

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

In re Berry, Dunn, McNeil & Parker Data
Security Incident Litigation

Lead Case No. 2:24-cv-00146-JAW

SETTLEMENT AGREEMENT

This Settlement Agreement (“Settlement” or “Agreement”),¹ dated as of December 4, 2024, is entered into and between Plaintiffs, on behalf of themselves and the Settlement Class, on the one hand, and Defendants, on the other hand. The Parties hereby agree to the following terms in full settlement of the Action, subject to a Final Approval Order entered by the Court.

I. Background

1. Defendant BerryDunn is a leading national professional services firm providing assurance, tax, and consulting services to businesses, nonprofits, and government agencies throughout the U.S. and its territories.

2. Defendant Reliable is a technology consulting company that offers services to its customers, including but not limited to, cloud hosting, managed services, IT consulting and security.

3. Defendant BerryDunn was a client of Defendant Reliable.

4. In the course of operating its business, Defendant BerryDunn collects, maintains, and stores Private Information pertaining to certain of its clients, including, but not limited to, names, email addresses, mailing addresses, dates of birth, Social Security numbers, and individual health insurance policy numbers.

¹ All capitalized terms herein shall have the same meanings as those ascribed to them in Section II below.

5. On or about April 25, 2024, Defendant BerryDunn filed an official notice of data security incident with the Office of Maine Attorney General. At or around the same time, Defendant BerryDunn began sending out notice of data security incident letters to individuals whose information was potentially accessible as a result of the Data Security Incident.

6. As set forth in the notice letter sent to Plaintiffs and Settlement Class Members, Defendant Reliable received notice of unusual activity on or about September 14, 2023. An investigation revealed that an unauthorized party had access to certain files that contained sensitive information related to Defendant BerryDunn's Health Analytics Practice Group.

7. As a result of the Data Security Incident, commencing in April 2024, Defendant BerryDunn was named in eleven putative Related Actions that have overlapping claims, seek to represent the same putative class members, and arise out of the same Data Security Incident.

8. Plaintiffs in the Related Actions conferred and agreed to move to consolidate the Related Actions and to appoint Class Counsel as Interim Co-Lead Class Counsel.

9. Thereafter, the Court consolidated the actions into this Action and appointed Jeff Ostrow, Mason Barney, and Bryan Bleichner as Interim Co-Lead Class Counsel for the putative class.

10. On June 18, 2024, Plaintiffs filed an amended Consolidated Class Action Complaint adding Defendant Reliable as an additional party.

11. Thereafter, Class Counsel prepared written discovery, including interrogatories and a request for production. It also drafted a comprehensive Rule 30(b)(6) notice of deposition topics.

12. Class Counsel also consulted with multiple data experts to understand how the breach occurred, the type of information involved, and whether the information was published on the dark web.

13. The Parties began discussing settlement and scheduled a mediation with the Honorable David E. Jones (Ret.), an experienced data breach class action mediator, on September 23, 2024.

14. In advance of the mediation, Plaintiffs propounded informal discovery requests to learn as much as possible in advance of mediation. Through the provision of informal discovery, Plaintiffs were able to evaluate the merits of Defendants' respective positions. The Parties also exchanged mediation briefs outlining their positions with respect to liability, damages, and settlement-related issues.

15. The Parties mediated on September 23, 2024, with the Honorable David E. Jones (Ret.), and after a full day of negotiations and subsequent days of negotiations, agreed upon the material terms of a settlement.

16. Thereafter, on September 30, 2024, the Parties filed a Notice of Classwide Settlement.

17. The Parties now agree to settle the Action entirely, without any admission of liability or wrongdoing, with respect to all Released Claims of the Releasing Parties. Defendants have entered into this Agreement to resolve all controversies and disputes arising out of or relating to the Data Security Incident and the allegations made in the Complaint, and to avoid the litigation costs and expenses, distractions, burden, expense, and disruption to their business operations associated with further litigation. Defendants do not in any way acknowledge, admit to, or concede any of the allegations made in the Complaint (and similarly do not concede any of the allegations in the other complaints in the Related Actions), and disclaim and deny any fault or liability, or any charges of wrongdoing that have been or could have been asserted in the Complaint. Nothing contained in this Agreement shall be used or construed as an admission of liability, and this

Agreement shall not be offered or received in evidence in any action or proceeding in any court or other forum as an admission or concession of liability or wrongdoing of any nature or for any other purpose other than to enforce the terms of this Agreement. Plaintiffs have entered into this Agreement to recover on the claims in the Complaint, and to avoid the risk, delay, and uncertainty of continued litigation. Plaintiffs do not in any way concede that the claims alleged in the Complaint lack merit or are subject to any defenses. The Parties intend this Agreement to bind Plaintiffs, Defendants, and all Settlement Class Members.

NOW, THEREFORE, in light of the foregoing, for good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, the Parties agree, subject to approval by the Court, as follows.

II. Definitions

18. “Action” means the lawsuit entitled: In re Berry, Dunn, McNeil & Parker Data Security Incident Litigation, Lead Case No. 2:24-00146-JAW, filed in the United States District Court for the District of Maine.

19. “Application for Attorneys’ Fees, Costs, and Service Awards” means the application made with the Motion for Final Approval seeking Service Awards for Class Representatives and Class Counsel’s attorneys’ fees and reimbursement for costs.

20. “Cash Payment” means compensation paid to Settlement Class Members who elected either Cash Payment A or Cash Payment B.

21. “Cash Payment A” means the Settlement Class Member Benefit that Settlement Class members, who incurred documented losses, may elect under Section V herein.

22. “Cash Payment B” means the Settlement Class Member Benefit consisting of a \$100.00 cash payment (subject to pro rata increase or decrease) that Settlement Class Members

may elect under Section V herein.

23. “Claim” means the submission of a Claim Form by a Claimant.

24. “Claim Form” means the proof of claim, substantially in the form attached hereto as *Exhibit 3*, which may be modified, subject to the Parties’ approval, to meet the requirements of the Settlement Administrator.

25. “Claim Form Deadline” shall be 15 days before the initial scheduled Final Approval Hearing and is the last day by which a Claim Form may be submitted to the Settlement Administrator for a Settlement Class member to be eligible for a Cash Payment.

26. “Claimant” means a Settlement Class member who submits a Claim Form.

27. “Class Counsel” means: Jeff Ostrow, Mason Barney, and Bryan Bleichner.

28. “Class List” means a list of all individuals in the Settlement Class. Defendant BerryDunn shall prepare and provide the Class List to the Settlement Administrator for Notice using information in its records. The Class List shall include the Settlement Class’s names, postal address, and telephone number (if available), and will be maintained as confidential, as described in more detail in paragraph 86 below.

29. “Class Representatives” means all Plaintiffs except Plaintiffs R. Bishop and Smith.

30. “Complaint” means the Consolidated Class Action Complaint filed in the Action on June 18, 2024.

31. “Court” means the United States District Court for the District of Maine and the Judge(s) assigned to the Action.

32. “Credit Monitoring” means up to three years of credit monitoring Settlement Class Members may elect under Section V herein.

33. “Data Security Incident” means the incident that was discovered on or about

September 14, 2023, in which an unauthorized third party potentially gained access to Settlement Class Members' Private Information.

34. "Defendant BerryDunn" means Berry, Dunn, McNeil & Parker, LLC.

35. "Defendant BerryDunn's Counsel" means David Ross of Wilson, Elser, Moskowitz, Edelman & Dicker, LLP.

36. "Defendant Reliable" means ZZ Enterprises, LLC d/b/a Reliable Networks.

37. "Defendant Reliable's Counsel" means Stephen Orlando and Shaun Loughlin of Gordon Rees Scully Mansukhani, LLP.

38. "Defendants" means Berry, Dunn, McNeil & Parker, LLC and ZZ Enterprises, LLC d/b/a Reliable Networks, collectively.

39. "Defendants' Counsel" means Defendant BerryDunn's Counsel and Defendant Reliable's Counsel, collectively.

40. "Effective Date" means 5 days after the entry of the Final Approval Order, provided there are no objections to the Settlement. If there are objections to the Settlement, then the Effective Date shall be the later of: (a) 30 days after entry of the Final Approval Order if no appeals are taken from the Final Approval Order; or (b) if appeals are taken from the Final Approval Order, then the earlier of 30 days after the last appellate court ruling affirming the Final Approval Order or 30 days after the entry of a dismissal of the appeal.

41. "Escrow Account" means the interest-bearing account to be established by the Settlement Administrator consistent with the terms and conditions described herein.

42. "Final Approval" means the final approval of the Settlement, which occurs when the Court enters the Final Approval Order, substantially in the form attached to the Motion for Final Approval.

43. “Final Approval Hearing” means the hearing held before the Court during which the Court will consider granting Final Approval of the Settlement and the Application for Attorneys’ Fees, Costs and Service Award.

44. “Final Approval Order” means the final order that the Court enters granting Final Approval of the Settlement. The proposed Final Approval Order shall be in a form agreed upon by the Parties and shall be substantially in the form attached as an exhibit to the Motion for Final Approval. Final Approval Order also includes the orders, which may be entered separately, determining the amount of attorneys’ fees and costs awarded to Class Counsel.

45. “Long Form Notice” means the long form notice of the Settlement, substantially in the form attached hereto as *Exhibit 2*, which shall be posted on the Settlement Website and shall be available to Settlement Class Members by mail on request made to the Settlement Administrator.

46. “Motion for Final Approval” means the motion that Plaintiffs and Class Counsel shall file with the Court seeking Final Approval of the Settlement.

47. “Motion for Preliminary Approval” means the motion that Plaintiffs shall file with the Court seeking Preliminary Approval of the Settlement.

48. “Notice” means the Postcard Notice, Long Form Notice, Settlement Website and settlement telephone line that Plaintiffs and Class Counsel will ask the Court to approve in connection with the Motion for Preliminary Approval.

49. “Notice Program” means the methods provided for in this Agreement for giving Notice and consists of the Postcard Notice, Long Form Notice, Settlement Website and Settlement telephone line.

50. “Notice of Deficiency” means the notice sent by the Settlement Administrator to a

Settlement Class member who has submitted an invalid Claim.

51. “Objection Period” means the period that begins the day after the earliest day on which the Notice is first distributed, and that ends no later than 30 days before the Final Approval Hearing.

52. “Opt-Out Period” means the period that begins the day after the earliest day on which the Notice is first distributed, and that ends no later than 30 days before the Final Approval Hearing.

53. “Party” means each of the Plaintiffs and the Defendants, and “Parties” means Plaintiffs and Defendants collectively.

54. “Plaintiffs” means Tonya Gambino, Quinton Anderson, Michael Meyerson, Laura Russell, Kathy Bishop, Randy Bishop, Kristine Iushkova, Robert Hickman, Sally Hughes, Donald Dee Smith, Melody Bowman, Brandy Brady, Virginia Deme-Duff, Myron Nottingham, and Yasmine Encarnacion.

55. “Postcard Notice” means the postcard notice of the Settlement, substantially in the form attached hereto as *Exhibit 1*, which the Settlement Administrator shall disseminate to the Settlement Class by mail.

56. “Preliminary Approval” means the preliminary approval of the Settlement, which occurs when the Court enters the Preliminary Approval Order, substantially in the form attached to the Motion for Preliminary Approval.

57. “Preliminary Approval Order” means the order preliminarily approving the Settlement and proposed Notice Program.

58. “Private Information” means Settlement Class members’ information that may have been accessible in the Data Security Incident, which may include but is not limited to: names,

Social Security numbers, driver's license/state identification numbers, and other sensitive information.

59. "Related Actions" means the following actions that were consolidated into the Action within the United States District Court for the District of Maine: *Gambino v. Berry, Dunn, McNeil & Parker, LLC*, Case No. 2:24-cv-146; *Meyerson v. Berry, Dunn, McNeil & Parker, LLC*, Case No. 2:24-cv-147; *Russell v. Berry, Dunn, McNeil & Parker, LLC*, Case No. 2:24-cv-148; *Davis v. Berry, Dunn, McNeil & Parker, LLC*, Case No. 2:24-cv-149; *Hickman v. Berry, Dunn, McNeil & Parker, LLC & Reliable Networks of Maine, LLC*, Case No. 2:24-cv-150; *Demel-Duff v. Berry, Dunn, McNeil & Parker, LLC*, Case No. 2:24-cv-151; *Bowman v. Berry, Dunn, McNeil & Parker LLC & Reliable Networks of Maine, LLC*, Case No. 2:24-cv-153; *Bishop v. Berry, Dunn, McNeil & Parker LLC & Reliable Networks of Maine, LLC*, Case No. 2:24-cv-154; *Edwards v. Berry, Dunn, McNeil & Parker LLC*, Case No. 2:24-cv-155; *Encarnacion v. Berry, Dunn, McNeil & Parker LLC & Reliable Networks of Maine, LLC*, Case No. 2:24-cv-174; and *Coulter v. Berry, Dunn, McNeil & Parker, LLC*, Case No. 2:24-cv-192 (after transfer from the United States District Court for the Northern District of Florida, Case No. 4:24-cv-00201) .

60. "Releases" means the releases and waiver set forth in Section XIII of this Agreement.

61. "Released Claims" means the claims described in Section XIII of this Agreement.

62. "Released Parties" means Defendants, and their present and former parents, subsidiaries, divisions, departments, affiliates, predecessors, successors and assigns, and any and all of their past, present, and future directors, officers, executives, officials, principals, stockholders, heirs, agents, insurers, reinsurers, members, attorneys, accountants, actuaries, fiduciaries, advisors, consultants, representatives, partners, joint venturers, licensees, licensors,

independent contractors, subrogees, trustees, executors, administrators, clients, customers, data owners, associated third parties, covered entities, business associates, contracting parties of any kind, predecessors, successors and assigns, and any other person acting on Defendants' behalf, in their capacity as such. It is understood that to the extent a Released Party is not a party to the Agreement, all such Released Parties are intended third-party beneficiaries of the Agreement.

63. "Releasing Parties" means (i) Plaintiffs and all Settlement Class Members, (ii) each of their respective executors, representatives, heirs, predecessors, assigns, beneficiaries, affiliates, successors, bankruptcy trustees, guardians, joint tenants, tenants in common, tenants by the entirety, agents, attorneys, (iii) any entities in which a Plaintiff and/or other participating Settlement Class Member has or had a controlling interest or that has or had a controlling interest in him or her, (iv) any other person or entity (including any governmental entity) claiming by or through, on behalf of, for the benefit of, derivatively for, or as representative of a Plaintiff and/or any other Settlement Class Member, and all those who claim through them or on their behalf, and (v) the respective past and present directors, governors, executive-committee members, officers, officials, employees, members, partners, principals, agents, attorneys, advisors, trustees, administrators, fiduciaries, consultants, service providers, representatives, successors in interest, assigns, beneficiaries, heirs, executors, accountants, accounting advisors, and auditors of any or all of the above persons or entities identified in (i)-(iv).

64. "Service Awards" shall mean the payment the Court may award the Plaintiffs for serving as Class Representatives.

65. "Settlement Administrator" means Angeion Group, Inc. or Angeion.

66. "Settlement Administration Costs" means all costs and fees of the Settlement Administrator regarding Notice and settlement administration.

67. “Settlement Class” means all persons in the United States whose Private Information was potentially accessible as a result of the Data Security Incident, including those who were sent notification from Defendant BerryDunn that their Private Information was potentially accessible as a result of the Data Security Incident. Excluded from the Settlement Class are (a) all persons who are governing board members of Defendants; (b) governmental entities; and (c) the Court, the Court’s immediate family, and Court staff.

68. “Settlement Class Member” means any member of the Settlement Class who has not opted-out of the Settlement.

69. “Settlement Class Member Benefit” means the Cash Payment and, if applicable, Credit Monitoring, elected by Settlement Class Members.

70. “Settlement Fund” means the non-reversionary \$7,250,000.00 cash fund that Defendants have agreed to pay, or cause to be paid, under the terms of the Settlement. Defendant BerryDunn shall contribute, or cause to be contributed, \$6,325,000.00 and Defendant Reliable shall contribute, or cause to be contributed, \$925,000.00 to the Settlement Fund, respectively.

71. “Settlement Website” means the website the Settlement Administrator will establish as a means for the Settlement Class members to submit Claim Forms and obtain notice and information about the Settlement, including hyperlinked access to this Agreement, the Preliminary Approval Order, Long Form Notice, Claim Form, Motion for Final Approval, Application for Attorneys’ Fees, Costs and Service Awards, and Final Approval Order, as well as other documents as the Parties agree to post or the Court orders posted. The Settlement Website shall remain online and operable for six months after Final Approval.

72. “Valid Claim” means a Claim Form submitted by a Settlement Class Member that is: (a) submitted in accordance with the provisions of the Settlement; (b) accurately, fully, and

truthfully completed and executed, with all of the information requested in the Claim Form, by a Settlement Class Member; (c) signed physically or by e-signature by a Settlement Class Member personally, subject to the penalty of perjury; (d) returned via mail and postmarked by the Claim Form Deadline, or, if submitted online, submitted by 11:59 p.m. Eastern time on the Claim Form Deadline; and (e) determined to be valid by the Settlement Administrator. The Settlement Administrator may require additional information from the Claimant to validate the Claim, including, but not limited to, answers related to questions regarding the validity or legitimacy of the physical or e-signature. Failure to respond to the Settlement Administrator's Notice of Deficiency may result in a determination that the Claim is not a Valid Claim.

III. Settlement Fund

73. Within 25 days of Preliminary Approval, Defendants shall deposit, or cause to be deposited, 25% of their share of the \$7,250,000.00 (25% of \$6,325,000.00 from Defendant BerryDunn, or \$1,581,250.00, and 25% of \$925,000.00 from Defendant Reliable, or \$231,250.00) in funds into the Escrow Account to establish the initial funding of the Settlement Fund. Within 20 days of the Effective Date, Defendants shall deposit their remaining 75% share of their share of the \$7,250,000.00 (75% of \$6,325,000.00 from Defendant BerryDunn, or \$4,743,750.00, and 75% of \$925,000.00 from Defendant Reliable, or \$693,750.00) in funds into the Escrow Account to establish the final, full funding of the Settlement Fund. Once the Settlement Fund is fully funded, Defendants shall not be required to pay any more money under this Settlement.

74. The Settlement Fund shall be used to pay: (1) Settlement Class Member Benefits to those Settlement Class Members who submit a Valid Claim; (2) any Service Awards awarded to Class Representatives; (3) any attorneys' fees and costs awarded to Class Counsel; and (4) all

Settlement Administration Costs.

75. The funds in the Escrow Account shall be deemed a “qualified settlement fund” within the meaning of United States Treasury Reg. § 1.468B-1, at all times since creation of the Escrow Account. All taxes (including any estimated taxes, and any interest or penalties relating to them) arising with respect to the income earned by the Escrow Account or otherwise, including any taxes or tax detriments that may be imposed on Defendants, Defendants’ Counsel, Plaintiffs, and/or Class Counsel with respect to income earned by the Escrow Account, for any period during which the Escrow Account does not qualify as a “qualified settlement fund” for the purpose of federal or state income taxes or otherwise, shall be paid out of the Escrow Account. Defendants, Defendants’ Counsel, Plaintiffs, and Class Counsel shall have no liability or responsibility for any of the taxes. The Escrow Account shall indemnify and hold Defendants, Defendants’ Counsel, Plaintiffs, and Class Counsel harmless for all taxes (including, without limitation, taxes payable by reason of any such indemnification).

IV. Certification of the Settlement Class

76. Plaintiffs shall propose and recommend to the Court that the Settlement Class be certified for Settlement purposes only. Defendants agree solely for purposes of the Settlement provided for in this Agreement, and the implementation of such Settlement, that this Action shall proceed as a settlement class action; provided however, that if a Final Approval Order is not issued, then any certification shall be null and void and, for the avoidance of doubt, Defendants shall retain all rights to object to any future requests to certify a class. Plaintiffs and Class Counsel shall not reference this Agreement or any negotiations leading to this Agreement in support of any subsequent motion for class certification of any class in the Action.

V. Settlement Consideration

77. When submitting a Claim for a Cash Payment, Settlement Class Members must choose either Cash Payment A or Cash Payment B. Additionally, Settlement Class Members may elect to receive Credit Monitoring. If a Settlement Class Member does not submit a Valid Claim or opt-out, the Settlement Class Member will release his or her claims against Defendants without receiving a Settlement Class Member Benefit.

a. Cash Payment A – Documented Losses

Settlement Class Members may submit a claim for a Cash Payment under this section for up to \$5,000.00 per Settlement Class Member upon presentment of documented losses related to the Data Security Incident. To receive a documented loss payment, a Settlement Class Member must elect Cash Payment A on the Claim Form, attesting under penalty of perjury to incurring documented losses. Settlement Class Members will be required to submit reasonable documentation supporting the losses to the Settlement Administrator. Settlement Class Members shall not be reimbursed for expenses if they have been reimbursed for the same expenses by another source, including compensation provided in connection with the credit monitoring and identity theft protection product offered as part of the notification letter provided by Defendant BerryDunn or otherwise. If a Settlement Class Member does not submit reasonable documentation supporting a loss, or if their Claim is rejected by the Settlement Administrator for any reason, and the Settlement Class Member fails to cure his or her Claim, the Claim will be rejected and the Settlement Class Member's Claim will be treated as if he or she elected Cash Payment B.

b. Cash Payment B – Flat Cash Payment

As an alternative to Cash Payment A above, a Settlement Class Member may elect to receive Cash Payment B, which is a flat cash payment in the amount of \$100.00.

c. Credit Monitoring

In addition to electing a Cash Payment, Settlement Class Members may elect up to three years of three-bureau Credit Monitoring that will provide the following benefits: three-bureau credit monitoring, dark web monitoring, identity theft insurance coverage for up to \$1,000,000.00, and fully managed identity recovery services.

78. **Pro Rata Adjustments on Cash Payments** - Settlement Class Cash Payments will be subject to a *pro rata* increase from the Settlement Fund in the event the amount of Valid Claims is insufficient to exhaust the entire Settlement Fund. Similarly, in the event the amount of Valid Claims exhausts the amount of the Settlement Fund, the amount of the Cash Payments may be reduced *pro rata* accordingly. For purposes of calculating the *pro rata* increase or decrease, the Settlement Administrator must distribute the funds in the Settlement Fund first for payment of Credit Monitoring and then for Cash Payment A, and finally for Cash Payment B. Any *pro rata* increases or decreases to Cash Payments will be on an equal percentage basis. In the unexpected event the value of Credit Monitoring on its own exhausts the amount of the Settlement Fund, the length of the Credit Monitoring provided will be reduced as necessary to bring the cost within the Settlement Fund.

79. **Business Practice Changes** - Plaintiffs have received assurances that Defendants have undertaken reasonable steps to further secure their systems and environments. Defendants have provided confidential discovery regarding the number of individuals in the Settlement Class, broken down by state of residence, the facts and circumstances of the Data Security Incident and Defendants' response thereto, and the changes and improvements that have been made to protect class members' Private Information. Defendants will provide a declaration attesting to the undertaken or planned data security enhancements at Plaintiffs' request.

VI. Settlement Approval

80. Upon execution of this Agreement by all Parties and Class Counsel, Class Counsel shall file a Motion for Preliminary Approval, after review by Defendants. The proposed Preliminary Approval Order shall be attached to the Motion as an exhibit and shall be in a form agreed to by Class Counsel and Defendants.

81. The Motion for Preliminary Approval shall, among other things, request the Court to: (1) preliminarily approve the terms of the Settlement as being within the range of fair, adequate, and reasonable; (2) provisionally certify the Settlement Class for settlement purposes only; (3) approve the Notice Program set forth herein and approve the form and content of the Notices of the Settlement; (4) approve the Claim Form and Claim process; (5) approve the procedures for individuals in the Settlement Class to opt-out of or object to the Settlement; (6) stay the Action and Related Actions pending Final Approval of the Settlement; and (7) schedule a Final Approval Hearing for a time and date mutually convenient for the Court, Class Counsel, and Defendants' Counsel.

VII. Settlement Administrator

82. The Parties agree that, subject to Court approval, Angeion shall be the Settlement Administrator. The Parties shall jointly oversee the Settlement Administrator. The Settlement Administrator shall fulfill the requirements set forth in the Preliminary Approval Order and the Agreement and comply with all applicable laws, including, but not limited to, the Due Process Clause of the United States Constitution.

83. The Settlement Administrator shall administer various aspects of the Settlement as described in the next paragraph and perform such other functions as are specified for the Settlement Administrator elsewhere in this Agreement, including, but not limited to, effectuating the Notice

Program, handling the Claims process, administering the Settlement Fund, and distributing the Cash Payments to Settlement Class Members who submit Valid Claims.

84. The Settlement Administrator's duties include to:
- a. Complete the Court-approved Notice Program by notifying the Settlement Class by Postcard Notice, sending Long Form Notices and paper Claim Forms on request from individuals in the Settlement Class, reviewing Claim Forms, notifying Claimants of deficient Claim Forms using the Notice of Deficiency, and sending Settlement Class Member Benefits to Settlement Class Members who submit a Valid Claim;
 - b. Establish and maintain the Settlement Fund in the Escrow Account approved by the Parties;
 - c. Establish and maintain a post office box to receive opt-out requests from the Settlement Class and objections from Settlement Class Members, and Claim Forms;
 - d. Establish and maintain the Settlement Website to provide important information about the Settlement and electronic submission of Claim Forms;
 - e. Establish and maintain an automated toll-free telephone line for the Settlement Class to call with Settlement-related inquiries, and answer frequently asked questions of individuals in the Settlement Class who call with or otherwise communicate such inquiries;
 - f. Respond to any mailed Settlement Class member inquiries;
 - g. Process all opt-out requests from the Settlement Class;
 - h. Provide weekly reports to Class Counsel and Defendants' Counsel that summarize the number of Claims submitted, Claims approved and rejected, Notices of Deficiency sent, opt-out requests and objections received that week, the total number of opt-out requests and objections received to date, and other pertinent information;

i. In advance of the Final Approval Hearing, prepare a declaration confirming the Notice Program was completed in accordance with the terms of this Agreement and the Preliminary Approval Order, describing how the Notice Program was completed, indicating the number of Claim Forms received, providing the names of each individual in the Settlement Class who timely and properly requested to opt-out from the Settlement Class, indicating the number of objections received, and other information as may be necessary to allow the Parties to seek and obtain Final Approval;

j. Distribute, out of the Settlement Fund, Cash Payments by electronic means or by paper check;

k. Send Settlement Class Members who elect Credit Monitoring emails instructing how to activate their Credit Monitoring service;

l. Pay Court-approved attorneys' fees and costs, and Service Awards out of the Settlement Fund;

m. Pay Settlement Administration Costs out of the Settlement Fund following approval by Class Counsel; and

n. Any other Settlement Administration function at the instruction of Class Counsel and Defendants' Counsel, including, but not limited to, verifying that the Settlement Fund has been properly administered and that the Cash Payments have been properly distributed.

85. The Notice Program and Notices will be reviewed and approved by the Settlement Administrator, but may be revised as agreed upon by the Parties and/or their respective Counsel prior to submission to the Court for approval. Immaterial revisions to the Notices may also be made prior to dissemination of Notice.

VIII. Notice to the Settlement Class

86. Defendants will coordinate to make available to the Settlement Administrator the Class List no later than 10 days after entry of the Preliminary Approval Order. The Class List shall be deemed confidential and used by the Settlement Administrator solely for the purpose of performing its obligations pursuant to this Agreement and shall not be used for any other purpose at any time. The Class List will be stored securely at all times by the Settlement Administrator. Except to administer the Settlement as provided in this Agreement or upon a joint written request, the Settlement Administrator shall not reproduce, copy, store, share, or distribute in any form, electronic or otherwise, the Class List, including without limitation to Class Counsel. The Settlement Administrator shall delete all information associated with the Action, including the Class List, when it no longer has a legal requirement to retain such data.

87. Within 30 days following entry of the Preliminary Approval Order, the Settlement Administrator shall commence the Notice Program provided herein, using the forms of Notice approved by the Court. Postcard Notice shall be disseminated via U.S. Mail to the Settlement Class's mailing addresses, to the extent known. Notice shall also be published on the Settlement Website.

88. The Notice shall include, among other information: a description of the material terms of the Settlement; how to submit a Claim Form; the Claim Form Deadline; the last day of the Opt-Out Period for individuals in the Settlement Class to opt-out of the Settlement Class; the last day of the Objection Period for Settlement Class Members to object to the Settlement and/or Application for Attorneys' Fees, Costs and Service Awards; the Final Approval Hearing date; and the Settlement Website address at which Settlement Class members may access this Agreement and other related documents and information. Class Counsel and Defendants' Counsel shall insert

the correct dates and deadlines in the Notice before the Notice Program commences, based upon those dates and deadlines set by the Court in the Preliminary Approval Order. If the date or time for the Final Approval Hearing changes, the Settlement Administrator shall update the Settlement Website to reflect the new date. No additional notice to the Settlement Class is required if the date or time for the Final Approval Hearing changes.

89. The Settlement Administrator shall establish the Settlement Website no later than the day before Notice is first initiated. The Settlement Administrator shall ensure the Settlement Website makes available the Court-approved online Claim Form that can be submitted directly on the Settlement Website or in printable version that can be sent by U.S. Mail to the Settlement Administrator.

90. The Long Form Notice also shall include a procedure for individuals in the Settlement Class to opt-out of the Settlement; and the Postcard Notice shall direct individuals in the Settlement Class to review the Long Form Notice to obtain the opt-out instructions. Individuals in the Settlement Class may opt-out of the Settlement Class at any time during the Opt-Out Period by mailing a request to opt-out to the Settlement Administrator postmarked no later than the last day of the Opt-Out Period. The opt-out request must be personally signed by the Settlement Class member and contain the name, address, telephone number, and email address (if any), and include a statement indicating a request to be excluded from the Settlement Class. Any individual in the Settlement Class who does not timely and validly request to opt out shall be bound by the terms of this Agreement even if he or she does not submit a Valid Claim.

91. The Long Form Notice also shall include a procedure for the Settlement Class to object to the Settlement and/or Application for Attorneys' Fees, Costs, and Service Awards, and the Postcard Notice shall direct the Settlement Class to review the Long Form Notice to obtain the

objection instructions. Objections must be mailed to the Clerk of the Court, Class Counsel, Defendants' Counsel, and the Settlement Administrator. For an objection to be considered by the Court, the objection must be submitted no later than the last day of the Objection Period, as specified in the Notice. If submitted by mail, an objection shall be deemed to have been submitted when posted if received with a postmark date indicated on the envelope if mailed first-class postage prepaid and addressed in accordance with the instructions. If submitted by private courier (e.g., Federal Express), an objection shall be deemed to have been submitted on the shipping date reflected on the shipping label.

92. For an objection to be considered by the Court, the objection must also set forth:
- a. the objector's full name, mailing address, telephone number, and email address (if any);
 - b. all grounds for the objection, accompanied by any legal support for the objection known to the objector or objector's counsel;
 - c. the number of times the objector has objected to a class action settlement within the 5 years preceding the date that the objector files the objection, the caption of each case in which the objector has made such objection, and a copy of any orders related to or ruling upon the objector's prior objections that were issued by the trial and appellate courts in each listed case;
 - d. the identity of all counsel who represent the objector, including any former or current counsel who may be entitled to compensation for any reason related to the objection to the Settlement and/or Application for Attorneys' Fees, Costs, and Service Awards;
 - e. the number of times in which the objector's counsel and/or counsel's law firm have objected to a class action settlement within the 5 years preceding the date of the filed objection, the caption of each case in which counsel or the firm has made such objection and a

copy of any orders related to or ruling upon counsel's or the counsel's law firm's prior objections that were issued by the trial and appellate courts in each listed case in which the objector's counsel and/or counsel's law firm have objected to a class action settlement within the preceding 5 years;

f. any and all agreements that relate to the objection or the process of objecting—whether written or oral—between objector or objector's counsel and any other person or entity;

g. the identity of all counsel (if any) representing the objector who will appear at the Final Approval Hearing;

h. a list of all persons who will be called to testify at the Final Approval Hearing in support of the objection (if any);

i. a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; and

j. the objector's signature (an attorney's signature is not sufficient).

Class Counsel and/or Defendants' Counsel may conduct limited discovery on any objector or objector's counsel.

93. The Settlement Administrator shall perform reasonable address traces for those Postcard Notices that are returned as undeliverable. By way of example, a reasonable tracing procedure would be to run addresses of returned postcards through the Lexis/Nexis database that can be utilized for such purpose. No later than 45 days before the original date set for the Final Approval Hearing, the Settlement Administrator shall complete the re-mailing of Postcard Notice to those Settlement Class members whose new addresses were identified as of that time through address traces.

94. The Notice Program shall be completed no later than 45 days before the initially

scheduled date set for the Final Approval Hearing.

IX. Claim Form Process and Disbursement of Cash Payments

95. The Notice will explain to the Settlement Class that they may be entitled to a Settlement Class Member Benefit and how to submit a Claim Form.

96. Claim Forms may be submitted online through the Settlement Website or through U.S. Mail by sending them to the Settlement Administrator at the address designated on the Claim Form.

97. The Settlement Administrator shall collect, review, and address each Claim Form received to determine whether the Claim Form meets the requirements set forth in this Settlement and is thus a Valid Claim. The Settlement Administrator shall examine the Claim Form before designating the Claim as a Valid Claim to determine that the information on the Claim Form is reasonably complete. The Settlement Administrator shall have the sole authority to determine whether a Claim by any Claimant is a Valid Claim.

98. The Settlement Administrator shall use all reasonable efforts and means to identify and reject duplicate claims. No Settlement Class Member may submit more than one Claim Form. The Settlement Administrator shall identify any Claim Forms that appear to seek relief on behalf of the same Settlement Class Member. The Settlement Administrator shall use its best efforts to determine whether there is any duplication of claims, and if there is, contact the Settlement Class Member in an effort to determine which Claim Form is the appropriate one for consideration.

99. The Settlement Administrator shall exercise, in its discretion, all usual and customary steps to prevent fraud and abuse and take any reasonable steps to prevent fraud and abuse in the Claim process. The Settlement Administrator may, in its discretion, deny in whole or in part any Claim Form to prevent actual or possible fraud or abuse. By agreement, the Parties can

instruct the Settlement Administrator to take whatever steps it deems appropriate if the Settlement Administrator identifies actual or possible fraud or abuse relating to the submission of claims, including, but not limited to, denying in whole or in part any Claim to prevent actual or possible fraud or abuse. If any fraud is detected or reasonably suspected, the Settlement Administrator and Parties may require information from Claimants or deny Claims, subject to the supervision of the Parties and ultimate oversight by the Court.

100. Claim Forms that do not meet the terms and conditions of this Settlement shall be promptly rejected by the Settlement Administrator and the Settlement Administrator shall advise the Claimant or Settlement Class Member of the reason(s) why the Claim Form was rejected. However, if the Claim Form is rejected for containing incomplete or inaccurate information, and/or omitting required information, the Settlement Administrator may send a Notice of Deficiency explaining what information is missing or inaccurate and needed to validate the Claim and have it submitted for consideration. The Settlement Administrator shall notify the Claimant using the contact information provided in the Claim Form. The additional information and/or documentation can include, for example, answers to questions regarding the validity of the Claimant's physical or e-signature. A Claimant shall have until the Claim Form Deadline, or 15 days from the date the Notice of Deficiency is sent to the Claimant via mail and postmarked or via email, whichever is later, to reply to the Notice of Deficiency and provide the required information. If the Claimant timely and adequately provides the requested information and/or documentation, the Claim shall be deemed a Valid Claim and processed by the Settlement Administrator. If the Claimant does not timely and completely provide the requested information and/or documentation, the Settlement Administrator shall reduce or deny the Claim unless Defendants and Class Counsel otherwise agree.

101. Where a good faith basis exists, the Settlement Administrator may reduce or reject a Claim for, among other reasons, the following:

- a. Failure to fully complete and/or sign the Claim Form;
- b. Illegible Claim Form;
- c. The Claim Form is fraudulent;
- d. The Claim Form is duplicative of another Claim Form;
- e. The Claimant is not a Settlement Class Member;
- f. The Claimant submitted a timely and valid request to opt-out of the Settlement Class.
- g. The person submitting the Claim Form requests that payment be made to a person or entity other than the Claimant for whom the Claim Form is submitted;
- h. Failure to submit a Claim Form by the Claim Form Deadline; and/or
- i. The Claim Form otherwise does not comply with the requirements of this Settlement.

102. The Settlement Administrator's reduction or denial of a Claim is final, subject to the following dispute resolution procedures:

- a. The Settlement Administrator shall have 30 days from the Claim Form Deadline to approve or reject Claims based on findings of fraud or duplication.
- b. A request for additional information by sending a Notice of Deficiency shall not be considered a denial for purposes of this paragraph.
- c. If a Claim is rejected for fraud or duplication, the Settlement Administrator shall notify the Claimant using the contact information provided in the Claim Form. Class Counsel and Defendants' Counsel shall be provided with copies of all such notifications to Claimants.

d. The Settlement Administrator's determination as to whether to approve, deny, or reduce a Claim shall be final and binding.

103. The Settlement Administrator shall provide all information gathered in investigating Claims, including, but not limited to, copies of all correspondence and email and all notes of the Settlement Administrator, the decision reached, and all reasons supporting the decision, if requested by Class Counsel or Defendants' Counsel. Additionally, Class Counsel and Defendants' Counsel shall have the right to inspect the Claim Forms and supporting documentation received by the Settlement Administrator at any time upon reasonable notice.

104. No person or entity shall have any claim against Defendants, Defendants' Counsel, Plaintiffs, the Settlement Class, Class Counsel, and/or the Settlement Administrator based on any eligibility determinations, distributions, or awards made in accordance with this Settlement.

105. The Settlement Administrator shall distribute the Settlement Class Member Benefits no later than 75 days after the Effective Date.

106. Cash Payments to Settlement Class Members will be made electronically or by paper check. Settlement Class Members who do not open their email or provide incorrect or incomplete electronic payment information shall receive a paper check in the mail. Settlement Class Members receiving payment by check shall have 180 days to negotiate the check.

107. The Settlement Administrator will send an email to Settlement Class Members with Valid Claims that elected Credit Monitoring with information on how to enroll in the program, including the activation code.

X. Final Approval Order and Final Judgment

108. Plaintiffs shall file their Motion for Final Approval of the Settlement, inclusive of the Application for Attorneys' Fees, Costs, and Service Awards, no later than 45 days before the

original date set for the Final Approval Hearing. At the Final Approval Hearing, the Court will hear argument on Plaintiffs' Motion for Final Approval of the Settlement and Application for Attorneys' Fees, Costs, and Service Awards. In the Court's discretion, the Court also will hear argument at the Final Approval Hearing from any Settlement Class Members (or their counsel) who object to the Settlement and/or to the Application for Attorneys' Fees, Costs, and Service Awards, provided the objectors submitted timely objections that meet all of the requirements listed in the Agreement.

109. At or following the Final Approval Hearing, the Court will determine whether to enter the Final Approval Order and final judgment thereon, and whether to grant the Application for Attorneys' Fees, Costs, and Service Awards. Such proposed Final Approval Order shall, among other things:

- a. Determine that the Settlement is fair, adequate and reasonable;
- b. Finally certify the Settlement Class for settlement purposes only;
- c. Determine that the Notice Program satisfies Due Process requirements;
- d. Bar and enjoin all Releasing Parties from asserting any of the Released Claims at any time and in any jurisdiction, including during any appeal from the Final Approval Order; bar and enjoin all Releasing Parties from pursuing any Released Claims against Released Parties at any time and in any jurisdiction, including during any appeal from the Final Approval Order; and retain jurisdiction over the enforcement of the Court's injunctions;
- e. Release Defendants and the Released Parties from the Released Claims; and
- f. Reserve the Court's continuing and exclusive jurisdiction over the Parties to this Agreement, including Defendants, Plaintiffs, all Settlement Class Members, and all objectors, to administer, supervise, construe, and enforce this Agreement in accordance with its

terms.

XI. Service Awards, Attorneys' Fees and Costs

110. **Service Awards** – In recognition of the time and effort the Class Representatives expended in pursuing this Action and in fulfilling their obligations and responsibilities as Class Representatives, and of the relief conferred on all Settlement Class Members by the Settlement, Class Counsel shall request a Service Award for the Class Representatives in the amount not to exceed \$3,000.00 each. If approved, the Service Awards shall be paid by the Settlement Administrator out of the Settlement Fund within 25 days of the Effective Date. The Service Award payments to the Class Representatives shall be separate and apart from their entitlement to benefits from the Settlement Fund.

111. **Attorneys' Fees and Costs** - Class Counsel shall apply to the Court for an award of attorneys' fees of up to 33.33% of the Settlement Fund, plus reimbursement of costs. The attorneys' fees and cost awards approved by the Court shall be paid by the Settlement Administrator out of the Settlement Fund by wire transfer to an account designated by Class Counsel, within 25 days of the Effective Date.

112. This Settlement is not contingent on approval of the request for attorneys' fees and costs or Service Awards, and if the Court denies the request or grants amounts other than what was requested, the remaining provisions of the Agreement shall remain in force. The provisions for attorneys' fees and costs and the Service Awards were not negotiated until after all material terms of the Settlement.

XII. Disposition of Residual Funds

113. The Settlement is designed to exhaust the Settlement Fund. In the event there are funds remaining from uncashed checks in the Settlement Fund within 45 days following the 180-

day check negotiation period, a subsequent payment will be evenly made to all Settlement Class Members with approved claims for Cash Payments who cashed or deposited the initial payment they received, provided the average check amount is equal to or greater than \$3.00. The distribution of this remaining Net Settlement Fund shall continue until the average check or digital payment in a distribution is less than \$3.00, whereupon all remaining funds shall be distributed to an appropriate mutually agreeable *cy pres* recipient to be approved by the Court.

XIII. Releases

114. As of the Effective Date, the Releasing Parties shall automatically be deemed to have fully, finally, and irrevocably released and forever discharged the Released Parties of, and shall be forever barred from instituting, maintaining, or prosecuting, any and all liabilities, rights, claims, actions, causes of action, demands, damages, costs, attorneys' fees, losses and remedies, whether known or unknown, asserted or unasserted, existing or potential, suspected or unsuspected, liquidated or unliquidated, legal, statutory, or equitable, based on contract, tort or any other theory, whether on behalf of themselves or others, that in any way result from, arise out of, are based upon, or relate to (a) the Data Security Incident; (b) the Action or any claims or allegations that were or could have been brought in the Action; or (c) any of the alleged violations of laws or regulations that were or could have been cited in the Complaint.

115. Plaintiffs and Settlement Class Members covenant and agree they will not take any step whatsoever to assert, sue on, continue, pursue, maintain, prosecute, or enforce any Released Claim, directly or indirectly, whether on behalf of themselves or others, against any of the Released Parties in any jurisdiction.

116. Individuals in the Settlement Class who opt-out of the Settlement prior to the Opt-Out Deadline do not release their individual claims and will not obtain any benefits under the

Settlement.

117. With respect to the Released Claims, Plaintiffs and Settlement Class Members understand and acknowledge it is possible that unknown economic losses or claims exist or that present losses may have been underestimated in amount or severity. Plaintiffs and Settlement Class Members took that into account in entering into this Agreement, and a portion of the consideration and the mutual covenants contained herein, having been bargained for between Plaintiffs and Defendants with the knowledge of the possibility of such unknown claims for economic loss, were given in exchange for a full accord, satisfaction, and discharge of all such claims. Consequently, Plaintiffs and the Settlement Class Members shall be deemed to have, and by operation of the Settlement shall have, waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the California Civil Code (to the extent it is applicable, or any other similar provision under federal, state or local law to the extent any such provision is applicable), which reads:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

118. Plaintiffs or Settlement Class Members may hereafter discover facts other than or different from those that he or she knows or believes to be true with respect to the subject matter of the claims released herein, or the law applicable to such claims may change. Nonetheless, each of those individuals agrees that, as of the Effective Date, he or she shall have automatically and irrevocably waived and fully, finally, and forever settled and released any known or unknown, suspected or unsuspected, asserted or unasserted, liquidated or unliquidated, contingent or non-contingent claims with respect to all of the matters described in or subsumed by this Agreement.

Further, each of those individuals agrees and acknowledges that he or she shall be bound by this Agreement, including by the release herein and that all of their claims in the Action shall be dismissed with prejudice and released, whether or not such claims are concealed or hidden; without regard to subsequent discovery of different or additional facts and subsequent changes in the law; and even if he or she never receives actual notice of the Settlement and/or never receives a Cash Payment from the Settlement.

119. Upon the Effective Date: (a) this Settlement shall be the exclusive remedy for any and all Released Claims of Plaintiffs and Settlement Class Members; and (b) Plaintiffs and Settlement Class Members stipulate to be and shall be permanently barred and enjoined by Court order from initiating, asserting, or prosecuting any Released Claim against the Released Parties, whether on behalf of Plaintiffs, any Settlement Class Member or others, in any jurisdiction, including in any federal, state, or local court or tribunal.

XIV. Termination of Settlement

120. This Agreement shall be subject to and is conditioned on the occurrence of all of the following events:

- a. Court approval of the Settlement consideration set forth in Section V and the Releases set forth in Section XIII of this Agreement;
- b. The Court has entered the Preliminary Approval Order;
- c. The Court has entered the Final Approval Order, and all objections, if any, are overruled, and all appeals taken from the Final Approval Order are resolved in favor of Final Approval; and
- d. The Effective Date has occurred.

121. If any of the conditions specified in the preceding paragraph are not met, then this

Agreement may be cancelled and terminated.

122. Defendants, individually or jointly, shall have the option to terminate this Agreement if more than 1% of the Settlement Class opt-out of the Settlement. Defendants shall notify Class Counsel and the Court of its or their intent to terminate this Agreement pursuant to this paragraph within 10 days after the end of the Opt-Out Period, or the option to terminate shall be considered waived.

123. In the event this Agreement is terminated or fails to become effective, then the Parties shall return to the *status quo ante* in the Action as if the Parties had not entered into this Agreement, and the parties shall jointly file a status report in the Court seeking to reopen the Action and all papers filed. In such event, the terms and provisions of this Agreement shall have no further force and effect with respect to the Parties and shall not be used in this case or in any other action or proceeding for any other purpose, and any order entered by this Court in accordance with the terms of this Agreement shall be treated as vacated, *nunc pro tunc*.

124. In the event this Agreement is terminated or fails to become effective, all funds in the Settlement Fund shall be promptly returned to Defendants. However, Defendants shall have no right to seek from Plaintiffs, Class Counsel, or the Settlement Administrator the Settlement Administration Costs paid by or on behalf of Defendants. After payment of any Settlement Administration Costs that have been incurred and are due to be paid from the Settlement Fund, the Settlement Administrator shall return the balance of the Settlement Fund to Defendants (allocated according to the percentage share paid by or on behalf of each Defendant, as set forth in Section III) within 21 days of termination.

XV. Effect of Termination

125. The grounds upon which this Agreement may be terminated are set forth in Section

XIV. In the event of a termination, this Agreement shall be considered null and void; all of Plaintiffs', Class Counsel's, Defendants', and Defendants' Counsel's obligations under the Settlement shall cease to be of any force and effect; and the Parties shall return to the *status quo ante* in the Action as if the Parties had not entered into this Agreement. In addition, in the event of such a termination, all of the Parties' respective pre-Settlement rights, claims, and defenses will be retained and preserved.

126. In the event the Settlement is terminated in accordance with the provisions of this Agreement, any discussions, offers, or negotiations associated with this Settlement shall not be discoverable or offered into evidence or used in the Action or any other action or proceeding for any purpose. In such event, all Parties to the Action shall stand in the same position as if this Agreement had not been negotiated, made, or filed with the Court.

XVI. No Admission of Liability

127. This Agreement reflects the Parties' compromise and settlement of disputed claims. This Agreement shall not be construed as or deemed to be evidence of an admission or concession of any point of fact or law. Defendants have denied and continue to deny each of the claims and contentions alleged in the Complaint. Defendants specifically deny that a class could or should be certified in the Action for litigation purposes. Defendants do not admit any liability or wrongdoing of any kind, by this Agreement or otherwise. Defendants have agreed to enter into this Agreement to avoid the further expense, inconvenience, and distraction of burdensome and protracted litigation, and to be completely free of any further claims that were asserted or could possibly have been asserted in the Action.

128. Class Counsel believe the claims asserted in the Action have merit, and they have examined and considered the benefits to be obtained under the proposed Settlement set forth in

this Agreement, the risks associated with the continued prosecution of this complex, costly, and time-consuming litigation, and the likelihood of success on the merits of the Action. Class Counsel fully investigated the facts and law relevant to the merits of the claims, conducted informal discovery, and conducted independent investigation of the alleged claims. Class Counsel concluded that the proposed Settlement set forth in this Agreement is fair, adequate, reasonable, and in the best interests of the Settlement Class.

129. This Agreement constitutes a compromise and settlement of disputed claims. No action taken by the Parties in connection with the negotiations of this Agreement shall be deemed or construed to be an admission of the truth or falsity of any claims or defenses heretofore made, or an acknowledgment or admission by any party of any fault, liability, or wrongdoing of any kind whatsoever.

130. Neither the Settlement, nor any act performed or document executed pursuant to or in furtherance of the Settlement: (a) is or may be deemed to be, or may be used as, an admission of, or evidence of, the validity of any claim made by the Plaintiffs or the Settlement Class, or of any wrongdoing or liability of the Released Parties; or (b) is or may be deemed to be, or may be used as, an admission of, or evidence of, any fault or omission of any of the Released Parties, in the Action or in any proceeding in any court, administrative agency, or other tribunal.

131. In addition to any other defenses Defendants may have at law, in equity, or otherwise, to the extent permitted by law, this Agreement may be pleaded as a full and complete defense to and may be used as the basis for an injunction against any action, suit, or other proceeding that may be instituted, prosecuted, or attempted in breach of this Agreement or the Releases contained herein.

XVII. Miscellaneous Provisions

132. Gender and Plurals. As used in this Agreement, the masculine or feminine gender, and the singular or plural number, shall each be deemed to include the others whenever the context so indicates.

133. Binding Effect. This Agreement shall be binding upon, and inure to and for the benefit of, the successors and assigns of the Releasing Parties and the Released Parties.

134. Cooperation of Parties. The Parties to this Agreement agree to cooperate in good faith to prepare and execute all documents, seek Court approval, uphold Court approval, and do all things reasonably necessary to complete and effectuate the Settlement described in this Agreement.

135. Obligation to Meet and Confer. Before filing any motion in the Court raising a dispute arising out of or related to this Agreement, the Parties shall consult with each other and certify to the Court that they have met and conferred in an attempt to resolve the dispute.

136. Integration and No Reliance. This Agreement constitutes a single, integrated written contract expressing the entire agreement of the Parties relative to the subject matter hereof. This Agreement is executed without reliance on any covenant, agreement, representation, or warranty by any Party or any Party's representative other than those set forth in this Agreement. No covenants, agreements, representations, or warranties of any kind have been made by any Party, except as provided for herein.

137. No Conflict Intended. Any inconsistency between the headings used in this Agreement and the text of the paragraphs of this Agreement shall be resolved in favor of the text.

138. Governing Law. Except as otherwise provided herein, the Agreement shall be construed in accordance with, and be governed by, the laws of the state of Maine, without regard

to the principles thereof regarding choice of law.

139. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, even though all Parties do not sign the same counterparts. Original signatures are not required.

140. Jurisdiction. The Court shall retain jurisdiction over the implementation, enforcement, and performance of this Agreement, and shall have exclusive jurisdiction over any suit, action, proceeding, or dispute arising out of or relating to this Agreement that cannot be resolved by negotiation and agreement by counsel for the Parties. The Court shall also retain jurisdiction over all questions and/or disputes related to the Notice Program and the Settlement Administrator. As part of the agreement to render services in connection with this Settlement, the Settlement Administrator shall consent to the jurisdiction of the Court for this purpose. The Court shall retain jurisdiction over the enforcement of the Court's injunction barring and enjoining all Releasing Parties from asserting any of the Released Claims and from pursuing any Released Claims against the Released Parties at any time and in any jurisdiction, including during any appeal from the Final Approval Order.

141. Notices. All notices provided for herein, shall be sent by email with a hard copy sent by overnight mail to:

If to Plaintiffs or Class Counsel:

Jeff Ostrow
Kopelowitz Ostrow P.A.
1 West Las Olas Blvd., Ste. 500
Fort Lauderdale, FL 33301
ostrow@kolawyers.com

Mason Barney
Siri & Glimstad LLP

745 Fifth Avenue, Ste. 500
New York, NY 10151
mbarney@sirillp.com

Bryan Bleichner
Chestnut Cambronne PA
100 Washington Ave. South, Ste. 1700
Minneapolis, MN 55401
bbleichner@chestnutcambrone.com

If to Defendants or Defendants' Counsel:

Defendant BerryDunn

David Ross
1500 K Street, NW, Ste. 330
Washington, DC 20005
Wilson Elser Moskowitz Edelman & Dicker LLP
david.ross@wilsonelser.com

Defendant Reliable

Stephen Orlando
Shaun Loughlin
Gordon Rees Scully Mansukhani, LLP
28 State Street, Suite 1050
Boston, MA 02109
sorlando@grsm.com
sloughlin@grsm.com

The notice recipients and addresses designated above may be changed by written notice. Upon the request of any of the Parties, the Parties agree to promptly provide each other with copies of objections, requests for exclusion, or other filings received as a result of the Notice Program.

142. Modification and Amendment. This Agreement may not be amended or modified, except by a written instrument signed by Class Counsel and Defendants' Counsel and, if the Settlement has been approved preliminarily by the Court, approved by the Court.

143. No Waiver. The waiver by any Party of any breach of this Agreement by another Party shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent,

or contemporaneous, of this Agreement.

144. Authority. Class Counsel (for Plaintiffs and the Settlement Class), and Defendants' Counsel (for Defendants), represent and warrant that the persons signing this Agreement on their behalf have full power and authority to bind every person, partnership, corporation, or entity included within the definitions of Plaintiffs and Defendants to all terms of this Agreement. Any person executing this Agreement in a representative capacity represents and warrants that he or she is fully authorized to do so and to bind the Party on whose behalf he or she signs this Agreement to all of the terms and provisions of this Agreement.

145. Agreement Mutually Prepared. Neither Plaintiffs nor Defendants shall be considered to be the drafter of this Agreement or any of its provisions for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Agreement.

146. Independent Investigation and Decision to Settle. The Parties understand and acknowledge they: (a) have performed an independent investigation of the allegations of fact and law made in connection with this Action; and (b) that even if they may hereafter discover facts in addition to, or different from, those that they now know or believe to be true with respect to the subject matter of the Action as reflected in this Agreement, that will not affect or in any respect limit the binding nature of this Agreement. All Parties recognize and acknowledge they reviewed and analyzed data that they and their counsel, consultants, and/or experts used to make certain determinations, arguments, and settlement positions. The Parties agree this Settlement is fair, reasonable, and adequate, and will not attempt to renegotiate or otherwise void or invalidate or terminate the Settlement irrespective of what any unexamined data later shows. It is the Parties' intention to resolve their disputes in connection with this Action pursuant to the terms of this

Agreement now and thus, in furtherance of their intentions, the Agreement shall remain in full force and effect notwithstanding the discovery of any additional facts or law, or changes in law, and this Agreement shall not be subject to rescission or modification by reason of any changes or differences in facts or law, subsequently occurring or otherwise.

147. Receipt of Advice of Counsel. Each Party acknowledges, agrees, and specifically warrants that he, she, or it has fully read this Agreement and the Releases contained herein, received independent legal advice with respect to the advisability of entering into this Agreement and the Releases, and the legal effects of this Agreement and the Releases, and fully understands the effect of this Agreement and the Releases.

Signature Page to Follow

PLAINTIFFS

Tonya Gambino

Tonya Gambino (Nov 25, 2024 10:35 EST)

TONYA GAMBINO

Plaintiff

Q

Quinton Anderson (Nov 26, 2024 13:57 EST)

QUINTON ANDERSON

Plaintiff

M. Meyerson

Michael Meyerson (Nov 27, 2024 09:41 EST)

MICHAEL MEYERSON

Plaintiff

L. Russell

Laura Russell (Nov 28, 2024 10:04 EST)

LAURA RUSSELL

Plaintiff

M. Nottingham

Myron Nottingham (Nov 25, 2024 10:58 EST)

MYRON NOTTINGHAM

Plaintiff

Robert Allen Hickman

Robert Allen Hickman (Nov 26, 2024 14:26 EST)

ROBERT HICKMAN

Plaintiff

Virginia Demel Duff

Virginia Demel Duff (Nov 26, 2024 03:23 EST)

VIRGINA DEMEL-DUFF

Plaintiff

Melody Bowman

Melody Bowman (Nov 27, 2024 17:01 EST)

MELODY BOWMAN

Plaintiff

Kathy Bishop

Kathy Bishop (Nov 26, 2024 09:26 EST)

KATHY BISHOP

Plaintiff

Yasmine Encarnacion

Yasmine Encarnacion (Nov 25, 2024 12:12 EST)

YASMINE ENCARNACION

Plaintiff


Brandy Brady (Nov 27, 2024 13:09 EST)

BRANDY BRADY
Plaintiff


Sally Hughes (Nov 27, 2024 11:23 EST)

SALLY HUGHES
Plaintiff

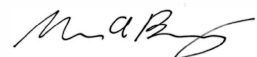

Kristine Iushkova (Nov 25, 2024 11:45 EST)

KRISTINE IUSHKOVA
Plaintiff

CLASS COUNSEL


Jeffrey Ostrow (Dec 3, 2024 06:52 EST)

JEFF OSTROW
KOPELOWITZ OSTROW P.A.



MASON BARNEY
SIRI & GLIMSTAD LLP


Bryan L. Bleichner (Dec 3, 2024 07:00 CST)

BRYAN BLEICHNER
CHESTNUT CAMBRONE PA

DEFENDANT BERRYDUNN

By: _____
Its _____

DEFENDANT BERRYDUNN'S COUNSEL

DAVID ROSS
WILSON ELSER MOSKOWITZ
EDELMAN & DICKER LLP

DEFENDANT RELIABLE

By: _____
Its _____

DEFENDANT RELIABLE'S COUNSEL

STEPHEN ORLANDO
GORDON REEES SCULLY
MANSUKHANI LLP

CLASS COUNSEL

JEFF OSTROW
KOPELOWITZ OSTROW P.A.

MASON BARNEY
SIRI & GLIMSTAD LLP

BRYAN BLEICHNER
CHESTNUT CAMBRONE PA

DEFENDANT BERRYDUNN

Kate Lawrence

By: Kate Lawrence
Its Lead Corporate Counsel

DEFENDANT BERRYDUNN'S COUNSEL

David Ross
DAVID ROSS
WILSON ELSEER MOSKOWITZ
EDELMAN & DICKER LLP

DEFENDANT RELIABLE

Chris Provencher
By: Chris Provencher
Its Owner

DEFENDANT RELIABLE'S COUNSEL

Stephen Orlando
STEPHEN ORLANDO
GORDON REEES SCULLY
MANSUKHANI LLP

EXHIBIT 1
(POSTCARD NOTICE)

Legal Notice

EU Settlement
1650 Arch Street, Suite 2210
Philadelphia, PA 19103

**TO BE OPENED BY
THE INTENDED
RECIPIENT ONLY.**

«ScanString»

Postal Service: Please do not mark barcode

*A federal court authorized
this Notice.*

Notice ID: «Notice ID»

Confirmation Code: «Confirmation Code»

«FirstName» «LastName»

«Address1»

«Address2»

«City», «StateCd» «Zip»

«CountryCd»

*This is not a solicitation
from a lawyer.*

NOTICE: INSTRUCTIONS «FIRST NAME» «LAST NAME» «ADDRESS» «ADDRESS»	Inre: Berry, Dunn, McNeil & Parker Data Security Incident Litigation CASH PAYMENT B - CLAIM FORM	«Barcode»
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Complete this Claim Form if you wish to receive a \$100.00 Cash Payment B – Flat Payment. If you want to submit a claim for Credit Monitoring and/or a Cash Payment A – Documented Losses, visit [WEBSITE](#) to complete and submit your Claim Form and supporting documentation online or to download a Claim Form to complete and return by mail.

CASH PAYMENT B – FLAT PAYMENT

Check this box if you wish to receive the \$100.00 Cash Payment B instead of submitting a claim for Documented Losses. The amount of the Cash Payment B may be increased or decreased on a *pro rata* basis, depending on the number of valid claims filed and the amount of funds available for the payments.

PAYMENT SELECTION

PayPal Venmo Zelle Virtual Prepaid Card Check

Please provide the email address or phone number associated with your PayPal, Venmo or Zelle account, or email address for the Virtual Prepaid card: _____

Affirmation & Signature: I swear and affirm under penalty of perjury that the information provided in this Claim Form is true and correct to the best of my knowledge. I understand that my claim is subject to verification and that I may be asked to provide additional information by the Settlement Administrator before my claim is considered complete and valid.

Signature: _____ **Printed Name:** _____ **Date:** ___/___/___

A proposed Settlement has been entered in the lawsuit *In re: Billionaire, McNeil & Parkland Data Security Incident Litigation*, Case No. 2:24-cv-00146-JAW (D. Me.), relating to an incident discovered on September 14, 2023, in which an unauthorized third party potentially gained access to Settlement Class Members' Private Information ("Data Security Incident"). Defendants deny all claims alleged against them and deny all charges of wrongdoing or liability. The settlement is not an admission of wrongdoing or an indication that the Defendants violated any laws, but the resolution of disputed claims.

Am I Included? Yes. Defendants' records indicate your information may have been involved in the Data Security Incident.

The Settlement Benefits. The Settlement provides a \$7,250,000 Settlement Fund that will be used to pay for (1) Settlement Class Member Benefits to those Settlement Class Members who submit a Valid Claim; (2) any Service Awards awarded to Class Representatives; (3) any attorneys' fees and costs awarded to Class Counsel; and (4) all Settlement Administration Costs. In addition, Defendants have or will make certain data security enhancements. Please visit **WEBSITE** for complete information about the Settlement Benefits. Settlement Class Members may submit a claim for:

- **Cash Payment A - Documented Losses:** Up to \$5,000 for documented losses related to the Data Security Incident; OR
- **Cash Payment B - Flat Payment:** \$100.00 Flat Payment, subject to an upward or downward adjustment, instead of a payment for Documented Losses.

In addition to a Cash Payment, Settlement Class Members may also elect three (3) years of three bureau Credit Monitoring.

How Do I Receive Settlement Benefits? Settlement Class Members must submit a Claim Form online at **WEBSITE** or by mailing a completed Claim Form postmarked no later than **DEADLINE** to the Claims Administrator. If you do not submit a Claim Form, you will not receive any Settlement Benefits.

What Are My Options? If you **do nothing** or **submit a Claim Form**, you will not be able to sue or continue to sue the Defendants about the claims resolved by this Settlement. If you **exclude yourself**, you will not receive any Settlement Benefits, but you will keep your right to individually sue the Defendants in a separate lawsuit about the claims resolved by this Settlement. If you do not exclude yourself, you can **object** to the Settlement. The deadline to exclude yourself from the Settlement or to object to the Settlement is **DEADLINE**. Visit **WEBSITE** for complete details on how to exclude yourself from, or object to, the Settlement.

The Final Approval Hearing. The Court will hold a Final Approval Hearing at **TIME**, on **DATE**, in Courtroom **XX** located at **INSERT COURT ADDRESS**. At the hearing, the Court will consider whether the proposed Settlement is fair, reasonable, and adequate. The Court may also consider Class Counsel's request for an award of attorneys' fees up to 33.33% of the Settlement Fund, plus reimbursement of costs, and Service Awards in the amount of \$3,000.00 for each of the Class Representatives. If there are objections, the Court will consider them.

This Notice is only a Summary. For additional information, please visit **WEBSITE** or call toll-free 1-XXX-XXX-XXXX.

Business
Reply Mail

BD Settlement
c/o Settlement Administrator
1650 Arch Street, Suite 2210
Philadelphia, PA 19103

EXHIBIT 2
(LONG FORM NOTICE)

UNITED STATES DISTRICT COURT, DISTRICT OF MAINE

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

In re: Berry, Dunn, McNeil & Parker Data Security Incident Litigation, Case No. 2:24-cv-00146-JAW (D Me.)

If you are a person in the U.S. whose Private Information was potentially accessible as a result of the data security incident that was discovered on September 14, 2023, including those who were sent notification of the incident, a class action settlement may affect your rights.

A federal court authorized this Notice. This is not a solicitation from a lawyer.

- A settlement has been proposed in a class action lawsuit against Defendants Berry, Dunn, McNeil & Parker, LLC (“BerryDunn”), and ZZ Enterprises, LLC d/b/a Reliable Networks, relating to the incident that was discovered on September 14, 2023, in which an unauthorized third party potentially gained access to Settlement Class Members’ Private Information (“Data Security Incident”). Defendants deny all claims alleged against them and deny all charges of wrongdoing or liability. The Settlement is not an admission of wrongdoing or an indication that the Defendants have violated any laws, but rather the resolution of disputed claims.
- If your Private Information was potentially accessible as a result of the Data Security Incident, including if you received a notification from BerryDunn about the Data Security Incident, you are included in this Settlement as a “Settlement Class Member.”
- The Settlement provides a \$7,250,000.00 Settlement Fund that will be used to pay for (1) Settlement Class Member Benefits to those Settlement Class Members who submit a Valid Claim; (2) any Service Awards awarded to Class Representatives; (3) any attorneys’ fees and costs awarded to Class Counsel; and (4) all Settlement Administration Costs. In addition, Defendants have or will make certain data security enhancements.
- Your legal rights are affected regardless of whether you do or do not act. Read this notice carefully. For complete details, visit **WEBSITE** or call toll-free 1-**XXX-XXX-XXXX**.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
SUBMIT A CLAIM FORM BY: DEADLINE	Submitting a valid Claim Form is the only way you can receive Credit Monitoring or a Cash Payment.
OPT-OUT OF THE SETTLEMENT BY: DEADLINE	If you opt-out of the Settlement, you will not receive any benefits from the Settlement, but you also will not release your individual claims against Defendants. This is the only option that allows you to be part of any other lawsuit against the Defendants for the legal claims resolved by this Settlement. If you opt-out of the Settlement, you may not object to the Settlement.
OBJECT TO THE SETTLEMENT BY: DEADLINE	To object to the settlement, you can write to the Court with reasons why you do not agree with the Settlement. You may ask the Court for permission for you or your attorney to speak about your objection at the Final Approval Hearing at your own expense.

Questions? Visit **WEBSITE or call toll-free 1-**XXX-XXX-XXXX****

DO NOTHING	If you do nothing, you will not receive any benefits from the Settlement. You will also give up certain legal rights.
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WHAT THIS NOTICE CONTAINS

BASIC INFORMATION..... PAGE 2

WHO IS INCLUDED IN THE SETTLEMENT?..... PAGE 3

THE SETTLEMENT BENEFITS—WHAT YOU GET IF YOU QUALIFY PAGE 3

HOW TO GET BENEFITS—SUBMITTING A CLAIM FORM PAGE 4

REMAINING IN THE SETTLEMENT PAGE 5

EXCLUDING YOURSELF FROM THE SETTLEMENT PAGE 5

THE LAWYERS REPRESENTING YOU..... PAGE 6

OBJECTING TO THE SETTLEMENT PAGE 6

THE COURT’S FINAL APPROVAL HEARING PAGE 8

IF YOU DO NOTHING PAGE 8

GETTING MORE INFORMATION PAGE 8

BASIC INFORMATION

1. Why is this Notice being provided?

The Court directed that this Notice be provided because you have a right to know about a proposed settlement that has been reached in this class action lawsuit and about all of your options before the Court decides whether to grant final approval of the Settlement. If the Court approves the Settlement, and after any objections or appeals are resolved, the Settlement Administrator appointed by the Court will distribute the Settlement Class benefits to Settlement Class Members who submitted a Valid Claim. This Notice explains the lawsuit, the Settlement, your legal rights, what payments are available, who is eligible for them, and how to get them.

The Court overseeing this case is the United States District Court for the District of Maine. The case is known as *In re: Berry, Dunn, McNeil & Parker Data Security Incident Litigation*, Case No. 2:24-cv-00146-JAW (D. Me.) (the “Action”). The individuals who brought this Action are called the Plaintiffs or Class Representatives, and the entities sued, Berry, Dunn, McNeil & Parker, LLC, and ZZ Enterprises, LLC d/b/as Reliable Networks, are called the Defendants. The Plaintiffs are Tonya Gambino, Quinston Anderson, Michael Meyerson, Laura Russell, Kathy Bishop, Randy Bishop, Kristine Iushkova, Robert Hickman, Sally Hughes, Donald Dee Smith, Melody Bowman, Brandy Brady, Virginia Deme-Duff, Myron Nottingham, and Yasmine Encarnacion.

2. What is this lawsuit about?

The Plaintiffs allege that the Defendants are liable for failing to prevent the Data Security Incident and have asserted several legal claims against the Defendants. The Defendants deny each and all of the claims and contentions alleged against them in the Action. Defendants deny all charges of wrongdoing or liability as alleged, or which could be alleged, in the Action.

For more information and to review the complaints filed in this Action, visit [WEBSITE](#).

3. What is a class action Settlement?

In a class action, one or more people called Plaintiff or Plaintiffs sue on behalf of people who are alleged to have similar claims. For a settled class action, together, these people are called a Settlement Class or Settlement Class members. One Court and one judge resolve the issues for all class members, except for those who opt-out of the Settlement Class.

4. Why is there a Settlement?

The Court did not decide in favor of the Plaintiffs or Defendants. Instead, the Plaintiffs negotiated a settlement with the Defendants that allows the Plaintiffs, the proposed Settlement Class, and the Defendants to avoid the risks and costs of lengthy and uncertain litigation and the uncertainty of a trial and appeals. The Settlement provides benefits and allows Settlement Class Members to obtain payment for certain costs or losses without further delay. Plaintiffs and Class Counsel think the Settlement is in the best interest of all Settlement Class Members. This Settlement does not mean that the Defendants did anything wrong.

WHO IS INCLUDED IN THE SETTLEMENT?

5. How do I know if I am part of the Settlement?

The Settlement Class includes all persons in the United States whose Private Information was potentially accessible as a result of the Data Security Incident, including those who were sent notification from BerryDunn that their Private Information was potentially accessible as a result of the Data Security Incident.

Settlement Class Members were also sent Notice of this class action Settlement via mail. If you received Notice of this Settlement, you are eligible to receive Settlement Class Member Benefits. If you are still not sure whether you are included, you can contact the Settlement Administrator by calling toll-free at 1-XXX-XXX-XXXX or by visiting the Settlement Website at WEBSITE.

6. Are there exceptions to being included in the Settlement?

Yes. The Settlement Class excludes: (a) all persons who are governing board members of Defendants; (b) governmental entities; and (c) the Court, the Court's immediate family, and Court staff.

THE SETTLEMENT BENEFITS—WHAT YOU GET IF YOU QUALIFY

7. What does the Settlement provide?

The Settlement provides a \$7,250,000 Settlement Fund that will be used to pay for (1) Settlement Class Member Benefits to those Settlement Class Members who submit a Valid Claim; (2) any Service Awards awarded to Class Representatives; (3) any attorneys' fees and costs awarded to Class Counsel; and (4) all Settlement Administration Costs. In addition, Defendants have or will make certain data security enhancements. Please visit WEBSITE for complete information about the Settlement Benefits.

- **Cash Payment A - Documented Losses:** Up to \$5,000.00 for documented losses related to the Data Security Incident.
- **Cash Payment B - Alternative Cash Payment:** \$100.00 Flat Payment, subject to an upward or downward adjustment, instead of a payment for Documented Losses.
- **Credit Monitoring:** Three years of three bureau Credit Monitoring services.

8. What is included under the Cash Payment A - Documented Losses?

Settlement Class Members may submit a claim for a Cash Payment under this section for up to \$5,000.00 per Settlement Class Member upon presentment of documented losses related to the Data Security Incident. To receive a documented loss payment, a Settlement Class Member must elect the Cash Payment A on the Claim Form attesting under penalty of perjury to incurring documented losses. Settlement Class Members will be required to submit reasonable documentation supporting the losses. Settlement Class Members shall not be reimbursed for expenses if they have been reimbursed for the same expenses by another source, including compensation provided in connection with the credit monitoring and identity theft protection services offered as part of the notification letter provided by BerryDunn or otherwise.

If a Settlement Class Member does not submit reasonable documentation supporting a loss, or if his or her Claim is rejected by the Settlement Administrator for any reason, and the Settlement Class Member fails to cure his or her Claim, the Claim will be rejected and the Settlement Class Member's Claim will be administered as if he or she elected Cash Payment B.

9. What is the Cash Payment B - Flat Payment?

As an alternative to Cash Payment A for Documented Losses, Settlement Class Members may elect to receive a Cash Payment B, which is a flat cash payment in the amount of \$100.00, subject to an upward or downward adjustment on a *pro rata* basis depending on the number of Valid Claims filed and the amount of funds available for the payments. Documentation is not required to claim the Flat Payment.

10. What is included in the Credit Monitoring services?

In addition to electing a Cash Payment, Settlement Class Members may elect three bureau Credit Monitoring for up to three years. This Credit Monitoring has a value of \$90.00 per year per Settlement Class Member.

These services will be made available to all Settlement Class Members who choose to enroll regardless of whether they claim Cash Payment A - Documented Losses or Cash Payment B – Flat Payment.

A unique activation code, allowing Settlement Class Members to enroll in these services will be sent to each Settlement Class Member who submits a Valid Claim for such services after the Court approves the Settlement as final and after any appeals are resolved.

11. Have the Defendants implemented any additional security measures?

Plaintiffs have received assurances that Defendants have undertaken reasonable steps to further secure their systems and environments. Defendants will provide a declaration attesting to the undertaken or planned data security enhancements at Plaintiffs' request.

HOW TO GET BENEFITS—SUBMITTING A CLAIM FORM

12. How do I get benefits from the Settlement?

In order to receive Credit Monitoring and/or a Cash Payment, you must complete and submit a Claim Form. Claim Forms are available at **WEBSITE**, or you may request one by mail by calling **1-XXX-XXX-XXXX**. Read the instructions carefully, fill out the Claim Form, and submit it online, or mail it postmarked no later than **Month Day, 2024** to: BD Settlement, c/o Settlement Administrator, 1650 Arch Street, Suite 2210, Philadelphia, PA 19103.

13. How will claims be decided?

The Settlement Administrator will decide whether the information provided on the Claim Form is complete and valid. The Settlement Administrator may require additional information from any claimant. If the Settlement Administrator requires additional information from you and you do not provide it in a timely manner, your claim may not be paid at the Settlement Administrator's discretion.

14. When will I get my payment?

The Court will hold a Final Approval Hearing at **: 0 .m. on Month Day, 202X** to decide whether to approve the Settlement. Even if the Court approves the Settlement, there may be appeals, and resolving them may take additional time. It also takes time for all of the Claim Forms to be processed, depending on the number of claims submitted and whether any appeals are filed. Please be patient. If you have further questions regarding payment timing, you may contact the Settlement Administrator by emailing **EMAIL ADDRESS**.

REMAINING IN THE SETTLEMENT

15. Do I need to do anything to remain in the Settlement?

You do not have to do anything to remain in the Settlement, but if you want a Cash Payment or Credit Monitoring services from the Settlement, you must submit a Claim Form online or by mail postmarked no later than **Month Day, 2025**.

If you do nothing, you will **not** receive Settlement benefits and you will also give up certain legal rights.

16. What am I giving up as part of the Settlement?

If the Settlement becomes final, you will give up your right to sue the Defendants for the claims being resolved by this Settlement. The specific claims you are giving up against Defendants and the claims you are releasing are described in the Settlement Agreement, available at **WEBSITE**. The Settlement Agreement describes the released claims with specific descriptions, so read it carefully.

If you have any questions about what claims you are giving up and which parties you are releasing, you can talk to the law firms listed in Question 20 for free or you can, of course, talk to your own lawyer at your own expense.

OPTING-OUT OF THE SETTLEMENT

If you do not want any benefits from this Settlement, and you want to keep the right to sue the Defendants about legal issues resolved by this Settlement, then you must take steps to get out of the Settlement Class. This is called excluding yourself from – or “opting out” of – the Settlement Class.

17. If I opt-out, can I still get a Cash Payment or Credit Monitoring from the Settlement?

No. If you opt-out of the Settlement, you will not be entitled to any benefits of the Settlement, but you will not be bound by any judgment in this case.

18. If I do not opt-out, can I sue the Defendants for the same thing later?

No. Unless you opt-out of the Settlement, you give up any right to sue the Defendants for the claims that this Settlement resolves. You must opt-out of the Settlement Class to start your own lawsuit or to be part of any different lawsuit relating to the claims in this case.

19. How do I get out of the Settlement?

To opt-out of the Settlement, you must send a letter by mail stating that you want to be excluded from the Settlement in *In re: Berry, Dunn, McNeil & Parker Data Security Incident Litigation*, Case No. 2:24-cv-00146-JAW (D. Me.). Your letter must also include your full name, current address, telephone number, email address, and signature. You must mail your exclusion request postmarked no later than **Month**, **2025** to:

BD Settlement
Attn: Opt-Outs
 P.O. Box 58220
 Philadelphia, PA 19102

Settlement Class Members will only be able to submit an opt-out request on their own behalf; mass or class opt-outs are not permitted.

THE LAWYERS REPRESENTING YOU

20. Do I have a lawyer in this case?

Yes. The Court appointed the following attorneys as “Class Counsel” to represent the Settlement Class:

Class Counsel		
Jeff Ostrow Kopelowitz Ostrow P.A. 1 West Las Olas Blvd., Ste. 500 Fort Lauderdale, FL 33301	Mason Barney Siri & Glimstad LLP 745 Fifth Avenue, Ste. 500 New York, NY 10151	Bryan Bleichner Chestnut Cambronne PA 100 Washington Ave. South, Ste. 1700 Minneapolis, MN 55401

You will not be charged for contacting Class Counsel. If you want to be represented by your own lawyer, you may hire one at your own expense.

21. How will Class Counsel be paid?

Class Counsel will ask the Court to award Attorneys’ Fees in an amount not to exceed 33.33% of the Settlement Fund, plus reimbursement of costs. Class Counsel will also seek Service Awards in the amount of \$3,000.00 to each of the Class Representatives.

The Court may award less than these amounts. The Court awarded amounts for Attorneys’ Fees and Costs, as well as any Service Awards approved by the Court for the Class Representatives will be paid out of the Settlement Fund.

OBJECTING TO THE SETTLEMENT

22. How do I tell the Court that I do not like the Settlement?

If you are a Settlement Class Member, you can object to the Settlement if you do not like or agree with the Settlement or some part of it. You can give reasons to the Court why you think the Court should not approve the Settlement. The Court will consider your views before deciding.

Objections must include: the name or caption of this Action, *i.e.*, *In re: Berry, Dunn, McNeil & Parker Data Security Incident Litigation*, Case No. 2:24-cv-00146-JAW (D. Me.), and:

- a) the objector’s full name, mailing address, telephone number, and email address (if any);

- b) all grounds for the objection, accompanied by any legal support for the objection known to the objector or objector’s counsel;
- c) the number of times the objector has objected to a class action settlement within the 5 years preceding the date that the objector files the objection, the caption of each case in which the objector has made such objection, and a copy of any orders related to or ruling upon the objector’s prior objections that were issued by the trial and appellate courts in each listed case;
- d) the identity of all counsel who represent the objector, including any former or current counsel who may be entitled to compensation for any reason related to the objection to the Settlement and/or Application for Attorneys’ Fees, Costs, and Service Awards;
- e) the number of times in which the objector’s counsel and/or counsel’s law firm have objected to a class action settlement within the 5 years preceding the date of the filed objection, the caption of each case in which counsel or the firm has made such objection and a copy of any orders related to or ruling upon counsel’s or the counsel’s law firm’s prior objections that were issued by the trial and appellate courts in each listed case in which the objector’s counsel and/or counsel’s law firm have objected to a class action settlement within the preceding 5 years;
- f) any and all agreements that relate to the objection or the process of objecting—whether written or oral—between objector or objector’s counsel and any other person or entity;
- g) the identity of all counsel (if any) representing the objector who will appear at the Final Approval Hearing;
- h) a list of all persons who will be called to testify at the Final Approval Hearing in support of the objection (if any);
- i) a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; and
- j) the objector’s signature (an attorney’s signature is not sufficient).

Objections must be mailed to the Clerk of the Court, Class Counsel, Defendants’ Counsel, and the Settlement Administrator:

Clerk of the Court		
Clerk of the Court INSERT ADDRESS		
Class Counsel	Class Counsel	Class Counsel
Jeff Ostrow Kopelowitz Ostrow P.A. 1 West Las Olas Blvd., Ste. 500 Fort Lauderdale, FL 33301	Mason Barney Siri & Glimstad LLP 745 Fifth Avenue, Ste. 500 New York, NY 10151	Bryan Bleichner Chestnut Cambronne PA 100 Washington Ave. South, Ste. 1700 Minneapolis, MN 55401
Counsel for BerryDunn	Counsel for Reliable	Settlement Administrator
David Ross Wilson, Elser, Moskowitz, Edelman & Dicker LLP 1500 K Street, NW, Ste. 330 Washington, DC 20005	Stephen Orlando Shaun Loughlin Gordon Rees Scully Mansukhani, LLP 28 State Street, Ste. 1050 Boston, MA 02109	BD Settlement Attn: Objections P.O. Box 58220 Philadelphia, PA 19102

For an objection to be considered by the Court, **the objection must be submitted no later than DEADLINE**. If submitted by mail, an objection shall be deemed to have been submitted when posted if received with a postmark date indicated on the envelope if mailed first-class postage prepaid and addressed in accordance with the instructions. If submitted by private courier (e.g., Federal Express), an objection shall be deemed to have been submitted on the shipping date reflected on the shipping label.

23. What is the difference between objecting to and opting-out of the Settlement?

Objecting is telling the Court that you do not like something about the Settlement. Opting-out is telling the Court that you do not want to be part of the Class in this Settlement. If you opt-out of the Settlement, you have no basis to object or submit a Claim Form because the Settlement no longer affects you.

THE COURT'S FINAL APPROVAL HEARING

The Court will hold a hearing to decide whether to approve the Settlement. You may attend and you may ask to speak, but you do not have to. You cannot speak at the hearing if you opt-out of the Settlement.

24. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing at **TIME**, on **DATE**, in Courtroom **XX** located at **INSERT COURT ADDRESS**. At the hearing, the Court will consider whether the proposed Settlement is fair, reasonable, and adequate. The Court may also consider Class Counsel's request for an award of attorneys' fees up to 33.33% of the Settlement Fund, plus reimbursement of costs, and Service Awards in the amount of \$3,000.00 for each of the Class Representatives.

The Court will take into consideration any timely sent written objections and may also listen to anyone who has requested to speak at the hearing (*see* Question 22).

25. Do I have to come to the Final Approval Hearing?

No. Class Counsel will answer any questions the Court may have. However, you are welcome to attend the Final Approval Hearing at your own expense. If you file an objection, you do not have to come to Court to talk about it. You may also hire your own lawyer to attend, at your own expense, but you are not required to do so.

26. May I speak at the Final Approval Hearing?

Yes, you may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must follow the instructions provided in Question 22 above. You cannot speak at the hearing if you opt-out of the Settlement.

IF YOU DO NOTHING

27. What happens if I do nothing?

If you do nothing, you will not receive Credit Monitoring services or be eligible to receive a Cash Payment from this Settlement. If the Court approves the Settlement, and you do nothing, you will be bound by the Settlement Agreement. This means you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against the Defendants about the issues involved in the Action, resolved by this Settlement, and released by the Settlement Agreement.

GETTING MORE INFORMATION

28. Are more details about the Settlement available?

Yes. This Notice summarizes the proposed Settlement. More details are in the Settlement Agreement, which is available at **WEBSITE**, or by writing to Settlement Administrator:

BD Settlement
1650 Arch Street, Suite 2210
Philadelphia, PA 19103

EMAIL ADDRESS

29. How do I get more information?

For more information, please visit **WEBSITE** or call toll-free **1-XXX-XXX-XXXX**. You can also contact the Settlement Administrator by mail or email.

Please do not call the Court or the Clerk of the Court for additional information.

**EXHIBIT 3
(CLAIM FORM)**

Your claim must be submitted online or postmarked by: **DEADLINE**

In re: Berry, Dunn, McNeil & Parker Data Security Incident Litigation, Case No. 2:24-cv-00146-JAW
United States District Court, District of Maine

BD Settlement CLAIM

CLAIM FORM

GENERAL INSTRUCTIONS

You are eligible to submit a Claim Form if you are a member of the Settlement Class, which includes:

All persons in the United States whose Private Information was potentially accessible as a result of the incident that was discovered on September 14, 2023, in which an unauthorized third party potentially gained access to Settlement Class Members' Private Information (the "Data Security Incident"), including those who were sent notification of the Data Security Incident.

Excluded from the Settlement Class are (a) all persons who are governing board members of Defendants; (b) governmental entities; and (c) the Court, the Court's immediate family, and Court staff.

The Settlement Benefits

Cash Payment A – Documented Losses

Settlement Class Members may submit a claim for a Cash Payment under this section for **up to \$5,000.00** per Settlement Class Member upon presentment of **documented losses** related to the Data Security Incident. To receive a documented loss payment, a Settlement Class Member must elect the Cash Payment A on the Claim Form attesting under penalty of perjury to incurring documented losses. Settlement Class Members will be required to submit reasonable documentation supporting the losses. Settlement Class Members shall not be reimbursed for expenses if they have been reimbursed for the same expenses by another source, including compensation provided in connection with the credit monitoring and identity theft protection product offered as part of the notification letter provided by Defendant BerryDunn or otherwise.

If a Settlement Class Member does not submit reasonable documentation supporting a loss, or if their Claim is rejected by the Settlement Administrator for any reason, and the Settlement Class Member fails to cure his or her Claim, the Claim will be rejected and the Settlement Class Member's Claim will be as if he or she elected Cash Payment B.

Cash Payment B – Flat Payment

As an alternative to Cash Payment A above, a Settlement Class Member may elect to receive Cash Payment B, which is a flat cash payment in the amount of \$100.00, subject to an upward or downward adjustment depending on the number and amounts of claims submitted.

Credit Monitoring

In addition to electing a Cash Payment, Settlement Class Members may elect three (3) bureau Credit Monitoring for up to three (3) years. This Credit Monitoring has an estimated value of \$90.00 per year per Settlement Class Member.

This Claim Form may be submitted electronically *via* the Settlement Website at [REDACTED] or completed and mailed, including any supporting documentation, to: BD Settlement, Attn: Claim Forms, 1650 Arch Street, Suite 2210, Philadelphia, PA 19103.

Remember: Claim Forms must be submitted online no later than **DEADLINE** or submitted by mail postmarked no later than **DEADLINE**.

