

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

MICHAEL WARSHAWSKY and MICHAEL
STEINHAUSER, on behalf of themselves and all
others similarly situated,

Plaintiffs,

v.

CBDMD, INC. and CBD INDUSTRIES LLC,

Defendants.

Case No. Case No. 20-cv-00562

**DECLARATION OF JEAN SUTTON MARTIN IN SUPPORT OF
PLAINTIFFS' UNOPPOSED MOTION FOR PRELIMINARY APPROVAL**

I, Jean Sutton Martin, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I have been licensed to practice law in the State of North Carolina since 1998.
2. I am an attorney in the Class Action Department of Morgan & Morgan, within its larger Complex Litigation Group. Morgan & Morgan is among the largest, if not the largest, exclusively Plaintiff's law firms in the United States, employing over 700 lawyers and 2,000 support staff serving consumers in over 50 offices in, among others, Alabama, Arkansas, California, Florida, Georgia, Indiana, Illinois, Kentucky, Mississippi, Massachusetts, Pennsylvania, Tennessee, and New York.
3. I graduated from Wake Forest University School of Law in 1998, where I served as Editor-in-Chief of the Wake Forest Law Review.
4. The majority of my practice for the last 22 years has concentrated on complex litigation, including consumer class actions.

5. I have been honored with the prestigious “AV” rating by Martindale-Hubbell. In 2015, I was inducted as a Fellow of the Litigation Counsel of America, a prestigious trial lawyer honorary society comprised of less than one-half of one percent of American lawyers. I have also been selected as a Fellow of the American Bar Foundation, an honorary legal organization whose membership is limited to one third of one percent of lawyers in each state.

6. In 2016, I was honored by my peers and selected as the top Litigation attorney in the State of North Carolina for Business North Carolina Magazine’s Legal Elite earning entrance into the Legal Elite Hall of Fame.

7. I have considerable experience in data breach cases, including recent appointments as interim co-lead counsel in *In re: Warner Music Group Data Breach*, No. 20-cv-07473-PGG (S.D.N.Y.), *In re Morgan Stanley Data Security Litigation*, 20-cv-05914 (S.D.N.Y.), and *In Re: Ambry Genetics Data Breach Litigation*, No. 20-cv-00791 (C.D. Cal.). I also presently serve as interim co-lead counsel in *In re Brinker Data Incident Litigation*, No. 18-cv-686 (M.D. Fla.) in which class certification for a payment card data breach was recently granted.

8. I have represented consumers in numerous privacy rights and data-breach cases, including serving as co-lead counsel in *Gordon, et al. v. Chipotle Mexican Grill, Inc.*, No. 17-cv-01415 (D. Colo.) (consumer payment card data breach); class counsel in *Torres, et al., v. Wendy’s International LLC*, No. 6:16-cv-210-Orl-18DAB (M.D. Fla.) (consumer payment card data breach); class counsel in *Brady, et al. v. Due North Holdings, LLC, et al.*, No. 1:17-cv-01313 (S.D. Ind.) (data breach class action involving employees’ W-2 forms); and co-lead counsel in *Linnins, et al., v. Timco Aviation Services, Inc.*, No. 16-cv-486 (M.D.N.C.) (data breach class action involving employees’ W-2 forms).

The Litigation

9. On October 9, 2020, my co-counsel and I filed the initial class action complaint in this matter on behalf of Plaintiffs Michael Warshawsky and Michael Steinhauser, who had purchased products from cbdMD's website during the time of the Security Incident. We filed the operative, first amended complaint on December 18, 2020, to assert a claim for monetary damages pursuant to the CCPA. Subsequent to the filing of the initial Complaint, we began discussions with counsel for Defendants regarding the possibility of early settlement.

The Settlement Negotiations

10. The Parties agreed to and did retain Benjamin Picker, Esq., of the law firm Stradley Ronon Stevens & Young, LLP, a highly experienced mediator, to assist the Parties in settlement negotiations. A full-time mediator and arbitrator, Mr. Picker has facilitated many data breach mediations.

11. Prior to the mediation, the Parties briefed their respective positions on the facts, claims, defenses, and assessments of the risk of litigation. The issues were discussed with the mediator before the day of the mediation, and also during the course of the mediation. Plaintiffs' Counsel also submitted a draft settlement term sheet, which was then used as the basis for negotiations.

12. Through the information provided by Defendants, we learned the mechanism of the breach, the timing of the breach, and the customer data that was compromised. Based upon this information, we are informed by Defendants that the Class is comprised of approximately 44,541 individuals, whose name and mailing address are known to Defendants.

13. On February 3, 2021, the Parties, through their respective counsel, engaged in a full-day virtual mediation session before mediator Benjamin Picker, Esq. A representative for

cbdMD's insurer also participated. With the assistance of Mr. Picker, the Parties were able to reach a negotiated resolution on a class-wide basis that provides monetary relief to Class Members and obligates Defendant to take remedial measures to safeguard against the reoccurrence of a data security incident.

14. While courteous and professional, the negotiations were hard-fought throughout and the settlement process was conducted at arm's length between experienced counsel with an understanding of the strengths and weaknesses of their respective positions in the Lawsuit. Throughout the negotiations, Mr. Picker was able to assist the Parties in reaching an agreement on the substantive terms of the Settlement to include monetary compensation to class members and the adoption by Defendants of business practice changes related to data security. There was nothing collusive about the settlement negotiations or the ultimate Settlement reached. Lastly, attorneys' fees, costs, expenses, and service awards were negotiated only after all substantive terms of the Settlement were agreed upon by the Parties.

15. During the ensuing months, the Parties continued the exchange of information and negotiations as to the final details of the Settlement Agreement. Consequently, the Parties worked together to prepare a comprehensive set of settlement documents, which are embodied in the Settlement Agreement and the exhibits attached thereto. The Parties spent significant time negotiating the terms of this final written Settlement Agreement.

The Settlement

16. The Settlement provides significant benefits to Class Members. All Settlement Class Members who submit a valid Settlement Claim through the Claim Form and supporting documentation are eligible to receive reimbursement for documented, eligible out-of-pocket expenses incurred by Settlement Class Members as a result of the Data Breach. Defendants will

also implement several measures to improve its data security, particularly on its e-Commerce platform, and ensure that the problem which led to the Security Incident is not repeated.

17. The multi-tiered framework of benefits provided in this Settlement developed as a result of my experience in other PCD disclosure cases, numerous discussions with affected class members as to the types of injuries and damages suffered as a result of these disclosures, and actual settlement claims made in similar cases. As I stated earlier, my discussions with affected class members in other cases in which I have been involved in along with my experiences in overseeing the administration of settlements in these cases, helped my co-counsel and me to determine what type of documentation exists to support such claims.

18. Moreover, the Parties have agreed that the cost of the notice and costs of claims administration will be paid by Defendants, separate and apart from the relief offered to the Settlement Class. The Parties have jointly selected RG/2 Claims Administration, LLC to serve as the Notice and Settlement Administrator.

19. Defendants have agreed to pay the fees and expenses of legal counsel for Plaintiffs in an aggregate amount not to exceed \$135,000, subject to Court approval. The amount of any attorneys' fees and expenses approved by the Court will be paid by the by Defendants separate and apart from the relief offered to the Settlement Class.

20. Defendants have agreed to pay a service award not to exceed \$2,500 for each of the two named Plaintiffs, subject to approval by the Court. The amount of any service awards approved by the Court will be paid by the by Defendants separate and apart from the relief offered to the Settlement Class.

The Strength of Plaintiffs' Case

21. I believe that Plaintiffs have a strong case for liability and damages. My co-counsel

and I were prepared to submit evidence supporting Plaintiffs' assertion that Defendants failed to take a number of industry-standard measures to secure its customers' PII. I also believe that we would be able to show that Plaintiffs suffered damages as a result of the Data Breach. Defendants have has continually disputed the sufficiency of Plaintiffs' allegations. Although I feel strongly that Plaintiffs would be able to obtain a favorable ruling on all issues, this was not a certainty.

The Risk, Expense, Complexity, and Likely Duration of Further Litigation

22. Although Plaintiffs are confident in the merits of their claims, the risks involved in prosecuting a class action through trial cannot be disregarded. I have practiced in this area far too long to disregard the high level of risk, expense, and complexity of class litigation, which is one reason that judicial policy so strongly favors resolving class actions through settlement. This is not only a complex case, but it is in an especially risky field of litigation. Data breach cases continue to be among the most risky and uncertain of all class action litigation. Many data breach cases are dismissed at the Rule 12 stage and, to date, consumers have won only one contested class certification motion in a payment card data breach case.

23. Through the Settlement, Plaintiffs and Class Members gain significant benefits without having to face further risk. Moreover, the cost of trial and any appeals would be significant and would delay the resolution of this litigation without the guarantee of any relief.

The Amount Offered In Settlement

24. The valuable benefits made available pursuant to the Settlement squarely address the issues raised in the Litigation and provide timely, significant, and pertinent relief to the Settlement Class Members, which compares favorably to what Class Members could recover were they to secure a favorable judgment at trial. In the experience of Class Counsel, the monetary relief provided by this Settlement is an outstanding result, and is fair and reasonable in light of

reported average out-of-pocket expenses due to a data breach.

The Extent of Discovery Completed and The Stage of The Proceedings

25. While formal discovery did not take place, the Parties exchanged briefs on their respective positions on the facts, claims, defenses, and assessments of the risk of litigation. The Parties also submitted a draft settlement term sheet prepared by Plaintiffs, which was then used as the basis for negotiations. More importantly, Defendants provided Plaintiffs with directed, informal discovery and were forthcoming about the specifics of the Security Incident.

The Experience and Views of Counsel

26. At the outset of this litigation, Plaintiffs selected and retained as counsel for the Settlement Class myself and M. Anderson Berry of Clayeo C. Arnold, P.C. Mr. Berry and I are now proposed by Plaintiffs to be appointed as Class Counsel.

27. Mr. Berry and I are qualified, experienced, and able to conduct the litigation. Our firms have worked together for a number of years and Mr. Berry and I have personally worked together in other data breach cases. Through these experiences, I have had the opportunity to observe and benefit from his superior litigation skill and abilities.

28. With respect to the adequacy of counsel, both Mr. Berry and I, and our firms, have invested considerable time and resources into the prosecution of this action. Specific to this area of privacy litigation, we have a wealth of experience in litigating complex, class action lawsuits, including data breach cases, as set forth in in the attached resumes. We have extensive experience leading and managing consumer class actions and complex litigation like this, extensive knowledge of all applicable case law, and sufficient resources which we committed to the class in this case. Attached as Exhibits to this Declaration are resumes for Clayeo C. Arnold, P.C. and Morgan and Morgan Complex Litigation Group, which detail each firm's experience and

accomplishments in data breach and privacy litigation specifically and consumer class action litigation generally and specifics related to Mr. Berry and myself.

29. Further, Mr. Berry and I have diligently investigated and prosecuted the claims in this matter, dedicated substantial resources to the investigation and litigation of those claims, and successfully negotiated the Settlement of this matter to the benefit of Plaintiffs and the Settlement Class.

30. Through the settlement process and before finally entering the Settlement, Mr. Berry and I carefully weighed with Plaintiffs: (1) the benefits to Plaintiffs and the Class under the terms of the Settlement Agreement; (2) the range of the results in other settlements reached in similar litigation; (3) the attendant risks and uncertainty of litigation, especially in complex cases such as this Action where certification is by no means a given and would be challenged if litigated and appealed if the court certified the Class; (4) the difficulties and delays inherent in such litigation in the event that Defendants were to seek appellate review of the Court's Final Judgment, in the event Plaintiffs and the Class are successful at trial; (5) Defendants' vigorous defense of the litigation and continued denial of the claims contained in the Complaint (including certification); (6) the desirability of consummating this Settlement, to ensure that the Class received a fair and reasonable settlement; and (8) providing Plaintiffs and Class Members prompt relief.

31. Based on our independent investigation of the relevant facts and applicable law, experience with other data breach cases, and the information provided by Defendants, Plaintiffs' counsel has determined that the Settlement is fair, reasonable, adequate, and in the best interest of the Settlement Class.

Whether the Settlement Is a Product of Collusion Among The Parties

32. Plaintiffs undertook significant factual and legal investigation of the issues prior to

filing the case. As explained previously, mediator Bennett Picker, Esq. presided over the Parties' formal, arm's-length, and adversarial mediation. The Settlement clearly emerged from a formal, arm's-length negotiation process between the Parties, is designed to, and provides a fair and easy process to redress the claims of those members of the class. Further, the Settlement is the product of significant time and effort spent by the Parties in negotiating its terms and a final written memorialization.

33. Additionally, the proposed Settlement Class Representatives are members of the Settlement Class and possess no interests antagonistic to the Settlement Class. They provided their PII to Defendants and allege that their PII was compromised as a result of the Security Incident, just as the PII of the Settlement Class was also allegedly compromised. Indeed, their claims reflect identically the claims of the Settlement Class, and they and the Settlement Class desire the same outcome of this litigation. Because of this, the proposed Settlement Class Representatives have vigorously prosecuted this case for the benefit of all Settlement Class Members. Plaintiffs have been at the helm of the Litigation, reviewing pleadings, conferring with Counsel, and providing input in crafting and approving the Settlement.

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

Executed on April 30, 2021, in Tampa, Florida.

By: /s/ Jean Sutton Martin
Jean Sutton Martin

EXHIBIT A
FIRM BIO OF
MORGAN & MORGAN



Morgan & Morgan is a leading civil trial law firm representing consumers and commercial clients nationwide. With over 700 lawyers, and more than 2,000 non-lawyer employees, Morgan & Morgan is the largest plaintiffs' firm in the state of Florida and one of the largest if not the largest in the nation. Morgan & Morgan has a dedicated Complex Litigation Group staffed with lawyers, paralegals, and retired FBI agents serving as investigators committed to representing consumers in complex litigation, MDL proceedings and class action cases throughout the country.

John Yanchunis leads the class action section of the law firm. His practice—which began after completing a two-year clerkship with United States District Judge Carl O. Bue, Jr., S. D. Tex.—has concentrated on complex litigation and spans over 35 years, including consumer class actions for more than two-thirds of that time. As a result of his extensive experience in privacy and data-breach litigation, he regularly lectures at seminars regarding privacy litigation.

Mr. Yanchunis serves in leadership positions in many multidistrict and consolidated proceedings, including: *In re: Capital One Consumer Data Security Breach Litigation*, No. 1:19-MD-2915-AJT (E.D. Va.) (co-lead counsel); *Adkins v. Facebook, Inc.*, No. C 18-05982 WHA (JSC) (N.D. Cal.) (co-lead counsel); *In re: Yahoo! Inc. Customer Data Security Breach Litigation*, No. 5:16-MD-02752-LHK (N.D. Cal.) (Lead Counsel); *In re: Monat Hair Care Products Marketing, Sales Practices, and Products Liability Litigation*, No.: 1:18-md-02841-DPG (S.D. Fla.) (member of the Plaintiffs' Steering Committee); *In Re: Equifax, Inc. Customer Data Security Breach Litigation*, 1:17-md-2800-TWT (N.D. Ga.) (member of the Plaintiffs' Steering Committee); *In re: U.S. Office of Personnel Management Data Security Breach Litigation*, 1:15-mc-01394-ABJ (D.D.C.) (member of the Executive Committee) (dismissal on standing grounds recently reversed on appeal to the D.C. Circuit); *In re The Home Depot, Inc. Consumer Data Sec. Data Breach Litig.*, No. 1:14-md-02583-TWT (N.D. Ga.) (co-Lead Counsel) (final judgment entered approving a settlement on behalf of a class of 40 million consumers with total value of \$29,025,000); and *In re Target Corp. Customer Data Sec. Breach Litig.*, MDL No. 2522 (D. Minn.) (Executive Committee member) (final judgment approving a settlement on behalf of a class of approximately 100 million consumers upheld by the 8th Circuit).

As result of his experience in the area of class litigation and ethics, he has served as an expert for The Florida Bar on ethical issues arising in class action litigation.

While at the University of Florida Mr. Yanchunis was a member of Florida Blue Key and Omicron Delta Kappa. He received his Juris Doctor degree from the South Texas College of Law in 1980, where he graduated magna cum laude. During law school, Mr. Yanchunis was a member of the Order of the Lytae, Associate Editor-in-Chief and Technical Editor of the South Texas Law Journal.

Jean Sutton Martin has concentrated her practice on complex litigation, including consumer protection and defective products class action, for more than 20 years. Ms. Martin was

recently appointed as interim co-lead counsel in *In re Morgan Stanley Data Security Litigation*, 1:20-cv-05914 (S.D.N.Y.) and *In Re: Ambry Genetics Data Breach Litigation*, No. 20-cv-00791 (C.D. Cal.) (“Ambry”), and presently serves as interim co-lead counsel in *In re Brinker Data Incident Litigation*, No. 18-cv-686 (M.D. Fla.). She is also a member of the Plaintiffs’ Steering Committee and bellwether trial team in *In re: Smith & Nephew Birmingham Hip Resurfacing (BHR) Hip Implant Products Liability Litigation*, No. 17-md-2775 (D. Md.) and a member of the Plaintiffs’ Steering Committee in *In re: Allergan Biocell Textured Breast Implant Products Liability Litigation*, No. 19-md-2921 (D. N.J.). She has served in leadership positions in many consumer class actions and consolidated proceedings in federal courts around the country, including *Gordon, et al. v. Chipotle Mexican Grill, Inc.*, No. 17-cv-01415 (D. Colo.) (data breach) (co-lead counsel).

Ms. Martin received her Juris Doctor degree from Wake Forest University School of Law, where she served as Editor-in-Chief of the *Wake Forest Law Review*. She obtained eDiscovery certification from the eDiscovery Training Academy at Georgetown Law Center in 2017. Ms. Martin graduated from Wake Forest University with a Bachelor of Science in Mathematical Economics in 1989. She earned a Master of International Business from the University of South Carolina in 1991. She worked with the sales finance team of Digital Equipment Company in Munich, Germany developing sales forecasts and pricing models for the company’s expansion into the Eastern European market after the fall of the Berlin wall. Prior to law school, Ms. Martin also worked as a marketing manager for an international candy manufacturer where her responsibilities included product development, brand licensing, market research, and sales analysis.

Ms. Martin has been honored with the prestigious “AV” rating by Martindale-Hubbell. In 2015, she was inducted as a Fellow of the Litigation Counsel of America, a prestigious trial lawyer honorary society comprised of less than one-half of one percent of American lawyers. Fellows are selected based upon excellence and accomplishment in litigation, both at the trial and appellate levels, and superior ethical reputation. For upholding the highest principles of the legal profession and for outstanding dedication to the welfare of others, Ms. Martin has also been selected as a Fellow of the American Bar Foundation, an honorary legal organization whose membership is limited to one third of one percent of lawyers in each state. In 2016, Ms. Martin was selected by her peers as the foremost Litigation attorney in the State of North Carolina for *Business North Carolina Magazine’s Legal Elite*, gaining membership in the *Legal Elite* Hall of Fame. Since 2012, she has been selected to the Super Lawyers list for North Carolina in the areas of mass torts and class actions, with repeated selection to the Top 50 Women North Carolina list since 2014. Additionally, Ms. Martin has been named by National Trial Lawyers to the Top 100 Trial Lawyers, Top 50 Class Action Lawyers, and Top 50 Mass Torts Lawyers for North Carolina.

Ms. Martin is a member of the North Carolina bar, having been admitted in 1998. She is also admitted to practice before the United States Supreme Court, the United States Court of Federal Claims, the United States Court of Appeals for the Fourth Circuit, the Western, Middle, and Eastern Districts of North Carolina.

Michael F. Ram is a consumer class action lawyer with 38 years of experience. He graduated cum laude from Harvard Law School in 1982. He has co-tried several class action trials and frequently lectures on class trials. In 1992 he was a co-recipient of the Trial Lawyer of the Year Award given by Trial Lawyers for Public Justice for *National Association of Radiation Survivors v. Walters* No. 83-c-1861 (N.D. Cal.) (tried to class-wide judgment on remand from Supreme Court).

From 2017 to 2020, Mr. Ram was a partner at Robins Kaplan LLP. In August, 2020, Mr. Ram joined Morgan & Morgan to open a San Francisco office. He is currently co-lead counsel in numerous consumer class actions, including *Gold v. Lumber Liquidators*, N.D. Cal. No. 14-cv-05373-RS, a certified multistate class action involving bamboo floors, and *Fowler v. Wells Fargo*, N.D. Cal. No. 3:17-cv-02092-HSG, a class action involving interest charges that settled for \$30 million.

Prior to joining Morgan & Morgan, Mr. Ram was a partner with several national plaintiffs firms, including Robins Kaplan LLP and Lief, Cabraser, Heimann and Bernstein where he represented plaintiffs in several major class actions, including: *Cox v. Shell*, Civ. No 18,844 (Obion County Chancery Court, Tenn.) national class of six million owners of property with defective polybutylene plumbing systems; *In re Louisiana-Pacific Inner-Seal Litigation*, No. 95-cv-879 (D. Oregon) (co-lead counsel) national class of homeowners with defective siding; *ABS Pipe Litigation*, Cal. Judicial Council Coordination Proceeding No. 3126 (Contra Costa County) national class of homeowners. Mr. Ram was co-lead counsel in many consumer class actions including a national class of half a million owners of dangerous glass pane gas fireplaces in *Keilholtz et al. v. Superior Fireplace Company*, No. 08-cv-00836 (N.D. Cal. 2008). He was co-lead counsel for plaintiffs in *Chamberlan v. Ford Motor Company*, No. 03-cv-2628 (N.D. Cal.), a class action involving defective intake manifolds that generated four published opinions, including one by the Ninth Circuit, 402 F.3d at 950, and settled one court day before the class trial. He was also co-counsel for plaintiffs in a number of other consumer class actions, involving matters such as defective automotive components, defective construction materials, and electronic privacy under the California Confidentiality of Medical Information Act.

Patrick Barthle attended the University of Florida where he was admitted to the Honors Program and graduated, *cum laude*, with a double major in History and Criminology in 2009. While at UF, Patrick was inducted into the Phi Beta Kappa Honor Society and served as President of the Catholic Student Center. Patrick attended Washington and Lee University School of Law, graduating *summa cum laude* in 2012; where he was a Lead Articles Editor for the Wash. & Lee Law Review, a member of the Order of the Coif and the Phi Delta Phi Legal Honor Society, and President of the W&L Law Families organization.

Before joining Morgan & Morgan in 2015, Patrick worked at one of the country's largest law firms, Greenberg Traurig, LLP, and then served as a judicial law clerk for two years to the Honorable Mary S. Scriven, United States District Judge, Middle District of Florida

Patrick was selected as a Florida Super Lawyer Rising Star in 2019 in the field of Class Actions. He is also active in speaking on privacy and class action topics, having spoken in June 2018, at the NetDiligence Cyber Risk Summit on the topic of Unauthorized Use of Personal Data;

in November 2018 at the American Association for Justice's Advanced 30(b)(6) Seminar, on the topic of 30(b)(6) Depositions in in Data Breach Cases; and in January 2019 at HarrisMartin's Marriott Data Breach Litigation Conference on that topics of damage models and settlements in data breach cases; and Rule 23(c)(4) classes at the Mass Torts Made Perfect conference.

Mr. Barthle was admitted to the Florida Bar in 2012 and is also admitted to practice in the Middle District of Florida, the Southern District of Florida, and the District of Colorado.

Ryan J. McGee studied business economics and history at the University of Florida, where he was a teaching assistant for technology classes in the business school, and received his law degree from Stetson University College of Law, where he was an editor on the *Stetson Law Review*, a research assistant for antitrust and consumer protection laws, and a teaching assistant for Stetson's trial advocacy program.

Ryan began his legal career as a state-appointed prosecutor, where he tried over 50 jury trials to verdict, mostly felonies, as well as a special prosecutor appointed to investigate police officers' deadly use-of-force and corruption within various law enforcement agencies. Ryan also served as a law clerk for two years for the Honorable Elizabeth A. Kovachevich, the former Chief United States District Judge, Middle District of Florida. Before joining Morgan & Morgan, Ryan's practice involved complex business disputes, antitrust, trade secret, data security, and class action investigations and defense-side litigation in state and federal courts across the country.

Ryan has been selected as a Florida Super Lawyer Rising Star in 2018 and 2019. He is admitted to the Florida Bar in 2009 and is also admitted to practice in the Northern, Middle, and Southern Districts of Florida.

Francesca Kester was born and raised in Scranton, Pennsylvania. She attended Marywood University, where she graduated with a major in English Literature, and The Pennsylvania State University's Dickinson School of Law, where she received her Juris Doctor degree in 2017. While at Dickinson, Ms. Kester competed in the American Bar Association's National Appellate Advocacy Competition, where she was awarded the highest honor for her legal brief writing, and the Texas Young Lawyer's National Trial Competition, where she finished as a regional finalist. Ms. Kester also served as Executive Chair of the Dickinson Law Moot Court Board, Founder of the Dickinson Law partnership with Big Brothers Big Sisters, and Student Director of the Bethesda Mission Men's Shelter legal clinic.

Ms. Kester interned as a judicial clerk to United States Magistrate Judge Martin C. Carlson while in law school. After graduation, she served for two years as a law clerk to the Honorable James M. Munley in the United States District Court for the Middle District of Pennsylvania.

Ms. Kester is admitted to practice law in both Pennsylvania and Florida.

Marie Noel Appel has dedicated her career to representing consumers in both individual and class action cases involving claims under consumer protection laws and other statutory and

common law claims. She earned a B.A. in French from San Francisco State University in 1992 and graduated from University of San Francisco School of Law in 1996.

For most of her career, Ms. Appel has been in private practice litigating class claims related to defective products, mortgage fraud/Truth in Lending violations, unfair business practices relating to manufactured home sales, interest overcharges by the United States on military veterans' credit accounts, and statutory violations by the United States relating to offset of debts beyond the limitations period. From 2012 to 2019, Ms. Appel left private practice to become the Supervising Attorney of the Consumer Project at the Justice & Diversity Center of the Bar Association of San Francisco which provides free legal services to low-income persons facing consumer issues. In April 2019, Ms. Appel returned to private practice as Counsel at Robins Kaplan, LLP, then joined Morgan & Morgan in August 2020 where she focuses on class action litigation. In addition to her legal practice, Ms. Appel is an Adjunct Professor at Golden Gate University School of Law in San Francisco where she teaches legal research and writing, and from 2011 to 2018 supervised students at the Consumer Rights Clinic, in which students performed legal work at the Justice & Diversity Center's Consumer Debt Defense and Education Clinics.

Ms. Appel is admitted to practice in United States District Courts in the Central District of California; the Eastern District of California; the Northern District of California; and the Southern District of California.

Marcio Valladares was born in Managua, Nicaragua and immigrated to the United States during Nicaragua's civil war. In 1990, Marcio obtained a Bachelor of Science degree in psychology from the University of Florida. In 1993, he obtained his Juris Doctor degree, *magna cum laude*, from Florida State University. He is pursuing a Masters in Law (LL.M.) degree from Columbia University, focusing on federal and comparative law.

Before joining Morgan & Morgan, Marcio worked in both the public and private sectors. He served as a judicial law clerk to the Honorable Steven D. Merryday, United States District Judge, Middle District of Florida, and then served as a judicial law clerk to the Honorable Susan H. Black, United States Circuit Court Judge, Court of Appeals for the Eleventh Circuit. Marcio served as an Assistant United States Attorney for the Middle District of Florida. In the private sector, Marcio practiced commercial litigation and insurance defense at Holland & Knight LLP. Marcio also worked as in-house counsel for the Mayo Clinic. Marcio is fluent in English and Spanish.

Kenya Reddy represents consumers in class action litigation. She graduated from Duke University in 1997 with a degree in political science. In 2000, she received her law degree from the University of Virginia School of Law. Prior to joining Morgan & Morgan, Ms. Reddy was a shareholder at Carlton Fields, P.A., where her primary areas of practice were antitrust, complex civil litigation, class action defense, and business litigation. She also has experience in including labor and employment, products litigation, ERISA and employee benefits law, insurance, healthcare, and securities litigation.

Ms. Reddy has served as a law clerk for the Honorable Charles R. Wilson, United States Circuit Court Judge, Court of Appeals for the Eleventh Circuit, the Honorable Anne C. Conway, former Chief Judge of the United States District Court for the Middle District of Florida, the Honorable Mary S. Scriven, United States District Judge, Middle District of Florida, and the Honorable Karla R. Spaulding, United States Magistrate Judge, Middle District of Florida.

Ms. Reddy is admitted to practice in the Northern, Middle, and Southern Districts of Florida.

Ra O. Amen. Mr. Amen was raised in both the California Bay Area and Massachusetts. In 2005, Ra graduated from Stanford University with a B.A. in Economics. After graduating, Ra worked as a Peace Corps volunteer in Morocco teaching English as a second language and business skills to local artisans. Before entering law school, Ra worked for several years in education and in business development for a mobile technology startup. In 2017, he obtained his Juris Doctor degree with Honors from Emory University School of Law. While at Emory Law, he was a Managing Editor of the Bankruptcy Developments Journal. Before joining Morgan & Morgan in 2020, Mr. Amen worked at one of the nation's largest defense law firms in the nation where he specialized in representing clients in complex commercial, administrative, and ecclesiastical disputes. Mr. Amen speaks both English and Spanish, and is an avid guitar player.

Mr. Amen is admitted to practice in Georgia.

EXHIBIT B
FIRM BIO OF
ARNOLD LAW FIRM



Arnold Law Firm Biography

Sacramento Office
865 Howe Avenue
Sacramento, CA 95825
916-777-7777

Long Beach Office
111 W. Ocean Blvd.
Fourth Floor
Long Beach, CA 90802
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ARNOLD LAW FIRM

Founded in 1975 by Clayeo C. Arnold, the Arnold Law Firm is a litigation-oriented practice in Sacramento, California. In keeping with its founding principles, our firm consciously works for the interests of individual people and small businesses — not for large corporations or insurance companies.

The Arnold Law Firm prosecutes class action, mass tort, *qui tam*, product defect, employment, and personal injury cases. We pride ourselves on being a practice of trial lawyers, typically trying a minimum of ten cases per year to verdict. In addition to our practice throughout the state of California in both state and federal courts, we pursue class action, *qui tam* and multi-district litigation claims on a nationwide basis.

Our team of nine attorneys collectively encompass a broad, diverse professional background, including plaintiff contingency work, public entity representation, criminal defense, and civil defense. We have current and past board members of Capital City Trial Lawyers Association, as well as members of numerous prestigious professional organizations, including the American Board of Trial Advocates, American Association for Justice, Association of Trial Lawyers of America, and Consumer Attorneys of California.

Our firm's operating structure is based on teams directed towards specific practice areas. These teams regularly and intentionally collaborate and exchange information between their practice areas to improve the quality of representation for all of our clients.



Arnold Law Firm Biography

(continued)

Over four decades, the Arnold Law Firm has developed a respected, extensive network of co-counsel and experienced contract counsel to rapidly expand our capabilities as necessary on an *ad hoc* basis (e.g., document review). We employ a robust staff of highly qualified, experienced assistants and paralegals to ensure that attorney time is spent in the most efficient manner possible.

The Arnold Law Firm employs technology to increase productivity, resulting in lower hourly billing, even though adverse parties eventually pay those bills. The firm increases efficiencies by using template software, client management software, and secure internet-based client management for mass tort or multi-plaintiff litigation. We also invest in appropriate billing and tracking software for contemporaneous hourly record keeping.

The Arnold Law Firm places substantial value on representing clients in a manner that is both effective and courteous. Integrity with clients, the courts, and adverse counsel are all considered to be as indispensable as successful results.

Our highly accomplished counsel has a long history of successfully handling class actions across a range of industries, including data breach cases:

In Re: Matt Matic, et al. v. Google, Inc. and Alphabet, Inc., 5:18-cv-06164-EJD (N.D. Cal.); (data breach);

In Re: Kirk Keilholtz, et al. v. Lennox Hearth Products, Inc., 4:08-cv-00836-CW (N.D. Cal.); (product);

In Re: Rodney Harmon v. Hilton Group, et al., 3:11-cv-03677-JCS (N.D. Cal.); (fraudulent billing)



**Arnold Law Firm
Biography**

(continued)

The Arnold Law Firm has a proven track record of success and the ability to work efficiently and cooperatively with others. In addition, our firm has the availability and resources necessary to litigate complex class actions.



M. Anderson Berry Biography



M. Anderson Berry heads the data breach complex litigation and *qui tam* practices for the Arnold Law Firm. He brings substantial experience in complex litigation matters with a history of litigating in an efficient and practical manner, including Lead Class Counsel, Co-Lead Class Counsel, and Plaintiff's Executive Committee.

Mr. Berry holds an extensive background in privacy and consumer/government fraud litigation, actively participating in a currently sealed False Claims Act case involving widespread cybersecurity fraud upon the United States, and the following class action litigations:

Filed in 2021

Bitmouni, Kamal v. Paysafe Limited, 3:21-cv-00641-JCS (N.D. Cal.);

Cohen, Chelsea et al. v. MedNax Services, Inc., 1:21-cv-20375 (S.D. Fla.);

Edke, Anand v. Belden, Inc., 2021CH00047 (Circuit Court of Cook County, Ill.);

Hashemi, Ken et al. v. Bosley, Inc. 2:21-cv-00946 (CD. Cal.);

Filed in 2020

A.A., a minor, by and through his natural parent, Steve Altes, et al. v. AFTRA Retirement Fund, 1:20-cv-11119-UA (S.D.N.Y.);

Combs, Levi et al. v. Warner Music Group Corp., 1:20-cv-07473 (S.D.N.Y.) (Executive Committee);

Darnell, Ethan v. Wyndham Capital Mortgage, Inc., 3:20-cv-00690-FDW-DSC (W.D.N.C.);

Gaston, Cheryl v. FabFitFun, Inc., 2:20-cv-09534 (C.D. Cal.) (Co-Lead Counsel);



M. Anderson Berry Biography

(continued)

Hamid, Andre et al. v. Canon, U.S.A., Inc. et al. 1:20-cv-06380-AMD-SJB (E.D.N.Y.);

In Re: Ambry Genetics Data Breach Litigation, 8:20-cv-00791 (C.D. Cal.);

In Re: Hanna Andersson and Salesforce.com Data Breach Litigation, 3:20-cv-00812-EMC (N.D. Cal.) (Lead Class Counsel);

In Re: Morgan Stanley Data Security Litigation, 1:20-cv-05914 (S.D.N.Y.);

In Re: Zoom Video Comm., Inc. Privacy Litigation, 5:20-cv-02939 (N.D. Cal.);

Llamas, Emmanuel v. Truefire, LLC, et al., 8:20-cv-857-T-02CPT (M.D. Fla.);

Pfeiffer, Noreen et al. v. RadNet, Inc., 2:20-cv-09553-RGK-SK (C.D. Cal.);

Pygin, Alex v. Bombas, LLC and Shopify, et al., 3:20-cv-04412 (N.D. Cal.) (Co-Lead Counsel);

Riggs, William v. Kroto, Inc. et al., 3:20-cv-04705 (N.D. Ill.) (Co-Lead Counsel);

Rossi, Julia, et al. v. Claire's Stores, Inc. et al., 1:20-cv-05090 (N.D. Ill.) (Co-Lead Class Counsel);

Warshawsky, Michael et al., v. cbdMD, Inc., et al., 3:20-cv-00562 (E.D. Va.) (Co-Lead Counsel)

Mr. Berry was first selected as the Northern California Super Lawyers Rising Star in 2015 in the field of complex civil litigation.

Before joining the Arnold Law Firm in 2017, Mr. Berry worked as an Assistant United States Attorney for the Eastern District of California. As part of the Affirmative Civil Enforcement unit, Mr. Berry handled a wide variety of complex cases, recovering millions of dollars for the United States.



M. Anderson Berry Biography

(continued)

Before working for the Department of Justice, Mr. Berry practiced at one of the world's largest law firms, Jones Day, where he represented clients in international arbitration and complex commercial litigation, including defending class action allegations.

Mr. Berry attended the University of California, Berkeley, where he majored in English and graduated with highest honors. Anderson was inducted into the Phi Beta Kappa Honor Society and served as President of the English Undergraduate Associate.

After working as a private investigator for both criminal and civil investigations in the San Francisco Bay Area, Anderson graduated from U.C. Berkeley School of Law, where he was a Senior Editor for both the *Berkeley Journal of Criminal Law* and *Berkeley Journal of International Law*.

He was admitted to the California Bar in 2009 and is admitted to practice in the Northern, Eastern and Central Districts of California.

M. Anderson Berry was raised in Moraga, California.



Leslie Sindelar Guillon Biography



Leslie Sindelar Guillon practices in the data breach complex litigation practice for the Arnold Law Firm.

Ms. Guillon has experience in privacy and consumer/government fraud litigation, actively participating in a currently sealed False Claims Act case involving widespread cybersecurity fraud upon the United States. She also participates in the following class action litigations: *In Re: Hanna Andersson and Salesforce.com Data Breach Litigation*, 3:20-cv-00812-EMC (N.D. Cal.); *Emmanuel v. Truefire, LLC, et al.*, 8:20-cv-857-T-02CPT (M.D. Fla.);

In Re: Ambry Genetics Data Breach Litigation, 8:20-cv-00791 (C.D. Cal.); and *Barajas Torres v. Caglia Environmental, LLC, et al.*, MCV078838 (California Superior Court, Madera).

Ms. Guillon joined the Arnold Law Firm in 2016. Her legal career began with a large Los Angeles defense firm before returning to the Sacramento area to represent plaintiffs, specializing in whistleblower law. Thereafter, for three years she focused on elder abuse and personal injury cases. She has practiced law continuously in California since 2002 and became a member of the Illinois Bar in 2003.

Ms. Guillon was born and raised outside of Chicago in the River Forest/Oak Park area, known for its historical connections with architect Frank Lloyd Wright and author Ernest Hemingway. She moved to the west coast for undergraduate studies at the University of Southern California in Los Angeles, where she graduated with a Business Administration degree and a minor in Music Industry in 1998.

Ms. Guillon briefly worked for the American Society of Composers, Authors and Publishers (ASCAP), before deciding to follow in the footsteps of her father, a patent attorney, and head to law school.



**Leslie Sindelar Guillon
Biography**

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Ms. Guillon was awarded an academic scholarship at the McGeorge School of Law, University of the Pacific, graduating in 2002 and receiving the Witkin Award in Legal Process. While at McGeorge, she was Assistant Comment Editor for the *Transnational Lawyer Law Journal* and published "Not so Fair After All — International Aspects of the Fairness in Music Licensing Act of 1998."