

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

IN RE: NETGAIN TECHNOLOGY, LLC, CONSUMER DATA BREACH LITIGATION	Court File No. 21-cv-1210 (SRN/LIB)
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**DECLARATION OF BRIAN C. GUDMUNDSON IN SUPPORT OF CLASS
COUNSEL’S APPLICATION OF ATTORNEYS’ FEES, REIMBURSEMENT OF
LITIGATION EXPENSES, AND SERVICE AWARDS**

I, Brian C. Gudmundson, declare:

1. I am a partner at Zimmerman Reed LLP, licensed to practice before the courts of the State of Minnesota.

2. I am one of the Court Appointed Settlement Class Counsel in this litigation representing Plaintiffs Misty Meier (o.b.o. her minor child G.C-M.), Jane Doe, Susan M. Reichert, Robert Smithburg, Thomas Lindsay and Robin Guertin (“Class Representatives”) and the Settlement Class in the above-captioned class litigation. *See* ECF 131 (Preliminary Approval Order) at 3. I have personal knowledge of all matters addressed in this Declaration.

3. I submit this Declaration in support of Class Counsel’s Application for Attorneys’ Fees, Reimbursement of Litigation Expenses, and Service Awards (“Attorneys’ Fees Motion”).

4. On May 08, 2025, Counsel for Plaintiffs and the putative class entered into a Class Action Settlement Agreement and Release (“Settlement Agreement”) with Defendant Netgain Technology, LLC (“Netgain”), which was filed as Exhibit A to the previously submitted Declaration of Christopher Renz in Support of Plaintiffs’ Unopposed Motion for Preliminary Approval of Class Action Settlement and Notice Plan, filed on May 12, 2025, ECF No. 129-1.

5. Plaintiffs and Netgain agreed to resolve all claims filed in this litigation. Netgain has agreed to provide a gross non-reversionary \$1,900,000.00 Settlement Fund. The Settlement Fund will be distributed to Settlement Class Members pursuant to the plan of distribution set forth in the Settlement.

6. The settlement negotiations throughout were extensive and highly contested, with counsel for each side advancing their respective arguments zealously on behalf of the best interests of their clients. The negotiations throughout the settlement process were conducted at arm’s length and, while conducted in a highly professional and respectful manner, was adversarial.

7. As part of the Settlement Agreement, the parties agreed that Class Counsel may seek an award of reasonable attorneys’ fees of up to one-third of the Settlement Fund. Based on that Settlement Agreement and Notice disbursed to the class, Class Counsel seeks reasonable attorneys’ fees in the amount of \$633,333.33, which is thirty-three and one-third percent (33.33%) of the Settlement Fund plus actual costs expended of \$48,261.52.

8. As part of the Settlement Agreement, the parties agreed and Plaintiffs are seeking service awards of up to \$1,500 for each of the Class Representatives.

9. On May 19, 2025, I was preliminarily appointed Settlement Class Counsel (“Class Counsel”) by this Court. ECF No. 131; previously, I had been appointed Interim Co-Lead Class Counsel by this Court on August 24, 2021. ECF No. 34. I have worked on this litigation since its inception.

10. I and the other attorneys on this case have substantial experience in class actions and data breach actions of similar size, scope, and complexity; and believe this Settlement represents a fair resolution of this matter and is in the best interests of the Plaintiffs and the Settlement Class. Our credentials are set forth in our application for leadership of this matter. *See*, Detailed Professional Experience for all firms listed in the previously submitted Motion to Appoint Interim Co-Lead Counsel and Executive Committee Counsel Under Fed. R. Civ. P. 23(g)(3), filed July 16, 2021, along with supporting documents. [ECF Nos. 24, 25, 25-1 thru 25-8].

11. During the over four years since the case began in May 2021, Class Counsel have devoted substantial time and resources to this matter, activities that include, but are not limited to: Investigation of the facts and interviewing Plaintiffs; Drafting pre-suit statutory exhaustion letters (e.g., California Consumer Protection Act claim); Researching and drafting the underlying individual complaints; Preparing Joint Motion for Consolidation; Drafting Consolidated Class Action Complaint on behalf of a nationwide class (with California and Minnesota subclasses) and asserting six causes of action; Researching (*e.g.* legal intricacies such as the economic loss doctrine) and briefing Opposition to Motion to Dismiss; Reviewing Defendant’s Answer to Consolidated Class Action Complaint; Negotiating and preparing the Joint Rule 26(f) Report; Preparing

Statement of the Case and attending Pre-trial Scheduling Conference; Negotiating and preparing Stipulated Protective Order; Negotiating and preparing Joint ESI Protocol; Propounding formal written discovery, including Interrogatories and Requests for Production; Propounding informal discovery in furtherance of mediation; Engaging in multiple meet-and-confers regarding Defendant's objections; Drafting Motion to Compel discovery and present to Magistrate Hon. Brisbois; Closely analyzing Defendants' responsive documents and data; Retaining and engaging consultant to analyze Defendant's data production; Assessing Defendant's degree of liability and estimated damages; Preparing for and participating in three (3) separate mediation sessions before Hon. Jeffrey J. Keyes (Ret.) in November 2022, October 2023, and December 2024; reviewing insurance information and confirmatory financial condition discovery; drafting the Settlement Agreements and exhibits thereto; Obtaining settlement administration proposals and declarations; drafting the Motion for Preliminary Approval and supporting documents; coordinating and overseeing the administration of Settlement; and regularly updating and communicating with Plaintiffs and putative Class Members.

12. In carrying out the aforementioned activities, Class Counsel made every effort to promote efficiency, limit duplicative efforts, and minimize the use of judicial resources in the management of the case.

13. Moreover, Class Counsel's work is not yet complete. Anticipated future tasks include continuing to oversee the administration of the Settlement, responding to Class Member inquiries, and drafting the Motion for Final Approval and supporting documents.

14. Even as of the date of this filing and after the expiration of the September 2, 2025, objection and opt-out deadlines, no Class Member opted-out or objected to the Settlement or the award of attorneys' fees, expense reimbursement, or service awards requested by Class Counsel.

15. Specifically, the requested attorneys' fees in the amount of \$633,333.33 and request for reimbursement of costs were identified in the Notice and online via the dedicated Settlement website and there have been no objections from Settlement Class Members.

16. The Class Representatives played a valuable and active role in this litigation, and devoted significant time and attention to the case. Specifically, the Class Representatives assisted with investigation of the fact by participating in lengthy interviews by Class Counsel, providing documents and details about their experience, reviewed and approved the underlying pleadings and Consolidated Class Action Complaint, regularly consulted with Class Counsel throughout the litigation, made themselves available for settlement negotiations, approved the Settlement, and sought updates during the preliminary approval and notice processes. The time and effort expended by the Class Representatives benefited the Settlement Class.

17. The Settlement Agreement's provision of \$1,500 Service Award for each of the Class Representatives are reasonable and were identified in the Notice and online via the dedicated Settlement website and there have been no objections to date from Settlement Class Members.

18. For over four years since the initial filing in May 2021, my firm, and each of the Class Counsel firms, have pursued this matter on a contingent fee basis, without payment or reimbursement to date, or a guarantee of any future payment for their efforts.

19. Here, the lawyers and firms designated as Class Counsel, Christopher Renz (Chestnut Cambronne PA), Brian Gudmundson (Zimmerman Reed LLP), Gayle M. Blatt (Casey Gerry Francavilla Blatt LLP) along with the law firms of Lockridge Grindal Nauen PLLP, Hellmuth & Johnson PLLC, Markovits, Stock & De Marco, LLC, Gustafson Gluek PLLC, Migliaccio & Rathod LLP, and Strauss Borelli PLLC, are each highly experienced in litigating complex class actions, having recovered millions of dollars for consumers nationwide. *See* Detailed Professional Experience for all firms listed in previously submitted Motion to Appoint Interim Co-Lead Counsel and Executive Committee Counsel Under Fed. R. Civ. P. 23(g)(3), filed July 16, 2021, along with supporting documents. [ECF Nos. 24, 25, 25-1 thru 25-8].

20. All Plaintiffs' attorneys and their firms have been appointed class counsel, lead counsel or settlement class counsel in numerous consumer class actions, and each has been involved in other data breach matters.

21. In preliminarily approving the Settlement, the Court designated Settlement Class Counsel, finding that "these lawyers are experienced and will adequately protect the interests of the Settlement Class." *See* ECF No. 131 at 13 (Order Granting Plaintiffs' Unopposed Motion For Preliminary Approval of Class Action Settlement (Order Granting Preliminary Approval")).

22. Class Counsel's experience litigating class actions, including in the data privacy arena, gave them the background, knowledge, and experience to permit full understanding of the complex and technical issues attendant in this case, value the risks of continued litigation, and resolve the case in a manner that achieves the relief sought in the Complaint.

23. At the date of the filing of the Attorneys' Fees Motion, Class Counsel collectively has accumulated over \$1,961,508.80 in lodestar and \$48,261.52 in costs invested in the prosecution of this case. Class Counsel seeks an award of fees of \$633,333.33, representing a substantial negative multiplier.

24. Time records were kept contemporaneously and in one tenth of an hour (six minute) increments for work performed and amount to over 1,771.90 hours collectively by Class Counsel in the prosecution of this case.

25. Class Counsel have incurred \$48,261.52 in out-of-pocket costs in furtherance of the litigation. These costs and expenses were necessarily and reasonably incurred in the prosecution of this case, and include legal research, service of process, court filing fees, postage and mailing, transportation costs, expert fees, and mediation

26. In recognition of the negative multiplier, Class Counsel provides the foregoing summary lodestar and out-of-pocket expenses attestations. However, should the Court require, each of the undersigned Plaintiffs' Counsel will submit supporting detailed hours, rates, and lodestar calculations based on time records, along with individualized detailed costs, for each law firm.

27. Plaintiffs Misty Meier (o.b.o. her minor child G.C-M.), Jane Doe, Susan M. Reichert, Robert Smithburg, Thomas Lindsay and Robin Guertin each actively participated in this litigation. They have assisted with the investigation of the facts of the case by providing documents and details about their experience, reviewed and approved the initial underlying pleadings and subsequent Consolidated Class Action Complaint, regularly consulted with Class Counsel throughout the litigation, made themselves available for settlement negotiations, reviewed and approved the Settlement, and sought updates during the preliminary approval and notice processes. Thus, a \$1,500 Service Award for each of the Class Representatives is reasonable in this case given their effort on behalf of the Class.

28. Class Counsel are not aware of any conflicts between Plaintiffs and the Class Members they seek to represent.

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

Executed this 25th day of September 2025, in Minneapolis, Minnesota.

/s/ Brian C. Gudmundson

Brian C. Gudmundson