

**IN THE COURT OF COMMON PLEAS
LORAIN COUNTY, OHIO**

TOM ORLANDO
Lorain County Clerk of Courts
24CV214017
FILED: 12/12/2025 03:10 PM

COLTON MCCLINTOCK, TANNER
WOLCOTT, and ALICIA WOLCOTT,
individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

ELYRIA FOUNDRY HOLDINGS, LLC, and
ELYRIA FOUNDRY COMPANY LLC,

Defendants.

Case No. 24-cv-214017

Judge: Honorable Judge Rothgery

**PLAINTIFFS' UNOPPOSED MOTION FOR ATTORNEYS' FEES,
LITIGATION COSTS, AND SERVICE AWARDS**

Pursuant to CIV. R. 23(G), Plaintiffs Colton McClintock, Tanner Wolcott, and Alicia Wolcott respectfully moves the Court for an order: (1) awarding attorneys' fees and litigation expenses to Class Counsel in the amount of \$193,000; and (2) approving service awards of \$3,000 to the each of the class representatives (for a total of \$9,000).

This motion is supported by the accompanying memorandum of law, the declarations and exhibits submitted herewith, the prior filings and record in this action, and any argument presented at the Final Approval Hearing scheduled for **February 17, 2026**, at **10:00 a.m. EST**. Plaintiffs will submit a proposed order in connection with their forthcoming Motion for Final Approval.

Plaintiffs' counsel has conferred with Defendant's counsel, who does not oppose this motion. Plaintiffs will submit a proposed order in connection with their forthcoming Motion for Final Approval.

TOM ORLANDO
Lorain County Clerk of Courts
24CV214017
FILED: 12/12/2025 03:10 PM

Dated: December 12, 2025

Respectfully submitted,

/s/Cassandra P. Miller
Cassandra P. Miller (*pro hac vice*)
Illinois Bar No. 6290238
STRAUSS BORRELLI PLLC
One Magnificent Mile
980 N Michigan Avenue, Suite 1610
Chicago IL, 60611
Telephone: (872) 263-1100
Facsimile: (872) 263-1109
cmiller@straussborrelli.com

Leigh S. Montgomery (*pro hac vice*)
Texas Bar No. 24052214
lmontgomery@eksm.com
service@eksm.com
EKSM, LLP
4200 Montrose Blvd., Suite 200
Houston, Texas 77006
Phone: (888) 350-3931
Fax: (888) 276-3455

*Attorneys for Plaintiffs and the Proposed
Class*

/s/ Robert E. DeRose
Robert E. DeRose (OH Bar No. 0055214)
BARKAN MEIZLISH DEROSE COX, LLP
4200 Regent Street, Ste. 210
Columbus, OH 43219
Phone: (614) 221-4221
Facsimile: (614) 744-2300
bderose@barkanmeizlish.com
*Local Counsel for Plaintiffs and the Proposed
Class*

INTRODUCTION

Under the proposed class action settlement agreement, Defendants Elyria Foundry Holdings, LLC and Elyria Foundry Company, LLC (“Defendant” or “Elyria”) have agreed to provide substantial relief to all class members who submit a valid claim, including Ordinary Losses, Extraordinary Losses, Lost Time Reimbursement, and Alternative Cash Payments, up to an aggregate cap of Two Hundred Thousand Forty Five and Zero Cents (\$245,000.00). Additionally, Defendant will provide two years of credit monitoring. This settlement provides meaningful relief in a case where liability, causation, and damages would be vigorously disputed. Therefore, Plaintiffs respectfully move the Court for an order: (1) awarding attorneys’ fees and litigation expenses to Class Counsel in the amount of \$193,000; and (2) approving service awards of \$3,000 to each class representative (for a total of \$9,000).

BACKGROUND

I. Litigation History

This case arises from a June 2024 cyberattack in which hackers gained access to Elyria’s systems, resulting in a Data Breach. Elyria’s investigation into the incident revealed that the threat actor may have accessed and copied certain files on Elyria’s network, some of which contained Personal Information of current and former employees and their spouses and dependents. In response to the Data Breach, Defendant sent a Notice Letter to each impacted individual providing a description of the type of Personal Information involved, which included names and Social Security numbers. Plaintiffs allege that the data breach occurred as a result of Elyria’s failure to exercise reasonable care. Elyria denies all wrongdoing or that it failed to exercise reasonable care.

In response, on October 9, 2024, Plaintiff Colton McClintock filed a class action

lawsuit against Defendant in this Court, originally styled *Colton McClintock v. Elyria Foundry Holdings, LLC*, Case No.: 24-cv-214017. On October 21, 2024, Plaintiffs Tanner Wolcott and Alicia Wolcott filed a related complaint against Defendant in the Northern District of Ohio, which they voluntarily dismissed on December 12, 2024. On January 14, 2025, Plaintiffs filed their Consolidated Amended Complaint (“CAC”). The parties then agreed to explore the possibility of settlement and to attend mediation. Before mediation, Defendant produced informal discovery, which allowed the parties to evaluate each side’s respective position, including class size, number of impacted individuals with social security numbers, and insurance coverage.

On June 10, 2025, counsel for the Parties engaged in an arm’s length mediation before Mediator Bennett Picker wherein the Parties succeeded in reaching an agreement on the principal terms of a class settlement, subject to final mutual agreement on all the necessary documentation. S.A. at p. 1.

II. Summary of Settlement Terms

A. Proposed Settlement Class

The proposed Settlement Class is defined as follows:

All individuals residing in the United States whose Personal Information was compromised in the Data Security Incident discovered by Elyria in June 2024, including those who received notice of the breach.

S.A. ¶ 35.

Excluded from the Settlement Class are (i) Defendant (ii) all Settlement Class Members who timely and validly request exclusion from the Settlement Class; (iii) any judges assigned to this case and their staff and family; and (iv) 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 Security Incident or who pleads *nolo contendere* to any such charge. *Id.* Defendant represents that the Class contains a total of 2,193 individuals. *Id.*

B. Settlement Benefits

In return for a release of liability, Defendant will pay all Approved Claims for Ordinary Losses up to \$400.00, Extraordinary Losses up to \$5,000.00, Lost Time Reimbursement of \$20.00 per hour for up to 4 hours, or Alternative Cash Payments of \$60.00, up to an aggregate cap of Two Hundred Forty-Five Thousand Dollars and Zero Cents (\$245,000.00). S.A. ¶42. Additionally, Settlement Class Members may enroll in two years of one-bureau credit monitoring and \$1,000,000.00 in identity theft protection. *Id.* ¶ 42(a)

C. Scope of Release

All Settlement Class Members who do not opt-out will release all claims “that are based on, arise out of, or in any way relate to the Data Security Incident or any of the facts alleged or claims asserted in the Action (including the Class Action Complaint and any amendment thereto), Defendant’s information security policies and practices, or Defendant’s maintenance or storage of Personal Information.” S.A. ¶ 29.

D. Attorneys’ Fees and Service Awards

The Settlement Agreement authorizes an award of (1) reasonable Attorneys’ Fees and Litigation Costs to Settlement Class Counsel, in an amount not to exceed \$193,000.00; and (2) reasonable service awards of no more than \$3,000 for each Representative Plaintiff (totaling \$9,000). S.A. ¶¶ 68, 70. The settlement is not

contingent on the Court's award of attorney fees, litigation costs, or service awards. *Id.*

¶¶ 69, 71.

E. Notice and Claims Administration

The parties retained Analytics Consulting, LLC, a well-known class action settlement administrator, to serve as Settlement Administrator. S.A. ¶ 34. Analytics has administered hundreds of national settlements, including data breach actions. Analytics Consulting is responsible for administering the notice and claims program. *Id.* ¶ 46. Defendant has agreed to pay all costs associated with notice and claims administration. *Id.* ¶ 54.

The settlement calls for a robust notice program. Elyria agreed to provide Analytics Consulting with the names and current or last known mailing address information of each Settlement Class Member. *Id.* ¶ 37. Analytics Consulting used that information to send direct notice to the Settlement Class Members. *Id.* ¶ 52, Exhibit A (Short Form Notice); Exhibit B (Long Form Notice). It is also maintaining a settlement website containing important documents and dates, as well as maintaining a toll-free telephone line, email address, and mailing address. *Id.* ¶ 53.

ARGUMENT

I. The requested fee and expense award is fair and reasonable.

Civil Rule 23 provides that "the court may award reasonable attorney's fees and nontaxable costs that are authorized by law or by the parties' agreement." CIV. R. 23(G). In this case, the parties' agreement authorizes a combined fee and expense award of \$193,000.00. *See* S.A. § 75; *In re Ford Motor Co. Spark Plug & Three Valve Engine*

Prods. Liab. Litig., 2016 U.S. Dist. LEXIS 188074, *28 (N.D. Ohio Jan. 26, 2016)

“[Defendant] has agreed to pay a combined fee and expense award of \$5,250,000. Therefore, Class Counsel’s fees are authorized by the parties’ agreement.”).¹

The parties have thus agreed that \$193,000.00 constitutes a reasonable fee. *See S.A.* ¶ 70 (providing that Defendant “agrees not to oppose” a request for fees and litigation expenses in that amount); *Bailey v. AK Steel Corp.*, 2008 U.S. Dist. LEXIS 18838, *3 (S.D. Ohio Feb. 28, 2008) (“[T]he parties have negotiated an amount of fees and expenses which both the defendant and the Plaintiffs agree is reasonable.”). Courts look favorably upon this type of settlement structure. *See Bailey*, 2008 U.S. Dist. LEXIS 18838, *2–3 (“Negotiated and agreed-upon attorneys fees as part of a class-action settlement are encouraged as an ‘ideal’ toward which the parties should strive.”); *Bower v. MetLife, Inc.*, 2012 U.S. Dist. LEXIS 149117, *21 (S.D. Ohio Oct. 17, 2012) (same); *Cowit v. CitiMortgage, Inc.*, 2015 U.S. Dist. LEXIS 143156, *19 (S.D. Ohio Oct. 21, 2015) (similar); *In re Ford Motor Co.*, 2016 U.S. Dist. LEXIS 188074, *28 (same).

That is particularly true in cases like this one, where the proposed fee and expense award is separate from, and in addition to, the amount that Defendant has agreed to pay to class members who submit a valid claim. *See Bailey*, 2008 U.S. Dist. LEXIS 18838, *3 (“[C]ourts are especially amenable to awarding negotiated attorneys

¹ “Because the Ohio Rules of Civil Procedure are modeled after the Federal Rules of Civil Procedure, federal law interpreting the federal rule is appropriate and persuasive authority in interpreting a similar Ohio rule.” *Felix v. Ganley Chevrolet, Inc.*, 2015-Ohio-3430, 145 Ohio St.3d 329, ¶ 24 (relying on federal authorities to interpret CIV. R. 23).

fees and expenses in a reasonable amount where that amount is in addition to and separate from the defendant's settlement with the class."). Under those circumstances, Class Counsel's fees do not reduce the amount that each class member will receive but, rather, provide an additional benefit to class members by paying legal fees that would have otherwise come out of their recovery. As such, "most courts recognize that fees negotiated and paid separate and apart from the class recovery, as here, are entitled to a 'presumption of reasonableness.'" *Cowit*, 2015 U.S. Dist. LEXIS 143156, *19, quoting *DeHoyos v. Allstate Corp.*, 240 F.R.D. 269, 322–23 (W.D. Tex. 2007); *Bailey*, 2008 U.S. Dist. LEXIS 18838, *3.

Additionally, the Settlement has received no opposition from the class. As of December 5, 2025, the Claims Administrator has received zero objections to the settlement and zero requests for exclusion, further evidencing the reasonableness of the requested fees and Service Awards. *Morano v. Fifth Third Bancorp*, No. A 2003954, 2022 Ohio Misc. LEXIS 5643, at *5 (Ct. Com. Pl. July 8, 2022) ("The fact that there were no objections or requests to opt-out from this Settlement supports a finding that the Settlement, including the administration of the Settlement, was reasonable."); *In re Christ Hosp. Pixel Litig.*, No. A 2204749, 2025 Ohio Misc. LEXIS 3178, at *8 (Ct. Com. Pl. Oct. 29, 2025) (holding that minimal opt-outs and objections supported that the settlement was reasonable). The presumption of reasonableness is reinforced by Class Counsel's lodestar. *Magnum Steel & Trading, LLC v. Mink*, 2013-Ohio-2431, ¶ 68 (Ct. App.) ("The most useful starting point for determining the amount of a reasonable fee is the number of hours reasonably expended on the litigation

multiplied by a reasonable hourly rate.”). The court then awards a reasonable fee by selecting the appropriate multiplier under the circumstances. *Gascho v. Glob. Fitness Holdings, LLC*, 822 F.3d 269, 279 (6th Cir. 2016). In this case, Class Counsel’s hourly rates are highly reasonable, especially because they are complex class action specialists with highly technical, nationwide practices. *See* Joint Decl. of Class Counsel (“Joint Decl.”) at ¶¶ 2–5 & Ex. 1–2 (firm resumes); *Hawkins v. Cintas Corp.*, 2025 U.S. Dist. LEXIS 28378, *13 (S.D. Ohio Feb. 18, 2025) (citing cases in which courts approved rates of up to \$1,060 for complex class action specialists). Class Counsel spent about 138 hours investigating the case, drafting multiple complaints, mediating the case, negotiating the settlement agreement, briefing preliminary approval, and overseeing the settlement so far. *See* Joint Decl. at ¶¶ 14-30; *Harding v. Steak N Shake, Inc.*, 2025 U.S. Dist. LEXIS 53458, *7 (N.D. Ohio Mar. 24, 2025) (awarding fees where class counsel spent about 700 hours litigating case and finding “the number of hours expended reasonable, given discovery, briefing, mediation, and settlement negotiations over several years”). Class Counsel’s total lodestar is \$98,209.50. *Id.* at ¶ 14. Class Counsel also incurred reasonable litigation expenses of \$13,376.87, mostly for mediation fees. *See* Joint Decl. at ¶¶ 14, 21, 27. Class Counsel worked efficiently, avoided duplication of work, and staffed the matter with lean teams.

Class Counsel has thus requested a lodestar multiplier (i.e., the requested fee divided by total lodestar) of only 1.97, which is on the lower end of the typical fee award issued by Ohio courts. *Id.* at ¶ 14; *Hawkins*, 2025 U.S. Dist. LEXIS 28378, *10 (“Because of the inherent risks of litigation, courts in this district award multipliers of

'between approximately 2.0 and 5.0.'"); *see also In re Cardinal Health Inc. Sec. Litig.*, 528 F. Supp. 2d 752, 767 (S.D. Ohio 2007) (awarding lodestar multiplier of six); *Merkner v. AK Steel Corp.*, 2011 U.S. Dist. LEXIS 157375, *18 (S.D. Ohio Jan. 10, 2011) (awarding lodestar multiplier of 5.3). Moreover, Class Counsel will need to perform additional tasks related to overseeing the settlement between now and the final approval hearing, so the multiplier will shrink over time. Joint Decl. at ¶ 15.

II. The Court should approve the requested service awards.

Plaintiffs also request \$3,000 service awards for each of the Class Representatives. “[S]ervice awards are common in class action cases and are important to compensate Plaintiffs for the time and effort expended in assisting the prosecution of the litigation, the risks incurred by becoming and continuing as a litigant, and any other burdens sustained by Plaintiffs.” *In re East Palestine Train Derailment*, 2024 U.S. Dist. LEXIS 181361, *59 (N.D. Ohio Sep. 27, 2024) (quotation omitted) (granting \$15,000 service award to each class representative). In this case, the Class Representatives took the time to investigate their claims, hire Class Counsel, and remain apprised of this litigation, which ensured that the rest of the class could obtain the benefits of a settlement without expending any effort. Joint Decl. at ¶¶ 31–33. A modest \$3,000 incentive award for each Class Representative is appropriate to recognize their indispensable role in this case. *See In re Southern Ohio Correctional Facility*, 175 F.R.D. 270, 272 (S.D. Ohio 1997) (“Courts routinely approve incentive awards to compensate named Plaintiffs for the services they provide and the risks they incurred during the course of the class action litigation.”); *Smith v. Local Cantina, LLC*, 2022 U.S. Dist. LEXIS 73598, *20 (S.D. Ohio Apr. 19, 2022) (collecting cases where

court approved \$10,000 service award).

CONCLUSION

The Court should grant Plaintiffs' Unopposed Motion for Attorney Fees, Litigation Costs, and Service Awards.

Dated: December 12, 2025

Respectfully submitted,

By: /s/Cassandra P. Miller
Cassandra P. Miller (*pro hac vice*)
Illinois Bar No. 6290238
STRAUSS BORRELLI PLLC
One Magnificent Mile
980 N Michigan Avenue, Suite 1610
Chicago IL, 60611
Telephone: (872) 263-1100
Facsimile: (872) 263-1109
cmiller@straussborrelli.com

Leigh S. Montgomery (*pro hac vice*)
Texas Bar No. 24052214
lmontgomery@eksm.com
service@eksm.com
EKSM, LLP
4200 Montrose Blvd., Suite 200
Houston, Texas 77006
Phone: (888) 350-3931
Fax: (888) 276-3455

Attorneys for Plaintiffs and the Proposed Class

/s/ Robert E. DeRose
Robert E. DeRose (OH Bar No. 0055214)
BARKAN MEIZLISH DEROSE COX, LLP
4200 Regent Street, Ste. 210
Columbus, OH 43219
Phone: (614) 221-4221
Facsimile: (614) 744-2300
bderose@barkanmeizlish.com

TOM ORLANDO
Lorain County Clerk of Courts
24CV214017

FILED: 12/12/2025 03:10 PM

*Local Counsel for Plaintiffs and the Proposed
Class*

CERTIFICATE OF SERVICE

I certify that on December 12, 2025 the foregoing was served via electronic mail to all parties' counsel of record.

/s/ Robert E. DeRose