

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

RUSSELL DOMITROVICH and THOMAS
GUSSIE, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

M.C. DEAN, INC.,

Defendant.

Civil Action No. 1:23-cv-00210-CMH-JFA

**PLAINTIFFS' MOTION FOR
FINAL APPROVAL OF CLASS ACTION SETTLEMENT
AND CERTIFICATION OF SETTLEMENT CLASS**

Plaintiffs move for entry of an order granting final approval of this proposed class action settlement and certifying the settlement class. For the reasons set forth below, Plaintiffs respectfully request that the Court, after the final approval hearing scheduled for August 23, 2024, grant this motion, grant Plaintiffs' Motion for an Award of Attorneys' Fees, Reimbursement of Expenses, and Service Award to Plaintiffs, and enter a final judgment dismissing this case. This Motion is supported by the Memorandum in Support of Plaintiffs' Motion for Final Approval of Class Action Settlement and Certification of Settlement Class; Declaration of Cameron R. Azari, Esq. of Epiq Class Action and Claims Solutions, Inc. Regarding Settlement Administration (Exhibit 1 to the Memorandum); the Declaration of Co-Class Counsel Ryan D. Maxey in Support of Plaintiffs' Motion for Final Approval of Class Action Settlement and Certification of Settlement Class (Exhibit 2 to the Memorandum), and all files, records, and proceedings in this matter.

Date: August 2, 2024

Respectfully submitted,

/s/ Steven T. Webster

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CERTIFICATE OF SERVICE

I hereby certify that on August 2, 2024, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notice of electronic filing to all counsel of record.

/s/ Steven T. Webster
Steven T. Webster (VSB No. 31975)
WEBSTER BOOK LLP

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**PLAINTIFFS' MEMORANDUM IN SUPPORT OF MOTION
FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT
AND CERTIFICATION OF SETTLEMENT CLASS**

Plaintiffs move for entry of an order granting final approval of this proposed class action settlement and certifying the settlement class. For the reasons set forth below, Plaintiffs respectfully request that the Court, after the final approval hearing scheduled for August 2, 2024, grant this motion, grant Plaintiffs' Motion for an Award of Attorneys' Fees, Reimbursement of Expenses, and Service Award to Plaintiffs, and enter a final judgment dismissing this case.

I. Introduction

Plaintiffs, by and through the undersigned Settlement Class Counsel,¹ on behalf of themselves and the Settlement Class, respectfully submit this Memorandum of Law in support of their motion pursuant to Federal Rule of Civil Procedure ("Rule") 23(e) requesting final approval of this proposed class action settlement ("Settlement") on the terms set forth in the Settlement

¹ The Court appointed (1) Laura Van Note of Cole & Van Note and (2) Ryan D. Maxey of Maxey Law Firm. (ECF No. 62 ¶ 2).

Agreement (“S.A.”) (ECF No. 59-1) and for certification of the Settlement Class.²

If approved, the Settlement will successfully resolve the claims of approximately 45,499 individuals nationwide who were notified of a data incident first discovered by Defendant on or about June 2, 2022, and announced by Defendant on or about September 14, 2022 (the “Incident”). The Settlement brings meaningful resolution and significant benefits to the Settlement Class without requiring further delay, risk, and expense. As discussed below, the Settlement calls for Defendant to establish a non-reversionary Qualified Settlement Fund of \$750,000 (“Settlement Fund”) for the benefit of eligible Class Members. Defendant also has committed, to the extent there is no legal, contractual or regulatory need for the information, Defendant agrees to make good faith efforts to encrypt, delete or redact from its Internet-accessible systems any Social Security number or driver’s license number of terminated employees who have not been employed by Defendant since January 1, 2013. Further, Defendant, through the Settlement Fund, will pay all costs of notice and administration (\$93,872.51 incurred to date and a cap of \$108,837.00 through completion). **Exhibit 1**, Declaration of Cameron R. Azari, Esq. of Epiq Class Action and Claims Solutions, Inc. Regarding Settlement Administration (“Azari Decl.”) ¶ 26.

On February 1, 2024, the Court preliminarily approved the Settlement, finding that the Court “will likely be able to approve the proposed Settlement as fair, reasonable, and adequate.”

² Unless otherwise defined, all capitalized terms have the meanings set forth in the Settlement Agreement or in the Declaration of Ryan D. Maxey in Support of Plaintiffs’ Unopposed Motion for Preliminary Approval of Class Action Settlement (“Maxey MPA Decl.”) (ECF No. 59-2) and the Declaration of Ryan D. Maxey in Support of Plaintiffs’ Motion for an Award of Attorneys’ Fees, Reimbursement of Expenses, and Service Award to Plaintiffs (“Decl. in Support of Fees, Expenses, and Service Awards”) (ECF No. 64-1). Both Declarations are an integral part of this submission and, for the sake of brevity herein, Plaintiffs respectfully refer the Court to the Declarations for a detailed description of, inter alia: the procedural history of the Action and the claims asserted, the negotiations resulting in the Settlement and the risks of continued litigation.

(ECF No. 62) (“Preliminary Approval Order”) ¶ 1. The Court-ordered Notice Plan has since been executed; nothing has changed to alter the Court’s initial assessment that the Settlement is fair, reasonable, and adequate. The Settlement Class’s reaction to the Settlement has been overwhelmingly positive. Of the 45,499 individual potential Class Members who were sent Notice, only five (5) have timely requested exclusion and none have submitted timely objections. This response weighs in favor of final approval.

For the reasons detailed below, Plaintiffs and Class Counsel respectfully submit that the Settlement meets the standards for final approval under Rule 23, and is a fair, reasonable, and adequate result for the Settlement Class. Plaintiffs request that the Court finally approve the Settlement, certify the settlement class, grant Plaintiffs’ Motion for an Award of Attorneys’ Fees, Reimbursement of Expenses, and Service Award to Plaintiffs, and enter a final judgment dismissing this case.

II. Summary of the Action and Settlement

Plaintiffs respectfully refer the Court to their Memorandum of Law in Support of Plaintiffs’ Unopposed Motion for Preliminary Approval of Class Action Settlement (ECF No. 59) and their Memorandum of Law in Support of Plaintiffs’ Motion for an Award of Attorneys’ Fees, Reimbursement of Expenses, and Service Award to Plaintiffs (ECF No. 64) for a thorough recitation of the substantive and procedural background of this litigation. For the purposes of final approval, Plaintiffs highlight the following:

A. Background

On or around June 2, 2022, M.C. Dean identified an Incident that involved unauthorized access to its network. M.C. Dean’s investigation of the Incident determined that a threat actor potentially accessed a database containing the names, dates of birth, Social Security numbers, and

driver's license numbers of current and former employees. M.C. Dean provided notice of the Incident on or about September 14, 2022. Affected individuals immediately began filing class action lawsuits against M.C. Dean. Plaintiff Domitrovich filed a putative Class Action Complaint in the United States District Court for the Eastern District of Tennessee. Plaintiff Gussie subsequently filed a putative Class Action Complaint in the Eastern District of Virginia. On April 21, 2023, Plaintiffs filed a Consolidated Class Action Complaint (the "Complaint").

In the Complaint, Plaintiffs assert claims against M.C. Dean for: negligence; breach of implied contract; and declaratory judgment. M.C. Dean denies the allegations and the claims made in the Complaint. M.C. Dean moved to dismiss the complaint and the Court denied the motion, allowing the claims to proceed.

On September 25, 2023, the parties participated in a full-day mediation facilitated by United States Magistrate Judge John F. Anderson. After a full day of negotiations, the parties came to an agreement in principle on the amount of the \$750,000.00 Settlement Fund, and later finalized the other material terms in a Term Sheet. The Parties thereafter negotiated and finalized the Settlement Agreement and its exhibits in December 2023.

While the negotiations were professional throughout, they were marked by significant factual and legal disputes impacting the value of the case. With Judge Anderson's assistance, the Parties were able to reach a resolution. At all times the negotiations were made at arm's-length, and free of collusion of any kind. Attorneys' fees were not discussed in any manner until the Parties had reached agreement on the material terms of the settlement, including the payment of the Settlement Fund.

B. Terms of the Settlement

If the Settlement receives final approval, the \$750,000 non-reversionary Qualified

Settlement Fund established by Defendant will be used to provide:

- **Ordinary Out-of-Pocket Losses and Attested Time.** All Settlement Class Members may submit a claim for reimbursement for “Ordinary” Out-of-Pocket Losses and Attested Time up to \$500 per individual. S.A. ¶ V.B.1.

“Ordinary” Out-of-Pocket Losses are unreimbursed costs or expenditures incurred by a Class Member in responding to notice of the Incident that were incurred between September 14, 2022 and the Claims Deadline, as result of the Incident. *Id.* ¶ V.B.1.a.

Settlement Class Members with Ordinary Out-of-Pocket Losses may also submit a claim for up to 3 hours of time spent remedying issues related to the Incident at a rate of \$35 per hour, but only if at least 1 full hour was spent. *Id.* ¶ V.B.1.c. Settlement Class Members must provide an attestation and a brief description of (1) the actions taken in response to the Incident and (2) the time associated with each action (“Attested Time”). *Id.* Reimbursement for Attested Time is included in the total of up to \$500 per person for Out-of-Pocket Losses. *Id.*

- **Extraordinary Out-of-Pocket Losses and Attested Time.** Settlement Class members who believe they have suffered identity theft, fraud, or other extraordinary losses may submit a claim for Extraordinary Out-of-Pocket Losses up to \$8,000 per individual. S.A. ¶ V.B.2.

“Extraordinary Out-of-Pocket Losses” are proven monetary losses incurred by a Settlement Class Member that are more likely than not caused by the Incident and are losses that are not already covered by one or more of the normal reimbursement categories. *Id.* ¶ V.B.2.a. Extraordinary Out-of-Pocket Losses are actual, documented, and unreimbursed costs, expenses, losses or charges incurred as a result of identity theft or identity fraud, falsified tax returns, or other possible misuse of the Settlement Class Member’s personal information. *Id.*

- **Alternative Cash Payment.** Settlement Class Members may, in lieu of making a claim for reimbursement of Ordinary and/or Extraordinary Out-of-Pocket Losses and Attested Time, elect to receive a cash payment in an amount equal to \$225, subject to upward or downward proration. S.A. ¶ V.B.3.

The Settlement Agreement provides that claims for Alternative Cash Payments will be increased or decreased *pro rata* to consume the remaining amount of the Settlement Fund after payment for Ordinary and/or Extraordinary Out-of-Pocket Losses, Attested Time, notice and administration costs, service award payments approved by the Court, and attorneys’ fees and expenses awarded by the Court. *Id.* ¶ V.B.3.

In addition to the monetary relief and credit monitoring services provided, Defendant has agreed, to the extent there is no legal, contractual or regulatory need for the information, to make good faith efforts to encrypt, delete or redact from its Internet-accessible systems any Social Security number or driver’s license number of terminated employees who have not been employed by Defendant since January 1, 2013.

In all, the total settlement value is greater than the \$750,000 that Defendant is paying to create the Qualified Settlement Fund and for costs of notice and claims administration.

III. Preliminary Approval and Notice

On January 29, 2024, Plaintiffs moved the Court to grant preliminary approval of the Settlement, approve the proposed Notice Plan, direct notice be given to the Settlement Class, and Schedule a Final Approval Hearing. (ECF No. 58). On February 1, 2024, the Court granted Plaintiffs' motion. (ECF No. 62). Pursuant to the Preliminary Approval Order, the Settlement Administrator implemented the Notice Plan, disseminating notices to 42,364 potential members of the Settlement Class via U.S. mail. *See* Azari Decl. ¶¶ 11. Notice was also provided via an internet website. *Id.* ¶¶ 17.

Notice instructed Class Members of their legal rights and options in this Settlement, including: the option to submit a Claim Form to receive monetary payment for losses suffered; the option to ask to be excluded from the Settlement and retain the right to bring an individual action against Defendant; the option to object to the Settlement; the option to attend the Final Approval Hearing; and the option to do nothing and not receive a monetary payment from the Settlement. (ECF No. 59-1 at 35-44). The deadline for Class Members to exclude themselves or object to the proposed Settlement passed on May 31, 2024, (ECF No. 62 at 10), and only five (5) exclusion requests and no objections have been received to date. Azari Decl. ¶ 20. The claim deadline was May 31, 2024,³ and approximately 815 claims have been received to date, of which 13 were defective, 21 were denied, and 27 were duplicated. *Id.* ¶ 22.

The approved claims received to date include (i) 741 approved claims for an Alternative

³ The parties agreed to treat as timely claims submitted through June 28, 2024.

Cash Payment, (ii) 10 approved claims for reimbursement of ordinary out-of-pocket expenses, including attested time, totaling \$4,678.95, and (iii) 3 approved claims for reimbursement of extraordinary out-of-pocket expenses totaling \$102.00. *Id.* ¶ 23. If the Court (i) grants Plaintiffs’ request to award \$5,000 to each Class Representative, \$250,000.00 in reasonable attorneys’ fees, and \$5,785.08 in litigation expenses and (ii) approves \$108,837.00 for the costs of notice and administration, \$375,377.92 would remain for payments to Class Members. After paying \$4,678.95 for approved claims for ordinary out-of-pocket expenses and \$102.00 for approved claims for extraordinary out-of-pocket expenses, \$370,596.97 would remain to satisfy claims for an Alternative Cash Payment. Dividing this amount equally among the 741 Alternative Cash Payment claimants would result in a payment of \$500.13 to each claimant, an exceptional result in a data breach case.

IV. The Settlement Merits Final Approval by the Court

A. The Notice to Settlement Class Members was Sufficient.

“[T]he adequacy of the notice [of a class action settlement] has both a constitutional and a procedural component.” *McAdams v. Robinson*, 26 F.4th 149, 157 (4th Cir. 2022). “To bind an absent class member, notice to the class must provide ‘minimal procedural due process protection.’” *Id.* (quoting *Phillips Petroleum Co. v. Shutts*, 472 U.S. 797, 811-12 (1985)). “‘The [absent class member] must receive notice plus an opportunity to be heard and participate in the litigation.’” *Id.* (quoting *Phillips Petroleum Co.*, 472 U.S. at 812). “That notice must be ‘reasonably calculated, under all the circumstances, to apprise [absent class members] of the pendency of the action and afford them an opportunity to present their objections.’” *Id.* (quoting *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 314 (1950)).

“On the procedural front, Federal Rule of Civil Procedure 23(e) governs notice to absent

class members.” *Id.* “It requires ‘direct notice in a reasonable manner to all class members who would be bound by the proposal.’” *Id.* (quoting Fed. R. Civ. P. 23(e)(1)(B)). “But it doesn’t specify what the notice must say.” *Id.* “Rather, the notice need only ‘fairly apprise the prospective members of the class of the terms of the proposed settlement and of the options that are open to them in connection with the proceedings.’” *Id.* (quoting *Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.*, 396 F.3d 96, 114 (2d Cir. 2005)). “Put another way, ‘Rule 23(e) requires notice that describes the terms of the settlement in sufficient detail to alert those with adverse viewpoints to investigate and to come forward and be heard.’” *Id.* (quoting *In re Online DVD-Rental Antitrust Litig.*, 779 F.3d 934, 946 (9th Cir. 2015)).

Here, the notice “provided Class Members with, among other things, details regarding the nature of this lawsuit, the terms of the Settlement Agreement, the release of all claims under both state law and federal law, information regarding objecting to the proposed settlement, and the fairness hearing.” *Boger v. Citrix Sys., Inc.*, No. 19-CV-01234-LKG, 2023 WL 3763974 (D. Md. June 1, 2023) (approving notice); *see generally* (ECF No. 59-1 at 35-44).

The notice was issued in the manner outlined in the Preliminary Approval Order. *See* Azari Decl. ¶¶ 10-17. On March 1, 2024, Epiq caused the Postcard Notice to be mailed via USPS first class mail, postage prepaid to the 42,364 Class Members. *Id.* ¶ 12. Notices returned as undeliverable were re-mailed to any new address available through USPS information, (for example, to the address provided by the USPS on returned mail pieces for which the automatic forwarding order has expired, but was still within the time period in which the USPS returned the piece with the address indicated), and to better addresses that were found using a third-party lookup service. *Id.* ¶ 14. Upon successfully locating better addresses, Postcard Notices were promptly remailed. *Id.* As of July 22, 2024, Epiq has remailed 3,902 Postcard Notices. *Id.* As of July 22,

2024, the Postcard Notice was delivered to 40,406 of the 42,364 unique, identified Settlement Class Members. *Id.* ¶ 16. This means the individual notice efforts reached approximately 95% of the identified Settlement Class Members who were sent notice. *Id.* Additionally, a Long Form Notice and Claim Form (“Notice Package”) is mailed to all persons who request one via the toll-free telephone number or other means. *Id.* ¶ 15. As of July 22, 2024, Epiq mailed 74 Claim Packages as a result of such requests. *Id.*

On March 1, 2024, Epiq established a dedicated website for the Settlement with an easy to remember domain name (www.mcdeansettlement.com). *Id.* ¶ 17. Relevant documents, including the Long Form Notice, Postcard Notice, Claim Form, Preliminary Approval Order, Settlement Agreement, Complaint, and other relevant court-related documents are posted on the Settlement Website. *Id.* The Settlement Website also provides the ability for Settlement Class Members to file an online Claim Form. *Id.* In addition, the Settlement Website includes relevant dates, answers to frequently asked questions (“FAQs”), instructions for how Settlement Class Members may opt-out (request exclusion) from or object to the Settlement, contact information for the Settlement Administrator, and how to obtain other case-related information. *Id.* The Settlement Website address was prominently displayed in all notice documents. *Id.* As of July 22, 2024, there have been 1,831 unique visitor sessions to the settlement website, and 7,449 web pages have been presented. *Id.*

On March 1, 2024, Epiq established a toll-free telephone number (1-888-890-2748) for the Settlement. *Id.* ¶ 18. Callers are able to hear an introductory message, have the option to learn more about the Settlement in the form of recorded answers to FAQs, and request that a Claim Form and Notice Package be mailed to them. *Id.* This automated phone system is available 24 hours per day, 7 days per week. *Id.* The toll-free telephone number was prominently displayed in all

notice documents. *Id.* As of July 22, 2024, there have been 250 calls to the toll-free telephone number representing 667 minutes of use.

These facts confirm that notice was distributed in a reasonable manner to all class members who would be bound by the settlement and satisfied the Constitution's Due Process requirements. *See, e.g., Boger*, 2023 WL 3763974, at *12 (approving notice where "the Settlement Administrator sent Notice via the United States Postal Service to 526,544 Class Members for which mailing address data was available" and "administered a settlement website and a toll-free number, through which the Class Members could obtain additional information about the Settlement"); *Feinberg v. T. Rowe Price Grp., Inc.*, 610 F. Supp. 3d 758, 766 (D. Md. 2022) (approving notice where it "was either mailed or emailed to each class member, and the administrator also set up a dedicated website and toll-free number for class members to access or call.").

B. The Settlement Meets the Standards for Final Approval Under Rule 23(e)

"Per Federal Rule of Civil Procedure 23(e), a class action may only be settled with the court's approval." *Galloway v. Williams*, No. 3:19-CV-470, 2020 WL 7482191, at *4 (E.D. Va. Dec. 18, 2020) (Payne, J.) (citing Fed. R. Civ. P. 23(e)). "If the settlement proposal would bind all class members, a court may only approve the settlement proposal after it holds a hearing and subsequently finds that the settlement proposal is fair, reasonable, and adequate." *Id.* (citing Fed. R. Civ. P. 23(e)(2)).

In determining whether a settlement is fair, reasonable, and adequate, the court must consider whether:

- (A) the class representatives and class counsel have adequately represented the class;
- (B) the proposal was negotiated at arm's length;
- (C) the relief provided for the class is adequate, taking

into account:

- (i) the costs, risks, and delay of trial and appeal;
 - (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims;
 - (iii) the terms of any proposed award of attorney's fees, including timing of payment; and
 - (iv) any agreement required to be identified under Rule 23(e) (3); and
- (D) the proposal treats class members equitably relative to each other.

Id. (citing Fed. R. Civ. P. 23(e)(2)).

“Nevertheless, “[t]he primary concern addressed by Rule 23(e) is the protection of class members whose rights may not have been given adequate consideration during the settlement negotiations.” *Id.* (quoting *In re Jiffy Lube Sec. Litig.*, 927 F.2d 155, 158 (4th Cir. 1991)). “In the Fourth Circuit, the Rule 23(e) (2) analysis has been condensed into the two-step *Jiffy Lube* test which examines the fairness and adequacy of the settlement.” *Id.* (citing *In re The Mills Corp. Sec. Litig.*, 265 F.R.D. 246, 254 (E.D. Va. 2009)); *see, e.g., In re Zetia (Ezetimibe) Antitrust Litig.*, No. 2:18MD2836, 2023 WL 6871635, at *3-6 (E.D. Va. Oct. 18, 2023) (Smith, J.) (applying the *Jiffy Lube* test in granting final approval).

1. Fairness

“Under the fairness prong of the *Jiffy Lube* test, the court must assess the procedural fairness of the settlement negotiations.” *Galloway*, 2020 WL 7482191, at *3 (citing *In re The Mills Corp. Sec. Litig.*, 265 F.R.D. at 254. “The relevant factors to evaluate the fairness of the settlement negotiations are ‘(1) the posture of the case at the time settlement was proposed; (2) the extent of

discovery that had been conducted; (3) the circumstances surrounding the negotiations; and (4) the experience of counsel.” *Id.* (quoting *Brown v. Transurban USA, Inc.*, 318 F.R.D. 560, 571 (E.D. Va. 2016)).

a. The posture of the case at the time settlement was proposed.

Prior to settling this case, the parties litigated a motion to dismiss Plaintiffs’ claims, which the Court denied. (ECF No. 52). By the time the parties mediated, Class Counsel, who are experienced in prosecuting data breach class actions, had a clear view of the strengths and weaknesses of their case and were in a strong position to make an informed decision regarding the reasonableness of a potential settlement. **Exhibit 2**, Declaration of Co-Class Counsel Ryan D. Maxey (“Maxey Decl.”) ¶ 2. This supports the fairness of the settlement. *See, e.g., In re Novant Health, Inc.*, No. 1:22-CV-697, 2024 WL 3028443, at *6 (M.D.N.C. June 17, 2024) (deeming this factor satisfied where the parties negotiated a settlement while the court was evaluating a second motion to dismiss); *Pierce v. Statebridge Co., LLC*, No. 1:20CV117, 2021 WL 1711784, at *2 (M.D.N.C. Apr. 29, 2021) (deeming this factor satisfied where “Plaintiff’s Counsel and Defendant’s Counsel are both experienced in complex litigation, including class action litigation” and “had ‘a clear view of the strengths and weaknesses’ of their case and were in a strong position to make an informed decision regarding the reasonableness of a potential settlement”) (citation omitted); *Hinkle v. Matthews*, No. 2:15-CV-13856, 2018 WL 6004680, at *2 (S.D.W. Va. Nov. 15, 2018) (deeming this factor satisfied where “Plaintiff’s Counsel and Defendant’s Counsel, who are both experienced in prosecuting complex class action claims such as these, had ‘a clear view of the strengths and weaknesses’ of their case and were in a strong position to make an informed decision regarding the reasonableness of a potential settlement.”) (citation omitted).

b. The extent of discovery that had been conducted.

Prior to filing and during this action, Class Counsel investigated information available online related to the Incident, including reviewing reports that Defendant filed with various authorities related to the Incident. Maxey Decl. ¶ 3. Prior to mediation, Plaintiffs requested and obtained from Defendant information about (i) the number of persons impacted by the Incident; (ii) the types of information impacted by the Incident; (iii) how Defendant acquired the information; (iv) whether the information was encrypted; (v) how and when the Incident occurred, including the technical details and the identity of the perpetrator; (vi) whether forensic reports were prepared; (vii) Defendant's efforts to address the Incident, including any remediation of Defendant's systems; and (viii) Defendant's efforts to monitor for or prevent misuse of the information. *Id.* ¶ 4. This supports the fairness of the settlement. *See, e.g., In re Novant Health, Inc.*, 2024 WL 3028443, at *6 (deeming this factor satisfied where the case settled before formal discovery but the defendant disclosed information about data sharing to impacted individuals and authorities, class counsel gathered publicly available information, the defendant provided contact information for class members to the settlement administrator, and the parties engaged in limited, informal discovery for settlement purposes).

c. The circumstances surrounding the negotiations.

The parties mediated this case before United States Magistrate Judge John F. Anderson. Maxey Decl. ¶ 5. After the September 25, 2023 mediation, the parties negotiated a term sheet outlining the settlement terms. *Id.* In October 2023, Plaintiffs sent Defendant a draft 18-page formal settlement agreement. *Id.* Over the following months, the parties negotiated the final details of the S.A. *Id.* The S.A. was fully executed on January 26, 2024. *Id.* This supports the fairness of the settlement. *See, e.g., In re Novant Health, Inc.*, 2024 WL 3028443, at *6 (deeming this factor

satisfied where “[m]ediation was conducted by an independent mediator and was a collaborative process”).

d. The experience of counsel.

As explained in the Maxey MPA Declaration (filed with the preliminary approval motion), “Class Counsel have led some of the country’s most complex civil litigation; have been recognized by courts and national publications for our knowledge and experience in privacy and data breach cases; and are responsible for groundbreaking data breach settlements, including in settlements approved in this judicial district.” Maxey MPA Decl. ¶ 2; *see generally id.* ¶¶ 3-12. This supports the fairness of the settlement.

2. Adequacy

“Under the adequacy prong of the *Jiffy Lube* test, the court assesses the substantive adequacy of the settlement agreement.” *Galloway*, 2020 WL 7482191, at *4 (citing *Brown*, 318 F.R.D. at 571). “The relevant factors to evaluate the adequacy of the settlement are ‘(1) the relative strength of the plaintiffs’ case on the merits, (2) the existence of any difficulties of proof or strong defenses the plaintiffs are likely to encounter if the case goes to trial, (3) the anticipated duration and expense of additional litigation, (4) the solvency of the defendants and the likelihood of recovery on a litigated judgment, and (5) the degree of opposition to the settlement.’” *Id.* (quoting *Brown*, 318 F.R.D. at 573).

a. The relative strength of the plaintiffs’ case on the merits.

Because the law surrounding data breaches is still developing, it is challenging to evaluate the likelihood of Plaintiffs prevailing at trial. Moreover, Plaintiffs’ claims have not been tested through litigation discovery and dispositive motions. This supports the adequacy of the settlement. *See, e.g., In re Novant Health, Inc.*, 2024 WL 3028443, at *6 (“The law surrounding data privacy

and the surreptitious sharing of user data is still developing, making it challenging for the parties to evaluate the likelihood of prevailing at trial.”); *Robinson v. Carolina First Bank NA*, No. 7:18-CV-02927-JDA, 2019 WL 719031, at *10 (D.S.C. Feb. 14, 2019) (deeming this factor satisfied where “Defendant has not had the opportunity to test Plaintiff’s legal claims through litigation discovery and dispositive motions”).

b. The existence of any difficulties of proof or strong defenses the plaintiffs are likely to encounter if the case goes to trial.

Here, there is no dispute that the Incident occurred. Regarding difficulties of proof as to other issues in this action, such as whether or not the Incident resulted from Defendant’s negligence and whether or not Plaintiffs’ alleged damages are cognizable under applicable law, it is simply unknown how future litigation may have impacted the quality of the Settlement. *See Robinson*, 2019 WL 719031, at *10 (analyzing this factor and reasoning that “while Plaintiff is confident in the strength of her case, it is unclear to what extent litigation may present issues that underscore the desirability of this settlement”).

c. The anticipated duration and expense of additional litigation.

Had this action not settled, the parties would likely have litigated a motion to dismiss. If the motion to dismiss were not granted, the parties would have engaged in discovery, including expert discovery, followed by motions for class certification and summary judgment. If a class were certified and summary judgment denied, the action would have proceeded to and through trial. Given the rapidly evolving law in data breach cases, and that no data breach cases have been tried to date (to the knowledge of Class Counsel), it is reasonably possible that an appeal would have followed. Simply put, to continue this action to its end would have taken years and required substantial expense. This supports the adequacy of the settlement. *See, e.g., In re Novant Health*,

Inc., 2024 WL 3028443, at *6 (deeming this factor satisfied where “lengthy discovery, including the deposing of expert witnesses on damages, motions for summary judgment, and a motion for class certification would occur before final resolution could take place”); *Feinberg*, 610 F. Supp. 3d at 768 (deeming this factor satisfied where “the risk of appeal—and its attendant costs—was particularly acute in a case, such as this one, that presents a novel question”); *Robinson*, 2019 WL 719031, at *10 (deeming this factor satisfied where “a case such as this, a fully contested class action lawsuit would be expected to take significant time to resolve at the District Court level and additional time would result from any appeals. Likewise, the expenses for such a complex case, to include the completion of merits and expert discovery, class certification briefing, dispositive motions, trial, post-trial motions, and possible appeals would entail substantial expenses for all parties”).

d. The solvency of the defendants and the likelihood of recovery on a litigated judgment.

Plaintiffs have no reason to believe that Defendant’s solvency would have impacted the likelihood of recovery on a litigated judgment. “However, given the other factors weighing in favor of the adequacy of the Settlement Agreement, this factor alone ‘should not preclude final approval of the proposed Settlement.’” *In re Zetia (Ezetimibe) Antitrust Litig.*, 2023 WL 6871635, at *5; *see, e.g., In re Novant Health, Inc.*, 2024 WL 3028443, at *6 (deeming this factor satisfied where the defendant was “a large entity with substantial assets, it was insured for any losses incurred in this case, and there are no issues about [its] solvency that affected settlement”); *Galloway*, 2020 WL 7482191, at *9 (deeming this factor to have “no bearing” where class counsel did not provide argument but the court had “no reason to believe” there was a risk of insolvency).

e. The degree of opposition to the settlement.

Of the 45,499 Settlement Class Members, only five (5) sought exclusion and none objected. Azari Decl. ¶ 20. This reflects a low degree of opposition to the settlement, supporting the adequacy of the settlement. *See, e.g., In re Novant Health, Inc.*, 2024 WL 3028443, at *6 (deeming this factor satisfied where thirty-seven (37) of over 1.3 million class members sought exclusion and none objected); *In re Zetia (Ezetimibe) Antitrust Litig.*, 2023 WL 6871635, at *2 n.3, 5 (deeming this factor satisfied where sixteen (16) class members timely sought exclusion and none objected); *Haney*, 2023 WL 2596845, at *3 (deeming this factor satisfied where 190 of 350,000 class members sought exclusion and thirty-one (31) initially objected).

V. CONCLUSION

Considering the factors bearing on the fairness and adequacy of the settlement, the Court should approve the notice to class members and find that the settlement meets the standard for final approval under Rule 23(e). Plaintiffs respectfully request the Court enter the order proposed by the Parties granting final approval and certifying the Settlement Class; grant Plaintiffs' Motion for an Award of Attorneys' Fees, Reimbursement of Expenses, and Service Award to Plaintiffs; and enter a final judgment dismissing this case.

Date: August 2, 2024

Respectfully submitted,

/s/ Steven T. Webster

WEBSTER BOOK LLP

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(888) 987-9991

COLE & VAN NOTE

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Attorneys for Plaintiffs and the Proposed Class

CERTIFICATE OF SERVICE

I hereby certify that on August 2, 2024, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notice of electronic filing to all counsel of record.

/s/ Steven T. Webster
Steven T. Webster (VSB No. 31975)
WEBSTER BOOK LLP

CERTIFICATE OF SERVICE

I hereby certify that on August 2, 2024, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notice of electronic filing to all counsel of record.

/s/ Steven T. Webster

Steven T. Webster (VSB No. 31975)

WEBSTER BOOK LLP

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

RUSSELL DOMITROVICH and THOMAS
GUSSIE, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

M.C. DEAN, INC.,

Defendant.

Civil Action No. 1:23-cv-00210 (CMH/JFA)

**DECLARATION OF CAMERON R. AZARI, ESQ. ON IMPLEMENTATION OF
NOTICE PLAN AND NOTICES**

I, Cameron R. Azari, Esq., hereby declare and state as follows:

1. My name is Cameron R. Azari. I have personal knowledge of the matters set forth herein, and I believe them to be true and correct.
2. I am a nationally recognized expert in the field of legal notice and have served as an expert in hundreds of federal and state cases involving class action notice plans.
3. I am a Senior Vice President of Epiq Class Action and Claims Solutions, Inc. (“Epiq”) and the Director of Legal Notice for Hilsoft Notifications, a firm that specializes in designing, developing, analyzing, and implementing large-scale, un-biased, legal notification plans. Hilsoft Notifications is a business unit of Epiq.
4. The facts in this declaration are based on my personal knowledge, as well as information provided to me by my colleagues in the ordinary course of my business at Epiq.

OVERVIEW

5. This declaration describes the implementation of the notice plan (“Notice Plan”) and notices (the “Notice” or “Notices”) for *Domitrovich et al. v. M.C. Dean, Inc.*, Civil Action No. 1:23-cv-00210 in the United States District Court for the Eastern District of Virginia. I previously

executed my *Declaration of Cameron R. Azari, Esq. on Notice Plan and Notices* (“Notice Plan Declaration”) on December 19, 2023, which described the Notice Plan, detailed Hilsoft’s class action notice experience, and attached Hilsoft’s *curriculum vitae*. I also provided my educational and professional experience relating to class actions and my ability to render opinions on overall adequacy of notice plans.

NOTICE PLANNING METHODOLOGY

6. Federal Rule of Civil Procedure, Rule 23 directs that 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,” and that “the notice may be by one or more of the following: United States mail, electronic means, or other appropriate means.”¹ The Notice Plan as implemented satisfied these requirements.

7. This Notice Plan as designed and implemented reached the greatest practicable number of Settlement Class Members. The Notice Plan individual notice efforts reached approximately 95.2% of the identified Settlement Class. A Settlement Website further enhanced the reach. In my experience, the reach of the Notice Plan was consistent with other court-approved notice plans, was the best notice practicable under the circumstances of this case, and satisfied the requirements of due process, including its “desire to actually inform” requirement.²

CAFA NOTICE

8. On February 8, 2024, Epiq sent 57 CAFA Notice Packages (“CAFA Notice”). The CAFA Notice was mailed via United States Postal Service (“USPS”) Priority Mail to 55 officials (the Attorneys General of 49 states, the District of Columbia, and the United States Territories). As per the direction of the Office of the Nevada Attorney General, the CAFA Notice was sent to the Nevada Attorney General electronically via email. The CAFA Notice was also sent via United Parcel Service (“UPS”) to the Attorney General of the United States. Details regarding the CAFA

¹ Fed. R. Civ. P. 23(c)(2)(B).

² *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 315 (1950) (“But when notice is a person’s due, process which is a mere gesture is not due process. The means employed must be such as one desirous of actually informing the absentee might reasonably adopt to accomplish it. The reasonableness and hence the constitutional validity of any chosen method may be defended on the ground that it is in itself reasonably certain to inform those affected . . .”).

Notice mailing are provided in the *Declaration of Kyle S. Bingham on Implementation of CAFA Notice*, dated February 8, 2024, which is included as **Attachment 1**.

NOTICE PLAN DETAIL

9. On February 1, 2024, the Court approved the Notice Plan and appointed Epiq as the Settlement Administrator in the *Order Granting Plaintiffs' Unopposed Motion for Preliminary Approval and to Direct Notice of Proposed Settlement to the Class* ("Preliminary Approval Order").

10. After the Court's Preliminary Approval Order was entered, Epiq implemented the Notice Plan. This declaration details the notice activities undertaken to date and explains how and why the Notice Plan was comprehensive and well-suited to reach the class. This declaration also discusses the administration activity to date.

NOTICE PLAN

Individual Notice

11. On February 5, 2024, Epiq received one data file with 45,499 records for identified Settlement Class Members. The data included the full names and current or last known addresses for identified Settlement Class Members. Epiq deduplicated and rolled-up the records and loaded the unique, identified Settlement Class Member records into its database for the case. These efforts resulted in 42,421 unique, identified Settlement Class Member records. As a result, 42,364 identified Settlement Class Members were sent a Postcard Notice via USPS first class mail (57 records did not contain a valid mailing address and were not sent notice).

Individual Notice – Direct Mail

12. On March 1, 2024, Epiq sent 42,364 Postcard Notices to all identified Settlement Class Members with an associated physical address. The Postcard Notices were sent via USPS first-class mail. The Postcard Notices clearly and concisely summarized the case, the Settlement, and the legal rights of the Settlement Class Members. In addition, the Postcard Notices directed the recipients to the Settlement Website for additional information. The Postcard Notice is included as **Attachment 2**.

13. Prior to sending the Postcard Notice, all mailing addresses were checked against

the National Change of Address (“NCOA”) database maintained by the USPS to ensure Settlement Class Member address information was up-to-date and accurately formatted for mailing.³ In addition, the addresses were certified via the Coding Accuracy Support System (“CASS”) to ensure the quality of the zip code, and verified through Delivery Point Validation (“DPV”) to verify the accuracy of the addresses. This address updating process is standard for the industry and for the majority of promotional mailings that occur today.

14. The return address on the Postcard Notices is a post office box that Epiq maintains for this case. The USPS automatically forwarded Notices with an available forwarding address order that has not expired (“Postal Forwards”). Notices returned as undeliverable were re-mailed to any new address available through USPS information, (for example, to the address provided by the USPS on returned mail pieces for which the automatic forwarding order had expired, but was still within the time period in which the USPS returned the piece with the address indicated), and to better addresses that were found using a third-party lookup service. Upon successfully locating better addresses, Postcard Notices were promptly re-mailed. As of August 1, 2024, Epiq has re-mailed 3,902 Postcard Notices.

15. Additionally, a Long Form Notice and Claim Form (“Notice Package”) were mailed to all persons who request one via the toll-free telephone number or other means. As of August 1, 2024, Epiq mailed 74 Claim Packages as a result of such requests. The Long Form Notice is included as **Attachment 3**. The Claim Form is included as **Attachment 4**.

Notice Results

16. As of August 1, 2024, a Postcard Notice was delivered to 40,406 of the 42,424 unique, identified Settlement Class Members. This means the individual notice efforts reached approximately 95.2% of the identified Settlement Class.

³ The NCOA database is maintained by the USPS and consists of approximately 160 million permanent change-of-address (COA) records consisting of names and addresses of individuals, families, and businesses who have filed a change-of-address with the Postal Service™. The address information is maintained on the database for 48 months and reduces undeliverable mail by providing the most current address information, including standardized and delivery-point-coded addresses, for matches made to the NCOA file for individual, family, and business moves.

Settlement Website

17. On March 1, 2024, Epiq established a dedicated website for the Settlement with an easy to remember domain name (www.mcdeansettlement.com). Relevant documents, including the Long Form Notice, Postcard Notice, Claim Form, Preliminary Approval Order, Settlement Agreement, Complaint, and other relevant court-related documents are posted on the Settlement Website. The Settlement Website also provides the ability for Settlement Class Members to file an online Claim Form. In addition, the Settlement Website includes relevant dates, answers to frequently asked questions (“FAQs”), instructions for how Settlement Class Members may opt-out (request exclusion) from or object to the Settlement, contact information for the Settlement Administrator, and how to obtain other case-related information. The Settlement Website address was prominently displayed in all notice documents. As of August 1, 2024, there have been 1,859 unique visitor sessions to the settlement website, and 7,487 web pages have been presented.

Toll-Free Telephone Number and Other Contact Information

18. On March 1, 2024, Epiq established a toll-free telephone number (1-888-890-2748) for the Settlement. Callers are able to hear an introductory message, have the option to learn more about the Settlement in the form of recorded answers to FAQs, and request that a Claim Form and Notice Package be mailed to them. This automated phone system is available 24 hours per day, 7 days per week. The toll-free telephone number was prominently displayed in all notice documents. As of August 1, 2024, there have been 252 calls to the toll-free telephone number representing 674 minutes of use.

19. A postal mailing address and email address were established and continues to be available to allow Settlement Class Members the opportunity to request additional information or ask questions.

Requests for Exclusion and Objections

20. The deadline to request exclusion from the Settlement or to object to the Settlement was May 31, 2024. As of August 1, 2024, Epiq has received five requests for exclusion. As of August 1, 2024, Epiq is aware of no objections to the Settlement. The Exclusion Report is included as **Attachment 5**.

Claim Submission & Distribution Options

21. The Notices provided a detailed summary of the relevant information about the Settlement, including the Settlement Website address and how Settlement Class Members could file a Claim Form online or by mail prior to the claim filing deadline. With any method of filing a Claim Form, Settlement Class Members had the option of receiving a digital payment or a traditional paper check.

22. The deadline for Settlement Class Members to file a Claim Form was June 28, 2024. As of August 1, 2024, Epiq has received 815 Claim Forms (778 online and 37 paper). The following is a breakdown of the status of the claims received.

<i>Claim Forms Received</i>	<i>Claim Count</i>
Timely, Valid Claim Forms from Settlement Class Members	754
Defective Claim Forms (may be cured by Settlement Class Members) ⁴	13
Denied Claim Forms for Non-Settlement Class Members	21
Duplicate Claim Forms	27
Total Claims	815

23. The following table provides additional details regarding the 754 timely, valid Claim Forms received by Settlement Class Members who were matched to the original notice list:

<i>Claim Detail</i>	<i>Claim Count⁵</i>	<i>Value Claimed</i>
Alternative Cash Payment	741	\$166,725 ⁶
Reimbursement for Ordinary Out-of-Pocket Losses, including Attested Time ⁷	10	\$4,678.95

⁴ These defective Claim Forms had multiple benefits selected or no benefit option selected. Defect Letters were sent to the Settlement Class Members who submitted these 13 Claim Forms.

⁵ Settlement Class Members may submit a Claim Form for one Settlement remedy only. These stats indicate the number of Claim Forms received and processed to date and are still undergoing final review.

⁶ Settlement Class Members may submit a Claim Form for an Alternative Cash Payment in the amount of \$225 per the Settlement Agreement.

⁷ Settlement Class Members may submit a Claim Form for Ordinary Out-of-Pocket Losses for up to \$500, including Attested Time spent remedying issues related to the Incident at a rate of \$35 per hour, for up to three hours per the Settlement Agreement.

<i>Claim Detail</i>	<i>Claim Count⁵</i>	<i>Value Claimed</i>
Reimbursement for Extraordinary Out-of-Pocket Losses ⁸	3	\$102.00

24. The figures in the table above are preliminary. The claim count, value claimed, and the value substantiated may change after any remaining timely postmarked Claim Forms have been received and processed and as incomplete Claim Forms go through the defect and cure process.

25. As standard practice, Epiq is in the process of conducting a complete review and audit of all Claim Forms received. There is a likelihood that after detailed review, the total number of Claim Forms received will change due to duplicate and denied Claim Forms.

Cost of Notice Implementation and Administration

26. Epiq has agreed to a cap of \$108,837.00 to handle all notice and settlement administration for the Settlement. As of August 1, 2024, Epiq has invoiced \$93,872.51 to implement the Notice Plan and handle the settlement administration to date. Additional costs will be incurred leading up to and following the Final Approval Hearing to complete the settlement administration, including distributing payments to Settlement Class Members.

CONCLUSION

27. In class action notice planning, execution, and analysis, we are guided by due process considerations under the United States Constitution, by federal and local rules and statutes, and further by case law pertaining to notice. This framework directs that the notice plan be designed to reach the greatest practicable number of potential class members and, in a settlement class action notice situation such as this, that the notice or notice plan itself not limit knowledge of the availability of benefits—nor the ability to exercise other options—to settlement class members in any way. All of these requirements were met in this case.

28. The Notice Plan included an extensive individual notice effort via mailed notice to the identified Settlement Class Members. With the address updating protocols that were used, the Notice Plan individual notice efforts reached approximately 95.2% of the identified Settlement

⁸ Settlement Class Members can submit a Claim Form for Extraordinary Out-of-Pocket Losses for up to \$8,000 per the Settlement Agreement.

Class. The reach was further enhanced by the Settlement Website. The Federal Judicial Center’s (“FJC”) *Judges’ Class Action Notice and Claims Process Checklist and Plain Language Guide* states that “the lynchpin in an objective determination of the adequacy of a proposed notice effort is whether all the notice efforts together will reach a high percentage of the Settlement Class. It is reasonable to reach between 70–95%.”⁹ Here, the Notice Plan we have developed and implemented achieved a reach at the highest end of that standard.

29. The Notice Plan followed the guidance for satisfying due process obligations that a notice expert gleans from the United States Supreme Court’s seminal decisions, which emphasize the need: (a) to endeavor to actually inform the Settlement Class, and (b) to ensure that notice is reasonably calculated to do so:

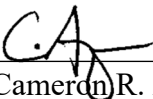
a) “[W]hen notice is a person’s due, process which is a mere gesture is not due process. The means employed must be such as one desirous of actually informing the absentee might reasonably adopt to accomplish it,” *Mullane v. Central Hanover Trust*, 339 U.S. 306, 315 (1950); and

b) “[N]otice must be 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,” *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156 (1974) (citing *Mullane*, 339 U.S. at 314).

30. The Notice Plan provided the best notice practicable under the circumstances, conformed to all aspects of Federal Rule of Civil Procedure, Rule 23 regarding notice, comported with the guidance for effective notice articulated in the Manual for Complex Litigation, Fourth and applicable FJC materials, and satisfied the requirements of due process, including its “desire to actually inform” requirement.

31. The Notice Plan schedule afforded enough time to provide full and proper notice to Settlement Class Members before any opt-out and objection deadlines.

I declare under penalty of perjury that the foregoing is true and correct. Executed August 2, 2024.


Cameron R. Azari, Esq.

⁹ FED. JUDICIAL CTR., JUDGES’ CLASS ACTION NOTICE AND CLAIMS PROCESS CHECKLIST AND PLAIN LANGUAGE GUIDE 3 (2010), available at [http://www.fjc.gov/public/pdf.nsf/lookup/NotCheck.pdf/\\$file/NotCheck.pdf](http://www.fjc.gov/public/pdf.nsf/lookup/NotCheck.pdf/$file/NotCheck.pdf).

Attachment 1

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

RUSSELL DOMITROVICH and THOMAS
GUSSIE, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

M.C. DEAN, INC.,

Defendant.

Civil Action No. 1:23-cv-00210 (CMH/JFA)

DECLARATION OF KYLE S. BINGHAM ON IMPLEMENTATION OF CAFA NOTICE

I, KYLE S. BINGHAM, hereby declare and state as follows:

1. My name is KYLE S. BINGHAM. I am over the age of 25 and I have personal knowledge of the matters set forth herein, and I believe them to be true and correct.

2. I am the Director of Legal Noticing for Epiq Class Action & Claims Solutions, Inc. (“Epiq”), a firm that specializes in designing, developing, analyzing and implementing large-scale, un-biased, legal notification plans. I have overseen and handled Class Action Fairness Act (“CAFA”) notice mailings for more than 400 class action settlements.

3. Epiq is a firm with more than 25 years of experience in claims processing and settlement administration. Epiq’s class action case administration services include coordination of all notice requirements, design of direct-mail notices, establishment of fulfillment services, receipt and processing of opt-outs, coordination with the United States Postal Service (“USPS”), claims database management, claim adjudication, funds management and distribution services.

4. The facts in this Declaration are based on what I personally know, as well as information provided to me in the ordinary course of my business by my colleagues at Epiq.

CAFA NOTICE IMPLEMENTATION

5. At the direction of counsel for Defendant M.C. Dean, Inc., 57 federal and state officials (the Attorney General of the United States and the Attorneys General of each of the 50 states, the District of Columbia, and the United States Territories) were identified to receive CAFA notice.

6. Epiq maintains a list of these federal and state officials with contact information for the purpose of providing CAFA notice. Prior to mailing, the names and addresses selected from Epiq's list were verified, then run through the Coding Accuracy Support System ("CASS") maintained by the United States Postal Service ("USPS").¹

7. On February 8, 2024, Epiq sent 57 CAFA Notice Packages ("Notice"). The Notice was mailed via USPS Priority Mail to 55 officials (the Attorneys General of 49 states, the District of Columbia, and the United States Territories). As per the direction of the Office of the Nevada Attorney General, the Notice was sent to the Nevada Attorney General electronically via email. The Notice was also sent via United Parcel Service ("UPS") to the Attorney General of the United States. The CAFA Notice Service List (USPS Priority Mail, Email, and UPS) is included as **Attachment 1**.

8. The materials sent to the federal and state officials included a Cover Letter, which provided notice of the proposed Settlement of the above-captioned case. The Cover Letter is included as **Attachment 2**.

¹ CASS improves the accuracy of carrier route, 5-digit ZIP®, ZIP + 4® and delivery point codes that appear on mail pieces. The USPS makes this system available to mailing firms who want to improve the accuracy of postal codes, i.e., 5-digit ZIP®, ZIP + 4®, delivery point (DPCs), and carrier route codes that appear on mail pieces.

9. The cover letter was accompanied by a CD, which included the following:
- a. **Per 28 U.S.C. § 1715(b)(1) – Complaint and Any Amended Complaints:**
 - Domitrovich Class Action Complaint (filed December 6, 2022);
 - Gussie Class Action Complaint (filed December 12, 2022); and
 - Consolidated Class Action Complaint (filed April 21, 2023).
 - b. **Per 28 U.S.C. § 1715(b)(3) – Notification to Class Members:**
 - Claim Form (*Exhibit 1 to the Class Action Settlement Agreement and Release*); and
 - Long Form Notice (*Exhibit 2 to the Class Action Settlement Agreement and Release*).
 - c. **Per 28 U.S.C. § 1715(b)(4) – Class Action Settlement Agreement:** The following documents were included:
 - Plaintiffs’ Motion for Preliminary Approval and to Direct Notice of Proposed Settlement to the Class;
 - Plaintiffs’ Memorandum in Support of Motion for Preliminary Approval of Class Action Settlement and to Direct Notice of Proposed Settlement to the Class;
 - Class Action Settlement Agreement and Release (*Exhibit 1 to the Plaintiffs’ Memorandum in Support of Motion for Preliminary Approval*);
 - [Proposed] Final Approval (*Exhibit 4 to the Class Action Settlement Agreement and Release*);
 - [Proposed] Final Judgment (*Exhibit 5 to the Class Action Settlement Agreement and Release*);
 - Proposed Class Counsel’s Declaration in Support of Plaintiffs’ Motion for Preliminary Approval and to Direct Notice of Proposed Settlement to Class (*Exhibit 2 to the Plaintiffs’ Memorandum in Support of Motion for Preliminary Approval*);

- Declaration of Cameron R. Azari, Esq. On Notice Plan and Notices (*Exhibit 3 to the Plaintiffs' Memorandum in Support of Motion for Preliminary Approval*); and
 - Order Granting Plaintiffs' Unopposed Motion for Preliminary Approval and to Direct Notice of Proposed Settlement to the Class.
- d. **Per 28 U.S.C. § 1715(b)(7) – Estimate of Class Members:** A Geographic Analysis of potential Class Members was included on the CD.

I declare under penalty of perjury that the foregoing is true and correct. Executed on
February 8, 2024.



KYLE S. BINGHAM

Attachment 1

CAFA Notice Service List

USPS Priority Mail

Company	FullName	Address1	Address2	City	State	Zip
Office of the Attorney General	Treg Taylor	1031 W 4th Ave	Suite 200	Anchorage	AK	99501
Office of the Attorney General	Steve Marshall	501 Washington Ave		Montgomery	AL	36104
Office of the Attorney General	Tim Griffin	323 Center St	Suite 200	Little Rock	AR	72201
Office of the Attorney General	Kris Mayes	2005 N Central Ave		Phoenix	AZ	85004
Office of the Attorney General	CAFA Coordinator	Consumer Protection Section	455 Golden Gate Ave Suite 11000	San Francisco	CA	94102
Office of the Attorney General	Phil Weiser	Ralph L Carr Colorado Judicial Center	1300 Broadway Fl 10	Denver	CO	80203
Office of the Attorney General	William Tong	165 Capitol Ave		Hartford	CT	06106
Office of the Attorney General	Brian Schwalb	400 6th St NW		Washington	DC	20001
Office of the Attorney General	Kathy Jennings	Carvel State Bldg	820 N French St	Wilmington	DE	19801
Office of the Attorney General	Ashley Moody	State of Florida	The Capitol PL-01	Tallahassee	FL	32399
Office of the Attorney General	Chris Carr	40 Capitol Square SW		Atlanta	GA	30334
Department of the Attorney General	Anne E Lopez	425 Queen St		Honolulu	HI	96813
Iowa Attorney General	Brenna Bird	Hoover State Office Building	1305 E Walnut St	Des Moines	IA	50319
Office of the Attorney General	Raul Labrador	700 W Jefferson St Ste 210	PO Box 83720	Boise	ID	83720
Office of the Attorney General	Kwame Raoul	100 W Randolph St		Chicago	IL	60601
Office of the Indiana Attorney General	Todd Rokita	Indiana Government Center South	302 W Washington St Rm 5	Indianapolis	IN	46204
Office of the Attorney General	Kris Kobach	120 SW 10th Ave 2nd Fl		Topeka	KS	66612
Office of the Attorney General	Daniel Cameron	700 Capitol Ave Suite 118		Frankfort	KY	40601
Office of the Attorney General	Jeff Landry	PO Box 94005		Baton Rouge	LA	70804
Office of the Attorney General	Andrea Campbell	1 Ashburton Pl 20th Fl		Boston	MA	02108
Office of the Attorney General	Anthony G Brown	200 St Paul Pl		Baltimore	MD	21202
Office of the Attorney General	Aaron Frey	6 State House Station		Augusta	ME	04333
Department of Attorney General	Dana Nessel	PO BOX 30212		Lansing	MI	48909
Office of the Attorney General	Keith Ellison	445 Minnesota St Ste 1400		St Paul	MN	55101
Missouri Attorney General's Office	Andrew Bailey	207 West High Street	PO Box 899	Jefferson City	MO	65102
Mississippi Attorney General	Lynn Fitch	PO Box 220		Jackson	MS	39205
Office of the Attorney General	Austin Knudsen	215 N Sanders 3rd Fl	PO Box 201401	Helena	MT	59620
Attorney General's Office	Josh Stein	9001 Mail Service Ctr		Raleigh	NC	27699
Office of the Attorney General	Drew H Wrigley	600 E Boulevard Ave Dept 125		Bismarck	ND	58505
Nebraska Attorney General	Mike Hilgers	2115 State Capitol	PO Box 98920	Lincoln	NE	68509
Office of the Attorney General	John Formella	NH Department of Justice	33 Capitol St	Concord	NH	03301
Office of the Attorney General	Matthew J Platkin	25 Market Street	PO Box 080	Trenton	NJ	08625
Office of the Attorney General	Raul Torrez	408 Galisteo St	Villagra Bldg	Santa Fe	NM	87501
Office of the Attorney General	CAFA Coordinator	28 Liberty Street 15th Floor		New York	NY	10005
Office of the Attorney General	Dave Yost	30 E Broad St Fl 14		Columbus	OH	43215
Office of the Attorney General	Gentner Drummond	313 NE 21st St		Oklahoma City	OK	73105
Office of the Attorney General	Ellen F Rosenblum	Oregon Department of Justice	1162 Court St NE	Salem	OR	97301
Office of the Attorney General	Michelle A. Henry	16th Fl Strawberry Square		Harrisburg	PA	17120
Office of the Attorney General	Peter F Neronha	150 S Main St		Providence	RI	02903
Office of the Attorney General	Alan Wilson	PO Box 11549		Columbia	SC	29211
Office of the Attorney General	Marty Jackley	1302 E Hwy 14 Ste 1		Pierre	SD	57501
Office of the Attorney General	Jonathan Skremetti	PO Box 20207		Nashville	TN	37202
Office of the Attorney General	Ken Paxton	PO Box 12548		Austin	TX	78711
Office of the Attorney General	Sean D Reyes	PO Box 142320		Salt Lake City	UT	84114
Office of the Attorney General	Jason S Miyares	202 N 9th St		Richmond	VA	23219
Office of the Attorney General	Charity R Clark	109 State St		Montpelier	VT	05609
Office of the Attorney General	Bob Ferguson	800 5th Ave Ste 2000		Seattle	WA	98104
Office of the Attorney General	Josh Kaul	PO Box 7857		Madison	WI	53707
Office of the Attorney General	Patrick Morrissey	State Capitol Complex Bldg 1 Room E 26	1900 Kanawha Blvd E	Charleston	WV	25305
Office of the Attorney General	Bridget Hill	109 State Capital		Cheyenne	WY	82002
Department of Legal Affairs	Fainu'ulei Falefatu Ala'ilima-Utu	American Samoa Gov't Exec Ofc Bldg Utulei	Territory of American Samoa	Pago Pago	AS	96799
Attorney General Office of Guam	Douglas Moylan	Administrative Division	590 S Marine Corps Dr Ste 901	Tamuning	GU	96913
Office of the Attorney General	Edward Manibusan	Administration Bldg	PO Box 10007	Saipan	MP	96950
PR Department of Justice	Domingo Emanuelli Hernández	PO Box 9020192		San Juan	PR	00902
Department of Justice	Ariel M. Smith	3438 Kronprindsens Gade Ste 2	GERS BLDG	St Thomas	VI	00802

Email

Company	Contact Format	State
Office of the Attorney General for Nevada	All documents sent to NV AG at their dedicated CAFA email inbox.	NV

UPS

Company	FullName	Address1	Address2	City	State	Zip
US Department of Justice	Merrick B. Garland	950 Pennsylvania Ave NW		Washington	DC	20530

Attachment 2

CAFA NOTICE ADMINISTRATOR

HILSOFT NOTIFICATIONS
10300 SW Allen Blvd
Beaverton, OR 97005
P 503-350-5800
DL-CAFA@epiqglobal.com

February 8, 2024

VIA UPS OR USPS PRIORITY MAIL

Class Action Fairness Act – Notice to Federal and State Officials

Dear Federal and State Officials:

Pursuant to the Class Action Fairness Act of 2005 (“CAFA”), codified at 28 U.S.C. § 1715, please find enclosed information from Defendant M.C Dean, Inc. relating to the proposed settlement of a class action lawsuit.

- **Case:** *Russell Domitrovich and Thomas Gussie v. M.C. Dean, Inc.*, Case No. 1:23-cv-00210 (CMH/JFA).
- **Court:** United States District Court for the Eastern District of Virginia.
- **Defendant:** M.C. Dean, Inc.
- **Documents Enclosed:** In accordance with the requirements of 28 U.S.C. § 1715, please find copies of the following documents associated with this action on the enclosed CD:
 1. **Per 28 U.S.C. § 1715(b)(1) – Complaint and Any Amended Complaints:**
 - Domitrovich Class Action Complaint (filed December 6, 2022);
 - Gussie Class Action Complaint (filed December 12, 2022); and
 - Consolidated Class Action Complaint (filed April 21, 2023).
 2. **Per 28 U.S.C. § 1715(b)(2) – Notice of Any Scheduled Judicial Hearing:** The Court has scheduled a Final Fairness Hearing for August 23, 2024.
 3. **Per 28 U.S.C. § 1715(b)(3) – Notification to Class Members:**
 - Claim Form (*Exhibit 1 to the Class Action Settlement Agreement and Release*); and
 - Long Form Notice (*Exhibit 2 to the Class Action Settlement Agreement and Release*).
 4. **Per 28 U.S.C. § 1715(b)(4) – Class Action Settlement Agreement:** The following documents are included:
 - Plaintiffs’ Motion for Preliminary Approval and to Direct Notice of Proposed Settlement to the Class;

CAFA NOTICE ADMINISTRATOR

HILSOFT NOTIFICATIONS
10300 SW Allen Blvd
Beaverton, OR 97005
P 503-350-5800
DL-CAFA@epiqglobal.com

- Plaintiffs' Memorandum in Support of Motion for Preliminary Approval of Class Action Settlement and to Direct Notice of Proposed Settlement to the Class;
 - Class Action Settlement Agreement and Release (*Exhibit 1 to the Plaintiffs' Memorandum in Support of Motion for Preliminary Approval*);
 - [Proposed] Final Approval Order (*Exhibit 4 to the Class Action Settlement Agreement and Release*);
 - [Proposed] Final Judgment (*Exhibit 5 to the Class Action Settlement Agreement and Release*);
 - Proposed Class Counsel's Declaration in Support of Plaintiffs' Motion for Preliminary Approval and to Direct Notice of Proposed Settlement to Class (*Exhibit 2 to the Plaintiffs' Memorandum in Support of Motion for Preliminary Approval*);
 - Declaration of Cameron R. Azari, Esq. On Notice Plan and Notices (*Exhibit 3 to the Plaintiffs' Memorandum in Support of Motion for Preliminary Approval*); and
 - Order Granting Plaintiffs' Unopposed Motion for Preliminary Approval and to Direct Notice of Proposed Settlement to the Class.
5. **Per 28 U.S.C. § 1715(b)(5) – Any Settlement or Other Agreements:** There are no other Settlements or Agreements between the parties.
 6. **Per 28 U.S.C. § 1715(b)(6) – Final Judgment or Notice of Dismissal:** To date, the Court has not issued a final order, judgment or dismissal in the above-referenced action.
 7. **Per 28 U.S.C. § 1715(b)(7) – Estimate of Class Members:** A Geographic Analysis of potential Class Members is included on the enclosed CD.
 8. **28 U.S.C. § 1715(b)(8) – Judicial Opinions Related to the Settlement:** To date, the Court has not issued a final order or judgment in the above-referenced action.

If you have questions or concerns about this notice or the enclosed materials, please contact this office.

Sincerely,

CAFA Notice Administrator

Enclosures

Attachment 2

Claims Administrator

Domitrovich v M.C. Dean
P.O. Box 2498
Portland, OR 97208-2498



Unique ID: [REDACTED]

Legal Notice

If you were sent notice by M.C. Dean on or about September 14, 2022, related to a security incident that may have impacted you, a class action settlement may affect your rights.

[REDACTED]



A proposed Settlement has been reached in a class action lawsuit filed, *Dominion Tech and Aggre v. M.C. Dean, Inc.* No. 1:23-cv-00210 (E.D. Va.) (the "Lawsuit"). The lawsuit asserts claims against Defendant M.C. Dean ("Defendant") related to a security incident about which the Defendant notified potentially impacted individuals in September 2022 (the "Incident"). Defendant denies all of the claims and denies that it did anything wrong.

Who is Included? Records indicate that you may be a member of the Settlement Class. The Settlement Class is defined by the Court as all individuals whose Personal Identifying Information ("PII") was impacted by the Incident that was discovered on June 2, 2022.

What does the Settlement Provide? The proposed Settlement would create a Settlement Fund of \$750,000 that would be used to pay all costs of the Settlement, including: (i) payments to Settlement Class Members who submit valid claims, (ii) costs of administration and notice, (iii) any attorneys' fees and costs awarded by the Court to Class Counsel (up to \$250,000 plus litigation costs and expenses of up to \$15,000), and (iv) any service awards to the Representative Plaintiffs awarded by the Court (up to \$10,000 total). The Settlement also releases all claims or potential claims of Settlement Class Members against Defendant arising from or related to the Incident, as detailed in the Class Settlement Agreement and Release.

How To Get Benefits: Settlement Class Members who submit valid claims and any required documentation may receive one or more of the following, to be paid from the Settlement Fund: (1) an Alternative Cash Payment of approximately \$225, or (2) an out-of-pocket Reimbursement Award. Depending on how many valid claims are submitted, the amounts of the Alternative Cash Payment will be adjusted upward or downward proportionally among Settlement Class Members submitting valid claims for those awards. Claim Forms must be postmarked or submitted online at www.MCDeanSettlement.com by **May 31, 2024**.

Your Other Options. If you do not want to be legally bound by the Settlement, you must exclude yourself by **May 31, 2024**. If you do not exclude yourself, you will give up any right to sue Defendant for the claims that this Settlement resolves as more fully described in the Settlement Agreement, available at the Settlement website. If you do not exclude yourself, you may object to the Settlement by **May 31, 2024**.

The Court has scheduled a Final Fairness Hearing in this case at 10:00 a.m. Friday, **August 23, 2024**, at the United States District Court for the Eastern District of Virginia, Albert V. Bryan U.S. Courthouse, 401 Courthouse Square, Alexandria, VA 22314, Courtroom 800, to decide whether to approve the Settlement. The Court will consider whether the Settlement is fair, reasonable, and adequate. If there are timely objections, the Court will consider them and will listen to people who have properly requested to speak at the hearing. You or your own lawyer may attend and ask to appear at the hearing, but you are not required to do so. The hearing could reschedule to a different date or time, so please check the Settlement website for those details.

More Information. Complete information about your rights and options, as well as important documents (including the Settlement Agreement) are available at www.MCDeanSettlement.com. You may also call toll-free 1-888-890-2748.

Attachment 3

NOTICE OF CLASS ACTION SETTLEMENT

UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF VIRGINIA
Russell Domitrovich and Thomas Gussie v. M.C. Dean, Inc., Case No. 1:23-cv-00210

To: All individuals identified by M.C. Dean, Inc. (“M.C. Dean”) and to whom M.C. Dean sent notice on or about September 14, 2022, that their information may have been impacted in the Incident, defined below.

A proposed settlement has been reached in a class action lawsuit titled *Russell Domitrovich and Thomas Gussie v. M.C. Dean, Inc.* Case No. 1:23-cv-00210 (E.D. Va.) (the “Lawsuit”). The lawsuit asserts claims against Defendant M.C. Dean (“Defendant”) related to a security incident about which Defendant notified potentially impacted individuals in September 2022 (the “Incident”). Defendant denies all the claims and denies that it did anything wrong.

The Settlement offers payments to all individuals in the United States whose personal identifying information was stored, possessed, or controlled by M.C. Dean; and who were affected by the M.C. Dean data security incident that Defendant sent notification of in September 2022 (“Settlement Class Members”). Certain of the amounts paid will depend upon how many people submit valid claims but initially are set at the following amounts:

- (1) an Alternative Cash Payment of **\$225**;
- (2) an award of up to **\$500** for any Ordinary Out-of-Pocket Losses, including Attested Time spent remediating issues related to the Incident at a rate of \$35 per hour, for up to three hours; and/or
- (3) if you experienced unreimbursed unauthorized or fraudulent charges or out-of-pocket expenses which you believe in good faith were fairly traceable to the Incident, you may **also** file a claim for Extraordinary Out-of-Pocket Losses up to **\$8,000**, as explained below.

If you are a Settlement Class Member, your options are:

SUBMIT A CLAIM FORM BY MAY 31, 2024	You must submit a valid Claim Form to receive a payment from this Settlement.
DO NOTHING	You will receive no payment and will no longer be able to sue Defendant over the claims resolved in the Settlement.
EXCLUDE YOURSELF BY MAY 31, 2024	You may exclude yourself from this Settlement and keep your right to sue separately. If you exclude yourself, you receive no payment. Exclusion instructions are in this Notice.
OBJECT BY MAY 31, 2024	If you do not exclude yourself, you may write to the Court to comment on or detail why you do not like the Settlement by following the instructions in this Notice. The Court may reject your objection. You must still file a claim if you desire any monetary relief under the Settlement.

The Court must give final approval to the Settlement before it takes effect but has not yet done so. No payments will be made until after the Court gives final approval and any appeals are resolved.

Please review this Notice carefully. You can learn more about the Settlement by visiting www.mcdeansettlement.com or by calling 888-890-2748.

Further Information about this Notice and the Lawsuits

1. Why was this Notice issued?

Settlement Class Members are eligible to receive payment from a proposed settlement of the Lawsuit. The Court overseeing the Lawsuit authorized this Notice to advise Settlement Class Members about the proposed settlement that will affect their legal rights. This Notice explains certain legal rights and options Settlement Class Members have in connection with the Settlement.

2. What is the Lawsuit about?

The Lawsuit is a proposed class action lawsuit brought on behalf of certain individuals whose information may have been accessed and exfiltrated by unauthorized individuals as part of the Incident. The affected information may include names, dates of birth, driver's license numbers, and Social Security numbers.

The Lawsuit claims Defendant is legally responsible for the Incident and asserts various legal claims, including negligence, breach of implied contract, and a declaratory judgment claim. Defendant denies these claims and denies it did anything wrong.

3. Why is the Lawsuit a class action?

In a class action, one or more representative plaintiffs bring a lawsuit on behalf of others who have similar claims. Together, all these people are the "class" and each individually is a "class member." There are two Representative Plaintiffs in this case: Russell Domitrovich and Thomas Gussie. The class in this case is referred to in this Notice as the "Settlement Class."

4. Why is there a settlement?

The Representative Plaintiffs in the Lawsuit, through their attorneys, investigated the facts and law relating to the issues in the Lawsuit. The Representative Plaintiffs and Class Counsel believe the Settlement is fair, reasonable, and adequate and will provide substantial benefits to the Settlement Class. The Court has not decided whether the Representative Plaintiffs' claims or Defendant's defenses have any merit, and it will not do so if the proposed settlement is approved. By agreeing to settle, both sides avoid the cost and risk of a trial, and people who submit valid claims will receive compensation. The Settlement does not mean Defendant did anything wrong, or that the Representative Plaintiffs and the Class would or would not win their case if it were to go to trial.

Terms of the Proposed Settlement

5. Who is in the Settlement Class?

The Court defines the Settlement Class as all individuals whose Personal Identifying Information ("PII") was impacted by the Incident that was discovered on June 2, 2022 (the "Incident"). Excluded from the Settlement Class are: (1) the Judge and Magistrate Judge presiding over the Lawsuits, any members of the Judges' respective staffs, and immediate members of the Judges' respective families; (2) officers, directors, members and shareholders of Defendant; (3) persons who timely and validly request exclusion from and/or opt out of the Settlement Class; (4) the successors and assigns of any such excluded persons; and (5) any person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding, or abetting the criminal activity or occurrence of the Incident or who pleads nolo contendere to any such charge.

6. What are the terms of the Settlement?

The proposed settlement would create a Settlement Fund of \$750,000 that would be used to pay all costs of the Settlement, including: (i) payments to Settlement Class Members who submit valid claims; (ii) costs of administration and notice (approximately \$80,620); (iii) any attorneys' fees and costs awarded by the Court to Class Counsel (up to \$250,000 plus litigation costs and expenses of up to \$15,000); and (iv) any service awards to the Representative Plaintiffs awarded by the Court (up to \$10,000 total). The Settlement also releases all claims or potential claims of Settlement Class Members against Defendant arising from or related to the Incident, as detailed in the Class Settlement Agreement and Release.

7. What claims are Settlement Class Members giving up under the Settlement?

Settlement Class Members who do not validly exclude themselves from the Settlement will be bound by the Class Settlement Agreement and Release and any final judgment entered by the Court, and will give up their right to sue Defendants for the claims being resolved by the Settlement, including all claims or potential claims of Settlement Class Members against Defendants arising from or related to the Incident. The claims that Settlement Class Members are releasing are described in Sections II.X, II.GG and IX of the Class Action Settlement Agreement and Release and the persons and entities being released from those claims are described in Section II.Y of the Class Action Settlement Agreement and Release. Section IX of the Class Settlement Agreement and Release explains when such releases will occur.

Payments to Settlement Class Members

8. What kind of payments can Settlement Class Members receive?

Settlement Class Members who submit valid claims and any required documentation may receive one or more of the following, to be paid from the Settlement Fund: (1) an Alternative Cash Payment of approximately \$225, or (2) an out-of-pocket Reimbursement Award. Depending on how many valid claims are submitted, the amounts of the Alternative Cash Payment will be adjusted upward or downward proportionally among Settlement Class Members submitting valid claims for those awards, as explained further below in Question 11.

9. What is the Alternative Cash Payment?

In the alternative to an out-of-pocket Reimbursement Award, every Settlement Class Member is eligible to receive a \$225 Alternative Cash Payment, regardless of whether he or she experienced any unauthorized charges or identifiable losses related to the Incident. Settlement Class Members seeking an Alternative Cash Payment must provide the information required on the Claim Form. The \$225 Alternative Cash Payment is subject to upward or downward adjustment as described below in Question 11.

Eligibility for any award, including the Alternative Cash Payment, is within the discretion of the Claims Administrator as outlined in Question 16.

10. What is a Reimbursement Award?

Settlement Class Members who, at any time from September 14, 2022, to the Claims Deadline, suffered from verifiable financial losses that are reasonably traceable to the Incident or spent time remedying the issues related to the Incident, are eligible to receive an Ordinary Reimbursement Award of up to \$500 as reimbursement for those charges and expenses. The following types of out-of-pocket expenses may be claimed:

- actual, documented, and unreimbursed costs, expenses, or charges incurred addressing or remedying identity theft, fraud, or misuse of personal information and/or other issues reasonably traceable to the Incident. This can include Attested Time for up to 3 hours, at \$35 per hour, for time spent addressing or remedying issues related to the Incident, including time spent monitoring credit, resolving disputes for unauthorized transactions, freezing or unfreezing your credit, remedying a falsified tax return, etc.

Settlement Class Members who experienced unauthorized or fraudulent charges or extraordinary documented out-of-pocket losses that are fairly traceable to the Incident and are losses that are not already covered by one or more of the Ordinary Reimbursement categories are eligible to receive an Extraordinary Reimbursement Award of up to \$8,000 as reimbursement for those charges and expenses. The following types of out-of-pocket expenses may be claimed:

- actual, documented, and unreimbursed costs, expenses, losses, or charges incurred as a result of identity theft or identity fraud, falsified tax returns, or other possible misuse of the Settlement Class Member's personal information. The loss must have occurred between September 14, 2022, and the Claims Deadline.

You cannot recover for emotional distress. Claimants must exhaust all available credit monitoring insurance and identity theft insurance before seeking a Reimbursement Award. Settlement Class Members seeking a Reimbursement Award must provide the information and documents required on the Claim Form.

11. When and how will the amount of Settlement payments be adjusted?

The amounts paid for all Alternative Cash Payments will be adjusted upward or downward from the amounts listed in Question 9 depending on how many Settlement Class Members submit valid claims.

If the total dollar value of all valid claims is less than the amount of money available in the Settlement Fund for payment of those claims, the amounts for Alternative Cash Payments will be adjusted upward proportionally among all valid claims for those awards, until the amounts remaining in the Settlement Fund are exhausted (or as nearly as possible).

If the total dollar value of all valid claims is more than the amount of money available in the Settlement Fund for payment of those claims, the amount of the payments for Alternative Cash Payments will be adjusted downward proportionally among all Settlement Class Members who submitted valid claims for Alternative Cash Payments.

12. What happens after all claims are processed and there are funds remaining?

If there are any funds remaining after all valid claims are processed and the time to cash any payment checks has passed, those funds shall be distributed as directed by the Court, including potential distribution to a charitable organization. No remaining funds will be returned to Defendants.

Your Options as a Settlement Class Member

13. If I am a Settlement Class Member, what options do I have?

If you are a Settlement Class Member, you do not have to do anything to remain in the Settlement. **However, if you wish to seek an award under the Settlement, you must complete and submit a Claim Form postmarked or submitted online at www.mcdeansettlement.com by May 31, 2024.**

If you do not want to give up your right to sue Defendant about the Incident or the issues raised in this case, you must exclude yourself (or "opt out") from the Settlement Class. See Question 17 below for instructions on how to exclude yourself.

If you wish to object to the Settlement, you must remain a Settlement Class Member (*i.e.*, you may not also exclude yourself from the Settlement Class by opting out) and submit a written objection. See Question 20 below for instructions on how to submit an objection.

14. What happens if I do nothing?

If you do nothing, you will get no award from this Settlement. Unless you exclude yourself, after the Settlement is granted final approval and the judgment becomes final, you will be bound by the judgment, and you will never be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Defendants related to the claims released by the Settlement.

15. How do I submit a claim?

You may complete the Claim Form online at www.mcdeansettlement.com. You may also obtain a paper Claim Form by downloading it at www.mcdeansettlement.com or by calling the Claims Administrator at **888-890-2748**. If you choose to complete a paper Claim Form, you may either submit the completed and signed Claim Form and any supporting materials via email to info@mcdeansettlement.com or mail them to:

**M.C. Dean, Inc. Claims Administrator
P.O. Box 2498
Portland, OR 97208-2498**

16. Who decides my Settlement claim, and how do they do it?

The Claims Administrator will decide whether a Claim Form is complete and valid and includes all required documentation. The Claims Administrator may require additional information from any claimant. Failure to timely provide all required information will invalidate a claim and it will not be paid.

17. How do I exclude myself from the Settlement?

To opt out of the Settlement you must make a signed, written request that (i) says you wish to exclude yourself from the Settlement Class in these Lawsuits, and (ii) includes your full name, current address, and your signature. You must mail your request to this address:

**M.C. Dean, Inc. Claims Administrator
P.O. Box 2498
Portland, OR 97208-2498**

Your request must be postmarked by **May 31, 2024**.

18. If I exclude myself, can I receive any payment from this Settlement?

No. If you exclude yourself, you will not be entitled to any award. However, you will also not be bound by any judgment in this Lawsuit.

19. If I do not exclude myself, can I sue Defendant for the Incident later?

No. Unless you exclude yourself, you give up any right to sue Defendant for the claims that this Settlement resolves. You must exclude yourself from the Settlement Class to start your own lawsuit or to be part of any different lawsuit relating to the claims in this case. If you exclude yourself, do not submit a Claim Form requesting a payment.

20. How do I object to the Settlement?

All Settlement Class Members who do not request exclusion from the Settlement Class have the right to object to the Settlement or any part of it. You can ask the Court to deny approval by filing an objection. You can't ask the Court to order a different settlement; the Court can only approve or reject the Settlement. If the Court denies approval, no Settlement payments will be sent out and the Lawsuit will continue. If that is what you want to happen, you must object.

Any objection to the proposed Settlement must be in writing and it and any supporting papers must be mailed to the Claims Administrator at the mailing address listed below. Your objection must be filed or postmarked no later than the objection deadline, **May 31, 2024**:

**M.C. Dean, Inc. Claims Administrator
P.O. Box 2498
Portland, OR 97208-2498**

To be considered by the Court, your objection must list the name of the Lawsuit pending in the Eastern District of Virginia: *Russell Domitrovich and Thomas Gussie v. M.C. Dean, Inc.*, Case No. 1:23-cv-00210 (E.D. Vir.), and include all of the following information: (i) your full name, address, telephone number, and your signature; (ii) information identifying you as a Settlement Class Member, including proof that you are a member of the Settlement Class (such as the notice you received from M.C. Dean or the notice of this Settlement); (iii) a clear and detailed written statement of the specific legal and factual bases for each and every objection, accompanied by any legal support for the objection you believe is applicable; (iv) copies of any other documents you wish to submit in support of your position; (v) the identity of any counsel representing you, (vi) a statement whether you intend to appear at the Final Approval Hearing, either in person or through counsel, and, if through counsel, identifying that counsel.

If you submit a timely written objection, you may, but are not required to, appear at the Final Approval Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney.

Court Approval of the Settlement

21. How, when, and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing to decide whether to approve the Settlement. That hearing is scheduled for August 23, 2024, at 10:00 a.m. at the Albert V. Bryan United States Courthouse, 401 Courthouse Square, Alexandria, VA 22314. Please visit the Court's website at <https://www.vaed.uscourts.gov/> for current information regarding courthouse access and court hearings. At the Final Approval Hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are timely objections, the Court will consider them and will listen to people who have properly requested to speak at the hearing. The Court may also consider Settlement Class Counsel's request for attorneys' fees and costs, and the request for service awards for the Representative Plaintiffs. After the hearing, the Court will decide whether to approve the Settlement.

It is possible the Court could reschedule the hearing to a different date or time without notice, so it is a good idea before the hearing to check <https://www.vaed.uscourts.gov/> or access the Court docket in this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.vaed.uscourts.gov/cgi-bin/ShowIndex.pl> to confirm the schedule if you wish to attend.

22. Do I have to attend the hearing?

No. You do not need to attend the hearing unless you object to the Settlement and wish to appear in person. It is not necessary to appear in person in order to make an objection; the Court will consider any written objections properly submitted according to the instructions in Question 20. You or your own lawyer are welcome to attend the hearing at your expense but are not required to do so.

23. What happens if the Court approves the Settlement?

If the Court approves the Settlement and no appeal is taken, the Settlement Fund will be fully funded. The Claims Administrator will pay any attorneys' fees and costs award and any Representative Plaintiffs' service awards from the Settlement Fund. Then, within 60 days after the Effective Date, the Claims Administrator will send Settlement payments to Settlement Class Members who submitted timely and valid Settlement Claims.

If any appeal is taken, it is possible the Settlement could be disapproved on appeal.

24. What happens if the Court does not approve the Settlement?

If the Court does not approve the Settlement, no Settlement Fund will be created, there will be no Settlement payments to Settlement Class Members, Settlement Class Counsel or the Representative Plaintiffs, and the case will proceed as if no Settlement had been attempted.

Lawyers for the Settlement Class and Defendants

25. Who represents the Settlement Class?

The Court has appointed the following Class Counsel to represent the Settlement Class in this Lawsuit:

Patrick Barthle MORGAN & MORGAN 201 N. Franklin Street, 7 th Floor Tampa, Florida 33602 (813) 559-4908	Laura Van Note COLE & VAN NOTE 555 12 th Street, Suite 2100 Oakland, California 94607 (510) 891-9800
Ryan D. Maxey MAXEY LAW FIRM, P.A. ryan@maxeyfirm.com 107 N. 11 th St. #402 Tampa, Florida 33602 (813) 448-1125	

Settlement Class Members will not be charged for the services of Settlement Class Counsel; Settlement Class Counsel will be paid out of the Settlement Fund, subject to Court approval. However, you may hire your own attorney at your own cost to advise you in this matter or represent you in making an objection or appearing at the Final Approval Hearing.

26. How will the lawyers for the Settlement Class be paid?

Settlement Class Counsel will request the Court’s approval of an award for attorneys’ fees up to one-third (33.3%) of the Settlement Fund (or up to \$250,000), plus reasonable costs and expenses (up to \$15,000), which shall be paid from the Settlement Fund. Settlement Class Counsel will also request approval of service awards of \$5,000 to each of the Representative Plaintiffs (a total of \$10,000), which shall also be paid from the Settlement Fund.

27. Who represents Defendant in the Lawsuit?

Defendant is represented by the following lawyers:

Edward J. McAndrew
 BAKER & HOSTETLER LLP
 1735 Market Street, Suite 3300
 Philadelphia, PA 19103-7501
 emcandrew@bakerlaw.com
 Telephone: (215) 568-3100

For Further Information

28. What if I want further information or have questions?

This Notice summarizes the proposed Settlement. For the precise terms and conditions of the Settlement, please see the Class Action Settlement Agreement and Release available at www.mcdeansettlement.com, by contacting Settlement Class Counsel at the phone numbers provided in response to Question 25 above, by accessing the Court docket in this case, for a fee, through the Court’s Public Access to Court Electronic Records (PACER) system at <https://ecf.vaed.uscourts.gov/cgi-bin/ShowIndex.pl>; or by visiting the Office of the Clerk, U.S. District Court for the Eastern District of Virginia, Albert V. Bryan U.S. Courthouse, 401 Courthouse Square, Alexandria, Virginia 22314 between 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding Court holidays.

Epiq will act as the Claims Administrator for the Settlement. You can contact the Claims Administrator at:

M.C. Dean, Inc. Claims Administrator
P.O. Box 2498
Portland, OR 97208-2498

Please do not contact the Court.

Attachment 4

Please provide the Unique ID identified in the notice that was mailed to you:

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Instructions. Please follow the instructions below and answer the questions as instructed.

CLAIM INFORMATION

Section A. Confirm Your Eligibility

Did you receive a Unique ID indicating you may be a member of the Settlement Class?

Yes No

If yes, continue to the next question. If no, you may not be a member of the Settlement Class.

Did you suffer any financial expenses or other financial losses you believe was as a result of the Incident or did you spend time remedying the issues related to the Incident? For example, did you sign up and pay for a credit monitoring service, hire a professional service to remedy identity theft, spend time monitoring credit, resolving disputes for unauthorized transactions, freezing or unfreezing your credit, or remedying a falsified tax return, as a direct result of or attributed to the Incident?

Yes No

*If yes, you may be eligible to fill out **Section B** of this form and provide corroborating documentation. If no, please proceed with Section C.*

Section B.

Reimbursement for Ordinary Out-of-Pocket Losses and Attested Lost Time

If you suffered verifiable financial losses that are reasonably traceable to the Incident or spent time remedying the issues related to the Incident, you may be eligible to receive a payment to compensate you for the losses and inconveniences suffered and lost time spent that are fairly traceable to the Incident.

*If it is verified that you meet all the criteria described in the Settlement Agreement, and you **submit** proof of your losses and the dollar amount of those losses, you will be eligible to receive a payment compensating you for your documented losses of up to **\$500.00**. Examples of what can be used to prove your losses include receipts and account statements. You may also prove losses by submitting information in the Claim Form that describes time spent remedying suspected identity theft, fraud, or misuse of personal information and/or other issues reasonably traceable to the Incident. You will be required to provide an attestation as to the time you spent remedying issues related to the Incident. If you submit this information, you will be eligible for a payment of up to \$35.00 per hour, for up to three hours. Examples of what can be used to account for your losses related to time spent remedying issues related to the Incident include time spent monitoring credit, resolving disputes for unauthorized transactions, freezing or unfreezing your credit, or remedying a falsified tax return, etc.*

Providing adequate proof of your losses does not guarantee you will be entitled to receive the full amount claimed. All claims will also be subject to an aggregate maximum payment amount, as explained in the Settlement Agreement. If the amount of losses claimed exceeds the maximum amount of money available under the Settlement Agreement, then the payment for your claim will be reduced on a pro rata basis. If you would like to learn more, please review the Settlement Agreement for further details.

Payment for your losses will be paid directly to you electronically unless you request to be paid by check.

For each loss you believe can be traced to the Incident, please provide a description of the loss, the date of the loss, the dollar amount of the loss, and the type of documentation you will be submitting to support the loss. **You must provide ALL this information for this claim to be processed.** Supporting documents must be submitted with this Claim Form by providing the additional information required below. **If you fail to provide sufficient supporting documents, the Claims Administrator will deny your claim.** Please provide only copies of your supporting documents and keep all originals for your personal files. The Claims Administrator will have no obligation to return any supporting documentation to you. A copy of the Claims Administrator’s privacy policy is available at www.mcdeansettlement.com.

With the exception of your name, mailing address, email address, and phone number, supporting documentation will not be provided to Defendant in this action. Please do not directly communicate with M.C. Dean regarding this matter. All inquiries are to be sent to the Claims Administrator.

Examples of such losses include payments for identity theft protection or credit monitoring you made which are reasonably traceable to the Incident, and financial losses due to stolen identity traceable to the Incident, etc. These are only examples and do not represent a complete list of losses eligible for compensation. Please provide a description of any loss you claim was the result of the Incident.

Examples of documentation include receipts for identity theft protection services, etc.

Ordinary Out-of-Pocket Loss Type	Date of Loss	Amount	Description of Supporting Documentation
Professional fees incurred in connection with identity theft or falsified tax returns.	<input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> MM DD YYYY	\$ <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> • <input type="text"/> <input type="text"/>	<i>Examples: Receipt for hiring service to assist you in addressing identity theft; Accountant bill for re-filing tax return.</i> Your documents: <hr/> <hr/>
Credit Monitoring ordered after receipt of the Data Incident Notice.	<input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> MM DD YYYY	\$ <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> • <input type="text"/> <input type="text"/>	<i>Example: Receipts or account statements reflecting purchases made for credit monitoring and insurance services.</i> Your documents: <hr/> <hr/>
Credit freeze.	<input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> MM DD YYYY	\$ <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> • <input type="text"/> <input type="text"/>	<i>Example: Receipts or account statements reflecting purchases made for credit monitoring and insurance services.</i> Your documents: <hr/> <hr/>
Miscellaneous expenses such as notary, fax, postage, gas, copying, mileage, and long-distance telephone charges.	<input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> MM DD YYYY	\$ <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> • <input type="text"/> <input type="text"/>	<i>Examples: Phone bills, gas receipts, postage receipts; detailed list of locations to which you traveled (i.e. police station, IRS office) why you traveled there (i.e. police report or letter from IRS re: falsified tax return) and number of miles you traveled to remediate or address issues related to the Data Incident.</i> Your documents: <hr/> <hr/>
Other (provide detailed description).	<input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> MM DD YYYY	\$ <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> • <input type="text"/> <input type="text"/>	<i>Please provide detailed description below or in a separate document submitted with this Claim Form.</i> Your documents: <hr/> <hr/>

Reimbursement for Attested Time:

Settlement Class Members may submit a claim for up to three hours of time spent remedying identity theft, fraud, misuse of personal information, credit monitoring or freezing credit reports, and/or other issues reasonably traceable to the Incident at \$35.00 per hour. Three hours of lost time may be reimbursed if you provide an attestation as to the time you spent remedying issues related to the Incident.

If you spent time remedying issues related to the incident, including at least one (1) full hour, please check the number of hours you spent below:

- 1 hour
- 2 hours
- 3 hours

Description of the actions taken in response to the Incident:

By checking the below box, I hereby declare under penalty of perjury under the laws of the State of Virginia that the information provided in this Claim Form to support my seeking relief for Attested Time (up to \$105.00) is true and correct.

- Yes, I understand I am submitting this Claim Form and the affirmations it makes as to my seeking relief for Attested Time under penalty of perjury. I further understand my failure to check this box may render my claim for Attested Time null and void.**

Reimbursement for Extraordinary Losses

In addition to compensation for Ordinary Out-of-Pocket Losses and Attested Lost Time, you are also eligible to receive reimbursement for documented Extraordinary Out-of-Pocket Losses, not to exceed \$8,000.00 for documented monetary loss that is, inter alia, arising from financial fraud or identity theft if:

- (1) the loss is an actual, documented, and unreimbursed monetary loss;
- (2) the loss is more likely than not caused by the Incident;
- (3) the loss occurred during the period from September 14, 2022, through and including the end of the applicable claims period;
- (4) the loss is not already covered as an “Ordinary Out-of-Pocket Loss” as described above; and
- (5) you provide documentation that you made reasonable efforts to avoid, or seek reimbursement for, the losses, including but not limited to exhaustion of all available credit monitoring insurance and identity theft insurance.

For each loss you believe is more likely than not caused by the Incident, please provide a description of the loss, the date of the loss, the dollar amount of the loss, and the type of documentation you will be submitting to support the loss. **You must provide ALL this information for this Claim Form to be processed.** Supporting documents must be submitted with this Claim Form by providing the additional information required below. **If you fail to provide sufficient supporting documents, the Claims Administrator will deny your claim.** Please provide only copies of your supporting documents and keep all originals for your personal files. The Claims Administrator will have no obligation to return any supporting documentation to you. A copy of the Claims Administrator’s privacy policy is available at www.mcdeansettlement.com. With the exception of your name, mailing address, email address, and phone number, supporting documentation will not be provided to Defendant in this action. Please do not directly communicate with M.C. Dean regarding this matter. All inquiries are to be sent to the Claims Administrator.

Extraordinary Out-of-Pocket Loss Type	Date of Loss	Amount	Description of Supporting Documentation
Unreimbursed fraud losses or charges.	<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="border: 1px solid black; width: 30px; height: 30px; display: flex; align-items: center; justify-content: center;"> </div> - <div style="border: 1px solid black; width: 30px; height: 30px; display: flex; align-items: center; justify-content: center;"> </div> - <div style="border: 1px solid black; width: 40px; height: 30px; display: flex; align-items: center; justify-content: center;"> </div> </div> <div style="display: flex; justify-content: space-around; margin-top: 5px;"> MM DD YYYY </div>	<div style="display: flex; align-items: center;"> \$ <div style="border: 1px solid black; width: 40px; height: 30px; display: flex; align-items: center; justify-content: center;"> </div> . <div style="border: 1px solid black; width: 30px; height: 30px; display: flex; align-items: center; justify-content: center;"> </div> </div>	<p><i>Examples: Account statement with unauthorized charges highlighted; Correspondence from financial institution declining to reimburse you for fraudulent charges.</i></p> <p>Your documents:</p> <hr/> <hr/>
Lost interest or other damages resulting from a delayed state and/or federal tax refund in connection with fraudulent tax return filing.	<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="border: 1px solid black; width: 30px; height: 30px; display: flex; align-items: center; justify-content: center;"> </div> - <div style="border: 1px solid black; width: 30px; height: 30px; display: flex; align-items: center; justify-content: center;"> </div> - <div style="border: 1px solid black; width: 40px; height: 30px; display: flex; align-items: center; justify-content: center;"> </div> </div> <div style="display: flex; justify-content: space-around; margin-top: 5px;"> MM DD YYYY </div>	<div style="display: flex; align-items: center;"> \$ <div style="border: 1px solid black; width: 40px; height: 30px; display: flex; align-items: center; justify-content: center;"> </div> . <div style="border: 1px solid black; width: 30px; height: 30px; display: flex; align-items: center; justify-content: center;"> </div> </div>	<p><i>Examples: Letter from IRS or state about tax fraud in your name; Documents reflecting length of time you waited to receive federal and/or state tax refund and the amount of any tax refund that you did not receive due to the tax fraud.</i></p> <p>Your documents:</p> <hr/> <hr/>
Fraudulent bank or credit card charges.	<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="border: 1px solid black; width: 30px; height: 30px; display: flex; align-items: center; justify-content: center;"> </div> - <div style="border: 1px solid black; width: 30px; height: 30px; display: flex; align-items: center; justify-content: center;"> </div> - <div style="border: 1px solid black; width: 40px; height: 30px; display: flex; align-items: center; justify-content: center;"> </div> </div> <div style="display: flex; justify-content: space-around; margin-top: 5px;"> MM DD YYYY </div>	<div style="display: flex; align-items: center;"> \$ <div style="border: 1px solid black; width: 40px; height: 30px; display: flex; align-items: center; justify-content: center;"> </div> . <div style="border: 1px solid black; width: 30px; height: 30px; display: flex; align-items: center; justify-content: center;"> </div> </div>	<p><i>Examples: Account statement with unauthorized charges highlighted; correspondence with credit card company disputing the charges.</i></p> <p>Your documents:</p> <hr/> <hr/>
Government benefits taken in your name.	<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="border: 1px solid black; width: 30px; height: 30px; display: flex; align-items: center; justify-content: center;"> </div> - <div style="border: 1px solid black; width: 30px; height: 30px; display: flex; align-items: center; justify-content: center;"> </div> - <div style="border: 1px solid black; width: 40px; height: 30px; display: flex; align-items: center; justify-content: center;"> </div> </div> <div style="display: flex; justify-content: space-around; margin-top: 5px;"> MM DD YYYY </div>	<div style="display: flex; align-items: center;"> \$ <div style="border: 1px solid black; width: 40px; height: 30px; display: flex; align-items: center; justify-content: center;"> </div> . <div style="border: 1px solid black; width: 30px; height: 30px; display: flex; align-items: center; justify-content: center;"> </div> </div>	<p><i>Examples: Notification of unemployment benefits being taken; correspondence with agency regarding issue.</i></p> <p>Your documents:</p> <hr/> <hr/>
Other (provide detailed description).	<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="border: 1px solid black; width: 30px; height: 30px; display: flex; align-items: center; justify-content: center;"> </div> - <div style="border: 1px solid black; width: 30px; height: 30px; display: flex; align-items: center; justify-content: center;"> </div> - <div style="border: 1px solid black; width: 40px; height: 30px; display: flex; align-items: center; justify-content: center;"> </div> </div> <div style="display: flex; justify-content: space-around; margin-top: 5px;"> MM DD YYYY </div>	<div style="display: flex; align-items: center;"> \$ <div style="border: 1px solid black; width: 40px; height: 30px; display: flex; align-items: center; justify-content: center;"> </div> . <div style="border: 1px solid black; width: 30px; height: 30px; display: flex; align-items: center; justify-content: center;"> </div> </div>	<p><i>Please provide detailed description below or in a separate document submitted with this Claim Form.</i></p> <p>Your documents:</p> <hr/> <hr/>

Section C. Alternative Cash Payment

In the alternative to compensation for Ordinary Out-of-Pocket Losses and Attested Lost Time and/or Extraordinary Out-of-Pocket Losses, Settlement Class Members may make a claim for a cash payment of approximately \$225.00.

By checking the below box, I choose a cash payment of \$225.00 in the alternative to compensation for Ordinary Out-of-Pocket Losses and Attested Time and/or Extraordinary Out-of-Pocket Losses.

Yes, I choose a cash payment of approximately \$225.00 in the alternative to compensation for Ordinary Out-of-Pocket Losses and Attested Time and/or Extraordinary Out-of-Pocket Losses.

Section D. Payment

If you make a claim for payment on this Claim Form, and if your claim and the Settlement are finally approved, an email will be sent from noreply@epiqpay.com to the email address you provided on this Claim Form, prompting you to elect your method of payment. Popular electronic payment options such as Venmo and PayPal will be available, or you can elect a check. Please ensure you have provided a current and complete email address. If you do not provide a current and valid email address, the Claims Administrator will send you a check to your physical address on file.

Section E. Settlement Class Member Affirmation

By submitting this Claim Form and checking the box below, I declare I received notification from M.C. Dean that I have been identified as a potential Settlement Class Member. As I have submitted claims of losses due to the Incident, I declare I suffered these losses.

I understand my claim and the information provided above will be subject to verification.

I also understand I may not be entitled to recover under this Settlement if I am employed by and/or affiliated with the judge or magistrate presiding over this action, and/or am employed by the Defendant or anyone acting on their behalf.

By submitting this Claim Form, I certify any documentation I have submitted in support of my claim consists of unaltered documents in my possession.

Please include your name in both the Signature and Printed Name fields below.

[Signature field]

Date: [MM] - [DD] - [YYYY]

Signature:

[Printed Name field]

Printed Name:

IN ORDER TO BE VALID, THIS CLAIM FORM MUST BE RECEIVED ONLINE AT WWW.MCDEANSETTLEMENT.COM OR POSTMARKED NO LATER THAN MAY 31, 2024.

**M.C. Dean, Inc. Claims Administrator
P.O. Box 2498
Portland, OR 97208-2498**

Attachment 5



Exclusion Report

Domitrovich et al. v. M.C. Dean, Inc.

Number	First Name	Middle Name	Last Name
1	KESHAV	ARJUN	BHATNAGAR
2	JOSEPH	E	BARNES
3	ELENA		ASADULLINA
4	ANTONELLA		MACRI
5	ARTUR		ASADULLIN

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

RUSSELL DOMITROVICH and THOMAS
GUSSIE, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

M.C. DEAN, INC.,

Defendant.

Civil Action No. 1:23-cv-00210-CMH-JFA

**CO-CLASS COUNSEL RYAN D. MAXEY’S DECLARATION IN SUPPORT OF
PLAINTIFF’S MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT**

Ryan D. Maxey declares as follows:

1. I am one of Class Counsel¹ in this matter, together with Laura Van Note. I have personal knowledge of all the matters addressed in this Declaration, including the negotiations that culminated with the filing of the proposed settlement (the “Settlement”) now before the Court. *See* Settlement Agreement (“S.A.”) (ECF No. 59-1).

2. Prior to settling this case, the parties litigated a motion to dismiss Plaintiffs’ claims, which the Court denied. (ECF No. 52). By the time the parties mediated, Class Counsel, who are experienced in prosecuting data breach class actions, had a clear view of the strengths and weaknesses of their case and were in a strong position to make an informed decision regarding the reasonableness of a potential settlement.

¹ The Court appointed (1) Laura Van Note of Cole & Van Note and (2) Ryan D. Maxey of Maxey Law Firm. (ECF No. 62 ¶ 2).

3. Prior to filing and during this action, Class Counsel investigated information available online related to the Incident, including reviewing reports that Defendant filed with various authorities related to the Incident.

4. Prior to mediation, Plaintiffs requested and obtained from Defendant information about (i) the number of persons impacted by the Incident; (ii) the types of information impacted by the Incident; (iii) how Defendant acquired the information; (iv) whether the information was encrypted; (v) how and when the Incident occurred, including the technical details and the identity of the perpetrator; (vi) whether forensic reports were prepared; (vii) Defendant's efforts to address the Incident, including any remediation of Defendant's systems; and (viii) Defendant's efforts to monitor for or prevent misuse of the information.

5. The parties mediated this case before United States Magistrate Judge John F. Anderson. After the September 25, 2023 mediation, the parties negotiated a term sheet outlining the settlement terms. *Id.* In October 2023, Plaintiffs sent Defendant a draft 18-page formal settlement agreement. *Id.* Over the following months, the parties negotiated the final details of the S.A. *Id.* The S.A. was fully executed on January 26, 2024. *Id.*

I declare under the penalty of perjury under the laws of the United States that the foregoing is true and correct.

DATED this 2nd day of August, 2024 in the United States of America.

_____/s_ *Ryan D. Maxey*_____

Ryan D. Maxey