

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAU**

NINA BAUM, MICHAEL KAKISH,  
ALEXANDRA AULI, JOHN NIESSING,  
NATASHA WAITERS, DAWN  
FITZSIMMONS, and KAREN  
PARPOUNAS, individually and on behalf of  
all others similarly situated,

*Plaintiffs,*

v.

LONG ISLAND PLASTIC SURGICAL  
GROUP P.C.,

*Defendant.*

Index No. 618453/2024

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

1. We are counsel for Plaintiffs in the above-captioned case. This declaration supports Plaintiffs' Motion for Preliminary Approval of Class Action Settlement. We have personal knowledge of the facts set forth in this declaration and could testify competently to them if called upon to do so.

2. On October 4, 2024, Defendant sent notice of the Cybersecurity Incident to the impacted Settlement Class Members.

3. In total, the Cybersecurity Incident impacted the Personal Information of approximately 161,000 individuals in the Settlement Class.

4. Recognizing the benefits of timely resolution, the Parties began discussing the possibility of mediation.

5. Ultimately, the Parties agreed to engage in formal mediation and stay the pending actions.

6. Prior to mediation, the Parties exchanged informal discovery—which enabled the Parties to objectively evaluate the strengths and weaknesses of the underlying claims and defenses.

7. And on April 24, 2025, the Parties engaged in formal mediation with the Hon. Jay C. Gandhi (Ret.) of JAMS.

8. The Hon. Jay C. Gandhi has since joined Phillips ADR Enterprises (PADRE) as a mediator and arbitrator.

9. Over the course of the full-day mediation, the Parties engaged in arm's length negotiations—wherein the Parties evaluated and discussed the relevant facts and law and carefully weighed the risks and uncertainties of continued litigation.

10. Notably, the Parties agreed that they would not negotiate attorney fees or the service awards until the core terms of the settlement were finalized (as to avoid any conflicts).

11. Under the guidance of the Hon. Jay C. Gandhi (Ret.), the Parties ultimately reached an agreement on the core terms of the Settlement.

12. After the mediation session, the Parties continued to negotiate the finer terms of the Settlement, drafted and negotiated the Settlement Agreement, and obtained bids from potential settlement administrators.

13. Then, on September 10, 2025, Plaintiffs filed the operative Amended Class Action Complaint in this Court to facilitate the Settlement.

14. Epiq is a well-regarded Settlement Administrator and has substantial experience in administering complex data breach settlements.

15. Simply put, the proposed Notice Plan satisfies the requirements of due process, New York law, and aligns with the notice plans in analogous data breach settlements.

16. Preliminary approval is proper because the Settlement satisfies C.P.L.R. § 901 and C.P.L.R. § 902—and the Settlement “is fair, reasonable, adequate, and in the best interests of the class” upon consideration of the five *Colt* factors.

17. The Settlement Class satisfies the C.P.L.R. § 901 requirements of (1) numerosity, (2) commonality, (3) typicality, (4) adequacy, and (5) superiority.

18. The Court should preliminarily certify the Settlement Class for the purposes of settlement.

19. Here, there are approximately 161,000 Settlement Class Members. Thus, numerosity is satisfied.

20. Here, there are numerous questions of law or fact which predominate over any individualized issues.

21. These common questions include, *inter alia*, if Defendant had a duty to use reasonable care in safeguarding Plaintiffs’ and the Class’s Personal Information; if Defendant failed to implement and maintain reasonable security procedures and practices appropriate to the nature and scope of the information compromised in the Cybersecurity Incident; if Defendant was negligent in maintaining, protecting, and securing Personal Information; if Defendant breached contract promises; what the proper damages measure is; and if Plaintiffs and the Class are entitled to damages, treble damages, and/or injunctive relief.

22. Thus, commonality is satisfied.

23. Here, the claims of Plaintiffs and Settlement Class Members all arise from the same event—*i.e.*, the Cybersecurity Incident that impacted Defendant on or around January 4, 2024.

24. Moreover, typicality is routinely found in data breach class actions, where claims arise from a single cybersecurity incident impacting all class members.

25. Thus, typicality is satisfied.

26. Plaintiffs and Class Counsel satisfy all three C.P.L.R. § 901 factors.

27. There are no conflicts between Plaintiffs and the Settlement Class.

28. After all, Plaintiffs and the Settlement Class suffered from the same Cybersecurity Incident.

29. Moreover, the Parties did not discuss attorney fees, costs, or service awards until the core terms of the Settlement were agreed upon—thereby, avoiding any conflict between Plaintiffs and the Settlement Class.

30. Settlement Class Representatives Nina Baum, Michael Kakish, Alexandra Auli, John Niessing, Natasha Waiters, Dawn Fitzsimmons, Karen Parpounas, and Stefania Panuccio are adequate Class Representatives.

31. Indeed, Plaintiffs are familiar with the lawsuit and dedicated themselves to the Settlement Class by reviewing the complaint for accuracy, meeting with Class Counsel to answer numerous questions, providing information to assist in settlement negotiations, remaining in contact with Class Counsel throughout the litigation process, and were willing to further serve as class representatives by being deposed and testifying at trial.

32. Moreover, there are no “financial resource” concerns that would weigh against adequacy.

33. Class Counsel is adequate—which is evidenced by the substantial relief obtained by the Settlement.

34. Moreover, Class Counsel has substantial experience in complex consumer litigation—and a specific expertise in data breach class action litigation.

35. And currently, Class Counsel is litigating dozens of data breach class actions throughout the country on behalf of millions of class members.

36. Thus, adequacy is satisfied.

37. Here, the class action device provides the benefits of adjudication of these issues in a single proceeding, ensures economies of scale, provides comprehensive supervision by a single court, provides timely and tailored relief, and presents no unusual management difficulties.

38. Individualized litigation by each of the 161,000 Settlement Class Members would be impracticable.

39. Thus, superiority is satisfied.

40. As set forth below, all five C.P.L.R. § 902 factors support preliminary approval.

41. First, the Settlement allows Settlement Class Members to opt-out of the Settlement—thereby preserving their rights to pursue individual litigation. Thus, this factor supports preliminary approval.

42. Second, individualized litigation by each of the 161,000 Settlement Class Members would be impracticable. Thus, this factor supports preliminary approval.

43. Third, Class Counsel is not aware of any related litigation. Thus, this factor supports preliminary approval.

44. Fourth, concentrating the litigation in this forum is desirable because Defendant is headquartered in this County. Thus, this factor supports preliminary approval.

45. Fifth, this class action presents no management difficulties. Thus, this factor supports preliminary approval.

46. As set forth below, all five *Colt* factors support preliminary approval.

47. The first *Colt* factor strongly weighs toward approval.

48. The Settlement is supported by the Parties—after all, the Settlement was only reached over months of arm’s length negotiations and the exchange of informal discovery.

49. Moreover, the Settlement Class will have the opportunity to object to the Settlement after the Settlement Administrator provides Notice. Thus, the second *Colt* factor weighs toward approval.

50. Similarly, Class Counsel has substantial experience in complex consumer litigation—with a specific expertise in data breach class action litigation.

51. Based on this experience and thorough evaluation of the claims and defenses, Class Counsel believes that the Settlement is fair, reasonable, adequate, and in the best interests of the Settlement Class. Thus, the third *Colt* factor weighs toward approval.

52. Like *Gordon*, the issues at stake are more efficiently resolved through negotiations and settlement. Thus, the *fourth* *Colt* factor weighs toward approval.

53. Here, the Parties exchanged informal discovery and engaged in extensive arm’s length negotiations for several months before agreeing to the terms of the Settlement.

54. Moreover, the Settlement was the product of formal mediation with the Hon. Jay C. Gandhi (Ret.) of JAMS. Thus, the fifth *Colt* factor weighs toward approval.

55. The Court should approve the proposed Notice Plan.

56. The proposed Notice Plan satisfies the requirements of due process, New York law, and aligns with the notice plans in analogous data breach settlements.

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I declare under penalty of perjury of the laws of the state of Florida and the United States that the foregoing is true of my own personal knowledge. Executed on November 7, 2025, in Fort Lauderdale, Florida.

/s/ Jeff Ostrow

Jeff Ostrow

**KOPELOWITZ OSTROW P.A.**

I declare under penalty of perjury of the laws of the state of New York and the United States that the foregoing is true of my own personal knowledge. Executed on November 7, 2025, in New York, New York.

/s/ Israel David

Israel David

**ISRAEL DAVID LLC**

I declare under penalty of perjury of the laws of the state of Illinois and the United States that the foregoing is true of my own personal knowledge. Executed on November 7, 2025, in Chicago, Illinois.

/s/ Gary Klinger

Gary Klinger

**MILBERG COLEMAN BRYSON**

**PHILLIPS GROSSMAN PLLC**

I declare under penalty of perjury of the laws of the state of Minnesota and the United States that the foregoing is true of my own personal knowledge. Executed on November 7, 2025, in Eagan, Minnesota.

/s/ Raina Borrelli

Raina Borrelli

**STRAUSS BORRELLI PLLC**