

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

AMISH PARIKH, individually and)	
on behalf of all others similarly situated,)	Case No. 2:25-CV-00129
)	
<i>Plaintiff,</i>)	
)	
v.)	
)	
THE KENDAL CORPORATION,)	
)	
<i>Defendant.</i>)	

**PLAINTIFF’S UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

Pursuant to Fed. R. Civ. P. 23, Plaintiff Amish Parikh (“Plaintiff”), individually and on behalf of all others similarly situated, and together with proposed Class Representative Niamh Jacobsen¹ respectfully move this Court for the entry of the proposed Preliminary Approval Order submitted herewith, which seeks preliminary approval of a proposed class action settlement and certification of a proposed settlement class (the “Settlement Class”) as defined therein. In support of this request, Plaintiff states the following:

1. The terms of the settlement are set forth in the Settlement Agreement that was executed in November 2025, attached as Exhibit A to Plaintiff’s accompanying memorandum filed contemporaneously herewith.

2. The relief sought in this motion is supported by Counsel Leigh Montgomery’s Declaration, attached as Exhibit B to Plaintiff’s memorandum in support of this Motion; Plaintiff’s

¹ Niamh Jacobsen is the named plaintiff in a related action arising from the same Data Incident styled *Niamh Jacobsen, individually and on behalf of all others similarly situated v. The Kendal Corporation*, 1:25-cv-00104-MN (D. Del.). It is the intention of the Parties to settle and resolve all claims arising from both actions by way of this Settlement.

memorandum of law in support of the motion for preliminary approval; and the proposed orders and other supporting documents submitted herewith.

3. Plaintiff states that the proposed settlement falls within the approvable range of fair, reasonable, and adequate; satisfies the requirements of Fed. R. Civ. P. 23; and should be preliminarily approved by this Court.

WHEREFORE, Plaintiff respectfully requests that the Court enter the Proposed Order granting preliminary approval of the class action settlement, conditionally certifying a Settlement Class, granting preliminary approval of the Settlement Agreement, approving the form and manner of Notice, and scheduling a Final Approval Hearing.

Dated: December 1, 2025

Respectfully submitted,

/s/ Jacob U. Ginsburg
Jacob U. Ginsburg, Esq.
PA Bar 311908
KIMMEL & SILVERMAN P.C.
30 East Butler Ave.
Ambler, PA 19002
P: (267)468-5374
jginsburg@creditlaw.com

/s/ Leigh S. Montgomery
Leigh S. Montgomery (*Pro Hac Vice*)
**ELLZEY KHERKHER SANFORD
MONTGOMERY, LLP**
4200 Montrose Blvd., Ste. 200
Houston, TX 77006
Tel: (888) 350-3931
Email: jellzey@eksm.com
Email: lmontgomery@eksm.com

David. Lietz (*Pro Hac Vice*)
MILBERG PLLC
5335 Wisconsin Avenue, Suite 440
Washington, DC 20015
Telephone: 866-252-0878
DLietz@milberg.com

CERTIFICATE OF CONERENCE

This is to certify that from November 25, 2025 to December 1, 2025, Plaintiffs' Counsel conferred with Defense counsel via email and they are Unopposed to Plaintiff's Motion for Preliminary Approval of Class Settlement.

/s/ Leigh S. Montgomery _____

Leigh S. Montgomery

CERTIFICATE OF SERVICE

This is to certify that on December 1, 2025, a true and correct copy of the foregoing was electronically filed with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Jacob U. Ginsburg _____

Jacob U. Ginsburg

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

AMISH PARIKH, individually and)	
on behalf of all others similarly situated,)	Case No. 2:25-CV-00129
)	
Plaintiff,)	
)	
v.)	
)	
THE KENDAL CORPORATION,)	
)	
Defendant.)	

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF’S UNOPPOSED MOTION
FOR PRELIMINARILY APPROVAL OF CLASS ACTION SETTLEMENT**

Plaintiff Amish Parikh, individually and on behalf of all others similarly situated, together with proposed Class Representative Niamh Jacobsen,¹ respectfully move pursuant to Fed. R. Civ. P. 23(a), (b)(3), and (e) to certify the Settlement Class,² preliminarily approve the proposed Settlement, and approve the Notices, Notice Program, Claim Form, and Claims process.

I. INTRODUCTION

On or about December 27, 2024, Defendant, The Kendal Corporation (“Defendant” or “Kendal”), announced a Data Incident impacting the personally identifying information (“PII” or “Private Information”), including names, Social Security numbers, and checking account/routing numbers. *See* Declaration of Class Counsel (“Decl.”) ¶ 2, attached as Exhibit B. As a result of the Data Incident, this Action was initiated in connection with Defendant’s alleged failure to safeguard

¹ Niamh Jacobsen is the named plaintiff in a related action arising from the same Data Incident styled *Niamh Jacobsen, individually and on behalf of all others similarly situated v. The Kendal Corporation*, 1:25-cv-00104-MN (D. Del.). It is the intention of the Parties to settle and resolve all claims arising from both actions by way of this Settlement.

² All capitalized terms herein shall have the same meanings as those defined in Section I of the Settlement Agreement, attached hereto as Exhibit A.

the Private Information it maintained on behalf of the Settlement Class. *Id.* ¶ 3. Defendant denies all liability and wrongdoing. *Id.* ¶ 3; Settlement Agreement (“SA” or “Agreement”) § III.

After a formal mediation and arm’s-length negotiations, the Parties reached a Settlement that is fair, adequate, and reasonable. SA § I. The Settlement provides for the creation of a non-reversionary Settlement Fund in the amount of \$450,000. The Settlement Fund will be used for cash payments and credit monitoring benefits to Settlement Class Members, Notice and Administrative Expenses, attorneys’ fees and litigation expenses as awarded by the Court, and Service Award payments approved by the Court. *Id.* ¶¶ 8–10, 13; SA ¶¶ 2.1–2.8, 3.2, 7.1–7.3. Additionally, Defendant has made assurances regarding improvements to the security of its systems housing Private Information. SA ¶ 2.9. Plaintiff believes the Settlement is favorable to the Settlement Class.

II. BACKGROUND AND PROCEDURAL HISTORY

Defendant The Kendal Corporation is an organization that provides programs and services that advocate for older adults. Decl. ¶ 2. Representative Plaintiffs and Class Members are current and former employees of Defendant. On June 30, 2024, Kendal observed unusual activity on its computer network and immediately began an investigation with the assistance of third-party specialists. The investigation determined that certain files on the Kendal network were potentially accessed without authorization between June 26, 2024, and June 30, 2024. The files at issue included information related to current and former employees of Kendal and its affiliate care communities. Therefore, Kendal reviewed the files at issue to determine the specific information the files contained.

Defendant’s investigation determined that the following types of private information were potentially accessed in the Data Breach: names, Social Security numbers, and checking

account/routing numbers provided for direct deposit. Approximately 10,000 individuals were potentially affected by the Data Incident.

On December 27, 2024, Kendal started sending notice letters to the impacted individuals. Representative Plaintiffs each received a notification from Defendant indicating that cybercriminals may have accessed and/or acquired her private information.

This Action, filed by Representative Plaintiff Parikh and captioned *Amish Parikh, individually and on behalf of all others similarly situated v. The Kendal Corporation, 2:25-cv-00129*, was filed on January 9, 2025, in the United States District Court for the Eastern District of Pennsylvania. Representative Plaintiff Jacobsen filed her Class Action Complaint on January 24, 2025, in the United States District Court for District of Delaware alleging claims for damages arising from the Data Incident.³ Shortly after, the parties began exploring the possibility of early resolution. Over the next few months, the Parties engaged in informal discovery and scheduled an August 12, 2025, formal mediation with Rodney Max, Esq., a well-regarded private mediator with substantial experience mediating data breach class actions. The mediation was successful and resulted in a settlement in principle.

On August 19, 2025, the parties filed a Joint Report to Court and Notice of Settlement in Principle [DE # 10] informing the Court that the Parties had reached a settlement in principal and proposing to file a Motion for Preliminary Approval of Class Action Settlement. Over the following weeks, the Parties diligently drafted, negotiated, and finalized the Settlement Agreement, Notices, and Claim Form, and agreed to a settlement administrator. Decl. ¶ 6. The Settlement Agreement was finalized in November 2025. *See* Agreement. It is proposed Class

³ Case No. 1:25-cv-00104-MN (D. Del. 1/24/25)

Counsel's opinion that the Agreement presents a favorable result for the Settlement Class. Decl. ¶ 5, 35; Agreement § II.

III. SUMMARY OF SETTLEMENT

A. Settlement Class

The Settlement Class has approximately 10,000 members and is defined as follows:

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

Agreement ¶ 1.25. The Settlement Class specifically excludes (i) Defendant and Defendant's parents, subsidiaries, affiliates, directors, and any entity in which defendant has a controlling interest; (ii) all individuals who make a timely election to be excluded from this proceeding using the correct protocol for opting out; (iii) any and all federal, state, or local governments, including but not limited to their departments, agencies, division's, bureaus, boards, sections, groups, counsels and/or subdivisions; (iv) the attorneys representing the Parties in the Action; (v) all judges assigned to hear any aspect of the Action, as well as their immediate family members; and (vi) any person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting the Data Breach, or who pleads *nolo contendere* to any such charge. *Id.*

B. Settlement Consideration

The Settlement calls for the creation of a \$450,000.00 non-reversionary Settlement Fund, from which the following benefits may be claimed by Settlement Class Members:

1. Documented Monetary Losses and Cash Payments

Settlement Class Members may claim Compensation for Documented Monetary Losses, which includes up to a total of \$5,000.00 per person for unreimbursed losses upon submission of a claim and supporting documentation. *Id.* ¶ 2.5. Documented Monetary Losses may include but

are not limited to; (i) out of pocket credit monitoring costs that were incurred on or after June 26, 2024, through the date of Claim submission; (ii) unreimbursed losses associated with actual fraud or identity theft; and (iii) unreimbursed bank fees, long distance phone charges, postage, or gasoline for local travel. *Id.* ¶ 2.5

In addition to a claim for Documented Monetary Losses, all Settlement Class Members shall have the ability to claim a *Pro Rata* Cash Payment in the estimated amount of one hundred Dollars (\$100.00). *Id.* ¶ 2.6. The payments shall be calculated by dividing remaining funds in the Settlement Fund, after payment of Settlement Administration Fees, Attorneys' Fees, Costs and Expenses, Credit Monitoring and Identity Restoration Services, and Documented Monetary Losses, by the number of eligible claims.

2. Credit Monitoring

In addition to claiming the monetary benefits, each Settlement Class Member may claim three (3) year of one-bureau (“1B”) credit monitoring. *Id.* ¶ 2.7.

3. Business Practice Changes – Defendant represents that it has adopted and implemented additional data security measures following the Data Security Incident to further strengthen the security of its systems. *Id.* ¶ 2.9. Kendal will detail these business practice changes to Class Counsel in a confidential declaration. *Id.*

4. Releases – The Releasing Parties will release the Released Parties for claims relating to the Data Incident. Regardless of whether they submit a Claim, Settlement Class Members who do not opt-out of the Settlement will release all claims, whether known or unknown, against Defendant and the other Released Parties. *Id.* ¶¶ 1.21, 1.29, 6.1.

5. The Notice Program, Claim Process, Opt-Outs, and Objections

The Parties have agreed to use Eisner Advocacy Group, as the Settlement Administrator, who shall administer various aspects of the Settlement under the Parties' supervision. *Id.* ¶ 1.3. Within 30 days of Preliminary Approval, and to be substantially completed not later than forty-five (45) days after entry of the Preliminary Approval Order, Short Form Postcard Notice will be sent to the Settlement Class Members by U.S. Mail. *Id.* ¶ 3.2. The Claims Administrator shall establish a dedicated settlement website and shall maintain and update the website throughout the claim period, with the Notice and Claim Form approved by the Court, as well as the Settlement Agreement. *Id.* A toll-free help line with an IVR script shall be made available to address Settlement Class Members' inquiries. *Id.* The Claims Administrator also will provide copies of the forms of the Notice and Claim Form approved by the Court, as well as this Settlement Agreement, upon request. *Id.*

Claims Process – The Claims process is structured to ensure all Settlement Class Members have adequate time to review the Settlement terms, compile documents supporting their Claim if Compensation for Documented Monetary Losses is elected, submit Claims, and decide whether to opt-out or object. Decl. ¶ 16. Claim Forms are due to the Settlement Administrator by the Claims Deadline, which is sixty (60) days after notice commences. Agreement ¶ 1.4. The Claim Form is in plain language for easy completion. Decl. ¶ 18.

Opt-outs and Objections – The opt-out and objection deadlines are also sixty (60) days after the date on which the notice program commences (*id.* ¶ 1.16; 1.15), providing sufficient time to access and review the Settlement. This includes time to review Plaintiff's Application for Attorneys' Fees, Costs, and Service Awards, which will be filed no less than fourteen (14) days prior to the Opt-Out and Objection deadlines.

6. *Service Awards, Attorneys' Fees and Costs*

Service Awards – The Agreement calls for a reasonable Service Award for the two proposed Class Representatives of \$2,500.00 each. *Id.* ¶¶ 7.2. The Service Awards are meant to compensate the Class Representatives for their efforts on the Settlement Class’s behalf, including serving as named plaintiffs in the two actions (i.e. this case and the Delaware action arising from the same incident), assisting in the Action’s investigation, maintaining contact with Class Counsel, reviewing case documents, being prepared to assist with discovery, and answering Class Counsel’s many questions. Decl. ¶ 43.

Attorneys’ Fees and Costs – After agreeing to the Settlement’s material terms, Class Counsel negotiated attorneys’ fees and costs separate from the total of Valid Claims. Class Counsel intends to seek an attorneys’ fees not to exceed one-third of the Settlement Fund, or \$150,000.00. Agreement ¶ 7.1. In addition to the attorneys’ fees, Class Counsel may seek reimbursement of reasonable out-of-pocket litigation expenses. *Id.* The Notices advise the Settlement Class of these intended requests and further information on how to object. *Id.*, Exs. B, C; Decl. ¶ 14.

IV. LEGAL AUTHORITY

Federal Rule of Civil Procedure 23(e) “explicitly discusses the requirements for class settlements.” *Hall v. Accolade, Inc.*, No. CV 17-3423, 2019 WL 3996621, at *2 (E.D. Pa. Aug. 23, 2019). At the preliminary approval stage, the parties “provide the court with information sufficient to enable it to determine whether to give notice of the proposal to the class.” Fed. R. Civ. P. 23(e)(1)(A). The Court then decides whether “giving notice is justified by the parties’ showing that the court will likely be able to: (i) approve the proposal under Rule 23(e)(2); and (ii) certify the class for purposes of judgment on the proposal.” Fed. R. Civ. P. 23(e)(1)(B). “As part of a preliminary approval motion, courts can conduct a ‘less rigorous analysis’ than the final approval stage requires.” *Barletti v. Connexin Software, Inc.*, No. 2:22-CV-04676-JDW,

2024 WL 1096531, at *2 (E.D. Pa. Mar. 13, 2024). (citation omitted). In conducting their preliminary review, courts are cognizant that there is a “strong public policy” that is “particularly muscular in class action suits, favoring settlement of disputes, finality of judgments and the termination of litigation.” *Ehrheart v. Verizon Wireless*, 609 F.3d 590, 593 (3d Cir. 2010).

If the district court determines that it “will likely be able to approve” the Settlement and certify the Settlement Class, it should direct notice in a “reasonable manner to all class members who would be bound by the proposal.” Fed. R. Civ. P. 23(e)(1)(B); *see Fulton-Green v. Accolade, Inc.*, 2019 WL 316722, at *1, *5 (E.D. Pa. Jan. 24, 2019) (granting preliminary approval of data breach settlement “because it is within the range of possible approval, the requirements of conditional class certification are met, and the notice plan is reasonably designed to notify class members of the settlement agreement”). The Settlement easily meets these criteria.

V. LEGAL DISCUSSION

A. The Settlement is Likely to be Found "Fair, Reasonable, and Adequate" under Rule 23(e)(2) and *Girsh* and Therefore Should Be Preliminarily Approved.

Rule 23(e)(2) sets forth the factors a court must consider in determining the fairness of a class action settlement at the final approval stage, and courts in this Circuit must also consider the factors set forth in *Girsh v. Jepson*, 521 F.2d 153, 157 (3d Cir. 1975). In determining whether preliminary approval is warranted, the Court should consider whether the “proposed settlement discloses grounds to doubt its fairness or other obvious deficiencies such as unduly preferential treatment of class representatives or segments of the class, or excessive compensation of attorneys, and whether it appears to fall within the range of possible approval.” *Mehling v. New York Life*

Ins. Co., 246 F.R.D 467, 472 (E.D. Pa. 2007) (citations omitted). Under Rule 23, a settlement falls within the “range of possible approval” if there is a conceivable basis for presuming that the standard applied for final approval—fairness, adequacy and reasonableness—will be satisfied. *Id.*

The Settlement here, as explained below, exceeds the preliminary approval threshold. Plaintiff, without opposition from Defendant, respectfully request that this Court preliminarily approve the proposed Settlement.

1. *The Parties Negotiated the Proposed Settlement at Arm's Length.*

The Settlement is the product of hard-fought, arm’s-length negotiations and a full-day mediation that was overseen by an experienced mediator, Rodney A. Max. Decl. ¶ 4. This factor supports approval of the settlement.

Whether a settlement arises from arm’s-length negotiations is “a key factor” in assessing preliminary approval. *Galt v. Eagleville Hosp.*, 310 F. Supp. 3d 483, 493 (E.D. Pa. 2018) (Rufe, J.) (finding arm’s-length negotiations between experienced counsel, before an experienced and independent mediator, with the benefit of a pre-settlement investigation into relevant facts, were factors that weighed in favor of finding that settlement was presumptively fair); *In re Nat’l Football League Players’ Concussion Injury Litig.*, 301 F.R.D. 191, 198 (E.D. Pa. 2014) (hereinafter “*Nat’l Football League I*”) (finding a presumption of fairness exists where parties negotiate at arm’s length, assisted by a retired federal judge who served as a mediator).

2. *The Relief Provided for the Class is Fair, Reasonable, and Adequate.*

The proposed \$450,000 non-reversionary common fund Settlement is the product of significant investigation of Class Representatives’ and Class Members’ claims. Class Counsel conducted extensive and lengthy interviews of the two proposed Class Representatives,

reviewed their documentation, and analyzed the applicable laws of Pennsylvania and other jurisdictions regarding breaches of Class Members' Personal Information. Decl. ¶ 35.

As discussed above, the Parties exchanged informal discovery as well as detailed mediation statements prior to the mediation.⁴ *Id.* ¶ 4. Based on this information, Class Counsel's independent investigation of the relevant facts and applicable law, and counsels' broad experience with other data breach cases, Class Counsel determined that the Settlement is fair, reasonable, adequate, and in the best interest of the Settlement Class. Decl. ¶ 35.

a. The Settlement avoids the considerable costs, risks, and delay of litigation.

The immediate and substantial benefits that the Settlement provides stand in stark contrast to the considerable risks, uncertainties, costs, and delays of continued litigation. Class Counsel thoroughly assessed those contingencies in considering the terms of the Settlement. Decl. ¶¶ 35, 38.

As the Court has recognized in similar settlements, Plaintiff faced “a significant risk in this case because they must prove not only that Defendant owed a duty to Plaintiff to safeguard their information, but also that their conduct was the proximate cause of that breach.” *In re Onix Group, LLC*, 2024 WL 3015528, at *10 (E.D. Pa. June 14, 2024) (“*Onix Group I*”),

⁴ The fact that the Parties have not engaged in *formal* discovery is not determinative. At an early stage, the Parties disclosed to the Court their intention to mediate after engaging in targeted informal discovery, which the Court approved. *See* Case Mgmt. Ord. No. 2 (June 15, 2020) (Dkt. 119). That is consistent with a long line of cases in which courts—including this Court—have preliminarily approved class action settlements in the early stages of litigation, especially where meaningful informal discovery has occurred. *See In re Processed Egg Prods. Antitrust Litig.*, 284 F.R.D. 249, 267 (E.D. Pa. 2012) (Pratter, J.) (preliminarily approving class action settlement when “no formal discovery was conducted in this case during the time of the . . . Settlement negotiations or agreement”); *see also Fulton-Green*, 2019 WL 316722, at *3 (preliminarily approving class action settlement where “[e]ven though formal discovery has not started . . . the parties exchanged a substantial amount of information regarding the discrete issues in this case”).

granting final approval, 2024 WL 5107594, at *1-2 (E.D. Pa. Dec. 13, 2024) (“*Onix Group II*”). Plaintiff and the Settlement Class would face many other challenges, including withstanding motions to dismiss, obtaining class certification, maintaining class certification after an interlocutory appeal under Rule 23(f), opposing summary judgment motions, defending expert opinions under *Daubert*, and ultimately prevailing at trial and on appeal. *See In re Generic Pharms. Pricing Antitrust Litig.*, 2025 WL 1550100, at *3 (E.D. Pa. May 30, 2025) (Rufe, J.) (finding that \$5.2 million settlement was adequate in light of the “inherent risk to recovery involved in prolonged litigation, continuing through motions regarding class certification, the dismissal of claims, and the exclusion of evidence, as well as potential trials and appeals, [which] would only delay any recovery class members may receive.”); *In re CertainTeed Fiber Cement Siding Litig.*, 303 F.R.D. 199, 216 (E.D. Pa. 2014) (“further proceedings would be complex, expensive and lengthy, with contested issues of law and fact. . . That a settlement would eliminate delay and expenses and provide immediate benefit to the class militates in favor of approval.”).

A comparison with recoveries in other finally approved data breach settlements demonstrates the strength of this Settlement. Data breach class action settlements are typically evaluated on a “per person” recovery basis. The \$450,000.00 non-reversionary common fund here for approximately 10,000 Settlement Class Members equates to a per-person recovery of \$45.00 per person. This far outstrips other data breach settlements that were recently given final approval by other judges of this Court. *See e.g., Onix*, 2024 WL 5107594, at *2 (\$1.25 million settlement fund for 308,942 class members, or \$4.04 per person); *In re Philadelphia Inquirer Data Sec. Litig.*, No. CV 24-2106-KSM, 2025 WL 845118, at *2 (E.D. Pa. Mar. 18, 2025) (\$525,000 settlement fund for 25,549 class members, or \$20.55 per person), *Opris v.*

Sincera Reproductive Medicine, Case No. 2:21-cv-03072-JHS (E.D. Pa), ECF Doc 69 (Sept. 8, 2023)(granting final approval of \$1.2 million settlement for class of 37,989, or \$31.59 per person). By every comparative measure, this is a fair, reasonable, and adequate settlement.

b. The Settlement provides for an Effective Method of Distributing Relief to the Class, Including Through a Simplified Claims Process.

The Settlement creates a straightforward procedure for Class Members to submit a Claim Form. Class Members may make claims for the Pro Rata Cash payment and the credit monitoring simply by utilizing the “tear off” claim form that will be attached to the Short Form Postcard Notice. *See* Agreement, Ex. C. It also provides for effective Direct Notice to Class Members via U.S. mail, which is how most Class Members received notice of the Incident, based on available Class Member contact information provided to the Settlement Administrator by Kendal, supplemented by posting the Long Form Notice to the Settlement Website. SA ¶ 3.2. This factor supports the fairness of the Settlement. *See Barletti*, 2024 WL 1096531, at *6 (preliminarily approving settlement where class members would be notified of data breach settlement by the same means they received notice of the breach and were given a “straight-forward claims process that offers them a choice of relief”); see also *In re Canon U.S.A. Data Breach Litig.*, No. 20-cv-6239, 2023 WL 7936207, at *4 (E.D.N.Y. Nov. 15, 2023) (granting preliminary approval to data breach settlement under which class members could claim ordinary losses, extraordinary losses, and credit monitoring).

c. The proposed attorneys' fee award is reasonable.

Class Counsel devoted (and will continue to devote) significant time and financial resources to the litigation. Decl. ¶ 14. The Parties did not discuss or reach agreement on the amount of the fee award Class Counsel would seek until after the substantive terms of the settlement had been agreed upon. SA ¶ 7.1; Decl. ¶ 14. Plaintiffs intend to seek attorneys' fees of up to one-third

of the Settlement Fund, subject to Court approval. SA ¶7.1; Decl. ¶ 14. As will be discussed in detail in the forthcoming Fee Award and Cost motion, this amount is reasonable and well within the range of fees approved by this Court in common fund class action settlements.⁵ Plaintiff will file a motion and supporting materials supporting the requested Fee Award and Costs 14 days before the Objection/Exclusion Deadline. Decl. ¶ 14. The Long Form Notice advises Class Members of the date the motion for Fee Award and Costs will be published on the Settlement Website. *Id.* Ex. C.

d. There are No Additional Agreements Required to be Identified Under Rule 23(e)(3).

Rule 23(e)(2)(C)(iv) requires courts to consider any agreement among the parties outside of the settlement agreement. Further, “[t]he parties seeking approval must file a statement identifying any agreement made in connection with the proposal.” Fed. R. Civ. P. 23(e)(3). In this case, the Settlement Agreement and its exhibits contain all agreements and understandings between the Parties, and there are no “side agreements” outside of the Settlement Agreement. Decl. ¶ 44.

e. The Settlement Treats Class Members Equitably Relative to Each Other.

⁵ See, e.g., *Godshall v. Franklin Mint Co.*, 2004 WL 2745890, at *5 (E.D. Pa. Dec. 1, 2004) (Rufe, J.) (“The requested [33.3] percentage is in line with percentages awarded in other cases.”); *McIntyre v. RealPage, Inc.*, 2023 WL 2643201, at *3 n.5 (E.D. Pa. Mar. 24, 2023) (“Counsel’s requested award of . . . (33.33%) is ‘squarely within the range of awards found to be reasonable by the courts.’”); *Onix Group II*, 2024 WL 5107594, at *11, 13-16 (approving 33-1/3% fee award in data breach settlement); *In re Phila. Inquirer Data Sec. Litig.*, 2025 WL 845118, at *11-15 (E.D. Pa. Mar. 18, 2025) (same); *Sorace v. Wells Fargo Bank, N.A.*, 2024 WL 643229, at *13 (E.D. Pa. Feb. 15, 2024) (“In common fund cases, fee awards generally range from 19% to 45% of the settlement fund.”), *aff’d*, 2024 WL 5116797 (3d Cir. Dec. 16, 2024); *Galt v. Eagleville Hosp.*, 310 F. Supp. 3d 483, 498 (E.D. Pa. 2018) (Rufe, J.) (same); *Boone v. City of Phila.*, 668 F. Supp. 2d 693, 714 (E.D. Pa. 2009) (noting that an analysis of “289 class action settlements ranging from under \$1 million to \$50 million” found “the average attorneys’ fees percentage to be 31.71% and the median to be one-third, citing *In re Rite Aid Corp. Securities Litig.*, 146 F. Supp. 2d 706, 735 (E.D. Pa. 2001)).

“A district court’s ‘principal obligation’ in approving a plan of allocation ‘is simply to ensure that the fund distribution is fair and reasonable as to all participants in the fund.’” *Sullivan v. DB Invs., Inc.*, 667 F.3d 273, 326 (3d Cir. 2011) (quoting *Walsh v. Great Atl. & Pac. Tea Co., Inc.*, 726 F.2d 956, 964 (3d Cir. 1983)). Here, the Settlement treats all Class Members fairly and equally relative to each other and in relation to the strengths of their claims. All Class Members can choose to be reimbursed for up to \$5,000 in documented losses reasonably attributable to the Incident and to receive a *pro rata* share of the Net Settlement Fund. SA ¶ 2. This Court and others have approved similar (but inferior) settlement allocation structures in other data breach settlements. *See, e.g., Onix Group I*, 2024 WL 3015528, at *5-11 (granting preliminary approval to settlement giving class members choice of up to \$5,000 for documented losses or *pro rata* share of net settlement fund without documentation of loss); *Onix Group II*, 2024 WL 5107594, at *1-2 (granting final approval); *Barletti v. Connexin Software, Inc.*, 2024 WL 1096531, at *6 (E.D. Pa. Mar. 13, 2024) (granting preliminary approval to settlement allowing claimants to choose between credit monitoring and insurance services, reimbursement of actual out-of-pocket losses, or a cash payment), *granting final approval*, 2024 WL 3564556 (E.D. Pa. July 24, 2024); *Bianucci, et al. v. Rite Aid Corp.*, 2025 WL 704284 (E.D. Pa. Mar. 4, 2025) (granting preliminary approval to data breach settlement with similar structure, and approving double payment to California class members electing the *pro rata* cash benefit).

3. *The Settlement also Satisfies All the Applicable Girsh Factors.*

In this Circuit, courts assessing the fairness of proposed class action settlements must consider the *Girsh* factors.⁶ *Girsh*, 521 F.2d at 157. However, Rule 23(e)(2) and the *Girsh* factors overlap with each other to a significant extent, and courts need not separately address the two sets of factors or any *Girsh* factors that are not applicable to the settlement at issue. *See Dixon v. Lincoln Univ.*, 2025 WL 1373676, at *8 n.3 (E.D. Pa. May 12, 2025) (explaining that after analyzing the *Girsh* factors, the court would not separately address the Rule 23(e)(2) considerations because they “substantially overlap” with the *Girsh* factors and other guidance⁷ from the Third Circuit Court of Appeals). Plaintiffs have satisfied all additional *Girsh* factors that are applicable here. Had the case not resolved, the Parties would be facing significant risks in briefing and arguing class certification, summary judgment, expert reports, and maintaining class certification throughout trial. *See, e.g., In re Phila. Inquirer*, 2025 WL 845118, at *9-10 (acknowledging expense and challenges of class certification, summary judgment, and trial in data breach class action)

To the extent applicable (and not already addressed above), Plaintiffs have satisfied the *Girsh* test. Had the case not resolved, the parties here would be facing “significant expenses in briefing and arguing class certification, summary judgment, expert reports, and maintaining class certification throughout trial.” *In re Wawa, Inc. Data Sec. Litig.*, No. 19-cv-6019, 2023

⁶ Some courts in this District and elsewhere in the Third Circuit have held that the *Girsh* factors are inapplicable until the final approval stage. *See, e.g., Curiale v. Lenox Grp., Inc.*, 2008 WL 4899474 at *9 n.4 (E.D. Pa. Nov. 14, 2008) (“At the preliminary approval stage, however, we need not address all of [the *Girsh*] factors, as the standard for preliminary approval is far less demanding.”); *Copley v. Evolution Well Servs. Operating LLC*, 2023 WL 1878581, at *2, n.1 (W.D. Pa. Feb. 10, 2023) (same).

⁷ *See In re Pet Food Prods. Liab. Litig.*, 629 F.3d 333, 350 (3d Cir. 2010) (noting that “when appropriate,” it “may be helpful to expand the *Girsh* factors to include, when appropriate,” several “non-exclusive factors” identified in *In re Prudential Ins. Co. Am. Sales Prac. Litig. Agent Actions*, 148 F.3d 283, 323 (3d Cir. 1998)). The *Prudential* factors will be discussed in Plaintiff’s motion for final approval.

WL 6690705, at *7 (E.D. Pa. Oct. 12, 2023). Numerous courts have recognized the substantial risks associated with data breach class actions. *See, e.g., Onix Group II*, 2024 WL 5107594, at *10 (“Plaintiff face a significant risk in this case because they must prove not only that Defendant owed a duty to Plaintiff to safeguard their information, but also that their conduct was the proximate cause of that breach.”); *Gordon v. Chipotle Mexican Grill, Inc.*, 2019 WL 6972701, at *1 (D. Colo. Dec. 16, 2019) (“Data breach cases such as the instant case are particularly risky, expensive, and complex, and they present significant challenges to Plaintiff at the class certification stage.”) (internal citations omitted); *Maldini v. Marriott Int’l, Inc.*, 140 F. 4th 123 (4th Cir. 2025) (reversing class certification for second time in data breach litigation); *Theus v. Brinker Int’l Inc.* 2025 WL 1786346, at *4 (M.D. Fla. June 27, 2025) (denying class certification in data breach litigation).

Further, “courts within the Third Circuit ‘regularly find a settlement to be fair even though the defendant has the practical ability to pay greater amounts.’” *Kelly v. Santander Consumer USA, Inc.*, 2023 WL 8701298, at *4 (E.D. Pa. Dec. 15, 2023) (quoting *In re Flonase Antitrust Litig.*, 291 F.R.D. 93, 104 (E.D. Pa. 2013)). Indeed, this *Girsh* factor “is largely irrelevant” where, as here, “there is no ‘reason to believe that [d]efendants face any financial instability.’” *In re Phila. Inquirer*, 2025 WL 845118, at *10.

B. The Proposed Settlement Class Satisfies the Criteria of rules 23(a) and 23(b)(3).

“In addition to reviewing the terms of settlement, a court at the preliminary approval stage may conditionally certify the class for purposes of providing notice, with the final certification decision to be made at the subsequent fairness hearing.” *Checchia v. Bank of Am., N.A.*, 2023 WL 2051147, at *2 (E.D. Pa. Feb. 16, 2023) (citing *In re Nat’l Football League I*, 301 F.R.D. at 199- 200). Courts may certify settlement classes that satisfy the requirements of

Rule 23(a) and at least one provision of Rule 23(b). *In re Generic Pharms. Pricing Antitrust Litig.*, 2025 WL 754567, at *3–4 (E.D. Pa. Mar. 7, 2025) (Rufe, J.). Within the Third Circuit, the class must be “currently and readily ascertainable based on objective criteria.” *Id.* at *4 (quoting *In re Niaspan Antitrust Litig.*, 67 F.4th 118, 129-30 (3d Cir. 2023)). The Settlement Class meets the applicable criteria for preliminary certification.

1. The Proposed Settlement Class is Sufficiently Numerous

The Settlement Class of at least 10,000 persons easily satisfies the Rule 23(a)(1) numerosity Requirement.

2. The Proposed Settlement Class Is Ascertainable

The Third Circuit Court of Appeals instructs that a Rule 23(b)(3) class must be ascertainable. *Marcus v. BMW of N. Am., LLC*, 687 F.3d 583, 592-94 (3d Cir. 2012). Here, Kendal has already identified the persons affected by the Incident and sent them notice of the Data Breach.

3. There Are Questions of Law or Fact Common to the Class

“Rule 23(a)(2)’s commonality element requires that the proposed class members share at least one question of fact or law in common with each other.” *In re Warfarin Sodium Antitrust Litig.*, 391 F.3d 516, 527-28 (3d Cir. 2004). The commonality threshold is low “and does not require an identity of claims or facts among class members.” *Gates v. Rohm and Haas Co.*, 248 F.R.D. 434, 440 (E.D. Pa. 2008) (citation and internal quotation marks omitted). For purposes of Rule 23(a)(2), even a “single common question is enough to satisfy the commonality requirement[.]” *In re Generic Pharms.*, 2025 WL 1550100, at *1.

Here, the facts relating to the Incident are the key issues in the case. There are multiple common questions, including how the Incident occurred, whether Kendal had a duty to protect

Class Members' Personal Information, and whether Class Members were harmed by the alleged breach. Complaint (ECF No. 1) ¶ 106. *See, e.g., In re Phila. Inquirer*, 2025 WL 845118, at *5.

4. The Class Representatives' Claims are Typical of the Claims of the Class

Rule 23(a)(3) requires that the “claims or defenses of the representative parties [be] typical of the claims or defenses of the class.” *Id.* This inquiry is met where “the action can be efficiently maintained as a class and . . . the named Plaintiff have incentives that align with those of absent class members so as to assure that the absentees’ interests will be fairly represented.” *In re Generic Pharms.*, 2025 WL 1550100, at *1 (citation and internal quotation marks omitted); *Hall*, 2019 WL 3996621, at *7 (same). Typicality is satisfied where there is a “strong similarity of legal theories’ [sic] or where the claim arises from the same practice or course of conduct.” *In re Nat’l Football League Players’ Concussion Injury Litig.*, 821 F.3d 410, 428 (3d Cir. 2016) (hereinafter “*Nat’l Football League II*”) (citation and internal quotation marks omitted). Here, typicality is satisfied because the claims of the named Plaintiffs are “virtually identical to those of the [C]lass [as they] arise from the same conduct [Kendal’s] security measures and whether they were adequate to protect [Plaintiffs’ and the Class’s] sensitive data.” *Onix Group I*, 2024 WL 3015528, at *3 (citation and internal quotation marks omitted). Typicality is satisfied.

5. The Class Representatives and Class Counsel Will Continue to Fairly and Adequately Represent the Class.

Here, the proposed Class Representatives been actively involved in this litigation, and have assisted throughout the process, answering Class Counsel’s many questions, providing documents pertaining to the lawsuit, and reviewing the Complaints and terms of the Settlement. Decl. ¶ 43. Their interests and those of the other Class Members are aligned: all are equally interested in proving the factual averments in the Complaints, establishing Kendal’s liability, and obtaining compensation from Kendal. The Class Representatives have retained knowledgeable and well-

qualified counsel who have successfully prosecuted many class actions, including data breach class actions. *Id.* Class Counsel have vigorously prosecuted the Action, devoted substantial effort and resources on behalf of the Class, and achieved an outstanding settlement. *Id.* ¶ 35.

6. Common Issues Predominate and a Class Action is Superior to Other Available Methods of Adjudicating the Controversy

Proposed Class Representatives seek to certify a settlement class under Rule 23(b)(3), which requires that “questions of law or fact common to class members predominate over any questions affecting only individual members, and that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy.” The proposed Settlement Class meets both requirements.

a) Common Issues Predominate

Under Fed. R. Civ. P. 23(b)(3), a class action may be maintained if common questions of law or fact predominate questions arguably affecting only individuals.” *Fulton-Green*, 2019 WL 4677954, at *6 (granting final approval). “When examining whether certain issues predominate, a court looks to see if ‘common, aggregation-enabling, issues in the case are more prevalent or important than the non-common, aggregation-defeating, individual issues.’” *In re Wawa, Inc. Data Sec. Litig.*, 2021 WL 3276148, at *4 (E.D. Pa. July 30, 2021) (quoting *Tyson Foods, Inc. v. Bouaphakeo*, 577 U.S. 442, 453 (2016)); *see also Onix Group I*, 2024 WL 3015528, at *4 (“In this data breach litigation, Defendant’s conduct is common to all class members, and all class members were harmed by that conduct.”).

As the Court found in *In re Wawa*, “there is a myriad of questions of law and fact that predominate.” 2021 WL 3276148, at *4. Those include whether Kendal owed a duty to Class Members to safeguard their sensitive information; whether it breached that duty; whether it violated state consumer protection laws; whether it complied with industry standards; whether

its conduct or failure to act was the proximate cause of the data breach; and whether the proposed Class Representatives and Class Members are entitled to recovery. ECF No. 1, ¶¶ 106, 109. These issues, all of which are focused on Kendal’s common course of conduct, predominate here.

b) A Class Action is superior to Other Means of Adjudication

The superiority requirement asks the court to balance, in terms of fairness and efficiency, the merits of a class action against those of alternative available methods of adjudication.” *In re Prudential*, 148 F.3d at 316 (internal quotation marks and citation omitted). There is no indication that Class Members would be interested in litigating individually or that the litigation should proceed in a non-class forum. To the contrary, the considerable cost and complexity of litigation and difficulty in proving damages would preclude Class Members from filing suit individually.⁸ The Settlement, in contrast, provides Class Members with an immediate monetary benefit and also improved data security measures by Kendal, which still possesses their Personal Information.

As explained in another data breach action, “all of the claims are almost identical because they arise from the same underlying activity and the damages should be easily provable and quantifiable.” *Fulton-Green*, 2019 WL 316722, at *4 (preliminarily certifying Rule 23(b)(3) class). Moreover, “the value of the individual claims may be modest and thus impractical to litigate on a case-by-case basis,” especially for people “who have not suffered

⁸ Because proposed Class Representatives request certification for settlement purposes only, the Court “need not inquire whether the case, if tried, would present intractable management problems . . . [because] the proposal is that there be no trial.” *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 620 (1997); accord *Sullivan*, 667 F.3d at 322 n.56; *In re Processed Egg Prods. Antitrust Litig.*, 284 F.R.D. 249, 264 (E.D. Pa. 2012).

identity theft but have had to spend time notifying institutions and signing up for identity theft protection programs.” *Id.*

For the foregoing reasons, the Court should provisionally certify the Settlement Class as the criteria of Rules 23(a) and 23(b)(3) are met.

C. The Notice Plan Provides Class members with the Best Notice Practicable Under the Circumstances and Comports with Due Process

Pursuant to Rule 23(c)(2)(B), the notice must be the “best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort.” There are three aspects to notice requirements under Rule 23 and fundamental due process: (1) notice must be disseminated in a manner “reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections;” (2) the content must be of “such nature as reasonably to convey the required information;” and (3) the notice must “afford a reasonable time for those interested to make their appearance” and exercise their options to file a claim, object, or opt out of the class. *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950) (internal citations omitted). The proposed Notice Plan achieves all these objectives.

Here, notice is designed to reach a significant number of Settlement Class Members. The Settlement Administrator will mail the Short Form Postcard Notice via U.S. mail, postage prepaid, directly to Class Members, using the postal addresses that Kendal provides. SA ¶ 3.2. The direct mailing of the Short-Form Postcard Notice will be enhanced by posting the Long Form Notice on the Settlement Website. *Id.* The Settlement Administrator also will establish and maintain a Settlement Website and a toll-free help line to provide Class Members with information about the Settlement and to respond to Class Members’ questions. *Id.*

The detailed notice form and settlement website clearly and concisely inform Class Members about their rights and options, including how to file a claim. As required by Rule 23(c)(2)(B), the Short-Form Postcard Notice and Long Form Notice use “plain, easily understood language” to describe the terms of the Settlement. This includes the forthcoming request for \$2,500 service awards for the Class Representatives and that Class Counsel will apply for an award of attorneys’ fees equal to one-third (\$150,000) of the Settlement Fund and, separately, reimbursement of expenses; inform Class Members how to object to the Settlement or opt- out and the deadline for doing so; provide the date, time, and place of the Final Approval Hearing and the procedures for appearing at the hearing; and provide contact information for Class Counsel and the Settlement Administrator. Agreement Exs. B and C. Here, the Class Members have 60 days to object or opt-out. SA ¶¶ 1.15, 1.16. The deadlines are reasonable. *See Nat’l Football League I*, 301 F.R.D. at 203 (“It is well-settled that between 30 and 60 days is sufficient to allow class members to make their decisions to accept the settlement, object, or exclude themselves.”). Accordingly, the Court should approve the Notice Plan as the best notice practicable under the circumstances.

D. The Court Should Provisionally Appoint Settlement Class Counsel

Plaintiff request that the Court appoint Leigh S. Montgomery of EKSM, LLP and David K. Lietz of Milberg PLLC as Class Counsel for the Settlement Class. Proposed Class Counsel have vigorously represented the proposed Class Representatives’ and Class Members’ interests at all times since the inception of this litigation and have secured an outstanding settlement for the Class. Decl. ¶¶ 7-14, 35, 38-39. Class Counsel meet all the Fed. R. Civ. P. 23(g)(1)(A) criteria.

VI. PROPOSED SCHEDULE OF EVENTS

The Court should also set the Final Approval Hearing date and time. Deadlines in the Final Approval process, including the opt-out and objection deadlines, will be determined based on the original Final Approval Hearing date. Plaintiff proposes the following schedule:

Event	Deadline
Notice Commencement Date (Postcard Notice Sent)	30 days after Preliminary Approval Order and to be substantially completed not later than forty-five (45) days after entry of the Preliminary Approval Order)
Deadline to file Motion for Attorneys' Fees, Costs, and Service Awards	14 days before Objection and Opt-Out Deadlines
Opt-Out Deadline	60 days after Notice Commencement Date
Objection Deadline	60 days after Notice Commencement Date
Deadline to Submit Claim Forms	60 days after Notice Commencement Date
Final Approval Hearing	_____, 2026, at ____ am/pm.

VII. CONCLUSION

Plaintiff respectfully requests that the Court: (1) grant preliminary approval to the Settlement; (2) conditionally certify the Settlement Class for settlement purposes only; (3) approve the proposed Short-Form Postcard and Long Form Notices and Notice Plan; (4) approve, set deadlines for, and order the claims, opt out, and objection procedures set forth in the Settlement Agreement; (5) appoint the proposed Class Representatives; (6) appoint Class Counsel; (7) approve the appointments of the Settlement Administrator and Escrow Agent and the

establishment of the Settlement Fund; and (8) schedule a Final Approval Hearing in accordance with the proposed schedule set forth above and in the proposed Preliminary Approval Order.

Dated: December 1, 2025

Respectfully submitted,

/s/ Jacob U. Ginsburg
Jacob U. Ginsburg, Esq.
PA Bar 311908
KIMMEL & SILVERMAN P.C.
30 East Butler Ave.
Ambler, PA 19002
P: (267)468-5374
jginsburg@creditlaw.com

Leigh S. Montgomery (*pro hac vice*)
**ELLZEY KHERKHER SANFORD
MONTGOMERY, LLP**
4200 Montrose Blvd., Suite 200
Houston, Texas 77006
Tel: (888) 350-3931
Email: jellzey@eksm.com
Email: lmontgomery@eksm.com

David K. Lietz (*pro hac vice*)
MILBERG PLLC
5335 Wisconsin Ave, NW, Ste. 440
Washington, DC 20015
Telephone: 866-252-0878
DLietz@milberg.com

*Counsel for Representative Plaintiffs
and the Proposed Class*

CERTIFICATE OF SERVICE

This is to certify that on ___ember ___, 2025, a true and correct copy of the foregoing was electronically filed with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Leigh S. Montgomery

Leigh S. Montgomery

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

AMISH PARIKH, individually and on behalf of
all others similarly situated,

Plaintiff,

v.

THE KENDAL CORPORATION,

Defendant.

Case No. 2:25-CV-00129

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement, dated as of December 1, 2025, is made and entered into by and among the following Settling Parties (as defined below): (i) Amish Parikh and Niamh Jacobsen¹ (“Representative Plaintiffs”), individually and on behalf of the Settlement Class (as defined below), by and through their counsel Leigh S. Montgomery of Ellzey Kherkher Sanford Montgomery, LLP and David Lietz of Milberg, PLLC, respectively (“Proposed Class Counsel” or “Class Counsel”); and (ii) The Kendal Corporation (“Kendal” or “Defendant”) by and through its counsel of record, Tara Gill Nalencz and Jill H. Fertel of Cipriani & Werner, P.C.. The Settlement Agreement is subject to Court approval and is intended by the Settling Parties to fully, finally, and forever resolve, discharge, and settle the Released Claims (as defined below), upon and subject to the terms and conditions hereof.

¹ Niamh Jacobsen is the named plaintiff in a related action arising from the same Data Incident styled *Niamh Jacobsen, individually and on behalf of all others similarly situated v. The Kendal Corporation*, 1:25-cv-00104-MN (D. Del. 1/24/25). It is the intention of the Parties to settle and resolve all claims arising from both actions by way of this Settlement. As set forth herein, upon final approval of settlement in the instant matter, the *Jacobsen* matter shall be voluntarily dismissed with prejudice within ten (10) days.

I. THE ACTION

Defendant is an organization that provides programs and services that advocate for older adults. Representative Plaintiffs and Class Members are current and former employees of Defendant. On or about June 30, 2024, Kendal observed unusual activity on its computer network and immediately began an investigation with the assistance of third-party specialists. The investigation determined that certain files on the Kendal network were potentially accessed without authorization between approximately June 26, 2024, and June 30, 2024. The files at issue included information related to current and former employees of Kendal and its affiliate care communities. Therefore, Kendal reviewed the files at issue to determine the specific information the files contained.

Defendant's investigation determined that the following types of private information were potentially accessed in the Data Breach: names, Social Security numbers, and checking account/routing numbers provided for direct deposit. Approximately 10,000 individuals were potentially affected by the Data Incident.

In or about December of 2024, Kendal started sending notice letters to the impacted individuals. Representative Plaintiffs each received a notification from Defendant indicating that cybercriminals may have accessed and/or acquired her private information.

This Action, filed by Representative Plaintiff Parikh and captioned *Amish Parikh, individually and on behalf of all others similarly situated v. The Kendal Corporation*, 2:25-cv-00129, was filed on January 9, 2025, in the United States District Court for the Eastern District of Pennsylvania. Representative Plaintiff Jacobsen filed her Class Action Complaint on January 24, 2025 in the United States District Court for District of Delaware alleging claims for damages

arising from the Data Incident.² Shortly thereafter, the Parties began exploring the possibility of early resolution. Over the next few months, the Parties engaged in informal discovery and scheduled an August 12, 2025 formal mediation with Rodney Max, Esq., a well-regarded private mediator with substantial experience mediating data breach class actions. The mediation was successful and resulted in a settlement in principle. Since that mediation, the Parties have worked together to finalize the Settlement terms and to prepare this Settlement Agreement.

Pursuant to the terms set forth below, this Settlement Agreement provides for the resolution of all claims and causes of action asserted, or that could have been asserted, against Defendant and the Released Persons (as defined below) relating to the Data Breach, by and on behalf of Representative Plaintiffs and Settlement Class Members (defined below), and any other such actions by and on behalf of any other persons and putative classes against Defendant and the Released Persons relating to the Data Incident.

II. CLAIMS OF REPRESENTATIVE PLAINTIFFS AND BENEFITS OF SETTLING

Representative Plaintiffs believe the claims asserted in the Action, as set forth in the Complaint, have merit. Representative Plaintiffs and Proposed Class Counsel recognize and acknowledge, however, the expense and length of continued proceedings necessary to prosecute the Action against Defendant through motion practice, trial, and potential appeals. They have also considered the uncertain outcome and risk of further litigation, as well as the difficulties and delays inherent in such litigation. Proposed Class Counsel are highly experienced in class action litigation and very knowledgeable regarding the relevant claims, remedies, and defenses at issue generally in such litigation and in this Action. They have determined that the terms set forth in this Settlement

² Case No. Case No. 1:25-cv-00104-MN (D. Del. 1/24/25)

Agreement are fair, reasonable, and adequate, and in the best interests of the Representative Plaintiffs and the Settlement Class Members.

III. DENIAL OF WRONGDOING AND LIABILITY

Defendant denies each and all of the claims and contentions alleged against it in the Action. Defendant denies all charges of wrongdoing or liability as alleged, or which could be alleged, in the Action.³ Nonetheless, Defendant has concluded that continuing with the Action would be protracted, expensive, and would perpetuate uncertainty, and that it is desirable that the Action be fully and finally settled in the manner and upon the terms and conditions set forth in this Settlement Agreement.⁴

IV. TERMS OF SETTLEMENT

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and among Representative Plaintiffs, individually and on behalf of the Settlement Class Members, Proposed Class Counsel, and Defendant that, subject to the approval of the Court, the Action and the Released Claims shall be finally and fully compromised, settled, and released, and the Action shall be dismissed with prejudice as to the Settling Parties and the Settlement Class Members, as follows:

1. Definitions

As used in the Settlement Agreement, the following terms have the meanings specified below:

1.1 “Agreement” or “Settlement Agreement” means this agreement.

³ Defendant also denies each and all of the claims and contentions, as well as all charges of wrongdoing or liability as alleged, or which could be alleged in *Niamh Jacobsen, individually and on behalf of all others similarly situated v. The Kendal Corporation*, 1:25-cv-00104-MN (D. Del. 1/24/25).

⁴ As set forth herein, it is the intention of the Parties to settle and resolve all claims arising from both actions—*Amish Parikh, individually and on behalf of all others similarly situated v. The Kendal Corporation*, 2:25-cv-00129 (E.D. Pa 01/09/25 and *Niamh Jacobsen, individually and on behalf of all others similarly situated v. The Kendal Corporation*, 1:25-cv-00104-MN (D. Del. 1/24/25)—by way of this Settlement.

1.2 “Claims Administration” means the administration of the settlement, including but not limited to processing and payment of claims received from Settlement Class Members by the Claims Administrator.

1.3 “Claims Administrator” means, subject to Court approval, Eisner Advisory Group (“EAG”) an entity jointly selected and supervised by Class Counsel and Defendant to administer the settlement.

1.4 “Claims Deadline” means the postmark or electronic submission deadline for valid Claim Forms, which shall be sixty (60) days after the Notice Commencement Date, unless otherwise ordered by the Court.

1.5 “Claim Form” means the form that the Settlement Class Members must complete and submit on or before the Claims Deadline to be eligible for the benefits described herein. The Claim Form shall be formatted by the Claims Administrator to permit the option of filing of claims electronically. The Claim Form shall require a sworn signature or electronic verification under penalty of perjury but shall not require a notarization. The Claim Form template is attached as **Exhibit A** to this Settlement Agreement.

1.6 “Costs of Claims Administration” means all actual costs associated with or arising from Claims Administration.

1.7 “Court” means the United States District Court for the Eastern District of Pennsylvania.

1.8 “Data Breach” or “Data Incident” means the cyberattack suffered by Defendant wherein cybercriminals potentially accessed and/or stole files containing the private information of approximately 10,000 individuals from Defendant’s network. The private information

potentially exposed in the Data Breach included names, Social Security numbers, and checking account/routing numbers provided for direct deposit.

1.9 “Dispute Resolution” means the process for resolving disputed Settlement Claims as set forth in this Agreement.

1.10 “Effective Date” means the first date by which all of the events and conditions specified in ¶ 9.1 herein have occurred and been met.

1.11 “Final” means the occurrence of all of the following events: (i) the settlement pursuant to this Settlement Agreement is approved by the Court; (ii) the Court has entered a Judgment (as that term is defined herein); and (iii) the time to appeal or seek permission to appeal from the Judgment has expired or, if appealed, the appeal has been dismissed in its entirety, or the Judgment has been affirmed in its entirety by the court of last resort to which such appeal may be taken, and such dismissal or affirmance has become no longer subject to further appeal or review. Notwithstanding the above, any order modifying or reversing any attorneys’ fee award or service award made in this case shall not affect whether the Judgment is “Final” as defined herein or any other aspect of the Judgment.

1.12 “Judgment” means a final approval order and judgment rendered by the Court, in the form attached hereto as **Exhibit E**, or a judgment substantially similar to such form.

1.13 “Notice” means the written notice to be sent to the Settlement Class Members pursuant to the Preliminary Approval Order.

1.14 The “Notice Commencement Date” means thirty (30) days after the entry of the Preliminary Approval Order.

1.15 “Objection Date” means the date by which Settlement Class Members must file with the Court and mail to Class Counsel and counsel for Defendant their objection to the

Settlement for that objection to be effective. The postmark date shall constitute evidence of the date of mailing for these purposes. The Objection Date shall be sixty (60) days after the Notice Commencement Date.

1.16 “Opt-Out Date” means the date by which requests for exclusion from the Settlement Class must be postmarked in order to be effective and timely. The postmark date shall constitute evidence of the date of mailing for these purposes. The Opt-Out Date shall be sixty (60) days after the Notice Commencement Date.

1.17 “Person” means an individual, corporation, partnership, limited partnership, limited liability company or partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, and any business or legal entity, and their respective spouses, heirs, predecessors, successors, representatives, or assignees.

1.18 “Preliminary Approval Order” means the order preliminarily approving the Settlement Agreement and ordering that notice be provided to the Settlement Class. The Settling Parties’ proposed form of Preliminary Approval Order is attached hereto as **Exhibit D**.

1.19 “Plaintiffs’ Counsel” “Class Counsel” and/or “Proposed Class Counsel” means Leigh S. Montgomery of Ellzey Kherkher Sanford Montgomery, LLP and David Lietz of Milberg Coleman Bryson Phillips Grossman, LLC.

1.20 “Related Entities” means Defendant’s past or present parents, subsidiaries, divisions, and related or affiliated entities, and each of Defendant’s predecessors, successors, directors, officers, employees, principals, agents, attorneys, insurers, and reinsurers, and includes, without limitation, any Person related to any such entity who is, was or could have been named as a defendant in any of the actions in the Action, other than any Person who is found by a court of

competent jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting the criminal activity occurrence of the Data Breach or who pleads *nolo contendere* to any such charge.

1.21 “Released Claims” shall collectively mean any and all past, present, and future liabilities, rights, claims, counterclaims, actions, causes of action, demands, damages, penalties, costs, attorneys’ fees, losses, and remedies, whether known or unknown, existing or potential, suspected or unsuspected, liquidated or unliquidated, legal, statutory, or equitable, that result from, arise out of, and/or are based upon the Data Breach or the conduct that was alleged or could have been alleged in the Action, including, but not limited to negligence, negligence *per se*, breach of implied contract, breach of the implied covenant of good faith and fair dealing, breach of third-party beneficiary contract, unjust enrichment, breach of fiduciary duty, any state or federal consumer protection or privacy statute, misrepresentation (whether fraudulent, negligent, or innocent), bailment, wantonness, failure to provide adequate notice pursuant to any breach notification statute, regulation, or common law duty, and all relevant statutes in effect in any states in the United States as defined herein, and including, but not limited to, any and all claims for damages, injunctive relief, disgorgement, declaratory relief, equitable relief, attorneys’ fees, costs and expenses, set-offs, losses, pre-judgment interest, credit monitoring services, the creation of a fund for future damages, statutory damages, punitive damages, special damages, exemplary damages, restitution, the appointment of a receiver, and any other form of relief that either has been asserted, or could have been asserted, or relates to the exposure of private information in the Data Incident, including conduct that was alleged or could have been alleged in the Action, including without limitation, any claims, actions, causes of action, demands, damages, penalties, losses, or remedies relating to, based upon, resulting from, or arising out of the disclosure of private information, which the Class Representatives or any member of the Settlement Class ever had, now

has, or hereinafter may have, prior to and/or at the time of entry of the final order and Judgment in this Action. Nothing in this Release is intended to, does or shall be deemed to release any claims not arising out of, based upon, or resulting from the Data Breach. Released Claims shall include Unknown Claims as defined in ¶ 1.29. Released Claims shall not include the right of any Settlement Class Member or any of the Released Persons to enforce the terms of the settlement contained in this Settlement Agreement and shall not include the claims of Settlement Class Members who have timely excluded themselves from the Settlement Class.

1.22 “Released Persons” means Defendant, its Related Entities, and to the extent not contained in the definition of “Related Entities,” each of Defendant’s past or present parents, subsidiaries, divisions, and related or affiliated entities, and each of their respective predecessors, successors, directors, officers, employees, principals, agents, attorneys, insurers, reinsurers and all persons who acted on their behalf.

1.23 “Representative Plaintiffs” means Amish Parikh and Niamh Jacobsen.

1.24 “Settlement Claim” means a claim for settlement benefits made under the terms of this Settlement Agreement.

1.25 “Settlement Class” means all living individuals to whom Defendant mailed notices that their private information was potentially compromised in the Data Incident discovered in December 2024. The Settlement Class specifically excludes: (i) Defendant and Defendant’s parents, subsidiaries, affiliates, officers, directors, and any entity in which Defendant has a controlling interest; (ii) all individuals who make a timely election to be excluded from this proceeding using the correct protocol for opting out; (iii) any and all federal, state, or local governments, including but not limited to their departments, agencies, divisions, bureaus, boards, sections, groups, counsels and/or subdivisions; (iv) the attorneys representing the Parties in the

Action; (v) all judges assigned to hear any aspect of the Action, as well as their immediate family members and court staff; and (vi) any person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting the Data Breach, or who pleads *nolo contendere* to any such charge.

1.26 “Settlement Class Member(s)” means Person(s) falling within the definition of the Settlement Class and not excluding themselves (i.e., opting-out) from the Settlement Class.

1.27 “Settlement Fund” means shall mean a non-reversionary common fund in the amount of \$450,000.00.

1.28 “Settling Parties” means, collectively, Defendant and the Representative Plaintiffs, individually and on behalf of the Settlement Class.

1.29 “Unknown Claims” means any of the Released Claims that any Settlement Class Member, including the Representative Plaintiffs, does not know or suspect to exist in his/her favor at the time of the release of the Released Persons that, if known by him, her, or them might have affected his, her, or their settlement with, and release of, the Released Persons, or might have affected his, her, or their decision not to object to and/or to participate in this Settlement Agreement. With respect to any and all Released Claims, the Settling Parties stipulate and agree that upon the Effective Date, Representative Plaintiffs expressly shall have, and each of the other Settlement Class Members shall be deemed to have, and by operation of the Judgment shall have, waived the provisions, rights, and benefits conferred by California Civil Code § 1542, and also any and all provisions, rights, and benefits conferred by any law of any state, province, or territory of the United States, including all state, federal, and local statutory claims, which are similar, comparable, or equivalent to California Civil Code § 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO

EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Settlement Class Members, including Representative Plaintiffs, may hereafter discover facts in addition to, or different from, those that they, and any of them, now know or believe to be true with respect to the subject matter of the Released Claims, but Representative Plaintiffs expressly shall have, and each other Settlement Class Member shall be deemed to have, and by operation of the Judgment shall have, upon the Effective Date, fully, finally and forever settled and released any and all Released Claims. The Settling Parties acknowledge, and Settlement Class Members shall be deemed by operation of the Judgment to have acknowledged, that the foregoing waiver is a material element of the Settlement Agreement of which this release is a part.

1.30 “United States” as used in this Settlement Agreement includes the District of Columbia and all United States territories.

1.31 “Valid Claims” means Settlement Claims for a benefit and/or in an amount approved by the Claims Administrator and not successfully disputed by a Settling Party or found to be valid through the claims processing and/or Dispute Resolution process.

2. Settlement Benefits

2.1 Settlement Fund. Within 45 days of Preliminary Approval, Defendant shall deposit \$450,000.00 in cash into the Escrow Account to establish the Settlement Fund. Once the Settlement Fund is fully funded, Defendant shall not be required to pay any more money under this Settlement.

2.2 The Settlement Fund shall be used to pay: (1) Settlement Class Member Benefits to those Settlement Class Members who submit a Valid Claim; (2) any Service Awards awarded to Class Representative; (3) any attorneys’ fees and litigation expenses awarded to Class Counsel;

and (4) all Settlement Administration Costs.

2.3 The funds in the Escrow Account shall be deemed a “qualified settlement fund” within the meaning of United States Treasury Reg. § 1.468B-1 at all times since creation of the Escrow Account. All taxes (including any estimated taxes, and any interest or penalties relating to them) arising with respect to the income earned by the Escrow Account or otherwise, including any taxes or tax detriments that may be imposed on Defendant, Defendant’s Counsel, Plaintiffs, and/or Class Counsel with respect to income earned by the Escrow Account, for any period during which the Escrow Account does not qualify as a “qualified settlement fund” for the purpose of federal or state income taxes or otherwise, shall be paid out of the Escrow Account. Defendant, Defendant’s Counsel, Plaintiffs, and Class Counsel shall have no liability or responsibility for any of the taxes. The Escrow Account shall indemnify and hold Defendant, Defendant’s Counsel, Plaintiffs, and Class Counsel harmless for all taxes (including, without limitation, taxes payable by reason of any such indemnification).

2.4 Settlement Class Member Benefits. When submitting a Claim, Settlement Class Members may elect to receive both Documented Monetary Losses and a Pro Rata Cash Payment. Additionally, Settlement Class Members may also elect to receive Credit Monitoring. If a Settlement Class Member does not submit a Valid Claim or elects to opt-out, the Settlement Class Member will release his or her claims against Defendant without receiving a Settlement Class Member Benefit.

2.5 Documented Monetary Losses.

Settlement Class Members may submit a Claim for a cash payment under this section for up to \$5,000.00 per Settlement Class Member upon presentment of documented losses related to the Data Incident. To receive a payment for Documented Monetary Losses, a Settlement Class

Member must attest that the losses or expenses were incurred as a result of the Data Incident. Settlement Class Members will be required to submit reasonable documentation supporting the losses. Documented Monetary Losses may include but are not limited to; (i) out-of-pocket credit monitoring costs that were incurred on or after June 26, 2024, through the date of Claim submission; (ii) unreimbursed losses associated with actual fraud or identity theft; and (iii) unreimbursed bank fees, long distance phone charges, postage, or gasoline for local travel. This list of reimbursable documented out-of-pocket expenses is not meant to be exhaustive, rather it is exemplary. Settlement Class Members may make claims for any documented unreimbursed out-of-pocket losses reasonably related to the Data Incident or to mitigating the effects of the Data Incident. Settlement Class Members shall not be reimbursed for expenses if they have been reimbursed for the same expenses by another source, including compensation provided in connection with the credit monitoring and identity theft protection product offered as part of the notification letter provided by Defendant or otherwise. If a Settlement Class Member does not submit reasonable documentation supporting a loss, or if their Claim is rejected by the Claims Administrator for any reason, and the Settlement Class Member fails to cure his or her Claim, the Claim will be rejected and the Settlement Class Member's Claim will be treated as if he or she elected a Pro Rata Cash Payment only.

2.6 Pro Rata Cash Payment

In addition to Documented Monetary Losses, a Settlement Class Member may claim a pro rata cash payment in the estimated amount of \$100.00. The payments shall be calculated by dividing remaining funds in the Settlement Fund, after payment of Settlement Administration Fees, Attorneys' Fees Costs and Expenses, Credit Monitoring, and Documented Monetary Losses, by the number of eligible claims. The Pro Rata Cash Payments will be adjusted upwards or

downwards based upon the number of valid claims filed.

2.7 Credit Monitoring

In addition to electing any of the other benefits, Settlement Class Members may claim three years of one-bureau Credit Monitoring that will provide the following benefits: one-bureau credit monitoring, dark web monitoring, identity theft insurance coverage for up to \$1,000,000, and fully managed identity recovery services.

2.8 Pro Rata Adjustments on Cash Payments

Settlement Class Cash Payments will be subject to a pro rata increase from the Settlement Fund in the event the amount of Valid Claims is insufficient to exhaust the entire Settlement Fund. Similarly, in the event the amount of Valid Claims exhausts the amount of the Settlement Fund, the amount of the Cash Payments may be reduced pro rata accordingly. For purposes of calculating the pro rata increase or decrease, the Claims Administrator must distribute the funds in the Settlement Fund first for payment of Documented Monetary Losses, then for Credit Monitoring, before making any Pro Rata Cash Payments. Any pro rata increases or decreases to Pro Rata Cash Payments will be on an equal percentage basis.

2.9 Business Practices Changes.

The Settling Parties agree that as part of the settlement consideration, Kendal, has adopted, paid for, implemented, and will maintain certain business practice changes related to information security to safeguard personal information on its systems. Kendal will detail these business practice changes to Class Counsel in a confidential declaration.

2.10 Dispute Resolution for Claims.

(a) The Claims Administrator, in its sole discretion to be reasonably exercised, will determine whether: (1) the claimant is a Settlement Class Member; (2) the claimant has provided

all information needed to complete the Claim Form, including any documentation that may be necessary to reasonably support the claimant's class membership and the expenses claimed; and (3) the information submitted could lead a reasonable person to conclude that it is more likely than not the claimant has suffered the claimed losses as a result of the Data Breach (collectively, "Facially Valid"). The Claims Administrator may, at any time, request from the claimant, in writing, additional information ("Claim Supplementation") as the Claims Administrator may reasonably require in order to evaluate the claim, e.g., documentation requested on the Claim Form, information regarding the claimed losses, available insurance and the status of any claims made for insurance benefits, and claims previously made for identity theft and the resolution thereof.

(b) Upon receipt of an incomplete or unsigned Claim Form or a Claim Form that is not accompanied by sufficient documentation to determine whether the claim is Facially Valid, the Claims Administrator shall request Claim Supplementation and give the claimant thirty (30) days to cure the defect before rejecting the claim. If the defect is not cured, then the claim will be deemed invalid and there shall be no obligation to pay the claim.

(c) Following timely receipt of Claim Supplementation, the Claims Administrator shall have thirty (30) days to accept, in whole or lesser amount the claim, or to reject each claim. If, after review of the claim and all documentation submitted by the claimant, the Claims Administrator determines that such a claim is Facially Valid, then the claim shall be paid. If the claim is not Facially Valid because the claimant has not provided all information needed to

complete the Claim Form and evaluate the claim, then the Claims Administrator may reject the claim without any further action.

(d) Settlement Class Members shall have thirty (30) days from receipt of an offer from the Claims Administrator to accept or reject any offer of partial payment. If a Settlement Class Member rejects an offer from the Claims Administrator, the Claims Administrator shall have fifteen (15) days to reconsider its initial adjustment amount and make a final, non-appealable determination.

2.11 Settlement Expenses. All costs for notice to the Settlement Class as required under this Settlement Agreement, and Costs of Claims Administration shall be paid by Defendant.

2.12 Settlement Class Certification. The Settling Parties agree, for purposes of this settlement only, to the certification of the Settlement Class. If the settlement set forth in this Settlement Agreement is not approved by the Court, or if the Settlement Agreement is terminated or cancelled pursuant to the terms of this Settlement Agreement, this Settlement Agreement, and the certification of the Settlement Class provided for herein, will be vacated and the Action shall proceed as though the Settlement Class had never been certified, without prejudice to any Person's or Settling Party's position on the issue of class certification or any other issue. The Settling Parties' agreement to the certification of the Settlement Class is also without prejudice to any position asserted by the Settling Parties in any other proceeding, case or action, as to which all of their rights are specifically preserved.

3. Order of Preliminary Approval and Publishing of Notice of Fairness Hearing

3.1. As soon as practicable after the execution of the Settlement Agreement, Proposed Class Counsel shall file a motion for preliminary approval of the settlement with the Court, with this Settlement Agreement attached as an exhibit, requesting entry of a Preliminary Approval

Order in the form attached hereto as **Exhibit D**, or an order substantially similar to such form in both terms and cost, requesting, *inter alia*:

- a) certification of the Settlement Class for settlement purposes only;
- b) preliminary approval of the Settlement Agreement as set forth herein;
- c) the scheduling of a Final Fairness Hearing and briefing schedule for Motion for Final Hearing and Application for Class Representative Service Awards and Attorneys' Fees and Costs;
- d) appointment of Proposed Class Counsel as Class Counsel;
- e) appointment of Representative Plaintiffs as Class Representatives;
- f) approval of a customary form of short notice to be mailed to Settlement Class Members ("Short-Form Postcard Notice") substantially similar to Exhibit B, and a customary long-form notice to be posted on the settlement website ("Long-Form Notice") in a form substantially similar to the one attached hereto as **Exhibit C**, which together shall include a fair summary of the parties' respective litigation positions, the general terms of the settlement set forth in the Settlement Agreement, instructions for how to object to or opt-out of the settlement, the process and instructions for making claims to the extent contemplated herein, and the date, time and place of the Final Fairness Hearing;
- g) appointment of a Claims Administrator, or such other provider of claims administrative service, as may be jointly agreed to by the Settling Parties; and
- h) approval of a claim form substantially similar to that attached hereto as **Exhibit A**.

The Notice and Claim Form shall be reviewed by the Claims Administrator and may be revised as agreed upon by the Settling Parties and as consistent with the orders of this Court.

3.2 Defendant shall pay for all of the costs associated with the Claims Administrator and for providing Notice to the Settlement Class in accordance with the Preliminary Approval Order. Attorneys' fees, costs, and expenses of Proposed Class Counsel, and a service award to the Class Representative, shall be paid by Defendant as set forth herein, subject to Court approval. Direct notice shall be provided to Class Members by U.S. Mail. The form, content, and manner of Notice shall be subject to approval by the Court as meeting constitutional due process requirements. The Claims Administrator shall establish a dedicated settlement website and shall maintain and update the website throughout the claim period, with the Notice and Claim Form approved by the Court, as well as this Settlement Agreement. A toll-free help line with an IVR script shall be made available to address Settlement Class Members' inquiries. The Claims Administrator also will provide copies of the forms of the Notice and Claim Form approved by the Court, as well as this Settlement Agreement, upon request. Prior to the Final Fairness Hearing, Proposed Class Counsel or Defendant shall cause to be filed with the Court an appropriate affidavit or declaration with respect to complying with this provision of Notice. The Notice and Claim Form approved by the Court may be adjusted by the Claims Administrator, respectively, in consultation and agreement with the Settling Parties, as may be reasonable and not inconsistent with such approval. Within thirty (30) days after the entry of the Preliminary Approval Order and to be substantially completed not later than forty-five (45) days after entry of the Preliminary Approval Order, and subject to the requirements of this Agreement and the Preliminary Approval Order, the Claims Administrator will provide notice to the Settlement Class via the Notice Program.

3.3 Proposed Class Counsel and Defendant's counsel shall request that after notice is completed, the Court hold a hearing (the "Final Fairness Hearing") and grant final approval of the settlement set forth herein.

4. Opt-Out Procedures

4.1 Each Person wishing to opt-out of the Settlement Class shall individually sign and timely submit written notice of such intent to the designated Post Office box or email address established by the Claims Administrator. Settlement Class Members will only be able to submit an opt-out request on their own behalf; mass or class opt-outs will not be permitted. The written notice must clearly manifest a Person's intent to be excluded from the Settlement Class. To be effective, written notice must be postmarked no later than the Opt-Out Date.

4.2 All Persons who submit valid and timely notices of their intent to be excluded from the Settlement Class, referred to herein as "Opt-Outs," shall not receive any benefits of and/or be bound by the terms of this Settlement Agreement. All Persons falling within the definition of the Settlement Class who do not request to be excluded from the Settlement Class in the manner set forth above shall be bound by the terms of this Settlement Agreement and Judgment entered thereon.

4.3 In the event that there have been more than 100 timely and valid Opt-Outs submitted, Defendant may, by notifying Proposed Class Counsel in writing within ten (10) days after the Claims Administrator provides Defendant written notice of the total number of valid Opt-Outs, void this Settlement Agreement. If Defendant voids the Settlement Agreement pursuant to this paragraph, Defendant shall be obligated to pay all settlement expenses already incurred, excluding any attorneys' fees, costs, and expenses of Proposed Class Counsel and incentive awards.

5. Objection Procedures

5.1 Each Settlement Class Member desiring to object to the Settlement Agreement shall submit a timely written notice of his or her objection by the Objection Date. Such notice shall

state: (i) the objector's full name, address, telephone number, and email address (if any); (ii) the case name and case number; (iii) information identifying the objector as a Settlement Class Member, including proof that the objector is a member of the Settlement Class (*e.g.*, copy of original notice of the Data Breach or a statement explaining why the objector believes he or she is a Settlement Class Member); (iv) a written statement of all grounds for the objection, accompanied by any legal support for the objection the objector believes applicable; (v) the identity of all counsel representing the objector in connection with the objection; (vi) a statement whether the objector and/or his or her counsel will personally appear at the Final Fairness Hearing; and (vii) the objector's signature or the signature of the objector's duly authorized attorney or other duly authorized representative. To be timely, written notice of an objection in the appropriate form must be mailed, with a postmark date no later than the Objection Date, to Proposed Class Counsel and to Defendant's counsel as set forth below. For all objections mailed to Proposed Class Counsel and counsel for Defendant, Proposed Class Counsel will file them with the Court with the Motion for Final Approval of the Settlement.

Upon respective Proposed Class Counsel via mail at:

Leigh S. Montgomery
**ELLZEY KHERKHER SANFORD
MONTGOMERY, LLP**
4200 Montrose Blvd., Suite 200
Houston, Texas 77006

David K. Lietz
**MILBERG COLEMAN BRYSON
PHILLIPS GROSSMAN, PLLC**
5335 Wisconsin Ave, NW, Ste. 440
Washington, DC 20015

Upon Defendant's counsel via mail at:

Tara Gill Nalencz
CIPRIANI & WERNER PC

450 Sentry Parkway, Suite 200
Blue Bell, PA 19422

5.2 Any Settlement Class Member who fails to comply with the requirements for objecting shall waive and forfeit any and all rights he or she may have to appear separately and/or to object to the Settlement Agreement and shall be bound by all the terms of the Settlement Agreement and by all proceedings, orders and judgments in the Action. The exclusive means for any challenge to the Settlement Agreement shall be through the provisions set forth herein.

6. Releases

6.1 Upon the Effective Date, each Settlement Class Member, including the Representative Plaintiffs, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims. Further, upon the Effective Date, and to the fullest extent permitted by law, each Settlement Class Member, including the Representative Plaintiffs, shall, either directly, indirectly, representatively, as a member of or on behalf of the general public or in any capacity, be permanently barred and enjoined from commencing, prosecuting, or participating in any recovery in any action in this or any other forum (other than participation in the settlement as provided herein) in which any Released Claim is asserted.

7. Attorneys' Fees, Costs, and Expenses; Service Awards to Representative Plaintiffs

7.1. The Settling Parties did not discuss the payment of attorneys' fees, costs, expenses and/or service award to the Representative Plaintiffs until after the substantive terms of the settlement had been agreed upon, other than that Defendant would pay reasonable attorneys' fees, costs, expenses, and service awards to the Representative Plaintiffs as may be agreed to by Defendant and the Proposed Class Counsel and/or as ordered by the Court. Defendant and

Proposed Class Counsel then negotiated and agreed to the procedure described herein.

7.1 Proposed Class Counsel has agreed to request, subject to Court approval, an amount not to exceed one-third of the Settlement Fund (\$150,000.00) to Proposed Class Counsel for attorneys' fees, plus reimbursement of reasonable litigation costs and expenses.

7.2 Subject to Court approval, the Parties have agreed that Representative Plaintiffs shall request service awards in the amount of two thousand five hundred dollars and no cents (\$2,500.00) to each of the Representative Plaintiffs.

7.3 Court-approved attorneys' fees, costs, expenses, and service awards to the Representative Plaintiffs shall be deposited into an account established by Proposed Class Counsel within seven (7) days after the Effective Date.

7.4 If this Settlement Agreement is terminated or otherwise does not become Final (*e.g.*, disapproval by the Court or any appellate court), Defendant shall have no obligation to pay attorneys' fees, costs, expenses, or service awards and shall only be required to pay costs and expenses related to notice and administration that were already incurred. Under no circumstances will Proposed Class Counsel or any Settlement Class Member be liable for any costs or expenses related to notice or administration.

7.5 The amount(s) of any award of attorneys' fees, costs, and expenses, and the service awards to the Representative Plaintiffs, are intended to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the settlement. No order of the Court, or modification or reversal or appeal of any order of the Court, concerning the amount(s) of any attorneys' fees, costs, expenses, and/or service award ordered by the Court to Proposed Class Counsel or the Representative Plaintiffs shall affect whether the Judgment is Final or constitute grounds for cancellation or termination of this Settlement Agreement.

8. Administration of Claims

8.1 The Claims Administrator shall administer and calculate the claims submitted by Settlement Class Members under ¶ 2. Proposed Class Counsel and Defendant shall be given reports as to both claims and distribution. The Claims Administrator's determination of the validity or invalidity of any such claims shall be binding, subject to the dispute resolution process set forth herein. All claims agreed to be paid in full by Defendant shall be deemed valid.

8.2 Payment of Valid Claims, whether via mailed check or electronic distribution, shall be made within forty-five (45) days of the Effective Date, or within thirty (30) days of the date that the claim is approved, whichever is later. If this Settlement Agreement is terminated or otherwise does not become Final (e.g., disapproval by the Court or any appellate court) prior to the payment of Valid Claims, Defendant shall have no obligation to pay such claims and shall only be required to pay costs and expenses related to notice and administration already incurred.

8.3 All Settlement Class Members who fail to timely submit a claim for any benefits hereunder within the time frames set forth herein, or such other period as may be ordered by the Court, or otherwise allowed, shall be forever barred from receiving any payments or benefits pursuant to the settlement set forth herein, but will in all other respects be subject to, and bound by, the provisions of the Settlement Agreement, the releases contained herein and the Judgment.

8.4 No Person shall have any claim against the Claims Administrator, Defendant, Proposed Class Counsel, Representative Plaintiffs, and/or Defendant's counsel based on distributions of benefits to Settlement Class Members.

9. Conditions of Settlement, Effect of Disapproval, Cancellation, or Termination

9.1 The Effective Date of the settlement shall be conditioned on the occurrence of all of the following events:

- a) the Court has entered the Order of Preliminary Approval and Publishing of Notice of a Final Fairness Hearing;
- b) Defendant has not exercised its option to terminate the Settlement Agreement;
- c) the Court has entered the Judgment granting final approval to the settlement as set forth herein; and
- d) the Judgment has become Final.

9.2 Within seven (7) days after the Opt-Out Date, the Claims Administrator shall furnish to Proposed Class Counsel and to Defendant's counsel a complete list of all timely and valid requests for exclusion (the "Opt-Out List").

9.3 Within ten (10) days of the Effective Date of the settlement, the *Niamh Jacobsen, individually and on behalf of all others similarly situated v. The Kendal Corporation*, 1:25-cv-00104-MN (D. Del. 1/24/25) shall be voluntarily dismissed with prejudice.

9.4 In the event that the Settlement Agreement is not approved by the Court or the settlement set forth in the Settlement Agreement is terminated in accordance with its terms, (i) the Settling Parties shall be restored to their respective positions in the Action and shall jointly request that all scheduled litigation deadlines be reasonably extended by the Court so as to avoid prejudice to any Settling Party or Settling Party's counsel, and (b) the terms and provisions of the Settlement Agreement shall have no further force and effect with respect to the Settling Parties and shall not be used in the Action or in any other proceeding for any purpose, and any judgment or order entered by the Court in accordance with the terms of the Settlement Agreement shall be treated as vacated, *nunc pro tunc*. Notwithstanding any statement in this Settlement Agreement to the contrary, no Order of the Court or modification or reversal on appeal of any order reducing the amount of attorneys' fees, costs, expenses, and/or service awards shall constitute grounds for cancellation or termination of the Settlement Agreement. Further, notwithstanding any statement in this

Settlement Agreement to the contrary, Defendant shall be obligated to pay amounts already billed or already incurred at the time of settlement termination or disapproval for costs of notice to the Settlement Class, Claims Administration, and Dispute Resolution above and shall not, at any time, seek recovery of same from any other party to the Action or from counsel to any other party to the Action.

10. Miscellaneous Provisions

10.1 The Settling Parties (i) acknowledge that it is their intent to consummate this agreement; and (ii) agree to cooperate in good faith to the extent reasonably necessary to effectuate and implement all terms and conditions of this Settlement Agreement, and to exercise their best efforts to accomplish the terms and conditions of this Settlement Agreement.

10.2 The Settling Parties intend this settlement to be a final and complete resolution of all disputes between them with respect to the Action. The settlement is a compromise of claims that are contested and shall not be deemed an admission by any Settling Party as to the merits of any claim or defense. The Settling Parties each agree that the settlement was negotiated in good faith by the Settling Parties and reflects a settlement that was reached voluntarily after consultation with competent legal counsel. The Settling Parties reserve their right to rebut, in a manner that such party determines to be appropriate, any contention made in any public forum that the Action was brought or defended in bad faith or without a reasonable basis. It is agreed that neither Party shall have any liability to one another as it relates to the Action, except as set forth herein.

10.3 Neither the Settlement Agreement, nor the settlement contained herein, nor any act performed or document executed pursuant to or in furtherance of the Settlement Agreement or the settlement (i) is or may be deemed to be or may be used as an admission of, or evidence of, the validity or lack thereof of any Released Claim, or of any wrongdoing or liability of any of the

Released Persons; or (ii) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any of the Released Persons in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal. Any of the Released Persons may file the Settlement Agreement and/or the Judgment in any action that may be brought against them or any of them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar, or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

10.4 The Settlement Agreement may be amended or modified only by a written instrument signed by or on behalf of all Settling Parties or their respective successors-in-interest.

10.5 The exhibits to this Settlement Agreement and any exhibits thereto are a material part of the Settlement and are incorporated and made a part of the Agreement.

10.6 The Settlement Agreement, together with the exhibits attached hereto, constitutes the entire agreement among the Settling Parties regarding the settlement of the Action and supersedes all previous negotiations, agreements, commitments, understandings, and writings between Defendant and Representative Plaintiffs in connection with the settlement of the Action. Except as otherwise provided herein, each party shall bear its own costs.

10.7 Proposed Class Counsel, on behalf of the Settlement Class, is expressly authorized by the Representative Plaintiffs to take all appropriate actions required or permitted to be taken by the Settlement Class pursuant to the Settlement Agreement to effectuate its terms, and also are expressly authorized to enter into any modifications or amendments to the Settlement Agreement on behalf of the Settlement Class which they deem appropriate in order to carry out the spirit of this Settlement Agreement and to ensure fairness to the Settlement Class.

10.8 Each counsel or other Person executing the Settlement Agreement on behalf of any party hereto hereby warrants that such Person has the full authority to do so.

10.9 The Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. A complete set of executed counterparts shall be filed with the Court.

10.10 The Settlement Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Settling Parties.

10.11 The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of the Settlement Agreement, and all parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the settlement embodied in the Settlement Agreement. The Court shall have exclusive jurisdiction over any suit, action, proceeding or dispute arising out of or relating to this Agreement that cannot be resolved by negotiation and agreement by counsel for the Parties. The Court shall retain jurisdiction with respect to the administration, consummation and enforcement of the Agreement and shall retain jurisdiction for the purpose of enforcing all terms of the Agreement. The Court shall also retain jurisdiction over all questions and/or disputes related to the Notice and the Claims Administrator. As part of its agreement to render services in connection with this Settlement, the Claims Administrator shall consent to the jurisdiction of the Court for this purpose.

10.12 The Settlement Agreement shall be considered to have been negotiated, executed, and delivered, and to be wholly performed, in the State of Illinois, and the rights and obligations of the parties to the Settlement Agreement shall be construed and enforced in accordance with, and governed by, the internal, substantive laws of the State of Illinois.

10.13 As used herein, “he” means “he, she, or it;” “his” means “his, hers, or its;” and “him” means “him, her, or it.” “She” means “she, he, or it;” “hers” means “hers, his, or its;” and “her” means “her, him, or it.”

10.14 All dollar amounts are in United States dollars (USD).

10.15 Cashing a settlement check is a condition precedent to any Settlement Class Member’s right to receive settlement benefits. All settlement checks shall be void ninety (90) days after issuance and shall bear the language: “This check must be cashed within 90 days, after which time it is void.” If a check becomes void, the Settlement Class Member shall have until ninety (90) days after the Effective Date to request re-issuance. If no request for re-issuance is made within this period, the Settlement Class Member will have failed to meet a condition precedent to recovery of settlement benefits, the Settlement Class Member’s right to receive monetary relief shall be extinguished, and Defendant shall have no obligation to make payments to the Settlement Class Member or any other type of relief. The same provisions shall apply to any re-issued check. For any checks that are issued or re-issued for any reason more than one hundred twenty (120) days from the Effective Date, requests for re-issuance need not be honored after such checks become void. For Settlement Class Members that do not timely cash settlement checks consistent with the above, such Settlement Class Members shall be bound by all terms of the Settlement Agreement and all proceedings, orders and judgements in the Action.

10.16 All agreements made and orders entered during the course of the Action relating to the confidentiality of information shall survive this Settlement Agreement.

IN WITNESS WHEREOF, the parties hereto have caused the Settlement Agreement to be executed, by their duly authorized attorneys.

AGREED TO BY:


Amish Parikh (Nov 25, 2025 15:07:28 EST)

Amish Parikh


Niamh Jacobsen (Nov 25, 2025 15:07:28 EST)

Niamh Jacobsen


Representative, The Kendal Corporation

APPROVED AS TO FORM:


Leigh S. Montgomery

EKSM, LLP

4200 Montrose Blvd., Suite 200

Houston, Texas 77006


David K. Lietz

MILBERG COLEMAN BRYSON

PHILLIPS GROSSMAN, PLLC

5335 Wisconsin Ave, NW, Ste. 440

Washington, DC 20015

***Counsel for Representative Plaintiffs and the
Proposed Class***

AND


Tara Gill Nalencz

CIPRIANI & WERNER PC

450 Sentry Parkway, Suite 200
Blue Bell, PA 19422

Counsel for Defendant

EXHIBIT A

BARCODE
NO-PRINT
ZONE

FIRST-CLASS MAIL
U.S. POSTAGE
PAID
Portland, OR
PERMIT NO.xxxx

Kendal Data Incident Claims Administrator
P.O. Box XXXX
Baton Rouge, LA 70821

Court-Approved Legal Notice

Parikh, et al. v. The Kendal Corporation
No. 2:25-CV-00129

If your personal information was potentially compromised in the Kendal Corporation Data Incident that occurred in June 2024, you may be entitled to benefits from a class action settlement.

*A Court has authorized this notice. This is **not** a solicitation from a lawyer.*

[website]
[phone number]

<<NOTICE ID>>
<<NAME 1>>
<<NAME 2>>
<<ADDRESS LINE 1>>
<<ADDRESS LINE 2>>
<<ADDRESS LINE 3>>
<<ADDRESS LINE 4>>
<<ADDRESS LINE 5>>
<<CITY, STATE ZIP>>
<<COUNTRY>>



A \$450,000 settlement has been reached in a class action lawsuit against The Kendal Corporation (“Kendal” or “Defendant”) arising out of a data incident Defendant experienced on or about June 26, 2024, where unauthorized third party accessed Defendant’s computer systems (“Data Incident”). The impacted information may include, but is not limited to, names, Social Security Numbers, and checking account/routing numbers provided for direct deposit. Kendal denies any wrongdoing whatsoever.

WHAT CAN I GET? The \$450,000 Settlement Fund settlement provides for two types of cash payments and free credit monitoring and identity theft restoration services: (i) up to \$5,000 in reimbursement for Documented Monetary Losses; (ii) a pro rata cash payment estimated to be \$100, and (iii) three (3) years of credit monitoring and identity theft restoration services. You may submit a Claim for any of the above-listed remedies.

WHO IS INCLUDED? Settlement Class includes all individuals to whom Defendant mailed notices that their private information was potentially compromised in the Data Incident.

CLAIM FORM. You must file a Claim Form to receive payment or other benefit as part of the Settlement. For Pro Rata Cash Payment and/or Credit Monitoring, you may use the attached tear off Claim Form. For all benefits, you can file a Claim online or download a Claim Form at www.SettlementWebsite.com and mail it to the Claims Administrator, or you may call 1-XXX-XXX-XXXX and ask that a Claim Form be mailed to you. The claim deadline is **Month DD, 202Y**.

OTHER OPTIONS. If you do not want to be legally bound by the settlement, you must exclude yourself by **Month DD, 202Y**. If you want to remain part of the settlement, you may nevertheless object to it by **Month DD, 202Y**. A more detailed notice is available to explain how to exclude yourself or object. Please visit www.SettlementWebsite.com or call the toll-free number 1-XXX-XXX-XXXX for a copy of the more detailed notice. The Court will hold a Final Approval Hearing on **Month DD, 202Y, at XX:XX a.m./p.m. E.T.** to determine whether to approve the settlement, Class Counsel’s request for attorneys’ fees and costs of up to \$150,000.00, plus litigation expenses, and service award of \$2,500 for the Representative Plaintiff. You or your own lawyer, if you have one, may ask to appear and speak at the hearing (which may be held remotely) at your own cost, but it is not required.

Learn more about the Settlement at [website], or by calling toll free [phone number].

CLAIM FORM – CLAIM ID: <<Claim id>>**Claims must be postmarked or submitted online no later than [deadline].**

Contact Information (Please fill in completely.)

Name: _____ Telephone Number: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Email Address: _____

Compensation for Documented Monetary Losses: You can receive reimbursement for up to \$5,000 for documented monetary losses incurred as a result of the Data Incident. Because you must submit supporting documentation to be compensated for monetary losses, you cannot use this tear-off claim form. **To file a claim for monetary losses, you must submit your claim online or return the full claim form via mail.**

In addition to compensation for Out-of-Pocket Losses, you may select **any or all** of the following:

- Pro Rata Cash Payment: I wish to claim a pro rata cash payment, estimated to be \$100. I understand this amount may increase or decrease depending upon the number of valid claims filed.
- Credit Monitoring: I wish to claim three (3) years of one-bureau credit monitoring.

Select one of the following payment methods: *PayPal _____ *Venmo _____ *Zelle _____ Check _____

*Please provide your email address or phone number associated with your PayPal, Venmo or Zelle account

By signing my name, I swear and affirm I am completing this Claim Form to the best of my personal knowledge.

Signature: _____

Date: _____

**BARCODE
NO-PRINT
ZONE**

Kendal Data Incident Claims Administrator
P.O. Box XXXX
Baton Rouge, LA 70821

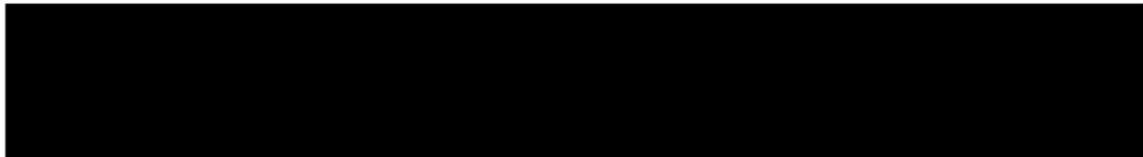


EXHIBIT B

Parikh, et al. v. The Kendal Corporation, No. 2:25-CV-00129

United States District Court for the Eastern District of Pennsylvania

If your personal information was potentially compromised in the Kendal Corporation Data Incident that occurred in June 2024, you may be entitled to benefits from a class action settlement.

*A Court has authorized this notice. This is **not** a solicitation from a lawyer.*

- A \$450,000.00 settlement has been reached in a class action lawsuit against The Kendal Corporation (“Kendal” or “Defendant”) arising out of a data incident Kendal experienced on or about June 26, 2024, by an unauthorized third party (“Data Incident”).
- You are part of the Settlement Class if you are an individual who received mailed notice from Defendant that your Personal Information was potentially compromised in the Data Incident.
- Under the terms of the Settlement, Settlement Class Members who submit timely Valid Claims may be able to recover the following benefits:
 - **Documented Monetary Losses:** You may claim up to \$5,000.00 upon presentment of documented losses related to the Data Incident.

AND

- **Pro Rata Cash Payment:** You may elect to receive a Pro Rata Cash Payment, currently estimated to be \$100. The amount of the Pro Rata Cash Payment may increase or decrease on a *pro rata* basis after payment of Settlement Administration Fees, Attorneys’ Fees Costs and Expenses, Documented Monetary Losses, and Credit Monitoring and Identity Restoration Services.

AND

- **Credit Monitoring and Identity Theft Restoration Services:** In addition to electing reimbursement for Documented Monetary Losses and/or a cash payment, you may claim three (3) years of free 1-bureau credit monitoring, dark web monitoring, identity theft insurance coverage for up to \$1,000,000, and fully managed identity recovery services.

This notice may affect your rights. Please read it carefully.

Your Legal Rights and Options		Deadline
SUBMIT A CLAIM FORM	The only way to get Settlement benefits is to submit a Valid Claim.	Submitted online or Postmarked by Month DD, 202Y
OPT OUT OF THE SETTLEMENT	Get no Settlement benefits. Keep your right to file your own lawsuit against Defendant about the legal claims in this lawsuit.	Postmarked by Month DD, 202Y
OBJECT TO THE SETTLEMENT	Stay in the Settlement but tell the Court why you do not agree with the Settlement. You will still be bound by the Settlement if the Court approves it.	Postmarked by Month DD, 202Y
DO NOTHING	Get no Settlement benefits. Be bound by the Settlement.	

- These rights and options – **and the deadlines to exercise them** – are explained in this notice.
- The Court must still decide whether to approve the Settlement. There will be no Settlement benefits unless the Court approves the Settlement, and it becomes final.

BASIC INFORMATION

1. Why is this Notice being provided?

A Court authorized this notice because you have the right to know about the proposed Settlement of this class action lawsuit and all of your rights and options before the Court decides to grant Final Approval of the Settlement.

This notice explains the lawsuit, the Settlement, your rights, what benefits are available, who is eligible for them, and how to get them. The lawsuit is *Amish Parikh, et al. v. The Kendal Corporation*, No. 2:25-CV-00129, in the United States District Court for the Eastern District of Pennsylvania.

2. What is this lawsuit about?

Plaintiff Amish Parikh and Niamh Jacobsen¹ (“Representative Plaintiffs”), individually and on behalf of the Settlement Class, filed this lawsuit against Defendant. Representative Plaintiffs alleges that between June 26, 2024, and June 30, 2024, certain files on the Kendal network were potentially accessed without authorization. The attacker accessed and acquired files related to current and former employees of Kendal and its affiliate care communities. The impacted information may include, but is not limited to, names, Social Security numbers, and checking account/routing numbers provided for direct deposit.

Representative Plaintiffs brought this lawsuit against Defendant alleging legal claims for negligence, breach of implied contract, and unjust enrichment. Kendal denies each and all of the claims and contentions alleged against it in the lawsuit, denies any and all liability or wrongdoing of any kind, and denies all charges of wrongdoing or liability as alleged, or which could be alleged.

3. What is a class action?

In a class action, one or more people (called plaintiff(s) or class representative(s)) sue on behalf of all people who have similar legal claims. Together, all these people are called a “class” or “class members.” If the plaintiffs and defendant reach a settlement, the court resolves the issues for all class members via the settlement, except for those class members who timely opt out (exclude themselves) from the settlement.

¹ Niamh Jacobsen is the named plaintiff in a related action arising from the same Data Incident styled *Niamh Jacobsen, individually and on behalf of all others similarly situated v. The Kendal Corporation*, 1:25-cv-00104-MN. It is the intention of the Parties to settle and resolve all claims arising from both actions by way of this Settlement.

4. Why is there a Settlement?

The Court did not decide in favor of Plaintiff or Defendant. Instead, both sides agreed to a Settlement. That way, they avoid the costs and risks of a trial, and Settlement Class Members can get benefits or compensation. The Representative Plaintiffs and Class Counsel think the Settlement is in the best interest of the Settlement Class.

WHO IS INCLUDED IN THE SETTLEMENT?

5. How do I know if I am part of the Settlement?

Settlement Class includes all individuals to whom Defendant mailed notices that their private information was potentially compromised in the Data Incident.

6. Are there exceptions to being included in the Settlement?

Yes. The Settlement Class specifically excludes: (i) Defendant and Defendant's parents, subsidiaries, affiliates, directors, and any entity in which Defendant has a controlling interest; (ii) all individuals who make a timely election to be excluded from this proceeding using the correct protocol for opting out; (iii) any and all federal, state, or local governments, including but not limited to their departments, agencies, divisions, bureaus, boards, sections, groups, counsels and/or subdivisions; (iv) the attorneys representing the Parties in the Action; (v) all judges assigned to hear any aspect of the Action, as well as their immediate family members; and (vi) any person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting the Data Breach, or who pleads *nolo contendere* to any such charge.

7. What if I am still not sure whether I am part of the Settlement?

If you are still not sure whether you are a Settlement Class member, you may go to the Settlement Website at www.SettlementWebsite.com or call the Claims Administrator's toll-free telephone number at [1-XXX-XXX-XXXX](tel:1-XXX-XXX-XXXX).

THE SETTLEMENT BENEFITS—WHAT YOU GET IF YOU QUALIFY

8. What does the Settlement provide?

If you are a Settlement Class Member and you timely submit a Valid Claim, you may be eligible for the following Settlement benefits:

(1) Reimbursement for Documented Monetary Losses:

All Settlement Class Members may submit a Claim for a cash payment under this section for up to \$5,000.00 per Settlement Class Member upon presentment of documented losses related to the Data Incident. To receive a payment for Documented Monetary Losses, you must attest that losses or expenses were incurred as a result of the Data Incident.

You will be required to submit reasonable documentation supporting the losses. Documented Monetary Losses may include, but are not limited to: (i) out of pocket credit monitoring costs that were incurred on or after June 26, 2024, through the date of Claim submission; (ii) unreimbursed losses associated with actual fraud or identity theft; and (iii) unreimbursed bank fees, long distance phone charges, postage, or gasoline for local travel. You may make claims for any documented unreimbursed out-of-pocket losses reasonably related to the Data Incident or to mitigating the effects of the Data Incident.

(2) Pro Rata Cash Payment:

In addition to or instead of Documented Monetary Losses, you may claim a *pro rata* cash payment in the estimated amount of \$100.00. The payments will be calculated by dividing remaining funds in the Settlement Fund, after payment of Settlement Administration Fees, Attorneys' Fees Costs and Expenses, Credit Monitoring and Identity Restoration Services, and Documented Monetary Losses, by the number of eligible claims. The Pro Rata Cash Payments will be adjusted upwards or downwards based upon the number of valid claims filed.

(3) Credit Monitoring and Identity Theft Restoration Services:

In addition to electing any of the other benefits, Settlement Class Members may claim three years of one-bureau Credit Monitoring that will provide the following benefits: three-bureau credit monitoring, dark web monitoring, identity theft insurance coverage for up to \$1,000,000, and fully managed identity recovery services.

9. What am I giving up to receive Settlement benefits or stay in the Settlement Class?

Unless you opt out of the Settlement, you are choosing to remain in the Settlement Class. If the Settlement is approved and becomes final, all Court orders will apply to you and legally bind you. You will not be able to sue, continue to sue, or be part of any other lawsuit against the Released Parties, including Defendant, about the legal issues in this lawsuit that are released by this Settlement. The specific rights you are giving up are called "Released Claims."

10. What are the Released Claims?

The Settlement Agreement Section 6 describes the Released Claims and the Release, in necessary legal terminology, so please read this section carefully. The Settlement Agreement is available at www.SettlementWebsite.com or in the public Court records on file in this lawsuit. For questions regarding the Release or Released Claims and what the language in the Settlement Agreement means, you can also contact Class Counsel listed in Question 15 for free, or you can talk to your own lawyer at your own expense.

HOW TO GET BENEFITS FROM THE SETTLEMENT

11. How do I make a Claim for Settlement benefits?

To receive any of the benefits described in Question 8, you must submit a Valid Claim, **postmarked or submitted online** by **Month DD, 202Y**. Claim Forms may be submitted online at www.SettlementWebsite.com or printed from the Settlement Website and mailed to the Claims

Administrator at the address on the Claim Form. The quickest way to submit a Claim is online. Claim Forms are also available by calling **1-XXX-XXX-XXXX** or by writing to:

Kendal Data Incident Claims Administrator
P.O. Box **XXXX**
Baton Rouge, LA 70821

Claim Forms must be submitted online or by mail postmarked by October 1, 2025.

12. What happens if my contact information changes after I submit a Claim?

If you change your mailing address or email address after you submit a Claim Form, it is your responsibility to inform the Claims Administrator of your updated information. You may notify the Claims Administrator of any changes by calling **1-XXX-XXX-XXXX**, by writing to info@SettlementWebsite.com or to:

Kendal Data Incident Claims Administrator
P.O. Box **XXXX**
Baton Rouge, LA 70821

13. When will I receive my Settlement benefits?

If you submit a timely and Valid Claim, payment will be made to you by the Claims Administrator after the Settlement is approved by the Court and becomes final.

It may take time for the Settlement to be approved and become final. Please be patient and check www.SettlementWebsite.com for updates.

14. How will I receive my payment?

If you submit a timely and Valid Claim for payment, and if your Claim and the Settlement are finally approved, you will be sent an electronic payment to the electronic payment option that you select when you file your claim or will be sent a paper check if you select that option. Several electronic payment options will be available, or you can elect a check. Please ensure you have provided a current and complete email address. If you select a paper check, the Claims Administrator will attempt to send you a check relying on your physical address submitted on your Claim Form.

THE LAWYERS REPRESENTING YOU

15. Do I have a lawyer in this lawsuit?

Yes, the Court has appointed Leigh S. Montgomery of EKSM and David Lietz of Milberg Coleman Bryson Phillips Grossman, LLC as Class Counsel lawyer to represent you and the Settlement Class for the purposes of this Settlement. You may hire your own lawyer at your own cost and expense if you want someone other than Class Counsel to represent you in this lawsuit.

Class Counsel may be contacted at the following address and phone number:

Leigh S. Montgomery
EKSM, LLP
4200 Montrose Blvd., Suite 200
Houston, Texas 77006
Phone

David K. Lietz, Esq.
MILBERG COLEMAN BRYSON PHILLIPS GROSSMAN
5335 Wisconsin Avenue NW, Suite 440
Washington, DC 20015
(866) 252-0878

16. How will Class Counsel be paid?

Class Counsel will file a motion asking the Court to award attorneys' fees of up to \$150,000.00 of the \$450,000 Settlement Fund, plus reimbursement of out-of-pocket litigation expenses. The Court may award less than the amount requested. Class Counsel will also request approval of Service Award of \$2,500 for the Representative Plaintiffs. If awarded by the Court, the Claims Administrator will pay attorneys' fees, litigation expenses, and service award out of the Settlement Fund.

Class Counsel's motion for Attorneys' Fees, Litigation Expenses, and Service Award will be made available on the Settlement Website at www.SettlementWebsite.com before the deadline for you to object to or opt out of the Settlement.

OPTING OUT OF THE SETTLEMENT

If you are a Settlement Class Member and want to keep any right you may have to sue or continue to sue the Released Parties on your own based on the legal claims raised in this lawsuit or released by the Released Claims, then you must take steps to get out of the Settlement. This is called opting out of the Settlement.

17. How do I opt out of the Settlement?

To opt out of the Settlement, you must timely submit written notice of a request to opt out. The written notice must include:

- (1) Your full name, current address, telephone number, and email address (if any);
- (2) A statement clearly indicating your request to be excluded from the Settlement Class; and
- (3) Your physical signature as a Settlement Class member;

The opt out request must be **emailed** or **mailed** to the Claims Administrator at the following address, and be **postmarked no later than Month DD, 202Y**:

Kendal Data Incident Claims Administrator
Exclusions
P.O. Box XXXX

Baton Rouge, LA 70821

You cannot opt out by telephone.

No person shall purport to exercise any exclusion rights of any other person, or purport (a) to opt-out Settlement Class Members as a group, in the aggregate, or as a class involving more than one Settlement Class Member; or (b) to opt-out more than one Settlement Class Member on a single paper, or as an agent or representative. Any such purported requests to Opt-Out as a group or in the aggregate shall be void, and the Settlement Class Member(s) who is or are the subject of such purported Requests for Exclusion shall be treated as a Settlement Class Member and be bound by the Settlement Agreement, including the Release contained therein, and judgment entered thereon, unless he or she submits a valid and timely Request for Exclusion.

18. If I opt out can I still get anything from the Settlement?

No. If you opt out, you will not be entitled to receive any Settlement benefits, but you will not be bound by any judgment in this lawsuit. You can only get Settlement benefits if you stay in the Settlement and submit a Valid Claim.

19. If I do not opt out, can I sue Defendant for the same thing later?

No. Unless you opt out, you give up any right to sue Defendant and other Released Parties for the legal claims this Settlement resolves and Releases relating to the Data Incident. You must opt out of the lawsuit to start or continue with your own lawsuit or be part of any other lawsuit against Defendant or other Released Parties. If you have a pending lawsuit, speak to your lawyer in that case immediately.

OBJECTING TO THE SETTLEMENT

20. How do I tell the Court that I do not like the Settlement?

If you are a Settlement Class Member, you can tell the Court you do not agree with all or any part of the Settlement and/or Class Counsel's motion for Attorneys' Fees and Expenses.

To object, you must mail a timely, written notice of your objection. Your objection must be postmarked by **Month DD, 202Y**.

The objection must also include all of the following information:

- (1) Your full name, current address, telephone number, and email address (if any);
- (2) The case name and case number, *Parikh, et al. v. The Kendal Corporation*, No. 2:25-CV-00129;
- (3) Information identifying you as a Settlement Class Member, including proof that you are a member of the Settlement Class, such as a copy of the Postcard notice you received;
- (4) A written statement of all grounds for the objection, accompanied by any legal support for the objection;
- (5) Identity of any and all counsel representing you in connection with the objection;
- (6) Whether you or your counsel will appear at the Final Approval Hearing;

- (7) Your signature and the signature of your duly authorized attorney or other duly authorized representative (along with documentation setting forth such representation).

To be timely, written notice of an objection in the appropriate form must be mailed **postmarked** by **Month DD, 202Y**, to Class Counsel and Defendant's Counsel:

Class Counsel	Defendant's Counsel
<p>Leigh S. Montgomery EKSM, LLP 4200 Montrose Blvd., Suite 200 Houston, Texas 77006</p> <p>David K. Lietz, Esq. MILBERG COLEMAN BRYSON PHILLIPS GROSSMAN 5335 Wisconsin Avenue NW, Suite 440 Washington, DC 20015</p>	<p>Tara Gill Nalencz CIPRIANI & WERNER PC 450 Sentry Parkway, Suite 200 Blue Bell, PA 19422</p>

You may also file any Objection with the Court.

Any Settlement Class Member who fails to comply with the requirements for objecting detailed above will waive and forfeit any and all rights they may have to appear separately and/or to object to the Settlement Agreement and will be bound by all the terms of the Settlement Agreement and by all proceedings, orders, and judgments in the Litigation.

21. What is the difference between objecting and asking to opt out?

Objecting is simply telling the Court you do not like something about the Settlement or requested attorneys' fees and expenses. You can object only if you stay in the Settlement Class (meaning you do not opt out of the Settlement). Opting out of the Settlement is telling the Court you do not want to be part of the Settlement Class or the Settlement. If you opt out, you cannot object to the Settlement.

THE FINAL APPROVAL HEARING

22. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing on **Month DD, 202Y, at XX:XX a.m./p.m. ET** to decide whether to approve the Settlement. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate and decide whether to approve the Settlement, Class Counsel's Application for Attorneys' Fees and Expenses, and Service Award. If there are objections, the Court will consider them. The Court will also listen to Settlement Class Members who have asked to speak at the hearing.

Note: The date and time of the Final Approval Hearing are subject to change. The Court may also decide to hold the hearing in person. Any change will be posted at www.SettlementWebsite.com.

23. Do I have to attend the Final Approval Hearing?

No. Class Counsel will answer any questions the Court may have. However, you are welcome to attend at your own expense. If you mail an objection, you do not have to attend the Final Approval Hearing to speak about it. As long as you mail your written objection on time, the Court will consider it.

24. May I speak at the Final Approval Hearing?

Yes, as long as you do not opt out, you can (but do not have to) participate and speak for yourself at the Final Approval Hearing. This is called making an appearance. You also can have your own lawyer speak for you, but you will have to pay for the lawyer yourself.

If you want to appear, or if you want your own lawyer instead of Class Counsel to speak for you at the Final Approval Hearing, you must follow all of the procedures for objecting to the Settlement listed in Question 20 above—and specifically include a statement whether you and your lawyer will appear at the Final Approval Hearing.

IF YOU DO NOTHING

25. What happens if I do nothing at all?

If you are a Settlement Class Member and you do nothing, you will not receive any Settlement benefits, and you will give up rights explained in the “Opting Out of the Settlement” section of this notice, including your right to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against any of the Released Parties, including Defendant, about the legal issues in this lawsuit that are released by the Settlement Agreement relating to the Data Incident.

GETTING MORE INFORMATION

26. How do I get more information?

This Notice summarizes the proposed Settlement. Complete details are provided in the Settlement Agreement. The Settlement Agreement and other related documents are available at www.SettlementWebsite.com, by calling 1-XXX-XXX-XXXX, by writing to info@SettlementWebsite.com or:

Kendal Data Incident Claims Administrator
P.O. Box XXXX
Baton Rouge, LA 70821

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT’S CLERK OFFICE REGARDING THIS NOTICE.

EXHIBIT C

Kendal Data Incident Claims Administrator
P.O. Box XXXX
Baton Rouge, LA 70821

**Your Claim Form must be
postmarked or submitted online
no later than [deadline]**

Parikh, et al. v. The Kendal Corporation, No. 2:25-CV-00129

CLAIM FORM

SETTLEMENT BENEFITS – WHAT YOU MAY GET

You may submit a claim form if you are an individual whose Personal Information was potentially compromised in the Data Incident Kendal Corporation experienced on or about June 26, 2024.

The easiest way to submit a claim is online at [website], or you can complete and mail this claim form to the mailing address above.

You may submit a claim for one or more of these benefits:

(1) Reimbursement for Documented Monetary Losses:

All Settlement Class Members may submit a Claim for a cash payment under this section for up to \$5,000.00 per Settlement Class Member upon presentation of documented losses related to the Data Incident. To receive payment for Documented Monetary Losses, you must attest that losses or expenses were incurred as a result of the Data Incident.

You will be required to submit reasonable documentation supporting the losses. Documented Monetary Losses may include but are not limited to: (i) out of pocket credit monitoring costs that were incurred on or after June 26, 2024, through the date of Claim submission; (ii) unreimbursed losses associated with actual fraud or identity theft; and (iii) unreimbursed bank fees, long distance phone charges, postage, or gasoline for local travel. You may make claims for any documented unreimbursed out-of-pocket losses reasonably related to the Data Incident or to mitigating the effects of the Data Incident.

(2) Pro Rata Cash Payment:

In addition to or instead of Documented Monetary Losses, you may claim a *pro rata* cash payment in the estimated amount of \$100.00. The payments shall be calculated by dividing remaining funds in the Settlement Fund, after payment of Settlement Administration Fees, Attorneys' Fees Costs and Expenses, Credit Monitoring and Identity Restoration Services, and Documented Monetary Losses, by the number of eligible claims. The Pro Rata Cash Payments will be adjusted upwards or downwards based upon the number of valid claims filed.

(3) Credit Monitoring and Identity Theft Restoration Services:

In addition to electing any of the other benefits, Settlement Class Members may claim three years of one-bureau Credit Monitoring that will provide the following benefits: one-bureau credit monitoring, dark web monitoring, identity theft insurance coverage for up to \$1,000,000, and fully managed identity recovery services.

Claims must be submitted online or mailed by [deadline]. Use the address at the top of this form to mail your Claim Form.

Please note that Settlement benefits will be distributed after the Settlement is approved by the Court and becomes final.

Your Information

1. NAME (REQUIRED):

First Name	<u>MI</u>	Last Name
<input type="text"/>	<input type="text"/>	<input type="text"/>

2. MAILING ADDRESS (REQUIRED):

Street Address

Apt. No.

City	State	ZIP Code
<input type="text"/>	<input type="text"/>	<input type="text"/>

3. PHONE NUMBER:

- -

4. EMAIL ADDRESS:

5. Settlement Claim ID:

Pro Rata Cash Payment

Payments may be made by electronic payment or by paper check. In the event that the total amount of Valid Claims exhausts the amount of the Settlement Fund, the amount of the Cash Payment may be reduced pro rata accordingly (after payment of all approved Documented Monetary Loss Claims, Credit Monitoring, Settlement Administration costs, Service Awards, and Plaintiffs' Counsel's Fees and Expenses).

I wish to receive a Pro Rata Cash Payment, currently estimated to be \$100.

Questions? Go to [website] or call [phone number]

Reimbursement for Documented Monetary Losses

You can receive reimbursement for up to a total of \$5,000.00 per person for documented out-of-pocket expenses related to the Data Incident incurred by a Settlement Class Member on or after June 26, 2024, through the date of Claim submission.

You must submit documentation supporting your Claim Form for Documented Monetary Losses, which may include but are not limited to, out-of-pocket credit monitoring costs, unreimbursed losses associated with actual fraud or identity theft, or other out-of-pocket losses reasonably related to the Data Incident or to mitigating the effects of the Data Incident.

Expense Type	Approximate Amount of Expense and Date	Description of Expense or Money Spent and Supporting Documents (Identify what you are attaching, and why it's related to the Data Incident)
<i>Out-of-pocket credit monitoring costs that were incurred on or after June 26, 2024, through the date of claim submission.</i>		
<i>Unreimbursed bank fees, long distance phone charges, postage, or gasoline for local travel.</i>		
<i>Unreimbursed losses associated with actual fraud or identity theft (provide a detailed description).</i>		
<i>Other out-of-pocket losses reasonably related to the Data Incident or to mitigating the effects of the Data Incident (provide a detailed description).</i>		

I attest that the losses or expenses claimed were incurred as a result of the Data Incident.

Questions? Go to [website] or call [phone number]

Credit Monitoring and Identity Theft Restoration Services

You may choose to elect to receive three (3) years of free one-bureau credit monitoring. *Please include your email address and mailing address on page 2 of this Form.*

I wish to receive three (3) years of free one-bureau credit monitoring.

Payment Selection

Please select one of the following payment options, which will be used should you be eligible to receive a settlement payment:

Venmo – Enter the mobile number associated with your Venmo account:

Zelle – Enter the mobile number associated with your Zelle account:

Physical Check - Payment will be mailed to the address provided above.

Signature

I affirm under the laws of the United States that the information I have supplied in this claim form and any copies of documents that I am sending to support my claim are true and correct to the best of my knowledge.

I understand that I may be asked to provide more information by the Claims Administrator before my claim is complete.

Printed Name

Signature

Date

Questions? Go to [website] or call [phone number]

EXHIBIT D

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

AMISH PARIKH, individually and on behalf of
all others similarly situated,

Plaintiff,

v.

THE KENDAL CORPORATION,

Defendant.

Case No. 2:25-CV-00129

[PROPOSED] PRELIMINARY APPROVAL ORDER

Before the Court is Plaintiffs’ Unopposed Motion for Preliminary Approval of Class Action Settlement (**Doc. No. __**) (the “Motion”), the terms of which are set forth in a Settlement Agreement between Plaintiffs Amish Parikh and Niamh Jacobsen¹ (“Representative Plaintiffs”) and Defendant The Kendal Corporation (“Kendal” or “Defendant”) (together with Representative Plaintiffs, the “Parties”), with accompanying exhibits attached as **Exhibit 1** to Plaintiffs’ Memorandum of Law in Support of their Motion (the “Settlement Agreement”).²

Having fully considered the issue, the Court hereby **GRANTS** the Motion and **ORDERS** as follows:

1. **Class Certification for Settlement Purposes Only**. The Settlement Agreement provides for a Settlement Class defined as follows:

¹ Niamh Jacobsen is the named plaintiff in a related action arising from the same Data Incident styled *Niamh Jacobsen, individually and on behalf of all others similarly situated v. The Kendal Corporation*, 1:25-cv-00104-MN (D. Del. 1/24/25). It is the intention of the Parties to settle and resolve all claims arising from both actions by way of this Settlement. As set forth herein, upon final approval of settlement in the instant matter, the *Jacobsen* matter shall be voluntarily dismissed with prejudice within ten (10) days.

² All defined terms in this Order Granting Preliminary Approval of Class Action Settlement (“Preliminary Approval Order”) have the same meaning as set forth in the Settlement Agreement, unless otherwise indicated.

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

Specifically excluded from the Settlement Class are (i) Defendant and Defendant's parents, subsidiaries, affiliates, officers, directors, and any entity in which Defendant has a controlling interest; (ii) all individuals who make a timely election to be excluded from this proceeding using the correct protocol for opting out; (iii) any and all federal, state, or local governments, including but not limited to their departments, agencies, divisions, bureaus, boards, sections, groups, counsels and/or subdivisions; (iv) the attorneys representing the Parties in the Action; (v) all judges assigned to hear any aspect of the Action, as well as their immediate family members and court staff; and (vi) any person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting the Data Breach, or who pleads nolo contendere to any such charge.

Pursuant to Federal Rules of Civil Procedure 23(e)(1), the Court finds that giving notice is justified. The Court finds that it will likely be able to approve the proposed Settlement as fair, reasonable, and adequate. The Court also finds that it will likely be able to certify the Settlement Class for purposes of judgment on the Settlement because it meets all of the requirements of Rule 23(a) and the requirements of Rule 23(b)(3). Specifically, the Court finds for settlement purposes that: (a) the Settlement Class is so numerous that joinder of all Settlement Class Members would be impracticable; (b) there are issues of law and fact that are common to the Settlement Class; (c) the claims of the Class Representative are typical of and arise from the same operative facts and the Class Representatives seek similar relief as the claims of the Settlement Class Members; (d) the Class Representatives will fairly and adequately protect the interests of the Settlement Class as the Class Representatives have no interests antagonistic to or in conflict with the Settlement Class and have retained experienced and competent counsel to prosecute this Litigation on behalf of the

Settlement Class; (e) questions of law or fact common to Settlement Class Members predominate over any questions affecting only individual members; and (f) a class action and class settlement is superior to other methods available for a fair and efficient resolution of this Litigation.

2. **Settlement Class Representatives and Settlement Class Counsel.** The Court finds that Representative Plaintiffs will likely satisfy the requirements of Rule 23(e)(2)(A) and should be appointed as the Class Representatives. Additionally, the Court finds that Leigh S. Montgomery of Ellzey Kherkher Sanford Montgomery, LLP and David Lietz of Milberg, PLLC will likely satisfy the requirements of Rule 23(e)(2)(A) and should be appointed as Class Counsel pursuant to Rule 23(g)(1).

3. **Preliminary Settlement Approval.** Upon preliminary review, the Court finds the Settlement is fair, reasonable, and adequate to warrant providing notice of the Settlement to the Settlement Class and accordingly is preliminarily approved. In making this determination, the Court has considered the monetary and non-monetary benefits provided to the Settlement Class through the Settlement, the specific risks faced by the Settlement Class in prevailing on their claims, the good faith, arms' length negotiations between the Parties and absence of any collusion in the Settlement, the effectiveness of the proposed method for distributing relief to the Settlement Class, the proposed manner of allocating benefits to Settlement Class Members, the Settlement treats the Settlement Class Members equitably, and all of the other factors required by Rule 23 and relevant case law.

4. **Jurisdiction.** The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(d)(2) and personal jurisdiction over the parties before it. Additionally, venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

5. **Final Approval Hearing.** A Final Approval Hearing shall be held on _____, 202___, at [ADDRESS], where the Court will determine, among other things, whether: (a) this Litigation should be finally certified as a class action for settlement purposes pursuant to Fed. R. Civ. P. 23(a) and (b)(3); (b) the Settlement should be approved as fair, reasonable, and adequate, and finally approved pursuant to Fed. R. Civ. P. 23(e); (c) this Litigation should be dismissed with prejudice pursuant to the terms of the Settlement Agreement; (d) Settlement Class Members (who have not timely and validly excluded themselves from the Settlement) should be bound by the releases set forth in the Settlement Agreement; (e) the application of Class Counsel for an award of Attorneys' Fees, Costs, and Expenses should be approved pursuant to Fed. R. Civ. P. 23(h); and (f) the application of the Class Representatives for a Service Award should be approved.

6. **Claims Administrator.** The Court appoints Eisner Advisory Group ("EAG") as the Claims Administrator, with responsibility for class notice and settlement administration. The Claims Administrator is directed to perform all tasks the Settlement Agreement requires. The Claims Administrator's fees will be paid pursuant to the terms of the Settlement Agreement.

7. **Notice.** The proposed notice program set forth in the Settlement Agreement and the Notices and Claim Form attached to the Settlement Agreement as **Exhibits A, B, and C** are hereby approved. Non-material modifications to these Exhibits may be made by the Claims Administrator in consultation and agreement with the Parties, but without further order of the Court.

8. **Findings Concerning Notice.** The Court finds that the proposed form, content, and method of giving Notice to the Settlement Class as described in the Notice program and the Settlement Agreement and its exhibits: (a) will constitute the best practicable notice to the Settlement Class; (b) are reasonably calculated, under the circumstances, to apprise Settlement

Class Members of the pendency of the Litigation, the terms of the proposed Settlement, and their rights under the proposed Settlement, including, but not limited to, their rights to object to or exclude themselves from the proposed Settlement and other rights under the terms of the Settlement Agreement; (c) are reasonable and constitute due, adequate, and sufficient notice to all Settlement Class Members and other persons entitled to receive notice; (d) meet all applicable requirements of law, including Federal Rule of Civil Procedure 23(c); and (e) and meet the requirements of the Due Process Clause(s) of the United States and Pennsylvania Constitutions. The Court further finds that the Notice provided for in the Settlement Agreement is written in plain language, uses simple terminology, and is designed to be readily understandable by Settlement Class Members.

The Claims Administrator is directed to carry out the Notice program in conformance with the Settlement Agreement.

9. **Class Action Fairness Act Notice.** Within ten (10) days after the filing of this Settlement Agreement with the Court, the Claims Administrator acting on behalf of Defendant shall have served or caused to be served a notice of the proposed Settlement on appropriate officials in accordance with the requirements under the Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1715(b).

10. **Exclusion from Class.** Any Settlement Class Member who wishes to be excluded from the Settlement Class must individually sign and timely submit written notice of such intent to the designated Post Office box established by the Claims Administrator in the manner provided in the Notice. The written notice must clearly manifest a Person’s intent to be excluded from the Settlement Class. To be effective, such requests for exclusion must be postmarked no later than

the Opt-Out Date, which is no later than sixty (60) days from the date on which the notice program commences, and as stated in the Notice.

The Claims Administrator shall promptly furnish to Class Counsel and to Defendant's counsel a complete list of all timely and valid requests for exclusion (the "Opt-Out List").

If a Final Order and Judgment is entered, all Persons falling within the definition of the Settlement Class who do not request to be excluded from the Settlement Class shall be bound by the terms of this Settlement Agreement and the Final Order and Judgment. All Persons who submit valid and timely notices of their intent to be excluded from the Settlement Class shall not receive any cash benefits of and/or be bound by the terms of the Settlement Agreement.

11. **Objections and Appearances.** A Settlement Class Member (who does not submit a timely written request for exclusion) desiring to object to the Settlement Agreement may submit a timely written notice of his or her objection by the Objection Date and as stated in the Notice. The Long Notice shall instruct Settlement Class Members who wish to object to the Settlement Agreement to send their written objections to Proposed Class Counsel and to Defendant's counsel at the addresses indicated in the Long Notice. The Short and Long Notice shall advise Settlement Class Members of the deadline for submission of any objections—the "Objection Date." Any such notices of an intent to object to the Settlement Agreement must be written and must include all of the following: (i) the objector's full name, address, telephone number, and email address (if any); (ii) the case name and case number; (iii) information identifying the objector as a Settlement Class Member, including proof that the objector is a member of the Settlement Class (e.g., copy of original notice of the Data Breach or a statement explaining why the objector believes he or she is a Settlement Class Member); (iv) a written statement of all grounds for the objection, accompanied by any legal support for the objection the objector believes applicable; (v) the identity of all counsel

representing the objector in connection with the objection; (vi) a statement whether the objector and/or his or her counsel will personally appear at the Final Fairness Hearing; and (vii) the objector's signature or the signature of the objector's duly authorized attorney or other duly authorized representative.

Any Settlement Class Member who fails to comply with the requirements for objecting shall waive and forfeit any and all rights he or she may have to appear separately and/or to object to the Settlement Agreement, and shall be bound by all the terms of the Settlement Agreement and by all proceedings, orders, and judgments in the Litigation. The provisions stated in Paragraph 5.1 of the Settlement Agreement shall be the exclusive means for any challenge to the Settlement Agreement. Any challenge to the Settlement Agreement, the final order approving this Settlement Agreement, or the Final Order and Judgment to be entered upon final approval shall be pursuant to appeal under the Federal Rules of Appellate Procedure and not through a collateral attack.

12. **Claims Process.** Settlement Class Counsel and Defendant have created a process for Settlement Class Members to claim benefits under the Settlement. The Court preliminarily approves this process and directs the Claims Administrator to make the Claim Form or its substantial equivalent available to Settlement Class Members in the manner specified in the Notice.

The Claims Administrator will be responsible for effectuating the claims process. Settlement Class Members who qualify for and wish to submit a Claim Form shall do so in accordance with the requirement and procedures specified in the Notice and the Claim Form. If the Final Order and Judgment is entered, all Settlement Class Members who qualify for any benefit under the Settlement but fail to submit a claim in accordance with the requirements and procedures specified in the Notice and the Claim Form shall be forever barred from receiving any such benefit,

but will in all other respects be subject to and bound by the provisions in the Final Order and Judgment, including the releases contained therein.

13. **Termination of Settlement**. This Preliminary Approval Order shall become null and void and shall be without prejudice to the rights of the Parties, all of whom shall be restored to their respective positions existing before the Court entered this Preliminary Approval Order and before they entered the Settlement Agreement, if: (a) the Court does not enter this Preliminary Approval Order; (b) Settlement is not finally approved by the Court or is terminated in accordance with the Settlement Agreement; (c) there is no Effective Date; or (d) otherwise consistent with the terms of the Settlement Agreement. In such event, (i) the Parties shall be restored to their respective positions in the Litigation and shall jointly request that all scheduled Litigation deadlines be reasonably extended by the Court so as to avoid prejudice to any Party or Party's counsel; (ii) the terms and provisions of the Settlement Agreement shall have no further force and effect with respect to the Parties and shall not be used in the Litigation or in any other proceeding for any purpose, and (iii) any judgment or order entered by the Court in accordance with the terms of the Settlement Agreement shall be treated as vacated, *nunc pro tunc*.

14. **Use of Order**. This Preliminary Approval Order shall be of no force or effect if the Final Order and Judgment is not entered or there is no Effective Date and shall not be construed or used as an admission, concession, or declaration by or against Defendant of any fault, wrongdoing, breach, or liability. Nor shall this Preliminary Approval Order be construed or used as an admission, concession, or declaration by or against the Class Representatives or any other Settlement Class Member that his or her claims lack merit or that the relief requested is inappropriate, improper, unavailable, or as a waiver by any Party of any defense or claims they may have in this Litigation or in any other lawsuit.

15. **Continuance of Hearing.** The Court reserves the right to adjourn or continue the Final Fairness Hearing and related deadlines without further written notice to the Settlement Class. If the Court alters any of those dates or times, the revised dates and times shall be posted on the Settlement Website maintained by the Claims Administrator. The Court may approve the Settlement, with such modifications as may be agreed upon by the Parties, if appropriate, without further notice to the Settlement Class.

16. **Stay of Litigation.** All proceedings in the Litigation, other than those related to approval of the Settlement Agreement, are hereby stayed. Further, any actions brought by Settlement Class Members concerning the Released Claims are hereby enjoined and stayed pending Final Approval of the Settlement Agreement.

17. **Schedule and Deadlines.** The Court orders the following schedule of dates for the specified actions/further proceedings:

SETTLEMENT TIMELINE

Action	Deadline
Notice Date	30 days after entry of the Preliminary Approval Order
File Motion for Attorneys' Fees and Expenses Awards and Service Awards	14 days prior to Opt-Out deadline
Objection Deadline	60 days after Notice Date
Opt-Out Deadline	60 days after Notice Date
Opt-Out list due from Claims Administrator	7 days after Opt-Out deadline
Claims Deadline	60 days after the Notice Date
File Motion for Final Approval	14 days before Final Approval Hearing
List of Opt-Outs due to Court	7 days prior to Final Approval Hearing
Final Approval Hearing	More than 90 days after Notice Date

SO ORDERED THIS _____ DAY OF _____, 2025.

Hon. Gerald J. Pappert
United States District Court Judge

EXHIBIT E

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

AMISH PARIKH, individually and on behalf of
all others similarly situated,

Plaintiff,

v.

THE KENDAL CORPORATION,

Defendant.

Case No. 2:25-CV-00129

[PROPOSED] FINAL APPROVAL ORDER

Before the Court is Plaintiffs' Unopposed Motion for Final Approval of Class Action Settlement ("Motion for Final Approval"). The Motion seeks approval of the Settlement as fair, reasonable, and adequate. Also before the Court is Plaintiffs' Motion for Attorneys' Fees, Costs, and Expenses to Class Counsel, and Service Award to Plaintiffs ("Motion for Attorneys' Fees").

Having reviewed and considered the Settlement Agreement, Motion for Final Approval, and Motion for Attorneys' Fees, and having conducted a Final Fairness Hearing, the Court makes the findings and grants the relief set forth below approving the Settlement upon the terms and conditions set forth in this Order.

WHEREAS, on [REDACTED] [DATE], the Court entered an Order Granting Preliminary Approval of Class Action Settlement ("Preliminary Approval Order") (**Doc. No. __**) which, among other things: (a) conditionally certified this matter as a class action, including defining the class and class claims, (b) appointed Plaintiffs Amish Parikh and Niamh Jacobsen as the Class Representatives and appointed Leigh S. Montgomery of Ellzey Kherkher Sanford Montgomery, LLP and David Lietz of Milberg, PLLC as Class Counsel; (c) preliminarily approved

the Settlement Agreement; (d) approved the form and manner of Notice to the Settlement Class; (d) set deadlines for opt-outs and objections; (e) approved and appointed the Claims Administrator; and (f) set the date for the Final Fairness Hearing;

WHEREAS, on [DATE], pursuant to the Notice requirements set forth in the Settlement Agreement and in the Preliminary Approval Order, the Settlement Class was notified of the terms of the proposed Settlement Agreement, of the right of Settlement Class Members to opt-out, and the right of Settlement Class Members to object to the Settlement Agreement and to be heard at a Final Fairness Hearing;

WHEREAS, on [DATE], the Court held a Final Approval Hearing to determine, *inter alia*: (1) whether the terms and conditions of the Settlement Agreement are fair, reasonable, and adequate for the release of the claims contemplated by the Settlement Agreement; and (2) whether judgment should be entered dismissing this action with prejudice. Prior to the Final Fairness Hearing, a declaration of compliance with the provisions of the Settlement Agreement and Preliminary Approval Order relating to notice was filed with the Court as required by the Preliminary Approval Order. Therefore, the Court is satisfied that Settlement Class Members were properly notified of their right to appear at the Final Fairness Hearing in support of or in opposition to the proposed Settlement Agreement, the award of attorneys' fees, costs, and expenses to Class Counsel, and the payment of a Service Award to the Class Representative;

WHEREAS, the Court not being required to conduct a trial on the merits of the case or determine with certainty the factual and legal issues in dispute when determining whether to approve a proposed class action settlement; and

WHEREAS, the Court being required under Federal Rule of Civil Procedure 23(e) to make the findings and conclusions hereinafter set forth for the limited purpose of determining whether the settlement should be approved as being fair, reasonable, adequate and in the best interests of the Settlement Class;

Having given an opportunity to be heard to all requesting persons in accordance with the Preliminary Approval Order, having heard the presentation of Class Counsel and counsel for Defendant, having reviewed all of the submissions presented with respect to the proposed Settlement Agreement, having determined that the Settlement Agreement is fair, adequate, and reasonable, having considered the application made by Settlement Class Counsel for attorneys' fees, costs, and expenses, and the application for a Service Award to the Representative Plaintiffs, and having reviewed the materials in support thereof, and good cause appearing:

IT IS ORDERED that:

1. The Court has jurisdiction over the subject matter of this action and over all claims raised therein and all Parties thereto, including the Settlement Class.
2. The Settlement involves allegations in Plaintiffs' Class Action Complaints against Defendant for failure to implement or maintain adequate data security measures and safeguards to protect Private Information, which Plaintiffs allege directly and proximately caused injuries to Plaintiffs and Settlement Class Members.
3. The Settlement does not constitute an admission of liability by Defendant, and the Court expressly does not make any finding of liability or wrongdoing by Defendant.

4. Unless otherwise indicated, words spelled in this Order and Judgment Granting Final Approval of Class Action Settlement (“Final Order and Judgment”) with initial capital letters have the same meaning as set forth in the Settlement Agreement.

5. The Court, having reviewed the terms of the Settlement Agreement submitted by the Parties pursuant to Federal Rule of Civil Procedure 23(e)(2), grants final approval of the Settlement Agreement and for purposes of the Settlement Agreement and this Final Order and Judgment only, the Court hereby finally certifies the following Settlement Class:

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

Specifically excluded from the Settlement Class are (i) Defendant and Defendant’s parents, subsidiaries, affiliates, officers, directors, and any entity in which Defendant has a controlling interest; (ii) all individuals who make a timely election to be excluded from this proceeding using the correct protocol for opting out; (iii) any and all federal, state, or local governments, including but not limited to their departments, agencies, divisions, bureaus, boards, sections, groups, counsels and/or subdivisions; (iv) the attorneys representing the Parties in the Action; (v) all judges assigned to hear any aspect of the Action, as well as their immediate family members and court staff; and (vi) any person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting the Data Breach, or who pleads nolo contendere to any such charge.

6. The Settlement was entered into in good faith following arm’s length negotiations and a formal mediation and is non-collusive. The Settlement is in the best interests of the Settlement Class and is therefore approved. The Court finds that the Parties faced significant risks, expenses, delays, and uncertainties, including as to the outcome, including on appeal, of continued litigation of this complex matter, which further supports the Court’s finding that

the Settlement Agreement is fair, reasonable, adequate, and in the best interests of the Settlement Class Members. The Court finds that the uncertainties of continued litigation in both the trial and appellate courts, as well as the expense associated with it, weigh in favor of approval of the settlement reflected in the Settlement Agreement.

7. The Settlement Agreement provides, in part, and subject to a more detailed description of the settlement terms in the Settlement Agreement, for:

- a. Claims Administration as outlined in the Settlement Agreement whereby Settlement Class Members can submit claims that will be evaluated by a Claims Administrator.
- b. Defendant to pay all costs of Claims Administration from the Settlement Fund, including the cost of the Claims Administrator, instituting Notice, processing and administering claims, and preparing and mailing checks.
- c. Defendant to pay, subject to the approval and award of the Court, the reasonable attorneys' fees, costs, and expenses of Class Counsel and a Service Award to Class Representatives from the Settlement Fund.

The Court readopts and incorporates herein by reference its preliminary conclusions as to the satisfaction of Federal Rule of Civil Procedure 23(a) and (b)(3) set forth in the Preliminary Approval Order and notes that because this certification of the Settlement Class is in connection with the Settlement Agreement rather than litigation, the Court need not address any issues of manageability that may be presented by certification of the class proposed in the Settlement Agreement.

8. The terms of the Settlement Agreement are fair, adequate, and reasonable and are hereby approved, adopted, and incorporated by the Court. Notice of the terms of the Settlement,

the rights of Settlement Class Members under the Settlement, the Final Fairness Hearing, Plaintiffs' application for attorneys' fees, costs, and expenses, and the Service Award payment to the Class Representatives have been provided to Settlement Class Members as directed by this Court's Orders, and proof of Notice has been filed with the Court.

9. The Court finds that the notice program, set forth in the Settlement Agreement and effectuated pursuant to the Preliminary Approval Order, was the best notice practicable under the circumstances, was reasonably calculated to provide and did provide due and sufficient notice to the Settlement Class of the pendency of the Action, certification of the Settlement Class for settlement purposes only, the existence and terms of the Settlement Agreement, and their right to object and to appear at the final approval hearing or to exclude themselves from the Settlement Agreement, and satisfied the requirements of the Federal Rules of Civil Procedure, the United States Constitution, and other applicable law

10. The Court finds that Defendant has fully complied with the notice requirements of the Class Action Fairness Act of 2005, 28 U.S.C. § 1715.

11. As of the Opt-Out deadline, [REDACTED] potential Settlement Class Members have requested to be excluded from the Settlement. Their names are set forth in **Exhibit A** to this Final Order and Judgment. Those persons are not bound by the Settlement Agreement and this Final Order and Judgment and shall not be entitled to any of the benefits afforded to the Settlement Class Members under the Settlement Agreement, as set forth in the Settlement Agreement.

12. [REDACTED] objections were filed by Settlement Class Members. The Court has considered all objections and finds the objections do not counsel against Settlement Agreement approval, and the objections are hereby overruled in all respects.

13. All Settlement Class Members who have not objected to the Settlement Agreement in the manner provided in the Settlement Agreement are deemed to have waived any objections by appeal, collateral attack, or otherwise.

14. The Court has considered all the documents filed in support of the Settlement, and has fully considered all matters raised, all exhibits and affidavits filed, all evidence received at the Final Fairness Hearing, all other papers and documents comprising the record herein, and all oral arguments presented to the Court.

15. The Parties, their respective attorneys, and the Claims Administrator are hereby directed to consummate the Settlement in accordance with this Final Order and Judgment and the terms of the Settlement Agreement.

16. Pursuant to the Settlement Agreement, Defendant, the Claims Administrator, and Class Counsel shall implement the Settlement in the manner and timeframe as set forth therein.

17. Within the time period set forth in the Settlement Agreement, the relief provided for in the Settlement Agreement shall be made available to the various Settlement Class Members submitting valid Claim Forms, pursuant to the terms and conditions of the Settlement Agreement.

18. Pursuant to and as further described in the Settlement Agreement, Plaintiffs and the Settlement Class Members release claims as follows:

any and all past, present, and future liabilities, rights, claims, counterclaims, actions, causes of action, demands, damages, penalties, costs, attorneys' fees, losses, and remedies, whether known or unknown, existing or potential, suspected or unsuspected, liquidated or unliquidated, legal, statutory, or equitable, that result from, arise out of, and/or are based upon the Data Breach or the conduct that was alleged or could have been alleged in the Action, including, but not limited to negligence, negligence per se, breach of implied contract, breach of the implied covenant of good faith and fair dealing, breach of third-party beneficiary contract, unjust enrichment, breach of fiduciary duty, any state or federal consumer protection or privacy statute, misrepresentation (whether fraudulent, negligent, or innocent), bailment, wantonness, failure to provide adequate notice pursuant to any

breach notification statute, regulation, or common law duty, and all relevant statutes in effect in any states in the United States as defined herein, and including, but not limited to, any and all claims for damages, injunctive relief, disgorgement, declaratory relief, equitable relief, attorneys' fees, costs and expenses, set-offs, losses, pre-judgment interest, credit monitoring services, the creation of a fund for future damages, statutory damages, punitive damages, special damages, exemplary damages, restitution, the appointment of a receiver, and any other form of relief that either has been asserted, or could have been asserted, or relates to the exposure of private information in the Data Incident, including conduct that was alleged or could have been alleged in the Action, including without limitation, any claims, actions, causes of action, demands, damages, penalties, losses, or remedies relating to, based upon, resulting from, or arising out of the disclosure of private information, which the Class Representatives or any member of the Settlement Class ever had, now has, or hereinafter may have, prior to and/or at the time of entry of the final order and Judgment in this Action. Nothing in this Release is intended to, does or shall be deemed to release any claims not arising out of, based upon, or resulting from the Data Breach. Released Claims shall include Unknown Claims as defined in ¶ 1.29 of the Settlement Agreement. Released Claims shall not include the right of any Settlement Class Member or any of the Released Persons to enforce the terms of the settlement contained in this Settlement Agreement and shall not include the claims of Settlement Class Members who have timely excluded themselves from the Settlement Class.

21. The Court grants final approval to the appointment of Plaintiffs Amish Parikh and Niamh Jacobsen as Class Representatives. The Court concludes that Class Representatives have fairly and adequately represented the Settlement Class and will continue to do so.

22. Pursuant to the Settlement Agreement, and in recognition of their efforts on behalf of the Settlement Class, the Court approves a payment to the Class Representatives in the amount of \$_____ each as a Service Award. Such payment shall be made from the Settlement Fund in accordance with the terms of the Settlement Agreement.

23. The Court grants final approval to the appointment of Leigh S. Montgomery of Ellzey Kherkher Sanford Montgomery, LLP and David Lietz of Milberg, PLLC as Class Counsel. The Court concludes that Class Counsel has adequately represented the Settlement Class and will continue to do so.

24. The Court, after careful review of the fee petition filed by Class Counsel, and after applying the appropriate standards required by relevant case law, hereby grants Class Counsel's

application for attorneys' fees in the amount of \$ _____. Reasonable costs and expenses of \$ _____ are also hereby awarded. Payment shall be made pursuant to the terms of the Settlement Agreement.

25. This Final Order and Judgment and the Settlement Agreement, and all acts, statements, documents, or proceedings relating to the Settlement Agreement are not, and shall not be construed as, used as, or deemed to be evidence of, an admission by or against Defendant of any claim, any fact alleged in the Litigation, any fault, any wrongdoing, any violation of law, or any liability of any kind on the part of Defendant's or of the validity or certifiability for litigation of any claims that have been, or could have been, asserted in the lawsuit. This Final Order and Judgment, the Settlement Agreement, and all acts, statements, documents, or proceedings relating to the Settlement Agreement shall not be offered or received or be admissible in evidence in any action or proceeding, or be used in any way as an admission or concession or evidence of any liability or wrongdoing of any nature or that Plaintiffs, any Settlement Class Member, or any other person has suffered any damage; provided, however, that the Settlement Agreement and this Final Order and Judgment may be filed in any action by Defendant, Class Counsel, or Settlement Class Members seeking to enforce the Settlement Agreement or the Final Order and Judgment (including, but not limited to, enforcing the releases contained herein). The Settlement Agreement and Final Order and Judgment shall not be construed or admissible as an admission by Defendant that Plaintiff's claims or any similar claims are suitable for class treatment. The Settlement Agreement's terms shall be forever binding on, and shall have *res judicata* and preclusive effect in, all pending and future lawsuits or other proceedings as to Released Claims and other prohibitions set forth in this Final Order and Judgment that are maintained by, or on

behalf of, any Settlement Class Member or any other person subject to the provisions of this Final Order and Judgment.

26. If the Effective Date, as defined in the Settlement Agreement, does not occur for any reason, this Final Order and Judgment and the Preliminary Approval Order shall be deemed vacated, and shall have no force and effect whatsoever; the Settlement Agreement shall be considered null and void; all of the Parties' obligations under the Settlement Agreement, the Preliminary Approval Order, and this Final Order and Judgment and the terms and provisions of the Settlement Agreement shall have no further force and effect with respect to the Parties and shall not be used in the Litigation or in any other proceeding for any purpose, and any judgment or order entered by the Court in accordance with the terms of the Settlement Agreement shall be treated as vacated *nunc pro tunc*, and the Parties shall be restored to their respective positions in the Litigation, as if the Parties never entered into the Settlement Agreement (without prejudice to any of the Parties' respective positions on the issue of class certification or any other issue). In such event, the Parties will jointly request that all scheduled Litigation deadlines be reasonably extended by the Court so as to avoid prejudice to any Party or Party's counsel. Further, in such event, Defendant will pay amounts already billed or incurred for costs of notice to the Settlement Class, and Claims Administration, and will not, at any time, seek recovery of same from any other Party to the Litigation or from counsel to any other Party to the Litigation.

27. Pursuant to *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 382, 114 S. Ct. 1673, 1677, 128 L. Ed. 2d 391 (1994) and the parties' agreement, this Court shall retain the authority to issue any order necessary to protect its jurisdiction from any action, whether in state or federal court.

28. Without affecting the finality of this Final Order and Judgment, the Court will retain jurisdiction over the subject matter and the Parties with respect to the interpretation and implementation of the Settlement Agreement for all purposes.

29. This Order resolves all claims against all Parties in this action and is a final order.

30. The matter is hereby dismissed with prejudice and without costs except as provided in the Settlement Agreement.

SO ORDERED THIS _____ DAY OF _____, 2026.

Hon. Gerald J. Pappert
United States District Court Judge

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

AMISH PARIKH, individually and on behalf of
all others similarly situated,

Plaintiff,

v.

THE KENDAL CORPORATION,

Defendant.

Case No. 2:25-CV-00129

**DECLARATION OF CLASS COUNSEL
IN SUPPORT OF PLAINTIFFS' UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

We declare under penalty of perjury hereby as follows:

1. We, Leigh S. Montgomery of Ellzey Kherkher Sanford Montgomery, LLP and David Lietz of Milberg, PLLC proposed Class Counsel¹ in this action, hereby submit this Declaration in connection with Plaintiff's Unopposed Motion for Preliminary Approval of Class Action Settlement with Defendant The Kendal Corporation ("Defendant" or "Kendal").

I. PROCEDURAL HISTORY AND SETTLEMENT NEGOTIATIONS

2. Defendant The Kendal Corporation is an organization that provides programs and services that advocate for older adults. Settlement Agreement ("SA" or "Agreement") § I. In providing the services that it offers, Defendant collects the Private Information of its and its affiliates' employees, including names, Social Security numbers, and checking account/routing number (hereafter "PII" or "Private Information"). *Id.* On or around December 2024, Defendant

¹ All capitalized terms have the definition attributed to them in the Settlement Agreement filed herewith unless otherwise specified.

began sending notice letters to individuals advising them that their Private Information had been potentially compromised in a Data Incident that occurred between approximately June 26, 2024 and June 30, 2024. *Id.* The Data Incident impacted approximately 10,000 individuals.

3. As a result of the Incident, on January 9, 2025, Plaintiff Parikh filed a Class Action Complaint captioned *Amish Parikh, individually and on behalf of all others similarly situated v. The Kendal Corporation*, 2:25-cv-00129 in the United States District Court of the Eastern District of Pennsylvania alleging a failure to safeguard the private information Defendant maintained on behalf of the Settlement Class. Plaintiff Jacobsen filed her similar and related Class Action Complaint on January 24, 2025 in the United States District Court for District of Delaware. Defendant denies all liability and wrongdoing. SA §§I-III.

4. Shortly thereafter, the Parties began exploring the possibility of early resolution. Over the next few months, the Parties engaged in informal discovery and scheduled an August 12, 2025 formal mediation with Rodney A. Max, Esq. and well-regarded private mediator with substantial experience mediating data breach class actions. The Parties exchanged informal discovery as well as detailed mediation statements prior to the mediation.

5. The mediation was successful and resulted in a settlement in principle. Since that mediation, the Parties have worked together to finalize the Settlement terms and to prepare a Settlement agreement. The accepted settlement has been memorialized in the Settlement Agreement. It is proposed Class Counsel's opinion that the Settlement Agreement presents a favorable result for the Settlement Class.

6. After reaching a settlement in principle, the Parties continued to work diligently negotiating the final terms of the settlement, spending weeks finalizing the finer points of the Settlement Agreement, obtaining bids from multiple claims administrators and agreeing on Eisner

Advisory Group (“EAG”), and ensuring clear and effective notice forms and claim forms for the Class.

II. THE SETTLEMENT AND ITS BENEFITS

7. The Settlement was reached in the absence of collusion, was reached with the assistance of a skilled third-party mediator, and is the result of good faith, informed, and arm’s-length negotiations between experienced attorneys who are familiar with class action litigation and with the legal and factual issues at stake.

8. The Settlement Class Members may claim one or more of a variety of awards. First, Settlement Class Members may claim Compensation for Documented Monetary Losses, which includes up to a total of \$5,000.00 per person for unreimbursed losses upon submission of a claim and supporting documentation. Documented Monetary Losses may include but are not limited to; (i) out-of-pocket credit monitoring costs that were incurred on or after June 26, 2024, through the date of Claim submission; (ii) unreimbursed losses associated with actual fraud or identity theft; and (iii) unreimbursed bank fees, long distance phone charges, postage, or gasoline for local travel. Settlement Class Members may make claims for any documented unreimbursed out-of-pocket losses reasonably related to the Data Incident or to mitigating the effects of the Data Incident.

9. In addition to a claim for Documented Monetary Losses all Settlement Class Members shall have the ability to claim a Pro Rata Cash Payment in the estimated amount of one hundred dollars (\$100.00). The payments shall be calculated by dividing remaining funds in the Settlement Fund, after payment of Settlement Administration Fees, Attorneys' Fees Costs and Expenses, Credit Monitoring and Identity Restoration Services, and Documented Monetary Losses, by the number of eligible claims. In addition to electing other benefits, each Settlement

Class Member may claim three (3) years of one-bureau (“1B”) credit monitoring in addition to the Documented Monetary Losses and Pro Rata Cash Payment.

10. Defendant has also represented that it has adopted and implemented additional data security measures following the Data Security Incident to further strengthen the security of its systems. Defendant will provide a confidential declaration outlining the business practice changes related to information security undertaken since the Data Security Incident. SA ¶ 2.9.

11. These Settlement Class Member Benefits are consistent with, and in fact exceed, other approved settlements. The Settlement guarantees Settlement Class members real relief for harms and protections from potential future fall-out from the Incident.

12. The Parties negotiated Plaintiffs' Service Award and an award of Attorneys' Fees and costs separately from the Settlement Fund. SA ¶ 7.1.

13. The Settlement calls for a reasonable Service Award for the Class Representative of not more than \$2,500.00, to be paid separately from the Settlement Fund and approved on separate motion. SA ¶ 7.2. The Service Award is intended to compensate Plaintiffs for their efforts on the Settlement Class's behalf, including serving as named Plaintiffs, assisting in the Action's investigation, maintaining contact with Class Counsel, reviewing case documents, being prepared to assist with discovery, and answering Class Counsel's many questions.

14. After agreeing to the Settlement's material terms, Class Counsel negotiated attorneys' fees and costs separately from the total Settlement Class Member Benefits. Class Counsel devoted (and will continue to devote) significant time and financial resources to the litigation, and will therefore seek compensation for their efforts. Class Counsel intends to seek an attorneys' fees award not to exceed \$150,000.00 and reimbursement of litigation costs. SA ¶ 7.1. Plaintiff will file a motion and supporting materials supporting the requested Fee Award and Costs

14 days before the Objection/Exclusion Deadline. The Notices advise the Settlement Class of these intended requests and further information of how to object.

III. THE NOTICE PROGRAM

15. Subject to the Court's approval, the Parties have agreed to use Eisner Advisory Group ("EAG") as the Settlement Administrator in this case. EAG is a company experienced in administering class action settlements generally and specifically those of the type provided for and made in data breach litigation.

16. The timing of the claims process and deadlines is structured to ensure that all Settlement Class Members have ample opportunity to review the terms of the Settlement Agreement and the allegations of the Complaint and decide whether they would like to make a claim under the settlement, opt-out, or object.

17. The Notices are further set forth in clear and understandable language to ensure that all Settlement Class Members have the opportunity to fully understand the Settlement Agreement and make an informed decision.

18. Claim Forms (mail or online) are due to the Settlement Administrator by the Claims Deadline (60 days after Notice Commencement Date). The Claim Form is in plain language for easy completion.

19. Also, the Claim Form submission process and distribution of Settlement Class Member Benefits is fair, convenient, and effective.

IV. COUNSELS' QUALIFICATIONS

***Leigh S. Montgomery of* ELLZEY KHERKHER SANFORD MONTGOMERY, LLP**

20. Ms. Montgomery has over sixteen years of plaintiffs' litigation and trial experience, including substantial experience in the class action and appellate contexts. She is a founding

member of Ellzey Kherkher Sanford Montgomery, LLP and leads the litigation section of the firm. She has extensive class action litigation experience, including in class certification briefing, trial and appeal. *See, e.g., Mattson v. New Penn Financial, LLC*, Case No. 3:18-cv-00990 (D. Or.), on appeal at 2023 WL 2624783 (9th Cir. March 23, 2023) (vacating denial of class certification and remanding); *see also Williams v. The Pisa Group, Inc.*, Case No. 2:18-cv-04752 (E.D. Pa.) (certifying TCPA class).

21. Ms. Montgomery has been appointed a leadership role and/or class counsel in the following data breach cases: *Atlantic Orthopaedic Specialists*, Case No. 2:24-cv-00696, (E.D. VA); *LaTisha Smalls et al, v Bon Secours Mercy Health, Inc.*, Case No.1:24-cv-594, (S.D. OH); *Ted Christensen et al., v American Association of Colleges of Osteopathic Medicine d/b/a AACOM*, Case No. 8:25-cv-01239, (District of MD); *William Matiesak et al. v Mystic Valley Elder Services, Inc.* Case No. 2481CV02873, (Commonwealth of Massachusetts); *In Re Lighthouse Electric Company Data Breach Litigation*, Case No. 2:25-cv-00362, (W.D. PA); *Matthew Egner et al., v Goodwill Industries of Southwest Oklahoma and North Texas, Inc.*, Case No. CJ-2025-189; (District Court of Comanche County, State of Oklahoma); *In re Heritage South Credit Union Data Breach Litigation*, Case No. 61-CV-2025-900175.00, (Circuit Court for Talladega County, AL); *Trevor Burge, et al v. Mason Construction, LLC*, Cause No. 24-DC-CV-2053 (District Court of Jefferson County, Texas); *In re Mainline Health Systems Data Breach Litigation*, Case No. 22CV-25-123, (Circuit Court of Drew County, Arkansas); *Tina Ellis, et al v. Carter Credit Union d/b/a Carter Federal Credit Union*, Case No. 5:25-cv-01302 (W.D. LA).

22. Outside of the data breach context, Ms. Montgomery has an active nationwide wage and hour and class action practice. She has served as counsel in class actions matters from the filing of the complaint to final approval of the settlement, including briefing and arguing class

certification. *See, e.g., Heath et al. v. TFS Dining, LLC, et al.*, Case No. 1:20-cv-899 (W.D. Tex.) (obtaining summary judgment on employee status and a final judgment on all damages after a jury trial); *Manasco et al. v. Best in Town d/b/a The Furnace et al.*, Case No. 2-21-cv-00381 (N.D. AL) (Partial summary judgment on major liability issues); *Johnson et al. v. Houston, LP, LLC, et al.*, Case No. 4:20-cv-00663 (S.D. TX) (Summary Judgment on issue of employee misclassification and affirmative defenses, and fees awarded); *Garcia et al. v. Toezpecunia, Inc.*, Case No. 6:22-cv-00639 (D. Or.) (Summary judgment on all major liability issues, including willfulness determination).

23. Ms. Montgomery and EKSM are prepared to act in the best interest of the class and provide vigorous representation. More information about EKSM, including additional qualifications of Leigh S. Montgomery and its attorneys can be found in the attached **Exhibit 1**.

David Lietz of MILBERG, PLLC

24. David Lietz is currently a senior partner of the law firm of Milberg, PLLC (“Milberg”). He is a 1991 graduate of Georgetown University Law Center, and has been licensed to practice law in the District of Columbia since 1991. He is the member of the bars of numerous federal district and appellate courts, and has almost three and a half decades (34+ years) of litigation and class action experience.

25. Mr. Lietz represented and is currently representing plaintiffs in more than 100 class action lawsuits in state and federal courts throughout the United States. Both he and his law firm carry on a national and international class action law practice. With respect to data privacy cases, Mr. Lietz is currently litigating more than one-hundred cases across the country involving violations of privacy violations, data breaches, and ransomware attacks.

26. Over the past five years, Mr. Lietz was appointed class counsel on more than 80 data breach or data privacy cases that have been either preliminarily or finally approved by federal and state courts across the country. A list of court-approved data breach settlement where Mr. Lietz was class counsel is attached hereto as **Exhibit 2**, along with Milberg's firm resume, attached as **Exhibit 3**.

27. Mr. Lietz was also lead or co-lead counsel on multiple cases that are on the cutting edge of Article III federal court jurisdiction in data breach litigation. He briefed and argued *Webb v. Injured Workers Pharmacy, LLC*, 72 F.4th 365 (1st Cir. 2023), where the U.S. Court of Appeals for the First Circuit articulated important principles of Article III standing in data breach cases after the U.S. Supreme Court's decision in *Ramirez v. TransUnion*. Other noteworthy data breach decisions include *Purvis v. Aveanna Healthcare, LLC*, 563 F. Supp. 3d 1360 (N.D. Ga. 2021); *Charlie v. Rehoboth McKinley Christian Healthcare Services*, Civ. No. 21-652 SCY/KK, 2022 WL 1078553 (D.N.M. April 11, 2022); *Baldwin v. Nat'l W. Life Ins. Co.*, No. 2:21-CV-04066-WJE, 2021 WL 4206736, at *1 (W.D. Mo. Sept. 15, 2021) and *McCreary v. Filters Fast LLC*, No. 3:20-CV-595-FDW-DCK, 2021 WL 3044228 (W.D.N.C. July 19, 2021).

28. For his substantial efforts in advancing the state of the law in data breach and cybersecurity litigation, in April 2022 Mr. Lietz was named to Law360's 2022 Cybersecurity & Privacy Editorial Board. This 12-person editorial board includes some of the most accomplished attorneys in the country in the cybersecurity and data breach legal field, and it was a high honor for Mr. Lietz to be included on this board.

29. Mr. Lietz frequently gives public presentations about data privacy and data breach litigation, including most recently at the Angeion Group Mega Summit (May 15, 2025 in Santa Monica, California, where he served on a panel discussing digital disbursements), ACI's

Cybersecurity Law and Compliance Conference (January 30, 2025 in Arlington, Virginia), the Harris-Martin Publishing Conference in Nashville, Tennessee in September 2024, the 8th Annual Class Action Money & Ethics Conference (May 6, 2024 in New York City), the Harris-Martin Publishing Conference in San Francisco in July 2023, a Strafford Publishing CLE panel discussion on my *Webb v. Injured Workers Pharmacy* case in October 2023, and a presentation at the North Carolina Bar Association 2023 Privacy & Data Security Section Annual Program in October 2023.

30. Mr. Lietz been appointed as class counsel in other consumer class action cases and has tried consumer class action cases to verdict before a jury, most recently in *Baez v. LTD Financial Services*, Case No: 6:15-cv-1043-Orl-40TBS (MD Fla.).

31. Mr. Lietz's experience with other class actions includes a leadership role in a Massachusetts Walmart wage abuse class action, national HMO litigation, the Buspirone MDL, and Louisiana Norplant litigation.

32. In addition to his class action experience, Mr. Lietz substantial appellate experience, successfully briefing and arguing multiple cases before a number of federal appellate courts, including *Home Depot v. Jackson* at the U.S. Court of Appeals for the Fourth Circuit, and serving as part of the successful brief-writing and oral advocacy team for *Home Depot v. Jackson*, 139 S. Ct. 1743, 1744, 204 L. Ed. 2d 34 (2019) at the United States Supreme Court.

33. Prior to concentrating his practice on consumer class action litigation, Mr. Lietz litigated critical injury and wrongful death actions arising from commercial incidents, such as tractor trailer incidents, industrial explosions, a subway collision, and commercial airplane crashes. He negotiated several million+ dollar settlements, served as lead counsel in multiple civil actions, tried a number of cases to verdict in both jury and bench trials, and argued cases before federal district and appeals courts, and numerous state courts. Mr. Lietz has lifetime verdicts and

settlements in excess of \$100 million, and consistently achieved settlements in the highest quartile of tort and mass tort cases.

34. Mr. Lietz was first awarded the prestigious “AV” rating from Martindale-Hubbell in 1998, and has maintained that rating (and the concomitant listing in the Bar Register of Preeminent Lawyers) ever since.

V. COUNSEL’S RECOMMENDATION

35. The collective years of experience of proposed Class Counsel in representing individuals in complex class actions—including data breach and privacy class actions—informed Plaintiffs' settlement position, and the needs of Plaintiffs and the Settlement Class. While as proposed Class Counsel, we believe in the merits of the claims brought in this case, we are also aware that a successful outcome is uncertain and would be achieved only after prolonged, arduous litigation with the attendant risk of drawn-out appeals. We have fully investigated the facts and legal claims; conducted extensive and lengthy interviews of the two proposed Class Representative; reviewed publicly available information; analyzed the applicable laws of Pennsylvania and other jurisdictions regarding breaches of Class Members’ Personal Information; prepared the complaints; conducted informal discovery, and negotiated and reached a Settlement at arm’s length, in good faith, and without collusion. Based upon our collective substantial experience, it is our opinion that the settlement of this matter provides significant relief to the Settlement Class as it is well within the range of other data breach settlements in the relief that it provides and addresses the common types of repercussions sustained by consumers following a data breach. It is fair, reasonable, and adequate, and thus warrants³⁵ the Court’s preliminary approval.

36. The Settlement was agreed to following adversarial arm's-length negotiations, in good faith and without collusion, proposed Class Counsel had full knowledge of the facts, the law, and the inherent risks in the case, and with the active involvement of the Plaintiffs reached a Settlement. After the settlement was reached, the Parties worked diligently to: (i) finalize the settlement documentation, including the Settlement Agreement and accompanying exhibits, and Plaintiffs assented to Motion for Preliminary Approval with this declaration in support; and (ii) solicit bids and mutually agree on a Settlement Administrator.

37. The Settlement Agreement's terms are designed to address the potential harms caused by the data breach, including by reimbursement for losses, providing credit monitoring where appropriate, and assurances by Defendant that it has improved business practices to better secure its systems and environments, presently and in the future.

38. This result is particularly favorable given the risks of continued litigation. A settlement today not only avoids the risks of continued litigation, but it also provides benefits to members of the Settlement Class now as opposed to after years of risky litigation.

39. The Settlement Agreement's benefits unquestionably provide a favorable result to the members of the Settlement Class, placing the Settlement Agreement well within the range of possible final approval and satisfying the requirements for preliminary approval; therefore, the Court should grant preliminary approval.

40. Additionally, the Notice Program contemplated by the Settlement Agreement meets all due process requirements and provides the best practicable method to reach the Settlement Class Members and is consistent with other class action notice programs that have been approved by various courts for similarly situated matters. The Notices themselves are clear and straightforward. They define the Settlement Class; clearly describe the options available to

Settlement Class Members and the deadlines for taking action; describe the essential terms of the Settlement; disclose the requested service award for the Plaintiffs as well as the amount that proposed Class Counsel intends to seek in fees, costs and expenses; explain procedures for making claims, objections, or requesting exclusion; provide information that will enable Settlement Class Members to calculate their individual recovery; describe the date, time, and place of the Final Fairness Hearing; and prominently display the address and phone number of Proposed Settlement Class Counsel.

41. The Notice is designed to be the best practicable under the circumstances, apprises Settlement Class Members of the pendency of the action, and gives them an opportunity to object or exclude themselves from the Settlement, with adequate time to ensure that all Settlement Class Members have adequate time to review the terms of the Settlement Agreement, compile documents supporting their claim, and decide whether they would like to object or opt-out.

42. Based upon our work litigating complex class actions, proposed Class Counsel asks the Court to grant preliminary approval of the Settlement Agreement and enter the proposed Preliminary Approval Order attached to the Settlement Agreement and filed with this motion.

VI. CLASS REPRESENTATIVES

43. Proposed Class Representatives Amish Parikh and Niamh Jacobsen (“Representatives”) have demonstrated they are well-suited to represent the Settlement Class. They have a genuine personal interest in the outcome of the case; (ii) they selected well-qualified proposed Class Counsel; (iii) they produced information and documents to proposed Class Counsel to permit investigation and development of the complaints; (iv) they have been available as needed throughout the litigation; and (v) they have been monitoring their respective cases. The Representatives, like all Settlement Class Members, were victims of the Data Security Incident,

and thus have common interests with the Settlement Class. Moreover, they have ably represented the Settlement Class, maintained contact with proposed Class Counsel, assisted in the investigation of the case, reviewed case documents, were prepared to assist with discovery, and answered Class Counsel's many questions. They reviewed the material terms of the Settlement Agreement, remaining available for consultation throughout the settlement negotiations. The Representatives believe the Settlement is favorable to the Settlement Class.

44. The Settlement Agreement and its exhibits contain all agreements and understandings between the Parties, and there are no "side agreements" outside of the Settlement Agreement.

We declare that this has been signed under penalty of perjury of the United States of America that the foregoing is true and correct.

Executed on December 1, 2025

/s/ Leigh S. Montgomery _____
Leigh S. Montgomery
**ELLZEY KHERKHER SANFORD
MONTGOMERY, LLP**
4200 Montrose Blvd., Suite 200
Houston, Texas 77006

/s/ David K. Lietz _____
David K. Lietz
MILBERG, PLLC
5335 Wisconsin Ave, NW, Ste. 440
Washington, DC 20015

EXHIBIT 1



FIRM RESUME



About the Firm

We Win. Things Change.

EKSM is a high-technology-savvy trial firm, trusted nationwide for delivering exceptional client service and results. With deep experience across complex class actions, data-breach and privacy disputes, cryptocurrency scams, personal injury, and antitrust litigation, we leverage real courtroom experience to pursue justice—no matter where the fight takes us. Our team is built for trial, driven by skilled advocates who navigate evolving digital landscapes and litigate across state lines, ensuring clients receive zealous representation powered by expertise, innovation, and an unwavering commitment to results.

Locations

TEXAS

4200 Montrose St. Suite 200
Houston, TX 77006

ARKANSAS

10800 Financial Centre Pkwy,
Suite 510
Little Rock, AR 72211

(713)-244-6363

contact@eksm.com

Areas of Practice

- Antitrust
- Arbitration
- Business Dispute
- Class Action
- Data Breach & Privacy
- Insurance Recovery
- Labor, Employment, Benefits, & Pension
- Mass Casualty Event
- Mass Tort
- Personal Injury
- Product Liability
- Property Damage
- Qui Tam & False Claims Act
- Shareholder & Securities

Admitted Jurisdictions

Texas • Arkansas • New Mexico • Colorado • Wisconsin • Illinois • Michigan • Louisiana • Ohio
• North Dakota • Oklahoma • California • Massachusetts • Nebraska

Attorney Profiles

Jarrett Lee Ellzey

Partner



Jarrett L. Ellzey is deeply committed to championing the rights of the injured, combating corporate misconduct, and holding wrongdoers accountable. With offices located in Texas and New Mexico, he has stood by plaintiffs in personal injury cases, navigated nationwide consumer class actions, and tackled labor disputes in federal courts across key states like Texas, California, New Mexico, Pennsylvania, New York, Florida, and more.

Jarrett is Board Certified in Civil Trial Law by the Texas Board of Legal Specialization and a member of the esteemed American Board of Trial Advocates. He is admitted to practice in the state jurisdictions of Texas and New Mexico. Jarrett is also admitted to practice before the United States Supreme Court, The Fifth Circuit Court of Appeals, U.S. District Court for the Southern District of Texas, U.S. District Court for the Northern District of Texas, U.S. District Court for the Eastern District of Texas, U.S. District Court for the Western District of Texas, U.S. District Court for the District of Colorado, U.S. District Court for the District of New Mexico, U.S. District Court for the Eastern District of Wisconsin, U.S. District Court for the Central District of Illinois, and U.S. Bankruptcy Court for the District of New Mexico.

Jarrett boasts a remarkable record of trying a high volume of diverse cases, including securing an eight-figure verdict in only his second jury trial and notching over \$23 million in verdicts during a successful five-year period. His work in a high-stakes commercial real estate dispute earned him recognition in the Texas Verdict Hall of Fame and showcased his prowess in navigating complex legal terrain.

Jarrett has extensive class action litigation experience, including in class certification briefing, trial and appeal. *See e.g.* Case No. 3:18-cv-00990, *Mattson v. New Penn Financial, LLC* (D. Or.), on appeal at 2023 WL 2624783 (9th Cir. March 23, 2023) (vacating denial of class certification and remanding); *see also* Case No. 2:18-cv-04752, *Williams v. The Pisa Group, Inc.* (E.D. Pa.) (certifying TCPA class). Mr. Ellzey has been appointed class counsel in a number of class actions under consumer protection statutes. *See, e.g., Williams v. The Pisa Group, Inc.* Case No. 2:18-cv-04752 (E.D. Pa. Jan. 19, 2024); *Buchanan v. SiriusXM, Inc.*, Case No. 3:17-cv-000728-D (N.D. Tex. Jan. 28, 2020); *Justin Mark Boise v. ACE American Ins. Co.*; Case No. 1:15-cv-21264 (S.D. Fla. Oct. 18, 2017) (TCPA); *Matthew Scott Robinson v. Paramount Equity Mortgage, LLC*; Case

No. 2:14-cv-02359-TLN-CKD (E.D. Cal. July 13, 2017); *Teofilo Vasco, et al. v. Power Home Remodeling Group LLC*; Case No. 2:15-cv-04623 (E.D. Pa. Oct. 12, 2016); *John Colin Suttles, et al. v. Specialty Graphics, Inc.*; Case No. 1:14-cv-00505 (W.D. Tex. April 25, 2016); *Ludette Crisler, et al. v. Audi AG, Volkswagen AG, et al.*, Case No. 2:11-cv-01719 (C.D. Cal. Oct. 30, 2013); *Gretchen Patch, et al. v. Millennium Products, Inc.*, Case No. BC448347 (Superior Court of California, Los Angeles County, April 3, 2012).

Jarrett has also worked on data breach class actions as local counsel, including Cause No. 2021-61470; *Arthur Dekenipp, v. Gastroenterology Consultants, P.A.* (Harris County, Texas); Cause No. 5:23-cv-607; *Jose Gonzalez v. Our Lady of the Lake University* (W.D. Tex.); Cause No. 2023-CI11856; *Jose Gonzalez, v. Our Lady of the Lake University* (Bexar County, Texas); Cause No. 2023-CI07981; *Ana Vasquez v Our Lady of the Lake University* (Bexar County, Texas); Case No. 1:23-cv-5; *Thomas Graham, v Bay Bridge Administrators, LLC* (W.D. Tex.); Cause No. 1:23-cv-022-LY; *Kurt Phillips v Bay Bridge Administrators, LLC* (W.D. Tex.); Cause No. 22-DCV-298917; *Cody Janssen and Alline Henderson, v Oakbend Medical Center* (Bexar County, Texas). Cause No. 2021-84322; *Cliff Lee v. Texas Ear, Nose, & Throat Specialists, PLLC* (Harris County, Texas); Case No. 7:23-cv-00174-DC-RCG; *Brian Morrow, v. West Texas Gas, Inc.* (W.D. Tex.); Cause No. DC-22-04755; *Dawn Taylor v JDC Healthcare Management, LLC* (Dallas, County, Texas).

Tom Kherkher

Partner



Tom Kherkher is the Founding Attorney of The Kherkher Law Firm and an Associate Attorney of Kherkher Garcia. He is doing what he loves everyday – fighting against injustice.

Before becoming a lawyer, Tom attended college at the University of California Santa Barbara, where he obtained his degree in a quick two and a half years. He then studied law at South Texas College of Law and graduated cum laude, again graduating in only two and a half years.

After graduating from law school and passing the Texas bar, Tom immediately founded his own law firm in Houston, Texas. He opened his law firm to fight for people and bring them justice. Tom explains, “The legal system is a place where I can make a real difference. Where I can give the little guy a voice. Where I can hold mega-corporations accountable for valuing profits over people.” At EKSM, Tom and his staff work tirelessly and passionately to recover damages for individuals who have suffered from the negligence of others. Attorney Tom holds responsible parties accountable.

Hard work and persistence are attributes that helped Tom achieve success in and out of the legal profession. His successes are clear in the wins that he has had for his clients. Tom explains, “We

have an outstanding track record of success here. We are willing to take on the biggest and most complex cases. No matter how difficult the case, we will persist and work all avenues of attack throughout the entire legal process from start to finish. We strive for excellence in every aspect, and we do not hesitate to take cases to trial when needed.”

Tom Kherkher is licensed to practice law in U.S. Southern District of Texas and all courts of the State of Texas and Louisiana.

Josh Sanford

Partner



Josh Sanford practices almost exclusively in employment litigation, focusing on wage-and-hour law. This includes trial work in cases arising under the Fair Labor Standards Act, Title VII of the Civil Rights Act of 1964 and the Equal Pay Act. Josh was voted “Best Attorney” (tie) in a readers’ poll published by The Courier in Russellville, AR. Josh has served as the president of the Pope County Bar Association. In addition, Josh has been a member of the American, Arkansas and Pope County Bar Associations, the Arkansas Trial Lawyers Association, the National Employment Lawyers Association, the Russellville Kiwanis Club, and the Russellville Chamber of Commerce.

Josh has served as class counsel in several cases which the presiding Courts granted motions to proceed as a Rule 23 class: *Bonton v. Centerfold Entertainment Club, Inc.*, No. 6:14-CV-6074-RTD (W.D. Ark.); *Oliva v. C.L.A. Incorporated*, 4:12-CV-243 (E.D. Ark.); and *Sherri Dandison, et al. v. Hanks Furniture, Inc.*, 4:15-62-DPM.

Josh has experience litigating FLSA matters in the following cases: *Samuel Rorie v. Woodstone Craft Pizza*, Case No. 5:20-cv-05106-TLB (W.D. Ark); *Wesley Kelley v. Invacor Solutions*, Case No. 4:20-cv-02013 (S.D. Tex); *Lashanna Girtmon v. Vera Lloyd Presbyterian Family Services*, Case No. 4:20-cv-00762-DPM (E.D. Ark); *Carol Lehmkuhl v. Travel Nurse Across America*, Case No. 4:20-cv-00518-DPM (E.D. Ark); *Vicki Causey v. Bank OZK*, Case No. 4:20-cv-00687-DPM (E.D. Ark); *Cecilia Baker v. Summit Community Care*, Case No. 4:20-cv-00508-KGB (E.D. Ark); *Edward Ward v. Liberty Oilfield Services*, Case No. 5:20-cv-00531-OLG (W.D. Tex); *Daniel Soto v. Marquez Construction and Maintenance*, Case No. 7:20-cv-00101-DC-RCG (W.D. Tex); *William Fingerhut v. Pradco Outdoor Brands*, Case No. 2:20-cv-02062-PKH (W.D. Ark); *Kneuss (Laurie) v. Aces LLC*, Case No. 2:20-cv-00773-MHH (N.D. Ala); *Harris (Nelson) v. Ratner Steel*, Case No. 3:20-cv-00112-KGB (E.D. Ark); *Thomas Clark v. Southwest Energy*, Case No. 4:20-cv-00475-KGB (E.D. Ark); *Calvin Collins v. Pel-State Services*, Case No. 7:20-cv-00083-DC-RCG (W.D. Tex); *Amy Williams v. Coryell County Memorial Health Authority*, Case No. 6:20-cv-00223-ADA (W.D. Tex); *Andres Leal v. Cobb, Fendley & Associates, Inc.*, Case No. 5:20-cv-00372-OLG (W.D. Tex); *Kametric Burley v. Central Arkansas Area Agency on Aging*, Case No.

4:20-cv-00226-DPM (E.D. Ark); *Holmes (Roy) v. Stetson Courier*, Case No. 4:20-cv-00191-DPM (E.D. Ark); *Brigid Lewis v. Shine Solar LLC*, Case No. 5:20-cv-05038-ELW (W.D. Ark); *Chad McCann v. CCI Contractors*, Case No. 4:20-cv-00184z (E.D. Ark); *Kevin Simmons v. Arkansas Blue Cross and Blue Shield*, Case No. 4:20-cv-00137-KGB (E.D. Ark); *Queen Watson v. Patient Matters LLC*, Case No. 3:20-cv-00050-JM (E.D. Ark); *Nikki Vanhorn v. Community Builders Inc.*, Case No. 4:20-cv-00118-DPM (E.D. Ark); *Rebekah Fleming v. Tanner's Neighborhood Bar and Grille*, Case No. 6:20-cv-06010-RTD (W.D. Ark); *Tyler Wolfe v. Affordable Rooter Service*, Case No. 4:20-cv-00156-LPR (E.D. Ark); *Johnathan Yasevich v. The Heritage Company*, Case No. 3:20-cv-00019-KGB (E.D. Ark); *Toquata Tappin v. Servicemaster Twin Cities*, Case No. 4:19-cv-00912-JM (E.D. Ark); *Crystal Daniels v. Quapaw Bath and Spa*, Case No. 6:19-cv-06149-RTD (W.D. Ark); *William Hallman v. Peco Foods*, Case No. 3:19-cv-00368-DPM (E.D. Ark); *Stephanie Withrow v. Vantage Point Behavioral Health*, Case No. 5:19-cv-05220-TLB (W.D. Ark); *Demarius Roberts v. Rreaf Residential*, Case No. 4:19-cv-00812-KGB (E.D. Ark); *Kimberly Dunlap v. Flash Market*, Case No. 4:20-cv-00005-BSM (E.D. Ark); *Leroy Botello v. Mission Cycle Sports*, Case No. 5:19-cv-01348-OLG (W.D. Tex); *Jamie Thomas v. Viskase*, Case No. 3:19-cv-00330-DPM (E.D. Ark); *Bianica Godwin v. KMAC*, Case No. 1:19-cv-01055-SOH (W.D. Ark); *Holly Treadway & Christian Manna v. Cash Savers*, Case No. 3:19-cv-00321-DPM (E.D. Ark); *Will Heslip v. Nixon Engineering*, Case No. 5:19-cv-01327-XR (W.D. Tex); *Stephanie Dollar v. Kirin Garden*, Case No. 4:19-cv-00730-LPR (E.D. Ark); *Brandon Dean v. Bradford Estates, LLC*, Case No. 4:19-cv-00748-BSM (E.D. Ark); *Trace Pate v. Jones Land Leveling*, Case No. 3:19-cv-00280-DPM (E.D. Ark); *Michael Mitchell v. Brown's Moving and Storage*, Case No. 4:19-cv-00783-LPR (E.D. Ark); *Anthony Woods v. Cenikor Foundation*, Case No. 22-20434 (S.D. Tex); *Cheryl Bolden v. Sharon Callahan-Hair Tech Studios*, Case No. 4:19-cv-00802-KGB (E.D. Ark); *Sonobia Parker v. Tenaris Hickman*, Case No. 3:20-cv-00005-DPM (E.D. Ark); *Daniel Ybarra v. Mulder Fire Protection, Inc.*, Case No. 5:19-cv-01302-JKP-RBF (W.D. Tex); *Edward Dennis v. Diamond Pet Foods*, Case No. 5:19-cv-00296-LPR, (E.D. Ark); *Marcus Munoz v. Ironclad Energy, LLC*, Case No. 5:19-cv-01251-DAE (W.D. Tex); *David Salmon v. XTO Energy*, Case No. 4:19-cv-00768-BSM (E.D. Ark); *Felisha Peel v. Independent Choices*, Case No. 4:19-cv-00795-BSM (E.D. Ark); *Teresa Wisneski v. Belmont Management*, Case No. 2:19-cv-02523-JAR-ADM (D. Kan); *Justin Craven v. Neeley's Towing and Recovery*, Case No. 4:19-cv-04115-SOH (W.D. Ark); *Kimillia Carswell v. Travel Inn of Hazen*, Case No. 4:19-cv-00612-LPR (E.D. Ark); *James Ewing v. Pizza Czar, Inc.*, Case No. 3:19-cv-00232-LPR (E.D. Ark); *Bonnie Norman v. Independent Case Management*, Case No. 4:20-cv-00492-DPM (E.D. Ark); *Charles Meyers v. Hughes Group*, Case No. 4:19-cv-00806-KGB (E.D. Ark); *Randal Huff v. Preferred Family Healthcare, Incorporated*, Case No. 3:19-cv-00193-BSM (E.D. Ark); *Nathan Andrews v. Producers Service Corp*, Case No. 2:19-cv-02514-EAS-KAJ (S.D. Oh); *John Newsome v. QES Pressure Control, LLC*, Case No. 7:19-cv-00150-DC-RCG (W.D. Tex); *Albert Rodriguez v. Superior Real Estate Solutions, LLC*, Case No. 4:19-cv-00405-DPM (E.D. Ark); *Brent Wall v. Signal Hill Virtual Inspection Solutions*, Case No. 4:19-cv-00465-BSM (E.D. Ark); *Joshua Doss v. Custom Auto Service*, Case No. 4:19-cv-00296-KGB (E.D. Ark); *Jennifer Boone v. Marc Campbell Enterprises, Inc*, Case No. 4:19-cv-00271-LPR (E.D. Ark); *Robert Smart v. City of Hughes*, Case No. 2:19-cv-00047-KGB (E.D. Ark); *Tammy Carden v. The Logan Center*, Case No. 3:19-cv-00167-DPM (E.D. Ark); *David Brown v. Trinity Multifamily*, Case No. 4:19-cv-00617-LPR (E.D. Ark); *Jonathan Esparsen v. Ridley's Family Market*, Case No. 1:18-cv-01556-

RM-GPG (D. Col); *Louis Sheffield v. Stewart Builders*, Case No. 4:19-cv-01030 (S.D. Tex); *Terry Cothorn vs. Reynolds Manufacturing*, Case No. 1:19-cv-03064 (N.D. Ill); *Sean Harrison vs. Dynasty Taxi Service*, Case No. 5:19-cv-05025-TLB (W.D. Ark); *Jonathan Jones v. Jhook Investments, Inc.*, Case No. 4:19-cv-00105-BSM (E.D. Ark); *Evanjelina Rodriguez vs. George's Poultry*, Case No. 5:19-cv-05035-ELW (W.D. Ark); *Donald Adkinson v. Tiger Eye Pizza, LLC and Ken Schroepfer*, Case No. 4:19-cv-04007-SOH (W.D. Ark); *Vincent Ross vs. Magnolia Flooring Mill*, Case No. 1:18-cv-01075-SOH (W.D. Ark); *Kasey Fox vs. TTEC*, Case No. 4:19-cv-00037-KGB (E.D. Ark); *Tiara Turner vs. Concentrix Corporation*, Case No. 1:18-cv-01072-SOH (W.D. Ark); *Norris Allen (NC) v. Express Courier*, Case No. 4:20-cv-00198 (S.D. Tex); *George Brandon, (SC) v. Express Courier*, Case No. 4:20-cv-00455 (S.D. Tex); *Carol Arroyo (TX) v. Express Courier*, Case No. 4:18-cv-00010 (S.D. Tex); *Paige Acklin (TN) v. Express Courier*, Case No. 4:20-cv-00162 (S.D. Tex); *Kevin Marshall (FL) v. Express Courier*, Case No. 4:20-cv-00796 (S.D. Tex); *Amanda Ryte (GA) v. Express Courier*, Case No. 4:20-cv-00238 (S.D. Tex); *David Bell (KY) v. Express Courier*, Case No. 4:20-cv-00184 (S.D. Tex); *Hansel Carter v. Express Courier (LA)*, Case No. 4:19-cv-01124 (S.D. Tex); *Frank Barber (MO) v. Express Courier*, Case No. 4:20-cv-00271 (S.D. Tex); *Anthony Campbell (MS) v. Express Courier*, Case No. 4:20-cv-00713 (S.D. Tex); *Willie Nicks (OK) v. Express Courier*, Case No. 4:20-cv-00250 (S.D. Tex); *Jessie Bascomb (AL) v. Express Courier*, Case No. 4:20-cv-00420 (S.D. Tex); *Martin Barnette (AR) v. Express Courier*, Case No. 4:20-cv-00210 (S.D. Tex); *Juan Segovia v. Fuelco Energy, LLC*, Case No. 5:17-cv-01246-JKP (W.D. Tex); *Jesus Casarez v. Producers Service Corp*, Case No. 23-3247 (S.D. Ohi); *Vanessa York v. Velox Express*, Case No. 3:19-cv-00092-RGJ-CHL (W.D. Ken); *Craig Coates v. Dassault Falcon Jet*, Case No. 4:17-cv-00372-BSM (E.D. Ark); *Christopher Huey v. Trinity Multifamily*, Case No. 4:20-cv-00685-LPR (E.D. Ark); *Amy Robbins vs. Arkansas Aggregate*, Case No. 4:19-cv-00093-JJV (E.D. Ark); *Ian Dolphin vs. Two Men and a Truck*, Case No. 4:18-cv-00810-PSH (E.D. Ark); *Cynthia Galigher v. NEO Cabinets Inc*, Case No. 2:20-cv-02140-PKH (W.D. Ark); *Dana Dahl v. Bay Power*, Case No. 4:20-cv-07062-HSG (N.D. Tex); *Ethan Autrey v. Harrigan Lumber Co., Inc.*, Case No. 1:20-cv-00572-WS-MU (S.D. Ala); *Nukol Bailey v. Care Above All Care*, Case No. 4:20-cv-01058-KGB (E.D. Ark); *Sheila McCoy v. Elkhart Products Corporation*, Case No. 5:20-cv-05176-PKH (W.D. Ark); *John King v. Rockline Industries*, Case No. 2:20-cv-02188-PKH (W.D. Ark); *Teresa Tenorio v. Coast to Coast Carports*, Case No. 2:20-cv-02193-PKH (W.D. Ark); *Rene Castillo v. ISEC, Inc.*, Case No. 5:20-cv-01269-FB (W.D. Tex); *Dietrick Greenlaw v. B&M Management*, Case No. 4:20-cv-01286-DPM (E.D. Ark); *Anthony Hogan v. Hot Springs Nursing and Rehabilitation*, Case No. 6:20-cv-06130-RTD (W.D. Ark); *Brandon Ware v. Shake Shack*, Case No. 1:20-cv-07071 (N.D. Ill) *Mattie Powell v. French Quarter*, Case No. 6:20-cv-06145-SOH (W.D. Ark); *Dusty Morton v. Acorn Forestry*, Case No. 9:20-cv-00245-MJT (E.D. Tex); *Patrick Latronico v. VK Knowlton Construction*, Case No. 5:20-cv-01474-XR (W.D. Tex); *Charlotte Mahoney v. CHI Health*, Case No. 8:21-cv-00023-JFB-MDN (D. Nev); *William Quinn v. Spirit Manufacturing Inc*, Case No. 3:21-cv-00031-BSM (E.D. Ark); *Samantha Butler v. Superior Towing, Inc.*, Case No. 1:21-cv-00659 (N.D. Ill); *Michael Troxel v. Gunite Pros LLC*, Case No. 1:21-cv-00057-WS-N (S.D. Ala); *Jana Szarka v. Culver's*, Case No. 1:21-cv-0084 (N.D. Ill); *Christopher Looney v. Weco, Inc.*, Case No. 4:21-cv-00165-KGB (E.D. Ark); *Charles Wilks v. Faulkner County Sheriff's Department*, Case No. 4:21-cv-00163-KG (E.D. Ark); *Carlos Tremols v. Juan Barcenas Insurance and Financial*, Case No. 5:21-cv-05057-PKH (W.D. Ark); *Shawn Smith v. Premier Utilities and*

Drilling, Case No. 4:21-cv-00232-DP (E.D. Ark); *Misty Farmer v. Boone County Independent Living, Inc.*, Case No. 3:21-cv-03027-TLB (W.D. Ark); *Christopher Church v. Cerro Wire LLC.*, Case No. 5:21-cv-00988-HNJ (N.D. Ala); *Patricia Stewart v. Ashley Furniture and/or Red Mountain Retail Inc.*, Case No. 2:21-cv-00989-AKK (N.D. Ala); *Caralyn Friedly v. Union Bank & Trust Co.*, Case No. 4:21-cv-03105-JMG-CRZ (D. Neb); *Sharonna Parker v. Coast to Coast Carports*, Case No. 2:21-cv-02110-PKH (W.D. Ark); *Daniel Loeb sack v. Dufresne Spencer Group, LLC.*, Case No. 4:21-cv-01884 (S.D. Tex); *Danny Calloway v. Boyne Resorts*, Case No. 1:21-cv-00521-JMB-SJB (W.D. Mic); *Stacy Wihebrink v. Life Strategies Counseling*, Case No. 4:21-cv-00573-DPM (E.D. Ark); *Donna Allshouse v. The Joshua Agency*, Case No. 1:21-cv-01032-SOH (W.D. Ark); *Alisa Park v. B & M Management*, Case No. 2:21-cv-00509-MHT-KFP (M.D. Ala); *David Hortsman v. Ozinga Bros, Inc.*, Case No. 1:21-cv-04264 (N.D. Ill); *Edith Stanfield v. Lasalle Corrections*, Case No. 2:21-cv-01535-DJH (D. Ari); *Evan Tellor v. KMac Enterprises*, Case No. 1:21-cv-00110-ACL (E.D. Mis); *Michelle Hanus v. Harting, Inc.*, Case No. 1:21-cv-05289 (N.D. Ill); *Harvie Johnson v. Driven Brands Shared Services*, Case No. 2:21-cv-02144-PKH (W.D. Ark); *Hope Ivey v. Royal BP Corp*, Case No. 5:21-cv-00367-TES (M.D. Geo); *Michael Hames v. Stetson Courier*, Case No. 3:21-cv-00218-KGB (E.D. Ark); *John Norvell v. Dedman's Sanitation*, Case No. 3:21-cv-00233-KGB (E.D. Ark); *Jack Daniel v. Pacific NW, LLC*, Case No. 2:21-cv-02187-MTL (D. Ari); *Landon Taunton v. Korens USA*, Case No. 3:21-cv-00844-ECM-SMD (M.D. Ala); *Cayla Jackson v. Prairie County Sheriff's Office*, Case No. 4:22-cv-00093-JM (E.D. Ark); *Kayla Pike v. GRKSTL Transportation Inc.*, Case No. 4:22-cv-04018-SOH (W.D. Ark); *Tierra Land v. Centerfold*, Case No. 6:21-cv-06153-SOH (W.D. Ark); *Kim Massey v. Jenkins Industries*, Case No. 4:22-cv-00148-KGB (E.D. Ark); *Chris Mills v. Rocky Mountain Concrete Specialists*, Case No. 1:22-cv-00396 (D. Col); *Oscar Moreno Briz v. Protrans International, Inc.*, Case No. 7:22-cv-00144 (S.D. Tex); *Andrea Guynes v. Lakeside Community Committee*, Case No. 1:22-cv-00784 (N.D. Ill); *Alexa Andrade Acuna v. Visionquest*, Case No. 4:22-cv-00166-EJM (D. Ari); *Hamonn Pratt v. SC Realty Services*, Case No. 4:22-cv-00286-KGB (E.D. Ark); *Taylor Philo v. Degler Enterprise*, Case No. 5:22-cv-00240-BO-RJ (E.D. N.C.); *John Knight v. Sierra Tucson LLC*, Case No. 2:22-cv-00737-CDB (D. Ari); *Mark Carman v. Portsmouth Redevelopment and Housing Authority*, Case No. 2:22-cv-00313-AWA-RJK (E.D. Vir); *Theresa Smith v. Felder Services LLC*, Case No. 1:22-cv-00120-JB-B (S.D. Ala); *Rockell Bogan v. Ashley Health and Rehab*, Case No. 5:22-cv-05096-TLB (W.D. Ark); *Tynika Munn v. Sweetie Boy Transportation, LLC*, Case No. 3:22-cv-00512-REP (E.D. Vir); *Josephine Havey v. The Countertop Factory Southwest*, Case No. 4:22-cv-00242-SHR (D. Ari); *Taiwan Wallace v. Evergreen Packaging*, Case No. 4:22-cv-00337-KGB (E.D. Ark); *Allan Carson v. Peco Foods*, Case No. 3:22-cv-00113-KGB (E.D. Ark); *Ileana Medina v. Wild Thing LLC*, Case No. 1:22-cv-03546 (N.D. Ill); *Tony Manzo v. Engrained Cabinetry and Countertops*, Case No. 3:22-cv-08081-JJT (D. Ari); *Ine Nweke v. Aster Health Group Inc.*, Case No. 1:22-cv-02410 (N.D. Ill); *Dustin Hyde v. 316 Towing & Road Service Inc.*, Case No. 2:22-cv-00103-RWS (N.D. Geo); *Matthew Williams v. Nomad, LLC*, Case No. 1:22-cv-03544 (N.D. Ill); *Sarah Donica v. True Star Capital LLC*, Case No. 7:22-cv-00173-DC-RCG (W.D. Tex); *Seth Terry v. B&H Enterprises*, Case No. 6:22-cv-1668-AA (D. Ore); *William Fuelberth v. Godfather's Pizza*, Case No. 8:22-cv-00195-SMB(D. Neb); *John Monroe v. Clowers Enterprises Inc.*, Case No. 6:22-cv-06094-SOH (W.D. Ark);

Edwin Tarley Jr v. Environmental Specialist International Inc., Case No. 4:22-cv-00116-M-RJ (E.D.N.C.); *Nicholas Washington v. Pipeline Jetstream*, Case No. 5:22-cv-05165-TLB (W.D. Ark); *Joseph Weinman v. Spectrum Paint Company, Inc.*, Case No. 4:22-cv-00857-DPM (E.D. Ark); *DeShanta Brewster v. Mission Point Healthcare Services*, Case No. 2:22-cv-12220-MFL-KGA (E.D. Mic); *Marquez Miller v. Razors Edge Pizza, Incorporated*, Case No. 4:22-cv-00722-DPM (E.D. Ark); *Elander Woodall v. Evergreen Packaging*, Case No. 1:23-cv-00459 (N.D. Ill); *Iman Anderson v. Imani Lounge, LLC*, Case No. 1:22-cv-00652-KFP (M.D. Ala).

Leigh S. Montgomery

Partner



Leigh S. Montgomery has over sixteen years of plaintiff's litigation and trial experience, including substantial experience in the class action and appellate contexts. She is a founding member of EKSM, LLP and co-leads the litigation section of the firm. She is a founding member of EKSM and co-lead of the litigation team, along with Mr. Ellzey.

Leigh has extensive class action litigation experience, including in class certification briefing, trial and appeal. *See e.g.* Case No. 3:18-cv-00990, *Mattson v. New Penn Financial, LLC* (D. Or.), on appeal at 2023 WL 2624783 (9th Cir. March 23, 2023) (vacating denial of class certification and remanding); *see also* Case No. 2:18-cv-04752, *Williams v. The Pisa Group, Inc.* (E.D. Pa.) (certifying TCPA class).

Recently, as counsel for the State of Texas in a case brought under the Texas Medicaid Fraud Prevention Act, Ms. Montgomery participated and assisted in recovering \$40 million for the State of Texas after eleven years of litigation. Ms. Montgomery was a key litigator in the matter, handling major discovery hearings and dispositive motion briefing crucial to concluding the settlement.

Ms. Montgomery has experience litigating data breach matters in the following cases: *Elwon Mathavongsy v. TRC Staffing Services, Inc. dba TRC Talent Solutions*, Case No. 1:24-cv-02483 (N.D. Ga.); *Tyler Blankenship v. Leonard's Express, Inc.*, Case No. 1:24-cv-00618 (W.D. N.Y.); *Clayton v. PruittHealth, Inc.*, Case No. 1:24-cv-02960 (N.D. Ga.); *Melissa MicSak v. Call 4 Health, Inc.*, Case No. 9:24-cv-80870 (S.D. Fla.); *Sean Barberly v. M&M Transport*, Case No. 1:24-cv-12042 (D. Mass.); *Antonio Valle, et al. v. First Commonwealth Federal Credit Union*, Case No. 2024-C-2893 (Lehigh County, PA); *James Bertsch, et al. v. Pocahontas Medical Clinic, PA*, Case No. 61CV-24-103 (Randolph County, AR); *Lataniya Frazier v. Baptist Health Medical Center*, Case No. 60CV-24-8301 (Pulaski County, AR); *Robert Dapello v. Riverside Resort & Casino*, Case No. 2:24-cv-01732 (D. Nev.); *Haskins v. Stillwater Mining Company*, Case No. DV-48-2024-0000061 (Stillwater County, MT); *Harris v. ERLC, LLC dba Elitecare Emergency Hospital*, Case No. 24-cv-1622 (Galveston County, TX); *William Moore v. Johnson & Wales*



University, Case No. 1:24-cv-00409 (D. R.I.); *William Adams et al. v. Family Health Center*, Consolidated Case No. 2024-0404-NO (Kalamazoo County, Michigan); *Chris Anderson as next friend of Joyner Anderson Baker v. Brockton Area Multi Services, Inc.*, Case No. 1:24-cv-11607 (D. Mass.); *Jacob Baggett v. State University of New York At Niagara et al.*, Case No. 1:24-cv-00645 (W.D. New York); *Michael Bodem v. Justice Resource Institute, Inc.*, Consolidated Case No. 1:24-cv-11856 (D. Mass.); *Guchait et al. v. Momin & Momin, PLLC*, Case No. 24-DCV-322363 (Ft. Bend County, TX); *Fares et al. v. C.K.S. Packaging, Inc.*, Case No. 1:24-cv-04586 (N.D. GA); *Michael Harrison et al. v. PECO Foods, Inc.*, Consolidated Case No. 7:24-cv-01034 (N.D. AL); *Chris Kidder v. American Addiction Centers, Inc.*, Case No. 3-25-cv-00032 (Middle D TN); *Eduardo Guillen v. Akumin Operating Corp., f/k/a Akumin Corp.*, Case No. 0:25-cv-60088 (S.D. Fla.); *Danella Claytor v. TECTA America Corp.*, Case No. 1:25-cv-00525 (N.D. IL); *Alberta Ruiz v. Stiizy, Inc.*, Case No. 25STCV01549 (Superior Court CA).

Ms. Montgomery has been appointed a leadership role in the following data security cases: *Atlantic Orthopaedic Specialists*, Case No. 2:24-cv-00696, (E.D. VA); *LaTisha Smalls et al, v Bon Securs Mercy Health, Inc.*, Case No.1:24-cv-594, (S.D. OH); *Ted Christensen et al., v American Association of Colleges of Osteopathic Medicine d/b/a AACOM*, Case No. 8:25-cv-01239, (District of MD); *William Matiesak et al. v Mystic Valley Elder Services, Inc.* Case No. 2481CV02873, (Commonwealth of Massachusetts); *In Re Lighthouse Electric Company Data Breach Litigation*, Case No. 2:25-cv-00362, (W.D. PA); *Matthew Egner et al., v Goodwill Industries of Southwest Oklahoma and North Texas, Inc.*, Case No. CJ-2025-189; (District Court of Comanche County, State of Oklahoma); *In re Heritage South Credit Union Data Breach Litigation*, Case No. 61-CV-2025-900175.00, (Circuit Court for Talladega County, AL); *Trevor Burge, et al v. Mason Construction, LLC*, Cause No. 24-DC-CV-2053 (District Court of Jefferson County, State of Texas).

Outside of the data breach context, Ms. Montgomery has an active nationwide wage and hour and class action practice. She has served as counsel in class actions matters from the filing of the complaint to final approval of the settlement, including briefing and arguing class certification. *See, e.g., Heath et al. v. TFS Dining, LLC, et al*; Case No. 1:20-cv-899 (W.D. Tex.) (obtaining summary judgment on employee status and a final judgment on all damages after a jury trial); *Manasco et al. v Best in Town. d/b/a The Furnace et al*; Case No.: 2-21-cv-00381 (N.D. AL) (Partial summary judgment on major liability issues); *Johnson et al. v. Houston, LP, LLC, et al.*; Case No.: 4:20-cv-00663 (S.D. TX)(Summary Judgment on issue of employee misclassification and affirmative defenses, and fees awarded); *Garcia et al. v Toezpecunia, Inc*; Case No. 6:22-cv-00639, (D. Or.)(Summary judgment on all major liability issues, including willfulness determination).

Benjamin Eisner

Associate Attorney



Benjamin Eisner practices Class Action litigation, primarily regarding Data Breaches, especially violations of HIPAA, HITECH, and failure to comply with FTC Guidelines. Prior to joining EKSM Benjamin worked as an Assistant Briefing Attorney for Criminal Defense Appeals, where he gained a deep understanding of analyzing statutes for violations that have major repercussions for individuals. As one of EKSM’s drafting attorneys Benjamin will apply his ability to analyze statutory violations by business entities in being able to bring justice and compensation to our clients.

After graduating from the University of Alabama in 2015 Benjamin made his way back to Houston and graduated from South Texas College of Law – Houston in 2024. Joining EKSM in 2025 after finishing a Legal Fellowship for The Randall O. Sorrels Legal Clinics. During his time at South Texas, he became a Certified Mediator in Texas, and excelled in IRS negotiations and settlements as part of the Low-Income Tax Clinic.

Through his various experiences and background Benjamin brings a well-rounded and robust knowledge of various aspects of the law to EKSM.

Vanessa Kinney

Associate Attorney



Vanessa Kinney has focused her practice primarily in employment law. Mrs. Kinney’s wage and hour experience dates back to 2010, and she has experience in wage and hour cases from the inception of cases to trial, and all the way through the appeals process.

During her undergraduate years at the University of Arkansas, Mrs. Kinney excelled in her studies and was Brandon Burlsworth Memorial Scholarship recipient and magna *cum laude* graduate of the University of Arkansas’ J. William Fulbright College of Arts and Sciences. While attending law school, Mrs. Kinney was the recipient of two further scholarships: the Shackleford Scholarship and the Harper and Mary Boyer Harb Scholarship.

Mrs. Kinney went on to graduate 8th in her class in 2007 from the University of Arkansas at Little Rock William H. Bowen School of Law. There, Mrs. Kinney was a member of

the *University of Arkansas at Little Rock Law Review*, and in the winter of 2006, the review published her article, “The Path Leads to Nowhere: The Supreme Court Re-examines the Trek Through the Political Thicket: *Vieth v. Jubelirer*, 541 U.S. 267 (2004), 28 UALR Law Rev. 251.”

Rebecca Matlock

Associate Attorney



Rebecca Matlock practices employment law litigation, primarily regarding the application of the Fair Labor Standards Act but also in the application of various state wage statutes including the Arkansas Minimum Wage Act and the Illinois Minimum Wage Law. Rebecca has experience in all types of labor law cases, including misclassification, minimum wage and overtime violations, tip credit violations, and “off-the-clock” violations. As one of EKSM’s drafting attorneys, Rebecca has developed knowledge in many of the technical applications and integrations of the FLSA and various labor laws.

Rebecca graduated from the UALR William H. Bowen School of Law in 2015 and joined the Sanford Law Firm the same year. At Bowen, she served as Executive Editor of the *UALR Law Review*, which published her article, “CONSTITUTIONAL LAW—Fifth Amendment and Takings—Courts and the Judicial Process Will Impede Orderly City Development by Limiting Local Governments’ Use of Exactions in Development Planning. *Koontz v. St. Johns River Water Management District*, 133 S. Ct. 2586 (2013),” in Spring 2015.

As an undergraduate at Baylor University, Rebecca majored in News Editorial Journalism with minors in English and Religion. She wrote for the University newspaper, *The Lariat*, and worked as a teaching assistant in the English Department.

Sean Short

Associate Attorney



Sean Short is a Little Rock native who practices primarily in employment law. He studied finance and accounting at Boston University. Before attending law school, Mr. Short has worked in New York City for a financial services firm. As a law student, he completed a clerkship in Washington, D.C. with the Department of Justice’s Federal Tort Claims Act Section. Prior to joining EKSM, Sean worked in Bangkok, Thailand for a leading international law firm and a multi-national software development company.

Anna Stiritz
Associate Attorney



Anna Stiritz is a talented veteran of evaluating employment law claims. Mrs. Stiritz has worked exclusively with our intakes department evaluating plaintiffs’ data breach violations and employment claims. Prior to becoming a lawyer, Mrs. Stiritz graduated cum laude from Wheaton College with a B.A. in English. Later, Mrs. Stiritz went on to graduate from University of Arkansas at Little Rock Bowen School of Law.

John Kristensen
Of Counsel



John Kristensen is Of Counsel at EKSM. He is an attorney licensed to practice before all Courts in the States of California and Massachusetts, and the founding partner at Kristensen Law Group.

Mr. Kristensen has offices in California and Massachusetts. He is an attorney licensed to practice in the States of California and Massachusetts. Mr. Kristensen is admitted to practice before the United States District Court for the Northern, Eastern, Southern, Central Districts of California, the United States District Court for the District of Colorado, the United States District Courts for the Eastern and Western District of Wisconsin, the District of Massachusetts, and the United States District Court for the District of Columbia, as well as the Seventh and Ninth Circuit Courts of Appeal.



Mr. Kristensen has tried multiple employment litigation cases, including against exotic dance clubs, and wrongful death trials wherein I have obtained numerous million-dollar settlements. He, along with EKSM attorneys, have also handled many matters in arbitration through final hearing.

Mr. Kristensen has litigated cases against NBC, Enterprise Rent-A-Car, Spearmint Rhino, Ford Motor Company, Toyota Motor Company, General Motors, Taco Bell, Sony and numerous other large corporations. His practice has included in multiple appellate cases where he has argued successfully before the California Courts of Appeal.

In 2017, Mr. Kristensen obtained what was then a record Title IX settlement against UC Regents. Mr. Kristensen was appointed Class Counsel in the matter of *Mankin v. Mountain West Research Center, L.C.*, Case Number 2:13-cv-06447-DSF-AGR in the Central District of California. The class settlement in that matter was approved by Hon. Dale S. Fischer.

On August 7, 2019, Mr. Kristensen was appointed Class Counsel in the matter of *George v. Shamrock Saloon II, LLC*, Case Number 17-cv-6663 (RA) (HBP) in the Southern District of New York by Magistrate Judge Pitman. Class certification was contested and an objection on the class certification, not his qualifications, was made to Hon. Ronnie Abrams, who adopted Magistrate Judge Pitman's report and recommendations in its entirety.

On October 23, 2019, in a contested motion for class certification in the Central District of California, Hon. George H. Wu appointed Mr. Kristensen as Class Counsel in the matter of *Lisa Friedman v. Jillian Michaels, et al.*, Case No. 19- CV-9414-GW(SSx) in the Central District of California.

Mr. Kristensen was appointed Class Counsel in the matter *Guzman v. Polaris Industries., et al.*, Case No. 8:19-cv-01543-FLA-KES in the Central District of California. He is the lead trial counsel in that case, which is set for trial on May 5, 2025. The case is based on Polaris' failing to test the roll cages on their off-road vehicles in compliance with the stated OSHA standard. The *Guzman* case was certified after a successfully overturning summary judgment in the Ninth Circuit, and obtaining a decision that any dismissal of UCL claims under *Sonner* are without prejudice, permitting Plaintiffs to re-file in State Court.

In the past four years alone, Mr. Kristensen obtained plaintiffs' verdict in the past four years of \$8.9 million, \$5.5 million in a business dispute where the only cause of action was intentional interference with contractual relations, and two employments cases tried in the Western District of Texas and Los Angeles Superior Court. Twice the jury found malice and the cases went to punitive damages.

EXHIBIT 2



**DAVID LIETZ LIST OF APPOINTMENTS 2020-2025
PRELIMINARILY OR FINALLY APPROVED DATA BREACH
CLASS ACTIONS**

1. *Kenney et al. v. Centerstone of America, Inc.*, Case No. 3:20-cv-01007 (M.D. Tenn.) (appointed co-class counsel in data breach class action settlement; final approval granted Aug. 2021);
2. *Mowery et al. v. Saint Francis Healthcare System*, Case No. 1:20-cv-00013-SRC (E.D. Mo.) (appointed class counsel; final approval granted Dec. 2020);
3. *Chatelain et al. v. C, L and W PLLC d/b/a Affordacare Urgent Care Clinics*, Case No. 50742-A (42nd Dist. Ct., Taylor Cnty., Tex.) (appointed class counsel; final approval granted Feb. 2021);
4. *Jackson-Battle v. Navicent Health, Inc.*, Case No. 2020-CV-072287 (Super. Ct. of Bibb Cnty., Georgia) (appointed class counsel in data breach case involving 360,000 patients; final approval granted Aug. 2021);
5. *Bailey v. Grays Harbor County Public Hospital District et al.*, Case No. 20-2-00217-14 (Super. Ct, Grays Harbor Cnty., Wash.) (appointed class counsel; final approval granted Sept. 2020);
6. *Chacon v. Nebraska Medicine*, Case No. 8:21-cv-00070-RFR-CRZ (D. Neb.) (appointed class counsel in data breach settlement, final approval granted Sept. 2021);
7. *Richardson v. Overlake Hospital Medical Center et al.*, Case No. 20-2-07460-8 SEA (Super. Ct., King Cnty, Wash.) (appointed class counsel in data breach case, final approval granted Sept. 2021);

8. *Martinez et al. v. NCH Healthcare System, Inc.*, Case No. 2020-CA-000996 (12th Jud. Cir. Ct, Collier Cnty, Fla.) (appointed settlement class counsel; final approval granted Oct. 2021);
9. *Carr et al. v. Beaumont Health et al.*, Case No. 2020-181002-NZ (Cir. Ct., Oakland Cnty, Mich.) (appointed co-class counsel in data breach case involving 112,000 people; final approval granted Oct. 2021);
10. *Klemm et al. v. Maryland Health Enterprises Inc.*, Case No. C-03-CV-20-022899 (Cir. Ct., Baltimore Cnty., Md) (appointed class counsel; final approval granted Nov. 2021);
11. *Cece et al. v. St. Mary's Health Care System, Inc. et al.*, Case No. SU20CV0500 (Super. Ct, Athens-Clarke Cnty, Georgia) (appointed Settlement Class Counsel in data breach case involving 55,652 people; final approval granted Apr. 2022);
12. *Powers, Sanger et al v. Filters Fast LLC*, Case 3:20-cv-00982-jdp (appointed co-lead settlement class counsel; final approval granted July 2022);
13. *Garcia v. Home Medical Equipment Specialists, LLC*, Case No. D-202-cv-2021-06846 (appointed class counsel; final approval granted June 2022);
14. *Baldwin et al. v. National Western life Insurance Company*, Case No. 2:21-cv-04066 (W.D. Mo.) (appointed co-class counsel; final approval granted June 2022);
15. *Hashemi, et. al. v. Bosley, Inc.*, Case No. 21-cv-00946-PSG (C.D. Cal.) (appointed co-class counsel; final approval granted Nov. 2022);
16. *Paras et al. v. Dental Care Alliance*, Civil Action No. 22EV000181 (State Court of Fulton County, Georgia)

(appointed co-class counsel; final approval granted Sept. 2022);

17. *James v. CohnReznick LLP*, Case No. 1:21-cv-06544 (S.D.N.Y.), (appointed as co-class counsel; final approval granted Sept. 2022);
18. *Purvis, et al v. Aveanna Healthcare, LLC*, Case No. 1:20-cv-02277-LMM (N.D. Ga.) (appointed class counsel; final approval granted Oct. 2022);
19. *Kolar v. CSI Financial Services LLC dba ClearBalance*, Case No. 37-2021-00030426-CU-NP-CTL (CA Super. Ct., San Diego Cnty) (appointed co-lead class counsel, final approval granted Jan. 2023);
20. *In re: California Pizza Kitchen Data Breach Litigation*, Case No.: 8:21-cv-01928-DOC-KES (C.D. Cal.) (appointed settlement class counsel; final approval granted Feb. 2023);
21. *Snyder v. Urology Center of Colorado, P.C.*, Case No. 2021CV33707 (2nd Dist. Ct., Denver Cnty, Colorado) (appointed settlement class counsel; final approval granted Oct. 2022);
22. *Steen v. The New London Hospital Association, Inc.*, Case No. 217-2021-CV-00281 (Merrimack Super. Ct., New Hampshire) (appointed class counsel; final approval granted Jan. 2023);
23. *Gonshorowski v. Spencer Gifts LLC*, Docket Number ATL-L-000311-22 (Super. Ct. of New Jersey, Law Division, Atlantic Cnty) (appointed class counsel; final approval granted Sept. 12, 2022);
24. *Nelson et. al v. Bansley & Kiener, LLP*, Civil Action No. 2021CH06274 (Ill. 1st Jud. Cir. Ct., Cook Cnty) (appointed class counsel; final approval granted Nov. 2022);

25. *Henderson et al. v. San Juan Regional Medical Center*, Case No. D-1116-CV-2021-01043 (11th Jud. Dist. Court, San Juan Cnty., NM) (appointed class counsel; final approval granted Mar. 2023);
26. *Cathy Shedd v. Sturdy Memorial Hospital, Inc.*, Civ. Action No: 2173 CV 00498 (Mass. Sup. Ct. Dept.) (appointed class counsel; final approval granted Feb. 2023);
27. *Pagan et al. v. Faneuil, Inc.*, Case No. 3:22-cv-00297 (E.D. Va.) (appointed class counsel; final approval granted Feb. 2023);
28. *Hawkins et al. v. Startek, Inc.*, Case No. 1:22-cv-00258-RMR-NRN (D. Colo.) (appointed class counsel; final approval granted Apr. 2023);
29. *McManus v. Gerald O. Dry, P.A.*, Case No. 22 CVS 001776 (N.C. Super. Ct., Cabarrus Cnty.) (appointed settlement class counsel; final approval granted Mar. 2023);
30. *McHenry v. Advent Health Partners, Inc.*, Case No. 3:22-cv-00287 (M.D.T.N.) (appointed class counsel; final approval granted Apr. 2023),
31. *Lopez v. San Andreas Regional Center*, Case No. 21CV386748 (CA Sup. Ct., Santa Clara Cnty.) (appointed settlement class counsel; final approval granted Sept. 2023);
32. *Charlie, et al. v. Rehoboth McKinley Christian Health Care Services*, Case No. 21-00652-SCY-KK (D.N.M.) (appointed class counsel, final approval granted May 2023);
33. *Arbuthnot v. Acuity – CHS, LLC*, Case No. 6:22-cv-658-PGB-DCI (M.D. Fla.) (appointed settlement class counsel; final approval granted Aug. 2023);

34. *Bergeson v. Virginia Mason Medical Center*, Case No. 22-2-09089-8 SEA (Wash. Super. Ct., King Cnty.) (appointed settlement class counsel; final approval granted Aug. 2023);
35. *Reynolds et al. v. Marymount Manhattan College*, Case No. 1:22-CV-06846-LGS (S.D.N.Y.) (appointed settlement class counsel; final approval granted Oct. 2023);
36. *Griffey et al. v. Magellan Health, Inc.*, Case No. CV-20-01282-PHX-MTL (D. Ariz.) (appointed settlement class counsel; final approval granted Feb. 9, 2024);
37. *Connor Rowe v. Sterling Valley Systems, Inc. d/b/a/ Inntopia*, Case No.: 22-CV-04081 (Vt. Super. Ct., Civil Division, Lamoille Unit) (appointed settlement class counsel; final approval granted Jan. 9, 2024);
38. *Jones, et al v. P2ES Holdings, LLC*, Case No. 23-cv-00408-GPG-MEH (D. Colo.) (Appointed co-class counsel; final approval granted April 16, 2024);
39. *Guarino v. Radius Financial Group, Inc.*, Civ. Action No: 2283 CV 00196 (Mass. Sup. Ct. Dept., Plymouth Cnty.) (appointed class counsel; final approval granted Feb. 28, 2024);
40. *Foster et al. v. Lower, LLC*, Civil Action No. 1:22-CV-1581 (GLR) (D. Md.) (appointed class counsel; final approval granted Dec. 1, 2023);
41. *Lamie et. al v. LendingTree, LLC*, Case No. 3:22-cv-0037 (W.D.N.C.) (appointed class counsel; final approval granted Feb. 27, 2024);
42. *Tarrant v. Southland Holdings LLC*, Cause No. 067-333679-22 (67th Judicial Dist. Ct. of Tex., Tarrant Cnty.) (appointed class counsel; final approval granted April 19, 2024);

43. *May, et al v. Five Guys Enterprises, LLC*, Case No. 1:23-cv-00029 (E.D. Va.) (appointed class counsel; final approval granted July 12, 2024);
44. *Martinez, et al v. Presbyterian Healthcare Services*, Case No. D-202-CV-2020-01578 (2d Jud. Ct. of N.M., Cnty of Bernalillo) (appointed class counsel; final approval granted June 18, 2024);
45. *Medina v. Albertsons Companies, Inc.*, Case No. 1:23-cv-00480-MN (D. Del.) (appointed class counsel; final approval granted April 26, 2024);
46. *Prevost, et al v. Roper St. Francis Healthcare*, C.A. No. 2021-CP-10-01754 (9th Jud. Cir. Ct. of S.C., Ct. of Common Pleas) (Appointed co-class counsel; final approval granted May 2, 2024);
47. *Williams v. Monarch*, Case No. 23CVS-105, (N.C. Sup. Ct., Stanly Cnty.) (Appointed class counsel; final approval granted July 18, 2024);
48. *Webb v. Injured Workers Pharmacy, LLC*, Case No. 1:22-cv-10797-RGS (D. Mass)(appointed Class Counsel; final approval granted January 9, 2025);
49. *Viruet v. Comm. Surgical Supply, Inc.*, Case No. OCN L-001215-23 (N.J. Sup. Ct., Ocean Cnty.) (Appointed co-class counsel; final approval granted Nov. 17, 2023);
50. *Kondo, et al v. Creative Services, Inc.*, Case No. 1:22-cv-10438-DJC (D. Mass.) (Appointed class counsel; final approval granted Sept. 7, 2023);
51. *Stark, et al v. Acuity Brands, Inc.*, Case No. 23EV006179H (Fulton Cnty. State Court of Ga.) (appointed class counsel; final approval granted May 21, 2024);

52. *Mendoza, et al v. Crystal Bay Casino, LLC*, Case No. 3:23-cv-00092-MMD-CLB (D. Nev.) (Appointed class counsel) (final approval granted August 6, 2024);
53. *Oche v. National Math & Science Initiative*, Index No. 510959/2023 (N.Y. Supr. Ct, Kings Cnty.) (Appointed class counsel; final approval granted June 12, 2024);
54. *Marshall v. Lamoille Health Partners, Inc.*, Case No. 2:22-cv-00166, (D. Vt.) (Appointed class counsel; final approval granted September 30, 2024);
55. *Amaral v. Stanley Street Treatment and Resources, Inc.*, Case No. 2373CV00075 (Bristol Sup. Ct. of Mass.) (Appointed class counsel; final approval granted Oct. 16, 2024);
56. *Granado, et al v. Sandridge Energy, Inc.*, Case No. 5:22-cv-00516-AMG (W.D. Okla.) (Appointed class counsel; final approval granted August 16, 2024);
57. *Stone v. Gardner Resources Consulting LLC*, Case No. 2282CV00845 (Mass. Sup. Ct. Dept. Norfolk County (appointed class counsel)(final approval granted August 28, 2024);
58. *In re Cleveland Brothers Data Incident Litigation*, Case No. 1:23-cv-00501-JPW (M.D. Penn.) (Appointed class counsel; final approval granted August 27, 2024);
59. *Sanguinetti et al. v. Nevada Restaurant Services, Inc.*, Case No. 2:21-cv-01768-RFB-DIA (appointed Class Counsel, final approval June 27, 2025);
60. *Brent et al. v. Advanced Medical Management, LLC et al.*, Civil Action No. 1:23-cv-3254-JKB (D. Md.)(appointed Class Counsel, final approval granted December 12, 2024);

61. *Williams et al. v. Air Methods, LLC*, Civil Action No. 1:24-cv-00642-NRN (D. Colo.)(appointed class counsel; final approval granted January 14, 2025);
62. *Baldwin v. Pepsi Bottling Ventures LLC*, 23-CV-005042-910 (N.C. Sup. Ct. Wake Cnty.)(appointed Settlement Class Counsel; final approval granted January 24, 2025);
63. *Fernandez v. AUS, Inc.*, Case No. BUR-L-000674-24 (NJ Superior Court., Burlington Cnty.) (appointed Settlement Class Counsel; final approval granted April 15, 2025);
64. *In re: Gateway Rehabilitation Center, Data Breach Litigation*, Case No. GD-22-14713 (Court Common Pleas, Allegheny Cnty. PA) (appointed Co-Class Counsel; Final Approval granted Mar. 10, 2025);
65. *Collins et al. v. Washington College*, Case No. C-02-CV-24-001728 (Circuit Court Anne Arundel County, MD) (appointed Settlement Class Counsel; final approval granted May 27, 2025);
66. *Stewart et al. v. Greensboro College, Inc.*, 24 CVS 4980 (N.C. Sup. Ct. Guilford Cnty.)(appointed Settlement Class Counsel; final approval granted May 7, 2025);
67. *In Re Marshall & Melhorn, LLC Data Breach Litigation*, Case No. 3:23-cv-01181-JRK (N.D. Ohio) (appointed Settlement Class Counsel; final approval granted January 13, 2025);
68. *Milliken et al. v. Bayer Heritage Federal Credit Union*, Case No. 5:24-cv-00057-JPB (N.D. W.Va.)(appointed Class Counsel; final approval granted June 20, 2025);
69. *Pena v. Financial Asset Management Systems, Inc.*, Civil Action No. 24-C-01218-SI (State Court of Gwinnett County, Georgia)(appointed Settlement Class Counsel; final approval granted May 27, 2025);

70. *Mooney et al v. Ashford, Inc.*, Case No. 3:24-cv-0279-K (N.D. Tex.) (appointed Settlement Class Counsel; final approval granted September 3, 2025);
71. *In re: Christie's Data Breach Litigation*, Case No. 1:24-cv-04221 (S.D.N.Y.) (appointed Settlement Class Counsel; final approval granted July 28, 2025);
72. *In re: Emmanuel College Data Security Incident*, Case No. 1:24-CV-10314-AK (D. Mass.) (appointed Settlement Class Counsel; final approval granted July 29, 2025);
73. *In re: QTC Commercial Services, LLC, d/b/a IMX Medical Management Services, LLP Data Breach Litigation*, File No. 2:23-cv-03214 (ED Pa.) (final approval granted September 8, 2025, appointed Lead Class Counsel);
74. *In re Center for Vein Restoration Data Breach Litigation*, Civil Action No. 1:24-cv-03593-DLB (D. Md.) (final approval granted November 6, 2025, appointed Class Counsel);
75. *In re WorkWave Data Breach Litigation*. Case No. 3:24-cv-10592-RK-JBD (D.N.J.) (final approval granted October 28, 2025, appointed Class Counsel);
76. *Keown et al. v. International Association of Sheet Metal Air Rail Transportation Workers*, Case No. 1:23-cv-03570-CRC (D.D.C.)(final approval granted September 9, 2025; appointed Class Counsel);
77. *Johnson et al. v. Physicians to Women, Inc. and Mid-Atlantic Women's Care, PLC*, Case No. 7:24-cv-00144-MFU-CKM (W.D. Va.) (final approval granted September 5, 2025, appointed Settlement Class Counsel);
78. *In re San Francisco 49ers Data Breach Litigation*, Case No. 3:22-cv-05138 (N.D. Cal.) (final approval granted October 31, 2025, appointed Class Counsel);

79. *Horvath v. Gramercy Surgery Center, Inc.*, Index No. 159212/2024 (Supreme Court of the State of New York, New York County) (final approval granted October 21, 2025, appointed Class Counsel);
80. *Flacco v. Community Care Alliance*, C.A. No. PC-2024-05237 (Providence, S.C. (RI)) (final approval granted October 14, 2025, appointed Class Counsel);
81. *Cariello et al, v. NSC Technologies, LLC*, Case No. 25EV000160 (State Court of Fulton County, Georgia) (final approval granted November 21, 2025, appointed Settlement Class Counsel);
82. *McKoy et al. v. Ott Cone & Redpath, P.A.*. Case No. 24-CV-028463-410 (N.C. Sup. Ct. Guilford County)(preliminary approval granted August 18, 2025, appointed Settlement Class Counsel).

EXHIBIT 3



MILBERG.

FIRM RESUME



Milberg PLLC (“Milberg”) is an AV-rated international law firm with more than 100 attorneys and offices across the United States, the European Union, and South America.

Milberg prides itself on providing thoughtful and knowledgeable legal services to clients worldwide across multiple practice areas. The firm represents plaintiffs in the areas of antitrust, securities, financial fraud, consumer protection, automobile emissions claims, defective drugs and devices, environmental litigation, financial and insurance litigation, and cyber law and security.

For over 50 years, Milberg and its affiliates have been protecting victims’ rights. We have recovered over \$50 billion for our clients. Our attorneys possess a renowned depth of legal expertise, employ the highest ethical and legal standards, and pride ourselves on providing stellar service to our clients. We have repeatedly been recognized as leaders in the plaintiffs’ bar and appointed to numerous leadership roles in prominent national mass torts and class actions.

Milberg challenges corporate wrongdoing through class action, mass tort, consumer and shareholder right services, both domestically and globally.

In the United States, Milberg currently holds more than 100 court-appointed full- and co-leadership positions in state and federal courts across the country. Our firm has offices in California, Florida, Georgia, Illinois, New Jersey, New York, Tennessee, Washington, Washington D.C., and Puerto Rico. Milberg’s commitment to its clients reaches beyond the United States, litigating antitrust, securities, and consumer fraud actions in Europe and South America, with offices located in the United Kingdom, and the Netherlands.

Milberg prides itself on providing excellent service worldwide.

The firm’s lawyers have been regularly recognized as leaders in the plaintiffs’ bar by the National Law Journal, Legal 500, Chambers USA, Time Magazine, Lawdragon, and Super Lawyers, among others.

“A powerhouse that compelled miscreant and recalcitrant businesses to pay billions of dollars to aggrieved shareholders and customers.”
- THE NEW YORK TIMES

PRACTICE AREAS

SECURITIES FRAUD

Milberg pioneered the use of class action lawsuits to litigate claims involving investment products, securities, and the banking industry. Fifty years ago, the firm set the standard for case theories, organization, discovery, methods of settlement, and amounts recovered for clients. Milberg remains among the most influential securities litigators in the United States and internationally.

Milberg and its attorneys were appointed Lead Counsel and Co-Lead Counsel in hundreds of federal, state, and multidistrict litigation cases throughout its history.

ANTITRUST & COMPETITION LAW

For over fifty years, Milberg's Antitrust Practice Group has prosecuted complex antitrust class actions against defendants in the healthcare, technology, agriculture, and manufacturing industries engaged in price-fixing, monopolization and other violations of antitrust law and trade restraints.

FINANCIAL LITIGATION

For over fifty years, Milberg's Antitrust Practice Group has prosecuted complex antitrust class actions against defendants in the healthcare, technology, agriculture, and manufacturing industries engaged in price-fixing, monopolization and other violations of antitrust law and trade restraints.

CONSUMER PROTECTION

Milberg's Consumer Protection Practice Group focuses on improving product safety and protecting those who have fallen victim to deceptive marketing and advertising of goods and services and/or purchased defective products. Milberg attorneys have served as Lead Counsel and Co-Lead Counsel in hundreds of federal, state, and multidistrict litigation cases alleging the sale of defective products, improper marketing of products, and violations of consumer protection statutes.

DANGEROUS DRUGS & DEVICES

Milberg is a nationally renowned firm in mass torts, fighting some of the largest, wealthiest, and most influential pharmaceutical and device companies and corporate entities in the world. Our experienced team of attorneys has led or co-led numerous multidistrict litigations of defective drugs and medical devices.

EMPLOYMENT & CIVIL RIGHTS

Milberg's Employment & Civil Rights attorneys focus on class actions and individual cases nationwide arising from discriminatory banking and housing practices, unpaid wages and sales commissions, improperly managed retirement benefits, workplace discrimination, and wrongful termination.

ENVIRONMENTAL LITIGATION & TOXIC TORTS

Milberg's Environmental Litigation & Toxic Torts Practice Group focuses on representing clients in mass torts, class actions, multi-district litigation, regulatory enforcement, citizen suits, and other complex environmental and toxic tort matters. Milberg and its attorneys have held leadership roles in all facets of litigation in coordinated proceedings, with a particular focus on developing the building blocks to establish general causation, which is often the most difficult obstacle in an environmental or toxic tort case.

STATE & LOCAL GOVERNMENTS

Milberg attorneys are dedicated to defending the Constitutional and statutory rights of individuals and businesses that are subjected to unlawful government exactions and fees by state and local governments or bodies.

CYBERSECURITY & DATA PRIVACY

Milberg is a leader in the fields of cyber security, data breach litigation, and biometric data collection, litigating on behalf of clients – both large and small – to change data security practices so that large corporations respect and safeguard consumers' personal data.

APPELLATE

Consisting of experienced appellate advocates and former law clerks who understand how best to present compelling arguments to judges on appeal and secure justice for our clients beyond the trial courts, Milberg's Appellate Practice Group boasts an impressive record of success on appeal in both state and federal courts.

LEADERSHIP ROLES

In re: Google Play Consumer Antitrust Litigation
In re: Elmiron (Pentosan Polysulfate Sodium) Products Liability Litigation
In re: Johnson & Johnson Talcum Powder Products Marketing, Sales Practices & Products Liability Litigation
In re: Blackbaud Inc., Customer Data Breach Litigation
In re: Paragard IUD Products Liability Litigation
In re: Seresto Flea & Tick Collar, Marketing Sales Practices & Product Liability Litigation
In re: All-Clad Metalcrafters, LLC, Cookware Marketing and Sales Practices Litigation
In re: Allergan Biocell Textured Breast Implant Products Liability Litigation
In re: Zicam Cold Remedy Marketing, Sales Practices and Products Liability Litigation
In re: Guidant Corp. Implantable Defibrillators Product Liability Litigation
In re: Ortho Evra Products Liability Litigation
In re: Yasmin and YAZ (Drospirenone) Marketing, Sales Practices and Products Liability Litigation
In re: Kugel Mesh Hernia Patch Products Liability Litigation
In re: Medtronic, Inc. Sprint Fidelis Leads Products Liability Litigation
In re: Stand 'N Seal Products Liability Litigation
In re: Chantix (Varenicline) Products Liability Litigation
In re: Fosamax (alendronate Sodium) Products Liability Litigation
In re: Benicar (Olmesartan) Products Liability Litigation
In re: Onglyza (Saxagliptin) & Kombiglyze Xr (Saxagliptin & Metformin) Products Liability Litigation
In re: Risperdal and Invega Product Liability Cases
In re: Mirena IUS Levonorgestrel-Related Products Liability Litigation
In re: Incretin-based Therapies Product Liability Litigation
In re: Reglan/Metoclopramide
In re: Levaquin Products Liability Litigation
In re: Zimmer Nexgen Knee Implant Products Liability Litigation
In re: Fresenius Granuflo/Naturalyte Dialysate Products Liability Litigation
In re: Propecia (Finasteride) Products Liability Litigation
In re: Transvaginal Mesh (In Re C. R. Bard, Inc., Pelvic Repair System Products Liability Litigation; In Re Ethicon, Inc., Pelvic Repair System Products Liability Litigation; In Re Boston Scientific, Inc., Pelvic Repair System Products Liability; In Re American Medical Systems, Pelvic Repair System Products Liability, and others)
In re: Fluoroquinolone Product Liability Litigation
In re: Depuy Orthopaedics, Inc., Pinnacle Hip Implant Products Liability Litigation
In re: Recalled Abbott Infant Formula Products Liability Litigation
Home Depot, U.S.A., Inc. v. Jackson
Webb v. Injured Workers Pharmacy, LLC

NOTABLE RECOVERIES

\$4 Billion Settlement

In re: Prudential Insurance Co. Sales Practice Litigation

\$3.2 Billion Settlement

In re: Tyco International Ltd., Securities Litigation

\$1.14 Billion Settlement

In Re: Nortel Networks Corp. Securities Litigation

\$1 Billion-plus Trial Verdict

Vivendi Universal, S.A. Securities Litigation

\$1 Billion Settlement

NASDAQ Market-Makers Antitrust Litigation

\$1 Billion Settlement

W.R. Grace & Co.

\$1 Billion-plus Settlement

Merck & Co., Inc. Securities Litigation

\$775 Million Settlement

Washington Public Power Supply System Securities Litigation

\$586 Million Settlement

In re: Initial Public Offering Securities Litigation

LOCATIONS

PUERTO RICO

1311 Avenida Juan Ponce de León
San Juan, Puerto Rico 00907

CALIFORNIA

280 South Beverly Drive, Penthouse
Beverly Hills, California 90212

FLORIDA

333 SE 2nd Avenue, Suite 2000
Miami, Florida 33131

ILLINOIS

227 W. Monroe Street, Suite 2100
Chicago, Illinois 60606

NEW JERSEY

1 Bridge Plaza North, Suite 675
Fort Lee, New Jersey 07024

NEW YORK

100 Garden City Plaza, Suite 408
Garden City, New York 11530

TENNESSEE

800 S. Gay Street, Suite 1100
Knoxville, Tennessee 37929

WASHINGTON

1420 Fifth Ave, Suite 2200
Seattle, Washington 98101

17410 133rd Avenue, Suite 301
Woodinville, Washington 98072

WASHINGTON, D.C.

5335 Wisconsin Avenue NW, Suite 440
Washington, D.C. 20015

NETHERLANDS

UNITED KINGDOM



**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

AMISH PARIKH, individually and on behalf of
all others similarly situated,

Plaintiff,

v.

THE KENDAL CORPORATION,

Defendant.

Case No. 2:25-CV-00129

[PROPOSED] PRELIMINARY APPROVAL ORDER

Before the Court is Plaintiffs’ Unopposed Motion for Preliminary Approval of Class Action Settlement (**Doc. No. __**) (the “Motion”), the terms of which are set forth in a Settlement Agreement between Plaintiffs Amish Parikh and Niamh Jacobsen¹ (“Representative Plaintiffs”) and Defendant The Kendal Corporation (“Kendal” or “Defendant”) (together with Representative Plaintiffs, the “Parties”), with accompanying exhibits attached as **Exhibit A** to Plaintiffs’ Memorandum of Law in Support of their Motion (the “Settlement Agreement”).²

Having fully considered the issue, the Court hereby **GRANTS** the Motion and **ORDERS** as follows:

1. **Class Certification for Settlement Purposes Only**. The Settlement Agreement provides for a Settlement Class defined as follows:

¹ Niamh Jacobsen is the named plaintiff in a related action arising from the same Data Incident styled *Niamh Jacobsen, individually and on behalf of all others similarly situated v. The Kendal Corporation*, 1:25-cv-00104-MN (D. Del. 1/24/25). It is the intention of the Parties to settle and resolve all claims arising from both actions by way of this Settlement. As set forth herein, upon final approval of settlement in the instant matter, the *Jacobsen* matter shall be voluntarily dismissed with prejudice within ten (10) days.

² All defined terms in this Order Granting Preliminary Approval of Class Action Settlement (“Preliminary Approval Order”) have the same meaning as set forth in the Settlement Agreement, unless otherwise indicated.

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

Specifically excluded from the Settlement Class are (i) Defendant and Defendant's parents, subsidiaries, affiliates, officers, directors, and any entity in which Defendant has a controlling interest; (ii) all individuals who make a timely election to be excluded from this proceeding using the correct protocol for opting out; (iii) any and all federal, state, or local governments, including but not limited to their departments, agencies, divisions, bureaus, boards, sections, groups, counsels and/or subdivisions; (iv) the attorneys representing the Parties in the Action; (v) all judges assigned to hear any aspect of the Action, as well as their immediate family members and court staff; and (vi) any person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting the Data Breach, or who pleads nolo contendere to any such charge.

Pursuant to Federal Rules of Civil Procedure 23(e)(1), the Court finds that giving notice is justified. The Court finds that it will likely be able to approve the proposed Settlement as fair, reasonable, and adequate. The Court also finds that it will likely be able to certify the Settlement Class for purposes of judgment on the Settlement because it meets all of the requirements of Rule 23(a) and the requirements of Rule 23(b)(3). Specifically, the Court finds for settlement purposes that: (a) the Settlement Class is so numerous that joinder of all Settlement Class Members would be impracticable; (b) there are issues of law and fact that are common to the Settlement Class; (c) the claims of the Class Representative are typical of and arise from the same operative facts and the Class Representatives seek similar relief as the claims of the Settlement Class Members; (d) the Class Representatives will fairly and adequately protect the interests of the Settlement Class as the Class Representatives have no interests antagonistic to or in conflict with the Settlement Class and have retained experienced and competent counsel to prosecute this Litigation on behalf of the

Settlement Class; (e) questions of law or fact common to Settlement Class Members predominate over any questions affecting only individual members; and (f) a class action and class settlement is superior to other methods available for a fair and efficient resolution of this Litigation.

2. **Settlement Class Representatives and Settlement Class Counsel.** The Court finds that Representative Plaintiffs will likely satisfy the requirements of Rule 23(e)(2)(A) and should be appointed as the Class Representatives. Additionally, the Court finds that Leigh S. Montgomery of Ellzey Kherkher Sanford Montgomery, LLP and David Lietz of Milberg, PLLC will likely satisfy the requirements of Rule 23(e)(2)(A) and should be appointed as Class Counsel pursuant to Rule 23(g)(1).

3. **Preliminary Settlement Approval.** Upon preliminary review, the Court finds the Settlement is fair, reasonable, and adequate to warrant providing notice of the Settlement to the Settlement Class and accordingly is preliminarily approved. In making this determination, the Court has considered the monetary and non-monetary benefits provided to the Settlement Class through the Settlement, the specific risks faced by the Settlement Class in prevailing on their claims, the good faith, arms' length negotiations between the Parties and absence of any collusion in the Settlement, the effectiveness of the proposed method for distributing relief to the Settlement Class, the proposed manner of allocating benefits to Settlement Class Members, the Settlement treats the Settlement Class Members equitably, and all of the other factors required by Rule 23 and relevant case law.

4. **Jurisdiction.** The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(d)(2) and personal jurisdiction over the parties before it. Additionally, venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

5. **Final Approval Hearing.** A Final Approval Hearing shall be held on _____, 202____, at [ADDRESS], where the Court will determine, among other things, whether: (a) this Litigation should be finally certified as a class action for settlement purposes pursuant to Fed. R. Civ. P. 23(a) and (b)(3); (b) the Settlement should be approved as fair, reasonable, and adequate, and finally approved pursuant to Fed. R. Civ. P. 23(e); (c) this Litigation should be dismissed with prejudice pursuant to the terms of the Settlement Agreement; (d) Settlement Class Members (who have not timely and validly excluded themselves from the Settlement) should be bound by the releases set forth in the Settlement Agreement; (e) the application of Class Counsel for an award of Attorneys' Fees, Costs, and Expenses should be approved pursuant to Fed. R. Civ. P. 23(h); and (f) the application of the Class Representatives for a Service Award should be approved.

6. **Claims Administrator.** The Court appoints Eisner Advisory Group ("EAG") as the Claims Administrator, with responsibility for class notice and settlement administration. The Claims Administrator is directed to perform all tasks the Settlement Agreement requires. The Claims Administrator's fees will be paid pursuant to the terms of the Settlement Agreement.

7. **Notice.** The proposed notice program set forth in the Settlement Agreement and the Notices and Claim Form attached to the Settlement Agreement as **Exhibits A, B, and C** are hereby approved. Non-material modifications to these Exhibits may be made by the Claims Administrator in consultation and agreement with the Parties, but without further order of the Court.

8. **Findings Concerning Notice.** The Court finds that the proposed form, content, and method of giving Notice to the Settlement Class as described in the Notice program and the Settlement Agreement and its exhibits: (a) will constitute the best practicable notice to the Settlement Class; (b) are reasonably calculated, under the circumstances, to apprise Settlement

Class Members of the pendency of the Litigation, the terms of the proposed Settlement, and their rights under the proposed Settlement, including, but not limited to, their rights to object to or exclude themselves from the proposed Settlement and other rights under the terms of the Settlement Agreement; (c) are reasonable and constitute due, adequate, and sufficient notice to all Settlement Class Members and other persons entitled to receive notice; (d) meet all applicable requirements of law, including Federal Rule of Civil Procedure 23(c); and (e) and meet the requirements of the Due Process Clause(s) of the United States and Pennsylvania Constitutions. The Court further finds that the Notice provided for in the Settlement Agreement is written in plain language, uses simple terminology, and is designed to be readily understandable by Settlement Class Members.

The Claims Administrator is directed to carry out the Notice program in conformance with the Settlement Agreement.

9. **Class Action Fairness Act Notice.** Within ten (10) days after the filing of this Settlement Agreement with the Court, the Claims Administrator acting on behalf of Defendant shall have served or caused to be served a notice of the proposed Settlement on appropriate officials in accordance with the requirements under the Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1715(b).

10. **Exclusion from Class.** Any Settlement Class Member who wishes to be excluded from the Settlement Class must individually sign and timely submit written notice of such intent to the designated Post Office box established by the Claims Administrator in the manner provided in the Notice. The written notice must clearly manifest a Person’s intent to be excluded from the Settlement Class. To be effective, such requests for exclusion must be postmarked no later than

the Opt-Out Date, which is no later than sixty (60) days from the date on which the notice program commences, and as stated in the Notice.

The Claims Administrator shall promptly furnish to Class Counsel and to Defendant's counsel a complete list of all timely and valid requests for exclusion (the "Opt-Out List").

If a Final Order and Judgment is entered, all Persons falling within the definition of the Settlement Class who do not request to be excluded from the Settlement Class shall be bound by the terms of this Settlement Agreement and the Final Order and Judgment. All Persons who submit valid and timely notices of their intent to be excluded from the Settlement Class shall not receive any cash benefits of and/or be bound by the terms of the Settlement Agreement.

11. **Objections and Appearances.** A Settlement Class Member (who does not submit a timely written request for exclusion) desiring to object to the Settlement Agreement may submit a timely written notice of his or her objection by the Objection Date and as stated in the Notice. The Long Notice shall instruct Settlement Class Members who wish to object to the Settlement Agreement to send their written objections to Proposed Class Counsel and to Defendant's counsel at the addresses indicated in the Long Notice. The Short and Long Notice shall advise Settlement Class Members of the deadline for submission of any objections—the "Objection Date." Any such notices of an intent to object to the Settlement Agreement must be written and must include all of the following: (i) the objector's full name, address, telephone number, and email address (if any); (ii) the case name and case number; (iii) information identifying the objector as a Settlement Class Member, including proof that the objector is a member of the Settlement Class (e.g., copy of original notice of the Data Breach or a statement explaining why the objector believes he or she is a Settlement Class Member); (iv) a written statement of all grounds for the objection, accompanied by any legal support for the objection the objector believes applicable; (v) the identity of all counsel

representing the objector in connection with the objection; (vi) a statement whether the objector and/or his or her counsel will personally appear at the Final Fairness Hearing; and (vii) the objector's signature or the signature of the objector's duly authorized attorney or other duly authorized representative.

Any Settlement Class Member who fails to comply with the requirements for objecting shall waive and forfeit any and all rights he or she may have to appear separately and/or to object to the Settlement Agreement, and shall be bound by all the terms of the Settlement Agreement and by all proceedings, orders, and judgments in the Litigation. The provisions stated in Paragraph 5.1 of the Settlement Agreement shall be the exclusive means for any challenge to the Settlement Agreement. Any challenge to the Settlement Agreement, the final order approving this Settlement Agreement, or the Final Order and Judgment to be entered upon final approval shall be pursuant to appeal under the Federal Rules of Appellate Procedure and not through a collateral attack.

12. **Claims Process.** Settlement Class Counsel and Defendant have created a process for Settlement Class Members to claim benefits under the Settlement. The Court preliminarily approves this process and directs the Claims Administrator to make the Claim Form or its substantial equivalent available to Settlement Class Members in the manner specified in the Notice.

The Claims Administrator will be responsible for effectuating the claims process. Settlement Class Members who qualify for and wish to submit a Claim Form shall do so in accordance with the requirement and procedures specified in the Notice and the Claim Form. If the Final Order and Judgment is entered, all Settlement Class Members who qualify for any benefit under the Settlement but fail to submit a claim in accordance with the requirements and procedures specified in the Notice and the Claim Form shall be forever barred from receiving any such benefit,

but will in all other respects be subject to and bound by the provisions in the Final Order and Judgment, including the releases contained therein.

13. **Termination of Settlement**. This Preliminary Approval Order shall become null and void and shall be without prejudice to the rights of the Parties, all of whom shall be restored to their respective positions existing before the Court entered this Preliminary Approval Order and before they entered the Settlement Agreement, if: (a) the Court does not enter this Preliminary Approval Order; (b) Settlement is not finally approved by the Court or is terminated in accordance with the Settlement Agreement; (c) there is no Effective Date; or (d) otherwise consistent with the terms of the Settlement Agreement. In such event, (i) the Parties shall be restored to their respective positions in the Litigation and shall jointly request that all scheduled Litigation deadlines be reasonably extended by the Court so as to avoid prejudice to any Party or Party's counsel; (ii) the terms and provisions of the Settlement Agreement shall have no further force and effect with respect to the Parties and shall not be used in the Litigation or in any other proceeding for any purpose, and (iii) any judgment or order entered by the Court in accordance with the terms of the Settlement Agreement shall be treated as vacated, *nunc pro tunc*.

14. **Use of Order**. This Preliminary Approval Order shall be of no force or effect if the Final Order and Judgment is not entered or there is no Effective Date and shall not be construed or used as an admission, concession, or declaration by or against Defendant of any fault, wrongdoing, breach, or liability. Nor shall this Preliminary Approval Order be construed or used as an admission, concession, or declaration by or against the Class Representatives or any other Settlement Class Member that his or her claims lack merit or that the relief requested is inappropriate, improper, unavailable, or as a waiver by any Party of any defense or claims they may have in this Litigation or in any other lawsuit.

15. **Continuance of Hearing.** The Court reserves the right to adjourn or continue the Final Fairness Hearing and related deadlines without further written notice to the Settlement Class. If the Court alters any of those dates or times, the revised dates and times shall be posted on the Settlement Website maintained by the Claims Administrator. The Court may approve the Settlement, with such modifications as may be agreed upon by the Parties, if appropriate, without further notice to the Settlement Class.

16. **Stay of Litigation.** All proceedings in the Litigation, other than those related to approval of the Settlement Agreement, are hereby stayed. Further, any actions brought by Settlement Class Members concerning the Released Claims are hereby enjoined and stayed pending Final Approval of the Settlement Agreement.

17. **Schedule and Deadlines.** The Court orders the following schedule of dates for the specified actions/further proceedings:

SETTLEMENT TIMELINE

Action	Deadline
Notice Date	30 days after entry of the Preliminary Approval Order
File Motion for Attorneys' Fees and Expenses Awards and Service Awards	14 days prior to Opt-Out deadline
Objection Deadline	60 days after Notice Date
Opt-Out Deadline	60 days after Notice Date
Opt-Out list due from Claims Administrator	7 days after Opt-Out deadline
Claims Deadline	60 days after the Notice Date
File Motion for Final Approval	14 days before Final Approval Hearing
List of Opt-Outs due to Court	7 days prior to Final Approval Hearing
Final Approval Hearing	More than 90 days after Notice Date

SO ORDERED THIS _____ DAY OF _____, 2025.

Hon. Gerald J. Pappert
United States District Court Judge