

IN THE STATE COURT OF FULTON COUNTY  
STATE OF GEORGIA

**THOMAS FUCHS and BROOKE FUCHS,**  
*individually and on behalf of all others*  
*similarly situated,*

Plaintiffs,

v.

**RÖDL MANAGEMENT, INC. d/b/a RÖDL  
& PARTNER,**

Defendant.

Case No. 25EV012126

**PLAINTIFFS' UNOPPOSED MOTION FOR PRELIMINARY APPROVAL  
OF CLASS ACTION SETTLEMENT AND MEMORANDUM IN SUPPORT**

Plaintiffs Thomas Fuchs and Brooke Fuchs (“Plaintiffs”), individually and on behalf of all others similarly situated submit this Motion for Preliminary Approval of Class Action Settlement and Memorandum in support pursuant to O.C.G.A. § 9-11-23. Plaintiffs request this Court preliminarily approve the Settlement, certify the Settlement Class, approve the proposed plan of Notice, and schedule a Final Approval Hearing. With the Declaration of Casondra Turner (“Turner Decl.”) filed herewith as Exhibit A, Plaintiffs submit the executed Settlement Agreement (Exhibit 1 to the Declaration) as well as a proposed Preliminary Approval Order jointly agreed to and approved by the Parties (Exhibit D to the Settlement Agreement).

**I. INTRODUCTION**

This case arises from a data security incident involving Defendant Rödl Management, Inc. d/b/a Rödl Partner (“Defendant” and together with Plaintiffs, the “Parties”). Plaintiffs allege the security of their personal identifying information (“PII” or “Private Information”) was compromised in the incident. After extensive arm’s-length negotiations and a formal mediation,

the Parties negotiated a Settlement that provides significant relief for Plaintiffs and the class members they seek to represent. Because the Settlement is fair, reasonable, and adequate it should be preliminarily approved by the Court and notice should be provided to Settlement Class Members.

## **II. CASE SUMMARY**

On or around February 9, 2024, Defendant was alerted that suspicious activity on its network systems was occurring. Defendant subsequently launched an investigation and worked with third-party forensic specialists to determine the full nature and scope of the event. This investigation determined that the unauthorized actor was able to potentially access information belonging to Plaintiffs and Settlement Class Members in Defendant's systems between approximately January 30, 2024 and February 9, 2024 (the "Data Security Incident"). After reviewing the potentially impacted data, Defendant confirmed that certain personally identifiable information, including full names, Social Security numbers, dates of birth, and financial account information was included in the impacted data. Defendant notified Plaintiffs and the Settlement Class about the Data Security Incident on or about April 2, 2025. Upon receiving formal notice of the Data Security Incident, Plaintiff Thomas Fuchs commenced a class action lawsuit in federal court, alleging Defendant failed to sufficiently protect his Private Information.

Following the filing of Plaintiff Thomas Fuchs' amended complaint and Defendant's subsequent motion to dismiss the Federal Action, counsel for the Parties began to exchange information and discuss resolving the litigation. The Parties engaged in months of arm's-length negotiations and ultimately reached an agreement in principle to settle all claims on a class-wide basis in October 2025, following a mediation with experienced data breach class action mediator Bruce A. Friedman, Esq.. As part of these settlement discussions, Plaintiffs dismissed the Federal

Action, and the operative Complaint, adding additional Plaintiff Brooke Fuchs, was filed before the State Court of Fulton County in the above-captioned matter.

### **III. SUMMARY OF SETTLEMENT**

The “Settlement Class” is defined as:

All persons Defendant identified as being among those individuals impacted by the Data Security Incident, including all who were sent a notice of the Data Security Incident.

Settlement Agreement (“S.A.”) ¶ 1.31. Excluded from the Settlement Class are all persons who validly opt-out of this Settlement. The Settlement Class may include approximately 11,640 individuals (each, a “Settlement Class Member”). *Id.* ¶ 1.33.

The Settlement negotiated on behalf of the class provides for four categories of relief for the Settlement Class: (1) compensation for documented losses, including compensation for lost time spent dealing with the Data Security Incident; (2) compensation for extraordinary losses; (3) three years of credit monitoring and identity theft insurance; and (4) a \$50 alternative cash payment in lieu of documented or extraordinary losses and credit monitoring. *Id.* ¶¶ 3.2, 3.3. Defendant also agreed to take reasonable measures to secure and keep confidential the Private Information of its current and former employees and customers still in its possession and agreed to pay for such remedial costs separate and apart from other settlement benefits. *Id.* ¶ 3.6.

#### **A. Settlement Benefits**

Subject to the terms of the Settlement Agreement, Defendant or its insurer(s) shall make available the following compensation to Settlement Class Members:

(1) Monetary Compensation for Losses: Settlement Class Members who submit a valid and timely Claim Form may choose to receive either (1) compensation for ordinary losses,

including lost time, and compensation for extraordinary losses, or (2) the Alternative Cash Payment.

(2) Compensation for Documented Losses: Settlement Class Members may claim compensation for documented losses, including up to four hundred dollars (\$400.00) for ordinary losses and up to four thousand dollars (\$4,000.00) for extraordinary losses.

(a) Compensation for Ordinary Losses. Settlement Class Members will be eligible for compensation for unreimbursed ordinary losses up to four hundred dollars (\$400.00) per claimant. Ordinary losses may include (i) out-of-pocket expenses incurred as a result of the Data Security Incident, including bank fees, long distance phone charges, cell phone charges (only if charged by the minute), data charges (only if charged based on the amount of data used), postage, or gasoline for local travel; (ii) fees for credit reports, credit monitoring, or other identity theft insurance product purchased between January 30, 2024 and the Claims Deadline; and (c) up to four (4) hours of lost time spent dealing with the Data Security Incident, compensated at a rate of twenty dollars per hour (\$20/hour), if at least one (1) full hour was spent dealing with the Data Security Incident,

(b) Compensation for Extraordinary Losses. Settlement Class Members will be eligible for compensation for extraordinary losses, including proven actual monetary losses, provided that: (i) the loss is actual, documented, with third party documentation, and unreimbursed monetary loss arising from fraud or identity theft; (ii) the loss from fraud or misuse was more likely than not caused by the Data Security Incident; (iii) the actual misuse or fraud loss is not already covered by one or more of the ordinary loss compensation categories; (iv) the claimant made reasonable efforts to avoid the loss or seek reimbursement for the loss, including, but not limited to, exhaustion of all available credit

monitoring insurance and identity theft insurance; and (v) the actual misuse or fraud loss occurred between the date that the Data Security Incident began (January 30, 2024) and the Claim Deadline. The maximum amount any one claimant may recover for extraordinary losses is four thousand dollars (\$4,000.00).

(c) Credit Monitoring Services. All Settlement Class Members may claim three years of credit monitoring services.

(d) Alternative Cash Payment. In lieu of claims for ordinary and extraordinary losses, but in addition to credit monitoring, Settlement Class Members may elect to receive an Alternative Cash Payment of fifty dollars (\$50.00).

(3) Caps on Monetary Recovery by the Settlement Class. The monetary recovery of the Settlement Class is subject to the caps described below:

(a) Aggregate Cap: The total monetary recovery for documented losses by the Settlement Class under this Agreement shall not exceed five-hundred thousand dollars (\$500,000.00). Payments for approved claims for ordinary losses and extraordinary losses shall be reduced on a *pro rata* basis according to the number of Claims made if the total exceeds the overall five-hundred thousand-dollar (\$500,000.00) Aggregate Cap. In determining if any cap described by this Paragraph must be applied, neither the costs of the credit monitoring services, any Notice and Claims Administration Costs, the amount of any attorney's fees and expenses granted by the Court, the amount of any Service Award(s) granted by the Court, nor any other amount apart from the monetary payments due to Settlement Class Members who submit a valid Claim Form under this Agreement shall be considered.

(b) Alternative Cash Payment Cap: The monetary recovery of the Settlement Class for the Alternative Cash Payment is subject to a 5% maximum cap. Payments to Settlement Class Members who submit a valid Claim for an Alternative Cash Payment shall be reduced on a *pro rata* basis according to the number of Claims made if the percentage of Class Members who submit a valid claim exceeds 5%.

4. Release

The release in this case is tailored to the claims that have been pled or could have been pled in this case. Turner Decl. ¶ 15. Settlement Class Members who do not exclude themselves from the Settlement Agreement will release claims related to the Data Security Incident. *Id.*

**B. The Notice and Claims Process**

1. Notice

Defendant has agreed to pay the entirety of the settlement administration fees, including the cost of notice, separate and apart from other benefits provided to the Settlement Class. S.A. ¶ 5.11 The Parties agreed to use Analytics, LLC, as the Settlement Administrator. *Id.* ¶ 1.29.

Subject to approval of the Court, within 30 days of entry of the Preliminary Approval Order, Notice shall be provided to Settlement Class Members via U.S. mail. *Id.* at ¶ 5.4. The Short Form Notice is clear and concise and provides information about the Settlement as well as the sources Settlement Class Members can go to for additional information. S.A, Ex. A.

In addition to the individual direct notice the Settlement Administrator will establish and maintain a dedicated settlement website that will be updated throughout the claims period with the forms of Short Notice, Long Notice, and Claim Form approved by the Court, as well as this Settlement Agreement. *Id.* ¶ 5.7. The Long Form Notice, available at the Settlement Website,

explains the terms of the Settlement Agreement, provides contact information for Proposed Class Counsel, and explains the different options available. S.A. Ex. B.

## 2. Claims

The timing of the claims process is structured to ensure that all Class Members have adequate time to review the terms of the Settlement Agreement, make a claim or decide whether they would like to opt-out or object. Turner Decl. ¶ 18. Class Members will have ninety (90) days from the Notice Deadline to complete and submit a claim to the Claims Administrator. S.A. ¶ 1.2. The Claim Form, attached to the Settlement Agreement at Exhibit C, is written in plain language to facilitate Settlement Class Members' ease in completing it. Turner Decl. ¶ 18; S.A. Ex. C.

## 3. Requests for Exclusion and Objections

Settlement Class Members will have up to and including sixty (60) days from the Notice Completion Deadline to object to or exclude themselves from the Settlement. S.A. ¶¶ 6.3, 7.3. Similar to the timing of the claims process, the timing with regard to objections and exclusions is structured to give Settlement Class Members sufficient time to review the Settlement documents—including Plaintiffs' Motion for Attorneys' Fees, Costs, and Service Awards, which will be filed fourteen (14) days prior to the deadline for Settlement Class Members to object or exclude themselves from the Settlement. Turner Decl. ¶ 19; S.A. ¶ 8.3.

Any Settlement Class Member who wishes to be excluded from the Settlement must make the request in writing. To be considered valid, the request for exclusion must be timely mailed to the address designated by the Settlement Administrator and must include the following: (a) full name, address, and telephone number; (b) the Settlement Class Member's personal and original signatures (or the original signature of a person previously authorized by law, such as a trustee, guardian, or person acting under a power of attorney to act on behalf of the Settlement Class

Member with respect to a claim or right, such as those in the Lawsuit; and (c) clearly manifest the Settlement Class Member's intent to be excluded from the Settlement Class, to be excluded from the Settlement, not to participate in the Settlement, and/or to waive all rights to the benefits of the Settlement. *Id.* ¶ 6.4. Any Member of the Settlement Class who elects to be excluded shall not receive any benefits of and/or be bound by the terms of the Settlement Agreement. *Id.* ¶ 6.5.

Any Settlement Class Member who wishes to object shall submit a timely written notice of his or her objection by the Objection Date. Such notice shall: (i) state the objecting Settlement Class Member's full name, current address, telephone number, and email address (if any); (ii) contain the objecting Settlement Class Member's original signature; (iii) set forth information identifying the objector as a Settlement Class Member, including proof that the objector is within the Settlement Class (*e.g.*, copy of the Notice or copy of original notice of the Data Security Incident); (iv) set forth a statement of all grounds for the objection, including any legal support for the objection that the objector believes applicable; (v) identify all counsel representing the objector; (vi) state whether the objector and/or his or her counsel will appear at the Final Approval Hearing, and; (vii) contain the signature of the objector's duly authorized attorney or other duly authorized representative (if any), along with documentation setting forth such representation. *Id.* ¶ 7.1. To be timely, written notice of an objection in the appropriate form must be filed with the Clerk of the Court and mailed to Class Counsel and Defendant's Counsel at the address provided in the Notice. *Id.* ¶ 7.2.

#### 4. Fees, Costs, and Service Awards

The Settling Parties did not discuss the payment of attorneys' fees, costs, expenses and/or service award to Plaintiffs until after the substantive terms of the settlement had been agreed upon, other than that Defendant would pay reasonable attorneys' fees, costs, expenses, and a service

award to Plaintiffs as ordered by the Court, and that such fees shall be paid separately from any relief to the Class. Turner Decl. ¶ 22; S.A. ¶ 8.2. Settlement Class Counsel intends to apply to the Court for an award of combined attorney's fees and costs in an amount not to exceed two hundred thousand dollars (\$200,000.00). S.A. ¶ 8.2.

The Settlement Agreement calls for a reasonable service award to Plaintiffs in the amount of \$2,500 each, subject to approval of the Court. *Id.* ¶ 8.1. The Service Award is meant to recognize Plaintiffs for their efforts on behalf of the Settlement Class, including assisting in the investigation of the case, reviewing the pleadings, remaining available for consultation throughout the mediation and settlement negotiations, answering counsel's many questions, and reviewing the terms of the Settlement Agreement. Turner Decl. ¶ 29. Court-approved service awards will also be paid by Defendant separately from any Class relief. S.A. ¶ 8.1.

#### **IV. LEGAL AUTHORITY**

O.C.G.A. § 9-11-23, which governs class action litigation in Georgia, provides “[a] class action shall not be dismissed or compromised without the approval of the court and notice of the proposed dismissal or compromise shall be given to all members of the class in such manner as the court directs.” O.C.G.A. § 9-11-23(e).

Since its enactment, Georgia courts have interpreted the statute as parallel to Fed. R. Civ. P. 23. In 2003, the state legislature shored up this interpretation, modifying O.C.G.A. § 9-11-23 to actually conform to the Federal Rule. Thus, and in acknowledgement of the few definitive holdings in Georgia on the subject, Georgia courts rely on federal cases interpreting Fed. R. Civ. P. 23(e) when interpreting O.C.G.A. § 9-11-23(e). *See Sta-Power Industries, Inc. v. Avant*, 134 Ga. App. 952, 953 (1975); *Brenntag Mid-South, Inc. v. Smart*, 308 Ga. App. 899, 903 (2011).

The approval of a class action settlement is a two-step process. First, the Court must conduct a preliminary review to determine whether the proposed class settlement “is within the range of possible approval.” *Fresco v. Auto Data Direct, Inc.*, 2007 WL 2330895, at \*4 (S.D. Fla. May 11, 2007) (internal citations omitted); *see also See Manual for Complex Litigation*, Sec. 30.41 (3<sup>rd</sup> ed. 1995). This first step involves both preliminary certification of the class and an initial assessment of the proposed settlement. *Id.* It is only after a court has preliminarily approved a settlement, and notice has been provided to the Class, that the Court makes a final determination of the fairness, adequacy and reasonableness of a Settlement.

There is a strong judicial and public policy favoring the voluntary conciliation and settlement of complex class action litigation. *In re U.S. Oil & Gas Litig.*, 967 F.2d 489, 493 (11<sup>th</sup> Cir. 1992) (“Public policy strongly favors the pretrial settlement of class action lawsuits”). This is because class action settlements ensure class members a benefit, as opposed to the “mere possibility of recovery at some indefinite time in the future.” *In re Domestic Air Transp.*, 148 F.R.D. 297, 306 (N.D. Ga. 1993).

## **V. ARGUMENT**

### **A. Certification of the Settlement Class is Warranted.**

Prior to granting preliminary approval of a proposed settlement, the Court should first determine the proposed Settlement Class is appropriate for certification. *See Manual for Complex Litigation*, § 21.632 (4<sup>th</sup> ed. 2013); *Amchem Prods. Inc. v. Windsor*, 521 U.S. 591, 620 (1997). Class certification is proper if the proposed class, proposed class representative, and proposed class counsel satisfy the numerosity, commonality, typicality, and adequacy of representation requirements of O.C.G.A. § 9-11-23. Additionally, where (as in this case), certification is sought under O.C.G.A. § 9-11-23(b)(3), Plaintiffs must demonstrate that common questions of law or fact

predominate over individual issues and that a class action is superior to other methods of adjudicating the claim. O.C.G.A. § 9-11-23(b)(3); *Amchem Prods. Inc. v. Windsor*, 521 U.S. at 615-16.

“A class may be certified ‘solely for purposes of settlement where a settlement is reached before a litigated determination of the class certification issue.’” *Burrows v. Purchasing Power, LLC*, No. 1:12-CV-22800, 2013 WL 10167232, at \*1 (S.D. Fla. Oct. 7, 2013) (quoting *Lipuma v. American Express Co.*, 406 F. Supp. 2d 1298, 1314 (S.D. Fla. 2005)). Because a court evaluating certification of a class action that settled is considering certification only in the context of settlement, the court’s evaluation is somewhat different than in a case that has not yet settled. *Amchem Prods., Inc. v. Windsor*, 521 U.S. at 620. In some ways, the court’s review of certification of a settlement-only class is lessened: as no trial is anticipated in a settlement-only class case, the case management issues inherent in the ascertainable class determination need not be confronted. *See id.*; *see also Columbus Drywall & Insulation, Inc. v. Masco Corp.*, 258 F.R.D. 545, 557 (N.D. Ga. July 20, 2007). Other certification issues however, such as “those designed to protect absentees by blocking unwarranted or overbroad class definitions,” require heightened scrutiny and an active role as a guardian of the interests of the absent class members. *Amchem Prods., Inc. v. Windsor*, 521 U.S. at 620. “Confronted with a request for settlement-only class certification, a district court need not inquire whether the case, if tried, would present intractable management problems...for the proposal is that there be no trial.” *Id.* Even under the heightened scrutiny required, this case meets all of the O.C.G.A. § 29-1-23 prerequisites, and for the reasons set forth below, certification is appropriate.

Class actions are regularly certified for settlement. In fact, similar data breach cases have been certified—on a *national* basis—including the record-breaking settlement in *In re Equifax*.

See *In re Equifax, Inc. Customer Data Sec. Breach Litig.*, No. 1:17-md-2800-TWT (N.D. Ga. July 25, 2019); see also, e.g., *In re Target*, 309 F.R.D. 482 (D. Minn. 2015); *In re Heartland Payment Sys., Inc. Customer Data Sec. Breach Litig.*, 851 F. Supp. 2d 1040 (S.D. Tex. 2012). Georgia state courts have also certified similar data breach class actions for settlement. See *Cece et al. v. St. Mary's Health Care System, Inc. et al.*, No. SU20CV0500 (preliminary approval granted of class action settlement on December 15, 2021); *Jackson-Battle et al. v. Navicent Health, Inc.*, No. 2020cv072287 (final approval granted August 4, 2021). This case should be similarly certified, and the settlement similarly approved.

1. The Proposed Settlement Class Meets the Requirements of O.G.C.A. § 19-11-23(a).

a. *The class is so numerous that joinder of all members is impracticable.*

Numerosity requires the members of the class be so numerous that separate joinder of all members is impracticable. O.C.G.A. § 9-11-23(a)(1). To demonstrate numerosity, “plaintiffs need not prove that joinder is impossible; rather, plaintiffs ‘need only show that it would be extremely difficult or inconvenient to join all members of the class.’” *Columbus Drywall*, 258 F.R.D. at 557, quoting *Anderson v. Garner*, 22 F. Supp. 2d 1379, 1384 (N.D.Ga.1997).

Here, the Settlement Class includes approximately 11,640 people. Turner Decl. ¶ 13. Joinder of the claims of over ten thousand individuals would certainly be impracticable. Thus, the numerosity requirement is easily satisfied.

b. *Questions of law and fact common to the class.*

The second prerequisite to certification is that there exist questions of law or fact common to the class. O.C.G.A. § 19-11-23(a)(2). To demonstrate commonality, a plaintiff must demonstrate class members have suffered the same injury such that their claims can be productively litigated at once. *In re Equifax Inc. Customer Data Security Breach Litigation*, 220 WL 256132 \*11 (Mar.

17, 2020), citing *Sellers v. Rushmore Loan Mgmt. Servs., LLC*, 949 F.3d 1031, 1039 (11th Cir. 2019). Courts have previously addressed this requirement in the context of data breach class actions and found it readily satisfied. *In re Equifax Inc. Customer Data Security Breach Litigation*, 220 WL 256132 \*11, citing *In re the Home Depot, Inc., Customer Data Security Breach Litigation*, 2016 WL 6902351, at \*2 (N.D. Ga. Aug. 23, 2016) (finding that multiple common issues center on the defendant’s conduct, satisfying the commonality requirement); *In re Anthem, Inc. Data Breach Litigation*, 327 F.R.D. 299, 308 (N.D. Cal. Aug. 15, 2018) (noting that the data breach complaint contains a common contention capable of class-wide resolution—one type of injury claimed to have been inflicted by one actor in violation of one legal norm).

Here also, the commonality requirement is readily satisfied, as Plaintiffs and Settlement Class all have common questions of law and fact that arise out of the same event—the Data Security Incident. Specifically, Plaintiffs have alleged that the following questions of law and fact are common to the class:

- whether Defendant owed a legal duty to Plaintiffs and the Class to exercise due care in collecting, storing, and safeguarding their Private Information;
- whether Defendant’s security measures to protect their data systems were reasonable in light of best practices recommended by data security experts;
- whether Defendant’s failure to institute adequate protective security measures amounted to negligence.

Like in other data breach cases, these common issues all center on Defendant’s conduct, or other facts and law applicable to all class members, thus satisfying the commonality requirement. *See, e.g., In re Countrywide Fin. Corp. Cust. Data Sec. Breach Litig.*, No. 3:08-MD-01998, 2009 WL 5184352, at \*3 (W.D. Ky. Dec. 22, 2009) (“All class members had their private information stored in Countrywide’s databases at the time of the data breach”); *In re Heartland Payment Sys., Inc. Cust. Data Sec. Breach Litig.*, 851 F. Supp. 2d 1040, 1059 (S.D. Tex. 2012) (“Answering the

factual and legal questions about Heartland’s conduct will assist in reaching class wide resolution.”).

*c. The claims and defenses of Plaintiffs are typical of the claims and defenses of the class.*

The next prerequisite to certification, typicality, measures whether the claim or defense of the representative party is typical of the claim or defense of each member of the class. O.C.G.A. § 19-11-23(a)(3). “[T]ypicality measures whether a significant nexus exists between the claims of the named representative and those of the class at large. *Hines v. Widnall*, 334 F.3d 1253, 1256 (11<sup>th</sup> Cir. 2003) (internal quotation omitted). Like the commonality requirement, typicality does not require all putative class members share identical claims; factual difference amongst the claims will not necessarily defeat certification. *Cooper v. Southern Co.*, 390 F.3d 695, 714 (11<sup>th</sup> Cir. 2004). The named representatives need only share the same “essential characteristics” of the larger class. *Id.* The typicality requirement is regularly met in data breach class actions. *In re Equifax Inc. Customer Data Security Breach Litigation*, 220 WL 256132 at \*12.

Here, the typicality requirement is satisfied for the same reasons that Representative Plaintiffs’ claims meet the commonality requirement. Specifically, Plaintiffs’ claims are typical of those of the other Settlement Class Members because they all arise from the Data Security Incident. They are also based on the same legal theory, i.e., that Defendant had a legal duty to protect Plaintiffs’ and Settlement Class Members’ Private Information. Because there is a “strong similarity of legal theories” between Representative Plaintiffs’ claims and the claims of the Settlement Class Members, the typicality requirement is satisfied.

*d. Plaintiffs will fairly and adequately protect the interests of the class.*

O.C.G.A. § 19-11-23(a)(4) requires that Plaintiffs—the representative parties—will fairly and adequately protect the interest of the class. This requirement involves a two-part test that asks:

(1) whether plaintiffs have interests antagonistic to the interests of the other class members; and  
(2) whether the proposed class counsel has the necessary qualifications and experience to lead the litigation. *In re Tri-State Crematory Litigation*, 215 F.R.D. 660, 690-691 (N.D. Ga. Mar. 17, 2013).

As for the first prong, there is nothing to suggest that this requirement has not been satisfied in this case. The Representative Plaintiffs are members of the Settlement Class and do not possess any interests antagonistic to the Settlement Class. They provided their Private Information to Defendant and allege that their Private Information was compromised as a result of the Data Security Incident, as the Private Information of the Settlement Class was also allegedly compromised. Indeed, Plaintiffs' claims coincide identically with the claims of the Settlement Class, and Plaintiffs and the Settlement Class desire the same outcome of this litigation. Plaintiffs have vigorously prosecuted these cases for the benefit of all Settlement Class Members. Plaintiffs have participated in the litigation, reviewed pleadings, and participated in the factual investigation of the case.

The second prong is also satisfied. Proposed class counsel has extensive experience in class actions generally, and in data breach cases in particular. *See* Turner Dec. ¶ 27. Because Plaintiffs and their counsel possess substantial experience and track records in similar litigation and have vigorously prosecuted the case at hand to get the best result for Plaintiffs and Class Members, the adequacy requirement is satisfied.

2. The Proposed Settlement Class Meets the Requirements of O.C.G.A. § 19-11-23(b)(3).

In addition to the requirements discussed at length above, Plaintiffs must demonstrate that one of the requirements of O.C.G.A. § 19-11-23(b) are met. Here, questions of law or fact common to class members predominate over any individual issues, making class treatment superior to other available methods of adjudication. *See* O.C.G.A. § 19-11-23(b)(3).

a. *Common issues predominate over individualized ones in this matter.*

The predominance requirement “tests whether proposed classes are sufficiently cohesive to warrant adjudication by representation.” *Amchem Prods., Inc. v. Windsor*, 521 U.S. at 623. “Common issues of fact and law predominate if they have a direct impact on every class member’s effort to establish liability and on every class member’s entitlement to ... relief.” *In re Equifax, Inc. Customer Data Security Breach Litigation*, 2020 WL 256132 at \*13, quoting *Carriuolo v. Gen. Motors Co.*, 823 F.3d 977, 985 (11th Cir. 2016).

Common issues readily predominate here because the central liability question in this case—whether Defendant failed to safeguard Plaintiffs’ information, like that of every other Settlement Class Member—can be established through generalized evidence. *See, Klay v. Humana, Inc.*, 382 F.2d 1241, 1264 (2004) (“When there exists generalized evidence which proves or disproves an element on a simultaneous, class-wide basis, since such proof obviates the need to examine each class member’s individual position, the predominance test will be met”). Several case-dispositive questions could be resolved identically for all members of the Settlement Class, such as whether Defendant had a duty to exercise reasonable care in safeguarding, securing, and protecting the Private Information of Plaintiffs and Settlement Class Members and whether Defendant breached that duty. The many common questions of fact and law that arise from Defendant’s conduct predominate over any individualized issues.

Other courts have recognized that these types of common issues arising from a data breach predominate over individualized issues. *See, e.g. In re Countrywide Fin. Corp. Customer Data Sec. Breach Litig.*, 2009 U.S. Dist. LEXIS 119870 (W.D. Ky. 2009) (finding predominance where proof would focus on data breach defendant’s conduct both before and during the theft of class members’ personal information); *In re Heartland Payment Sys., Inc. Cust. Data Sec. Breach Litig.*,

851 F.Supp.2d 1040, 1059 (S.D. 2012) (finding predominance where “several common questions of law and fact ar[ose] from a central issue: Heartland’s conduct before, during, and following the data breach, and the resulting injury to each class member from that conduct”).

*b. Class treatment is superior to individual litigation.*

Finally, a class action is superior to other methods available to fairly, adequately, and efficiently resolve the claims of the Proposed Settlement Class. A superiority analysis involves an examination of “the relative advantages of a class action suit over whatever other forms of litigation might be realistically available to the plaintiffs.” *Sacred Heart Health Sys., Inc. v. Humana Military Healthcare Servs., Inc.*, 601 F.3d 1159, 1183-84 (11th Cir. 2010) (internal quotation omitted). The focus is efficiency. *In re Equifax, Inc. Customer Data Security Breach Litigation*, 2020 WL 256132 at \*14.

Here, resolution of numerous claims in one action is far superior to individual lawsuits, because it promotes consistency and efficiency of adjudication. Indeed, absent class treatment in the instant case, each Settlement Class Member will be required to present the same or essentially the same legal and factual arguments, in separate and duplicative proceedings, the result of which would be a multiplicity of trials conducted at enormous expense to both the judiciary and the litigants. Moreover, there is no indication that Settlement Class Members have an interest in individual litigation or an incentive to pursue their claims individually, given the amount of damages likely to be recovered relative to the resources required to prosecute such an action. *See Dickens v. GC Servs. Ltd. P'ship*, 706 F. App'x 529, 538 (11th Cir. 2017) (describing “the ways in which the high likelihood of a low per-class-member recovery militates in favor of class adjudication”).

Additionally, the proposed Settlement will give the Parties the benefit of finality, and because this case has now been settled pending Court approval, the Court need not be concerned with issues of manageability relating to trial. *See Amchem Prods., Inc. v. Windsor*, 521 U.S. at 620 (“[c]onfronted with a request for settlement-only class certification, a district court need not inquire whether the case ...would present intractable management problems...”). Class certification—and class resolution—guarantee an increase in judicial efficiency and conservation of resources over the alternative of individually litigating tens of thousands of individual data breach cases arising out of the *same* Data Security Incident.

As the superiority requirement is satisfied, along with all other requirements of O.C.G.A. § 19-11-23, the Court should certify the Settlement Class.

**B. Plaintiffs’ Counsel should be appointed Settlement Class Counsel.**

As discussed above, and as fully explained in Counsel’s declarations, proposed Settlement Class Counsel have extensive experience prosecuting similar class actions and other complex litigation. *See* Turner Decl. ¶ 27 and Exhibit 3. Further, proposed Settlement Class Counsel have diligently investigated and prosecuted the claims in this matter, have dedicated substantial resources to the investigation and litigation of those claims, and have successfully negotiated the Settlement of this matter to the benefit of Plaintiffs and the Settlement Class. *See generally* Turner Decl. Accordingly, the Court should Milberg PLLC as Settlement Class Counsel.

**C. The Proposed Settlement Should be Preliminarily Approved Because it is Fair, Reasonable, Adequate, and Free of Collusion.**

After determining that certification of the Settlement Class is appropriate, the court must determine whether the Settlement Agreement itself is worthy of preliminary approval and of providing notice to the class. Some courts in the Eleventh Circuit find preliminary approval appropriate “where the proposed settlement is the result of the parties’ good faith negotiations,

there are no obvious deficiencies, and the settlement falls within the range of reason.” *In re Checking Account Overdraft Litigation*, 275 F.R.D. 654, 661 (S.D. Fla. 2011) (internal quotations omitted). Other courts take a preliminary look at the factors considered fully at the second—or final approval—stage, known as the *Bennett* factors. The *Bennett* factors include:

(1) the likelihood of success at trial; (2) the range of possible recoveries; (3) the point on or below the range of possible recoveries at which a settlement is fair, adequate and reasonable; (4) the complexity, expense and duration of litigation; (5) the substance and degree of opposition to the settlement; and (6) the stage of the proceedings at which the settlement was achieved.

*Columbus Drywall*, 258 F.R.D. at 557, quoting *Bennett v. Behring Corp.*, 737 F.2d 982, 986 (11th Cir 1984). In either case, courts consider the relevant factors “informed by the strong judicial policy favoring settlement as well as by the realization that compromise is the essence of settlement.” *Bennett v. Behring Corp.*, 737 F.2d at 986; see also *Meyer v. Citizens and Southern Bank*, 677 F. Supp. 1196, 1200 (M.D. Ga. 1988).

The proposed Settlement warrants preliminary approval under each approach.

1. The proposed Settlement is the result of good faith negotiations, is not obviously deficient, and falls within the range of reason.

Here, the Settlement is the result of intensive, arm’s-length negotiations (including a formal mediation supervised by an experienced third-party neutral – Greg Parent, Esq.) between experienced attorneys who are familiar with class action litigation and with the legal and factual issues in these cases. Moreover, as discussed at greater length below, the Settlement provides real value to valid claimants who have been harmed—where continued litigation would provide significant risks.

2. The *Bennett* factors support preliminary approval.

Here, when preliminarily considering the *Bennett* factors examined in depth at final approval, there is no question that the proposed Settlement is well “within the range of possible

approval,” fair, reasonable, and adequate, and should be approved. While the Court cannot yet consider class approval before notice has been provided, an initial examination of the merits of the case, risks of litigation, and the benefits obtained by the Settlement Agreement wholly support preliminary approval.

*a. The benefits of settlement outweigh the risks at trial.*

Settlement Class Members who submit valid claims are eligible to receive up to \$400 in ordinary expense reimbursements and payments for lost time and up to \$4,000 in extraordinary expense reimbursements, or a \$50 Alternative Cash Payment, as well as three years of credit monitoring services and at least \$1 million in fraud protection. Plaintiffs and Class Members will be the beneficiaries of extensive data security enhancements implemented by Defendant. The value achieved through the Settlement Agreement is guaranteed, where chances of prevailing on the merits are uncertain.

While Plaintiffs strongly believe in the merits of their case, they also understand that Defendant will assert a number of potentially case-dispositive defenses. Due at least in part to their cutting-edge nature and the rapidly evolving law, data breach cases like this one generally face substantial hurdles—even just to make it past the pleading stage. *See Hammond v. The Bank of N.Y. Mellon Corp.*, 2010 WL 2643307, at \*1 (S.D.N.Y. June 25, 2010) (collecting data breach cases dismissed at the Rule 12(b)(6) or Rule 56 stage). To proceed with litigation, Plaintiffs would likely need to survive a motion to dismiss from Defendant. Then, after significant discovery, class certification is another hurdle that would have to be met—and one that has been denied in other data breach cases. *See, e.g., In re Hannaford Bros. Co. Customer Data Sec. Breach Litig.*, 293 F.R.D. 21 (D. Me. 2013).

While Plaintiffs are confident in the strength of their claims, they are also pragmatic in their awareness of the various defenses available to Defendant, as well as the risks inherent to continued litigation. Defendant has consistently denied the allegations raised by Plaintiffs and made clear at the outset that they would vigorously defend the case. Through the Settlement, Plaintiffs and Class Members gain significant benefits without having to face further risk of not receiving any relief at all.

*b. The settlement is within the range of possible recoveries and is fair, adequate, and reasonable.*

The second and third *Bennett* factors are often considered together. *See Burrows v. Purchasing Power, LLC*, 2013 WL 10167232, at \*6 (S.D. Fla. Oct. 7, 2013). In evaluating the range of possible recoveries and the fairness, reasonableness, and adequacy of the settlement, “[t]he Court’s role is not to engage in a claim-by-claim, dollar-by-dollar evaluation, but to evaluate the proposed settlement in its totality.” *Lipuma*, 406 F. Supp. at 1323. Here, Settlement Class Members can receive cash payments (including a \$50 Alternative Cash Payment with no documentation or proof of loss) and financial asset and credit monitoring protections, *and* will gain the benefit of data security enhancements. These payments, combined with the equitable relief and financial asset and credit monitoring services are of real value. *See Columbus Drywall*, 258 F.R.D. at 559 (court found settlement fair, reasonable, and adequate, and preliminary approval warranted where there was an immediate and substantial benefit to the class). Accordingly, this settlement is eminently reasonable, especially considering that it avoids the potential contingencies of continued litigation.

*c. Continued litigation would be lengthy and expensive.*

As discussed above, data breach litigation is difficult, complex, and the rapid evolution of case law make outcomes uncertain. While early settlement has allowed costs to stay modest, and

the Settlement Agreement provides for such costs to be paid for separately and apart from the funds available to the class—protracted litigation would only serve to increase costs and have a potentially negative effect on class recovery, which is itself far from certain. Continued litigation would also increase the burden on the court, without any guaranteed benefit to Plaintiffs or Settlement Class Members. “Complex litigation ... ‘can occupy a court’s docket for years on end, depleting the resources of the parties and the taxpayers while rendering meaningful relief increasingly elusive.’” *Woodward v. NOR-AM Chem. Co.*, No. Civ-94-0870, 1996 WL 1063670 \*21 (S.D. Ala. May 23, 1996), quoting *In re U.S. Oil & Gas Litig.*, 967 F.2d 489, 493 (11th Cir. 1992)). Where a settlement, like here, “will alleviate the need for judicial exploration of . . . complex subjects [and] reduce litigation costs” this factor weighs in favor of approval. See *Lipuma*, 406 F. Supp. 2d at 1324.

*d. There has not been any opposition to the Settlement.*

Plaintiffs have no reason to believe there will be opposition to the Settlement. This factor, however, is better considered after notice has been provided to Settlement Class Members and they are given the opportunity to object. See *Columbus Drywall.*, 258 F.R.D. at 561. At this point, this factor is neutral in the analysis.

*e. Plaintiffs had sufficient information to evaluate the merits and negotiate a fair, adequate, and reasonable settlement.*

The final *Bennett* factor allows a Court to consider whether “plaintiffs had access to sufficient information to adequately evaluate the merits of the case and weigh the benefits of settlement against further litigation.” *Lipuma*, 406 F. Supp. 2d at 1324. Vast formal discovery is not a requirement. *Id.* (quoting *Cotton v. Hinton*, 559 F.2d 1326,1332 (5th Cir. 1977)).

This case, though at an early stage when settled, has been thoroughly investigated by counsel experienced in data breach litigation. Turner Decl. ¶¶ 20-21. Counsel’s experience and

investigation, combined with the informal exchange of information that occurred at mediation put Plaintiffs in a position to proficiently evaluate the case and negotiate a settlement they view as fair, reasonable, and adequate, and worthy of preliminary approval. *Id.* ¶ 21.

**D. The Proposed Notice Plan Should be Approved.**

O.C.G.A. § 9-11-23(e) provides “notice of the proposed . . . compromise shall be given to all members of the class in such a manner as the court directs.” Due process requires provision of the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort. *See* Fed. R. Civ. P. 23(c)(2)B). The best practicable notice is that which “is reasonably calculated, under all of the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.” *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950).

The Notice provided for by the Settlement Agreement is designed to be the best practicable and to meet all the criteria set forth by the Manual for Complex Litigation. Notice shall be provided to Settlement Class Members via first-class U.S. Mail. S.A. ¶ 5.4. In addition to the direct mail notice, the Settlement Administrator will establish and maintain a settlement website through which Settlement Class Members can receive additional information about the Settlement. *Id.* ¶ 5.7.

The notices are clear and straightforward. They define the Class; clearly describe the options available to Settlement Class Members and the deadlines for taking action; describe the essential terms of the settlement; disclose the requested service award for the class representatives as well as the amount that proposed Settlement Class Counsel intends to seek in fees and costs; explain procedures for making claims, objections, or requesting exclusion; provide information that will enable Settlement Class Members to calculate their individual recovery; describe the date,

time, and place of the Final Fairness Hearing; and prominently display the address and phone number of class counsel. S.A. Exhibits A, B.

The Notice here is designed to be the best practicable under the circumstances, apprises Settlement Class Members of the pendency of the action, and gives them an opportunity to object or exclude themselves from the settlement. *See Agnone v. Camden County*, Georgia, 2019 WL 1368634, \*9 (S.D. Ga. Mar. 26, 2019) (finding class notice mailed directly to settlement class members was the best practicable and satisfied concerns of due process); *Barkwell v. Sprint Communications Company L.P.*, 2014 WL 12704984, \*6 (M.D. Ga. Apr. 18, 2014) (finding a notice program that involved direct mail notice to satisfy due process). Accordingly, the Notice process should be approved by this Court.

## **VI. CONCLUSION**

Plaintiffs have negotiated a fair, adequate, and reasonable settlement that guarantees Settlement Class Members significant relief in the form of direct reimbursements for expenses incurred and time spent relevant to the Data Security Incident and credit monitoring and financial asset protection services, as well as equitable relief in the form of data security enhancements that will better protect their sensitive information in the future. For these and the above reasons, Plaintiffs respectfully request this Court grant their Motion for Preliminary Approval of Class Action Settlement.

Dated: February 26, 2026

Respectfully submitted,

/s/ Casondra Turner  
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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing document and all attachments were served on all counsel of record on February 26, 2026 via the Court's efile system.

*/s/ Casondra Turner*  
Casondra Turner