

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

JESSICA GUERRERO, JEFFREY  
MATTHEWS and JOSEPH CASTILLO,  
individually and on behalf of all others  
similarly situated,

Plaintiffs,

v.

MERRITT HEALTHCARE HOLDINGS,  
LLC d/b/a MERRITT HEALTHCARE  
ADVISORS,

Defendant.

Case No.: 3:23-cv-00389-MPS

**JOINT DECLARATION OF LAURA VAN  
NOTE AND KEVIN LAUKAITIS  
IN SUPPORT OF PLAINTIFFS’  
UNOPPOSED MOTION FOR  
FINAL APPROVAL OF  
SETTLEMENT AND FINAL  
CERTIFICATION OF SETTLEMENT  
CLASS, AND APPROVAL OF NOTICE  
PLAN**

I, Laura Van Note, declare:

1. I am an attorney-at-law, licensed to practice in California and admitted to practice before this Court Pro Hac Vice. I am a Shareholder at the law firm of Cole & Van Note (“CVN”), attorneys-of-record for Representative Plaintiff Jeffrey Mathews. I make these statements based on personal knowledge, would so testify if called as a witness and have personal knowledge of the foregoing.

2. This Declaration is made jointly with co-counsel, Kevin Laukaitis. Attorney Laukaitis is currently a partner of the law firm Laukaitis Law LLC and one of the lead attorneys for Plaintiffs.

SUMMARY OF ALLEGATIONS

3. This is a putative class action arising from an Incident whereby Plaintiffs Jessica Guerrero and Jeffrey Mathews allege an unauthorized third-party was able to gain access to Defendant’s (“Merritt”) computer network, which Defendant first discovered on or about November 30, 2022, and remove certain files containing sensitive information stored therein. ECF No. 50, ¶¶ 1-4. The Incident allegedly impacted 88,740 people. Id., at ¶ 2. The information

compromised in the Incident potentially included individuals' full names, treatment information, provider names, patient identification numbers, health insurance information, treatment cost information, and health insurance numbers. (information breached) Id at ¶ 1.

4. On March 29, 2023, Plaintiff Jessica Guerrero filed a Class Action Complaint in the United States District Court for the District of Connecticut against Defendant, asserting claims for negligence, negligence per se, breach of implied contract, breach of implied covenant of good faith and fair dealing, and unjust enrichment. ECF No. 1 ¶¶ 92-151. On April 17, 2023, Plaintiff Jeffrey Matthews filed a Class Action Complaint against Defendant in the United States District Court for the District of Connecticut, asserting similar claims to those asserted by Plaintiff Guerrero. See *Matthews v. Merritt Healthcare Holdings, LLC*, Case 3:23-cv-00476 (D. Conn), ECF No. 1. On April 18, 2023, Plaintiff Joseph Castillo filed a Class Action Complaint against Defendant in the United States District Court for the District of Connecticut, asserting similar claims to those asserted by Plaintiff Guerrero. See *Castillo v. Merritt Healthcare Holdings, LLC*, Case 3:23-cv-00489 (D. Conn), ECF No. 1. On June 6, 2023, Plaintiffs moved to consolidate their cases, and have their attorneys Kevin Laukaitis of Laukaitis Law LLC and Laura Van Note of Cole & Van Note appointed as Co-Lead Interim Class Counsel. ECF No. 37. The Court granted Plaintiffs' motion on July 13, 2023. ECF No. 43. Plaintiffs thereafter filed their Consolidated Class Action Complaint on July 26, 2023. ECF No. 50. On September 26, 2023, Defendant filed a motion to dismiss Plaintiffs' Consolidated Class Action Complaint. ECF No. 56.

5. In the time shortly following consolidation, the Parties began discussing possible early resolution and subsequently agreed to mediate the matter. ECF No. 59. In light of their agreement to mediate the case, on October 26, 2023, the Parties moved the Court to stay the action pending mediation, which the Court granted on October 27, 2023. ECF No. 59 & 60. On December 29, 2023, the Parties then notified the Court that they had reached an agreement to resolve the action on a class-wide basis. ECF No. 61.

## EXPERIENCE OF COUNSEL

6. The attorneys seeking to be named Class Counsel in this matter have extensive experience in class action litigation generally and data breach class action litigation in particular. Courts have recognized Plaintiffs' counsel's experience in complex class litigation and their skilled and effective representation. On May 14, 2024, this Court appointed Kevin Laukaitis of Laukaitis Law LLC and myself as Co-Lead Class Counsel and Erin Green Comite of Scott+Scott as Liaison Counsel. ECF No. 80.

## NOTICE

7. As this Court already observed in preliminarily approving the settlement terms, the Notice meets the criteria set forth in *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156 (U.S. 1974) and the *Manual for Complex Litigation* (4th ed. 2008) § 21.311 ("*Manual*"). In all material aspects, this Notice is the same as those which were court-approved in connection with countless settlements in the past, including ones within this particular jurisdiction.

8. In determining both the content of the Notice as well as its "look and feel" and user-friendliness, Class Counsel first looked at Notices it has drafted that were approved in prior similar matters, as well as drawing upon our knowledge of what other law firms and courts have used in connection with other cases.

9. In determining the manner of disseminating the Notice, we elected to use a regular (U.S. Postal) mailed Postcard Notice approach, posted the relevant documents on the claims administration website, including the long Class Notice and the ability to submit claims via the website.

10. Certainly, anyone wishing to object, opt out or otherwise get information about this settlement could place a telephone call to the Claims Administrator or any of the respective counsel or email the Claims Administrator's dedicated settlement email address to get his or her questions answered. Similarly, walking out to one's mailbox to mail a letter in response (e.g., objection) to the settlement is simple.

11. As a result, and consistent with this Court's preliminary approval Order, the approved Notice was mailed out to all potential Class Members, who were thereafter given forty-

five (45) days to make their elections as to whether they wished to participate in the Settlement, object thereto, or opt out. As the claims administrator attests in the Declaration of Mark Schey (filed herewith), 86,997 Notices were mailed. Only 194 Notices were returned as undeliverable, and of those 194 undeliverable notices, 15 were re-mailed to forwarding addresses provided by the USPS. This indicates that the Notice program was highly successful.

12. As the Claims Administrator further explains, only three opt-out was received. One individual filed an objection with Defendant's Counsel.

13. As of the time of this Declaration, 3,055 claims were received by the Claims Administrator. The deadline to submit a claim is August 12, 2024. After the claims deadline has passed, Plaintiff's counsel will submit another, supplemental declaration from the Claims Administrator documenting the total number of claims, opt outs and objections.

14. It should be noted that the low number of opt outs and objections is not tantamount to a lack of interest in the Settlement. Given all of this, we consider the Notice program effectuated here to be a success.

#### ATTORNEYS' FEES AND COSTS

15. Class Counsel separately filed a Motion for Attorneys' Fees and Costs which will be heard on the same date as the Fairness Hearing. As detailed in that Motion, Class Counsel seeks a total award of \$508,283.

#### REQUEST FOR CLASS REPRESENTATIVE SERVICE AWARD

16. The proposed class representative service award negotiated here also falls well within the range of those provided in similar settlement conditions, particularly in light of awards approved by courts within this jurisdiction.

#### FAIRNESS OF SETTLEMENT

17. Plaintiffs' counsel—attorneys with considerable experience in assessing the strengths and weaknesses of data breach cases—are well-informed about the strengths and risks of the claims, as well as their value. It is the opinion of counsel that the Settlement is reasonable and fair. Plaintiffs' counsel weighed the risks against the hypothetical value of their claims and, ultimately, secured a substantial monetary award of \$1,525,000.00.

18. The Settlement resolves a complex class action—previously, three separate class actions—that have been and would continue to be costly to litigate through trial.

19. There are no other agreements that would modify any term of the Settlement.

20. Plaintiffs have no interests in conflict with the Settlement Class, as they are equally interested in obtaining relief for Defendant’s alleged misconduct and ensuring that Defendant reforms its business practices. Further, throughout the pendency of this action, Plaintiffs have adequately and vigorously represented their fellow Class Members. They have spent time assisting their counsel, including by reviewing pleadings, answering counsel’s questions, and aiding with settlement.

I declare under penalty of perjury of the laws of the United States and the State of California that the foregoing is true and correct, and that this declaration was executed in Oakland, California on July 30, 2024.

~~/s/ Laura Van Note~~ \_\_\_\_\_

Laura Van Note

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct, and that this declaration was executed in Oakland, California, on July 30, 2024.

~~/s/ Kevin Laukaitis~~ \_\_\_\_\_

Kevin Laukaitis