State Court of Fulton County
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Civil Division

IN THE STATE COURT OF FULTON COUNTY
STATE OF GEORGIA

KIMBERLY FREIBURGER, individually and on behalf of all others similarly situated, Plaintiff, v. **MIZUNO USA INC.,** Defendant.	Case No. 25EV010647 **PLAINTIFF'S UNOPPOSED MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND BRIEF IN SUPPORT**

Plaintiff Kimberly Freiburger ("Plaintiff"), individually and on behalf of all others similarly situated, hereby moves this Honorable Court for Final Approval of Class Action Settlement pursuant to O.C.G.A. § 9-11-23 and submits the following brief in support of her unopposed motion.

Defendant does not oppose the relief sought in this motion, and there are no objections from Class Members.

I. INTRODUCTION

On February 13, 2026, this Court preliminarily approved a class action settlement between Plaintiff and Mizuno USA Inc. ("Mizuno" or "Defendant"). To address the potential repercussions of the Data Incident,[1] Plaintiff's and Settlement Class Counsel's efforts created a robust group of Settlement Benefits: (1) up to $475.00 for unreimbursed ordinary losses, including four hours of Lost Time compensated at $15 per hour; (2) up to $5,000.00 for unreimbursed extraordinary losses; (3) an alternative cash payment of $50.00, in lieu of documented or extraordinary losses, and; (4) two years of single bureau credit monitoring and identity theft insurance.

[1] All capitalized terms, to the extent not defined herein, will have the same meanings as those set forth in the Settlement Agreement.

Settlement Class Counsel have zealously prosecuted Plaintiff's claims, achieving the Settlement only after extensive investigation, arm's length negotiations, and months of work finalizing the Settlement Agreement and associated exhibits. After this Court granted preliminary approval, the Settlement Administrator—with the help of the Parties—disseminated Notice to the Settlement Class. Individual Notice was provided directly to the Settlement Class via first class mail. Class Notice has a current estimated reach rate of 96.69%, which far exceeds the 70% threshold many federal and state courts look to for meeting due process requirements. The Notice provided each member of the Settlement Class with information regarding how to access the Settlement Website, make a Claim, and how to opt-out or object to the Settlement. Out of approximately 1,329 members in the Settlement Class, none have sought exclusion from the Settlement, and *none* have objected. The Claims Deadline is June 15, 2026, and as of the filing of this Motion, 5.12% of the Settlement Class have already filed valid claims. The lack of any objection and the overall positive response from the Settlement Class affirms that the Court's initial conclusion that the Settlement is fair, reasonable, and adequate was fully justified.

The Court should grant final approval, including the relief requested herein and in the Motion for Approval of Attorneys' Fees, Costs, and Plaintiff's Services Award filed on April 27, 2026 (the "Fees Motion").[2]

II. CASE SUMMARY

In the interest of judicial efficiency, for factual and procedural background on this case, Plaintiff refers this Court to and hereby incorporates Plaintiff's Unopposed Motion for Preliminary Approval of Class Action Settlement and accompanying exhibits, including the proposed Settlement Agreement, filed on November 10, 2025. Plaintiff also incorporates by reference the Fees Motion..

[2] Defendant does not object to and does not take a position on the motion for attorneys' fees and costs and service award.

III. SUMMARY OF SETTLEMENT

The "Settlement Class" is defined as:

> all individuals to whom Defendant mailed notices that their private information was potentially compromised in the Data Incident discovered in November 2024.

Settlement Agreement ("S.A.") ¶ 1.25.

A. Settlement Benefits

The Settlement negotiated on behalf of the Settlement Class makes the following benefits available to Settlement Class Members:

(1) Monetary Compensation for Losses: Settlement Class Members who submit a valid and timely Claim Form may choose to receive either (a) compensation for documented ordinary and extraordinary losses, or (b) the Alternative Cash Payment.

(a) Compensation for Documented Losses: Settlement Class Members may claim compensation for documented losses, up to four hundred seventy-five dollars ($475.00) for ordinary losses, including up to four hours of Lost Time compensated at $15 per hour, and five thousand dollars ($5,000.00) for extraordinary losses.

(b) Alternative Cash Payment. In lieu of all the other monetary benefits, Settlement Class Members may elect to receive an Alternative Cash Payment of fifty dollars ($50.00). S.A. ¶ 2.4. No documentation is required to make a claim for the Alternative Cash Payment.

(2) Credit Monitoring Services. All Settlement Class Members are eligible to receive twenty-four (24) months of one-bureau credit monitoring services with at least $1 million in fraud protection upon submission of a timely, Valid Claim. S.A. ¶ 2.6. No documentation is required to request this Settlement benefit. This benefit may be claimed in addition to the monetary benefits set out above.

(3) Changes to Systems or Business Practices:

In connection with this Settlement, Mizuno has acknowledged (without any admission of liability), that Mizuno has made certain systems or business practice changes to mitigate the risk of similar data incidents in the future. S.A. ¶ 2.8. Mizuno agrees to disclose the details of the systems or business practice changes made to Class Counsel and estimate, to the extent reasonably calculable, the annual cost of those enhancements.

Notably, the Settlement Benefits are uncapped in the aggregate, meaning that each and every Settlement Class Member may claim the full benefits.

Plaintiff previously moved for a combined attorneys' fees and expense award of $122,500.00, and a reasonable service award in the amount of $2,500.00 for the Plaintiff who was named a Class Representative. No Settlement Class Members have objected to the Settlement Agreement or Fees Motion.

B. Notice And Claims

1. Direct Mail Notice

The Parties agreed upon, and the Court approved, Atticus Administration, LLC ("Atticus") as the Claims Administrator in this case. All Costs of Claims Administration will be paid by Mizuno or its insurer(s).

On February 24, 2026, Atticus received a data file from Defense Counsel that contained the names and addresses of 1,329 individuals to whom Mizuno USA Inc. ("Defendant") mailed notices that their private information was potentially compromised in the Data Incident discovered in November 2024. See Declaration of Bryn Bridley on Class Notice and Settlement Administration ("Admin Decl."), attached hereto as Exhibit 1, ¶ 4. Atticus reviewed the data and found no errors or issues with the content. *Id*. The data was processed through the National Change of Address database maintained by the United States Postal Service ("USPS"). *Id.* ¶ 5.

This process returns address updates for people who have filed change of address forms with the USPS anytime in the past four (4) years to ensure accurate mail delivery. *Id*.

On March 16, 2026, Atticus sent the Notice in the form of a postcard ("Short Form Notice") by U.S. First Class Mail to all 1,329 Settlement Class Members. *Id*. ¶ 6. The Short Form Notice provided an overview of the settlement terms, the benefits offered, the options available to members of the Settlement Class, the settlement website address and QR code and toll-free number where additional settlement information could be obtained. *Id*. The postcard also included a pre-addressed perforated Claim Form that could be torn off, completed, and returned by mail. *Id.*

Of the 1,329 Short Form Notices mailed, 167 have been returned to Atticus as undeliverable and sent to a professional service for address tracing. *Id*. ¶ 7. New addresses were obtained for 123 undeliverable records and were not obtained for 44 undeliverable records. Short Form Notices were promptly remailed to the 123 addresses received. *Id*. Atticus will continue to process and remail any additional undeliverable Short Form Notices received until the Claims Deadline has passed. *Id*.

As it stands, 1,285 Short Form Notices are presumed successfully mailed, equating to a delivery success percentage (or "reach rate") of 96.69%. *Id.* ¶ 8. As an experienced professional in the field of providing class action notice, it is the opinion of Atticus that the delivery success percentage of more than 96% meets and exceeds the threshold necessary to satisfy due process requirements. *Id*. This reach rate is consistent with other court-approved, best-practicable notice programs and Federal Judicial Center Guidelines, which state that a notice plan that reaches[3] over 70% of targeted class members is considered a high percentage and the "norm" of a notice campaign.

2. Settlement Website

Atticus launched the Settlement Website on March 16, 2026, to coincide with dissemination of the Notice and has remained accessible and operational since that time. Admin. Decl. ¶ 9. The website has received 7,734 unique visitors to date. *Id*. The website URL was included in the mailed Short Form Notice and is provided to callers in the front-end message on the toll-free settlement information line. *Id*. The website includes answers to frequently asked questions, access to viewable, printable, and downloadable copies of the Short and Long Form Notices, Claim Form, and certain other settlement documents, a summary of the key dates and deadlines in the settlement, and contact information for Atticus. *Id*. ¶ 10. The website also includes access to an online Claim Form that Settlement Class Members can use to electronically file claims through the Claims Deadline of June 15, 2026. *Id*. Atticus also established a toll-free telephone help line on March 16, 2026, with live operators during normal business hours and the ability to leave a message for a callback. *Id.* ¶ 11.

3. Claims

The timing of the Claims Process was structured to ensure that all members of the Settlement Class have adequate time to review the terms of the Settlement Agreement, compile documents supporting their Claim, and decide whether they would like to opt-out or object. MPA Decl. (previously filed on November 10, 2025) ¶ 17. To date, 68 Settlement Class Members or 5.12% of the Settlement Class have filed valid Claim Forms. Admin Decl. ¶ 13. While this is already a high claims rate for data privacy cases, Settlement Class Members

[3] FED. JUD. CTR., *Judges' Class Action Notice and Claims Process Checklist and Plain Language Guide* (2010), *available at* https://www.fjc.gov/sites/default/files/2012/NotCheck.pdf. The guide suggests that the minimum threshold for adequate notice is 70%.

have until June 15, 2026 to complete and submit their Claim Form to the Settlement Administrator, either by mail or online. *Id*. It is anticipated that the Claims Rate will increase by the deadline.

4. Requests For Exclusion and Objections

The Settlement Class has been provided up to and including May 15, 2026 to object to or submit a request for exclusion from the Settlement. Similar to the timing of the Claims Process, the time allotted for members of the Settlement Class to object or request exclusion was structured to give them sufficient time to access and review the Settlement documents. MPA Decl. ¶ 18. As of the date of this filing, Atticus has received no requests for exclusion and no objections. Admin Decl. ¶ 12.

The Notice Program was highly successful here, directly reaching over 96% of the Class, and meeting all due process requirements.

IV. LEGAL AUTHORITY

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

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

The approval of a class action settlement is a two-step process. First, the Court must conduct a preliminary review to determine whether the proposed class settlement "is within the range of possible approval." *Fresco v. Auto Data Direct, Inc.*, No. 03-61063-CIV, 2007 WL 2330895, at *4 (S.D. Fla. May 11, 2007) (internal citations omitted); *see also See Manual for Complex Litigation* § 30.41 (3d ed. 1995). This Court has already completed the first step by preliminarily approving the Settlement, and directing that Notice be issued to the Class. Plaintiff now seeks to take the second step and ask the Court to grant Final Certification of the Settlement Class and to make a final determination that the Settlement is fair, reasonable, and adequate.

Before the 2018 revisions to Federal Rule 23(e), the Eleventh Circuit had developed its own list of factors for consideration on final approval, known as the *Bennett* factors including: "(1) the likelihood of success at trial; (2) the range of possible recoveries; (3) the point on or below the range of possible recoveries at which a settlement is fair, adequate and reasonable; (4) the complexity, expense and duration of litigation; (5) the substance and degree of opposition to the settlement; and (6) the stage of the proceedings at which the settlement was achieved." *Columbus Drywall & Insulation, Inc. v. Masco Corp.*, 258 F.R.D. 545, 557 (N.D. Ga. July 20, 2007) (quoting *Bennett v. Behring Corp.*, 737 F.2d 982, 986 (11th Cir 1984)). In either case, courts consider the relevant factors "informed by the strong judicial policy favoring settlement as well as by the realization that compromise is the essence of settlement." *Bennett v. Behring Corp.*, 737 F.2d at 986; *see also Meyer v. Citizens & S. Bank*, 677 F. Supp. 1196, 1200 (M.D. Ga. 1988).

Further, while Georgia has not yet amended its class action statute to mirror the 2018 amendments to Federal Rule 23(e)(2), the amendments are instructive and have been used in Eleventh Circuit Courts in assessing the fairness, reasonableness, and adequacy of proposed class action settlements. Under Federal Rule 23(e)(2), to give a settlement final approval, the court must consider whether the proposed settlement is "fair, reasonable, and adequate after considering whether: (A) the class representatives and class counsel have adequately represented the class; (B) the proposal was negotiated at arm's length; (C) the relief provided for the class is adequate . . . ; and (D) the proposal treats class members equitably relative to each other." Fed. R. Civ. P. 23(e)(2)(A)–(D). In determining whether the relief provided is adequate, Courts must consider: "(i) the costs, risks, and delay of trial and appeal; (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims; (iii) the terms of any proposed award of attorney's fees, including timing of payment; and (iv) any agreement required to be identified under Rule 23(e)(3)." Fed. R. Civ. P. 23(e)(2)(C)(i)–(iv). While these factors do overlap with the *Bennett* factors, Plaintiff will examine the Settlement under both standards below.

V. ARGUMENT

A. The *Bennett* Factors Weigh in Favor of Settlement Approval

1. The Benefits of Settlement Outweigh the Risks at Trial

Settlement Class Members who submit valid claims are eligible to receive financial compensation, including (1) up to $475.00 for unreimbursed ordinary losses, including four hours of Lost Time compensated at $15 per hour; (2) up to $5,000.00 for unreimbursed extraordinary losses; (3) an alternative cash payment of $50.00, in lieu of documented or extraordinary losses, and; (4) two years of single bureau credit monitoring and identity theft insurance. The value achieved through the Settlement Agreement is guaranteed, where chances of prevailing on the merits are uncertain.

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).

While Plaintiff is confident in the strength of her claims, she is also pragmatic in her awareness of the various defenses available to Defendant, as well as the risks inherent to continued litigation. Defendant consistently denied the allegations raised by Plaintiff and made clear at the outset that it would vigorously defend the case, filing a substantial motion to dismiss in the federal court action. Through the Settlement, Plaintiff and Settlement Class Members gain significant benefits without having to face further risk of not receiving any relief at all.

2. <u>The Settlement is Within the Range of Possible Recoveries and is Fair, Adequate, And Reasonable</u>

The second and third *Bennett* factors are often considered together. *See Burrows v. Purchasing Power, LLC*, No. 1:12-CV-22700, 2013 WL 10167232, at *6 (S.D. Fla. Oct. 7, 2013). In evaluating the range of possible recoveries and the fairness, reasonableness, and adequacy of the settlement, the "Court's role is not to engage in a claim-by-claim, dollar-by-dollar evaluation, but to evaluate the proposed settlement in its totality. *Lipuma v. Am. Express Co.*, 406 F. Supp. 2d 1298, 1323 (S.D. Fla. 2005). Here, all Settlement Class Members may claim (1) up to $475.00 for unreimbursed ordinary losses, including four hours of Lost Time compensated at $15 per hour; (2) up to $5,000.00 for unreimbursed extraordinary losses; or (3) an alternative cash payment of $50.00, in lieu of documented or extraordinary losses, all Settlement Class Members may also claim two years of identity theft and credit monitoring protection in addition to the monetary benefit of their choice. Moreover, the Settlement provides an immediate and substantial benefit to Settlement Class Members. *See Columbus*

Drywall, 258 F.R.D. at 559 (court found settlement fair, reasonable, and adequate, and preliminary approval warranted where there was an immediate and substantial benefit to the class). This relief is comparable to at least three similar data breach settlements that were finally approved by Georgia Superior Courts. *See e.g., Paras et al. v. Dental Care Alliance, LLC.*, No. 22EV000181 (Ga. Super. Ct. Fulton County) (final approval of data breach class settlement granted September 1, 2022 with up to $2,000 for most class members with a cap of four hours for lost time, plus two years of credit monitoring); *Cece et al. v. St. Mary's Health Care System, Inc. et al.,* No. SU20CV0500 (Ga. Super. Ct. Athens/Clarke County) (final approval granted of data breach class action settlement on April 4, 2022 with out-of-pocket loss reimbursement of $750 and 2-years credit monitoring)*; Jackson-Battle et al. v. Navicent Health, Inc.*, No. 2020cv072287 (Ga. Super. Ct. Bibb County) (final approval of data breach class settlement granted August 4, 2021 with out-of-pocket expense reimbursement of up to $2,500). Accordingly, this Settlement is eminently reasonable, especially considering that it avoids the potential contingencies of continued litigation.

3. <u>Continued Litigation Would be Lengthy and Expensive</u>

As discussed above, data breach litigation is difficult, complex, and the rapid evolution of case law make outcomes uncertain. Moreover, early settlement has allowed costs to stay modest—protracted litigation would only serve to increase costs and have a potentially negative effect on Class recovery, which is itself far from guaranteed should litigation continue. Continued litigation would also increase the burden on the Court, without any guaranteed benefit to Plaintiff or Settlement Class Members. "Complex litigation . . . 'can occupy a court's docket for years on end, depleting the resources of the parties and the taxpayers while rendering meaningful relief increasingly elusive.'" *Woodward v. NOR–AM Chem. Co.*, No. Civ-94-0870, 1996 WL 1063670, at *21 (S.D. Ala. May 23, 1996) (quoting *In re U.S. Oil & Gas Litig.*, 967

F.2d 489, 493 (11th Cir. 1992)). Where a settlement, like here, "will alleviate the need for judicial exploration of . . . complex subjects [and] reduce litigation costs" this factor weighs in favor of approval. *See Lipuma*, 406 F. Supp. 2d at 1324.

4. <u>There Has Not Been Any Opposition to the Settlement, and Experienced Counsel Recommend Approval</u>

There has been no opposition to the Settlement. No member of the Settlement Class has requested exclusion from the Settlement, *and none have objected.* Thus, this factor weighs heavily in favor of Final Approval. *Columbus Drywall & Insulation, Inc. v. Masco Corp.*, No. 1:04-cv-3066, 2012 WL 12906499, at *3–4 (N.D. Ga. Oct. 26, 2012) (finding fact that not one objection was lodged after campaign of direct mail notice of settlement "weighs heavily in favor of settlement approval").

Moreover, the Court should give "great weight to the recommendations of counsel for the parties, given their considerable experience in this type of litigation." *Lunsford v. Woodforest Nat'l Bank*, No. 1:12-cv-103-CAP, 2014 WL 12740375, at *26 (N.D. Ga. May 19, 2014). Here, the Settlement is a result of the efforts of competent, experienced counsel with extensive experience in data breach class action litigation. MPA Decl. ¶ 26. After thoroughly vetting the legal, factual, and evidentiary issues in this case, Settlement Class Counsel recommend approval of the Settlement. *See id.* ¶ 30.

5. <u>Plaintiff had Sufficient Information to Evaluate the Merits and Negotiate a Fair, Adequate, And Reasonable Settlement</u>

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

This case, though at an early stage when settled, has been thoroughly investigated by counsel experienced in data breach litigation. MPA Decl. ¶ 27. Settlement Class Counsel's experience and investigation put Plaintiff in a position to proficiently evaluate the case and negotiate a Settlement they view as fair, reasonable, and adequate, and worthy of preliminary approval.

As such, the *Bennett* factors support Final Approval.

B. The Settlement Is Also Fair, Reasonable, And Adequate In Light Of The Factors Set Forth In The Revised Federal Rule 23(E)(2).

Each of the Rule 23(e) factors weigh in favor of Final Approval.

1. Settlement Class Counsel and the Class Representative Have Adequately Represented the Class (Fed. R. Civ. P. 23(e)(2)(A)).

In determining the adequacy of Settlement Class Counsel and the Class Representative, Courts consider two factors: (1) whether the named plaintiffs and their counsel have any conflicts of interest with the class(es) they seek to represent; and (2) whether the named plaintiffs and their counsel have/will vigorously prosecute the action on behalf of the putative class. *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 625, 626 n.20 (1997). In the context of settlement, this includes consideration of the nature and amount of discovery undertaken in the litigation. *See* Fed. R. Civ. P. 23(e)(2)(A), advisory committee's notes to 2018 amendment.

Here Plaintiff assisted Settlement Class Counsel by providing documents, reviewing pleadings, keeping in contact with Settlement Class Counsel, remaining available for consultation throughout the litigation and mediation and answering Settlement Class Counsel's many questions, and reviewing the Settlement Agreement. *See* MPA Decl. ¶ 28. Plaintiff does not have any conflict with the proposed Settlement Class and has adequately represented them in litigation, and in bringing this case to successful resolution with substantial benefits available to the Class. Specifically, Plaintiff is a part of the same Settlement Class, asserts the same injury, has the same interest in protecting her private information from disclosure and, as discussed at length in Plaintiff's Fees Motion, seeks only a modest Service Award compared with those sought by plaintiffs in other class actions.

Settlement Class Counsel has also adequately represented the Settlement Class. Settlement Class Counsel is experienced in the litigation, certification, trial, and settlement of class action cases. MPA Decl. ¶ 26. In negotiating the Settlement Agreement, Settlement Class Counsel had the benefit of years of experience and familiarity with the factual and legal bases for this case, as well as other cases involving data breaches and consumer privacy. *Id.* ¶ 27 This understanding of the intricacies of the data breach and consumer privacy space provided Settlement Class Counsel with the tools and perspective to achieve what they found to be an outstanding recovery for the Settlement Class—and prepared them to litigate this Lawsuit to a successful conclusion if necessary.

Before bringing forth an action against Defendant, Settlement Class Counsel investigated the potential claims against Mizuno. Settlement Class Counsel also expended resources researching and developing the legal claims at issue. Armed with their knowledge from other data breach and consumer privacy matters and investigation into this specific case, Settlement Class Counsel was well positioned to evaluate the strengths and weaknesses of Plaintiff's and the Settlement Class's claims, and the appropriate basis upon which to settle them. Accordingly, this Court should find Plaintiff and Settlement Class Counsel adequate representatives for the Settlement Class and weigh this factor in favor of Final Approval.

2. The Settlement Is the Product of Good-Faith, Arm's-Length Negotiations (Fed. R. Civ. P. 23(e)(2)(B))

The Settlement Agreement is the result of intensive, arm's-length negotiations between experienced attorneys who are familiar with class action litigation and the legal and factual issues in this Lawsuit. MPA Decl. ¶¶ 8-11. Defendant was represented by excellent counsel from one of the top data breach defense firms in the country, and demonstrated the adversarial nature of the proceedings through preparing and filing a detailed motion to dismiss in the federal court action. While always collegial, there is no doubt that the litigation and the settlement negotiations were adversarial and conducted at arm's length.

3. The Settlement Agreement Provides the Class with Significant Relief (Fed. R. Civ. P. 23(e)(2)(C))

As described above, the Settlement Agreement provides substantial relief related to the potential negative impacts of the Data Incident. As shown in Section 5(a)(2) above, the relief offered to the Settlement Class in this Settlement exceeds that of many data breach settlements finally approved by Georgia courts, including the *Paras* case cited above that was finally approved by Judge Porter. Notably, each and every Settlement Class Member may claim $50 cash, without any documentation or proof of loss, plus two years of valuable credit monitoring. Cash and pro-active credit monitoring is significant relief for a class of persons affected by a data breach, and relief that is tailored to fit the very harms alleged by Plaintiff.

i. The Likely Costs, Risks, And Delay of Trial and Appeal Are Great (Fed. R. Civ. P. 23(e)(2)(C)(i))

As discussed at length above, Plaintiff understands that should litigation continue, Defendant will assert a number of potentially case-dispositive defenses. While Plaintiff is confident in the strength of her claims, she is also pragmatic in her awareness of the various defenses available to Defendant, as well as the risks inherent to continued litigation. Defendant has consistently denied the allegations raised by Plaintiff and made clear at the outset that it would vigorously defend the case. Through the Settlement, Plaintiff and Settlement Class Members gain significant benefits without having to face further risk of not receiving any relief at all.

ii. *The Settlement Provides for Effective Distribution of Relief (Fed. R. Civ. P. 23(e)(2)(C)(ii))*

Distribution of relief is effective in that all Settlement Class Members are eligible to make Claims pursuant to the Settlement Agreement, and payments will be made no more than 45 days after the Effective Date of the Settlement and approval of the Claims.

iii. *The Terms Pertaining to the Award For Attorneys' Fees Are Fair And Reasonable (Fed. R. Civ. P. 23(e)(2)(C)(iii))*

Here, the $122,500.00 requested for combined attorneys' fees and expenses is reasonable, as explained in detail in the Fees Motion. Class Counsel have negotiated a Settlement that provides for significant monetary recovery, and the opportunity to claim credit monitoring to protect Settlement Class Members from potential effects of the Data Incident going forward. As discussed at length in the Fees Motion, these fees and expenses are reasonable in light of the work and skills required to litigate the Lawsuit, the contingent nature of the Lawsuit and market value of services provided, and the substantial results obtained on behalf of Plaintiff and Settlement Class Members.

iv. *There Are No Additional Agreements That Need to Be Considered by The Court Under Rule 23(e)(3) (I.R.C.P. 77(e)(3) & Fed. R. Civ. P. 23(e)(2)(C)(iv))*

The Settlement Agreement and attachments are the only agreements impacting the Settlement. There are no additional agreements for this Court to consider and this factor weighs in favor of Final Approval.

4. <u>The Settlement Treats Settlement Class Members Equitably Relative to Each Other, and Settlement Class Members Had the Opportunity to Object to Or Opt-Out of the Settlement (Fed. R. Civ. P. 23(E)(2)(D))</u>

As described above, each Settlement Class Member is eligible to make a Claim for the same benefits. Additionally, any member of the Settlement Class who felt they had a more valuable Claim had the opportunity to opt-out of the Settlement and pursue it. *McWhorter v. Ocwen Loan Servicing LLC*, No. 2:15-cv-01831, 2019 WL 9171207, at *12 (N.D. Ala. Aug.

1, 2019) (finding settlement class members' ability to exclude themselves from a settlement as a symbol of equitable treatment and weighing it in favor of final approval).

VI. CONCLUSION

Plaintiff has negotiated a fair, adequate, and reasonable Settlement. The Settlement Agreement was reached only after extensive arm's-length negotiations, and an assessment of both the *Bennett* factors and the revised Rule 23 factors weighs in favor of Final Approval. For these and the above reasons, and all those set forth in Plaintiff's Unopposed Motion for Preliminary Approval of Class Action Settlement, Plaintiff respectfully requests this Court certify the Settlement Class for Settlement purposes only, grant this Unopposed Motion for Final Approval of Class Action Settlement, and also grant the separate motion for attorneys' fees, costs, and service awards previously filed.

Dated: May 5, 2026

Respectfully submitted,

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