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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Daniel Davila, individually and on behalf
of all similarly situated persons,

Plaintiff,

v.

New Enchantment Group, LLC,

Defendant.

No. CV-23-01098-PHX-SRB

Hon. Judge Susan R. Bolton

**PLAINTIFF'S MOTION FOR
ATTORNEYS' FEES, COSTS,
EXPENSES, AND SERVICE AWARD
AND MEMORANDUM OF LAW IN
SUPPORT**

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I. INTRODUCTION¹

Plaintiff Daniel Davila (“Plaintiff” or “Class Representative”), on behalf of himself and on behalf of all other similarly situated individuals (the “Settlement Class”) respectfully requests: (i) approval of an award of attorneys’ fees, costs, and expenses to Settlement Class Counsel (“Class Counsel”) in the total amount of \$282,500.00; and (ii) approval of a Service Award in the amount of \$1,500.00 to the Class Representative.

Class Counsel have diligently and vigorously prosecuted this case to secure a fair, adequate, and reasonable settlement for Plaintiff and the Class without any guarantee of payment for their services. The Settlement provides exceptional monetary and non-monetary relief for Plaintiffs and the Class that redress the harm Plaintiff alleges was caused by Defendant New Enchantment Group, LLC “Defendant” or “NEG”) and avoids the delay and uncertainty of protracted litigation.

Through the Settlement, Settlement Class Members are eligible to receive reimbursement for (i) up to five (5) hours of Attested Time spent remedying issues related to the Data Breach at a rate of \$30.00 per hour (a maximum amount of \$150.00) (SA, ¶ 42); (ii) Out-of-Pocket Costs up to \$500.00 (*Id.* ¶ 43); and (iii) Financial Losses up to \$4,000.00 (*Id.* ¶ 44). In lieu of receiving compensation for Attested Time, Out-of-Pocket Costs, or Financial Losses, Settlement Class Members may elect to receive an Alternative Cash Payment of \$75.00. (*Id.* ¶ 45). Regardless of the payment option selected, all Settlement Class Members may elect to receive two (2) years of Credit Monitoring Services that provide monitoring with the three (3) major credit bureaus (Experian, Equifax, and Transunion), alerts about changes in information to the credit report, dark web scanning for personal information, identify theft insurance, and access to assistance to help investigate and resolve any issues. (*Id.* ¶¶ 11, 46). The Settlement is uncapped, which

¹ Unless otherwise noted capitalized terms have the same meaning assigned to them in the Settlement Agreement (“SA”) (ECF No. 32-1).

means all timely, valid, and Approved Claims will be paid by Defendant. (Declaration of William B. Federman in Support of Plaintiff’s Motion for Attorneys’ Fees, Costs, Expenses, and Service Award (“Federman Decl.”), ¶ 5 (attached hereto as **Exhibit 1**)). Class Counsel negotiated and fought for a settlement structure without an aggregate monetary cap to ensure Settlement Class Members would be adequately compensated for their claims. (*Id.*) Overall, this is an excellent result for the Class that would not be possible without the time, efforts, and experience of Class Counsel.

As compensation for the substantial benefit conferred upon the Settlement Class, Class Counsel request this Court award their requested attorneys’ fees, costs, expenses, and a Service Award to Plaintiff. This request is contemplated by the Settlement Agreement (SA, ¶¶ 72, 74) and will not impact any of the relief made available to Settlement Class Members under the Settlement. Class Counsel apprised the Court of this request in Plaintiff’s Motion for Preliminary Approval (ECF No. 32). It was also clearly delineated in the notices disseminated to the Settlement Class. (Federman Decl., ¶ 8). To date, zero Class Members have objected to the Settlement (or to the requested fee) and none have requested exclusion. (*Id.*).

This Settlement is an excellent result for the Settlement Class; therefore, Class Counsel and Plaintiffs should be rewarded for their efforts in obtaining this exceptional relief. The Court should grant Plaintiff’s Motion for Attorneys’ Fees, Costs, Expenses, and Service Award in its entirety.

II. STATEMENT OF FACTS, PROCEDURAL HISTORY, AND THE SETTLEMENT TERMS.

In the interest of brevity, Plaintiff incorporates by reference the statement of facts, procedural history, and settlement terms set forth in *Plaintiff’s Unopposed Motion for Preliminary Approval of Class Action Settlement and Memorandum in Support* filed on October 10, 2024 (ECF No. 32).

III. CLASS COUNSEL’S ATTORNEYS’ FEES SHOULD BE AWARDED WITH A MODEST LODESTAR MULTIPLIER.

A. Legal Standard.

Federal Rule of Civil Procedure 23(h) permits the Court to award reasonable attorney’s fees and costs in class action settlements as authorized by law or by the parties’ agreement. Fed. R. Civ. P. 23(h). The Ninth Circuit permits two (2) methods of calculating attorneys’ fee awards in class actions: (i) the “lodestar” method and (ii) the “percentage-of-recovery” method. *In re Hyundai & Kia Fuel Econ. Litig.*, 926 F.3d 539, 570 (9th Cir. 2019) (en banc).

The proposed Settlement is a “claims-made” settlement, which “is a settlement that does not have a fixed settlement fund, but rather provides that the defendant will pay claims of class members who file them[.]” 4 William B. Rubenstein et al., *Newberg on Class Actions* (“Newberg ”) § 13:7 (5th ed.). Courts are split on whether, in claims-made settlements, attorney’s fees should be viewed as a percentage of the total amount available to the class or the amount claimed by the class. *See id.* (citing cases). However, most courts have found “[i]t is more appropriate to employ a lodestar method rather than a percentage method where a settlement will be paid on a claims-made basis with no cap to the relief available.” *Castellon v. Penn-Ridge Transportation, Inc.*, No. EDCV1802136JAKKKX, 2020 WL 7786659, at *9 (C.D. Cal. Nov. 3, 2020) (citation and quotation marks omitted); *Grays Harbor Adventist Christian Sch. v. Carrier Corp.*, No. 05-05437 RBL, 2008 WL 1901988, at *1 (W.D. Wash. Apr. 24, 2008) (“Where, as here, Settlement relief will be paid on a claims made basis with no cap to the relief available, consideration of attorneys’ fees lends itself more readily to the lodestar method. Because the attorneys’ fees will be paid separately by [defendant] without reducing the relief available to the Class, the lodestar method is appropriate”); *Bowdle v. King’s Seafood Co., LLC*, No. SACV2101784CJCJDEX, 2022 WL 19235264, at *9 (C.D. Cal. Oct. 19, 2022) (noting the lodestar method is more appropriate in data breach cases because they provide a hybrid of

monetary and non-monetary relief). Thus, the appropriate method here is the lodestar method.

B. The Requested Fee is Reasonable Under the Lodestar Method.

“The lodestar figure is calculated by multiplying the number of hours the prevailing party reasonably expended on the litigation (as supported by adequate documentation) by a reasonable hourly rate for the region and for the experience of the lawyer.” *In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935, 941 (9th Cir. 2011). “In applying the ‘lodestar method,’ courts consider non-attorney fees, such as paralegal, secretarial, and technician services, as part of the attorney’s fees calculation.” *Ctr. for Biological Diversity v. Env’t Prot. Agency*, No. C 17-00720 WHA, 2017 WL 6761932, at *4 (N.D. Cal. Dec. 4, 2017), *report and recommendation adopted*, No. C 17-00720 WHA, 2018 WL 264087 (N.D. Cal. Jan. 2, 2018). “The court may adjust [the lodestar] upward or downward by an appropriate positive or negative multiplier reflecting a host of reasonableness factors, including the quality of representation, the benefit obtained for the class, the complexity and novelty of the issues presented, and the risk of nonpayment.” *In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d at 941–42.

1. Class Counsel’s Lodestar.

Class Counsel devoted substantial time, labor, and resources to achieve the Settlement. Since inception of the case, Class Counsel (in conjunction with their local counsel) have documented 195.70 hours spent to date litigating this case, at a value of \$126,507.00, when multiplied by their customary rates, as depicted by the chart below:

Firm	Hours	Lodestar	Expenses
Federman & Sherwood	179.70	\$119,707.00	\$4,969.67
Perez Law Group	16.00	\$6,800.00	\$566.41
TOTAL	195.70	\$126,507.00	\$5,536.08

1 (Federman Decl., ¶ 15).

2 The lodestar chart above does not include the time spent preparing the motion for
3 final approval, preparing for and traveling to the final fairness hearing, supervising the
4 claims process, or responding to Settlement Class Member inquiries about their payments
5 after the Settlement receives final approval, all of which will require Class Counsel to
6 accrue additional time and fees. (*Id.*). Class Counsel estimate they will incur approximately
7 30 to 40 hours engaging in these additional tasks. (*Id.*).

8 Although Class Counsel have consistently sought to keep costs and fees to a
9 minimum, this case required a significant amount of work and time. (*Id.* ¶ 10). This case
10 was levied against a company represented by a well-known law firm with extensive data
11 breach litigation experience. (*Id.*). Class Counsel's efforts in this matter included:

- 12 a) fully investigating the facts and legal claims surrounding the lawsuit, including (i)
13 parsing through various online sources to determine the scope of the data breach
14 and whether or not the data potentially compromised in the data breach was leaked
15 on the dark web, (ii) the numerosity and composition of the putative class, (iii) the
16 proper venue for the lawsuit, (iv) the financial wellness of Defendant, and (v)
17 thoroughly researching Arizona's established case law in data privacy actions;
- 18 b) interviewing and vetting Plaintiff;
- 19 c) obtaining and reviewing documents from Plaintiff substantiating his claims;
- 20 d) drafting and preparing the Complaint, as well as conducting extensive research for
21 the Complaint;
- 22 e) regularly communicating with Plaintiff to keep him apprised of the progress in the
23 litigation;
- 24 f) researching, drafting, and filing an extensive Response in Opposition to Defendant's
25 Motion to Dismiss (ECF Nos. 10, 13), which resulted in the Motion to Dismiss being
26 denied in its entirety (ECF No. 23);
- 27 g) presenting oral argument in opposition to Defendant's Motion to Dismiss;
- 28

- h) researching and submitting supplemental authority after the motion to dismiss hearing (ECF No. 20);
- i) retaining and working with a cybersecurity expert to conduct research regarding the data breach at issue and analyzing the results;
- j) meeting and conferring with Defendant to discuss a joint case management schedule as well as drafting the Joint Case Management Report (ECF No. 26);
- k) preparing Plaintiff's initial disclosures and serving them on Defendant;
- l) drafting requests for production of documents, requests for admission, and interrogatories and serving them on defendant;
- m) requesting, obtaining, and reviewing documents and information from Defendant regarding the data breach, Defendant's remedial measures after the data breach, and Defendant's cyber insurance status;
- n) attending and participating in a full-day mediation session with well-respected mediator Hon. David E. Jones (Ret.) consisting of hard-fought settlement negotiations that ultimately resulted in the settlement principle;
- o) negotiating the details of the Settlement with defense counsel after the mediation;
- p) editing and finalizing the Settlement Agreement, proposed orders, and notice documents;
- q) developing the notice program and distribution plan for the Settlement;
- r) soliciting bids from several settlement administrators to ensure the best possible notice was provided to the Class;
- s) drafting the Motion for Preliminary Approval (ECF No. 32) and obtaining preliminary approval of the Settlement (ECF No. 33);
- t) aiding the Settlement Administrator, A.B. Data, with questions about the claims process and submitting claims, as well as implementing the notice program and overseeing the claims process; and
- u) researching and drafting Plaintiffs' Motion for Attorneys' Fees, Costs, Expenses,

and Service Awards.

(*Id.*).

2. The Hourly Rates are Reasonable.

To assist the court in calculating the lodestar, a plaintiff must submit “satisfactory evidence ... that the requested rates are in line with those prevailing in the community for similar services by lawyers of reasonably comparable skill, experience, and reputation.” *Blum v. Stenson*, 465 U.S. 886, 895-96 n.11 (1984). The relevant community is that in which the district court sits. *See Schwarz v. Sec’y of Health and Human Serv.*, 73 F.3d 895, 906 (9th Cir.1995).

Here, Class Counsel’s hourly rates have been approved by this Court and other courts within this Circuit in other data privacy litigation similar to this Action. *See, e.g., Perez, et al. v. Carvin Wilson Software, LLC*, No. CV-23-00792, ECF Nos. 48-1, 53 (D. Ariz.) (approving Federman & Sherwood’s hourly rate range of \$300–\$1,150 and approving Perez Law Group’s hourly rate range of \$200.00–600.00); *Hogsed, et al. v. PracticeMax, Inc.*, No. 2:22-cv-01261, ECF Nos. 42-1, 45 (D. Ariz.) (approving hourly rate range from \$125.00–\$1,450.00); *In re: Orrick, Herrington & Sutcliffe, LLP Data Breach Litig.*, No. 3:23-cv-04089, ECF Nos. 68, 74 (N.D. Cal.) (approving partner hourly rate of \$1,150.00, attorney hourly rate of \$600.00, and paralegal hourly rate of \$300.00); *In re Solara Medical Supplies Data Breach Litigation*, No. 3:19-cv-02284, ECF Nos. 148, 150 (S.D. Cal.). Thus, the hourly rates on which Class Counsel’s lodestar is based are in line with those prevailing in the community for similar services by lawyers of reasonably comparable skill, experience, and reputation. (Federman Decl., ¶ 19).

3. A Modest Lodestar Multiplier is Justified.

Class Counsel’s request of \$282,500.00 in attorneys’ fees, costs, and expenses

reflects a modest lodestar multiplier of 2.23.² (*Id.* ¶ 15). A lodestar multiplier in this range is regularly approved by courts in this Circuit and is particularly appropriate considering the complexity of the case, the risk of nonpayment, the quality of Class Counsel’s performance, and the benefit obtained for the Class. *See, e.g., Hopkins v. Stryker Sales Corp.*, 2013 WL 496358, at *4 (N.D. Cal. Feb. 6, 2013) (“Multipliers of 1 to 4 are commonly found to be appropriate in complex class action cases.”); *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1051 n. 6 (9th Cir.) (noting that lodestar multipliers “ranging from one to four are frequently awarded”); *Zwicky v. Diamond Resorts Inc.*, No. CV-20-02322-PHX-DJH, 2024 WL 1717553, at *6 (D. Ariz. Apr. 22, 2024) (awarding lodestar multiplier of 3.879).

i. The Complexity of the Case Supports the Requested Lodestar Multiplier.

This Action called for considerable skill and experience, requiring investigation and mastery of complex factual circumstances, the ability to develop creative legal theories, and the skill to respond to a host of legal defenses. Data breach litigation is a cutting-edge area of the law that presents numerous developing issues, evolving precedents, and unpredictable outcomes. *See, e.g., In re Sonic Corp. Customer Data Sec. Breach Litig.*, No. 1:17-md-2807, 2019 WL 3773737, at *7 (N.D. Ohio Aug. 12, 2019) (“Data breach litigation is complex and risky. This unsettled area of law often presents novel questions for courts. And of course, juries are always unpredictable.”); *Gordon v. Chipotle Mexican Grill, Inc.*, No. 17-cv-01415-CMA-SKC, 2019 WL 6972701, at *1 (D. Colo. Dec. 16, 2019) (“Data breach cases ... are particularly risky, expensive, and complex.”); *Fulton-Green v. Accolade, Inc.*, No. 18-274, 2019 WL 4677954, at *8 (E.D. Pa. Sept. 24, 2019)

² Class Counsel’s fee request (\$282,500.00) encompasses Class Counsel’s expenses (\$5,536.08). When Class Counsel’s expenses are added to their lodestar (\$132,043.08) this results in a reduced lodestar multiplier of 2.14. Neither multiplier takes into account the additional work Class Counsel will perform after filing this Motion. (Federman Decl. at fn 1).

1 (noting data breaches are a “risky field of litigation” because they “are uncertain and class
2 certification is rare.”); *Fox v. Iowa Health Sys.*, No. 3:18-CV-00327-JDP, 2021 WL 826741,
3 at *5 (W.D. Wis. Mar. 4, 2021) (“Data breach litigation is evolving; there is no guarantee
4 of the ultimate result.”).

5 Though Class Counsel strongly believe in the merits of the claims asserted, Class
6 Counsel acknowledge that continuing with protracted litigation would be inherently risky,
7 complex, and expensive. (Federman Decl., ¶¶ 4, 22–23). Continued litigation would
8 require extensive formal discovery, depositions, expert reports, obtaining and maintaining
9 class certification throughout trial, surviving a motion for summary judgment, and
10 withstanding possible appeals (interlocutory and/or after the merits). (*Id.* ¶ 23). If Plaintiff
11 failed to overcome any one of these hurdles, this would result in no recovery at all. Indeed,
12 many data breach class action lawsuits have failed to achieve class certification. *See, e.g.,*
13 *In re Hannaford Bros. Co. Customer Data Sec. Breach Litig.*, 293 F.R.D. 21 (D. Me. 2013)
14 (denying class certification in data breach class action); *Gaston v. FabFitFun, Inc.*, 2021
15 WL 6496734, at *3 (C.D. Cal. Dec. 9, 2021) (“Historically, data breach cases have
16 experienced minimal success in moving for class certification.”); *In re Blackbaud, Inc.,*
17 *Customer Data Breach Litig.*, No. 3:20-MN-02972-JFA, 2024 WL 2155221 (D.S.C. May
18 14, 2024) (denying motion for class certification); *In Re: Blackbaud, Inc., Customer Data*
19 *Breach Litigation*, No. 3:20-MN-02972-JFA, 2024 WL 5247287 (D.S.C. Dec. 30, 2024)
20 (denying motion for leave to file a renewed class certification motion). Moreover, proving
21 causation and damages in this emerging area of law is difficult and is by no means
22 guaranteed. *See, e.g., Hashemi v. Bosley, Inc.*, No. CV 21-946 PSG (RAOX), 2022 WL
23 18278431, at *4 (C.D. Cal. Nov. 21, 2022) (explaining that data breach class actions are a
24 relatively new type of litigation and that damages methodologies in data breach cases are
25 largely untested and have yet to be presented to a jury). By all means, this was a risky case
26 that posed no certainty of success.

The Settlement here guarantees relief to the Settlement Class whereas further protracted litigation would not. *Corra v. ACTS Ret. Servs., Inc.*, No. CV 22-2917, 2024 WL 22075, at *12 (E.D. Pa. Jan. 2, 2024) (“[T]he Court recognizes that data breach cases such as this one are complex and risky, and recovery at trial is decidedly uncertain—\$350,000 in cash is significantly better than nothing.”); *In re Countrywide Fin. Corp. Customer Data Sec. Breach Litig.*, No. 3:08-1998, 2010 WL 3341200, at *6 (W.D. Ky. Aug. 23, 2010) (approving data breach settlement, in part, because “proceeding through the litigation process in this case is unlikely to produce the plaintiffs’ desired results). Therefore, the complexity of the case, coupled with the high risk of the Class not receiving anything at all if the litigation continued, supports the requested multiplier.

ii. The Quality of Class Counsel’s Work.

Class Counsel secured an exceptional settlement for the Class due to their vast experience in this area of law. Class Counsel have prosecuted dozens of data privacy cases and have a well-respected reputation in the data privacy litigation sector. (Federman Decl., ¶ 12). Class Counsel worked hard and at great risk on behalf of the Settlement Class to obtain information from Defendant regarding the data breach and utilized their experience and the knowledge gained from other data breach class actions to negotiate a favorable Settlement. (*Id.* ¶¶ 10, 12–13).

What particularly magnifies the quality and skill of Class Counsel’s representation was their ability to defeat a motion to dismiss in its *entirety* and swiftly negotiate a settlement thereafter. Data breach cases are made or broken at the motion to dismiss stage. It is not uncommon for these cases to be dismissed in their entirety at the motion to dismiss stage—especially in this jurisdiction—due to the complex and untested issues of law they present. *See, e.g., Johnson v. Yuma Reg’l Med. Ctr.*, No. CV-22-01061-PHX-SMB, 2024 WL 4803881 (D. Ariz. Nov. 15, 2024) (dismissing data breach case in its entirety with arguably stronger facts than those at issue here); *Quinalty v. FocusIT LLC*, No. CV-23-00207-PHX-JJT, 2024 WL 342454 (D. Ariz. Jan. 30, 2024) (dismissing data breach case

1 in its entirety); *Quinalty v. FocusIT LLC*, No. CV-23-00207-PHX-KML, 2024 WL 5223587
 2 (D. Ariz. Dec. 26, 2024) (dismissing data breach case in its entirety for the second time);
 3 *Gannon v. Truly Nolen of Am. Inc.*, No. CV 22-428-TUC-JAS, 2023 WL 6536477 (D. Ariz.
 4 Aug. 31, 2023) (dismissing data breach case in its entirety); *Travis v. Assured Imaging LLC*,
 5 No. CV-20-00390-TUC-JCH, 2021 WL 1862446 (D. Ariz. May 10, 2021) (same). Because
 6 data privacy litigation is still a new and developing area of law, counsel in these cases must
 7 be able to adeptly research and synthesize case law from across the United States to craft
 8 novel and persuasive legal arguments. This case was no exception. Class Counsel skillfully
 9 argued in their brief and oral argument how this case did not warrant dismissal utilizing
 10 their vast expanse of experience in other cases. Had Class Counsel not been successful,
 11 there would have been no settlement to speak of.

12 Furthermore, it was equally important for Class Counsel to quickly negotiate a fair,
 13 adequate, and reasonable settlement after securing the victory on Defendant's Motion to
 14 Dismiss. As evidenced by the failed data breach cases above, Arizona law is not trending
 15 in favor of data breach victims at this point in time. It was particularly important for Class
 16 Counsel to quickly negotiate a settlement before potentially losing all progress made in the
 17 case on a motion for class certification or on a motion for summary judgment. Class
 18 Counsel exercised impeccable judgment, which inured to the benefit of the Class.
 19 Therefore, the quality and skillfulness of Class Counsel's representation heavily favors the
 20 requested lodestar multiplier.

21 ***iii. The Risk of Nonpayment was Substantial and***
 22 ***Supports the Requested Multiplier.***

23 Despite the hefty risks outlined above, Class Counsel undertook this case on a
 24 contingency fee basis with no promise of any reward. By doing so, Class Counsel
 25 understood that they would only be compensated if there was a recovery for Plaintiff, and
 26 Court approval of the requested fees. (Federman Decl., ¶¶ 20–21). As such, neither
 27 compensation for Class Counsel's time nor reimbursement of their costs were guaranteed.
 28

Class Counsel assumed significant risk of nonpayment or underpayment of attorneys' fees by pursuing this case. (*Id.*). This litigation began in 2023 and has required the devotion of substantial time, totaling 195.7 hours to date. (*Id.* ¶ 15). This time could have been devoted to other matters fee generating matters of lesser risk and complexity. (*Id.* ¶ 21). Nonetheless, Class Counsel chose to pursue this case on behalf of Plaintiff and Class. Accordingly, the significant risk of nonpayment Class Counsel faced supports the requested multiplier.

iv. The Benefit Obtained for the Class

The Settlement achieved is an exceptional result for the Class because it confers meaningful monetary and non-monetary relief, further supporting the requested multiplier.

Monetary Relief. All Settlement Class Members are eligible to receive reimbursement for (i) up to five (5) hours of Attested Time spent remedying issues related to the Data Breach at a rate of \$30.00 per hour (a maximum amount of \$150.00) (SA, ¶ 42); (ii) Out-of-Pocket Costs up to \$500.00 (*Id.* ¶ 43); and (iii) Financial Losses up to \$4,000.00 (*Id.* ¶ 44). In lieu of electing to receive compensation for Attested Time, Out-of-Pocket Costs, or Financial Losses, Settlement Class Members may elect to receive an Alternative Cash Payment of \$75.00. (*Id.* ¶ 45). To receive an Alternative Cash Payment, no supporting documentation is required; a Settlement Class Member need only fill out a claim form and elect to receive this option. (*Id.*). The Alternative Cash Payment alone confers a benefit of \$417,600.00 to the Settlement Class.³

Non-Monetary Relief. Regardless of the payment option selected, all Settlement Class Members may elect to receive two (2) years of three bureau Credit Monitoring Services. The identity theft protection services are offered by NortonLifelock™. (*Id.* ¶ 46). According to the Claims Administrator, these services have a reference value of at least

³ Calculated by multiplying the number of Settlement Class Members (5,568) by the amount of the Alternative Cash Payment (\$75.00).

1 \$23.75 per month, per Settlement Class Member. (Federman Decl., ¶ 6). This equates to a
 2 per year value of \$285.00 per Settlement Class Member—or \$1,586,880.00 per year for all
 3 5,568 Settlement Class Members if they elect to receive this option. (*Id.*). Because the
 4 Settlement provides two (2) years of 3 bureau credit monitoring and identity theft
 5 protection services, this results in a total retail value of \$3,173,760.00 conferred to the
 6 Class. (*Id.*).

7 Most importantly, all timely, valid, and Approved Claims will be paid Defendant.
 8 (*Id.* ¶ 5). Class Counsel negotiated and fought for a settlement structure without an overall
 9 aggregate monetary cap on Settlement Class Members’ claims. (*Id.*). This ***uncapped***
 10 Settlement far exceeds the results obtained in other claims made data breach settlements,
 11 which typically have a ceiling amount of liability for the defendant. *See, e.g., Bowdle v.*
 12 *King's Seafood Co., LLC*, No. SACV2101784CJCJDEX (C.D. Cal.) (providing
 13 reimbursement for \$450.00 for ordinary losses, three (3) hours of time spent at a rate of
 14 \$20.00 per hour, two (2) years of credit monitoring, and \$3,000.00 for extraordinary losses
 15 up to an aggregate cap of \$350,000); *Corra*, 2024 WL 22075, at *12 (providing up to
 16 \$75.00 for time lost taking steps to mitigate risk attendant to the data breach, up to \$350.00
 17 for out-of-pocket expenses related to the data breach, and up to \$3,500.00 in compensation
 18 for documented losses due to identity theft up to an aggregate cap of \$350,000, plus credit
 19 monitoring); *Hashemi v. Bosley, Inc.*, No. CV 21-946 PSG (RAOX), 2022 WL 18278431,
 20 at *2 (C.D. Cal. Nov. 21, 2022) (providing reimbursement for ordinary expenses and lost
 21 time up to \$300.00 per Class Member, reimbursement for extraordinary expenses up to
 22 \$5,000.00 per Class Member, California Statutory Claim benefits of \$50.00 per California
 23 Subclass Member, not to exceed an aggregate cap of \$500,000).

24 All in all, the Settlement addresses the type of injuries and repercussions sustained
 25 by Settlement Class Members in the wake of the data breach and offers significant
 26 compensation and non-monetary benefits to make each Settlement Class Member “whole.”
 27 “[T]hrough the Settlement, Plaintiffs and Class Members gain benefits without having to
 28

face further risk.” *Desue v. 20/20 Eye Care Network, Inc.*, No. 21-CIV-61275-RAR, 2023 WL 4420348, at *8 (S.D. Fla. July 8, 2023). Thus, the requested lodestar multiplier is reasonable and merits approval.

IV. CLASS COUNSEL SHOULD BE REIMBURSED THEIR REASONABLE LITIGATION COSTS AND EXPENSES.

“Expenses such as reimbursement for travel, meals, lodging, photocopying, long-distance telephone calls, computer legal research, postage, courier service, mediation, exhibits, documents scanning, and visual equipment are typically recoverable.” *Rutti v. Lojack Corp., Inc.*, No. SACV 06–350 DOC (JCx), 2012 WL 3151077, *12 (C.D. Cal. July 31, 2012).

Class Counsel’s costs and litigation expenses total \$5,536.08. (Federman Decl., ¶ 16). As explained in Class Counsel’s supporting declaration, the reimbursement requested is for unavoidable expenses such as filing fees, copies, travel, postage, and research fees—all of which inured to the benefit of the Class. (*Id.*). These expenses are typical of litigation, reasonable in amount, and were necessary for advancement of the action. (*Id.*). For these reasons, Class Counsel’s expenses should be approved.

V. THE COURT SHOULD GRANT THE REQUESTED SERVICE AWARD.

Lastly, Class Counsel request that the Court award a Service Award of \$1,500.00 to the Class Representative. Service awards are typically awarded in class actions, and “are intended to compensate class representatives for work done on behalf of the class, to make up for financial or reputational risk undertaken in bringing the action, and, sometimes, to recognize their willingness to act as a private attorney general.” *Rodriguez v. W. Publ’g Corp.*, 563 F.3d 948, 958–59 (9th Cir. 2009).

Plaintiff expended considerable effort on behalf of the Class, including answering a detailed questionnaire; providing essential information to Class Counsel to prosecute his claims and to conduct a dark web search; collecting documents and other evidence that supported his claims; agreeing to face invasive and time-consuming discovery, if

necessary; reviewing pleadings and coordinating with Class Counsel as to the status of, and strategy for, the Action; conferring with Class Counsel about the settlement negotiations and providing meaningful input about what potential benefits were most important to him; and considering and approving the Settlement terms on behalf of the Class. (Federman Decl., ¶¶ 24–25). Plaintiff’s commitment to the Class’s interests and desire to remedy these issues warrants recognition in the form of the requested Service Award. The requested Service Award of \$1,500.00 falls directly in line with service awards granted in other data privacy cases. *Perez, et al. v. Carvin Wilson Software, LLC*, No. CV-23-00792, ECF No. 53 (D. Ariz.) (approving service awards of \$1,500.00); *Hogsed, et al. v. PracticeMax, Inc.*, No. 2:22-cv-01261, ECF Nos. 45 (D. Ariz.) (awarding service awards of \$2,500.00); *Medoff, v. Minka Lighting, LLC*, No. 2:22-CV-08885 -HDV, 2024 WL 5275593, at *2 (C.D. Cal. July 10, 2024) (same).

VI. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests the Court approve Class Counsel’s request for: (i) attorneys’ fees, costs, and expenses in the amount of \$282,500.00; and (ii) a Service Award of \$1,500.00 to the Class Representative. A proposed order will be submitted contemporaneously with Plaintiff’s forthcoming Motion for Final Approval of Class Action Settlement.

Date: January 13, 2025

Respectfully Submitted,

/s/ William B. Federman

William B. Federman

(admitted *pro hac vice*)

Kennedy M. Brian

(admitted *pro hac vice*)

FEDERMAN & SHERWOOD

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Settlement Class Counsel

Cristina Perez Hesano (#027023)
Cperez@perezlawgroup.com
PEREZ LAW GROUP, PLLC
7508 N. 59th Avenue
Glendale, AZ 85301
Telephone: 602.730.7100
Fax: 623.235.6173

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 13, 2025, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the Electronic Mail notice list.

/s/ William B. Federman
William B. Federman

EXHIBIT 1

1 William B. Federman
2 (admitted *pro hac vice*)
3 Kennedy M. Brian
4 (admitted *pro hac vice*)
5 **FEDERMAN & SHERWOOD**
6 10205 North Pennsylvania Avenue
7 Oklahoma City, Oklahoma 73120
8 Telephone: (405) 235-1560
9 Facsimile: (405) 239-2112
10 Email: wbf@federmanlaw.com
11 Email: kpb@federmanlaw.com

9 **IN THE UNITED STATES DISTRICT COURT**
10 **FOR THE DISTRICT OF ARIZONA**

11 **Daniel Davila**, individually and on behalf
12 of all similarly situated persons,

13 Plaintiff,

14 v.

15 **New Enchantment Group, LLC**,

16 Defendant.

No. CV-23-01098-PHX-SRB

Hon. Judge Susan R. Bolton

**DECLARATION OF WILLIAM B.
FEDERMAN IN SUPPORT OF
PLAINTIFF'S MOTION FOR
ATTORNEYS' FEES, COSTS,
EXPENSES, AND SERVICE AWARD**

1 I, **William B. Federman**, hereby declare, under penalty of perjury, as follows:

2 1. I am an attorney duly admitted to practice law in the states of Oklahoma,
3 Texas, and New York and am admitted to practice *pro hac vice* before this Court. I am a
4 co-founder and member of the law firm Federman & Sherwood. I have been practicing
5 complex litigation for over forty-two (42) years.

6 2. I submit this declaration in support of Plaintiff's Motion for Attorney's Fees,
7 Costs, Expenses, and Service Award, filed concurrently herewith.

8 3. I, with Kennedy M. Brian of Federman & Sherwood, am "Settlement Class
9 Counsel" or "Class Counsel" in the above-referenced action. We represent Plaintiff Daniel
10 Davila and the Settlement Class.

11 4. The Settlement represents an outstanding result for the Settlement Class,
12 particularly considering the complex nature of the case and the uncertainty of success.
13 Although I believe in the merit of the claims asserted, this litigation was inherently risky
14 and complex. The claims involve the intricacies of data breach litigation (a fast-
15 developing area in the law), and Plaintiff would face risks at each stage of litigation.
16 Against these risks, it was through the hard-fought negotiations, skill, and hard work of
17 Class Counsel and Plaintiff that the Settlement was achieved for the benefit of the
18 Settlement Class.

19 5. The Settlement provides a timely comprehensive benefits package.
20 Settlement Class Members are eligible to receive reimbursement for (i) up to five (5)
21 hours of Attested Time spent remedying issues related to the Data Breach at a rate of
22 \$30.00 per hour (a maximum amount of \$150.00) (SA, ¶ 42); (ii) Out-of-Pocket Costs up
23 to \$500.00 (*Id.* ¶ 43); and (iii) Financial Losses up to \$4,000.00 (*Id.* ¶ 44). In lieu of
24 receiving compensation for Attested Time, Out-of-Pocket Costs, or Financial Losses,
25 Settlement Class Members may elect to receive an Alternative Cash Payment of \$75.00.
26 (*Id.* ¶ 45). Regardless of the payment option selected, all Settlement Class Members may
27 elect to receive two (2) years of Credit Monitoring Services that provide monitoring with
28 the three (3) major credit bureaus (Experian, Equifax, and Transunion), alerts about

1 changes in information to the credit report, dark web scanning for personal information,
2 identify theft insurance, and access to assistance to help investigate and resolve any
3 issues. (*Id.* ¶¶ 11, 46). All timely, valid, and Approved Claims will be paid by Defendant.
4 Class Counsel negotiated and fought for a settlement structure without an aggregate
5 monetary cap to ensure Settlement Class Members would be adequately compensated for
6 their claims.

7 6. The identity theft protection services are offered by NortonLifelock™.
8 According to the Claims Administrator, these services have a reference value of at least
9 \$23.75 per month, per Settlement Class Member. This equates to a per year value of
10 \$285.00 per Settlement Class Member—or \$1,586,880.00 per year for all 5,568
11 Settlement Class Members if they elect to receive this option. Because the Settlement
12 provides two (2) years of 3 bureau credit monitoring and identity theft protection services,
13 this results in a total retail value of \$3,173,760.00 conferred to the Class.

14 7. These are real, significant benefits that without the efforts of Plaintiff and
15 Class Counsel, and their willingness to take on the attendant risks of litigation, would not
16 have been made available to Settlement Class Members. The Settlement provides
17 immediate and significant benefits to the Settlement Class while avoiding the delay and
18 uncertainty of protracted litigation.

19 8. As compensation for the substantial benefit conferred upon the Settlement
20 Class and the significant amount of work Class Counsel have undertaken, Settlement
21 Class Counsel request this Court award attorneys' fees and expenses in the total amount
22 of \$282,500.00. This request is contemplated by the Settlement Agreement and Class
23 Counsel apprised the Court of this requests in Plaintiff's Motion for Preliminary
24 Approval. This was also clearly delineated in the notice materials sent to the Settlement
25 Class. To date, zero Class Members have objected to the Settlement (or to the requested
26 fee and none have requested exclusion. The attorney fees and expense amount was
27 negotiated only after the Settlement terms were fully negotiated and agreed upon by the
28 Parties.

1 9. The requested award of a total of \$282,500.00 for Class Counsel's
2 attorneys' fees, costs, and expenses will not reduce the relief available to Settlement Class
3 Members. Any attorneys' fees and expenses awarded by the Court will be paid
4 completely separate and apart from the benefits made available to the Class and will not
5 impact the Class's recovery.

6 10. Although Class Counsel have consistently sought to keep costs and fees to
7 a minimum, this case required a significant amount of work and time. This case was
8 levied against a company represented by well-known law firm with extensive data breach
9 litigation experience. Class Counsels' efforts in this matter included:

- 10 a. fully investigating the facts and legal claims surrounding the lawsuit, including
11 (i) parsing through various online sources to determine the scope of the data
12 breach and whether or not the data potentially compromised in the data breach
13 was leaked on the dark web, (ii) the numerosity and composition of the putative
14 class, (iii) the proper venue for the lawsuit, (iv) the financial wellness of
15 Defendant, and (v) thoroughly researching Arizona's established case law in
16 data privacy actions;
- 17 b. interviewing and vetting Plaintiff;
- 18 c. obtaining and reviewing documents from Plaintiff substantiating his claims;
- 19 d. drafting and preparing the Complaint, as well as conducting extensive research
20 for the Complaint;
- 21 e. regularly communicating with Plaintiff to keep him apprised of the progress in
22 the litigation;
- 23 f. researching, drafting, and filing an extensive Response in Opposition to
24 Defendant's Motion to Dismiss (ECF Nos. 10, 13), which resulted in the
25 Motion to Dismiss being denied in its entirety (ECF No. 23);
- 26 g. presenting oral argument in opposition to Defendant's Motion to Dismiss;
- 27 h. researching and submitting supplemental authority after the motion to dismiss
28 hearing (ECF No. 20);

- i. retaining and working with a cybersecurity expert to conduct research regarding the data breach at issue and analyzing the results;
 - j. meeting and conferring with Defendant to discuss a joint case management schedule as well as drafting the Joint Case Management Report (ECF No. 26);
 - k. preparing Plaintiff's initial disclosures and serving them on Defendant;
 - l. drafting requests for production of documents, requests for admission, and interrogatories and serving them on defendant;
 - m. requesting, obtaining, and reviewing documents and information from Defendant regarding the data breach, Defendant's remedial measures after the data breach, and Defendant's cyber insurance status;
 - n. attending and participating in a full-day mediation session with well-respected mediator Hon. David E. Jones (Ret.) consisting of hard-fought settlement negotiations that ultimately resulted in the Settlement principle;
 - o. negotiating the details of the Settlement with defense counsel after the mediation;
 - p. editing and finalizing the Settlement Agreement, proposed orders, and notice documents;
 - q. developing the notice program and distribution plan for the Settlement;
 - r. soliciting bids from several settlement administrators to ensure the best possible notice was provided to the Class;
 - s. drafting the Motion for Preliminary Approval (ECF No. 32) and obtaining preliminary approval of the Settlement (ECF No. 33);
 - t. aiding the Settlement Administrator, A.B. Data, with questions about the claims process and submitting claims, as well as implementing the notice program and overseeing the claims process; and
 - u. researching and drafting Plaintiffs' Motion for Attorneys' Fees, Costs, Expenses, and Service Awards.
11. Class Counsel are highly experienced in this area of practice and have a

1 well-respected reputation in the data privacy litigation sector.

2 12. Class Counsel have a plethora of experience as consumer class action
3 attorneys and as advocates in data breach class actions. *See Exhibit A* (firm resume). Class
4 Counsel worked hard on behalf of the Settlement Class to obtain information from
5 Defendant regarding the Data breach and utilized their experience and the knowledge
6 gained from other data breach class actions to negotiate a favorable Settlement.

7 13. This experience enabled Class Counsel to represent Plaintiff's and Class
8 Members' interests without expending hundreds of hours and substantial financial
9 resources to come up to speed on the subject area.

10 14. Having worked on behalf of the class since the data breach was first
11 announced, evaluated the legal and factual disputes, and dedicated significant time and
12 resources to this litigation, Settlement Class Counsel fully endorse the Settlement.
13 Although Class Counsel and Plaintiff believe in the merit of their claims, success was far
14 from guaranteed.

15 15. As of the date of filing this declaration, Class Counsel have expended
16 **195.70 hours** prosecuting this matter on behalf of Plaintiff and the Class for a total
17 lodestar of **\$126,507.00**. A detailed lodestar is included below. The total amount
18 requested in fees, **\$282,500.00**, reflects a modest multiplier of approximately 2.23.¹ This
19 time does not include time spent preparing the motion for final approval, preparing for
20 and traveling to the final fairness hearing, supervising the claims process, or responding
21 to Settlement Class Member inquiries about their payments, all of which will require
22 Class Counsel to accrue additional time and fees. Class Counsel estimate they will incur
23 approximately 30 to 40 engaging in these tasks.

24
25 ¹ Calculated by dividing the requested fee and expense award (\$282,500.00) by Class
26 Counsel's combined lodestar and expenses (\$126,507.00). Note, Class Counsel's fee
27 request (\$282,500.00) encompasses Class Counsel's expenses (\$5,536.08). When adding
28 Class Counsel's expenses to their lodestar (\$132,043.08) this results in a reduced
multiplier of 2.14. Neither lodestar calculation includes the additional work that Class
Counsel will perform after filing this Motion..

FEDERMAN & SHERWOOD

Timekeeper	Position	Hourly Rate	Hours	Lodestar
William B. Federman	Partner	\$1,150.00	41.2	\$47,380.00
Kennedy M. Brian	Attorney	\$600.00	103.60	\$62,160.00
Tiffany Peintner	Paralegal	\$300.00	0.30	\$90.00
Lacrista Bagley	Paralegal	\$300.00	29.7	\$8,910.00
Frandelind Traylor	Paralegal	\$300.00	2.00	\$600.00
Tashia Poore	Paralegal	\$300.00	2.90	\$567.00
TOTAL			179.70	\$119,707.00

PEREZ LAW GROUP

Timekeeper	Position	Hourly Rate	Hours	Lodestar
Cristina Perez Hesano	Attorney	\$600.00	8.00	\$4,800.00
Kim Enriquez	Paralegal	\$250.00	8.00	\$2,000.00
TOTAL			16.00	\$6,800.00

16. Additionally, the reimbursement requested for Class Counsel's costs and expenses, **\$5,536.08**, is for expenses necessary to prosecute this Action such as filing fees, copies, conference call fees, Westlaw research fees, postage fees, PACER costs, etc., all of which directly benefitted the Class. These expenses are typical of litigation, reasonable in amount, and necessary for advancement of the action to the benefit of the Settlement Class.

FEDERMAN & SHERWOOD

Description	Amount
Copies	\$174.50
Postage	\$57.51
Filing Fees	\$220.00
Mediation	\$2,040.00
Pacer	\$15.59
ShareFile	\$12.83
Westlaw	\$1,191.17
Airfare	\$810.27
Mileage	\$340.10
Taxi	\$68.68
Conference Call - Vast	\$18.48

TOTAL	\$4,969.67
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PEREZ LAW GROUP

Description	Amount
Filing Fees	\$402.00
Service of Process	\$163.30
Postage	\$1.11
TOTAL	\$566.41

17. In tracking lodestar and expenses in this matter, Class Counsel maintained contemporaneous and detailed time records, which include a description of all work performed and expenses incurred. The hours billed were reasonable and necessary for the prosecution of this case on behalf of Plaintiff and the Class. The hours and lodestar are minimal for getting a class action case to this stage and were undertaken in a manner to avoid duplication of work.

18. Prior to submitting Class Counsel's lodestar to the Court, Class Counsel reviewed all the time entries billed to this matter and exercised billing judgment to exclude hours that, in Class Counsel's professional judgment, were excessive, duplicative, or otherwise could not be billed to a fee-paying client.

19. The hourly rates Class Counsel utilized in this matter are in line with those prevailing in the community for similar services by lawyers of reasonably comparable skill, experience, and reputation. *Perez, et al. v. Carvin Wilson Software, LLC*, No. CV-23-00792, ECF Nos. 48-1, 53 (D. Ariz.) (approving Federman & Sherwood's hourly rate range of \$300.00–\$1,150.00 and approving Perez Law Group's hourly rate range of \$200.00–\$600.00); *Hogsed, et al. v. PracticeMax, Inc.*, No. 2:22-cv-01261, ECF Nos. 42-1, 45 (D. Ariz.) (approving hourly rate range from \$125.00–\$1,450.00); *In re: Orrick, Herrington & Sutcliffe, LLP Data Breach Litig.*, No. 3:23-cv-04089, ECF Nos. 68, 74 (N.D. Cal.) (approving partner hourly rate of \$1,150.00, attorney hourly rate of \$600.00, and paralegal hourly rate of \$300.00); *In re Solara Medical Supplies Data Breach*

1 *Litigation*, No. 3:19-cv-02284, ECF Nos. 148, 150 (S.D. Cal.).

2 20. Class Counsel represented Plaintiff and the Class purely on a contingency
3 fee basis and have not received any payment for their time, effort, or expenses to date and
4 have passed up other work in order to devote time and resources to this matter.

5 21. Class Counsel took this case on a purely contingent basis with the
6 understanding that they would only be compensated if there was a recovery for Plaintiff,
7 and Court approval of the requested fees. As such, neither compensation for their time nor
8 reimbursement of their costs were guaranteed to Counsel in this case. Settlement Class
9 Counsel assumed significant risk of nonpayment or underpayment of their attorneys' fees.
10 This time could have been devoted to other matters fee generating matters of lesser risk
11 and complexity.

12 22. This Action called for considerable skill and experience, requiring
13 investigation and mastery of complex factual circumstances, the ability to develop creative
14 legal theories, and the skill to respond to a host of legal defenses. Data breach litigation is
15 a cutting-edge area of the law that presents numerous developing issues, evolving
16 precedents, and unpredictable outcomes. Despite these risks, however, Class Counsel
17 undertook this litigation on an entirely contingency fee basis with no promise of any
18 reward.

19 23. Continued litigation would require extensive formal discovery, depositions,
20 expert reports, obtaining and maintaining class certification throughout trial, surviving a
21 motion for summary judgment, and withstanding possible appeals (interlocutory and/or
22 after the merits).

23 24. Plaintiff also seeks a Service Award in the amount of \$1,500.00. Plaintiff
24 initiated and oversaw this litigation for the benefit of the Settlement Class, and it is due to
25 his service that a favorable Settlement was obtained. Plaintiff expended considerable effort
26 on behalf of the Class, including answering a detailed questionnaire; providing essential
27 information to Class Counsel to prosecute his claims and to conduct a dark web search;
28 collecting documents and other evidence that supported his claims; agreeing to face

1 invasive and time-consuming discovery, if necessary; reviewing pleadings and
2 coordinating with Class Counsel as to the status of, and strategy for, the Action; conferring
3 with Class Counsel about the settlement negotiations and providing meaningful input
4 about what potential benefits were most important to him; and considering and approving
5 the Settlement terms on behalf of the Class.

6 25. Plaintiff's commitment to the Class's interests and desire to remedy these
7 issues warrants recognition in the form of the Service Award requested. The active
8 participation and efforts expended by Plaintiff in prosecuting this Action materially aided,
9 and indeed was necessary to, the Settlement achieved. Plaintiff fully supports the
10 Settlement achieved.

11 I declare under penalty of perjury under the laws of the United States of America
12 that the foregoing is true and correct.

13 Date: January 13, 2025

Respectfully submitted,

14 /s/: William B. Federman

15 William B. Federman

(admitted *pro hac vice*)

16 wbf@federmanlaw.com

FEDERMAN & SHERWOOD

17 10205 N. Pennsylvania Ave.

18 Oklahoma City, OK 73120

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21
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EXHIBIT A

FEDERMAN & SHERWOOD

(An Association of Attorneys and Professional Corporations)

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FIRM RESUME

WILLIAM B. FEDERMAN. Education: Boston University (B.A., cum laude, 1979); University of Tulsa (J.D., 1982); Phi Alpha Delta (Treasurer, 1980-1982). Admitted to practice: United States District Courts for the following Districts: Western, Northern and Eastern, Oklahoma; Eastern, Northern, Southern, and Western, New York; Southern, Northern, Eastern and Western, Texas; Eastern and Western, Arkansas; District of Columbia; District of Colorado; Central and Northern Districts of Illinois; Northern District of Ohio; District of Nebraska; Eastern and Western Districts of Michigan; Eastern District of Wisconsin; United States Court of Appeals for the following Circuits: First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth and Eleventh and Federal; and United States Supreme Court. Lectures/Publications: “Class Actions, New Rules and Data Breach Cases,” 40th Annual OCBA Winter Seminar 2019; “A Case Study of Ethical Issues in Complex Litigation and Trends in Class Certification,” 39th Annual OCBA Winter Seminar, 2018; “Talkin’ About Insurance Coverage and Complex Litigation: What Every Lawyer and Client Should Know,” 38th Annual OCBA Winter Seminar, 2017; “Securities Litigation: Using Data to Make the Case,” by Bloomberg BNA, 2016; “The Changing Landscape for Prosecution of Financial Claims Involving Insolvent Companies” 37th Annual OCBA Winter Seminar, 2016; “Current Status of Securities Class Actions: Where are the Courts Taking Us?” Houston Bar Association, 2014. “Class & Derivative Actions and Securities Litigation,” 2013 Annual Meeting of the American Bar Association; “Litigation and Employment Law Update,” Securities Industry Association Compliance and Legal Division; “Inside a Disclosure Crisis,” 30th Annual Northwest Securities Institute Annual Meeting and sponsored by the Washington Bar Association; “Managing Directors’ Liability,” 3rd Annual Energy Industry Directors Conference and sponsored by Rice University; “Executive Liability - 2009 D & O Market Trends,” Chartis Insurance; “Derivative Actions and Protecting the Corporation – Critical Issues in Today’s Banking,” Oklahoma Bar Association and the Oklahoma Bankers Association; “Arbitration - What Is It? Why Should a Lawyer Suggest or Use It?,” Oklahoma Bar Association; “The Attorney and Accountant as Targets in Failed Financial Institution Litigation,” American Bar Association Trial Practice Committee; “Effective Arbitration in the 1990’s - Adapting to Build a Successful Practice,” Oklahoma County Bar Association; “Current Issues in Direct Investments and Limited Partnerships: The Litigation Scene From All Perspectives,” American Bar Association Litigation Section; “Stockbroker Litigation and Arbitration,” Securities Arbitration Institute. Author: “Who’s Minding the Store: The Corporate Attorney-Client Privilege,” 52 O.B.J. 1244, 1981; “Potential Liability From Indirect Remuneration in Private Oil and Gas Offerings,” 11 Sec. Reg. L.J. 135, 1983; “Capitalism and Reality Meet in the Courts. . . Finally,” 59 O.B.J. 3537, 1987; “Class Actions, New Rules & Data Breach Cases,” Annual OCBA Winter Seminar, 2019. Membership: Arbitration Panel, New York Stock Exchange; Federal Bar Association; Oklahoma County Bar Association (Committee on Professionalism, 1987-1990); Oklahoma Bar Association (Civil Procedure/Evidence Code, Lawyers Helping Lawyers Assistance Program and Rules of Professional Conduct Committees, 2017-2020); American Bar Association (Committee on Securities Litigation and Corporate Counsel); American Inns of Court (Barrister 1990-1993 and Master 2002-2004); inducted into the Outstanding Lawyers of America, 2003; received the Martindale-Hubbell peer review rating of AV Preeminent in both ethical standards and legal ability; recognized as one of the “Top Lawyers of 2013” for excellence and achievements in the legal community; Litigation Counsel of America (Trial Lawyer & Appellate Lawyer Honorary Society). Awards/Honors: Securities Litigation and Arbitration Law Firm of the Year in Oklahoma – 2018 (Global Law Experts Annual Awards); Securities Litigation and Arbitration Law Firm of the Year in Oklahoma – 2019, 2020 (Corporate INTL Magazine); Oklahoma Super Lawyers list by Thomson Reuters – 2019;

FEDERMAN & SHERWOOD
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Recognized for Exceptional Service and Outstanding Performance on behalf of the Federal Bar Association (Oklahoma City Chapter) Pro Bono Program – 2018-2019, 2020, Oklahoma Super Lawyer for 2022.

STUART W. EMMONS. (In Memoriam) Education: University of Oklahoma (J.D., 1987, with distinction); University of Oklahoma (B.B.A., Accounting, 1984, with distinction). Admitted to practice: 1987, Oklahoma; 1987, U.S. District Court for the Western District of Oklahoma; 1990, U.S. District Court for the Northern District of Oklahoma; 1992, U.S. Court of Appeals, Tenth Circuit; 1994, U.S. Court of Appeals, Eighth Circuit; U.S. Patent and Trademark Office; 2002, U.S. District Court for the District of Colorado; U.S. District Court for the Southern District of Texas; 2003, U.S. Court of Appeals, Second Circuit; 2004, U.S. District Court for the Northern District of Texas; U.S. Court of Appeals, Fifth Circuit; 2005, United States Supreme Court; 2005 U.S. Court of Appeals, Fourth Circuit; 2015, U.S. Court of Appeals, First Circuit; 2016, U.S. Court of Appeals, Ninth Circuit and U.S. Court of Appeals for the First Circuit. 1988-1989, Law Clerk to the Hon. Layn R. Phillips, U.S. District Court for the Western District of Oklahoma. Published Decisions: *American Fidelity Assurance Company v. The Bank of New York Mellon*, 810 F.3d 1234 (10th Cir. 2016); *Paul Spitzberg v. Houston American Energy Corporation, et al.*, 758 F.3d 676 (5th Cir. 2014); *Patipan Nakkhumpun v. Daniel J. Taylor, et al.*, 782 F.3d 1142 (10th Cir. 2015); Membership: Oklahoma County and Oklahoma Bar Associations.

SARA E. COLLIER. Education: Oklahoma Christian University (B.S. 2000); Oklahoma City University School of Law (J.D., 2004). Admitted to practice: Oklahoma, 2005; U.S. District Courts for the Western, Eastern and Northern Districts of Oklahoma, 2007; U.S. District Court for the Southern District of Texas, 2007, United States Court of Appeals for Veterans Claims in Washington, DC. Membership: Oklahoma Bar Association, American Bar Association. Ms. Collier focuses her practice on shareholder rights and shareholder derivative actions in state and federal courts.

KENNEDY M. BRIAN. Education: University of Central Oklahoma (B.M. in Musical Theater, 2018, cum laude; Minor in Real Estate Finance), University of Oklahoma (J.D., 2021; Dean's Honor Roll; Academic Achievement Award, Trial Techniques; 1L Moot Court Competition Distinguished Speaker Award; American Indian Law Review). Admitted to practice: Oklahoma 2021; U.S. District Court for the Eastern District of Oklahoma, 2022; U.S. District Court for the Western District of Oklahoma, 2022; U.S. District Court for the Northern District of Oklahoma, 2023; U.S. District Court for the Northern District of Texas, 2024; U.S. District Court for the Southern District of Texas, 2024; U.S. District Court for the Eastern District of Texas, 2024. Membership: Oklahoma Bar Association; Federal Bar Association; Junior League of Oklahoma City; Oklahoma County Bar Association. Ms. Brian focuses her practice on complex class action litigation, including consumer and data breach cases in state and federal courts across the nation.

JESSICA A. WILKES. Education: Oklahoma State University (B.S. in Finance, Economics, and Economics, with honors, 2018, magna cum laude), Baylor University School of Law (J.D. 2021, cum laude; Dean's Academic Excellence Full-Tuition Scholarship; Baylor Law Review, Technical Editor & Alumni Relations Coordinator; Research Assistant for Dean and Professors; Baylor Barrister Society; Mock Trial Team; Baylor Public Interest Society; Student Bar Association). Admitted to practice: Oklahoma 2021; U.S. District Court for the Eastern District of Oklahoma, 2021; U.S. District Court for the Western District of Oklahoma, 2021; U.S. District Court for the Northern District of Oklahoma, 2021; 10th Circuit Court of Appeals, 2021; U.S. District Court for the District of Colorado, 2024; U.S. District Court for the Northern District of Texas, 2024; U.S. District Court for the Southern District of Texas, 2024; U.S. District Court for the Eastern District of Texas, 2024. Membership: Oklahoma Bar Association; Friends of Trivera; Junior League of Oklahoma City. Ms. Wilkes focuses her practice on complex class action litigation, including consumer, data breach, and securities cases in state and federal courts across the nation. Ms. Wilkes has experience in and engages in trial and appellate work.

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Prior to joining Federman & Sherwood, Ms. Wilkes actively practiced in litigation for the Oklahoma Attorney General's Office.

TANNER R. HILTON. Education: Texas A&M University (B.S. in Political Science, 2019); Oklahoma City University School of Law (J.D., 2022; Dean's List Spring of 2021; Order of the Barristers; Native American Law Student Association Moot Court Team, 2020-2022; CALI Award for Secured Transactions (2021)). Mr. Hilton graduated from Oklahoma City University School of Law in May of 2022. Admitted to practice: Oklahoma 2023; U.S. District Court for the Western District of Oklahoma, 2024; U.S. District Court for the Eastern District of Oklahoma, 2024; U.S. District Court for the Northern District of Oklahoma, 2024; U.S. District Court for the Eastern District of Texas, 2024; U.S. District Court for the Southern District of Texas, 2024; U.S. District Court for the Northern District of Texas, 2024. Membership: Oklahoma Bar Association, Federal Bar Association, and Order of the Barristers. Mr. Hilton's primary focus is in complex and class action litigation, including federal securities class actions, data breaches, and consumer class actions.

ALEX J. EPHRAIM. Education: University of Colorado – Denver (B.A. Political Science – Public Policy Analysis, 2018, summa cum laude, honor society, dean's list); University of Missouri – Kansas City School of Law (J.D. 2021; Second Century scholarship recipient, mock trial team, dean's list). Admitted to practice: Oklahoma, 2022; U.S. District Court for the Eastern District of Oklahoma, 2022; U.S. District Court for the Western District of Oklahoma, 2022; U.S. District Court for the Northern District of Oklahoma, 2022; U.S. District Court for the Southern District of New York, 2024; U.S. District Court for the Southern District of Texas, 2024; U.S. District Court for the Eastern District of Texas, 2024. Membership: Oklahoma Bar Association, Oklahoma County Bar Association, Federal Bar Association. Mr. Ephraim focuses his practice on complex class action litigation, including securities class actions, data breach, and consumer class actions.

JONATHAN J. HERRERA. Education: Austin College (B.A. in Business and Spanish, 2010, with Honors), University of Oklahoma College of Law (J.D., 2018, with Honors; Dean's Honor Roll, Order of the Solicitors, Hispanic National Bar Association President, 3L Service Award, Moot Court Competition Team Captain, Top Speaker Award). Admitted to practice: Oklahoma 2018. Membership: Oklahoma Bar Association; Oklahoma County Bar Association; Hispanic National Bar Association; OBA Law School Committee; OBA Awards Committee. Mr. Herrera is a transactional attorney whose multi-faceted practice encompasses a broad range of business litigation and disputes, including data breach and consumer class actions. He represents clients in complex business and commercial disputes in state and federal courts and administrative proceedings. Prior to joining Federman & Sherwood, Mr. Herrera practiced Criminal Defense in Oklahoma for over 5 years achieving successful outcomes for clients throughout Oklahoma.

OF COUNSEL:

JOHN CHARLES SHERWOOD. (In Memoriam) Education: Texas Christian University, (BBA, magna cum laude, 1981); Baylor School of Law (J.D., 1984). Areas of Practice: Litigation. Board Certified: Civil Trial Law, Personal Injury Trial Law, Texas Board of Legal Specialization. Organizations: Texas Trial Lawyers, Association of Trial Lawyers of America, Dallas Trial Lawyers Association, Dallas Bar Association, Former Chairperson of the Solo and Small Firm Section of the Dallas Bar Association (1999), Member of the College of the State Bar of Texas and founding President of Citizens For a Fair Judiciary (Political Action Committee). Licenses and Courts of Practice: Member of the State Bar of Texas, National Board of Trial Advocacy, Licensed as a Certified Public Accountant by the Texas State Board of Public Accountancy, admitted to practice before the United States Tax Court, United States District Court, Northern District of Texas, United States Fifth Circuit Court of Appeals, and the United States Supreme Court. Papers Presented: *Other People's Money*, Presented to the Dallas Bar

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Association, Solo and Small Firm Section; Recognition: "Top Attorneys in Texas, Business Litigation," (2012).

JOSHUA D. WELLS. Education: Oklahoma Baptist University (B.A. 2004); Oklahoma City University College of Law (J.D. 2008) (Dean's List, Faculty Honor Roll, OCU American Trial Lawyers Association Moot Court Team, 2008; Staff Member, Law Review, 2006-07; Executive Editor, Law Review, 2007-08). Admitted to practice: Oklahoma, 2008; U. S. District Court for the Western District of Oklahoma; 2009, U.S. District Court for the Eastern District of Oklahoma; 2011, U.S. District Court for the Northern District of Oklahoma; 2012, U.S. Court of Appeals for the Tenth Circuit; 2016, U.S. Court of Appeals, Fourth Circuit. Membership: Oklahoma Bar Association; Federal Bar Association; American Bar Association. Publication: *Stuck in the Mire: The Incomprehensible Labor Law*, 34 Okla. City U.L. Rev. 131 (2009). Experience: Research Assistant to J. William Conger, General Counsel and Distinguished Lecturer of Law, Oklahoma City University and President of the Oklahoma Bar Association (2007-08). General Counsel for Reaching Souls International (2013-2016). Mr. Wells has significant experience in complex and class action litigation in various state and federal courts, with more than a decade of experience protecting consumer and shareholder rights. Mr. Wells knows how to efficiently prosecute complex cases to conclusion and practices in areas of estate planning, probate, and guardianships for both children and adults. He is the recipient of the Federal Bar Association Pro Bono Exceptional Service Award (2019) and is a leader in his church.

PARALEGALS:

JANE E. ADAMS. Mrs. Adams has over 25 years of Administrative and Finance experience focusing her career on Human Resources. Additionally, she has first-hand experience with FEMA response as well as government contractual administration.

TIFFANY R. PEINTNER. Mrs. Peintner has worked in the legal community for over fifteen years. Before joining Federman & Sherwood, Mrs. Peintner worked in patent law, oil and gas, probate, banking and real estate, family law, personal injury and insurance defense. She works in securities and civil litigation for the firm.

TASHIA D. POORE. Ms. Poore has worked in the legal community for over fifteen years. Before joining Federman & Sherwood, Ms. Poore worked in complex civil litigation, real estate and transactions, oil & gas, trusts and estate planning, banking and construction law. She works in the areas of data breach, shareholder derivative litigation, securities and complex litigation for the firm.

FRANDELIND V. TRAYLOR. Mrs. Traylor has worked in the legal community for over fifteen years. She provides class action, securities and derivative litigation, and product liability support for the firm.

SELECT CASES WHERE FEDERMAN & SHERWOOD HAS SERVED AS LEAD OR CO-LEAD COUNSEL

CONSUMER CLASS ACTIONS	COURT
Accreditation Commission for Education in Nursing (Data Breach)	USDC Northern District of Georgia
Albany ENT & Allergy (Data Breach)	Supreme Courts of the State of New York, Albany County
Altice USA, Inc. (Data Breach)	USDC Southern District of New York
Artech, LLC (Data Breach)	USDC Northern District of California
AssistRx, et al (Data Breach)	USDC Middle District of Florida
AT&T Services Inc	USDC Northern District of Texas
Autobell Car Wash, LLC (Data Breach)	USDC Western District of North Carolina
Avem Health Partners, Inc. (Data Breach)	USDC Western District of Oklahoma
BHI Energy Services (Data Breach)	USDC District of Massachusetts
Brinker International, Inc. (Chili's) (Data Breach)	USDC Middle District of Florida
Bryan Cave Leighton Paisner LLP (Data Breach)	USDC Northern District of Illinois
Burgerville, LLC (Data Breach)	Circuit Court, State of Oregon, Multnomah County
Carvin Wilson Software, LLC (Data Breach)	USDC District of Arizona
CentralSquare Technologies LLC (Data Breach)	USDC Southern District of Florida
Christie Business Holdings Company PC (Data Breach)	USDC Central District of Illinois
Colorado Dept. of Health Care Policy & Financing/IBM (Data Breach)	District Court, City and County of Denver, State of Colorado
Dakota Growers Pasta Company, Inc. (Food Mislabeling)	USDC District of Minnesota/District of New Jersey
Dell, Inc. (Data Breach)	USDC Western District of Texas
Express Services, Inc. (Data Breach)	USDC Western District of Oklahoma
Filters Fast, LLC (Data Breach)	USDC Western District of Wisconsin
Golden Corral Corporation (Data Breach) (PSC)	USDC Eastern District of North Carolina
Hy-Vee, Inc. (Data Breach)	USDC Central District of Illinois
Intelliheartx (Data Breach) (Executive Lead Counsel)	USDC Northern District of Ohio
Johns Hopkins Health System & Johns Hopkins University (Data Breach)	Circuit Court of Maryland for Baltimore City
Lansing Community College (Data Breach) (PSC)	USDC Western District of Michigan
LeafFilterNorth, LLC/LeafFilter North of Texas, LLC (Data Breach)	USDC Western District of Texas
Lime Crime, Inc. (Data Breach)	USDC Central District of California
Medical Review Institute of America, LLC (Data Breach)	USDC District of Utah
Mednax Services, Inc. (Data Breach)	USDC Southern District of Florida
MedQ, Inc. (Data Breach)	USDC Eastern District of Texas
Mercer University (Data Breach)	USDC Middle District of Georgia
MidFirst Bank and Midland Financial Co. (Data Breach)	USDC Western District of Oklahoma
Morris Hospital (Data Breach)	Circuit Court of the Thirteenth Judicial Circuit Grundy, County, Illinois
Infosys McCamish Systems, LLC (Data Breach) (Plaintiffs' Executive Committee)	USDC Northern District of Georgia
In re: Navvis & Company, LLC Data Breach Litigation (Data Breach)	USDC Eastern District of Missouri
Oklahoma Spine Hospital LLC	District Court of Oklahoma County, State of Oklahoma
OneTouchPoint (Data Breach) (PSC)	USDC Eastern District of Wisconsin
In Re: Orrick, Herrington & Sutcliffe Data Breach Litigation (Data Breach) (Interim Lead Counsel)	USDC Northern District of California
Panera, LLC (Data Breach)	USDC Eastern District of Missouri, Eastern Division
Peachtree Orthopaedic Clinic, P.A. (Data Breach)	Superior Court of Forsyth County, State of Georgia
Peco Foods, Inc. (Data Breach) (Plaintiffs' Executive Committee)	USDC Northern District of Alabama
Performance Health Technology Inc.	Circuit Court of the State of Oregon
Physician's Business Office, Inc. (Data Breach)	Circuit Court of Wood County, West Virginia
PracticeMax (Data Breach)	USDC District of Arizona
Prentke Romich Company (Data Breach)	USDC Northern District of Ohio
Progressive Casualty Insurance (Data Breach)	USDC Northern District of Ohio
In re: QTC Commercial Services, LLC d/b/a IMX Medical Management Services, LLP (Data Breach)	USDC Eastern District of Pennsylvania
Skidmore College (Data Breach)	USDC Northern District of New York
Smile Brands (Data Breach)	USDC Central District of California
Snap Finance (Data Breach)	USDC District of Utah
Solara Medical Supplies, LLC (Data Breach)	USDC Southern District of California
Sysco Corporation (Data Breach) (PSC)	USDC Southern District of Texas
TD Ameritrade, Inc. (Data Breach)	USDC District of Nebraska
TMX Finance Corporation Services, Inc. (Data Breach) (PSC)	USDC Southern District of Georgia
Varsity Brands (Data Breach)	USDC Northern District of Texas, Dallas Division
Verisource Services, Inc. (Data Breach)	USDC Southern District of Texas
Wichita State University (Data Breach)	USDC District of Kansas
Yuma Regional Medical Center (Data Breach)	USDC District of Arizona
Zeroed-In Technologies, LLC (Data Breach) (Executive Committee)	USDC Middle District of Florida
SHAREHOLDER DERIVATIVE CASES	

SELECT CASES WHERE FEDERMAN & SHERWOOD HAS SERVED AS LEAD OR CO-LEAD COUNSEL

Abercrombie & Fitch Company	USDC Southern District of Ohio
American Superconductor Corporation	Superior Court, Commonwealth of Massachusetts
Antares Pharma, Inc.	USDC District of New Jersey
In Re: Archer-Daniels-Midland Company Derivative Litigation	USDC District of Delaware
Arrowhead Research Corporation	Superior Court, State of California, County of Los Angeles
Carrier Access Corporation	USDC District of Colorado
Catalina Marketing Corporation	Chancery Court of the State of Delaware
Cell Therapeutics, Inc.	USDC Western District of Washington
Computer Associates	USDC Eastern District of New York
Delcath Systems, Inc.	USDC Southern District of New York
Dendreon Corporation	USDC Western District of Washington
Digital Turbine, Inc.	USDC Western District of Texas
Doral Financial Corporation	USDC Southern District of New York
Dynavax Technologies Corporation	Superior Court of the State of California; county of Alameda
First Bancorp	USDC District of Puerto Rico
Flowers Foods, Inc.	USDC Middle District of Georgia
Genta, Inc.	USDC District of New Jersey
GMX Resources, Inc.	District Court of Oklahoma County, Oklahoma
Great Lakes Dredge & Dock Corporation	Circuit Court of Illinois, Dupage County Chancery Division
Host America Corporation	USDC District of Connecticut
Motricity Inc.	USDC Western District of Washington
NutraCea	Superior Court of Maricopa County, Arizona
Nuverra Environmental Solutions, Inc.	Superior Court of Maricopa County, Arizona
Nyfix, Inc.	USDC District of Connecticut
OCA, Inc.	USDC Eastern District of Louisiana
ONEOK, Inc.	District Court of Tulsa County, Oklahoma
PainCareHoldings, Inc.	USDC Middle District of Florida
Seitel, Inc.	USDC Southern District of Texas
Southwest Airlines	USDC Northern District of Texas
Spectrum Pharmaceuticals, Inc.	USDC District of Nevada
The Spectranetics Corporation	USDC District of Colorado
ValueClick, Inc.	USDC Central District of California
Zix Corporation	USDC Northern District of Texas
SECURITIES CLASS ACTIONS	
Automatic Data Processing, Inc. (ADP)	USDC District of New Jersey
Amyris, Inc.	USDC, Northern District of California
Bellicum Pharmaceuticals, Inc.	USDC Southern District of Texas
Broadwind Energy, Inc.	USDC Northern District of Illinois
China Valves Technology, Inc.	USDC Southern District of New York
Cryo-Cell International, Inc.	USDC Middle District of Florida
Delta Petroleum, Inc.	USDC District of Colorado
Direxion Shares ETF Trust	USDC Southern District of New York
Ener1, Inc.	USDC Southern District of New York
Exide Technologies	USDC Central District of California
Galena Biopharma, Inc.	USDC District of New Jersey
Houston American Energy Corp.	USDC Southern District of Texas
Image Innovations Holdings, Inc.	USDC Southern District of New York
IZEA, Inc.	USDC Central District of California
Motive, Inc.	USDC Western District of Texas
Quest Energy Partners LP	USDC Western District of Oklahoma
Secure Computing Corporation	USDC Northern District of California
Superconductor Technologies, Inc.	USDC Central District of California
UTi Worldwide, Inc.	USDC Central District of California
Unistar Financial Service Corp.	USDC Northern District of Texas
MDL PROCEEDINGS	
In re: Farmers Insurance Co. (Co-Lead and Liaison Counsel)	USDC Western District of Oklahoma
In re: Fortra File Transfer (Sub-Group Lead Counsel for Intellihartx)	USDC Southern District of Florida
In re: Home Depot, Inc. (Executive Committee)	USDC Northern District of Georgia
In re: Mednax Services Inc. (Data Breach – Co-Lead Counsel)	USDC Southern District of Florida
In re: Premera Blue Cross (Data Breach–Participating Counsel)	USDC District of Oregon
In re: Samsung Electronics America, Inc. (Co-Lead Counsel)	USDC Western District of Oklahoma
In re: The Sonic Corp. (Lead Counsel)	USDC Northern District of Ohio
DEAL CASES (MERGERS)	

SELECT CASES WHERE FEDERMAN & SHERWOOD HAS SERVED AS LEAD OR CO-LEAD COUNSEL

Easylink Services International Corp.	Superior Court of Gwinnett County, Georgia
Genon Energy, Inc.	Chancery Court of the State of Delaware
Lawson Software, Inc.	Chancery Court of the State of Delaware
Network Engines, Inc.	Chancery Court of the State of Delaware
Paetec Holding Corp. Shareholder Litig.	Chancery Court of the State of Delaware
Williams Pipeline Partners, L.P.	District Court of Tulsa County, Oklahoma
Xeta Technologies, Inc.	District Court of Tulsa County, Oklahoma