

# EXHIBIT 1

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

JUSTIN SHERWOOD, on behalf of himself and all others similarly situated,	)	
	)	Case No. 1:22-CV-01495-ELR
	)	
Plaintiffs,	)	
	)	
vs.	)	
	)	
HORIZON ACTUARIAL SERVICES, LLC,	)	
	)	
Defendant.	)	
	)	

**JOINT DECLARATION OF PLAINTIFFS’ COUNSEL SUPPORTING  
THEIR MOTION FOR ATTORNEYS’ FEES AND LITIGATION  
EXPENSES**

1. We are counsel for Plaintiffs in the above-captioned case. This declaration supports Plaintiffs’ Motion for Attorneys’ Fees and Litigation Expenses.

2. Class Counsel previously submitted a declaration (ECF 70-3) in support of Plaintiffs’ Motion for Preliminary Approval. That declaration explained the qualifications of Class Counsel, their work on behalf of the Class in this case, the history of settlement negotiations, the bases for settlement, and the relief that the Settlement will afford the members of the Class.

3. The Settlement came about as the result of protracted arm's-length negotiations that followed Horizon's filing of, and Plaintiffs' response to, a motion to dismiss.

4. Before conducting any settlement discussions in this case, Plaintiffs submitted informal settlement discovery requests to Defendant for the purpose of gaining sufficient information to submit a well-informed demand to Defendant. In response to the informal settlement requests, Defendant disclosed information about this case including that the Data Security Incident at issue was the result of a zero-day event, the class size, the data sets impacted in the Data Security Incident, the availability of insurance coverage and ability to pay, and other important information regarding the Data Security Incident. Using their vast experience litigating data breach actions, Class Counsel also took into consideration the value of settlements in analogous data breach actions and the risk that Horizon would prevail at class certification, summary judgment, or trial. With this information in hand, Plaintiffs and Defendant participated in settlement discussions.

5. The Parties negotiated back and forth via e-mail and telephone calls. The Parties also participated in a full-day mediation session with Retired United State District Judge Wayne Andersen. While the negotiations were always collegial, cordial, and professional, there is no doubt that they were adversarial in nature, with

both Parties forcefully advocating the position of their respective clients. The Parties ended the mediation session with Judge Andersen without a settlement in principle.

6. The Parties continued to conduct mediation discussions under Judge Andersen's guidance after the mediation session. Ultimately, Judge Andersen submitted a mediator's proposal after weeks of further informed settlement discussions, which resulted in the settlement of this matter for a \$7.75 million non-reversionary common fund. Thereafter, the Parties continued to negotiate the details of the full Settlement Agreement. These protracted and detailed settlement negotiations and the assistance of an experienced mediatory strongly indicate that Settlement was reached without collusion.

7. On September 21, 2023, the Court granted preliminary approval of the Parties' settlement agreement and proposed notice plan. (ECF 71.) However, in the process of preparing the notice to the settlement class, Horizon Actuarial's review and confirmation process identified 494,003 additional Settlement Class Members, increasing the settlement class to 4,386,969 members. In light of the increased class size, the Parties entered into good faith negotiations to properly provide for the additional settlement class members and reached an agreement to increase the Settlement Fund pro rata for each additional settlement class member, thereby increasing the total value of the Settlement Fund to \$8,733,446.36.

8. On November 3, 2023, the Court issued an Order Granting the Parties' Joint Motion for Amendment of Preliminary Approval Order to Extend Notice and Settlement Deadlines. (ECF 74.) This order altered the relevant dates originally agreed to in the settlement agreement. Then, on November 9, 2023, the Court issued an Order granting the Parties' Joint Motion for Amendment of the Settlement Agreement and Approval of Revised Forms. (ECF 77.) Therein, the Court approved the amendment of the Parties' settlement agreement, thereby (a) establishing a Settlement Class of 4,386,969 persons; (b) increasing the Settlement Fund to \$8,733,446.36; (c) increasing the not-to-exceed amount of attorneys' fees to \$2,911,148.79.7

9. On December 19, 2023, the parties formally executed the Amended Settlement Agreement and Release ("S.A."), which is attached to Plaintiffs' Motion as Exhibit 2.

10. Horizon has disclosed the cybersecurity business practice changes that it has implemented to limit the potential for future data security incidents.

11. Under the Amended Settlement, Class Counsel may seek up to one-third (1/3) of the Settlement Fund (\$2,911,148.79) as attorneys' fees and up to \$50,000.00 in litigation expenses. S.A. ¶ 84. However, at this time, Class Counsel only seeks reimbursement of \$18,285.14 in litigation expenses which includes reimbursement for mediation costs, *pro hac vice* application filing fees, filing fees

for the complaints, service fees, legal research and copying expenses and travel to and from the Final Approval Hearing.

12. Class Counsel have undertaken this case on a contingency fee basis and have not received any payment for their work in this case to date and have not been reimbursed for any of their litigation expenses. Furthermore, due to accepting representation of Plaintiffs in this matter and pursuing the case on behalf of the Settlement Class, Class Counsel were precluded from working on certain other class action cases including certain other data breach class action cases.

13. Class Counsel have spent significant time and expenses pursuing this matter on behalf of the Class. From the initiation of the first filed action in this Court to roughly the present, Class Counsel have spent more than 1,500 hours and incurred expenses of \$18,285.14 directly related to this litigation.

14. Class Counsel reviewed their billing and expense records before drafting this Declaration and attest that all time and expenses comprising the 1,500 hours were actually incurred, relate to this litigation, and were necessary for the quality of result achieved. These expense records are held in the ordinary course of business and audited to ensure they relate to this matter and are not duplicative.

15. Class Counsel have endeavored to limit expenses wherever possible. Class Counsel's litigation expenses to date are relatively minimal and reasonable. Class Counsel's expenses of \$18,825.14 n primarily includes mediation fees paid to

Ret. United States District Judge Wayne Andersen, filing fees, and travel to and from the upcoming Final Approval Hearing.

16. Class Counsel will continue to expend substantial additional time and other minimal expenses continuing to protect the Class's interest through the Final Approval Hearing and throughout settlement administration.

17. Class Counsel hold the informed opinion that the fee request of \$2,911,148.79 and expenses of \$18,825.14 are reasonable and justified in this case.

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

Executed on January 8, 2024.

/s/ Gary M. Klinger

Gary M. Klinger

**MILBERG COLEMAN BRYSON  
PHILLIPS GROSSMAN, PLLC**

/s/ Terence R. Coates

Terence R. Coates

**MARKOVITS, STOCK & DE MARCO, LLC**

/s/ Kenya J. Reddy

Kenya J. Reddy

**MORGAN & MORGAN**