

**FILED**  
**12-22-2025**  
**CIRCUIT COURT**  
**DANE COUNTY, WI**  
**2024CV002164**

STATE OF WISCONSIN

CIRCUIT COURT

DANE COUNTY

KELLY GORDER, EMILY DEANN  
HARBISON, MICHAEL WEBSTER,  
CHRISTANTHI OPITZ, ON BEHALF OF  
D.T., A MINOR, TAYLOR NICOLE  
ZURFLUH-TAYLOR, JILLIAN  
ZACHAR, BONNIE HELD, CARESSA  
BRADENBURG, MARIANNE FROM,  
ANGELIQUE SKIPPER, and RUSSELL  
FROM, on behalf of himself and minors  
M.F. and O.F., individually, and on behalf  
of all others similarly situated,

Plaintiffs,

v.

FCDG MANAGEMENT, LLC d/b/a  
FIRST CHOICE DENTAL,

Defendant.

Case No. 2024CV002164

**PLAINTIFFS' UNOPPOSED MOTION FOR FINAL APPROVAL  
OF CLASS ACTION SETTLEMENT AND INCORPORATED  
MEMORANDUM OF LAW IN SUPPORT**

Plaintiffs Kelly Gorder, Emily Deann Harbison, Michael Webster, Christanthi Opitz, on behalf of D.T., a minor, Taylor Nicole Zurfluh-Taylor, Jillian Zachar, Bonnie Held, Caressa Bradenburg, Marianne From, Angelique Skipper, and Russell From, on behalf of himself and minors M.F. and O.F. (collectively, "Plaintiffs"), and on behalf of the proposed Settlement Class<sup>1</sup> of similarly situated individuals, respectfully submit this Unopposed Motion for Final Approval of Class Action Settlement and Memorandum of Law in support thereof. As set forth below and

<sup>1</sup> Unless otherwise specified, capitalized terms not herein defined shall have the meaning ascribed to them in Settlement Agreement ("SA"), which is attached as Exhibit A to *Plaintiffs' Unopposed Motion and Memorandum in Support of Preliminary Approval of Class Action Settlement*.

in the proposed Final Approval Order submitted herewith, Plaintiffs respectfully move pursuant to Wis. Stat. § 803.08 that this Court enter an Order and Final Judgment as follows: (a) granting certification of the Settlement Class for settlement purposes; (b) appointing Plaintiffs as Representative Plaintiffs and reaffirming as Class Counsel the attorneys appointed in the Preliminary Approval Order; (c) finding the Notice Program satisfied due process requirements and Wisconsin Statute § 803.08; (d) finding the terms of the Settlement are fair, reasonable, and adequate; (e) directing the Parties, their attorneys, and the Settlement Administrator to consummate the Settlement in accordance with the Final Approval Order and the terms of the Agreement; (f) resolving all claims, including the Released Claims, against the Released Parties and ruling the Settlement is binding on all Settlement Class Members, including the Releases contained in the Agreement; (g) overruling objections; (h) granting the *Motion and Memorandum For Approval of Attorneys' Fees, Expenses, and Service Awards*; and (i) dismissing the Lawsuit and entering a Final Judgment.<sup>2</sup>

## **I. INTRODUCTION**

On September 30, 2025, the Court granted preliminary approval of the Settlement between Plaintiffs and Defendant FCDG Management, LLC d/b/a First Choice Dental (“Defendant” or “FCD”), and ordered that Notice be given to the Settlement Class. The Settlement provides an excellent result for the approximately 159,145-person Settlement Class in the form of monetary and non-monetary relief, which includes: (i) up to \$6,000 in reimbursement of documented losses fairly traceable to the Data Incident; (ii) an Alternative Cash Payment of \$50.00, and (iii) three (3)

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<sup>2</sup> Defendant agrees with the relief sought in this Motion, but for the avoidance of doubt, Defendant does not concede the factual or legal basis for any claim asserted against it by Plaintiffs and denies liability. The language in this Motion, including the description of proceedings, as well as legal and factual arguments, is Plaintiffs’, and Defendant may disagree with certain of those characterizations and descriptions.

years of CyEx Medical Shield monitoring. SA, ¶ 3.3-3.4. The Settlement also provides for the implementation of certain business practice commitments by Defendant in the form of information security and systems remediation and improvements, with these business practice commitments totaling approximately \$225,000. SA, ¶ 3.5.

Following extensive arm's-length negotiations and a full-day mediation, the Parties negotiated the Settlement, thereby allowing Plaintiffs to circumvent the many risks and uncertainties they would ultimately face at each stage of litigation if the case were to proceed to trial. Indeed, Plaintiffs' claims involve the intricacies of data security litigation, which is a novel and constantly evolving area of the law. Although Plaintiffs believe in the merits of their claims, Defendant denies all charges of wrongdoing or liability. Against these risks, Class Counsel and Plaintiffs believe that the Settlement is fair, reasonable, and adequate, and represents an excellent result for the Settlement Class.

After this Court granted preliminary approval, the Settlement Administrator disseminated Notice to the Settlement Class as set forth in the Settlement Agreement. Individual Notice was provided directly to Settlement Class Members via first-class mail, successfully reaching 95.42% of the Settlement Class for whom Defendant had mail or email addresses, and 84% of the entire Settlement Class, and easily meeting the due process standard. *See Joint Declaration of Class Counsel* attached hereto as **Exhibit 1** ("Joint Decl."), ¶ 41; *Declaration of Jessie T. Montague Regarding Settlement Administration* attached hereto as **Exhibit 2** ¶ 10 ("Montague Decl."). The Notice was written in plain language, providing each Settlement Class Member with information on how to make a claim, how to opt-out, and how to object to the Settlement. Settlement Class Members' support for the Settlement has been very favorable, with no opt-out requests and only two (2) Settlement Class Members objecting to the Settlement. *See Montague Decl.*, ¶¶ 15-16.

For these reasons and those further set forth herein, Plaintiffs respectfully request the Court grant their Motion for Final Approval of the Class Action Settlement.

## **II. BACKGROUND AND PROCEDURAL HISTORY**

In the interest of efficiency, for factual and procedural background on this case, Plaintiffs refer this Court to, and hereby incorporate, *Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement and Incorporated Memorandum of Law in Support* filed on September 10, 2025, and *Plaintiffs' Motion for Attorneys' Fees and Costs and Class Representative Service Awards* filed on December 15, 2025.

## **III. SUMMARY OF SETTLEMENT**

### **A. Settlement Benefits**

The Settlement negotiated on behalf of the Settlement Class provides significant relief for the Plaintiffs and Settlement Class Members who submit timely and valid claims. The Settlement provides for relief for a Settlement Class of 159,145 individuals, which is defined as:

All persons in the United States whose Private Information was implicated in the Data Incident that Defendant discovered in October 2023.

*Id.*, ¶ 1.36. The Settlement specifically excludes: (i) Defendant; (ii) the Related Entities; (iii) all Settlement Class Members who timely and validly request exclusion from the Settlement Class; (iv) any judges assigned to this case and their staff and family; and (v) any other Person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding, or abetting the criminal activity occurrence of the Data Incident or who pleads nolo contendere to any such charge. *Id*

The Settlement negotiated on behalf of the Settlement Class establishes a process for Defendant to pay or cause to be paid: (i) all Costs of Settlement Administration (which includes Notice); (ii) attorneys' fees and costs as awarded by the Court (up to \$475,000); (iii) Service

Awards approved by the Court (up to \$2,000 for each Plaintiff); (iv) valid claims for Out-of-Pocket Losses; (v) Alternative Cash Payments; and (vi) three (3) years of monitoring through CyEx Medical Shield. SA, ¶¶ 3.4, 4.1, 4.10, 8.1, 8.2. The Settlement limits the Settlement Benefits at \$1,225,000, not including the three years of CyEx Medical Shield. SA, ¶ 1.35.

### **1. Reimbursement for Out-of-Pocket Losses**

Settlement Class Members may submit a claim for reimbursement of documented Economic Losses, not to exceed \$6,000.00 per Settlement Class Member. SA, ¶ 3.3a. To receive reimbursement for Economic Losses, a Settlement Class Member must submit third-party documentation and evidence of loss more likely than not caused by the Data Incident. Examples of Documented Economic Losses include, without limitation and by way of example, monetary loss from fraud or identity theft; professional fees including attorneys' fees, accountants' fees, and fees for credit repair services; costs associated with freezing or unfreezing credit with any credit reporting agency; credit monitoring costs that were incurred on or after mailing of the Notice of Data Incident, through the date of claim submission; and miscellaneous expenses such as notary, fax, postage, copying, mileage, and long-distance telephone charges.

### **2. Alternative Cash Payments**

Settlement Class Members may, in the alternative to the documented losses payment described above, submit a claim for a cash payment of \$50.00. *Id.* ¶ 3.3b. No supporting documentation is required for to be submitted for this benefit. In the unlikely event that Valid Claims for Monetary Compensation, attorneys' fees and costs, Service Awards, the costs of Defendant's information security and system remediation and improvements (which total \$225,000), and Costs of Settlement Administration, in the aggregate, exceed the Settlement

Benefit Cap, all Valid Claims for Monetary Compensation will be decreased *pro rata* to stay within the \$1,225,000.00 Settlement Benefit Cap. *Id.* ¶ 3.2.

### **3. Medical and Credit Monitoring**

Settlement Class Members may submit a claim to enroll in three (3) years of CyEx Medical Shield medical and credit monitoring, which includes \$1,000,000 in identity theft protection insurance. *Id.* ¶ 3.4. This service costs consumers \$14.95 a month at retail, making it an approximately \$538.20 value for each Settlement Class Member.<sup>3</sup>

### **4. Business Practices Changes & Confirmatory Discovery**

Lastly, as part of the Settlement, Defendant has agreed to undertake certain improvements to its data security practices and infrastructure designed at preventing future incidents of this nature. SA ¶ 3.5. To confirm these measures, Defendant will provide a confidential declaration to Class Counsel upon request describing its information security and systems remediation and improvements since the Data Incident, which total approximately \$225,000.00 in value. *Id.*

#### **B. Attorneys' Fees, Costs, and Expenses**

Under the Settlement Agreement, Class Counsel were permitted to request a combined award of \$475,000.00 for attorneys' fees and the costs of litigation, to be paid for by or on behalf of Defendant. SA ¶ 8.2. On December 15, 2025, Class Counsel moved for an attorneys' fee and expenses award of \$475,000.00, along with the payment of Service Awards to Plaintiffs in the amount of \$2,000.00 each. *See* Dkt. No. 68.

#### **C. Settlement Administration Costs (including Notice)**

Defendant agreed to pay, or cause to be paid, in full the Costs of Settlement Administration (which includes Notice), including the cost of implementing and developing the Notice Program,

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<sup>3</sup> *See* <https://cyex.com/medical-shield>.

as well as the costs of a Settlement Administrator to disseminate Notice, administer the Settlement, evaluate claims, and pay Settlement Class Members who submitted timely and valid claims. SA ¶ 5.11. The Notice Plan was carried out according to the procedure approved by the Court in its Preliminary Approval Order and complied with all applicable rules of due process under Wisconsin and federal law. *See* Montague Decl. ¶¶ 6-10. The final cost will not be known to the Parties until administration is complete, however, such costs are currently estimated to be \$149,164.00. *Id.* ¶ 18.

#### **D. Release**

Upon entry of the Final Approval Order, Settlement Class Members who do not submit a valid and timely request for exclusion from the Settlement Agreement will release claims against Defendant related to the Data Incident. The “Released Claims” are fully defined in Paragraph 1.27 of the Settlement Agreement and include “any and all past, present, and future liabilities, rights, claims, counterclaims, actions, causes of action, demands, damages, penalties, costs, attorneys’ fees, losses, and remedies of any form, kind, or description, whether known or unknown, existing or potential, suspected or unsuspected, liquidated or unliquidated, legal, statutory, or equitable, that result from, relate to, concern, arise out of, are connected with, or are based upon the Data Incident.” SA, ¶ 1.27. The Release is tailored to address all of the claims that have been pleaded or could have been pleaded in the Lawsuit.

#### **IV. THE SETTLEMENT MERITS FINAL APPROVAL**

A class action may be settled, voluntarily dismissed, or compromised only with court approval. Wis. Stat. § 803.08. As a matter of public policy, Wisconsin courts strongly favor settlement as a method of resolving disputes. *See Pitts v. Revocable Tr. of Knueppel*, 282 Wis. 2d 550, 574, 698 N.W.2d 761 (2005). In the context of class actions, Wisconsin courts have looked

to the Federal Rules of Civil Procedure for guidance. *See Harwood v. Wheaton Franciscan Servs., Inc.*, 2019 WI App 53, ¶ 5, 388 Wis.2d 546, 552, 933 N.W.2d 654, 657 (2019) (noting that under the Wisconsin class-certification statute, Wisconsin courts are directed to look to federal case law for guidance). Further, when “a state rule mirrors the federal rule, [Wisconsin courts] consider federal cases interpreting the rule to be persuasive authority.” *Luckett v. Bodner*, 2009 WI 68, ¶ 29, 318 Wis. 2d 423, 437, 769 N.W.2d 504, 511. Thus, when a class action settlement is sought to be preliminarily approved, the Court must consider whether certification of a settlement class is appropriate, and whether the proposed settlement is fair and within the range of possible approval. *See, e.g., In re TikTok, Inc., Consumer Priv. Litig.*, 565 F.Supp.3d 1076, 1083-84 (N.D. Ill. 2021). Certification of a settlement class under Wis. Stat. § 803.08(1) requires: (i) numerosity; (ii) commonality; (iii) typicality; and (iv) adequate representation. Further, Wis. Stat. § 803.08(2)(c) requires “the questions of law or fact common to class members predominate over any questions affecting only individual members, and that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy.”

Determining whether the proposed Settlement is fair, reasonable, and adequate, requires the consideration of six additional criteria: (i) the strength of plaintiffs’ case on the merits, balanced against the extent of the settlement offer; (ii) the complexity, length, and expense of further litigation; (iii) opposition to the settlement; (iv) class members’ reaction to the settlement; (v) the opinion of competent counsel; and (vi) the stage of proceedings and the amount of discovery completed. *Wong v. Accretive Health, Inc.*, 773 F.3d 859, 863 (7th Cir. 2014). Deciding that a class action settlement is fair, reasonable, and adequate addresses the concern “for the unnamed class members whose interests the named plaintiffs represent and the settlement is meant to serve.” *In re Subway Footlong Sandwich Mktg. & Sales Pracs. Litig.*, 869 F.3d 551, 556 (7th Cir. 2017).



Further, courts have held there is typically a presumption that a proposed settlement is fair and reasonable when it is negotiated at arm's-length. *See, e.g., Great Neck Cap. Appreciation Inv. P'ship, L.P. v. PricewaterhouseCoopers, LLP*, 212 F.R.D. 400, 410 (W.D. Wis. 2002). All of these factors are met here.

For the foregoing reasons, the Court should certify the class for settlement purposes, find that the class action Settlement is fair, reasonable, and adequate and finally approve the settlement pursuant to Wis. Stat. § 803.08.

**A. Final Class Certification for Settlement Purposes is Appropriate**

This Court preliminarily approved class certification for settlement purposes in its September 30, 2025 Order. At this juncture, final approval is appropriate.

**1. The Elements of Wis. Stat. § 803.08 are Satisfied**

Certification of a settlement class under Wis. Stat. § 803.08(1) requires: (i) numerosity; (ii) commonality; (iii) typicality; and (iv) adequate representation. Further, Wis. Stat. § 803.08(2)(c) requires “the questions of law or fact common to class members predominate over any questions affecting only individual members, and that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy.”

**a. The Class Satisfies Numerosity**

Wisconsin law requires that plaintiffs demonstrate that “the class is so numerous that joinder of all members is impracticable.” Previous decisions of the Wisconsin Court of Appeals have held that “forty-two identified class members was sufficient” to show numerosity. *Hammetter v. Verisma Sys., Inc.*, 2021 WI App 53, ¶ 10; *see also Harwood*, 2019 WI App 53, ¶ 55 (“That number is sufficient to satisfy the numerosity requirement, ..., *there are forty-two identified class members, and it does not matter for purposes of class certification if that is all there are.*”)

(emphasis added). This standard is easily satisfied here as there are 159,145 members of the Settlement Class. Montague Decl., ¶ 6.

**b. Commonality is Satisfied**

Statute § 803.08 also requires that there be “questions of law or fact common to the class.” Wis. Stat. § 803.08. Common questions exist where the “determination of [their] truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke.” *See Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 345 (2011). Common issues of law and fact exist where common evidence resolves the underlying liability issue as to each Class Member. *Hammetter*, 2021 WI App 53, ¶ 11. “[T]he potential need for individual damage determinations later in the litigation ‘does not itself justify the denial of certification.’” *Id.* ¶ 13 (quoting *Mullins v. Direct Digit., LLC*, 795 F.3d 654, 671 (7th Cir. 2015) (“It has long been recognized that the need for individual damage determinations at [the damages] stage of the litigation does not itself justify the denial of certification.”)).

This is precisely the case here for settlement purposes. Plaintiffs assert that their claims turn on whether Defendant failed to prevent the accessibility of their Private Information as a result of the Data Incident. Plaintiffs allege that resolution of that inquiry revolves around evidence that does not vary from class member to class member and so can be fairly resolved—at least for purposes of settlement—for all Class Members at once. The commonality requirement is satisfied for settlement purposes.

**c. Typicality is Satisfied**

A claim is typical if the claims or defenses of the representative parties “arise[] from the same event or practice or course of conduct that gives rise to the claims of other class members and ... her claims are based on the same legal theory.” *Rosario v. Livaditis*, 963 F.2d 1013, 1018

(7th Cir.1992). Even though some factual variations may not defeat typicality, the requirement is meant to ensure that the named representative's claims "'have the same essential characteristics as the claims of the class at large.'" *Retired Chi. Police Ass'n v. City of Chi.*, 7 F.3d 584, 597 (7th Cir.1993) (quoting *De La Fuente v. Stokely–Van Camp, Inc.*, 713 F.2d 225, 232 (7th Cir.1983)). Typicality seeks to ensure that there are no conflicts between the class representatives' claims and the claims of the class members represented. Here, the claims all involve Defendant's alleged failure to prevent the accessibility of Plaintiffs' and Class Members' Private Information in the Data Incident. Thus, for settlement purposes, Plaintiffs' claims are typical of the Class, and they are appropriate Class Representatives.

**d. Plaintiffs and Class Counsel Adequately Represent the Settlement Class**

Statute § 803.08 also requires that the representative parties (here Plaintiffs and Class Counsel) "fairly and adequately protect the interests of the class." Wis. Stat. § 803.08. "In determining adequacy of representation, the primary criteria are: (1) whether the plaintiffs or counsel have interests antagonistic to those of absent class members; and (2) whether class counsel are qualified, experienced and generally able to conduct the proposed litigation." *Hammetter*, 2021 WI App 53, ¶ 21 (quoting *Cruz v. All Saints Healthcare Sys., Inc.*, 2001 WI App 67, ¶ 18, 242 Wis. 2d 432, 445, 625 N.W.2d 344, 351). "So long as the individual has a general understanding of the nature of the class claims alleged, the individual can serve as representative." *Cruz*, 2001 WI App 67, ¶ 18.

Here, Plaintiffs and Settlement Class Counsel are more than adequate representatives of the Class for settlement purposes. Plaintiffs have no conflicts with the Class (indeed all claims presented arise out of the same Data Incident and are asserted on behalf of the Class as a whole) and have actively participated in the case through every stage, including having extensive

discussion with Class Counsel in preparation for filing the Consolidated Complaint and in advance of mediation and throughout the settlement process. *See* Joint Decl., ¶ 37. Moreover, Class Counsel have significant experience in class and complex litigation, as conveyed through the resumes attached as exhibits to the Declaration submitted along with the previously filed Motion for Preliminary Approval. *See generally* Joint Decl., ¶ 13. The adequacy requirement is therefore satisfied for settlement purposes.

## **2. The Elements of Wis. Stat. § 803.08 are Satisfied**

Plaintiffs seek to certify a Class for settlement purposes under Wisconsin Statute § 803.08(2)(c), which provides that a class action may be maintained if it satisfies all of the factors listed above and “[t]he court finds that the questions of law or fact common to class members predominate over any questions affecting only individual members, and that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy.” Wis. Stat. § 803.08(2)(c). The predominance and superiority prongs of §803.08(2)(c) are clearly met here for settlement purposes.

First, predominance is established if “common questions represent a significant aspect of [a] case and ... can be resolved for all members of [a] class in single adjudication.” *Messner v. Northshore Univ. HealthSystem*, 669 F.3d 802, 815 (7th Cir. 2012) (internal citations omitted). With respect to superiority, the Court considers whether “a class action is superior to other methods for fairly and efficiently adjudicating the controversy.” Wis. Stat. §803.08(2)(c).

“The guiding principle behind predominance is whether the proposed class's claims arise from a common nucleus of operative facts and issues.” *Hammetter*, 2021 WI App 53, ¶ 23. (quoting *Beaton v. SpeedyPC Software*, 907 F.3d 1018, 1029 (7th Cir. 2018)). Plaintiffs assert that the common factual and legal questions all cut to the issues central to the litigation, namely,

whether FCD's security measures leading up to the Data Incident were deficient and allowed the unauthorized accessibility of Plaintiffs' Private Information. Plaintiffs contend that the answers to these questions are not tangential or theoretical such that the litigation will not be advanced by certification. Plaintiffs assert that they will be answered simply by discovery applicable to all Class Members, and the answers will be the same for each Class Member as their Private Information was collectively stored within Defendant's system. Plaintiffs contend that because the class-wide determination of these issues will be the same for everyone and will determine whether any Class Member has a right of recovery, the predominance requirement is readily satisfied for settlement purposes.

Likewise, the superiority requirement is readily satisfied for settlement purposes. The Settlement would relieve the substantial judicial burden caused by thousands of individual adjudications against FCD. *See Harwood*, 2019 WI App 53, ¶ 58 (“[T]he case law is clear that public policy favors class actions especially where the amount in controversy is so small that the wronged party is unlikely ever to obtain judicial review of the alleged violation without a class action.”); *see also Ross v. Gossett*, 33 F.4th 433, 440 (7th Cir. 2022) (affirming the trial court's finding that “a class action would serve the economies of time, effort and expense and prevent inconsistent results.”).

Adjudicating individual actions is impracticable in this matter. The amount in dispute for individual class members is too small, the technical issues relating to FCD's data security are too complex, and the required expert testimony and document review would be far too costly. In no case are the individual amounts at issue sufficient to allow anyone to file and prosecute an individual lawsuit— at least not with the aid of competent counsel. Instead, the individual prosecution of Class Members' claims would be prohibitively expensive, and, if filed, would

needlessly delay resolution and potentially lead to inconsistent rulings. Because this Lawsuit is being settled on a class-wide basis, such theoretical inefficiencies are resolved, and the Court need not consider further issues of manageability relating to trial. *See Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 620 (1997) (“Confronted with a request for settlement-only class certification, a district court need not inquire whether the case, if tried, would present intractable management problems, for the proposal is that there will be no trial.”).

In sum, the proposed Class satisfies all factors required under Wisconsin law and should be certified for purposes of settlement.

**B. The Settlement is Fair and Reasonable**

Pursuant to Wisconsin Statute § 803.08(9), the Court may approve this Settlement if it determines that it is “fair, reasonable and adequate.” Because Wisconsin Statute § 803.08(9) was adopted to harmonize Wisconsin law with that of Federal Rule of Civil Procedure 23, “Wisconsin courts to look to federal case law for guidance.” *Harwood*, 2019 WI App 53, ¶ 5. The Seventh Circuit has identified the following factors when considering whether to finally approve a class action settlement: “(1) the strength of the case for plaintiffs on the merits, balanced against the extent of settlement offer; (2) the complexity, length, and expense of further litigation; (3) the amount of opposition to the settlement; (4) the reaction of members of the class to the settlement; (5) the opinion of competent counsel; and (6) the stage of proceedings and the amount if discovery completed.” *Wong*, 773 F.3d at 863 (internal citations omitted). “This analysis does not focus on individual components of the settlement, but rather views it in its entirety in evaluating its fairness.” *In re TikTok, Inc., Consumer Privacy Litig.*, 617 F. Supp. 3d 904, 933 (N.D. Ill. 2022) (internal quotations omitted).

As shown below, these factors all support a finding that the Settlement is fair and

reasonable and should be approved.

***1. Plaintiffs' Case Was Risky and the Settlement is a Substantial Recovery***

While Plaintiffs strongly believe they have a good likelihood of prevailing on their claims, they are also aware that Defendant has denied their material allegations and has raised several legal defenses, any of which, if successful, would result in Plaintiffs and the proposed Settlement Class Members receiving no relief whatsoever. Due at least in part to their cutting-edge nature and the rapidly evolving law, data breach class actions are notoriously risky cases. Historically, data breach cases face substantial hurdles in surviving the class certification stage. *See, e.g., Fulton-Green v. Accolade, Inc.*, 2019 WL 4677954, at \*8 (E.D. Pa. Sept. 24, 2019) (noting that data breach class actions are “a risky field of litigation because [they] are uncertain and class certification is rare.”); *see also Desue v. 20/20 Eye Care Network, Inc.*, 2023 WL 4420348, at \*7 (S.D. Fla. July 8, 2023) (“This is not only a complex case—it lies within an especially risky field of litigation: data breach.”). As a Wisconsin court observed in finally approving a settlement with similar class relief, “[d]ata breach litigation is evolving; there is no guarantee of the ultimate result . . . [they] are particularly risky, expensive, and complex.” *Fox v. Iowa Health Sys.*, 2021 WL 826741, at \*5 (W.D. Wis. Mar. 4, 2021).

Further, maintaining class certification through trial is another over-arching risk emphasizing what is true in all class actions—class certification through trial is never a settled issue, and is always a risk for the Plaintiffs. Thus, the costs, risks, and delay of continued litigation are great, and weigh heavily in favor of final approval. Class certification is another hurdle that would have to be met—and one that has been denied in other data breach cases. *See, e.g., In re Hannaford Bros. Co. Customer Data Sec. Breach Litig.*, 293 F.R.D. 21 (D. Me. 2013). And while it is easy to hope for a substantial award at trial, as one federal district court reminded several

objectors to a class settlement, “[i]n the real world. . .the path to a large damage award is strewn with hazards.” *In re Gulf Oil/Cities Serv. Tender Offer Litigation*, 142 F.R.D. 588, 595 (S.D.N.Y. 1992). The Settlement replaces the risks of establishing liability and damages with immediacy and certainty of a substantial recovery.

Class Counsel have significant experience litigating data breach cases. *See* Joint Decl. ¶ 13. Coupled with the extensive investigation conducted prior to filing and the discovery provided during the mediation process, Class Counsel had sufficient information regarding the merits of the claims made here to determine whether settlement was in the best interests of the Class. *Id.* ¶¶ 14-17. While Class Counsel remain confident in the merits of Plaintiffs’ claims, they are cognizant of the many hurdles that remain between Plaintiffs and any potential recovery on their claims. *Id.* ¶¶ 29-33. Given there is significant risk that either Plaintiffs’ individual claims will not survive, or that Plaintiffs will ultimately be unsuccessful in certifying a class of individuals who would be entitled to any award following trial, this factor favors final approval.

**2. *The Complexity, Expense, Likely Duration of the Litigation, and Substantial Risk for Plaintiffs Warrants Final Approval of the Settlement***

The costs, complexity, length, and expense of further litigation favors the Parties’ proposed Settlement. While the Parties have conducted informal discovery for settlement and mediation purposes, in the event litigation proceeds, the Parties would need to engage in further and significant discovery. The Parties would require experts, and the costs of testifying experts addressing the economic harm caused to consumers would be substantial. Further, continued litigation would surely involve motions for summary judgment, a motion for class certification, and appeals, which would all cause a delay in final resolution. *See In re AT&T Mobility Wireless Data Servs. Sales Litig.*, 270 F.R.D. 330, 347 (N.D. Ill. 2010) (“Even if Plaintiffs were to succeed on the merits at some future date, a future victory is not as valuable as a present victory. Continued



litigation carries with it a decrease in the time value of money, for “[t]o most people, a dollar today is worth a great deal more than a dollar ten years from now.”) (internal citations omitted). Therefore, this factor weighs in favor of final approval.

### **3. Reaction to the Settlement has Been Overwhelmingly Positive**

It is well-settled that “the reaction of the Class to the settlement is perhaps the most significant factor to be weighed in considering its adequacy.” *Sala v. Nat’l R.R. Passenger Corp.*, 721 F. Supp. 80, 83 (E.D. Pa 1989). A favorable reception by the Class constitutes “strong evidence” of the fairness of the settlement and supports judicial approval. *In re PaineWebber Ltd. Partnerships Litig.*, 171 F.R.D. 104, 126 (S.D.N.Y. 1997), *aff’d*, 117 F. 3d 721 (2d Cir. 1997) (citing *Detroit v. Grinnell Corp.*, 495 F. 2d 448, 462 (2d Cir. 1974)).

Given the strength of this Settlement and the significant benefits that Settlement Class Members can claim, the Settlement has been received positively by the Settlement Class. The 4,582 valid Claim Forms submitted by Settlement Class Members represent a 3.27% claims rate for Settlement Class Members for whom Defendant had a mail or email address and a 2.9% rate for the total Settlement Class. *See* Montague Decl. ¶ 17. This surpasses the claims rates frequently seen in other data breach class action settlements that have been approved. *See, e.g., In re Forefront Data Breach Litig.*, 2023 WL 6215366, at \* 4 (E.D. Wis. Mar. 22, 2023) (finding that the class favored the settlement where 137 of the 2.4 million class members opted out of the settlement, one class member objected, and the claims rate was 1.46%.); *In re Wawa, Inc. Data Sec. Litig.*, 2024 WL 1557366, at \*17 (E.D. Pa. Apr. 9, 2024), *aff’d*, 141 F.4th 456 (3d Cir. 2025) (2.56% claims rate “actually compares favorably to the claims rates in other data breach class actions”); *Carter v. Vivendi Ticketing US LLC*, 2023 WL 8153712, at \*9 (C.D. Cal. Oct. 30, 2023) (C.D. Cal. Oct. 30, 2023) (1.6% claims rate “is in line with claims rates in other data breach class action

settlements” and collecting cases with claims rates between 0.83% and “about two percent”); *In re Anthem, Inc. Data Breach Litig.*, 327 F.R.D. 299, 321 (N.D. Cal. 2018) (1.8% claims rate reflects a positive reaction by the class).

“It is established that the absence of a large number of objections to a proposed class action settlement raises a strong presumption that the terms of a proposed class settlement action are favorable to the class members.” *Nat’l Rural Telecomms. Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 529 (C.D. Cal. 2004); 4 NEWBERG ON CLASS ACTIONS § 11:48 (“Courts have taken the position that one indication of the fairness of a settlement is the lack of or small number of objections [citations omitted]”). Here, out of the 159,145 Settlement Class Members only two objections to the Settlement have been submitted and no one has opted out of the Settlement. Montague Decl. ¶ 16.<sup>4</sup>

#### **4. The Objections Should be Overruled**

While the two sole objections focus on two points, none of these arguments undermine the quality or validity of the Settlement: (1) that the relief is insufficient, and (2) that not enough people will claim the relief.

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<sup>4</sup> Two Settlement Class Members submitted letters to the Settlement Administrator purporting to object to the Settlement. *See* Montague Decl. ¶ 16. Because the letters failed to comply with multiple requirements listed in the Settlement Agreement—namely that objectors did not set forth any information which would identify them as Class Members or state whether they would appear at the Final Approval Hearing, neither Class Member of the letters complied with the objector obligations under the Settlement. *See, e.g., Chavez v. PVH Corp.*, 2015 WL 9258144, at \*3 (N.D. Cal. Dec. 18, 2015) (explaining that court may reject “procedurally improper” objections on that basis alone). Procedural failures aside, the two objections do not provide sufficient grounds for denying the otherwise well received Settlement. *Kleen Prod. LLC v. Int’l Paper Co.*, 2017 WL 5247928, at \*3 (N.D. Ill. Oct. 17, 2017) (granting final approval and finding that only one objector out of 158,500 class members “attests to” the “fairness” of the settlement). And, in any event, both objections should be overruled given that this Settlement is fair, reasonable, and adequate for the reasons discussed herein.

First, arguing amounts awarded to Class Members should be increased is “tantamount to complaining that the settlement should be ‘better,’ which is not a valid objection.” *Schulte v. Fifth Third Bank*, 805 F. Supp. 2d 560, 595 (N.D. Ill. 2011) (citation omitted) (finding objectors’ proposals about how the settlement “relief could be improved are not proper grounds upon which to deny final approval”); *see also Browning v. Yahoo! Inc.*, 2007 WL 4105971, at \*8 (N.D. Cal. Nov. 16, 2007) (overruling objections to settlement, finding that they gave “scant, if any, recognition to the significant hurdles faced by the Plaintiff and the class on the merits ..., or on the risk, expense, complexity and likely duration of further litigation”).

The fact that no one has opted out of the Settlement and only two Settlement Class Members, representing just 0.0014% of the Class, have submitted an objection (and the December 29, 2025 deadline to opt out or object is approaching) reflects a highly positive response by the Settlement Class. *See, e.g., Kleen Prod. LLC v. Int'l Paper Co.*, 2017 WL 5247928, at \*3 (N.D. Ill. Oct. 17, 2017) (one objector out of 158,500 class members “attests to” the “fairness” of the settlement); *In re Mexico Money Transfer Litig.*, 164 F. Supp. 2d 1002, 1021 (N.D. Ill. 2000) (granting final approval of settlements and finding the fact that “99.9% of class members have neither opted out nor filed objections to the proposed settlements . . . is strong circumstantial evidence in favor of the settlements”); *In re Sw. Airlines Voucher Litig.*, 2013 WL 4510197, at \*7 (N.D. Ill. Aug. 26, 2013) (concluding that objections and opt outs “amount[ing] to less than 0.01%” is a “low level of opposition [that] supports the reasonableness of the settlement”), *aff’d as modified*, 799 F.3d 701 (7th Cir. 2015); *In re AT & T Mobility Wireless Data Servs. Sales Tax Litig.*, 789 F. Supp. 2d 935, 964-65 (N.D. Ill. 2011) (concluding that 10 objections and “less than 0.01%” of opt outs was “remarkably low level of opposition” that “supports the Settlement”).

Ultimately, the positive response to the Settlement is unsurprising in light of the substantial and meaningful relief afforded by the Settlement.

Second, the objection that the Settlement's relief is "illusory" because of the risk of a low claim rate (citing .5-1.5 percent) is unfounded. The notice program was carefully and effectively designed and implemented, with direct notice successfully reaching over 95% of the Settlement Class for whom Defendant had mail or email addresses and 84% of the entire Settlement Class and informing them of the opportunity to make claims for Settlement benefits. *See* Montague Decl., ¶ 10. And, as a result, thousands of Settlement Class members did in fact make claims, resulting in a 2.9% claims rate. *Id.* ¶ 17. Notably, this number will continue to increase before the January 28, 2026 claims deadline. Accordingly, the objections should be denied.

Thus, the overwhelming support for this Settlement reaffirms the Court's preliminary conclusion that the Settlement is fair, reasonable and adequate, and this factor supports final approval.

### **5. *The Opinion of Class Counsel***

The fourth factor is the opinion of competent counsel as to whether a proposed settlement is fair, reasonable, and adequate. *Isby v. Bayh*, 75 F.3d 1191, 1200 (7th Cir. 1996). In assessing the qualifications of class counsel under this factor, a court may rely upon affidavits submitted by class counsel as well as its own observations of class counsel during the litigation. *Id.*

Both Class Counsel and Defendant's Counsel are highly qualified competent counsel with extensive experience litigating data breach class actions, and it is their opinion that the Parties' proposed Settlement is fair, reasonable, and adequate. *See* Joint Decl., ¶13. Indeed, the work of proposed Class Counsel in this Lawsuit to date, as well as their experience prosecuting complex litigation matters, demonstrate that proposed Class Counsel are well-qualified to represent the

Settlement Class and opine on the fairness of the proposed Settlement. *See id.* ¶¶ 14-17. Class Counsel believe that the Settlement represents an excellent result for the Settlement Class. The Settlement makes the following forms of relief directly available to Class Members: (i) reimbursement for Documented Losses incurred as a result of the Data Incident up to \$6,000.00; (ii) an Alternative Cash Payment of \$50.00; and (iii) three (3) years of CyEx Medical Shield monitoring, which includes \$1,000,000 in identity theft protection insurance. SA, ¶¶ 3.3-3.4. Compared to the uncertainties of continued litigation, the Settlement represents an excellent result for the Class that offers financial relief for any injuries and provides monitoring to prevent them from any future harm over the next three (3) years.

Class Counsel's opinion is further bolstered by the manner in which the Settlement was reached in this case. "A settlement reached after a supervised mediation receives a presumption of reasonableness and the absence of collusion." 2 *McLaughlin on Class Actions* § 6:7 (8th ed. 2011); *see also Steele v. GE Money Bank*, 2011 WL 13266350, at \*4 (N.D. Ill. May 17, 2011), *report and recommendation adopted*, 2011 WL 13266498 (N.D. Ill. June 1, 2011). Settlement in this case was only reached following a full-day mediation with Bruce Friedman, an experienced class action mediator with JAMS. Mr. Friedman participated fully in the mediation process and ensured that the proceedings were conducted at arm's-length. Joint Decl. ¶¶ 9-11, 18-21. Given the clear lack of collusion, the presumption of reasonableness thus applies to the Settlement.

This element thus supports approval of the Settlement.

#### **6. *The Stage of Proceedings and the Amount of Discovery Completed***

The last factor to consider concerns the stage of the proceedings and amount of discovery completed at the time the settlement is reached. *Synfuel Techs., Inc. v. DHL Express (USA), Inc.*, 463 F.3d 646, 653 (7th Cir. 2006). This factor is significant because "it indicates how fully the

district court and counsel are able to evaluate the merits of plaintiffs' claims." *Am. Int'l Grp., Inc. v. ACE INA Holdings, Inc.*, 2011 WL 3290302, at \*8 (N.D. Ill. July 26, 2011) (quoting *Armstrong v. Bd. of Sch. Directors of City of Milwaukee*, 616 F.2d 305, 325 (7th Cir. 1980)) (internal quotations omitted).

This case, though settled at a relatively early stage, has been thoroughly investigated by Class Counsel who are experienced in data breach litigation and who spent a significant amount of time reviewing informal discovery and considering the claims and defenses at issue in this case; the Settlement is also the result of adversarial arms' length negotiations. *See* Joint Decl., ¶¶14-17; 19-21. Further, Defendant filed, and the Parties fully briefed, a Motion to Dismiss Plaintiffs' claims. Through this process, Plaintiffs were able to fully evaluate the strengths and weaknesses of their individual claims. Class Counsel's experience and investigation, combined with confirmatory discovery and the motion to dismiss briefing process, put Plaintiffs in a position to proficiently evaluate the case legally and factually and negotiate a Settlement they view as fair, reasonable, adequate, and worthy of final approval. *See Griffin v. Flagstar Bancorp, Inc.*, 2013 WL 6511860, at \*3 (E.D. Mich. Dec. 12, 2013) ("The absence of formal discovery in no way undermines the integrity of the settlement given the extensive investigation that has occurred as a result of proceedings thus far which demonstrates that counsel have a full understanding of the strengths and weaknesses of their case."); *see also Newby v. Enron Corp.*, 394 F.3d 296, 306 (5th Cir. 2004) ("[T]he absence of formal discovery is not an obstacle [to settlement approval] so long as the parties and the Court have adequate information in order to evaluates the relative position of the parties."). This factor thus favors approval of the settlement.

**B. The Notice Program was Successful.**

On September 30, 2025, the Court preliminarily appointed RG/2 Claims Administration

as the Settlement Administrator. On October 3, 2025, RG/2 received the Class List from Defense Counsel and determined that there were 139,945 unique Class Members with available email or mailing addresses. Montague Decl. ¶ 6. RG/2 then commenced the Notice Program by emailing and mailing Short Notices to Class Members. *Id.* ¶¶ 7-8. On October 30, 2025, RG/2 Claims emailed the Short Form Notice to the 31,243 Class Members. Of the Short Form Notices sent by email, 7,941 Notices could not be delivered via email. RG/2 Claims promptly mailed a Short Form Notice to the Class Members with undeliverable email notices or invalid email addresses. *Id.* On October 30, 2025, RG/2 Claims mailed the Short Form Notice to 108,702 individuals identified as Settlement Class Members. *Id.* Of the initial batch of Short Notices sent, 40,318 Short Form Notices were returned as undeliverable. *Id.* ¶ 10. Following the skip trace procedure described in RG/2's Declaration, only 6,397 Short Form Notices remained undeliverable. *Id.* ¶¶ 9-10.

On October 29, 2025, RG/2 also established a Settlement Website, [www.FCDGDataSettlement.com](http://www.FCDGDataSettlement.com), which includes information about the Settlement, related case documents, the Settlement Agreement, and allows Settlement Class Members to file claim forms electronically. *Id.* ¶ 11. As of December 15, 2025, there have been 9,400 total unique users who have visited the Settlement Website with 16,639 page views. *Id.* RG/2 also established the toll-free number, 1-888-344-7952, for Settlement Class Members to receive additional information and ask questions about the Settlement. *Id.* ¶ 12. As of December 15, 2025, RG/2 has received 378 calls regarding the Settlement. *Id.* Lastly, RG/2 established an email account, [FCDGDataSettlement@rg2claims.com](mailto:FCDGDataSettlement@rg2claims.com), where Class Members could ask questions about the Settlement, request additional copies of the Long Form Notice or Claim Form, and submit a Claim Form. *Id.* ¶ 14. As of December 15, 2025, RG/2 received 237 emails from Class Members. *Id.*

The timing of the Claims Process was structured to ensure that all Settlement Class Members had adequate time to review the terms of the Settlement, compile documents supporting their Claim, and to decide whether to submit a Claim, opt-out of, or object to the Settlement. Indeed, Class Members have until January 28, 2026, to submit Claims. *Id.* ¶ 17. The Claims Process has been straightforward, with Settlement Class Members able to submit claims either through the Settlement Website, by hard copy mailed to the Settlement Administrator, or via email. Joint Decl. ¶ 11, 13-14. The Settlement Administrator has received a total of 4,708 Claim Forms as of December 15, 2025. *Id.* ¶ 17. Following review by RG/2, 4,582 of these Claims were determined to be valid. *Id.* The 4,582 valid claims represent 2.9% of the Settlement Class—a rate that is favorable in consumer settlements, and certainly those involving data breaches. *Id.* This number will only increase before the January 28, 2026 claims deadline.

In conclusion, the Settlement Agreement is fair, reasonable, and adequate considering, among other things: (1) the relief available to Plaintiffs and Settlement Class Members under the terms of the Settlement Agreement; (2) the attendant risks and uncertainty of litigation, as well as the difficulties and delays inherent in litigation; and (3) the desirability of resolving the case promptly to provide effective relief to Plaintiffs and the Settlement Class.

## **V. CONCLUSION**

Plaintiffs have negotiated a fair, adequate, and reasonable Settlement that guarantees Settlement Class Members significant benefits in the form of monetary compensation, credit monitoring, and equitable relief. Based on the above reasons, Plaintiffs respectfully request that the Court enter an Order: (a) granting certification of the Settlement Class for settlement purposes; (b) appointing Plaintiffs as Representative Plaintiffs and reaffirming as Class Counsel the attorneys appointed in the Preliminary Approval Order; (c) finding the Notice Program satisfied due process



requirements and Wisconsin Statute § 803.08; (d) finding the terms of the Settlement are fair, reasonable, and adequate; (e) directing the Parties, their attorneys, and the Settlement Administrator to consummate the Settlement in accordance with the Final Approval Order and the terms of the Agreement; (f) resolving all claims, including the Released Claims, against the Released Parties and ruling the Settlement is binding on all Settlement Class Members, including the Releases contained in the Agreement; (g) overruling objections; (h) granting the *Motion and Memorandum For Approval of Attorneys' Fees, Expenses, and Service Awards*; and (i) dismissing the Lawsuit and entering a Final Judgment.

Dated: December 22, 2025

By: /s/ Samuel J. Strauss

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*Attorneys for Plaintiffs and the Proposed Class*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was served in accordance with Wis. Stat. § 801.14 on all counsel of record on December 22, 2025.

Dated: December 22, 2025

By: /s/ Samuel J. Strauss  
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— **EXHIBIT 1** —

**STATE OF WISCONSIN****CIRCUIT COURT****DANE COUNTY**

KELLY GORDER, EMILY DEANN  
HARBISON, MICHAEL WEBSTER,  
CHRISTANTHI OPITZ, ON BEHALF OF  
D.T., A MINOR, TAYLOR NICOLE  
ZURFLUH-TAYLOR, JILLIAN  
ZACHAR, BONNIE HELD, CARESSA  
BRADENBURG, MARIANNE FROM,  
ANGELIQUE SKIPPER, and RUSSELL  
FROM, on behalf of himself and minors  
M.F. and O.F., individually, and on behalf  
of all others similarly situated,

Plaintiffs,

v.

FCDG MANAGEMENT, LLC d/b/a  
FIRST CHOICE DENTAL,

Defendant.

Case No. 2024CV002164

**JOINT DECLARATION OF RAINA C. BORRELLI AND DAVID ALMEIDA  
IN SUPPORT OF PLAINTIFFS' UNOPPOSED MOTION FOR  
FINAL APPROVAL OF CLASS ACTION SETTLEMENT**

1. We are proposed Class Counsel under the proposed Settlement with FCDG Management, LLC d/b/a First Choice Dental (“FCD” or “Defendant”) being presented to the Court for Final Approval. We submit this declaration in support of Plaintiffs’ Unopposed Motion for Final Approval of Class Action Settlement filed contemporaneously herewith. We have personal knowledge of the facts set forth herein and could testify competently to them if called upon to do so.<sup>1</sup>

### **I. BACKGROUND AND PROCEDURAL HISTORY**

2. This Lawsuit arises out of a cybersecurity incident wherein the Private Information, including Social Security numbers, passport numbers, driver’s license numbers, government identification numbers, credit card numbers, debit card numbers, and health information of 159,145 current and former patients of Defendant was potentially accessed by cybercriminals.

3. On October 22, 2023, FCD detected a ransomware event on its network, whereby an unauthorized actor gained access to FCD’s network, encrypted some of FCD’s data, and attempted to extort a ransom payment (the “Data Incident”).

4. Based on a subsequent forensic investigation, FCD determined that cybercriminals gained access to its data files. The investigation further determined that cybercriminals potentially accessed files containing the personal information of approximately 159,145 individuals.

5. In July of 2024, FCD sent notice to the Plaintiffs and the Settlement Class notifying them of an intrusion in its network that FCD believed may have affected Plaintiffs’ Private Information.

---

<sup>1</sup> Unless otherwise indicated, the defined terms herein shall have the same definition as set forth in the Class Settlement Agreement and Release (“Settlement Agreement”).

6. Plaintiffs subsequently filed several separate lawsuits before this Court. On November 20, 2024, after having filed separate actions, the Named Plaintiffs, on behalf of themselves and all others similarly situated, filed their Consolidated Class Action Complaint (ECF No. 14), captioned *Gorder, et al. v. FCDG Management, LLC d/b/a First Choice Dental*, Case No. 2024CV002164.

7. Plaintiffs asserted claims against Defendant for (1) Negligence; (2) Negligence *per se*; (3) Breach of Implied Contract; (4) Invasion of Privacy; (5) Unjust Enrichment; (6) Breach of Fiduciary Duty; and (7) Violations of Wisconsin Statute § 146.82 (1). FCD denies all the claims and contentions of Plaintiffs.

8. Following filing of Plaintiffs' Consolidated Complaint, Defendant filed a Motion to Dismiss Plaintiffs' claims on January 6, 2025. Plaintiffs filed their Opposition on February 6, 2025. Defendant's Motion was granted in part and denied in part on June 6, 2025.

9. Shortly thereafter, the Parties began discussing settlement and scheduled a mediation with Bruce Friedman, Esq., of JAMS, a highly experienced and well-regarded mediator who has successfully mediated a number of similar data breach cases.

10. In advance of the mediation, Plaintiffs propounded informal discovery requests on Defendant to which Defendant responded by providing information related to, among other things, the nature and cause of the Data Incident, the number and geographic location of individuals impacted, and the specific type of information potentially impacted. The Parties also exchanged mediation statements in advance of the mediation.

11. The Settlement Agreement was negotiated in good-faith and at arm's length by capable and experienced counsel on both sides having full knowledge of the law, facts, and the inherent risks of litigation.

## II. CLASS COUNSEL'S INVESTIGATION

12. Class Counsel are confident in the strength of Plaintiffs' case because Class Counsel have extensive experience in other data breach litigation and have led numerous large data breach cases to favorable resolution.

13. Class Counsel is experienced in the litigation, certification, trial, and settlement of nationwide class action cases. In negotiating this Settlement, Class Counsel had the benefit of years of experience litigating data breach cases. *See* Resumes of Class Counsel, attached as **Exhibits 1-2**.

14. Prior to filing this Lawsuit, Class Counsel spent time investigating the claims to gather information about the Data Incident. The thorough pre-suit investigation resulted in the preparation of detailed complaints and later the Consolidated Class Action Complaint.

15. In addition, for the initial complaints and the Consolidated Class Action Complaint, Class Counsel conducted background research into FCD and the Data Incident, conducted detailed interviews of Plaintiffs, and gathered relevant documents and information from Plaintiffs concerning the Data Incident and their experiences.

16. Leading up to the mediation, Class Counsel requested and thoroughly reviewed relevant information from Defendant via informal discovery. The discovery offered by Defendant included such information as the applicable insurance coverage, information on the size and scope of the Data Incident, how the Data Incident occurred, the types of data potentially accessed, and the remedial measures taken by FCD in the aftermath of the Data Incident. Review of this information enabled them to prepare for well-informed negotiations overseen by Mr. Friedman.

17. Class Counsel entered the mediation fully informed of the merits of Settlement Class Members' claims and negotiated the proposed Settlement while advancing the position of

Plaintiffs and Settlement Class Members and being fully prepared to continue to litigate rather than accept a settlement that was not in the best interest of Plaintiffs and Settlement Class Members.

18. On July 1, 2025, when the Parties mediated, Class Counsel had prepared a detailed mediation statement for Mr. Friedman.

19. Mr. Friedman actively supervised and participated in the settlement discussions, presiding over arm's-length negotiations between capable and experienced class action counsel on both sides.

20. Following the initial mediation session, the Parties continued to collaborate at arms' length over the next several weeks to finalize the details of the Settlement Agreement presented to the Court.

21. The Parties did not discuss attorneys' fees or service awards until after agreeing on the material terms of the Settlement, including the Settlement Class definition, Settlement Class Benefits, and the Releases.

22. On September 30, 2025, this Court granted preliminary approval of the Settlement. *See Order Granting Preliminary Approval of Class Action Settlement, Preliminary Certifying Settlement Class, Approving Notice Program, and Scheduling Final Approval Hearing.*

### **III. THE SETTLEMENT**

23. The Settlement negotiated on behalf of the Settlement Class establishes a process for Defendant to pay or cause to be paid: (i) all Costs of Settlement Administration (which includes Notice); (ii) attorneys' fees and costs as awarded by the Court (up to \$475,000); (iii) Service Awards approved by the Court (up to \$2,000 for each Plaintiff); (iv) valid claims for Out-of-Pocket Losses; and (v) Alternative Cash Payments. The Settlement limits Defendant's liability for these



categories of relief and Defendant's information security and systems remediation and improvements (which total \$225,000) at \$1,225,000.

24. An effective way to compare data breach settlements is by dividing the amount of relief offered to the Class by the number of class members. The up to \$1,225,000.00 of relief for the Class of 159,145 individuals amounts to \$7.70 per Settlement Class Member. This compares favorably with comparable class action data breach settlements regularly approved by other courts. The chart below shows several recently approved data breach class action settlements from around the country, establishing that the instant Settlement compares very favorably to other data breach settlements:

Case Title	Settlement Amount	No. of Class Members	\$ Per Class Member
<i>Madkin v. Automation Personnel Servs. Inc.</i> , No. 2:21-cv-1177 (N.D. Ala.)	\$1.37M	299,253	\$4.59
<i>Kesner, et al. v. UMass Memorial Health Care, Inc.</i> , No. 2185-cv-01210 (Mass. Supp. Ct.)	\$1.25M	209,047	\$5.98
<i>Bingaman v. Avem Health Partners Inc.</i> , Case No. CIV23-130 (W.D. Ok.)	\$1.45M	271,303	\$5.34
<i>In re Onix Grp., LLC Data Breach Litig.</i> , No. CV 23-2288-KSM, (E.D. Pa.)	\$1.25M	308,942	\$4.05

25. Further, as part of the Settlement, Plaintiffs have received assurances that Defendant has undertaken or will undertake measures designed to strengthen FCD's network security environment.

26. The Settlement was achieved only after a thorough investigation, preparation of a detailed consolidated complaint, the consideration of relevant informal discovery, the preparation of a detailed mediation statement, and intense settlement negotiations. Class Counsel thoroughly

evaluated all of these factors in their analysis of damages. By the time the settlement in principle was reached, Plaintiffs and Class Counsel were well informed of the strengths and weaknesses of the case.

27. Plaintiffs' counsel and Defendant's counsel are all attorneys who are familiar with class action litigation; particularly experienced in the litigation, certification, trial, and settlement of class actions, including data breach cases; and knowledgeable of the legal and factual issues at the center of this Action.

28. The Settlement was reached in the absence of collusion, and is the product of good-faith, informed, and arm's-length negotiations by competent counsel with the assistance of Mr. Friedman at mediation.

#### **IV. RISKS OF CONTINUED LITIGATION**

29. Any settlement requires the parties to balance the merits of the claims and defenses asserted against the attendant risks of continued litigation and delay.

30. Class Counsel believe the claims asserted are meritorious and that Plaintiffs would prevail if this matter proceeded to trial.

31. Class Counsel are pragmatic of the risks and challenges of litigation, including uncertainties in litigating the case through a motion to dismiss, including on the issue of standing, class certification discovery and proceedings, pretrial motion practice, trial, and likely appellate review. In addition, Class Counsel are aware of the risks inherent from any appeal and subsequent proceedings following a successful trial verdict. Even should Plaintiffs and the Settlement Class ultimately prevail at trial, recovery could be delayed for years by an appeal.

32. Each of these risks, by itself, could have impeded the successful prosecution of these claims at trial and in an eventual appeal—resulting in zero benefit to the Settlement Class.

Under the circumstances, Plaintiffs and Class Counsel appropriately determined the Settlement reached outweighs the gamble of continued litigation.

33. The claims and defenses in this Action are complex, as is clear by the record and other similar data breach cases. There is no doubt that continued litigation here would be difficult, expensive, and time consuming.

34. The Settlement provides immediate and substantial benefits to Settlement Class Members. The proposed Settlement is the best vehicle for Settlement Class Members to receive the relief to which they are entitled in a prompt and efficient manner.

35. Whether the Lawsuit would have been tried as a class action is also relevant in assessing the fairness of the Settlement. As the Court had not yet certified a class at the time the Agreement was executed, it is unclear whether certification would have been granted. This litigation activity would have required the Parties to expend significant resources.

36. Class Counsel represent that there are no agreements related to the settlement other than those reflected in the Settlement Agreement itself and an agreement with RG/2 to perform notice and settlement administration services.

37. The Class Representatives have also demonstrated their adequacy by: (i) selecting well-qualified Class Counsel; (ii) producing information and documents to Class Counsel to permit investigation and development of the complaints; (iii) being available as needed throughout the litigation; and (iv) monitoring the Action. Plaintiffs do not have any interests antagonistic to other Class Members.

38. In Class Counsel's experience and informed judgment, the Settlement represents an excellent result, in providing substantial monetary and equitable relief to Settlement Class

Members without further delay and considering the challenging and unpredictable path of litigation Plaintiffs would have faced absent a settlement.

**V. SETTLEMENT ADMINISTRATOR AND NOTICE PROGRAM**

39. The Settlement Administrator, RG/2, oversaw the Notice Program. The Court-approved Notice Program was designed to provide the best notice practicable and was tailored to inform Settlement Class Members about the Settlement benefits.

40. The Notice properly informed Settlement Class Members of the Settlement's substantive terms. The Notice advised Settlement Class members of their options for opting out of the Settlement, for submitting Claim Forms, for objecting to the Settlement and/or the Application for Attorneys' Fees, Costs, and Service Awards, and advised of how to obtain additional information about the Settlement. *See* Declaration of Jessie T. Montague Regarding Settlement Administration ("Montague Decl."), filed simultaneously herewith.

41. For the Settlement Class, Defendant had mail or email addresses available for 139,945 individuals. Of these, 133,548 Short Notices were successfully mailed to Settlement Class Members. As such, the Notice Program provided direct notice to 95.42% of the Settlement Class for whom Defendant had mail or email addresses, and 84% of the entire Settlement Class. Montague Decl. ¶ 7. This percentage easily meets the requirements of constitutional due process.

42. The Notice Program satisfies all applicable requirements of law and due process.

**VI. THE POSITIVE RESPONSE OF THE SETTLEMENT CLASS**

43. The deadline to request exclusions from the Settlement or to object to the Settlement is December 29, 2025. As of December 15, 2025, the Settlement Administrator has

received only two (2) objections to the Settlement and only no requests for exclusion from the Settlement. *Id.* ¶¶ 15-16.

44. In contrast, as of December 15, 2025, 4,582 valid claims had been submitted, representing a claims rate of 2.9%. *Id.* ¶17. Further, the claims deadline is not until January 28, 2026, meaning there is still more than a month for Class Members to submit additional claims. *Id.* The claims rate already compares very favorably to claims rates in data breach class action settlements that have been finally approved by courts nationally. *See, e.g., In re Anthem, Inc. Data Breach Litig.*, 327 F.R.D. 299, 321 (N.D. Cal. 2018) (finding that a 1.8% claims rate reflects a positive reaction by the class). This is supported by the chart below of several recent data breach settlements:

Case	Claims Rate
<i>In re Target Corp. Customer Data Sec. Breach Litig.</i> , No. 14-md-2522, 2017 WL 2178306, at *1–2 (D. Minn. May 17, 2017), <i>aff'd</i> , 892 F.3d 968 (8th Cir. 2018)	0.23%
<i>In re Hudson's Bay Co. Data Sec. Incident Consumer Litig.</i> , No. 18-CV-8472 (PKC), 2022 WL 2063864, at *10 (S.D.N.Y. June 8, 2022)	0.25%
<i>Corona v. Sony Pictures Entmt., Inc.</i> , No. 2:14-cv-9600 (C.D. Cal. Apr. 12, 2016), ECF Nos. 164, 166	0.7%
<i>Cochran et al. v. The Kroger Co.</i> , No. 5:21-cv-01887 (N.D. Cal.), ECF Nos. 104, 115	1%
<i>Hogsed, et al. v. PracticeMax, Inc.</i> , No. 2:22-cv-01261 (D. Ariz), ECF Nos. 43, 45	1.28%
<i>In re Anthem, Inc. Data Breach Litig.</i> , 327 F.R.D. 299, 321 (N.D. Cal. 2018)	1.8%

45. Overall, the response from the Settlement Class has been very positive, demonstrating the Class Members' approval of the Settlement.

46. In our professional opinions, the Settlement represents an excellent result for the Settlement Class and merits final approval.

47. It is our opinion that the proposed class action settlement is fair, reasonable, and adequate and is an outstanding result for the Settlement Class Members in light of the significant challenges faced.

We declare under penalty of perjury that the foregoing is true and correct.

Dated: December 22, 2025

By: /s/ Raina C. Borrelli  
Raina C. Borrelli  
**STRAUSS BORRELLI PLLC**  
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Dated: December 22, 2025

By: /s/ David S. Almeida  
David S. Almeida (SBN: 1086050)  
**ALMEIDA LAW GROUP LLC**  
849 W. Webster Avenue  
Chicago, Illinois 60614  
Telephone: (708) 529-5418  
david@almeidawgroup.com

**— EXHIBIT 2 —**

**STATE OF WISCONSIN CIRCUIT COURT DANE COUNTY**

KELLY GORDER, EMILY DEANN  
HARBISON, MICHAEL WEBSTER,  
CHRISTANTHI OPITZ, ON BEHALF OF  
D.T., A MINOR, TAYLOR NICOLE  
ZURFLUH-TAYLOR, JILLIAN  
ZACHAR, BONNIE HELD, CARESSA  
BRADENBURG, MARIANNE FROM,  
ANGELIQUE SKIPPER, and RUSSELL  
FROM, on behalf of himself and minors  
M.F. and O.F., individually, and on behalf  
of all others similarly situated,

Plaintiffs,

v.

FCDG MANAGEMENT, LLC d/b/a  
FIRST CHOICE DENTAL,

Defendant.

Case No.: 2024CV002164

**DECLARATION OF JESSIE T. MONTAGUE  
REGARDING SETTLEMENT ADMINISTRATION**

1. My name is Jessie T. Montague, and I am over the age of 18 years. I make this declaration under the penalty of perjury, free and voluntarily, under no coercion, threat, or intimidation, and without promise of benefit or reward, based on my own personal knowledge. If called to testify, I could and would testify consistent with the matters stated herein.

**INTRODUCTION**

2. I am a Senior Project Manager for RG/2 Claims Administration LLC (“RG/2 Claims”), whose address is 30 South 17th Street, Philadelphia, PA 19103. RG/2 Claims is the independent third-party Settlement Administrator<sup>1</sup> appointed by the Court to handle the settlement

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<sup>1</sup> All capitalized terms herein have the same meaning as the terms defined in the Settlement Agreement and Release (“Settlement Agreement”).



administration activities in the above-referenced matter, including, but not limited to, assisting and in the development and administration of the notice plan, as set forth in detail in this declaration, and administering the claims process set forth in detail in the Settlement Agreement. This Declaration is based upon my personal knowledge and upon information provided to me by Class Counsel or FCDG Management, LLC's d/b/a First Choice Dental ("Defendant") Counsel, my associates, and RG/2 Claims staff members.

3. RG/2 Claims is a full-service class action settlement administrator offering notice, claims processing, allocation, distribution, tax reporting, and class action settlement consulting services. RG/2 Claims' experience includes the provision of notice and administration services for settlements arising from antitrust, data security breach, consumer, civil rights, employment, negligent disclosure, and securities fraud allegations. Since 2000, RG/2 Claims has administered and distributed in excess of \$2 billion in class action settlement proceeds.

4. I have been actively involved and responsible for handling the administration of the settlement of the above-referenced matter.

5. RG/2 Claims was retained to, among other tasks, a) create, administer and oversee the settlement funding account, b) prepare, print, and mail notices to Settlement Class Members; c) establish and maintain the Settlement Website; d) establish and maintain a toll-free telephone line for Settlement Class Members; e) prepare weekly activity reports; f) handle inquiries from Settlement Class Members; g) re-mail Notices; h) skip-trace undeliverable addresses; i) receive and process Claim Forms; j) receive and track Opt-Outs and Objections; k) review supporting documentation for Documented Economic Losses; l) calculate and issue Settlement Benefits to Settlement Class Members with Valid Claims; and m) conduct such other tasks as the Parties mutually agree or the Court orders RG/2 Claims to perform.

NOTICE DISSEMINATION

6. On or about October 3, 2025, RG/2 Claims received from Defendant's Counsel electronic files containing the names, known mailing and emailing addresses, for 139,970 of the 159,145 individuals identified as Settlement Class Members. RG/2 Claims reviewed the electronic file and determined there were 139,945 unique Settlement Class Members with mail and/or email addresses.

7. On October 30, 2025, RG/2 Claims emailed the Short Form Notice to the 31,243 Class Members. Of the Short Form Notices sent by email, 7,941 Notices could not be delivered via email. RG/2 Claims promptly mailed a Short Form Notice to the Class Members with undeliverable email notices or invalid email addresses.

8. On October 30, 2025, RG/2 Claims caused to be served by First Class U.S. Mail the Short Form Notice to 108,702 individuals identified as Settlement Class Members. A true and correct copy of the Short Form Notice is attached hereto as "**Exhibit A**".

9. Prior to mailing the Short Form Notice, and in order to provide the best notice practicable and locate the most recent addresses for Settlement Class Members, RG/2 Claims processed the list of 139,945 Settlement Class Members names and addresses through the United States Postal Service's ("USPS") National Change of Address database ("NCOA") and updated the data with corrected information.

10. As of December 15, 2025, the USPS returned 40,318 Short Form Notices as undeliverable. Of the Short Form Notice returned, 1,213 included a forwarding address provided by the USPS, and RG/2 Claims promptly mailed a new Short Form Notice to those Settlement Class Members. For the remaining 39,105 Notices, RG/2 Claims performed extensive skip-trace procedures and was able to locate updated addresses for 32,708 Settlement Class Members. A total

of 133,548 Short Form Notices or 95% of Short Form Notices were successfully mailed. 6,397 Short Form Notices remain undeliverable after skip-trace procedures. Thus, less than 5% of the Short Form Notices sent have been deemed unsuccessfully delivered.

#### SETTLEMENT WEBSITE

11. On or about October 29, 2025, RG/2 Claims made available the Settlement Website at [www.FCDGDataSettlement.com](http://www.FCDGDataSettlement.com). The website includes the following:

- a. The “Homepage” contains a summary of the Settlement and advises the Settlement Class Members of their rights under the Settlement. A copy of the Homepage is attached hereto as “**Exhibit B.**”
- b. The “Court Documents” page contains pdf copies of the Consolidated Class Action Complaint, Settlement Agreement and Release, Order Granting Preliminary Approval of the Class Action Settlement, and Plaintiffs’ Motion for Attorneys’ Fees and Costs; along with the accompanying Memorandum.
- c. The “Notice and Claim Form” page contains pdf copies of the Long Form Notice, Claim Form and a link to the online claim filing portal for Settlement Class Members to log in using a Unique ID to submit the claim electronically.
- d. The “File a Claim” page included a link to a secure portal where Settlement Class Members can log in using a Unique ID to submit the claim electronically.
- e. The “Contact Us” page contains the contact information of the Settlement Administrator and Class Counsel.
- f. As of December 15, 2025, the Settlement Website was viewed a total of 16,639 times by 9,400 unique users.

#### TOLL-FREE NUMBER

12. RG/2 made available and hosted a toll-free number 1-888-344-7952 to allow Settlement Class Members to learn more about the settlement, listen to frequently asked questions related to the settlement, ask questions and request to have a Long Form Notice and Claim Form mailed directly to them. The toll-free number was displayed in the Long-Form Notice, Short Form Notice and on the Settlement Website. As of December 15, 2025, RG/2 Claims has received 378 calls and 13 requests to have a Long-Form Notice and Claim Form mailed.

#### SETTLEMENT P.O. BOX

13. RG/2 made available and monitored a settlement mailbox, Post Office Box 59479 in Philadelphia, PA 19102-9479 where Settlement Class Members could submit hard copy Claim Forms, requests for Claim Forms, Opt-Out requests, objections, and other case correspondence.

#### SETTLEMENT EMAIL INBOX

14. RG/2 established and monitored a settlement inbox, [FCDGDataSettlement@rg2claims.com](mailto:FCDGDataSettlement@rg2claims.com), where Settlement Class Member could learn more about the settlement, ask questions about the Settlement, and request to have a Long Form Notice or Claim Form mailed directly to them, and submit a Claim Form. As of December 15, 2025, RG/2 has received 237 emails.

#### OPT-OUTS & OBJECTIONS

15. The Opt-Out Period for this Settlement is December 29, 2025. RG/2 Claims has not received or been notified of any exclusion requests.

16. The Objection Deadline for this Settlement is December 29, 2025. RG/2 Claims has received two (2) Objections. Attached hereto as “**Exhibit C**” are copies of the objections.

### CLAIMS PROCESSING

17. As of December 15, 2025, RG/2 has received and processed 4,708 Claim Forms. Of the claims submitted, 126 claims were submitted by individuals who are not Settlement Class Members. RG/2 has received and processed 4,582 Claim Forms from Settlement Class Members resulting in a 3.27% claims rate for Settlement Class Members for whom Defendant had a mail or email address and a 2.9% rate for the total Settlement Class. 6 Settlement Class Members submitted claims for Documented Monetary Loss, 4,412 Settlement Class Members submitted claims for the Alternate Cash Payment and 2,579 Settlement Class Member submitted claims for Credit Monitoring. The deadline to submit a Claim Form to receive Settlement Benefits is 90 days after the Notice Deadline or, January 28, 2026. As the Claims Deadline has not expired, the information provided regarding the claim submissions is subject to change.

### SETTLEMENT ADMINISTRATION

18. RG/2 Claims has incurred fees and costs associated with the Settlement Administration thus far and will incur additional costs for processing claims submissions, reviewing documentation, resolving deficiencies, distribution, calculating payments, and responding to Settlement Class Member inquiries. To date RG/2 Claims has received payment of invoices in the amount of \$68,596 from or on behalf of Defendant to cover initial costs of the settlement administration. RG/2 anticipates that the total cost for its services through completion of the case will be \$149,164.

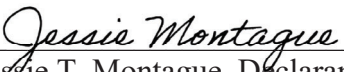
### CONCLUSION

19. Based on the total returned Short Form Notices to date and the number of remailed notices, RG/2 Claims believes the Notice Program reached over 95% of Settlement Class Members for whom Defendant had mail or email addresses and 84% of the entire Settlement Class. This

reach is consistent with or better than other effective court-approved settlement notice programs and is designed to meet due process requirements. The FJC's Judges' Class Action Notice and Claims Process Checklist and Plain Language Guide (the "FJC Checklist") considers 70-95% reach among class members to be a "high percentage" and reasonable.

I DECLARE UNDER PENALTY OF PERJURY THAT TO THE BEST OF MY KNOWLEDGE  
THE FOREGOING IS TRUE AND CORRECT.

Executed on December 22, 2025, at Philadelphia, PA.

  
\_\_\_\_\_  
Jessie T. Montague, Declarant

# EXHIBIT A

**Court-Approved Legal Notice**

*Gorder, et al. v. FCDG Management, LLC*  
*d/b/a First Choice Dental,*  
Case No. 2024CV002164  
Circuit Court of Dane County, Wisconsin

**If your Private Information  
was potentially implicated in the  
Data Incident that First Choice Dental  
discovered in October 2023, and you were  
sent notice, you may be entitled to  
benefits from a Settlement.**

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

**This notice is a summary.**

**[www.FCDGDataSettlement.com](http://www.FCDGDataSettlement.com)**  
**1- 888-344-7952**

First Choice Dental Data Incident Settlement  
c/o RG/2 Claims Administration  
P.O. Box 59479  
Philadelphia, PA 19102-9479

PRESORTED  
FIRST-CLASS MAIL  
U.S. POSTAGE PAID

**Electronic Service  
Requested**



NUMERIC EQUIVALENT

Postal Service: Please do not mark barcode

**Unique ID#: <<Unique D#>>**

**<<FirstName>><<LastName>>**

**<<Address1>>**

**<<Address2>>**

**<<City>>, <<State>> <<Zip>>**

**<<Country>>**



A settlement has been reached in a class action lawsuit against FCDG Management, LLC d/b/a First Choice Dental (“Defendant”) involving a Data Incident suffered by Defendant where cybercriminals potentially accessed Defendant’s system containing individuals’ Private Information on or about October 2023. The Private Information involves sensitive information including, but not limited to, names, dates of birth, Social Security numbers, passport numbers, driver’s license numbers, government identification numbers, credit and debit card numbers, financial account numbers, and health information. Plaintiffs alleged claims for negligence, negligence per se, breach of implied contract, invasion of privacy, unjust enrichment, breach of fiduciary duty, and for violations of Wisconsin Statute § 146.82. Defendant denies all allegations of wrongdoing or liability in the lawsuit.

**Who is Included?** All individuals in the United States whose Private Information was implicated in the Data Incident discovered by Defendant in or around October 22, 2023.

**What does the Settlement Provide?** As a Settlement Class Member, you may submit a Claim Form online using your Unique ID, or by mail postmarked by **January 28, 2026**, for the following Settlement benefits:

**Documented Economic Losses:** You may submit a Claim Form, for unreimbursed losses related to the Data Incident for up to \$6,000 per Settlement Class Member, which must be accompanied by supporting documentation; **OR**

**Alternative Cash Payment:** Instead of Documented Economic Losses, you may submit a Claim Form to receive an Alternative Cash payment for up to \$50. No supporting documentation is required;

**AND**

**Credit Monitoring:** In addition to either Documented Economic Losses or Alternative Cash Payment, you may also claim three years of CyEx Medical Shield monitoring, which includes \$1,000,000 in identity theft protection insurance.

The actual amount of Monetary Compensation may be prorated if the settlement administration costs, attorneys’ fees and expenses, service awards, Monetary Compensation, and the costs of Defendant’s information security and systems remediation and improvements (which total \$225,000) exceed the aggregate cap of \$1,225,000.

**Other Options.** If you do not want to be legally bound by the Settlement, you must submit an opt-out postmarked by **December 29, 2025**. If you do not opt-out, you will give up the right to sue and will release the Released Persons from the claims released and resolved by the Settlement. If you do not opt-out, you may object to the Settlement by **December 29, 2025**. The Long Form Notice on the settlement website explains how to opt-out or object. If you do nothing, you will get no Settlement benefits, and you will be bound by the Settlement and any judgments and orders. The Court will hold a Final Fairness Hearing on **January 12, 2026**, to consider whether to approve the Settlement, Class Counsel’s attorneys’ fees and costs up to \$475,000.00, and any objections. You or your lawyer may attend and ask to appear at the hearing if you object, but you are not required to do so.

**This notice is a summary.** The Settlement Agreement and more information about the lawsuit and Settlement are available at [www.FCDGDataSettlement.com](http://www.FCDGDataSettlement.com) or by calling toll-free **1-888-344-7952**.

# **EXHIBIT B**

# ***Kelly Gorder, et al., v. FCDG Management, LLC d/b/a First Choice Dental,***

## **Case No. 2024CV002164**

**IF YOUR PRIVATE INFORMATION WAS POTENTIALLY IMPLICATED IN THE DATA INCIDENT THAT FIRST CHOICE DENTAL DISCOVERED IN OCTOBER 2023, AND YOU WERE SENT NOTICE, YOU MAY BE ENTITLED TO BENEFITS FROM A SETTLEMENT.**

### **WHAT IS THIS LAWSUIT ABOUT?**

A settlement has been reached in a class action lawsuit against FCDG Management, LLC d/b/a First Choice Dental (“Defendant”) involving a Data Incident suffered by Defendant where cybercriminals potentially accessed Defendant’s system containing individuals’ Private Information on or about October 2023. The Private Information involves sensitive information including, but not limited to, names, dates of birth, Social Security numbers, passport numbers, driver’s license numbers, government identification numbers, credit and debit card numbers, financial account numbers, and health information. Plaintiffs alleged claims for negligence, negligence *per se*, breach of implied contract, invasion of privacy, unjust enrichment, breach of fiduciary duty, and for violations of Wisconsin Statute § 146.82. Defendant denies all allegations of wrongdoing or liability in the lawsuit.

## WHO IS INCLUDED?

The Settlement Class includes all individuals in the United States whose Private Information was implicated in the Data Incident discovered by Defendant in October 2023. Excluded from the Settlement Class are: (i) Defendant; (ii) the Related Entities; (iii) all Settlement Class Members who timely and validly request exclusion from the Settlement Class; (iv) any judges assigned to this case and their staff and family; and (v) any other Person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding, or abetting the criminal activity occurrence of the Data Incident or who pleads nolo contendere to any such charge.

## WHAT DOES THE SETTLEMENT PROVIDE?

If you are a Settlement Class Member, you can submit a timely and valid Claim Form for the following Settlement benefits:

### **Documented Economic Losses**

You may submit a timely and valid Claim Form with documentation for out-of-pocket expenses incurred as a result of the Data Incident, up to a maximum of \$6,000.00 per person.

Documented Economic Losses include, without limitation and by way of example monetary loss from fraud or identity theft; professional fees including attorneys' fees, accountants' fees, and fees for credit repair services; costs associated with freezing or unfreezing credit with any credit reporting agency; credit monitoring costs that were incurred on or after mailing of the Notice of Data Incident, through the date of claim submission; and miscellaneous expenses such as notary, fax, postage, copying, mileage, and long-distance telephone charges.

You will not be reimbursed for expenses if you have been reimbursed for the same expenses by another source.

### **Alternative Cash Payment**

Instead of submitting a Claim Form for Documented Economic Losses, Settlement Class Members can make a Claim for a single fifty dollar and zero cents (\$50.00) cash payment. No supporting documentation is required.

**Credit Monitoring**

In addition to the Monetary Compensation, you may also submit a Claim Form to receive three years of CyEx Medical Shield monitoring, which includes \$1,000,000 in identity theft protection insurance.

The actual amount of the Monetary Compensation may be prorated downwards if the settlement administration costs, attorneys’ fees and expenses, service awards, Monetary Compensation, and the costs of Defendant’s information security and systems remediation and improvements (which total \$225,000) exceed the aggregate cap of \$1,225,000, so that the total amount to be paid will not exceed \$1,225,000.

**HOW TO MAKE A CLAIM FOR SETTLEMENT BENEFITS?**

You must submit a timely and valid Claim Form to receive any Settlement benefits as described above. You must complete and file a **Claim Form online** (<https://www.claimsettlementportal.com/FCDG>) or by mail postmarked by **January 28, 2026**, including required supporting documents if you choose to submit a Documented Economic Losses claim.

**SUMMARY OF LEGAL RIGHTS**

Action	Summary of Legal Rights	Deadline(s)
Submit a Claim Form	The only way to get Settlement benefits is to submit a timely and valid Claim Form.	<b>JANUARY 28, 2026</b>

<b>Exclude Yourself</b>	You can choose to opt out of the Settlement and receive no payment. This option allows you to sue, continue to sue, or be part of another lawsuit against Defendant related to the legal claims resolved and released by this Settlement. You can hire your own legal counsel at your own expense.	<b>DECEMBER 29, 2025</b>
<b>Object to the Settlement</b>	Stay in the Settlement, but tell the Court why you do not agree with the Settlement. You will still be bound by the Settlement if the Court approves it.	<b>DECEMBER 29, 2025</b>
<b>Do Nothing</b>	You will receive no Settlement benefits. Give up your legal rights.	<b>No Deadline</b>
<b>Final Fairness Hearing</b>	The Court will hold a “Final Fairness Hearing” to decide whether to approve the Settlement and attorneys’ fees, costs, and expenses, and service award. You may attend and you may ask to speak if you submit an objection by the deadline, but you do not have to.	<b>JANUARY 12, 2026</b>

To understand all your options and how your rights will be affected, as well as the deadlines for action on your part, please read the **Long Form Notice** (pdf/FCDG\_Long\_Form\_Notice.pdf).

### **WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT?**

The Court will hold a Final Fairness Hearing on **January 12, 2026, at 9:00 a.m.** before the Honorable Benjamin Jones at Dane County Courthouse, 215 S Hamilton St., Madison WI 53703. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate and decide whether to approve the Settlement, Class Counsel’s request for attorneys’ fees, costs, and expenses, and the service award to the Class Representatives.

The date and time of the Final Fairness Hearing are subject to change without further notice to the Settlement Class. The Court may also decide to hold the hearing via video conference or by telephone. You should check this website for Settlement updates.

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© 2025

# **EXHIBIT C**



## STATE OF WISCONSIN

## CIRCUIT COURT – DANE COUNTY

KELLY GORDER, EMILY DEANN HARBISON, MICHAEL WEBSTER,  
CHRISTANTHI OPITZ,

on behalf of D.T., a minor, TAYLOR NICOLE ZURFLUH-TAYLOR, JILLIAN  
ZACHAR,

BONNIE HELD, CARESSA BRADENBURG, MARIANNE FROM, ANGELIQUE  
SKIPPER, and

RUSSELL FROM, on behalf of himself and minors M.F. and O.F., individually,  
and on behalf of all others similarly situated,

Plaintiffs,

v.

FCDG MANAGEMENT, LLC d/b/a FIRST CHOICE DENTAL,

Defendant.

Case No.: 2024-CV-002164

## FORMAL OBJECTION TO PROPOSED CLASS ACTION SETTLEMENT

I, Bernard L. Coxhead, am a member of the Settlement Class in this matter as evidenced by the notice I received from the Settlement Administrator. Unique ID No: XFW-JT2-QPY3-5795. Pursuant to the Notice and the requirements of Wis. Stat. §803.08(11)(e), I respectfully submit this formal written objection to the proposed class-action settlement in Gorder et al. v. FCDG Management LLC d/b/a First Choice Dental. This objection is timely filed and in good faith. I request that the Court evaluate the fairness, reasonableness, and adequacy of the proposed settlement under Wisconsin law—by analogy to the standards applied under Federal Rule of Civil Procedure 23(e)(2).

**I. SUMMARY OF THE PROPOSED SETTLEMENT**

The settlement provides each class member the opportunity to submit documented economic losses up to \$6,000 or an alternative cash payment of up to \$50. Additionally, class members are eligible for three years of identity-monitoring services (CyEx Medical Shield with \$1,000,000 identity theft insurance).

## II. BASIS FOR OBJECTION

### A. Gross Inadequacy of Monetary Relief

While the offer of up to \$6,000 for documented losses appears high, the more commonly accessible \$50 option is inadequate for the exposure of sensitive personal and health information on any internet platform, let alone the Dark Web.

### B. Risk of Low Claim-Rate and Illusory Relief

Empirical data indicate that in similar data-breach settlements, only 0.5–1.5 percent of eligible class members file claims. Without a robust participation rate, the effective relief to class members is negligible.

### C. Continuing Risk of Harm and Ongoing Nature of Data Exposure

The Data Incident involved highly sensitive personal identifiers and health information that remained at risk for years and will require substantial research and effort to locate and remove, if possible.

### D. Comparison to National Data-Breach Settlement Norms

Comparative settlements show materially higher relief (\$150-\$300 plus multi-year monitoring coverage).

## III. REQUESTED CORRECTIVE TERMS

To ensure fairness under Wis. Stat. §803.08, I respectfully request the Court condition final approval on one or more of the following:

1. Increase the guaranteed baseline payment to at least \$300-\$500 per class member.
2. Extend identity-monitoring coverage beyond three years, preferably to five years.
3. Tie attorney fees directly to actual distributions to class members.
4. Permit reimbursement for future losses traceable to the breach.

## IV. QUANTIFIED ECONOMIC HARM

Expense Category	Typical Annual Cost (2025)	Source
Three-bureau credit monitoring	\$179 – \$249 / yr	Norton LifeLock 2025 Price Index
Identity-restoration labor (5–10 hrs @ \$27.45 avg. wage)	\$137 – \$275	U.S. BLS Q3 2025

Lost opportunity/anxiety damages      \$100 – \$300

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In re T-Mobile Data Breach, MDL 3019 (W.D.

Independent consumer-cost studies show that identity-protection and remediation expenses following a medical-data breach substantially exceed the proposed recovery. The following table summarizes these typical costs:

Total Expected Harm: approximately \$400 – \$800 per person. The \$50 payment, therefore, compensates less than ten percent of the mean loss, failing the adequacy standard of Wis. Stat. §803.08(11)(f).

#### V. DISTRIBUTIONAL FAIRNESS AND ATTORNEY FEES

Empirical data from the Federal Trade Commission's 2019 report, "Consumers and Class Actions: A Retrospective and Analysis of Settlement Outcomes," shows that only 0.5 – 1.5 percent of eligible class members typically file claims in consumer or data-breach settlements. When claim rates are this low, the purported fund value is largely illusory—the vast majority of victims receive nothing. At the same time, unclaimed balances and administrative savings are diverted to attorney fees or cy pres recipients. Such outcomes undermine the fairness, adequacy, and equitable treatment standards of Wis. Stat. § 803.08(11)(f).

Courts have repeatedly required that fee awards correspond to the actual value distributed to the class. See *In re Baby Products Antitrust Litig.*, 708 F.3d 163 (3d Cir. 2013); *Pearson v. NBTY, Inc.*, 772 F.3d 778 (7th Cir. 2014); and *In re EasySaver Rewards Litig.*, 906 F.3d 747 (9th Cir. 2018). Accordingly, this Court should condition any fee award on proof of actual participation rates and the real dollar value delivered to class members.

#### VI. CONCLUSION

For the reasons stated, Objector respectfully urges the Court to withhold final approval until the settlement provides relief commensurate with the quantifiable and ongoing harms suffered by the class, extends meaningful monitoring protection, and ensures that attorney compensation reflects actual distributions rather than theoretical fund values. Such conditions would align the settlement with both the letter and intent of Wis. Stat. §803.08(11) and the principles of fairness under Federal Rule 23(e).

Respectfully submitted,

Bernard L. Coxhead  
809 Liberty Drive  
DeForest, WI 53532  
becoxhead@tds.net • (608) 335-1160



Dated: November 5, 2025

**CERTIFICATE OF SERVICE**

I hereby certify that on November 4, 2025, I served a true and correct copy of this Objection to Proposed Settlement via First-Class U.S. Mail upon the following parties and filed the same with the Circuit Court of Dane County:

**Court / Clerk of Court**

Circuit Court of Dane County  
215 S Hamilton St.  
Madison, WI 53703

**Settlement Administrator**

FCDG Data Settlement – c/o Claims Administrator (RG/2 Claims)  
P.O. Box 59479  
Philadelphia, PA 19102-9479

**Class Counsel**

David S. Almeida, Esq. – Almeida Law Group LLC  
Christopher D. Jennings, Esq. – Strauss Borelli, PLLC

Almeida Law Group LLC (Co-Lead)  
849 W. Webster Avenue  
Chicago, IL 60614

Strauss Borelli PLLC (Co-Lead)  
980 N. Michigan Avenue, Suite 1610  
Chicago, IL 60611  
Phone: (872) 263-1100

**Defendant's Counsel**

Wilson Elser Moskowitz Edelman & Dicker LLP  
555 East Wells Street, Suite 1730  
Milwaukee, WI 53202

Signature: 

Bernard L. Coxhead

Dated: November 5, 2025

## STATE OF WISCONSIN

## CIRCUIT COURT – DANE COUNTY

KELLY GORDER, EMILY DEANN HARBISON, MICHAEL WEBSTER,  
CHRISTANTHI OPITZ,

on behalf of D.T., a minor, TAYLOR NICOLE ZURFLUH-TAYLOR, JILLIAN  
ZACHAR,

BONNIE HELD, CARESSA BRADENBURG, MARIANNE FROM, ANGELIQUE  
SKIPPER, and

RUSSELL FROM, on behalf of himself and minors M.F. and O.F., individually,  
and on behalf of all others similarly situated,

Plaintiffs,

v.

FCDG MANAGEMENT, LLC d/b/a FIRST CHOICE DENTAL,

Defendant.

Case No.: 2024-CV-002164

## FORMAL OBJECTION TO PROPOSED CLASS ACTION SETTLEMENT

I, Bernard L. Coxhead, am a member of the Settlement Class in this matter as evidenced by the notice I received from the Settlement Administrator. Unique ID No: 4NM-BG8-C3DF-1419. Pursuant to the Notice and the requirements of Wis. Stat. §803.08(11)(e), I respectfully submit this formal written objection to the proposed class-action settlement in Gorder et al. v. FCDG Management LLC d/b/a First Choice Dental. This objection is timely filed and in good faith. I request that the Court evaluate the fairness, reasonableness, and adequacy of the proposed settlement under Wisconsin law—by analogy to the standards applied under Federal Rule of Civil Procedure 23(e)(2).

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### A. Gross Inadequacy of Monetary Relief

While the offer of up to \$6,000 for documented losses appears high, the more commonly accessible \$50 option is inadequate for the exposure of sensitive personal and health information on any internet platform, let alone the Dark Web.

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The Data Incident involved highly sensitive personal identifiers and health information that remained at risk for years and will require substantial research and effort to locate and remove, if possible.

### D. Comparison to National Data-Breach Settlement Norms

Comparative settlements show materially higher relief (\$150-\$300 plus multi-year monitoring coverage).

## III. REQUESTED CORRECTIVE TERMS

To ensure fairness under Wis. Stat. §803.08, I respectfully request the Court condition final approval on one or more of the following:

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4. Permit reimbursement for future losses traceable to the breach.

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Identity-restoration labor (5–10 hrs @ \$27.45 avg. wage)	\$137 – \$275	U.S. BLS Q3 2025

Lost opportunity/anxiety  
damages \$100 – \$300

In re T-Mobile Data  
Breach, MDL 3019 (W.D.

Independent consumer-cost studies show that identity-protection and remediation expenses following a medical-data breach substantially exceed the proposed recovery. The following table summarizes these typical costs:

Total Expected Harm: approximately \$400 – \$800 per person. The \$50 payment, therefore, compensates less than ten percent of the mean loss, failing the adequacy standard of Wis. Stat. §803.08(11)(f).

#### V. DISTRIBUTIONAL FAIRNESS AND ATTORNEY FEES

Empirical data from the Federal Trade Commission's 2019 report, "Consumers and Class Actions: A Retrospective and Analysis of Settlement Outcomes," shows that only 0.5 – 1.5 percent of eligible class members typically file claims in consumer or data-breach settlements. When claim rates are this low, the purported fund value is largely illusory—the vast majority of victims receive nothing. At the same time, unclaimed balances and administrative savings are diverted to attorney fees or cy pres recipients. Such outcomes undermine the fairness, adequacy, and equitable treatment standards of Wis. Stat. § 803.08(11)(f).

Courts have repeatedly required that fee awards correspond to the actual value distributed to the class. See *In re Baby Products Antitrust Litig.*, 708 F.3d 163 (3d Cir. 2013); *Pearson v. NBTY, Inc.*, 772 F.3d 778 (7th Cir. 2014); and *In re EasySaver Rewards Litig.*, 906 F.3d 747 (9th Cir. 2018). Accordingly, this Court should condition any fee award on proof of actual participation rates and the real dollar value delivered to class members.

#### VI. CONCLUSION

For the reasons stated, Objector respectfully urges the Court to withhold final approval until the settlement provides relief commensurate with the quantifiable and ongoing harms suffered by the class, extends meaningful monitoring protection, and ensures that attorney compensation reflects actual distributions rather than theoretical fund values. Such conditions would align the settlement with both the letter and intent of Wis. Stat. §803.08(11) and the principles of fairness under Federal Rule 23(e).

Respectfully submitted,

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Dated: November 5, 2025

**CERTIFICATE OF SERVICE**

I hereby certify that on November 4, 2025, I served a true and correct copy of this Objection to Proposed Settlement via First-Class U.S. Mail upon the following parties and filed the same with the Circuit Court of Dane County:

**Court / Clerk of Court**

Circuit Court of Dane County  
215 S Hamilton St.  
Madison, WI 53703

**Settlement Administrator**

FCDG Data Settlement – c/o Claims Administrator (RG/2 Claims)  
P.O. Box 59479  
Philadelphia, PA 19102-9479

**Class Counsel**

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**Defendant's Counsel**

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Signature: 

Emma M. Coxhead

Dated: November 5, 2025