

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

JOHN FINN and SALVATORE J.
CONTRISTANO, individually and on behalf
of all others similarly situated,

Plaintiffs,

v.

EMPRESS AMBULANCE SERVICE,
LLC,

Defendant.

Index No. 61058/2023

CLASS ACTION

**DECLARATION OF TINA WOLFSON IN SUPPORT OF PLAINTIFFS’
MOTION FOR ATTORNEYS’ FEES, COSTS, AND EXPENSES,
AND FOR CLASS REPRESENTATIVE SERVICE AWARDS**

EXHIBIT A



Ahdoot & Wolfson, PC (“AW”) is a nationally recognized law firm founded in 1998 that specializes in class action litigation, with a focus on privacy cases, unfair and anticompetitive business practices, consumer fraud, employee rights, defective products, antitrust, civil rights, and taxpayer rights and unfair practices by municipalities. The attorneys at AW are experienced litigators who have often been appointed by state and federal courts as lead class counsel, including in multidistrict litigation. In 25 years of its successful existence, AW has vindicated the rights of millions of class members in protracted, complex litigation, conferring billions of dollars to the victims, and affecting real change in corporate behavior.

Privacy Class Actions

AW has been prosecuting cutting edge data privacy cases on behalf of consumers since the late 1990s. AW was among the first group of attorneys who successfully advocated for the privacy rights of millions of consumers against major financial institutions based on the unlawful compilation and sale of detailed personal financial data to third-party telemarketers without the consumers’ consent. While such practices later became the subject of Gramm-Leach-Bliley Act regulation, at the time AW was prosecuting these cases before the Hon. Richard R. Kramer, (Ret.) in the complex department of San Francisco Superior Court, such practices were novel and hidden from public scrutiny. AW’s work shed light on how corporations and institutions collect, store, and monetize mass data, leading to governmental regulation. AW has been at the forefront of data-related litigation since then.

In *Rivera v. Google LLC*, No. 2019-CH-00990 (Ill Cir. Ct.) (Hon. Anna M. Loftus), a class action arising from Google’s alleged illegal collection, storage, and use of the biometrics of individuals who appear in photographs uploaded to Google Photos in violation of the Illinois Biometric Information Privacy Act, 740 ILCS 14/1, *et seq.* (“BIPA”), AW achieved a settlement that establishes a \$100 million non-reversionary cash settlement fund and changes Google’s biometric privacy practices for the benefit of class members.

As co-lead counsel in the *Zoom Video Communications, Inc. Privacy Litigation*, No. 5:20-cv-02155 (N.D. Cal.) (Hon. Laurel Beeler), a nationwide class action alleging privacy violations from the collection of personal information through third-party software development kits and failure to provide end to end encryption, AW achieved an \$85 million nationwide class settlement that also included robust injunctive relief overhauling Zoom’s data collection and security practices.

As co-lead counsel in the *Experian Data Breach Litigation*, No. 8:15-cv-01592-AG-DFM (C.D. Cal.) (Hon. Andrew J. Guilford), which affected nearly 15 million class members, AW achieved a settlement conservatively valued at over \$150 million. Experian also provided robust injunctive relief. Judge Guilford praised counsel's efforts and efficiency in achieving the settlement, commenting "You folks have truly done a great job, both sides. I commend you."

As an invaluable member of a five-firm Plaintiffs' Steering Committee ("PSC") in the *Premera Blue Cross Customer Data Sec. Breach Litigation*, No. 3:15-cv-02633-SI (D. Or.) (Hon. Michael H. Simon), arising from a data breach disclosing the sensitive personal and medical information of 11 million Premera Blue Cross members, AW was instrumental in litigating the case through class certification and achieving a nationwide class settlement valued at \$74 million.

Similarly, in the *U.S. Office of Personnel Management Data Security Breach Litigation*, No. 1:15-mc-1394-ABJ (D.D.C.) (Hon. Amy Berman Jackson), AW, as a member of the PSC, briefed and argued, in part, the granted motions to dismiss based on standing, briefed in part the successful appeal to the D.C. Circuit, and had an important role in reaching a \$63 million settlement.

In *The Home Depot, Inc., Customer Data Sec. Breach Litigation*, No. 1:14-md-02583-TWT (N.D. Ga.) (Hon. Thomas W. Thrash Jr.), AW served on the consumer PSC and was instrumental in achieving a \$29 million settlement fund and robust injunctive relief for the consumer class.

AW's efforts have shaped data privacy law precedent. As lead counsel in *Remijas v. Neiman Marcus Group, LLC*, No. 14-cv-1735 (N.D. Ill.) (Hon. Sharon Johnson Coleman), AW's attorneys successfully appealed the trial court's order granting a motion to dismiss based on lack of Article III standing. The Seventh Circuit's groundbreaking opinion, now cited in every privacy case standing brief, was the first appellate decision to consider the issue of Article III standing in data breach cases in light of the Supreme Court's decision in *Clapper v. Amnesty International USA*, 568 U.S. 398 (2013) and concluded that data breach victims have standing to pursue claims based on the increased risk of identity theft and fraud, even before that theft or fraud materializes in out-of-pocket damages. *Remijas v. Neiman Marcus Group, LLC*, 794 F.3d 688 (7th Cir. 2015).

AW also currently serves on the PSC in *Am. Med. Collection Agency, Inc., Customer Data Sec. Breach Litigation*, No. 2:19-md-2904-MCA-MAH (D.N.J.) (Hon. Madeline Cox Arleo), a class action arising out of a medical data breach that disclosed the personal and financial information of over 20 million patients. AW has successfully resolved numerous other data breach class actions, including *In re Ambry Genetics Data Breach Litig.*, No. 8:20-cv-00791 (C.D. Cal.) (Hon. Cormac J. Carney) (as court-appointed co-lead counsel, AW achieved a data breach settlement valued at over \$20 million, including a \$12.25 million common fund, for the benefit of over 225,000 class members), *Cochran, et al. v. The Kroger Co., et al.*, No. 5:21-cv-01887-EJD (N.D. Cal.) (Hon. Edward J. Davila) (AW achieved a nationwide settlement that provides \$5 million non-reversionary fund), and *Harbour et al. v. California Health & Wellness Plan et al.*, No. 5:21-cv-03322-EJD (N.D. Cal.) (Hon. Edward J. Davila) (AW achieved \$10 million common fund settlement in medical data privacy case).

Other Class Action Results

AW has achieved excellent results as lead counsel in numerous complex class actions.

In *Alvarez v. Sirius XM Radio Inc.*, No. 2:18-cv-08605-JVS-SS (C.D. Cal.) (Hon. James V. Selna), a breach of contract class action alleging that defendant did not honor its lifetime subscriptions, AW achieved a nationwide class action settlement conservatively valued at approximately \$420 million. The settlement extended the promised lifetime subscription for the lifetime of class members who have active accounts and provided the opportunity for class members with closed accounts to reactivate their accounts and enjoy a true lifetime subscription or recover \$100. The district court had granted the motion to compel arbitration on an individual basis, and AW appealed. AW reached the final deal points of the nationwide class action settlement minutes prior to oral argument in the Ninth Circuit.

In *Eck v. City of Los Angeles*, No. BC577028 (Cal. Super. Ct.) (Hon. Ann I. Jones), AW achieved a \$295 million class settlement in a case alleging that an 8% surcharge on Los Angeles electricity rates was an illegal tax. Final settlement approval was affirmed on appeal in October 2019.

As a member of the Plaintiffs' Executive Committee in the *Apple Inc. Device Performance Litigation*, No. 5:18-md-2827-EJD (N.D. Cal.) (Hon. Edward J. Davila), AW helped achieve a nationwide settlement of \$310 million minimum and \$500 million maximum. The case arose from Apple's alleged practice of deploying software updates to iPhones that deliberately degraded the devices' performance and battery life.

In the *Dental Supplies Antitrust Litigation*, No. 1:16-cv-00696-BMC-GRB (E.D.N.Y.) (Hon. Brian M. Cogan), a class action alleging an anticompetitive conspiracy among three dominant dental supply companies in the United States, AW served on the plaintiffs' counsel team that brought in an \$80 million cash settlement for the benefit of a class of approximately 200,000 dental practitioners, clinics, and laboratories.

In *Kirby v. McAfee, Inc.*, No. 5:14-cv-02475-EJD (N.D. Cal.) (Hon. Edward J. Davila), a case arising from McAfee's auto renewal and discount practices, AW and co-counsel achieved a settlement that made \$80 million available to the class and required McAfee to notify customers regarding auto-renewals at an undiscounted subscription price and change its policy regarding the past pricing it lists as a reference to any current discount.

In *Lavinsky v. City of Los Angeles*, No. BC542245 (Cal. Super. Ct.) (Hon. Ann I. Jones), a class action alleging the city unlawfully overcharged residents for utility taxes, AW certified the plaintiff class in litigation and achieved a \$51 million class settlement.

Current Noteworthy Leadership Roles

AW was selected to serve as interim co-lead class counsel in the *StubHub Refund Litigation*, No. 4:20-md-02951-HSG (N.D. Cal.) (Hon. Haywood S. Gilliam, Jr.). This consolidated multidistrict litigation alleges that StubHub retroactively changed its policies for refunds for cancelled or

rescheduled events as a result of the Covid-19 pandemic and refused to offer refunds despite promising consumers 100% of their money back if events are cancelled.

AW was appointed, after competing applications, to serve as interim co-lead class counsel in the *Ring LLC Privacy Litigation*, No. 2:19-cv-10899-MWF-RAO (C.D. Cal.) (Hon. Michael W. Fitzgerald), a consolidated class action arising from Ring's failure to implement necessary measures to secure the privacy of Ring user accounts and home-security devices, and failure to protect its customers from hackers despite being on notice of the inadequacies of its cybersecurity.

In *Clark v. American Honda Motor Co., Inc.*, No. 2:20-cv-03147-AB-MRW (C.D. Cal.) (Hon. André Birotte Jr.), AW serves as co-lead counsel in a class action arising from unintended and uncontrolled deceleration in certain Acura vehicles.

In the *Google Digital Advertising Antitrust Litigation*, No. 1:21-md-03010-PKC (S.D.N.Y.) (Hon. P. Kevin Castel), a class action alleging monopolization of the digital advertising market, AW is serving as court-appointed co-lead counsel on behalf of the advertiser class.

In *Klein v. Meta Platforms, Inc.*, No. 3:20-cv-08570-JD (N.D. Cal.) (Hon. James Donato), AW is serving on the Executive Committee for the digital advertiser plaintiff class in a class action alleging that Meta (formerly Facebook) engaged in anticompetitive conduct to stifle and/or acquire competition to inflate the cost of digital advertising on its social media platform. Many of the plaintiffs' claims recently survived a motion to dismiss and are in the process of amending their complaint.

AW serves on the Plaintiffs' Executive Committees in *Allergan Biocell Textured Breast Implant Products Liability Litigation*, No. 2:19-md-02921-BRM-JAD (D.N.J.) (Hon. Brian R. Martinotti), a class action alleging textured breast implants caused a rare type of lymphoma and in *ZF-TRW Airbag Control Units Products Liability Litigation*, No. 2:19-ml-02905-JAK-FFM (C.D. Cal.) (Hon. John A. Kronstadt), a class action alleging a dangerous defect in car airbag component units.

As part of the leadership team in *Novoa v. The Geo Group, Inc.*, No. 5:17-cv-02514-JGB-SHK (C.D. Cal.) (Hon. Jesus G. Bernal), AW certified a class of immigration detainees challenging private prison's alleged forced labor practices.

Attorney Profiles

Tina Wolfson graduated Harvard Law School *cum laude* in 1994. Ms. Wolfson began her civil litigation career at the Los Angeles office of Morrison & Foerster, LLP, where she defended major corporations in complex actions and represented indigent individuals in immigration and deportation trials as part of the firm's *pro bono* practice. She then gained further invaluable litigation and trial experience at a boutique firm, focusing on representing plaintiffs on a contingency basis in civil rights and employee rights cases. Since co-founding AW in 1998, Ms. Wolfson has led numerous class actions to successful results. Ms. Wolfson is a member of the California, New York and District of Columbia Bars.

Recognized for her deep class action experience, Ms. Wolfson frequently lectures on numerous class action topics across the country. She is a guest lecturer on class actions at the University of California at Irvine Law School. Her recent notable speaking engagements include:

- Class Action Mastery Forum at the University of San Diego School of Law (Preliminary and Final Settlement Approvals and Objectors) March 2023, featuring Hon. Cathy A. Bencivengo and Hon. Fernando M. Olguin.
- Class Action Mastery Forum at the University of San Diego School of Law (Consumer Class Actions Roundtable) March 2020, featuring Hon. Lucy H. Koh, Hon. Edward M. Chen, and Hon. Fernando M. Olguin.
- Class Action Mastery Forum at the University of San Diego School of Law (Data Breach/Privacy Class Action Panel) January 16, 2019.
- Association of Business Trial Lawyers: “Navigating Class Action Settlement Negotiations and Court Approval: A Discussion with the Experts,” Los Angeles May 2017, featuring Hon. Philip S. Gutierrez and Hon. Jay C. Gandhi.
- CalBar Privacy Panel: “Privacy Law Symposium: Insider Views on Emerging Trends in Privacy Law Litigation and Enforcement Actions in California,” Los Angeles Mar. 2017 (Moderator), featuring Hon. Kim Dunning.
- American Conference Institute: “2nd Cross-Industry and Interdisciplinary Summit on Defending and Managing Complex Class Actions,” April 2016, New York: Class Action Mock Settlement Exercise featuring the Hon. Anthony J. Mohr.
- Federal Bar Association: N.D. Cal. Chapter “2016 Class Action Symposium,” San Francisco Dec. 2016 (Co-Chair), featuring Hon. Joseph F. Anderson, Jr. and Hon. Susan Y. Illston.
- Federal Bar Association: “The Future of Class Actions: Cutting Edge Topics in Class Action Litigation,” San Francisco Nov. 2015 (Co-Chair & Faculty), featuring Hon. Jon S. Tigar and Hon. Laurel Beeler.

Ms. Wolfson currently serves as a Ninth Circuit Lawyer Representative for the Central District of California, as Vice President of the Federal Litigation Section of the Federal Bar Association, as a member of the American Business Trial Lawyer Association, as a participant at the Duke Law School Conferences and the Institute for the Advancement of the American Legal System, and on the Board of Public Justice. Ms. Wolfson has been elected to serve as an at-large member of the Ninth Circuit Conference Executive Committee.

Robert Ahdoot graduated from Pepperdine Law School *cum laude* in 1994, where he served as Literary Editor of the Pepperdine Law Review. Mr. Ahdoot clerked for the Honorable Paul Flynn at the California Court of Appeals, and then began his career as a civil litigator at the Los Angeles office of Mendes & Mount, LLP, where he defended large corporations and syndicates such as Lloyds of London in complex environmental and construction-related litigation as well as a variety of other

matters. Since co-founding AW in 1998, Mr. Ahdoot had led numerous class actions to successful results. Recognized for his deep class action experience, Mr. Ahdoot frequently lectures on numerous class action topics across the country. His notable speaking engagements include:

- MassTorts Made Perfect: Speaker Conference, April 2019, Las Vegas: “Llegal Fees: How Companies and Governments Charge The Public, and How You Can Fight Back.”
- HarrisMartin: Lumber Liquidators Flooring Litigation Conference, May 2015, Minneapolis: “Best Legal Claims and Defenses.”
- Bridgeport: 15th Annual Class Action Litigation Conference, September 2014, San Francisco: “The Scourge of the System: Serial Objectors.”
- Strafford Webinars: Crafting Class Settlement Notice Programs: Due Process, Reach, Claims Rates and More, February 2014: “Minimizing Court Scrutiny and Overcoming Objector Challenges.”
- Pincus: Wage & Hour and Consumer Class Actions for Newer Attorneys: The Do’s and Don’ts, January 2014, Los Angeles: “Current Uses for the 17200, the CLRA an PAGA.”
- Bridgeport: 2013 Class Action Litigation & Management Conference, August 2013, San Francisco: “Settlement Mechanics and Strategy.”

Henry Kelston graduated from New York University School of Law in 1978 and is a member of the New York and Connecticut Bars. Mr. Kelston has litigated a broad array of class actions for more than two decades, including actions challenging improperly charged bank fees, unauthorized collection of biometric data, and unlawful no-poach agreements among employers. He has been on the front lines in major data breach cases against companies such as Yahoo! and Facebook, and has represented consumers in class actions challenging food labeling practices, including the use of “natural” claims on products containing GMOs. His work in *In re Conagra Foods, Inc.*, contributed to a groundbreaking decision by the Ninth Circuit Court of Appeals, significantly strengthening the rights of consumers to bring class actions. Mr. Kelston is also a frequent speaker and CLE presenter on electronic discovery, and a member of The Sedona Conference® Working Group 1 on Electronic Document Retention and Production.

Andrew W. Ferich, is a partner at AW, is admitted to the bars of Pennsylvania, New Jersey, and the District of Columbia. Mr. Ferich received his law degree from Villanova University’s Charles Widger School of Law in 2012, where he served as Executive Editor of the *Journal of Catholic Social Thought*. Mr. Ferich has significant experience in consumer protection, data privacy, ERISA/retirement plan, and whistleblower/*qui tam* litigation. Prior to joining the firm, Mr. Ferich was a senior associate at a well-known Philadelphia-area class action law firm. Before joining the plaintiffs’ bar, Mr. Ferich was an associate at an AmLaw 200 national litigation firm in Philadelphia where he focused his practice on commercial litigation and financial services litigation. Mr. Ferich has represented a wide array of clients and has received numerous court-appointed leadership positions in large class actions. Mr. Ferich possesses major jury trial experience and has assisted in

litigating cases that have collectively resulted in hundreds of millions of dollars in settlement value in damages and injunctive relief for various classes and groups of people.

Mr. Ferich's recent appointments to leadership positions in data privacy litigation include: *Cochran, et al. v. The Kroger Co.*, No. 5:21-cv-01887-EJD (N.D. Cal.) (final approval of nationwide settlement that provides \$5 million common fund and appointing Ferich and AW as co-lead class counsel); *Leitermann et al v. Forefront Dermatology SC, et al.*, No. 1:21-cv-00887-LA (E.D. Wis.) (preliminarily approved \$3.75 million common fund settlement; Ferich appointed as co-lead class counsel); *Smeltz, et al. v. Logan Health, et al.*, No. A-DV-22-0124 (8th Judicial District Court, Cascade County Mar. 31, 2022) (medical privacy class action impacting hundreds of thousands of Montanans; Ferich achieved \$4.3 million preliminarily approved common fund settlement); *In re Keystone Data Breach Litig.*, No. 1:22-cv-01643-CCC (M.D. Pa.) (health information data breach impacting hundreds of thousands of Pennsylvanians; Ferich is appointed interim co-lead class counsel); *Kesner et al. v. UMass Memorial Health Care, Inc.*, No. 2185 CV 01210 (Mass. Super. Ct.) (medical data privacy case where the parties agreed to a \$1.2 million common fund settlement that has received preliminary approval from the court—Mr. Ferich is appointed co-lead class counsel).

Deborah De Villa is an associate attorney at AW and a member of the State Bars of New York and California. She graduated from Pepperdine University School of Law in 2016, where she earned the CALI Excellence for the Future Award in immigration law, business planning and commercial law. During law school, Ms. De Villa completed internships at the Los Angeles District Attorney's Office, Hardcore Gangs Unit, and at the Supreme Court of the Philippines, Office of the Court Administrator. Born in the Philippines, Ms. De Villa moved to Florida at the age of sixteen to attend IMG Golf Academy as a full-time student-athlete. Ms. De Villa earned a scholarship to play NCAA Division 1 college golf at Texas Tech University, where she graduated *magna cum laude* with a Bachelor of Arts in Psychology and a minor in Legal Studies. Ms. De Villa has gained substantial experience litigating class actions with AW and focuses her practice on consumer protection and privacy class actions. She demonstrates leadership, a hard work ethic, and a commitment to excellence in all her endeavors.

Chloe DeOnna is an associate attorney at AW and is admitted to practice in Pennsylvania. Before joining AW, Ms. DeOnna worked with several prominent Philadelphia firms, gaining experience in high-profile sex-trafficking litigation, pharmaceutical products liability, and medical malpractice. Ms. DeOnna completed her undergraduate degree at Penn State University, where she earned two majors and two minors. During her time at Penn State, she worked as an EMT on the University Ambulance Service and studied abroad at the Università Mediterranea in southern Italy. Upon receipt of a full scholarship, Ms. DeOnna attended Drexel University Law School where she served as a Dean Scholar for Legislation and Regulation and the President of the Women in Law Society.

I, Tina Wolfson, hereby declare as follows:

1. I am a partner and founding member of Ahdoot & Wolfson, PC (“AW”), and a member in good standing of the bar of the State of California, the State of New York, and the District of Columbia. I submit this declaration in support of Plaintiffs’ Motion for Attorneys’ Fees, Costs, and Expenses, and for Class Representative Service Awards, filed concurrently herewith.

2. I make the following declaration based on my own personal knowledge and, where indicated as based on information and belief, that the following statements are true. If called upon as a witness, I could and would competently testify as follows.

3. AW, along with co-Class Counsel have vigorously and zealously represented the interests of the Settlement Class from the inception of this hard-fought litigation until the present.

4. Throughout this action, AW has sought to reach consensus with co-Class Counsel to manage the administration and work division in this case in a systematic and efficient manner, coordinating work assignments through conference calls, working to avoid duplication of efforts or unnecessary work undertaken, and ensuring that the skills and talents of counsel were put to use in an efficient and effective manner that maximized what each firm and attorney could contribute in a non-redundant way.

5. As explained herein, I and my partners at AW believe the Settlement to be fair, reasonable, and adequate, and in the best interests of the Settlement Class.

CLASS COUNSEL’S LITIGATION EFFORTS AND WORK ON BEHALF OF THE CLASS

6. On or about July 14, 2022, Empress discovered that an unauthorized individual or individuals had gained access to Empress’s network systems. Empress conducted an investigation and determined that the unknown parties first accessed Empress’s computer networks on May 26, 2022, and copied files on July 13, 2022, containing personally identifiable information (“PII”) and

protected health information (“PHI”) (collectively, “Private Information”) of Empress patients and affiliated persons.

7. On or about September 9, 2022, Empress notified patients, as well as the U.S. Department of Health and Human Services’ Office of Civil Rights, that the unauthorized individual(s) had access to the following Private Information of Empress patients (including Plaintiffs): patient names, dates of service, insurance information, and in some instances, Social Security numbers.

8. My firm has spent considerable efforts and resources litigating this case, and has committed to advancing and protecting the interests of the Class from inception. Prior to commencing this litigation, AW diligently investigated potential legal claims and defenses arising from Empress’s alleged failure to implement adequate and reasonable data security procedures and protocols necessary to protect PII/PHI. AW expended considerable effort reviewing and analyzing reports and publicly available information regarding the Empress Network Incident, including Defendant’s organizational structure and potential co-defendants.

9. AW communicated at length with potential class members to assess the extent of the harm caused by the Network Incident. My firm reviewed the filings in other similar data breach lawsuits pending in New York state court and familiarized ourselves with the current state of the law and recent trends in data breach cases in New York courts. In all phases of the litigation, AW stayed abreast of all material developments involving the Network Incident and endeavored to gain an ample understanding of the legal issues underlying Plaintiffs’ claims.

10. On September 22, 2022, Plaintiff Finn commenced the Action, *Finn v. Empress Ambulance Services, Inc. d/b/a Empress EMS*, No. 7:22-cv-08101, in the United States District Court for the Southern District of New York, alleging the following: (1) negligence; (2) negligence

per se; (3) breach of fiduciary duty; (4) breach of implied contract; (5) unjust enrichment; and (6) violations of the New York Deceptive Acts and Practices Act, N.Y. Gen. Bus. Law § 349 (“GBL”).¹

11. Following the *Finn* Action, numerous related actions were filed in state court and federal court (collectively, “Later-Filed Actions”). All Later-Filed Actions were stayed. *See* Court’s November 14, 2022 Order.² Judge Karas of the New York federal court decided to hold all cases in abeyance while AW pursued early resolution efforts with Empress.

MEDIATION AND SETTLEMENT NEGOTIATIONS

12. Class Counsel advocated zealously on behalf of Class Members during the Settlement negotiation process.

13. In early November 2022, the federal court’s imprimatur, the Parties began arm’s length negotiations concerning a possible settlement of this matter.

¹ On May 11, 2023, Plaintiffs John Finn and Salvatore J. Contristano commenced a state court action against Empress in the Supreme Court of the State of New York County of Westchester, *Finn and Contristano v. Empress Ambulance Service, LLC*, No. 61058/2023 (the “Complaint”), seeking to recover for the same Ransomware Attack, alleging the following: (1) negligence; (2) negligence per se; (3) breach of fiduciary duty; (4) breach of express contract; (5) breach of implied contract; (6) unjust enrichment; and (7) violations of the New York Deceptive Acts and Practices Act, N.Y. Gen. Bus. Law § 349 (“GBL”).

² *See Contristano v. Empress Ambulance Service, LLC*, No. 7:22-cv-09322-KMK (S.D.N.Y.) (filrd Sept. 28, 2022, removed Oct. 31, 2022); *Egan v. Empress Ambulance Service, LLC*, No. 7:22-cv-08584-KMK, (S.D.N.Y. Oct. 7, 2022); *Normand v. Empress Ambulance Services, Inc. d/b/a Empress EMS*, No. 7:22-cv-08590-KMK (S.D.N.Y. Oct. 9, 2022); *Cardwell v. Empress Ambulance Service, LLC d/b/a Empress Emergency Medical Services f/k/a Empress Ambulance Service, Inc.*, No. 7:22-cv-08603-KMK (S.D.N.Y. Oct. 10, 2022); *Colon v. Empress Ambulance Service LLC, d/b/a Empress Emergency Medical Services*, No. 7:22-cv-09322-KMK (S.D.N.Y.) (filed Oct. 11, 2022, removed Oct. 31, 2022); *Castaldo v. Empress Ambulance Services, LLC, d/b/a Empress*, No. 7:22-cv-08663-KMK (S.D.N.Y. Oct. 12, 2022); *Ford v. Empress Ambulance Service LLC d/b/a Empress EMS*, No. 1:22-cv-08679-KMK (S.D.N.Y. Oct. 12, 2022); *Saunders v. Empress Ambulance Service LLC d/b/a Empress EMS*, No. 7:22-cv-0877-KMK (S.D.N.Y. Oct. 14, 2022).

14. The Parties eventually agreed to attend a mediation which was held on November 17, 2022. The Parties engaged Rodney Max of Upchurch Watson White & Max Mediation Group as a mediator to oversee settlement negotiations in the action.

15. In advance of formal mediation, the Parties discussed their respective positions on the merits of the claims and class certification and provided detailed information to the mediator on the relevant facts and law.

16. The mediation was hard fought with each party zealously advocating for their client's respective positions.

17. Class Counsel reviewed ample information and conducted extensive research to determine that the settlement is fair. Prior to the mediation between the Parties, Class Counsel requested information (i.e., informal discovery) from Defendant in order to ascertain what would be a fair, reasonable, and adequate settlement in this case. This discovery guided Class Counsel in its negotiations with Defendant and gave Class Counsel confidence that the Settlement exceeds the standards of NY CPLR § 901, *et seq.*, and § 908.

18. The mediation resulted in an agreement to settle this matter in principle. During the weeks that followed, the Parties exchanged numerous drafts of the Settlement Agreement and its exhibits, and exhaustively negotiated the remaining finer details of the Settlement. These negotiations continued to be contested and involved detailed discussions regarding every provision of the Settlement Agreement and ancillary documents and the plan for Class Notice.

19. Class Counsel solicited competing bids from multiple third-party administrators for settlement notice and administration.

20. The Parties agreed to utilize Epiq Class Action and Claims Solution, Inc. ("Epiq") as the Settlement Administrator for this Settlement. Epiq was selected through a competitive

request for proposal/bidding process that sought bids from three nationally-recognized class action settlement administration companies. After considering each company's proposal, Class Counsel concluded that Epiq was best suited to administer this Settlement.

21. Class Counsel crafted, negotiated, and meticulously refined the final Notice Plan and each document comprising the notice, with the assistance of a class action notice expert, to ensure that the information disseminated to Class Members is clear and concise.

22. At all times during settlement discussions, the negotiations were at arm's length. Furthermore, it was always Class Counsel's primary goal to achieve the maximum substantive relief possible for the Class.

23. The Settlement Benefits that Plaintiffs obtained for the Class are well within the range of possible recovery of benefits at trial. This is a highly complicated data breach case. Empress adamantly denied liability and expressed an intention to defend itself through trial. Due to the risks of data breach litigation, as with most litigation, Class Counsel believe that it is possible that the Class could receive little or nothing if the case is litigated.

24. In my opinion, the speedy resolution of data breach class actions is in the best interests of Class Members because it allows class members to take advantage of settlement benefits and protect their identities moving forward. At the same time, the Settlement allows Class Members to take advantage of Credit Monitoring and Insurance Services and other similar services, which will help mitigate future harms. Further, the equitable, forward-looking relief obtained with respect to Empress' data security practices also provides substantial non-monetary benefits to all Class Members, irrespective of whether they submit a claim under the Settlement.

25. The requested Service Awards in the amount of \$1,500 per Class Representative reflect the work the Class Representatives have performed in assisting Class Counsel with this

litigation, including by engaging in the prosecution of this matter, consistently conferring with their counsel at every stage of litigation, reviewing the various pleadings, and consulting with their attorneys regarding the propriety of the Settlement. This Settlement would not have been possible without the efforts and assistance of the Class Representatives, who put their name on the line and sacrificed their personal time to participate in and advance this litigation. The requested Service Award in the amount of \$1,500 for the Class Representatives is in line with Service Awards in similar data breach cases that resolve early in the litigation, and the requested Service Awards reflect the work the Class Representatives have performed in assisting Class Counsel with this litigation and their dedication in bringing this lawsuit on behalf of the Settlement Class.

26. The Parties did not discuss or agree upon payment of attorneys' fees, costs, expenses at all, and did not agree on Service Awards until after the Parties agreed on all material terms of relief to the Settlement Class. The Parties have not agreed to an amount of attorneys' fees or separate payment of costs and expenses.

PRELIMINARY SETTLEMENT APPROVAL AND BEYOND

27. After the lengthy process that led to finalizing the Settlement Agreement and its numerous exhibits, Class Counsel prepared and filed Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement ("Mot. for Prelim. App."), which included supporting documents, declarations, and exhibits.

28. The information gleaned from an investigation and research into the facts and potential legal claims enabled Class Counsel to assess the strengths and weaknesses of this case, analyze potential damages models that could be utilized at trial, and informed the decision to engage in negotiation with Defendant's Counsel about attending mediation and later settling the matter.

29. Class Counsel's diligence in preparing for mediation, including obtaining information necessary to analyze all claims and defenses, allowed Class Counsel to negotiate a robust relief package and valuable outcome for the Class, and to determine a fair and efficient structure and distribution plan.

30. On November 27, 2023, the Court preliminarily approved the Settlement and ordered that the Class be given notice. *See* Order Granting Preliminary Approval of Class Action Settlement ("Prelim. App. Order"). Thereafter, the Parties continued to work with the Settlement Administrator to supervise dissemination of Notice. These efforts included review and drafting of the language and format of the Settlement Website, the script for the automated response to the toll-free number, the language and format of the Notice forms, monitoring for exclusion requests and objections, and ensuring prompt response to every Class Member inquiry regarding the Settlement, among others. I am informed and thus believe that the Settlement Class is comprised of approximately 307,687 persons, based upon the class list provided by Empress to the Settlement Administrator and the Settlement Administrator's review of that data, including its removal of duplicate and invalid records.

31. AW performed various other litigation-related work during the pendency of this matter, including meetings, emails, and phone calls between co-counsel, other plaintiffs' counsel, and with opposing counsel, communicating with Plaintiffs regarding case developments and litigation strategy, and Settlement. Class Counsel will continue to litigate this matter diligently and efficiently through the Final Approval Hearing.

CLASS COUNSEL'S HOURS AND LODESTAR

32. Class Counsel, in Plaintiffs' Motion for Attorneys' Fees, Costs, and Expenses, and for Class Representative Service Awards, filed concurrently herewith, have applied for attorneys'

fees in the amount of \$350,000—which is one-third of the Settlement Fund—plus reasonable litigation costs and expenses totaling \$12,846.74.

33. **Class Counsel's Combined Lodestar.** My firm used the information provided in my co-Class Counsel's concurrently filed Declaration and my own personal knowledge of my firm's lodestar, to tabulate Class Counsel's total hours.

34. Class Counsel and their staffs have devoted a total of 469.8 hours to this litigation and have a total combined lodestar of \$328,757.50 through February 22, 2024.

35. **AW's Hours and Lodestar.** AW expended 386.3 hours in this litigation through February 22, 2024, for a lodestar of \$271,080.00.

36. AW's representation of the Class was on a wholly contingent basis. The Firm devoted substantial resources to this matter, and we have received no payment for any of the hours of services performed or the out-of-pocket costs and expenses that AW committed to the litigation of this case. We did this, with no guarantee of repayment, to represent our clients and because of the public interest and social importance of this case. Moreover, AW was required to forego other financial opportunities to litigate this case. AW thus took this case with the expectation that the firm would receive a risk enhancement in the event we prevailed. To date, my firm has received no compensation at all litigating this case on behalf of the Class.

37. All attorneys and legal staff who worked on this case maintained contemporaneous time records reflecting the time spent on all billable matters. In all instances, the timekeeper indicated the date and amount of time spent on a task to one-tenth of an hour, described the work that was performed during the indicated period, and identified the case to which the time should be charged.

38. AW made every effort to litigate this matter efficiently by coordinating the work of AW's attorneys and paralegals, as well as co-Class Counsel, minimizing duplication, and assigning tasks in a time and cost-efficient manner, based on the timekeepers' experience levels and talents.

39. More detailed time records for the hours spent by my firm and billed to this case are available to the Court *in camera* upon request. I certify to the Court that AW's fee records accurately reflect work actually, reasonably, and necessarily performed in connection with the litigation of this matter. I believe that the hours spent reflect time spent reasonably litigating this case, which I have sought to manage and staff efficiently as described above.

40. A summary of rates and hours expended by AW's professionals, as of February 22, 2024, is set forth as follows:

Professional	Title	Billable Rate	Billable Hours	Billable Fees
Tina Wolfson	Partner	\$1,200	48.3	\$57,960.00
Henry Kelston	Partner	\$950	0.7	\$665.00
Andrew Ferich	Partner	\$850	152.7	\$129,795.00
Deborah De Villa	Associate	\$675	71.4	\$48,195.00
Chloe DeOnna	Associate	\$500	9.0	\$4,500.00
Carlyne Wagner	Associate	\$500	20.5	\$10,250.00
Kathryn Cabrera	Paralegal	\$250	0.1	\$25.00
Heidi Liivamagi	Paralegal	\$250	62.4	\$15,600.00
Laura Lowe	Paralegal	\$250	2.8	\$700.00
Michelle Montecalvo	Paralegal	\$250	6.3	\$1,575.00
Catherine Santos	Legal Assistant	\$150	12.1	\$1,815.00
TOTALS:			386.3	\$271,080.00

41. Since November 27, 2023, when Preliminary Approval was entered, Class Counsel have devoted significant additional hours of time to, among other things, beginning to prepare the Motion for Final Approval, and all supporting declarations and exhibits thereto, coordinating with the Settlement Administrator about the Notice Plan and implementing the Settlement, and responding to Class Member inquiries.

42. I expect AW to maintain a high level of oversight and involvement in this case, and will continue to expend significant attorney time given the future work still needed for completion of the Settlement, including: preparing and filing Plaintiffs' forthcoming Motion for Final Approval and supporting documentation, attending the Final Approval Hearing, overseeing the Settlement claims process and distribution, as well as addressing any possible objections or appeals.

43. Therefore, I anticipate incurring significant additional lodestar in the future.

CLASS COUNSEL'S REASONABLE EXPENSES

44. Class Counsel have incurred a total of \$12,846.74 in unreimbursed costs and expenses that were necessarily incurred in connection with the investigation, prosecution, and settlement of this litigation

45. To date, AW has incurred \$12,741.85 of these expenses, as follows:

Description	Amount
Court Fees	\$627.63
Postage and Shipping	\$71.03
Attorney Service Fees	\$924.34
Electronic Research	\$118.80
Mediation Fees	\$11,000.00
Total:	\$12,741.85

46. These costs include court fees, mediation fees, electronic research fees, attorney service fees, postage, duplication costs, and other related costs. Each of these costs and expenses are fully documented, and in my opinion, necessary and reasonable. This amount does not include internal and other additional costs that Class Counsel incurred but, in an exercise of discretion, do not seek to recover. The charges for electronic research above are independent charges, and do not include the firm's monthly Westlaw subscription charges, which though used for this matter, were not charged as an expense.

AHDOOT & WOLFSON, PC EXPERIENCE

47. At all times, AW had the experience, expertise, and resources to effectively litigate any all issues related to this litigation.

48. In March 1998, Robert Ahdoot and I founded AW, now a nationally recognized law firm that specializes in complex and class action litigation, with a focus on privacy rights, consumer fraud, anti-competitive business practices, employee rights, defective products, civil rights, and taxpayer rights. The attorneys at AW are experienced litigators who have often been appointed by state and federal courts as lead class counsel, including in multidistrict litigation. In over two decades of its successful existence, AW has successfully vindicated the rights of millions of class members in protracted, complex litigation, conferring hundreds of millions of dollars to the victims, and affecting real change in corporate behavior. A copy of the firm's resume is attached hereto as **Exhibit A**.

49. AW has been on the cutting-edge of privacy litigation since the late 1990s, when its attorneys successfully advocated for the privacy rights of millions of consumers against major financial institutions based on the unlawful compilation and sale of detailed personal financial data to third-party telemarketers without consumers' consent. While such practices later became the subject of Gramm-Leach-Bliley Act regulation, they were novel and hidden from public scrutiny at the time AW was prosecuting them. Our work shed light on how corporations and institutions collect, store, and monetize mass data, leading to governmental regulation. AW has been at the forefront of privacy-related litigation since then.

50. AW has been appointed lead counsel in numerous complex consumer class actions. The following are some examples of recent class actions that AW has litigated to conclusion or

are currently litigating on behalf of clients - either as Class Counsel, proposed Class Counsel or members of a Court appointed Plaintiff Steering Committee.

51. As co-lead counsel *In re Zoom Video Communications, Inc. Privacy Litigation*, No. 5:20-cv-02155-LHK (N.D. Cal.) (Hon. Lucy H. Koh) (Final Approval April 2022), AW and co-counsel reached a nationwide settlement with Zoom providing for, among other things, an \$85 million settlement fund to resolve data privacy and other claims in a class action alleging Zoom's failure to implement adequate security protocols for its video-conferencing platform that breached millions of consumers' privacy, fell well short of its promises, and diminished the value of the products and services it provided.

52. As co-lead counsel in the *Experian Data Breach Litigation*, No. 8:15-cv-01592-AG-DFM (C.D. Cal.) (Hon. Andrew J. Guilford), which affected nearly 15 million class members, AW achieved a settlement conservatively valued at over \$150 million. Under that settlement, each class member was entitled to two years of additional premium credit monitoring and ID theft insurance (to begin whenever their current credit monitoring product, if any, expires) plus monetary relief (in the form of either documented losses or a default payment for non-documented claims). Experian also provided robust injunctive relief. Judge Guilford praised counsel's efforts and efficiency in achieving the settlement, commenting "You folks have truly done a great job, both sides. I commend you."

53. As a member of a five-firm Plaintiffs' Steering Committee ("PSC") in the *Premera Blue Cross Customer Data Sec. Breach Litigation*, No. 3:15-cv-2633-SI (D. Or.) (Hon. Michael H. Simon), arising from a data breach disclosing the sensitive personal and medical information of 11 million Premera Blue Cross members, AW was instrumental in litigating the case through class certification and achieving a nationwide class settlement valued at \$74 million.

54. In *The Home Depot, Inc., Customer Data Sec. Breach Litigation*, No. 1:14-md-02583-TWT (N.D. Ga.) (Hon. Thomas W. Thrash Jr.), AW served on the consumer PSC and was instrumental in achieving a \$29 million settlement fund and robust injunctive relief.

55. In *Adlouni v. UCLA Health Sys. Auxiliary*, No. BC589243 (Cal. Super. Ct. Los Angeles Cnty.) (Hon. Daniel J. Buckley), AW, as a member of the PSC for patients impacted by a university medical data breach, achieved a settlement providing two years of credit monitoring, a \$5,275,000 fund, and robust injunctive relief.

56. AW's efforts have also shaped privacy law precedent. As lead counsel in *Remijas v. Neiman Marcus Group, LLC*, No. 14-cv-1735 (N.D. Ill.) (Hon. Sharon Johnson Coleman), AW successfully appealed the trial court's order granting a motion to dismiss based on lack of Article III standing. The Seventh Circuit's groundbreaking opinion, now cited routinely in briefing on Article III and data breach standing, was the first appellate decision to consider the issue of Article III standing in data breach cases in light of the Supreme Court's decision in *Clapper v. Amnesty International USA*, 568 U.S. 398 (2013). The Seventh Circuit concluded that data breach victims have standing to pursue claims based on the increased risk of identity theft and fraud, even before that theft or fraud materializes in out-of-pocket damages. *Remijas v. Neiman Marcus Group, LLC*, 794 F.3d 688 (7th Cir. 2015) (reversed and remanded).

57. Similarly, in the *U.S. Office of Personnel Management Data Security Breach Litigation*, No. 1:15-mc-1394-ABJ (D.D.C.) (Hon. Amy Berman Jackson), I was chosen by Judge Jackson to serve as a member of the Plaintiffs' Steering Committee. AW briefed and argued, in part, the granted motions to dismiss based on standing, and briefed in part the successful appeal to the D.C. Circuit.

58. AW's other ongoing privacy class actions include *In re Ring LLC Privacy Litigation*, No. 2:19-cv-10899-MWF-RAO (C.D. Cal.) (Hon. Michael W. Fitzgerald) (serving as co-lead counsel), *In re Google Location History Litigation*, No. 5:18-cv-5062-EJD (N.D. Cal.) (Hon. Edward J. Davila) (same), and *In re Ambry Genetics Data Breach Litigation*, No. 8:20-cv-791-CJC-KES (C.D. Cal.) (Hon. Cormac J. Carney) (same).

59. AW attorneys also have served or are serving as plaintiffs' counsel in consumer privacy rights cases involving the right to control the collection and use of biometric information. *See, e.g., Rivera v. Google LLC*, No. 2019-CH-00990 (Ill. Cir. Ct.) (Hon. Anna M. Loftus); *Azzano v. Google LLC*, No. 2019-CH-11153 (Ill. Cir. Ct.) (Hon. Anna M. Loftus); *Molander v. Google LLC*, No. 5:20-cv-00918-SVK (N.D. Cal.) (Hon. Susan van Keulen); and *Acaley v. Vimeo, Inc.*, No. 1:19-cv-7164 (N.D. Ill.) (Hon. Matthew F. Kennelly).

60. In addition, AW has served or is serving as plaintiffs' counsel in class actions enforcing consumer rights under the Telephone Consumer Protection Act of 1991, such as *Chimeno-Buzzi v. Hollister Co.*, No. 1:14-cv-23120-MGC (S.D. Fla.) (Hon. Marcia G. Cooke) (\$10 million nationwide settlement) and *Melito v. American Eagle Outfitters, Inc.*, No. 1:14-cv-02440-VEC (S.D.N.Y.) (Hon. Valerie E. Caproni) (\$14.5 million nationwide settlement).

61. In sum, I and my firm have led and continue to lead many high-profile privacy cases, including those involving data privacy (e.g., *Zoom*, *Ring*), data breaches (e.g., *Experian*, *Premera*, *Home Depot*, *OPM*, *Chipotle*, *The Kroger Co.*, *Forefront Dermatology*, *Logan Health*, *UMass Memorial*, *TrueHealth New Mexico*, *Utah Imaging Associates*), geo-location tracking (e.g., *Google Location History Litigation*), collection and storing of biometric information (e.g., *Google*, *Shutterfly*, *Vimeo*), and TCPA violations (e.g., *Hollister*, *American Eagle*), as well as many other

types of consumer class actions (e.g., *Eck* - \$295 million class settlement against City of Los Angeles for unlawful utility taxes).

62. I and my firm endorse the proposed Settlement, which falls well within the range of other similar settlements that received court approval. The work of the attorneys at AW in this action to date, as well as their experience prosecuting complex litigation matters, including data breach and privacy lawsuits such as this action, demonstrates that they are well-qualified to represent the Settlement Class and opine on the fairness of the proposed Settlement.

63. In my opinion, the Settlement presents a robust relief package and valuable outcome the Settlement Class compared to other recent data breach class action settlements. The chart below demonstrates the quality of this Settlement as compared to other data breach settlements (on a per capita basis per class member), and that this Settlement on a per capita basis falls within the middle of the range of similar approved data breach settlements.

64. Based on a review of the record and the cases below (in some of which AW has participated), I believe the information in the chart below is true and accurate.

Case Title	Class Size	Settlement Fund	Amount Per Class Member
<i>Finn et al. v. Empress Ambulance Service LLC</i>	~308K	\$1.05M	\$3.41
<i>In re LinkedIn User Privacy Litig.</i> , No. 5:12-cv-03088-EJD (N.D. Cal.)	6.4M	\$1.25M	\$0.20
<i>Adlouni v. UCLA Health Sys. Auxiliary, et al.</i> , No. BC589243 (Cal. Super. Ct.)	4.5M	\$2M	\$0.44
<i>In re Med. Informatics Eng'g, Inc., Customer Data Sec. Breach Litig.</i> , No. 3:15-MD-2667 (N.D. Ind.)	3.9M	\$2.7M	\$0.69
<i>Atkinson v. Minted, Inc.</i> , No. 3:20-cv-03869-VC (N.D. Cal.)	4.1M	\$5M	\$1.22
<i>Cochran et al. v. The Kroger Co.</i> , 5:21-cv-0188 (N.D. Cal.)	3.82M	\$5M	\$1.31

<i>In re Experian Data Breach Litig.</i> , No. 8:15-cv-01592 AG (C.D. Cal.)	16M	\$22M	\$1.37
<i>In re Anthem, Inc. Data Breach Litig.</i> , No. 15-MD-02617-LHK (N.D. Cal.)	79.2M	\$115M	\$1.45
<i>In re Equifax Inc. Data Sec. Breach Litig.</i> , No. 1:17-md-2800-TWT (N.D. Ga.)	> 147M	\$380.5M	\$2.59
<i>Kostka v. Dickey's Barbecue Rest., Inc.</i> , No. 3:20-CV-03424-K (N.D. Tex.)	725,000	\$2.35M	\$3.24
<i>In re Premera Blue Cross Customer Data Sec. Breach Litig.</i> , No. 3:15-md-2633-SI (D. Or.)	8.86M	\$32M	\$3.61
<i>In Re: 21st Century Oncology Customer Data Sec. Breach Litig.</i> , No. 8:16-md-2737-MSS-AEP (M.D. Fla.)	2.15M	\$7.85M	\$3.65
<i>In re Morgan Stanley Data Sec. Litig.</i> , No. 1:20-cv-05914-AT (S.D.N.Y)	15.4M	\$60M	\$3.90
<i>Winstead v. ComplyRight, Inc.</i> , No. 1:18-cv-04990 (N.D. Ill.)	665,689	\$3.025M	\$4.54
<i>Kesner, et al. v. UMass Mem'l Health Care, Inc.</i> , No. 2185-cv-01210 (Mass. Super. Ct.)	209,047	\$1.2M	\$5.74

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

I declare under penalty of perjury that the foregoing is true and correct. Executed this 23rd day of February 2024, at Burbank, California.


Tina Wolfson