

EXHIBIT

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**UNITED STATES DISTRICT COURT
DISTRICT OF WYOMING**

BRIAN PURNELL, *individually and
on behalf of all others similarly situated*,

Plaintiff,

vs.

SUMMIT NATIONAL BANK,

Defendant.

Case No. 2:24-cv-00190-KHR

**DECLARATION OF TERENCE R. COATES IN SUPPORT OF
PLAINTIFF’S UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

I, Terence Coates, hereby declare as follows in accordance with 28 U.S.C. § 1746(2):

1. I am the Managing Partner at the law firm Markovits, Stock, & DeMarco, LLC. I am one of the proposed Class Counsel in this Action representing Plaintiff and the proposed Settlement Class and have monitored my firm’s participation in this matter from its inception to the present. The contents of this Declaration are based upon my personal knowledge, the events of this Action, and my review of my firm’s business records and information that are maintained on a routine basis. This Declaration supports Plaintiff’s Unopposed Motion for Preliminary Approval of Class Action Settlement.

2. I have extensive experience serving as a member of class counsel in over 100 class action cases including many data privacy class actions. Recent representative data privacy class action cases include: *In re Advocate Aurora Health Pixel Litig.*, No. 22-CV-1253 (E.D. Wis.) (co-lead class counsel in a \$12.225 million data pixel class action settlement); *Tracy v. Elekta, Inc.*, No. 1:21-cv-02851 (N.D. Ga.) (co-lead class counsel in an \$8.9 million data breach class action settlement); *Sherwood v. Horizon Actuarial Servs., LLC*, No. 1:22-cv-1495 (N.D. Ga.) (co-lead

counsel in an \$8,733,446.36 data breach class action settlement); *Durgan v. U-Haul Int'l Inc.*, No. 2:22-cv-01565 (D. Ariz.) (sole class counsel in a \$5,085,000 million data breach class action settlement); *Owens v. U.S. Radiology Specialist, Inc.*, No. 22 CVS 17797 (Mecklenburg Super. Ct., N.C.) (co-lead class counsel in a \$5,050,000 data breach class action settlement); *Phillips v. Bay Bridge Administrators, LLC*, No. 23-cv-00022 (W.D. Tex.) (sole class counsel in a \$2,516,890 data breach class action settlement). I also recently served as class counsel in *Shy v. Navistar International Corp.*, No. 92-cv-0333 (S.D. Ohio), an over 20-year-old ERISA class action that resulted in a settlement valued at over \$742 million, and as a member of special counsel for the for the State of Ohio in *State of Ohio ex rel. Dave Yost Ohio Attorney General v. Monsanto*, No. A1801237 (Hamilton C.P., Ohio) (\$80 million settlement in 2022) and *State of Ohio ex rel. Dave Yost Ohio Attorney General v. E.I. du Pont de Nemours & Co.*, No. 18OT32 (Washington Com. Pl., Ohio), *aff'd* 2025-Ohio-4521 (Ohio Ct. App.) (\$110 million settlement in 2023).

3. Federal courts consistently recognized me and my firm as experienced in handling class action cases. *Miranda v. Xavier Univ.*, No. 1:20-cv-539, 2023 WL 6443122, at * 8 (S.D. Ohio Oct. 3, 2023 (noting that Terence R. Coates and Markovits, Stock & DeMarco, LLC “have extensive experience handling class action cases and have thoroughly represented the Class’s interests in this case”); *Shy v. Navistar Int'l Corp.*, No. 3:92-CV-00333, 2022 WL 2125574, at *4 (S.D. Ohio June 13, 2022) (“Class Counsel, the law firm Markovits, Stock & DeMarco, LLC, are qualified and are known within this District for handling complex cases including class action cases such as this one.”); *Bechtel v. Fitness Equip. Servs., LLC*, 339 F.R.D. 462, 480 (S.D. Ohio 2021) (“plaintiffs’ attorneys have appeared in this Court many times and have substantial experience litigating class actions and other complex matters”); *Compound Prop. Mgmt. LLC v. Build Realty, Inc.*, 343 F.R.D. 378, 402 (S.D. Ohio 2023) (recognizing Terence R. Coates and his

firm as “qualified counsel” with “class-action experience before this Court and elsewhere”); *Schellhorn v. Timios, Inc.*, No. 2:221-cv-08661, 2022 WL 4596582, at *4 (C.D. Cal. May 10, 2022) (noting that Class Counsel, including “Terence R. Coates of Markovits, Stock & DeMarco, LLC, have extensive experience litigating consumer protection class actions”); *Bedont v. Horizon Actuarial Servs., LLC*, No. 1:22-CV-01565, 2022 WL 3702117, at *2 (N.D. Ga. May 12, 2022) (noting that class counsel, including Mr. Coates, “are qualified to serve as Interim Co-Lead Class Counsel and that they will fairly, adequately, responsibly, and efficiently represent all Plaintiffs in the Cases in that role”). My co-counsel, Milberg, are equally experienced in serving as class counsel for plaintiffs in data privacy class action cases.

THE DATA BREACH & SETTLEMENT NEGOTIATIONS

4. The proposed Settlement consists of a \$400,000 non-reversionary common fund to resolve Plaintiff and Settlement Class Members’s claims arising from a data incident experienced by Defendant Summit National Bank between May 13 and May 16, 2024 (the “Data Incident”) involving the PII of 10,912 of Summit’s current and former customers, specifically: names, addresses, Social Security numbers, and financial account information. After the Parties completed fully briefing Defendant’s Motion to Dismiss (ECF 13, 21, 24) and the Parties were informed about their respective legal positions, the Parties agreed to engage in settlement discussions to determine whether this case might be resolvable. Plaintiff sent Defendant a list of informal settlement requests for settlement purposes and received responses from Defendant to those requests. Thereafter, Plaintiff, under the guidance of his counsel, made informed settlement demand factoring in the number of putative Settlement Class Members, the types of data sets impacted in the Data Incident, material facts surrounding the circumstances of the Data Incident, comparable data breach class action settlements nationally, and the strength of Plaintiff’s claims. This information permitted Plaintiffs to properly evaluate damages on a class wide basis. The Parties

have engaged in protracted settlement discussions since January 2025. At all times, the settlement negotiations were arm's-length in that each side were strident in their mediation positions while still remaining professional.

5. The settlement discussions finally resulted in a settlement in principle in early August 2025. Thereafter, the Parties continued to negotiate between themselves to work out the finer points of the Settlement, including the contents of the notice program and the settlement benefits made available to the Settlement Class.

6. The \$400,000 non-reversionary common fund settlement for 10,912 Settlement Class Members is a considerable recovery for the Class. The Settlement Agreement was negotiated at arm's length, is the result of hard bargaining, and provides all Settlement Class Members with the ability to receive cash payments due to their Private Information allegedly being compromised in Defendant's Data Incident. As illustrated by the following chart, this settlement provides similar or better per-class-member value than many other recent data breach settlements throughout the country:

Case	Settlement Amount	Class Size	Average Value Per Class Member
<i>Cochran v. Kroger Co.</i> , No. 5:21-cv-01887 (N.D. Cal.)	\$5,000,000	3,825,200	\$1.31
<i>Thomsen v. Morley Cos., Inc.</i> , No. 1:22-cv10271 (E.D. Mich.)	\$4,300,000	694,679	\$6.19
<i>Reynolds v. Marymount Manhattan College</i> , No. 1:22-cv-06846 (S.D.N.Y.)	\$1,300,000	191,752	\$6.78
<i>Boykin v. Choice Health Insurance, LLC</i> , No. 4:22-cv-03940 (D.S.C.)	\$500,000	42,000	\$9.03
<i>Tucker v. Marietta Area Health Care</i> , No. 2:22-cv-00184 (S.D. Ohio)	\$1,750,000	216,478	\$8.08
<i>Williams v. Air Methods LLC</i> , No. 1:24-cv-00642 (D. Colo.)	\$260,000	24,568	\$10.58
<i>Rodriguez v. Mena Hospital Commission</i> , No. 2:23-cv-2002 (W.D. Ark.)	\$500,000	42,000	\$11.90
<i>In re Cinfed Federal Credit Union Data Breach Litig.</i> ,	\$700,000	57826	\$12.10

No. 1:23-CV-776 (S.D. Ohio)			
<i>Lamie v. Lendingtree, LLC</i> , No. 3:22-cv-00637 (W.D.N.C.)	\$875,000	69,142	\$12.66
<i>Kohn v. Loren Stark Co., Inc.</i> , No. 4:23-cv-3035 (S.D. Tex.)	\$750,000	58,065	\$12.92
<i>Pederson v. AAA Collections, Inc.</i> , No. 4:22-cv-4166 (D.S.D.)	\$865,000	66,488	\$13.00
<i>In re Peoples Bank, As Successor to Limestone Bank, Data Breach Litig.</i> No. 2:23-cv-3043 (S.D. Ohio)	\$782,500	47,590	\$16.44
<i>In re Marshall & Melhorn, LLC Data Breach Litigation</i> , No. 3:23-CV-01181 (N.D. Ohio)	\$800,000	47,000	\$17.02
<i>Lutz v. Electromed, Inc.</i> , No. 21-cv-2198 (D. Minn.)	\$825,000	47,000	\$17.55
<i>Abrams v. Savannah College of Art & Design</i> , No. 1:22-cv-04297 (N.D. Ga.)	\$375,000	16,890	\$22.20
<i>In re Red Roof Inns, Inc. Data Incident Litig.</i> , No. 2:23-cv-4133 (S.D. Ohio)	\$550,000	25,217	\$21.81
<i>Phelps v. Toyotetsu N. Am.</i> , No. 6:22-cv00-106 (E.D. Ky.)	\$400,000	11,916	\$33.57
<i>In re Wasserstrom Holdings, Inc. Data Breach Litig.</i> , No. 2:23-cv-2070 (S.D. Ohio)	\$350,000	10,501	\$33.33
<i>Perry v. Bay & Bay Transport. Servs., Inc.</i> , No. 22-cv-973 (D. Minn.)	\$230,000	6,739	\$34.13
<i>Purnell v. Summit National Bank, No. 2:24-cv-190 (D. Wyo.)</i>	\$400,000	10,912	\$36.66

SETTLEMENT BENEFITS

7. The Settlement in this Action provides three forms of potential relief to Settlement Class Members: (1) pro-rata monetary payments to Class Members anticipated to be \$175 per Valid Claim if 10% of the Settlement Class submit Valid Claims; (2) compensation for documented Out-of-Pocket Losses that are fairly traceable to the Data Incident, up to a maximum of \$5,000; and, (3) three years of three-bureau credit monitoring. The pro rata cash payment is designed to be adjusted up or down to extinguish all funds remaining in the Settlement Fund after the payment of Class Counsel's fees and expenses, settlement administration expenses, class representative Service Awards, and claims for Out-of-Pocket Losses.

8. Attorneys' fees, not to exceed one-third of the Settlement Fund (\$133,333.33), litigation expenses not to exceed \$15,0000, and a Service Awards not to exceed \$4,000 to the Class Representative, and settlement administration expenses (projected to be \$68,803) are typical amounts awarded in class action settlements and, if finally approved by the Court, will be paid from the Settlement Fund. Plaintiffs' Motion for Attorneys' Fees, Expenses, and Class Representative Service Awards will be filed 14 days before the objection and opt-out deadline so that Settlement Class Members have time to review Class Counsel's request and make an informed decision about their participation.

9. In my experience of handling many data breach class actions around the country including many other common fund cases, the payment of \$400,000 for a common fund settlement for roughly 10,912 class members (equivalent to over \$36.66 per Class Member) is a reasonable recovery and one that compares favorably to other data breach class action settlements.

10. Through Class Counsel's representation of many similar classes of plaintiffs in data breach class actions, Class Counsel are informed about the deductions from the proposed Settlement Fund in this case and opine that the pro rata cash payment made available to Class Members submitting valid claims will be approximately \$175 assuming that 10% of the Class submits valid claims in this case. Through Class Counsel's representation of plaintiffs in similar cases, Class Counsel's experience is that it is more likely than not that \$10,000 or less will be validly claimed for out-of-pocket expenses.

ATTICUS IS WELL QUALIFIED TO ACT AS THE SETTLEMENT ADMINISTATOR

11. Understanding that settlement administration costs and expenses will be deducted from the Settlement Fund, Class Counsel sought to engage the service of a settlement administrator with experience handling data privacy class actions and providing cost-effective

services. I reviewed in detail Atticus Administration LLC's settlement administration quote and pricing and concluded that Atticus offered the best scope of services at the best possible price for the Class. Notably, Atticus's bid included comprehensive settlement administration services and a price that is favorable to the Class. I have received and reviewed hundreds of settlement administration bids over the past three years and am very familiar with what a reasonable settlement administration bid is per class member while factoring in the size of the class and the primary notice method. After receiving Atticus's settlement administration quote including the scope of service, I can confirm that the quote is reasonable and in the Class's best interests.

12. Atticus is a qualified class action settlement administration company, as evidenced in the documentation supporting its declaration.

13. Atticus projects to complete settlement administration for approximately \$41,300 in this case.

THE NOTICE PROGRAM IS ADEQUATE

14. The Notice plan in this case consists of sending each Class Member the Short Form Notice with tear-off claim form included via Regular U.S. Mail, and the Long Form Notice and full Claim Form will be posted on the Settlement Website. Additional case information including important documents from this case will also be posted on the Settlement Website.

CLASS COUNSEL'S ATTORNEYS' FEES & EXPENSES ARE REASONABLE

15. Under the Settlement, Class Counsel may seek up to one-third of the Settlement Fund (\$233,333.33) as attorneys' fees and up to \$15,000.00 in expenses, which shall be paid from the Qualified Settlement Fund.

16. Class Counsel have undertaken this case on a contingent fee basis and have not received any payment for their work in this case to date and have not been reimbursed for any of their litigation expenses.

17. Courts within the Sixth Circuit routinely award attorneys' fees up to one-third of the common fund amount in data breach class action settlements. *Migliaccio v. Parker Hannifin, Corp.*, No. 1:22-cv-835 (N.D. Ohio Aug. 2, 2023; Doc. 42, ¶ 7) (\$583,333.33 fee award from a \$1,750,000 common fund in a data breach class action settlement); *Tucker v. Marietta Area Health Care Inc.*, No. 2:22-cv-184 (S.D. Ohio Dec. 8, 2023; Doc. 38, ¶ 7) (\$583,333.33 fee award from a \$1,750,000 common fund in a data breach class action settlement); *Phelps v. Toyotetsu N. Am.*, No. 6:22-cv-106 (E.D. Ky. Oct. 25, 2023; Doc. 47, PageID # 542) (granting attorneys' fees of one-third of the common fund in a data breach class action settlement).

18. Class Counsel and Plaintiffs' counsel have invested considerable time and resources into the prosecution of this action.

**THE CLASS REPRESENTATIVE SERVICE AWARD OF \$4,000.00
IS REASONABLE AND SHOULD BE PRELIMINARILY APPROVED**

19. The proposed Class Representative Brian Purnell, has been an active participant in this case, generally stayed informed about this litigation, reviewed, and approved the settlement demand and final settlement amount and Settlement Agreement, and spent substantial time and effort protecting the Class's interests. He has no conflicts of interest with other Settlement Class Members, is subject to no unique defenses, and has and continues to vigorously prosecute this case on behalf of the Settlement Class. Mr. Purnell was not promised a service award nor did he condition his representation of the Settlement Class upon his receipt of a service award. Accordingly, the \$4,000.00 Service Award to the Class Representative is reasonable given his efforts of on behalf of the Class in this matter. Furthermore, the Class Representative Service Award here is less than what has been approved in other common fund data breach class action settlements. *See Lutz v. Electromed, Inc.*, No. 0:21-cv-02198 (D. Minn. July 6, 2023), Doc. 73, ¶ 3 (service award of \$9,900 in a data breach class action); *Phelps v. Toyotetsu N. Am.*, No. 6:22-cv00-

106 (E.D. Ky. Oct. 25, 2023), Doc. 47, ¶ 7 (\$5,000 service award); Moreover, their modest Service Award requests fall well below the range of service awards that have been approved by courts in this District. *See, e.g.,* Order Granting Final Approval, *Jones v. P2ES Holdings, LLC*, No. 23-cv-408 (D. Colo. Apr. 16, 2024), Doc 44, ¶ 7 (\$5,000 service awards in a data breach class action); Thus, this Court should grant the requested Service Awards.

**THE SETTLEMENT IS FAIR, REASONABLE AND A STRONG RECOVERY FOR
THE CLASS**

20. Class Counsel believe the Settlement is fair, reasonable, and adequate.

21. Furthermore, in my and my co-counsel's experience in handling over 100 data breach class action cases for plaintiffs, we hold the informed opinion that the \$400,000 non-reversionary common fund settlement is fair and reasonable for roughly 10,912 Class Members. The settlement afforded here, as compared to the uncertainty of damages even following a successful finding of liability, is reasonable and weighs in favor of preliminary approval.

I declare under penalty of perjury that the forgoing is true and correct.

Executed on September 29, 2025, at Cincinnati, Ohio.

/s/ Terence Coates
Terence Coates