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KRISTEN LAKE CARDOSO (SBN 338762)
KOPELOWITZ OSTROW P.A.
ONE WEST LAS OLAS BLVD., STE. 500
FORT LAUDERDALE, FL 33301
TELEPHONE: (954) 525-4100
EMAIL: CARDOSO@KOLAWYERS.COM

Attorneys for Representative Plaintiffs
Additional Counsel Listed on Signature Page

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

CLARISSA CASTRO, AMBER FRIEDRICH, DUNCAN MEADOWS, JOHN SOUTH, and NYREE ZAPATA, *individually and on behalf of all others similarly situated,* Plaintiffs, v. ARCH HEALTH PARTNERS, INC. d/b/a PALOMAR HEALTH MEDICAL GROUP, Defendant.	Case No. 37-2024-00024339-CU-NP-CTL **PLAINTIFFS' NOTICE OF MOTION AND UNOPPOSED MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND APPLICATION FOR ATTORNEYS' FEES, COSTS, AND SERVICE AWARDS; AND MEMORANDUM IN SUPPORT** HEARING DATE: November 6, 2026 TIME: 08:30 a.m. DEPARTMENT: C-64 JUDGE: HON. LOREN FREESTONE COMPLAINT FILED: April 15, 2024

TO THE CLERK OF COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT on November 6, 2026, at 08:30 a.m., or as soon thereafter as the matter may be heard, before the Honorable Loren Freestone in Department C-64 of the Superior Court of California, County of San Diego, located at the Hall of Justice, Fourth Floor, 330 W. Broadway, San Diego, CA 92101, Plaintiffs Clarissa Castro, Amber Friedrich, Duncan

Meadows, John South, and Nyree Zapata will and hereby do move the Court, pursuant to California Civil Procedure Code § 382 and California Rule of Court 3.769, for an order granting:

1. Final approval and certification of the Settlement Class as described in the Settlement Agreement (a copy of which is attached as Exhibit A to Plaintiffs' Motion for Preliminary Approval, filed on November 3, 2025).

2. Final approval of Clarissa Castro, Amber Friedrich, Duncan Meadows, John South, and Nyree Zapata as the Class Representatives.

3. Final approval of Kristen Lake Cardoso of Kopelowitz Ostrow P.A., Bart D. Cohen of Bailey Glasser LLP, Danielle L. Perry of Mason & Perry LLP, and Jason M. Wucetich of Wucetich & Korovilas LLP as Class Counsel.

4. Final approval of the Settlement of claims as set forth in the Settlement Agreement.

5. Final approval of the Settlement Administration Costs in the estimated amount of $614,007.

6. Final approval of the Service Awards in the amount of $2,500 each to Clarissa Castro, Amber Friedrich, Duncan Meadows, John South, and Nyree Zapata.

7. Final approval of an award of attorneys' fees to Class Counsel in the amount of $1,033,333.33 and litigation costs actually incurred in an amount of $8,902.71 to be paid from the Settlement Fund.

8. Final approval of the Net Settlement Fund, which shall be distributed to Settlement Class Members who submit Valid Claims, according to the terms of the Settlement preliminarily approved by the Court.

This motion is based upon: this notice of motion and motion; the concurrently filed memorandum of points and authorities in support of the unopposed motion; the concurrently filed declaration of the Settlement Administrator, Stephanie Saunders; the concurrently filed declaration of Jason Wucetich; the concurrently filed Proposed Order; the Settlement Agreement; the Joint Declaration of Class Counsel, attached as Exhibit B to Plaintiffs' Motion for Preliminary

Approval, filed on November 3, 2025; other records and files made in this action; and such arguments as may be presented at the hearing on this motion.

Dated: September 22, 2026

By: ________________________________

KRISTEN LAKE CARDOSO (SBN 338762)
KOPELOWITZ OSTROW P.A.
ONE WEST LAS OLAS BLVD., STE. 500
FORT LAUDERDALE, FL 33301
TELEPHONE: (954) 525-4100
EMAIL: CARDOSO@KOLAWYERS.COM

DANIELLE L. PERRY (SBN 292120)
MASON & PERRY LLP
5335 WISCONSIN AVE NW, STE. 640
WASHINGTON, D.C. 20015
TELEPHONE: (202) 429-2290
EMAIL: DPERRY@MASONLLP.COM

BART COHEN
BAILEY GLASSER LLP
1622 LOCUST STREET
PHILADELPHIA, PA 19103
TELEPHONE: (215) 274-9420
EMAIL: BCOHEN@BAILEYGLASSER.COM

JASON M. WUCETICH (STATE BAR NO. 222113)
jason@wukolaw.com
DIMITRIOS V. KOROVILAS (STATE BAR NO. 247230)
dimitri@wukolaw.com
WUCETICH & KOROVILAS LLP
222 N. Pacific Coast Hwy., Suite 2000
El Segundo, CA 90245
Telephone: (310) 335-2001
Facsimile: (310) 364-5201

Attorneys for Representative Plaintiffs

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

On July 17, 2026, this Court granted preliminary approval of a class action settlement between Plaintiffs Clarissa Castro, Amber Friedrich, Duncan Meadows, John South, and Nyree Zapata ("Plaintiffs") and Defendant Arch Health Partners, Inc. d/b/a Palomar Health Medical Group ("Palomar" or "Defendant").[1] The Settlement provides for a non-reversionary $3.1 million all-cash Settlement Fund, and allows Settlement Class Members to make a claim for up to $5,000 in documented losses or an alternative cash payment, *and* two years of single-bureau credit monitoring. The Settlement is fair, reasonable, adequate, and delivers immediate and significant benefits to the individuals whose private information was impacted by the Data Incident. The reaction of the Settlement Class has been overwhelmingly positive. To date, only seven Settlement Class Members have opted out of the settlement and **none** have submitted objections.

This result was achieved through the hard-fought efforts of Class Counsel. As compensation for Class Counsel's work and investment in this litigation, and in recognition of the risks Class Counsel faced in taking this matter on a purely contingency basis, Class Counsel request an award of attorneys' fees of approximately 33% of the Settlement Fund, or $1,033,333.33, and reimbursement of litigation expenses of $8,902.71.

Accordingly, Plaintiffs, by and through their counsel of record, thus respectfully request the Court grant Plaintiffs' Motion for Final Approval of Class Action Settlement and Application for Attorneys' Fees, Costs, and Service Awards.

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[1] All capitalized terms herein shall have the same meanings as those defined in Section II of the Settlement Agreement ("S.A."), attached as Exhibit A to Plaintiffs' Motion for Preliminary Approval of Class Action Settlement.

II. STATEMENT OF FACTS

A. Factual Background

In May, June, and October of 2024, Defendant issued Notices to Settlement Class Members acknowledging that it was the victim of a cyberattack perpetrated against it between April 23, 2024, and May 5, 2024. During that period, hackers accessed or acquired files containing Private Information before activating ransomware that encrypted Palomar's systems. Palomar has confirmed the Data Incident affected approximately 1,175,633[2] individuals, including Plaintiffs.

B. Procedural History, Discovery, and Settlement Negotiations[3]

On May 28, 2024, Plaintiff Clarissa Castro filed a Complaint against Defendant based on the alleged unlawful exposure of her and all similarly situated individuals' Private Information, seeking money damages and injunctive relief. Thereafter, a number of similar lawsuits with similar claims and overlapping classes were filed against Defendant regarding the Data Incident. Plaintiffs' counsel in the actions conferred and decided to work cooperatively and litigate their actions in a single action. On September 16, 2024, Plaintiffs filed an Amended Class Action Complaint in this Action, and all other subsequently filed related cases were dismissed. Joint Decl. of Class Counsel in Supp. of Unopp. Mot. for Prelim. Approval, filed November 3, 2025 ("Joint Decl."), ¶ 5.

Shortly after the filing of the Action, in an effort to conserve resources for the benefit of those impacted by the Data Incident, the Parties began discussing settlement and scheduled a mediation before experienced mediator, the Hon. David E. Jones (ret.). On July 30, 2025, the Parties participated in a full-day, private mediation before Judge Jones. In advance of the mediation, Defendant provided Class Counsel with information related to, among other things,

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[2] While the original estimate provided by Palomar included 1,132,116, Class Members, the Final Class List used by Angeion contained 1,175,633 unique potential Settlement Class Member Records. Declaration of Stephanie Saunders Re: Dissemination of Notice and Settlement Administration, filed herewith ("Admin Decl."), ¶ 9.

[3] This section has been largely adopted from Plaintiffs' Motion for Preliminary Approval, filed November 3, 2026.

the nature and cause of the Data Incident, the number and geographic location of victims impacted by the Data Incident, and the specific type of information potentially accessed. The mediation concluded with the Parties agreeing to the material terms of the Settlement to resolve all claims on a class-wide basis. Joint Decl. ¶ 6.

Over approximately three months, the Parties worked diligently to finalize the terms of the Agreement and ancillary documents. Joint Decl. ¶ 7. The Agreement was executed on October 31, 2025. *Id*. The Parties did not discuss attorneys' fees and costs or potential Service Awards until after they reached agreement on all material Settlement terms. *Id*.

C. <u>Preliminary Approval</u>

On July 17, 2026, this Court granted Preliminary Approval of this class action Settlement. The Court determined the Settlement Agreement was the result of arm's-length negotiations between the Parties after contested litigation, that it had no obvious defects, and that it was within the range of reasonable settlement approval. The Court also affirmed the form and content of the proposed Notice to be mailed and posted on the internet, concluding they were adequate to provide notice of the Settlement Agreement to the Settlement Class, the requisite information regarding this Settlement, and that the proposed Notice Program was sufficient.

D. <u>Terms of the Proposed Settlement</u>

1. The Settlement Class

The Settlement Class has three components: (1) cash payments; (2) credit monitoring; and (3) business enhancements. The nationwide class is defined as "all individuals whose Private Information was accessed, acquired, disclosed, or compromised in the Data Incident." Settlement Agreement attached as Exhibit A to Plaintiffs' Motion for Preliminary Approval, filed on November 3, 2025 ("Agr.") at ¶ 48. Excluded from the Settlement Class are: (1) all persons who are directors, officers, and agents of Defendant, or their respective subsidiaries and affiliated companies; (2) governmental entities; and (3) the Judge assigned to the Action, that Judge's immediate family, and Court staff. Agr. ¶ 59.

2. Settlement Fund

The Settlement provides for a non-reversionary $3,100,000.00 all-cash Settlement Fund. *Id*. ¶ 62. Defendant will fully fund the Settlement Fund within 30 days of Preliminary Approval and Defendant's receipt of all necessary documentation and instructions. *Id*. ¶ 65. The Settlement Fund will be used to pay: (1) all Settlement Class Member Benefits to Settlement Class Members who submit Valid Claims; (2) all Settlement Administration Costs; and (3) any Attorney's Fees and Costs and Service Awards awarded by the Court. *Id*. ¶ 66.

3. Settlement Class Member Benefits

When submitting a Valid Claim, Settlement Class Members may choose either Cash Payment A – Documented Losses or Cash Payment B – Alternate Cash. *Id*. ¶ 69. Settlement Class Members may also elect to receive Credit Monitoring. *Id*. All Cash Payments will be subject to a *pro rata* increase or decrease, depending on the value of all Valid Claims received. *Id*. If a Settlement Class Member does not submit a Valid Claim, the Settlement Class Member will release his or her claims against Defendant without receiving a Settlement Class Member Benefit. *Id*.

Cash Payments - Settlement Class Members who elect Cash Payment A may receive up to $5,000.00 for reasonable documented losses related to the Data Incident. *Id*. ¶ 69.a. Alternatively, a Settlement Class Member may elect to receive Cash Payment B, which is an alternative cash payment in the estimated amount of $60.00. *Id*. ¶ 69.b.[4]

Credit Monitoring - Settlement Class Members may also elect two years of credit monitoring by one bureau, including $1,000,000.00 in identity theft fraud insurance, and dark web notification. *Id*. ¶ 69.c.

Business Enhancements - Since the Data Incident, Defendant has undertaken certain business practice enhancements intended to improve the security of its systems and protect against future incidents, which include, among other measures, deployment of endpoint detection and response (EDR) tools, new backup storage capabilities, and additional

[4] The claims period is still open. Plaintiffs will be able to provide the Court with updated figures prior to or at the Final Approval Hearing.

network monitoring capabilities. Defendant has borne the costs of these Business Practice Improvements separate and apart from the Settlement Fund and agrees that they benefit the Settlement Class. *Id*. ¶ 69.c.

4. Fees, Costs, and Service Awards

The Settlement provides that Class Counsel will apply to the Court for an award of attorneys' fees not to exceed one-third of the Settlement Fund, or $1,033,333.33, and reimbursement of reasonable litigation costs (here totaling $8,902.71). *Id*. ¶ 100. The Settlement further provides for Service Awards for Representative Plaintiffs in the amount of $2,500 per Plaintiff. *Id*. ¶ 99. Both provisions were negotiated after the Parties had come to an agreement on class benefits, and both are subject to Court approval. *Id.* ¶ 101.

E. <u>Notice</u>

The Parties implemented the Court-approved Notice Program in coordination with the approved Settlement Administrator, Angeion Group, LLC ("Angeion"). Using records provided by Defendant, Angeion created a database list of Settlement Class Members and verified the addresses using multiple methods. Declaration of Stephanie Saunders Re: Dissemination of Notice and Settlement Administration, filed herewith ("Admin Decl."), ¶¶ 8-9. This resulted in mailable address records for 837,918 Settlement Class Members. *Id*. ¶ 9. Angeion caused the Court-approved Notice to be sent via USPS first-class mail on August 17, 2026. *Id*. ¶ 10.

Some notices were returned as undeliverable, and Angeion was able to find new addresses and re-sent the Notices to 141,979 Settlement Class Members. *Id*. ¶¶ 11-12.

In addition to the mailed notice, and to ensure an even greater reach, at the direction of the Parties, Angeion supplemented the direct notice efforts with both publication and media notice. *Id*. ¶ 13. Publication Notice is scheduled to go out in the *San Diego Union-Tribune* on September 24, 2026, as a one-time, quarter-page advertisement. *Id.* ¶ 14. The media notice campaign began on September 18, 2026, and consists of internet banner advertisements, social media advertising, and paid search advertising designed to reach potential Settlement Class Members on websites they are likely to visit and direct them to the Settlement Website. *Id.* ¶ 16.

With input from counsel for the Parties, Angeion also established a Settlement Website, operational as of August 14, 2026, where Settlement Class Members could obtain important information about the settlement and submit/upload Claim Forms electronically. *Id*. ¶ 19. As of September 22, 2026, the Settlement Website has received approximately 9,312 unique visitors resulting in approximately 46,597 pageviews. *Id*. ¶ 21. Angeion also established a toll-free phone number to provide Settlement Class Members with additional information regarding the Settlement. *Id*. ¶ 22. As of September 22, 2026, the toll-free hotline has received 1,004 calls totaling 3,955 minutes. *Id.* ¶ 23.

F. <u>Claims, Opt-Out Requests, and Objections to Date</u>

Under the schedule established by the Preliminary Approval Order, the deadline for Settlement Class Members to submit an objection or opt-out request is October 7, 2026, and the Claim Form Deadline is October 22, 2026. *Id.* ¶¶ 24, 28.

As of September 22, 2026, a total of 24,718 Claim Forms have been timely submitted by Settlement Class Members. *Id.* ¶ 25. This represents a claims rate of 2.18%, which falls within the average claims rate for this type of settlement. *See id.* ¶ 26. Angeion anticipates the final number of claims received will increase given there is a month remaining prior to the claim filing deadline.

As of the date of this filing, only seven Settlement Class Members have requested exclusion, and zero have objected. *Id*. ¶¶ 28, 29.

III. ARGUMENT

A. <u>The Settlement Warrants Final Approval</u>.

Approval of a class action settlement "take[s] place over three stages. First, the parties present a proposed settlement asking the Court to provide preliminary approval for both (a) the settlement class and (b) the settlement terms." *In re Toys "R" Us-Del., Inc.-Fair & Accurate Credit Transactions Act (FACTA) Litig.*, 295 F.R.D. 438, 448 (C.D. Cal. 2014). "Second, if the court does preliminarily approve the settlement and class, (i) notice is sent to the class describing the terms of the proposed settlement, (ii) class members are given an opportunity to object or opt out, and (iii) the court holds a fairness hearing at which class members may appear and support or object to the settlement." *Id.* "Third, taking account of all of the information learned during the aforementioned processes, the court decides whether or not to give final approval to the settlement and class certification." *Id.*

When considering final approval of a class action settlement, the trial court has "broad discretion" to determine "whether a settlement was fair and reasonable, whether notice to the class was adequate, whether certification of the class was proper." A court determines whether the settlement is "fair, adequate, and reasonable." *Pickett v. Holland Am. Line-Westours, Inc*., 145 Wn.2d 178, 188, 35 P.3d 351 (2001) (*quoting Torrisi v. Tucson Elec. Power Co*., 8 F.3d 1370, 1375 (9th Cir. 1993)); *see also Dunk v. Ford Motor Co.,* 48 Cal. App. 4th 1794, 1801 (1996). This is a "largely un-intrusive inquiry." *Pickett v. Holland Am. Line-Westours, Inc*., 145 Wn.2d at 189. Although the Court possesses some discretion in determining whether to approve a settlement, "due regard" should be given "to what is otherwise a private consensual agreement between the parties." *Amaro v. Anaheim Arena Management, LLC*, 69 Cal. App. 5th 521, 534 (2021).

> The [court's] inquiry must be limited to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned.

Id. (*quoting 7-Eleven Owners for Fair Franchising v. Southland Corp.,* 85 Cal. App. 4th 1135, 1145 (2000) (internal quotations omitted)). Moreover, "it must not be overlooked that voluntary conciliation and settlement are the preferred means of dispute resolution." *Id*. at 190 (*quoting Officers for Justice v. Civil Service Com'n of City and County of San Francisco*, 688 F.2d 615, 625 (9th Cir. 1982)).

In evaluating whether a class settlement is "fair, adequate, and reasonable," courts generally reference the following criteria, with differing degrees of emphasis: (1) the likelihood of success by plaintiffs; (2) the amount of discovery or evidence; (3) the settlement terms and conditions; (4) recommendation and experience of counsel; (5) future expense and likely duration of litigation; (6) recommendation of neutral parties, if any; (7) number of objectors and nature of objections; and (8) the presence of good faith and absence of collusion. *Id*. at 188–89 (citing 2 HERBERT B. NEWBERG & ALBA CONTE, NEWBERG ON CLASS ACTIONS § 11.43 (3d ed. 1992)); *see also Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th 116, 128 (2008). This list is "not exhaustive, nor will each factor be relevant in every case." *Id*. (*quoting Dunk v. Ford Motor Co.*, 48 Cal. App. 4th at 1801). A "presumption of fairness exists where: (1) the settlement is reached through arm's-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small." *Cellphone Termination Fee Cases*, 180 Cal. App. 4th 1110, 1118 (2009).

B. <u>The Settlement is Fair, Adequate, and Reasonable</u>.

This Settlement provides relief to the Settlement Class, gives closure to Defendant, fosters judicial efficiency, and furthers public policy. Public policy generally favors the compromise of complex class action litigation where the inherent costs, delays, and risks of continued litigation might otherwise overwhelm any potential benefit the Settlement Class could hope to obtain. *Nordstrom Com. Cases*, 186 Cal. App. 4th 576, 581 (2010); *Class Plaintiffs v. City of Seattle*, 955 F.2d 1268, 1276 (9th Cir. 1992) (acknowledging a "strong judicial policy that favors settlements, particularly where complex class action litigation is concerned").

The Settlement Agreement is fair, adequate, and reasonable. Settlement Class Members can make a claim for: (i) reimbursements of up to $5,000 per person for documented losses related to the Data Incident OR an alternative cash payment in the estimated amount of $60; and (ii) two years of single-bureau credit monitoring. Agr. ¶ 69. These amounts, and the value of the Settlement as a whole, compare favorably to other approved settlements. Additionally, the

Settlement requires Defendant to undertake certain reasonable steps to enhance its data security in order to secure Plaintiffs' and Settlement Class Members' Private Information against a future breach. Agr. ¶ 69. The Settlement Fund will also be used to pay for (i) all Settlement Administration Costs (estimated to be $614,007), (ii) a maximum of one-third of the Settlement Fund as combined attorneys' fees and costs, and (iii) Service Awards of up to $2,500 for the Class Representatives. *Id.,* § XI.

The presumption of reasonableness applies here because (1) the Settlement was reached through arm's-length bargaining through an experienced mediator (Joint Decl. ¶¶ 6-7); (2) prior to and during mediation, the Parties exchanged sufficient informal discovery to adequately evaluate the claims (*Id.*); (3) proposed Class Counsel has extensive experience in data breach litigation (*Id.*, Exs. 1-4); and (4) no individuals objected to the Settlement (Admin Decl. ¶¶ 28-29). Moreover, the factors examined by California courts weigh in favor of approval.

1. Plaintiffs' Likelihood of Success Supports Final Approval.

The existence of risk and uncertainty to the Plaintiffs and Class "weigh heavily in favor of a finding that the settlement was fair, adequate, and reasonable." *Pickett*, 145 Wn.2d at 192. Here, the Plaintiffs and Settlement Class sought to hold Defendant responsible for a data breach that was precipitated by the criminal actions of a third party. By litigation standards, data breach cases are still relatively new. Courts around the country are grappling with what legal principles apply to these types of claims. Similarly, with the numerous data breaches that have occurred, proving a class member's personal information was compromised by a particular breach (as opposed to another) presents challenges for proving causation of damages.

The Settlement recognizes the inherent risks, costs, and delay associated with the prosecution of data breach class actions. Agr. ¶ 30. Data breach class action litigation is a relatively new and still evolving area of litigation, and so the usual risks in litigation are "heightened." *Carter v. Vivendi Ticketing US LLC*, No. SACV 22-01981-CJC (DFMx), 2023 WL 8153712, at *6 (C.D. Cal. Oct. 30, 2023). Evaluating the strength of a data breach case is difficult because "there have been no data breach cases tried to verdict, and only a handful of cases have achieved class certification." *In re Postmeds,* No. 23-cv-05710-HSG, 2024 WL 4894293, at *6 (N.D. Cal. Nov. 26, 2024). In data breach cases, protracted litigation poses substantial risks—especially in terms of establishing liability and damages. *In re 23andMe, Inc. Customer Data Sec. Breach Litig*., 2024 WL 4982986, at *16 (explaining that "on liability for the negligence-based claims, [defendant] could argue contributory negligence if a [class member] recycled login credentials or failed to use a unique password" and that "if the class asserts that [class members] suffered losses as a result of the data breach, quantifying those losses—which could be both economic and noneconomic—could be difficult" and that "variation in individual injuries suffered and potential damages claimable, while not necessarily preclusive of certification under Rule 23(b)(3) as noted above, poses challenges"); *see also Harbour v. California Health & Wellness Plan et al.*, 2024 WL 171192, at *4 (N.D. Cal. Jan. 16, 2024) (noting that "this factor favors the settlement" because the "data breach injury asserted is legally unproven, technically complex, and potentially of little value"). Additionally, class litigation poses substantial risks of "denial or reversal of class certification . . . losing on summary judgment or at a jury trial . . . [or] revers[al] on appeal" which would "effectively extinguish any hope of recovery by the Settlement Class." *In re Postmeds*, 2024 WL 4894293, at *7. "Historically, data breach cases have experienced minimal success in moving for class certification." *Carter*, 2023 WL 8153712, at *6 (*quoting Gaston v. Fabfitfun, Inc*., No. 2:20-cv-09534, 2021 WL 6496734, at *3 (C.D. Cal. Dec. 9, 2021)). These risks support approval.

Moreover, throughout this litigation and settlement process, Defendant maintained it was not liable for any alleged wrongdoing. Accordingly, although Plaintiffs are confident in the strength of their case, the outcome is uncertain. There was also a very real risk of a prolonged and expensive appeals process should litigation continue. While attorneys' fees and litigation costs would undoubtedly have increased as a result, the potential recovery for Settlement Class Members would likely not have exceeded the settlement, even with a win at trial.

Class Counsel understood and considered these risks when negotiating the Settlement Agreement, which eliminates these risks and provides substantial compensation to Settlement Class Members without further delay.

2. The Amount of Discovery and Evidence Supports Final Approval.

Courts review the status of discovery to ensure the parties have "sufficient information to make an informed decision about settlement." *Linney v. Cellular Alaska P'ship*, 151 F.3d 1234, 1239 (9th Cir. 1998). This information can be obtained through formal or informal discovery. *See Clesceri v. Beach City Investigations & Protective Servs., Inc.*, No. CV-10-3873-JLS (RZx), 2011 WL 320998, at *9 (C.D. Cal. Jan. 27, 2011).

Here, the Parties engaged in an informal exchange of information sufficient to evaluate the strengths and weaknesses of claims and defenses and value the claims. *See* Joint Decl. ¶ 6. Such information included, among other things, the nature and cause of the Data Incident, the number and geographic location of victims impacted by the Data Incident, and the specific type of information potentially accessed. *Id.* With this information, Class Counsel were prepared and were able to negotiate a settlement that provides substantial and certain relief for the Settlement Class that is greater relief than most settlements in this arena provide. *Id.*

3. The Settlement Terms and Conditions Support Final Approval.

The terms and conditions of the proposed Settlement Agreement support its final approval. All Settlement Class Members who submit a valid and timely Claim Form remain entitled to the cash compensation described above <u>and</u> two years of identity theft protection and credit monitoring services. The identity theft protection and credit monitoring service is designed to protect Settlement Class Members from the very harm alleged in this lawsuit. Specifically, it monitors a Settlement Class Member's credit profile and notifies them of any changes. Further, in the event a Settlement Class Member's Private Information has been used improperly, there is $1 million in insurance benefits available to compensate them for their loss and assist in remedying the problem. Agr. ¶ 69.

The Settlement provides $3,100,000.00 for a Settlement Class of 1,132,116 (which equates to a value of $2.74 per Settlement Class Member). *See* Agr., ¶ 59; Joint Decl. ¶ 22. This strongly weighs toward approval because "other courts have approved settlements in privacy and security cases when each class member received just a few dollars or less." Carter, 2023 WL 8153712, at *5. Indeed, this Settlement provides more value per Settlement Class Member than analogous data breach settlements. *See, e.g., In re Loandepot Data Breach Litig*., No. 8:24-cv-00136, ECF No. 88 (approving a $25 million common fund for a class of 16,924,007 which equated to $1.48 per class member).

Of the causes of action alleged, the claim for violation of the California Consumer Privacy Protection Act, Civ. Code § 1798.150, allows for statutory damages of between $100 and $750, and the claim for violation of the Confidentiality of Medical Information Act, Civ. Code § 56, allows for nominal damages or $1,000 (or, for both, actual damages, if greater). Plaintiffs' remaining claims otherwise only allow for equitable relief and compensatory damages, which in a data breach case may be difficult to prove and may vary among class members. Thus, even if they prevailed on their statutory claims, each Settlement Class Member could hope to obtain perhaps a maximum of $1,750, or actual damages, whichever is greater. The compromise amounts in the proposed Settlement exceed that amount: up to $5,000 represents fair compromises of potential statutory damages in light of the litigation risks.

Accordingly, the Settlement provides fair, reasonable, and adequate recovery in light of the risks of further litigation.

4. The Positive Recommendation and Extensive Experience of Counsel Support Final Approval.

Class Counsel in the present matter, who are experienced and skilled in class action litigation, support the settlement as fair, reasonable, and adequate, and in the best interests of the Settlement Class. *See* Joint Decl. Exs. 1-4. Class Counsel have significant class action experience and have litigated the case aggressively and effectively. Given Class Counsel's knowledge and experience, Counsel believe the Settlement is an excellent result that provides substantial benefits for Settlement Class Members.

5. Future Expense and Likely Duration of Litigation Support Final Approval.

This Settlement guarantees substantial recovery and continued credit monitoring services for Settlement Class Members while obviating the need for lengthy, uncertain, and expensive litigation. For all the reasons described above, continued litigation of this matter would cause additional expense and delay. Although the Parties conducted significant informal discovery up to this point, substantial work would be necessary to prepare the case for trial. Expert discovery would be required to prepare for trial, which would have been expensive to conduct. Even if Plaintiffs had prevailed, justice would have been delayed. In contrast, the Settlement makes substantial monetary relief available to Settlement Class Members in a prompt and efficient manner.

6. The Reaction of the Settlement Class Supports Final Approval.

"It is established that the absence of a large number of objections to a proposed class action settlement raises a strong presumption that the terms of a proposed class settlement action are favorable to the class members." *Nat'l Rural Telecomms. Coop*. v. *DirecTV, Inc.*, 221 F.R.D. 528, 529 (C.D. Cal. 2004); 4 NEWBERG ON CLASS ACTIONS, § 11:48 (4th ed. 2002)

("Courts have taken the position that one indication of the fairness of a settlement is the lack of or small number of objections [citations omitted]"). Here, the deadline to opt out or object to settlement is still in the future; however, already, as of the date of this filing, seven Settlement Class Members have opted out, and zero have lodged a formal objection.

This indicates strong support for the settlement by the Settlement Class Members and weighs heavily in favor of final approval. *See Hutton v. Nat'l Bd. of Exam'rs in Optometry, Inc*., 16-cv-3146 JKB, 2019 WL 3183651 at *5 (D. Md. Jul. 15, 2019) (finding opt-out rate of .026 percent indicated strong support for settlement of data breach action). In fact, in similar situations, courts have typically deemed no objections or a small number of objections as affirmative support for settlement approval, as the number of objections suggests an overall favorable reaction from the class. *Rodriguez v. West Publishing Corp*., 563 F.3d 948, 967 (9th Cir. 2009) ("The court had discretion to find a favorable reaction to the settlement among class members given that, of 376,301 putative class members to whom notice of the settlement had been sent, 52,000 submitted claims forms and only fifty-four submitted objections."); *see also Churchill Vill. LLC v. Gen. Elec*., 361 F.3d 566, 577 (9th Cir. 2004) (affirming final approval where "only 45 of the approximately 90,000 notified class members objected to the settlement" and 500 class members opted out); *Hughes v. Microsoft Corp*., No. C98–1646C, C93–0178C, 2001 WL 34089697, at *8 (W.D. Wash. Mar. 26, 2001) ("Over 37,000 notices were sent and over 3,600 class members contacted class counsel wanting to participate. . . . [L]ess than 1% of the class opted out and only nine objections were submitted.").

Thus far, 2.18% of the Settlement Class has submitted claims. Admin Decl. ¶¶ 25-26. This is within the average claims acceptance rate for data breach actions. In the *In re Anthem, Inc. Data Breach Litig*., for example, the claims rate was approximately 1.8 percent. 327 F.R.D. 299

(N.D. Cal. 2018) (also noting that class data breach settlements in *In re Home Depot* and *In re Target* had claims rates of 0.2 percent and 0.23 percent respectively).

Thus, the Settlement Class Members' response clearly weighs in favor of final approval of the Settlement.

C. <u>Notice Provided to Settlement Class Members Meets Due Process</u>.

At Preliminary Approval, this Court determined that the proposed Notice Program met the requirements of due process and applicable law, would provide the best notice practicable under the circumstances, and constitutes due and sufficient notice of all individuals entitled thereto.

To date, the Notice Program has been successful. An estimated 787,469 Settlement Class Members received direct and individual notice via the mailed Postcard Notices. *Id*. ¶¶ 10-13. Thus far, the Settlement Website has drawn 9,312 unique visitors resulting in approximately 46,597 pageviews. And, importantly, 24,718 claims have been made with approximately one month left until the claims deadline. *Id*. ¶¶ 21, 25. All told, Angeion estimates notice reached approximately 70% of the Settlement Class. *Id.* ¶ 32. This meets the Federal Judicial Center's identified standard of 70% as a "high" percentage for notice reach. *See Id.* ¶ 33.

In an abundance of caution after realizing a portion of the Settlement Class could not be provided Notice by direct and individual mail, the Parties, with the Settlement Administrator, designed a publication and media notice structured to increase the reach of the Notice Program. *See* Admin. Decl. ¶¶ 13-18.

D. <u>The Requested Attorneys' Fees and Costs Should be Approved</u>.

Plaintiffs seek a $1,033,333.33 attorneys' fee award, which represents 1/3 of the Settlement Fund. This amount is consistent with the Notice to all Settlement Class Members, and to which no one has objected to date. The California Supreme Court confirmed that in common fund cases, a trial court may award class counsel attorneys' fees out of that fund by choosing an appropriate percentage of the fund. *Laffitte v. Robert Half Int'l*, 1 Cal. 5th 480, 503 (2016). While recognizing that some courts have employed a benchmark percentage, the Court chose not to adopt one. *Id*. at 495. As discussed herein, a lodestar cross-check also supports the requested fee. *In re Consumer Privacy Cases*, 175 Cal. App. 4th 545, 557-58 (2009) ("Regardless of whether attorneys' fees are determined using the lodestar method or awarded based on a "percentage-of-the-benefit" analysis under the common fund doctrine, '[t]he ultimate goal … is the award of a 'reasonable' fee to compensate counsel for their efforts, irrespective of the method of calculation.").

1. The Common Fund Doctrine Supports the Requested Attorneys' Fee Award.

Class Counsel's requested fee award is reasonable under the common fund doctrine. The common fund doctrine has long "been recognized and applied consistently in California when an action brought by one party creates a fund in which other persons are entitled to share." *City & Cnty. of San Francisco v. Sweet*, 12 Cal. 4th 105, 110-11 (1995). Further, the common fund doctrine in California is grounded on long-standing equitable principles. That is, when attorneys recover a sum of money for the benefit of a large group of persons in vindication of a public policy grounded in the California Constitution, they may be awarded their fees and costs from the fund they obtained. *Laffitte*, 1 Cal.5th at 498.

Also, common fund awards benefit society by encouraging "the attorney for the successful litigation, who will be more willing to undertake and diligently prosecute proper litigation for the protection of recovery of the fund if he is assured that he will be properly and directly compensated should his efforts be successful." *Melendres v. City of Los Angeles*, 45 Cal. App. 3d 267, 273 (1975) (quoting *Estate of Stauffer*, 53 Cal. 2d 124, 132 (1959)). Experienced attorneys must be sufficiently compensated for their skill, time, and efforts in taking on large, risky, complex class action cases. If not, then they may avoid taking on these kinds of cases, which courts have acknowledged provide critical benefits to all Californians. *Linder v. Thrifty Oil Co.*, 23 Cal.4th 429, 434-35 (2000) (Class actions are a means "to prevent a failure of justice in our judicial system.").

Finally, if there is any remaining doubt about the use of the common fund doctrine in assessing fees, the California Supreme Court in *Laffitte* affirmed that a percentage basis award of attorneys' fees may be the primary basis of a trial court's calculation of a fee award. *Laffitte, supra,* 1 Cal. 5th at 503 ("Whatever doubts [remain], we clarify today that use of the percentage method to calculate a fee in a common fund case, where the award serves to spread the attorney fee among all the beneficiaries of the fund, does not in itself constitute an abuse of discretion.").

Given California courts' recognition of the value of the common fund doctrine in assessing fees and the public benefit of awarding attorneys for taking on the risk of class actions, awarding Class Counsel a percentage of the Settlement Fund is reasonable.

2. The Percentage of the Settlement Set Aside for Attorneys' Fees is Reasonable.

Class Counsel's requested attorneys' fee award equals 1/3 of the $1,300,000.00 Settlement Fund. This percentage falls squarely within the scope of awards in class action cases in California. That is, "[e]mpirical studies show that, regardless whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery.'" *Chavez v. Netflix, Inc.*, 162 Cal. App. 4th 43, 66 n.11 (2008) (internal citation omitted); *see also Laffitte,* 1 Cal. 5th at 506 (evaluating relevant factors and upholding attorneys' fees award equal to one-third of a $19 million gross settlement fund). This case, like *Laffitte*, involved risk given the legal issues involved. Although Class Counsel believes Plaintiffs' claims have substantial merit, the fact remains that data privacy cases present unique challenges. Defendant has numerous factual and legal arguments regarding liability, damages, and injunctive relief that Plaintiffs would need to overcome. Class Counsel took this case entirely on contingency, investing significant time and paying out-of-pocket costs. There was no guarantee their efforts would be successful. Moreover, the fact that this Settlement was achieved relatively early in the litigation is a testament to Class Counsel's skill and expertise in this area of law. Achieving such a remarkable result relatively early in the case provides further justification for the requested fee. Counsel should not be docked for being efficient in achieving a settlement like this one. Accordingly, this Court can easily find Plaintiff's request for fees equal to 1/3 of the Settlement Fund is reasonable and routine.

3. The Relevant Factors Support Class Counsel's Fee Request.

In deciding whether to grant a fee award, courts consider "the nature of the litigation, its difficulty, the amount involved in the litigation, the skill employed in handling the litigation, the attention given, the success of the attorney's efforts, the attorney's learning and experience, the intricacies and importance of the litigation, the labor necessary, and the time consumed." *Olson v. Cohen*, 106 Cal. App. 4th 1209, 1217 (2003). These factors favor the requested award. First, the Settlement affords immediate and certain relief to Class Members, which far outweighs the risk of recovering nothing and eliminates the attendant risks at trial and the possibility of lengthy appeals. *See* Joint Decl. ¶ 30. Second, as described above, Class Counsel came to this case with substantial experience and thus, provided the skill necessary to achieve this Settlement. *Id.* ¶ 28. Finally, the Action presented substantial difficulty because there were significant risks of continuing this litigation and a substantial risk Plaintiffs' and Settlement Class Members' rights would not be vindicated. *Id.* ¶ 23. Data privacy cases like this one involve numerous complex legal issues. Even though Plaintiffs maintain the claims are meritorious, they ran the risk of the Court sustaining a demurrer, denying class certification, granting summary judgment in Defendant's favor, or losing at trial. Given the successful Settlement reached, the skill of the Plaintiffs' Counsel, and the risks in this Action, Plaintiffs' fee request is reasonable.

4. A Lodestar Cross-Check Supports the Requested Attorneys' Fee Award.

A cross-check using the lodestar method demonstrates that Plaintiffs' requested fee award is reasonable. *See* Guidelines for Motions Relating to Preliminary and Final Approval of Class Actions, § III.C. "Under this approach, the lodestar is calculated by multiplying the reasonable hours expended by a reasonable hourly rate. The court may then enhance the lodestar with a multiplier, if appropriate." *Wershba*, 91 Cal. App. 4th at 254–255. "'[S]ufficient evidence' generally is information about counsel's hourly rate and the time spent on the case." *Robbins v.*

Alibrandi, 127 Cal. App. 4th 438, 450-451 (2005). Trial courts conducting lodestar cross-checks "have generally not been required to closely scrutinize each claimed attorney-hour, but have instead used information on attorney time spent to focus on the general question of whether the fee award appropriately reflects the degree of time and effort expended by the attorneys." *Laffitte*, 1 Cal. 5th at 505 (internal citations and quotation marks omitted). The lodestar multiplier accounts for "a variety of other factors, including the quality of the representation, the novelty and complexity of the issues, the results obtained, and the contingent risk presented." *Lealao v. Beneficial California, Inc.*, 82 Cal. App. 4th 19, 26 (2000).

Here, as judged by the hours spent on the categories of activities related to the Action, together with Class Counsel's reasonable hourly rates, the time and effort expended supports the requested attorneys' fee award.

a. The Hours Expended Are Reasonable.

Counsel for prevailing parties are entitled to be compensated "for all time reasonably expended in pursuit of the ultimate result achieved in the same manner that an attorney traditionally is compensated by a fee-paying client for all time reasonably expended on a matter." *Hensley*, 461 U.S. at 431 (internal quotes and citation omitted); *see also Laffitte*, 1 Cal. 5th at 491-92; *Serrano v. Unruh*, 32 Cal. 3d 621, 632-33 (1982) (parties "should recover for all hours reasonably spent"); *Roth v. Plikaytis*, 15 Cal. App. 5th 283, 290 (2017) ("parties who qualify for a fee should recover compensation for 'all the hours reasonably spent'") (quoting *Ketchum*, 24 Cal. 4th at 1133). Lodestar is calculated by considering "all the hours reasonably spent, including those relating solely to the fee," multiplied by reasonable hourly rates. *Ketchum*, 24 Cal. 4th at 1133.

Here, the amount of time Class Counsel spent on this case thus far, which culminated in the favorable Settlement, was necessary and entirely reasonable. Further, Class Counsel coordinated their efforts to ensure efficient and non-duplicative litigation of this matter. Given the contingent nature of this action and absence of incentive to spend unnecessary hours, Class Counsel have appropriately spent the number of hours reasonably required to protect the interests of Plaintiff and Settlement Class Members and to reach a successful resolution of the Action for the benefit of Plaintiff and the Settlement Class. Class Counsel have spent 454.70 hours on this litigation.

That number of hours is reasonable. These hours include time billed for: (1) extensively investigating the claims, both prior to and after filing the initial complaint; (2) researching underlying issues of law and drafting the initial complaints; (3) conducting vetting interviews of potential representative plaintiffs; (4) preparing a consolidated complaint; (5) conducting regular research into Palomar and its data security; (6) preparing an amended consolidated complaint; (7) preparing informal discovery demands; (8) drafting detailed mediation submissions; (9) attending a full day of formal mediation; (10) further negotiating the settlement; (11) drafting a settlement agreement; (12) drafting, reviewing and revising notice documents through multiple revisions; (13) drafting Plaintiffs' Motion for Preliminary Approval, supporting declarations, and supplemental declarations; (14) attending the preliminary approval hearing; (15) overseeing the notice and administration work performed by the Settlement Administrator; and (16) fielding calls and inquiries from class members. *See* Wucetich Decl. ¶¶ 2, 5-6, 17. This summary, along with the Wucetich Declaration, explains Class Counsel's efforts sufficiently to justify the number of hours for which Class Counsel seek compensation. *Lobatz*, 222 F.3d at 1148-49.

Moreover, Class Counsel's work in this Action continues, and will include preparing for and attending the Final Approval Hearing, and ongoing oversight of the claims administration process. Importantly, Class Counsel have received no payment to date for their work completed thus far in this case; and if, and when, this additional anticipated work is performed, Class Counsel will receive no additional payment.

The requested fee award of $1,033,333.33 represents a multiplier of 2.37 on the collective lodestar of $436,630.50. This is consistent with multipliers commonly awarded. *See, e.g., Wershba*, 91 Cal. App. 4th at 255 (multipliers up to 4 are appropriate); Sutter Health Uninsured Pricing Cases, 171 Cal. App. 4th 495, 512 (2009) (affirming 2.52 multiplier); Sternwest Corp. v. Ash, 183 Cal. App. 3d 74, 76 (1986) (remanding for lodestar enhancement of "two, three, four or otherwise"). "In the Ninth Circuit, a multiplier ranging from 1.0 to 4.0 is considered 'presumptively acceptable.'" *Gutierrez v. Amplify Energy Corp.*, 2023 WL 3071198, at *6 (C.D. Cal. Apr. 24, 2023) (citing *Dyer v. Wells Fargo Bank, N.A.*, 303 F.R.D. 326, 334 (N.D. Cal. 2014)); *Hopkins v. Stryker Sales Corp.*, 2013 WL 496358, at *4 (N.D. Cal. Feb. 6, 2013) (noting that "[multipliers of 1 to 4 are commonly found to be appropriate in complex class action cases"). In fact, courts have repeatedly accepted multipliers of 3.0 and greater. *See, e.g.*, *Alston v. NCAA*, 768 F. App'x 651, 654 (9th Cir. 2019) (district court did not abuse its discretion in awarding fees that represented a lodestar multiplier of 3.66); *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1051 (9th Cir. 2002) (affirming 25% fee recovery supported by lodestar cross-check with a multiplier of 3.65, and explaining that that multiplier "was within the range of multipliers applied in common fund cases"); *Retta v. Millennium Prods.*, 2017 WL 5479637, at *12 (C.D. Cal. Aug. 22, 2017) (finding attorneys' fees request for 3.65 lodestar multiplier reasonable under both the common fund and lodestar theories). The quality of the work performed by Class Counsel and the quality of the result achieved support the award of a lodestar multiplier.

b. The Hourly Rates of Class Counsel Are Reasonable.

Class Counsel are entitled to the hourly rates charged by attorneys of comparable experience, reputation, and ability for similar litigation. *Ketchum*, 24 Cal. 4th at 1133. Typically, the court looks to prevailing market rates in the community in which the court sits. *Schwartz v. Sec'y of Health & Human Servs.*, 73 F.3d 895, 906 (9th Cir. 1995). Thus, Class Counsel are entitled to the hourly rates charged by attorneys of comparable experience, reputation, and ability for similar litigation. *Blum*, 465 U.S. at 895 n.11; *Ketchum*, 24 Cal. 4th at 1133. *See also Serrano v. Unruh*, 32 Cal. 3d at 640 ("The formula by which 'reasonable market value' is reached is variously phrased" as "'comparable salaries earned by private attorneys with similar experience and expertise in equivalent litigation,"' and the "'hourly amount to which attorneys of like skill in the area would typically be entitled."'). Payment at full market rates is essential to fulfill the goal of encouraging well-qualified counsel to undertake difficult consumer interest litigation such as this. *San Bernardino Valley Audubon Soc'y v. Cty. of San Bernardino*, 155 Cal. App. 3d 738, 755 (1984).

Class Counsel's lodestar is calculated using rates that have been accepted in numerous other class action cases. *See* Wucetich Decl. ¶ 12. Further, the rates charged by Class Counsel in this matter for attorney and paralegal work are commensurate with the rates that similarly skilled professionals charge in these types of cases. *Id*. These rates reflect what would be charged to a fee-paying client in the private legal marketplace for complex litigation.

Class Counsel's rates and the rates of their firms compare favorably with rates approved by other trial courts in class action litigation, by what attorneys of comparable skill charge in major metropolitan cities in California. *See In re Volkswagen "Clean Diesel" Mktg., Sales Practices, & Prods. Liab. Litig.*, 2017 WL 2178787, at *3 (N.D. Cal. May 17, 2017) (approving "billing rates ranging from $310 to $1,650 for partners, $185 to $850 for associates, and $125 to $450 for paralegals"); *Nitsch v. DreamWorks Animation SKG, Inc.*, 2017 WL 2423161, at *9 (N.D. Cal. June 5, 2017) (approving partner rates up to $1,200 as fair and reasonable for the relevant community). The Wucetich Declaration attests to Class Counsel's hourly rates and total hours devoted to the case, and their experience. *See* Wucetich Decl. ¶¶ 13-14.

c. The Reaction of the Settlement Class Supports the Fee.

The reaction by Settlement Class Members to Class Counsel's fee request further supports finding the fee request reasonable. *In re Heritage Bond Litig.*, 2005 WL 1594389 at *15 (C.D. Cal. June 10, 2005). As of the filing of this motion, there have been no objections submitted by any Settlement Class Member. *See* Declaration of Stephanie Saunders (submitted herewith) ¶ 29. That is a most positive response by the Settlement Class. *See, e.g., Garner v. State Farm Mut. Auto. Ins. Co.*, 2010 WL 1687832, at *14 (N.D. Cal. Apr. 22, 2010) (only one objector to settlement and fee request represented an "overwhelmingly positive" response from a class of over 24,000). This factor further supports the reasonableness of the fee request.

E. <u>Class Counsel's Requested Costs are Fair and Reasonable</u>.

In addition to the costs recoverable for a prevailing party as a matter of right under Code of Civil Procedure section 1033.5 (for instance, filing fees, deposition costs, and costs for transcripts of court proceedings), other non-recoverable expenses incurred by counsel may be awarded under section 1021.5 if they represent expenses ordinarily billed to a client and which are not included in the overhead component of counsel's hourly rate. *See Beasley v. Wells Fargo Bank*, 235 Cal. App. 3d 1407, 1419 (1991); *Bussey v. Affleck*, 225 Cal. App. 3d 1162, 1166 (1990). Courts routinely allow recovery of pre-settlement litigation costs. *See Staton*, 327 F.3d at 974; *Serrano v. Priest*, 20 Cal. 3d at 35. "Attorneys may recover their reasonable expenses that would typically be billed to paying clients in non-contingency matters." *In re Omnivision Techs.*, 559 F. Supp. 2d 1036, 1048 (N.D. Cal. 2007).

Class Counsel request reimbursement of $8,902.71 in litigation expenses reasonably incurred thus far in this Action. Counsel incurred these costs for mediation fees, filing fees, research services, photocopies, postage, and service of process. Wucetich Decl. ¶ 31. All these expenses were reasonably and necessarily incurred, are the sort of expense typically billed to paying clients in the marketplace, and are litigation expenses commonly reimbursed by courts. *See, e.g., In re Yahoo! Inc. Customer Data Breach Litig.*, 2020 WL 4212811, at *42 (N.D. Cal. July 22, 2020) (approving reimbursement of expenses related to expert witnesses, case-related travel, transcript fees, document management, copying, mailing, and serving documents, electronic research, and filing and court fees); *In re Capacitors Antitrust Litig.*, 2018 WL 4790575, at *6 (N.D. Cal. Sept. 21, 2018) ("Reasonable reimbursable litigation expenses include: those for document production, experts and consultants, depositions, translation services, travel, mail and postage costs."). The Court should grant Class Counsel's requested award for reimbursement of their costs and litigation expenses incurred in this Action.

F. <u>The Proposed Service Awards are Reasonable and Appropriate</u>.

Class Counsel also request Service Awards of $2,500 apiece for each of the Plaintiffs, as they were critical to this litigation and corresponding Settlement. Like Class Counsel's attorneys' fees and expenses, the Plaintiffs' Service Awards were not discussed until after the Parties reached agreement on the substantive terms of the Settlement. Wucetich Decl. ¶ 7. Courts have discretion to issue service awards to named plaintiffs "if it is necessary to induce an individual to participate in a suit." *Clark v. Am. Residential Servs. LLC*, 175 Cal. App. 4th 785, 788 (2009). The relevant factors include "'the actions the plaintiff has taken to protect the interests of the class, the degree to which the class has benefitted from those actions, and the amount of time and effort the plaintiff expended in pursuing the litigation.'" *Id*. at 804 (citation omitted). The amount requested is consistent with or below the amounts typically awarded in similar litigation. *See Cellphone Termination Fee Cases*, 186 Cal. App. 4th 1380 (2010) (approving incentive payments of $10,000 each); *Lee v. Global Tel*Link Corp.*, 2018 WL 4625677, at *12 (C.D. Cal. Sep. 24, 2018) ("'[I]n the Ninth Circuit, a $5,000 incentive award is presumed reasonable.'") (citation omitted); *Gergetz v. Telenav, Inc*., 2018 WL 4691169, at *8 (N.D. Cal. Sep. 27, 2018) (approving incentive award of $5,000).

Class Counsel respectfully request that the Court approve Service Awards of $2,500 to each of the Plaintiffs in recognition of the time and effort they spent actively participating in the Action, which included undertaking the risk of serving as a Plaintiff, keeping in communication with Class Counsel, including telephone calls and email exchanges to gather information and documents, and reviewing pleadings and facilitating the settlement. See Wucetich Decl. ¶ 18. Service Awards of $2,500 to each Plaintiff would reasonably reimburse them for their time and effort spent participating in this Action, are fair and reasonable, and should be approved.

G. <u>Final Certification of the Settlement Class is Appropriate</u>.

This Court provisionally certified the Settlement Class in the Preliminary Approval Order, finding that the requirements of California Code of Civil Procedure § 382 were satisfied. Since that time, there have been no developments that would alter this conclusion. The Settlement Class should now be finally certified.

H. <u>Plaintiffs Should be Confirmed as Class Representatives and Plaintiffs' Counsel Should be Confirmed as Class Counsel</u>.

Plaintiffs also request that the Court formally and finally designate them as the Class Representatives to implement the terms of the Settlement. Plaintiffs will fairly and adequately represent and protect the interests of the Settlement Class. Plaintiffs' Counsel should be formally and finally appointed as Class Counsel. They have devoted significant time and resources to prosecuting this action on behalf of Plaintiffs and the proposed Settlement Class. Plaintiffs' Counsel have extensive experience in class actions, particularly those involving data breaches. Joint Decl. Exs. 1-4. Accordingly, Plaintiffs' Counsel have already and will continue to adequately represent the interests of the Settlement Class and should be appointed as Class Counsel.

VI. CONCLUSION

The Settlement Agreement is fair, adequate, and reasonable in light of the potential obstacles to recovery in this case and the continued risk of litigation. Moreover, the fees, costs, and service awards requested by Plaintiffs are reasonable and appropriate. For these reasons, Plaintiffs respectfully request the Court enter Plaintiffs' Proposed Order Granting Final Approval.

Dated: September 22, 2025

By: *<u>/s/ Kristen Cardoso</u>*

KRISTEN LAKE CARDOSO (SBN 338762)
KOPELOWITZ OSTROW P.A.
ONE WEST LAS OLAS BLVD., STE. 500
FORT LAUDERDALE, FL 33301
TELEPHONE: (954) 525-4100
EMAIL: CARDOSO@KOLAWYERS.COM

DANIELLE L. PERRY (SBN 292120)
MASON & PERRY LLP
5335 WISCONSIN AVE NW, STE. 640
WASHINGTON, D.C. 20015
TELEPHONE: (202) 640-1168
EMAIL: DPERRY@MASONLLP.COM

BART COHEN
BAILEY GLASSER LLP
1622 LOCUST STREET
PHILADELPHIA, PA 19103
TELEPHONE: (215) 274-9420
EMAIL:
BCOHEN@BAILEYGLASSER.COM

DANIEL SROURIAN, ESQ. [SBN 285678]
SROURIAN LAW FIRM, P.C.
468 N. CAMDEN DR., SUITE 200
BEVERLY HILLS, CA 90210
TELEPHONE: (213) 474-3800
FAX: (213) 471-4160
EMAIL: DANIEL@SLFLA.COM

JASON M. WUCETICH (STATE BAR NO. 222113)
jason@wukolaw.com
DIMITRIOS V. KOROVILAS (STATE BAR NO. 247230)
dimitri@wukolaw.com
WUCETICH & KOROVILAS LLP
222 N. Pacific Coast Hwy., Suite 2000
El Segundo, CA 90245
Telephone: (310) 335-2001
Facsimile: (310) 364-5201