STATE OF NORTH CAROLINA COUNTY OF COLUMBUS	IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION 24 CVS 0088
IN RE COLUMBUS REGIONAL HEALTHCARE SYSTEM DATA SECURITY INCIDENT LITIGATION	**MEMORANDUM IN SUPPORT OF PLAINTIFFS' UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

Plaintiffs Stephanie Luther, David Heller, Naqiis Lamir Johnson, and Curtis McLean ("Plaintiffs"), individually and on behalf of all others similarly situated, submit the following memorandum and exhibits in support of their unopposed motion for preliminary approval of class action settlement. The Settlement[1] reached by the Parties should be preliminarily approved because it provides meaningful and substantial benefits to Settlement Class Members and is based upon Plaintiffs' good faith assessment of the strengths and weaknesses of the claims.

In determining whether to preliminarily approve the Settlement, the Court need only determine whether the Settlement appears to fall within a range of reasonableness. Such a finding justifies the Court to order that notice be provided to Settlement Class Members and allow them to comment on the Settlement at the Final Approval Hearing. The Settlement exceeds this standard. Accordingly, preliminary approval should be granted and notice of the Settlement and Final Approval Hearing should be disseminated to Settlement Class Members.

I. SUMMARY OF THE LITIGATION

[1] The capitalized terms used in this Motion shall have the same meaning as defined in the Settlement Agreement ("S.A.") (attached hereto as Exhibit 1), except as may otherwise be indicated.

This class action arises out of Defendant Columbus Regional Healthcare System's ("Columbus Regional" or "Defendant") alleged failure to safeguard the personally identifiable information ("PII") of Plaintiffs and Settlement Class Members. On or about May 21, 2023, Defendant became aware of a data breach impacting certain company systems (the "Data Breach" or "Data Incident"). The Data Breach was found to have compromised private and personally identifying information stored in Defendant's files, including names, addresses, dates of birth, Social Security numbers, and personal health information relating to medical history and health insurance. The private information of roughly 132,800 people was accessed as a result of this Data Breach.

On January 26, 2024, Plaintiff Stephanie Luther filed a class action lawsuit in the North Carolina Superior Court of Columbus County titled *Luther v. Columbus Regional Healthcare System*, No. 24 CVS 0088. That suit was amended less than two weeks later to include Plaintiff David Heller. Subsequent actions were filed by Plaintiffs Naqiis Lamir Johnson (24 CVS 0093) and Curtis McLean (24 CVS 00131). The actions were consolidated by order of the North Carolina Business Court on March 26, 2024. (ECF No. 12).

On April 18, 2024, Plaintiffs filed a Consolidated Amended Class Action Petition (In Re Columbus Regional Healthcare System Data Security Incident Litigation), Master File No. 24 CVS 0088, alleging claims for negligence, breach of implied contract, negligence per se, breach of fiduciary duty, intrusion upon seclusion/invasion of privacy, and unjust enrichment. Plaintiffs also sought, on behalf

of themselves and the Class, compensatory damages and injunctive relief. (ECF No. 13).

Prior to engaging in extensive motion practice or formal discovery, the parties agreed to mediate in an attempt to minimize the costs and time expended through litigation. Following extensive arm's length negotiations and a mediation with experienced data breach class action mediator Jill R. Sperber of Sperber Dispute Resolution, the Parties came to an agreement on the central terms of a settlement. Over the next few months, the Parties worked to negotiate the finer points of the settlement and prepare notice exhibits.

Plaintiffs strongly believe the Settlement is favorable to the Settlement Class.

The terms of the proposed Settlement are fair, adequate, and reasonable, the proposed Class meets all requirements for certification for purposes of settlement, and the proposed Notice provides the best practicable notice and comports with due process. Accordingly, Plaintiffs request that the Court enter the proposed Preliminary Approval Order, which: (1) grants preliminary approval of the proposed Settlement; (2) certifies the Settlement Class contemplated by the Settlement Agreement; (3) appoints as class counsel Joel R. Rhine of Rhine Law Firm, P.C., Gary E. Mason of Mason LLP, Scott C. Harris of Milberg Coleman Bryson Phillips Grossman, PLLC, Bruce W. Steckler of Steckler Wayne & Love, PLLC, Tyler J. Bean of Siri & Glimstad LLP, Philip J. Krzeski of Chestnut Cambronne PA, John G. Emerson, Jr. of Emerson Firm, PLLC, and John A. Yanchunis of Morgan & Morgan Complex Litigation Group; (4) orders the proposed Notice be sent to the Settlement Class; and (5) schedules a Final Approval Hearing to consider final approval of the proposed Settlement

Agreement as well as approval of a Fee Award and Expenses, and a Service Award to the Class Representatives.

II. TERMS OF THE PROPOSED SETTLEMENT

The Settlement's key terms are as follows:

A. Certification of Settlement Class

The Settlement provides for certifying the Settlement Class for settlement purposes only. The "Settlement Class" is defined as "the individuals whose certain personal information may have been involved in the Data Incident." S.A.¶ 14. Excluded from the Class are: (1) the judge presiding over this Action, and members of his direct family; (2) Defendant, its subsidiaries, parent companies, successors, predecessors, and any entity in which the Defendant or its parent companies have a controlling interest and their current or former officers and directors; and (3) Class Members who submit a valid Request for Exclusion prior to the Opt-Out Deadline. *Id.* The Settlement Class includes approximately 132,800 individuals (each, a "Settlement Class Member").

B. Settlement Benefits to the Settlement Class

The Settlement provides for the creation of a $1,175,000 non-reversionary Settlement Fund, to cover benefits to Settlement Class Members, Notice and Administration Expenses, and court-approved Fee Award and Expenses and Plaintiffs' Service Awards. Various forms of relief are available to Settlement Class Members, including the following:

1. Compensation For Documented Out of Pocket Losses. All members of the Settlement Class who submit a valid and timely Claim Form and supporting

documentation are eligible for documented Out-of-Pocket Losses incurred as a result of the Data Incident, up to $5,000 per member of the Settlement Class. Such reimbursable expenses include, without limitation, unreimbursed losses relating to fraud or identity theft; professional fees including attorneys' fees, accountants' fees, and fees for credit repair services; costs associated with freezing or unfreezing credit with any credit reporting agency; credit monitoring costs that were incurred on or after the Data Incident through the date of claim submission; and miscellaneous expenses such as notary, fax, postage, copying, mileage, and long-distance telephone charges. S.A. ¶ 57.a. Settlement Class Members with Out-of-Pocket Losses must submit documentation supporting their claims. *Id*. This can include receipts or other documentation not "self-prepared" by the claimant that document the costs incurred. "Self-prepared" documents such as handwritten receipts are, by themselves, insufficient to receive reimbursement, but can be considered to add clarity or support other submitted documentation. *Id.*

2. Pro Rata Cash Payment. After the distribution of Fee Award and Expenses, Notice and Administrative Expenses, Service Awards, and Compensation for Out-of-Pocket Losses, the Settlement Administrator will make pro rata settlement payments of any remaining funds to each Class Member who submits an Approved Claim. Any Class Member may make a claim for a pro rata cash payment regardless of whether the member made claim reimbursements for Out-of-Pocket Losses or not.

3. Remediation Efforts. All Settlement Class Members will benefit from Defendant's improvements to its cybersecurity since the Data Incident, regardless of whether they file a claim for any other Settlement Benefits.

C. Appointment of Class Representatives and Class Counsel

Plaintiffs and their counsel are adequate under Rule 23. There are no conflicts between their interests and the interests of the proposed Settlement Class. Defendant does not oppose Plaintiffs' appointments as Class Representatives. Defendant does not oppose appointment of Joel R. Rhine of Rhine Law Firm, P.C., Gary E. Mason of Mason LLP, Scott C. Harris of Milberg Coleman Bryson Phillips Grossman, PLLC, Bruce W. Steckler of Steckler Wayne & Love, PLLC, Tyler J. Bean of Siri & Glimstad LLP, Philip J. Krzeski of Chestnut Cambronne PA, John G. Emerson, Jr. of Emerson Firm, PLLC, and John A. Yanchunis of Morgan & Morgan Complex Litigation Group as class counsel ("Class Counsel").

D. Administration of Notice and Claims

Simpluris ("Settlement Administrator") will act as the Settlement Administrator to oversee the administration of the Settlement. Simpluris has extensive experience in administering class action settlements for similar matters. The costs of administration will be paid for out of the Settlement Fund.

The Settlement Administrator will administer the Settlement, including: (1) providing postcard notification to the Settlement Class via U.S. Mail and via e-mail to Settlement Class Members whose personal e-mail addresses are known; (2) creating and hosting a website (the "Settlement Website"), dedicated to providing information related to this Lawsuit and access to relevant publicly available court documents relating to this Lawsuit, the Settlement, and the Settlement Agreement, including the "Short Form Notice" and "Long Form Notice" of the Settlement, and offering Settlement Class Members the ability to submit Claim Forms and supporting

documentation for compensation; (3) maintaining a toll-free telephone number and mailing address by which Settlement Class Members can seek additional information regarding the Settlement Agreement; (4) processing Claim Forms and supporting documentation submissions, and the provision of Settlement Payments for Approved Claims to Settlement Class Members; (5) processing Request for Exclusion forms from Settlement Class Members; and (6) any other provision of the Settlement Agreement that relates to settlement administration (collectively "Settlement Administration"). S.A.¶¶ 66, 68, 70.

As set forth in the Settlement Agreement, Defendant will generate and furnish a class list with Class Members' information to the Settlement Administrator within ten (10) days of the entry of the Preliminary Approval Order. S.A. ¶ 66. Within 30 days after preliminary approval, the Settlement Administrator will use this information to send Notice of the Settlement to the Settlement Class Members identified on the Settlement Class List. *Id*.

E. Attorneys' Fees and Service Awards

Defendant has agreed to not oppose Class Counsel's fee request for attorneys' fees in an amount not to exceed 35% of the Settlement Fund or $411,250.00, and for reasonable litigation expenses. S.A.¶ 83. In addition, Class Counsel will apply for, and Defendant has agreed not to oppose, service awards of $2,000 to each Representative Plaintiff. S.A.¶ 84. The Parties did not discuss the issue of attorneys' fees and expenses or service award until after reaching agreement on the Settlement Class Member benefits. See Declaration of Joel R. Rhine, attached hereto as Exhibit

2 ("Rhine Dec.") Plaintiffs will file a separate motion for approval of attorneys' fees and costs in accordance with the proposed schedule discussed *infra*.

F. Release

The Parties have negotiated a Release, the terms of which are set forth in the Settlement Agreement. *See* S.A. ¶¶ 78-79. Upon reaching the Effective Date, Plaintiffs and each Settlement Class Member who has not timely opted out shall have released Defendant from the Released Claims.

III. THE COURT SHOULD APPROVE THE SETTLEMENT

Under Rule 23(c) of the North Carolina Rules of Civil Procedure, a "class action shall not be dismissed or compromised without the approval of the judge." Courts considering a proposed settlement under Rule 23, or its federal law counterpart, typically engage in a three-step process. First, the Court determines whether the proposed settlement merits preliminary approval. Second, the Court directs that notice of the proposed settlement be distributed to the settlement class, thereby providing class members with the opportunity to object to the settlement. Third, the Court evaluates whether final approval of the settlement is warranted and, if so, grants final approval. *See* Manual for Complex Litigation, Fourth Ed. ("MCL 4th") § 21.632; N.C. Gen. Stat. § 1A-1, Rule 23(c); *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 622 (1997).

A. The Settlement Merits Preliminary Approval

1. Legal Standard for Preliminary Approval

The preliminary approval process is the Court's initial assessment of the proposed settlement, the purpose of which is to determine (1) whether the proposed

settlement is within the range of reasonableness; (2) whether it is worthwhile to provide notice to the class of the terms and conditions of the settlement; and (3) whether to schedule a final approval hearing. 4 Alba Conte & Herbert Newberg, Newberg on Class Actions §11.25 (4th ed. 2002). The question at the preliminary approval stage is thus whether the settlement appears to be within the range of possible approval and was "[t]he result of good-faith bargaining at arm's length, without collusion." *In re Jiffy Lube Sec. Litig.*, 927 F.2d 155, 159 (4th Cir. 1991); *see also Flinn v. FMC Corp.*, 528 F.2d 1169, 1173 (4th Cir. 1975). This standard has been adopted in North Carolina. *See Ehrenhaus v. Baker*, 216 N.C. App. 59, 73, 717 S.E.2d 9, 19 (2011) (stating that the purpose of preliminary approval is "to determine whether the proposed settlement is within the range of possible approval or, in other words, whether there is probable cause to notify the class of the proposed settlement") *citing Horton v. Merrill, Lynch, Pierce, Fenner & Smith, Inc.*, 855 F. Supp. 825, 827 (E.D.N.C. 1994) (internal quotation omitted).

2. The Proposed Settlement Meets the Standard for Preliminary Approval

In granting preliminary approval, a court may consider a number of factors, no one of which is determinative. The relevant factors include: whether the settlement has no obvious deficiencies and otherwise falls within the range of possible approval, whether it unreasonably grants preferential treatment to the plaintiff or segments of the class, and whether it appears to be the product of serious, informed and non-collusive negotiations. MCL 4th § 21.632. If the settlement survives scrutiny under these criteria, the Court should direct that notice of a final approval hearing be given to class members, at which time arguments and evidence may be presented in support

of and (to the extent there are any objectors) in opposition to the settlement. *Id.*, §§ 21.632, 21.633.

i. *The Settlement Has No Obvious Deficiencies and is Within the Range of Reasonableness*

It is well-established that the public interest favors settling litigation. *See Hardin v. KCS Int'l, Inc.*, 682 S.E.2d 726, 737–38 (N.C. Ct. App. 2009). Not only do settlements conserve judicial resources, but they are the preferred method of resolving legal disputes because they reflect the collective judgment of the litigants, who are in the best position to evaluate the strengths and weaknesses of their legal positions. *Weinberger v. Kendrick*, 698 F.2d 61, 73 (2d Cir. 1982) (quotation omitted). Indeed, most courts recognize that the opinion of experienced counsel supporting the settlement is entitled to considerable weight. *See, e.g.*, *Reed v. GMC*, 703 F.2d 170, 175 (5th Cir. 1983) ("In reviewing proposed class settlements, a trial judge is dependent upon a match of adversary talent because he cannot obtain the ultimate answers without trying the case."). Against this backdrop, preliminary approval of a settlement is warranted when there is "probable cause" to believe that the settlement is fair, reasonable and adequate and that the Class should be notified. *Ehrenhaus*, 216 N.C. App. at 73, 717 S.E.2d at 19.

The Settlement resolves the Parties' legal disputes in a reasonable manner. The Settlement provides for the fair and adequate relief outlined above, which is tailored to address the actual injuries and damages claimed to have been sustained by the Plaintiffs and Settlement Class Members. These benefits include the ability to claim significant cash for Out-of-Pocket Losses reasonably incurred as a result of the

Data Incident, a pro rata cash payment, and remediation efforts designed to improve Defendant's cybersecurity.

Settlement Class Members will be able to obtain their benefits relatively quickly, rather than waiting several more years to see whether this litigation, if not settled, would provide any relief. Further, the Settlement reflects Class Counsel's assessment of the strengths and weaknesses of the case, as well as the amount of damages Class Members could expect to receive from a favorable verdict. Therefore, the Settlement is within the range of reasonableness.

ii. *The Settlement Does Not Unreasonably Treat Segments of the Class Differently*

The Settlement provides reasonable benefits to all of the Settlement Class Members. All Settlement Class Members can claim the same benefits. Notably, the named Plaintiffs can also claim the same amounts, and are not being treated differently than any other Settlement Class Member, with the exception of a reasonable Service Award to compensate them for their time and efforts in pursuing this matter on behalf of the Settlement Class. Rhine Dec. ¶ X.

iii. *The Settlement is the Product of Non-Collusive Negotiations*

The Settlement was unquestionably "the result of good-faith bargaining at arm's length, without collusion." *Jiffy Lube*, 927 F.2d at 159. Plaintiffs' counsel has extensive experience in litigating claims similar to those asserted in this case. See Rhine Dec, . ¶ Defendant is represented by highly capable outside counsel with experience in both data privacy law and class action litigation. While the Parties were always professional and collegial in their dealings with one another, there is no

question that each side zealously advocated its respective clients' position in an adversarial posture.

Prior to reaching an agreement, each side was able to independently assess and weigh the costs and risks of proceeding to trial, as well as the relative strengths and weaknesses of their respective claims and defenses. At each step of the action the Parties' relationship has always been adversarial. The Settlement itself was the product of protracted arms' length negotiations. The proposed Settlement was clearly the product of non-collusive negotiations between competent counsel for all Parties.

IV. THE COURT SHOULD PRELIMINARILY CERTIFY THE SETTLEMENT CLASS

In order to certify a class under Rule 23 of the North Carolina Rules of Civil Procedure, Plaintiffs must establish: (1) the existence of a class (i.e. that shared issues of law or fact predominate over individual issues); (2) the named representatives are adequate representatives (i.e. they will fairly and adequately represent the class, there is no conflict of interest between the named representatives and the class, and the named parties have a genuine personal interest in the outcome of the case); (3) class members are so numerous to make joinder impractical; (4) adequate notice can be given to the class; and (5) a class action is superior to individual actions. *Crow v. Citicorp Acceptance Co., Inc.*, 319 N.C. 274, 282, 354 S.E.2d 459, 465 (1987); *see also Faulkenbury v. Teachers' and State Employees' Retirement Sys. of North Carolina*, 345 N.C. 683, 697, 483 S.E.2d 422, 431 (1997). These class certification requirements are properly considered when determining whether to certify a class for settlement purposes. *See, e.g.*, *Nakatsukasa v. Furiex Pharms., Inc.*, 2015 NCBC 68, at ¶¶ 10-15

(N.C. Super Ct. July 1, 2015); *In re Newbridge Bancorp S'holder Litig.*, 2016 NCBC 87, at ¶ 37 (N.C. Super Ct. Nov. 22, 2016).

Plaintiffs' proposed Settlement Class satisfies all requirements under Rule 23. The Settlement Class Members share similar issues of fact and law. Here, all Settlement Class Members suffered the same alleged injury—potential access of their personal data through the Data Incident—and are asserting the same legal claims. These raise a number of common questions, such as whether Defendant failed to adequately safeguard the records of Plaintiffs and other Settlement Class Members. Defendant's data security safeguards were common across the Settlement Class, and those applied to the data of one Settlement Class Member did not differ from those safeguards applied to another.

Other specific common issues include (but are not limited to):

- Whether Defendant had a duty to use reasonable care to safeguard Plaintiffs' and Class Members' PII;

- Whether Defendant failed to use reasonable care and commercially reasonable methods to safeguard and protect Plaintiffs' and Class Members' PII from unauthorized release and disclosure, and;

- Whether proper data security measures, policies, procedures, and protocols were in place and operational within Defendant's computer systems to safeguard and protect Plaintiffs' and Class Members' PII from unauthorized disclosure.

These common questions, and others alleged by Plaintiffs in the Complaint, are central to the causes of action brought here and can be addressed on a class-wide basis.

The common issues here also predominate. Common liability issues often predominate where class members "all assert injury from the same action." *Gray v. Hearst Commc'ns, Inc.*, 444 F. App'x 698, 701–02 (4th Cir. 2011); *see also Stillmock v. Weis Markets, Inc.*, 385 F. App'x 267, 273 (4th Cir. 2010) (finding common issues predominated where class members were exposed to "the identical risk of identity theft in the identical manner by the repeated identical conduct of the same defendant.").

Here, as in other data breach cases, common questions predominate because all claims arise out of a common course of conduct by Defendant. *See, e.g., Abubaker v. Dominion Dental USA, Inc.,* No. 1:19-cv-01050, 2021 WL 6750844 at *3 (E.D. Va. Nov. 19, 2021); *In re: Equifax Inc. Customer Data Sec. Breach Litig.*, No. 1:17-md-2800, 2020 WL 256132 at *13 (N.D. Ga. March 17, 2020); *In re Anthem, Inc. Data Breach Litig.*, 327 F.R.D. 299, 308 (N.D. Cal. 2018). The focus on a defendant's security measures in a data breach class action "is the precise type of predominant question that makes class-wide adjudication worthwhile." *Anthem*, 327 F.R.D. at 312. Other courts have recognized that the types of common issues arising from data breaches predominate over any individualized issues. *See, e.g., Hapka v. CareCentrix, Inc.*, 2018 WL 1871449, at *2 (D. Kan. Feb. 15, 2018) (finding predominance was satisfied in a data breach case, stating "[t]he many common questions of fact and law that arise from the E-mail Security Incident and [Defendant's] alleged conduct

predominate over any individualized issues"); *In re The Home Depot, Inc., Customer Data Sec. Breach Litig.*, 2016 WL 6902351, at *2 (N.D. Ga. Aug. 23, 2016) (finding common predominating questions included whether Home Depot failed to reasonably protect class members' personal and financial information, whether it had a legal duty to do so, and whether it failed to timely notify class members of the data breach); *In re Heartland Payment Sys. Inc. Customer Data Sec. Breach Litig.,* 851 F. Supp. 2d 1059 (S.D. Tex. 2012) (finding predominance satisfied in data breach case despite variations in state laws at issue, concluding such variations went only to trial management, which was inapplicable for settlement class). The first factor for class certification is thereby satisfied here.

Plaintiffs are adequate class representatives. Plaintiffs each received a Notice of Data Breach stating that their private information could have been accessed in the Data Incident. As such, they have a genuine personal interest in the outcome of the case. Plaintiffs participated in Class Counsel's pre-suit investigation and remained in contact throughout the settlement negotiations. Moreover, Plaintiffs appeared for a full-day deposition to provide testimony in support of his claims and those of the class. As such, Plaintiffs have demonstrated his devotion to the prosecution of this case and to the Settlement Class.

Settlement Class Members are too numerous to make joinder possible, and a class action is superior to individual litigation in this context. There are approximately 132,800 Settlement Class Members, making them too numerous for joinder. *See Jeffreys v. Commc'ns Workers of Am. AFL–CIO*, 212 F.R.D. 320, 322 (E.D. Va. 2003) (noting that "where the class numbers twenty-five or more, joinder is

generally presumed to be impracticable"). Additionally, given the relatively low actual damages figure, it is unlikely that, absent a class action, these claims would be pursued as individual cases. Indeed, Class Counsel is aware of no other attorney prosecuting any other case arising from this Data Incident. Rhine Dec. ¶ 13.

As outlined below, counsel for the Parties have, with the assistance of the Claims Administrator, developed a Notice Plan that will provide actual, direct notice to nearly all members in the class. In addition, the direct notice here will be bolstered by information available on the Settlement Website. S.A.¶¶ 49, 66.

Finally, a class action is superior in this instance. "[T]he purpose of the superiority requirement is to assure that the class action is the most efficient and effective means of resolving the controversy . . . ." 7AA Charles Wright, Arthur Miller & Mary Kay Kane, Federal Practice and Procedure § 1779 (3d ed. 2005). Litigating the same claims of approximately 68,000 people through individual litigation would obviously be inefficient. The superiority requirement thus is satisfied. *See Equifax*, 2020 WL 256132, at *14; *Anthem*, 327 F.R.D. at 315-16.

V. THE COURT SHOULD APPROVE THE NOTICE PLAN

A. The Notice Plan Will Provide the Best Practicable Notice to Settlement Class Members

Under Rule 23(c) of the North Carolina Rules of Civil Procedure, notice of a proposed settlement "shall be given to all members of the class in such manner as the judge directs." The rule does not set forth the contents of the notice, which are "dictated by 'fundamental fairness and due process.'" *Frost v. Mazda Motor of Am., Inc.*, 353 N.C. 188, 197, 540 S.E.2d 324, 330 (2000) (quoting *Crow*, 319 N.C. at 283, 354 S.E.2d at 463). "The trial court should require that the best notice practical under

the circumstances be given to class members. Such notice should include individual notice to all members who can be identified through reasonable efforts, but it need not comply with the formalities of service of process." *Crow*, 319 N.C. at 283-84, 354 S.E.2d at 466.

Settlement Class Members will receive the best notice practicable under the proposed notice plan because Settlement Class Members will receive direct notice of the Settlement through U.S. Mail. *See Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 175 (1974) ("the express language and intent of [Federal Rule of Civil Procedure] 23 (c)(2) leave no doubt that individual notice must be provided to those class members who are identifiable through reasonable effort."). In addition to the direct mail notice, any class member for whom an e-mail address is known will also receive direct notice via e-mail. S.A. ¶ 66.

The Settlement Notice and Claim Form will adequately apprise Settlement Class Members of the Settlement and provide the means for them to apply for its benefits. The proposed Long Form Settlement Notice (attached to the Settlement Agreement here as Exhibit B) sets forth a summary of the settlement terms; an explanation of the persons and claims being released under the Settlement; a description of the Settlement Class; the date, time, and location of the Final Approval Hearing; a statement of Settlement Class Members' rights to appear and object and the procedures that must be followed to be heard; a statement that Class Counsel intends to petition for a payment of attorneys' fees and expenses; and whom to contact for more information about the Settlement. The proposed Claim Form is written in a short and plain manner that can be easily followed, and will be in substantially the

same form as Exhibit A to the Settlement Agreement. The Settlement Notice will be in a substantially similar form as those attached as Exhibits B and C to the Settlement Agreement.

In addition to the direct notice discussed above, the Claims Administrator will create a website which provides key information about the Settlement. Class members will be able to use the Settlement Website to access the Settlement Notice and the Claim Form. The Notice Plan's blend of direct notice and the establishment of a Settlement Website will achieve the best notice practicable to Settlement Class Members as required by Rule 23 of the North Carolina Rules of Civil Procedure.

B. A Final Approval Hearing Should be Scheduled

This Court should schedule a Final Approval Hearing because the Settlement is within the range of reasonableness and the Notice Plan provides the best practicable notice to Settlement Class Members.

VI. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court: (1) preliminarily approve the proposed Settlement set forth in the Settlement Agreement; (2) preliminarily certify the Settlement Class; (3) approve the form and manner of notice set forth herein; (4) appoint Joel R. Rhine of Rhine Law Firm, P.C., Gary E. Mason of Mason LLP, Scott C. Harris of Milberg Coleman Bryson Phillips Grossman, PLLC, Bruce W. Steckler of Steckler Wayne & Love, PLLC, Tyler J. Bean of Siri & Glimstad LLP, Philip J. Krzeski of Chestnut Cambronne PA, John G. Emerson, Jr. of Emerson Firm, PLLC, and John A. Yanchunis of Morgan & Morgan Complex Litigation Group as Class Counsel, and; (5) set a hearing date for final

approval of the proposed Settlement and corresponding interim deadlines for dissemination of notice and for objections by class members; and to grant such other and further relief as the Court deems just and proper.

Dated: November 26, 2024

Respectfully submitted,

/s/ Joel R. Rhine

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CERTIFICATE OF COMPLIANCE WITH BUSINESS COURT RULE 7.8

The undersigned, in accordance with Business Court Rule 7.8, certifies that the foregoing brief (exclusive of the case caption, signature blocks, and required certificates) contains fewer than 7,500 words, as reported by word-processing software.

This the 26th day of November, 2024.

/s/Danielle L. Perry
Danielle L. Perry