

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

In re:

23ANDME HOLDING CO., *et al.*

Case No. 25-40976-357

Chapter 11

(Jointly Administered)

**DECLARATION OF CO-LEAD COUNSEL IN SUPPORT OF THE JOINT MOTION OF THE DEBTORS AND U.S. SETTLEMENT CLASS REPRESENTATIVES PURSUANT TO SECTIONS 105 AND 363 OF THE BANKRUPTCY CODE AND BANKRUPTCY RULES 9019 AND 7023 FOR AN ORDER (I) PRELIMINARILY APPROVING THE SETTLEMENT AGREEMENT BETWEEN THE DEBTORS AND U.S. SETTLEMENT CLASS REPRESENTATIVES; (II) CERTIFYING A CLASS FOR SETTLEMENT PURPOSES ONLY; (III) APPROVING THE FORMS AND MANNER OF NOTICE TO CLASS MEMBERS OF THE CLASS CERTIFICATION AND SETTLEMENT; (IV) SCHEDULING A FAIRNESS HEARING TO CONSIDER FINAL APPROVAL OF THE SETTLEMENT AGREEMENT AND (V) GRANTING RELATED RELIEF**

Cari Campen Laufenberg, Norman E. Siegel, and Gayle M. Blatt declare as follows:

1. Cari Campen Laufenberg is a partner at Keller Rohrback L.L.P. Norman E. Siegel is a partner at Stueve Siegel Hanson LLP. Gayle M. Blatt is a partner at Casey Gerry Francavilla Blatt, LLP. We are appointed as Interim Co-Lead Counsel (“Co-Lead Counsel” or “U.S. Data Breach Class Counsel”) under Fed. R. Civ. P. 23(g) in the multidistrict litigation pending before the Honorable Edward M. Chen in the Northern District of California, captioned *In Re: 23andme, Inc. Customer Data Security Breach Litigation*, No. 3:24-md-03098-EMC (N.D. Cal.) (“MDL”). MDL No. 3098, Docket No. 62.

2. This declaration is submitted in support of the Joint Motion of the Debtors and Settlement Class Representatives for Approval of Class Action Settlement Agreement and Related Relief. We have personal knowledge of the information contained herein, and, if called as a

witness, we could and would testify competently thereto. Where testimony or evidence is submitted by only one of the above declarants, this declaration so states.

## **I. INTRODUCTION**

3. The Parties have reached a settlement that will create a non-reversionary Settlement Fund of at least \$30 million and up to \$50 million, which will provide meaningful relief to Settlement Class Members. The Settlement Class Representatives (“Settlement Class Representatives” or “Plaintiffs”) have achieved an outstanding result, and the Settlement maximizes the relief available from the Debtors.

4. We are experienced and highly qualified lawyers who have successfully prosecuted high-stakes complex cases and consumer class actions. The MDL Court reviewed our qualifications in connection with our leadership applications in the MDL, which are briefly summarized below. *See* MDL No. 3098, Docket Nos. 19, 20, 22.

5. We have devoted the resources necessary to see this case through despite substantial risk. We began our work on this case months before appointment as Co-Lead Counsel in the MDL, which has included preparing a Consolidated Complaint in the MDL Court, addressing issues of appropriate representative plaintiffs, communicating with class members, retaining and consulting with experts, evaluating extensive informal discovery, engaging in mediation efforts, including analyzing documents produced in mediation, evaluating options for settlement benefits that would meet the needs of this Settlement Class, reaching the proposed prepetition settlement agreement, zealously advocating for the interests of Settlement Class Members in the MDL Court and in these bankruptcy proceedings, filing a class proof of claim on behalf of Settlement Class Members, and negotiating the Settlement currently before the Court. We have had the Settlement Class Members’ interests as our guide throughout the MDL as well

as the bankruptcy proceedings and present this Settlement without reservation as being in the best interests of Settlement Class Members.

6. Likewise, the proposed Settlement Class Representatives will continue to vigorously advocate for and protect the interests of Settlement Class Members, as they have done throughout the bankruptcy proceedings as well as in the MDL proceedings. They do not have any interests antagonistic to and are aligned with the other Settlement Class Members, including with respect to their shared interest in seeking remuneration from 23andMe. In addition, each proposed Settlement Class Representative understands their duties as class representatives, has agreed to consider and protect the interests of absent Settlement Class Members, and has participated in this litigation and the Settlement. The proposed Settlement Class Representatives have provided their counsel with necessary factual information, reviewed pleadings, have had ongoing communications with their counsel regarding various issues pertaining to this case, including settlement negotiations, have participated in the bankruptcy proceedings, and will continue to do so until the case closes.

7. As detailed in our leadership applications in this case, we have led some of the country's most complex civil litigation and are responsible for groundbreaking data breach settlements, including in *Equifax*, *Capital One*, *Home Depot*, *Anthem*, *Yahoo!*, *T-Mobile*, *Office of Personnel Management*, and *Target*. For purposes of the Court's consideration of certifying the class for settlement purposes (the "Settlement Class") and appointing Class Counsel, we incorporate our leadership applications and briefly summarize our qualifications as part of this Declaration.

***Norman E. Siegel***

8. Since the revelation of the Target data breach in late 2013, Mr. Siegel has dedicated much of his practice to representing victims of data breaches. He co-founded the American

Association for Justice’s Consumer Privacy and Data Breach Litigation Group and previously served as the group’s co-chair. He is a nationally published author on emerging issues impacting data breach cases, and he regularly speaks on data breach litigation issues. In recent years, *Law360* recognized Mr. Siegel as a “Cybersecurity and Privacy MVP of the Year” and a “Titan of the Plaintiff’s Bar,” and *Best Lawyers* named him “Lawyer of the Year” for his work in data breach litigation.

9. Over the last ten years, Mr. Siegel has led or substantively participated in nearly every major consumer data breach case on record, including serving as court-appointed co-lead counsel in multi-district litigation involving mega-breach cases such as *Target* (110 million class members), *Home Depot* (56 million class members), *T-Mobile* (76 million class members); *Equifax* (149 million class members), *Capital One* (98 million class members), and *Quest Diagnostics* (11.5 million class members). In addition, Mr. Siegel has worked alongside leadership in several other large data breach MDLs, including serving as a member of the plaintiffs’ steering committee leading the briefing committee in *Marriott* (383 million class members), in *Anthem* (80 million class members), and in *Office of Personnel Management* (21 million class members) where Stueve Siegel Hanson represented a significant percentage of the named plaintiffs and handled other critical components of the litigation, including drafting large portions of the successful standing appeal before the United States Court of Appeals for the D.C. Circuit.

10. In *Equifax*, *Capital One*, *T-Mobile* and *Home Depot*, Mr. Siegel led the settlement negotiations, obtaining historic settlements including the settlement in *Equifax* which Judge Thrash endorsed as being “the direct result of all counsel’s experience, reputation, and ability in complex class actions including the evolving field of privacy and data breach class actions.” *In re Equifax Inc. Customer Data Sec. Breach Litig.*, No. 1:17-MD-2800-TWT, 2020 WL 256132, at

\*33 (N.D. Ga. Mar. 17, 2020). Mr. Siegel also negotiated the \$190 million settlement in the *Capital One* litigation and has served as lead counsel and crafted settlements in smaller data breach cases, including *Hutton v. National Board of Examiners in Optometry, Inc.*, No. 16-cv-03025-JKB, 2019 WL 3183651 (D. Md. July 15, 2019), where he resolved a data breach case impacting 60,000 eye doctors across the country, which the court found provided “multiple beneficial forms of relief [and] . . . reflects an outstanding result for the Class.” *Id.* at \*6. This settlement occurred after the plaintiffs were successful on appeal to the Fourth Circuit in obtaining a reversal of the District Court’s order dismissing the case for lack of Article III standing.

***Cari Campen Laufenberg***

11. Cari Campen Laufenberg has extensive experience in consumer class-action litigation and has dedicated much of her practice to data breach and data privacy litigation. For example, she currently serves as Co-Lead Counsel in several MDL data breach cases *In Re: T-Mobile Customer Data Security Breach Litigation*, No. 4:23-MD-03073-BCW, MDL No. 3073 (W.D. Mo.)—a case involving a November 2022 data breach impacting 37 million T-Mobile customers. She also serves as Co-Lead Counsel in the 2021 data breach involving T-Mobile, *In Re: T-Mobile Customer Data Security Breach Litigation*, No. 4:21-MD-03019-BCW, MDL No. 3019 (W.D. Mo.), in which she and other members of the leadership team worked to negotiate a ground-breaking \$350 million settlement on behalf of 76 million class members.

12. She has likewise served as Co-Lead or Class Counsel in a number of other successful data privacy class-action cases including on behalf of approximately 2.2 million data breach victims in the multidistrict litigation captioned *In Re: 21<sup>st</sup> Century Oncology Customer Data Security Breach Litigation*, MDL No. 2737 (M.D. Fla.), and on behalf of approximately 1.4 million data breach victims in *Fox v. Iowa Health System*, No. 18-00327 (W.D. Wis.).

13. Ms. Laufenberg has served in leadership positions in other prominent consumer class-action cases as well, including as Interim Lead Class Counsel in *In re EpiPen ERISA Litigation*, No. 17-1884 (D. Minn.) and her current appointment to the Plaintiffs' Steering Committee in *In re Oral Phenylephrine Marketing and Sales Practice Litigation*, MDL No. 3089 (E.D.N.Y.).

14. Ms. Laufenberg also played a fundamental role in the *In re Facebook, Inc. Consumer Privacy User Profile Litigation*, MDL No. 2843 (N.D. Cal.), in which, together with co-lead counsel, Keller Rohrback achieved a \$725 million settlement—the largest recovery ever achieved in a private data privacy class action and the most Meta has ever paid to resolve a private class action.

***Gayle M. Blatt***

15. Gayle M. Blatt, head of her firm's complex litigation team, has dedicated her career to vindicating the rights of consumers. She is routinely recognized as a leader within the legal community and has been the honored recipient of various accolades.

16. Ms. Blatt has significant experience in privacy, data security and breach litigation. She has been appointed to numerous lead and executive positions. She was appointed to the five-member Plaintiffs' Executive Committee overseeing the litigation related to the massive *Yahoo!* data breaches, collectively at the time, the largest data breach in the world. (*In re: Yahoo! Inc. Customer Data Security Breach Litigation*, Case No. 16-MD-02752 (N.D. Cal.)).

17. She has had numerous other appointments in data security cases as well, some of which include, *In re: Netgain Technology, LLC, Consumer Data Breach Litigation*, 21-cv-1210-SRN-LIB (D. Minn.); *DeSue v. 20/20 Eye Care Network, Inc. et al.*, Case No. 21-cv-61275-RAR (S.D. Fla.); *James v. Davaco, Inc. et al.*, Case No. 3:21-cv-02318-M (N.D. Tex.); *Pfeiffer et al. v. RadNet, Inc.*, Case No. 2:20-cv-09553-RGK-SK (C.D. Cal.); *Adkins v. Facebook, Inc.*, Case No.

18-05982-WHA (N.D. Cal.) (Law And Briefing Committee); *Tate v. EyeMed Vision Care, LLC*, Case No. 21-cv-00036-DRC (S.D. Ohio); *In re: Warner Music Group Data Breach*, Case No. 1:20-cv-07473-PGG (S.D.N.Y.); *In re: Citrix Data Breach Litigation*, Case No. 19-cv-61350-RKA (S.D. Fla.); *Madrid v. Golden Valley Health Centers, Merced Super. Ct.*, Case No. 20-cv-01484; *Sung et al., v. Schurman Fine Papers d/b/a Schurman Retail Group*, Case No. 17-cv-02760-LB (N.D. Cal.); *In re: Sony Gaming Networks and Customer Data Security Breach Litigation*, Case No. 11-md-02258-AJB (S.D. Cal.); and *In re: US Fertility LLC Data Security Litigation*, No. 8:21-cv-002 99 (D. Md.).

18. In addition to her work on data privacy litigation, she has also held many other leadership roles, such as service on the Plaintiffs' Executive Committees in multidistrict litigation in *In re: ZF- TRW Airbag Control Units Products Liability Litigation*, MDL No. 2905 (C.D. Cal); *In re: Apple Inc. Device Performance Litigation*, MDL No. 2827 (N.D. Cal.); *In re: Intel Corp. CPU Marketing, Sales Practices and Products Liability Litigation*, MDL No. 2828 (D. Or.); Liaison Counsel in *In re: Bank of America California Unemployment Benefits Litigation*, No. 21-md-02992-LAB (S.D. Cal.); Plaintiffs' Steering Committee in *In re: Chrysler Pacifica Fire Recall Products Liability Litigation*, No.2:22-cv-03040 DML-EAS (E.D. Mich.) and as interim co-lead counsel in *Burgos v. American Honda Motor Company*, No. 2:23-cv-02128-AB-SK (C.D. Cal.).

19. It is our shared view that the Settlement presented here is an excellent result for the Settlement Class. We are confident that this Settlement is fair, reasonable, and adequate and in the best interests of the 6.4 million individuals who were impacted by the 23andMe Data Breach.

## **II. PROCEDURAL BACKGROUND**

### **A. Investigation, Filing, and Consolidation in the MDL**

20. On August 11, 2023, a threat actor on the dark web claimed to have samples of 23andMe genetic user data for sale. MDL No. 3098, Docket No. 78 ¶¶ 418-419. In early October

2023, a threat actor made available via a link to certain Personal Information, including the ethnicity information relating to data of one million 23andMe users with Ashkenazi Jewish DNA descent and another 300,000 users of Chinese heritage. *Id.* ¶¶ 420-21. Upon learning of the incident, 23andMe commenced an investigation and engaged third-party incident response experts to assist in determining the extent of any unauthorized activity. On October 6, 2023, 23andMe confirmed it was the source of the stolen data. *Id.* ¶¶ 422-439. Based on its investigation, 23andMe determined the threat actor downloaded Personal Information without authorization relating to approximately 6.4 million natural persons in the United States. *Id.* ¶¶ 422-439. 23andMe also determined that the Cyber Security Incident occurred during the period from May 1, 2023 to October 1, 2023. *See* MDL No. 3098, Docket No. 1113 at 6 (defining “2023 Cyber Security Incident Time Frame” as “the time period from May 1, 2023 through October 1, 2023”).

21. For most of the impacted customers, the Personal Information accessed by the threat actor included the Personal Information from a customer’s DNA Relatives profile or Family Tree Profile within 23andMe’s DNA Relatives feature,<sup>1</sup> which may have included their name, sex, birth year, information about the customer’s ancestry based on their genetic information, self-reported location (city/zip code), ancestor birth locations, family names and Family Tree information. For a small number of customers, the threat actor also accessed personal information about the customer’s present or future health based on the analysis of their genetic data, their self-reported health information, and their uninterpreted genotype data. *Id.* ¶ 1.

22. After announcement of the Cyber Security Incident, over 40 putative class action lawsuits were filed against 23andMe, Inc. (“23andMe”) asserting claims for a number of common

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<sup>1</sup> 23andMe’s “DNA Relatives” feature allows customers to find and connect with their genetic relatives, while the “Family Tree” feature automatically predicts a family tree based on the DNA shared by a customer with its relatives in 23andMe.

law torts and various statutory claims—including several that provide statutory damages for the disclosure of genetic information. On December 21, 2023, 23andMe filed a Motion to Transfer Actions to the Northern District of California Pursuant to 18 U.S.C. § 1407 for Coordinated or Consolidated Pretrial Proceedings with the Judicial Panel on Multidistrict Litigation (“JPML”), MDL No. 3098. On April 11, 2024, the JPML centralized the litigation before the Honorable Edward M. Chen of the Northern District of California (the “District Court”), where dozens of putative class action lawsuits were pending.

23. The District Court considered applications for the appointment of interim co-lead counsel under Fed. R. Civ. P. 23(g) and held a hearing on the motions on June 3, 2024. On June 5, 2024, the District Court appointed Norman E. Siegel of Stueve Siegel Hanson LLP, Gayle M. Blatt of Casey Gerry Francavilla Blatt LLP, and Cari Campen Laufenberg of Keller Rohrback L.L.P. as Interim Co-Lead Counsel (“Co-Lead Counsel”). MDL No. 3098, Docket No. 62. Upon appointment, Co-Lead Counsel filed a 186-page consolidated complaint (the “Complaint”) on June 26, 2024, alleging 40 causes of action. MDL No. 3098, Docket No. 78.

#### **B. Mediation Efforts and Prepetition Settlement Agreement**

24. Prior to their appointment, Co-Lead Counsel and other Plaintiffs’ counsel engaged in several mediation sessions with 23andMe before experienced mediator Randy Wulff on January 31, 2024 and March 20, 2024. The discussions were driven in large part by 23andMe’s weak financial condition, including limited cash and insurance to cover the claims asserted in the litigation. In the context of these mediation sessions, the parties in the MDL exchanged informal discovery, and Co-Lead Counsel and other Plaintiffs’ counsel engaged an independent forensic auditing firm to advise them with respect to 23andMe’s financial condition, which confirmed that 23andMe had limited funds, no reliable access to new capital, and mounting litigation exposure in other proceedings and investigations, meaning that any litigated judgment significantly more than

the Settlement was likely to be uncollectable. Although productive, these mediation sessions did not result in a settlement.

25. On June 5, 2024, the Court appointed Mr. Siegel, Ms. Blatt and Ms. Laufenberg to serve as Interim Co-Lead Counsel, authorizing them to pursue the MDL litigation on behalf of the Plaintiffs. The Court also directed the Parties to coordinate with Mr. Wulff for further attempts at resolution. MDL No. 3098, Docket No. 62 ¶ 9.

26. Following their appointment, and as directed by the District Court, Co-Lead Counsel continued settlement discussions with 23andMe through June 26, 2024, when an additional mediation session was held. The arm's-length mediation sessions resulted in a mediator's proposal for resolution of Plaintiffs' claims against 23andMe. On July 12, 2024, all Parties accepted the mediator's proposal, reaching agreement in principle to resolve the underlying litigation. On July 29, 2024, the parties in the MDL executed a term sheet containing the material terms of the prepetition settlement agreement. On September 5, 2024, the prepetition settlement agreement was finalized.

27. Prior to each mediation, 23andMe provided information that informed the ongoing negotiations. In all, 23andMe provided detailed information sufficient for Co-Lead Counsel to be fully informed regarding the facts of the Security Incident, 23andMe's financial position, the scope of the class, and appropriate remedial efforts prior to agreeing to the mediator's proposal and finalizing the prepetition settlement. In particular, 23andMe's dire financial condition was a significant factor in Co-Lead Counsel's agreement to the \$30 million prepetition settlement agreement. Likewise, the District Court approved the amount of the prepetition settlement agreement as reflecting a modest recovery given the strength of Plaintiffs' claims, but which was necessitated given 23andMe's desperate financial condition. *See* MDL No. 3098, Docket No. 148,

Oct. 29, 2024 Hearing Tr. 18:13-15 (“COURT: . . . we wouldn’t be talking about a settlement like this if it weren’t for the financial situation.”); *see also id.* 18:17-45, 83:7-23.

**C. Bankruptcy Proceedings and Settlement Agreement**

28. On March 23, 2025, the Debtors, including 23andMe, filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code. Since that time, Co-Lead Counsel have zealously advocated for the interests of Settlement Class Members in the context of these bankruptcy proceedings.

29. On May 30, 2025, in accordance with the Rule 7023 Briefing Schedule, Co-Lead Counsel, who are acting as U.S. Data Breach Class Counsel in the bankruptcy, timely filed its Motion for an Order Allowing Data Breach Victim Class to File a Class Proof of Claim, seeking authority to file a class proof of claim on behalf of the U.S. Data Breach Settlement Class under Rules 7023 and 9014 of the Bankruptcy Rules. Dkt. 539. On June 17, 2025, the Debtors filed a Revised Notice Regarding Briefing Schedule on Issues Relating to Class Certification and Authorization to File Class Proofs of Claim, informing the Court that the Debtors and Co-Lead Counsel reached an agreement in principle with respect to resolve the Rule 7023 issues, which remained subject to definitive documentation and applicable approvals from the Court, and requesting the remaining deadlines in the Rule 7023 briefing schedule to be adjourned to a later date, as appropriate. Dkt. 795.

30. On August 4, 2025, the Debtors executed the Settlement Agreement, the terms of which are incorporated into (a) the Debtors’ Joint Chapter 11 Plan of Chrome Holding Co. and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code (as modified, amended, or supplemented from time to time, the “Plan”), Dkt. 1113, and (b) Disclosure Statement for the Joint Chapter 11 Plan of Chrome Holding Co. and its Debtor Affiliates Pursuant to Chapter 11 of

the Bankruptcy Code (as modified, amended, or supplemented from time to time, the “Disclosure Statement”), Dkt. 1114.

31. There are no other agreements impacting the proposed Settlement that are required to be identified under Rule 23(e).

32. The U.S. Data Breach Class Settlement Agreement provides monetary benefits in the form of a non-reversionary Settlement Fund of at least \$30,000,000 and up to \$50,000,000. The up to \$20 million increase in the Settlement Fund reflects the increase in sale price over the market capitalization and cash available at the time of the pre-bankruptcy settlement agreement.

### **III. SETTLEMENT**

#### **A. Benefits Obtained for Settlement Class Members**

33. The U.S. Data Breach Class Settlement Agreement provides monetary benefits in the form of a non-reversionary Settlement Fund of at least \$30,000,000 and up to \$50,000,000, which shall be used to pay for: (1) benefits to the Settlement Class as outlined below; (2) notice and claims administrative costs; (3) attorneys’ fees and expenses awarded by the Court; and (4) Service Awards awarded by the Court. Settlement Agreement (“SA”) ¶¶ II(A)(3)-(4). The net proceeds remaining in the Settlement Fund after payment of attorneys’ fees, notice and claims administration costs, and service awards shall be used to provide the benefits set forth below.

34. The benefits provided by the Settlement Fund are carefully tailored to redress the harms faced by the victims of the 23andMe Security Incident announced by 23andMe in October 2023, which involved the release of Personal Information, including genetic information, onto the dark web. *See* MDL No. 3098, Docket No. 78. In short, the Settlement addresses the central allegation of this litigation and achieves key relief sought by Plaintiffs.

35. Upon approval, the benefits available to Settlement Class Members are as follows:<sup>2</sup>

- *First*, Settlement Class Members may make an “Extraordinary Claim” for verifiable unreimbursed costs or expenditures up to \$10,000 related to the Security Incident. Extraordinary Claims provide reimbursement for: (1) unreimbursed costs incurred as a direct result of identity fraud or falsified tax returns that the Settlement Class Member establishes were the result of the Security Incident; (2) unreimbursed costs associated with the purchase of a physical security or monitoring system that a Settlement Class Member establishes was purchased in response to the Security Incident; and (3) unreimbursed costs associated with seeking professional mental health counseling or treatment that a Settlement Class Member establishes were the result of the Security Incident. SBP ¶ 5.

- *Second*, Settlement Class Members who, at any time between May 1, 2023 and October 1, 2023, were residents of Alaska, California, Illinois or Oregon—states which have genetic privacy laws with statutory damages provisions—may make a Statutory Cash Claim. SBP ¶ 8.

- *Third*, the small number of Settlement Class Members that had health information compromised in the Security Incident will be sent a Health Information Claim payment. Health Information Claims will be paid a \$165 cash payment. SBP ¶ 6.

- *Fourth*, all Settlement Class Members will be entitled to enroll in in five years of Privacy & Medical Shield + Genetic Monitoring (“Privacy Shield”). SBP ¶ 15(d). This customized monitoring program was developed by experts in the field specifically for this case and provides substantial web and dark web monitoring for Settlement Class Members. Privacy Shield will also aid in reducing the Settlement Class Members’ digital footprint. The extensive

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<sup>2</sup> See Exhibit D to Joint Motion, Settlement Benefits Plan (“SBP”).

benefits are listed below and described more fully in the Declaration of Gerald Thompson, (“CyEx Decl.”).

36. To take advantage of the cash payments and to enroll in Privacy Shield, Settlement Class Members may submit Claim Forms to the Notice and Claims Administrator online or will download a form for mailing from a dedicated website for the Settlement (the “Settlement Website”). SBP ¶ 15. Settlement Class Members will be able to receive their payments by an electronic payment option or can opt for a mailed check. SBP ¶ 16. Pre-enrollment codes for Privacy Shield will be automatically sent to Settlement Class Members via the Class Notice, which they can then use to enroll in the service via the Claim Form. When the Settlement becomes final, Settlement Class Members will be notified that the service is ready for use. However, *even if they do not make a claim for Privacy Shield prior to the deadline established for submitted Claim Forms (the “Claims Deadline”)*, Settlement Class Members will be entitled to enroll at any point during the five year period that Privacy Shield is active and will be able to take advantage of the remaining time available on the five year term of the program. *Id.*

37. After the distribution of Settlement funds pursuant to the U.S. Data Breach Class Benefits Plan, any remaining funds will be used to extend the active period for Privacy Shield. SBP ¶ 11.

**B. Settlement Class Definition and Class Size**

38. The Settlement Class includes: “all natural persons who were residents of the United States at any time between May 1, 2023 and October 1, 2023 and who received a notice from 23andMe that their Personal Information was compromised in the Cyber Security Incident.” SBP ¶ 2. The Statutory Subclass is defined to include Settlement Class Members who were residents of Alaska, Oregon, California or Illinois at any time between May 1, 2023 and October 1, 2023. SBP ¶ 2. The Settlement Class and Statutory Subclass specifically exclude: (i) 23andMe

and its officers and directors; (ii) all Settlement Class Members who timely and validly request to opt-out from the Settlement Class; (iii) the Judge assigned to evaluate the fairness of this settlement; (iv) potential class members who have provided 23andMe with an express release of claims arising out of or related to the Security Incident prior to the Effective Date of this Settlement, and (v) any holder of a U.S. Data Breach Arbitration Claim. SBP ¶ 2. 23andMe's investigation determined the threat actor downloaded Personal Information without authorization relating to approximately 6.4 million natural persons in the United States, and 23andMe provided information confirming the Statutory Subclass includes approximately 1.4 million natural persons in the United States.

**C. Attorneys' Fees, Costs, and Service Awards for Settlement Class Representatives**

39. We intend to seek attorneys' fees representing a percentage of the common fund. Based on Co-Lead Counsel's analysis to date, Co-Lead anticipate seeking fees of 25% of the Settlement Fund, plus litigation costs and expenses not to exceed \$500,000.

40. The Settlement Class and the Court will have a full opportunity to consider the appropriate fees as part of the final approval process. There is no "clear sailing" agreement regarding fees in the Settlement Agreement, and final approval is not contingent upon approval of the requested attorneys' fees, costs and expenses. *See generally* SA.

41. Settlement Class Representatives will seek Service Awards of \$1,000 each. SBP ¶ 3(c). The Settlement is not contingent upon approval of the Service Awards to the Settlement Class Representatives, and the U.S. Data Breach Settlement Class and the Court will have a full opportunity to evaluate the request for such awards as part of the final approval process. *See generally* SA.

#### **IV. SETTLEMENT ADMINISTRATION**

##### **A. Settlement Administrator**

42. We propose Kroll as the Settlement Administrator for the U.S. Data Breach Settlement Class. Kroll has considerable experience as the appointed settlement administrator in large data breach class action settlements. Settlement Admin. Decl. Moreover, Kroll is already serving as the Bankruptcy Administrator in the context of the bankruptcy proceedings, which will increase efficiency and reduce the cost to Class Members of its administration services. *Id.*

43. Kroll has agreed to cap the costs of notice and administration at \$918,000, subject to qualifications based on the claims rate, the percentage of online claims, and the percentage of claimants who choose digital payments, among other assumptions. The costs will be paid out of the Settlement Fund. SBP ¶ 3. We believe the estimated costs are reasonable when compared to the value of the Settlement and the size of the Settlement Class.

##### **B. Opt-outs and objections: timeline, instructions, and forms**

44. Settlement Class Members who submitted valid and timely individual proofs of claim (“U.S. Eligible Class Members”) will be free to choose whether or not to opt out of the Settlement through the materials provided pursuant to the Court’s approval of the Disclosure Statement (“Solicitation Materials”). Those U.S. Eligible Class Members will receive a copy of the U.S. Data Breach Class Settlement Benefits Plan as well as a summary notice of the Settlement as part of the Solicitation Materials, subject to the approval thereof by the Court. These materials will give this subset of Settlement Class Members the opportunity to evaluate the benefits provided by the Settlement and choose whether or not to opt out of the Settlement in the context of the plan confirmation process. Moreover, all other Settlement Class Members (*i.e.*, members who did not timely file a Proof of Claim) will be given the opportunity to opt out of the Settlement by printing an Opt Out Form from the Settlement Website and mailing it to the Settlement Administrator by

the Opt Out Deadline. Opt Out Forms must be submitted individually by the Settlement Class Members opting out of the Settlement benefits and may not be submitted by third parties, except as authorized by the Settlement Administrator at its sole discretion. The Settlement Administrator shall verify that each individual who submits an Opt Out Form is a Settlement Class Member.

45. The proposed Class Notice advises all Settlement Class Members of their right to (i) to opt out of the Settlement or (ii) to object to the Settlement or to Co-Lead Counsel's motion for attorneys' fees, expenses, and service awards to the Settlement Class Representatives, as well as (iii) the procedures and deadline for filing such objections. The proposed schedule ensures that Settlement Class Members have at least 40 days from the Plan Confirmation Hearing to object to the Settlement, with at least 15 days to object after the motion for attorneys' fees, expenses, and service awards to the Settlement Class Representatives is filed.

46. The opt out and objection instructions are in plain language and clearly prompt those who wish to opt out or object to provide the specific information each action requires. In particular, the Class Notice clearly informs Settlement Class Members of the Opt Out Deadline, how to opt out, the consequences of opting out, and requires that they supply only the information needed to opt out of the Settlement. Similarly, the Class Notice informs Settlement Class Members about how to send their written objections to the Court or file in person with the Court (or if represented by counsel to have counsel e-file their written objections to the Court), tells them that the Court can only approve or deny the Settlement and cannot change its terms, and clearly identifies the Objection Deadline.

## **V. THE SETTLEMENT IS FAIR, REASONABLE AND ADEQUATE**

47. We believe the Settlement Class Representatives' claims are meritorious, and the strength of their claims was one of the critical factors leading to the Settlement. However, Settlement Class Representatives face substantial risks that could decrease the amount of

recovery—or even defeat recovery on a classwide basis altogether. First and foremost, Settlement Class Representatives face the risk that the Court could deny their motion to file a class proof of claim, Dkt. 539, which is within the Court’s judgment and discretion. Although Settlement Class Representatives believe that they would prevail on their motion, they nevertheless face a risk of an adverse decision, which would have the practical effect of denying classwide relief. Further, even if Settlement Class Representatives were to prevail on their motion, and be entitled to receive the full measure of damages sought, their recovery would be effectively capped by the limited funds available in these chapter 11 cases.

48. Resolving the action through the Settlement saves the Parties the expense of litigating the Rule 7023 issues and substantially benefits Settlement Class Members by securing meaningful recovery in these chapter 11 cases. Nearly all class action settlements reflect tradeoffs and difficult choices. Here, the Parties’ ability to reach a settlement eliminates these risks by ensuring that Settlement Class Members receive a recovery that is certain, and the total value of the benefits under the proposed Settlement appropriately accounts for the risks of further litigation.

49. This Settlement is the product of careful deliberation and meets the objectives of tailoring the remedy to the harm suffered by the Settlement Class Members. Co-Lead Counsel worked diligently to create a benefits plan that provides meaningful benefits to all Settlement Class Members in a way that addresses the injuries and damages incurred by class members.

50. Settlement Class Members who suffered distress are compensated for professional mental health care. Settlement Class Members who were concerned about their safety and purchased security or home monitoring services to advance their personal security as a result of the Cyber Security Incident will be reimbursed. To the extent Settlement Class Members suffered identity fraud from the Security Incident, they will be compensated by way of reimbursement.

51. Settlement Class Members who were residing in states with statutes providing for statutory damages for exposure of genetic information, can claim compensation for those claims.

52. The small number of Settlement Class Members whose health information was compromised will be sent Health Information Claim payments.

53. The entire Settlement Class will have the opportunity to enroll in the unique monitoring service, created as a custom package for this Settlement Class, which will provide them with the following benefits, described more fully in the Declaration of Gerald Thompson (CyEx Decl.) filed herewith:

- Dark Web Monitoring
- Stolen Data Sites Monitoring
- Genetic Monitoring
- Virtual Private Network
- Digital Vault
- Data Broker Opt Out
- Password Manager
- Private Browsing
- Breach Scan Tool
- Anti Phishing
- Real Time Authentication Alerts
- High Risk Transaction Monitoring
- Health Insurance Plan ID Monitoring
- Medical Beneficiary Identifier Monitoring
- Medical Record Monitoring

- International Classification of Disease Monitoring
- National Provider Identifier Monitoring
- Security Freeze with all Credit Bureaus
- \$1,000,000 Identity Theft and Fraud Insurance (with no deductible)
- Customer Support and Victim Assistance

54. These combined benefits provide a compilation of features never previously provided in a data breach case. CyEx Decl. ¶ 8. Privacy Shield provides meaningful benefit to this Settlement Class whose privacy concerns have been broadcast and heard. Not only are these services available to all Settlement Class Members who claim them, but any Settlement Class Member who does not make a claim for them during the Claims Period, can enroll at any time during the five year period and receive the services for the remainder of the five year period.

55. Another important benefit of the Settlement is it delivers substantial relief to Settlement Class Members, and eliminates their risk of not receiving any benefit at all. Settlement Class Members can enroll in the Privacy Shield and start receiving and using its services to protect themselves from the improper use of their personal information and to enhance their valuable privacy. This is a substantial benefit with a reported retail value of \$375 per year. CyEx Decl. at ¶ 10. And it is without doubt an appropriate remedy to address the harm the Settlement Class suffered as a result of the Security Incident. The reimbursement and cash payments also will be placed in the hands of the victims of this Security Incident, and eliminates the risk of non-recovery due to the factors set forth in Plaintiffs' accompanying motion and herein.

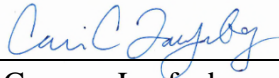
56. The Settlement Class Representatives do not have any conflicts with the Settlement Class Members. To the contrary, they have participated in the case on the Settlement Class Members' behalf and support the Settlement as in their best interests. The fact that some Settlement

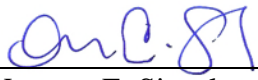
Class Members are eligible for certain benefits for which others will not qualify does not create any conflict. All Settlement Class Members are given the same opportunity to claim all benefits for which they do qualify. And those Settlement Class Members eligible for cash payments in recognition of the statutory scheme in their states of residence at any time between May 1, 2023 and October 1, 2023 may claim their cash payment and any other benefits for which they qualify.


57. In light of the foregoing, we believe the Settlement merits preliminary approval and request the Court enter an Order granting Preliminary Approval of the Class Action Settlement as requested in the Joint Motion.

We declare under penalty of perjury that the foregoing is true and correct.

Executed on Thursday, September 4, 2025.

  
\_\_\_\_\_  
Cari Campen Laufenberg

At: Seattle, WA  
  
\_\_\_\_\_  
Norman E. Siegel

At: Kansas City, MO  
  
\_\_\_\_\_  
Gayle M. Blatt

At: San Diego, CA  
\_\_\_\_\_

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

In re:

23ANDME HOLDING CO., *et al.*,

Chapter 11

Case No. 25-40976

(Jointly Administered)

**DECLARATION OF GERALD THOMPSON IN SUPPORT OF THE JOINT MOTION  
OF THE DEBTORS AND U.S. SETTLEMENT CLASS REPRESENTATIVES  
PURSUANT TO SECTIONS 105 AND 363 OF THE BANKRUPTCY CODE AND  
BANKRUPTCY RULES 9019 AND 7023 FOR AN ORDER (I) PRELIMINARILY  
APPROVING THE SETTLEMENT AGREEMENT BETWEEN THE DEBTORS AND  
U.S. SETTLEMENT CLASS REPRESENTATIVES; (II) CERTIFYING A CLASS FOR  
SETTLEMENT PURPOSES ONLY; (III) APPROVING THE FORMS AND MANNER  
OF NOTICE TO CLASS MEMBERS OF THE CLASS CERTIFICATION AND  
SETTLEMENT; (IV) SCHEDULING A FAIRNESS HEARING TO CONSIDER FINAL  
APPROVAL OF THE SETTLEMENT AGREEMENT AND (V) GRANTING RELATED  
RELIEF**

I, Gerald Thompson, declare as follows:

1. I am the President & Founder of CyEx llc. I have worked at CyEx since 2015 and am intimately familiar with the company and its products. I have personal knowledge of the matters stated herein and, if called upon, I could and would competently testify thereto. I submit this Declaration in support of the motion for an order preliminarily approving the settlement agreement between the US data breach class and the debtor herein.

2. CyEx llc is an independent operating company and a part of Point Wild Holdings, Inc. which has been involved in the Identity Services industry since 1995 when it was known as Intersections Inc. and was one of the first companies to offer identity protection and remediation to consumers in the United States. Since that time, CyEx, under white label brands and through its own brands, has protected more than 51 million citizens in the United States and more than 2.34 million families. CyEx has distributed its services through a focused distribution network of large U.S. financial institutions and large enterprise companies since its founding and has serviced both large and small data breach populations over the past 14 years.

3. CyEx and Point Wild Holdings, Inc. are long-standing, well capitalized, and experienced companies that are fully capable of providing the services for this Settlement. Companies choose CyEX because CyEx has the requisite experience and knowledge to service any breach population with seamless onboarding, excellent customer service, and attention to detail. Since 2010, CyEx has serviced more than 2,600 data breaches for large and small businesses. In 2021 the company serviced some of the largest data breach incidents including two national health care providers and was awarded the three largest data breach contracts for servicing affected consumers.

4. CyEx is viewed as the most innovative provider of monitoring services for victims of data breach incidents. CyEx is the only company that has built monitoring solutions that focus on the specific type of data breach and the most appropriate and effective service to provide the maximum security and customer support for that action. As an example, CyEx is the only provider of Medical Data Monitoring services for healthcare related data breaches; the only provider of Financial Data Monitoring services for data breaches in the banking and financial sectors and the only provider of privacy services for people whose PII has been compromised and misused in that sector. In addition, CyEx is the largest provider of Credit Monitoring in the Data Breach category other than the Credit Bureaus themselves.

5. CyEx's services operate in two main areas: cyber incident response and data breach and privacy class action settlements. Since 2016, CyEx has provided services for more than 2,600 data breaches of all sizes and across multiple industries. In the last two years, CyEx has been awarded contracts to service many of the largest data breach class action settlements, including: *In re: Capital One Inc. Customer Data Security Breach Litigation*, Case No. 1:19-md-2915 (AJT/JFA) (E.D. Va.); *In Re: T-Mobile Customer Data Security Breach Litigation*, Case No. 4:21-MD-03019-BCW (W.D. Mo.); *In re: Morgan Stanley Data Security Litigation*, Case No. 1:20-cv-05914 (S.D.N.Y.); *Aguallo, et al. v. Kemper Corporation & Infinity Insurance Company, Inc.*, Case No. 1:21-cv- 01883 (N.D. Ill.); *Heath, et al. v. Insurance Technologies Corp. & Zywave, Inc.*, Case No. 3:21- cv-01444-N (N.D. Tex.); *In re: Banner Health Data Breach Litigation*, Case No. 2:16-cv-02696- SRB (D. Ariz.); *In re Arthur J. Gallagher Data Breach Litigation*, Case No. 1:22-cv-00137 (N.D. Ill); *In re: MGM International Resorts Data Breach Litigation*, Case No. 2:20-cv-00376- GMN (D. Nev); and others, and our incident response business is currently servicing the Aflac population.

6. CyEx views the customer care it offers via its call centers as a critical component of its business. The average tenure of a CyEx call center agent is more than six years, which surpasses the average in the industry. The core competency of the Customer Care team is dealing with a wide variety of identity and/financial malfeasance matters across a broad spectrum of incidents. The CyEx team has well developed protocols to deal with any incident related to identity, medical & healthcare data exposure, financial account exposure and misuse and privacy related data exposure.

7. CyEx is willing and able to be appointed by the Court as the provider of the Privacy & Medical Shield + Genetic Monitoring, as those terms are defined in the Settlement Benefits Plan to Settlement Class Members.

8. Privacy & Medical Shield + Genetic Monitoring ("Privacy & Medical Shield") was designed and built by CyEx specifically for the 23andMe class members and includes the compilation of multiple features that have never been provided in a single product to data breach or security incident victims. It is a bespoke service that incorporates the best monitoring and security capabilities available to consumers today.

9. This service provides the following features to detect and remediate across the most comprehensive list of monitoring services that has ever been used in a class action settlement for

each Settlement Class Member who enrolls. As part of this service, CyEx will provide each Settlement Class Member with Dark Web monitoring which will scan the Dark Web and will monitor hundreds of sites on the World Wide Web known to traffic in stolen data to identify the Personal Information of the Settlement Class Member. Below are the features that are included for all Settlement Class Members.

- **Dark Web Monitoring** – Monitoring for 17 unique data categories of Settlement Class Members' sensitive data that may be exposed, listed for sale or trade on the Dark Web.
- **Stolen Data Sites Monitoring** – Monitoring of the myriad of sites on the World Wide Web (www) that traffic in the sale, or more often trade, of stolen consumer data. The URLs of these sites are constantly fluctuating and often exist for only short periods of time requiring vigilant monitoring.
- **Genetic Monitoring** - Specially-designed monitoring capacity to scan the Dark Web for any genetic-related data specific to Settlement Class Members that may be for sale or trade. If genetic-related data is located, CyEx will alert the Settlement Class Member who may contact Customer Support to speak with a remediation specialist about identifying potential mitigation efforts.
- **Virtual Private Network (VPN)** - Facilitates Settlement Class Members' ability to shop, bank and work online anonymously and to minimize their digital footprint.
- **Digital Vault** – Provides Settlement Class Members a secure environment in which to store their personal digital files. Through this service, Settlement Class Members are able to share access to their vital documents with family members in a protected environment.
- **Data Broker Opt-Out** - Removes Settlement Class Members' personal data from all known data broker sites for the duration of the term of service.
- **Password Manager** – Protects Settlement Class Members' login information used to access online accounts from threat actors.
- **Private Browsing** - Provides a private search engine (powered by Duck Duck Go) which allows Settlement Class Members to browse the internet without being targeted with ads and prevents data collection. Over time, this will minimize Settlement Class Members' digital footprint.
- **Breach Scan Tool** - Provides Settlement Class Members the ability to verify if any email address has been implicated in a known data breach. Further mitigation services may be

available from CyEx upon request.

- **Anti Phishing** - Realtime scanning of webpages during Settlement Class Members' web sessions for threats of phishing and malware content.
- **Real-time Authentication Alerts** – Monitors Class Settlement Members' new accounts and other “credit initiation” activities to prevent identity fraud.
- **High- Risk Transaction Monitoring** - Monitors for certain non-traditional, noncredit transactions such as money lending activities, payday loans and other financial transactions, for Settlement Class Members' personally identifiable information.
- **Health Insurance Plan ID Monitoring\***- Alerts Settlement Class Members that their medical information is exposed and prompts them to notify their medical insurance provider to request a new medical ID number and to deactivate the old medical ID number in order to combat fraudulent usage.
- **Medical Beneficiary Identifier Monitoring** - Monitors for the fraudulent use of a medical beneficiary's medical identity and alerts if this identity is exposed and for sale or trade on Stolen Data Sites. Assists with outreach to insurance providers and facilitates updating medical identifiers associated with Settlement Class Members and other family members on their medical insurance plan.
- **Medical Record Monitoring** - Monitors the Dark Web and other Stolen Data Sites for Settlement Class Members' personal healthcare/medical records. Assists with outreach to medical providers and facilitating updating reference numbers and other records associated with the individual.
- **International Classification of Disease Monitoring** - Monitors the Dark Web and other Stolen Data Sites for the exposure of Settlement Class Members' personal medical diagnoses and assists to remediate the leaked data and alter their International Classification of Disease number in the national healthcare system.
- **National Provider Identifier Monitoring** - Alerts Settlement Class Members when a National Provider Identifier number associated with their identity or other medical classification identifiers (e.g., Medical Beneficiary ID, Medical Record Number, International Classification of Disease Number, and Health Insurance Plan ID) have been located on the Dark Web and other Stolen Data Sites.

- **Security Freeze with All Credit Bureaus** – Allows Settlement Class Members to log onto CyEx's website and freeze their credit at all three credit bureaus.
- **\$1 Million Identity Theft & Fraud Insurance (with no deductible)** Comprehensive reimbursement product which includes reimbursement for losses due to medical, identity and/or financial fraud.
- **Customer Support & Victim Assistance** – Providing assistance to Settlement Class Members with information, resources, and remediation when identity theft related instances and/or fraudulent healthcare related incidents occur. Provides access to expert specialists who are trained to provide restorative services.

10. The Privacy & Medical Shield + Genetic Monitoring product is not currently available for public purchase, but the closest approximation of these services which are available would retail at \$375.00 per person per year. However, this does not include the genetic monitoring, which is a unique component offered only at this time to Settlement Class Members. The complete list of the services and consumer benefits discussed herein will be available to Settlement Class Members on CyEx's Settlement Website once the Settlement is preliminarily approved.

11. Enrollment Codes will be provided to the Settlement Administrator for inclusion in the Notice to all Settlement Class Members.

12. CyEx will provide these services for sixty (60) months to all Settlement Class Members who enroll during the Claims Period, but any Settlement Class Member may enroll directly with CyEx during the service period and receive service through the end of the service period. The service period will begin on an agreed upon date following final approval of the Settlement and will end sixty (60) months after the code effective date for all enrolled Settlement Class Members.

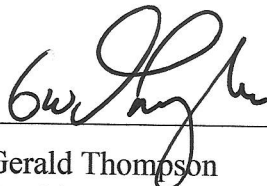
13. CyEx will not market or upsell additional services to enrolled Settlement Class Members.

14. At the end of the service period, CyEx will not automatically extend the services to Settlement Class Members. However, additional months may be purchased by Class Counsel if there are funds available due to unclaimed settlement payments. No later than thirty (30) days before the end of the services, CyEx will contact the enrolled Settlement Class Members to inform them that the services will terminate unless an extension is provided.

15. CyEx will provide Class Counsel with quarterly updates as to the number of Settlement Class Members who have enrolled in Privacy & Medical Shield + Genetic Monitoring Services.

I declare under penalty of perjury pursuant to 28 U.S.C. 1746 that the foregoing is true and correct.

Executed this 1<sup>st</sup> day of September, 2025 in Sparta, New Jersey.

 9-1-2025  
Gerald Thompson  
President & Founder  
CyEx llc.

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

In re:

23ANDME HOLDING CO., *et al.*,<sup>1</sup>  
Debtors.

Case No. 25-40976-357  
Chapter 11

(Jointly Administered)

Related Doc. 1226

**DECLARATION OF THE SETTLEMENT ADMINISTRATOR IN SUPPORT OF THE  
JOINT MOTION OF THE DEBTORS AND U.S. SETTLEMENT CLASS  
REPRESENTATIVES PURSUANT TO SECTIONS 105 AND 363 OF THE  
BANKRUPTCY CODE AND BANKRUPTCY RULES 9019 AND 7023 FOR AN ORDER  
(I) PRELIMINARY APPROVING THE SETTLEMENT AGREEMENT BETWEEN THE  
DEBTORS AND U.S. SETTLEMENT CLASS REPRESENTATIVES; (II) CERTIFYING  
A CLASS FOR SETTLEMENT PURPOSES ONLY; (III) APPROVING THE FORMS  
AND MANNER OF NOTICE TO CLASS MEMBERS OF THE CLASS CERTIFICATION  
AND SETTLEMENT; (IV) SCHEDULING A FAIRNESS HEARING TO CONSIDER  
FINAL APPROVAL OF THE SETTLEMENT AGREEMENT AND  
(V) GRANTING RELATED RELIEF**

I, Carla A. Peak, declare as follows:

1. I am a Managing Director of Kroll Notice Media Solutions (“Kroll Media”), a business unit of Kroll Settlement Administration LLC (“Kroll”), a firm that specializes in all aspects of settlement administration services, including pre-settlement consulting, notice media campaigns, email and postal mailings, website and database design and management, strategic communications and contact centers, claims processing and analysis, tax and treasury services,

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<sup>1</sup> The Debtors in each of these cases, along with the last four digits of each Debtor’s federal tax identification number, are: 23andMe Holding Co. (0344), 23andMe, Inc. (7371), 23andMe Pharmacy Holdings, Inc. (4690), Lemonaid Community Pharmacy, Inc. (7330), Lemonaid Health, Inc. (6739), Lemonaid Pharmacy Holdings Inc. (6500), LPharm CS LLC (1125), LPharm INS LLC (9800), LPharm RX LLC (7746), LPRXOne LLC (3447), LPRXThree LLC (3852), and LPRXTwo LLC (1595). The Debtors’ service address for purposes of these chapter 11 cases is: 870 Market Street, Room 415, San Francisco, CA 94102.

and more. I have personal knowledge of the matters set forth herein, and if called as a witness I could and would testify competently to them.

2. I am a nationally recognized expert in the field of legal notice and I have served as an expert in countless federal and state cases involving class action notice plans.

3. Kroll has extensive experience in all types of class action matters, having managed more than 4,000 settlements, designed over 1,000 multi-media campaigns, processed more than 100 million claims, and distributed over \$30 billion in payments over the past 50 years.

4. The purpose of this declaration is to provide information related to the qualifications and experience of Kroll and myself, as well as to detail the proposed notice plan (the “Notice Plan”) designed to provide notice to class members about this settlement. Kroll will work with Class Counsel to implement the Notice Plan, as well as make any decisions about notice and administration.

### **BACKGROUND AND EXPERIENCE**

5. Kroll has administered class action settlements for numerous consumer protection cases, including data breach cases. Some examples of data breach cases with which Kroll has been involved include: *Bianucci v. Rite Aid Corp.*, No. 2:24-cv-03356 (E.D. Pa.); *Douglas v. PurFoods LLC*, No. 4:23-cv-00332 (S.D. Iowa); *Hameed-Bolden v. Forever 21 Retail, Inc.*, No. 2:18-cv-3019 (C.D. Cal.); *Hightower v. Receivables Performance Management LLC*, No. 2:22-cv-01683 (W.D. Wash.); *In re Apria Data Breach Litig.*, No. 1:23-cv-01003 (S.D. Ind.); *In re Arthur J. Gallagher Data Breach Litig.*, No. 1:22-cv-00137 (N.D. Ill.); *In re CorrectCare Data Breach Litig.*, No. 5:22-cv-00319 (E.D. Ky.); *In re Evolve Bank & Trust Customer Data Security Breach Litig.*, No. 2:24-md-03127 (W.D. Tenn.); *In re Fred Hutchinson Cancer Center Data Breach Litig.*, No. 2:23-cv-01893 (Wash. Super. Ct., King Cty.); *In re Great Expressions Data Security Incident*

*Litig.*, No. 2:23-cv-11185 (E.D. Mich.); *In re HCA Healthcare, Inc. Data Security Litig.*, No. 3:23-cv-00684 (M.D. Tenn.); *In re Lansing Community College Data Breach Litig.*, No. 1:23-cv-00738 (W.D. Mich.); *In re MCG Health Data Security Issue Litig.*, No. 2:22-cv-00849 (W.D. Wash.); *In re Tenet Healthcare Corporation Data Breach Litig.*, No. DC-22-07513 (Tex. Dist. Ct., Dallas Cty.); *In re: T-Mobile Customer Data Security Breach Litig.*, No. 21-md-03019 (W.D. Mo.); *In re: Yahoo! Inc. Customer Data Security Breach Litig.*, No. 5:16-md-02752 (N.D. Cal.); *Orr v. Intercontinental Hotels Group, PLC*, No. 1:17-cv-1622 (N.D. Ga.); *Rodriguez v. University Property & Casualty Insurance, Co.*, No. 16-cv-60442 (S.D. Fla.); *Summers v. Sea Mar Community Health Centers*, No. 22-2-00773-7 (Wash. Super. Ct. King Cty.); and *Weigand v. Group 1001 Insurance Holdings, LLC*, No. 1:23-cv-01452 (S.D. Ind.).

6. I have personally been involved in a variety of data breach cases, such as *Abante Rooter and Plumbing, Inc. v. Alarm.com Inc.*, No. 4:15-cv-06314 (N.D. Cal.); *In re Anthem, Inc. Data Breach Litig.*, No. 5:15-md-02617 (N.D. Cal.); *In re Arby's Restaurant Group, Inc. Data Security Litig.*, No. 1:17-mi-55555 (N.D. Ga.); *In re Experian Data Breach Litig.*, No. 8:15-cv-01592 (C.D. Cal.); *In re: The Home Depot, Inc., Customer Data Security Breach Litig.*, No. 1:14-md-02583 (N.D. Ga.); *In re Orrick, Herrington & Sutcliffe LLP, Data Breach Litig.*, No. 3:23-cv-04089 (N.D. Cal.); *In re Trans Union Corp. Privacy Litig.*, MDL No. 1350 (N.D. Ill.); *Sonic Corp. Customer Data Security Breach Litig.*, No. 1:17-md-02807 (N.D. Ohio); and *Torres v. Wendy's International, LLC*, No. 6:16-cv-00210 (M.D. Fla.).

7. In forming my opinions, I draw from my in-depth class action case experience. I have worked in the class action notification field for more than 20 years. During that time, I have been involved in all aspects of the design and implementation of class action notice planning, as well as the drafting of plain language notice documents that satisfy the requirements of Rule 23

and adhere to the guidelines set forth in the Manual for Complex Litigation, Fourth and by the Federal Judicial Center (“FJC”).

8. The reach of the Notice Program is consistent with other effective court-approved notice programs. Additionally, the Notice Program is intended to comply with the FJC’s 2010 Judges’ Class Action Notice and Claims Process Checklist and Plain Language Guide (the “FJC Checklist”), which considers 70-95% reach among class members to be reasonable.

## **NOTICE PLAN**

### ***Proposed Class Definition***

9. The Settlement Class is defined as all natural persons who were residents of the United States at any time during the period from May 1, 2023 to October 1, 2023, who were notified that their Personal Information was compromised in the Cyber Security Incident by 23andMe in October 2023.

10. The Settlement Class excludes: (i) 23andMe customers who have chosen to exercise their right to arbitrate by making a demand for arbitration or by filing a formal complaint with the arbitration forum; (ii) 23andMe and its officers and directors; (iii) all Settlement Class Members who timely and validly filed individual proofs of claim in the Bankruptcy Proceedings and requested to Opt-Out of the Settlement Class; (iv) the Judge assigned to evaluate the fairness of this Settlement; and (v) potential class members who have provided 23andMe with an express release of claims arising out of or related to the Cyber Security Incident prior to the Effective Date of this Settlement.

### ***Individual Notice***

11. It is my understanding that the class size is estimated to consist of approximately 6.4 million people and that email and/or postal addresses are available for the Settlement Class.

12. The Debtors will provide Kroll with the names, email addresses and postal addresses for the Settlement Class Members (the “Class List”).

13. Kroll will send a short-form notice via email (the “Email Notice”) to all Settlement Class Members for which an email address is available on the Class List. Email Notice is likely to be effective as I understand that 23andMe regularly uses email to communicate with its customers.

14. Prior to distributing the Email Notice, all email addresses will be subject to a cleansing and validation process to, among other things, remove extra spaces and fix common domain name errors, as well as compare addresses against known bad email addresses and verify email existence with Internet Service Providers (“ISPs”).

15. The Email Notice will be formatted to avoid common “red flags” that could cause the email to be blocked by spam filters. For example, the content of the notice will be placed in the body of the email rather than as an attachment to avoid spam filters and improve deliverability.

16. Two Email Notices have been drafted; one for Health Information Claimants (approximately 7,300), and one for all other Settlement Class Members. The Email Notices will contain a link to the Settlement Website. Drafts of the proposed Email Notices are attached to the Joint Motion as **Exhibits B.1 & B.2**.

17. The email delivery will be attempted three times. The email campaign will return data regarding the number of emails successfully delivered and email bouncebacks. Typically, initial bouncebacks are temporary in nature and consist primarily of those that are blocked by ISPs, result from full inboxes on the Settlement Class Member’s computers or result from some temporary technical difficulties. These three categories of bouncebacks (“Non-Fatal Bouncebacks”) account for about 10-15% of all emails that are sent, and in other cases and tests we have found that about 85% of these emails are deliverable if re-sent. After the third email

bounceback for an individual Settlement Class Member, Kroll will send a single postcard summary notice (the “Postcard Notice”) to the Settlement Class Member’s corresponding postal address on the Class List.

18. Prior to mailing, known postal addresses will be checked against the National Change of Address (NCOA)<sup>2</sup> database maintained by the USPS; certified via the Coding Accuracy Support System (CASS);<sup>3</sup> and verified through Delivery Point Validation (DPV).<sup>4</sup>

19. Postcard Notices returned by the USPS as undeliverable will be re-mailed to any address available through the postal service forwarding order information. For any returned mailing that does not contain an expired forwarding order with a new address indicated, Kroll will conduct further address searches using credit and other public source databases to attempt to locate new addresses and will re-mail these notices where possible. A draft of the proposed Postcard Notice is attached to the Joint Motion as **Exhibit B.3**.

### ***Media Campaign***

20. In addition to the individual notice efforts described above, Kroll will implement a media campaign consisting of a social media campaign and the dissemination of a press release.

21. The social media campaign will utilize Facebook and Instagram to reach likely Settlement Class Members by targeting advertisements to platform users who have and had displayed an interest in ancestry and genealogy. More specifically, advertisements will target

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<sup>2</sup> The NCOA database contains records of all permanent change of address submissions received by the USPS for the last four years. The USPS makes this data available to mailing firms and lists submitted to it are automatically updated with any reported move based on a comparison with the person’s name and last known address.

<sup>3</sup> CASS is a certification system used by the USPS to ensure the quality of ZIP+4 coding systems.

<sup>4</sup> Records that are ZIP+4 coded are then sent through DPV to confirm known USPS addresses, as well as identify potential addressing issues that may hinder delivery.

people on Facebook and Instagram who have liked, followed or interacted with relevant videos or posts/tags.

22. The social media campaign will be routinely monitored by Kroll's digital specialists to analyze key campaign performance indicators and make real-time modifications, as needed.

### ***Press Release***

23. Kroll will cause a press release to be issued nationwide to a variety of press outlets, as well as influencers who focus on providing information about genetics.

24. The press release will help garner "earned media" (*i.e.*, other media may report about the story). Earned media can provide a valuable role in distributing news and information about the Settlement through trusted sources.

25. The subject matter of this litigation has already received extensive news coverage via The New York Times, Time Magazine, CNN, Wired, TechCrunch, The Guardian, The Epoch Times, Open Class Actions, The Washington Post, The Times of Israel, NBC News, and other media outlets; therefore, these press outlets may report news regarding the Settlement.

### ***Reminder Notice***

26. Prior to the claims filing deadline, at a time agreed upon by the Parties, Kroll will send a reminder email notice to all Settlement Class Members who have not yet submitted a Claim Form, as well as to those Health Information Claimants who have not yet provided their preferred payment method. The reminder email notice will alert Settlement Class Members to the pending deadline and encourage them to file a Claim Form and/or provide their preferred payment method to receive Settlement benefits.

27. After the Settlement is approved and all conditions precedent to distributing payments have occurred, a reminder email will be sent to all Settlement Class Members to notify

them that their individual Privacy & Medical Shield + Genetic Monitoring code is ready to use, and of the opportunity to enroll for those who have not yet done so. This email will include the Settlement Class Member's individual enrollment code, as well as instructions regarding how to complete the enrollment process and begin this service.

28. At an agreed upon time, an additional reminder email will be sent to all Settlement Class Members who have not activated their individual Privacy & Medical Shield + Genetic Monitoring code. This email will include the Settlement Class Member's individual enrollment code, as well as instructions regarding how to complete the enrollment process and begin this service.

### ***Response Mechanisms***

29. Kroll will establish and maintain a Settlement Website (in English, Spanish and Mandarin) to allow Settlement Class Members to obtain additional information about the Settlement as well as relevant documents. Settlement Class Members will be able to complete and submit a Claim Form online, which also allows them to pre-enroll in the Privacy & Medical Shield + Genetic Monitoring service (as detailed further below). Settlement Class Members will also be able to view, download, and/or print the Email Notice, Health Information Claim Email Notice, Class Notice, Claim Form, Health Information Claim Form, the Settlement Agreement, the Settlement Benefits Plan, and other important documents, including Plaintiffs' Consolidated Complaint, the Joint Motion for Preliminary Approval of Class Action Settlement, the order granting preliminary approval, and when filed, Class Counsel's Motion for Attorneys' Fees, Litigation Expenses, and Service Awards, and Settlement Class Representatives' Motion for Final Approval of Class Action Settlement. The Settlement Website will also include answers to

frequently asked questions, contact information for the settlement administrator, and important dates and deadlines. A draft of the Class Notice is attached to the Joint Motion as **Exhibit B.4**.

30. Kroll will establish a toll-free number for the Settlement. The toll-free telephone number will allow Settlement Class Members to call and obtain information about the Settlement through an interactive Voice Response system with the option to speak with a live operator.

31. Kroll will establish a case-specific email address to allow Settlement Class Members to correspond directly with Kroll regarding the Settlement.

32. Kroll will also establish a case-specific postal address to allow Settlement Class Members to correspond directly with Kroll regarding the Settlement.

#### **CLAIMS PROCESS**

33. To obtain an Extraordinary Claim Payment and/or Statutory Claim Payment, Settlement Class Members must submit a Claim Form online or by mail. Each identifiable Settlement Class Member who is sent an individual notice will be assigned a unique identifier or “Claim ID” that may be used to expedite claims filing by “pre-populating” name, mailing address, and/or email address information. Claim IDs will be provided in the Email Notices and Postcard Notices. Settlement Class Members who receive an individual notice and wish to file a claim online may enter their Claim ID to view and submit a Claim Form that has been automatically pre-populated with information corresponding to their unique identifier.

34. The Claim Form will seek information necessary to validate and process Settlement Class Members’ claims, such as their full name, mailing address, telephone number, email address, any documentation necessary to substantiate their claim, as well as their typed name which will constitute an online signature as verification that all information provided on the Claim Form is accurate. If a claim is denied due to lack of signature or other required information or

documentation, the Settlement Class Member will be notified and provided with an opportunity to correct the claim. Two Claim Forms have been drafted; one for Health Information Claims, and one other Settlement Class Members. Drafts of the proposed Claim Forms are attached to the Joint Motion as **Exhibits C.1 & C.2**.

35. Kroll will process all Claim Forms in accordance with the Settlement Agreement and the Settlement Benefits Plan. Settlement Class Members who do not submit a Claim Form for Privacy & Medical Shield + Genetic Monitoring during the claims period will be able to enroll during the five-year term of the service by visiting the Settlement Website and following the enrollment instructions provided. These Settlement Class Members will receive monitoring for the remainder of the five-year service term.

#### **OPT-OUT PROCESS**

36. To opt out of the Settlement, Settlement Class Members may print an Opt-Out Form from the Settlement Website and mail it to the Settlement Administrator. Opt-Out Forms must be submitted individually by the Settlement Class Members opting out of the Settlement benefits and may not be submitted by third parties, except as authorized by the Settlement Administrator at its sole discretion. The Settlement Administrator shall verify that each individual who submits an Opt-Out Form is a Settlement Class Member. A draft of the proposed Opt-Out Form is attached to the Joint Motion as **Exhibit E**.

#### **CAFA NOTIFICATION**

37. Upon filing of the Settlement Agreement with the Court, Kroll will work with Debtors' Counsel to fulfill the notice requirements of the Class Action Fairness Act ("CAFA"). Kroll will include information detailing CAFA notice fulfillment in a separate report.

### CONCLUSION

38. The proposed Notice Plan is expected to reach virtually the entire Settlement Class by way of the individual direct notice alone which will be provided primarily via email and secondarily via U.S. Mail. Coverage and frequency of exposure will be further enhanced by the social media campaign and press release.

39. In my opinion, the Notice Plan proposed is consistent with other effective settlement notice programs. It is the best notice practicable and meets the “reasonably certain to inform” due process communications standard of *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 315 (1950). The Notice Plan is designed and expected to meet or exceed the guidelines set forth in Rule 23, the Manual for Complex Litigation, Fourth, and the FJC Checklist.

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

Executed this 9th day of September 2025, at Ocean City, New Jersey.



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