

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

HOKKY TIAHJONO and MILES BLACK,  
individually and on behalf of all others  
similarly situated,

Plaintiffs,

v.

WESTINGHOUSE AIR BRAKE  
TECHNOLOGIES CORPORATION, d/b/a  
WABTEC CORPORATION,

Defendant.

Case No. 2:23-cv-531-WSS

**JOINT DECLARATION OF JAMISEN A. ETZEL AND MARC E. DANN  
IN SUPPORT OF MOTION FOR AWARD OF ATTORNEYS'  
FEES, COSTS, AND SERVICE AWARDS TO REPRESENTATIVE PLAINTIFFS**

Jamisen A. Etzel of Lynch Carpenter, LLP and Marc E. Dann of DannLaw, pursuant to 28 U.S.C. § 1746, declare as follow:

1. We are partners at our respective law firms, Lynch Carpenter, LLP (“Lynch Carpenter”) and DannLaw (“DannLaw”), and are counsel of record for the named Representative Plaintiffs and the conditionally-certified Settlement Class in the above-captioned matter against Defendant Westinghouse Air Brake Technologies Corp. (“Wabtec” or “Defendant”).

2. We submit this declaration in Support of Plaintiffs’ Motion for Award of Attorneys’ Fees, Costs, and Service Awards to Representative Plaintiffs.

3. The statements herein are to the best of our personal knowledge, information, and belief, and are based on Lynch Carpenter’s and DannLaw’s books and records and information from their attorneys and staff.

4. We served as co-lead counsel for Plaintiffs and oversaw the prosecution of the entire action. Settlement Class Counsel undertook this action on a contingent fee basis, meaning that to date we have received no payment for our services. We also advanced all litigation expenses, and to date have not received reimbursement for these from any source. Further, our agreements with our clients provided that we would not charge them for fees or expenses in the event of an unsuccessful outcome. Settlement Class Counsel carefully tracked all time spent and expenses incurred in this matter. These records (including, where necessary, backup documentation) have been reviewed to confirm both the accuracy of the entries as well as the necessity for and reasonableness of the time and expenses expended in this litigation. As a result, the time expenditures reflected in Settlement Class Counsel's lodestar calculation and the expenses for which payment is sought are reasonable in amount and were necessary to prosecute the action and resolve the Settlement before the Court.

5. During the course of this litigation, and as detailed herein, Settlement Class Counsel coordinated to divide work among the firms in an efficient and effective manner. Duplication of efforts was avoided.

6. This matter is a putative class action arising from a data compromise incident whereby an unauthorized third-party gained access to Wabtec's data environment between on or around March 15, 2022, resulting in potential exfiltration of employees protected health information ("PHI") and personal identifying information ("PII") (the "Cyberattack"). The Cyberattack impacted approximately 17,750 employees of Wabtec.

7. After Wabtec publicly disclosed the Cyberattack in late December 2022, Settlement Class Counsel spent multiple hours investigating potential claims against Wabtec and drafting the pleadings. Settlement Class Counsel's factual and legal investigation included gathering

information about the types of information compromised in the Cyberattack, research into Wabtec, as well as a review of existing legal authority regarding potential legal claims.

8. On March 27, 2023, Plaintiff Tjahjono filed a Class Action Complaint in the United States District Court for the Western District of Pennsylvania against Wabtec. ECF No. 1. In response, Wabtec filed a Motion to Dismiss for failure to state a claim on June 5, 2023. ECF No. 10.

9. On June 26, 2023, Plaintiff Tjahjono was joined by Plaintiff Miles Black in filing an Amended Complaint in this Court on behalf of themselves and those similarly situated. The Amended Complaint alleged claims for negligence, negligence *per se*, breach of implied contract, unjust enrichment, and declaratory judgment. ECF No. 13.

10. On July 17, 2023, Wabtec moved to dismiss the Amended Complaint for failure to state a claim. ECF No. 23. Following review of Wabtec's motion to dismiss, both parties agreed to explore a possible resolution and requested a stay, which the court granted on August 16, 2023. ECF Nos. 28, 29.

11. On November 20, 2023, the Parties conducted a full-day mediation before Bruce A. Friedman, Esq. of JAMS. The mediation resulted in some progress towards a settlement; however, the Parties did not reach a resolution, and thus requested that the Court lift the stay. ECF No. 32.

12. Following the mediation, the Parties completed briefing on Wabtec's 12(b)(6) Motion to Dismiss, which the Court granted in part and denied in part on March 26, 2024. ECF Nos. 36–39. On April 9, 2024, Wabtec answered the Amended Complaint and filed a Motion to Dismiss under Rule 12(b)(1) on April 25, 2024. ECF Nos. 40, 42.

13. At the telephonic Initial Case Management Conference on May 15, 2024, the Court deferred merits discovery and granted the Parties limited jurisdictional discovery to be completed by June 30, 2024, related to Article III standing. ECF No. 49.

14. On May 21, 2024, Settlement Class Counsel requested deposition availability dates for two Wabtec witnesses. On May 30, 2024, Settlement Class Counsel served Wabtec with five interrogatories, nine requests for document production, and seven requests for admission.

15. During the initiation of the limited jurisdictional discovery, the Parties agreed to promptly resume settlement discussions, leading to their re-engagement with Mediator Bruce Friedman. On June 7, 2024, the Parties participated in a supplemental videoconference mediation with Mediator Friedman. At the supplemental mediation, with the assistance of Mr. Friedman, the Parties reached an agreement in principle to resolve this Action on a classwide basis, and shortly thereafter executed a confidential term sheet.

16. On June 12, 2024, the Parties informed the Court of their impending settlement. The Parties further requested an additional stay to permit them time to draft and finalize a comprehensive agreement and notice plan. ECF No. 50. Those terms are memorialized in the Settlement Agreement.

17. Settlement Class Counsel solicited bids from potential settlement administration firms, and the Parties ultimately agreed to select Verita Global (formerly known as KCC) to serve as the Settlement Administrator.

18. Settlement Class Counsel thereafter drafted and filed the Unopposed Motion for Preliminary Approval, which the Court granted on August 26, 2024. ECF Nos. 54, 57.

19. Since the Court granted preliminary approval, Settlement Class Counsel has 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. Settlement Class Counsel anticipates spending a significant amount of time in the coming weeks continuing to respond to Settlement Class Members; drafting and filing the motion for final approval; responding to objections (if any); and preparing and attending the final approval hearing, as well as post-settlement work and administration. As of the latest report from the Settlement Administrator, dated November 8, 2024, no objections have been received, and only five requests for exclusion have been received.

20. Set forth below in ¶¶ 22 and 28 are summaries reflecting the amount of time Settlement Class Counsel, including the time their firms' attorneys and professional staff worked on the action from the inception of the case in 2023 through today's date, and the corresponding lodestar value of that work. The schedules in ¶¶ 22 and 28 were prepared based upon daily time records maintained by Settlement Class Counsel in the ordinary course of business, and the lodestar calculations are based on the firms' current hourly billing rates, or the firms' equivalent rate for the biller as of their last date of employment.

21. The services that Settlement Class Counsel performed on behalf of the Settlement Class include, but are not limited to, the following: consulting with the Representative Plaintiffs; investigating the claims; drafting and editing the initial and amended complaints; researching, drafting, and filing Plaintiffs' opposition to Wabtec's motion to dismiss; working with Wabtec's counsel to prepare the Parties' Report of Rule 26(f) planning meeting; appearing telephonically at the Initial Case Management Conference, drafting and serving discovery requests on Wabtec; participating in two mediation sessions before the Bruce A. Friedman, Esq. of JAMS; negotiating, drafting, and finalizing the proposed class action settlement agreement release and related exhibits; soliciting bids from settlement administration firms and working with the chosen administrator,

Verita Global, to implement the notice program; drafting and filing the motion for preliminary approval; and responding to Settlement Class Member inquiries about the Settlement.

22. Lynch Carpenter's total compensable time for which it seeks an award of attorneys' fees is summarized below:

<u>Professional</u>	<u>Title</u>	<u>Hours</u>	<u>Rate</u>	<u>Lodestar</u>
Kelly Iverson	Partner	1.4	\$950	\$1,330.00
Jamisen Etzel	Partner	42.4	\$900	\$38,160.00
Nick Colella	Partner	13.6	\$700	\$9,520.00
Stephanie Goldin	Associate	6	\$900	\$5,400
Connor Hayes	Associate	15.3	\$500	\$7,650.00
Patrick Donathen	Associate	28.6	\$500	\$14,300.00
Lucia Romani	Associate	2.2	\$450	\$990.00
Joan Pyle	Associate	20.9	\$450	\$9,405
Sadie Fahsbender	Law Clerk	10.9	\$275	\$2,997.50
Jon Romanishin	Paralegal	1.3	\$275	\$357.50
Dan Hart	Paralegal	4	\$275	\$1,100.00
<b>Total:</b>		<b>146.6</b>		<b>\$91,210</b>

23. Thus, the total time Lynch Carpenter has expended on this matter is 146.6 hours, and the total lodestar value of these professional services is \$91,210.

24. Lynch Carpenter's lodestar figures do not include charges for expense items. Expense items are billed separately, and such charges are not duplicated in the firm's current billing rates. Further, expense items do not contain any general overhead costs and do not contain a surcharge over the amount paid to the corresponding vendor(s).

25. Lynch Carpenter incurred \$5,120 in expenses that were reasonably necessary to the prosecution of this litigation. Lynch Carpenter's total expenses for which it seeks reimbursement of is summarized below:

<u>Category</u>	<u>Expenses</u>
Service of Process Fees	\$243.00
Mediation Fee	\$4,475.00
Complaint Filing Fee	\$402.00
<b>Total:</b>	<b>\$5,120.00</b>

26. We believe the expenses for which Lynch Carpenter seeks reimbursement are a reasonable amount and were necessary for the effective and efficient prosecution of this action. We also believe that the expenses submitted are of the type normally charged to and paid by fee-paying clients.

27. The above hourly rates for Lynch Carpenter's attorneys and professional support staff are the firm's current hourly rates or the firm's equivalent rate for the biller as of their last date of employment. The hourly rates for attorneys and professional support staff at Lynch Carpenter are the same as the regular rates charged for their services in all hourly and contingent fee matters. As a national class-action-focused practice with cases in many courts around the country, Lynch Carpenter maintains one rate for each biller, regardless of the jurisdiction where the litigation is located.

28. DannLaw's total compensable time for which it seeks an award of attorneys' fees is summarized below:

<u>Professional</u>	<u>Title</u>	<u>Time</u>	<u>Rate</u>	<u>Lodestar</u>
Marc E. Dann	Partner	99.6	\$825	\$41,134.80
Brian D. Flick	Partner	22.85	\$625	\$14,134.25
Brent A. Snyder	Associate/Of Counsel	0.3	\$500	\$150.00

Marita I. Ramirez	Associate	15.8	\$500	\$7,900.00
Michael A. Smith, Jr.	Associate	1.5	\$500	\$750.00
Kimberly White	Paralegal	21	\$200	\$4,215.00
<b>Total:</b>		<b>158.05</b>	<b>-----</b>	<b>\$68,431.05</b>

29. Thus, the total time DannLaw has expended on this matter is 158.05 hours, and the total lodestar value of these professional services is \$68,431.05.

30. DannLaw lodestar figures do not include charges for expense items. Expense items are billed separately, and such charges are not duplicated in the firm's current billing rates. Further, expense items do not contain any general overhead costs and do not contain a surcharge over the amount paid to the corresponding vendor(s).

31. DannLaw incurred \$4,385.20 in expenses that were reasonably necessary to the prosecution of this litigation. DannLaw's total expenses for which it seeks reimbursement of is summarized below:

<u>Category</u>	<u>Expenses</u>
Filing Fees for Pro Hac Vice	\$140.00
Service of Process	\$73.50
Mediator's Fee	\$4,000.00
Online Research	\$31.70
<b>Total:</b>	<b>\$4,385.20</b>

32. The expenses for which DannLaw seeks reimbursement are a reasonable amount and were necessary for the effective and efficient prosecution of this action. The expenses submitted are of a type normally charged to and paid by fee-paying clients.

33. The above hourly rates for DannLaw's attorneys and professional support staff are the firm's current hourly rates or the firm's equivalent rate for the biller as of their last date of employment. The hourly rates for attorneys and professional support staff at DannLaw are the same as the regular rates charged for their services in all hourly and contingent fee matters. DannLaw prosecutes cases around the nation and utilizes the same rate structure for all cases.



34. Combined, the two firms representing Plaintiffs and the Settlement Class in this matter reported 304.65 hours necessary for the prosecution of this action, and a total lodestar of \$159,641.05. The firms also reported a combined total of \$9,505 in expenses prosecuting this action. Based on the ratio of Settlement Class Counsel's lodestar (exclusive of expenses) to the \$208,333.33 fee request, Settlement Class Counsel's fee request represents a multiplier of 1.31.

35. The Representative Plaintiffs performed valuable services for members of the Settlement Class by bringing their claims to Settlement Class Counsel for investigation, agreeing to serve as representative plaintiffs, reviewing the complaint and amended complaint, remaining available to consult with Settlement Class Counsel, when necessary, regarding the progress of the litigation, and reviewing the progress of the litigation. Additionally, Plaintiffs Hokky Tjahjono and Miles Black reviewed and approved the Parties' settlement agreement.

36. Settlement Class Counsel have significant experience in consumer class-action litigation, including data breach class actions such as this one. Co-lead counsel Jamisen A. Etzel has significant complex litigation experience, and in recent years has litigated numerous large class action cases in trial and appellate courts in a variety of capacities, including: *Hickey v. Univ. of Pittsburgh*, 81 F.4th 301 (3d Cir. 2023); *Popa v. Harriet Carter Gifts, Inc.*, 52 F.4th 121 (3d Cir. 2022); *In re Wawa, Inc. Data Security Litig.*, 2:19-cv-6019 (E.D. Pa.); *First Choice Federal Credit Union v. The Wendy's Company*, 2:16-cv-0506 (W.D. Pa.); *In re Equifax, Inc. Customer Data Security Breach Litigation*, MDL 2800 (Financial Institutions Track) (N.D. Ga.); *In re: FedLoan Student Loan Servicing Litigation*, MDL No. 2833 (E.D. Pa.); *In re: The Home Depot, Inc. Customer Data Security Breach Litigation*, MDL 2583 (Financial Institutions Track) (N.D. Ga.); *Dittman v. UPMC*, 196 A.3d 1036 (Pa. 2018); and *Storm v. Paytime, Inc.*, 14-cv-1138 (M.D. Pa.).

37. Similarly, Co-lead counsel Marc E. Dann is a highly qualified litigator, having served as the Attorney General of Ohio, and he has significant class action experience: Dann is working as putative co-lead counsel in *In re Wells Fargo Unauthorized Products Litigation*, N.D. Cal. Case No. 3:24-cv-01223-TLT, *In re Wells Fargo Mortgage Modification Litigation*, N.D. Cal. Case No. 3:24-cv-01358-MMC, *State of Ohio, ex rel Candy Bowling, et al. v. Michael Dewine, et al.*, Franklin County (OH) Court of Common Pleas Case No. 21CV04469, *Patrick D. Trivison, et al. v. Federal National Mortgage Association, et al.*, N.D. Ohio 1:20-cv-00711, *Madyda v. Ohio Department of Public Safety*, Ohio Court of Claims Case No. 2019-00426JD, *Miles Black, et al. v. City of Girard, Ohio, et al.*, *Trumbull County (OH)*, Court of Common Pleas Case No. 2018 CV 1256. Dann is currently serving as Liaison Counsel for the Guardians of NAS Children in *In re: National Prescription Opiate Litigation*, N.D. Ohio 17-md-02804. Dann has previously been appointed and served as lead (or co-lead) counsel in other matters including *Lieber, et al. v. Wells Fargo Bank, N.A.*, N.D. Ohio Case No. 1:16-cv-02868, *Miller, et al. v. Intelelos, Inc.*, N.D. Ohio Case No. 1:17-cv-00763, *George Koustis, et al. v. Select Portfolio Servicing*, N.D. Ohio Case No. 1:20-cv-02425, *Ethan Ryder, et al v. Wells Fargo Bank, N.A.*, S.D. Ohio Case No. 1:2019-cv-00638, *David Dugan, et al. v. Nationstar Mortgage LLC, et al.*, M.D.N.C. Case No. 1:21-cv-00341, *Donald E. McCoy, III, et al. v. Wells Fargo Bank, N.A.*, D.Or. Case No. 1:20-cv-00176-MC, and *Kathryn M. Forrest, et al. v. PHH Mortgage Corporation*, D.RI Case No. 1:20-cv-00323-WES-LDA.

38. As demonstrated by Lynch Carpenter's Firm Resume (attached as Exhibit A) and DannLaw's Firm Resume (attached as Exhibit B), Settlement Class Counsel have extensive experience in class action litigation, including data breach litigation.

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

Executed on November 12, 2024  
in Pittsburgh, Pennsylvania

/s/ Jamisen A. Etzel  
Jamisen A. Etzel

Executed on November 12, 2024  
in San Francisco, California

/s/ Marc E. Dann  
Marc E. Dann