

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, ss.

SUPERIOR COURT DEPARTMENT
CIVIL SESSION B

JULIE KESNER and DENNIS O'BRIEN,
Individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

UMASS MEMORIAL HEALTH CARE,
INC.,

Defendant.

Case No. 2185 CV 01210

**DECLARATION OF ANDREW W. FERICH IN SUPPORT OF ASSENTED TO
MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

Andrew W. Ferich, on oath, hereby declares as follows:

1. I am an adult, I have personal knowledge of the facts stated herein, and I am competent to so testify. I am co-counsel for Plaintiffs in this action. I am a partner of Ahdoot & Wolfson, PC (“AW”), and a member in good standing of the bars of the state of Pennsylvania, New Jersey, and the District of Columbia.

2. This Declaration is submitted in Support of Plaintiffs’ Assented to Motion for Preliminary Approval of Class Action Settlement filed contemporaneously herewith. I make the following declaration based upon my own personal knowledge and, where indicated as based on information and belief, that the following statements are true. If called upon as a witness, I could and would competently testify as follows:

BACKGROUND

3. On November 8, 2021, my firm, along with co-counsel at Barnow and Associates, PC and Pastor Law Office filed this action.

4. On January 12, 2022, Defendant UMass Memorial Healthcare, Inc. (“Defendant” or “UMMHC”) filed a Rule 12(b)(6) Motion to Dismiss (“Motion to Dismiss”). Plaintiffs opposed the Motion to Dismiss on February 11, 2022, and Defendants replied on February 21, 2022.

5. On May 5, 2022, the Court held a hearing on Defendant’s Motion to Dismiss, after which the Court informed the Parties that it would take the Motion to Dismiss under advisement.

6. After the hearing, during the pendency of the Motion to Dismiss, the Parties engaged in a dialogue and discussed the prospect of early resolution. As a result of these efforts, the Parties agreed to attend a mediation.

7. In advance of the mediation, the Parties submitted detailed mediation statements to the mediator. Plaintiffs also requested informal pre-mediation discovery, and UMMHC produced

documents and information to Plaintiffs in order to allow for a meaningful evaluation of the claims and to better inform the Parties in preparation for the mediation.

8. On August 2, 2022, the Parties engaged in a full-day mediation before Hon. Bonnie H. McLeod (Ret.) of JAMS, who possesses substantial experience in class actions, including data breach class actions. Despite the diligent efforts of the Parties and the mediator, the mediation did not result in a settlement. However, during the week following the mediation, the Parties continued to engage in arm's-length negotiations, exchanging draft term sheets until they were able to reach an agreement in principle for a settlement.

9. Thereafter, the Parties negotiated and finalized the details of the Settlement, exchanging drafts of the Settlement Agreement and its exhibits (including the claim form, the forms of class notice, the proposed preliminary approval order and the proposed final order and judgment).

10. The Parties finalized the Settlement Agreement and executed it on October 14, 2022.

11. Plaintiffs also obtained competitive bids from various experienced settlement administrators and thereafter chose Angeion Group to serve as Settlement Administrator, subject to the Court's approval. Angeion Group is an experienced and nationally recognized class action settlement administrator that will provide notice to the Class in accordance with the terms of the Settlement Agreement and as approved by the Court.

12. Based on information provided by UMMHC, the Settlement Class consists of approximately 209,047 individuals.

13. The proposed Settlement is the result of prolonged, arm's-length negotiations, including the full-day mediation with an experienced mediator and numerous telephone calls and emails between experienced counsel.

14. The Parties did not enter into any negotiations regarding attorneys' fees or incentive or service awards to the class representatives until after the amount and nature of the settlement benefits to the Class had been agreed upon.

15. AW has been diligent in and committed to investigating claims on behalf of the Class. Prior to commencing this litigation, AW diligently investigated potential legal claims (and potential defenses thereto) arising from UMMHC's failure to implement adequate and reasonable data security procedures and protocols necessary to protect PII/PHI.

16. AW has performed the following work on behalf of Plaintiffs and Class members, among other things:

- Investigated the circumstances surrounding the Data Breach;
- Articulated the nature of the Data Breach in a detailed complaint;
- Stayed abreast of and analyzed reports, articles, and other public materials discussing the Data Breach and describing UMMHC's challenged conduct;
- Reviewed public statements from UMMHC concerning the Data Breach, including the contents of the breach notification letter sent to impacted Class members;
- Researched UMMHC's corporate structure and potential co-defendants;
- Fielded numerous contacts from potential class members inquiring about this matter;
- Investigated the nature of the challenged conduct at issue here by

interviewing multiple potential clients who contacted proposed Class Counsel's firms;

- Investigated the adequacy of the named Plaintiffs to represent the putative class;
- Drafted and filed an initial complaint against UMMHC, and served that complaint on UMMHC;
- Drafted and filed an opposition to the Motion to Dismiss;
- Communicated internally amongst Plaintiffs' counsel regarding the most efficient manner to organize this litigation, successfully engaging in private ordering and self-organizing leadership in this litigation;
- Served robust discovery on UMMHC, including 15 interrogatories and 48 document requests;
- Analyzed information provided by UMMHC in pre-mediation discovery; and
- Engaged in a full-day mediation before the Hon. Bonnie H. McLeod (Ret.) of JAMS and continued to engage in arm's-length negotiations through numerous telephone conferences and e-mails, exchanging draft term sheets until the Parties—represented by experienced counsel who had a comprehensive understanding of the strengths and weaknesses of each party's claims and defenses—were able to reach an agreement in principle for a settlement.

17. AW has committed appropriate, yet substantial, time and resources to organizing and working collaboratively toward the advancement of the litigation, and will continue to do so.

As a result of these efforts, AW and its co-counsel developed a clear understanding of the strengths and weaknesses of the claims and defenses in this case and they were thus well-prepared to evaluate the fairness, reasonableness, and adequacy of the Settlement.

18. AW will continue to work cooperatively, coordinate, and meet and confer with Defendant's counsel in this litigation through final settlement approval.

19. Plaintiffs Julie Kesner and Dennis O'Brien have ably represented the interests of all Class members. They are excellent Class Representatives who have worked with proposed Class Counsel at every turn in this litigation, including through the settlement negotiations. Their efforts were critical to the Settlement.

AHDOOT & WOLFSON, PC FIRM EXPERIENCE

20. In March 1998, Robert Ahdoot and Tina Wolfson founded AW, now a nationally recognized law firm that specializes in complex and class action litigation, with a focus on privacy rights, consumer fraud, anti-competitive business practices, employee rights, defective products, civil rights, and taxpayer rights. The attorneys at AW are experienced litigators who have often been appointed by state and federal courts as lead class counsel, including in multidistrict litigation. In over two decades of its successful existence, AW has successfully vindicated the rights of millions of class members in protracted, complex litigation, conferring hundreds of millions of dollars to the victims, and affecting real change in corporate behavior. A copy of AW firm's resume is attached hereto as **Exhibit 1**.

21. AW has been on the cutting edge of privacy litigation since the late 1990s, when its attorneys successfully advocated for the privacy rights of millions of consumers against major financial institutions based on the unlawful compilation and sale of detailed personal financial data to third-party telemarketers without consumers' consent. While such practices later became

the subject of Gramm-Leach-Bliley Act regulation, they were novel and hidden from public scrutiny at the time AW was prosecuting them. Our work shed light on how corporations and institutions collect, store, and monetize mass data, leading to governmental regulation. AW has been at the forefront of privacy-related litigation since then.

22. AW has been appointed lead counsel in numerous complex consumer class actions. The following are some examples of recent class actions that AW has litigated to conclusion or are currently litigating on behalf of clients – either as Class Counsel, proposed Class Counsel or members of a Court appointed Plaintiff Steering Committee:

- As co-lead counsel in *In re Zoom Video Communications, Inc. Privacy Litigation*, No. 5:20-cv-02155-LHK (N.D. Cal.) (Hon. Lucy H. Koh), AW achieved an \$85 million settlement that provides monetary relief to Zoom users who submit a claim for payment and comprehensive injunctive relief which addresses the privacy issues on which Plaintiffs' claims were based. This settlement was recently finally approved by the Northern District.

- In *Rivera v. Google LLC*, No. 2019-CH-00990 (Ill Cir. Ct.) (Hon. Anna M. Loftus), a class action arising from Google's alleged illegal collection, storage, and use of the biometrics of individuals who appear in photographs uploaded to Google Photos in violation of the Illinois Biometric Information Privacy Act, 740 ILCS 14/1, *et seq.*, AW achieved a \$100 million non-reversionary cash settlement, with meaningful prospective relief, which was granted final approval by Judge Loftus on September 28, 2022.

- As co-lead counsel in the *Experian Data Breach Litigation*, No. 8:15-cv-01592-AG-DFM (C.D. Cal.) (Hon. Andrew J. Guilford), which affected nearly 15 million class members, AW achieved a settlement conservatively valued at over \$150 million. Under that settlement, each class member was entitled to two years of additional premium credit monitoring

and ID theft insurance (to begin whenever their current credit monitoring product, if any, expires) plus monetary relief (in the form of either documented losses or a default payment for non-documented claims). Experian also provided robust injunctive relief. Judge Guilford praised counsel's efforts and efficiency in achieving the settlement, commenting "You folks have truly done a great job, both sides. I commend you."

- As a member of a five-firm Plaintiffs' Steering Committee ("PSC") in the *Premera Blue Cross Customer Data Sec. Breach Litigation*, No. 3:15-md-2633-SI (D. Or.) (Hon. Michael H. Simon), arising from a data breach disclosing the sensitive personal and medical information of 11 million Premera Blue Cross members, AW was instrumental in litigating the case through class certification and achieving a nationwide class settlement valued at \$74 million.

- In *The Home Depot, Inc., Customer Data Sec. Breach Litigation*, No. 1:14-md-02583-TWT (N.D. Ga.) (Hon. Thomas W. Thrash Jr.), AW served on the consumer PSC and was instrumental in achieving a \$29 million settlement and robust injunctive relief for the consumer class.

- As co-lead counsel in *Gordon v. Chipotle Mexican Grill, Inc.*, No. 1:17-cv-01415-CMA-SKC (D. Colo.) (Hon. Christine M. Arguello), AW secured a settlement for the nationwide class that provided for up to \$250 in claimed damages or \$10,000 in extraordinary damages.

- In *Adlouni v. UCLA Health Sys. Auxiliary*, No. BC589243 (Cal. Super. Ct. Los Angeles Cnty.) (Hon. Daniel J. Buckley), AW, as a member of the PSC for patients impacted by a university medical data breach, achieved a settlement providing two years of credit monitoring, a \$5,275,000 fund, and robust injunctive relief.

- AW's efforts have also shaped privacy law precedent. As lead counsel in *Remijas v. Neiman Marcus Group, LLC*, No. 14-cv-1735 (N.D. Ill.) (Hon. Sharon Johnson Coleman), AW successfully appealed the trial court's order granting a motion to dismiss based on lack of Article III standing. The Seventh Circuit's groundbreaking opinion, now cited routinely in briefing on Article III and data breach standing, was the first appellate decision to consider the issue of Article III standing in data breach cases in light of the Supreme Court's decision in *Clapper v. Amnesty International USA*, 568 U.S. 398 (2013). The Seventh Circuit concluded that data breach victims have standing to pursue claims based on the increased risk of identity theft and fraud, even before that theft or fraud materializes in out-of-pocket damages. *Remijas v. Neiman Marcus Group, LLC*, 794 F.3d 688 (7th Cir. 2015) (reversed and remanded).

- Similarly, in the *U.S. Office of Personnel Management Data Security Breach Litigation*, No. 1:15-mc-1394-ABJ (D.D.C.) (Hon. Amy Berman Jackson), I was chosen by Judge Jackson to serve as a member of the Plaintiffs' Steering Committee. AW briefed and argued, in part, the granted motions to dismiss based on standing, and briefed in part the successful appeal to the D.C. Circuit. Judge Jackson recently issued her preliminary approval of a \$60 million settlement in this Action.

- AW's other ongoing privacy class actions include *In re Ring LLC Privacy Litigation*, No. 2:19-cv-10899-MWF-RAO (C.D. Cal.) (Hon. Michael W. Fitzgerald) (serving as co-lead counsel), *In re Google Location History Litigation*, No. 5:18-cv-5062-EJD (N.D. Cal.) (Hon. Edward J. Davila) (same), *In re Ambry Genetics Data Breach Litigation*, No. 8:20-cv-791-CJC-KES (C.D. Cal.) (Hon. Cormac J. Carney) (same), and *Acaley v. Vimeo, Inc.*, No. 1:19-cv-7164 (N.D. Ill.) (Hon. Matthew F. Kennelly).

- In addition, AW has served or is serving as plaintiffs' counsel in class actions

enforcing consumer rights under the Telephone Consumer Protection Act of 1991 (“TCPA”), such as *Chimeno-Buzzi v. Hollister Co.*, No. 1:14-cv-23120-MGC (S.D. Fla.) (Hon. Marcia G. Cooke) (class counsel in \$10 million nationwide settlement) and *Melito v. American Eagle Outfitters, Inc.*, No. 1:14-cv-02440-VEC (S.D.N.Y.) (Hon. Valerie E. Caproni) (\$14.5 million nationwide settlement).

23. I joined AW as a partner at the age of only 33, and already have extensive experience serving in leadership and support roles in data privacy class action cases and other complex actions. For example, I have been at the forefront of the highly-publicized Accellion FTA data breach litigation announced in late 2020, and have zealously prosecuted cases against Accellion and three of its customers that were impacted by this massive breach. Due to my firm’s efforts, settlements were reached in each of these litigations. In one of these settlements, final approval of the settlement was recently granted, and I was appointed as class counsel. *See Cochran, et al. v. The Kroger Co., et al.*, No. 5:21-cv-01887-EJD (N.D. Cal.), ECF No. 115 (granting final approval of nationwide settlement that provides \$5 million non-reversionary fund, and appointing me and AW as class counsel with co-counsel).

24. I was appointed recently as Interim Co-Lead Counsel in *Smeltz, et al. v. Logan Health, et al.*, No. A-DV-22-0124 (8th Judicial District Court, Cascade County Mar. 31, 2022) (Grubich, J.), a data breach class action arising from the exposure of highly sensitive information of 213,545 individuals, including medical records.

25. I was recently appointed to the plaintiffs’ executive steering committee in a ransomware class action lawsuit involving disclosure of sensitive medical information and other PII/PHI. *See In re: Eskenazi Health Data Incident Litig.*, No. 49D01-2111-PL-038870 (Ind. Comm. Ct. Jan. 24, 2022).

26. I was recently appointed as Class Counsel in *In re Forefront Data Breach Litigation*, Master File No. 1:21-cv-00887-LA (E.D. Wis. Oct. 3, 2022), a ransomware cyberattack and data breach class action involving the disclosure of sensitive information of 2,413,553 individuals, including medical records.

27. I also was recently appointed to the Plaintiffs' Steering Committee in *Doe v. Partnership HealthPlan of California*, No. CV-22-00606 (Cal. Super. Ct., Humboldt Cnty. June 22, 2022), a ransomware attack and data breach class action involving the disclosure of sensitive personal and medical information of 850,000 individuals.

28. I was previously appointed as class counsel in *Perdue et al. v. Hy-Vee, Inc.*, No. 1:19-cv-01330 (C.D. Ill.), a payment card data breach that exposed the sensitive payment card information of millions of class members. *Id.*, ECF No. 62, at 3. My efforts on behalf of the class resulted in the creation of an uncapped claims settlement providing cash payments to class members, and Hy-Vee committing at least \$20 million to data security improvements. *Id.*, ECF No. 58, at 4; *see also Gordon, et al. v. Chipotle Mexican Grill, Inc.*, No. 1:17-cv-01415-CMA (D. Colo.) (data breach case where millions of consumers' payment card data was exposed to hackers); *Bray, et al. v. GameStop Corp.*, No. 1:17-cv-01365 (D. Del.) (data breach settlement involving exposure of payment card information through defendant's website).

29. I have also been appointed to leadership positions in other consumer class actions. For example, I was appointed as class counsel in *Udeen, et al. v. Subaru of America, Inc.*, No. 1:18-cv-17334-RBK-JS (D.N.J.), where I helped obtain a settlement valued at more than \$6.25 million on behalf of owners and lessees of Subaru vehicles with allegedly defective infotainment systems. *See also McFadden v. Microsoft Corp.*, No. C20-0640-RSM-MAT, 2020 WL 5642822, at *3 (W.D. Wash. Sept. 22, 2020) (appointed as co-lead counsel).

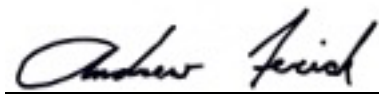
30. In sum, I and my firm have led and continue to lead many high-profile privacy cases, including those involving data privacy (e.g., *Zoom*, *Ring*), data breaches (e.g., *Experian*, *Premiera*, *Home Depot*, *OPM*, *Chipotle*, *The Kroger Co.*, *Logan Health*), geo-location tracking (e.g., *Google Location History Litigation*), collection and storing of biometric information (e.g., *Google*, *Shutterfly*, *Vimeo*), and TCPA violations (e.g., *Hollister*, *American Eagle*), as well as many other types of consumer class actions (e.g., *Eck* - \$295 million class settlement against City of Los Angeles for unlawful utility taxes).

31. AW has decades of experience in the prosecution of class actions, including data breach and privacy lawsuits such as this action. Given AW's proven track record of experience and results, and its specific expertise in data privacy class action litigation, it can more than adequately represent the putative class.

32. I am, and my firm is, fully aware of the financial and human resources that will be required to bring this case to a successful conclusion and the Court should have no reservations that my firm has and is willing to commit those resources for the benefit of the plaintiff class. AW has never used third-party funding or failed to meet its assessment obligations in any case.

33. The work of proposed Class Counsel in this action to date, as well as their experience prosecuting complex litigation matters, demonstrate that proposed Class Counsel are well-qualified to represent the Settlement Class.

I hereby certify that the foregoing is true and correct. Executed at Radnor, Pennsylvania on October 14, 2022.

A handwritten signature in black ink, appearing to read "Andrew Ferich", written over a horizontal line.

Andrew W. Ferich

EXHIBIT 1



Ahdoot & Wolfson, PC (“AW”) is a nationally recognized law firm founded in 1998 that specializes in class action litigation, with a focus on privacy cases, unfair and anticompetitive business practices, consumer fraud, employee rights, defective products, antitrust, civil rights, and taxpayer rights and unfair practices by municipalities. The attorneys at AW are experienced litigators who have often been appointed by state and federal courts as lead class counsel, including in multidistrict litigation. In over two decades of its successful existence, AW has vindicated the rights of millions of class members in protracted, complex litigation, conferring billions of dollars to the victims, and affecting real change in corporate behavior.

Privacy Class Actions

AW has been prosecuting cutting edge data cases on behalf of consumers since the late 1990s. AW was among the first group of attorneys who successfully advocated for the privacy rights of millions of consumers against major financial institutions based on the unlawful compilation and sale of detailed personal financial data to third-party telemarketers without the consumers’ consent. While such practices later became the subject of Gramm-Leach-Bliley Act regulation, at the time AW was prosecuting these cases before the Hon. Richard R. Kramer, (Ret.) in the complex department of San Francisco Superior Court, such practices were novel and hidden from public scrutiny. AW’s work shed light on how corporations and institutions collect, store, and monetize mass data, leading to governmental regulation. AW has been at the forefront of data-related litigation since then.

As co-lead counsel in the *Experian Data Breach Litigation*, No. 8:15-cv-01592-AG-DFM (C.D. Cal.) (Hon. Andrew J. Guilford), which affected nearly 15 million class members, AW achieved a settlement conservatively valued at over \$150 million. Experian also provided robust injunctive relief. Judge Guilford praised counsel’s efforts and efficiency in achieving the settlement, commenting “You folks have truly done a great job, both sides. I commend you.”

In *Rivera v. Google LLC*, No. 2019-CH-00990 (Ill Cir. Ct.) (Hon. Anna M. Loftus), a class action arising from Google’s alleged illegal collection, storage, and use of the biometrics of individuals who appear in photographs uploaded to Google Photos in violation of the Illinois Biometric Information Privacy Act, 740 ILCS 14/1, *et seq.* (“BIPA”), AW achieved a settlement that establishes a \$100 million

non-reversionary cash settlement fund and provides meaningful prospective relief for the benefit of class members.

As co-lead counsel in the *Zoom Video Communications, Inc. Privacy Litigation*, No. 5:20-cv-02155 (N.D. Cal.) (Hon. Laurel Beeler), a nationwide class action alleging privacy violations from the collection of personal information through third-party software development kits and failure to provide end to end encryption, AW achieved an \$85 million nationwide class settlement that also included robust injunctive relief overhauling Zoom's data collection and security practices.

As an invaluable member of a five-firm Plaintiffs' Steering Committee ("PSC") in the *Premiera Blue Cross Customer Data Sec. Breach Litigation*, No. 3:15-cv-02633-SI (D. Or.) (Hon. Michael H. Simon), arising from a data breach disclosing the sensitive personal and medical information of 11 million Premiera Blue Cross members, AW was instrumental in litigating the case through class certification and achieving a nationwide class settlement valued at \$74 million.

Similarly, in the *U.S. Office of Personnel Management Data Security Breach Litigation*, No. 1:15-mc-1394-ABJ (D.D.C.) (Hon. Amy Berman Jackson), AW, as a member of the PSC, briefed and argued, in part, the granted motions to dismiss based on standing, briefed in part the successful appeal to the D.C. Circuit, and had an important role in a preliminarily approved settlement providing for a \$63 million settlement fund.

In *The Home Depot, Inc., Customer Data Sec. Breach Litigation*, No. 1:14-md-02583-TWT (N.D. Ga.) (Hon. Thomas W. Thrash Jr.), AW served on the consumer PSC and was instrumental in achieving a \$29 million settlement fund and robust injunctive relief for the consumer class.

AW also currently serves on the PSC in *Am. Med. Collection Agency, Inc., Customer Data Sec. Breach Litigation*, No. 2:19-md-2904-MCA-MAH (D.N.J.) (Hon. Madeline Cox Arleo), a class action arising out of a medical data breach that disclosed the personal and financial information of over 20 million patients, as well as many other data breach class actions.

AW's efforts have shaped data privacy law precedent. As lead counsel in *Remijas v. Neiman Marcus Group, LLC*, No. 14-cv-1735 (N.D. Ill.) (Hon. Sharon Johnson Coleman), AW's attorneys successfully appealed the trial court's order granting a motion to dismiss based on lack of Article III standing. The Seventh Circuit's groundbreaking opinion, now cited in every privacy case standing brief, was the first appellate decision to consider the issue of Article III standing in data breach cases in light of the Supreme Court's decision in *Clapper v. Amnesty International USA*, 568 U.S. 398 (2013) and concluded that data breach victims have standing to pursue claims based on the increased risk of identity theft and fraud, even before that theft or fraud materializes in out-of-pocket damages. *Remijas v. Neiman Marcus Group, LLC*, 794 F.3d 688 (7th Cir. 2015).

AW is also serving as plaintiffs' counsel in consumer privacy rights cases involving the right to control the collection and use of biometric information, successfully opposing dispositive motions based on Article III standing and achieving settlements with a total value of over \$100 million. See, e.g.,

Rivera v. Google LLC, No. 19-CH-00990 (Ill. Cir. Ct.) (Hon. Anna M. Loftus); *Miracle-Pond v. Shutterfly, Inc.*, No. 19-CH-07050 (Ill. Cir. Ct.) (Hon. Raymond W. Mitchell); *Acaley v. Vimeo, Inc.*, No. 19-CH-10873 (Ill. Cir. Ct.) (Hon. Clare J. Quish).

Results

AW has achieved excellent results as lead counsel in numerous complex class actions.

In *Eck v. City of Los Angeles*, No. BC577028 (Cal. Super. Ct.) (Hon. Ann I. Jones), AW achieved a \$295 million class settlement in a case alleging that an 8% surcharge on Los Angeles electricity rates was an illegal tax. Final settlement approval was affirmed on appeal in October 2019.

In *McKnight v. Uber Technologies, Inc.*, No. 4:14-cv-05615-JST (N.D. Cal.) (Hon. Jon S. Tigar), AW achieved a \$32.5 million settlement for the passenger plaintiff class alleging that Uber falsely advertised and illegally charged a “safe rides fee.”

In *Alvarez v. Sirius XM Radio Inc.*, No. 2:18-cv-08605-JVS-SS (C.D. Cal.) (Hon. James V. Selna), a breach of contract class action alleging that defendant did not honor its lifetime subscriptions, AW achieved a nationwide class action settlement conservatively valued at approximately \$420 million. The settlement extended the promised lifetime subscription for the lifetime of class members who have active accounts and provided the opportunity for class members with closed accounts to reactivate their accounts and enjoy a true lifetime subscription or recover \$100. The district court had granted the motion to compel arbitration on an individual basis, and AW appealed. AW reached the final deal points of the nationwide class action settlement minutes prior to oral argument in the Ninth Circuit.

As a member of the Plaintiffs’ Executive Committee in the *Apple Inc. Device Performance Litigation*, No. 5:18-md-2827-EJD (N.D. Cal.) (Hon. Edward J. Davila), AW helped achieve a nationwide settlement of \$310 million minimum and \$500 million maximum. The case arose from Apple’s alleged practice of deploying software updates to iPhones that deliberately degraded the devices’ performance and battery life.

In *Kirby v. McAfee, Inc.*, No. 5:14-cv-02475-EJD (N.D. Cal.) (Hon. Edward J. Davila), a case arising from McAfee’s auto renewal and discount practices, AW and co-counsel achieved a settlement that made \$80 million available to the class and required McAfee to notify customers regarding auto-renewals at an undiscounted subscription price and change its policy regarding the past pricing it lists as a reference to any current discount.

In *Lavinsky v. City of Los Angeles*, No. BC542245 (Cal. Super. Ct.) (Hon. Ann I. Jones), a class action alleging the city unlawfully overcharged residents for utility taxes, AW certified the plaintiff class in litigation and then achieved a \$51 million class settlement.

As co-lead counsel in *Berman v. General Motors, LLC*, No. 2:18-cv-14371-RLR (S.D. Fla.) (Hon. Robin L. Rosenberg) (vehicle oil consumption defect class action), AW achieved a \$40 million settlement.

In *Pantelyat v. Bank of America, N.A.*, No. 1:16-cv-08964-AJN (S.D.N.Y.) (Hon. Alison J. Nathan), a class action arising from allegedly improper overdraft fees, AW, serving as sole class counsel for plaintiffs, achieved a \$22 million class settlement, representing approximately 80% of total revenues gleaned by the bank's alleged conduct.

Current Noteworthy Leadership Roles

AW was selected to serve as interim co-lead class counsel in the *StubHub Refund Litigation*, No. 4:20-md-02951-HSG (N.D. Cal.) (Hon. Haywood S. Gilliam, Jr.). This consolidated multidistrict litigation alleges that StubHub retroactively changed its policies for refunds for cancelled or rescheduled events as a result of the Covid-19 pandemic and refused to offer refunds despite promising consumers 100% of their money back if events are cancelled.

AW was appointed, after competing applications, to serve as interim co-lead class counsel in the *Ring LLC Privacy Litigation*, No. 2:19-cv-10899-MWF-RAO (C.D. Cal.) (Hon. Michael W. Fitzgerald), a consolidated class action arising from Ring's failure to implement necessary measures to secure the privacy of Ring user accounts and home-security devices, and failure to protect its customers from hackers despite being on notice of the inadequacies of its cybersecurity.

In *Clark v. American Honda Motor Co., Inc.*, No. 2:20-cv-03147-AB-MRW (C.D. Cal.) (Hon. André Birotte Jr.), AW serves as co-lead counsel in a class action arising from unintended and uncontrolled deceleration in certain Acura vehicles.

In the Kind LLC "*Healthy And All Natural*" Litigation, No. 1:15-md-02645-NRB (S.D.N.Y.) (Hon. Naomi Reice Buchwald), AW was selected as interim co-lead class counsel after competing applications. AW certified three separate classes of New York, California, and Florida consumers who purchased Kind LLC's products in a false labeling food MDL.

AW was appointed to serve as co-lead interim class counsel in the *Google Location History Litigation*, No. 5:18-cv-05062-EJD (N.D. Cal.) (Hon. Edward J. Davila), a consumer class action arising out of Google's allegedly unlawful collection and use of mobile device location information on all Android and iPhone devices.

AW serves on the Plaintiffs' Executive Committees in *Allergan Biocell Textured Breast Implant Products Liability Litigation*, No. 2:19-md-02921-BRM-JAD (D.N.J.) (Hon. Brian R. Martinotti), a class action alleging textured breast implants caused a rare type of lymphoma and in *ZFTRW Airbag Control Units Products Liability Litigation*, No. 2:19-ml-02905-JAK-FFM (C.D. Cal.) (Hon. John A. Kronstadt), a class action alleging a dangerous defect in car airbag component units.

As part of the leadership team in *Novoa v. The Geo Group, Inc.*, No. 5:17-cv-02514-JGB-SHK (C.D. Cal.) (Hon. Jesus G. Bernal), AW certified a class of immigration detainees challenging private prison's alleged forced labor practices.

In the *Google Digital Advertising Antitrust Litigation*, No. 1:21-md-03010-PKC (S.D.N.Y.) (Hon. P. Kevin Castel), a class action alleging monopolization of the digital advertising market, AW is serving as court-appointed co-lead counsel on behalf of the advertiser class.

In the *Dental Supplies Antitrust Litigation*, No. 1:16-cv-00696-BMC-GRB (E.D.N.Y.) (Hon. Brian M. Cogan), a class action alleging an anticompetitive conspiracy among three dominant dental supply companies in the United States, AW served on the plaintiffs' counsel team that brought in an \$80 million cash settlement for the benefit of a class of approximately 200,000 dental practitioners, clinics, and laboratories.

In *Klein v. Meta Platforms, Inc.*, No. 3:20-cv-08570-JD (N.D. Cal.) (Hon. James Donato), AW is serving on the Executive Committee for the digital advertiser plaintiff class in a class action alleging that Meta (formerly Facebook) engaged in anticompetitive conduct to stifle and/or acquire competition to inflate the cost of digital advertising on its social media platform. Many of the plaintiffs' claims recently survived a motion to dismiss and are in the process of amending their complaint.

In *Robinson v. Jackson Hewitt, Inc.*, No. 2:19-cv-09066-JXN-ESK (D.N.J.) (Hon. Julien Xavier Neals), a class action alleging that a standardized "no-poach" agreement among Jackson Hewitt and its franchisees limited mobility and compensation prospects for the tax preparer employees, AW is asserting claims on behalf of consumers under both federal antitrust and California employment laws.

Attorney Profiles

Tina Wolfson graduated Harvard Law School *cum laude* in 1994. Ms. Wolfson began her civil litigation career at the Los Angeles office of Morrison & Foerster, LLP, where she defended major corporations in complex actions and represented indigent individuals in immigration and deportation trials as part of the firm's *pro bono* practice. She then gained further invaluable litigation and trial experience at a boutique firm, focusing on representing plaintiffs on a contingency basis in civil rights and employee rights cases. Since co-founding AW in 1998, Ms. Wolfson has led numerous class actions to successful results. Ms. Wolfson is a member of the California, New York and District of Columbia Bars.

Recognized for her deep class action experience, Ms. Wolfson frequently lectures on numerous class action topics across the country. She is a guest lecturer on class actions at the University of California at Irvine Law School. Her recent notable speaking engagements include:

- Class Action Mastery Forum at the University Of San Diego School of Law (Consumer Class Actions Roundtable) March 2020, featuring Hon. Lucy H. Koh, Hon. Edward M. Chen, and Hon. Fernando M. Olguin.
- Class Action Mastery Forum at the University Of San Diego School of Law (Data Breach/Privacy Class Action Panel) January 16, 2019.

- Association of Business Trial Lawyers: “Navigating Class Action Settlement Negotiations and Court Approval: A Discussion with the Experts,” Los Angeles May 2017, featuring Hon. Philip S. Gutierrez and Hon. Jay C. Gandhi.
- CalBar Privacy Panel: “Privacy Law Symposium: Insider Views on Emerging Trends in Privacy Law Litigation and Enforcement Actions in California,” Los Angeles Mar. 2017 (Moderator), featuring Hon. Kim Dunning.
- American Conference Institute: “2nd Cross-Industry and Interdisciplinary Summit on Defending and Managing Complex Class Actions,” April 2016, New York: Class Action Mock Settlement Exercise featuring the Hon. Anthony J. Mohr.
- Federal Bar Association: N.D. Cal. Chapter “2016 Class Action Symposium,” San Francisco Dec. 2016 (Co-Chair), featuring Hon. Joseph F. Anderson, Jr. and Hon. Susan Y. Illston.
- Federal Bar Association: “The Future of Class Actions: Cutting Edge Topics in Class Action Litigation,” San Francisco Nov. 2015 (Co-Chair & Faculty), featuring Hon. Jon S. Tigar and Hon. Laurel Beeler.

Ms. Wolfson currently serves as a Ninth Circuit Lawyer Representative for the Central District of California, as Vice President of the Federal Litigation Section of the Federal Bar Association, as a member of the American Business Trial Lawyer Association, as a participant at the Duke Law School Conferences and the Institute for the Advancement of the American Legal System, and on the Board of Public Justice.

Theodore W. Maya graduated from UCLA Law School in 2002 after serving as Editor-in-Chief of the UCLA Law Review. From July 2003 to August 2004, Mr. Maya served as Law Clerk to the Honorable Gary Allen Feess in the United States District Court for the Central District of California. Mr. Maya was also a litigation associate in the Los Angeles offices of Kaye Scholer LLP for approximately eight years where he worked on a large variety of complex commercial litigation from inception through trial. Mr. Maya was named “Advocate of the Year” for 2007 by the Consumer Law Project of Public Counsel for successful pro bono representation of a victim of a large-scale equity fraud ring. Mr. Maya has been involved in all facets of AW’s work since he joined the firm in 2011. For instance, his work in *Remijas v. Neiman Marcus Group, LLC*, 794 F.3d 688 (7th Cir. 2015), contributed to a groundbreaking decision by the Seventh Circuit Court of Appeals that significantly strengthened the rights of data breach victims to bring class actions in federal court.

Bradley K. King is a partner at AW and a member of the State Bars of California, New Jersey, New York, and the District of Columbia. He graduated from Pepperdine University School of Law in 2010, where he served as Associate Editor of the Pepperdine Law Review. He worked as a law clerk for the California Office of the Attorney General, Correctional Law Section in Los Angeles and was a certified law clerk for the Ventura County District Attorney’s Office. Mr. King began his

legal career at a boutique civil rights law firm, gaining litigation experience in a wide variety of practice areas, including employment law, civil rights, police misconduct, municipal contracts, criminal defense, and premises liability cases. During his career at AW, Mr. King has focused on consumer class actions, and privacy class actions in particular. He has served as appointed interim lead counsel and has extensive experience litigating consolidated and MDL class actions with AW, including numerous large data breach cases that have resulted in nationwide class settlements.

Andrew W. Ferich, also a partner at AW, is admitted to the bars of Pennsylvania, New Jersey, and the District of Columbia. Mr. Ferich received his law degree from Villanova University's Charles Widger School of Law in 2012, where he served as Executive Editor of the *Journal of Catholic Social Thought*. Mr. Ferich has significant experience in consumer protection, data privacy, ERISA/retirement plan, and whistleblower/*qui tam* litigation. Prior to joining the firm, Mr. Ferich was a senior associate at a well-known Philadelphia-area class action law firm. Before joining the plaintiffs' bar, Mr. Ferich was an associate at an AmLaw 200 national litigation firm in Philadelphia where he focused his practice on commercial litigation and financial services litigation. Mr. Ferich has represented a wide array of clients and has received numerous court-appointed leadership positions in large class actions. Mr. Ferich possesses major jury trial experience and has assisted in litigating cases that have collectively resulted in over \$100 million in settlement value in damages and injunctive relief for various classes and groups of people.

Deborah De Villa is an associate attorney at AW and a member of the State Bars of New York and California. She graduated from Pepperdine University School of Law in 2016, where she earned the CALI Excellence for the Future Award in immigration law, business planning and commercial law. During law school, Ms. De Villa completed internships at the Los Angeles District Attorney's Office, Hardcore Gangs Unit, and at the Supreme Court of the Philippines, Office of the Court Administrator. Born in the Philippines, Ms. De Villa moved to Florida at the age of sixteen to attend IMG Golf Academy as a full-time student-athlete. Ms. De Villa earned a scholarship to play NCAA Division 1 college golf at Texas Tech University, where she graduated *magna cum laude* with a Bachelor of Arts in Psychology and a minor in Legal Studies. Ms. De Villa has gained substantial experience litigating class actions with AW and focuses her practice on consumer protection and privacy class actions.