

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

IN RE FOREFRONT DATA BREACH
LITIGATION

This Document Relates to: ALL ACTIONS.

)
)
)
)
)
)
)
)
)
)
)
)

Master File No. 1:21-cv-00887-LA

**DECLARATION OF GARY M. KLINGER IN SUPPORT OF PLAINTIFFS' MOTION
FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT**

I, Gary M. Klinger, declare as follows:

1. I am a partner at Milberg Coleman Bryson Phillips Grossman, PLLC ("Milberg"), and a member in good standing of the bar of the State of Illinois and am a member of the bars of numerous federal district courts, including the Eastern District of Wisconsin, and appellate courts. I submit this declaration in support of Plaintiffs' Motion for Final Approval of Class Action Settlement in this action.¹ I make the following declaration based on my own personal knowledge and, where indicated as based on information and belief, that the following statements are true. If called upon as a witness, I could and would competently testify as follows.

2. Milberg, along with our co-Class Counsel, Ahdoot & Wolfson, PC ("AW") are highly experienced in complex consumer class-action litigation—in particular, data breach class actions—and negotiated this Settlement at arm's length.

¹ Unless otherwise noted, all capitalized terms not separately defined herein have the meaning ascribed to them in the Settlement Agreement (ECF No. 57-1).

3. Given the numerous substantial hurdles and inherent risks Plaintiffs face with respect to their claims, the risks inherent in complex class action litigation, the reaction of Class Members to the Settlement, and, based on my extensive experience in complex class actions—in particular, data breach class actions, I believe that the Settlement achieved in this case is fair, reasonable, and adequate and represents an outstanding result for the Class.

4. The Settlement establishes a non-reversionary common fund of \$3,750,000 to pay for valid claims. Class Members may elect to receive: (1) two years of Credit Monitoring and Insurance Services (“CMIS”), and/or (2) a payment of up to \$10,000 for Documented Losses, and/or (3) a payment for Lost Time of up to five hours at \$25 per hour (maximum of \$125). In the alternative to the foregoing, Class Members can elect a *pro rata* cash payment (“Cash Fund Payment”). In addition, as part of the Settlement, Forefront has agreed to implement various valuable data security measures to help protect Class Members’ Personal Information from future ransomware attacks.

5. The Settlement is the result of prolonged arm’s length, good faith negotiations between experienced counsel who had a comprehensive understanding of the strengths and weaknesses of each party’s claims and defenses. The negotiations were mediated and facilitated by an experienced mediator with substantial experience in class actions, including data breach class actions.

6. The Settlement was reached only after Class Counsel analyzed information provided by Forefront in informal and confirmatory discovery and performed other research and investigation related to the Ransomware Attack. Plaintiffs expended significant efforts researching and preparing their opposition to Forefront’s motion to dismiss and continued their factual investigation of the Ransomware Attack in anticipation of discovery. The Settlement came

at a critical juncture in the litigation, before litigation risks, efforts, and costs would truly begin to increase significantly.

7. After the Court preliminarily approved the Settlement and the Settlement's Notice Plan on October 3, 2022 (*see* Order Granting Preliminary Approval of Class Action Settlement, ECF No. 58), Class Counsel worked closely with the Settlement Administrator to implement the Notice Plan.

8. The reaction from Class Members to the Settlement is resoundingly positive.

9. The deadline for Class Members to opt-out or object to the Settlement was January 24, 2023. The Settlement Administrator reports that, as of February 3, 2023, only 137 persons submitted timely requests for exclusion from the Settlement and there was only one objection filed with the Court.

10. The Claims Deadline is February 8, 2023. A similar claims process employed in numerous data breach class action settlements is being employed and overseen by a highly experienced Settlement Administrator.

11. Data breach cases, particularly, face substantial hurdles in surviving even past the pleading stage and are among the most risky and uncertain of all class action litigation. There are numerous substantial hurdles that Plaintiffs would have to overcome before the Court might find a trial appropriate. Thus, the value achieved through the Settlement Agreement here is guaranteed, where chances of prevailing on the merits are uncertain.

12. Forefront disputes Plaintiffs' allegations and denies that it is liable for any harm caused to Plaintiffs from the cyberattack. Forefront indicated that it will vigorously defend the case, and Forefront has already filed an extensive motion to dismiss for failure to state a claim upon which relief can be granted.

13. Despite Plaintiffs' confidence in the strength of this case, numerous legal issues and factual disputes exist that undermine the certainty of a more favorable outcome for the Class. The Settlement is a prudent course in view of the risks Plaintiffs face going forward. Given that all Class Members will be eligible to elect CMIS or a cash payment, the Settlement provides benefits that address all potential harms of a data breach without the substantial risk of continued litigation, which includes the risk of dismissal or judgment against Plaintiffs.

14. The named Plaintiffs have been actively engaged in this litigation, and were essential to the success achieved. Among other things, they provided information to Class Counsel, gathered documents, reviewed pleadings, stayed updated about the litigation, and reviewed and approved the Settlement. The Settlement would not have been possible without the effort and commitment of the Plaintiffs, who sacrificed their time and put their name on the line for the sake of the Class. Their commitment is notable given the modest size of their personal financial stakes in the matter.

15. The Settlement achieved in this litigation is the product of the initiative, investigations, and hard work of skilled counsel.

16. Based on my experience and my knowledge regarding the factual and legal issues in this matter, and given the substantial benefits provided by the Settlement, it is my opinion that the proposed Settlement in this matter is fair, reasonable, and adequate, and is in the best interests of the Settlement Class.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 8th day of February 2023, at Chicago, Illinois.

/s/ Gary M. Klinger
Gary M. Klinger