

**IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO**

ANGELA TAYLOR, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

**COLUMBUS AESTHETICS AND
PLASTIC SURGERY, INC.,**

Defendant.

Case No. 24 CV 2201

Judge Julie Lynch

**PLAINTIFF’S MOTION FOR
ATTORNEYS’ FEES, EXPENSES,
AND CLASS REPRESENTATIVE
SERVICE AWARD**

Under Civ.R. 23 and the Settlement Agreement previously filed with the Court, Settlement Class Counsel respectfully request the Court to grant, as part of its final approval of this class action settlement (the hearing on which is scheduled for May 12, 2025), this fee application for one-third (\$141,666.66) of the non-reversionary common fund of \$425,000, reimbursement for reasonable litigation expenses of \$2,769.55, and a Class Representative Service Award of \$5,000 to the Class Representative.¹

Supporting this Motion is the Affidavit of Terence R. Coates in Support of Plaintiff’s Motion for Attorneys’ Fees, Expenses, and Class Representative Service Award (attached hereto as **Exhibit 1**) (“Coates Affidavit”). A Proposed Order Granting Final Approval, Class Counsel’s Attorneys’ Fees, and Class Representative Service Award will be submitted along with the Motion for Final Approval of Class Action Settlement.

Respectfully submitted,

/s/ Terence R. Coates

Terence R. Coates (0085579)

Dylan J. Gould (0097954)

Jonathan T. Deters (0093976)

¹ All capitalized terms are those terms referenced and defined in the Settlement Agreement.

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Settlement Class Counsel

MEMORANDUM IN SUPPORT

I. INTRODUCTION

Plaintiff Angela Taylor alleges that in September 2023, Defendant was the target of a cybersecurity incident and alleged data breach (the “Data Incident”) in which a cybercriminal launched an attack resulting in the unauthorized access of some personal information entrusted to the Defendant by Plaintiff and the putative class members. *See* Complaint (“Compl.”), ¶ 1, Mar. 15, 2024. This Data Incident involved the Private Information of approximately 18,683 individuals, and included individuals’ names, Social Security numbers, drivers’ license, state or government identification numbers, financial account information, as well as health and medical information, treatment information, and information related to payments for medical services.

Following and resulting from the disclosure of the Data Incident, Plaintiff filed the present class action lawsuit in this Court on March 15, 2024, alleging claims of negligence, invasion of privacy/intrusion upon seclusion, breach of implied contract, breach of fiduciary duty, violations of the Ohio Consumer Sales Practices Act (“CSPA”), and unjust enrichment. Plaintiff alleges that, as a result of the Data Incident, Plaintiff and Class Members’ Private Information was compromised by actors with criminal intent creating an actualized and present risk of identity theft. Compl., ¶¶ 8, 32, 93. Acknowledging the risk of harm to Plaintiff and the putative Class Members, Defendant notified individuals of the Data Incident and advised them to take precautionary measures. *Id.*, ¶ 16. Plaintiff alleged that she and the putative Class Members have suffered various forms of harm, including damages related to mitigation efforts in response to the Data Incident (*i.e.*, loss of time and out-of-pocket expenses for protective measures), anxiety, emotional distress, loss of privacy, and actual fraud from identity theft. *Id.*, ¶¶ 10, 95, 97, 151, 161.

Defendant denies the claims asserted against it and denies any liability arising from the Data Incident. However, recognizing the risks and continued costs of litigation, Plaintiff and Defendant decided to engage in arm's-length negotiations to resolve all matters associated with the litigation. The parties exchanged informal discovery related to class size, the mechanics of the breach, types of data exposed, and remedial measures and security enhancements. *See* Campbell Preliminary Approval Affidavit, ¶ 6. Over the course of several months, the Parties negotiated in hard-fought discussions to arrive at the Settlement Agreement preliminarily approved by this Court on December 12, 2024.

The Preliminary Approval Order approved the following class: all individuals impacted by CAPS's Data Incident, including all individuals who received notice of the Data Incident, that occurred in September 2023. The Class specifically excludes: (i) all Persons who timely and validly request exclusion from the Class; (ii) the Judge assigned to evaluate the fairness of this settlement (including any members of the Court's staff assigned to this case); (iii) Defendant's officers and directors, and (iv) any other Person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting the criminal activity occurrence of the Data Incident or who pleads *nolo contendere* to any such charge.

II. THE SETTLEMENT BENEFITS

The proposed Settlement provides for a substantial recovery for the Settlement Class of a non-reversionary common fund of \$425,000, from which all attorneys' fees and expenses, and settlement costs will be paid. The Settlement Fund will be used to provide Settlement Class Members with (1) Compensation for Out-of-Pocket losses per claim, up to but not to exceed \$5,000 incurred by Plaintiff and Class Members in mitigating the consequences of the Data Incident; and (2) a *pro rata* cash payment at an estimated \$125 value per Settlement Class Member. *See*

Settlement Agreement, ¶¶ 57, 58. In addition to the monetary settlement benefits, Defendant will implement strengthened data security measures to better protect the Private Information in its care, including that of Plaintiff and Class Members. *Id.* ¶ 59.

III. CLASS COUNSEL’S REQUESTS FOR ATTORNEYS’ FEES AND EXPENSES ARE REASONABLE

The Supreme Court of Ohio has stated that “the attorney who is eligible for attorney’s fees is one ‘who, at his own expense, has maintained a successful suit for the preservation, protection, and increase of a common fund or common property, or who has created at his own expense, or brought into court a fund in which others may share with him.’” *State ex rel. Montrie Nursing Home, Inc. v. Creasy*, 5 Ohio St.3d 124, 127 (1983), quoting *Smith v. Kroeger*, 138 Ohio St. 508, 515 (1941).

Here, Class Counsel’s attorneys’ fee request of \$141,666.66 is reasonable because (1) Plaintiff and Defendant negotiated it as reasonable in the context of this case in the terms of the Settlement Agreement; (2) the amount is appropriate measured as a percentage of the settlement fund; and (3) Class Counsel have spent significant time and resources procuring the Settlement Benefits as part of this class action settlement. *See* Settlement Agreement, ¶ 87; Coates Affidavit, ¶¶ 3, 4, 9.

A. Class Counsel’s Fee Request is Reasonable as Measured as a Percentage of the Settlement Fund

Under the percentage-of-fund analysis, the Court determines Class Counsel’s fee request as a percentage of the monetary settlement fund. Class Counsel’s request, compared as a percentage of the non-reversionary settlement fund, is reasonable. Ohio courts routinely awards attorneys’ fees in the amount of one-third of the settlement fund in data privacy cases such as this one. *Pascute v. Amotec, Inc.*, Cuyahoga C.P. No. CV-23-975539 (Feb. 23, 2024) (awarding attorneys’ fees of one-third of the \$400,000 settlement fund in a data breach class action); *Gero v.*

MedInform, Inc., Cuyahoga C.P. No. CV-23-981382, ¶ 10 (Oct. 10, 2024) (awarding attorneys' fees of one-third of the \$400,000 settlement fund in a data breach class action); *In re Marshall & Melhorn, LLC Data Breach Litig.*, No. 3:23-cv-1181, Doc. 34, ¶ 7 (S.D. Ohio Jan. 13, 2025) (awarding attorneys' fees of one-third of the \$800,000 settlement fund in a data breach class action); *Migliaccio v. Parker Hannifin, Corp.*, No. 1:22-cv-835, Doc. 42, ¶ 7 (N.D. Ohio Aug. 2, 2023) (\$583,333.33 fee award from a \$1,750,000 common fund in a data breach class action settlement); *Tucker v. Marietta Area Health Care Inc.*, No. 1:11-cv-184, Doc. 13, ¶ 7 (S.D. Ohio Dec. 8, 2023) (\$583,333.33 fee award from a \$1,750,000 common fund in a data breach class action settlement); *In re S. Ohio Health Sys. Data Breach Litig.*, Hamilton C.P. No. A2101886 (Aug. 2, 2022) (\$650,000 attorneys' fee award from a \$1,950,000 common fund in a data breach class action settlement).

Class Counsel's fee request of \$141,666.66, or one-third of the \$425,000 non-reversionary settlement fund, is consistent with the attorneys' fee percentage awarded in *Amotec*, *MedInform*, *In re Marshall & Melhorn*, *Parker Hannifin*, *Marietta Area Healthcare*, and *In re S. Ohio Health Sys.* Accordingly, Class Counsel's attorneys' fee request is reasonable under a percentage of the fund analysis and is a percentage routinely awarded in similar data breach class action settlement in Ohio state and federal courts.

B. Settlement Class Counsel Have Expended Significant Time and Expenses Pursuing this Matter on Behalf of the Class

Settlement Class Counsel, consisting of the law firms, Markovits, Stock & DeMarco, LLC, and Chestnut Cambronne PA, have worked efficiently and diligently to forge a strong recovery for the Class. To date, the two firms have collectively spent over 114.5 hours for a lodestar total of approximately \$66,225.00 pursuing this case and in forging this Settlement. Coates Affidavit, ¶ 9. Class Counsel have also incurred \$2,769.55 in case expenses pursuing this case on behalf of the

Class. *Id.* at ¶¶ 9, 10. These expenses are all of a kind ordinarily expended in representation of a client in a non-class action. Class Counsel will continue to expend additional hours and resources continuing to pursue this matter through final approval including overseeing the distribution of Settlement benefits to Class Members and answering any further questions from Class Members about the Settlement and its benefits. *Id.* at ¶ 10.

For all these reasons, Class Counsel requests that the Court approve an award of \$141,666.66 in attorneys' fees and reimbursement of their reasonable litigation expenses of \$2,769.55.

IV. CLASS REPRESENTATIVES HAVE EARNED THEIR SERVICE AWARDS

The Settlement Agreement also provides that Class Counsel will apply to the Court for a Class Representative Service Award of \$5,000.00 to the Class Representative, Angela Taylor. *See* Settlement Agreement, ¶ 85. Class Counsel moves for the approval of the Class Representative Service Award under principles of equity and such similar awards as approved by other Ohio courts in similar data breach class action settlements. *See, e.g., Amotec*, Cuyahoga C.P. No. CV-23-975539 (Feb. 23, 2024) (\$5,000 class representative service awards in a data breach class action settlement); *MedInform*, Cuyahoga C.P. No. CV-23-981382 (Oct. 10, 2024) (\$5,000 class representative service awards in a data breach class action settlement); *Jackson v. Nationwide Retirement Solutions, Inc.*, No. 2:22-cv-3499, 2024 WL 958726, at *7 (S.D. Ohio Mar. 5, 2024) (awarding \$5,000 service awards to each of the class representatives in a data breach class action settlement); *Marietta Area Health Care*, No. 1:11-cv-184, Doc. 13, ¶ 7 (S.D. Ohio Dec. 8, 2023) (\$5,000 service awards for each of the class representatives). Plaintiff Taylor has been actively involved in the litigation and put the Class's interest before her personal interests. Coates Affidavit, ¶ 12. Plaintiff Taylor diligently reviewed the claims in this case, stayed up to date on

the status of the litigation, asked detailed questions about the types of sensitive information disclosed in this Data Breach, and zealously represented the Class's interests. *Id.*

Accordingly, Class Counsel respectfully request that the Court approve the requested Class Representative Service Award in the amount of \$5,000.00 to the Class Representative for her time and effort on behalf of all Class Members.

V. CONCLUSION

Based upon the foregoing, Class Counsel respectfully request that this Court approve the payment of (1) \$141,666.66 as fair and reasonable attorneys' fees; (2) \$2,769.55 as reimbursement for reasonable litigation costs and expenses; and (3) a Class Representative Service Award to the Class Representative in the amount of \$5,000.00.

Dated: February 26, 2025

Respectfully submitted,

/s/ Terence R. Coates

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Settlement Class Counsel

CERTIFICATE OF SERVICE

I hereby certify that on the twenty-sixth day of February, 2025, the foregoing document was served on counsel for Defendant electronically in accordance with Civ.R. 5(B)(2)(f) by filing with the Court's authorized e-Filing system and by electronic mail as follows:

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/s/ Terence R. Coates
Terence R. Coates (0085579)

Counsel for Plaintiff and the Settlement Class

EXHIBIT

1

**IN THE COURT OF COMMON PLEAS
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ANGELA TAYLOR, individually and on
behalf of all others similarly situated,

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**COLUMBUS AESTHETICS AND
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Defendant.

Case No. 24 CV 2201

Judge Julie Lynch

**AFFIDAVIT OF TERENCE R. COATES
IN SUPPORT OF PLAINTIFF'S
MOTION FOR ATTORNEYS' FEES,
EXPENSES, AND CLASS
REPRESENTATIVE SERVICE AWARD**

I, Terence R. Coates, hereby swear and testify that the following is true and accurate and based on my personal knowledge:

1. As preliminarily-approved Class Counsel for Plaintiff and the Settlement Class in this matter, my firm, Markovits, Stock & DeMarco, LLC, along with our co-counsel, Chestnut Cambronne PA, have been centrally involved in all aspects of this litigation from the initial investigation to the present in achieving the robust \$425,000 non-reversionary common fund with Defendant Columbus Aesthetic and Plastic Surgery, Inc. ("Defendant").

CLASS COUNSEL, PLAINTIFFS' COUNSEL, AND PLAINTIFFS' EFFORTS

2. Plaintiff filed her class action complaint ("Complaint") on March 15, 2024, in this case resulting from her Private Information being included in Defendant's September 2023 Data Incident. Before filing the Complaint, Plaintiff and Class Counsel spent extensive time reviewing and preparing the factual allegations in the Complaint. Class Counsel reviewed the websites of many states' attorneys-general for publicly-available information regarding the Data Breach. Furthermore, Class Counsel researched the potential viability of the causes of action included in the Complaint. After the Complaint was drafted, Plaintiff reviewed and approved the Complaint's

contents including her factual allegations.

3. The Parties then engaged in arm's-length negotiations in an attempt to resolve this matter. After a demand and several settlement exchanges, the Parties were able to reach a settlement in principle to resolve this matter on a classwide basis for a \$425,000 non-reversionary common fund. After reaching the settlement in principle, Class Counsel and Defendant's Counsel began drafting and negotiating the thorough and detailed terms of the Settlement Agreement. Class Counsel's extensive experience handling similar data breach and data privacy class action cases permitted Plaintiff to make informed decisions about the types of settlement benefits made available under the Settlement Agreement. Furthermore, Class Counsel sought to ensure Class Members were provided with a simple and direct claims process so that Class Members could easily complete claim forms to receive cash settlement benefits. Class Counsel were able to attain this goal by utilizing a simple tear-off claim form that was included on the Short Form Notice issued to Class Members and through providing Class Members the opportunity to submit claims to receive cash settlement payments online through the Settlement Website. In addition to the simple claims process, Class Counsel sought an uncapped pro rata cash payment to Class Members who submitted valid claims under the Settlement.

4. Class Counsel was also diligent in its decision to select Analytics Consulting LLC as the Settlement Administrator in this case. Class Counsel understood that the settlement administration costs and expenses would ultimately be paid from the Settlement Fund and relied upon their extensive experience working with settlement administrators in similar data privacy settlements to procure a settlement administration quote that was favorable to the Class.

5. From the Settlement Fund, Class Members will receive a projected cash payment of \$125 (subject to a *pro rata* increase or decrease) and the ability to receive up to \$5,000 for

documented out-of-pocket losses, after the deduction of the payment to Analytics for settlement administration expenses, for attorneys' fees and expenses, and the requested Class Representative Service Award.

CLASS COUNSEL'S ATTORNEYS' FEES & EXPENSES ARE REASONABLE

6. Under the Settlement, Class Counsel may seek up to one third of the Settlement Fund (\$141,666.66) in attorneys' fees and up to \$15,000.00 in expenses, which shall be paid from the Settlement Fund.

7. Class Counsel have undertaken this case on a contingent fee basis and have not received any payment for their work in this case to date and have not been reimbursed for any of their litigation expenses. By providing legal services to the Class in this case, Class Counsel were precluded from taking on certain other work. Class Counsel have expended significant time and efforts achieving the \$425,000 Settlement Fund.

8. Ohio courts routinely award attorneys' fees of one third of the common fund in data breach class action settlements. *Pascute v. Amotec, Inc.*, No. CV-23-975539, Cuyahoga County Court of Common Pleas (Feb. 23, 2024) (awarding attorneys' fees of one third of the \$400,000 settlement fund in a data breach class action); *Gero v. MedInform, Inc.*, No. CV-23-981382, Cuyahoga County Court of Common Pleas, ¶ 10 (Oct. 10, 2024) (awarding attorneys' fees of one third of the \$400,000 settlement fund in a data breach class action); *In re Marshall & Melhorn, LLC Data Breach Litig.*, No. 3:23-cv-1181 (S.D. Ohio Jan. 13, 2025; Doc. 34, ¶ 7) (awarding attorneys' fees of one third of the \$800,000 settlement fund in a data breach class action); *Migliaccio v. Parker Hannifin, Corp.*, No. 1:22-cv-835 (N.D. Ohio Aug. 2, 2023; Doc. 42, ¶ 7) (\$583,333.33 fee award from a \$1,750,000 common fund in a data breach class action settlement); *Tucker v. Marietta Area Health Care Inc.*, No. 1:11-cv-184 (S.D. Ohio Dec. 8, 2023; Doc. 13, ¶

7) (\$583,333.33 fee award from a \$1,750,000 common fund in a data breach class action settlement); *In re Southern Ohio Health Systems Data Breach Litig.*, No. A2101886, Hamilton County Court of Common Pleas (Aug. 2, 2022) (\$650,000 attorneys' fee award from a \$1,950,000 common fund in a data breach class action settlement).

9. Class Counsel have spent significant time and expenses pursuing this matter on behalf of the Class. From the case's inception to the present, Class Counsel have spent more than 114.5 hours for a lodestar total of approximately \$66,225.00 and incurred expenses of \$2,769.55 directly related to this litigation. The current hourly rates that form the basis of the lodestar calculation reflect the experience of Class Counsel and have been previously approved by other courts. Class Counsel's attorneys' fees request of \$141,666.66 represents a multiplier of Plaintiffs' Counsel's current lodestar of roughly 2.14, which is a multiplier that courts routinely find reasonable. *Hawkins v. Cintas Corp.*, No., No. 1:19-cv-1062, 2025 WL 523909, at * 3 (S.D. Ohio Feb. 18, 2025) (approving attorneys' fees request comprising a 2.46 multiplier on plaintiffs' counsel lodestar); *Myers v. Memorial Health Sys. Marietta Memorial Hosp.*, No. 15-cv-2956, 2022 WL 4079559, at *7 (S.D. Ohio Sept. 6, 2022) ("Awards of common-fund attorneys' fees in amounts two to three times *greater* than the lodestar have been found reasonable.") (Emphasis in original; internal citations omitted). As Class Counsel, I sought to ensure that Plaintiffs' Counsel did not duplicate work on behalf of the Class. Accordingly, Class Counsel's lodestar to date is reasonable and was incurred for the effective and efficient prosecution and resolution of this litigation.

10. The reasonable expenses incurred all relate to this litigation, were necessary for the quality of result achieved, and were also properly documented and prepared using contemporaneous time records. Furthermore, the expenses incurred in this matter are those that

would be charged to a fee-paying client in the private legal marketplace. I have reviewed the expenses incurred and have confirmed they were incurred in this case and are reasonable. The expenses were prepared utilizing Class Counsel's detailed expense records.

11. Class Counsel will continue to expend substantial additional time and other minimal expenses continuing to protect the Class's interest through the Final Approval Hearing and throughout settlement administration. Class Counsel believes that the fee request of \$141,666.66 and expenses of \$2,769.55 are reasonable and justified in this case, understanding that the Settlement provides substantial cash benefits to Class members submitting valid claims from the non-reversionary Settlement Fund and all expenses were incurred to achieve the Settlement for the Class. Any multiplier amount will decrease as Class Counsel continues to oversee this Settlement on behalf of the Class.

THE CLASS REPRESENTATIVE SERVICE AWARD OF \$5,000.00
IS REASONABLE AND JUSTIFIED

12. The proposed Class Representative has been an active participant in this case, generally stayed informed about this litigation, reviewed, and approved the settlement demand and final settlement amount and Settlement Agreement, reviewed the factual allegations in the Complaint, participated in plaintiff vetting to confirm she is an adequate representative of the Class in this case, and spent substantial time and effort protecting the Class's interests. Her participation in this case was vital to establishing the Settlement Fund. Class Representative Taylor has no conflicts of interest with other Settlement Class Members, is subject to no unique defenses, and she and her counsel have and continue to vigorously prosecute this case on behalf of the Settlement Class. Accordingly, the \$5,000 Service Award to the two Class Representatives is reasonable given her efforts on behalf of the Class in this matter. Furthermore, the Class Representative Service Award here is less than, or equal to, what has been approved in other common fund data breach

class action settlements. *See Lutz v. Electromed, Inc.*, No. 0:21-cv-02198, Doc. 73 (D. Minn. July 6, 2023) (service award of \$9,900 in a data breach class action); *Amotec*, No. CV-23-975539 (Cuyahoga C.P. Feb. 23, 2024) (\$5,000 class representative service awards in a data breach class action settlement); *MedInform*, No. CV-23-981382, (Cuyahoga C.P. Oct. 10, 2024) (\$5,000 class representative service awards in a data breach class action settlement); *Jackson v. Nationwide Retirement Solutions, Inc.*, No. 2:22-cv-3499, 2024 WL 958726, at *7 (S.D. Ohio Mar. 5, 2024) (awarding \$5,000 service awards to each of the class representatives in a data breach class action settlement); *Marietta Area Health Care*, No. 1:11-cv-184, Doc. 13, ¶ 7 (S.D. Ohio Dec. 8, 2023) (\$5,000 service awards for each of the class representatives).

THE SETTLEMENT IS FAIR, REASONABLE AND A SUBSTANTIAL RECOVERY FOR THE CLASS

13. Class Counsel believe the Settlement is fair, reasonable, and adequate. In my experience in handling over 100 data breach class action cases for plaintiffs, I hold the informed opinion that the \$425,000 non-reversionary common fund settlement is fair and reasonable for 18,683 Class Members. The settlement afforded here, as compared to the uncertainty of damages even following a successful finding of liability, weighs in favor of final approval.

FURTHER AFFIANT SAYETH NAUGHT.




TERENCE R. COATES, ESQ.

STATE OF OHIO :
 COUNTY OF HAMILTON :

Sworn to and subscribed before me by Terence R. Coates this 26 February 2025 04:11 PM EST

This certificate pertains to an electronic notarial act performed with the principal appearing online using audio-video communication.



ASHLEY S PAVER
 Notary Public, State of Ohio
 My Commission Expires:
 January 2, 2028




Notary Public