

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

JESSICA GUERRERO and JEFFREY
MATHEWS, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

MERRITT HEALTHCARE HOLDINGS,
LLC, d/b/a MERRITT HEALTHCARE
ADVISORS,

Defendant.

Case No. 3:23-cv-00389

**DECLARATION OF KEVIN
LAUKAITIS OF LAUKAITIS LAW
LLC IN SUPPORT OF CLASS
COUNSEL’S AMENDED MOTION
FOR AN AWARD OF ATTORNEYS’
FEES, REIMBURSEMENT OF
EXPENSES, AND NAMED PLAINTIFF
SERVICE PAYMENTS**

Judge: Hon. Michael P. Shea

I, Kevin Laukaitis, subject to the penalties of perjury provided by 18 U.S.C. §1746, hereby declare as follows:¹

1. I am the owner and founding member of Laukaitis Law LLC (“Laukaitis Law”). I am one of the Co-Lead Class Counsel who has been actively involved on behalf of the Plaintiffs and in support of the Settlement Class in this matter, overseeing my firm’s participation from the inception of this case to the present. The contents of this Declaration are based upon my own personal knowledge, my experience in handling many class action cases, and the events of this litigation.

2. My firm has been involved in this litigation since the initial investigation. Class Counsel and Plaintiffs’ Counsel undertook this matter on a contingency fee basis at the risk of

¹ Capitalized terms used herein are from the Settlement Agreement (“Settlement”), ECF No. 67-3.

achieving no recovery at all. Additionally, Class Counsel and Plaintiffs' Counsel have incurred reasonable, unreimbursed litigation expenses.

3. I am a member in good standing of the bar of the Commonwealth of Pennsylvania and the State of New Jersey. I am originally from Philadelphia, Pennsylvania, where I attended law school part-time at night while working as a class action paralegal during the day. After law school, I continued to work as an attorney at nationally recognized plaintiff's class action law firms.

4. I started my law firm to represent consumers whose voices often go unheard. Unequal bargaining power between big businesses and consumers continues to plague society. Class actions provide a means to hold businesses accountable for widespread corporate misconduct.

5. Laukaitis Law is a nationwide class action law firm specializing in various complex litigation matters affecting consumers, including widespread corporate misconduct. We file class actions in federal courts nationwide, including within the Second Circuit.

6. I have vast experience in class action litigation and have successfully represented classes of people in various matters involving unlawful business conduct. I have litigated hundreds of class action cases throughout the United States and participated in all litigation stages in many prominent MDLs and large-scale consumer class actions. *See, e.g., Hamlen v. Gateway Energy Servs. Corp.*, No. 16-cv-3526, 2017 WL 892399 (S.D.N.Y. Mar. 6, 2017) (appointed class counsel in a case against energy company who overcharged consumers on their energy bills); *Bell v. Gateway*, Index No. 031168/2018 (N.Y. Sup. Ct. – Rockland Cnty.) (same); *Mercado v. Verde Energy USA, Inc.*, No. 1:18-cv-02068 (N.D. Ill.) (same); *Neversink Gen. Store v. Mowi USA, LLC*, 1:20-cv-09293 (S.D.N.Y.) (appointed class counsel in a case against the company that deceptively

marketed fish products); *Counts v. Arkk Food Co.*, No 1:23-cv-00236 (N.D. Ill.) (same). *See also In re: Seresto Flea and Tick Collar Mktg., Sales Pracs., and Prods. Liab. Litig.*, No, 1:21-cv-04447 (N.D. Ill.) (serving as part of the Executive Committee in MDL where preliminary approval was granted in a \$15 million common fund nationwide class action).

7. I was also part of the plaintiffs' attorney team that served as Co-Lead Trial Counsel representing 68,000 individuals whose statutory rights were violated by public dissemination of their criminal record history information. We prevailed in a jury trial and achieved an unprecedented settlement for Pennsylvania inmates booked or otherwise detained at the Bucks County Correctional Facility between 1938 and June 18, 2013. The case, *Taha v. Bucks Cnty.*, No. 2:12-cv-06867 (E.D. Pa.), is considered the first class action lawsuit in the United States to proceed to trial on the impact of digital criminal stigma and a government's statutory obligation to protect its citizenry against such stigma.

8. Laukaitis Law continues to litigate over 100 class actions related to data breaches nationwide. *See, e.g., McNally v. InfoSys McCamish Sys., LLC*, No. 1:24-cv-00995 (N.D. Ga.) (serving as Co-Lead counsel in data breach class action affecting over 6 million people); *In re: Prudential Fin., Inc. Data Breach Litig.*, No. 2:24-cv-06818 (D.N.J.) (serving as Co-Lead counsel in data breach class action affecting over 2 million people); *Hasson v. Comcast Cable Commc'ns LLC*, No. 2:23-cv-05039 (E.D. Pa.) (serving on Plaintiffs' Leadership Executive Committee in MDL involving data breach affecting over 35 million people). *See also Exhibit 3.*

LAUKAITIS LAW'S WORK PERFORMED IN THIS LITIGATION

9. After a detailed investigation, our firm, on behalf of Plaintiff Jessica Guerrero, on March 29, 2023, filed the first class action lawsuit against Defendant's Data Security Incident occurring between July 30, 2022 and August 25, 2022. ECF No. 1, ¶4. Subsequent cases were

filed thereafter. We coordinated with co-counsel in those cases to file a Motion to Consolidate Cases and Appointment of Interim Co-Lead Counsel. ECF No. 37. The Court granted this Motion. ECF No. 43.

10. Thereafter, Plaintiffs filed a consolidated amended class action complaint on July 26, 2023. ECF No. 50. Defendant moved to dismiss Plaintiffs' consolidated amended class action complaint on September 26, 2023. ECF Nos. 55, 56. After this Motion was filed, but before Plaintiffs filed any response or opposition, the Parties notified the Court of their upcoming mediation and attempt to resolve the case early via stipulation. ECF No. 59.

11. The Parties agreed to mediate this case with the Hon. Wayne R. Andersen (Ret.) – a respected mediator with substantial experience with data privacy class actions. The Parties exchanged detailed mediation statements before the December 21, 2023 all-day mediation. The Parties' negotiations were arm's-length in that each side was strident in their mediation positions while remaining professional. Through these settlement negotiations, the Parties came to an agreement in principle at the close of the mediation for a \$1,525,000 non-reversionary common fund settlement for the class of approximately 88,740 individuals.

12. After reaching this agreement in principle, Class Counsel and Defendant's counsel advised the Court of this Settlement via Joint Status Report on December 29, 2023. ECF No. 61. The Parties then participated in several phone calls and email exchanges to reach the final terms of the comprehensive Settlement Agreement on April 19, 2024.

13. Following the initial submission of Preliminary Approval documents, the Court held a Telephonic Status Conference concerning the submitted papers. ECF No. 74. Class Counsel then worked diligently to re-submit certain paperwork to address the Court's concerns, and Preliminary Approval was then granted on May 14, 2024. ECF No. 80.

14. Attorneys' fees and expenses were not initially negotiated as part of the mediation; instead, the Parties and the mediator focused on negotiating only the common fund amount during the mediation. Through these protracted settlement discussions, the Parties were able to evaluate the strengths and weaknesses of their case and evaluate damages on a potential class-wide basis.

15. In this case, the non-reversionary class settlement is an excellent result based on the Plaintiffs' and Class Counsels' efforts. Without this class action, it would have been extremely difficult for any individual victim of Defendant's data breach to file a lawsuit because of the uncertainty of damages and the extreme technicalities involved in litigating a data breach case.

16. Laukaitis Law's efforts in this litigation led to a successful mediation without spending additional attorney time and expenses on briefing and discovery, which becomes expensive in a class action of this size. Moreover, this Settlement provides meaningful cash relief to eligible class members now.

LAUKAITIS LAW'S LODESTAR & EXPENSES ARE REASONABLE

17. Laukaitis Law has contributed reasonable and necessary time, expense, and effort to pursue this matter on behalf of Plaintiffs and the Class.

18. Through October 15, 2024, Laukaitis Law has committed 190.22 hours for a lodestar total of \$142,642.25, prosecuting this matter for Plaintiffs and the Class.

19. **Exhibit 1** sets forth the time records for the work performed by attorneys, paralegals, and/or law clerks supporting my firm, from inception of the litigation through October 15, 2024. The billing rates for the attorneys, paralegals, and/or law clerks align with the firm's standard billing rates for contingent cases. The rates reflected are historical rates, *i.e.*, the rates that were in effect at the time when the work was performed.

20. Below is a summary of the total hours that were calculated through an examination of contemporaneous time records regularly prepared and maintained by my firm. *See N.Y. State Ass'n for Retarded Child., Inc. v. Carey*, 711 F.2d 1136, 1154 (2d Cir. 1983).

<u>Individual</u>	<u>Years of Practice</u>	<u>Hours</u>	<u>Hourly Rate</u>	<u>Lodestar</u>
Kevin Laukaitis, Founding Attorney	9	135h	\$925	\$124,875.00
Daniel Tomascik ² (Senior Law Clerk)	-	48.05h	\$325	\$15,616.25
Daniellys Suarez (Law Clerk)	-	7.17h	\$300	\$2,151.00
Total		190.22h		\$142,642.25

21. Laukaitis Law's additional, significant time preparing this Amended Motion for an Award of Attorneys' Fees, Reimbursement of Expenses, and Named Plaintiff Service Awards was excluded from this declaration.

22. The hourly rates reflected are Laukaitis Law's historical rates and those utilized and recently approved for lodestar cross-check purposes in other federal courts, including data privacy cases. *See, e.g., Vela v. AMC Networks Inc.*, No. 1:23-cv-02524 (S.D.N.Y. May 16, 2024), ECF No. 64 (appointing Attorney Laukaitis as Class Counsel in nationwide data privacy class action, and approving his rate of \$925/hr. rate in common fund settlement, as well as \$325/hr. senior law clerk rate in same); *Jackson v. Suffolk Univ.*, No. 1:23-cv-10019 (D. Mass. June 18, 2024), ECF No. 49 (same); *Counts v. Arkk Food Co.*, No 1:23-cv-00236 (N.D. Ill. Sept. 26, 2024), ECF No. 74 (appointing Attorney Laukaitis as Co-Lead counsel in common fund class settlement and approving his \$925/hr. rate and \$325/hr. and \$300/hr. rates for senior law clerk and law clerk, respectively).

² Mr. Tomascik recently passed the July 2024 Maryland bar exam. His official bar admission is pending approval.

23. Our firm is lean and efficient, and we exercise sound billing judgment. As a small firm, we carefully screen each potential case before we file it. Because we devote 100% of our practice to class actions, we know how to staff cases efficiently without duplicating work. This results in successful litigation for the benefit of the Class, as shown by the successful common fund class-wide settlement in this case.

24. Moreover, as a small firm, we exercise sound judgment regarding spending and case costs. After litigating hundreds of class actions, we have developed processes and efficiencies to keep costs low.

25. **Exhibit 2** sets forth the unreimbursed expenses my firm incurred in prosecuting the Litigation from the inception of the Litigation through October 15, 2024, totaling **\$12,425.77**.

26. These unreimbursed expenses, incurred on behalf of Plaintiffs and the Settlement Class, are accurately reflected on the books and records of my firm and were prepared from expense reports with attached receipts, check records, and other source materials.

**THE NAMED PLAINTIFF SERVICE AWARDS OF \$1,500 ARE
REASONABLE AND JUSTIFIED**

27. The Named Plaintiffs have been active participants in this case, generally stayed informed about this litigation, reviewed, and approved the settlement demand and final settlement amount and Settlement Agreement, and spent substantial time and effort protecting the Class's interests. Named Plaintiffs have no conflicts of interest with other Settlement Class Members, are subject to no unique defenses.

28. Both Named Plaintiffs have maintained extensive communications with their retaining firms throughout the lifetime of the case. Both of them are aggrieved victims of the Data Security Incident, and deeply concerned about their own and their family's data privacy. They have been and continue to vigorously prosecute this case on behalf of the Settlement Class.

Accordingly, Service Awards of \$1,500 to each Named Plaintiff are reasonable, given the efforts of each Named Plaintiff on behalf of the Settlement Class in this matter.

29. Furthermore, the Named Plaintiff Service Awards are less than those approved in other common fund data breach class action settlements. *Lutz v. Electromed, Inc.*, No. 21-cv-2198, 2023 WL 4362813, at *1 (D. Minn. July 6, 2023) (granting final approval of a class representative service award of \$9,900 in a data breach class action); *Migliaccio v. Parker Hannifin, Corp.*, No. 1:22-cv-00835 (N.D. Ohio Aug. 2, 2023), ECF No. 42 (\$3,500 service awards); *Tucker v. Marietta Area Health Care, Inc.*, No. 2:22-cv-00184-SDM (S.D. Ohio Dec. 8, 2023), ECF No. 38, ¶7 (\$5,000 service awards); *Phelps v. Toyotetsu N. Am.*, No. 6:22-cv-00106 (E.D. Ky. Oct. 25, 2023), ECF No. 47 (\$5,000 service award).

I declare under penalty of perjury, under the laws of the United States of America, that to the best of my knowledge, the foregoing is true and correct.

Executed on this 29th day of October, 2024, at San Juan, PR.

/s/ Kevin Laukaitis

Kevin Laukaitis