

EXHIBIT 1

dismiss complaint, drafting the relevant notices of settlement, the settlement term sheet, the settlement agreement, the Motion for Preliminary Approval, and the instant Motion for Attorneys' Fees Reimbursement of Expenses, and Service Awards to the Class Representative; conducting extensive research into data security incidents and their causes and effects, conducting further extensive research into data security practices and standards across e-Commerce platforms and industries, revising motions, communicating with defense counsel, preparing document and information requests for Defendant as part of informal discovery; engaging in extensive settlement negotiations with Defendant over the course of weeks; and updating and handling questions from our class representative.

3. As part of the Settlement Agreement Defendant has agreed to pay for the entire cost of Claims Administration and Notice, attorneys' fees and costs, and a services award to the Representative Plaintiffs separately from any funds made available to the class. The cost of settlement administration is estimated to be \$109,953 and is another substantial benefit to the Class.

4. As a result of the Complaint and its allegations and the research and efforts Plaintiffs' Counsel performed in drafting it, Defendants agreed to settlement negotiations and mediation in order to seek an early resolution to the dispute.

5. In preparation for settlement discussions Class I reviewed all available information and assessed the strength and weakness of the claims.

6. Over the course of several months I communicated and coordinated with Defense counsel in order to engage in extensive arm's length settlement negotiations. These negotiations included a significant exchange of information, through extensive informal discovery. Extensive work was necessary analyzing the information exchanged.

7. In August, 2022, the Parties reached an agreement as to the material terms of the settlement.

8. Over the course of the following weeks I diligently negotiated, drafted, and finalized the settlement agreement, notice forms, and came to an agreement on a claims process and administrator with Defense counsel.

9. The Settlement Agreement was finalized by the parties in late October, 2022 after extensive work.

10. I and others at my firm then diligently worked to effectuate the Settlement Agreement including by drafting and filing the Motion for Preliminary Approval.

11. The Court Preliminarily approved the settlement on January 10, 2023.

12. Continuing through to today I have continued to work with Defendant and the Claims Administrator regarding claims administration and processing as well as answering class members questions about the settlement and the process.

13. Based on my past experience I expect to spend another 30-40 hours seeking final approval, defending the Settlement from and potential objections, and supervising claims administration and the distribution of proceeds.

The Contingent Nature of the Case

14. My Firm prosecuted this case on a purely contingent basis. As such, the firm assumed a significant risk of nonpayment or underpayment.

15. This matter has required me, and other attorneys at my Firm, to spend time on this litigation that could have been spent on other matters. At various times during the litigation of this class action, this lawsuit has consumed significant amounts of my time and my Firm's time.

16. Such time could otherwise have been spent on other fee-generating work. Because our Firm undertook representation of this matter on a contingency-fee basis, we shouldered the risk of expending substantial costs and time in litigating the action without any monetary gain in the event of an adverse judgment.

17. If not devoted to litigating this action, from which any remuneration is wholly contingent on a successful outcome, the time our Firm spent working on this case could and would have been spent pursuing other potentially fee generating matters.

18. Litigation is inherently unpredictable and therefore risky. Here, that risk was very real, due to the rapidly evolving nature of case law pertaining to data breach litigation, and the state of data privacy law. Therefore, despite my Firm's devotion to the case and our confidence in the claims alleged against Defendant, there have been many factors beyond our control that posed significant risks.

19. The fees contemplated under Class Counsel's representation agreements for cases in this District and elsewhere generally fall within the one-third to 40% range typically accepted. Class Counsel's fees were not guaranteed—the retainer agreement counsel had with Plaintiff did not provide for fees apart from those earned on a contingent basis, and, in the case of class settlement, approved by the court.

The Costs and Fees Incurred

20. Due to the early stage of litigation and efficiency by which Class Counsel was able to obtain this significant settlement, expenses and fees incurred by Plaintiff are low.

21. My firm has accrued \$153,172.30 in reasonable attorneys' fees through April 7, 2023.

22. My hourly rate has increased over time based on my experience and my accomplishments in my practice. The current rate of \$850 per hour that I currently charge for my time is commensurate with hourly rates charged by my contemporaries around the country, including those rates charged by lawyers with my level of experience who practice in the area of data breach class litigation in New York, the Second Circuit, and across the nation. My rates, and those used by my firm, are also commensurate with rates approved by courts within the Second Circuit. Prior to submitting the motion for attorneys' fees and out-of-pocket expenses, I compared and confirmed our hourly rate with lawyers at other law firms whose practice is focused on data breach class litigation. Moreover, I routinely survey hourly rates charged by lawyers around the country in published surveys, and review continuously as part of my continuing education opinions rendered by courts on attorneys' fee requests. Again, based upon my research, our rates are within the range of lawyers with our level of experience, practicing in this area of law.

23. My firm's lodestar of 180.7 hours as of April 7, 2023, amounts to \$153,172.30. Additional time will be spent to prepare for and attend the Final Fairness Hearing, defend any appeals taken from the final judgment approving Settlement, and ensure that the claims process and distribution of Settlement proceeds to Class Members is done in a timely manner in accordance with the terms of the Settlement. I assert that the attorneys' fees sought in the Motion for Attorneys' Fees are reasonable and seek fair and reasonable compensation for undertaking this case on a contingency basis, and for obtaining the relief for Plaintiff and the Class. As set forth in the Settlement Agreement, the attorneys' fees and expenses sought in this Motion will not reduce the benefits payable to the Class.

24. The combined attorneys' fee and expense request of \$235,000 thus represents a 1.53 lodestar multiplier, which is well within the range of what courts in New York and the Second Circuit deem reasonable. The lodestar multiplier will be even lower once final approval is sought.

25. Where possible, Class Counsel made efforts to carefully assign work so as to avoid duplication of efforts and have the work completed by the appropriate level of attorney.

26. Upon request, I can provide detailed contemporaneous records to the Court for review.

27. All books and records in this case regarding costs expended were maintained in the ordinary course of business, from expense vouchers and check records. I have reviewed the records of costs expended in this matter.

28. My firm and prior firm have also accrued \$9,455.00 in out-of-pocket expenses pertaining to this litigation. The expenses are comprised of filing and pro hac fees, as well as costs paid for service of the complaint, and for the mediation session with Mr. Picker. These costs are reasonable, and necessary for the litigation. Notably, Plaintiffs' \$235,000 request made here includes all these expenses – Class Counsel is not seeking this amount in addition to the \$235,000.

The Service Awards

29. The Settlement Agreement provides for a reasonable service award to Plaintiffs in the amount of \$1,500 each (\$3,000 total) subject to approval by the Court.

30. The service award is meant to compensate Plaintiffs for their efforts on behalf of the Class, which include maintaining contact with Class Counsel, participating in client interviews, providing relevant documents, assisting in the investigation of the case, remaining available for consultation throughout settlement negotiations, reviewing relevant pleadings and the settlement agreement, and for answering Class Counsel's many questions.

31. Plaintiff Simmons and Plaintiff Peterson-Small were each subjected to an extensive interview and submitted documentation to prove they were impacted by the Data Incident. They were prepared to take on the responsibilities of a class representative, including being deposed and testifying at trial.

32. I strongly believe that the Settlement Agreement is favorable for the Settlement Class. In the opinion of the undersigned and other Class Counsel, the settlement is fair, reasonable, adequate, as are the attorneys' fees and expenses requested here.

* * * * *

I declare under penalty of perjury of the laws of the State of New York and the United States that the foregoing is true and correct, and that this declaration was executed in Chicago, Illinois on this 10th day of April, 2023.

/s Gary M. Klinger
Gary M. Klinger

Attorney for Plaintiffs and the Settlement Class