

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

MICHAEL BERGESON, individually and on  
behalf of others  
similarly situated,

Plaintiff,

v.

VIRGINIA MASON MEDICAL CENTER,

Defendants.

No. 22-2-09089-8 SEA

**DECLARATION OF DAVID LIETZ IN  
SUPPORT OF PLAINTIFF’S MOTION  
FOR ATTORNEYS’ FEES, COSTS, AND  
SERVICE AWARD**

I, David Lietz, being competent to testify, make the following declaration:

1. I am currently a partner of the law firm Milberg Coleman Bryson Phillips Grossman (“Milberg”). I have been appointed Class Counsel for the Settlement Class. I submit this declaration in support of Plaintiff’s Motion for Attorneys’ Fees, Costs, and Service Awards. Except as otherwise noted, I have personal knowledge of the facts set forth in this declaration, and could testify competently to them if called upon to do so.





1           14.     Such time could otherwise have been spent on other fee-generating work. Because  
2 our Firm undertook representation of this matter on a contingency-fee basis, we shouldered the  
3 risk of expending substantial costs and time in litigating the action without any monetary gain in  
4 the event of an adverse judgment.

5           15.     If not devoted to litigating this action, from which any remuneration is wholly  
6 contingent on a successful outcome, the time our Firm spent working on this case could and would  
7 have been spent pursuing other potentially fee generating matters.

8           16.     Litigation is inherently unpredictable and therefore risky. Here, that risk was very  
9 real, due to the rapidly evolving nature of case law pertaining to data breach litigation, and the  
10 state of data privacy law. Therefore, despite my Firm's devotion to the case and our confidence in  
11 the claims alleged against Defendant, there have been many factors beyond our control that posed  
12 significant risks.

13           17.     Class Counsels' fees were not guaranteed—the retainer agreement counsel had with  
14 Plaintiffs did not provide for fees apart from those earned on a contingent basis, and, in the case  
15 of class settlement, approved by the court.

16           18.     Due to the early stage of litigation and efficiency by which Class Counsel was able  
17 to obtain this significant settlement, costs and fees incurred by Plaintiff are low.

18           19.     Plaintiff's request for \$100,000 in fees, costs and expenses, is inclusive of out-of-  
19 pocket costs, including local counsel costs, filing fees, service fees, and research costs. These costs  
20 are reasonable, and necessary for the litigation.

21           20.     Upon information and belief, notice in this case has been provided as agreed upon  
22 and as approved by the Court's Preliminary Approval Order and will be reported on more  
23

1 extensively in Plaintiffs' Motion for Final Approval of Class Action Settlement. The claims period  
2 is ongoing.

3 21. Upon information and belief, as of June 22, 2023, the Settlement Administrator  
4 reports receiving no requests for exclusion. Milberg has received no requests for exclusion.  
5

6 22. Upon information and belief, as of June 22, 2023, the Settlement Administrator  
7 reports receiving zero objections to the Settlement or to the request for fees, costs, and service  
8 awards. Milberg has similarly received no objections to the Settlement Agreement.

9 23. Plaintiff will file a declaration from P&N certifying completion of notice and  
10 detailing the status of the claims administration process with his motion for final approval.

11 24. I strongly believe that the Settlement Agreement is favorable for the Settlement  
12 Class. In the opinion of the undersigned and other Class Counsel, the settlement is fair, reasonable,  
13 adequate, and worthy of final approval.  
14

15 \* \* \* \* \*

16 I declare under penalty of perjury of the laws of the State of Washington and the United  
17 States that the foregoing is true and correct, and that this declaration was executed in Washington,  
18 D.C. on this 22nd day of June 2023.  
19

20  
21  
22 /s/ David K. Lietz  
David K. Lietz (*admitted pro hac vice*)  
23  
24  
25  
26