IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT
SALINE COUNTY, ILLINOIS

PHILLIP LOWERY, individually and on behalf of all others similarly situated, Plaintiff, v. EGYPTIAN PUBLIC AND MENTAL HEALTH DEPARTMENT, d/b/a EGYPTIAN HEALTH DEPARTMENT, Defendant.	Case No. 2024LA10 CLASS ACTION

PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT

I. INTRODUCTION

On April 21, 2025, this Court granted preliminary approval of this Settlement between Plaintiffs Phillip Lowery, Anita Costa-Aine, and Shane Costa-Aine ("Plaintiffs" or "Class Representatives") and Egyptian Public and Mental Health Department's ("Defendant" or "EHD," together with Plaintiffs, the "Parties"), and ordered that notice be given to the Class. After this Court granted preliminary approval, the Settlement Administrator—with the help of the Parties—disseminated Notice to the Settlement Class.[1] The Claims Period is still open and will run through August 19, 2025. Out of 116,653 Settlement Class Members,[2] none have requested exclusion and none have objected. The Class's position is unequivocally in favor of this excellent settlement. Plaintiffs now seek final approval.

[1] Unless separately defined herein, all capitalized terms in this motion refer to defined terms in the Settlement Agreement, which was attached to Plaintiffs' Motion for Preliminary Approval as Exhibit 1.

[2] Plaintiffs' preliminary approval motion stated that the Settlement Class was made up of approximately 121,995 persons, but after Verita de-duplicated the list of Settlement Class Members, it found the total amount of Settlement Class Members is 116,653.

II. FACTUAL AND PROCEDURAL BACKGROUND

This litigation arises out of a data security incident, wherein Plaintiffs allege that unauthorized third parties accessed EHD's computer systems and data, resulting in the third party's access to PII/PHI belonging to Plaintiffs and Settlement Class Members. Plaintiffs allege that on or about December 21, 2023, an unauthorized individual, or unauthorized individuals, gained access to EHD's network systems and accessed certain files on EHD's computer systems containing the PII/PHI of Plaintiffs and Settlement Class Members (the "Data Incident"). EHD denies any wrongdoing related to the Data Incident.

In response to the Data Incident, Plaintiff Lowery filed a lawsuit against EHD relating to the Data Incident on March 1, 2024. In the spirit of achieving early resolution, on October 7, 2024, the Parties engaged in a full-day mediation session with Hon. David E. Jones (Ret.) of Resolute Dispute Resolution, a well-regarded mediator with substantial experience in handling complex litigation and class action mediations. At mediation, the Parties did not agree to a settlement. However, over the next several weeks, the Parties continued to negotiate at arm's-length, and eventually agreed to the Settlement. The Parties worked diligently to negotiate the finer points of the Settlement and finalize the Settlement Agreement. The Court granted the Settlement preliminary approval on April 21, 2025, and notice has been sent to the Settlement Class pursuant to the Court's Order.

III. SUMMARY OF SETTLEMENT

A. Settlement Benefits

EHD will pay $765,000 into a Settlement Fund. SA ¶ 16. The fund is non-reversionary; no remaining funds will revert to EHD if the Settlement is granted final approval and the Final Approval Order becomes Final. *Id*. ¶ 18. To administer those funds and implement the Settlement's terms, the Parties agreed to hire Verita Global, LLC as Settlement Administrator.

Once funded, the Settlement Fund will be used by the Settlement Administrator to pay for: (i) reasonable Notice and Claims Administration Costs incurred pursuant to this Settlement Agreement as approved by the Parties and approved by the Court, (ii) taxes owed by the Settlement Fund, (iii) any Service Awards approved by the Court, (iv) Attorneys' Fee Award, Costs, and Expenses as approved by the Court, and (v) the benefits due to Settlement Class Members, pursuant to the terms and conditions of this Agreement. *Id*. ¶ 19. The Settlement Fund allows Settlement Class Members the opportunity to submit claims for the following:

i. Alternative Cash Payment

In lieu of the compensation outlined below in paragraphs (b)–(e), Settlement Class Members may claim an Alternative Cash Payment. *Id*. ¶ 27. The Alternative Cash Payment will be calculated by dividing the Post-Loss Net Settlement Fund, as explained in the Settlement Agreement, by the number of valid claims for Alternative Cash Payments. *Id*. ¶ 41(b).

ii. Compensation For Ordinary Losses

Settlement Class Members may claim up to $300.00 by submitting a valid and timely claim form and reasonable supporting documentation for ordinary losses incurred, more likely than not, as a result of the Data Incident. Ordinary losses can include but are not limited to: documented bank fees, long distance phone charges, cell phone charges (only if charged by the minute), data charges (only if charged based on the amount of data used), postage, gasoline for local travel, and fees for credit reports, credit monitoring, or other identity theft insurance product purchased between December 21, 2023, and the date of the close of the Claims Period. *Id*. ¶ 28(a).

iii. Compensation For Lost Time

Settlement Class Members may claim up to 4 hours of lost time, at $25 an hour, if at least one-half hour of documented time was spent dealing with the Data Incident. All such lost time

must be reasonably described and supported by an attestation under penalty of perjury that the time spent was reasonably incurred dealing with the Data Incident. *Id*. ¶ 28(b).

iv. Compensation For Extraordinary Losses

Settlement Class Members may submit claims for up to $5,000 in compensation by submitting a valid and timely claim form that proves more likely than not a monetary loss directly arising from identity theft or other fraud perpetuated on or against the Settlement Class Member if: (i) the loss is an actual, documented, and unreimbursed monetary loss; (ii) the loss was more likely than not the result of the Data Incident; (iii) the loss is not already covered by the "Compensation for Ordinary Losses" category; and (iv) the Settlement Class Member made reasonable efforts to avoid, or seek reimbursement for, the loss, including but not limited to exhaustion of all available credit monitoring insurance and identity theft insurance and other available insurance. *Id*. ¶ 28(c).

v. Credit Monitoring

Settlement Class Members may also claim credit and identity theft monitoring. Settlement Class Members who claim this benefit will be provided 24 months of three bureau credit and identity theft monitoring, including identity theft insurance of $1,000,000. *Id*. ¶ 28(d).

In addition to the monetary benefits provided by the Settlement, EHD has undertaken reasonable steps to further secure its network systems. *Id*. ¶ 29. EHD has provided evidence of these changes through informal discovery provided to Plaintiffs' counsel. *Id*.

B. Attorneys' Fees, Costs, Expenses, and Service Awards

On July 7, 2025, Class Counsel submitted a separate motion seeking attorneys' fees, costs, expenses, and Service Awards for Plaintiffs which was promptly added to the Settlement Website. The motion was filed prior to Settlement Class Members' July 21, 2025 deadline to exclude themselves from or object to the Settlement Agreement. As of August 7, 2025, Plaintiffs' counsel

are unaware of any objections to the requested attorneys' fees, costs, expenses, and Service Awards.

C. Settlement Administration

i. Direct Notice and Digital Notice to the Settlement Class

Notice was widely disseminated in accordance with the Court's Preliminary Approval Order and the Settlement Agreement. The Court approved Verita Global, LLC ("Verita") as the Settlement Administrator in this case. On January 22, 2025, Defendant's Counsel provided Verita with a data list containing 129,493 records of Settlement Class Members' names and last known addresses. Declaration of Edward Dattilo, attached hereto as Exhibit 1 ("Dattilo Decl."), ¶ 2. After analyzing the data and removing duplicative records, Verita identified a total of 116,653 unique records. *Id.* Of these unique records, 2,603 did not have a valid mailing address. *Id*. ¶ 3. On May 21, 2025, Verita sent 114,023 Postcard Notices to identified Settlement Class Members with an associated physical address via USPS first class mail. *Id.*

Prior to the mailing, all mailing addresses were checked against the National Change of Address database maintained by the United States Postal Service. *Id*. ¶ 2. As of August 6, 2025, a Postcard Notice was delivered to 82,208 of the 114,023 unique, identified Settlement Class Members with valid mailing addresses. *Id*. ¶ 4. This means the individual notice efforts reached approximately 72.1% of the identified Settlement Class Members who were sent Notice and 70.8% of the Settlement Class in total. *Id*.

ii. Settlement Website and Toll-Free Number

On May 21, 2025, Verita established a website devoted to this Settlement, www.EHDDataSettlement.com ("Settlement Website"). *Id*. ¶ 5. Relevant documents, including the Settlement Agreement, Long Form Notice, Claim Form, and other case-related documents are posted on the Settlement Website. *Id*. In addition, the Settlement Website includes relevant dates,

answers to frequently asked questions ("FAQs"), instructions for how Settlement Class Members were able to opt-out (request exclusion) or object to the Settlement prior to the deadlines, contact information for the Settlement Administrator, and how to obtain other case-related information. On the Settlement Website, Settlement Class Members can file an online Claim Form until the claim filing deadline passes. *Id*. Verita also established a toll-free telephone number which is available twenty-four hours per day for Settlement Class Members to obtain information regarding the Settlement. *Id*. ¶ 6.

iii. Requests for Exclusion, Objections, and Claims.

Settlement Class Members had until July 21, 2025, to object to or to submit a request for exclusion from the Settlement. As of August 6, 2025, Verita did not receive any opt-out requests. *Id*. ¶ 8. As of August 6, 2025, Verita was not aware of and had not received any objections to the Settlement. *Id*. ¶ 9. Verita has received 4,248 claims as of August 6, 2025, and claims can be submitted until August 19, 2025. *Id*. ¶ 7. This means that 3.6% of all Settlement Class Members already have submitted claims.

With the favorable reaction from the Settlement Class, Plaintiffs now request that this Court grant final approval of the Settlement to bring closure to this matter for Settlement Class Members and avoid the costs and delay of further litigation.

IV. ARGUMENT

A. The Court Should Grant Final Approval of the Settlement

"[T]here exists a strong policy in favor of settlement and the resulting avoidance of costly and time-consuming litigation[.]" *Sec. Pac. Fin. Serv. v. Jefferson*, 259 Ill. App. 3d 914, 919 (1st Dist. 1994); *see also McCormick v. Adtalem Glob. Educ., Inc.*, 2022 IL App (1st) 201197-U, ¶ 13 ("There is a strong public policy in favor of settling and the avoiding costly and time-consuming litigation."); *Langendorf v. Irving Tr Co.*, 244 Ill. App. 3d 70, 78 (1st Dist. 1992) ("A settlement

compromising conflicting positions in class action litigation serves the public interest."); Alba Conte & Herbert B. Newberg, *Newberg on Class Actions* ("Newberg") § 11.41 (4th ed. 2002) ("The compromise of complex litigation is encouraged by the courts and favored by public policy.").

Before a Settlement may go into effect, the Court must make a "final determination that the class settlement [is] fair, reasonable, and adequate." *See Lebanon Chiropractic Clinic, P.C. v. Liberty Mut. Ins. Co.*, 2016 IL App (5th) 150111-U, ¶ 42. Final approval of a proposed class action settlement is a matter of discretion for the trial court. *See Fauley v. Metro. Life Ins. Co.*, 2016 IL App (2d) 150236, ¶ 45. ("In Illinois, a trial court's final approval of a class-action settlement will not be disturbed unless the trial court abused its discretion."). "Given that a settlement is a compromise, a trial court is not to judge the legal and factual questions by the criteria employed in a trial on the merits. Rather, the standard used to evaluate the settlement of a class action is whether the agreement is fair, reasonable, and adequate." *Fauley*, 2016 IL App (2d) 150236, ¶ 45 (internal citations omitted).

Where, as here, the settlement is the product of arm's-length negotiations between sophisticated parties, courts attach to the settlement a presumption of fairness, adequacy, and reasonableness. *See Lebanon*, 2016 IL App (5th) 150111-U, ¶ 42 ("Where the procedural factors support approval of a class action s settlement, there is a presumption that the settlement is fair, reasonable, and adequate."). Moreover, courts give weight to the opinion of informed, competent counsel in assessing the Settlement's fairness, and counsel for both Plaintiffs and EHD have deemed this Settlement fair. *See, e.g.*, *Isby v. Bayh*, 75 F.3d 1191, 1200 (7th Cir. 1996) ("[T]he district court was entitled to give consideration to the opinion of competent counsel that the settlement was fair, reasonable, and adequate.").

Additionally, courts consider eight factors when assessing the fairness, reasonableness, and adequacy of a class action settlement: (1) the strength of the plaintiffs' case balanced against the amount of the proposed settlement; (2) the defendant's ability to pay; (3) the complexity, length, and expense of further litigation; (4) the amount of opposition to the settlement; (5) the presence of collusion in reaching a settlement; (6) the reaction of members of the class to the settlement; (7) the opinion of competent counsel; and (8) the stage of proceedings and the amount of discovery completed. *Chicago v. Korshak*, 206 Ill. App. 3d 968, 972 (1st Dist. 1990); *McCormick*, 2022 IL App. (1st) 201197-U, ¶ 14.

Here, each of the factors support final approval of the Settlement and establish that the Settlement is fair, reasonable, and adequate. The Settlement is the product of arm's-length negotiations that lasted several months, included a mediation before an experienced mediator and the exchange of discoverable information. The Settlement has been received favorably by the Class, with zero requests for exclusion and no objections to any aspect of the Settlement. The Court should, therefore, grant final approval of the Settlement.

i. The Strength of Plaintiffs' Case on the Merits Balanced Against the Relief Offered in the Settlement

"The most important factor relevant to the fairness of a class action settlement is the first one listed: the strength of the plaintiffs' case on the merits balanced against the amount offered in the settlement." *Synfuel Techs, Inc. v. DHL Express (USA), Inc*., 463 F.3d 646, 653 (7th Cir. 2006) (internal quotes and citations omitted). Nevertheless, "[g]iven that a settlement is a compromise, a trial court is not to judge the legal and factual questions by the criteria employed in a trial on the merits." *McCormick*, 2022 IL App (1st) 201197-U, ¶ 14 (quoting *Fauley*, 2016 IL App (2d) 150236, ¶ 45).

"In most situations, unless the settlement is clearly inadequate, its acceptance and approval are preferable to lengthy and expensive litigation with uncertain results." Newberg, § 11:50. "The standard for class settlement approval is not whether the parties could have done better—the standard is whether the compromise was fair, reasonable, and adequate. . . . A trial court cannot reject a settlement solely because it does not provide a complete victory to the class members." *Lebanon*, 2016 IL App (5th) 150111-U, ¶ 50; *Gehrich v. Chase Bank USA, N.A*., 316 F.R.D. 215, 228 (N.D. Ill. 2016) ("The essential point here is that the court should not reject[] a settlement solely because it does not provide a complete victory to plaintiffs, for the essence of settlement is compromise." (internal quotations omitted)).

Here, the benefits of the Settlement weigh favorably against the merits of Plaintiffs' case and the difficulties and risk of continued litigation. Thus, this factor supports final approval.

ii. Continued Litigation Would Involve Significant Risk, Costs, and Time

Plaintiffs believe in the merits of their claims. However, Plaintiffs also recognize that continued litigation poses significant risk and would require the parties to incur substantial cost and time. Data breach cases in Illinois have previously been dismissed because the data breach victims failed to establish a duty to secure sensitive information. *See Cooney v. Chicago Public Schools*, 407 Ill. App. 3d 358, 362 (2010).[3] Plaintiffs would undoubtedly face a motion to dismiss from EHD, similarly asserting that it had no obligation under state law or duty to the Plaintiffs and the Settlement Class to reasonably secure their data. Furthermore, Plaintiffs and EHD would likely have to brief novel issues, including whether the Personal Information Protection Act establishes an obligation to implement reasonable data security. *See*, *e.g.*, 815 ILCS 530/45(a).

[3] However, *Cooney* was decided prior to an amendment to the Personal Information Protection Act, and the 1st District Court of Appeals has held that the "reasoning of the Cooney court no longer applies." *Flores v. AON Corp.*, 2023 IL App (1st) 230140, ¶ 23.

Additionally, Plaintiffs would need to prove their case on the merits. To succeed on the merits, Plaintiffs would be required to show that EHD did not have adequate systems in place to protect Plaintiffs' and Settlement Class Members' personal information. Obtaining and understanding the information relevant to Plaintiffs' claims would require extensive technical discovery related to EHD's computer systems and security measures, and expert analysis of that discovery, which would require substantial time, effort, and cost for both parties. Thus, while Plaintiffs believe in their case, the complex nature of this action and the difficult issues of liability and class certification create significant risk and would require substantial time, effort, and costs to resolve.

iii. The Settlement Provides the Settlement Class with Significant Benefits

In contrast to the risk and expense of continued litigation, the Settlement provides the Settlement Class with substantial monetary benefits now and allows for Settlement Class Members to protect themselves with 24 months of 3 bureau credit monitoring. The amount of the Settlement Fund, $765,000 is equivalent to $6.56 per Settlement Class Member. This is equivalent to or better than many other settlements that have been granted final approval across the country. *See*, *e.g.*, *In re: 21st Century Oncology Customer Data Sec. Breach Litig.*, No. 8:16-md-2737 (M.D. Fla.) (creating a settlement fund of $7,850,000 for approximately 2,200,000 class members ($3.56 per class member)); *Bickham, et al. v. ReproSource Fertility Diagnostics, Inc.*, No. 21-cv-11879 (D. Mass) (making available a settlement fund of $1,250,000 for approximately 228,214 persons ($5.48 per class member); *In re: Blackhawk Network Data Breach Litigation*, No. 3:22-cv-07084 (N.D. Cal.) (creating a settlement fund of $985,000 for a class of approximately 165,727 class members ($5.94 per person)). The Settlement, therefore, provides important and substantial benefits to the Class, and avoids the risks, expense, and uncertainty of continued litigation. The

Settlement weighs favorably against the strength of Plaintiffs' case, and this factor supports final approval.

iv. Defendant's Ability to Pay

EHD's ability to pay is not at issue as it relates to the Settlement. Therefore, this factor is irrelevant to the approval of the Settlement.

v. The Complexity, Length, and Expense of Further Litigation

The value achieved through the Settlement Agreement here is guaranteed, while chances of prevailing on the merits are uncertain. While Plaintiffs strongly believe in the merits of their case, they also understand that EHD will assert several defenses, including some that have been previously successful in Illinois. *See*, *e.g.*, *Cooney*, 407 Ill. App. 3d at 362. Should litigation continue, Plaintiffs will likely face a motion to dismiss, resulting in further costs, delays, and uncertainties. Plaintiffs also face significant risks on several important legal issues, including standing, establishing Plaintiffs' and Settlement Class Members' injuries and the amount of any damages, and class certification. *See, e.g.*, *Hammond v. Bank of N.Y. Mellon Corp.*, 2010 U.S. Dist. LEXIS 71996, at *5 (S.D.N.Y. June 25, 2010) (describing data breach cases that were dismissed for failure to state a claim or on summary judgment). EHD would likely oppose Plaintiffs at every step of the litigation, requiring extensive briefing on every contested issue. Moreover, due to the evolving nature of data breach litigation, any outcome will likely be appealed. "In light of the potential difficulties at class certification and on the merits . . . the time and extent of protracted litigation, and the potential of recovering nothing, the relief provided to class members in the Settlement Agreement represents a reasonable compromise." *Wright v. Nationstar Mortg. LLC*, No. 14 C 10457, 2016 U.S. Dist. LEXIS 115729, at *39 (N.D. Ill. Aug. 29, 2016). This factor supports final approval.

vi. The Amount of Opposition to the Settlement and the Reaction of the Settlement Class Members to the Settlement

The fourth and sixth factors, the amount of opposition to the Settlement and the reaction of members of the Class to the Settlement, are often considered together due to their similarity. *See, e.g.*, *Korshak*, 206 Ill. App. at 973. Here, the Class has reacted favorably to the Settlement, with no requests for exclusion or objections. Dattilo Decl. ¶¶ 8–9; *see also Roberts v. Graphic Packaging Int'l, LLC*, No. 3:21-cv-00750-DWD, 2024 U.S. Dist. LEXIS 122323, at *13 (S.D. Ill. July 11, 2024) (finding lack of opposition to settlement favors final approval of class action settlement); *Kolinek v. Walgreen Co.*, 311 F.R.D. 483, 495 (N.D. Ill. 2015) (holding 20 objections and 151 opt-outs in a class of approximately 10,000,000 persons favored final approval). Given the reception of the Settlement Class, including the lack of exclusions and objections, this factor supports final approval of the Settlement.

vii. The Absence of Collusion in Reaching a Settlement

Here, the Settlement Agreement resulted from good faith, arm's-length negotiations over several months. The Parties entered into settlement negotiations only after both sides were fully apprised of the facts, risks, and obstacles involved with protracted litigation. Settlement Class Counsel conducted extensive research regarding the Plaintiffs' claims, EHD, and the Data Breach. The Parties reached the Settlement only after a mediation with an experienced mediator, which demonstrates a lack of collusion. *See*, *e.g.*, *Lucas v. Vee Pak, Inc.*, No. 12-CV-09672, 2017 U.S. Dist. LEXIS 209872, at *37 (N.D. Ill. Dec. 20, 2017) (finding a lack of collusion where the parties attended a mediation).

The Parties here negotiated this proposed Settlement at arm's length and absent any fraud or collusion and reached an agreement only after extensive negotiations and several additional

months finalizing the settlement terms and documents. Thus, this factor weighs in favor of final approval.

viii. The Opinion of Competent Counsel

In a case where experienced counsel represent the class, the Court "is entitled to rely upon the judgment of the parties' experienced counsel." *In re Domestic Air Transp. Antitrust Litig.*, 148 F.R.D. 297, 313 (N.D. Ga. 1993); *Armstrong v. Bd. of Sch. Dirs.*, 616 F.2d 305, 315 (7th Cir. 1980) ("Judges should not substitute their own judgment as to optimal settlement terms for the judgment of the litigants and their counsel."), *overruled in part on other grounds by Felzen v. Andreas*, 134 F.3d 873, 875 (7th Cir. 1998). Here, Settlement Class Counsel are experienced in data breach litigation and believe the Settlement is fair, reasonable, and adequate, and in the best interests of the members of the class, and that the Settlement's benefits far outweigh the delay and considerable risk of attempting proceeding through a motion to dismiss, class certification, summary judgment, and to trial. Therefore, this factor also supports final approval.

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

The "stage of the proceedings" concerns "whether Class Plaintiffs had sufficient information on the merits of the case to enter into a settlement agreement . . . and whether the Court has sufficient information to evaluate such a settlement." *In re Payment Card Interchange Fee & Merch. Disc. Antitrust Litig.*, 986 F. Supp. 2d 207, 224 (E.D.N.Y. 2013) (citations omitted). Courts have found that extensive formal discovery is "not required for the Settlement to be adequate." *In re Sony SXRD Rear Projection TV Class Action Litig.*, 2008 U.S. Dist. LEXIS 36093, at *20 (S.D.N.Y. May 1, 2008).

Prior to filing this lawsuit, Plaintiffs' counsel conducted extensive investigations into the Data Breach. Plaintiffs' counsel assessed EHD's response to the Data Breach, examined data

breach notices and related information and analyzed these notices to determine whether they complied with state notice requirements, reviewed confirmatory information regarding EHD's investigation of the Data Breach, the scope of the Data Breach, and EHD's response to the Data Breach, and determined the scope of necessary injunctive relief and appropriate settlement benefits for Plaintiffs and the Class. Prior to mediation, Plaintiffs requested and EHD provided informal discovery to Plaintiffs regarding the Data Breach and the Settlement Class. Plaintiffs had sufficient information to analyze whether the Settlement was fair, reasonable, and adequate.

B. The Settlement Class Should be Certified for Settlement Purposes

As part of Plaintiffs' final approval motion, Plaintiffs respectfully ask this Court to grant class certification to the nationwide Settlement Class defined above, under 735 ILCS 5/2-801 and 735 ILCS 5/2-802. Settlement classes are routinely certified in consumer data breach cases.[4] There is nothing unique about this case that would counsel otherwise. This Court already found that it likely would certify the Settlement Class when it preliminarily approved the Settlement. The Class still meets the requirements of numerosity, commonality, typicality, and adequacy, and because common issues predominate and a class action is the appropriate method of litigating the controversy, the Court should certify the Settlement Class for settlement purposes. As nothing has changed relative to the 735 ILCS 5/2-801 and 735 ILCS 5/2-802 factors since preliminary approval, that decision should be made final, for the reasons set forth in the Plaintiffs' Motion for Preliminary Approval of Class Action Settlement.

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[4] *See, e.g.*, *Abubaker v. Dominion Dental United States*, Civil Action No. 1:19-cv-01050-LMB-MSN, 2021 U.S. Dist. LEXIS 252202 (E.D. Va. Nov. 19, 2021); *Hutton v. Nat'l Bd. of Exam'rs in Optometry, Inc.*, No. JKB-16-3025, 2019 U.S. Dist. LEXIS 120558 (D. Md. July 15, 2019); *In re Anthem, Inc. Data Breach Litig.,* 327 F.R.D. 299 (N.D. Cal. 2018).

C. Notice of the Settlement Satisfied Due Process

The Court previously approved the Notice Plan proposed in this case and found it satisfied all requirements of due process and 735 ILCS 5/2-803. Here, as set out above, the Settlement Administrator issued notice in the best practicable manner by directly notifying Settlement Class Members for whom it was able to locate mailing addresses, resulting in a 70.8% reach rate. Dattilo Decl. ¶¶ 3–4. The reach rate of the notice program exceeds the 70% threshold for reach rates in class actions. *See, e.g.*, Federal Judicial Center, *Judges' Class Action Notice and Claims Process Checklist and Plain Language Guide* 1 (2010) (recognizing the effectiveness of notice that reaches between 70 and 95 percent of the class); *In re Tiktok, Inc., Consumer Priv. Litig.*, 617 F. Supp. 3d 904, 928 (N.D. Ill. 2022) (granting final approval and finding notice that "clear[ed] the Federal Judicial Center's seventy-percent threshold" adequate).The success of the notice distribution is also evidenced by the claim rate (3.6%), which is well within the normal range of claim rates for data breach class actions and with almost two weeks remaining for Settlement Class Members to submit claims. *See*, *e.g.*, *Carter v. Vivendi Ticketing United States LLC*, No. SACV 22-01981-CJC (DFMx), 2023 U.S. Dist. LEXIS 210744, at *28 (C.D. Cal. Oct. 30, 2023) (holding that a 1.8% claim rate "is in line with claim rates in other data breach class action settlements that courts have approved" and collecting cases); *In re Forefront Data Breach Litig.*, No. 21-cv-887, 2023 U.S. Dist. LEXIS 175848, at *14 (E.D. Wis. Mar. 22, 2023) (stating that a claim rate of 1.47% "is generally in line with the rate experienced in other data breach class actions").

Because the class notice and notice plan set forth in the Settlement Agreement satisfy the requirements of due process and provide the best notice practicable under the circumstances, the Settlement should be finally approved.

V. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court enter an Order (1) certifying the Settlement Class for settlement purposes; (2) appointing Plaintiffs Phillip Lowery, Anita Costa-Aine, and Shane Costa-Aine as Class Representatives and Ben Barnow and Anthony L. Parkhill of Barnow and Associates, P.C. as Class Counsel; (3) granting the Settlement final approval; (4) finding the Notice has been conducted in accordance with the Court-approved notice plan and satisfies due process; and (5) granting Plaintiffs' separately-filed Motion for Attorneys' Fees, Costs, Expenses, and Service Awards.

Dated: August 7, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, the undersigned, an attorney licensed to practice law in the State of Illinois, certify that on this 7th day of August, 2025, I caused a true and correct copy of the attached document to be served on counsel of record by filing it through the Court's electronic filing system and by electronic mail to counsel in the related actions.

/s/ Ben Barnow
Ben Barnow