

EXHIBIT A

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SARATOGA

ROBERT MYERS, MADISON MARCEL, TROY ASHLINE, and TARAYL GOSS, individually and on behalf of all others similarly situated, Plaintiffs, v. SARATOGA HARNESS RACING, INC., Defendant.	INDEX NO.: EF202598
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SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement is entered into between Plaintiffs,¹ individually and on behalf of the Settlement Class, and Defendant, as of the date last signed below. The Parties hereby agree to the following terms in full settlement of the Action, subject to a Final Approval Order entered by the Court.

I. Background

1. Defendant is a casino, hotel, and live racing track in Saratoga Springs, New York.
2. In the course of its business, Defendant collects, maintains, and stores Private Information pertaining to its customers and employees, including, but not limited to: names, Social Security numbers, and driver's license/state identification numbers.
3. On or about November 1, 2024, Defendant discovered that an unauthorized third-party accessed Defendant's systems and network ("Data Incident"). Based on a subsequent forensic investigation, Defendant determined that the Private Information of approximately 20,866

¹ All capitalized terms herein shall have the same meanings as those defined in Section II of this Agreement.

individuals was compromised, accessed, and/or exfiltrated by an unauthorized party during the Data Incident.

4. Following the Data Incident, Defendant was named as a Defendant in several state court class action lawsuits and one federal court class action, all related to the Data Incident, and all alleging similar claims on behalf of overlapping putative classes. In an effort to work cooperatively, Plaintiffs agreed to consolidate all the state court actions and to pursue their claims collectively in a single action. The federal court action has been subsequently dismissed.

5. Instead of engaging in protracted and costly litigation, the Parties decided to explore early resolution of the action and scheduled a mediation with experienced class action mediator Bennett Picker.

6. In advance of the mediation, Plaintiffs propounded informal discovery requests to learn as much as possible in advance of mediation, and Defendant provided certain information in response to facilitate the mediation. The Parties also exchanged detailed mediation briefs outlining their positions with respect to jurisdiction, liability, damages, and other settlement-related issues.

7. The Parties mediated on August 11, 2025, and agreed upon the material terms of this Settlement to resolve all claims on a class-wide basis.

8. On August 13, 2025, the Parties filed a Joint Status Report and notice of settlement and request to continue the stay pending the parties completing their settlement discussions.

9. The settlement discussions were arms-length and contested and resulted in an agreement to settle the Action on a classwide basis.

10. The Parties now agree to settle the Action entirely, without any admission by Defendant of liability or wrongdoing, with respect to all Released Claims of the Releasing Parties. Defendant has entered into this Agreement to resolve all controversies and disputes arising out of

or relating to the allegations made in the Complaint and the Data Incident as it relates to Defendant, and to avoid the litigation costs and expenses, distractions, burden, expense, and disruption to its business operations associated with further litigation. Defendant does not in any way acknowledge, admit to, or concede any of the allegations made in the Complaint, and expressly disclaims and denies any fault or liability, or any charges of wrongdoing that have been or could have been asserted in the Complaint. Nothing contained in this Agreement shall be used or construed as an admission of liability, and this Agreement shall not be offered or received in evidence in any action or proceeding in any court or other forum as an admission or concession of liability or wrongdoing of any nature or for any other purpose other than to enforce the terms of this Agreement. Plaintiffs enter into this Agreement to recover on the claims asserted in the Complaint, and to avoid the risk, delay, and uncertainty of continued litigation. Plaintiffs do not in any way concede that the claims alleged in the Complaint lack merit or are subject to any defenses. The Parties intend this Agreement to bind Plaintiffs, Defendant, and all Settlement Class Members.

NOW, THEREFORE, in light of the foregoing, for good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, the Parties agree, subject to approval by the Court, as follows.

II. Definitions

11. “**Action**” means the above-captioned action, *Myers et al. v. Saratoga Harness Racing, Inc.* Case No. EF202598 (Saratoga County, NY 2025).

12. “**Application for Attorneys’ Fees, Costs, and Service Awards**” means the application to be made with the Motion for Final Approval seeking Class Counsel’s attorneys’ fees and reimbursement for costs, and Service Awards for the Class Representatives.

13. “**Cash Payment**” means compensation paid to Settlement Class Members who

submit Valid Claims for Cash Payment A and/or B.

14. “**Cash Payment A – Out of Pocket Documented Losses**” means the Settlement Class Member Benefit consisting of a cash payment of up to \$2,500.00 per person, related to out of pocket documented losses incurred as a result of the Data Incident that Settlement Class Members who incurred documented losses may elect pursuant to Section IV herein.

15. “**Cash Payment B – Alternate Cash**” means the \$50 cash compensation that Settlement Class Members may elect under the Settlement.

16. “**Claim**” means the submission of a Claim Form by a Claimant for Settlement Class Member Benefits.

17. “**Claimant**” means a Settlement Class Member who submits a Claim Form.

18. “**Claim Form**” means the proof of claim for Settlement Class Member Benefits, substantially in the form attached hereto as ***Exhibit 3***, which may be modified as necessary subject to the Parties’ approval.

19. “**Claim Form Deadline**” shall be 15 days before the initial scheduled Final Approval Hearing, and means the last day by which a Claim Form may be submitted to the Settlement Administrator for a Settlement Class Member to be eligible for a Settlement Class Member Benefits.

20. “**Claim Process**” means the process by which Settlement Class Members submit Claims to the Settlement Administrator for the recovery of Settlement Class Member Benefits.

21. “**Class Counsel**” means the following: Steven Sukert of Kopelowitz Ostrow P.A. and Casandra Turner of Milberg Coleman Bryson Phillips Grossman PLLC.

22. “**Class List**” means the list of Settlement Class Members prepared by Defendant using information in Defendant’s records and provided to the Settlement Administrator by

Defendant for Notice. The Class List shall include the Settlement Class Members' names, postal addresses, and email addresses (if maintained by Defendant).

23. **"Class Representatives"** means those Plaintiffs that sign this Agreement.

24. **"Complaint"** means the Consolidated Class Action Complaint filed in the Action on May 16, 2025.

25. **"Court"** means the Supreme Court of the State of New York, County of Saratoga, and the Judge(s) assigned to the Action.

26. **"Credit Monitoring"** means the credit monitoring product with one year of three-bureau monitoring that Settlement Class Members may elect as a Settlement Class Member Benefit under the Settlement.

27. **"Data Incident"** means the unauthorized access to Defendant's computer network discovered by Defendant On or about November 1, 2024, resulting in the acquisition of Settlement Class Members' Private Information.

28. **"Defendant"** means Saratoga Harness Racing, Inc., the defendant in the Action.

29. **"Defendant's Counsel"** means Ernest Koschineg, Nellie Fitzpatrick and Jonathan Tobin of Cipriani & Werner PC.

30. **"Documented Loss"** refers to documented, monetary losses incurred by a Settlement Class Member, and which specifically involve (a) an actual, documented, and unreimbursed monetary expense or loss; (b) that was more likely than not caused by the Data Incident; and (c) where the claimant made reasonable efforts to avoid or seek reimbursement for, the loss. Documented Loss must be supported by Reasonable Documentation that a Settlement Class Member actually incurred unreimbursed losses and/or out-of-pocket expenses and are subject to review and approval by the Settlement Administrator.

31. “**Effective Date**” means the day after the entry of the Final Approval Order, provided no objections are made to the Settlement. If there are objections to the Settlement, then the Effective Date shall be the later of (a) 30 days after entry of the Final Approval Order if no appeals are taken from the Final Approval Order, or (b) if appeals are taken from the Final Approval Order, then the earlier of 30 days after the last appellate court ruling affirming the Final Approval Order or 30 days after the entry of a dismissal of the appeal.

32. “**Final Approval**” means the final approval of the Settlement, which occurs when the Court enters the Final Approval Order, substantially in the form attached to the Motion for Final Approval.

33. “**Final Approval Hearing**” means the hearing held before the Court wherein the Court will consider granting Final Approval of the Settlement and the Application for Attorney’s Fees, Costs, and Service Awards.

34. “**Final Approval Order**” means the final order the Court enters granting Final Approval of the Settlement. The proposed Final Approval Order shall be in a form agreed upon by the Parties and shall be substantially in the form attached as an exhibit to the Motion for Final Approval. Final Approval Order also includes the orders, which may be entered separately, determining the amount of fees and costs awarded to Class Counsel, or Service Awards to Class Representatives.

35. “**Injunctive Relief**” means the Defendant’s commitment to maintain and/or adopt a series of enhanced security measures as detailed in Section V herein.

36. “**Long Form Notice**” means the long form notice of the Settlement, substantially in the form attached hereto as ***Exhibit 2***, that shall be posted on the Settlement Website and shall be available to Settlement Class Members by mail on request made to the Settlement

Administrator.

37. “**Motion for Final Approval**” means the motion that Plaintiffs and Class Counsel shall file with the Court seeking Final Approval of the Settlement.

38. “**Motion for Preliminary Approval**” means the motion that Plaintiffs shall file with the court seeking Preliminary Approval of the Settlement.

39. “**Notice**” means the Postcard Notice and Long Form Notice that Plaintiffs will ask the Court to approve in connection with the Motion for Preliminary Approval.

40. “**Notice Program**” means the methods provided for in this Agreement for giving Notice to the Settlement Class and consists of the Postcard Notice and Long Form Notice, along with the Settlement Website and the Settlement Class Member toll-free telephone line.

41. “**Notice of Deficiency**” means the notice sent by the Settlement Administrator to a Settlement Class Member who has submitted an invalid Claim for Settlement Class Member Benefits.

42. “**Objection Period**” means the period that begins the day after the earliest day on which the Notice is first distributed, and that ends no later than 30 days before the initial scheduled Final Approval Hearing.

43. “**Opt-Out Period**” means the period that begins the day after the earliest day on which the Notice is first distributed, and that ends no later than 30 days before the initial scheduled Final Approval Hearing.

44. “**Party**” means each of the Plaintiffs and Defendant, and “**Parties**” means Plaintiffs and Defendant collectively.

45. “**Private Information**” means some combination of Settlement Class Members’ names, Social Security numbers, and driver’s license/state identification numbers.

46. “**Plaintiffs**” means Robert Myers, Madison Marcel, Troy Ashline, Tarayl Goss and Mary Dell Payne.

47. “**Postcard Notice**” means the postcard notice of the Settlement, substantially in the form attached hereto as ***Exhibit 1***, including a QR code that links directly to the Claim Form on the Settlement Website, that the Settlement Administrator shall disseminate to Settlement Class Members by U.S. mail.

48. “**Preliminary Approval**” means the preliminary approval of the Settlement, which occurs when the Court enters the Preliminary Approval Order, substantially in the form submitted with the Motion for Preliminary Approval.

49. “**Preliminary Approval Order**” means the order preliminarily approving the Settlement and proposed Notice Program, substantially in the form attached hereto as ***Exhibit 4***.

50. “**Reasonable Documentation**” means documentation supporting a claim for Documented Loss, including, but not limited to, credit card statements, bank statements, invoices, telephone records, and receipts. Documented Loss costs cannot be documented solely by a personal certification, declaration, or affidavit from the Claimant; a Settlement Class Member must provide supporting documentation.

51. “**Releases**” means the releases and waiver set forth in this Agreement.

52. “**Released Claims**” means any and all actual, potential, filed or unfiled, known or unknown, fixed or contingent, claimed or unclaimed, suspected or unsuspected claims, demands, liabilities, rights, causes of action, damages, punitive, exemplary or multiplied damages, expenses, costs, attorneys’ fees and/or obligations, whether in law or in equity, accrued or unaccrued, direct, individual or representative, joint or several, of every nature and description whatsoever, based on any federal, state, local, statutory or common law or any other law, against the Released Parties,

or any of them, arising out of or relating to actual or alleged facts, transactions, events, matters, occurrences, acts, disclosures, statements, representations, omissions or failures to act relating to the Data Incident.

53. **“Released Parties”** means Defendant and its past, present, and future direct and indirect heirs, assigns, associates, corporations, investors, owners, parents, subsidiaries, affiliates, divisions, officers, directors, shareholders, members, agents, attorneys, insurers, reinsurers, benefit plans, predecessors, successors, managers, administrators, executors, and trustees.

54. **“Releasing Parties”** means Plaintiffs and Settlement Class Members and their respective past, present, and future heirs, beneficiaries, conservators, executors, estates, administrators, assigns, agents, accountants, financial and other advisors, and any other representatives of any of these persons and entities.

55. **“Service Awards”** means the payments the Court may award the Plaintiffs who sign this Agreement for serving as Class Representatives.

56. **“Settlement Administrator”** means Simpluris.

57. **“Settlement Administration Costs”** means all costs and fees of the Settlement Administrator regarding Notice and Settlement administration.

58. **“Settlement Agreement”** or **“Settlement”** or **“Agreement”** means this Settlement Agreement and Release between Plaintiff and Defendant.

59. **“Settlement Class”** means all living individuals residing in the United States who had information potentially impacted in the Data Incident and/or were notified of the Data Incident. Excluded from the Settlement Class are (a) all persons who are employees, directors, officers, and agents of Defendant, or its respective subsidiaries and affiliated companies; (b) governmental entities; and (c) the Judge(s) assigned to the Action and their immediate family, and Court staff.

60. “**Settlement Class Member**” means a member of the Settlement Class.

61. “**Settlement Class Member Benefit**” means the Settlement Class benefits under the Settlement.

62. “**Settlement Website**” means the website the Settlement Administrator will establish as a means for Settlement Class Members to submit Claim Forms and obtain notice and information about the Settlement, including hyperlinked access to this Agreement, the Preliminary Approval Order, Long Form Notice, Claim Form, Motion for Final Approval, Application for Attorneys’ Fees, Costs, and Service Awards, and Final Approval Order, as well as other documents as the Parties agree to post or the Court orders posted. The Settlement Website shall remain online and operable for at least six months after Final Approval.

63. “**Valid Claim**” means a Claim Form submitted by a Settlement Class Member that is (a) submitted in accordance with the provisions of the Settlement; (b) accurately, fully, and truthfully completed and executed, with all of the information requested in the Claim Form, by a Settlement Class Member; (c) signed physically or by e-signature by a Settlement Class Member personally, subject to the penalty of perjury; (d) returned via mail and postmarked by the Claim Form Deadline, or, if submitted online, submitted by 11:59 p.m. Eastern time on the Claim Form Deadline; and (e) determined to be valid by the Settlement Administrator. The Settlement Administrator may require additional information from the Claimant to validate the Claim, including, but not limited to, answers related to questions regarding the validity or legitimacy of the physical or e-signature, or the submission of Reasonable Documentation as required under this Agreement. Failure to respond to the Settlement Administrator’s Notice of Deficiency may result in a determination that the Claim is not a Valid Claim.

III. Certification of the Settlement Class

64. In the Motion for Preliminary Approval, Plaintiffs shall propose and request to the Court that the Settlement Class be certified for Settlement purposes only. Defendant agrees solely for purposes of the Settlement provided for in this Agreement, and the implementation of such Settlement, that this case shall proceed as a class action; provided however, that if a Final Approval Order is not issued, then any certification shall be null and void and, for the avoidance of doubt, Defendant shall retain all rights to object to any future requests to certify a class. Plaintiffs and Class Counsel shall not reference this Agreement in support of any subsequent motion for class certification of any class in the Action in such event.

IV. Settlement Consideration

65. Settlement Class Members must submit a Valid Claim to the Settlement Administrator to receive a Cash Payment payable from Defendant. When submitting a Valid Claim, Settlement Class Members must choose either Cash Payment A – Documented Losses or Cash Payment B – Alternate Cash. If a Settlement Class Member does not submit a Valid Claim, the Settlement Class Member will release his or her claims without receiving a Settlement Class Member Benefit.

a. Cash Payment A – Documented Losses

Settlement Class Members may submit a claim for a Cash Payment under this section for up to \$2,500.00 per Settlement Class Member upon presentment of reasonable documented losses related to the Data Incident. To receive a documented loss payment, a Settlement Class Member must elect Cash Payment A on the Claim Form attesting under penalty of perjury to having incurred documented losses. Settlement Class Members will be required to submit reasonable documentation supporting the losses, which means documentation contemporaneously generated

or prepared by a third party or the Settlement Class Member supporting a claim for expenses paid. Non-exhaustive examples of reasonable documentation include telephone records, correspondence including emails, or receipts. Except as expressly provided herein, personal certifications, declarations, or affidavits from the Settlement Class Member do not constitute reasonable documentation but may be included to provide clarification, context, or support for other submitted reasonable documentation. Settlement Class Members shall not be reimbursed for expenses if they have been reimbursed for the same expenses by another source, including compensation provided in connection with the credit monitoring and identity theft protection product offered as part of the notification letter provided by Defendant or otherwise. If a Settlement Class Member does not submit reasonable documentation supporting a loss, or if their Claim is rejected by the Settlement Administrator for any reason, and the Settlement Class Member fails to cure his or her Claim, the Claim will be rejected and the Settlement Class Member's Claim will be as if he or she elected Cash Payment B.

b. Cash Payment B – Alternate Cash

As an alternative to Cash Payment A above, a Settlement Class Member may elect to receive Cash Payment B, which is an alternative cash payment in the amount of \$50.00.

66. Credit Monitoring

In addition to Cash Payment A or Cash Payment B, Settlement Class Members may also elect to receive Credit Monitoring, which will consist of one year of three-bureau credit monitoring, which includes: (i) real time monitoring of the credit file with three credit bureaus; (ii) dark web scanning with immediate notification of potential unauthorized use; (iii) security freezing assistance; (iv) victim assistance; (v) \$1,000,000.00 in identity theft insurance with no deductible; and (vi) access to fraud resolution agents to help investigate and resolve instances of identity theft.

67. **Settlement Administration Costs**

Defendant shall be solely responsible for the payment of all Settlement Administration Costs. Plaintiffs, Class Counsel, and the Settlement Class will have no liability for the payment of the Settlement Administration Costs. Defendant shall pay the Settlement Administration Costs to the Settlement Administrator within 30 business days of receipt of valid invoices from the Settlement Administrator.

68. **Injunctive Relief**

As a material part of this Settlement, prior to Final Approval, Defendant will provide Class Counsel with a confidential security attestation regarding security enhancements Defendant implemented following the Data Incident and the estimated costs of such past and future measures. The costs of any such security enhancements shall be fully borne by Defendant, and under no circumstances will such costs be deducted from the Settlement Fund.

69. **Settlement Approval**

The Motion for Preliminary Approval shall, among other things, request the Court (1) preliminarily approve the terms of the Settlement as being within the range of fair, adequate, and reasonable; (2) provisionally certify the Settlement Class for settlement purposes only; (3) approve the Notice Program set forth herein and approve the form and content of the Notices of the Settlement; (4) approve the Claim Form and Claim Process; (5) approve the procedures for Settlement Class Members to opt-out of the Settlement or for Settlement Class Members to object to the Settlement; (6) appoint Steven Sukert of Kopelowitz Ostrow P.A. and Casondra Turner of Milberg Coleman Bryson Phillips Grossman PLLC as Class Counsel for Settlement purposes; (7) appoint the Plaintiffs who sign this Agreement as Class Representatives; (8) appoint Simpluris as the Settlement Administrator; (9) stay the Action pending Final Approval of the Settlement; and

(10) schedule a Final Approval Hearing for a time and date mutually convenient for the Court, the Parties, Class Counsel, and Defendant's Counsel.

V. Settlement Administrator

70. The Parties agree that, subject to Court approval, Simpluris shall be the Settlement Administrator. Defendant's Counsel and Class Counsel shall oversee the Settlement Administrator.

71. The Settlement Administrator shall fulfill the requirements set forth in the Preliminary Approval Order and the Agreement and comply with all applicable laws, including, but not limited to, the Due Process Clause of the United States Constitution.

72. The Settlement Administrator shall administer various aspects of the Settlement as described in the following paragraph and perform such other functions as are specified for the Settlement Administrator elsewhere in this Agreement, including, but not limited to, effectuating the Notice Program, handling the Claims Process, assessing Claim Forms and determining whether they are supported by Reasonable Documentation, and distributing Cash Payments to those who submit Valid Claims.

73. The Settlement Administrator's duties include the following:

a. Complete the Court-approved Notice Program by noticing the Settlement Class by Postcard Notice and sending out Long Form Notices and paper Claim Forms upon request from Settlement Class Members, reviewing Claim Forms and documentation supporting claims for Documented Losses, notifying Claimants of deficient Claim Forms using the Notice of Deficiency, and sending approved Cash Payments to Settlement Class Members who submit a Valid Claim;

b. Establish and maintain a post office box to receive opt-out requests, objections, and Claim Forms from Settlement Class Members;

- c. Establish and maintain the Settlement Website to provide important information and to receive electronic Claim Forms;
- d. Establish and maintain an automated toll-free telephone line for Settlement Class Members to call with Settlement-related inquiries, and answer the frequently asked questions of Settlement Class Members who call with or otherwise communicate such inquiries;
- e. Respond to any mailed Settlement Class Member inquiries;
- f. Process all opt-out requests from Settlement Class Members;
- g. Provide weekly reports to Class Counsel and Defendant's Counsel that summarize the number of Claims submitted, Claims approved and rejected, Notices of Deficiency sent, opt-out requests and objections received that week, the total number of opt-out requests and objections received to date, and other pertinent information;
- h. In advance of the Final Approval Hearing, prepare a declaration confirming the Notice Program was completed in accordance with the terms of this Agreement and the Preliminary Approval Order, describing how the Notice Program was completed, indicating the number of Claim Forms received, providing the names of each Settlement Class Member who timely and properly requested to opt-out from the Settlement Class, indicating the number of objections received, and other information as may be necessary to allow the Parties to seek and obtain Final Approval;
- i. Review Claim Forms submitted by Settlement Class Members to determine whether they are eligible for a Cash Payment;
- j. Collect from Defendant and/or its insurers the cash necessary to pay Valid Claims for Cash Payments;

k. Distribute Cash Payments for Documented Losses to Settlement Class

Members who submit Valid Claims; and

Any other Settlement administration function at the instruction of Class Counsel and Defendant's Counsel, including, but not limited to, verifying that Settlement Cash Payments for Documented Losses have been properly distributed.

VI. Notice to the Settlement Class, Opt-Out Procedures, and Objection Procedures

74. Defendant will make available to Class Counsel and the Settlement Administrator the Class List no later than five business days after entry of the Preliminary Approval Order. To the extent necessary, Defendant will cooperate with updating the Class List to accomplish the Notice Program and otherwise administer the Settlement.

75. Within 30 days following entry of the Preliminary Approval Order, the Settlement Administrator shall commence the Notice Program provided herein, using the forms of Notice approved by the Court. Settlement Class Members shall receive a Postcard Notice by U.S. mail.

76. The Postcard Notice shall include a QR code that links directly to the Claim Form on the Settlement Website and shall include, among other information, the following: a description of the material terms of the Settlement; how to submit a Claim Form; the Claim Form Deadline; the last day of the Opt-Out Period for Settlement Class members to opt-out of the Settlement Class; the last day of the Objection Period for Settlement Class members to object to the Settlement and/or the Application for Attorneys' Fees, Costs, and Service Awards; the Final Approval Hearing date; and the Settlement Website address at which Settlement Class Members may access this Agreement and other related documents and information. Class Counsel shall insert the correct dates and deadlines in the Notice before the Notice Program commences, based upon those dates and deadlines set by the Court in the Preliminary Approval Order. If the date or time for the Final

Approval Hearing changes, the Settlement Administrator shall update the Settlement Website to reflect the new date. No additional notice to the Settlement Class is required if the date or time for the Final Approval Hearing changes.

77. The Settlement Administrator shall establish the Settlement Website no later than the day before Notice is first initiated. The Settlement Administrator shall ensure the Settlement Website makes available the Court-approved online Claim Form that can be submitted directly on the Settlement Website or in printable version that can be sent by U.S. Mail to the Settlement Administrator.

78. The Long Form Notice shall include a procedure for Settlement Class Members to opt-out of the Settlement Class, and the Postcard Notice shall direct Settlement Class Members to review the Long Form Notice to obtain the opt-out instructions. A Settlement Class Member may opt-out of the Settlement Class at any time during the Opt-Out Period by mailing a request to opt-out to the Settlement Administrator postmarked no later than the last day of the Opt-Out Period. The opt-out request must be personally signed by the Settlement Class Member and contain the requestor's name, address, telephone number, and email address (if any), and a statement indicating a request to be excluded from the Settlement Class. Any Settlement Class Member who does not timely and validly request to opt-out shall be bound by the terms of this Agreement even if that Settlement Class Member does not submit a Valid Claim.

79. The Long Form Notice also shall include a procedure for Settlement Class Members to object to the Settlement and/or Application for Attorneys' Fees, Costs, and Service Awards, and the Postcard Notice shall direct Settlement Class Members to review the Long Form Notice to obtain the objection instructions. Objections must be filed with the Court, and sent by U.S. Mail to Class Counsel, Defendant's Counsel, and the Settlement Administrator. For an

objection to be considered by the Court, the objection must be submitted no later than the last day of the Objection Period, as specified in the Notice, and the Settlement Class Member must not have excluded him/herself from the Settlement Class. If submitted by mail, an objection shall be deemed to have been submitted when posted if received with a postmark date indicated on the envelope if mailed first-class postage prepaid and addressed in accordance with the instructions. If submitted by private courier (e.g., Federal Express), an objection shall be deemed to have been submitted on the shipping date reflected on the shipping label. Any Class Member who fails to comply with the requirements for objecting shall waive and forfeit any and all rights he or she may have to appear separately or to object to the Settlement Agreement, and the Class Member shall be bound by all the terms of the Settlement Agreement and by all proceedings, orders, and judgments in the Litigation.

80. For an objection to be considered by the Court, the objection must also set forth the following:

- a. the objector's full name, mailing address, telephone number, and email address (if any);
- b. all grounds for the objection, accompanied by any legal support for the objection known to the objector or objector's counsel;
- c. the number of times the objector has objected to a class action settlement within the 5 years preceding the date that the objector files the objection, the caption of each case in which the objector has made such objection, and a copy of any orders related to or ruling upon the objector's prior objections that were issued by the trial and appellate courts in each listed case;
- d. the identity of all counsel who represent the objector, including any former

or current counsel who may be entitled to compensation for any reason related to the objection to the Settlement and/or the Application for Attorneys' Fees, Costs, and Service Awards, and whether they will appear at the Final Approval Hearing;

e. the number of times in which the objector's counsel and/or the objector's counsel's law firm have objected to a class action settlement within the 5 years preceding the date of the filed objection, the caption of each case in which counsel or the firm has made such objection and a copy of any orders related to or ruling on the objection issued by the trial and appellate courts in each such listed case;

f. a list of all persons who will be called to testify at the Final Approval Hearing in support of the objection (if any);

g. a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; and

h. the objector's signature (an attorney's signature is not sufficient) and their attorney's signature (if applicable).

81. Class Counsel and/or Defendant's Counsel may conduct limited discovery on any objector or objector's counsel.

82. The Notice Program shall be completed in its entirety no later than 60 days before the original date set for the Final Approval Hearing.

VII. Claims Process and Disbursement of Cash Payments

83. The Notice and the Settlement Website will explain to Settlement Class Members that they may be entitled to Cash Payments and how to submit a Claim Form.

84. Claim Forms may be submitted online through the Settlement Website or through U.S. Mail by sending them to the Settlement Administrator at the address designated on the Claim

Form.

85. The Settlement Administrator shall collect, review, and address each Claim Form received to determine whether the Claim Form meets the requirements set forth in this Agreement, including whether it is supported by Reasonable Documentation, and is thus a Valid Claim. The Settlement Administrator shall examine the Claim Form and supporting documentation before designating the Claim as a Valid Claim to determine that the information on the Claim Form is reasonably complete and supported by Reasonable Documentation. The Settlement Administrator shall have the sole authority to determine whether a Claim by any Claimant is a Valid Claim.

86. The Settlement Administrator shall use all reasonable efforts and means to identify and reject duplicate claims. No Settlement Class Member may submit more than one Claim Form. The Settlement Administrator shall identify any Claim Forms that appear to seek relief on behalf of the same Settlement Class Member. The Settlement Administrator shall use its best efforts to determine whether there is any duplication of claims, and if there is, contact the Settlement Class Member in an effort to determine which Claim Form is the appropriate one for consideration.

87. The Settlement Administrator shall exercise, in its discretion, all usual and customary steps to prevent fraud and abuse and take any reasonable steps to prevent fraud and abuse in the Claim process. The Settlement Administrator may, in its discretion, deny in whole or in part any Claim Form to prevent actual or possible fraud or abuse. By agreement, the Parties can instruct the Settlement Administrator to take whatever steps it deems appropriate if the Settlement Administrator identifies actual or possible fraud or abuse relating to the submission of claims, including, but not limited to, denying in whole or in part any Claim to prevent actual or possible fraud or abuse. If any fraud is detected or reasonably suspected, the Settlement Administrator and Parties may require information from the Claimant or deny the Claim, subject to the supervision

of the Parties and ultimate oversight by the Court.

88. Claim Forms that do not meet the terms and conditions of this Settlement (including for failure to submit Reasonable Documentation shall be promptly rejected by the Settlement Administrator and the Settlement Administrator shall advise the Settlement Class Member of the reason(s) why the Claim Form was rejected. However, if the Claim Form is rejected for containing incomplete or inaccurate information, and/or omitting required information (including for failure to submit Reasonable Documentation), the Settlement Administrator may send a Notice of Deficiency explaining what information is missing or inaccurate and needed to validate the Claim and have it submitted for consideration. The Settlement Administrator shall notify the Settlement Class Member using the contact information provided in the Claim Form. The additional information and/or documentation can include, for example, answers to questions regarding the validity of the Claimant's physical or e-signature, or the submission of additional evidence supporting a claim for Documented Losses. A Settlement Class Member shall have until the Claim Form Deadline, or 15 days from the date the Notice of Deficiency is sent via mail and postmarked or sent via email, whichever is later, to reply to the Notice of Deficiency and provide the required information. If the Settlement Class Member timely and adequately provides the requested information and/or documentation, the Claim shall be deemed a Valid Claim and processed by the Settlement Administrator. If the Settlement Class Member does not timely and completely provide the requested information and/or documentation, the Settlement Administrator shall reduce or deny the Claim unless Defendant's Counsel and Class Counsel otherwise agree. Settlement Class Members' rejected Cash Payment A claims may be treated as if he or she elected Cash Payment B.

89. Where a good faith basis exists, the Settlement Administrator may reduce or reject a Claim for the following reasons, among others:

- a. Failure to fully complete and/or sign the Claim Form;
- b. Failure to submit Reasonable Documentation;
- c. Illegible Claim Form;
- d. The Claim Form is fraudulent;
- e. The Claim Form is duplicative of another Claim Form;
- f. The Claimant is not a Settlement Class Member;
- g. The Claimant submitted a timely and valid request to opt-out of the Settlement Class;
- h. The person submitting the Claim Form requests that payment be made to a person or entity other than the Claimant for whom the Claim Form is submitted;
- i. Failure to submit a Claim Form by the Claim Form Deadline; and/or
- j. The Claim Form otherwise does not comply with the requirements of this Settlement.

90. The Settlement Administrator's reduction or denial of a Claim is final, subject to the following dispute resolution procedures:

- a. The Settlement Administrator shall have 30 days from the Claim Form Deadline to approve or reject Claims based on findings of fraud or duplication.
- b. A request for additional information by sending a Notice of Deficiency shall not be considered a denial for purposes of this paragraph.
- c. If a Claim is rejected for fraud or duplication, the Settlement Administrator shall notify the Claimant using the contact information provided in the Claim Form. Class Counsel and Defendant's Counsel shall be provided with copies of all such notifications to Claimants.

d. The Settlement Administrator's determination as to whether to approve, deny, or reduce a Claim shall be final and binding.

91. The Settlement Administrator shall provide all information gathered in investigating Claims, including but not limited to copies of all correspondence and all notes of the Settlement Administrator, the decision reached, and all reasons supporting the decision, if requested by Class Counsel or Defendant's Counsel. Additionally, Class Counsel and Defendant's Counsel shall have the right to inspect the Claim Forms and supporting documentation received by the Settlement Administrator at any time upon reasonable notice.

92. No person or entity shall have any claim against Defendant, Defendant's Counsel, Plaintiffs, the Settlement Class, Class Counsel, and/or the Settlement Administrator based on any eligibility determinations, distributions, or awards made in accordance with this Settlement.

93. The Settlement Administrator must submit an invoice to Defendant for payment of all Valid Claims within 5 business days of the Effective Date or as soon as all Claim deficiencies are resolved via the Dispute Resolution process set forth here. Defendant shall pay or cause to be paid to the Settlement Administrator the invoiced amount of all Valid Claims within 30 days of the invoice.

94. No later than 75 days after Final Approval or 30 days after the Effective Date, whichever is later, the Settlement Administrator shall distribute the Settlement Class Member Benefits.

95. Cash Payments to Settlement Class Members will be made by electronic payment or by paper check. Following Final Approval, the Settlement Administrator will send Settlement Class Members an email to select a form of electronic payment or to receive payment by paper check. In the event a Settlement Class Member does not make an election or there is a problem

with issuance of an electronic payment, a paper check will be sent to the Settlement Class Member's last known address. Settlement Class Members shall have 90 days to select their form of payment following such email from the Settlement Administrator. Paper checks must be negotiated within 120 days of issuance. In the event the Settlement Administrator is unable to distribute funds to the person or persons entitled to receive them due to incorrect or incomplete information provided to the Settlement Administrator, the funds shall revert to Defendant, and the Settlement Class Member shall forfeit their right to the funds.

VIII. Final Approval Order and Final Judgment

96. Plaintiffs shall file their Motion for Final Approval of the Settlement, inclusive of the Application for Attorneys' Fees, Costs, and Service Awards, no later than 45 days before the original date set for the Final Approval Hearing. At the Final Approval Hearing, the Court will hear argument on Plaintiffs' Motion for Final Approval of the Settlement and Application for Attorneys' Fees, Costs, and Service Awards. In the Court's discretion, the Court will also hear argument at the Final Approval Hearing from any Settlement Class Member (or their counsel) who objects to the Settlement and/or to the Application for Attorneys' Fees, Costs, and Service Awards, provided the objectors submitted timely objections that meet all of the requirements listed in this Agreement.

97. At or following the Final Approval Hearing, the Court will determine whether to enter the Final Approval Order and final judgment thereon, and whether to grant the Application for Attorneys' Fees, Costs, and Service Awards. Such proposed Final Approval Order shall effectuate the following, among other things:

- a. Determine that the Settlement is fair, adequate and reasonable;
- b. Finally certify the Settlement Class for settlement purposes only;

- c. Determine that the Notice Program satisfies Due Process requirements;
- d. Bar and enjoin all Releasing Parties from asserting or otherwise pursuing any of the Released Claims at any time and in any jurisdiction, including during any appeal from the Final Approval Order; and retain jurisdiction over the enforcement of the Court's injunctions;
- e. Release Defendant and the Released Parties from the Released Claims; and
- f. Reserve the Court's continuing and exclusive jurisdiction over the Parties to this Agreement, including Defendant, Plaintiffs, all Settlement Class Members, and all objectors, to administer, supervise, construe, and enforce this Agreement in accordance with its terms.

IX. Attorneys' Fees and Costs; Service Awards

98. *Service Awards* – In recognition of the time and effort Class Representatives expended in pursuing this Action and in fulfilling their obligations and responsibilities to the Class, and of the relief conferred on all Settlement Class Members by the Settlement, Class Counsel shall request a Service Award for Class Representatives in the amount not to exceed \$2,500.00 each. The Service Award payments to Class Representatives shall be separate and apart from their entitlement to Settlement Class Member Benefits. Defendant shall pay or cause to be paid the Court-approved Service Awards to Class Counsel within 20 business days of Final Approval.

99. *Attorneys' Fees and Costs* – As part of the Motion for Final Approval, Plaintiffs will move the Court for an order awarding reasonable attorneys' fees and litigation costs of up to \$250,000.00. Defendant will not oppose Plaintiffs' request for attorneys' fees and costs up to that amount. Defendant shall pay or cause to be paid the Court-approved attorneys' fees and costs to Class Counsel within 20 business days of the later of: (a) the date the Court enters its order

awarding such attorneys' fees and litigation costs; or (b) the date on which Class Counsel has provided Defendant with all information and documentation reasonably necessary for Defendant to process the payment, including but not limited to wire or other payment instructions, tax identification number(s), and completed Form(s) W-9.

100. The Parties did not discuss the payment of attorneys' fees, costs, or Service Awards until after the substantive terms of the Settlement had been agreed upon.

101. This Settlement is not contingent on approval of the Application for Attorneys' Fees, Costs, and Service Awards, and if the Court denies the request or grants amounts less than what was requested, the remaining provisions of the Agreement shall remain in force.

X. Releases

102. Upon the Effective Date, and in consideration of the Settlement relief and other consideration described herein, the Releasing Parties shall be deemed to have, and by operation of the Final Approval Order shall have, fully, finally, and forever released, acquitted, relinquished, and completely discharged the Released Parties from any and all Released Claims, including but not limited to any federal or state statutory or common law claims arising out of or relating to the Data Incident that the Releasing Parties may have or had. Each Party expressly waives all rights under California Civil Code section 1542, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

The Releasing Parties also waive the provisions and rights of any law(s) that are comparable in effect to California Civil Code section 1542 (including, without limitation,

California Civil Code § 1798.80, *et seq.*, Montana Code Ann. § 28- 1-1602; North Dakota Cent. Code § 9-13-02; and South Dakota Codified Laws § 20-7-11). The Releasing Parties agree that, once this Agreement is executed, they will not, directly or indirectly, individually or in concert with another, maintain, cause to be maintained, or voluntarily assist in maintaining any further demand, action, claim, lawsuit, arbitration, or similar proceeding, in any capacity whatsoever, against any of the Released Parties based on any of the Released Claims.

103. Settlement Class Members who opt-out of the Settlement prior to the end of the Opt-Out Period do not release their claims and will not obtain any benefits, including any Settlement Class Member Benefits, under the Settlement.

104. Upon the Effective Date (a) this Settlement shall be the exclusive remedy for any and all Released Claims of Plaintiffs and Settlement Class Members; and (b) Plaintiffs and Settlement Class Members stipulate to be and shall be permanently barred and enjoined by Court order from initiating, asserting, or prosecuting any Released Claim against the Released Parties, whether on behalf of Plaintiffs, any Settlement Class Member or others, in any jurisdiction, including in any federal, state, or local court or tribunal.

105. The power to enforce any term of this Settlement is not affected by the releases in this section.

XI. Termination of Settlement

106. This Agreement shall be subject to, and is expressly conditioned on, the occurrence of all of the following events:

- a. Court approval of the Settlement consideration set forth in Section IV and the Releases set forth in Section XI of this Agreement;
- b. The Court has entered the Preliminary Approval Order;

c. The Court has entered the Final Approval Order, and all objections, if any, are overruled, and all appeals taken from the Final Approval Order are resolved in favor of Final Approval; and

d. The Effective Date has occurred.

107. If any of the conditions specified in the preceding paragraph are not met, or if the Court otherwise imposes any modification to or condition of approval of the Settlement to which the Parties do not consent, then this Agreement shall be cancelled and terminated.

108. In the event this Agreement is terminated or fails to become effective, then the Parties shall return to the *status quo ante* in the Action as if the Parties had not entered into this Agreement, and the Parties shall jointly file a status report in the Court seeking to reopen the Action and all papers filed. In such event, the terms and provisions of this Agreement shall have no further force and effect with respect to the Parties and shall not be used in this Action or in any other action or proceeding for any other purpose, and any order entered by this Court in accordance with the terms of this Agreement shall be treated as vacated, *nunc pro tunc*.

109. In the event this Agreement is terminated or fails to become effective, Defendant shall have no right to seek from Plaintiffs, Class Counsel, or the Settlement Administrator the Settlement Administration Costs already paid.

XII. Effect of Termination

110. The grounds upon which this Agreement may be terminated are set forth in Section XII. In the event of a termination, this Agreement shall be considered null and void; all of Plaintiffs', Class Counsel's, Defendant's, and Defendant's Counsel's obligations under the Settlement shall cease to be of any force and effect; and the Parties shall return to the *status quo ante* in the Action as if the Parties had not entered into this Agreement. In addition, in the event of

such a termination, all of the Parties' respective pre-Settlement rights, claims, and defenses will be retained and preserved.

111. In the event the Settlement is terminated in accordance with the provisions of this Agreement, any discussions, offers, or negotiations associated with this Settlement shall not be discoverable or offered into evidence or used in the Action or any other action or proceeding for any purpose. In such event, all Parties to the Action shall stand in the same position as if this Agreement had not been negotiated, made, or filed with the Court.

XIII. No Admission of Liability

112. This Agreement reflects the Parties' compromise and settlement of disputed claims. This Agreement shall not be construed as or deemed to be evidence of an admission or concession of any point of fact or law. Defendant has denied and continues to deny each of the claims and contentions alleged in the Complaint. Defendant does not admit any liability or wrongdoing of any kind, by this Agreement or otherwise. Defendant has agreed to enter into this Agreement to avoid the further expense, inconvenience, and distraction of burdensome and protracted litigation, and to be completely free of any further claims that were asserted or could possibly have been asserted in the Action.

113. Class Counsel believe the claims asserted in the Action have merit, and they have examined and considered the benefits to be obtained under the proposed Settlement set forth in this Agreement, the risks associated with the continued prosecution of this complex, costly, and time-consuming litigation, and the likelihood of success on the merits of the Action. Class Counsel fully investigated the facts and law relevant to the merits of the claims, conducted discovery, and conducted independent investigation of the alleged claims. Class Counsel concluded that the proposed Settlement set forth in this Agreement is fair, adequate, reasonable, and in the best

interests of the Settlement Class Members.

114. This Agreement constitutes a compromise and settlement of disputed claims. No action taken by the Parties in connection with the negotiations of this Agreement shall be deemed or construed to be an admission of the truth or falsity of any claims or defenses heretofore made, or an acknowledgment or admission by any party of any fault, liability, or wrongdoing of any kind whatsoever.

115. Neither the Settlement, nor any act performed or document executed pursuant to or in furtherance of the Settlement (a) is or may be deemed to be, or may be used as, an admission of, or evidence of, the validity of any claim made by the Plaintiffs or Settlement Class Members, or of any wrongdoing or liability of the Released Parties; or (b) is or may be deemed to be, or may be used as, an admission of, or evidence of, any fault or omission of any of the Released Parties, in the Action or in any proceeding in any court, administrative agency, or other tribunal.

116. In addition to any other defenses Defendant or the Released Parties may have at law, in equity, or otherwise, to the extent permitted by law, this Agreement may be pleaded as a full and complete defense to and may be used as the basis for an injunction against, any action, suit, or other proceeding that may be instituted, prosecuted, or attempted in breach of this Agreement or the Releases contained herein.

XIV. Miscellaneous Provisions

117. ***Confidentiality.*** To the extent permitted by ethics rules, the Parties and their counsel shall keep confidential all settlement communications, including communications regarding the negotiation and drafting of this Agreement. The Parties will not make any public statement about the Settlement that has not been approved by the other side, except as required or authorized by law. Approval of any proposed public statement of the other side will not be unreasonably

withheld. The Parties will cooperate with each other regarding public statements about the Settlement and may issue a joint statement/press release if they mutually agree to do so. This paragraph shall not be construed to limit or impede the Notice requirements contained in this Agreement, nor shall this paragraph be construed to prevent Class Counsel or Defendant's Counsel from notifying or explaining that the Action has settled or limit the representations that the Parties or their counsel may make to the Court to assist in the Court's evaluation of the Settlement, Preliminary Approval, Final Approval, and any objection to the Settlement's terms. Defendant may also provide information about the Agreement to its customers, attorneys, members, partners, insurers, brokers, agents, and other persons or entities as required by securities laws, other applicable laws and regulations, and as necessary to effect the Settlement.

118. ***Gender and Plurals.*** As used in this Agreement, the masculine, feminine, or neutral gender, and the singular or plural number, shall each be deemed to include the others whenever the context so indicates.

119. ***Binding Effect.*** This Agreement shall be binding upon, and inure to and for the benefit of, the successors and assigns of the Releasing Parties and the Released Parties.

120. ***Cooperation of Parties.*** The Parties to this Agreement agree to cooperate in good faith to prepare and execute all documents, seek Court approval, uphold Court approval, and do all things reasonably necessary to complete and effectuate the Settlement described in this Agreement.

121. ***Obligation to Meet and Confer.*** Before filing any motion in the Court raising a dispute arising out of or related to this Agreement, the Parties shall consult with each other and certify to the Court that they have met and conferred in an attempt to resolve the dispute.

122. ***Integration and No Reliance.*** This Agreement constitutes a single, integrated

written contract expressing the entire agreement of the Parties relative to the subject matter hereof. This Agreement is executed without reliance on any covenant, agreement, representation, or warranty by any Party or any Party's representative other than those expressly set forth in this Agreement. No covenants, agreements, representations, or warranties of any kind whatsoever have been made by any Party hereto, except as provided for herein.

123. **No Conflict Intended.** Any inconsistency between the headings used in this Agreement and the text of the paragraphs of this Agreement shall be resolved in favor of the text.

124. **Governing Law.** Except as otherwise provided herein, the Agreement shall be construed in accordance with, and be governed by, the laws of the state of New York, without regard to the principles thereof regarding choice of law.

125. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, even though all Parties do not sign the same counterparts.

126. **Jurisdiction.** The Court shall retain jurisdiction over the implementation, enforcement, and performance of this Agreement, and shall have exclusive jurisdiction over any suit, action, proceeding, or dispute arising out of or relating to this Agreement that cannot be resolved by negotiation and agreement by counsel for the Parties. The Court shall also retain jurisdiction over all questions and/or disputes related to the Notice Program and the Settlement Administrator. As part of the agreement to render services in connection with this Settlement, the Settlement Administrator shall consent to the jurisdiction of the Court for this purpose. The Court shall retain jurisdiction over the enforcement of the Court's injunction barring and enjoining all Releasing Parties from asserting any of the Released Claims and from pursuing any Released Claims against the Released Parties at any time and in any jurisdiction, including during any appeal

from the Final Approval Order.

127. **Notices.** All notices provided for herein, shall be sent by email, as follows:

a. If to Plaintiffs or Class Counsel:

Steven Sukert
Kopelowitz Ostrow P.A.
1 West Las Olas Blvd., Ste. 500
Fort Lauderdale, FL 33301
sukert@kolawyers.com

Casondra Turner
**Milberg Coleman Bryson
Phillips & Grossman, PLLC**
800 S. Gay Street, Suite 1100
Knoxville, TN 37929
cturner@milberg.com

b. If to Defendant or Defendant's Counsel:

Ernest Koschineg
H. Nellie Fitzpatrick
Jonathan Tobin
Cipriani & Werner PC.
450 Sentry Parkway, Suite 200
Blue Bell, PA 19422
ekoschineg@c-wlaw.com
nfitzpatrick@c-wlaw.com
jtobin@c-wlaw.com

The notice recipients and addresses designated above may be changed by written notice.

Upon the request of any of the Parties, the Parties agree to promptly provide each other with copies of objections, requests for exclusion, or other filings received as a result of the Notice Program.

128. **Modification and Amendment.** This Agreement may not be amended or modified, except by a written instrument signed by Class Counsel and Defendant's Counsel and, if the Settlement has been approved preliminarily by the Court, as approved by the Court.

129. **No Waiver.** The waiver by any Party of any breach of this Agreement by another Party shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent,

or contemporaneous, of this Agreement.

130. ***Authority.*** Any person executing this Agreement in a representative capacity represents and warrants that he or she is fully authorized to do so and to bind the Party on whose behalf he or she signs this Agreement to all of the terms and provisions of this Agreement.

131. ***Agreement Mutually Prepared.*** Neither Plaintiffs nor Defendant shall be considered to be the drafter of this Agreement or any of its provisions for the purpose of any statute, common law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Agreement.

132. ***Independent Investigation and Decision to Settle.*** The Parties understand and acknowledge (a) that they have performed an independent investigation of the allegations of fact and law made in connection with the Action; and (b) that even if they may hereafter discover facts in addition to, or different from, those that they now know or believe to be true with respect to the subject matter of the Action as reflected in this Agreement, it will not affect or in any respect limit the binding nature of this Agreement. All Parties recognize and acknowledge they reviewed and analyzed data that they used to make certain determinations, arguments, and settlement positions. The Parties agree this Settlement is fair, reasonable, and adequate, and will not attempt to renegotiate or otherwise void or invalidate or terminate the Settlement irrespective of what any unexamined data later shows. It is the Parties' intention to resolve their disputes in connection with the Action pursuant to the terms of this Agreement now. Thus, in furtherance of the Parties' intentions, the Agreement shall remain in full force and effect notwithstanding the discovery of any additional facts or law, or changes in law, and this Agreement shall not be subject to rescission or modification by reason of any changes or differences in facts or law, subsequently occurring or otherwise.

133. ***Receipt of Advice of Counsel.*** Each Party acknowledges, agrees, and specifically warrants that he, she, or it has fully read this Agreement and the Releases contained herein, received independent legal advice with respect to the advisability of entering into this Agreement and the Releases, and the legal effects of this Agreement the Releases, and fully understands the effect of this Agreement and the Releases.

[signature page follows]

CLASS COUNSEL (on behalf of Plaintiffs and the Settlement Class)

Steven Sukert

Date: Oct 2, 2025

STEVEN SUKERT
KOPELOWITZ OSTROW P.A.

Casondra Turner

Casondra Turner (Oct 2, 2025 09:48:57 EDT)

Date: Oct 2, 2025

CASONDRA TURNER
MILBERG COLEMAN BRYSON
PHILLIPS GROSSMAN PLLC

SARATOGA HARNESS RACING, INC.,

Date: _____

By: _____

Its: _____

DEFENDANT'S COUNSEL

Date: _____

By: _____

Its: _____

CLASS COUNSEL (on behalf of Plaintiffs and the Settlement Class)

STEVEN SUKERT
KOPELOWITZ OSTROW P.A.

Date: _____

CASONDRA TURNER
MILBERG COLEMAN BRYSON
PHILLIPS GROSSMAN PLLC

Date: _____

SARATOGA HARNESS RACING, INC.,



By: Alex Tucker

Its: Treasurer

Date: 10-1-25

DEFENDANT'S COUNSEL

/s/H. Nellie Fitzpatrick
CIPRIANI & WERNER PC
By: H. Nellie Fitzpatrick, Esq

Its: Defense Counsel

Date: 10/1/2025

EXHIBIT 1

First-Class
Mail
US Postage
Paid
Permit # _____

«Barcode»

Postal Service: Please do not mark barcode

Claim #: XXX-«LoginID» - «MailRec»

«First1» «Last1»

«Addr1» «Addr2»

«City», «St» «Zip»

«Country»

Saratoga Data Incident Settlement
c/o Settlement Administrator
P.O. Box _____
Santa Ana, CA 92799-9958

Myers et al. v. Saratoga Harness Racing, Inc.
Case No. EF202598

IF YOUR PRIVATE INFORMATION WAS
COMPROMISED IN THE NOVEMBER 2024
SARATOGA HARNESS RACING
DATA INCIDENT, A PROPOSED CLASS
ACTION SETTLEMENT MAY AFFECT YOUR
RIGHTS AND ENTITLE YOU TO BENEFITS
AND A CASH PAYMENT.

A court has authorized this Notice.
This is *not* a solicitation from a lawyer.
You are not being sued.



THIS NOTICE IS ONLY A SUMMARY.
VISIT WWW.SETTLEMENTWEBSITEJ.COM
OR SCAN THIS QR CODE
FOR COMPLETE INFORMATION.

Why am I receiving this notice? A Settlement has been reached with Saratoga Harness Racing, Inc. ("Saratoga") in a class action lawsuit ("Settlement"). The case is about the November 2024 cyberattack on Saratoga's computer systems (the "Data Incident"). Files containing Private Information were accessed. Saratoga denies that it did anything wrong, and the Court has not decided who is right. The parties have agreed to settle the lawsuit to avoid the risks, disruption, and uncertainties of continued litigation. A copy of the Settlement Agreement is available online.	Full details and instructions are available online and in the Long Form Notice.
Who is included in the Settlement? The Court has defined the class as: "All living individuals residing in the United States who had information potentially impacted in the Data Incident and/or were notified of the Data Incident." The Court has appointed experienced attorneys, called "Class Counsel," to represent the Class.	How do I receive a benefit? File all of your claims online. For a full paper Claim Form call 1-XXX-XXX-XXXX. Claims must be submitted online or postmarked by [Claims Deadline].
What are the Settlement benefits? You can claim one year of Credit Monitoring by the three credit bureaus and one of two Cash Payment options. Cash Payment A – Documented Losses: if you have documented losses you can get back up to \$2,500. Cash Payment B – Alternate Cash. Instead of Cash Payment A, you may claim a one-time \$50,000 cash payment. You do not have to provide any proof or explanation to claim this payment.	What if I don't want to participate in the Settlement or do not like it? If you do not want to be part of the Settlement, you must opt-out by [Opt-Out Deadline] or you will not be able to sue Saratoga for the claims made in this lawsuit. If you opt-out, you cannot get make a claim for benefits from this Settlement. If you want to object to the Settlement, you may file an objection by [Objection Deadline]. The Long Form Notice and Settlement Agreement, available online, explains how to exclude yourself or object.
	When will the Court approve the Settlement? The Court will hold a hearing in this case on [FA Hearing Date] at the [Court Address], to consider whether to approve the Settlement. The Court will also consider Class Counsel's request for attorneys' fees and costs of up to \$250,000, and \$2,500 as a service award for each of the Plaintiffs. You may attend the hearing at your own cost, but you do not have to.
www.[SettlementWebsite].com	

EXHIBIT 2

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Myers et al. v. Saratoga Harness Racing, Inc.
Case No. EF202598
Supreme Court of Saratoga County, New York

**IF YOUR PRIVATE INFORMATION WAS COMPROMISED IN THE
NOVEMBER 2024 SARATOGA HARNESS RACING DATA INCIDENT, A
PROPOSED CLASS ACTION SETTLEMENT MAY AFFECT YOUR RIGHTS, AND
ENTITLE YOU TO BENEFITS AND A CASH PAYMENT.**

A court has authorized this notice. This is not a solicitation from a lawyer.

You are not being sued.

Please read this Notice carefully and completely.

- A Settlement has been reached with Saratoga Harness Racing, Inc. (“Saratoga” or “Defendant”) in a class action lawsuit. This case is about the targeted cyberattack on Saratoga's computer systems that occurred in November 2024 (the “Data Incident”). Certain files that contained Private Information were accessed. These files may have contained personal information such as names, Social Security numbers, and driver’s license/state identification numbers.
- The lawsuit is called *Myers et al. v. Saratoga Harness Racing, Inc.*, Case No. EF202598. It is pending in the Supreme Court of Saratoga County, New York (the “Litigation”).
- Saratoga denies that it did anything wrong, and the Court has not decided who is right.
- The parties have agreed to settle the lawsuit (the “Settlement”) to avoid the costs and risks, disruptions, and uncertainties of continuing the Litigation.
- Saratoga's records indicate that you are a Settlement Class Member, and entitled to benefits under the Settlement. You may have received a previous notice directly from Saratoga.
- Your rights are affected whether you act or don’t act. ***Please read this Notice carefully and completely.***

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT		DEADLINE
SUBMIT A CLAIM	The only way to receive benefits or payments from this Settlement is by submitting a valid and timely Claim Form. The fastest way to submit your Claim Form is online at www.[SettlementWebsite].com. If you prefer, you can download the Claim Form from the Settlement Website and mail it to the Settlement Administrator.	<u> </u> , 2025
OPT-OUT OF THE SETTLEMENT	You can choose to opt-out of the Settlement and receive no Cash Payment or Credit Monitoring. This option allows you to sue, continue to sue, or be part of another lawsuit against the Defendant related to the legal claims resolved by this Settlement. You can hire your own lawyer at your own expense.	<u> </u> , 2025
OBJECT TO THE SETTLEMENT AND/OR ATTEND A HEARING	If you do not opt-out of the Settlement, you may object to it by writing to the Court about why you don't like the Settlement. You may also ask the Court for permission to speak about your objection at the Final Approval Hearing. If you object, you may also file a claim for Settlement Class Member benefits.	<u> </u> , 2025
DO NOTHING	Unless you opt-out of the Settlement, you are automatically part of the Settlement. If you do nothing, you will not receive benefits or payments from this Settlement. You will give up the right to sue, continue to sue, or be part of another lawsuit against the Defendant related to the legal claims resolved and released by this Settlement.	No Deadline

- These rights and options—and the deadlines to exercise them—are explained in this Notice.
- The Court in charge of this case still has to decide whether to approve the Settlement.

WHAT THIS NOTICE CONTAINS

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Basic Information

1. Why was this Notice issued?

The Supreme Court of Saratoga County, New York, authorized this Notice. You have a right to know about the proposed Settlement of this class action lawsuit, and about all of your options, before the Court decides whether to grant final approval of the Settlement. This Notice explains the lawsuit, your legal rights, what benefits are available, and who can receive them.

The lawsuit is called *Myers et al. v. Saratoga Harness Racing, Inc.*, Case No. EF202598. It is pending in the Supreme Court of Saratoga County, New York. The people that filed this lawsuit are called the “Plaintiffs” (or “Class Representatives”) and the company they sued, Saratoga Harness Racing, Inc., is called the “Defendant.”

2. What is this lawsuit about?

This lawsuit alleges that during the November 2024 targeted cyberattack on Saratoga's computer systems, certain files that contained Private Information were accessed. These files may have contained personal information such as names, Social Security numbers, and driver’s license/state identification numbers.

3. What is a class action?

In a class action, one or more individuals sue on behalf of other people with similar claims. These individuals are called the “Plaintiffs” or “Class Representatives.” Together, the people included in the class action are called a “Class” or “Class Members.” One court resolves the lawsuit for all Class Members, except for those who opt out from the settlement. In this proposed Settlement, the Class Representatives are Robert Myers; Madison Marcel; Troy Ashline; Tarayl Goss; and Mary Dell Payne. Everyone included in this Action are the Settlement Class Members.

4. Why is there a Settlement?

The Court did not decide whether the Plaintiffs or the Defendant are right. Both sides have agreed to a Settlement to avoid the costs and risks of a trial, and to allow the Settlement Class Members to receive

benefits from the Settlement. The Plaintiffs and their attorneys think the Settlement is best for all Settlement Class Members.

Who is in the Settlement?

5. Who is included in the Settlement?

The court has defined the Settlement Class this way: “All living individuals residing in the United States who had information potentially impacted in the Data Incident and/or were notified of the Data Incident.”

6. Are there exceptions to being included?

Yes. Excluded from the Class are: (a) all persons who are employees, directors, officers, and agents of Defendant, or its respective subsidiaries and affiliated companies; (b) governmental entities; and (c) the Judge(s) assigned to the Action and their immediate family, and Court staff.

If you are not sure whether you are a Settlement Class Member, you can ask for free help any time by contacting the Settlement Administrator at:

- Email: [info@\[SettlementWebsite\].com](mailto:info@[SettlementWebsite].com)
- Call toll free, 24/7: 1-XXX-XXX-XXXX
- By mail: Saratoga Data Incident Settlement
c/o Settlement Administrator
[PO Box Number]
Santa Ana, CA 92799-9958

You may also view the Settlement Agreement at [www.\[SettlementWebsite\].com](http://www.[SettlementWebsite].com).

The Settlement Benefits

7. What does the Settlement provide?

All Settlement Class Members may claim **Credit Monitoring** and one of two **Cash Payment** options. The benefits are explained in more detail below.

Credit Monitoring. All Settlement Class Members are eligible to enroll in one year of Credit Monitoring by the three credit bureaus. This benefit comes with \$1 million in identity theft insurance, and includes:

- real time monitoring of your credit file
- dark web scanning
- comprehensive public records monitoring

If anything suspicious happens, you will be able to talk to a fraud resolution agent to help fix any problems.

CASH PAYMENTS. Settlement Class Members who have documented losses may claim one of the payments from **Cash Payment A – Documented Losses**. Alternatively, Settlement Class Members who spent time responding to the Data Incident may claim a payment from **Cash Payment B – Lost Time**. You may claim only one total payment from these options.

Cash Payment A – Out of Pocket Documented Losses. If you incurred actual, documented out-of-pocket losses due to the Data Incident, you can get back up to **\$2,500.00**. The losses must have occurred between November 1, 2024, and [Claims Deadline].

This benefit covers out-of-pocket expenses like:

- losses because of identity theft or fraud
- fees for credit reports, credit monitoring, or freezing and unfreezing your credit
- cost to replace your IDs
- postage to contact banks by mail

You need to send proof, like receipts, to show how much you spent or lost. Your personal certifications, declarations, or affidavits do not constitute reasonable documentation to make a valid claim, but you may include that to provide clarification, context, or support for other submitted reasonable documentation showing that your expenses were because of the Data Incident.

You cannot claim a payment for expenses that have already been reimbursed by a third party.

-OR-

Cash Payment B – Alternate Cash. Instead of Cash Payment A, you may claim a one-time **\$50.00** cash payment. You do not have to provide any proof or explanation to claim this payment.

If you have questions about these benefits, you can ask for free help any time by contacting the Settlement Administrator at:

- Email: info@[SettlementWebsite].com
- Call toll free, 24/7: 1-XXX-XXX-XXXX
- By mail: Saratoga Data Incident Settlement
c/o Settlement Administrator
[PO Box Number]
Santa Ana, CA 92799-9958

8. What claims am I releasing if I stay in the Settlement Class?

If you stay in the Settlement Class, you won't be able to be part of any other lawsuit against Saratoga about the issues that this Settlement covers. The "Releases" section of the Settlement Agreement (Section VIII) describes the legal claims that you give up if you remain in the Settlement Class. The Settlement Agreement is available at www.[SettlementWebsite].com.

Submitting a Claim Form for a Settlement Payment

9. How do I submit a claim for a Settlement benefit?

The fastest way to submit your Claim Form is online at www.[SettlementWebsite].com. If you prefer, you can download a printable Claim Form from the website and mail it to the Settlement Administrator at:

Saratoga Data Incident Settlement
c/o Settlement Administrator
[PO Box Number]
Santa Ana, CA 92799-9958

You may also contact the Settlement Administrator to request a Claim Form by telephone, toll free, 1-XXX-XXX-XXXX, by email info@[SettlementWebsite].com, or by U.S. mail at the address above.

10. Are there any important Settlement payment deadlines?

If you are submitting a Claim Form online, you must do so by [Claims Deadline]. If you are submitting a claim by U.S. mail, the completed and signed Claim Form, including supporting documentation, must be postmarked no later than [Claims Deadline].

11. When will the Settlement benefits be issued?

The Court will hold a Final Approval Hearing on [FA Hearing Date] (see Question 18). If the Court approves the Settlement, there may be appeals. We do not know if appeals will be filed, or how long it will take to resolve them if they are filed.

Settlement payments will be distributed if the Court grants final approval, and after any appeals are resolved.

Please be patient.

The Lawyers Representing You

12. Do I have a lawyer in the case?

Yes, the Court has appointed attorneys Steven Sukert of Kopelowitz Ostrow P.A. and Casondra Turner of Milberg Coleman Bryson Phillips Grossman PLLC, to represent you and other Settlement Class Members ("Class Counsel").

13. Should I get my own lawyer?

You will not be charged for Class Counsel's services. If you want your own lawyer, you may hire one at your expense.

14. How will Class Counsel be paid?

Class Counsel will ask the court to approve up to \$250,000.00 as reasonable attorneys' fees and costs of litigation. This amount will be paid by Saratoga.

Class Counsel will also ask for Service Award payments of \$2,500.00 for each of the Class Representatives. Service Award payments will also be paid by Saratoga.

Opting-Out from the Settlement

15. How do I opt out of the Settlement?

If you do not want to be part of the Settlement, you must formally exclude yourself from the Settlement. This is called an Opt-Out Request.

If you opt-out, you are telling the Court that you do not want to be part of the Settlement. You will not be eligible to receive any Settlement benefits if you opt-out. However, you will keep any rights you may have to sue Saratoga on your own about the legal issues in this case.

The deadline to opt-out from the Settlement is [Opt-Out Deadline].

To be valid, your Opt-Out Request must have the following information:

- (1) the name of the Litigation: *Myers et al. v. Saratoga Harness Racing, Inc.*, Case No. EF202598, pending in the Supreme Court of Saratoga County, New York;
- (2) your full name, mailing address, telephone number, and email address;
- (3) personal signature; and
- (4) the words “Opt-Out Request” or a clear and similar statement that you do not want to participate in the Settlement.

You may only exclude yourself—not any other person.

Mail your Request for Exclusion to the Settlement Administrator at:

Saratoga Data Incident Settlement
ATTN: Exclusion Request
[PO Box Number]
Santa Ana, CA 92799-9958

Your Opt-Out Request must be submitted and postmarked by [Opt-Out Deadline].

Commenting on or Objecting to the Settlement

16. How do I tell the Court if I like or do not like the Settlement?

If you are a Settlement Class Member and do not like part or all of the Settlement, you can object to it. Objecting means telling the Court your reasons for why you think the Court should not approve the Settlement. The Court will consider your views.

You cannot object if you have opted-out from the Settlement (**see Question 15**)

You must provide the following information for the Court to consider your objection:

- (1) the name of the Litigation: *Myers et al. v. Saratoga Harness Racing, Inc.*, Case No. EF202598, pending in the Supreme Court of Saratoga County, New York;
- (2) your full name, mailing address, telephone number, and email address (if any);
- (3) all grounds for the objection, accompanied by any legal support for the objection known to the objector or objector’s counsel;
- (4) the number of times the objector has objected to a class action settlement within the 5 years preceding the date that the objector files the objection, the caption of each case in which the objector has made such objection, and a copy of any orders related to or ruling upon the objector’s prior objections that were issued by the trial and appellate courts in each listed case;
- (5) the identity of all counsel who represent the objector, including any former or current counsel who may be entitled to compensation for any reason related to the objection to the Settlement and/or the Application for Attorneys’ Fees, Costs, and Service Awards, and whether they will appear at the Final Approval Hearing;

- (6) the number of times in which the objector's counsel and/or the objector's counsel's law firm have objected to a class action settlement within the 5 years preceding the date of the filed objection, the caption of each case in which counsel or the firm has made such objection and a copy of any orders related to or ruling on the objection issued by the trial and appellate courts in each such listed case;
- (7) a list of all persons who will be called to testify at the Final Approval Hearing in support of the objection (if any);
- (8) a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; and
- (9) the objector's signature (an attorney's signature is not sufficient).

For your objection to be considered, it must meet each of these requirements.

To be considered by the Court, you must file your complete objection with the Clerk of Court by **[OBJECTION DATE]**. You must also send a copy of the objection by U.S. Mail to the Settlement Administrator, Class Counsel, and Defendant's Counsel.

Clerk of the Court	Settlement Administrator
Clerk of the Court [Court Address]	Saratoga Data Incident Settlement ATTN: Objections [PO Box Number] Santa Ana, CA 92799-9958
Class Counsel	Counsel for Defendants
Steven Sukert Kopelowitz Ostrow P.A. 1 West Las Olas Blvd., Ste. 500 Fort Lauderdale, FL 33301	H. Nellie Fitzpatrick Cipriani & Werner PC. 450 Sentry Parkway, Suite 200 Blue Bell, PA 19422

17. What is the difference between objecting and excluding?

Objecting is telling the Court that you do not like something about the Settlement. You can object to the Settlement only if you do not opt-out from the Settlement. Opting out from the Settlement is stating to the Court that you do not want to be part of the Settlement. If you opt-out of the Settlement, you cannot object to it because the Settlement no longer affects you.

The Court's Final Approval Hearing

18. When is the Court's Final Approval Hearing?

The Court will hold a final approval on **[FA Hearing Date]** at **[Hearing Time]** Eastern Time, in Room **[Court Room]** of the Supreme Court of Saratoga County, New York, at **[Court Address]**.

At the Final Approval Hearing, the Court will decide whether to approve the Settlement. The Court will also decide Class Counsel's request for an attorneys' fees and costs award and the request for a Service Award to the Class Representatives. The Court will also consider any timely objections to the Settlement.

If you are a Settlement Class Member, you or your lawyer may ask permission to speak at the hearing at your own cost (**See Question 16**).

The date and time of this hearing may change without further notice. Please check [www.\[SettlementWebsite\].com](http://www.[SettlementWebsite].com) for updates.

19. Do I have to come to the Final Approval Hearing?

No. Class Counsel will answer any questions the Court may have. You may attend at your own expense if you wish, but you do not have to.

If you file an objection, you do not have to come to the Final Approval Hearing to talk about it; the Court will consider it as long as it was filed on time. You may also pay your own lawyer to attend, but you do not have to.

If I Do Nothing

20. What happens if I do nothing at all?

If you do nothing, you will not receive a benefit from this Settlement.

You will also give up the rights described in **Question 8**.

Getting More Information

21. How do I get more information?

This Notice is a summary of the proposed Settlement. The full Settlement Agreement and other related documents are available at the Settlement Website, [www.\[SettlementWebsite\].com](http://www.[SettlementWebsite].com).

If you have additional questions, you can ask for free help any time by contacting the Settlement Administrator at:

- Email: [info@\[SettlementWebsite\].com](mailto:info@[SettlementWebsite].com)
- Call toll free, 24/7: 1-XXX-XXX-XXXX
- By mail: Saratoga Data Incident Settlement
c/o Settlement Administrator
[\[PO Box Number\]](#)
Santa Ana, CA 92799-9958

You can obtain copies of publicly filed documents by visiting the office of the Clerk of the Court, [\[Court Address\]](#).

DO NOT CONTACT THE COURT OR CLERK OF COURT REGARDING THIS SETTLEMENT

EXHIBIT 3

Your claim must
be submitted
online or
postmarked by:
[Claims Deadline]

Myers et al. v. Saratoga Harness Racing, Inc.

Case No. EF202598

Supreme Court of Saratoga County, New York

DATA INCIDENT SETTLEMENT CLAIM FORM

Your claim must
be submitted
online or
postmarked by:
[Claims Deadline]

GENERAL INSTRUCTIONS

Who is eligible to file a claim? The court has defined the Class this way: “All living individuals residing in the United States who had information potentially impacted in the Data Incident and/or were notified of the Data Incident.”

Excluded from the Settlement Class are: (a) all persons who are employees, directors, officers, and agents of Defendant, or its respective subsidiaries and affiliated companies; (b) governmental entities; and (c) the Judge(s) assigned to the Action and their immediate family, and Court staff.

**COMPLETE THIS CLAIM FORM IF YOU ARE A CLASS MEMBER AND WISH
TO RECEIVE ONE OR MORE OF THE FOLLOWING SETTLEMENT BENEFITS**

AVAILABLE BENEFITS

All Settlement Class Members may claim **Credit Monitoring** and one of two **Cash Payment** options. The benefits are explained in more detail below.

Credit Monitoring. All Settlement Class Members are eligible to enroll in one year of Credit Monitoring by the three credit bureaus. This benefit comes with \$1 million in identity theft insurance, and includes:

- real time monitoring of your credit file
- dark web scanning
- comprehensive public records monitoring

If anything suspicious happens, you will be able to talk to a fraud resolution agent to help fix any problems.

CASH PAYMENTS. Settlement Class Members who have documented losses may claim one of the payments from **Cash Payment A – Documented Losses**. Alternatively, Settlement Class Members who spent time responding to the Data Incident may claim a payment from **Cash Payment B – Lost Time**. You may claim only one total payment from these options.

Cash Payment A – Out of Pocket Documented Losses. If you incurred actual, documented out-of-pocket losses due to the Data Incident, you can get back up to **\$2,500.00**. The losses must have occurred between November 1, 2024, and [Claims Deadline].

Your claim must
be submitted
online or
postmarked by:
[Claims Deadline]

Myers et al. v. Saratoga Harness Racing, Inc.

Case No. EF202598

Supreme Court of Saratoga County, New York

DATA INCIDENT SETTLEMENT CLAIM FORM

Your claim must
be submitted
online or
postmarked by:
[Claims Deadline]

This benefit covers out-of-pocket expenses like:

- losses because of identity theft or fraud
- fees for credit reports, credit monitoring, or freezing and unfreezing your credit
- cost to replace your IDs
- postage to contact banks by mail

You need to send proof, like receipts, to show how much you spent or lost. Your personal certifications, declarations, or affidavits do not constitute reasonable documentation to make a valid claim, but you may include that to provide clarification, context, or support for other submitted reasonable documentation showing that your expenses were because of the Data Incident.

You cannot claim a payment for expenses that have already been reimbursed by a third party.

-OR-

Cash Payment B – Alternate Cash. Instead of Cash Payment A, you may claim a one-time **\$50.00** cash payment. You do not have to provide any proof or explanation to claim this payment.

If you have questions about these benefits, you can ask for free help any time by contacting the Settlement Administrator at:

- Email: [info@\[SettlementWebsite\].com](mailto:info@[SettlementWebsite].com)
- Call toll free, 24/7: 1-XXX-XXX-XXXX
- By mail: Saratoga Data Incident Settlement
c/o Settlement Administrator
[PO Box Number]
Santa Ana, CA 92799-9958

THE MOST EFFICIENT WAY TO SUBMIT YOUR CLAIMS IS ONLINE USING YOUR UNIQUE LOGIN ID AND PIN AT
[www.\[SettlementWebsite\].com](http://www.[SettlementWebsite].com)

You may also print out and complete this Claim Form, and submit it by U.S. mail.

You must submit your Claim Form online or by mail no later than [Claims Deadline].

Questions? Call 1-XXX-XXX-XXXX Toll-Free or Visit [www.\[SettlementWebsite\].com](http://www.[SettlementWebsite].com)

Your claim must be submitted online or postmarked by:
Claims Deadline

Myers et al. v. Saratoga Harness Racing, Inc.

Case No. EF202598

Supreme Court of Saratoga County, New York

DATA INCIDENT SETTLEMENT CLAIM FORM

**Your claim must
be submitted
online or
postmarked by:
[Claims Deadline]**

I. CLASS MEMBER NAME AND CONTACT INFORMATION

Print your name and contact information below. You must notify the Settlement Administrator if your contact information changes after you submit this claim form. All fields are required. **Please print legibly.**

--

First Name

Last Name

--

Street Address

--	--

City

State

--

Zip Code

Email Address

Phone Number

--

Login ID (if known)

II. CREDIT MONITORING

- ☐ Check this box if you would like to enroll in one year of Credit Monitoring.

III. CASH PAYMENT A- OUT OF POCKET DOCUMENTED LOSSES

- ☐ Check this box if you would like to claim reimbursement for documented losses due to identity theft or fraud. You can get back up to \$2,500.00. **DO NOT CLAIM THIS BENEFIT IF YOU ARE CLAIMING A PAYMENT FROM SECTION IV.**

Please complete the table below, describing the supporting documentation you are submitting.

Description of Documentation Provided	Amount
<i>Example: Unauthorized bank transfer</i>	\$500
TOTAL CLAIMED:	

If you have more expenses than rows, you may attach additional sheets of paper to account for them. Please print your name and sign the bottom of each additional sheet of paper.

Questions? Call 1-XXX-XXX-XXXX Toll-Free or Visit [www.\[SettlementWebsite\].com](http://www.[SettlementWebsite].com)

Your claim must
be submitted
online or
postmarked by:
[Claims Deadline]

Myers et al. v. Saratoga Harness Racing, Inc.

Case No. EF202598

Supreme Court of Saratoga County, New York

DATA INCIDENT SETTLEMENT CLAIM FORM

Your claim must
be submitted
online or
postmarked by:
[Claims Deadline]

IV. CASH PAYMENT B – ALTERNATE CASH

- ☐ Check this box if you want to claim a one-time \$50.00 cash payment. **DO NOT CLAIM THIS BENEFIT IF YOU ARE CLAIMING A PAYMENT FROM SECTION III.**

V. PAYMENT SELECTION

Please select **one** of the following payment options, which will be used if you are claiming a cash payment.

- ☐ **PayPal**
Email address, if different than you provided in Section 1: _____
- ☐ **Venmo**
Mobile number, if different than you provided in Section 1: _____
- ☐ **Zelle**
Email address or mobile number, if different than you provided in Section 1: _____
- ☐ **Virtual Prepaid Card**
Email address, if different than you provided in Section 1: _____
- ☐ **Physical Check**
Payment will be mailed to the address provided in Section 1.

VI. ATTESTATION & SIGNATURE

I swear and affirm on penalty of perjury that the information provided in this Claim Form, including supporting documentation, is true and correct to the best of my knowledge. I understand that my claim is subject to verification and that I may be asked to provide supplemental information by the Settlement Administrator before my claim is considered complete and valid.

Signature_____
Printed Name_____
Date

EXHIBIT 4

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SARATOGA

ROBERT MYERS, MADISON MARCEL, TROY ASHLIN, and TARAYL GOSS, individually and on behalf of all others similarly situated, Plaintiffs, v. SARATOGA HARNESS RACING, INC., Defendant.	INDEX NO.: EF202598
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PRELIMINARY APPROVAL ORDER

WHEREAS, this Action¹ is a putative class action before this Court;

WHEREAS, Plaintiffs, individually, and on behalf of the proposed Settlement Class, and Defendant, have entered into the Settlement Agreement, which is subject to review and approval by the Court under C.P.L.R. §§ 901 and 902 and which, together with its exhibits, provides for a complete dismissal on the merits and with prejudice of the claims asserted in the Action against Defendant should the Court grant Final Approval of the Settlement;

WHEREAS, Plaintiffs filed an unopposed Motion for Preliminary Approval requesting entry of an order to: (1) conditionally certify the Settlement Class; (2) appoint Plaintiffs as Class Representatives; (3) appoint Steven Sukert of Kopelowitz Ostrow P.A. and Casandra Turner of Milberg Coleman Bryson Phillips Grossman PLLC as Class Counsel; (4) preliminarily approve the Settlement; (5) appoint Simpluris, Inc. as the Settlement Administrator; (6) approve the Notice Program and direct that Notice be sent to the Settlement Class; (7) approve the Claim Process; (8)

¹ The capitalized terms herein shall have the same meanings as those used in Section II of the Settlement Agreement, attached to the Motion for Preliminary Approval as *Exhibit A*.

approve the Settlement's opt-out and objection procedures; (8) stay all deadlines in the Action pending Final Approval of the Settlement; (9) enjoin and bar all members of the Settlement Class from initiating or continuing in any litigation or asserting any claims against Defendant and the Released Parties arising out of, relating to, or in connection with the Released Claims prior to the Court's decision to grant Final Approval of the Settlement; and (10) set a date for the Final Approval Hearing; and

WHEREAS, the Court having reviewed the Motion along with the Settlement and its exhibits and finding that substantial and efficient grounds exist for entering this Preliminary Approval Order granting the relief requested.

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. **Settlement Class Certification:** Pursuant to C.P.L.R. §§ 901 and 902, and for purposes of settlement only, the Action is hereby preliminarily certified as a class action on behalf of the following Settlement Class:

All living individuals residing in the United States who had information potentially impacted in the Data Incident and/or were notified of the Data Incident.

2. **Settlement Fund:** The Settlement provides Cash Payments and Medical Data Monitoring that Defendant is obligated to pay under the Settlement. The Settlement Fund will be used to pay for the Cash Payments and Credit Monitoring; Settlement Administration Costs; any Court-approved attorneys' fees and costs to Class Counsel; and any Court-approved Service Awards to Plaintiffs for serving as the Class Representatives.

3. The terms of the Settlement (and the Settlement provided for therein) are preliminarily approved and likely to be approved at the Final Approval Hearing pursuant to C.P.L.R. § 908 as fair, reasonable, and adequate.

4. **Settlement Class Findings:** The Court finds, for purposes of settlement only, and

without any adjudication on the merits, that the prerequisites for certifying the Action as a class action under C.P.L.R. §§ 901 and 902 have been satisfied, and that the Court will likely certify at the Final Approval stage a Settlement Class.

5. In particular, pursuant to C.P.L.R. § 901, the Court finds that: (a) the number of Settlement Class members is so numerous that joinder is impracticable; (b) there are questions of law and fact that predominate over any questions affecting only individual members of the Settlement Class; (c) the claims of the proposed Class Representatives are typical of the claims of the Settlement Class; (d) the proposed Class Representatives and Class Counsel have and will fairly and adequately represent the interests of the Settlement Class; and (e) a class action is superior to other available methods for fairly and efficiently adjudicating the Action taking into consideration: (i) the lack of evidence of any intent among the Settlement Class members to individually control the prosecution of separate actions; (ii) other than the Related Actions, the Parties' not being aware of any litigation concerning the controversy already begun by Settlement Class members other than the proposed Class Representatives; (iii) the small value of the claims of many of the individual Settlement Class members making the pursuit of individual actions cost prohibitive for most Settlement Class members; and (iv) the similarity of the Settlement Class members' claims involving substantially identical proofs.

6. **Appointment of Class Representatives and Class Counsel:** The Court hereby finds and concludes and for purposes of settlement only, that Plaintiffs are adequate class representatives and appoint Plaintiffs as Class Representatives for the Settlement Class.

7. The Court finds that proposed Class Counsel have expended a reasonable amount of time, effort, and expense investigating the Data Incident. It is clear from their track record of success, as outlined in their resumes, that Class Counsel are highly skilled and knowledgeable

concerning class action practice. For purposes of the Settlement only, the Court appoints Steven Sukert and Casondra Turner as Class Counsel to act on behalf of the Settlement Class and the Class Representatives with respect to the Settlement:

8. **Preliminary Approval of the Settlement:** The Court hereby preliminarily approves the Settlement, as embodied in the Agreement, as being fair, reasonable, and adequate, and in the best interest of the named Plaintiffs and the Settlement Class, subject to further consideration at the Final Approval Hearing to be conducted as described below.

9. **Settlement Administrator:** Class Counsel are authorized to use Simpluris, Inc. as the Settlement Administrator to supervise and administer the Notice Program, as well as to administer the Settlement should the Court grant Final Approval.

10. **Approval of Notice Program and Notices:** The Court approves, as to form and content, the Notice Program, including the Postcard Notice and Long Form Notice, substantially in the forms attached as exhibits to the Agreement. The Court finds that the Notice Program: (a) is the best notice practicable under the circumstances; (b) constitutes notice that is reasonably calculated, under the circumstances, to apprise Settlement Class members of the pendency of the Action, the terms of the Settlement, the effect of the proposed Settlement (including the Releases contained therein), and their right to opt-out of or to object to the proposed Settlement and appear at the Final Approval Hearing; (c) constitutes due, adequate, and sufficient notice to all persons entitled to receive notice of the proposed Settlement; and (d) satisfies the requirements of C.P.L.R. § 904, due process, the rules of this Court, and all other applicable law and rules. The date and time of the Final Approval Hearing shall be posted on the Settlement Website and included in the Postcard Notice and Long Form Notice, respectively, before they are emailed, mailed, or published.

11. **Claim Form and Claims Process:** The Court approves the Claim Form as set forth in the Settlement, and the Claims Process to be implemented by the Settlement Administrator. The Claim Form is straightforward and easy to complete, allowing each Settlement Class Member to elect the alternative Settlement Class Member Benefits, Should the Court grant Final Approval to the Settlement, Settlement Class Members who do not opt-out of the Settlement shall be bound by its terms even if they though do not submit Claims.

12. **Dissemination of Notice and Claim Forms:** The Court directs the Settlement Administrator to disseminate the Notices and Claim Form as approved herein. Class Counsel and Defendant's counsel are hereby authorized to use all reasonable procedures in connection with approval and administration of the Settlement that are not materially inconsistent with this order or the Settlement, including making, without the Court's further approval, minor form or content changes to the Notices and Claim Form they jointly agree are reasonable or necessary.

13. **Opt-Outs from the Settlement Class:** The Notice shall provide that any member of the Settlement Class who wishes to opt out from the Settlement Class must request exclusion in writing within the time and manner set forth in the Notice. The Notices shall provide that opt-out requests must be sent to the Settlement Administrator and be postmarked no later than 30 days before the initial date set for the Final Approval Hearing and otherwise fully comply with the requirements of the Settlement Agreement and Long Form Notice.

14. Any Settlement Class member who timely and validly opts-out from the Settlement Class shall, provided the Court grants Final Approval: (a) be excluded from the Settlement Class by Order of the Court; (b) not be a Settlement Class Member; (c) not be bound by the terms of the Settlement; and (d) have no right to the Settlement Class Member Benefits. Any Settlement Class member who does not timely and validly request to opt-out shall be bound by the terms of this

Settlement.

15. **Objections to the Settlement:** The Notice shall also provide that any Settlement Class Member who does not opt-out from the Settlement Class may object to the Settlement and/or the Application for Attorneys' Fees, Costs, and Service Awards. Objections must be filed with the Clerk of the Court and mailed to the Settlement Administrator, Plaintiffs' Counsel and Defendant's Counsel. Objections must be submitted on behalf of a Settlement Class Member no later than 30 days before the original date set for the Final Approval Hearing and otherwise fully comply with the requirements set forth in the Settlement Agreement and Long Form Notice. Class Counsel and/or Defendant's counsel may conduct limited discovery on any objector consistent with the rules of civil procedure, including taking depositions and propounding written discovery requests.

16. **Motion for Final Approval and Application for Attorneys' Fees, Costs, and Service Awards:** Class Counsel intends to seek an award of up to one-third of the Settlement Fund as attorneys' fees, as well as reimbursement of reasonable litigation costs, and Service Awards of \$2,500.00 for each Class Representative to be paid from the Settlement Fund. These amounts appear reasonable, but the Court will defer ruling on those awards until the Final Approval Hearing when considering Class Counsel's Application for Attorneys' Fees, Costs, and Service Awards.

17. Class Counsel shall file their Motion for Final Approval and Application for Attorneys' Fees, Costs, and Service Awards no later than 45 days before the initial date set for the Final Approval Hearing. At the Final Approval Hearing, the Court will hear argument on Class Counsel's request for attorneys' fees and costs and Service Awards for the Class Representative. In the Court's discretion, the Court also will hear argument at the Final Approval Hearing from any Settlement Class Members (or their counsel) who object to the Settlement or to the Application for Attorneys' Fees, Costs, and Service Awards, provided the objector(s) submitted timely

objections that meet all of the requirements listed in the Settlement and in this order.

18. **Termination:** If the Settlement is terminated, not approved, canceled, fails to become effective for any reason, or the Effective Date does not occur, this order shall become null and void and shall be without prejudice to the rights of Plaintiffs, the Settlement Class members, and Defendant all of whom shall be restored to their respective positions in the Action as provided in the Agreement.

19. **Stay:** All pretrial proceedings in this Action are stayed and suspended until further order of this Court, except such actions as may be necessary to implement the Settlement and this Preliminary Approval Order.

20. Upon the entry of this order, with the exception of Class Counsel, Defendant's Counsel, Defendant, and the Class Representatives implementation of the Settlement and the approval process in this Action, all members of the Settlement Class shall be provisionally enjoined and barred from asserting any claims or continuing any litigation against Defendant and the Released Parties arising out of, relating to, or in connection with the Released Claims prior to the Court's decision as to whether to grant Final Approval of the Settlement.

21. **Jurisdiction:** For the benefit of the Settlement Class and to protect this Court's jurisdiction, this Court retains continuing jurisdiction over the Settlement proceedings to ensure the effectuation thereof in accordance with the Settlement preliminarily approved herein and the related orders of this Court.

22. **Final Approval Hearing:** The Court will hold a Final Approval Hearing. The Final Approval Hearing will be conducted for the following purposes: (a) to determine whether the proposed Settlement, on the terms and conditions provided for in the Settlement, is fair, reasonable, and adequate, and should be approved by the Court; (b) to determine whether an order of Final

Judgment should be entered dismissing the Action on the merits and with prejudice; (c) to determine whether the proposed plan of allocation and distribution of the Settlement Fund is fair and reasonable and should be approved; (d) to determine whether any requested award of attorneys' fees and costs to Class Counsel and Service Awards to the Class Representatives should be approved; and (e) to consider any other matters that may properly be brought before the Court in connection with the Settlement. The Court may elect to hold the Final Approval Hearing virtually by Zoom or some other application, and if it does, the instructions on how to attend shall be posted by the Settlement Administrator on the Settlement Website.

23. **Schedule:** The Court hereby sets the following schedule of events:

Event	Date
Notice Program Begins	Within 20 days of Preliminary Approval
Notice Program Complete	45 days before initial scheduled Final Approval Hearing
Deadline to File Motion for Final Approval, and Application for Attorneys' Fees , Costs, and Service Awards	45 days before initial scheduled Final Approval Hearing
Opt-Out Deadline	30 days before initial scheduled Final Approval Hearing
Objection Deadline	30 days before initial scheduled Final Approval Hearing
Claim Form Deadline	15 days before initial scheduled Final Approval Hearing
Final Approval Hearing	_____, 2026, at ____pm/am

SO ORDERED this _____ day of _____, 2025.

HON. JAMES E. WALSH
JUSTICE OF THE SUPERIOR COURT

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Saratoga Harness Racing Settlement Ends Data Breach Class Action Lawsuit](#)
