

**FILED  
12-30-2025  
CIRCUIT COURT  
DANE COUNTY, WI  
2024CV002072**

STATE OF WISCONSIN

CIRCUIT COURT

DANE COUNTY

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WILLIAM GEIGER and DENISE GALLAGHER,

Plaintiffs,

v.

Case No. 24-CV-002072

DISABILITY RIGHTS WISCONSIN, INC.,

Defendant.

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**PLAINTIFFS' MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR  
ATTORNEYS' FEES AND COSTS AND CLASS REPRESENTATIVE SERVICE  
AWARDS**

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## **PRELIMINARY STATEMENT**

Plaintiffs William Geiger and Denise Gallagher (“Plaintiffs” or “Class Representatives”), individually and on behalf of all others similarly situated, respectfully submit this memorandum of law in support of their Motion for entry of an Order (i) awarding Class Counsel’s attorneys’ fees in the amount of \$205,000 (including costs and expenses of \$ 9,153.35) and (ii) awarding Service Awards to the Class Representatives in the amount of \$3,000 each, for their efforts and commitment on behalf of the Class.<sup>1</sup>

In addition to the usual risks presented in contingent-fee class action litigation, this Lawsuit involved even greater risks for Plaintiffs and Class Counsel as data breach litigation is a rapidly evolving area of law with myriad issues such as standing, damages, and class certification often posing substantial hurdles to overcome. Despite these (and other) significant challenges, Class Counsel was able to obtain an exceptional Settlement on behalf of the Settlement Class Members consisting of the opportunity to (i) Attested Losses related to the time spent addressing issues arising from the Data Breach capped at four (4) hours per individual claimant, at a rate of \$21.25 per hour, for a maximum payment of \$85.00 per claimant; (ii) Documented Out-of-Pocket Extraordinary Expenses up to a maximum of \$2,000.00 per person; and (iii) two years of single bureau credit monitoring that includes at least \$1 million in identity theft protection and fraud insurance. SA, ¶¶ 3.3-3.5. In addition, Defendant will pay, or cause to be paid: (i) Notice and Costs of Settlement Administration; (ii) the award for attorneys’ fees and costs as approved by the Court; and (iii) Service Awards approved by the Court. The Settlement is an outstanding result for the

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<sup>1</sup> Unless otherwise indicated, the defined terms herein shall have the same definition and meaning as set forth in the Settlement Agreement and Release (“Settlement Agreement” or “SA”), which was filed with this Court on December 11, 2025 as an exhibit to the Declaration of Alex C. Phillips in Support of Plaintiffs’ Unopposed Motion for Preliminary Approval of Class Action Settlement.

Class as it will—if finally approved—provide relief to the approximately 19,150 individuals whose Private Information was allegedly impacted as a result of the Data Incident.

These results are directly attributable to Class Counsel’s work investigating and prosecuting Plaintiffs’ claims, partially defeating Defendant’s Motion to Dismiss, and their negotiations on behalf of the Class. The Settlement is a product of an extensive investigation, prolonged arm’s-length negotiations, and a full-day mediation that took place in person in Chicago, Illinois and a follow up half-day mediation via remote means with Judge Heather Welch (ret.). *See* Affidavit of Philip J. Krzeski in Support of Plaintiffs’ Motion for Attorneys’ Fees and Costs and Class Representative Service Awards (“Krzeski Aff.”), ¶ 8 (**Exhibit 1** hereto). After coming to an agreement on the principal terms of the Settlement, Class Counsel worked for months to finalize the Settlement Agreement, Notices, Claim Form and other associated exhibits pertaining to preliminary approval. *See id.* ¶ 10.

The Settlement is the result of the significant time and resources that Class Counsel have devoted to this Lawsuit, instead of pursuing other income and without any guarantee of compensation and was obtained against a well-organized defense by Defendant, which was represented by a well-regarded law firm. *See* Krzeski Aff. ¶ 11. This result is even more impressive due to the inherently risky and complex nature of this litigation. *Id.* ¶ 12. Against this backdrop, it was through the skill and hard work of Class Counsel and the Class Representatives that the Settlement was achieved for the benefit of Class Members. *Id.* ¶ 13.

As compensation for the significant, real benefits conferred upon the Settlement Class, Class Counsel respectfully move the Court for an award of attorneys’ fees in the amount of \$205,000, inclusive of \$9,153.35 in reasonably incurred litigation expenses. Class Counsel’s fee request is reasonable when considered under the applicable Wisconsin and federal Seventh Circuit

standards and is well within the normal range of fee awards in contingent-fee class actions. *See id.* ¶ 15. Finally, Plaintiffs seek a \$3,000 Service Award for each of the Class Representatives, totaling \$6,000. *Id.* ¶ 16. The requested Service Awards are reasonable for this type of action and should be approved. *Id.*

Accordingly, the Motion for Attorneys' Fees and Costs and Class Representative Service Awards should be approved in its entirety.

### **INCORPORATION BY REFERENCE**

Plaintiffs hereby incorporate by reference Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement (Doc. 45) ("Motion for Preliminary Approval").

### **CASE SUMMARY**

#### **I. Factual and Procedural Background**

Plaintiffs provide the factual and procedural background at pp. 1-3 in the Motion for Preliminary Approval.

#### **II. The Settlement and its Benefits**

Plaintiffs detail the Settlement benefits at pp. 3-8 in the Motion for Preliminary Approval. To briefly reiterate the benefits to the Class, each class member will be eligible for the following: (i) Attested Losses related to the time spent addressing issues arising from the Data Breach capped at four (4) hours per individual claimant, at a rate of \$21.25 per hour, for a maximum payment of \$85.00 per claimant; (ii) Documented Out-of-Pocket Extraordinary Expenses up to a maximum of \$2,000.00 per person; and (iii) two years of single bureau credit monitoring that includes at least \$1 million in identity theft protection and fraud insurance. SA, ¶¶ 3.3-3.5.

## LEGAL STANDARD

Wisconsin Statute § 803.08 governs class actions, including attorney fee petitions. Under section 803.08(13) “the court may award reasonable attorney fees and nontaxable costs that are authorized by law or by the parties’ agreement[.]” In so doing, the court uses four “procedures” listed under § 803.08. Those procedures are: (i) plaintiff must move the court to approve their fees and costs, with notice to the parties and class members; (ii) class members may object to plaintiff’s motion; (iii) the court “may” hold a hearing under Wis. Stat. § 805.17 to decide the petition; and (iv) the court “may” refer the petition to a referee under Wis. Stat. § 805.06. In other words, § 803.08(13) *mandates* procedures (i) and (ii) and *permits* procedures (iii) and (iv).

Case law clarifies that Wisconsin courts may consider federal law in applying § 803.08: “Wisconsin courts and practitioners can look to the well-developed body of federal case law interpreting [Federal Rule of Civil Procedure] 23 for guidance[.]” *Harwood v. Wheaton Franciscan Servs., Inc.*, 2019 WI App 53, ¶ 21, 388 Wis. 2d 546, 558, 933 N.W.2d 654, 660 (citing Judicial Council Committee Notes, 2017, § 803.08). In fact, the Legislature amended § 803.08 “to craft a Wisconsin class action rule that tracks as closely as possible to federal practice[.]” *Id.* Thus, the Court may consider federal law in approving Plaintiffs’ fee application.

## ARGUMENT

### **I. The Requested Attorneys’ Fees are Reasonable, Appropriate, and should be Granted.**

Plaintiffs request that the Court approve attorneys’ fees of \$205,000 (inclusive of costs and expenses of \$9,135.35 and \$3,000 Service Awards for each Class Representative. As explained below, the requested fee award is in line with the market rate for similar attorney services in this jurisdiction and fairly reflects the results achieved in this Settlement. Likewise, the requested Service Awards are routinely awarded and should be approved.

**A. The Percentage of the Fund Method is the Appropriate Method for Calculating Attorneys' Fees in this Lawsuit.**

Federal Rule 23(h) provides that “[i]n a certified class action, the court may award reasonable attorney’s fees . . . that are authorized by law or by the parties’ agreement.” Fed. R. Civ. P. 23(h).<sup>2</sup> Courts determine class action attorneys’ fees by “do[ing] their best to award counsel the market price for legal services, in light of the risk of nonpayment and the normal rate of compensation in the market at the time.” *In re Synthroid Mktg. Litig.* (“*Synthroid P*”), 264 F.3d 712, 718 (7th Cir. 2001) (collecting cases).

“At the time” is at the start of the case: the Court must “estimate the terms of the contract that private plaintiffs would have negotiated with their lawyers, had bargaining occurred at the outset of the case (that is, when the risk of loss still existed).” *Id.* “The best time to determine this rate is the beginning of the case, not the end (when hindsight alters of the perception of the suit’s riskiness, and sunk costs make it impossible for the lawyers to walk away if the fee is too low). This is what happens in actual markets.” *Id.* As part of this inquiry, “the judge must assess the value of the settlement to the class and the reasonableness of the agreed-upon attorneys’ fees for class counsel,” the central consideration being what class counsel achieved for members of the class. *Gehrich v. Chase Bank USA, N.A.*, 316 F.R.D. 215, 235 (N.D. Ill. 2016) (quoting *Redman v. RadioShack Corp.*, 768 F.3d 622, 629 (7th Cir. 2014)).

Courts have discretion to determine the “market rate” based on either a lodestar or percentage of the fund method. *See, e.g., Leung v. XPO Logistics*, 326 F.R.D. 185, 204 (N.D. Ill. 2018); *Williams v. Rohm & Haas Pension Plan*, 658 F.3d 629, 636 (7th Cir. 2011) (reviewing use

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<sup>2</sup> When “a state rule mirrors the federal rule, [Wisconsin courts] consider federal cases interpreting the rule to be persuasive authority.” *Luckett v. Bodner*, 2009 WI 68, ¶ 29, 318 Wis. 2d 423, 437, 769 N.W.2d 504, 511.

of lodestar in calculating fee award for abuse of discretion and stating “[w]e have never ordered the district judge to ensure that the lodestar result mimics that of the percentage approach”); *Cook v. Niedert*, 142 F.3d 1004, 1013 (7th Cir. 1998) (“[W]e have never ordered the district judge to ensure that the lodestar result mimics that of the percentage approach.”); *Americana Art China Co., Inc. v. Foxfire Printing & Packaging, Inc.*, 743 F.3d 243, 247 (7th Cir. 2014) (“[T]he choice of methods is discretionary . . . in our circuit, it is legally correct for a district court to choose either.”).

“Although . . . [the] Court has discretion to use ‘either a percentage of the fund or lodestar methodology,’ the ‘percentage method is employed by the vast majority of courts in the Seventh Circuit,” which encompasses Wisconsin. *T.K. Through Leshore v. Bytedance Tech. Co., Ltd.*, 2022 WL888943, at \*24 (N.D. Ill. Mar. 25, 2022) (quoting *Hale v. State Farm Mut. Auto. Ins. Co.*, 2018 WL 6606079, at \*10 (S.D. Ill. Sept. 16, 2018)); *see also Chambers v. Together Credit Union*, 2021 WL 1948452, at \*1 (S.D. Ill. May 14, 2021) (same); *Beesley v. Int’l Paper Co.*, 2014 WL 375432, at \*2 (S.D. Ill. Jan. 31, 2014) (“When determining a reasonable fee, the Seventh Circuit Court of Appeals uses the percentage basis rather than a lodestar or other basis.”); *Americana Art China Co. v. Foxfire Printing & Packaging, Inc.*, 743 F.3d 243, 247-48 (7th Cir. 2014) (“A court applying the percentage method to a common fund recovery should consider the total benefit *available* to class members . . . rather than the total benefit *paid* when fixing attorney fees.”).

Moreover, the approach favored for consumer class actions in federal courts in the Seventh Circuit is to compute attorneys’ fees as a percentage of the fund conferred upon the class: “there are advantages to utilizing the percentage method in common fund cases because of its relative simplicity of administration.” *Florin v. Nationsbank of Ga., N.A.*, 34 F.3d 560, 566 (7th Cir. 1994); *see also In re Cap. One TCPA Litig.*, 80 F. Supp. 3d 781, 795 (N.D. Ill. 2015) (finding percentage-

of-the-fund to be the “normal practice in consumer class actions” and the “most efficient” and “most likely to yield an accurate approximation of the market rate”). Courts have explained that “[t]he percentage method is bereft of largely judgmental and time-wasting computations of lodestars and multipliers.” *In re Union Carbide Corp. Consumer Prods. Bus. Sec. Litig.*, 724 F. Supp. 160, 170 (S.D.N.Y. 1989); *see also In re Cont’l Ill. Sec. Litig.*, 962 F.2d 566, 573 (7th Cir. 1992) (easier to establish market based contingency fee percentages than to “hassle over every item or category of hours and expense and what multiple to fix and so forth,”); *Gaskill v. Gordon*, 942 F. Supp. 382, 386 (N.D. Ill. 1996) (percentage-of-fund method “provides a more effective way of determining whether the hours expended were reasonable”), *aff’d*, 160 F.3d 361 (7th Cir. 1998). Courts have also explained that the percentage of the fund method can be just as effective as the lodestar method at determining a reasonable fee since both methods require the court to “consider the circumstances of the case.” *Id.* at 386 (citing *Donovan v. Robbins*, 588 F. Supp. 1268, 1272 (N.D. Ill. 1984)).

Here, through the hard work of Class Counsel, the Settlement makes available total benefits of \$1,627,750 to the Settlement Class. *See Krzeski Aff.* ¶9. In addition, the Settlement provides Class Members with two-year access to one-bureau credit monitoring, which includes \$1,000,000 in identity theft protection insurance. This service would cost \$9.95 per month to buy at retail, making it an approximate \$238.80 value for each Settlement Class Member.<sup>3</sup> Given the value of attested lost time payment and the value of credit monitoring, the benefit to Settlement Class Members is significant.

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<sup>3</sup><https://www.equifax.com/personal/products/monitor-credit-protect-identity/> (last visited, December 28, 2025).

For the reasons stated above, the percentage of the fund method is the appropriate method for calculating attorneys' fees in this consumer privacy case. *Leung*, 326 F.R.D. at 199 (using percentage of the fund method where Settlement Fund created in consumer class action); *Birchmeier v. Caribbean Cruise Line, Inc.*, 896 F.3d 792, 795 (7th Cir. 2018) (same).

**B. The Requested Attorneys' Fee Award is Reasonable and Appropriate.<sup>4</sup>**

“In assessing the reasonableness of an attorney fee award for a class action settlement, district courts should ‘do their best to award counsel the market price for legal services, in light of the risk of non-payment and the normal rate of compensation in the market at the time.’” *Sutton v. Bernard*, 504 F.3d 688, 692 (7th Cir. 2007) (quoting *Synthroid I*, 264 F.3d at 718). Relevant factors include the quality of the attorneys' performance, the amount of work necessary to resolve the litigation, the stakes of the case, and the complexity, length and expense of the litigation. *See id.* at 693; *see also Synthroid I*, 264 F.3d at 721; *Isby v. Bayh*, 75 F.3d 1191, 1198-99 (7th Cir. 1996).

**1. The Requested Fee is Well Within the Range of Typical Contingency Arrangements Regularly Approved by the Courts.**

The “actual fee contracts that were negotiated for private litigation” are relevant considerations to a fee request. *Taubenfeld v. AON Corp.*, 415 F.3d 597, 599 (7th Cir. 2005) (citing *Synthroid I*, 264 F.3d at 719); *see also Mangone v. First USA Bank*, 206 F.R.D. 222, 226 (S.D. Ill. 2001) (requiring weight be given to the judgment of the parties and their counsel where the fees were agreed to through arm's length negotiations after the parties agreed on the other key deal terms). “Where, as here, the prevailing method of compensating lawyers for similar services is the contingent fee, then the contingent fee is the market rate.” *Chambers*, 2021 WL 1948452, at \*1 (emphasis in original) (quoting *Kirchoff v. Flynn*, 786 F.2d 320, 324 (7th Cir. 1986)).

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<sup>4</sup> Notice of the class action settlement has not yet been issued. To the extent necessary, Co-Lead Class Counsel will address any objections and requests for exclusion following the deadline to object or request to opt-out of the settlement.

Class Counsel's fee request for \$205,000 is 12.5% of the \$1,627,750 in monetary benefits made available to Settlement Class Members, before consideration of the significant value from two-year access to single-bureau credit monitoring available to Class Members. This is reasonable and well below consistent with market rates:

When a class suit produces a fund for the class, it is commonplace to award the lawyers for the class a percentage of the fund, in recognition of the fact that most suits for damages in this country are handled on the plaintiff's side on a contingent-fee basis. ***The typical contingent fee is between 33 and 40 percent[.]***

*Gaskill v. Gordon*, 160 F.3d 361, 362 (7th Cir. 1998) (emphasis added & citations omitted) (upholding the award of 38 percent of a \$20 million settlement). Indeed, district courts within the Seventh Circuit “regularly award percentages of 33.33% or higher to counsel in class action litigation.” *Hale*, 2018 WL 6606079, at \*10; *see also Kirchoff*, 786 F.2d at 323 (finding 40% to be “the customary fee in tort litigation”); *Retsky Fam. Ltd. P’ship v. Price Waterhouse, LLP*, 2001 WL 1568856, at \*4 (N.D. Ill. Dec. 10, 2001) (customary contingent fee is “between 33 1/3% and 40%”); *Behrens v. Landmark Credit Union*, 2018 WL 3130629, at \*6 (W.D. Wis. June 26, 2018) (“And generally, a 33 to 40 percent contingency fee is considered consistent with the market rate and reasonable.”); *Birchmeier*, 896 F.3d at 795 (affirming fee award in TCPA class action that included, inter alia, “the sum of 36% of the first \$10 million”); *In re Cap. One TCPA Litig.*, 80 F. Supp. 3d at 781 (same); *Martin v. Caterpillar Inc.*, 2010 WL 11614985, at \*2 (C.D. Ill. Sept. 10, 2010) (“[C]ourts in the Seventh Circuit award attorney fees ‘equal to approximately one-third or more of the recovery.’ . . . The Seventh Circuit itself has specifically noted that ‘the typical contingent fee is between 33 and 40 percent.’”) (citation omitted); *Taubenfeld*, 415 F.3d at 600 (noting table of 13 cases in the Northern District of Illinois submitted by class counsel showing fees awarded ranged from 30% to 39% of the settlement fund).

The fees contemplated under Class Counsel's representation agreements for cases before federal courts in this state and elsewhere generally fall within the one-third to 40% range. *See* Krzeski Aff. ¶ 17. Here, Class Counsel's fee request of 12.5% of only the monetary benefits made available to the Settlement Class is in the range of Class Counsel's representation agreements and reflects the amount Class Counsel would have received had they negotiated their fee ex ante. *Id.* And that percentage is significantly less when the value of the credit monitoring is factored in. This factor weighs in favor of Class Counsel's fee request.

### **2. The Requested Fees Reflect the Fees Awarded in Other Settlements**

“As the Seventh Circuit has held, attorney's fee awards in analogous class action settlements shed light on the market rate for legal services in similar cases.” *Kolinek v. Walgreen Co.*, 311 F.R.D. 483, 493–94 (N.D. Ill. 2015) (citation omitted). Class Counsel's request for fees is reasonable compared to similar cases as awards of more than one third of a settlement fund are commonplace in similar privacy cases. *See, e.g., In re Forefront Data Breach Litig.*, 2023 WL 6215366, at \*8 (E.D. Wis. Mar. 22, 2023) (“[A] typical contingent fee is between 33 and 40 percent.”); *Birchmeier*, 896 F.3d at 795 (affirming award in TCPA class action that included, inter alia, “the sum of 36% of the first \$10 million”); *In re Cap. One TCPA Litig.*, 80 F. Supp. 3d at 781 (same); *John Karpilovsky v. All Web Leads, Inc.* No. 2017-cv-01307, Dkt. No. 173 (N.D. Ill.) (approving 35% of the settlement fund). Consequently, the requested fee here falls well within the range of fee awards approved as reasonable in similar cases.

### **3. Class Counsel Assumed the Risk of Non-Payment**

Courts emphasize the severity of the financial risk class counsel assumes in taking on a class action when determining the reasonableness of a fee request. *See, e.g., In re Dairy Farmers of Am., Inc.*, 80 F.Supp.3d 838, 847-48 (N.D. Ill. 2015) (“When determining the reasonableness of a fee request, courts put a fair amount of emphasis on the severity of the risk (read: financial risk)

that class counsel assumed in undertaking the lawsuit.”); *In re Trans Union Corp. Privacy Litig.*, 629 F.3d 741, 746 (7th Cir. 2011) (“[I]f the market-determined fee for a sure winner were \$1 million the market determined fee for handling a similar suit with only a 50% chance of a favorable outcome should be \$2 million.”). “Contingent fees compensate lawyers for the risk of nonpayment. The greater the risk of walking away empty-handed, the higher the award must be to attract competent and energetic counsel.” *Silverman v. Motorola Sols., Inc.*, 739 F.3d 956, 958 (7th Cir. 2013) (citing *Kirchoff*, 786 F.2d 320). Thus, the risk of non-payment is a key consideration in assessing the reasonableness of a requested fee and must be incorporated into any ultimate fee award. *See Sutton*, 504 F.3d at 694 (finding abuse of discretion where lower court, in applying percentage-of-the-fund approach, refused to account for the risk of loss on basis that “class actions rarely go to trial and that they all settle[,]” noting that “there is generally some degree of risk that attorneys will receive no fee (or at least not the fee that reflects their efforts) when representing a class because their fee is linked to the success of the suit[;] . . . [b]ecause the district court failed to provide for the risk of loss, the possibility exists that Counsel, whose only source of a fee was a contingent one, was undercompensated”).

The reasonableness of Class Counsel’s requested fees is underscored by the numerous risks of non-recovery to Plaintiffs (and thus non-payment to Class Counsel) that existed at the outset of the litigation. *See Krzeski Aff.* ¶ 18. Class Counsel agreed to take on these risks knowing that their efforts may not bear fruit. *Id.* ¶ 19. Fees were not guaranteed—the retainer agreements Class Counsel have with Plaintiffs did not provide for fees apart from those earned on a contingent basis, and, in the case of class settlement, approved by the Court. *Id.* ¶ 20. Class Counsel and their firms labored and advanced their own funds to prosecute the case at the risk of never being paid for their work or reimbursed for their costs and expenses. *Id.* Class Counsel devoted their time and

resources to this Lawsuit, instead of pursuing other income, at the risk of never getting paid and, at best, being paid at some point potentially many years down the road. *Id.* ¶ 21. Had Defendant successfully succeeded on a motion to dismiss, opposed class certification, prevailed on the merits, or on appeal, Class Counsel might have recovered nothing for the time and expense they invested in this litigation. *Id.* ¶ 22.

**4. The Quality of Counsel’s Performance and the Work Invested Support the Requested Fee Award.**

The quality of Class Counsel’s performance and time invested through extensive preliminary investigation, opposing a motion to dismiss, informal discovery, and adversarial negotiations to achieve a Settlement for the benefit of the Settlement Class further supports the requested fee award. *See Sutton*, 504 F.3d at 693 (“[T]he market price for legal fees ‘depends in part on . . . on the quality of [plaintiffs’ counsel’s] performance, in part on the amount of work necessary to resolve the litigation, and in part on the stakes of the case.’”). The Settlement is a fair, reasonable, and adequate remedy for Class Members when compared to the facts and law at issue in this Lawsuit. *See Krzeski Aff.* ¶ 23. In addition to accepting considerable risk in litigating this Lawsuit, Class Counsel committed their time and resources without any guarantee of compensation, only achieving the Settlement after extensive investigation and considerable negotiations. *Id.* ¶ 24.

Prior to filing the Complaint, Class Counsel expended considerable hours investigating Defendant’s Data Incident and Plaintiffs’ allegations. *See id.* ¶ 25. Class Counsel then briefed and partially defeated Defendant’s Motion to Dismiss, engaged in informal discovery, prepared for and participated in an all-day, in-person mediation and a follow up half-day mediation via remote means, and then spent weeks negotiating, drafting and finalizing the Settlement and preliminary settlement approval papers. *Id.* ¶ 26. After the Court preliminarily approved the Settlement, Class

Counsel continued to work with the Settlement Administrator to supervise dissemination of Notice to the Class and to monitor the Claims process. *Id.* ¶ 27. These efforts resulted in a Settlement with significant benefits to and protections for the Settlement Class that they would not otherwise have. Moreover, the Settlement provides real benefits that will be available to Class Members in the very near future, rather than years from now (if at all). *See id.* ¶ 28. This is a further enhancement to the value of the Settlement to the Class Members. *See Donovan v. Est. of Frank E. Fitzsimmons*, 778 F.2d 298, 309 n.3 (7th Cir. 1985) (recognizing that at a prime interest rate of 12.5 percent of a \$2 million settlement sum today is worth the same as a \$3.6 million recovery five years from now).

Class Counsel are highly experienced in litigating consumer class actions, including privacy cases. *See Firm Resumes* attached as Exhibits 2-3 to the Declarations of Alex C. Phillips in Support of Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement. Given the strength of the Settlement obtained for the Settlement Class and the lengthy, adversarial nature of the settlement negotiations, Class Counsel submit that their experience and the quality and amount of work invested for the benefit of the Settlement Class support the requested fee.

#### **5. The Complexity, Length, and Expense of the Litigation**

Data breach class action lawsuits are complex, risky, and expensive to litigate. *See generally Synthroid I*, 264 F.3d at 721 (noting that market rate depends “in part on the amount of work necessary to resolve the litigation”); *Isby*, 75 F.3d at 1198-99 (listing “an assessment of the likely complexity, length and expense of the litigation” as factors that determine the reasonableness of a fee award). Class Counsel were aware that pursuing this Lawsuit would be lengthy and expensive. Plaintiffs would have had to make it past several additional hurdles to achieve a potential recovery—discovery, class certification, summary judgment, maintaining class certification throughout trial, trial, and potential appeals. All of this would require hundreds, or perhaps thousands, of hours, which would result in significant costs.

As discussed herein and in Class Counsel's supporting affidavit, investigating, prosecuting, and settling this Lawsuit required considerable commitment of time and resources. *See generally passim* Krzeski Aff. Class Counsel have vigorously and zealously represented the interests of the Settlement Class from their initial investigation, drafting of the complaint (and consolidated complaint), briefing on the motion to dismiss, and preliminary approval of this Settlement. *See* Krzeski Aff. ¶ 29. Class Counsel will continue to do so through final approval. *Id.* Class Counsel expended substantial time and effort in the prosecution of this Lawsuit, and their coordinated efforts were critical to achieving a substantial Settlement for the Settlement Class. *Id.* ¶ 30.

Moreover, Class Counsel expect to maintain a high level of oversight and involvement in this Lawsuit. *See id.* Class Counsel will continue to devote substantial time to this Lawsuit given the significant work that remains to implement this Settlement. *Id.* ¶ 30. This additional work includes, but is not limited to, drafting and filing Plaintiffs' Motion for Final Approval, preparing for and appearing at the Final Approval Hearing, overseeing Settlement Administration, answering Class Members' questions, responding to any potential objections and resolving any appeals. *Id.* This factor likewise supports approval of this fee request.

## **6. The Stakes of the Case**

Class action lawsuits are high stakes litigation, and data breach class action lawsuits come with their own set of uncertainties, as discussed above. Class Members' claims could have faced several hurdles, such as the Court dismissing some or all of Plaintiffs' claims, declining to certify the Settlement Class, or decertifying the Settlement Class or the possibility that Plaintiffs would not prevail at trial or on appeal. *See id.* ¶ 32. This factor weighs in favor of granting this Motion because although the Lawsuit presented substantial uncertainty from the outset, through the sustained efforts of Class Counsel—with the assistance of Plaintiffs—the Settlement now provides meaningful benefits to Class Members. *See Synthroid I*, 264 F.3d at 721. Accordingly, Plaintiffs'

request for attorneys' fees meets the factors for reasonableness, is well-below the established 33% to 40% range of fee requests in class action litigation in the Seventh Circuit and should be granted.

**II. The Expenses Incurred were Reasonable and included in the Attorneys' Fees and Expenses Negotiated as Part of the Settlement.**

It is well established that counsel who create a common benefit for class are entitled to the reimbursement of litigation costs and expenses. *See, e.g., Beesley*, 2014 WL 375432, at \*3 (citing Fed. R. Civ. P. 23; *Boeing Co.*, 444 U.S. at 478). Costs and expenses should be awarded based on the types of "expenses private clients in large class actions (auctions and otherwise) pay." *Synthroid I*, 264 F.3d at 722; *see also Spicer v. Chi. Bd. Options Exch., Inc.*, 844 F. Supp. 1226, 1256 (N.D. Ill. 1993) (noting that courts regularly award reimbursement of those expenses that are reasonable and necessarily incurred in the course of litigation); *Hale*, 2018 WL 6606079, at \*10 ("It is well established that counsel who create a common fund ... are entitled to the reimbursement of litigation costs and expenses, which includes such things as expert witness costs; computerized research; court reports; travel expense; copy, phone and facsimile expenses and mediation.") (quoting *Beesley*, 2014 WL 375432, at \*3)).

Here, Counsel for Plaintiffs and the Class have collectively incurred \$9,153.75 in reimbursable expenses related to: (1) filing fees; (2) court admission fees; (3) service costs; and (4) mediation fees. *See Krzeski Aff.* ¶ 35. These expenses were necessary to prosecute this Lawsuit and are modest in comparison to the enormous costs that likely would have been incurred if litigation had continued. *Id.* ¶ 36. Accordingly, the Court should grant Class Counsel's request for \$9,153.75 as reasonable expenses as part of the total fee award.

**III. The Requested Service Awards are Reasonable and Should be Granted**

Class Counsel requests that the Court grant Service Awards to Class Representatives—in the amount of \$3,000 each—for their efforts on behalf of the Settlement Class. Service awards

compensating named plaintiffs for work done on behalf of the class are routinely awarded. Such awards encourage individual plaintiffs to undertake the responsibility of representative lawsuits. *See, e.g., Cook*, 142 F.3d at 1016 (recognizing that “because a named plaintiff is an essential ingredient of any class action, an incentive award is appropriate if it is necessary to induce an individual to participate in the suit”); *Synthroid I*, 264 F.3d at 722 (“Incentive awards are justified when necessary to induce individuals to become named representatives.”). Without Plaintiffs serving as Class Representatives, the Settlement Class would not have been able to recover anything. *See In re Iowa Ready-Mix Concrete Antitrust Litig.*, 2011 WL 5547159, at \*5 (N.D. Iowa Nov. 9, 2011) (“[E]ach . . . plaintiff has provided invaluable assistance and demonstrated an ongoing commitment to protecting the interests of class members.”).

Plaintiffs have been actively engaged in this Lawsuit and were essential to the success achieved. *See Krzeski Aff.* ¶ 37. Among other things, Plaintiffs completed client interviews, provided information to Class Counsel, gathered documents, reviewed pleadings, stayed updated about the litigation, and reviewed and approved the Settlement. *See id.* ¶ 38. The Settlement would not have been possible without the effort and commitment of Plaintiffs, who sacrificed time and put their name on the line for the sake of the Class. *See id.* ¶ 39.

Moreover, the total amount requested here is in line with other awards approved by federal courts in the Seventh Circuit. *See, e.g., Kolinek v. Walgreen Co.*, 311 F.R.D. 483, 502 (N.D. Ill. 2015) (finding that “a \$5,000 reward is justified based on Kolinek’s role working with class counsel, approving the settlement agreement and fee application, and volunteering to play an active role if the parties continued litigating through trial”); *Cook*, 142 F.3d at 1016 (affirming \$25,000 incentive award); *Heekin v. Anthem, Inc.*, 2012 WL 5878032, at \*1 (S.D. Ind. Nov. 20, 2012) (approving \$25,000 incentive award to lead class plaintiff over objection); *Will v. Gen. Dynamics*

*Corp.*, 2010 WL 4818174, at \*4 (S.D. Ill. Nov. 22, 2010) (awarding \$25,000 each to three named plaintiffs); *Killian v. Trionfo Solutions, LLC*, No. 24-cv-04547, Dkt. No. 36 (N.D. Ill. May 23, 2025), (awarding \$2,500 service award to each plaintiff in data breach class action). Thus, the requested Service Awards are reasonable and should be approved.

### **CONCLUSION**

As detailed in Plaintiffs' Motion for Preliminary Approval (and as will be further detailed in Plaintiffs' forthcoming Motion for Final Approval), Class Counsel obtained a tremendous result for the Settlement Class in this Lawsuit, which involves an unsettled area of the law. Class Counsel thoroughly investigated the Data Incident, interviewed potential clients, researched potentially applicable law, opposed and survived a motion to dismiss in relevant part, engaged in full-day and half-day mediations, negotiated and prepared the Settlement, and drafted the Motion for Preliminary Approval (including the various notices and other exhibits).

As a direct result of Class Counsel's work and dedication to this Lawsuit, Plaintiffs and the Class will receive a meaningful recovery while avoiding the significant cost, risk, and delay of further litigation. Plaintiffs respectfully request that this Court: (i) award Class Counsel attorneys' fees in the amount of \$205,000, inclusive of reasonable and necessary litigation costs and expenses in the amount of \$9,153.35; and (ii) award Service Awards to the Class Representatives in the amount of \$3,000 each for their efforts on behalf of the Class.

Dated: December 30, 2025

Respectfully submitted,

/s/ Alex Phillips

Alex Phillips

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# Exhibit 1

STATE OF WISCONSIN

CIRCUIT COURT

DANE COUNTY

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WILLIAM GEIGER and DENISE GALLAGHER,

Plaintiffs,

v.

Case No. 24-CV-002072

DISABILITY RIGHTS WISCONSIN, INC.,

Defendant.

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**AFFIDAVIT OF PHILIP J. KRZESKI IN SUPPORT OF PLAINTIFFS’  
MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR ATTORNEYS’ FEES AND  
COSTS AND CLASS REPRESENTATIVE SERVICE AWARDS**

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I, Philip J. Krzeski, being competent to testify, make the following declaration:

1. I am an income partner at Chestnut Cambronne PA.

2. I have been appointed as Co-Lead Class Counsel, along with Co-Counsel Alex C. Phillips of Straus Borelli PLLC, for Plaintiffs William Geiger and Denise Gallagher (“Plaintiffs”).

I submit this Affidavit in support of Class Plaintiffs’ Motion for Attorneys’ Fees and Costs and Class Representative Awards. Except as otherwise noted, I have personal knowledge of the facts set forth in this declaration and could testify competently to them if called upon to do so.

3. Class Counsel have extensive experience prosecuting complex class actions, especially in the area of data breach litigation. That experience is outlined in our firm resume attached as **Exhibits 2-3** to Plaintiffs’ Unopposed Motion for Preliminary Approval of Class Action Settlement.

4. Throughout this litigation, we and our respective law firms have been responsible for the prosecution of Plaintiffs’ claims on behalf of the putative Class. The Settlement obtained here results in a substantial recovery for the Class.

5. I have extensive experience in the prosecution of class action litigation generally and privacy-related class action litigation in particular. My firm and my Co-Lead Counsel's firm have a proven track record of experience and success in data breach and data privacy class action litigation.

6. Plaintiffs allege that Defendant Disability Rights of Wisconsin, Inc. ("Defendant") was negligent by failing to adequately protect Plaintiffs' and Class Members' Private Information from unauthorized access.

7. Class Counsel and the firms involved in this litigation have successfully litigated and settled similar cases across the country, and, in this case, have been challenged by highly experienced and skilled counsel who deployed very substantial resources on Defendant's behalf.

8. The Settlement is a product of an extensive investigation, prolonged arm's-length negotiations, and a full-day mediation and follow up half-day mediation with Judge Heather Welch (ret.). The full-day mediation took place on August 14, 2025 in Chicago, Illinois. The follow up half-day mediation took place by remote means on September 16, 2025.

9. Here, through the hard work of Class Counsel, the Settlement makes available total benefits of \$1,627,750 to the Settlement Class.<sup>1</sup> In addition, the Settlement provides Class Members with two-year access to one-bureau credit monitoring, which includes \$1,000,000 in identity theft protection insurance. This service would cost \$9.95 per month to buy at retail, making it an approximate \$238.80 value for each Settlement Class Member.

10. After coming to an agreement on the principal terms of the Settlement, Class Counsel worked for months to finalize the Settlement Agreement, Notices, Claim Form and other associated exhibits pertaining to preliminary approval.

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<sup>1</sup> The monetary benefit is calculated as \$85.00 x 19,150 individuals.

11. The Settlement is the result of the significant time and resources that Class Counsel has devoted to this Lawsuit, instead of pursuing other income and without any guarantee of compensation and was obtained against a well-organized defense by Defendant, which was represented by a well-regarded law firm.

12. This result is even more impressive due to the inherently risky and complex nature of this litigation.

13. Against this backdrop, it was through the skill and hard work of Class Counsel and the Class Representatives that the Settlement was achieved for the benefit of Class Members.

14. As compensation for the significant, real benefits conferred upon the Settlement Class, Class Counsel respectfully move the Court for an award of attorneys' fees in the amount of \$205,000, inclusive of \$9,153.35 in reasonably incurred litigation expenses.

15. Class Counsel's fee request is reasonable when considered under the applicable Wisconsin and federal Seventh Circuit standards and is well within the normal range of fee awards in contingent-fee class actions.

16. Plaintiffs seek a \$3,000 Service Award for each of the Class Representatives, totaling \$6,000. The requested Service Awards are reasonable for this type of action and should be approved.

17. The fees contemplated under Class Counsel's representation agreements for cases before federal courts in this state and elsewhere generally fall within the one-third to 40% range.

18. The reasonableness of Class Counsel's requested fees is underscored by the numerous risks of non-recovery to Plaintiffs (and thus non-payment to Class Counsel) that existed at the outset of the litigation.

19. Class Counsel agreed to take on these risks knowing that their efforts may not bear fruit.

20. Fees were not guaranteed—the retainer agreements Class Counsel have with Plaintiffs did not provide for fees apart from those earned on a contingent basis, and, in the case of class settlement, approved by the Court. *Id.* Class Counsel and their firms labored and advanced their own funds to prosecute the case at the risk of never being paid for their work or reimbursed for their costs and expenses.

21. Class Counsel devoted their time and resources to this Lawsuit, instead of pursuing other income, at the risk of never getting paid and, at best, being paid at some point potentially many years down the road.

22. Had Defendant successfully succeeded on a motion to dismiss, opposed class certification, prevailed on the merits, or on appeal, Class Counsel might have recovered nothing for the time and expense they invested in this litigation.

23. The Settlement is a fair, reasonable, and adequate remedy for Class Members when compared to the facts and law at issue in this Lawsuit.

24. In addition to accepting considerable risk in litigating this Lawsuit, Class Counsel committed their time and resources without any guarantee of compensation, only achieving the Settlement after extensive investigation and considerable negotiations.

25. Prior to filing the Complaint, Class Counsel expended considerable hours investigating Defendant's Data Incident and Plaintiffs' allegations.

26. Counsel then briefed and partially defeated Defendant's Motion to Dismiss, engaged in informal discovery, prepared for and participated in an all-day mediation and a follow

up half-day mediation, and spent weeks negotiating, drafting and finalizing the Settlement and preliminary settlement approval papers.

27. After the Court preliminarily approved the Settlement, Class Counsel continued to work with the Settlement Administrator to supervise dissemination of Notice to the Class and to monitor the Claims process.

28. These efforts resulted in a Settlement with significant benefits to and protections for the Settlement Class that they would not otherwise have. Moreover, the Settlement provides real benefits that will be available to Class Members in the very near future, rather than years from now (if at all).

29. Class Counsel have vigorously and zealously represented the interests of the Settlement Class from their initial investigation, drafting of the complaint (and consolidated complaint), briefing on the motion to dismiss, and preliminary approval of this Settlement. Class Counsel will continue to do so through final approval.

30. Class Counsel expended substantial time and effort in the prosecution of this Lawsuit, and their coordinated efforts were critical to achieving a substantial Settlement for the Settlement Class. Moreover, Class Counsel expect to maintain a high level of oversight and involvement in this Lawsuit.

31. Class Counsel will continue to devote substantial time to this Lawsuit given the significant work that remains to implement this Settlement. This additional work includes, but is not limited to, drafting and filing Plaintiffs' Motion for Final Approval, preparing for and appearing at the Final Approval Hearing, overseeing Settlement Administration, answering Class Members' questions, responding to any potential objections and resolving any appeals.

32. Class action lawsuits are high stakes litigation, and data breach class action lawsuits come with their own set of uncertainties, as discussed above. Class Members' claims could have faced several hurdles, such as the Court dismissing some or all of Plaintiffs' claims, declining to certify the Settlement Class, or decertifying the Settlement Class or the possibility that Plaintiffs would not prevail at trial or on appeal.

33. The following charts identify the professionals from Co-Lead Class Counsel's firms who have contributed billed time to Plaintiffs' case over the course of this Lawsuit through December 28, 2025, as well as their hours of work on behalf of Plaintiffs in this Lawsuit, their current hourly rate and the resulting lodestar. Altogether, Plaintiffs' and Class Counsel have dedicated 224.9 hours to this Lawsuit, with a total lodestar of \$ 156,481.50. Class Counsel has ensured that this lodestar is the result of efficient use of Plaintiffs' and Class Counsel's time and that there was no duplication of efforts in this Lawsuit. In my opinion, the hours in the following chart were reasonable and necessary to the result achieved for Plaintiffs and the Class:

***Strauss Borelli PLLC***

<b>Billor</b>	<b>Role</b>	<b>Hourly Rate</b>	<b>Hours</b>	<b>Total Value</b>
Samuel Strauss	Partner	\$800.00	16.8	\$13,440.00
Raina Borelli	Partner	\$800.00	44.4	\$35,520.00
Alex Phillips	Partner	\$675.00	35.2	\$23,760.00
Stephen Pigozzi	Attorney	\$600.00	1.2	\$2,880.00
Min Ro	Paralegal	\$200.00	1.2	\$240.00
Megan Wang	Paralegal	\$200.00	.6	\$120.00
<b>Total</b>			<b>103.0</b>	<b>\$75,960.00</b>

***Chestnut Cambronne PA***

<b>Billor</b>	<b>Role</b>	<b>Hourly Rate</b>	<b>Hours</b>	<b>Total Value</b>
Bryan L. Bleichner	Shareholder	\$1,095.00	24.6	\$26,937.00
Philip J. Krzeski	Income Partner	\$595-\$695	40.1	\$27,400.50
Jennifer C. Crancer	Partner	\$575-\$595	12.1	\$6,971.50
Gary K. Luloff	Partner	\$625-\$695	6.8	\$4,446.00
Elizabeth A. Orrick	Associate	\$475-\$495	21.8	\$10,739.00
Evan D. Robert	Associate	\$250-275	16.5	\$4,387.50
<b>Total</b>			<b>121.9</b>	<b>\$80,521.50</b>

34. The following charts identify the costs to date incurred by Co-Lead Class Counsel in connection with this litigation:

***Strauss Borelli PLLC***

<b>Expense</b>	<b>Cost</b>
Filing Fees	\$382.74
Mediation Fees	\$2,750.00
<b>Total</b>	<b>\$3,132.74</b>

***Chestnut Cambronne PA***

<b>Expense</b>	<b>Cost</b>
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Filing Fee	\$308.76
PHV	\$250.00
Service	\$221.76
Travel and Lodging for Mediation	\$2,371.90
Mediation Fee	\$2,832.23
Certificate of Good Standing	\$35.96
<b>Total</b>	<b>\$6,020.61</b>

35. Counsel for Plaintiffs and the Class have collectively incurred \$9,153.75 in reimbursable expenses related to: (1) filing fees; (2) court admission fees; (3) service costs; and (4) mediation fees.

36. These expenses were necessary to prosecute this Lawsuit and are modest in comparison to the enormous costs that likely would have been incurred if litigation had continued.

37. Plaintiffs have been actively engaged in this Lawsuit and were essential to the success achieved.

38. Among other things, Plaintiffs completed client interviews, provided information to Class Counsel, gathered documents, reviewed pleadings, stayed updated about the litigation, and reviewed and approved the Settlement.

39. The Settlement would not have been possible without the effort and commitment of Plaintiffs, who sacrificed time and put their name on the line for the sake of the Class.

Date: December 30, 2025

Respectfully submitted,

*/s/ Phil Krzeski*

Philip J. Krzeski

**CHESTNUT CAMBRONNE PA**