

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 19-cv-61350-ALTMAN/HUNT

In re: Citrix Data Breach Litigation

**PLAINTIFFS' UNOPPOSED MOTION FOR APPROVAL OF ATTORNEYS' FEES,
COSTS, AND EXPENSES AND SUPPORTING MEMORANDUM OF LAW**

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I. INTRODUCTION

Plaintiffs respectfully move the Court for an order awarding Class Counsel attorneys' fees in the amount of \$750,000 and reimbursing their litigation costs and expenses in the amount of \$18,494.16.¹ The requested fee, equaling 32.9% of the Settlement Fund, is in accord with Eleventh Circuit precedent and results in a negative multiplier on Class Counsel's lodestar. Additionally, the costs and expenses advanced by Class Counsel were reasonably and necessarily incurred to prosecute this action to final and successful resolution. For the reasons set forth herein, Plaintiffs respectfully request that the Court grant this motion.²

II. BACKGROUND

On March 8, 2019, Citrix, a global technology company that provides cloud computing software and remote access products, informed Plaintiffs and class members that hackers had gained access to Citrix's internal network and exfiltrated information pertaining to 24,316 current and former employees, their dependents or beneficiaries, or other third parties (the "Data Breach"). The information stolen in the Data Breach included names, Social Security numbers or other tax identification numbers, financial account numbers, passport numbers, limited health claims information, or other personal information ("Personal Identifying Information" or "PII"). *See* JAY Decl., ¶ 2.

¹ Unless otherwise noted, all capitalized terms are defined in the Amended Settlement Agreement and Release ("Settlement" or "SA"), which was previously filed. (Doc. 53-1). In support of this motion, Plaintiffs submit herewith the Declaration of John A. Yanchunis ("JAY Decl.") on behalf of Class Counsel, attached as Exhibit 1.

² Class Counsel will submit a proposed order along with Plaintiffs' motion for final approval of the settlement so that they can address any objections received during the claims period.

Citrix confirmed that data was exfiltrated from its internal network for about five months from October 13, 2018 through March 8, 2019. Following notification of the Data Breach, three class action cases were filed against Citrix by current and former employees seeking damages, statutory penalties, and injunctive relief on behalf of themselves and others who were affected. *Id.*, ¶ 3. After filing a consolidated amended complaint, working through early case management issues, serving discovery, and analyzing documents and information related to the Data Breach that Citrix produced, the parties agreed on and retained the Honorable Jay C. Gandhi (Ret.) of JAMS ADR, a retired United States Magistrate Judge and highly experienced mediator, to help facilitate settlement negotiations and oversee a mediation. Following extensive negotiations, the parties were able to reach agreement on the substantive terms of the Settlement and executed a binding term sheet. *Id.*, ¶ 4.

The parties negotiated a Settlement Agreement with the following pertinent terms: Citrix is required to establish a non-reversionary cash Settlement Fund of \$2,275,000.00 that will be used to pay for (1) reimbursement of class members' documented out-of-pocket losses fairly traceable to the Data Breach, up to \$15,000 per individual; (2) reimbursement of class members' time spent remedying issues related to the Data Breach, up to five hours at \$25 per hour (up to \$125 per individual); (3) access to identity restoration services for all class members, including professional fraud resolution assistance to help with identity recovery and restoration in case the class member experiences identity theft or fraud in the future, regardless of whether they make a claim under the Settlement; (4) an automatic five years of minor monitoring services for all minors affected in the Data Breach; and (5) five years of three-bureau credit monitoring through Experian or an alternative cash payment. As part of the Settlement, Citrix also agreed to maintain contractual business practice commitments relating to its data security. *Id.*, ¶ 5.

On June 2, 2020, Plaintiffs filed an unopposed motion to direct class notice and grant preliminary approval of class action settlement. (Doc. 46). While that motion was pending, the U.S. Court of Appeals for the Eleventh Circuit issued an opinion in *Johnson v. NPAS Solutions, LLC*, 975 F.3d 1244, 1248 (11th Cir. 2020), which provided additional guidance regarding the timing for filing an attorneys' fee motion pursuant to Rule 23(h) and held that incentive or service awards in class action cases are foreclosed by Supreme Court precedent. *See id.* at 1252, 1257. Citing *Johnson*, this Court issued an order on October 1, 2020 denying Plaintiffs' motion for preliminary approval based on the timing of the attorneys' fee motion and the Settlement Agreement's contemplation of service awards for the class representatives. (Doc. 51).

The Court directed that Plaintiffs may file an amended motion on or before October 30, 2020. JAY Decl., ¶ 6. Plaintiffs thereafter filed an amended motion for preliminary approval addressing the issues raised by the Court. (Doc. 53). On January 26, 2021, the Court entered an order granting preliminary approval of the Settlement and directing that Plaintiffs file their motion for attorneys' fees on or before February 4, 2021, prior to the issuance of class notice. (Doc. 56). JAY Decl., ¶ 7. This motion follows.

III. ARGUMENT

“It is well established that when a representative party has conferred a substantial benefit upon a class, counsel is entitled to an allowance of attorneys' fees based upon the benefit obtained.” *In re Checking Account Overdraft Litig.*, 830 F. Supp. 2d 1330, 1358 (S.D. Fla. Nov. 22, 2011) (citing *Camden I Condominium Ass'n v. Dunkle*, 946 F.2d 768, 771 (11th Cir.1991)); *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980)); *see also* Fed. R. Civ. P. 23(h) (“In a certified class action, the court may award reasonable attorney's fees and nontaxable costs that are authorized by law *or by the parties' agreement.*”) (emphasis added). Because the benefit to

the class is easily quantified in common-fund settlements, courts generally award fees equaling a percentage of the common fund in lieu of the often more time-consuming task of calculating the lodestar. *See Camden I*, 946 F.2d at 771. In assessing an appropriate fee award, courts consider factors such as the overall value of the settlement, the time required reaching a settlement, whether there are any substantial objections, the economics of a class action, the criteria set out in *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974), and any other “unique” circumstances. *Camden I*, 946 F.2d at 775. “Although there is no hard and fast rule mandating a certain percentage of a common fund which may be awarded as a fee, an award of one-third of the common fund is consistent with the trend in this Circuit.” *Gonzalez v. TCR Sports Broad. Holding, LLP*, 2019 WL 2249941, at *6 (S.D. Fla. May 24, 2019) (internal quotations omitted and citing cases); *see also Wolff v. Cash 4 Titles*, 2012 WL 5290155, at *5-6 (S.D. Fla. Sept. 26, 2012) (“The average percentage award in the Eleventh Circuit mirrors that of awards nationwide—roughly one-third”); Eisenberg, *et al.*, Attorneys’ Fees in Class Actions: 2009-2013, 92 N.Y.U. L. Rev. 937, 951 (2017) (empirical study showing the median award in the 11th Circuit is 33%).

Non-monetary business practice changes resulting from the Settlement, as in this case, are also properly considered and support fees requested in this case. *See In re Checking Account Overdraft Litig.*, 830 F. Supp. 2d at 1359. Here, Class Counsel seek a fee award of \$750,000—equaling 32.9% of the common fund—which is permitted under the Settlement Agreement and well within the bounds of reasonableness in this Circuit. (SA, ¶ 89). Class Counsel also seek reimbursement of their litigation costs and expenses, totaling \$18,494.16.

A. The *Camden I* Factors Support the Requested Fee

The Eleventh Circuit’s factors for evaluating the reasonable percentage to award class-action counsel are: (1) the time and labor required; (2) the novelty and difficulty of the questions involved; (3) the skill requisite to perform the legal service properly; (4) the preclusion of other employment by the attorney due to acceptance of the case; (5) the customary fee; (6) whether the fee is fixed or contingent; (7) time limitations imposed by the client or the circumstances; (8) the amount involved and the results obtained; (9) the experience, reputation, and ability of the attorneys; (10) the “undesirability” of the case; (11) the nature and the length of the professional relationship with the client; and (12) awards in similar cases. *Camden I*, 946 F.2d at 772 n. 3 (citing factors originally set forth in *Johnson*, 488 F.2d at 717-19).

These twelve factors are not exclusive. “Other pertinent factors are the time required to reach a settlement, whether there are any substantial objections by class members or other parties to the settlement terms or the fees requested by counsel, any non-monetary benefits conferred upon the class by the settlement, and the economics involved in prosecuting a class action.” *In re Sunbeam Sec. Litig.*, 176 F. Supp. 2d 1323, 1333 (S.D. Fla. 2001) (quoting *Camden I*, 946 F.2d at 775). These factors are merely guidelines, and the Eleventh Circuit has “encouraged the lower courts to consider additional factors unique to the particular case.” *Id.* at 1333–34 (quoting *Walco Inv., Inc. v. Thenen*, 975 F. Supp. 1468, 1472 (S.D. Fla. 1997)). As set forth below, each of the relevant aforementioned factors supports the requested fee.

1. Time and Labor Involved

Class Counsel expended significant effort to achieve the settlement for the Class. Following the announcement of the Data Breach, Class Counsel spent time investigating the nature and scope of the breach, researching potential legal claims, consulting with experts, and

interviewing dozens of data breach victims, including many current and former employees of Citrix. This work culminated in the filing of a thorough consolidated complaint on behalf of seven class representatives seeking monetary, injunctive, and declaratory relief based on eight causes of action for (1) negligence; (2) negligence *per se*; (3) violations of the Florida Unfair and Deceptive Trade Practices Act, Fla. Stat. §§ 501.201, *et seq.*; (4) breach of contract; (5) breach of implied contract; (6) breach of fiduciary duty; (7) breach of confidence; and (8) declaratory judgment. (Doc. 18). JAY Decl., ¶ 8.

After the appointment of Class Counsel and entry of a scheduling order, the parties exchanged initial disclosures pursuant to Rule 26(a)(1), and Plaintiffs served 47 requests for production of documents. The parties thereafter began engaging in preliminary and then more formal settlement negotiations. This included the exchange of information Plaintiffs required to engage in settlement negotiations and the exchange of competing term sheets. *Id.*, ¶ 9. To help facilitate settlement negotiations, the parties retained Judge Gandhi to conduct a mediation in this matter on March 26, 2020. The parties also negotiated an ESI protocol and protective order governing the exchange of documents and use of confidential information. *Id.*, ¶ 10.

As a condition of mediation, Class Counsel sought pertinent information from Citrix regarding the Data Breach, including the class size and demographics, technical aspects of the breach, the company's discovery of the breach, the duration of the breach, Citrix's retention of third-party forensic investigators, and a detailed explanation of the remedial measures taken by Citrix following the breach. Citrix agreed to provide this information pursuant to Federal Rule of Evidence 408. Citrix also produced Rule 26 disclosures and certain documents responsive to Plaintiffs' first requests for production that were reviewed by Class Counsel in conjunction with the Settlement. *Id.*, ¶ 11.

In advance of the mediation, the parties submitted extensive written briefs to Judge Gandhi on their respective positions on the facts, claims, defenses, and assessments of the risks of continued litigation. On March 26, 2020, the parties participated in a full-day mediation session with Judge Gandhi that included attorneys and representatives for both parties. The negotiations were hard-fought throughout and the settlement process was conducted at arm's length. Following nearly 10 hours of negotiations, the parties were able to reach an agreement on the substantive terms of the Settlement and execute a binding term sheet. Negotiations regarding Class Counsel's fees, reimbursement of costs and expenses occurred separately and only after the parties had reached an agreement in principle regarding the proposed benefits to the Settlement Class and Citrix's business practice changes. *Id.*, ¶ 12.

Although the parties were able to agree to a term sheet, negotiations continued for weeks following the mediation in order to reach agreement on the remaining settlement terms. As a condition of settlement, Class Counsel also conducted confirmatory discovery on the size and scope of the class and Citrix provided a declaration detailing its implementation of the contractual business practice commitments set forth in the Settlement Agreement. *Id.*, ¶ 13.

With a term sheet in place, Class Counsel then spent time communicating with clients regarding the status of the settlement; negotiating and drafting the settlement agreement; preparing a request for bids to numerous settlement administrators and notice providers; negotiating with third-party credit monitoring providers; drafting the class member and minor claim forms; preparing the class notice; selecting the settlement administrator and conferring with the administrator regarding upcoming tasks; and drafting the motion for preliminary approval of the settlement with accompanying exhibits. *Id.*, ¶ 14.

In performing the aforementioned work on behalf of the Class, Class Counsel spent 1,298.9 hours of attorney and paralegal time through January 31, 2021, yielding a total lodestar of \$958,160.00, which exceeds the \$750,000 fee award sought by Class Counsel and supports the reasonableness of the fee request. *See Chun-Hoon v. McKee Foods Corp.*, 716 F. Supp. 2d 848, 854 (N.D. Cal. 2010) (a negative multiplier “suggests that the negotiated fee award is a reasonable and fair valuation of the services rendered to the class by class counsel.”). Class Counsel will continue to incur additional lodestar (substantially more so if there is an appeal), performing future work overseeing administration of the settlement, communicating with class members, preparing and arguing the motion for final approval, and overseeing payment distribution, which further supports the reasonableness of the requested fee. JAY Decl., ¶ 15.

2. The Novelty and Difficulty of the Questions Involved Required the Skill of a Highly Talented Team of Attorneys

This factor strongly favors an award of the fees requested. “Class actions are inherently complex to prosecute because the legal and factual issues are complicated and uncertain in outcome.” *Francisco v. Numismatic Guar. Corp. of Am.*, 2008 WL 649124, at *15 (S.D. Fla. Jan. 31, 2008). This is especially so given the subject matter of the case. Data breach cases regularly present novel questions of fact and law as security measures continue to evolve and the law in this area continues to develop. *See, e.g., In re Sonic Corp. Customer Data Sec. Breach Litig.*, 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. And of course, juries are always unpredictable.”); *In re Anthem, Inc. Data Breach Litig.*, 327 F.R.D. 299, 315 (N.D. Cal. 2018) (noting that “many of the legal issues presented in this data-breach case are novel, and Defendants have the resources to strongly contest an individual plaintiff’s contentions.”).

That this dispute presents complex issues is not only framed by the pleadings and issues at stake, but also by the caliber of lawyers representing the parties. *See Walco*, 975 F. Supp. at 1472 (explaining that “[g]iven the quality of defense counsel from prominent national law firms, the Court is not confident that attorneys of lesser aptitude could have achieved similar results”); *Ressler v. Jacobson*, 149 F.R.D. 651, 654 (M.D. Fla. 1992) (“[I]n assessing quality, the Court has considered the quality of the *opposition* as well as the standing of plaintiff’s counsel”) (emphasis in original). Class Counsel enjoy a strong reputation in class action and consumer-protection litigation, and they were opposed in this case by highly experienced and skilled counsel representing a sophisticated client with substantial resources. The quality of the defense further supports the reasonableness of the fee request here.

3. The Claims Against Defendant Entailed Considerable Risk

Prosecuting these claims entailed risk. Although Plaintiffs are confident in the merits of their claims, the risks involved in prosecuting a putative class action through trial cannot be disregarded. Plaintiffs’ claims would still need to survive likely motions practice (*e.g.*, a motion to dismiss and motion for summary judgment) and succeed at class certification which, more than likely, would have been immediately challenged on appeal.

Almost all class actions involve a high level of risk, expense, and complexity, which is one reason that judicial policy so strongly favors resolving class actions through settlement. *See, e.g., In re U.S. Oil & Gas Litig.*, 967 F.2d 489, 493 (11th Cir. 1992) (“Public policy strongly favors the pretrial settlement of class action lawsuits”). The risk involved is highlighted by the fact that historically data breach cases have faced substantial hurdles even in making it past the pleading stage. *See Hammond v. The Bank of N.Y. Mellon Corp.*, 2010 WL 2643307, at *1 (S.D.N.Y. June 25, 2010) (collecting data breach cases dismissed at the Rule 12(b)(6) or Rule 56

stage). Class certification has been denied in other data breach cases. *See, e.g., In re Hannaford Bros. Co. Customer Data Sec. Breach Litig.*, 293 F.R.D. 21 (D. Me. 2013). Because the “legal issues involved in [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 Security Breach Litig.*, 2015 WL 7253765, at *2 (D. Minn. Nov. 17, 2015); *In re Equifax Inc. Customer Data Sec. Breach Litig.*, 2020 WL 256132, at *7 (N.D. Ga. Mar. 17, 2020) (“had the case not settled, the plaintiffs would have faced a high level of risk.”).

The risks presented in this litigation support the requested fee award.

4. Class Counsel Assumed Substantial Risk in Pursuing this Action on a Pure Contingency Basis, and Were Precluded from Other Employment

Class Counsel prosecuted this case entirely on a contingent fee basis. As such, they assumed a significant risk of nonpayment or underpayment. Numerous cases recognize the importance of this factor in determining the fee award. “A contingency fee arrangement often justifies an increase in the award of attorney’s fees.” *In re Sunbeam*, 176 F. Supp. 2d at 1335 (quoting *Behrens v. Wometco Enterprises, Inc.*, 118 F.R.D. 534, 548 (S.D. Fla. 1988); *see also In re Continental Ill. Sec. Litig.*, 962 F.2d 566, 568 (7th Cir. 1992) (holding that when a common fund case has been prosecuted on a contingent basis, plaintiffs’ counsel must be compensated adequately for the risk of non-payment); *Ressler*, 149 F.R.D. at 656 (“Numerous cases recognize that the attorney’s contingent fee risk is an important factor in determining the fee award.”); *Walters v. Atlanta*, 652 F. Supp. 755, 759 (N.D. Ga. 1985), *as modified*, 803 F.2d 1135 (11th Cir. 1986); *York v. Ala. State Bd. of Ed.*, 631 F. Supp. 78, 86 (M.D. Ala. 1986). As this court has observed:

Generally, the contingency retainment must be promoted to assure representation when a person could not otherwise afford the services of a lawyer... A contingency fee arrangement often justifies an increase in the award of attorney's fees. This rule helps assure that the contingency fee arrangement endures. If this "bonus" methodology did not exist, very few lawyers could take on the representation of a class client given the investment of substantial time, effort, and money, especially in light of the risks of recovering nothing.

Behrens, 118 F.R.D. at 548.

At the time they filed the case, Class Counsel faced significant risks, including that the Court would reject their theories of liability, that causation could not be established, or that the class would not be certified. In spite of these risks, Class Counsel undertook the matter solely on a contingent basis, with no guarantee of recovery. JAY Decl., ¶ 16. As such, Class Counsel have dedicated time, effort, and resources to this litigation for nearly two years without receiving any compensation for their work or reimbursement for any expenses advanced in this litigation. Additional work in connection with the Settlement and final approval will also be required. Given the time demands necessary to successfully prosecute this case, Class Counsel have foregone of other employment opportunities. *Id.*, ¶ 17. This factor also supports the fee request.

5. The Fee Requested Comports with Customary Fees Awarded in Similar Cases

Fee awards approximating one-third of a common fund are commonplace in this Circuit and well within the range of reasonableness. *See, e.g., Waters v. Int'l Precious Metals Corp.*, 190 F.3d 1291, 1292-98 (11th Cir. 1999) (affirming fee award of 33.33% of \$40 million settlement fund); *Morgan v. Public Storage*, 301 F. Supp. 3d 1237, 1252-54 (S.D. Fla. 2016) (approving fee award equaling 33% of common fund); *Seghroughni v. Advantus Rest, Inc.*, 2015 WL 2255278, at *1 (M.D. Fla. May 13, 2015) (approving fee award equaling one-third of common fund); *Wolff*, 2012 WL 5290155, at *5 (approving 33% award, and noting "[t]he requested fee is

entirely consistent with fee awards in comparable cases nationwide, within the Eleventh Circuit, and within the Southern and Middle Districts of Florida.”); *Allapattah Servs., Inc. v. Exxon Corp.*, 454 F. Supp. 2d 1185, 1204 (S.D. Fla. 2006) (approving fee award equaling 31.3% of common fund); *see also Morefield v. NoteWorld, LLC*, 2012 WL 1355573, at *5–6 (S.D. Ga. Apr. 18, 2012) (approving fee award equaling one-third of common fund).

The fee request is also reasonable when considering the market rate for similar services on the private market. *See Wolff*, 2012 WL 5290155, at *4 (“[C]lass counsel are entitled to the fee they would have received had they handled a similar suit on a contingent fee basis, with a similar outcome, for a paying client.”). As noted by this Court, “[a] fee of 33% is at the market rate of what the Class could have negotiated with counsel in this as a traditional contingency fee arrangement at the outset of the case.” *Morgan*, 301 F. Supp. 3d at 1255.

Additionally, the fee request is consistent with awards in other data breach settlements in this Circuit. *See, e.g., In re Home Depot, Inc., Customer Data Sec. Breach Litig.*, 2020 WL 415923, at *9 (N.D. Ga. Jan. 23, 2020) (awarding one-third of benefit conferred in data breach case); *In re Arby’s Rest. Grp., Inc. Data Sec. Litig.*, 2019 WL 2720818, at *4 (N.D. Ga. June 6, 2019) (awarding 33% of common fund in data breach class action, noting that “awards of up to 33% of the common fund are not uncommon in the Eleventh Circuit, and especially in cases where Class Counsel assumed substantial risk by taking complex cases on a contingency basis.”).

Accordingly, an award equaling 32.9% of the settlement funds comports with fees awarded in similar cases and supports the requested fee.

6. The Remaining *Camden I* and Other Factors Favor Approval of the Fee Request

The remaining *Camden I* factors also support Class Counsel’s fee request. For example, Citrix has agreed to adopt and implement certain business practice commitments and remedial measures for at least three years after the Effective Date, which are subject to Court enforcement. SA, ¶¶ 68-70. These commitments will be paid for by Citrix separate and apart from the Settlement Fund and include implementation of an enhanced cybersecurity training and awareness program, enhanced data security policies, enhanced security measures that include strengthening password and multi-factor authentication requirements, restricting personnel with access to sensitive information, and enhanced monitoring and response capability. SA, ¶ 68. While Class Counsel do not attempt to quantify the value of this relief, the non-monetary benefits conferred on the Class can be considered in assessing the reasonableness of a fee request. *See, e.g., M.D. v. Centene Corp., Inc.*, 2020 WL 7585033, at *8 (S.D. Fla. Oct. 7, 2020) (“The Eleventh Circuit recently confirmed that class counsel’s fee award also should be based on the value of ‘any non-monetary benefits conferred upon the class by the settlement,’ such as injunctive relief, as well as ‘the economics involved in prosecuting a class action.’”) (citing *Poertner v. Gillette Co.*, 618 F. App’x. 624, 628 (11th Cir. 2015)).

The results obtained on behalf of Plaintiffs and the Class also weigh in favor of the fee requested. *Johnson*, 488 F.2d at 717–19. In terms of relief offered, this Settlement is as comprehensive as nearly any other data breach settlement on record, and the specific benefits compare favorably to what has been previously obtained, including:

- A sizeable, \$15,000 cap on out of pocket losses.
- Compensation for up to 5 hours of lost time at \$25 per hour.

- Five years of three-bureau credit monitoring that would cost each class member \$1,200.
- Five years of monitoring services automatically made available to all minors.
- Alternative cash payments for those class members who do not want credit monitoring.
- Access to five years of assisted identity restoration services.

Indeed, the relief made available under this Settlement compares very favorably to the relief made available to victims of large data breaches in common fund cases that recently received approval and provides for a significantly greater recovery on a per-person basis. *See, e.g., Equifax*, 2020 WL 256132, at *2–3 (describing settlement benefits made available from \$380.5 million fund on behalf of 147 million class members); *In re Premera Blue Cross Customer Data Sec. Breach Litig.*, 2019 WL 3410382, at *23-24 (D. Or. July 29, 2019) (describing settlement benefits made available from \$32 million fund on behalf of 11 million class members); *In re Anthem, Inc. Data Breach Litig.*, 327 F.R.D. 299, 318 (N.D. Cal. 2018) (approving \$115 million settlement on behalf of more than 79 million class members). The settlement fund also compares favorably to the relief achieved in comparably sized cases. *See, e.g., Hutton v. Nat’l Bd. of Exam’rs in Optometry, Inc.*, 2019 WL 3183651, at *7 (D. Md. July 15, 2019) (approving \$3.25 million settlement on behalf of 61,000 class members).

Each of these relevant factors supports the requested fee.

B. A Lodestar Analysis Confirms the Reasonableness of the Requested Fee

Under *Camden I*, use of the lodestar analysis is improper in common fund cases. *See In re Checking*, 830 F. Supp. 2d at 1362–63 (declining to perform lodestar cross-check because *Camden I* “mandated the exclusive use of the percentage approach in common fund cases” and

noting that “courts in this Circuit regularly award fees ...without discussing lodestar at all”) (internal marks omitted). Still, courts on occasion use counsel’s lodestar as a “cross-check” to the percentage-of-the-fund analysis. *See Waters*, 190 F.3d at 1298 (“[W]hile we have decided in this circuit that a lodestar calculation is not proper in common fund cases, we may refer to that figure for comparison.”); *Pinto v. Princess Cruise Lines, Ltd.*, 513 F. Supp. 2d 1334, 1343 (S.D. Fla. 2007) (noting that “[s]ome courts use the lodestar method as a cross-check of the percentage of the fund approach”) (citing *In re Sunbeam*, 176 F. Supp. 2d at 1336).

To determine the lodestar amount, the “court must multiply the number of hours reasonably expended by a reasonable hourly rate.” *Duckworth v. Whisenant*, 97 F.3d 1393, 1396 (11th Cir. 1996). “A reasonable hourly rate is the prevailing market rate in the relevant legal community for similar services by lawyers of reasonably comparable skills, experience, and reputation.” *Norman v. Housing Auth. of City of Montgomery*, 836 F.2d 1292, 1299 (11th Cir. 1988). “After the lodestar is determined ... the court must next consider the necessity of an adjustment for results obtained.” *Id.* at 1302. “If the results obtained were exceptional, then some enhancement of the lodestar might be called for.” *Id.* (citing *Pennsylvania v. Delaware Valley Citizens’ Council for Clean Air*, 478 U.S. 546, 565 (1986), *supplemented*, 483 U.S. 711 (1987)). In this case, Class Counsel do not seek an enhancement on their fee request and in fact will receive a negative multiplier on their lodestar.

As reflected in the following chart, Class Counsel expended a total of 1,298.9 hours prosecuting this litigation through January 31, 2021, which results in a lodestar of \$958,160.00.

Firm	Hours	Lodestar
Morgan & Morgan	239.8	\$191,277
Stueve Siegel Hanson LLP	442.8	\$318,708

Casey, Gerry, Schenk, Francavilla, Blatt & Penfield, LLP	249.6	\$186,630
Levi & Korsinsky, LLP/Gibbs Law Group LLP ³	295.8	\$226,095
Russomanno & Borrello, P.A.	70.9	\$35,450
Total	1,298.9	\$958,160.00

JAY Decl., ¶ 18.

Notwithstanding, Class Counsel’s credentials, litigation roles, and hourly rates are detailed in Mr. Yanchunis’s Declaration and establish that Counsel’s rates are in accord with attorneys working on sophisticated class action litigation in this and comparable Districts. JAY Decl, ¶¶ 19-34; *see also, e.g., Equifax*, 2020 WL 256132, at *39 (approving attorney rates ranging from \$750-\$1050 for lead counsel in data breach class action on lodestar cross-check).

Additionally, as noted above, Class Counsel will continue to invest significant time in this matter through the final approval process, to respond to class members, to prepare for and attend the final hearing, and to defend the Court’s entry of final judgment on any subsequent appeal. Thus, the negative multiplier will only increase as this matter approaches final approval. *See In re NetBank, Inc. Sec. Litig.*, 2011 WL 13353222, at *3 (N.D. Ga. Nov. 9, 2011) (holding that fee request resulting in negative lodestar multiplier “confirms that the awarded fee is wholly proper.”). Accordingly, Counsel’s requested fee award is reasonable and within the range of what courts in this Circuit award in class actions such as this one, whether calculated as a percentage of the fund or as a cross-check on counsel’s lodestar.

³ Rosemary M. Rivas was a partner with Levi & Korsinsky, LLP from the inception of this case until December 18, 2020 and joined Gibbs Law Group LLP effective January 1, 2021. (Doc. 55).

C. Class Counsel's Costs and Expenses Are Reasonable

It is well-established that “[u]pon submission of adequate documentation, plaintiffs’ attorneys are entitled to reimbursement of those reasonable and necessary out-of-pocket expenses incurred in the course of activities that benefitted the class.” *Morgan*, 301 F. Supp. 3d at 1258 (quoting *Waters*, 190 F.3d at 1298). To date, Class Counsel have collectively incurred \$18,494.16 in unreimbursed litigation costs. JAY Decl., ¶ 35. The following chart breaks down the costs expended by Class Counsel per firm:

Firm	Expenses
Morgan & Morgan	\$3,424.00
Stueve Siegel Hanson LLP	\$7,679.37
Casey, Gerry, Schenk, Francavilla, Blatt & Penfield, LLP	\$3,210.74
Levi & Korsinsky, LLP	\$3,608.45
Russomanno & Borrello, P.A.	\$571.60
Total	\$18,494.16

The amount of costs actually expended and advanced by counsel include filing and PACER fees, process service, *pro hac vice* fees, research/Westlaw charges, copying and mailing expenses, and mediation expenses.⁴ These costs and expenses were reasonably necessary for the continued prosecution and resolution of this litigation and were incurred by Counsel for the benefit of class members with no guarantee that they would be reimbursed. Accordingly, Class Counsel respectfully submit that they are entitled to recover these expenses totaling \$18,494.16.

⁴ A detailed breakdown of the specific expenses incurred by each firm is included in Mr. Yanchunis’s Declaration at ¶¶ 35-37.

IV. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court enter an order awarding Class Counsel attorneys' fees in the amount of \$750,000 and reimbursing their litigation costs and expenses in the amount of \$18,494.16.

Dated: February 4, 2021

Respectfully submitted,

/s/ John A. Yanchunis

John A. Yanchunis (Fla. Bar No. 324681)

Patrick A. Barthle II (Fla. Bar No. 99286)

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/s/ Rosemary M. Rivas

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Plaintiffs' Interim Class Counsel

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Plaintiffs' Liaison Counsel

CERTIFICATE OF SERVICE

I hereby certify that on February 4, 2021, I electronically filed the foregoing document with the Clerk of Court using CM/ECF. I also certify that the foregoing document is being served this day on any and all counsel of record or pro se parties in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

/s/ John A. Yanchunis

Exhibit 1

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 19-cv-61350-ALTMAN/HUNT

In re: Citrix Data Breach Litigation

**DECLARATION OF JOHN YANCHUNIS IN SUPPORT OF PLAINTIFFS’
UNOPPOSED MOTION FOR APPROVAL OF
ATTORNEYS’ FEES, COSTS, AND EXPENSES**

I, John A. Yanchunis, declare pursuant to 28 U.S.C. § 1746 as follows:

1. I am a partner at Morgan & Morgan and was appointed by this Court as Chair of the Executive Committee designated to represent Plaintiffs in this action. (Doc. 35). I submit this declaration in support of Plaintiffs’ unopposed motion for approval of attorneys’ fees, costs, and expenses.

Case Background

2. On March 8, 2019, Citrix informed class members that hackers had gained access to Citrix’s internal network and exfiltrated information pertaining to 24,316 current and former employees, their dependents or beneficiaries, or other third parties (the “Data Breach”). The information stolen in the Data Breach included names, Social Security numbers or other tax identification numbers, financial account numbers, passport numbers, limited health claims information, or other personal information (“Personal Identifying Information” or “PII”).

3. Citrix confirmed that data was exfiltrated from its internal network for about five months from October 13, 2018 through March 8, 2019. Following notification of the Data Breach, three class action cases were filed against Citrix by current and former employees seeking damages, statutory penalties, and injunctive relief on behalf of themselves and others who were affected.

4. After filing a consolidated amended complaint, working through early case management issues, serving discovery, and analyzing documents and information related to the Data Breach that Citrix produced, the parties agreed on and retained the Honorable Jay C. Gandhi (Ret.) of JAMS ADR, a retired United States Magistrate Judge and highly experienced mediator, to help facilitate settlement negotiations and oversee a mediation. Following extensive negotiations, the parties were able to reach agreement on the substantive terms of the Settlement and executed a binding term sheet.

5. The parties negotiated a Settlement Agreement with the following pertinent terms: Citrix is required to establish a non-reversionary cash Settlement Fund of \$2,275,000.00 that will be used to pay for (1) reimbursement of class members' documented out-of-pocket losses fairly traceable to the Data Breach, up to \$15,000 per individual; (2) reimbursement of class members' time spent remedying issues related to the Data Breach, up to five hours at \$25 per hour (up to \$125 per individual); (3) access to identity restoration services for all class members, including professional fraud resolution assistance to help with identity recovery and restoration in case the class member experiences identity theft or fraud in the future, regardless of whether they make a claim under the Settlement; (4) an automatic five years of minor monitoring services for all minors affected in the Data Breach; and (5) five years of three-bureau credit monitoring through Experian or an alternative cash payment. As part of the Settlement, Citrix also agreed to maintain contractual business practice commitments relating to its data security.

6. On June 2, 2020, Plaintiffs filed an unopposed motion to direct class notice and grant preliminary approval of class action settlement. (Doc. 46). While that motion was pending, the U.S. Court of Appeals for the Eleventh Circuit issued an opinion in *Johnson v. NPAS Solutions, LLC*, 975 F.3d 1244, 1248 (11th Cir. 2020), which provided additional guidance regarding the

timing for filing an attorneys' fee motion pursuant to Rule 23(h) and held that incentive or service awards in class action cases are foreclosed by Supreme Court precedent. *See id.* at 1252, 1257. Citing *Johnson*, this Court issued an order on October 1, 2020 denying Plaintiffs' motion for preliminary approval based on the timing of the attorneys' fee motion and the Settlement Agreement's contemplation of service awards for the class representatives. (Doc. 51).

7. Plaintiffs thereafter filed an amended motion for preliminary approval addressing the issues raised by the Court. (Doc. 53). On January 26, 2021, the Court entered an order granting preliminary approval of the Settlement and directing that Plaintiffs file their motion for attorneys' fees on or before February 4, 2021, prior to the issuance of class notice. (Doc. 56).

Summary of Work Performed

8. Following the announcement of the Data Breach, Class Counsel spent time investigating the nature and scope of the breach, researching potential legal claims, consulting with experts, and interviewing dozens of data breach victims, including many current and former employees of Citrix. This work culminated in the filing of a thorough consolidated complaint on behalf of seven class representatives seeking monetary, injunctive, and declaratory relief based on eight causes of action for (1) negligence; (2) negligence per se; (3) violations of the Florida Unfair and Deceptive Trade Practices Act, Fla. Stat. §§ 501.201, *et seq.*; (4) breach of contract; (5) breach of implied contract; (6) breach of fiduciary duty; (7) breach of confidence; and (8) declaratory judgment. (Doc. 18).

9. After the appointment of Class Counsel and entry of a scheduling order, the parties exchanged initial disclosures pursuant to Rule 26(a)(1), and Plaintiffs served 47 requests for production of documents. The parties thereafter began engaging in preliminary and then more

formal settlement negotiations. This included the exchange of information Plaintiffs required to engage in settlement negotiations and the exchange of competing term sheets.

10. To help facilitate settlement negotiations, the parties retained Judge Gandhi to conduct a mediation in this matter on March 26, 2020. The parties also negotiated an ESI protocol and protective order governing the exchange of documents and use of confidential information.

11. As a condition of mediation, Class Counsel sought pertinent information from Citrix regarding the Data Breach, including the class size and demographics, technical aspects of the breach, the company's discovery of the breach, the duration of the breach, Citrix's retention of third-party forensic investigators, and a detailed explanation of the remedial measures taken by Citrix following the breach. Citrix agreed to provide this information pursuant to Federal Rule of Evidence 408. Citrix also produced Rule 26 disclosures and certain documents responsive to Plaintiffs' first requests for production that were reviewed by Class Counsel in conjunction with the Settlement.

12. In advance of the mediation, the parties submitted extensive written briefs to Judge Gandhi on their respective positions on the facts, claims, defenses, and assessments of the risks of continued litigation. On March 26, 2020, the parties participated in a full-day mediation session with Judge Gandhi that included attorneys and representatives for both parties. The negotiations were hard-fought throughout and the settlement process was conducted at arm's length. Following nearly 10 hours of negotiations, the parties were able to reach an agreement on the substantive terms of the Settlement and execute a binding term sheet. Negotiations regarding Class Counsel's fees, reimbursement of costs and expenses occurred separately and only after the parties had reached an agreement in principle regarding the proposed benefits to the Settlement Class and Citrix's business practice changes.

13. Although the parties were able to agree to a term sheet, negotiations continued for weeks following the mediation in order to reach agreement on the remaining settlement terms. As a condition of settlement, Class Counsel also conducted confirmatory discovery on the size and scope of the class and Citrix provided a declaration detailing its implementation of the contractual business practice commitments set forth in the Settlement Agreement.

14. With a term sheet in place, Class Counsel then spent time communicating with clients regarding the status of the settlement; negotiating and drafting the settlement agreement; preparing a request for bids to numerous settlement administrators and notice providers; negotiating with third-party credit monitoring providers; drafting the class member and minor claim forms; preparing the class notice; selecting the settlement administrator and conferring with the administrator regarding upcoming tasks; and drafting the motion for preliminary approval of the settlement with accompanying exhibits.

15. In performing the aforementioned work on behalf of the Class, Class Counsel spent 1,298.9 hours of attorney and paralegal time through January 31, 2021, yielding a total lodestar of \$958,160.00, which exceeds the fee award sought by Class Counsel. Class Counsel will continue to incur additional lodestar (substantially more so if there is an appeal), performing future work overseeing administration of the settlement, communicating with class members, preparing and arguing the motion for final approval, and overseeing payment distribution, which further supports the reasonableness of the requested fee.

Contingent Nature of Representation

16. At the time they filed the case, Class Counsel faced significant risks, including that the Court would reject their theories of liability, that causation could not be established, or that the class would not be certified. In spite of these risks, Class Counsel undertook the matter solely on

a contingent basis, with no guarantee of recovery.

17. Class Counsel have dedicated time, effort, and resources to this litigation for nearly two years without receiving any compensation for their work or reimbursement for any expenses advanced in this litigation. Additional work in connection with the Settlement and final approval will also be required. Given the time demands necessary to successfully prosecute this case, Class Counsel have foregone of other employment opportunities.

Class Counsel's Lodestar

18. As described above, Class Counsel have invested attorney and staff time into this case from investigation through a settlement that ultimately created a common fund for the benefit of the settlement class. As reflected in the following chart, Class Counsel expended a total of 1,298.9 hours prosecuting this litigation through January 31, 2021, which results in a lodestar of \$958,160.00.

Firm	Hours	Lodestar
Morgan & Morgan	239.8	\$191,277
Stueve Siegel Hanson LLP	442.8	\$318,708
Casey, Gerry, Schenk, Francavilla, Blatt & Penfield, LLP	249.6	\$186,630
Levi & Korsinsky, LLP/Gibbs Law Group LLP ¹	295.8	\$226,095
Russomanno & Borrello, P.A.	70.9	\$35,450
Total	1,298.9	\$958,160.00

19. During this action, Class Counsel utilized their timekeeping software system to record their time in six-minute increments. The individual billing entries are available and can be provided to the Court *in camera* upon request. Based on Class Counsel's time records, the below chart represents the total number of attorney hours reasonably expended by the firm through

¹ Rosemary M. Rivas was a partner with Levi & Korsinsky, LLP from the inception of this case until December 18, 2020 and joined Gibbs Law Group LLP effective January 1, 2021. (Doc. 55).

January 31, 2021, summarized by firm:

Morgan & Morgan					
Attorneys	Title	Years Practicing	Rate	Hours	Lodestar
John Yanchunis	Senior Partner	39	\$950	77.9	\$74,005.00
Patrick Barthle	Associate	8	\$658	74.6	\$49,086.80
Ryan McGee	Associate	12	\$742	1.3	\$964.60
Marcio Valladares	Associate	23	\$864	75.3	\$65,059.20
Staff					
Jennifer Cabezas	Paralegal	15	\$202	10.7	\$2,161.40
Total				239.8	\$191,277.00

20. The attorneys and staff that participated in this matter on behalf of my firm are well-credentialed and highly-experienced. The rates sought by the professionals and paraprofessionals at my firm are consistent with their credentials, level of experience, and past awards, as set out below:

- a. **John A. Yanchunis** – Mr. Yanchunis is the head of the Morgan & Morgan Complex Litigation Group’s class action section. He obtained his undergraduate degree from University of Florida in 1976, where he was a member of Florida Blue Key and Omicron Delta Kappa. He received his Juris Doctor degree from the South Texas College of Law in 1980, where he graduated magna cum laude. During law school, Mr. Yanchunis was a member of the Order of the Lytae, Associate Editor-in-Chief and Technical Editor of the South Texas Law Journal. His practice—which began after completing a two-year clerkship with United States District Judge Carl O. Bue, Jr., S.D. Tex.—has concentrated on complex litigation, including consumer class actions for more than two-thirds of that time. Alongside his experience in the area of

privacy, he also served as lead, co-lead, and class counsel in numerous national class actions, including multi-district litigation, involving a wide range of subjects affecting consumers, including antitrust, defective products, life insurance, annuities, and deceptive and unfair acts and practices.

- b. **Patrick A. Barthle** – Mr. Barthle graduated, *cum laude*, with a double major in History and Criminology from the University of Florida in 2009. While at UF, he was inducted into the Phi Beta Kappa Honor Society. Mr. Barthle graduated *summa cum laude* from Washington and Lee University School of Law in 2012. He was a Lead Articles Editor for the Law Review, a member of the Order of the Coif and the Phi Delta Phi Legal Honor Society. Before joining Morgan & Morgan in 2015, Mr. Barthle worked at one of the country’s largest law firms, Greenberg Traurig, LLP, and then served as a judicial law clerk for two years to the Honorable Mary S. Scriven, United States District Judge, Middle District of Florida. Mr. Barthle was selected as a Florida Super Lawyer Rising Star in 2019 and 2020 in the field of Class Actions.
- c. **Marcio W. Valladares** – Mr. Valladares was born in Managua, Nicaragua and immigrated to the United States during Nicaragua’s civil war. In 1990, Marcio obtained a Bachelor of Science degree in psychology from the University of Florida. In 1993, he obtained his Juris Doctor degree, *magna cum laude*, from Florida State University. He served as a judicial law clerk to the Honorable Steven D. Merryday, United States District Judge, Middle District of Florida, and then served as a judicial law clerk to the Honorable Susan H. Black, United States Circuit Court Judge, Court of Appeals for the Eleventh Circuit. Prior to

joining Morgan and Morgan, Marcio served as an Assistant United States Attorney for the Middle District of Florida.

- d. **Ryan J. McGee** – Mr. McGee graduated from the University of Florida with a B.S. in Business Administration in 2005. In 2008, he received his law degree from Stetson University College of Law, where he was an editor on the Stetson Law Review, a research assistant for antitrust and consumer protection laws, and a teaching assistant for Stetson’s trial advocacy program. Ryan began his legal career as a state-appointed prosecutor, where he tried over 50 jury trials to verdict. Ryan also served as a law clerk for two years for the Honorable Elizabeth A. Kovachevich, the former Chief United States District Judge, Middle District of Florida.
- e. **Jennifer Cabezas** – Paralegal. Ms. Cabezas is a paralegal with more than 15 years of experience. She obtained her Associates in Arts, paralegal studies from Keiser University in 2007, and later obtained her Bachelors in Arts in Criminal Justice from Florida International University in Miami, Florida. She assisted the attorneys with document preparation, court filings, mediation materials and other clerical tasks. Ms. Cabezas’s billing rate reflects her ordinary and customary rate. Her billing rate has been approved for paralegals of her experience level by other state and federal courts.

21. The billable rates charged by the attorneys and other professionals in my law firm, as set forth herein, have been approved by other federal and state courts across the country. *See, e.g., In re: Yahoo! Inc. Customer Data Sec. Breach Litig.*, 2020 WL 4212811, at *26 (N.D. Cal. July 22, 2020) (approving as reasonable rates of class counsel, which included \$900 for John

Yanchunis, and \$550 for Mr. Barthle, and finding as reasonable: “billing rates for partners range from about \$450 to \$900, depending on seniority level,” “billing rates for non-partner attorneys, including of counsel, associates, and staff/project attorneys, range from about \$160 to \$850, with most under \$500,” and “billing rates for paralegals range from \$50 to \$380”); *In re: Equifax Inc. Customer Data Security Breach Litig.*, Case No 1:17-md-02800-TWT, ECF 956 at 105 (N.D. Ga. Jan. 13, 2020) (approving as reasonable rates of class counsel, which included \$950 for John Yanchunis, and approving rates ranging from \$750 - \$1050 for lead counsel); *Walters v. Kimpton Hotel & Restaurant*, No. 3:16-cv-05387, ECF 117 (N.D. Cal. July 11, 2019), *id.*, ECF 113-1 (May 8, 2019) (identifying Morgan & Morgan rates of \$864-950 for partners, \$450-636 for associates, \$196 for paralegals, and \$300 for investigators); *Finerman v. Marriott Ownership Resorts, Inc.*, No. 3:14-cv-01154, ECF 222 (M.D. Fla. Aug. 15, 2018); *id.*, ECF 222 (May 7, 2018) (identifying Morgan & Morgan rates of \$950 for John Yanchunis, \$450-864 for associates, \$196 for paralegals, and \$300 for investigators); *Sanborn v. Nissan N. Am., Inc.*, No. 0:14-cv-62567, ECF 200 at 3 (S.D. Fla. Jan. 6, 2017); *id.*, ECF 195-3 at 4 (Oct. 14, 2016) (identifying Morgan & Morgan rates of \$950 for John Yanchunis, \$450 for associate); and *Dyer v. Wells Fargo Bank, N.A.*, No. 3:13-cv-02858, ECF 51 at 10 (N.D. Cal. Oct. 22, 2014); *id.*, ECF 43-1 (July 11, 2014) (identifying Morgan & Morgan rates of \$900 for John Yanchunis, \$550 for associate).

Stueve Siegel Hanson LLP²					
Attorneys	Title	Years Practicing	Rate	Hours	Lodestar
Norman E. Siegel	Senior Partner	28	\$985	34.6	\$34,081
J. Austin Moore	Partner	10	\$700	397.60	\$278,320
Stephanie Walters	ESI Counsel	14	\$595	10.6	\$6,307

² Stueve Siegel Hanson is submitting only those timekeepers who billed ten or more hours to this matter.

Total				442.8	\$318,708.00
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22. **Norman E. Siegel** is a founding partner of Stueve Siegel Hanson and leads the firm's data breach and privacy practice. In recent years, Mr. Siegel has been appointed as lead counsel in many of the largest data breach and privacy cases in the country, including serving as co-lead counsel in multi-district litigation against Equifax, Capital One, Quest Diagnostics, Home Depot, and Target for breaches of their data security. He was recently one of three lawyers named among Law360's "MVPs" in the field of Cybersecurity and Privacy Law and one of ten lawyers named as a "Titan of the Plaintiffs Bar." Mr. Siegel has been involved in this case since its inception, working with Mr. Moore to develop the case strategy, assisting in the drafting of the complaint, and overseeing the management of the case.

23. **J. Austin Moore** is a partner at Stueve Siegel Hanson and has significant experience representing consumers in data breach and privacy litigation. He was appointed as co-lead counsel in this matter and served as the partner responsible for leading the day-to-day management of this case. Mr. Moore has been actively involved in this case since its outset, including serving as the primary contact with Citrix's counsel, taking lead roles drafting the consolidated complaint, negotiating the settlement, substantive briefing, and preparing settlement-related filings. Mr. Moore has been appointed as class counsel in cases across the country and was recently one of five attorneys named among Law360's "Rising Stars" in the field of Cybersecurity and Privacy Law.

24. **Stephanie A. Walters** serves as Stueve Siegel Hanson's e-Discovery Counsel. She oversees and coordinates the firm's document collection, review, and production in all of its large-scale, complex matters. She regularly counsels attorneys on electronic discovery issues including preservation, collection, search term negotiation, document review, ESI production, e-discovery software, and forms of production. Ms. Walters took a lead role drafting the proposed ESI protocol

in this case and assisted in the negotiation of the protective order.

25. Stueve Siegel Hanson's hourly rates have been approved in fee applications submitted in jurisdictions across the country, including several in the last year. *See, e.g., In re Equifax Inc. Customer Data Sec. Breach Litig.*, 2020 WL 256132, at *39 (N.D. Ga. Jan. 13, 2020) (approving partner rates ranging from \$750-\$1,050 per hour in large-scale data breach class action, including Mr. Siegel's 2019 hourly rate of \$935); *Reyes v. Experian Info. Sols., Inc.*, 2020 WL 5172713, at *4 (C.D. Cal. July 30, 2020) (approving Stueve Siegel Hanson's "sufficiently document[ed] and justify[d]" hourly rates for purposes of cross-check, including Mr. Siegel's rate of \$985 and Mr. Moore's rate of \$700); *Smith v. Experian Info. Sols., Inc.*, 2020 WL 6689209, at *6 (C.D. Cal. Nov. 9, 2020) (approving Stueve Siegel Hanson's "reasonable hourly rates" for complex practitioners, including Mr. Siegel's rate of \$985 and Mr. Moore's rate of \$700).

Casey, Gerry, Schenk, Francavilla, Blatt & Penfield, LLP					
Attorneys	Title	Years Practicing	Rate	Hours	Lodestar
Gayle M. Blatt	Partner	35	\$900	152.8	\$137,520
Jeremy Robinson	Partner	23	\$800	7.6	\$6,080
P. Camille Guerra	Partner	12	\$550	54.7	\$30,085
James M. Davis	Associate	6	\$475	9.0	\$4,275
Seth Barron	Associate	1	\$340	25.5	\$8,670
Total				249.6	\$186,630

26. **Gayle M. Blatt** is an owner and partner at Casey Gerry Schenk Francavilla Blatt & Penfield, LLP ("Casey Gerry") and is head of the firm's complex litigation practice group. Ms. Blatt is a graduate of California Western School of Law. She was named one of the Top 50 Influential Professionals, San Diego Daily Transcript 2019; Top 500 Influential Business Leaders, San Diego Business Journal 2019; 2019 and 2020 Southern California Super Lawyers -Top 10 Lawyers in San Diego; Top 25 Women Lawyers in San Diego; Law Dragon 500 Leading Plaintiff

Consumer Lawyers 2019 and 2020; and is named annually in Best Lawyers in America. She participated in all aspects of the litigation, including initial consolidation of cases, analysis of issues for Consolidated Complaint, analysis of ESI Protocol, and of Defendant's Initial Disclosures, documents produced, edited discovery drafts, prepared for and participated in mediation, communicated with named Plaintiffs, reviewed and edited settlement documents, prepared Notice of Settlement, requested and evaluated bids for settlement administration, provided input and editing on Motion to Direct Class Notice and Preliminary Approval of Settlement, and other ongoing Interim Class Counsel responsibilities.

27. **Jeremy Robinson** is a partner at Casey Gerry and is the Chair of the firm's Motion and Appellate Practice. Mr. Robinson is a graduate of the University of Kentucky College of Law and was admitted to practice in 1997. He participated in reviewing and editing the Consolidated Complaint and overseeing the drafting of Plaintiffs' initial Complaint.

28. **P. Camille Guerra** is a partner on the complex litigation team at Casey Gerry. She is a graduate of Thomas Jefferson School of Law and was admitted to practice in 2008. Ms. Guerra works on data privacy and consumer fraud cases. She participated in ongoing factual development, drafting of discovery, client communications, preparation for mediation and analysis of settlement administration bids.

29. **James M. Davis** was an associate on the complex litigation team at Casey Gerry. He is a graduate of UCLA School of Law and was admitted to practice in 2014. Mr. Davis primarily participated in legal research and drafting of the mediation brief.

30. **Seth Barron** was an associate on the complex litigation team at Casey Gerry. He is a graduate of Northeastern University School of Law and was admitted to practice in 2019. Mr. Barron communicated with multiple potential Plaintiffs, fielded inquiries from and interviewed

numerous persons who contacted the firm after learning of the subject breach, and participated in drafting initial Complaint.

31. Billable rates charged by Casey Gerry attorneys and other professionals have been approved in fee applications by federal courts across the country. *See, e.g., In re: Yahoo! Inc. Customer Data Sec. Breach Litig.*, 2020 WL 4212811, at *26 (N.D. Cal. July 22, 2020) (approving rates of class counsel including Ms. Blatt’s rate of \$900 and Ms. Guerra’s rate of \$550, and finding as reasonable: “billing rates for partners range from about \$450 to \$900, depending on seniority level,” “billing rates for non-partner attorneys, including of counsel, associates, and staff/project attorneys, range from about \$160 to \$850, with most under \$500,” and “billing rates for paralegals range from \$50 to \$380”); *In re: Wells Fargo Collateral Protection Insurance Litigation*, 8:18-ML-2797-AG-KES (C.D. Cal., Nov. 4, 2019) (approving fees including previously capped hourly rates of \$800 per hour for partners, \$350-\$550 per hour for associates, and \$175-\$325 per hour for professional staff); *In re: Chrysler-Dodge-Jeep Ecodiesel Marketing, Sales Practices, and Product Liability Litigation*, 17-md-02777-EMC (N.D. Cal., May 3, 2019) (approving fees including hourly rates for Casey Gerry attorneys of up to \$900 for partners and \$340-\$550 per hour for associates); *In re: Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 2672 (JSC) (N.D. Cal., March 17, 2017) (approving fees including hourly rates of \$275-\$1600 per hour for partners (\$700-\$900 requested for Casey Gerry partners), \$150-\$790 per hour for associates, and \$80-\$490 per hour for paralegals).

Levi & Korsinsky, LLP/Girard Gibbs LLP					
Attorneys	Title	Years Practicing	Rate	Hours	Lodestar
Rosemary M. Rivas	Partner	20	\$835	179.7	\$150,049.50
Rosanne Mah	Associate	14	\$655	116.1	\$76,045.50
Total				295.8	\$226,095.00

32. **Rosemary M. Rivas** is a partner with Gibbs Law Group LLP. Ms. Rivas has dedicated her legal career to representing consumers in complex class action litigation involving a variety of claims, from false advertising and defective products to privacy violations. Rosemary M. Rivas has been appointed by federal judges to leadership positions in a number of large-scale complex class action cases and multi-district litigation. She served on the Plaintiffs' Steering Committee in the *Volkswagen Clean Diesel Litigation*, which resulted in a record-breaking settlement totaling more than \$14 billion. For her work in the Volkswagen case, Rosemary received the 2018 California Lawyer Attorney of the Year (CLAY) Award, which is given to outstanding California lawyers "whose extraordinary work and cases had a major impact on the law." She has received numerous awards and honors for the quality of her legal work, including the Bay Area Legal Aid Guardian of Justice Award for her achievements in the law and her role in helping direct *cy pres* (remaining settlement) funds to promote equal access to the legal system. She has also been repeatedly recognized as a Northern California Super Lawyer and previously was named a Rising Star by Super Lawyers Magazine. Ms. Rivas is a fluent Spanish-speaker and previously served on the Board and as Diversity Director of the Barristers Club of the San Francisco Bar Association. She earned her J.D. from the University of California, Hastings College of Law and her B.A. from San Francisco State University. Ms. Rivas's \$835 hourly rate was approved by the Honorable Amit P. Mehta in the class action case titled, *Scott, et al. v. JP Morgan Bank, N.A.*, Case No. 17-cv-00249 (D.D.C.) (finding that the hourly rates were consistent with market rates and reasonable in light of Class Counsel's skills).

33. **Rosanne L. Mah** is a Senior Associate in Levi & Korsinsky's San Francisco office, and a member of the firm's Consumer Litigation practice group. She has been in practice for approximately 14 years. Ms. Mah graduated from the University of San Francisco, School of Law

in 2005, and has devoted her practice to representing consumers in complex class actions since 2017. During law school, Ms. Mah also served as a Judicial Extern to the Honorable Anne Bouilanne, former Superior Court Judge for the State of California, County of San Francisco.

Russomanno & Borrello, P.A.					
Attorneys	Title	Years Practicing	Rate	Hours	Lodestar
Herman J. Russomanno III	Partner	15	\$500	70.9	\$35,450.00

34. ***Herman J. Russomanno III*** is a partner at the law firm of Russomanno & Borrello, P.A. and serves as the Court-Appointed Liaison Counsel in this class action case. Prior to joining the law firm, he served as a law clerk for the Honorable James Lawrence King, the former Chief United States District Judge in the Southern District of Florida. Since joining the firm, he has significant litigation and trial experience in business litigation cases, and in addition to serving as Liaison Counsel in this class action case, he also served as lead defense trial counsel in the class action case styled *Hirsch, et al. v. Trump National Golf Club* (S.D. Fla.), and has served as Class Counsel and/or Liaison Counsel in *In Re Florida Cement and Concrete Antitrust Litigation* [Indirect Purchaser Action] (S.D. Fla.) (law firm appointed Liaison Counsel); and *Parker, et al. v. Beltline Road Insurance Agency, Inc.* (S.D. Fla.) (law firm appointed Liaison Counsel).

Costs and Expenses

35. Class Counsel have collectively incurred \$18,494.16 in unreimbursed litigation costs. The following chart breaks down the total costs expended by Class Counsel per firm:

Firm	Expenses
Morgan & Morgan	\$3,424.00
Stueve Siegel Hanson LLP	\$7,679.37

Casey, Gerry, Schenk, Francavilla, Blatt & Penfield, LLP	\$3,210.74
Levi & Korsinsky, LLP	\$3,608.45
Russomanno & Borrello, P.A.	\$571.60
Total	\$18,494.16

36. A detailed breakdown of the specific costs and expenses incurred by each firm is summarized below:

Morgan & Morgan	
Costs/Expenses	Amount
Filing Fee and Service of Process	\$481.00
Postage and Delivery Service Charges	\$0.50
Mediator Fees	\$2,866.50
Copy and Print Charges	\$32.50
Online Research (Westlaw, PACER, Bloomberg)	\$43.50
TOTAL	\$3,424.00

Stueve Siegel Hanson LLP	
Costs/Expenses	Amount
Conference Call Services	\$6.60
Wi-Fi Charges	\$15.00
Mediator Fees	\$4,162.50
Copy and Print Charges	\$42.00
Online Research (Westlaw, PACER, Bloomberg)	\$3,303.27
Court Fees	\$150.00
TOTAL	\$7,679.37

Casey, Gerry, Schenk, Francavilla, Blatt & Penfield, LLP	
Costs/Expenses	Amount
Conference Call Services	\$7.56

Mediator Fees	\$2,866.50
Copy and Print Charges	\$1.85
Online Research (Westlaw, PACER, Bloomberg)	\$334.83
TOTAL	\$3,210.74

Levi & Korsinsky, LLP	
Costs/Expenses	Amount
Filing Fees and Service of Process	\$704.35
Mediator Fees	\$2,866.50
Online Research (Westlaw, PACER, Bloomberg)	\$37.60
TOTAL	\$3,608.45

Russomanno & Borrello, P.A.	
Costs/Expenses	Amount
Filing Fees	\$400
Service of Process	\$75
<i>Pro Hac Vice</i> Fees for Co-Counsel	\$75
PACER Fees	\$21.60
TOTAL	\$571.60

37. All of the expenses itemized above are reasonable out-of-pocket expenses that are normally passed on to the client and are not absorbed as part of overhead. These costs and expenses were reasonable and necessary to successfully prosecute the case. Had Class Counsel not been successful on behalf of the class, we would have been required to absorb these expenses at a loss.

Executed on February 4, 2021

/s/ John A. Yanchunis