

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, ss

SUPERIOR COURT

ROBERT WOODWARD and TIMOTHY KING, individually and on behalf of all others similarly situated,

Plaintiffs,

v.

NORTH COTTAGE PROGRAM, INC.,

Defendant.

Case No. 2473CV00710

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS’
MOTION FOR ATTORNEY FEES, COSTS, AND SERVICE AWARDS**

I. INTRODUCTION

For over twenty-one (21) months, Class Counsel prosecuted this case on a wholly contingent basis and succeeded in securing the class action settlement (the “Settlement”) which provides meaningful relief including up to \$700,000 in monetary relief for the benefit of Settlement Class Members.¹ Now, pursuant to the Settlement Agreement and Release (“Settlement Agreement” or “S.A.”), Plaintiffs Robert Woodward and Timothy King (“Plaintiffs” or “Class Representatives”) respectfully move the Court to award (i) attorney fees and costs of \$240,000.00 (the “Fee Award”) and (ii) service awards of \$4,000.00 for each Plaintiff (the “Service Awards”).

The Fee Award and Service Awards are reasonable as a matter of Massachusetts law, and the Court should grant the Motion for Attorney Fees, Costs, and Service Awards (the “Motion”) for three key reasons. *First*, the “lodestar” method establishes that the Fee Award is reasonable.

¹ Capitalized terms have the same meaning as in the Settlement Agreement.

Second, the seven *Linthicum* factors support the Motion and reaffirm the reasonableness of the Fee Award. *Third*, the Service Awards are warranted and align with Massachusetts precedent.

II. BACKGROUND

A. Litigation, Mediation, and Procedural History

On or around May 16, 2024, Defendant was allegedly impacted by a cybersecurity incident (the “Data Incident”) that affected the private information of approximately 7,682 people (the “Settlement Class” or “Settlement Class Members”). *See* S.A. (recitals), ¶ 48. On September 24, 2024, Plaintiff Timothy King filed his initial complaint in Plymouth Superior Court, Case No. 2483CV00803 (the “*King* Action”). *See* Joint Declaration of Counsel (“Joint Decl.”), ¶ 3. On October 10, 2024, Plaintiff Robert Woodward filed his class action complaint in this Court. *Id.* ¶ 4. Then, on December 10, 2024, Plaintiff Timothy King voluntarily dismissed the *King* Action without prejudice. *Id.* ¶ 5. On January 14, 2025, Plaintiffs Timothy King and Robert Woodward jointly filed the operative Amended Class Action Complaint (the “Amended Complaint”). *Id.* ¶ 6.

On July 25, 2025, Plaintiffs and Defendant (together, the “Parties”) engaged in a full-day mediation session with Michael N. Ungar, a highly experienced mediator who is the Chair of the Litigation Department at the national law firm UB Greensfelder. *Id.* ¶¶ 7-8. The involvement of Mr. Ungar is notable and weighs toward approval. *See, e.g., In re Fortra File Transfer Software Data Sec. Breach Litig.*, No. 24-MD-03090, 2025 U.S. Dist. LEXIS 182685, at *25, 46 (S.D. Fla. Sep. 17, 2025) (finding that the settlement “was reached in the absence of collusion and is the result of good faith, informed, and arm’s-length negotiations” when the parties engaged in “private mediation before experienced class action mediator Michael Ungar, Esq”); *Marcum v. Lakes Venture, LLC*, No. 3:19-cv-231, 2021 U.S. Dist. LEXIS 273978, at *4-5 (W.D. Ky. Oct. 14, 2021) (“The Settlement Agreement was achieved after arm’s-length and good faith negotiations . . . and

with the assistance of third-party neutral, Mike Ungar.”); *In re Samsung Top-Load Washing Mach. Mktg., Sales Practices & Prods. Liab. Litig.*, No. 17-ml-2792-D, 2020 U.S. Dist. LEXIS 90752, at *51 (W.D. Okla. May 22, 2020) (finding that counsel “fairly and honestly negotiated the Settlement at arm’s length” when “negotiations were supervised by accomplished mediator Michael N. Ungar”).

During the mediation, the Parties evaluated the relevant facts and law and carefully weighed the risks and uncertainties of continued litigation. S.A. ¶ 9. Under the mediator’s guidance, the Parties engaged in extensive arm’s-length negotiations and advocated vigorously on behalf of their respective clients. *Id.* The negotiations were hard fought, and the Parties were unable to reach an agreement during the mediation. *Id.* ¶ 10. Despite this, the Parties made substantial progress towards settlement. *Id.* Following the mediation, the Parties continued to engage in good-faith negotiations over the ensuing weeks and months, ultimately reaching agreement on all material terms of the Settlement. *Id.* ¶ 11.

On March 25, 2026, Plaintiffs moved for Preliminary Approval. *Id.* ¶ 13. On January 12, 2026, the Court held a hearing wherein it requested the Parties to make changes to the proposed notices and order before it would grant Preliminary Approval of the Settlement. *Id.* ¶ 14. Specifically, the Court requested that the Parties (a) remove all references to opt-out or exclusion procedures contained in the Settlement Agreement and its exhibits; and (b) include Massachusetts IOLTA notice language in the proposed Preliminary Approval Order. *Id.* Thereafter, the Parties collaborated and made the necessary changes to the settlement documents. *Id.* ¶ 15. On April 27, 2026, Plaintiffs moved for Preliminary Approval of the amended Settlement documents. *Id.* And on April 30, the Court held a hearing and endorsed the motion for preliminary approval. *Id.*

B. The Settlement

The Settlement Class is defined as “All individuals residing in the United States whose Private Information was impacted in the Data Incident affecting North Cottage in or around May 2024, including all those who received notice of the Data Incident.” S.A. ¶ 48. In total, there are approximately 7,682 people in the Settlement Class. *Id.* (recitals), ¶ 48.

The Settlement provides timely and tailored relief to the Settlement Class—including up to \$700,000.00 in monetary relief (the “Aggregate Cap”). S.A. ¶¶ 55-57. Defendant will pay for the following benefits subject to the Aggregate Cap: 1) Defendant will pay up to \$500 per Settlement Class Member for ordinary losses; 2) Defendant will pay up to \$5,000 per Settlement Class Member for extraordinary losses; 3) Defendant will pay up to \$80 per Settlement Class Member for lost time—i.e., up to four (4) hours at a rate of \$20 per hour; 4) in the alternative, each Settlement Class Member can claim a \$50 alternative cash payment; and 5) Defendant will pay for one (1) year of credit monitoring and \$1 million in identity theft protection insurance. *Id.* Finally, separate and apart from these monetary benefits, Defendant has agreed to invest in improved data security. *Id.* ¶ 42. Thus, the Settlement provides meaningful relief to all Settlement Class Members.

III. LEGAL STANDARD

Massachusetts state courts apply the “lodestar” method to assess the reasonableness of attorney fees. *See Fontaine v. Ebtac Corp.*, 415 Mass. 309, 325 (1993). Additionally, the Massachusetts Supreme Court has provided numerous factors that courts may consider when assessing attorney fees. *See Blake v. Hometown Am. Cmty., Inc.*, 486 Mass. 268, 285 (2020) (quoting *Linthicum v. Archambault*, 379 Mass. 381, 389 (1979), *abrogated in part on other grounds by Knapp Shoes, Inc. v. Sylvania Shoe Mfg. Corp.*, 418 Mass. 737, 743, 640 N.E.2d 1101 (1994)).

IV. ARGUMENT

The Fee Award and Service Award are reasonable as a matter of Massachusetts law, and the Court should grant the Motion for three key reasons. **First**, Class Counsel incurred a lodestar of \$189,949.00 and \$2,189.07 in costs. Thus, the Fee Award of \$240,000.00 equates to a lodestar multiplier of 1.25. **Second**, six of the seven *Linthicum* factors support the Fee Award (whereas one *Linthicum* factor is neutral). Thus, on balance, the *Linthicum* factors support the motion and reaffirm the reasonableness of the Fee Award. **Third**, the requested Service Awards of \$4,000.00 are warranted and supported by Massachusetts precedent.

A. The lodestar method establishes the reasonableness of the Fee Award.

Massachusetts state courts apply the “lodestar” method to assess the reasonableness of attorney fees. *See Fontaine*, 415 Mass. at 325. The lodestar is calculated by multiplying the “hours reasonably spent” against the respective hourly rates. *Id.* at 324 (collecting cases). Thereafter, the court may “adjust” the lodestar by applying a “lodestar multiplier.” *Sutton v. Jordan’s Furniture, Inc.*, 493 Mass. 728, 742 (2024).

Here, Class Counsel invested 248.8 hours over the past twenty-one (21) months—which equates to a lodestar of \$189,949.00. Joint Decl. ¶ 16. A detailed breakdown of the hours, rates, and lodestar is included in the attached Joint Declaration. *See id.* The hourly rates of Class Counsel are reasonable under Massachusetts law. *See Brown v. AllCare Plus Pharmacy LLC*, No. 2484CV02366, Dkt. No. 42, at ¶ 15 (Suffolk County, June 18, 2025) (providing hourly rates and lodestar calculations).

Class Counsel incurred \$2,189.07 in reasonable and necessary costs for filing fees, court costs, process service, research, and *pro hac vice* fees. *Id.* ¶ 17. Class Counsel will pay for these costs, and thus the “net” amount of the requested Fee Award is \$237,810.93 (i.e., \$240,000.00

minus the costs of \$2,189.07). *Id.* ¶ 18; compare with *Shedd v. Sturdy Memorial Hospital, Inc.*, No. 2173CV00498, Dkt. No. 93, at ¶ 14 (Bristol County, Feb. 27, 2023) (granting final approval of a data breach class action settlement, awarding attorney fees, and separately reimbursing counsel \$6,250 for litigation costs).

The requested Fee Award equates to a multiplier of approximately 1.25 (i.e., \$237,810.93 divided by \$133,174.00 equals 1.785715906). *Id.* ¶ 19. Notably, this lodestar multiplier will only decrease as the litigation proceeds. *Id.* ¶ 20. Class Counsel anticipates spending significant additional time and expense in this matter, including, *inter alia*, drafting the motion for final approval, preparing for and attending the final approval hearing, overseeing the claims process, and overseeing the distribution of funds to Settlement Class Members.

Massachusetts courts have regularly approved larger multipliers. *See Dumas v. Point 32 Health Servs., Inc.*, No. 2384CV01138-BLS2, 2025 Mass. Super. LEXIS 597, at *5 (Suffolk County, Mar. 26, 2025) (explaining that “the multiplier in this case is less than two, which is modest for a case like this one”); *see also In re Ranbaxy Generic Drug Application Antitrust Litig.*, 630 F. Supp. 3d 241, 246 (D. Mass. 2022) (“Most multipliers fall between one and four[.]”); *In re Prograf Antitrust Litig.*, No. MDL No. 2242, 2015 U.S. Dist. LEXIS 199792, at *15 (D. Mass. May 20, 2015) (holding that a lodestar multiplier of 2.35 was “reasonable”). For example, in *Wright v. Balise Motor Sales Co.*, the Superior Court for Suffolk County applied a “multiplier of 3” while explaining that “multipliers as high as 6 to 8 are not unheard of[.]” No. 2016CV3477-BLS2, 2020 Mass. Super. LEXIS 115, at *7–8 (Suffolk County, July 31, 2020).

Thus, the requested Fee Award falls well within the range approved by Massachusetts courts and is reasonable as a matter of Massachusetts law.

B. The *Linthicum* factors confirm the reasonableness of the Fee Award.

When assessing the reasonableness of attorney fees, Massachusetts courts may consider the seven “*Linthicum* factors” which are: “[1] the nature of the case and the issues presented, [2] the time and labor required, [3] the amount of damages involved, [4] the result obtained, [5] the experience, reputation and ability of the attorney, [6] the usual price charged for similar services by other attorneys in the same area, [7] and the amount of awards in similar cases.” *Blake*, 486 Mass. at 285 (quoting *Linthicum v. Archambault*, 379 Mass. 381, 389 (1979)).

As explained below, six *Linthicum* factors support the requested Fee Award (whereas one *Linthicum* factor is neutral). On balance, the *Linthicum* factors support the requested Fee Award—which confirms that the requested Fee Award is “reasonable” as a matter of Massachusetts law.

First, the “nature of the case and the issues presented” strongly support the requested Fee Award. *See Blake*, 486 Mass. at 285 (quoting *Linthicum*, 379 Mass. at 389). As a data breach class action, this case would face numerous obstacles to ultimate success on the merits—including establishing liability and damages. *See In re Onix Grp., LLC Data Breach Litig.*, No. 23-2288, 2024 U.S. Dist. LEXIS 225686, *27 (E.D. Pa. Dec. 13, 2024) (“[T]here is a risk of establishing liability, and in turn, damages, because this case involves a number of open questions, including whether Defendant owed a duty to the class to safeguard sensitive information[.]”).

Moreover, “data breach litigation is complex and largely undeveloped” and “no data breach class action has reached the trial stage” which “raises the uncertainty involved in the case[.]” *In re Canon United States Data Breach Litig.*, No. 20-CV-6239, 2024 U.S. Dist. LEXIS 138499, *30 (E.D.N.Y. Aug. 5, 2024). Indeed, obtaining—and then maintaining—class certification is acutely difficult in data breach class actions. *See Maldini v. Marriott Int’l, Inc.*, 140 F.4th 123 (4th Cir. 2025) (decertifying a class in data breach class action on appeal). In contrast, the Settlement

obviates such risks and secures timely relief to the Settlement Class. *See* S.A. ¶¶ 55-57. Thus, the first *Linthicum* factor strongly supports the requested Fee Award.

Second, the “time and labor required” support the requested Fee Award. *See Blake*, 486 Mass. at 285 (quoting *Linthicum*, 379 Mass. at 389). Here, Class Counsel diligently prosecuted this case for approximately twenty-one (21) months and invested 248.8 hours—including through preparing the initial complaints, drafting the amended complaint, exchanging informal discovery, attending formal mediation with Michael Ungar of UB Greensfelder, and engaging in several months of extensive arm’s length negotiations. Joint Decl. ¶ 22. Simply put, Class Counsel invested a substantial amount of time and labor to secure the Settlement on behalf of the Settlement Class. Thus, the second *Linthicum* factor supports the requested Fee Award.

Third, the “amount of damages involved” is neutral regarding the requested Fee Award. *See Blake*, 486 Mass. at 285 (quoting *Linthicum*, 379 Mass. at 389). In the data breach context, courts have noted that class actions are appropriate because the “small amount of damages for each class member makes individual lawsuits impractical.” *Tesky v. Bone & Joint Clinics, S.C.*, No. 23-cv-184, 2025 U.S. Dist. LEXIS 127425, at *5 (W.D. Wis. July 3, 2025); *see also Bowen v. Paxton Media Grp., LLC*, No. 5:21-CV-00143, 2024 U.S. Dist. LEXIS 61269, at *18 (W.D. Ky. Apr. 2, 2024) (“The amount of damages incurred by each class member would likely not justify pursuing individual lawsuits[.]”). Furthermore, in the aggregate, the “amount of damages is uncertain[.]” *Barletti v. Connexin Software, Inc.*, No. 2:22-cv-04676, 2024 U.S. Dist. LEXIS 43851, at *20 (E.D. Pa. Mar. 13, 2024). So even though the amount of damages to each class member is not large, the practicality of the class mechanism is still important. These considerations support the Settlement and timely resolution. Thus, the third *Linthicum* factor is neutral regarding the requested Fee Award.

Fourth, the “result obtained” supports the requested Fee Award. *See Blake*, 486 Mass. at 285 (quoting *Linthicum*, 379 Mass. at 389). As discussed in the motion for preliminary approval, the Settlement provides substantial relief that meets—and even exceeds—the relief provided by analogous data breach settlements in Massachusetts Superior Courts. *See S.A. ¶¶ 55-58*. For example, the Settlement provides alternative cash payments and compensation for lost time—which were categories of monetary relief unavailable in the *Shedd* data breach settlement. *Compare S.A. ¶ 56 with Shedd*, No. 2173CV00498, Dkt. No. 28.1, at 3–4 (Bristol County, Feb. 27, 2023). Moreover, the Settlement provides a \$50 alternative cash payment which matches the amount of the alternative cash payment in *Brown*, No. 2484CV02366, Dkt. No. 48, at ¶ 21 (Suffolk County, Aug. 28, 2025). Thus, the “results obtained” are substantial and the fourth *Linthicum* factor supports the requested Fee Award.

Fifth, the “experience, reputation and ability of the attorney[s]” strongly support the requested Fee Award. *See Blake*, 486 Mass. at 285 (quoting *Linthicum*, 379 Mass. at 389). Here, Class Counsel have substantial experience in analogous complex litigation—and a specific expertise in data breach class actions. Joint Decl. ¶ 23; *see also Jeffrey Pan v. Atlas Real Est. Grp. LLC*, No. 23-cv-00910, 2025 U.S. Dist. LEXIS 43019, at *14 (D. Colo. Mar. 10, 2025) (noting in a data breach class action that Strauss Borrelli PLLC “has significant past experience . . . in handling complex class action litigation . . . [and] therefore has the skills to properly perform the legal services required here”). Indeed, Class Counsel are currently litigating over one-hundred data breach class actions in state and federal courts across the country. Joint Decl. ¶ 23. Thus, Class Counsel have both the experience and ability to navigate the pitfalls of data breach litigation. *Id.* ¶ 24. And Class Counsel were able to effectively represent Plaintiffs and the Settlement Class and

secure the Settlement in a timely manner. *Id.* Thus, the fifth *Linthicum* factor strongly supports the requested Fee Award.

Sixth, the “usual price charged for similar services by other attorneys in the same area” supports the requested Fee Award. *See Blake*, 486 Mass. at 285 (quoting *Linthicum*, 379 Mass. at 389). For example, in *Shedd*, the court awarded the requested amount of attorney fees when the hourly rates were “from \$650 to \$950 per hour for partners; from \$450 to \$650 for associates and senior counsel; and from \$300 to \$325 for paralegals.” No. 2173CV00498, Dkt. No. 27.1, at 10 (listing hourly rates), Dkt. No. 30, at ¶ 14 (awarding the requested attorney fees) (Bristol County, Feb. 27, 2023). Here, the hourly rates of Settlement Class Counsel broadly align with *Shedd* and those of complex class action litigators in Massachusetts. Joint Decl. ¶¶ 16, 21. Thus, the sixth *Linthicum* factor supports the requested Fee Award.

Seventh, the “amount of awards in similar cases” supports the requested Fee Award. *See Blake*, 486 Mass. at 285 (quoting *Linthicum*, 379 Mass. at 389). For example, in *Shedd v. Sturdy Memorial Hospital, Inc.*, the court approved \$300,000 in attorney fees and \$6,250 in costs. No. 2173CV00498, Dkt. No. 30, at ¶ 14 (Bristol County, Feb. 27, 2023) (granting final approval of a data breach class action settlement). And in *Brown v. AllCare Plus Pharmacy LLC*, the court approved \$185,000 in attorney fees and costs. No. 2484CV02366, Dkt. No. 48, at ¶ 21 (Suffolk County, Aug. 28, 2025) (granting final approval of a data breach class action settlement). Here, the requested Fee Award of \$240,000 is reasonable and broadly aligns with those approved in *Shedd* and *Brown*. Thus, the seventh *Linthicum* factor supports the requested Fee Award.

In sum, six *Linthicum* factors support the requested Fee Award (whereas one is neutral). On balance, the *Linthicum* factors support the requested Fee Award—which confirms that the requested Fee Award is “reasonable” as a matter of Massachusetts law.

C. The costs incurred are reasonable and support the Fee Award.

Class Counsel incurred \$2,189.07 in reasonable and necessary costs for, *inter alia*, filing fees, process service, travel costs, and *pro hac vice* fees. Joint Decl. ¶ 17. As discussed above, Class Counsel will pay for these costs (decreasing the “net” amount of the Fee Award). *Id.* ¶ 18. Under Massachusetts law, these costs are reasonable—which supports the requested Fee Award. *See, e.g., Carlson v. Target Enter.*, 447 F. Supp. 3d 1, 5 (D. Mass. 2020) (awarding “reimbursement for expenses totaling \$6,935.96 incurred during litigation . . . [for] costs associated with mediation, travel expenses, filing fees, and postage” and finding “all these expenses reasonable”); *Herb v. Homesite Grp. Inc.*, No. 1:22-cv-11416-JEK, 2024 U.S. Dist. LEXIS 135170, at *14 (D. Mass.) (“The requested \$5,693.20 in litigation costs and expenses is also approved. These costs consist of the case filing fee, three *pro hac vice* payments, mediation costs, and certain mailing expenses . . . Courts regularly find such costs reasonable, and this Court does too.”);

D. The requested Service Awards are reasonable.

Pursuant to the Settlement Agreement, Class Counsel respectfully requests Service Awards of \$4,000.00 per person (\$8,000.00 in total) for the Plaintiffs in recognition of their contributions and dedication to the Settlement Class. S.A. ¶ 91. Notably, the requested Service Awards are less than those approved by Massachusetts courts in other cases. *See, e.g., Foster v. Adam Fire Dist.*, No. 1976CV00198, 2023 Mass. Super. LEXIS 711, at *5 (Oct. 5, 2023) (approving a service award of \$7,500.00); *Osborn v. Rocket Express, LLC*, No. 1881CV01785, 2022 Mass. Super. LEXIS 1217, at *4 (Oct. 26, 2022) (approving a service award of \$10,000.00). The requested Service Awards of \$4,000.00 are reasonable as a matter of Massachusetts law.

V. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court approve the requested Fee Award and Service Awards.

Dated: July 14, 2026

Respectfully submitted,

/s/ Michael Appel

Michael S. Appel (BBO# 543898)

KETTERER, BROWNE &

ASSOCIATES, LLC

336 S. Main Street

Bel Air, Maryland 21014

Telephone: (617) 359-4981

michael@KBAattorneys.com

Leigh S. Montgomery*

ELLZEY KHERKHER SANFORD

MONTGOMERY, LLP

4200 Montrose Blvd., Ste. 200

Houston, Texas 77006

Telephone: (888) 350-3931

lmontgomery@eksm.com

Cassandra P. Miller*

STRAUSS BORRELLI PLLC

980 N. Michigan Avenue, Suite 1610

Chicago, Illinois 60611

Telephone: 872.263.1100

cmiller@straussborrelli.com

*Attorneys for Plaintiffs and the Proposed
Settlement Class*

**Admitted Pro Hac Vice*

CERTIFICATE OF SERVICE

I, Michael Appel, attorney for the Plaintiffs, hereby certify that on July 14, 2026, I served true copies of the above document upon all counsel of record via the Court's electronic filing system.

Dated: July 14, 2026

Respectfully submitted,

/s/ Michael Appel
Michael S. Appel (BBO# 543898)