

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF BRONX

MARILYN RIVERA, on behalf of herself and all others similarly situated, FRANCHIE MUNIZ, on behalf of himself and all others similarly situated, MICHELLE OWENS, individually and on behalf of all others similarly situated, FLORIN CARSTENOIU, individually and on behalf of all others similarly situated, LUIGI HERNANDEZ, and ANGGIE GENAO DE HERNANDEZ, on behalf of all others similarly situated,

Plaintiffs,

v.

ESSEN MEDICAL ASSOCIATES, P.C. d/b/a
ESSEN HEALTH CARE,

Defendant.

Index No. 801239/2024E

CLASS ACTION

**AFFIRMATION OF RAINA C. BORRELLI IN SUPPORT OF PLAINTIFFS’
UNOPPOSED MOTION FOR ATTORNEYS’ FEE AWARD AND COSTS AND
SERVICE AWARDS**

I hereby affirm as one of the Class Counsel that the following is true under penalty of perjury:

1. I serve as one of the Class Counsel in this Action. I represent Plaintiffs Marilyn Rivera, Franchie Muniz, Michelle Owens, Florin Carstenoiu, Luigi Hernandez, and Anggie Genao De Hernandez (collectively, “Plaintiffs”). I submit this Affirmation in support of Plaintiffs’ Unopposed Motion for Attorney’s Fee Award and Costs and Service Awards. I have personal knowledge of the facts set forth herein and could competently testify to them if called as a witness.

Background and Case Development

2. Prior to initiating this Action, Class Counsel conducted an extensive pre-suit investigation into the Incident, including review of publicly available information concerning the

nature, scope, and impact of the incident, the categories of personal information potentially compromised, researching publications about dark web activity and the cybercriminal group allegedly responsible for the Incident, and the damages suffered by affected individuals.

3. In preparation for mediation, Plaintiffs served informal discovery requests on Defendant, and Defendant responded by providing information regarding the nature and cause of the Incident, the number of affected individuals, the geographic distribution of those individuals, and the types of Personal Information involved.

The Work of Class Counsel and the Risk Incurred in this Case

4. From the outset of this litigation, Class Counsel devoted substantial time and resources to investigating the Incident, evaluating potential claims, and assessing the risks and benefits of continued litigation on behalf of Plaintiffs and the proposed class. Indeed, Class Counsel has litigated this case on a contingency fee basis for over two years.

5. Shortly after the filing of the Consolidated Complaint, the Parties agreed to explore the possibility of resolving the Action through mediation.

Mediation and Settlement Negotiations

6. In order to conserve resources and facilitate early resolution, on or around May 2025, the Parties agreed to pursue private mediation. In preparation, in July 2025, Plaintiffs served informal discovery requests, and Essen responded by providing information regarding the nature and cause of the Incident, the number and geographic distribution of affected individuals, and the types of information involved. The Parties also prepared detailed mediation statements outlining their respective positions for the mediator's consideration.

7. On June 23, 2025, the Parties participated in a full-day, arm's-length mediation session with respected mediator Chris McDonald of ADR Office of Chris McDonald. With Mr.

McDonald's assistance, the Parties exchanged proposals and critically evaluated the strengths and weaknesses of their respective positions. Notably, the Parties agreed from the outset not to negotiate attorneys' fees or service awards until after they reached agreement on the core settlement terms.

8. The Parties did not reach resolution at the mediation session, and continued hard fought negotiations for another *six* months. This process was, at times, rigorous and the Parties had many disagreements to resolve as part of reaching an agreement. Finally, in or about January 2025, the Parties reached an agreement to settle this lawsuit in principle. Over the following weeks, the Parties finalized the remaining settlement terms and prepared the proposed Notices, Claim Form, Preliminary Approval Order, Final Approval Order, and designated a Settlement Administrator.

9. In the months that followed, the Parties negotiated and finalized the remaining settlement terms, prepared the proposed Short Form Notice, Long Form Notice, Claim Form, Preliminary Approval Order, and Final Approval Order, and agreed upon a Settlement Administrator.

Settlement Class and Relief

10. The Settlement Class consists of 907,783 individuals who were notified that their Personal Information may have been impacted by the Incident.

11. The Settlement provides substantial and meaningful relief to the Settlement Class, including a non-reversionary \$4,000,000.00 Settlement Fund, reimbursement for Documented Losses sustained as a result of the Incident, a pro rata Cash Fund Payment up to \$100.00 and remedial measures undertaken by Defendant.

Time Expended and Work Performed

12. To date, Class Counsel has expended 712.47 hours litigating this matter on behalf of Plaintiffs and the Settlement Class.

13. The work performed includes investigating the Incident researching the Incident, including publications about dark web activity and the cybercriminal group allegedly responsible for the Incident, communicating with potential clients, drafting the complaint, exchanging, and analyzing informal discovery, drafting a mediation brief and attending a full-day mediation, preparing settlement demands and negotiating the settlement for over 6 months after the mediation, obtaining bids from settlement administrators, drafting and negotiating the settlement agreement, and drafting the motion for preliminary approval and exhibits.

14. This time does not include work that will be required up to and after final approval, including preparing the motion for final approval, supervising the claims and notice process, responding to inquiries from Class Members, and attending the Final Approval Hearing, all of which will require the expenditure of additional time.

15. Based on my experience in class action data breach litigation and my review of the work performed in this matter, the requested attorneys' fees and costs are consistent with awards approved in comparable data breach and other consumer rights cases and may be evaluated under either the percentage-of-the-recovery method or the lodestar method under New York law.

Hourly Rates and Lodestar

16. The hourly rates charged by Class Counsel range from \$200 for paralegals to \$1,295 for partners. These rates are consistent with, and in many instances below, rates approved by courts in comparable complex litigation.

17. Based on the hours worked and the applicable hourly rates, Class Counsel's lodestar to date is \$615,517.95.

18. Based on the time and billing records maintained by Strauss Borrelli PLLC, Milberg PLLC, Ahdoot & Wolfson, PC, Israel David LLC, and Laukaitis Law LLC, Class Counsel expended the attorney and professional time reflected in the charts below. The charts identify the individuals who performed the work, their respective positions, hourly rates, hours worked, and resulting lodestar amounts. These records were created and maintained in the ordinary course of business, at or near the time the work was performed.

Strauss Borrelli PLLC

Name	Title	Rate	Hours	Lodestar
Samuel Strauss	Partner	\$800.00	16.20	\$12,960.00
Raina Borrelli	Partner	\$700.00/\$800.00	27.20	\$19,370.00
Andrew Gunem	Associate	\$400.00	6.00	\$2,400.00
Stephen Pigozzi	Associate	\$515.00/\$600.00	8.10	\$4,834.50
Zog Begolli	Associate	\$425.00	0.40	\$170.00
Megan Wang	Paralegal	\$200.00	0.40	\$80.00
Rudis Requeno	Legal Assistant	\$150.00	1.00	\$150.00
Elizabeth Adell	Legal Assistant	\$150.00	1.00	\$150.00
TOTAL			60.3	\$40,114.50

Milberg PLLC

Name	Title	Rate	Hours	Lodestar
Gary Klinger	Senior Partner	\$1019	54.5	\$55,535.50
David Lietz	Senior Partner	\$1227	44.9	\$55,092.30
Vicki Maniatis	Senior Partner	\$1227	1.6	\$1,963.20
Randi Kassan	Senior Partner	\$1227	0.3	\$368.10
Mariya Weekes	Partner	\$1019	12.0	\$12,228.00
John Nelson	Partner	\$902	10.0	\$9,020.00
Dean Meyer	Associate	\$625	9.5	\$5,937.50
Sandra Passanisi	Paralegal	\$277	8.5	\$2,354.50
Heather Sheflin	Paralegal	\$277	2.7	\$747.90

Michelle Benvenuto	Paralegal	\$277	2.5	\$692.50
Ashley Tyrell	Paralegal	\$277	1.3	\$360.10
Kendal McLaughlin	Paralegal	\$277	0.6	\$166.20
Leslyn Jordan	Paralegal	\$277	0.1	\$27.70
Kerry Brennan	Paralegal	\$277	0.1	\$27.70
TOTAL			148.6	\$144,521.20

Ahdoot & Wolfson, PC

Name	Title	Rate	Hours	Lodestar
Andrew W. Ferich	Partner	\$950.00	99.7	\$94,715.00
Deborah De Villa	Associate	\$800.00	52.8	\$42,240.00
Carlynn Wagner	Former Associate	\$500.00	32.3	\$16,150.00
Michelle Montecalvo	Paralegal	\$480.00	52.5	\$25,200.00
TOTAL			237.3	\$178,305.00

Israel David LLC

Name	Title	Rate	Hours	Lodestar
Israel David	Partner	\$1,295	67.6	\$87,542.00
Madeline Sheffield	Associate	\$645 - \$695	17.0	\$11,615.00
Blake Yagman	Special Counsel	\$825	7.5	\$6,187.00
TOTAL			92.1	\$105,344.50

Laukaitis Law LLC

Name	Title	Rate	Hours	Lodestar
Kevin Laukaitis	Managing Partner	\$1,025.00	116.5	\$119,412.50
Daniel Tomascik	Attorney	\$550.00	5.6	\$3,080.00
Natalia Perez	Attorney	\$575.00	31.27	\$17,980.25
Daniellys Suarez	Law Clerk	\$325.00	14.00	\$4,550.00
Daniel Tomascik	Law Clerk	\$325.00	6.8	\$2,210.00
TOTAL			174.17	\$147,232.75

*Note: Daniel Tomascik was barred and promoted to Attorney during the prosecution of this matter. His billing rate was changed accordingly at the time of his entrance to the bar.

19. In comparison to analogous data breach class actions, the hourly rates reflected in the chart are within or below the range charged by attorneys with comparable experience and reputation.

20. The requested attorneys' Fee Award of \$1,333,333.33 represents a lodestar multiplier of approximately 2.17, which reflects the contingent nature of the representation, the time and labor expended, the complexity of the issues presented, and the results achieved.

Class Counsel's Costs

21. Class Counsel seeks reimbursement of reasonable out-of-pocket costs and expenses incurred in connection with this litigation, consistent with the terms of the Settlement Agreement.

22. The actual out-of-pocket costs incurred by Strauss Borrelli PLLC to date total \$216.28, as summarized below:

Category	Total
Filing Fee	\$216.28
TOTAL	\$216.28

23. The actual out-of-pocket costs incurred by Milberg PLLC to date total \$216.28, as summarized below:

Category	Total
Filing Fees	\$216.28
TOTAL:	\$216.28

24. The actual out-of-pocket costs incurred by Ahdoot & Wolfson, PC to date total \$754.80, as summarized below:

Category	Total
Filing Fees	\$360.47
Court Fees/Litigation Services	\$368.63
Electronic Research	\$24.70
TOTAL:	\$754.80

25. The actual out-of-pocket costs incurred by Israel David LLC to date total \$216.28, as summarized below:

Category	Total
Filing Fee	\$216.28
TOTAL:	\$216.28

26. The actual out-of-pocket costs incurred by Laukaitis Law LLC to date total \$329.64, as summarized below:

Category	Total
Filing Fee	\$265.28
Electronic Research	\$64.36
TOTAL:	\$329.64

27. In total, Class Counsel has incurred **\$1,733.28** in out-of-pocket costs and expenses in connection with the investigation, prosecution, and resolution of this Action.

28. These costs were incurred in the ordinary course of litigating the case and were reasonably necessary to investigate, prosecute, and resolve the claims asserted on behalf of Plaintiffs and the Settlement Class.

Experience and Reputation of Counsel

29. Collectively, Class Counsel has substantial experience litigating complex class actions, including hundreds of data breach matters involving sensitive personal information nationwide.

30. That experience enabled Class Counsel to efficiently prosecute this Action and achieve a settlement without protracted litigation.

31. The hourly rates charged by Class Counsel are consistent with, and in many instances lower than, rates approved by courts in analogous data breach class actions.

32. Plaintiffs also incorporate by reference the experience and qualifications of Class Counsel previously submitted to the Court in support of Plaintiffs' Memorandum of Law in Support of Plaintiffs' Motion to Consolidate Cases and Appoint a Plaintiffs' Executive Committee (NYSCEF Doc. Nos. 2-10).

Contingent Risk and Results Achieved

33. Class Counsel litigated this case on a wholly contingent basis, advancing time and expenses with no guarantee of recovery.

34. Data breach litigation presents complex legal and factual issues that require a substantial degree of skill and experience to address.

35. The Settlement provides relief to Class Members through compensation for Documented Losses and a Cash Fund Payment, all tied to the harms alleged in this Action.

36. The relief provided under the Settlement compares favorably to that approved in comparable data breach class action settlements, particularly in light of the procedural posture of the case and the risks associated with continued litigation.

37. Based on the work performed and the results achieved, the requested attorneys' fees may be evaluated under both the percentage-of-the-recovery and lodestar methods under New York law.

Responsibility Assumed by Class Counsel

38. Strauss Borrelli PLLC, Milberg PLLC, Ahdoot & Wolfson, PC, Israel David LLC and Laukaitis Law LLC are Class Counsel in this Action. Class Counsel accepted responsibility for investigating, litigating, negotiating, and resolving the claims asserted on behalf of Plaintiffs and the Settlement Class.

39. Class Counsel assumed the risk and responsibility of this litigation from its inception through settlement, including the risk of nonpayment.

Service Awards

40. Each Plaintiff devoted time and effort to assisting Class Counsel, responding to inquiries, and fulfilling obligations as a Class Representative, while assuming the risks associated with bringing and maintaining this litigation.

41. The requested Service Awards of \$3,000.00 per Plaintiff, totaling \$18,000.00, represent a modest portion of the Settlement Fund and are consistent with awards approved by New York courts in comparable class actions.

42. Based on the factors considered under New York law, the requested attorneys' fees, costs, and Service Awards are consistent with those approved in similar cases.

* * * * *

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

DATE: April 17, 2026

Respectfully submitted,

By: *Raina C. Borrelli*

Raina C. Borrelli*

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**Pro hac vice admitted*

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