CAUSE NO. DC-24-09642

NORMA COVEY, LEWIS BENAVIDES, and ROBERT LEIGH-MANUELL on behalf of themselves and all others similarly situated,	IN THE DISTRICT COURT
Plaintiffs,	DALLAS COUNTY, TEXAS
v.	
TEXAS RETINA ASSOCIATES,	101st JUDICIAL DISTRICT
Defendant.	

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

Plaintiffs Norma Covey, Robert Leigh-Manuell, and Lewis Benavides individually and behalf of others similarly situated ("Plaintiffs") hereby move this Court to:

1. Preliminarily approve the settlement described in the Settlement Agreement between Plaintiffs and Texas Retina Associates ("TRA" or "Defendant");

2. Conditionally certify the Settlement Class;

3. Appoint Plaintiffs Norma Covey, Robert Leigh-Manuell, and Lewis Benavides as Class Representatives;

4. Appoint Raina Borrelli of Strauss Borrelli PLLC, John Nelson of Milberg, PLLC, and Charles Schaffer of Levin Sedran & Berman LLP as Class Counsel;

5. Approve a customary long form notice ("Long Notice") to be posted on the settlement website in a form substantially similar to the one attached as Exhibit C to the Settlement Agreement, filed herewith as **Exhibit 1**.

6. Direct Notice to be sent to the Settlement Class in the form and manner proposed as set forth in the Settlement Agreement in the form attached as Exhibit B to the Settlement Agreement ("Short Notice"), filed herewith as **Exhibit 1**;

7. Appoint RG2 Claims Administration LLC as the Claims Administrator;

8. Approve the use of a claim form substantially similar to that attached as Exhibit A to the Settlement Agreement, filed herewith as **Exhibit 1**; and

9. Set a hearing date and schedule for final approval of the Settlement and consideration of Settlement Class Counsel's motion for award of fees, costs, expenses, and service awards;

This Motion is based upon: (1) this Motion; (2) this Memorandum in Support of the Motion for Preliminary Approval of Class Action Settlement; (3) the Joint Declaration of Plaintiffs' Settlement Class Counsel filed herewith; (4) the Settlement Agreement; (5) the Notices of Class Action Settlement (both Short and Long Form); (6) the Claim Form; (7) the [Proposed] Order Granting Preliminary Approval of Class Action Settlement; (8) the records, pleadings, and papers filed in this action; and (9) upon such other documentary and oral evidence or argument as may be presented to the Court at or prior to the hearing of this Motion.

INTRODUCTION

Plaintiffs, on behalf of themselves and the putative Settlement Class, move the Court to preliminarily approve the class action settlement with Texas Retina Associates ("TRA" or "Defendant"), as fair, adequate, and reasonable. *See* Settlement Agreement, attached hereto as **Exhibit 1** ("Settlement Agreement" or "S.A."). In April 2024, the cybercriminal gang Bian Lian bypassed TRA's cybersecurity and accessed the personally identifiable information and protected health information (collectively, "Private Information") of 311,880 current and former patients of TRA. Those individuals disclosed their Private Information to TRA to obtain medical and health services, trusting it would protect their information using reasonable means. This is because the information TRA collected contained highly private and sensitive information including full names, addresses, phone numbers, email addresses, dates of birth, genders, Social Security numbers, medical record numbers, clinical information, prescription information, medical information, health information, and/or health insurance information.

On September 27, 2024, Plaintiffs filed a consolidated complaint against TRA asserting claims for negligence, negligence *per se*, breach of implied contract, breach of fiduciary duty, unjust enrichment, invasion of privacy, and declaratory judgment/injunctive relief, alleging the company violated its duty to protect their Private Information. After a full day mediation with experienced mediator Jill Sperber of Judicate West on May 7, 2025 that did not result in a settlement, and after commencing discovery and ongoing arm's-length negotiations between the Parties, the Plaintiffs and TRA reached the Settlement Agreement .[1]

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[1] All capitalized terms used herein should be given the meaning assigned in the Settlement Agreement.

If approved, the settlement will deliver four benefits to the class. First, it guarantees Settlement Class members credit monitoring for three years at no cost, reducing their risk for identity theft and fraud. Second, Settlement Class members can claim reimbursement for documented losses up to $4,000 they suffered from the Data Incident. Third, Settlement Class members may elect to receive a $45 cash payment in the alternative to documented losses. And fourth, TRA will pay the costs to administer the settlement, the class's attorney fees and costs, and Plaintiffs' service awards.

Pursuant to Texas Rule of Civil Procedure 42(e), Plaintiffs move the Court for an order certifying the class for settlement purposes, preliminarily approving the proposed Settlement Agreement, and approving the content and manner of the proposed notice process. Accordingly, and relying on the following memorandum of points and authorities, the Joint Declaration of Plaintiffs' Settlement Class Counsel (attached hereto as **Exhibit 2**), Plaintiffs respectfully request the Court preliminarily approve the parties' Settlement Agreement and issue the proposed order filed herewith.

BACKGROUND FACTS & PROCEDURAL HISTORY

A. The Data Incident

TRA is Texas' largest, most experienced ophthalmology practice, with 15 offices throughout the state. Plaintiffs' Consolidated Complaint ("Compl.") ¶ 2. To run its business, TRA collects Private Information from its current and former patients. *Id*. ¶ 5. That information includes patients' names, dates of birth, addresses, Social Security numbers, medical and health insurance information, and other sensitive information. *Id*. ¶ 34. In so doing, TRA promises to protect its former and current patients' data. *Id*. ¶¶ 35-38. Indeed, patients rely on TRA's promise to protect their Private Information. *Id*. ¶ 39. Even so, Plaintiffs allege that TRA never implemented the safeguards and systems needed to fulfill those promises. *Id*. ¶ 52. As a result, Plaintiffs allege that TRA's misconduct led to a data breach on March 27, 2024. *Id* ¶¶ 3, 40.

B. Plaintiffs' Claims and Procedural History.

On June 27, 2024, Plaintiff Norma Covey sued TRA in the District of Texas Court, Dallas County, Texas, 101st Judicial District, to remediate the harm the breach had caused her. *See Norma Covey v. Texas Retina Associates*, DC-24-09642. Shortly thereafter, Plaintiffs Leigh-Manuell, Benavides, Hickey, Bennett, and Siria filed their respective complaints alleging similar harms arising from the same Data Incident.

Prior to filing their cases, Plaintiffs' counsel conducted extensive pre-suit discovery to ascertain all publicly available details about the cause, scope, and result of the Data Incident, as well as about the damages suffered by Plaintiffs and the Class. Joint Declaration of Plaintiffs' Settlement Class Counsel Supporting their Motion for Preliminary Approval ("Joint Decl.") ¶ 4.

On July 30, 2024, Plaintiffs filed an Unopposed Motion to Consolidate their complaints, which was subsequently granted on August 28, 2024. Plaintiffs Covey, Leigh-Manuell, Benavides Hickey, and Bennett filed their Consolidated Complaint on or around September 27, 2024, asserting claims for (1) negligence; (2) negligence per se; (3) breach of implied contract; (4) breach of fiduciary duty; (5) unjust enrichment; (6) invasion of privacy; and (7) declaratory judgment/injunctive relief against TRA relating to the Data Incident.[2] *Id*. ¶ 6.

Soon after the filing of the Consolidated Complaint, the Parties agreed to explore informal resolution and the Parties exchanged informal discovery to aid settlement negotiations, including information targeted at the nature of the Data Incident, the size and scope of the Settlement Class,

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[2] Plaintiffs Hickey and Bennett have now dismissed their claims, without prejudice.

the data elements at issue, Defendant's responsive and remedial measures, and Defendant's financial condition. *Id*. ¶ 7.

The Parties then attended a full day mediation with experienced data breach mediator Jill Sperber of Judicate West on May 7, 2025, but were unable to resolve the matter at mediation. *Id*. ¶ 8. The parties then proceeded to formal discovery with each side propounding document requests and interrogatories. *Id*. ¶ 9. Throughout the pendency of discovery, the Parties continued to engage in several months of arms-length negotiations conducted through experienced counsel. *Id*. ¶ 10. While negotiations were always collegial, cordial, and professional, there is no doubt that they were adversarial in nature, with both Parties forcefully advocating the position of their respective clients. *Id*. ¶ 12. From the start, the Parties agreed they would not negotiate Proposed Class Counsel's attorney fees or Plaintiffs' service awards until they agreed on the settlement agreement's core terms, thus avoiding conflict between Plaintiffs and the Settlement Class. *Id*.

SETTLEMENT OUTLINE

The Settlement Agreement specifies how to implement the Parties' settlement from start to finish, including how to define the Settlement Class, the benefits they will receive, how to handle claims, and how Plaintiffs may petition for fees and service awards.

A. Class Definition

The Settlement Agreement defines the Settlement Class as "all individuals whose Private Information was accessed and/or acquired by an unauthorized party as a result of the data breach reported by Defendant in April 2024." S.A. ¶ 1.23.

B. Settlement Benefits

The settlement secures four benefits for the Settlement Class, remediating and mitigating the harms TRA's Data Incident caused and will continue to cause.

First, Settlement Class members can file a claim to receive three (3) years of credit monitoring, which will include one credit bureau monitoring, at no cost if they elect to enroll. *Id.* ¶ 2.3. These services will come with fraud insurance, covering up to $1 million in losses for members who enroll. *Id*. Additional services that the Settlement Class will receive include dark web monitoring, fully managed identity recovery, and wallet assistance. *Id*.

Second, the settlement offers Settlement Class members a chance to claim losses from the breach. *Id.* ¶ 2. Specifically, Settlement Class members may claim up to $4,000 for any expenses they suffered resulting from the Data Incident such as identity theft and fraud. *Id.* ¶ 2.1. To support their claim, a Settlement Class member need only supply receipts or "documentation" from a third-party evidencing the loss which are reasonably connected to the Data Incident, and provide an affirmation that the information submitted are true and correct. *Id*. ¶ 2.1.2.

Third, and in the alternative to expense reimbursement, Settlement Class members may select to receive a $45 cash payment even if they have not yet lost money as a result of the Data Incident. *Id*. ¶ 2.2.

Fourth, TRA will pay the cost to administer the settlement, including the Claims Administrator's costs to notify the Settlement Class and process claims, as well as the class's attorney fees and costs, and Plaintiffs' service awards . *Id*. ¶¶ 1.7., 2.4.5.

C. Class Notice

To notify the Settlement Class, the settlement outlines how the Claims Administrator will collect Settlement Class member information and notify them about the settlement's terms. *Id.* ¶ 3.2. To start, the Settlement Administrator will create and update the Settlement website where it will post all documents relating to this case and the settlement, including all claim forms needed to submit a claim online. *Id.* ¶ 3.2 (c). Under the Agreement, the website must allow Settlement

Class members to file claims electronically if they so choose. *Id*. Then, the Claims Administrator will notify all Settlement Class members by mail using mailing addresses known and on file with TRA. *Id.* ¶ 3.2 (a). In so doing, the Claims Administrator will use industry standard practices to verify the accuracy of this information, including comparing those addresses to the National Change of Address database and updating any addresses if needed. *Id.* ¶¶ 3.2(a), 3.2(d). If a mailer is returned "undeliverable," the Claims Administrator will remail the notice to any "forwarding address" provided by the USPS. *Id*. ¶ 3.2(d). If there is no forwarding address, the Claims Administrator shall perform a standard skip trace to ascertain the current address of the particular Settlement Class Member in question and, if such an address is ascertained, the Claims Administrator will re-send the Short Notice within seven (7) days of receiving such information. *Id*. Under the Settlement Agreement, the Claims Administrator will start this process 45 days after the Court preliminarily approves the settlement and the Settlement Class will have 90 days to claim benefits after mailing. *Id.* ¶ 2.1.2.

D. Release

To receive the settlement's benefits, Plaintiffs and the Settlement Class agree to release TRA from their class action claims. *Id*. ¶ 6.1. The Parties tailored the release to affect only those claims related to TRA's Data Incident defined as "Released Claims" under the agreement. *Id*. ¶¶ 1.19, 6. That definition restricts the release only to claims, "based on, relating to, concerning or arising out of the Data Incident or the allegations, transactions, occurrences, facts, or circumstances alleged in or otherwise described in the Litigation." *Id.* That release will take effect after the Court enters its "Final Order and Judgment" approving the settlement, though it will not prevent the parties or Settlement Class members from moving to enforce the settlement's terms. *Id*. ¶ 6.2.

E. Attorneys' Fees and Service Awards

The Parties did not discuss or negotiate the fee or service award until they agreed on the terms benefiting the Settlement Class. Joint Decl. ¶ 12. As a result, the Parties avoided conflict with the Settlement Class's interests, thus fulfilling their responsibilities to the Settlement Class first. *Id*.

If the Court preliminarily approves the settlement, Plaintiffs will petition the Court no later than 14 days before the objection and opt-out deadline. TRA has agreed to pay Class Counsel's attorneys' fees, inclusive of any costs and expenses of the Litigation, for up to $1,000,000.00. *Id*. ¶ 7.2. As a service award, Plaintiffs will request $1,000 for each Class Representative ($5,000.00 total), subject to approval by the Court. *Id*. ¶ 7.3. TRA will pay the costs to administer the settlement and any Plaintiffs' service awards approved by the Court. *Id*. ¶¶ 1.7, 7.4.

ARGUMENT

A. Legal Standards

Plaintiffs bring this motion pursuant to Texas Rule of Civil Procedure 42(e). The Rule reads, in pertinent part, "[t]he Court must approve any settlement, dismissal, or compromise of the claims, issues, or defenses of a certified class," and requires "[n]otice of the material terms of the proposed settlement, dismissal or compromise, together with an explanation of when and how the members may elect to be excluded from the class" to be provided to all class members as the Court directs. Tex. R. Civ. P. 42(e)(1). The Court may then give final approval to a settlement only after notice has been provided, a hearing has been held, and the Court has found that the settlement is fair, reasonable, and adequate. *Id.*

In determining whether a class action settlement should be approved, Texas courts endorse the three step process described in by the *Manual for Complex Litigation*: (1) preliminary approval of the proposed settlement; (2) dissemination of notice of the settlement to settlement class members; and (3) a fairness hearing or final approval hearing where class members may be heard regarding the settlement, evidence regarding the fairness, adequacy and reasonableness of the settlement can be presented, and the court can safeguard class member interests and determine whether to provide final approval. *See, e.g., O'Reilly v. Brodie*, 975 S.W.2d 57, 59 n.1 (Tex. App. 1998) (noting that approval of class action settlements involves preliminary approval, dissemination of notice, and a formal fairness hearing); *see also Northrup v. SW. Bell Tel. Co.,* 72 S.W.3d 16, 18 (Tex. App. 2002) (same).

The preliminary approval stage provides a forum for the initial evaluation of a settlement, and where no class has been previously certified, a determination as to whether a proposed settlement class should be certified. 2 Newberg & Conte, Newberg on Class Actions §§ 11.22, 11.27 (3d ed. 1992). The decision to approve or reject a proposed settlement lies firmly within the discretion of the trial court. *Northrup*, 72 S.W.3d 16. Granting preliminary approval will allow Settlement Class members the opportunity to learn about the settlement, make a claim, opt-out, or object and be heard by the Court.

Plaintiffs here seek preliminary approval of the proposed settlement—an initial evaluation of the fairness of the proposed settlement. *See Manual for Complex Litigation* § 30.44 (4th ed.). Because the proposed Settlement Agreement and plan of distribution fall within the range of possible approval, this Court should grant Plaintiffs' motion and allow notice to be provided to the Settlement Class. *See* 2 Newberg & Conte, Newberg on Class Actions ("*Newberg*") § 11.25 (3d ed. 1992).

LEGAL DISCUSSION

Judicial policy favors the resolution of disputes through settlement, which are upheld whenever possible as they are a means of amicably resolving doubts and avoiding the expenses and uncertainties of wasteful litigation. *Cadle Co. v. Castle*, 913 S.W.2d 627, 638 (Tex. App.

1995). Texas courts have consistently held that, in regard to settlements, “the trial court is entitled to give weight to the judgment of experienced counsel for the parties and, absent fraud, collusion, or gross unfairness, should be hesitant to substitute its judgment for that of counsel.” *Bloyed v. Gen. Motors Corp.*, 881 S.W.2d 422, 430 (Tex. App. 1994).

A. The Court Should Certify the Proposed Settlement Class for Settlement Purposes.

Plaintiffs here seek certification of a Settlement Class consisting of “all individuals whose Private Information was accessed and/or acquired by an unauthorized party as a result of the data breach reported by Defendant in April 2024.” S.A. ¶1.22. The *Manual for Complex Litigation (Fourth)* advises that in cases presented for both preliminary approval and class certification, the “judge should make a preliminary determination that the proposed class satisfies the criteria.” MCL 4th, § 21.632.

When a court evaluates certification only in the context of settlement, the court’s evaluation is different than in a case that has not yet settled. *Amchem Products, Inc. v. Windsor*, 521 U.S. 591, 620 (1997). A court's review of certification of a settlement-only class is lessened: as no trial is anticipated in a settlement-only class case, the case management issues inherent in the ascertainable class determination need not be confronted. *See id.* Other certification issues however, such as “those designed to protect absentees by blocking unwarranted or overbroad class definitions” in the settlement-only class context require close examination by the court “asked to certify a settlement class [as the absentees] lack the opportunity, present when a case is litigated, to adjust the class, informed by the proceedings as they unfold.” *Id.*; *see also McAllen Medical Center, Inc. v. Cortez,* 66 S.W.3d 227 (Tex. 2001). Specifically, Texas courts require a close analysis of the scope of the class definition and the typicality and adequacy prongs of the class action assessment at the preliminary approval stage—as "the trial court's ability to later adjust the class at the fairness hearing and still protect all class members' interest may be severely limited. *McAllen Medical Center,* 66 S.W.3d at 232.

Despite the necessarily rigorous analysis of certain prongs at the preliminary certification stage, class actions are regularly certified for settlement. In fact, similar data breach cases have been certified – on a *national* basis. *See, e.g., In re Target*, 309 F.R.D. 482 (D. Minn. 2015); *In re Heartland Payment Systems, Inc. Customer Data Sec. Breach Litig.*, 851 F.Supp.2d 1040 (S.D. Tex. 2012). This case is no different.

Texas law regarding class actions is patterned after its federal counterpart, making federal cases regarding the certification of class actions highly persuasive authority. *See Glassell v. Ellis,* 956 S.W.2d 676, 682 (Tex. Ct. App. 1997). Under Rule 42, a class action may be maintained where the movants demonstrate (1) the class is so numerous that joinder is impracticable; (2) the class has common questions of law or fact; (3) the representatives' claims are typical of the class claims; and (4) the representatives will fairly and adequately protect class interests. *St. Louis S.W. Ry. Co. v. Voluntary Purchasing Groups, Inc.,* 929 S.W.2d 25, 30 (May 13, 1996) (citing Tex. R. Civ. P. 42 (a)).

1. The Settlement Class is so numerous that joinder is impracticable.

Numerosity requires "the class [be] so numerous that joinder of all members is impractical." Tex. R. Civ. P. 42(a)(1). This determination is not always based on numbers alone, but rather considers numbers as well as the nature of the action, judicial economy, geographical locations of the class members, and the likelihood that class members would be unable to prosecute individual lawsuits. *Weatherly v. Deloitte & Touche*, 905 S.W.2d 642, 653 (Tex. App. 1995). Here, the numbers alone are sufficient to demonstrate the numerosity prong has been met. As the proposed Settlement Class here numbers approximately 311,880 individuals, judicial economy would be well-served by certification. Despite the likelihood that most proposed Settlement Class members live in and around Texas, any attempt at joinder of such a large number of individual suits over such a vast geographical location would be impractical. Accordingly, the Settlement Class is sufficiently numerous to justify certification.

2. Questions of law and fact are common to the Settlement Class.

Commonality requires Plaintiffs to demonstrate "questions of law or fact common to the class." Tex. R. Civ. P. 42(a)(2). The threshold for meeting this prong is not high—commonality does not require that every question be common to every member of the class, but rather that the questions linking class members are substantially related to the resolution of the litigation and capable of generating common answers "apt to drive the resolution of the litigation" even where the individuals are not identically situated. *In re Heartland Payment Sys.*, 851 F. Supp. 2d at 1052 (citing *Wal-Mart Stores v. Dukes,* 564 U.S. 338, 347 (2011)).

Here, the commonality requirement is met because Plaintiffs can demonstrate numerous common issues exist. For example, whether TRA failed to adequately safeguard the Private Information of Plaintiffs and other Settlement Class members is a common question for the entire class. TRA's data security safeguards were common across the Settlement Class, and those safeguards applied to the data of one Settlement Class Member did not differ from those safeguards applied to another. This common question, and many others, alleged by Plaintiffs, are central to the causes of action brought here, will generate common answers, and can be addressed on a class-wide basis. Thus, Plaintiffs have met the commonality requirement of Rule 42.

3. Plaintiffs' claims and defenses are typical of the Settlement Class.

Under Rule 42, the typicality requirement is satisfied where "the claims or defenses of the class representatives have the same essential characteristics as those of the class as a whole." *Peters v. Blockbuster, Inc.*, 65 S.W.3d 295, 307 (Tex. Ct. App. 2001) (citing *Chevron U.S.A. v. Kennedy,* 808 S.W.2d 159, 162 (Tex. Ct. App. 1991)). "The claims need not be identical or perfectly coextensive, only substantially similar." *Peters*, 65 S.W.3d at 307.

Here, Plaintiffs' and Settlement Class members' claims all stem from the same event—the cybersecurity attack on TRA's computers and servers—and the cybersecurity protocols that TRA had (or did not have) in place to protect Plaintiffs' and Settlement Class members' Private Information. Thus, Plaintiffs' claims are typical, and the typicality requirement is satisfied.

4. Plaintiffs and their counsel will provide fair and adequate representation for the Settlement Class.

Representative Plaintiffs must be able to provide fair and adequate representation for the class. To satisfy the adequacy of representation requirement, plaintiffs must establish that: (1) there is no antagonism or conflict of interest between the class representatives and other members of the class; and (2) the assurance that through class counsel, the representative will vigorously prosecute the class's claims. *Glassell,* 956 S.W.2d at 682.

Here, Plaintiffs' interests are aligned with those of the Settlement Class in that they seek relief for injuries arising out of the same Data Incident. Plaintiffs' and Settlement Class members' data was all allegedly compromised by Defendant in the same manner. Under the terms of the Settlement Agreement, Plaintiffs and Settlement Class members will all be eligible for the same identity theft protection services. Thus, Plaintiffs are adequate and should be appointed as Settlement Class Representatives.

Further, counsel for Plaintiffs have decades of experience as a vigorous class action litigators and are well suited to advocate on behalf of the Settlement Class. *See* Joint Decl. ¶¶ 13, 19-29. Moreover, they have put their collective experience to use in negotiating an early-stage settlement that guarantees immediate relief to class members. Thus, the requirements of Rule 42(a) are satisfied, and counsel for Plaintiffs should be appointed as Settlement Class Counsel.

5. Certification is also appropriate because common issues predominate over individualized ones, and class treatment is superior.

To show that common issue predominate, Plaintiffs must demonstrate that common questions of law or fact relating to the class predominate over any individualized issues. Tex. R. Civ. Proc. 42(b)(3). In evaluating predominance of common issues, Texas courts do not focus on whether the common issues outnumber the individual ones, but rather whether the common issues "will be the object of most of the efforts of litigation." *Weatherly v. Deloitte & Touche*, 905 S.W.2d 642, 648 (Tex. Ct. App. 1996). Factors to be considered include:

(A) the interest of members of the class in individually controlling the prosecution or defense of separate actions;
(B) the extent and nature of any litigation concerning the controversy already commenced by or against members of the class;
(C) the desirability or undesirability of concentrating the litigation in the particular forum;
(D) the difficulties likely to be encountered in the management of a class action.

Tex.R. Civ. P. 42(b)(3).

Here, no facts suggest that the Settlement Class members have an interest in controlling the prosecution or defense of separate actions. No other actions filed against TRA pertaining to the Data Incident have been brought to proposed Settlement Class Counsel's knowledge. Concentration of litigation in this court is appropriate because the acts and omissions that led to the Data Incident, as well as the members of the Settlement Class, are primarily located in this county. And finally, because Plaintiffs are seeking certification for purposes of settlement, the manageability of the class action need not be considered. *See Amchem*, 521 U.S. at 620

(“Confronted with a request for settlement-only certification, a district court need not inquire whether the case, if tried, would present intractable management problems . . . for the proposal is that there be no trial.”)

In this case, key predominating questions are whether TRA had a duty to exercise reasonable care in safeguarding, securing, and protecting the Private Information of Plaintiffs and the Settlement Class, and whether TRA breached that duty. The common questions that arise from TRA’s conduct predominate over any individualized issues. Other courts have recognized that the types of common issues arising from data breaches predominate over any individualized issues. *See, e.g., In re Heartland*, 851 F. Supp. 2d at 1059 (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); *In re Anthem, Inc. Data Breach Litig*., 327 F.R.D. 299, 312–315 (N.D. Cal. 2018) (finding predominance was satisfied because “Plaintiffs’ case for liability depend[ed], first and foremost, on whether [the defendant] used reasonable data security to protect Plaintiffs’ personal information,” such that “the claims rise or fall on whether [the defendant] properly secured the stolen personal information,” and that these issues predominated over potential individual issues).

Here, the resolution of thousands of claims in one action is far superior to litigation via individual lawsuits. Class certification—and class resolution—guarantee an increase in judicial efficiency and conservation of resources over the alternative of litigating thousands of individual data breach cases arising out of the *same* Data Incident. The common questions of fact and law that arise from Defendant’s conduct predominate over any individualized issues, a class action is the superior vehicle by which to resolve these issues. Thus, the requirements of Rule 42(b)(3) are met. Accordingly, the class should be certified for settlement purposes.

B. The Settlement Terms are Fair, Adequate, and Reasonable.

Rule 42(e)(2) permits approval of a class action settlement after a determination that the Settlement is "fair, reasonable, and adequate." In determining whether a proposed class settlement is fair, reasonable, and adequate, a trial court is required to consider six factors: (1) whether the settlement was negotiated at arms' length or was a product of fraud or collusion; (2) the complexity, expense, and likely duration of the litigation; (3) the stage of proceedings, including the status of discovery; (4) the factual and legal obstacles that could prevent the Plaintiffs from prevailing on the merits; (5) the possible range of recovery and the certainty of damages; and (6) the respective opinions of the participants, including class counsel, class representatives, and the absent class members. *Johnson v. Scott*, 113 S.W.3d 366, 371 (Tex. App. 2003). "Put another way, the trial court must examine both substantive and procedural elements of the settlement: (1) whether the terms of the settlement are fair, adequate, and reasonable; and (2) whether the settlement was the product of honest negotiations or collusion." *General Motors Corp. v. Bloyed*, 916 S.W.2d 949, 955 (Tex. 1996).

1. The Settlement Agreement was the result of arm's-length negotiations between the Parties.

Here, the Parties mediated their agreement at "arm's length." *Wal-Mart Stores,* 396 F.3d at 116 (presuming a settlement to be "fair" after experienced and capable counsel negotiated at arm's length). Throughout all negotiations, Settlement Class counsel and counsel for TRA fought hard for the interest of their respective clients. Further, Settlement Class Counsel has extensive experience litigating consumer cases, including class actions involving data breaches. *See generally,* Joint Decl. ¶¶ 19-29. Finally, the Parties avoided any conflict between Plaintiffs and the Settlement Class by bifurcating negotiations; first addressing the terms affecting the benefits to the Settlement Class and then negotiating the terms regarding Plaintiffs' attorney fees and service awards.

2. The terms of the Settlement Agreement are fair, adequate, and reasonable.

a. The Settlement Agreement provides real and certain relief to the Settlement Class, particularly in light of the uncertainty of prevailing on the merits.

The Settlement guarantees Settlement Class members real relief for harms and certain protections against additional harms in the future. As Plaintiffs explain below, the risks they face in litigating this case outweigh any benefit trying their case would provide. In fact, Plaintiffs secured an agreement that delivers what they sought to achieve in the first place, requiring TRA to mitigate their harm through credit monitoring, reimburse Settlement Class members' Data Incident related expenses, and offer an alternative cash payment for those who have not yet experienced monetary losses.

Additionally, due at least in part to their cutting-edge nature and the rapidly evolving law, data breach cases like this one generally face substantial hurdles—even just to make it past the pleading stage. *See Hammond v. The Bank of N.Y. Mellon Corp*., No. 08 Civ. 6060, 2010 WL 2643307, at *1 (S.D.N.Y. June 25, 2010) (collecting data breach cases dismissed at the Rule 12(b)(6) or Rule 56 stage). Class certification is another hurdle that would have to be met—and one that has been denied in other data breach cases. *See, e.g., In re Hannaford Bros. Co. Customer Data Sec. Breach Litig*., 293 F.R.D. 21 (D. Me. 2013). The Parties' settlement not only avoids those risks but affords Settlement Class members valuable relief now rather than years later. As a result, the Court should find this factor favors settlement.

b. Continued litigation is likely to be complex, lengthy, and expensive.

The costs, risks, and delay of continued litigation weigh in favor of settlement approval. The risks in establishing TRA's liability and the Settlement Class's losses favor settlement. The value achieved through the Settlement Agreement is guaranteed, whereas the chances of prevailing on the merits—and securing any amount of damages—are uncertain. While Plaintiffs strongly believe in the merits of their case, they also understand that TRA plans to assert a number of potentially case-dispositive defenses. Proceeding with litigation would open up Plaintiffs to the risks inherent in trying to achieve and maintain class certification and prove liability. In fact, should litigation continue, Plaintiffs would have to survive a motion to dismiss by Defendant in this Court in order to proceed past the pleading stage and into litigation. The level of additional costs would also significantly increase as Plaintiffs begin their preparation for the class certification argument and if successful, a near inevitable interlocutory appeal attempt. Additionally, even if Plaintiffs were to prevail at trial, TRA would likely appeal any verdict, delaying the Settlement Class's relief. Given the facts Plaintiffs identified in pre-suit discovery, including those affecting the class size, these factors favor settling the Settlement Class's claims. As a result, the Court should find this factor supports preliminary approval.

c. The settlement was reached after significant investigation and exchange of information and has strong support from Counsel.

The Parties were able to reach a settlement only after a significant exchange of information, a full day mediation with experienced data breach mediator Jill Sperber, and additional arm's-length negotiations following this mediation. Joint Decl., ¶¶ 7-11. Prior to filing their cases, Plaintiffs completed an independent investigation of the facts to reach a full understanding of the value of the case, as well as the attendant risks of continued litigation. *Id*. ¶ 4. As proposed Settlement Class Counsel detail in their Joint Declaration, they recommend the Court approve the settlement. *Id*. ¶ 13. Additionally, all of the named Plaintiffs support this Settlement. Although Settlement Class members will have a chance to object after the administrator notifies them about the agreement, Settlement Class Counsel anticipate the class will welcome its benefits given the significant relief offered.

C. The Proposed Settlement and Claims Administrator will Provide Adequate Notice.

Texas Rule of Civil Procedure 42 provides that a trial court shall order the best notice practicable under the circumstances. Here the notice process is designed to meet all the criteria set forth by the Manual for Complex Litigation. *See* S.A., Ex. C (Long Notice).

TRA agreed to provide Settlement Class members with notice directly as well as via publication, on the Settlement Website to be maintained by the Settlement Administrator. S.A., ¶ 3.1. The Settlement Administrator will also maintain a toll-free telephone number available by which Settlement Class members can seek answers to questions and receive information about the Settlement. *Id*. at ¶ 3.2.

Notice is required to provide specific information, all of which is included in the proposed notice available to class members here. Tex. R. Civ. P. 42(c)(2)(A)(i)-(vi). The Notice proposed by the Parties explains clearly and in plain language: (i) the nature of the action; (ii) the definition of the class certified; (iii) the class claims, issues and defenses; (iv) that a class member may object to the proposed settlement and enter an appearance through counsel if the member so desires; (v) that the Court will exclude from the class any member who requests exclusion, stating when and how members may elect to be excluded; and (vi) the binding effect of a class judgment on class members under Rule 42(c)(3).

The Notice is designed to be the best practicable under the circumstances, apprises Settlement Class members of the pendency of the action, and gives them an opportunity to object or exclude themselves from the settlement. Accordingly, the Notice process should be approved by this Court.

CONCLUSION

Plaintiffs have negotiated a fair, adequate, and reasonable settlement that guarantees Settlement Class members significant relief. The Settlement Agreement is well within the range of reasonable results, and an initial assessment of factors required to be considered on final approval favors preliminary approval. Accordingly, Plaintiffs respectfully request this Court certify the class for settlement purposes and grant their Unopposed Motion for Preliminary Approval of Class Action Settlement.

Dated: July 2, 2026

Respectfully submitted,

/s/ Joe Kendall

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CERTIFICATE OF CONFERENCE

I certify that on June 12, 2026, Plaintiff's counsel conferred with counsel for Defendant, regarding the substance of this motion and she stated that Defendant does not oppose the relief requested herein.

/s/ Raina Borrelli
Raina Borrelli

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served on all counsel of record on July 2, 2026 via e-file Texas, in accordance with the Texas Rules of Civil Procedure.

/s/ Joe Kendall
Joe Kendall

EXHIBIT 1

CAUSE NO. DC-24-09642

NORMA COVEY, LEWIS BENAVIDES, ROBERT LEIGH-MANUELL, DAVID HICKEY, and MARK BENNETT on behalf of themselves and all others similarly situated, Plaintiffs, v. TEXAS RETINA ASSOCIATES, Defendant.	IN THE DISTRICT COURT OF DALLAS COUNTY, TEXAS 101st JUDICIAL DISTRICT

SETTLEMENT AGREEMENT

This Settlement Agreement, dated as of July 1, 2026, is made and entered into by and among the following Settling Parties (as defined below): (i) Norma Covey, Robert Leigh-Manuell, and Lewis Benavides ("Plaintiffs"), individually and on behalf of the Class (as defined below); and (ii) Texas Retina Associates ("TRA" or "Defendant"). The Settlement Agreement is subject to Court approval and is intended by the Settling Parties to fully, finally, and forever resolve, discharge, and settle the Released Claims (as defined below), upon and subject to the terms and conditions hereof.

I. THE LITIGATION

Plaintiffs allege that on or about March 27, 2024, an unauthorized third party gained access to the Defendant's network and computer systems and obtained Defendant's files containing

Plaintiffs' and Class Members' sensitive personal information (the "Data Incident"). On or about June 28, 2024, Defendant provided mailed notification of the Data Incident to approximately 311,880 individuals for whom sufficient contact information could be found. Substitute notice was provided for any individual for whom contact information could not be located., notifying them that their personally identifiable information ("PII") and/or protected health information ("PHI") (collectively referred to as "Private Information" as defined below) may have been impacted by the Data Incident. Four related actions *Covey v. Texas Retina Associates, et al.*, No. DC-24-09642; *Leigh-Manuell v. Texas Retina Associates, et al.*, No. DC-24-09953; *Benavides v. Texas Retina Associates, et al.*, No. DC-24-10812; and *Sira v. Texas Retina Associates, et al.*, No. DC-24-11280 were filed in response to the Data Incident, and the Court subsequently consolidated those actions under the first filed *Covey* action for future proceedings.

Plaintiffs filed their consolidated complaint on September 27, 2024 and asserted claims for (1) negligence; (2) negligence per se; (3) breach of implied contract; (4) breach of fiduciary duty; (5) unjust enrichment; (6) invasion of privacy; and (7) declaratory judgment/injunctive relief against TRA relating to the Data Incident (the "Litigation"). Defendant denies the allegations asserted in the Litigation and denies liability, harm to Plaintiffs and the Class (defined below), and any alleged damages to Plaintiffs and the Class.

Soon after the filing of the consolidated complaint, the Parties agreed to explore informal resolution and the Parties exchanged informal discovery to aid settlement negotiations, including information targeted at the nature of the Data Incident, the size and scope of the Settlement Class, the data elements at issue, Defendant's responsive and remedial measures, and Defendant's financial condition.

The Parties attended a full day mediation with experienced data breach mediator Jill Sperber of Judicate West on May 7, 2025, but were unable to resolve the matter. The Parties continued negotiations, but ultimately proceeded to formal discovery with each side propounding documents requests and interrogatories. Throughout the pendency of discovery, the Parties engaged in arms-length negotiations. Ultimately, the Parties agreed to settle the action on a classwide basis and according to the terms set forth herein.

This Settlement Agreement provides for the resolution of all claims and causes of action asserted, or that could have been asserted, against TRA relating to the Data Incident, by and on behalf of Plaintiffs and Settlement Class Members (as defined below), and any other such actions by and on behalf of any other individuals originating, or that may originate, in jurisdictions in the United States of America against TRA relating to the Data Incident.

Plaintiffs believe the claims asserted in the Litigation, as set forth in the consolidated complaint, have merit. Plaintiffs and Class Counsel (as defined below) recognize and acknowledge, however, the expense and length of continued proceedings necessary to prosecute the Litigation against TRA through motions practice, trial, and potential appeals. They have also considered the uncertain outcome and risk of further litigation, as well as the difficulties and delays inherent in such litigation. Class Counsel are highly experienced in class-action litigation and very knowledgeable regarding the relevant claims, remedies, and defenses at issue generally in such litigation and in this Litigation. They have determined that the settlement set forth in this Settlement Agreement is fair, reasonable, and adequate, and in the best interests of the Class.

Defendant denies each and all of the claims and contentions alleged against it in the Litigation. Defendant denies all charges of wrongdoing, injury, damages, or liability as alleged, or which could be alleged, in the Litigation. Nonetheless, Defendant, recognizing the uncertainty and risks inherent in litigation, has concluded that further litigation would be protracted and expensive, and that it is desirable that the Litigation be fully and finally settled in the manner and upon the terms and conditions set forth in this Settlement Agreement.

II. TERMS OF SETTLEMENT

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and among Plaintiffs, individually and on behalf of the Settlement Class, and TRA that, subject to the approval of the Court, the Litigation shall be finally and fully compromised, settled, and released, and the Litigation shall be dismissed with prejudice, upon and subject to the terms and conditions of this Settlement Agreement, as follows:

1. Definitions

As used in the Settlement Agreement, whether preceding this section of the Agreement or thereafter, the following terms have the meanings specified below:

1.1 "Agreement" or "Settlement Agreement" means this agreement.

1.2 "Claims Administration" means providing notice to the Settlement Class Members and the processing and payment of claims received from Settlement Class Members by the Claims Administrator as well as the performance of other administrative duties performed in service of this Agreement (as defined below).

1.3 "Claims Administrator" means RG2 Claims Administration LLC, a company experienced in administering class action claims and settlements generally and specifically those of the type provided for and made in data breach litigation.

1.4 "Claims Deadline" means the postmark and/or online submission deadline for Valid Claims (as defined below) pursuant to ¶ 2.1.

1.5 "Claim Form" means the form utilized by the Settlement Class Members to submit a Settlement Claim (as defined below). The Claim Form, subject to Court approval, will be substantially in the form shown in **Exhibit A** attached hereto, which will be available on both the Settlement Website (as defined below), and in paper format for Settlement Class Members who specifically request a paper copy.

1.6 "Class Counsel" means Raina Borrelli of Strauss Borrelli PLLC, John Nelson of Milberg, PLLC, and Charles Schaffer of Levin Sedran & Berman LLP.

1.7 "Costs of Claims Administration" means all reasonable, actual costs for Claims Administration incurred in the administration of this Settlement, including, without limitation, all expenses and costs associated with claims administration, the notice plan and providing Notice to the Settlement Class. Costs of Claims Administration also include all reasonable third-party fees and expenses incurred by the Claims Administrator in administering the terms of this Agreement. Defendant will pay all Costs of Claims Administration separately and apart from all other benefits herein.

1.8 "Data Incident" means the cybersecurity incident perpetrated against TRA giving rise to the Litigation.

1.9 "Effective Date" means the first date by which all of the events and conditions specified in ¶ 1.10 herein have occurred and been met.

1.10 "Final" means the occurrence of all of the following events: (i) the settlement pursuant to this Settlement Agreement is finally approved by the Court; (ii) the Court has entered a Judgment (as defined below); and (iii) the time to appeal or seek permission to appeal from the Judgment has expired or, if appealed, the appeal has been dismissed in its entirety, or the Judgment has been affirmed in its entirety by the court of last resort to which such appeal may be taken, and such dismissal or affirmance has become no longer subject to further appeal or review. Notwithstanding the above, any order modifying or reversing any attorneys' fee award for fees and expenses or service award made in this case shall not affect whether the Judgment is "Final" as defined herein. Nor will any such modification or reversal affect any other aspect of the Judgment.

1.11 "Judgment" means a judgment rendered by the Court.

1.12 "Long Notice" means the long form notice of settlement posted on the Settlement Website, substantially in the form, subject to Court approval, shown in **Exhibit C** hereto.

1.13 "Objection Date" means the date by which Settlement Class Members must mail their objection to the settlement for that objection to be effective. The postmark date shall constitute evidence of the date of mailing for these purposes.

1.14 "Opt-Out Date" means the date by which Settlement Class Members must mail their requests to be excluded from the Settlement Class for that request to be effective. The postmark date shall constitute evidence of the date of mailing for these purposes.

1.15 "Person" means an individual, corporation, partnership, limited partnership, limited liability company, partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, and any business or legal entity, and their respective spouses, heirs, predecessors, successors, representatives, or assigns.

1.16 "Private Information" means certain PII and PHI, including, but not limited to, full names, addresses, phone numbers, email addresses, dates of birth, gender, Social Security numbers, medical record numbers, clinical information, prescription information, medical information, health information, and/or health insurance information.

1.17 "Plaintiffs" or "Class Representatives" means Norma Covey, Robert Leigh-Manuell, and Lewis Benavides.

1.18 "Preliminary Approval Order" means the order preliminarily approving the Settlement Agreement and ordering notice be provided to the Class. The Settling Parties' proposed form of Preliminary Approval Order is attached hereto as **Exhibit D**.

1.19 "Released Claims" shall collectively mean any and all past, present, and future claims, petitions, complaints, suits, demands, charges, causes of action, lawsuits, or other proceedings whereby a person may seek set-offs, costs, expenses, attorneys' fees, losses, rights, obligations, debts, contract enforcement, penalties, damages, or liabilities against another of any nature whatsoever, and including, but not limited to, any and all claims for damages, injunctive relief, disgorgement, declaratory relief, equitable relief, attorneys' fees and expenses, pre-judgment interest, credit monitoring services, the creation of a fund for future damages, statutory damages, punitive damages, special damages, exemplary damages, restitution, and/or the appointment of a receiver, whether known or unknown, liquidated or unliquidated, accrued or unaccrued, fixed or contingent, direct or derivative, in law or equity, by statute or common law, matured or not yet matured, and any other form of legal or equitable relief that either has been asserted, was asserted, or could have been asserted, by any Settlement Class Member against any of the Released Parties based on, relating to, concerning or arising out of the Data Incident or the allegations, transactions, occurrences, facts, or circumstances alleged in or otherwise described in the Litigation. Released Claims shall not include the right of any Settlement Class Member or any of the Released Parties to enforce the terms of the settlement contained in this Settlement Agreement and shall not include the claims of Settlement Class Members who have timely excluded themselves from the Settlement Class. Released claims shall not include claims relating to medical malpractice or any claims unrelated to the Data Incident that Plaintiffs and Settlement Class Members have, or may have in the future, against TRA and, to avoid doubt, that TRA may have, or may have in the future, against Plaintiffs or any Settlement Class Member.

1.20 "Released Parties" means TRA and all of its past, present, and future parent companies, partnerships, subsidiaries, affiliates, divisions, employees, servants, members, providers, partners, principals, directors, officers, shareholders, and owners, and all of their respective attorneys, heirs, executors, administrators, insurers, coinsurers, reinsurers, joint ventures, personal representatives, predecessors, successors, transferees, trustees, authorized agents, and assigns, and includes such entity who is, was, or could have been named as a defendant in the Litigation.

1.21 "Settlement" means the settlement of the Litigation by and between the Parties, and the terms thereof as stated in this Settlement Agreement.

1.22 "Settlement Claim" or "Claim" means a claim for settlement benefits made under the terms of this Settlement Agreement.

1.23 "Settlement Class" means all individuals whose Private Information was accessed and/or acquired by an unauthorized party as a result of the Data Incident reported by Defendant in April 2024. The Settlement Class specifically excludes: (i) TRA; and (ii) The judge presiding over this case and their staff and family. The Settlement Class consists of approximately 311,880 persons.

1.24 "Settlement Class Member(s)" or "Member(s)" means a Person(s) who falls within the definition of the Settlement Class.

1.25 "Settlement Website" means the website described in ¶ 3.2(c).

1.26 "Settling Parties" means, collectively, TRA and Plaintiffs, individually and on behalf of the Settlement Class.

1.27 "Short Notice" means the content of the mailed notice to the proposed Settlement Class Members, substantially in the form as shown in **Exhibit B** attached hereto. The Short Notice will direct recipients to the Settlement Website and inform Settlement Class Members, among other things, of the Claims Deadline, the Opt-Out Date, the Objection Date, the requested attorneys' fees and costs, and the date of the Final Fairness Hearing (as defined below).

1.28 "United States" means all 50 states, the District of Columbia, and all territories.

1.29 "Valid Claims" means Settlement Claims in an amount approved by the Claims Administrator or found to be valid through the claims processing and/or dispute resolution process described in ¶ 2.4.

2. Settlement Benefits

2.1 <u>Expense Reimbursement.</u> All Settlement Class Members who submit a Valid Claim using the Claim Form are eligible to receive reimbursement for documented extraordinary losses, not to exceed $4,000 per Settlement Class Member for documented monetary loss that: (i) is actual, documented, and unreimbursed; (ii) was more likely than not caused by the Data Incident; (iii) was incurred between March 27, 2024 and the Claims Deadline; and (iv) the Settlement Class

Member made reasonable efforts to avoid, or seek reimbursement for, the loss, including but not limited to exhaustion, if applicable, of the Settlement Class Member's credit monitoring insurance and identity theft insurance. To receive reimbursement for documented monetary losses, Settlement Class Members must submit a Valid Claim, including necessary supporting documentation, to the Claims Administrator. To be valid, a claim for reimbursement of documented losses must be supported by third-party documentary evidence. "Self-prepared" documents such as handwritten receipts are, by themselves, insufficient to receive reimbursement.

2.1.2. Settlement Class Members seeking reimbursement for documented monetary losses must complete and submit a Claim Form to the Claims Administrator, postmarked or submitted online on or before the 90th day after the deadline for the commencement of notice to Settlement Class Members as set forth in ¶ 3.2. The notice to the Settlement Class will specify this deadline and other relevant dates described herein. In submitting a Claim Form, a Settlement Class Member must affirm under penalty of perjury that information and documents submitted are true and correct. The Settlement Class Member must submit reasonable documentation that the out-of-pocket expenses and charges claimed were both actually incurred and plausibly arose from the Data Incident. Failure to provide supporting documentation of the out-of-pocket expenses referenced above, as requested on the Claim Form, shall result in denial of a claim.

2.1.3. Nothing in this Settlement Agreement shall be construed as requiring TRA to provide, and TRA shall not be required to provide, for a double payment for the same loss or injury that was reimbursed or compensated by any other source. No payment shall be made for emotional distress, personal/bodily injury, consequential damages, alleged losses incurred by any person other than a Settlement Class Member (except by a parent or guardian on behalf of their minor child or ward), or punitive damages, as all such amounts are not recoverable pursuant to the terms of the Settlement Agreement.

2.2 Cash Payment. Settlement Class Members may submit a claim to receive a $45 cash payment in lieu of any documented loss claims under ¶ 2.1. Settlement Class Members will not need to supply any documentary proof to select this option, but must submit a valid Claim Form attesting under penalty of perjury that they are a Settlement Class Member.

2.3 Identity Theft Protection. Settlement Class Members are eligible to claim three (3) years of identity theft protection services, which will include one credit bureau monitoring and $1 million in identity theft insurance protections. No supporting documentation is necessary to receive this Settlement benefit.

2.4 Dispute Resolution for Claims.

2.4.1 The Claims Administrator, in its sole discretion to be reasonably exercised, will determine whether: (i) the claimant is a Settlement Class Member; (ii) the claimant has provided all information needed to complete the Claim Form, including any documentation that may be necessary to reasonably support the expenses described in ¶ 2.1; (iii) the information submitted could lead a reasonable person to conclude that more likely than not the claimant has suffered the claimed losses as a result of the Data Incident; and (iv) the claimed loss is reasonably traceable to the Data Incident. The Claims Administrator may, at any time, request from the claimant, in writing, additional information as the Claims Administrator may reasonably require to evaluate the claim, *e.g.,* documentation requested on the Claim Form, and required documentation regarding the claimed losses. The Claims Administrator's initial review will be limited to a determination of whether the Claim is complete and plausible. For any claims the Claims

Administrator determines to be implausible, the Claims Administrator will submit those claims to the Settling Parties through counsel. If the Settling Parties, mutually, do not agree with the Claimant's claim, after meeting and conferring, then the Claim shall be denied. If the Settling Parties disagree regarding the treatment of the Claim, the Claimant's claim shall be resubmitted and referred to the Claims Administrator for a final binding and independent resolution.

2.4.2 Upon receipt of an incomplete or unsigned Claim Form or a Claim Form that is not accompanied by sufficient documentation to determine whether the Claim is facially valid, the Claims Administrator shall request additional information ("Claim Supplementation") and give the claimant thirty (30) days from the transmission of a cure notice to cure the defect before rejecting the claim. If the defect is not timely cured, then the Claim will be deemed invalid and there shall be no obligation to pay the Claim.

2.4.3 Following receipt of additional information from a claimant subject to a cure notice, the Claims Administrator shall have ten (10) days to accept, in whole or lesser amount, or reject each Claim. If, after review of the Claim and all documentation submitted by the claimant, the Claims Administrator determines that such a Claim is facially valid, then the Claim shall be paid subject to ¶ 2.4.4. If the Claims Administrator determines that such a Claim is not facially valid because the claimant has not provided all information needed to complete the Claim Form and enable the Claims Administrator to evaluate the Claim, then the Claims Administrator may reject the Claim without any further action. If the Claim is rejected in whole or in part, for other reasons, then the Claim shall be referred to counsel for the Settling Parties to resolve, with such resolution to be completed within ten (10) days of referral from the Claims Administrator.

2.4.4 The Claims Administrator shall administer and calculate distributions for Valid Claims. Class Counsel and counsel for TRA shall be given reports for the Valid Claims and have the right to challenge any such claim, including distributions thereunder. Class Counsel or counsel for TRA may request from the Claims Administrator and be provided through secure transmission, for any Valid Claim, the name of the Settlement Class Member, dollar amounts to be paid as extraordinary or ordinary losses, and all supporting documentation submitted for the Claim. If the Settling Parties agree within 10 days of receiving the requested information that any such claim is improper, the Claims Administrator shall follow counsel's joint direction on the disposition of the claim. If the Settling Parties agree the Valid Claim should be allowed or cannot agree on the disposition of a Valid Claim, the Claims Administrator shall proceed with payment on the Valid Claim.

2.4.5 Settlement Expenses. All costs for notice to the Settlement Class as required under ¶¶ 3.1-3.2, and costs of Claims Administration under ¶¶ 8.1-8.3, shall be paid by TRA separate and apart from the benefits afforded herein. If this Settlement Agreement is terminated or not approved, TRA will be responsible only for the costs specified above incurred by the date of termination or such non-approval.

2.5 Class Certification. The Settling Parties agree, for purposes of this settlement only, to the certification of the Settlement Class. If the settlement set forth in this Settlement Agreement is not approved by the Court, or if the Settlement Agreement is terminated or cancelled pursuant to the terms of this Settlement Agreement, this Settlement Agreement, and the certification of the Settlement Class provided for herein, will be vacated and the Litigation shall proceed as though the Settlement Class had never been certified, without prejudice to any Person's or Settling Party's position on the issue of class certification or any other issue. The Settling Parties' agreement to the certification of the Settlement Class is also without prejudice to any position asserted by the Settling Parties in any other proceeding, case, or action, as to which all of their rights are specifically preserved.

3. Order of Preliminary Approval and Publishing of Notice of Fairness Hearing

3.1. As soon as practicable after the execution of the Settlement Agreement, Class Counsel shall submit this Settlement Agreement to the Court, and file a motion for preliminary approval of the Settlement with the Court requesting entry of a Preliminary Approval Order in the form attached hereto as **Exhibit D**, or an order substantially similar to such form in both terms and cost, requesting, *inter alia:*

a) certification of the Settlement Class for settlement purposes only pursuant to ¶ 2.5;

b) preliminary approval of the Settlement Agreement as set forth herein;

c) appointment of Raina Borrelli of Strauss Borrelli PLLC, John Nelson of Milberg, PLLC, and Charles Schaffer of Levin Sedran & Berman LLP as Class Counsel;

d) appointment of Plaintiffs as Class Representatives;

e) approval of a customary form of Short Notice to be mailed by U.S. mail to Settlement Class Members in a form substantially similar to **Exhibit B**, attached hereto.

f) approval of the Long Notice to be posted on the Settlement Website in a form substantially similar to **Exhibit C**, attached hereto, which, together with the Short Notice, shall include a fair summary of the Settling Parties' respective litigation positions, the general terms of the settlement set forth in the Settlement Agreement, instructions for how to object to or opt-out of the settlement, the process and instructions for making claims to the extent contemplated herein, the requested attorneys' fees, and the date, time and place of the Final Fairness Hearing;

g) approval of the Claim Form to be available on the Settlement Website for submitting claims and available, upon request, in a form substantially similar to **Exhibit A**, attached hereto; and

h) appointment of RG2 Claims Administration LLC as the Claims Administrator.

3.2 Notice shall be provided to Settlement Class Members by the Claims Administrator as follows:

a) *Class Member Information*: Within fourteen (14) days of entry of the Preliminary Approval Order, TRA shall provide the Claims Administrator with a list that includes the name and physical address of each Settlement Class Member (collectively, "Settlement Class Member Information"), to the extent that information is in the possession ofTRA and/or the Released Entities. The Claims Administrator shall utilize industry standard practices for verifying the names and addresses of Settlement Class Members prior to sending Notice.

b) The Class Member Information and its contents shall be used by the Claims 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. Except to administer the Settlement as provided in this Agreement, or to provide data and information in its possession to the Settling Parties upon request, the Claims

Administrator shall not reproduce, copy, store, or distribute in any form, electronic or otherwise, the Settlement Class Member Information.

c) No later than twenty-one (21) days after entry of the Preliminary Approval Order, TRA shall pay or cause to be paid to the Settlement Administrator the funds necessary to pay for the printing costs and costs of transmitting Notice to the Settlement Class. The Settlement Administrator must submit an invoice to TRA within five (5) days after entry of the Preliminary Approval Order to recover reasonable costs associated with printing and transmitting Notice, and provide TRA with instructions for payment and Form W-9. The timing set forth in this provision is contingent upon the receipt of a W-9 from the Settlement Administrator within five (5) days of the date that the Preliminary Approval Order is entered. If TRA does not receive this information by five (5) days after the date the Preliminary Approval Order is entered, the payments specified by this paragraph shall be made within twenty-one (21) days after TRA receives this information. Payment of the remaining costs of Notice and Settlement Administration shall be made within thirty (30) days of the Effective Date. The Settlement Administrator must submit an invoice to TRA for payment of all remaining Notice and Settlement Administration Costs within five (5) days of the Effective Date.

d) *Settlement Website:* Prior to the dissemination of the Short Notice, the Claims Administrator shall establish the Settlement Website that will inform Settlement Class Members of the terms of this Agreement, their rights, relevant Settlement dates and deadlines, and related information. The Settlement Website shall include, in .pdf format and available for download, the following: (i) the Long Notice; (ii) the Claim Form; (iii) the Preliminary Approval Order; (iv) this Agreement; (v) the operative Class Action Complaint filed in the Litigation; and (vi) any other materials agreed upon by the Settling Parties and/or required by the Court. The Settlement Website shall provide Settlement Class Members with the ability to complete and submit the Claim Form, and supply supporting documentation, electronically.

e) *Short Notice:* Not later than forty-five (45) days after entry of the Preliminary Approval Order, subject to the requirements of this Agreement and the Preliminary Approval Order, the Claims Administrator will provide notice to the Settlement Class members as follows:

- via direct mail to the postal address provided within the Settlement Class Member Information. Before any mailing under this paragraph occurs, the Claims Administrator shall run the postal addresses of Settlement Class Members through the United States Postal Service ("USPS") National Change of Address database to update any change of address on file with the USPS within thirty (30) days of entry of the Preliminary Approval Order;
- in the event that a Short Notice is returned to the Claims Administrator by the USPS because the address of the recipient is not valid, and the envelope contains a forwarding address, the Claims Administrator shall re-send the Short Notice to the

forwarding address within seven (7) days of receiving the returned Short Notice;

- in the event that subsequent to the first mailing of a Short Notice, and at least fourteen (14) days prior to the Opt-Out Date and the Objection Date, a Short Notice is returned to the Claims Administrator by the USPS because the address of the recipient is no longer valid, i.e., the envelope is marked "Return to Sender" and does not contain a new forwarding address, the Claims Administrator shall perform a standard skip trace, in the manner that the Claims Administrator customarily performs skip traces, in an effort to attempt to ascertain the current address of the particular Settlement Class Member in question and, if such an address is ascertained, the Claims Administrator will re-send the Short Notice within seven (7) days of receiving such information. This shall be the final requirement for mailing.

f) Publishing, on or before the date of mailing the Short Notice, the Claim Form and the Long Notice on the Settlement Website as specified in the Preliminary Approval Order, and maintaining and updating the Settlement Website throughout the claim period;

g) A toll-free help line shall be made available to provide Settlement Class Members with information relevant to this Settlement through the Effective Date and longer if agreed upon by the Settling Parties;

h) The Claims Administrator also will provide hard copies of the Short Notice, Long Notice, and paper Claim Form, as well as this Settlement Agreement, upon request to Settlement Class Members; and

i) Contemporaneously with seeking Final approval of the Settlement, Class Counsel shall cause to be filed with the Court an appropriate affidavit or declaration with respect to complying with this provision of notice.

3.3 The Short Notice, Long Notice, and other applicable communications to the Settlement Class may be adjusted by the Claims Administrator, respectively, in consultation and agreement with the Settling Parties, as may be reasonable and not inconsistent with such approval. The notice program shall be commenced within forty-five (45) days after entry of the Preliminary Approval Order. Class Counsel, in their discretion, may issue a reminder notice if the claims rate is below 2.25%.

3.4 Class Counsel shall request that after notice is completed, the Court hold a hearing (the "Final Fairness Hearing") and grant final approval of the settlement set forth herein.

4. Opt-Out Procedures

4.1 Each Person wishing to opt-out of the Settlement Class shall individually sign with a wet-ink signature and timely submit written notice of such intent to the designated Post Office box established by the Claims Administrator. The written notice must clearly manifest a Person's intent to be excluded from the Settlement Class, identify the case name, state the individual's full name, current address, telephone number, and e-mail address (if any), and include a statement indicating a request to be excluded from the Settlement Class. The opt-out request must be personally signed by the Settlement Class member. No person shall purport to exercise any exclusion rights of any other person, or purport to opt-out Settlement Class Members as a group, in the aggregate, or as a class, or to opt-out more than one Settlement Class Member on a single Request for Exclusion, or as an agent or representative. Any such purported Request(s) for Exclusion shall be void. To be effective, written notice must be postmarked no later than sixty (60) days after the date on which the notice program is completed pursuant to ¶ 3.2.

4.2 All Persons who submit valid and timely notices of their intent to be excluded from the Settlement Class, referred to herein as "Opt-Outs," shall not receive any benefits of and/or be bound by the terms of this Settlement Agreement. All Persons falling within the definition of the Settlement Class who do not request to be excluded from the Settlement Class (i.e., Settlement Class Members) in the manner set forth in ¶ 4.1 above shall be bound by the terms of this Settlement Agreement and Judgment entered thereon, regardless of whether he or she files a Claim Form or receives any benefits from the settlement.

4.3 In the event that within ten (10) days after the Opt-Out Date as approved by the Court, there have been more than one hundred (100) timely and valid Opt-Outs (i.e., exclusions) submitted, TRA may, by notifying Class Counsel and the Court in writing, void this Settlement Agreement. If TRA voids the Settlement Agreement pursuant to this paragraph, TRA shall be obligated to pay all settlement expenses already incurred, excluding any attorneys' fees, costs, and expenses of Class Counsel and service awards and shall not, at any time, seek recovery of same from any other party to the Litigation or from counsel to any other party to the Litigation, excepting settlement expenses paid arising from acts of fraud by the party from whom recovery is sought.

5. Objection Procedures

5.1 Each Settlement Class Member desiring to object to the Settlement Agreement shall submit a timely written notice of his or her objection by the Objection Date. Such notice must be filed with the Clerk of the Court and mailed to the Claims Administrator, Class Counsel, and counsel for TRA. Such notice shall state: (i) the objector's full name, address, telephone number, and e-mail address (if any); (ii) information identifying the objector as a Settlement Class Member, including proof that the objector is a member of the Settlement Class (e.g., copy of notice, copy of original notice of the Data Incident); (iii) a written statement of all grounds for the objection, accompanied by any legal support for the objection the objector believes applicable; (iv) the identity of any and all counsel representing the objector in connection with the objection; (v) a statement as to whether the objector and/or his or her counsel will appear at the Final Fairness Hearing; (vi) a list of all other lawsuits (if any) in which the objector and/or his/her attorney has submitted an objection to a class action settlement within the last five (5) years; and (vii) the objector's wet-ink signature and, if applicable, the wet-ink signature of the objector's duly authorized attorney or other duly authorized representative. To be timely, written notice of an objection in the appropriate form must be filed with the Clerk of the Court no later than sixty (60) days from the date on which notice program is commenced pursuant to ¶ 3.2. Concurrently and by the same date, a copy of the objection must be mailed and postmarked or emailed to the Claims Administrator to the physical or email address established by the Claims Administrator and identified in the Claim Form. The Claims Administrator will forward, upon receipt, the objection to Class Counsel and counsel for TRA.

5.2 Any Settlement Class Member who fails to comply with the requirements for objecting in ¶ 5.1 shall waive and forfeit any and all rights he or she may have to appear separately and/or to object to the Settlement Agreement, and the Settlement Class Member shall be bound by all the terms of the Settlement Agreement and by all proceedings, orders, and any Judgment in the Litigation. The exclusive means for any challenge to the Settlement Agreement shall be through the provisions of ¶ 5.1. Without limiting the foregoing, any challenge to the Settlement Agreement, the final order approving this Settlement Agreement, or the Judgment to be entered upon final approval shall be pursuant to appeal under the Texas Rules of Appellate Procedure and not through a collateral attack.

6. Releases

6.1 Upon the Effective Date, each Settlement Class Member, including Plaintiffs, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims. Further, upon the Effective Date, and to the fullest extent permitted by law, each Settlement Class Member, including Plaintiffs, shall, either directly, indirectly, representatively, as a member of or on behalf of the general public or in any other capacity, be permanently barred and enjoined from commencing, prosecuting, or participating in any recovery in any action in this or any other forum (other than participation in the settlement as provided herein) in which any of the Released Claims is asserted against any one or more of the Released Parties.

6.2 Upon the Effective Date, TRA shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged Plaintiffs, each and all of the Settlement Class Members, and Class Counsel of all claims, including Unknown Claims, based upon the institution, prosecution, settlement, or resolution of the Litigation or the Released Claims, except for enforcement of the Settlement Agreement. Notwithstanding the above, any other claims or defenses TRA may have against such Persons including, without limitation, any claims based upon any retail, banking, debtor-creditor, contractual, or other business relationship with such Persons not based upon the institution, prosecution, settlement, or resolution of the Litigation or the Released Claims are specifically preserved and shall not be affected by the preceding sentence.

6.3 Notwithstanding any term herein, neither TRA nor their Released Parties, shall have or shall be deemed to have released, relinquished or discharged any claim or defense against any Person other than Plaintiffs, each and all of the Settlement Class Members, and Class Counsel.

7. Class Counsels' Attorneys' Fees, Costs, and Expenses; Service Awards to Plaintiffs

7.1 The Settling Parties did not discuss the payment of attorneys' fees, costs, expenses and/or service awards to Plaintiffs, as provided for in ¶¶ 7.2-7.3, until after the substantive terms of the settlement had been agreed upon, other than that TRA would not object to a request for reasonable attorneys' fees, costs, expenses, and a service award to Plaintiffs as may be ordered by the Court. TRA and Class Counsel then negotiated and agreed to the provision described in ¶ 7.2.

7.2 TRA has agreed to pay Class Counsels' attorneys' fees, inclusive of any costs and expenses of the Litigation, subject to Court approval, in an amount not to exceed $1,000,000.00. Class Counsel, in their sole discretion, shall allocate and distribute any amount of attorneys' fees, costs, and expenses awarded by the Court. No Person shall have any claim against the Claims Administrator and/or TRA based on allocations or distributions of attorneys' fees, costs, and expenses by Class Counsel.

7.3 Subject to Court approval, TRA has agreed not to object to a request for a service award in the amount of $1,000.00 to each named Plaintiff.

7.4 If awarded by the Court, TRA shall pay the attorneys' fees, costs, expenses, and service awards to Class Counsel within twenty-one (21) days of the Effective Date and the receipt of payment information and Form W-9 for the payee. Class Counsel shall thereafter distribute the award of attorneys' fees, costs, and expenses among Class Counsel and the service awards to Plaintiffs consistent with ¶¶ 7.2-7.3. TRA and the Claims Administrator shall have no responsibility, liability, or other obligation concerning the distribution of attorneys' fees, costs and expenses among Class Counsel and service award to Plaintiffs.

7.5 The amount(s) of any award of attorneys' fees, costs, and expenses, and the service awards to Plaintiffs are intended to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the settlement. These payments will not in any way reduce the consideration being made available to the Settlement Class as described herein. No order of the Court, or modification or reversal or appeal of any order of the Court, concerning the amount(s) of any attorneys' fees, costs, expenses, and/or service awards ordered by the Court to Class Counsel or Plaintiffs shall affect whether the Judgment is Final or constitute grounds for cancellation or termination of this Settlement Agreement.

8. Administration of Claims

8.1 The Claims Administrator shall administer and calculate the claims submitted by Settlement Class Members under ¶ 2.1. Class Counsel and TRA shall be given reports as to both claims and distribution and have the right to review and obtain supporting documentation to the extent necessary to resolve Claims Administration issues. The Claims Administrator's determination of whether a Settlement Claim is a Valid Claim shall be binding, subject to the process set forth in ¶ 2.4.The Settlement Administrator must submit an invoice to TRA for payment of all Valid Claims within fifteen (15) days of the Claim Deadline or as soon as all Claim deficiencies are resolved via the Dispute Resolution process set forth herein, whichever occurs later. TRA shall pay or cause to be paid to the Settlement Administrator the invoiced amount of all Valid Claims within thirty (30) days of the Effective Date.

8.2 Checks or electronic payment (if selected by a Settlement Class Member) for approved Valid Claims shall be mailed and postmarked or electronically transferred within forty-five (45) days of the Effective Date.

8.3 All Settlement Class Members who fail to timely submit a claim for any benefits hereunder within the time frames set forth herein, or such other period as may be ordered by the Court, or otherwise expressly allowed by law or the Settling Parties' written agreement, shall be forever barred from receiving any payments or benefits pursuant to the settlement set forth herein, but will in all other respects be subject to, and bound by, the provisions of the Settlement Agreement, the releases contained herein and the Judgment.

8.4 No Person shall have any claim against the Claims Administrator, TRA, Released Parties, Class Counsel, Plaintiffs, and/or TRA's counsel based on distributions of benefits to Settlement Class Members.

8.5 Information submitted by Settlement Class Members in connection with submitted claims under this Settlement Agreement shall be deemed confidential and protected as such by the Claims Administrator, Class Counsel, and counsel for TRA.

9. Conditions of Settlement, Effect of Disapproval, Cancellation, or Termination

9.1 The Effective Date of the settlement shall be conditioned on the occurrence of all of the following events:

a) the Court has entered the Order of Preliminary Approval and Publishing of Notice of a Final Fairness Hearing, as required by ¶ 3.1;

b) TRA has not exercised its option to terminate the Settlement Agreement pursuant to ¶ 4.3 or as otherwise permitted by this Settlement Agreement;

c) the Court has entered the Judgment granting final approval to the settlement as set forth herein; and

d) the Judgment has become Final, as defined in ¶ 1.11.

9.2 If all conditions specified in ¶ 9.1 hereof are not satisfied, the Settlement Agreement shall be canceled and terminated subject to ¶ 9.4 unless Class Counsel and counsel for TRA mutually agree in writing to proceed with the Settlement Agreement.

9.3 Within seven (7) days after the Opt-Out Date, the Claims Administrator shall furnish to Class Counsel and to TRA's counsel a complete list of all timely and valid requests for exclusion (the "Opt-Out List").

9.4 In the event that the Settlement Agreement or the releases set forth in ¶¶ 6.1-6.3 above are not approved by the Court or the settlement set forth in the Settlement Agreement is terminated in accordance with its terms: (i) the Settling Parties shall be restored to their respective positions in the Litigation and shall jointly request that all scheduled Litigation deadlines be reasonably extended by the Court so as to avoid prejudice to any Settling Party or Settling Party's counsel; and (ii) the terms and provisions of the Settlement Agreement shall have no further force and effect with respect to the Settling Parties and shall not be used in the Litigation or in any other proceeding for any purpose, and any judgment or order entered by the Court in accordance with the terms of the Settlement Agreement shall be treated as vacated, *nunc pro tunc.* Notwithstanding any statement in this Settlement Agreement to the contrary, no order of the Court or modification or reversal on appeal of any order reducing the amount of attorneys' fees, costs, expenses, and/or service awards shall constitute grounds for cancellation or termination of the Settlement Agreement.

10. Miscellaneous Provisions

10.1 The Settling Parties (i) acknowledge that it is their intent to consummate this Settlement Agreement; and (ii) agree to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of this Settlement Agreement, and to exercise their best efforts to accomplish the terms and conditions of this Settlement Agreement.

10.2 The Settling Parties intend this settlement to be a final and complete resolution of all disputes between them with respect to the Litigation. The settlement compromises claims that are contested and shall not be deemed an admission by any Settling Party as to the merits of any claim or defense. The Settling Parties each agree that the settlement was negotiated in good faith by the Settling Parties and reflects a settlement that was reached voluntarily after consultation with competent legal counsel. The Settling Parties reserve their right to rebut, in a manner that such party determines to be appropriate, any contention made in any public forum that the Litigation was brought or defended in bad faith or without a reasonable basis. It is agreed that no Party shall have any liability to any other Party as it relates to the Litigation, except as set forth in the Settlement Agreement.

10.3 Neither the Settlement Agreement, nor the settlement contained herein, nor any act performed or document executed pursuant to or in furtherance of the Settlement Agreement or the settlement (i) is or may be deemed to be or may be used as an admission of, or evidence of, the validity or lack thereof of any Released Claim, or of any wrongdoing or liability of any of the Released Parties; or (ii) 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 any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal. Any of the Released Parties may file the Settlement Agreement and/or the Judgment in any action that may be brought against them or any of them in order to support a defense or counterclaim based on principles of *res judicata,* collateral estoppel, release, good faith settlement, judgment bar, or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

10.4 The Settlement Agreement may be amended or modified only by a written instrument signed by or on behalf of all Settling Parties or their respective successors-in-interest.

10.5 This Agreement contains the entire understanding between TRA and Plaintiffs regarding the Settlement and supersedes all previous negotiations, agreements, commitments, understandings, and writings between TRA and Plaintiffs in connection with the Settlement. Except as otherwise provided herein, each party shall bear its own costs. Any agreements reached between TRA, Plaintiffs, and any third party, are expressly excluded from this provision.

10.6 Class Counsel, on behalf of the Settlement Class, are expressly authorized by Plaintiffs to take all appropriate actions required or permitted to be taken by the Settlement Class pursuant to the Settlement Agreement to effectuate its terms, and also are expressly authorized to enter into any modifications or amendments to the Settlement Agreement on behalf of the

Settlement Class which they deem appropriate in order to carry out the spirit of this Settlement Agreement and to ensure fairness to the Settlement Class.

10.7 Each counsel or other Person executing the Settlement Agreement on behalf of any party hereto hereby warrants that such Person has the full authority to do so.

10.8 The Settlement Agreement may be executed in one or more counterparts. All executed counterparts shall be deemed to be one and the same instrument. A complete set of original executed counterparts shall be filed with the Court.

10.9 The Settlement Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the parties hereto. No assignment of this Settlement Agreement will be valid without the other party's prior, written permission. Any attempt to assign rights or obligations hereunder without such consent shall be void and of no force or effect.

10.10 The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of the Settlement Agreement, and all parties hereto submit to the jurisdiction of the District Courts of Dallas County, Texas for purposes of implementing and enforcing the settlement embodied in the Settlement Agreement.

10.11 As used herein, "he" means "he, she, or it;" "his" means "his, hers, or its," and "him" means "him, her, or it."

10.12 All dollar amounts are in United States dollars (USD).

10.13 Cashing a settlement check or accepting an electronic payment of a Settlement distribution is a condition precedent to any Settlement Class Member's right to receive settlement benefits. All settlement checks shall be void ninety (90) days after issuance and shall bear the language: "This check must be cashed within ninety (90) days, after which time it is void." If a check becomes void, the Settlement Class Member shall have until three (3) months after the Effective Date to request re-issuance. If no request for re-issuance is made within this period, the Settlement Class Member will have failed to meet a condition precedent to recovery of settlement benefits, the Settlement Class Member's right to receive monetary relief shall be extinguished, and TRA shall have no obligation to make payments to the Settlement Class Member for expense reimbursement under ¶ 2.1 or any other type of monetary relief. The same provisions shall apply to any re-issued check. For any checks that are issued or re-issued for any reason more than two (2) months from the Effective Date, requests for re-issuance need not be honored after such checks become void.

10.14 All agreements made and orders entered during the course of the Litigation relating to the confidentiality of information shall survive this Settlement Agreement.

IN WITNESS WHEREOF, the parties hereto execute this Settlement Agreement as established by their signatures below.

Dated: June 30, 2026 Respectfully submitted,

/s/ Raina Borrelli

Raina Borrelli
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Fax: (872) 263-1109
Email: *raina@straussborrelli.com*

Jeffery S. Goldenberg
GOLDENBERG SCHNEIDER, LPA
4445 Lake Forest Drive, Suite 490
Cincinnati, OH 45242
Phone: (513) 345-8291

TEXAS RETINA ASSOCIATES

Signed by:
Jeffery T. Brockette

By: Jefferey T. Brockette
Its: CEO

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ATTORNEYS FOR PLAINTIFFS
AND PROPOSED CLASS

**Pro Hac Vice*

/s/ Norma Covey (Jul 1, 2026 09:43:21 CDT)
Norma Covey

/s/
Lewis Benavides

/s/
Robert Leigh-Manuell

REPRESENTATIVE PLAINTIFFS

ATTORNEYS FOR PLAINTIFFS
AND PROPOSED CLASS

**Pro Hac Vice*

/s/
Norma Covey

/s/ [redacted]ides (Jun 30, 2026 20:13:18 CDT)
Lewis Benavides

/s/
Robert Leigh-Manuell

REPRESENTATIVE PLAINTIFFS

**ATTORNEYS FOR PLAINTIFFS
AND PROPOSED CLASS**

******Pro Hac Vice*

/s/
Norma Covey

/s/
Lewis Benavides

Robert Allen Leigh-Manuell
/s/
Robert Leigh-Manuell

REPRESENTATIVE PLAINTIFFS

— EXHIBIT A —

Your claim must be submitted online or postmarked by:	**CLAIM FORM** *Covey, et al v. Texas Retina Associates, et al* Cause No. DC-24-09642 District Court Dallas County, Texas 101st Judicial District	

GENERAL INSTRUCTIONS

If you were mailed written notification on or about June 28, 2024 that indicated your Private Information was potentially compromised as a result of the Data Incident, you may submit a claim for settlement benefits, outlined below. You are eligible for monetary recovery in this settlement if you submit a valid and approved claim in the settlement of *Covey, et al v. Texas Retina Associates*, et al, Cause No. DC-24-09642. Please refer to the Long-Form Notice posted on the Settlement Website www.XXXXXXXXX.com, for more information on submitting a Claim Form.

This Claim Form may also be mailed to the address below. Please type or legibly print all requested information, in blue or black ink. Mail your completed Claim Form, including any supporting documentation, by U.S. mail to:

Texas Retina Associates Settlement
c/o RG/2 Claims Administration LLC
P.O. Box 59479
Philadelphia, PA 19102-9479

The unique Class Member ID and PIN that were printed on the Notice you received will be required to access the online and paper claim forms.

You may submit a claim for the following benefits:

1) **Documented Out of Pocket Expense Reimbursement:** All Settlement Class Members who submit a Valid Claim using the Claim Form are eligible for the following documented out-of-pocket expenses, not to exceed $4,000 per Settlement Class Member, that were incurred as a result of the Data Incident: (i) unreimbursed bank fees; (ii) long distance phone charges; (iii) cell phone charges (only if charged by the minute); (iv) data charges (only if charged based on the amount of data used); (v) postage; (vi) gasoline for local travel; and (vii) fees for credit reports, credit monitoring, or other identity theft insurance products purchased by Settlement Class Members between March 27, 2024 and the Claims Deadline. To receive reimbursement for any of the above-referenced out-of-pocket expenses, Settlement Class Members must submit a valid and timely claim, including necessary supporting documentation, to the Claims Administrator. 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. A legal guardian for a Participating Settlement Class Member who is under the age of eighteen (18) at the time of claim submission may submit a Minor Claim Form seeking reimbursement of Documented Out-of-Pocket Losses on the minor's behalf.

2) **Cash Payment:** All Settlement Class Members may make a claim for a cash payment of $45.00 in lieu of any documented loss claims. A Claim Form must be filed, but documentation is not required for the cash payment.

3) **Credit Monitoring**: All Settlement Class Members may elect to receive three (3) years of credit monitoring, which will include one credit bureau monitoring and $1,000,000 in identity theft protection insurance. No supporting documentation is necessary to receive this benefit.

I. SETTLEMENT CLASS MEMBER NAME AND CONTACT INFORMATION

Provide your name and contact information below. You must notify the Settlement Administrator if your contact information changes after you submit this Claim Form.

____
Name

____
Address 1

____
Address 2

____ ___ ___ ____________
City **State** **Zip Code**

___________________________________@________________________
Email Address (*Required if requesting electronic payment*)

Telephone Number: (_____ _____ _____) _____ _____ _____ - _____ _____ _____ ______

II. CLASS MEMBERSHIP

☐ Check this box to certify that you are an individual whose Private Information was potentially impacted in the Data Incident.

Enter the Class Member ID provided on your Notice: ____________________________________

III. DOCUMENTED OUT-OF-POCKET LOSSES

All Settlement Class Members who submit a Valid Claim using the Claim Form are eligible for the following documented out-of-pocket expenses, not to exceed $4,000 per Settlement Class Member, that were incurred as a result of the Data Incident: (i) unreimbursed bank fees; (ii) long distance phone charges; (iii) cell phone charges (only if charged by the minute); (iv) data charges (only if charged based on the amount of data used); (v) postage; (vi) gasoline for local travel; and (vii) fees for credit reports, credit monitoring, or other identity theft insurance products purchased by Settlement Class Members between March 27, 2024 and the Claims Deadline. To receive reimbursement for any of the above-referenced out-of-pocket expenses, Settlement Class Members must submit a valid and timely claim, including necessary supporting documentation, to the Claims Administrator. 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.

A legal guardian for a Participating Settlement Class Member who is under the age of eighteen (18) at the time of claim submission may submit a Minor Claim Form seeking reimbursement of Documented Out-of-Pocket Losses on the minor's behalf.

☐ **Check this box if you wish to submit a claim for a Cash Payment for Documented Losses.** To receive a Cash Payment for Documented Losses, a Settlement Class Member must attest, under penalty of perjury, to incurring documented losses. You are required to submit reasonable documentation supporting the losses and demonstrating that the losses are more likely than not related to the Data Incident.

Total amount for this category $ __________ (not more than $4,000)

Settlement Class Members with losses must submit documentation supporting their claims. This can include receipts or other documentation not "self-prepared" by the claimant that documents the costs incurred. "Self-prepared" documents such as handwritten receipts are, by themselves, insufficient to receive reimbursement for losses, but can be considered to add clarity or support other submitted documentation and a description of how the time was spent.

IV. CASH PAYMENT

All Settlement Class Members may make a claim for a cash payment of $45.00. A Claim Form must be filed, but documentation is not required for the cash payment.

☐ **Check this box to request a Cash Payment.**

V. CREDIT MONITORING

In addition to electing to receive monetary compensation, all Settlement Class Members may elect to receive three (3) years of credit monitoring, which will include one credit bureau monitoring and $1,000,000 in identity theft protection insurance. No supporting documentation is necessary to receive this benefit.

☐ **Check this box to request Credit Monitoring.**

If you elect to receive Credit Monitoring, an activation code will be sent to the email address you provided on this Claim Form once Settlement benefits are distributed.

VI. PAYMENT SELECTION

☐ Check here if you would like to receive payment for your approved claim, if any, via electronic means.

Please provide the email address for an electronic payment notification: ____________________________

If you do not check this box or provide a valid email address, your payment will be mailed via check to the address provided above.

VII. ATTESTATION & SIGNATURE

By signing my name below, I swear and affirm that the information included on this Claim Form is true and accurate, and that I am completing this claim form to the best of my personal knowledge. I further swear and affirm that I paid the increased prices during the class period as defined in the Long-Form Notice. I understand that I may be asked to provide supplemental information by the Claims Administrator before my claim will be considered complete and valid.

____ ___ ___ / ___ ___ / ___ ___ ___ ___

Print Name of Claimant Date

____

Signature (or signature of parent or guardian if Settlement Class Member is a minor)

— EXHIBIT B —

Legal Notice

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

COVEY, ET AL. V. TEXAS RETINA ASSOCIATES, ET. AL.
CAUSE NO. DC-24-09642

If your private information was potentially compromised as a result of a data incident announced by Texas Retina Associates on or about June 28, 2024, you may be eligible for a payment from a class action settlement.

Learn More At:
www.XXXXXXXXXX.com
[Bar Code]

Texas Retina Data Breach Settlement
c/o RG/2 Claims Administration LLC
P.O. Box 59479
Philadelphia, PA 19102-9479

Postal Service: Please do not mark barcode

«BarCode» TAR «MailCode»
«FirstName» «LastName»
«Street»
«Street2»
«City», «State» «Zip»

Class Member ID: -------------------- ***Pin: --------***

A proposed Settlement has been reached with Texas Retina Associates ("Defendant") for claims arising out of a data incident. On or about March 27, 2024, the private information of certain individuals was potentially accessible by an unauthorized third-party who gained access to Defendant's systems (the "Data Incident").

Who is Included? The Settlement Class includes all natural persons in the United States whose private information was potentially compromised as a result of the Data Incident, including those who were sent a notification from Defendant of the Data Incident on or around June 28, 2024.

What does the Settlement Provide? The Settlement will provide for: (1) compensation for Documented Out-of-Pocket Losses; OR (2) Cash Payment; AND (3) Credit Monitoring; (4) costs of Notice and Settlement Administration; (5) Court-approved service awards; and (6) Court-approved attorneys' fees and litigation expenses.

- **Documented Out-Of-Pocket Losses:** Settlement Class Members may submit a claim for reimbursement for certain documented losses, i.e., money spent or fees incurred for documented out-of-pocket losses with supporting documentation related to the Data Incident (up to $4,000) upon presentment of third-party documentation evidencing such losses; **OR**
- **Cash Payment:** Settlement Class Members may claim a cash payment in the amount of $45.00; **AND**
- **Credit Monitoring:** In addition to electing any of the other benefits, all Settlement Class Members may claim three (3) years of credit monitoring, which includes $1,000,000.00 in identity theft protection insurance.

How To Get Benefits You must complete and file a Claim Form online or by mail postmarked by **(DATE)**, including required supporting document if you choose a Documented Out-of-Pocket Loss payment. You can file your claim online through the Settlement Website at **www.XXXXXXXXXXXXX.com**. Your unique Class Member ID and PIN are required to access the form to file online or print a paper Claim Form. You may also get a paper Claim Form on the Settlement Website, or by calling the toll-free number 1-866-742-4955, and submit by mail to Texas Retina Data Settlement, c/o RG/2 Claims Administration LLC, P.O. Box 59479, Philadelphia, PA 19102-9479.

What Are My Other Options? If you stay in the Settlement Class, you will be legally bound by the Settlement's terms and you will release your claims against Defendant and the other Released Parties, regardless of whether you file a claim. If you do not want to be legally bound by the terms of the Settlement, you must exclude yourself by **(DATE)**. If you do not exclude yourself, you may object to the Settlement by **(DATE)**, as more fully described in the Settlement Agreement, available on the Settlement Website.

The Final Fairness Hearing: The Court will hold a Final Fairness Hearing on **(DATE)**, at **(TIME)** before the Honorable **[JUDGE]** of the District Court of Dallas County, Texas, 101st Judicial District, George L. Allen, Sr. Courts Building – 600 Commerce Street, 6th Floor West, Dallas, TX 75202, to consider: whether to approve the Settlement, Service Awards of $1,000 per Plaintiff, attorneys' fees and costs up to $1,000,000, as well as any objections. You or your attorney may request to appear at the hearing, but you are not required to do so. The hearing may be held remotely, so please check the Settlement Website for those details.

For more information, please visit the Settlement Website at www.XXXXXXXXXXXXX.com, or call toll-free number 1-866-742-4955, or email at **(XXXXXX@rg2claims.com).**

— EXHIBIT C —

NOTICE OF CLASS ACTION AND PROPOSED SETTLEMENT

If Texas Retina Associates ("Defendant") Notified You of a Data Incident, You May be Eligible For Benefits From a Class Action Settlement.

This is not a solicitation from a lawyer, junk mail, or an advertisement. A court authorized this Notice.

- A proposed Settlement has been reached in a class action lawsuit known as *Covey, et al v. Texas Retina Associates, et al.*, No. DC-24-09642 ("Lawsuit"), filed in the District Court of Dallas County, Texas, 101st Judicial District.
- This Lawsuit arises out of unauthorized access to Defendant's systems and certain files containing personally identifiable information including, full names, addresses, phone numbers, email addresses, dates of birth, gender, Social Security numbers, medical record numbers, clinical information, prescription information, medical information, health information, and/or health insurance information. (collectively "Private Information") and which was discovered by Defendant and notices were mailed out to potentially affected individuals on or about June 28, 2024 (the "Data Incident"). Defendant disagrees with Plaintiff's claims and denies any wrongdoing.
- All Settlement Class Members can receive the following benefits from the Settlement: (1) up to $4,000.00 for documented out-of-pocket expenses; or (2) a cash payment for $45; and (3) three years of credit monitoring, which includes $1,000,000 of identity theft protection insurance.
- You are included in this Settlement as a Settlement Class Member if you were mailed written notification that indicated your Private Information was potentially compromised as a result of the Data Incident that occurred on or about March 27, 2024.
- Your legal rights are affected regardless of whether you do or do not act. Read this Notice carefully.

YOUR LEGAL RIGHTS & OPTIONS IN THIS SETTLEMENT	
Submit a Claim	**You must submit a Valid Claim to get money from this Settlement.** Claim Forms must be submitted online by (DATE), if mailed, postmarked no later than (DATE).
Exclude Yourself	**Get out of the Settlement. Get no money. Keep your rights.** This is the only option that allows you to keep your right to sue about the claims in this lawsuit. You will not get any money from the Settlement. Your request to exclude yourself must be postmarked no later than (DATE).
File an Objection	Stay in the Settlement but tell the Court why you think the Settlement should not be approved. Objections must be postmarked no later than (DATE).
Go to a Hearing	You can ask to speak in Court about the fairness of the Settlement, at your own expense. *See* Question 18 for more details. The Final Fairness Hearing is scheduled for (DATE).

WHAT THIS NOTICE CONTAINS

BASIC INFORMATION

1. How do I know if I am affected by the Lawsuit and Settlement?

You are a Settlement Class Member if you were mailed written notification by Texas Retina Associates that your Private Information was potentially compromised as a result of the Data Incident on or about March 27, 2024.

The Settlement Class specifically excludes: (i) Texas Retina Associates, the Related Entities, and their officers and directors; and (ii) The judge presiding over this case and their staff and family. This Notice explains the nature of the lawsuit and claims being settled, your legal rights, and the benefits to the Settlement Class.

2. What is this case about?

This case is known as *Covey, et al v. Texas Retina Associates, et al,* Cause No. DC-24-09642, filed in the District Court of Dallas County, Texas, 101st Judicial District. The person who sued is called the "Plaintiff" and the company they sued, Texas Retina Associates, is known as the "Defendant" in this case.

Plaintiff filed a lawsuit against Defendant, individually, and on behalf of anyone whose Private Information was potentially impacted as a result of the Data Incident.

This Lawsuit arises out of unauthorized access to Defendants' systems and certain files containing certain personal information, including but not limited to, full names, addresses, phone numbers, email addresses, dates of birth, gender, Social Security numbers, medical record numbers, clinical information, prescription information, medical information, health information, and/or health insurance information. After learning of the Data Incident, notification was mailed to persons whose Private Information may have been impacted by the Data Incident. Subsequently, this lawsuit was filed asserting claims against Defendant relating to the Data Incident. Defendant denies Plaintiff's claims and denies any wrongdoing.

3. Why is there a Settlement?

By agreeing to settle, both sides avoid the cost, disruption, and distraction of further litigation. The Class Representatives, Defendant, and their attorneys believe the proposed Settlement is fair, reasonable, and adequate and, thus, best for the Settlement Class Members. The Court did not decide in favor of the Plaintiff or Defendant. Full details about the proposed Settlement are found in the Settlement Agreement available at www.XXXXXXXXX.com.

4. Why is this a class action?

In a class action, one or more people called a "Class Representative" sue on behalf of all people who have similar claims. All of these people together are the "Settlement Class" or "Settlement Class Members."

5. How do I know if I am included in the Settlement?

You are included in the Settlement if you were mailed written notification by Texas Retina Associates on or about June 28, 2024 that your Private was potentially compromised as a result of the Data Incident. If you are not sure whether you are included as a Settlement Class Member, or have any other questions about the Settlement, visit www.XXXXXXXX.com, call toll free 1-866-742-4955, send email to **info@RG2claims.com,** or write to **Texas Retina Associates Settlement**, c/o RG2 Claims Administration, P.O. Box 59479, Philadelphia, PA 19102-9479.

6. What does this Settlement provide?

The proposed Settlement will provide the following benefits to Settlement Class Members:

Expense Reimbursement

Documented Out of Pocket Expense Reimbursement: All Settlement Class Members who submit a Valid Claim using the Claim Form are eligible for the following documented out-of-pocket expenses, not to exceed $4,000 per Settlement Class Member, that were incurred as a result of the Data Incident: (i) unreimbursed bank fees; (ii) long distance phone charges; (iii) cell phone charges (only if charged by the minute); (iv) data charges (only if charged based on the amount of data used); (v) postage; (vi) gasoline for local travel; and (vii) fees for credit reports, credit monitoring, or other identity theft insurance products purchased by Settlement Class Members between March 27, 2024 and the Claims Deadline. To receive reimbursement for any of the above-referenced out-of-pocket expenses, Settlement Class Members must submit a valid and timely claim, including necessary supporting documentation, to the Claims Administrator.

Cash Payment: All Settlement Class Members may make a claim for a $45.00 cash payment without the need to document losses incurred as a result of the Data Incident in lieu of any documented loss claims.

Credit Monitoring: All Settlement Class Members may elect to receive three (3) years of credit monitoring, which will include one credit bureau monitoring and $1,000,000 in identity theft protection insurance. No supporting documentation is necessary to receive this Settlement benefit.

7. How to submit a claim?

All claims will be reviewed by the Claims Administrator. You must file a Claim Form to get any money and/or identity theft protection from the proposed Settlement. Claim Forms must be submitted online (**DATE**) or postmarked no later than **(DATE)**. You can download a Claim Form at www.XXXXXXXXX.com, send email to **info@RG2claims.com,** or you can call the Claims Administrator at 1-866-742-4955. The unique Login and Password that were printed on the Notice you received will be required to access the online and paper claim forms.

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

If you stay in the Settlement Class, you will be eligible to receive benefits, but you will not be able to sue Defendant and its Related Entities and each of their past or present parents, subsidiaries, divisions, and related or affiliated entities, and each of their respective predecessors, successors, directors, officers, principals, agents, attorneys, insurers, and reinsurers regarding the claims in this case. The Settlement Agreement, which includes all provisions about settled claims, releases, and Released Persons, is available at www.XXXXXXXXXX.com .

The only way to keep the right to sue is to exclude yourself (*see* Question 10), otherwise you will be included in the Settlement Class, if the Settlement is approved, and you give up the right to sue for the claims in this case.

9. Will the Class Representative receive compensation?

Yes. The Class Representatives will receive a service award of up to $1,000, to compensate them for their services and efforts in bringing the lawsuit. The Court will make the final decision as to the amount, if any, to be paid to the Class Representative.

EXCLUDE YOURSELF

10. How do I exclude myself from the Settlement?

If you do not want to be included in the Settlement, you must send a timely written request for exclusion. Your request for exclusion must be individually signed by you. Your request must clearly manifest your intent to be excluded from the Settlement.

Your written request for exclusion must be postmarked no later than **(DATE)** to:

Texas Retina Associates Settlement

c/o RG2 Claims Administration

P.O. Box 59479

Philadelphia, PA 19102-9479

Instructions on how to submit a request for exclusion are available at www.XXXXXXXXXX.com or from the Claims Administrator by calling 1-866-742-4955.

If you exclude yourself, you will not be able to receive any cash benefits from the Settlement and you cannot object to the Settlement. You will not be legally bound by anything that happens in this lawsuit and you will keep your right to sue the Defendant on your own for the claims that this Settlement resolves.

11. If I do not exclude myself, can I sue later?

No. If you do not exclude yourself from the Settlement, and the Settlement is approved by the Court, you forever give up the right to sue the Released Persons (listed in Question 8) for the claims this Settlement resolves.

12. What happens if I do nothing at all?

If you do nothing, you will be bound by the Settlement if the Court approves it, you will not get any money from the Settlement, you will not be able to start or proceed with a lawsuit, or be part of any other lawsuit against the Released Persons (listed in Question 8) about the settled claims in this case at any time.

THE LAWYERS REPRESENTING YOU

13. Do I have a lawyer in the case?

Yes. The Court has appointed Raina Borrelli of Strauss Borrelli PLLC, John Nelson of Milberg, PLLC, and Charles Schaffer of Levin Sedran & Berman LLP (called "Class Counsel") to represent the interests of all Settlement Class Members in this case. You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

14. How will the lawyers be paid?

Class Counsel will apply to the Court for an award of attorneys' fees, costs, and litigation expenses in an amount not to exceed $1,000,000.00. A copy of Class Counsel's Application for Attorneys' Fees, Costs, and Expenses will be posted on the Settlement Website, www.XXXXXXXXXX.com, before the Final Fairness Hearing. The Court will make the final decisions as to the amounts to be paid to Class Counsel, and may award less than the amount requested by Class Counsel.

OBJECTING TO THE SETTLEMENT

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

If you want to tell the Court that you do not agree with the proposed Settlement or some part of it, you can submit an objection telling it why you do not think the Settlement should be approved. Objections must be submitted in writing and include all the following information:

Such notice shall state:

(i) the objector's full name, address, telephone number, and e-mail address (if any);

(ii) information identifying the objector as a Settlement Class Member, including proof that the objector is a member of the Settlement Class (e.g., copy of notice, copy of original notice of the Data Incident);

(iii) a written statement of all grounds for the objection, accompanied by any legal support for the objection the objector believes applicable;

(iv) the identity of any and all counsel representing the objector in connection with the objection;

(v) a statement whether the objector and/or his or her counsel will appear at the Final Fairness Hearing;

(vi) the objector's signature and, if applicable, the signature of the objector's duly authorized representative.

Your Objection must include the case name and docket number, *Convey, et al v. Texas Retina Associates, Inc*, et al, Cause No. DC-24-09642, and be submitted to the Clerk of the Court by First-Class mail, received no later than (DATE), to:

Clerk of the Court
101st District Court
George L. Allen, Sr. Courts Building
600 Commerce Street
Box 685
Dallas, TX 75202

In addition, you must mail a copy of your objection to Class Counsel and Defense Counsel, postmarked no later than (DATE):

CLASS COUNSEL	DEFENSE COUNSEL
Raina Borrelli **STRAUSS BORRELLI PLLC** 980 N. Michigan Avenue, Suite 1610 Chicago, IL 60611 Charles Schaffer **LEVIN, SEDRAN & BERMAN LLP** 510 Walnut Street, Suite 500 Philadelphia, PA 19106 John Nelson **MILBERG, PLLC** 280 S. Beverly Drive Beverly Hills, CA 90212	Dina McKenney **HOLLAND & KNIGHT LLP** One Arts Plaza 1722 Routh Street, Suite 1500 Dallas, TX 75201 Timothy J. Lowe **MCDONALD HOPKINS** 39533 Woodward Ave., Ste 318 Bloomfield Hills, MI 48304 Jennifer Torrez **MCDONALD HOPKINS** 300 N. LaSalle St., Ste. 1400 Chicago, IL 60654

If you do not submit your objection with all requirements, or if your objection is not received by (DATE), you will be considered to have waived all Objections and will not be entitled to speak at the Final Fairness Hearing.

16. What is the difference between objecting and asking to be excluded?

Objecting is simply telling the Court that you don’t like something about the Settlement. You can object only if you stay in the Class. Excluding yourself is telling the Court that you don’t want to be part of the Settlement Class. If you exclude yourself, you have no basis to object because the Settlement no longer affects you.

THE FINAL FAIRNESS HEARING

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

The Court will hold the Final Fairness Hearing on (DATE) at (TIME) at the George L. Allen, Sr. Courts Building – 600 Commerce Street, 6th Floor West, Dallas, TX 75202. The hearing may be moved to a different date, time, or location without additional notice, so it is recommended that you periodically check www.XXXXXXXXX.com for updated information.

At the hearing, the Court will consider whether the proposed Settlement is fair, reasonable, adequate, and is in the best interests of Settlement Class Members, and if it should be approved. If there are valid objections, the Court will consider them and will listen to people who have asked to speak at the hearing if the request was made properly. The Court will also consider the award of Attorneys’ Fees, Costs, and Expenses to Class Counsel and the request for a service award to the Class Representative.

18. Do I have to come to the hearing?

No. You are not required to come to the Final Fairness Hearing. However, you are welcome to attend the hearing at your own expense.

If you submit an Objection, you do not have to come to the hearing to talk about it. If your objection was submitted properly and on time, the Court will consider it. You also may pay your own lawyer to attend the Final Fairness Hearing, but that is not necessary.

19. May I speak at the hearing?

Yes. You can speak at the Final Fairness Hearing, but you must ask the Court for permission. To request permission to speak, you must file an objection according to the instructions in Question 15, including all the information required. You cannot speak at the hearing if you exclude yourself from the Settlement.

DO NOTHING

20. What happens if I do nothing?

If you do nothing, you will not get any money from the Settlement, you will not be able to sue for the claims in this case, and you release the claims against Defendant described in Question 8.

GET MORE INFORMATION

21. How do I get more information about the Settlement?

This is only a summary of the proposed Settlement. If you want additional information about this lawsuit, including a copy of the Settlement Agreement, the Complaint, the Court's Preliminary Approval Order, Class Counsel's Application for Attorneys' Fees and Expenses, and more, please visit www.XXXXXXX.com or call 1-866-742-4955 . You may also contact the Claims Administrator at Texas Retina Associates c/o RG2 Claims Administration, P.O. Box 59479, Philadelphia, PA 19102-9479 .

PLEASE DO NOT ADDRESS ANY QUESTIONS ABOUT THE SETTLEMENT OR LITIGATION TO THE CLERK OF THE COURT, THE JUDGE, DEFENDANT, OR DEFENDANT'S COUNSEL.

— EXHIBIT D —

CAUSE NO. DC-24-09642

NORMA COVEY, LEWIS BENAVIDES, and ROBERT LEIGH-MANUELL on behalf of themselves and all others similarly situated, Plaintiffs, v. **TEXAS RETINA ASSOCIATES**, Defendant.	IN THE DISTRICT COURT DALLAS COUNTY, TEXAS 101st JUDICIAL DISTRICT

PRELIMINARY APPROVAL ORDER

Plaintiffs Norma Covey, Robert Leigh-Manuell, and Lewis Benavides, by and through their counsel, have submitted a Class Action Settlement Agreement (the "Settlement") and have applied under Texas Rule of Civil Procedure 42 for an order: (1) preliminarily approving the terms and conditions set forth in the Settlement, (2) certifying a class for purposes of settlement, (3) approving the form and method of notice to the Settlement Class Members, and (4) scheduling a Final Fairness Hearing to consider final approval of the Settlement. The Court has given due consideration to the terms of the Settlement, the exhibits to the Settlement, the submissions in support of preliminary approval of the Settlement, and the record of proceedings, and now finds that the proposed Settlement should be preliminarily approved pending notice to the Settlement Class Members and a final hearing on whether the Settlement is fair, reasonable, and adequate.

ACCORDINGLY, IT IS HEREBY ORDERED:

1. Terms capitalized herein and not otherwise defined shall have the meanings ascribed to them in the Settlement Agreement.

2. This Court has jurisdiction over the subject matter of this lawsuit and jurisdiction over the Plaintiffs, the Settlement Class Members, and Defendant in the above-captioned case (the "Parties").

3. The Court finds that for the purposes of settlement and notice the requirements of Texas Rule of Civil Procedure 42 have been met, specifically:

a. The Settlement Class is so numerous that joinder of all members is impracticable, as there are thousands of members;

b. There are questions of law or fact common to the Settlement Class based upon the claims raised in the lawsuit stemming from the Data Incident;

c. The Plaintiffs' claims are typical of the claims of the Settlement Class and stem from the same Data Incident;

d. The Plaintiffs and Class Counsel will fairly and adequately protect the interests of the Settlement Class as they have the same interests in claims relating to the Data Incident;

e. A class action provides a fair and efficient method for adjudication of the controversy, as questions of law and fact common to the Settlement Class predominate over any questions affecting only individual members in that the questions all relate to the Data Incident, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy as it will resolve all claims through one proceeding.

The Court therefore **CERTIFIES** the following Settlement Class:

> All individuals whose Private Information was accessed and/or acquired by an unauthorized party as a result of the data breach reported by Defendant in April 2024.

The Court appoints Plaintiffs as Class Representatives of the Settlement Class and appoints Raina C. Borrelli of Strauss Borrelli PLLC, John Nelson of Milberg, PLLC, and Charles Schaffer of Levin Sedran & Berman LLP as Settlement Class Counsel.

4. The Court finds that the terms of the Settlement are within the range of a fair, reasonable, and adequate settlement between the Settlement Class and Defendant under the circumstances of this case. The Court therefore preliminarily approves the Settlement and directs the Parties to the Settlement to perform and satisfy the terms and conditions of the Settlement that are triggered by such preliminary approval.

5. The proposed Notice in the forms attached to the Settlement, and the manner of distribution of such Notice by direct mail, are hereby approved by this Court as the best notice practicable to the Class. The proposed Notice attached to the Settlement and the manner of distribution of such by posting to the Settlement Website, is hereby approved by the Court. The form and manner of notice proposed in the Settlement complies with the requirements of due process. The Claim Form is likewise approved by the Court.

6. Pursuant to Texas Rule of Civil Procedure 42, a Final Fairness Hearing shall be held before the undersigned at the George L. Allen Courts Building, 600 Commerce St., 6th Floor West, Dallas, Texas 75202 (or by telephone or video conference, if necessary) on _________________, 2026 at _____ a.m./p.m., for the purposes of: (a) determining whether the Settlement is fair, reasonable, and adequate and should be finally approved; (b) determining whether a Final Approval Order should be entered; and (c) considering Settlement Class Counsel's application for an award of attorneys' fees, costs, expenses, and a service award. The Court may adjourn, continue, and reconvene the Final Approval Hearing pursuant to oral announcement without further notice to the Settlement Class, and the Court may consider and grant final approval

of the Settlement, with or without minor modification and without further notice to the Settlement Class.

7. RG2 Claims Administration LLC is appointed as Claims Administrator and shall cause notice to be sent to each Settlement Class Member as set forth in the Settlement.

8. Settlement Class Members shall be afforded an opportunity to opt-out of the Settlement. Any Settlement Class Member wishing to opt-out shall individually sign and timely submit written notice clearly manifesting their intent to be excluded from the Settlement Class within 60 days after the day on which the notice program commences to the designated Post Office box established by the Claims Administrator. Settlement Class Members who submit valid and timely notices of their intent to opt-out from the Settlement Class shall not receive any cash benefits of and/or be bound by the terms of this Settlement. Settlement Class Members who do not timely and validly opt-out of the Settlement Class shall be bound by all determinations and judgments in the action concerning the Settlement.

9. Settlement Class Members who have not opted-out of the Settlement Class shall be afforded an opportunity to object to the terms of the Settlement. Any objection must include: (i) the objector's full name, address, telephone number, and e-mail address (if any); (ii) information identifying the objector as a Settlement Class Member, including proof that the objector is a member of the Settlement Class (e.g., copy of notice, copy of original notice of the Data Incident); (iii) a written statement of all grounds for the objection, accompanied by any legal support for the objection the objector believes applicable; (iv) the identity of any and all counsel representing the objector in connection with the objection; (v) a statement as to whether the objector and/or his or her counsel will appear at the Final Fairness Hearing; (vi) a list of all other lawsuits (if any) in which the objector and/or his/her attorney has submitted an objection to a class action settlement

within the last five (5) years; and (vii) the objector's wet-ink signature and, if applicable, the wet-ink signature of the objector's duly authorized attorney or other duly authorized representative. To be timely, written notice of an objection in the appropriate form must be filed with the Clerk of the Court no later than sixty (60) days from the date on which notice program is completed. The objector or his or her counsel must also serve a copy of the objection on Settlement Class Counsel and TRA's counsel. For all objections emailed or mailed to Settlement Class Counsel and/or counsel for TRA, Settlement Class Counsel will file them with the Court as an exhibit to the Motion for Final Approval of the Settlement.

10. Any Settlement Class Member who does not make his or her objection known in the manner provided in the Settlement and Notice shall be deemed to have waived such objection and shall forever be foreclosed from making any objection to the fairness or adequacy of the proposed Settlement.

11. Any request for intervention in this action for purposes of commenting on or objecting to the Settlement must meet the requirements set forth above, including the deadline for filing objections, and also must be accompanied by any evidence, briefs, motions or other materials the proposed intervenor intends to offer in support of the request for intervention.

12. Any lawyer intending to appear at the Final Fairness Hearing must be authorized to represent a Settlement Class Member, must be duly admitted to practice law before the Court, and must file a written appearance. Copies of the appearance must be served on Settlement Class Counsel and counsel for Defendant in accordance with applicable rules of Court.

13. No later than fourteen (14) days prior to the deadlines for a Settlement Class Member to opt-out of or object to the Settlement, Settlement Class Counsel shall file a motion for

approval of the attorneys' fees, costs, expenses, and service awards to be paid by Defendant, along with any supporting materials, to be considered at the Final Fairness Hearing.

14. If the Settlement does not become effective or is rescinded pursuant to the terms of the Settlement, the Settlement and all proceedings had in connection therewith shall be without prejudice to the status quo ante rights of the Plaintiffs and Defendant, and all orders issued pursuant to the Settlement shall be vacated.

15. The Court retains jurisdiction to consider all further applications arising out of or connected with the proposed Settlement.

IT IS SO ORDERED.

SIGNED this ____ day of _____, 2026.

____

HON. STACI WILLIAMS
JUDGE PRESIDING, 101ST DISTRICT COURT

EXHIBIT 2

CAUSE NO. DC-24-09642

NORMA COVEY, LEWIS BENAVIDES, and ROBERT LEIGH-MANUELL on behalf of themselves and all others similarly situated, Plaintiffs, v. **TEXAS RETINA ASSOCIATES**, Defendant.	IN THE DISTRICT COURT DALLAS COUNTY, TEXAS 101st JUDICIAL DISTRICT

JOINT DECLARATION OF PLAINTIFFS' COUNSEL SUPPORTING THEIR MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

1. We are counsel for Plaintiffs in the above-captioned case. This declaration supports Plaintiffs' Motion for Preliminary Approval of Class Action Settlement with Defendant, Texas Retina Associates, ("TRA" or "Defendant"), and the attachments thereto. This declaration explains the bases for the settlement, including the significant relief it affords the Settlement Class. We have personal knowledge of the facts in this declaration and could testify to them if called on to do so.

LITIGATION BACKGROUND

A. The Complaint and Procedural History

2. Plaintiffs are current and former TRA patients and breach victims. On June 27, 2024, Plaintiff Norma Covey sued TRA in the District of Texas Court, Dallas County, Texas, 101st Judicial District, to remediate the harm the breach had caused her. *See Norma Covey v. Texas Retina Associates*, DC-24-09642.

3. Shortly thereafter, Plaintiffs Leigh-Manuell, Bienavides, and Siria filed their respective complaints alleging similar harms arising from the same Data Incident.

4. Prior to filing their cases, Plaintiffs' counsel conducted extensive pre-suit discovery to ascertain all publicly available details about the cause, scope, and result of the Data Incident, as well as about the damages suffered by Plaintiffs and the Class.

5. On July 30, 2024, Plaintiffs filed an Unopposed Motion to Consolidate their complaints, which was subsequently granted on August 28, 2024.

6. Plaintiffs Covey, Leigh-Manuell, Bienavides filed their Consolidated Complaint on or around September 27, 2024, asserting claims for (1) negligence; (2) negligence per se; (3) breach of implied contract; (4) breach of fiduciary duty; (5) unjust enrichment; (6) invasion of privacy; and (7) declaratory judgment/injunctive relief against TRA relating to the Data Incident.

7. Soon after the filing of the Consolidated Complaint, the Parties agreed to explore informal resolution and the Parties exchanged informal discovery to aid settlement negotiations, including information targeted at the nature of the Data Incident, the size and scope of the Settlement Class, the data elements at issue, Defendant's responsive and remedial measures, and Defendant's financial condition.

8. The Parties then attended a full day mediation with experienced data breach mediator Jill Sperber of Judicate West on May 7, 2025, but were unable to resolve the matter at mediation.

9. The parties continued negotiations but ultimately proceeded to commence discovery with each side propounding documents requests and interrogatories.

10. Throughout the pendency of discovery, the Parties continued to engage in arms-length negotiations conducted through experienced counsel.

11. Following many additional months of negotiations at "arm's length," where the parties continued to evaluate the strengths and weaknesses underlying their claims and defenses, the parties were able to make come to an agreement on the key terms of the Settlement, which was executed on July 1, 2026.

12. While negotiations were always collegial, cordial, and professional, there is no doubt that they were adversarial in nature, with both Parties forcefully advocating the position of their respective clients. From the start, the Parties agreed they would not negotiate Proposed Class Counsel's attorney fees or Plaintiffs' service awards until they agreed on the settlement agreement's core terms, thus avoiding conflict between Plaintiffs and the Settlement Class.

COUNSEL'S RECOMMENDATION

13. Our years of experience in representing individuals in complex class actions—including data breach actions—informed Plaintiffs' settlement position, and the needs of Plaintiffs and the proposed Settlement Class. While we believe in the merits of the claims brought in this case, we are also aware that a successful outcome is uncertain and would be achieved, if at all, only after prolonged, arduous litigation with the attendant risk of drawn-out appeals and the potential for no recovery at all. Based upon our substantial experience, it is our opinion that the proposed settlement of this matter provides significant relief to the members of the Settlement Class and warrants the Court's preliminary approval. The Settlement is well within the range of other data breach settlements in the relief that it provides.

14. The Settlement Agreement's terms are designed to address the potential harms caused by the Data Incident, providing credit monitoring and identity theft restoration services, reimbursing economic and non-economic losses.

15. This result is particularly favorable given the risks of continued litigation. Plaintiffs face serious risks prevailing on the merits, including proving causation, as well as risk at class certification and at trial, and surviving appeal. A settlement today not only avoids the risks of continued litigation, but it also provides a benefit to the members of the Settlement Class now as opposed to after years of risky litigation.

16. The Agreement's benefits unquestionably provide a favorable result to the members of the Settlement Class, placing the Agreement well within the range of possible final approval and satisfying the requirements for preliminary approval under Texas law; therefore, the Court should grant preliminary approval.

17. Additionally, the Notice program contemplated by the Agreement provides the best practicable method to reach the Settlement Class members and is consistent with other class action notice programs that have been approved by various courts for similarly situated matters.

18. Thus, Plaintiffs' counsel asks the Court to grant preliminary approval of the settlement agreement and enter the proposed preliminary approval order attached to the Settlement Agreement and filed with this motion.

COUNSEL'S QUALIFICATIONS

A. Strauss Borrelli PLLC

19. Strauss Borrelli PLLC is a law firm in Chicago, Illinois, that focuses on complex civil and commercial litigation with an emphasis on consumer protection and data breach litigation.

20. Raina Borrelli, the principal attorney from Strauss Borrelli assigned to this case, is a partner at Strauss Borrelli PLLC whose practice focuses on complex class action litigation, including data breach, Telephone Consumer Protection Act ("TCPA"), false advertising, and

consumer protection cases in both state and federal courts around the country. Ms. Borrelli received her J.D. magna cum laude from the University of Minnesota Law School in 2011. Prior to joining Strauss Borrelli, Ms. Borrelli was a partner at Gustafson Gluek, where she successfully prosecuted complex class actions in federal and state courts. Ms. Borrelli is an active member of the Minnesota Women's Lawyers and the Federal Bar Association, where she has assisted in the representation of pro se litigants though the Pro Se Project. Ms. Borrelli has repeatedly been named to the annual Minnesota "Rising Star" Super Lawyers list (2014-2021) by SuperLawyers Magazine. She has also been repeatedly certified as a North Star Lawyer by the Minnesota State Bar Association (2012-2015; 2018-2020) for providing a minimum of 50 hours of pro bono legal services. In recent years, Ms. Borrelli has been substantially involved in a number of complex class action matters in state and federal courts including: *Hudock v. LG Electronics USA, Inc.*, 16-cv-1220 (JRT/KMM) (D. Minn.); *Baldwin v. Miracle-Ear, Inc.*, 20-cv-01502 (JRT/HB) (D. Minn.); *In re FCA Monostable Gearshifts Litig.*, 16-md-02744 (E.D. Mich.); Zeiger v. WellPet LLC, 17-cv-04056 (N.D. Cal.); *Wyoming v. Procter & Gamble*, 15-cv-2101 (D. Minn.); *In re Big Heart Pet Brands Litig.*, 18-cv-00861 (N.D. Cal.); *Sullivan v. Fluidmaster*, 14-cv-05696 (N.D. Ill.); *Rice v. Electrolux Home Prod., Inc.*, 15-cv-00371 (M.D. Pa.); *Gorczynski v. Electrolux Home Products, Inc.*, 18-cv-10661 (D.N.J.); *Reitman v. Champion Petfoods*, 18-cv-1736 (C.D. Cal.); *Reynolds, et al., v. FCA US, LLC*, 19-cv-11745 (E.D. Mich.).

21. Ms. Borrelli has significant experience in data privacy litigation and is currently litigating more than one hundred data breach cases in courts around the country as lead counsel or co-counsel on behalf of millions of data breach victims, including *In re Netgain Tech. Consumer Data Breach Litig.*, 21-cv-1210 (D. Minn.) (appointed by the court to the Plaintiffs' Interim Executive Committee); *In re C.R. England, Inc. Data Breach Litig.*, 2:22-cv-374-DAK-JCB

(appointed by the court has Interim Co-Lead Counsel); *Medina et al. v. PracticeMax Inc.*, 22-cv-01261-DLR (D. Ariz.) (appointed to Executive Leadership Committee); *Forslund et al. v. R.R. Donnelley & Sons Co.*, 1:22-cv-04260 (N.D. Ill.) (appointed as interim co-lead class counsel); *In re Lincare Holdings, Inc. Data Breach Litig.*, 8:22-cv-01472 (M.D. Fla.) (appointed to Interim Executive Leadership Committee, achieving a $7.25 million settlement for the class); *McLaughlin v. Flagstar*, 22-cv-11470 (E.D. Mich.); *Corra et al. v. Acts Retirement Services, Inc.*, 2:22-cv-02917 (E.D. Pa.); *Grogan v. McGrath RentCorp., Inc.*, 22-cv-490 (N.D. Cal.); *Darrin et al. v. Huntington Ingalls Indus.*, 4:23-cv-00053 (E.D.V.A.) (appointed interim co-lead class counsel); *Hulewat et al. v. Medical Management Resource Group, LLC*, 2:24-cv-00377 (D. Ariz.) (appointed Interim Co-Lead Class Counsel).

22. In addition to her robust data breach practice, Ms. Borrelli is also currently litigating a variety of consumer protection cases, including under the TCPA, various state right of publicity laws, and under the Illinois Biometric Information Privacy Act, including: *Murray, et al. v. Grocery Delivery E-Services USA Inc. d/b/a Hello Fresh*, 19-cv-12608 (D. Mass.) ($14 million TCPA class settlement); *Baldwin, et al. v. Miracle-Ear, Inc., et al.*, 20-cv-1502 (D. Minn.) ($8 million TCPA class settlement); *Callahan v. PeopleConnect, Inc.*, 20-cv-9203 (N.D. Cal.); *Kellman et al. v. Spokeo*, 21-cv-08976 (N.D. Cal.); *DeBose v. Dun & Bradstreet Holdings, Inc.*, 22-cv-00209 (D.N.J.).

B. Levin Sedran & Berman LLC

23. Levin Sedran is one of the nation's pre-eminent and most experienced plaintiffs' class-action firms with extensive experience and expertise in consumer protection, products liability, data breach, privacy, antitrust, securities and other complex class-action litigation. Through 4 decades of serving its clients, the firm's attorneys have gained national recognition for

their experience and skill and are frequently called upon to lead some of the largest class actions and mass torts in the country. In fact, Levin Sedran's stock and trade is the litigation of technically complex cases and MDLs. For example, Courts have appointed the firm lead counsel or to other leadership positions in hundreds of other cases, which includes more than forty MDLs. Levin Sedran is presently serving or has served in such positions in several of the nation's largest and most technically complex class actions. *See e.g., In re MoveIt Customer Data Security Breach Litigation,* MDL 3083 (D. Mass) (Lead Counsel, financial, medical and personal data*); In re Chinese-Manufactured Drywall Product Liab. Litig.*, MDL No. 2047 (E.D. La.) (Lead Counsel); *In re Nat'l Football League Players' Concussion Injury Litig.*, MDL No. 2323 (E.D. Pa.) (Plaintiffs Steering Committee and Subclass Counsel for Settlement*); In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010*, MDL 2179 (E.D. La.) (Special Counsel to the Plaintiffs' Fee and Cost Committee); *In re Air Cargo Shipping Servs. Antitrust Litig.*, MDL No. 1775 (E.D. N.Y.) (Co-Lead Counsel); *In re Phillips Recalled CPAP, BI-Level PAP, Mechanical Ventilator Products Liability Litigation*, MDL No. 3014 (W.D. Pa.) (Co-Lead counsel); *In re: Aqueous Film-Forming Foams Products Liability Litigation*, MDL No. 2873 (D.S.C.) (Plaintiffs' Executive Committee); *In re Wells Fargo Insurance Marketing Sales Practices Litigation*, MDL No. 2797 (C.D. Ca.) (Plaintiffs' Executive Committee); *In re Apple Inc. Device Performance Litigation*, MDL 2827 (N.D. Ca.) (Plaintiffs' Executive Committee) and *Feezle et al v. Norfolk Southern Railway Co. et al* (Norfolk Southern Train Derailment), (N.D. OH.) (Executive Committee). From leading and prosecuting complex class actions for over three decades, the firm's philosophy has always been and remains to efficiently, vigorously and zealously prosecute the action on behalf of their clients and the class.

24. As a result of the firm's success in representing clients and putative class members in complex litigation throughout the country, Levin Sedran has been distinguished as a Tier I class-action firm in the Best Law Firms' rankings published in the U.S. News and World Report Best Law Firms. The same rankings also distinguished Levin Sedran by ranking the firm as a Tier I firm for personal injury and mass torts. In addition, Levin Sedran was also named to THE NATIONAL LAW JOURNAL's insurance list of *America's Elite Trial Lawyers* in 2014 and attorneys at the firm are listed in the LEGAL 500, LAW DRAGON 500, Martindale Hubbell's *Directory of Preeminent Attorneys*, and Best Lawyers In America."

25. Charles E. Schaffer is a Philadelphia native and partner with Levin Sedran &Berman LLP ("Levin Sedran"), where he has practiced for over two decades and leads the firm's consumer class action and data breach and privacy teams. Levin Sedran is a Philadelphia law firm which has earned recognition as a "class-action powerhouse" due to pioneering the use of class action which resulted in numerous record-breaking recoveries over the last four decades, and as a result, are frequently called upon to lead some of the largest MDLs and complex litigation. Mr. Schaffer is a demonstrated leader in both the bar and his community, served as a United States Marine, and devotes his time outside of the courtroom to advancing and protecting consumers' and military service members' interests. Mr. Schaffer's stock and trade is leading complex litigation, having been appointed to 23 leadership positions in various MDLs by various district courts across the nation and having served in over fifty leadership positions in non-MDL complex litigation. *See id.* He has focused on representing consumers victimized by defective products, data breaches, and unfair or deceptive practices and helped recover billions of dollars in compensation. Of relevance, he has extensive experience representing victims of data breaches and invasion of privacy, including serving in leadership and as class counsel in over thitry-five data breach class

actions throughout the country, many of which include cases involving similar data security issues, data and claims brought in this matter. *See, e.g In re MoveIt Customer Data Security Breach Litigation*, MDL 3083 (D. Mass) (Lead Counsel, financial, health and personal data; one of the largest data breaches to date with over 100 million victims' PII and PHI compromised. Mr. Schaffer was selected as one of five lead counsel after the court reviewed applications and conducted interviews of over 50 applicants.); *In re: AT&T Inc., Customer Data Security Breach Litigation*, MDL No. 3114 (N.D. Tex.) (Plaintiffs' Steering Committee, financial and personal data, to date with over 70 million victims' PII compromised); *In re Change Healthcare, Inc. Customer Data Security Breach Litigation,* MDL 3108 (D. Minn.) (appointed to Plaintiffs' Steering Committee, financial, health and personal data; one of the largest data breaches to date, with over 100 million victims' PII and PHI compromised); *In Re: Columbia University Data Breach Litigation,* No.-cv-05541 (S.D. N.Y.) (Lead Counsel, personal, financial and health data); *Hall v. Healthcare Services Group Inc.,* No, 2:25-cv-04908 (Wolson, J.) (Lead Counsel, personal and financial data); *Volio v. Sugarhouse HSP Gaming, L.P. d/b/a Rivers Casino Philadelphia, et al.*, No. 2:25-cv-00039-JDW (E.D. Pa.) (Wolson, J.) (Lead Counsel, personal and financial data); *In re Anna Jaques Hospital Data Security Incident Litigation,* No. 1:24-cv-10792 (D. Mass) (Lead Counsel, health and personal data); *Holden v. Guardian Analytics, Inc.*, No. 2:23-cv-02156 (D.N.J.) (Lead Counsel, financial and personal data); *Reichbart v. Financial Business and Consumer Solutions, Inc.*, No. 2:24-cv-01876 (E.D. Pa.) (Lead Counsel, financial and personal data); *In re: NCB Mgmt. Serv., Inc. Data Breach Litigation*, No. 2:23-cv-01236 (E.D. Pa.) (Liaison Counsel, financial and personal data); *Hasson v. Comcast Cable Communications, LLC*, No. 2:23-cv-05039 (E.D. Pa.) (Liaison Counsel, and member of Executive Committee, personal data); *Hulewat v. Medical Management Resource Group LLC*, No. 2:24-cv-00377 (D. Ariz) (Executive

Committee, health and personal data); *Gambino v. Berry, Dunn, McNeil & Parker, LLC*, No. 2:24-cv-00146 (D. Me.) (Executive Committee); *In re: Overby-Seawell Co. Cust. Data Sec. Breach Litigation,* MDL No. 3056 (N.D. Ga) (Executive Committee, financial and personal data); *In re Wawa, Inc., Data Breach Litigation*, No. 2:19-cv-06019-GEKP (E.D. Pa.) (Co-Chair of third-party discovery committee for financial track); *In re: Carrier IQ Consumer Privacy Litigation*, MDL No. 2330 (N.D. Cal.) (Executive Committee, personal data); *In re: Target Corporation Customer Data Security Breach Litigation*, MDL 2522 (D. Minn.) (Executive Committee, financial and credit card data). He also has served as a member of the litigation teams and assisted lead counsel in other major data breach cases, including *In re: Marriot Int'l Cust. Data Sec. Breach Litigation*, MDL No. 2879 (D. Md.) (PII compromised) and *In re: Capital One Cons. Data Sec. Data Breach*, MDL No. 2915 (E.D. Va.) (PII compromised), and is currently serving in leadership in other data breach class actions as set forth in the firm resume.

C. John Nelson of Milberg LLP

26. Since its founding in 1965, Milberg has repeatedly taken the lead in landmark cases that have set groundbreaking legal precedents, prompted changes in corporate governance, and recovered over $50 billion in verdicts and settlements.[1] Milberg has been instrumental in obtaining precedent setting decisions at every level, including at the United States Supreme Court.[2] The firm pioneered federal class action litigation and is widely recognized as a leader in defending the rights of victims of large-scale wrongdoing. Milberg has been described by the New York Times as "[a]

[1] *See, e.g.*, *In re Tyco Int'l Ltd., Sec. Litig.*, MDL 1335 (D.N.H.) (serving as lead counsel and obtaining approval of $3.2 billion settlement); *In re Prudential Ins. Co. Sales Practice Litig.*, No. 95-4704 (D.N.J.) (serving as lead counsel and recovering more than $4 billion for policyholders); *see also* https://milberg.com/outstanding-recoveries/.

[2] See https://milberg.com/precedent-setting-decisions/page/3/.

powerhouse that compelled miscreant and recalcitrant businesses to pay billions of dollars to aggrieved shareholders and customers."

27. The firm currently is involved in some of the largest and well-known class action cases in the country and is particularly active in the field of data breach and privacy litigation. The firm is comprised of more than one hundred attorneys who work from offices across the United States and in Portugal, the United Kingdom, the Netherlands, and Germany. Milberg attorneys come from diverse backgrounds and reflect the diversity of the bar and the classes they seek to represent—from the standpoint of age, gender, experience, and geographic location.

28. Mr. Nelson has been appointed as class counsel by state and federal courts in data breach class actions, including: *In re: Navia Benefit Solutions, Inc. Data Breach Litigation*, No. 2:26-cv-00909 (W.D. Wash.) (appointed co-lead counsel);; *In re Community Clinic of Maui Data Breach Litigation,* No. 1:24-cv-00431 (D. HI) (appointed co-lead counsel); *In Re: SAG-AFTRA Health Plan Data Security Litigation*, No. 2:24-cv-10503 (C.D. Cal.) (appointed co-lead counsel); *Anderson v. Oak View Group, LLC*, No. 2:24- cv-00719 (C.D. Cal.) (appointed co-lead counsel); *Puller-Soto v. UNITE HERE*, No. 1:24-cv-01565 (S.D.N.Y.) (appointed co-lead counsel); *Kohn et al. v. Loren D. Stark Company, Inc.*, Case No. 4:23-cv-03035 (S.D. Tex.) (appointed co-lead counsel); *In Re: Houser Data Breach Litigation*, No. 8:24-cv-00468 (C.D. Cal.) (appointed co-lead counsel); *In Re: Ethos Technologies Inc. Data Breach Litigation*, No. 3:22-cv-09203-SK (N.D. Cal.) (appointed co-lead counsel); *In re City of Hope Data Security Breach Litigation*, No. 24STCV09935 (Cal. Sup. Ct. for Los Angeles Cty.); *Garges v. Liberty Partners Financial Services, LLC*, No. 22CV01190 (Cal. Sup. Ct. for Santa Cruz Cty.) (final approval granted February 10, 2024); *Khederlarian et al. v. Utility Trailer Manufacturing Co.*, No. 22STCV30604 (Cal. Sup. Ct. for Los Angeles Cty.) (final approval granted November 1, 2023); and *Bustos v.*

Riverside Medical Clinic, No CVRI2203466 (Cal. Sup. Ct. for Riverside Cty.) (final approval granted August 23, 2024).

29. Mr. Nelson has also been appointed to the Plaintiffs' Steering Committee in the recent 60-million-person data breach litigation captioned *In Re: Powerschool Holdings, Inc., and Powerschool Group, LLC Customer Data Security Breach Litigation*, Case No. 25-md-3149-BEN-MSB. He was also appointed to the Plaintiffs' Steering Committee in *Cheng et al v. Toyota Motor Corporation, et al* a nationwide class action involving defective fuel pumps which resulted in a 330-million-dollar nationwide settlement. No. 1:20-CV-00629 (E.D.N.Y.) (final approval granted December 21, 2022). Mr. Nelson was also appointed to the Executive Committee in *In re Seresto Flea and Tick Collar Marketing, Sales Practices and Product Liability Litigation*, MDL No. 3009, Master Docket Case No. 1:21-cv-04447 (N.D. Ill.).

Pursuant to 28 U.S.C. § 1746, we declare signed under penalty of perjury of the United States of America that the foregoing is true and correct.

Executed on July 1, 2026

/s/ Raina Borrelli
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