

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE: MOVEIT CUSTOMER DATA
SECURITY BREACH LITIGATION

MDL No. 1:23-md-03083-ADB-PGL

Judge Allison D. Burroughs

This Document Relates To:
C.A. No. 1:23-cv-12711-ADB

STEPHEN GILLMORE, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

THE BANK OF CANTON and PROGRESS
SOFTWARE CORPORATION,

Defendants.

**DECLARATION OF GARY F. LYNCH IN SUPPORT OF
PLAINTIFF’S MOTION FOR AN AWARD OF ATTORNEYS’ FEES AND SERVICE
AWARD FOR THE SETTLEMENT CLASS REPRESENTATIVE**

I, Gary F. Lynch, pursuant to 28 U.S.C. § 1746 declares as follows:

1. I am an attorney licensed in Pennsylvania and New York and have been admitted to practice before the Supreme Court of the United States and numerous federal appellate and district courts. I have been appointed by this Court to serve as Co-Lead Counsel for MDL Plaintiffs and have been active in all aspects of this Litigation. I submit this Declaration in Support of Plaintiff’s Motion for an Award of Attorneys’ Fees and Service Award for the Settlement Class Representative (the “Declaration”). The information set forth in this Declaration is based upon my personal knowledge.

2. I am a founding member of the law firm of Lynch Carpenter, LLP (“Lynch Carpenter” or the “Firm”) and have been engaged in the practice of law for over thirty years, with the majority of my career spent representing plaintiffs in the litigation of complex civil cases and class actions. The primary focus of my practice is data breach and data privacy litigation.

3. I have spent the bulk of my professional time representing individual and institutional plaintiffs in class action and multi-district litigation throughout the country and am currently serving, or have served, as lead/co-lead counsel in numerous federal and state class actions and multi-district proceedings, including, among others: *In re Wawa, Inc. Data Sec. Litig.*, No. 19-cv-6019 (E.D. Pa.) (appointed co-lead of consolidated data breach on behalf of financial institution plaintiffs and reached a \$37 million settlement for the financial institution class, as mediated by former Magistrate Judge Diane Welsh; final approval pending); *In re Equifax, Inc., Customer Data Sec. Breach Litig.*, No. 1:17-md-02800 (N.D. Ga.) (appointed co-lead MDL counsel on behalf of financial institution plaintiffs and reached a \$7.75 million settlement for the financial institution class); *In re Home Depot Data Breach Litig.*, No. 1:14-md-2583 (N.D. Ga.) (same and \$27 million settlement for the financial institution class); *First Choice Fed. Credit Union v. The Wendy’s Co.*, No. 2:16-cv-00506 (W.D. Pa.) (\$50 million settlement for the financial institution class); *Dittman v. UPMC d/b/a The Univ. of Pittsburgh Med. Ctr.*, No. GD 14-003285 (Pa. Ct. Com. Pl.) (lead counsel on behalf of plaintiffs after obtaining reversal before the Pennsylvania Supreme Court); *Veridian Credit Union v. Eddie Bauer LLC*, No. 2:17-cv-356 (W.D. Wash.) (\$2.7 million settlement for the financial institution class).

4. In addition to serving as lead counsel in major data breach litigation, I have also served in leadership committee positions in many other data breach/privacy cases, including: *In re Target Corp. Customer Data Sec. Breach Litig.*, MDL No. 2522 (D. Minn.) (appointed to the

Executive Committee managing the litigation on behalf of all plaintiffs (consumers, financial institution, and shareholders). The case was ultimately settled for \$10 million (for consumers) and \$39 million (for financial institutions)); *In re Marriott Int’l Customer Data Sec. Breach Litig.*, MDL No. 2879 (D. Md.); *In re: Cmty. Health Sys., Inc., Customer Sec. Data Breach Litig.*, MDL No. 2595, 15-cv-0222 (N.D. Ala.); *In re: Arby’s Rest. Grp., Inc. Data Sec. Litig.*, No. 17-mi-55555 (N.D. Ga.); *Greater Chautauqua Fed. Credit Union, et al. v. Kmart Corp.*, No. 15-cv-02228 (N.D. Ill.); *In re Vizio, Inc. Consumer Privacy Litig.*, MDL No. 2693 (C.D. Cal.) (consumer privacy breach, steering committee; \$17 million settlement).

5. On January 19, 2024, this Court appointed as Co-Lead Counsel, E. Michelle Drake, Douglas J. McNamara, Karen H. Riebel, Charles E. Schaffer, and myself; appointed as Liaison & Coordinating Counsel, Kristen A. Johnson; and appointed as Committee Chairs, other attorneys. MDL Order No. 8. In conjunction with MDL Order No. 8, the Court entered MDL Order No. 10 on March 28, 2024, empowering Co-Lead Counsel with various roles and responsibilities to efficiently manage this MDL. *See* MDL Order No. 10. Pursuant to MDL Order No. 10, this Court vested Co-Lead Counsel with the responsibility “for coordinating, overseeing and managing the litigation, settlement, and trials (if any) on behalf of the plaintiffs.” MDL Order No. 10, ¶ A.

SUMMARY OF CLASS COUNSEL’S WORK

6. Since their appointment, Co-Lead Counsel, Liaison & Coordinating Counsel, and the Committee Chairs have dedicated tremendous resources to prosecuting this MDL, including resolving the claims asserted against Defendant The Bank of Canton (“Defendant”). This work has been performed on an entirely contingent basis.

7. Co-Lead Counsel and Liaison & Coordinating have negotiated with counsel for all defendants regarding the orderly management of this MDL, resulting in MDL Order No. 13, which

set deadlines for the parties to brief certain threshold issues relating to Article III standing, arbitration, and jurisdiction under the Class Action Fairness Act. MDL Order No. 13.

8. After the entry of MDL Order No. 13, the parties continued to negotiate a proposed litigation structure for this MDL, resulting in the Court adopting a modified bellwether structure. MDL Order No. 17.

9. Co-Lead Counsel, Liaison & Coordinating Counsel, the Committee Chairs, and others have conducted an extensive factual investigation and have consulted with a wide range of experts during their investigations. Plaintiffs' Leadership Teams' extensive factual investigation enabled them to draft and file the Omnibus Set of Additional Pleading Facts on behalf of all MDL plaintiffs (ECF No. 908) and the Amended Bellwether Complaint (ECF No. 1332).

10. Co-Lead Counsel, Liaison & Coordinating Counsel, the Committee Chairs, and others have also prepared and filed comprehensive memoranda of law successfully in opposition to some MDL defendants' motions to dismiss for lack of jurisdiction under the Class Action Fairness Act and all MDL defendants' omnibus motion to dismiss for lack of Article III standing, and the Bellwether Defendants' motions to dismiss for failure to state a claim.

11. Plaintiff Gilmore's counsel began arm's-length discussions with The Bank of Canton prior to the appointment of leadership in this case. The parties engaged in informal discovery, in which The Bank of Canton exchanged with Plaintiff Gilmore's counsel information about the MOVEit Security Incident, including the scope of the breach, and data relating to the number of individuals impacted. This information was subsequently reviewed by the Settlement Committee and myself and provided Co-Lead Counsel and the Settlement Committee with the information needed to objectively evaluate the strengths and weaknesses of Plaintiff's and Settlement Class Members' claims. Once Co-Lead Counsel was appointed, the Settlement

Committee took over the negotiation process and engaged with Defendant's counsel to finalize the details relating to the settlement.

12. On May 28, 2024, the parties filed a notice of settlement and joint motion to stay proceedings as to The Bank of Canton, informing the Court that the Parties reached an agreement in principle to resolve all claims against The Bank of Canton on a class-wide basis. Eventually, through arm's-length negotiations an agreement in principle was reached, outlining the high level terms of the Settlement Agreement.

13. The Parties engaged in a series of further arm's-length discussions, during which the Parties negotiated, drafted, and finalized the terms of the Settlement Agreement. The finalization of the settlement agreement and exhibits took place over the course of several months.

14. The Settlement Agreement was fully executed by the Parties as of January 30, 2025, and was preliminarily approved by this Court on March 11, 2025. *See* ECF No. 1416.

15. Following preliminary approval, Co-Lead Counsel and the Settlement Committee have worked with the Settlement Administrator to implement the notice program and have been fielding inquiries from Settlement Class Members who are interested in learning more about the Settlement. Co-Lead and the Settlement Committee anticipate spending a significant amount of time in the coming weeks continuing to respond to Settlement Class Members; preparing for and attending the final approval hearing, as well as post-settlement work and administration.

CO-LEAD COUNSEL'S TIME AND EXPENSE REPORTING

16. This Court appointed a Time, Fee, and Expense Counsel, Alyson Oliver, who is responsible for collecting all plaintiffs' counsels' contemporaneously prepared attorney and paralegal time and expense reports.

17. On March 28, 2024, this Court entered MDL Order No. 11 Regarding the Efficient and Cost-Effective management for Plaintiffs' Staffing Timekeeping, Costs, and Compensation.

18. MDL Order No. 11 requires each firm to contemporaneously record and transmit each month a detailed, task-based spreadsheet with their time entries. The reports contain a chronological listing of time reported for work performed by attorneys and paralegals in specified activity categories, a complete and accurate categorization of work performed, and the Lead Counsel who authorized the time.

19. MDL Order No. 11 also requires that Time, Fee, and Expense Counsel, on a quarterly basis, provide the Court, for *in camera review*, summary reports detailing the exposure of shared and held costs and the total time and expenses approved by the Time, Fee and Expense Counsel for each firm for the previous quarter, and other information as the Court may direct.

20. To control plaintiffs' lodestar, MDL Order No. 11 instructed plaintiffs' counsel not to submit time for work not requested by Co-Lead Counsel, duplicative work, reading and reviewing, preparing time and expense reports, routine clerical tasks, or work related to any client not retained. Additionally, MDL Order No. 11 required that each firm submit all litigation-related expenses comply with certain parameters, be adequately documented, and if in excess of \$2,000.00, be approved in advance by one of Co-Lead Counsel.

**SETTLEMENT CLASS REPRESENTATIVE'S CONTRIBUTION TO THE
DEVELOPMENT AND PROSECUTION OF THE LITIGATION AGAINST
THE BANK OF CANTON**

21. The Settlement Class Representative's help was instrumental in prosecuting the claims against The Bank of Canton.

22. The Settlement Class Representative performed valuable services for members of the Settlement Class by bringing his claims to counsel for investigation, agreeing to serve as a

representative plaintiff, reviewing the complaint, remaining available to consult counsel when necessary regarding the progress of the litigation, and reviewing the progress of the litigation. Additionally, Plaintiff was prepared to search for and produce documents, respond to written discovery requests, and was prepared to give deposition testimony. Plaintiff's cooperation and participation in this litigation was beneficial in helping guide the litigation against The Bank of Canton.

I declare under penalty of perjury that the foregoing is true and correct. Executed on August 19, 2025, in Pittsburgh, Pennsylvania.

/s/ Gary F. Lynch

Gary F. Lynch

CERTIFICATE OF SERVICE

I hereby certify that, on this date, the foregoing document was filed electronically via the Court's CM/ECF system, which will send notice of the filing to all counsel of record.

DATE: August 19, 2025

/s/ Kristen A. Johnson
Kristen A. Johnson (BBO# 667261)