

e. Plaintiffs' Likelihood of Success on the Merits and Recovering Damages

The fifth factor evaluates the Plaintiffs' likelihood of succeeding on the merits and recovering damages on their claims. "The most important factor is the strength of the case for plaintiffs on the merits, balanced against the amount offered in settlement." *Sniffin*, 480 N.E.2d at 297 (citing *W. Va. v. Charles Pfizer & Co.*, 440 F.2d 1079, 1085 (2d Cir. 1971)).

Here, Plaintiffs are confident in the strength of their case against Shields. The operative complaints have survived motions to dismiss in both the State and Federal Actions. Moreover,

Class Counsel is experienced in litigating countless data breaches and obtaining relief for consumers. *See* Joint Decl. ¶¶ 43-46. However, Defendant maintains several defenses that could reduce or eliminate the potential recovery for Plaintiffs and the State Action Settlement Class. Ultimately, both Parties recognize that the costs associated with further litigating the action, as well as the risk of an adverse ultimate judgment, counsel a negotiated settlement to the litigation. As described above, the \$15.35 million Settlement Fund established for a Settlement Class of more than 2.3 million members compares favorably to recoveries in similar data breach litigation. This factor weighs in favor of final approval.

f. Whether the Agreement Provides Benefits that Plaintiffs Could Not Achieve through Protracted Litigation

The primary benefit Plaintiffs receive with the Settlement is immediate and certain relief, as compared to the delay and uncertainty that would accompany ongoing litigation.

Though Plaintiffs are confident in the merits of their case, winning a judgment would require surmounting several legal hurdles, with a recovery at the end of the day being far from certain. *See In re Sonic Corp. Customer Data Sec. Breach Litig.*, No. 1:17-MD-2807, 2019 WL 3773737, at \*7 (N.D. Ohio Aug. 12, 2019) (“Data breach litigation is complex and risky. This unsettled area of law often presents novel questions for courts”). Specifically, had litigation proceeded, Shields would likely have argued, *inter alia*, that Plaintiffs’ primary cause of action (negligence) would fail. While Plaintiffs believe this argument is unfounded, it has been accepted by courts in some instances and could stymie the Settlement Class’s recovery. *Compare In re LastPass Data Sec. Incident Litig.*, No. CV 22-12047, 2024 WL 3580646, at \*7 (D. Mass. July 30, 2024) (dismissing negligence claim arising from a data breach of a provider of digital password vaults) with *In re Fortra File Transfer Software Data Sec. Breach Litig.*, No. 23-CV-60830-RAR,

2024 WL 4547212, at \*8 (S.D. Fla. Sept. 18, 2024) (allowing negligence claim to proceed against user of third-party file transfer application after the application was breached by cybercriminals).

Moreover, Shields would likely have opposed class certification, arguing that individual issues predominate over common issues or that the class action device is not a superior form of adjudication. *See, e.g., In re Marriott Int’l, Inc. Customer Data Sec. Breach Litig.*, 341 F.R.D. 128, 162 (D. Md. 2022).<sup>10</sup> Further, even assuming that Plaintiffs were successful in certifying a class, there is a risk that Shields would ask the Court to reconsider or amend the certification decision, or appeal it.

In addition, had the litigation continued, proving damages and liability would require significant expert testimony and analysis.<sup>11</sup> *See Carter*, 2023 WL 8153712, at \*5 (recognizing at final approval that had data breach case proceeded, “[e]xtensive and expensive expert analysis would be needed.”). Although Plaintiffs believe that expert testimony would provide evidence sufficient to establish the measure of damages in this case, it is possible that, in the unavoidable “battle of experts,” a jury might disagree with Plaintiffs’ experts, find Defendant’s experts more persuasive, or agree with the Plaintiffs’ experts but award a reduced amount of damages to the Settlement Class. *See Tyco*, 535 F. Supp. 2d at 260–61 (“[E]ven if the jury agreed to impose liability, the trial would likely involve a confusing ‘battle of the experts’ over damages. If, faced with conflicting expert testimony, the jury chose to embrace the most conservative estimate of damages, then the ultimate award might turn out to be less than the proposed settlement.”). As

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<sup>10</sup> *Vacated and remanded sub nom. In re Marriott Int’l, Inc.*, 78 F.4th 677 (4th Cir. 2023), *reinstated by In re Marriott Int’l Customer Data Sec. Breach Litig.*, 345 F.R.D. 137 (D. Md. 2023), and *rev’d on other grounds by Maldini v. Marriott Int’l, Inc.*, 140 F.4th 123 (4th Cir. 2025).

<sup>11</sup> Complicating the matter, the Parties (and the Courts) also potentially faced threshold disputes over *which* evidentiary rules—federal or Massachusetts—would apply to expert discovery in light of the likely overlap between the experts.

such, Plaintiffs faced the risk of a non-monetary recovery for all or some members of the Settlement Class even if they were able to establish Defendant's liability.

In the face of these risks, and in Settlement Class Counsel's experienced and realistic opinion, the Settlement provides substantial, certain, and immediate benefits to the Settlement Class, including the reimbursement of out-of-pocket losses, an Alternative Cash Payment, credit monitoring, and changes in Defendant's data security practices that will prevent future data incidents. Joint Decl. ¶¶ 49–51. As such, this factor favors final approval.

g. Good Faith Dealings and the Absence of Collusion

“If the parties negotiated at arm's length and conducted sufficient discovery, the district court must presume the settlement is reasonable.” *In re Pharm. Indus. Average Wholesale Price Litig.*, 588 F.3d 24, 32–33 (1st Cir. 2009).

Here, the Settlement Agreement was the product of well-informed and good faith negotiations between the Parties, conducted at arm's length in two separate mediation sessions facilitated by Hon. Wayne Andersen (Ret.) and following a mediator's proposal. The use of a mediator “further weigh[s] in favor of a finding that the Settlement was fairly negotiated.” *In re Oil Spill by Oil Rig Deepwater Horizon in Gulf of Mexico*, 910 F.Supp.2d 891, 931 (E.D. La. 2012). Settlement was reached after the parties engaged in informal discovery and motion practice. The record thus demonstrates the zealous advocacy that the Parties practiced throughout this litigation, and there is no indication that the Settlement is the product of fraud or collusion. This factor supports final approval of the Settlement Agreement.

h. The Settlement's Terms and Conditions

Finally, the terms and conditions of the Settlement Agreement support final approval. The \$15.35 million non-reversionary Settlement Fund represents an excellent recovery for the

Settlement Class. The Settlement Agreement provides each and every Settlement Class Member the opportunity to claim monetary relief appropriate to their injuries. All Settlement Class members who submit a valid and timely “Approved Claim” using the “Claim Form” (Dkt. 42.3, Ex. C) are eligible to receive: (i) reimbursement of up to \$2,500.00 for “ordinary” out-of-pocket losses and/or five hours of “ordinary” attested time at \$30.00 per hour; and (ii) reimbursement of up to \$25,000.00 in “extraordinary” out-of-pocket losses and/or twenty hours of “extraordinary” attested time at \$30.00 per hour. S.A. ¶¶ 4.2–4.34.<sup>12</sup> Alternatively, Settlement Class members who have not yet suffered specific monetary losses may still claim the Alternative Cash Payment of \$50.00 as relief for the theft of their information and their risk of future harm. S.A. ¶ 4.5. All payments are subject to *pro rata* increases or reductions. S.A. ¶ 4.7. The total amount of any *pro rata* increase may not exceed \$400 over the claimed amount. *Id.*

Moreover, the Settlement Agreement requires Shields to implement security measures intended to prevent future data incidents, thus reducing Settlement Class Members’ risk of suffering harm from future data breaches. Since the Incident, Defendant has invested significantly in remediation, cybersecurity enhancements, and expansion of its IT workforce, and has committed to maintaining those investments and measures for the foreseeable future, details of which were confidentially shared with Plaintiffs’ Counsel during settlement negotiations. S.A. ¶ 5.1. Actual costs for the implementation and maintenance of the Data Security Enhancements will be paid by Defendant apart from the Settlement Fund described in Section 3 of the Settlement Agreement. S.A. ¶ 5.2. Defendant provided a confidential declaration detailing all Data Security Enhancements implemented as a result of the Data Incident, which will be filed under seal only upon the Courts’ request. S.A. ¶ 5.3.

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<sup>12</sup> These reimbursements are subject to an aggregate per-individual cap of \$25,000.00.

Finally, the Settlement Agreement settles both the State and Federal Actions and releases all claims related to the Data Incident, offering a single, final, and universal resolution to liability relating to the Data Incident. This factor strongly supports final approval.

Accordingly, the Settlement Agreement meets the standards for final approval under Mass. R. Civ. P. Rule 23(c).

### **III. The Proposed Settlement Benefits Plan is Fair, Reasonable, and Adequate and Should be Finally Approved**

A plan for allocating settlement proceeds, like the settlement itself, should be approved if it is fair, adequate, and reasonable. *See Hochstadt*, 708 F. Supp. at 109 (citation omitted). “A plan of allocation is fair and reasonable as long as it has a ‘reasonable, rational basis.’” *New England Biolabs, Inc. v. Miller*, No. 1:20-cv-11234-RGS, 2022 WL 20583575, at \*4 (D. Mass. Oct. 26, 2022) (citation omitted). “A reasonable plan of allocation need not necessarily treat all class members equally, but may allocate funds based on the extent of class members’ injuries and consider the relative strength and values of different categories of claims.” *Hill v. State Street Corp.*, No. 09-12146-GAO, 2015 WL 127728, at \*11 (D. Mass. Jan. 8, 2015) (internal citations and quotations omitted). “In determining whether a plan of allocation is fair and reasonable, courts give great weight to the opinion of experienced counsel.” *Id.*

Here, the proposed Settlement Benefits Plan meets this standard. It provides all Settlement Class members (in both the State Action and Federal Action) with the same opportunity to file claims for: (1) reimbursement of ordinary out-of-pocket losses up to \$2,500.00 (including lost time of up to five hours at \$30.00 per hour) and reimbursement of extraordinary losses up to \$25,000.00 (including lost time of up to twenty hours at \$30.00 per hour); or (2) an alternative cash payment of \$50.00 (subject to *pro rata* reduction or increase based on total claim submission). The Settlement Benefits Plan was designed to provide equal treatment to those who did not incur out-

of-pocket losses while allowing for individualized compensation to Settlement Class Members who incurred expenses as a result of the Data Incident. The proposed Settlement Benefits Plan is similar to other court-approved allocation plans in other data breach cases. *See supra* § II.b. For these reasons, the proposed Settlement Benefits Plan is fair, reasonable, and adequate and should be finally approved.

#### **IV. The Notice Program Satisfied Rule 23 and Due Process by Providing Adequate Notice to Settlement Class Members and the IOLTA Committee**

Rule 23(c) provides that “[t]he court may require notice of such proposed dismissal or compromise to be given in such a manner as the court directs.” Mass. R. Civ. P. 23(c). Additionally, the court “shall require notice to the Massachusetts IOLTA Committee,” *id.*, for the purpose of allowing the Committee to be heard on “whether it ought to be a recipient of any or all residual funds.” Mass. R. Civ. P. 23(e)(3). The Class Notice plan has satisfied these requirements.

##### **a. Class Notice Plan**

As discussed above, following the Court’s approval of the Notice plan, the Settlement Administrator directed notice to the Settlement Class via direct mail. Simmons Decl. ¶¶ 7–17. To ensure the Notice reached as many Settlement Class Members as possible, the Settlement Administrator performed reasonable physical address checks for the Short Notice, and performed advanced address searching on any Notices returned as undeliverable. *Id.* Courts have recognized that direct notice satisfies due process. *See Wright v. S. New Hampshire Univ.*, 565 F. Supp. 3d 193, 207 (D.N.H. 2021) (notice to class via direct email and mail notice “constitute[d] a reasonable manner of providing notice to those parties who would be bound by the terms of the proposed settlement agreement”); *Meaden v. HarborOne Bank*, No. 23-CV-10467-AK, 2023 WL 3529762, at \*4 (D. Mass. May 18, 2023) (same).

The Notice included all essential information about the Settlement, including how to object, where to find more information about the Settlement, and how to contact Class Counsel. *Id.* at ¶ 4 and Exs. A–D. Additionally, the Notice was designed to be “noticed,” reviewed, and—by presenting the information in plain language—understood by Settlement Class Members. *Id.*; *see also* S.A. at Ex. D The design of the Notice followed principles embodied in the Federal Judicial Center’s illustrative “model” notices posted at [www.fjc.gov](http://www.fjc.gov) and contained plain-language summaries of key information about Settlement Class Members’ rights and options. As required by Rule 23(e), the Notice generally described the Settlement in sufficient detail to alert Settlement Class Members to come forward to be heard and contained all of the critical information required to apprise Settlement Class Members of their rights. *Id.* Thus, the Notice plan was adequate and provided sufficient detail to allow Settlement Class Members with adverse viewpoints to come forward and be heard. *See Hill*, 2015 WL 127728, at \*14 (notice must be “reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections”).

According to The Federal Judicial Center, a notice plan that reaches 70% of class members is one that reaches a “high percentage” and is within the “norm.” Barbara J. Rothstein & Thomas E. Willging, Federal Judicial Center, “Managing Class Action Litigation: A Pocket Guide or Judges,” at 27 (3d ed. 2010);<sup>13</sup> *see also In re Restasis (Cyclosporine Ophthalmic Emulsion) Antitrust Litig.*, 527 F. Supp. 3d 269, 273 (E.D.N.Y. 2021) (citation omitted) (observing that “a notice plan that reaches between 70 and 95 percent of the class is reasonable,” and endorsing a notice plan with 80% expected reach). The reach of over 82% for this Notice plan far surpasses that threshold. The Notice to the Settlement Class here was the best notice that is practicable.

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<sup>13</sup> This document is available at <https://www.fjc.gov/sites/default/files/2012/ClassGd3.pdf>.

b. Notice to Massachusetts IOLTA Committee

Mass. R. Civ. P. 23(e)(3) requires Class Counsel to give notice of the Settlement to the Massachusetts IOLTA Committee 30 days in advance of the final approval hearing, so that the committee might be heard on whether it should receive residual funds. Here, Class Counsel sent notice to the Massachusetts IOLTA Committee on October 28, 2025—more than 30 days prior to the final approval hearing scheduled for December 16, 2025, as required under Rule 23(e)(3). Additionally, on December 2, 2025—more than 10 days prior to the final approval hearing, as required by Rule 23—Class Counsel certified to the Court that notice was provided to the IOLTA Committee. Dkt. 50.

For these reasons, the Notice plan satisfied Rule 23 and the requirements of due process.

**V. The Three Objections to the Settlement Should be Overruled**

The one valid and timely Objection and the other two Objections submitted by State Action Settlement Class Members were conclusory and do not show that the Settlement is unreasonable or unfair.

The first Objector objected generally (1) to the requested attorneys' fees; and (2) that, in comparison, the Settlement Class Members would only receive \$4.29. Simmons Decl. at Ex. G. This objection was already addressed in Settlement Class Counsel's petition for attorneys' fees and costs as it relates to the attorneys' fees and costs. *See* Dkt. 49.1. Additionally, the objector is not accurate in his assertion that Settlement Class Members will only receive \$4.29. Indeed, Settlement Class members could very easily claim the alternative cash payment of \$50 with no documentation—as more than 54,000 did—or submit documentation for other documented losses up to \$25,000. *See* S.A. Section 4; *see also* Simmons Decl. at ¶ 21.

The second Objector objected on two grounds: (1) the monetary relief provided by the Settlement is inadequate, and (2) she received her postcard notice only one week before the claims deadline. Simmons Decl. at Ex. H. Again, the first ground for objection is meritless because, as discussed above, the Settlement's benefits compare favorably to settlements approved in other data breach class actions. As to the second ground for objection, any delay in this Objector receiving notice was harmless, as the Parties have agreed to treat this Objection as timely. Moreover, the Objector also received notice in sufficient time to submit a claim, and she did so. Simmons Decl. at ¶ 19.

The third Objector objected based on an assertion that their credit was destroyed by the Data Incident and that the Settlement should pay over \$2,500, not only \$50. Simmons Decl. at Ex. H. This objection appears to be a misunderstanding of the options, because Settlement Class Members are entitled to claim out-of-pocket damages: Ordinary up to \$2,500 and Extraordinary up to \$25,000. *See* S.A. Section 4. The alternative cash payment of \$50 may be claimed without further documentation. *Id.*

The trial court has discretion in determining the reasonableness of the Settlement, based on the totality of the circumstances. *Sniffin*, 480 N.E.2d at 300. While this Court's inquiry should consider the Objections lodged, where the Settlement is in the best interest of the Settlement Class as a whole, including for the reasons discussed above, the Court may properly overrule any objections thereto. *Id.*

Here, although the Settlement puts millions of dollars collectively into the hands of Settlement Class Members, three of those Settlement Class Members object that the amount individuals will receive is "just not enough." No objection identifies any legal, equitable, factual, or procedural errors or deficiencies in the Settlement. 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*, 2015 WL 127728, at \*2 (district court adopted Magistrate Judges’ overruling objections and recommendation that fees were “reasonable” where the “action 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 Alliance v. Astrazeneca Pharmaceuticals L.P.*, No. CIV.A. 05–0269 BLS 2, 2013 WL 6268236, at \*1 (Mass. Super. Ct. Aug. 5, 2013) (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).

Moreover, objections focusing on class-member-specific requests for compensation ignore that a litigated class action outcome—even if favorable—would not have addressed such individualized situations. *See, e.g., Pallas v. Pacific Bell*, No. C-89-2373, 1999 WL 1209495, at \*9 (N.D. Cal. Jul. 13, 1999) (overruling objectors challenging settlement on grounds that their individual award should have been greater due to their own unique circumstances).

It would be improper to deny millions of Settlement Class Members excellent value for their claims to serve the agenda of three Objectors who simply want more for themselves. Because the Settlement is fair, adequate, and reasonable and is in the best interest of the Settlement Class, the three Objections should be overruled.

## **VI. The Court Should Finally Certify the Settlement Class**

In finally approving a class action settlement, the Court must also determine whether to certify the class for settlement purposes. For settlement purposes, Plaintiffs can establish all necessary elements for class certification under both Mass. R. Civ. P. 23 and M.G.L. c. 93A,

summarized as follows:

Numerosity. The proposed Settlement Class is approximately 2,382,578 individuals with a majority of those being in the State Action Settlement Class. As such, joinder would be impracticable, and numerosity is established.

Commonality. All State Action Settlement Class Members were subjected to the same alleged Data Incident. Questions pertaining to when this Data Incident occurred, and whether Defendant unlawfully used, maintained, lost, or disclosed Plaintiffs' and State Action Settlement Class Members' Personal Information, are classic common questions.

Typicality. Plaintiffs advance a claim that the Data Incident injured them and all State Action Settlement Class Members because it resulted in certain files, which may have included State Action Settlement Class Members' Personal Information, being accessed, duplicated and taken from Shields' systems. There is no material variation between Plaintiffs' claim and the claims of the State Action Settlement Class Members.

Adequacy. There is no conflict between the State Plaintiffs and the State Action Settlement Class. All seek to recover damages resulting from the Data Incident and the compromising of files containing State Action Settlement Class Members' Personal Information. Plaintiffs assisted Plaintiffs' Counsel in preparing complaints, investigating their claims, and preparing for mediation. Accordingly, the adequacy prong is satisfied. Likewise, Plaintiffs' Counsel is experienced in prosecuting complex class actions nationwide, in both state and federal courts, including data security incidents.

Predominance. The predominance requirement is satisfied because Plaintiffs are challenging one uniform event—the Data Incident as described above—and common answers would determine the outcome of the litigation at a trial. In cases like this one, only the damages

amount varies from class member to class member, and this is generally insufficient to preclude a predominance finding. *See McLaughlin v. Liberty Mut. Ins. Co.*, 224 F.R.D. 304, 312 (D. Mass. 2004) (“The amount of damages for each individual class member will ultimately require some individual proof, but administration of these individual claims will be straightforward and these individual questions do not predominate over the common questions identified above.”).

Superiority. Resolution of Plaintiffs’ and the State Action Settlement Class Members’ claims in a single action, as opposed to more than 2,382,578 individual actions requiring consideration of the same legal issues, is a superior method of adjudicating the State Action Settlement Class Members’ claims. Superiority is satisfied here, where all Plaintiffs and Defendant have agreed to consolidate all related lawsuits in an effort to resolve all issues related to the Data Incident. This effort will promote uniformity of decisions regarding multiple actions brought in Massachusetts about this event.

For these reasons, the State Action Settlement Class satisfies the requirements of Mass. R. Civ. P. 23 and M.G.L. c. 93A, and Plaintiffs respectfully request that the Court finally certify the Settlement Class for purposes of Settlement.

### **CONCLUSION**

For the foregoing reasons, Plaintiffs respectfully request that the Court enter the proposed Final Approval Order and Final Judgment, filed herewith: (i) granting Final Approval of the Settlement; (ii) Overruling the Objections to the Settlement; (iii) finally certifying the Settlement Class for purposes of settlement; and (iv) providing other such relief required to effectuate the Settlement.

Dated: December 9, 2025

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on December 9, 2025, a copy of the foregoing was served via electronic filing in the ECF system.

/s/ Brendan Jarboe  
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