

DISTRICT COURT, ARAPAHOE COUNTY, COLORADO  Court Address: 7325 South Potomac St. Centennial, CO 80112	
<b>Plaintiffs:</b>  Paula Henderson, Shykira Scott, Daniel Jones, Carol Goldberg, Vahram Haroutunian, Brian Kearney, Hilda Lopez, Preference Robinson, Sharon Etchieson, Radhe Banks, Jonathan Trusty, Marie Netrosio, Michaela Mujica-Steiner, Roger Loeb, Kyle Denlinger, Martin Coleman, Alyssa Halaseh, Rachel Hunter, Todd Valentine and David Moynahan, <i>on behalf of themselves and all others similarly situated</i> ,  v.  <b>Defendants:</b>  Reventics, LLC, OMH Healthedge Holdings, Inc., d/b/a Omega Healthcare	<p style="text-align: center;"><b>▲ COURT USE ONLY ▲</b></p>
<b>Attorneys for Plaintiffs:</b>  Reid Elkus (CO. BAR #32516) <b>ELKUS &amp; SISSON, P.C.</b> 7100 E Belleview Avenue, Suite 101 Greenwood Village, CO 80111 Tel: (303) 567-7981  Scott Edward Cole (CA BAR #160744) <b>COLE &amp; VAN NOTE</b> 555 12th Street, Suite 2100 Oakland, California 94607 Tel: (510) 891-9800	Case No.: 2025CV30456  Div.:
<p style="text-align: center;"><b>DECLARATION OF SCOTT EDWARD COLE IN SUPPORT OF PLAINTIFFS' MOTION FOR ATTORNEYS' FEES, COSTS AND SERVICE AWARDS</b></p>	

I, Scott Edward Cole, hereby declare as follows:

1. I am an attorney-at-law, licensed to practice in all jurisdictions of this State, and I am the founder and a Shareholder at the law firm of Cole & Van Note (“CVN”), attorneys for Representative Plaintiffs and the Settlement Class.

2. I make these statements based on personal knowledge, would so testify if called as a witness at trial and have personal knowledge of the foregoing. I make this Declaration in Support of Plaintiffs’ Motion for Attorneys’ Fees, Costs and Service Awards.

**PROCEDURAL HISTORY AND SUMMARY OF SETTLEMENT CLASS  
COUNSEL’S WORK IN CONNECTION WITH THIS LITIGATION**

3. This class action arises out of a cyberattack perpetrated against Defendants Reventics, LLC and, by extension, OMH Healthedge Holdings, Inc., d/b/a Omega Healthcare (the “Data Breach”). Defendants allegedly discovered this breach on December 15, 2022 but did not disclose this to victims thereof until February 2023. Thus, Representative Plaintiffs and Class Members were victims of a cyberattack with no knowledge of such until nearly two months later. In this time, Representative Plaintiffs allege that their personally identifiable information (“PII”)<sup>1</sup> and protected health information (“PHI”)<sup>2</sup> and the PHI/PII of as many as 4.2 million class members, was accessed by cybercriminals.

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<sup>1</sup> Personally identifiable information (“PII”) generally incorporates information that can be used to distinguish or trace an individual’s identity, either alone or when combined with other personal or identifying information. 2 C.F.R. § 200.79. At a minimum, it includes all information that on its face expressly identifies an individual. PII also is generally defined to include certain identifiers that do not on its face name an individual, but that are considered to be particularly sensitive and/or valuable if in the wrong hands (for example, Social Security numbers, passport numbers, driver’s license numbers, financial account numbers).

<sup>2</sup> Protected health information (“PHI”) is a category of information that refers to an individual’s medical records and history, which is protected under the Health Insurance Portability and Accountability Act. Inter alia, PHI includes test results, procedure descriptions,

4. Defendant Reventics LLC acquired and maintained Class Members' PHI/PII as a result of its normal business operations as a provider of software and support intended to improve clinical documentation and revenue cycle management for physicians and health care organizations. Reventics solicits a wide array of sensitive patient data from physicians for analysis, then stores that patient information, analyzes it and then translates that data into billing codes for submission to insurance companies, Medicare, Medicaid, or directly to the patient for payment.

5. Defendant Omega is a Delaware corporation, headquartered in Boca Raton, Florida, and is a sophisticated company offering comprehensive software and support to physicians through a vast network of U.S. and India-based healthcare services companies. Omega has a controlling ownership interest in Reventics LLC but also, like Reventics, Omega stores and analyzes massive amounts of Class Member PHI/PII.

6. On March 6, 2023, following announcement of the Data Breach, the first Complaint was filed against Reventics. Additional cases were filed and, quickly thereafter, a substantial number of conversations occurred with these entering attorneys regarding case management, leadership, and the factual underpinnings of the breach events. On April 13, 2023, a Motion to Consolidate was filed in *Henderson v. Reventics, LLC*, No. 1:23-cv-00586-MEH. On April 24, 2023, consolidation was ordered, and several additional cases were consolidated into the *Henderson* case, and were then assigned to Judge Michael Hegarty. At that time, Mr. Joseph Lyon and I were appointed as interim co-lead class counsel. The most recently operative

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diagnoses, personal or family medical histories and data points applied to a set of demographic information for a particular patient.

Amended Consolidated Complaint was filed on July 14, 2023 and, thereafter, the parties engaged in a variety of case management activities.

7. While the most recent iteration of the *Henderson* federal District Court pleading contained certain non-Colorado state statutory claims, we also recognized that, should we survive pleadings and challenges, we would face challenges at class certification as a result of the breadth of the pleadings. *See e.g., Zinser v. Accufix Resch. Inst., Inc.*, 253 F.3d 1180, 1189 (9th Cir. 2001); *In re U.S. Foodservice*, 729 F.3d 108, 126-127 (2d Cir. 2013); *Cole v. GMC*, 484 F.3d 717, 724 (5th Cir. 2007) (“[I]n a class action governed by the laws of multiple states,” “variations in state law may swamp any common issues and defeat predominance”). The Complaint filed with the present Court does not, in my opinion, present these problems.

8. During the course of the litigation, members of my firm and I conducted extensive research to investigate and understand the nature of Defendants’ business, Defendants’ corporate structure, how Defendants collected Private Information, the type of information involved and whether (through use of an expert) the information was published on the Dark Web. Class Counsel’s pre-settlement work also included, but was not limited to, preparing and serving formal discovery and analyzing Defendants’ discovery responses and document production, heavily researching Defendants’ operations both (US) nationally and in India, working with our expert/consultant regarding damages modeling, preparing extensively briefing re: case management issues, a motion to stay discovery, a motion to dismiss, a motion to strike, etc., preparing an appeal, significant independent research regarding patient coding/billing protocols to better understand Defendants’ operations and the root cause of the Data Breach, filing two additional lawsuits against Defendants, etc. Expectedly this list is non-exhaustive.

9. On September 19, 2023, I attended the *first* mediation in this matter. In advance of that mediation session, the parties exchanged informal discovery tailored toward liability and class certification issues. We did not settle the matter at that mediation session but the parties left with a far better understanding of the facts of the case and each other's respective positions. Based upon our understanding of the reasons why the case did not settle (i.e., Defendants' objections reasons for them rejecting our settlement number), additional research was conducted and further damages modeling was performed.

10. On November 8, 2023, I attended a *second* mediation in this matter, this time conducted in person in Miami, Florida. In advance of that mediation session, the parties also exchanged informal discovery tailored toward liability and class certification issues. We did not settle the matter at that mediation session either but, again, the parties left with a far better understanding of the facts of the case and each other's respective positions.

11. On December 15, 2023, Defendants filed their Motion to Dismiss and Motion to Strike, at which time the Court opened discovery as to various factual issues. Following that discovery, meet and confer efforts regarding those responses, and extensive briefing on the pending motions, the Court issued, on September 30, 2024, a ruling granting the Motion to Dismiss and dismissing the action with prejudice. After significant research and discussions between counsel in each of the tagalong cases, our clients, etc., on October 29, 2024, we filed a Notice of Appeal to the Tenth Circuit Court of Appeals, thereafter augmenting that filing with designations of the record and various settlement conferences and several communications with a Tenth Circuit Court-appointed mediator.

12. While our deadline to submit our opening appellate brief (February 28, 2025) approached, I spearheaded the filing of two additional putative class actions against Defendants (i.e., *Coleman, et al. v. Reventics, LLC, et al.*, Case No. 1:24-cv-03187-NYW-STV (D. Colo.) and *Valentine, et al. v. Reventics, LLC*, Case No. CGC-25-621920 (Sup. Ct. Cal., San Francisco Cty.)). The present action is now the third additional action. I believed the filing these additional actions was important, given the impending [arguable] running of the statute of limitations on Plaintiffs' core Negligence claim (carrying a two year statute of limitations in Colorado), and to re-affirm to Defendants our resolve that litigation connected to this Data Breach was far from over.<sup>3</sup> I further engaged in various communications, including Zoom calls, with Defendants' counsel to reiterate our intentions to file and pursue these additional cases. During those talks, we also discussed settlement ranges and, at that time, it was agreed a third mediation session should be set.

13. On February 4, 2025, I attended a *third* mediation, also in Florida, of this matter. While we also did not achieve a settlement at that time, this mediation did bring our positions much closer together such that we were able, after several additional conversations, to arrive at a settlement of all filed actions and the pending appeal.

14. My firm solicited competitive bids from nine reputable claims administration companies. The parties ultimately selected CPT Group as the Settlement Administrator and I

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<sup>3</sup> As the federal court's dismissal was premised on an alleged lack of federal Article III standing, Plaintiffs contend that such challenges do not apply in a state court proceeding. Premised on that position and, given the Judgment and case closure in the underlying Litigation, the parties agree to seek conditional class certification and settlement approval from the instant Court.

worked with CPT Group and Defendants' counsel extensively to create and launch the preliminarily approved Notice plan.

15. On April 22, 2025, this Court granted Plaintiffs' Motion seeking preliminary class action settlement approval.

### **THE SETTLEMENT AGREEMENT**

16. The proposed Settlement Class is defined as: "All means all persons in the United States whose Private Information was potentially involved in the Data Security Incident." Class Action Settlement Agreement and Release ("S.A.") ¶ 56 (also lists excluded certain individuals and entities). The release of claims for this Class is limited to claims arising out of the Data Breach; the release for the named plaintiffs who also seek service awards for the risks they took and work they performed, is broader.

17. The proposed Settlement provides that Settlement Class Members may submit a claim for a Cash Payment for (a) up to \$5,000.00 for documented losses related to the Data Breach or (b) a cash payment in the amount of \$100.00 (subject to *pro rata* adjustment based upon the total number of claims submitted).<sup>4</sup> SA ¶ 68. In addition to the monetary settlement benefits, Defendants have implemented reasonable safeguard/steps to adequately secure their I.T. systems and environments. SA ¶ 69.

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<sup>4</sup> Since claims rates in data breach cases tend to be low (e.g., since the data sets accessed often contain information going back decades, class members may be unfamiliar with their connection to the defendants, class members may have long since relocated, may be litigation adverse), it is conceivable that participating claimants may receive substantially more than the \$100 cash out amount. Especially in that instance, this amount per class member represents a *remarkable award for claims otherwise sitting on appeal at the Tenth Circuit*.

18. Unlike many settlements of this kind, this Settlement is non-reversionary and is structured as a common fund, meaning that all settlement benefits available to Class Members *will be paid out* to Class Members. Altogether, the \$8,150,000.00 common fund<sup>5</sup> will (a) reimburse the settlement claims administrator for its work in providing Notice of this resolution to all Class Members, (b) pay all Class Members who wish to participate a *pro rata* share of the net settlement fund, as well as compensation for any documented losses associated with the Data Breach, (c) reimburse our law firms and the others who contributed to the overall effort for our legal work, our litigation costs and for the substantial risks taken in taking on and litigating these (now four) lawsuits, and (d) provide service payments to the named plaintiffs for the risks they took and efforts they made in pursuing this litigation, in each of its iterations.

19. *Attorneys' Fees and Costs:* Our firm, along with the other firms that contributed to the overall effort in prosecuting these cases, request attorneys' fees in the amount of \$2,852,500, plus our costs. S.A. ¶ 101.<sup>6</sup>

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<sup>5</sup> However, as will be detailed in our anticipated motion for final settlement approval, the true value of this settlement is much higher. Indeed, changes Defendants have made to how they maintain data for the Class, spurred at least arguably by this litigation, is a type of relief difficult to value, but is valuable. *See e.g., In re LivingSocial Mktg. & Sales Prac. Litig.*, 298 F.R.D. 1, 17 (D.D.C. 2013) (“[C]ourts should consider the value of the injunctive relief obtained as a relevant circumstance in determining what percentage of the common fund class counsel should receive as attorneys’ fees, rather than as a part of the fund itself.”) (citation omitted); *Bodnar v. Bank of Am., N.A.*, No. 14-cv-03224, 2016 WL 4582084, at \*5 (E.D. Pa. Aug. 4, 2016) (“The value of the settlement is actually greater in light of the meaningful injunctive relief to which Bank of America has agreed, but which has not been quantified monetarily. [T]his factor weighs in favor of the requested fee award.”); *McCoy v. Health Net, Inc.*, 569 F.Supp.2d 448, 478 (D.N.J. 2008) (“The value of the injunctive relief here is a highly relevant circumstance in determining what percentage of the common fund class counsel should receive as attorneys’ fees.”).

<sup>6</sup> Even on a lodestar plus multiplier basis (which is an approach not applicable in *common fund* settlements), these fees would be reasonable; *See In re Miniscribe Corp.*, 309 F.3d 1234, 1245 (10th Cir. 2002) (2.57 multiplier); *Mishkin v. Zynex, Inc.*, 2012 WL 4069295 at \*2 (D.



20. *Service Awards*: Class Counsel will request Service Awards between \$1,000-\$2,500 for each Class Representative depending on the amount of work each one dedicated to the cases. SA ¶ 100.

**THE REQUESTED ATTORNEYS' FEES ARE REASONABLE**

21. Settlement Class Counsel's request for attorneys' fees of \$2,852,500, which is 35% of the Settlement Fund, is well within the range for Settlements of this nature and size as well as the substantial work and results achieved in light of the many risks highlighted in Plaintiffs' Motion for preliminary class action settlement approval, which are discussed again in the instant Motion and will be the forthcoming Motion for Final Class Action Settlement Approval.

22. The attorneys' fees and costs that Class Counsel are submitting for the Court's consideration include time devoted to:

- a. Engaging in extensive efforts to develop strategic plans to litigate these matters;
- b. Vetting potential representative plaintiffs for each of the four lawsuits;
- c. Self-organizing and consolidating all cases before the federal District Court;
- d. Extensively researching and filing consolidated and amended Complaints;
- e. Opposing Defendants' motions (e.g., motions to dismiss, strike portions/all of the Complaint, stay the case);

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Colo. Sep. 14, 2012) (collecting District of Colorado cases approving multipliers ranging from 2.5 to 4.6); *Prim v. Ensign United States Drilling, Inc.*, No. 15-cv-02156-PAB-KMT, 2019 WL 4751788, at \*7 (D. Colo. Sept. 30, 2019) (approving fees reflecting a 2.34 multiplier); *Aguilar v. Pepper Asian Inc.*, No. 21-CV-02740-RM-NYW, 2022 WL 408237, at \*6-7 (D. Colo. Feb. 10, 2022) (approving 2.49 multiplier); *In re Davita Healthcare Partners, Inc.*, No. 12-CV-2074-WJM-CBS, 2015 WL 3582265, at \*5 (D. Colo. June 5, 2015) (multiplier of 3.0); multipliers awarded nationwide typically range from 1 to 3. *See Newberg* § 15:89.

- f. Preparing a draft appellate brief, and other documents associated with filing the appeal, designating the record, working with the appellate mediator, etc.;
- g. Serving and addressing responses to formal and informal discovery;
- h. Meeting and conferring regarding discovery disputes with defense counsel and negotiating agreements regarding discovery;
- i. Reviewing Defendants' production(s) of documents and paper discovery responses;
- j. Coordinating and staying in contact with Representative Plaintiffs (and other Class Members), providing discovery responses and collecting documents and preparing them for production;
- k. Undertaking substantial investigation of the Data Breach and the corporate structure of Defendants;
- l. Consulting with experts regarding the Data Breach, damages modeling and potential exposure of the Plaintiffs' PII/PHI;
- m. Preparing extensive mediation briefs amassing hundreds of pages, and attending three separate mediation sessions (two requiring extensive travel);
- n. Negotiating the details of the Settlement Agreement and securing preliminary approval of the Settlement; and
- o. Responding to countless inquiries from Class Members.

23. In addition to these tasks and the attendant resources already committed to them,

Class Counsel will need to devote additional time and resources<sup>7</sup> to this case, including:

- a. Preparing for and attending the Final Approval hearing, including the research and drafting of any reply papers and responses to objections;
- b. Continuing to respond to myriad inquiries from Class Members;

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<sup>7</sup> Naturally, the reported time does not include any of the billable time after submission of this motion, such as future work that will be associated with the final approval hearing, the claims process and settlement administration. *See, In re Philips/Magnavox TV Litig.*, No. 09-3072, 2012 WL 1677244, at \*17 (D.N.J. May 14, 2012) (observing, in analyzing a fee request, that the submitted figures did not include time and expenses incurred by counsel subsequent to the submission of that motion). With so many class members, Class Counsel's future work will be substantial.

- c. Overseeing the Settlement through final approval of distribution of the common fund;
- d. Overseeing the claims administration process, including addressing any claim review issues and ensuring the offered benefits reach Class Members; and
- e. Litigating any appeals, addressing compliance issues, etc.

24. The time my firm spent on litigation efforts in this case prevented it from pursuing other work at the same hourly rates reflected in the lodestar submitted herewith. My firm typically receives 50-70 intakes per day and, as a result, there is always a significant opportunity cost. My firm alone invested a substantial number of hours litigating this matter (over 1,760 hours to date) instead of pursuing/investigating other potential cases. Details of these hours can be produced to the Court if needed, but span thousands of entries.

25. Throughout the litigation, I conscientiously coordinated and collaborated with all other firms to ensure the efficiency and non-duplication of effort in this (and related) litigation. I am well aware that Courts sometimes scrutinize settlement fee requests when it appears those counsel have worked inefficiently, have unnecessarily duplicated each other's efforts. I worked hard in this action to prevent that from happening, kept other counsel in the loop as needed but not excessively, etc. In performing the tasks outlined above, the associate attorneys at my firm and I took measures to ensure that all work performed was necessary in light of the needs of the case, carried out efficiently, and non-duplicative. For example, the Class Counsel firms allocated specific tasks amongst themselves and/or, in turn, delegated tasks to various attorneys outside our firms who also worked from time to time on these cases, prior to undertaking any assignments to ensure that no two attorneys performed precisely the same work unless collaboration was needed.

26. The requested Attorneys' Fees is comparable with other data breach settlements discussed in the accompanying Motion.

27. While the Parties engaged in pleadings challenges, discovery and case management efforts normally attendant to litigation of this magnitude, they also worked cooperatively to the extent possible to resolve other disputes, and the ultimate dispute, without court intervention. Behind the scenes, collectively, hundreds of emails, telephone calls, etc. were exchanged/occurred, many to informally communicate and negotiate their positions, and all in an effort to minimize court intervention, costs and legal fees. This focus on cooperation and then, later, settlement (instead of padding Settlement Class Counsel's lodestar with unnecessary and/or excessive litigation work) undoubtedly left more funds available to put toward the settlement, as opposed to those available funds being depleted as defense litigation costs/fees. In all, when compared to other data breach settlements, the value provided to the Settlement Class here is significant, and the fees are well-deserved.

#### **THE CONTINGENT NATURE OF THE CASE AND RISKS OF LITIGATION**

28. CVN undertook this matter solely on a contingent basis, with no guarantee regarding the potential duration of the litigation or the ultimate recovery of fees or costs. CVN also understood the risks attendant to litigation in this jurisdiction, and the potential for paying defense fees, which would be extremely high. While attorneys who represent corporations are routinely paid (often quite handsomely) on an hourly basis, plaintiffs in data breaches can rarely afford to pay their attorneys by the hour, especially if they expect to be represented by law firms well known for achieving good results. As a firm primarily committed to data breach class actions, including the one at hand, my firm must accept them on a wholly contingent basis, with no guarantee of

recovery of fees, or even the reimbursement of its litigation costs. Obviously, my firm cannot guarantee a “win” in every case it handles. Recovering fees, sometimes with a multiplier, is the only way CVN can continue to provide quality work for victims such as those who brought this case.

29. Class Counsel’s fee award is highly reasonable in light of the following risk factors: Data breach litigation is complex, risky and evolving and there is no guarantee of the ultimate result. Such risk was especially true in this case where the federal District Court granted Defendants’ Motion to Dismiss without leave to amend and no on-point law exists at the Tenth Circuit to guide the parties as to the likely outcome of that appeal. Plaintiffs could, thus, receive nothing and/or, even worse, potentially be liable for Defendants’ attorneys’ fees. Colo. Rev. Stat. § 13-17-201. Barring a settlement, Plaintiffs and Class Counsel would have continued to seek justice in other courts around the country to hold Defendants accountable, courts that would undoubtedly be, at least mildly, curious to hear what happened in the first case. What’s more, Defendants would undoubtedly take a 4.2 million class member case very seriously, retain the best experts, and pursue all procedural measures to ensure this case never reached a jury.

30. All of these specific risks are on top of the general risks inherently present in data breach cases, which generally face substantial hurdles—even just to make it past the pleading stage.

31. There was also a substantial risk in Plaintiffs obtaining and maintaining class certification. At the outset, class certification, outside the settlement context, almost always poses a significant challenge. Even if the Court certified the Class, the risk of decertification is great because data security incident litigation is constantly evolving.

32. The area of data breach litigation is still in its infancy. To my knowledge, no data breach trials have been conducted and class certification presents unique damages analysis challenges. Nonetheless, various independent studies have been conducted regarding data breach victim experiences, some of which seek to quantify the average loss for data breach victims. I have read numerous studies regarding and discussed with various experts the damages theories and damage models available in class action litigation, and in data breach cases in particular, but the weight of publicized studies conclude that most class members have very limited damages, usually well under \$50.

33. Finally, the fact that Class Counsel could be liable for all of Defendants' attorneys' fees (See, Colo. Rev. Stat. § 13-17-201) should we not prevail presented a very unique and daunting risk in these cases, deserving of special consideration.

34. As a result of all these factors, Class Counsel's requested fees are reasonable when considering the complexity and risks associated with litigating this case, the contingent nature of the representation, and the \$8,150,000 Settlement Fund (plus remedial measures) achieved under the circumstances.

#### **THE REQUESTED LITIGATION COSTS ARE REASONABLE**

35. Due to Settlement Class Counsel's ability to reach an early and excellent settlement for Settlement Class Members, costs and expenses total \$43,783.37 (just for my firm). These reimbursable costs and expenses are related, *inter alia*, to: (a) filing and service fees, (b) reproduction expenses, (c) legal research, (d) postage, (e) expert consultation fees and (f) mediation fees. A true and correct copy of my firm's Cost Journal is attached as Exhibit A hereto.

These costs and expenses were necessary to prosecute this case and are modest in comparison to the enormous costs that likely would have been incurred if litigation had continued.

**THE REQUESTED SERVICE AWARDS ARE REASONABLE**

36. Our Motion seeks Service Awards not to exceed \$2,500 apiece for Plaintiffs Paula Henderson, Shykira Scott, Daniel Jones, Carol Goldberg, Vahram Haroutunian, Brian Kearney, Hilda Lopez, Preference Robinson, Sharon Etchieson, Radhe Banks, Jonathan Trusty, Marie Netrosio, Michaela Mujica-Steiner, Roger Loeb, Kyle Denlinger (*Henderson* Plaintiffs) and \$1,000 apiece for Plaintiffs Martin Coleman, Alyssa Halaseh, Rachel Hunter, Todd Valentine and David Moynahan (*Coleman* and *Valentine* Plaintiffs). These Service Awards are in recognition of their courage in stepping forward and risks (including of facing attorneys' fees if they lost). Plaintiffs were available as proposed class representatives, filed lawsuits and worked with their attorneys as needed throughout the litigation and waive all claims as a result of this settlement. Plaintiffs were available for questions and to supply documents to their attorneys and helped vigorously litigate each of the cases. Plaintiffs expended time and resources that other Class Members did not in litigating their cases. Their efforts should be rewarded. *See e.g., Gordon v. Chipotle Mexican Grill, Inc.*, No. 17-CV-01415-CMA-SKC, 2019 WL 6972701, at \*2 (D. Colo. Dec. 16, 2019); *In re Ashley Madison Customer Data Security Breach*, No. 4:15-md-02669 (E.D. Mo.); *In re Arby's Rest. Grp., Inc. Data Sec. Litig.*, No. 17-cv-01035, 2019 WL 2720818, at \*1 (N.D. Ga. June 6, 2019).

37. I am not aware of any antagonism or conflict of interest between Plaintiffs and the Class. In fact, Plaintiffs have been appropriately involved in their cases and have stayed in routine contact with my firm.

38. Additionally, they assisted with the prosecution efforts that included frequent emails and telephone calls with counsel.

**EXPERIENCE, QUALIFICATIONS AND VIEWS OF CLASS COUNSEL**

39. My firm acted in the underlying/first litigation as Interim Co-Lead Class Counsel, and I was personally and actively involved in all aspects of the proceedings in that, and each additional, case. I am familiar with this litigation and negotiated the proposed settlement. My experience and that of other members of my firm benefited the efficient litigation of this matter and the settlement negotiations in this case significantly.

40. CVN, the law firm I founded in 1992, is a specialized practice devoted almost exclusively to prosecuting class action matters and has so engaged in that area of practice for the near entirety of its existence. In its over 30-year history, I have prosecuted hundreds of class and/or complex/representative cases. A selection of some of the more unique cases are identified in the firm's professional resume, attached to this Declaration. Most of these cases involved many of the same legal issues as are presented in the current action.

41. While almost entirely devoted today to prosecuting cyber-security class actions, CVN's past experiences run deep across various areas of the law—from employment wage and hour and discrimination cases, to consumer, personal injury and environmental class actions/mass tort cases. It has successfully achieved class certification, settlements and judgments in varied factual scenarios, just some of the more unique, difficult or groundbreaking situations being set forth in the firm's resume. Some better-known and/or "game changing" cases include *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116 (Case No. A119697) (setting the standard for settlement approval in California state courts); *Augustus (Davis) vs.*



*ABM Security Services.*, Supreme Court of California Case No. S224853 (establishing a new Supreme Court standard for workplace rest periods; \$110 million settlement); *Despres v. United Parcel Service, Inc.*, Case Nos. 3:03-CV-02987 (TEH) and 3:03-CV-02001 (TEH) (N.D. Cal.) (historic \$87 million settlement in meal break-only case); *Kurihara v. Best Buy Co., Inc.*, 2007 U.S. Dist. LEXIS 64224 (N.D. Cal. Aug. 29, 2007) (class cert. granted and clarifying distinction between class composition and entitlement to a recovery); *Tierno v. Rite Aid Corp.*, 2006 U.S. Dist. LEXIS 71794 (N.D. Cal. Aug. 31, 2006) (oft-cited ruling certifying a class of retail store managers alleging overtime misclassification; \$6.9 million settlement); *Fulton v. Sports and Fitness Clubs of America, dba 24 Hour Fitness, USA, Inc.*, Case No. GIC881669 (Super. Ct. Cal. San Diego Cnty.), consolidated with Case No. GIC873193) (industry changing case that helped define “piece rate” standard under the law; class certification and then summary judgment granted; \$19 million resolution); *In Re Westley Tire Fire Litigation*, Case No. CV 801282 (Super. Ct. Cal. Santa Clara Cnty.) (appointed lead counsel in toxic 7 million tire fire that affected up to one-third of California residents); *In Re Unocal Refinery Litigation*, Case No. C94-04141 (Super. Ct. Cal. Contra Costa Cnty.) (Steering Committee member in massive toxic chemical release and topic of my book, “Fallout”); *In Re: Apple Inc. Device Performance Litigation*, Case No. 5:18-md-02827-EJD (N.D. Cal.) (Steering Committee in consumer fraud case); and *In Re Tosco SFR Litigation* (C97-01637 (Super. Ct. Cal. Contra Costa Cnty.) (appointed lead counsel in massive toxic airborne release over multiple towns).

42. CVN’s track record is equally impressive with regard to other settlements and judgments. For example, I was co-counsel in the landmark California Supreme Court decision providing that non-exempt worker time spent under the control of the employer is compensable.

*Augustus vs. ABM Security Services*, Supreme Court of California, Case No. S224853 (\$110 million settlement thereafter on behalf of roughly 15,000 security guards). Additionally, I co-prosecuted what was, at the time (and perhaps still), the largest class action settlement of a meal break-only case. *Despres v. United Parcel Service, Inc.*, California Northern District Court Case No. 3:03-CV-02987 (TEH) and No. 3:03-CV-02001 (TEH) (\$87 million settlement on behalf of roughly 20,000-person class). I prosecuted, obtained a judgment and thereafter negotiated a two-tiered \$19 million settlement on behalf of fitness club group exercise instructors for unpaid wage and unreimbursed business expense claims. *Fulton v. Sports and Fitness Clubs of America, dba 24 Hour Fitness, USA, Inc.*, San Diego County Superior Court Case No. GIC881669 (consolidated with Case No. GIC873193). I prosecuted and settled a \$15 million non-reversionary settlement on behalf of a class of approximately 68,000 security guards for meal and rest break violations. *Securitas Security Services Cases*, Santa Clara County Superior Court Case No. 1-05-CV-047499. Additionally, I negotiated a \$7.5 million settlement on behalf of a class of retail assistant Managers for uncompensated time spent undergoing security checks and failure to provide meal and rest breaks. *Kelly v. Walgreens*, San Francisco County Superior Court Case No. CGC-07-464347. I also brokered a \$6.9 million settlement on behalf of a class of over 1,000 allegedly misclassified retail Store Managers. *Tierno v. Rite Aid Corp.*, California Northern District Court Case No. 3:05-CV-02520 (TEH). I served as court-appointed lead counsel after fierce competition for that appointment in a consolidated action of nine lawsuits against Walgreen Co. bringing a variety of wage and hour claims on behalf of approximately 43,000 retail store workers in California. After several years of litigation, I negotiated a \$23 million settlement in that case. *In Re Walgreen Co. Wage and Hour Litigation*, United States

District Court, Central District of California Case No. 2:11-CV-07664 (PSG). CVN has many additional resolutions within the settlement range exhibited above and scores of others of equal or lesser notoriety.

43. Drawing upon that diverse background, CVN is nowadays devoted almost entirely to the prosecution of data breach class actions, with the vast bulk of its caseload being cases involving almost identical legal and factual issues to those presented in the instant case. In these matters, CVN serves in a variety of roles, oftentimes in various leadership positions. For example, CVN has served as court-appointed lead or co-lead counsel in various data breach matters including, but not limited to: *Hinds, et al. v. Community Medical Centers, Inc.*, Case No. STK-CV-UNPI-2021-10404 (Super. Ct. Cal. San Joaquin Cnty.) (court appointed co-lead counsel); *Tsvetanova, et al. v. UCSD Health*, Case No. 37-2021-00039888-CU-PO-CTL (Super. Ct. Cal. San Diego Cnty.) (court appointed co-lead counsel); *In Re: Rackspace Data Security Litigation*, No.: SA-22-cv-01296-XR (W.D. Tex.) (court appointed lead counsel); *Fedorys, et al. v. Ethos Group Inc.*, Case No. 3:22-cv-2573-M (N.D. Tex.) (court appointed co-lead counsel); *Moreland, et al. v. 1<sup>st</sup> Franklin Financial Corporation*, Case No. 2:23-cv-00038-SCJ (N.D. Ga.) (court appointed co-lead counsel); *Domitrovich, et al. v. MC Dean, Inc.*, Case No. 1:23-cv-00210-CMH-JFA (E.D. Va) (court appointed co-lead counsel); *Deevers, et al. v. Wing Financial Services, LLC.*, Case No. 4:22-cv-00550-CVE-MTS (N.D. Okla.) (court appointed co-lead counsel); *Darrin v. Huntington Ingalls Industries, Inc.*, Case No. 4:23-cv-00053-JKW-DEM (E.D. Va.) (court appointed co-lead counsel); *Guerrero v. Merritt Healthcare Holdings, LLC*, Case No. 3:23-cv-00389-MPS (D. Conn.) (court appointed co-lead counsel); *Prutsman v. Nonstop Administration and Insurance Services, Inc.*, Case No. 3:23-Cv-01131-VC (N.D. Cal.)

(court appointed co-lead counsel); *In re DISH Network Data Security Incident Litigation*, Case No. 1:23-cv-01168-RMR-SBP (D. Colo.) (court appointed co-lead counsel); and *Byers v. Orthoalaska, LLC*, Case No. 3:23-cv-00243-SLG (D. Alaska) (court appointed co-lead counsel). I have personally achieved numerous additional leadership appointments over the course of my career.

44. CVN also serves in more informal (e.g., stipulated) leadership positions in numerous other data breach cases and in sole counsel roles in dozens more—actions currently venued across at least 30 states. What’s more, CVN, generally, has a near perfect track record of being appointed lead or co-lead counsel in every data breach class action in which it sought such appointment. Personally, every time I have sought a lead or co-lead counsel role in such cases, whether via a contested motion or otherwise, I have obtained it.

45. I am a well-respected leader in the field of class action litigation, have achieved record results in both settlements and judgments in such cases, have authored numerous scholarly publications, including my book “Fallout” (chronicling the 1994 toxic substance release by Unocal and the ensuing class action legal battle), and have been called upon to serve as a regular speaker at public seminars on issues surrounding substantive legal issues and class action procedures. I have prosecuted class actions across numerous fields, including employment, consumer, environmental, and data breach cases.

## **EXHIBITS**

46. Attached hereto as **Exhibit A** is a true and correct copy of Cole & Van Note's professional resume which outlines the firm's experience litigating complex/class action cases like this one.

47. Attached hereto as **Exhibit B** is a true and correct copy of Cole & Van Note's Cost Journal.

I declare under penalty of perjury under the laws of the State of California and the State of Colorado that the foregoing is true and correct.

Executed this 28th day of May, 2025 at Oakland, California.

/s/ Scott Edward Cole

Scott Edward Cole

**COLE & VAN NOTE**

555 12th Street, Suite 2100

Oakland, California 94607

Telephone: (510) 891-9800

Email: sec@colevannote.com

# EXHIBIT A

An aerial photograph of a modern skyscraper with a curved glass facade, reflecting the surrounding city and harbor. The building is situated in a dense urban area with other buildings and streets visible. In the background, a large body of water (the harbor) is visible, with several ships and cranes. Beyond the harbor, there are hills and a distant city skyline under a clear blue sky.

# COLE & VAN NOTE

## ATTORNEYS AT LAW

*"A single voice has the power to push Big Business toward big change."*

### FIRM RESUME



## OVERVIEW OF OUR PRACTICE

Cole & Van Note (“CVN”) is a boutique class action firm known for aggressive representation and impressive results in the areas of consumer fraud, data breach, environmental and employment litigation. Founded in 1992, CVN has been devoted primarily to such matters, having litigated hundreds of class actions against businesses of all types and in nearly every industry imaginable. The members of CVN have vast experience prosecuting class/complex actions, both in a sole counsel capacity and in leadership positions, oftentimes among many firms, in California and nationwide litigation. They have published numerous scholarly articles dealing with various substantive issues as well as class action litigation/procedure, speak regularly to legal audiences, and have served as consulting experts in class action litigation. CVN’s team of skilled advocates has recovered billions of dollars for tens of millions of workers and consumers, been involved in record-setting settlements and judgments and compelled the correction of innumerable unlawful practices.



## SHAREHOLDERS & ASSOCIATE ATTORNEYS

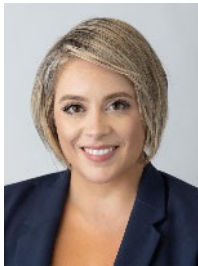


**Scott Edward Cole**, founder and shareholder of Cole & Van Note, has extensive leadership experience prosecuting class action cases in federal and state courts nationwide. Mr. Cole has authored numerous scholarly publications and serves as highly regarded guest lecturer on issues surrounding class action procedures and negotiation theory. Mr. Cole has been responsible for shaping the law in trial and appellate courts for decades, authored the book “Fallout” and is available to serve as a mediator of class action disputes.

Credentials: Admitted, State Bar of California, 1992; University of San Francisco School of Law, J.D., 1992; President, University of San Francisco Labor & Employment Law Society; San Francisco State University, B.A., Speech Communications (Individual Major in Rhetoric), 1989, Minor Study in Business Administration, 1989; Admitted, United States District Court for all California Districts, the District of Colorado and the Western District of Michigan; Admitted, United States Court of Appeals (6th, 9th and 10th Circuits). Additionally, Mr. Cole is a former National Association of Securities Dealers Registered Representative (Series 7) and is/has been a



member of the Association of Trial Lawyers of America, California Employment Lawyers Association, American Bar Association, Alameda County Bar Association (e.g., Vice Chair of ACBA's Labor & Employment Law Section Executive Committee), National Employment Lawyers Association and a U.S. Delegate to the InterAmerican Meeting of Labor and Trade Union Lawyers, Havana, Cuba (March 2012). Mr. Cole is also the author of "Fallout," a story based upon his experiences litigating in the wake of the 1994 airborne release of toxic chemicals by the Unocal Corporation and used by various law schools in the curriculum for first year law students.



**Laura Van Note**, shareholder, is an aggressive and skilled advocate and leads the firm's hiring and career outreach efforts. A 2013 graduate of the University of Missouri, Kansas City School of Law, her practice has focused primarily on class action representation of data breach victims and underpaid workers in employment/civil rights litigation. With a near-perfect track record for results, Ms. Van Note appears in courts across the nation, is licensed in Kansas and Missouri and in numerous federal districts.

Credentials: Admitted, State Bar of California, 2016; Admitted, State Bar of Missouri, 2013; Admitted, State Bar of Kansas, 2015; Admitted, United States District Court for all California Districts, the Eastern District of Wisconsin, District of Kansas, Eastern and Western Districts of Missouri, District of New Mexico, District of Nebraska, District of Colorado and the Northern District of Illinois; University of Missouri, Kansas City School of Law, J.D., 2013 (Order of the Barrister, Dean's List, Captain of the National Trial Advocacy Team, President of the American Constitutional Society for Law and Policy, Teaching Assistant to the Directory of Advocacy); University of Missouri, Kansas City, B.A., History, Minor in French, 2010.



**Alicyn Whitley**, associate attorney, graduated from Golden Gate University's School of Law near the top of her class in 2018, receiving the Dean's Award for Scholarship and Leadership. While in school, Ms. Whitley worked at numerous Bay Area law firms as well as the U.S. Department of Labor on various civil litigation matters and contract disputes. With her substantial background as an insurance defense attorney handling numerous personal injury, construction defect and employment disputes, Ms. Whitley brings a unique perspective and set of skills to the firm's high profile consumer and

employment class action practice.

Credentials: Admitted, State Bar of California, 2019; Admitted, United States District Courts for Northern and Central California; Golden Gate University School of Law, J.D., 2018; University of Nevada, Las Vegas, B.A., Broadcast Journalism, 2013.



**Mark T. Freeman**, associate attorney, graduated from Pacific McGeorge School of Law in 2013 near the top of his class. During law school, Mr. Freeman engaged in the McGeorge Trial Advocacy Program (which he completed with Honors) and served as Chief Comment Editor for the McGeorge Law Review. A published author (“BarCram: How To Survive the Last Two Weeks Before You Take (And Pass) the California Bar”), Martindale-Hubbell “AV Preeminent” rated attorney and Certified Mediator, Mr. Freeman is also member of the Consumer Attorneys of California, the Congress of Neutrals and the Contra Costa County Bar Association. At CVN, Mr. Freeman utilizes his vast litigation experience in the areas of class action consumer, employment and data breach law.

**Credentials:** Admitted, State Bar of California, 2013; Admitted, United States District Courts for the Northern, Central and Eastern Districts of California; Admitted, 9th Circuit Court of Appeals; Pacific McGeorge School of Law, J.D., 2013 (Order of the Coif; McGeorge Law Review); Saint Mary’s College of California, B.A. in Economics; Minor in English & Creative Writing (Honors: Br. U. Jerome Griffin Award at Graduation (highest award in School of Econ. and Business)), 2010.

Interim Counsel not listed.

## SCHOLARLY PUBLICATIONS

The following represent examples of how CVN has elected to give back and help shape the law through our own articles, opinion pieces and the like – some examples of this including:

*The Quest for Class Certification*, Employment Law Strategist (Sept. & Oct. 2003).

*To Be or Not to Be a Penalty: Defining the Recovery Under California's Meal and Rest Period Provisions*, Golden Gate U. L. Rev. (Spring 2005).

*To Certify or Not to Certify: A Circuit-By-Circuit Primer of the Varying Standards for Class Certification in Actions under the Federal Labors Standards Act*, B.U. Pub. Int. L.J. (Spring 2004).

*Kullar v. Footlocker Retail, Inc.: A New Standard for Class Action Settlement Approval*, CELA Bulletin (April 2009).

*Ninth Circuit Provides Much Needed Guidance on Evidentiary Burdens in Overtime Misclassification Litigation*, CELA Bulletin (May 2009).

*Putting the "Rest" Back in Rest Break*, Alameda County Bar Association - Labor & Employment Section News (Autumn 2009).

*Barristers to Blogs: Softening Ethical Restrictions in the Digital Age*, Los Angeles Daily Journal (June 14, 2010).

## LEADERSHIP ROLES

CVN has held numerous court-appointed sole- and co-leadership positions in state and federal courts across the nation. Recent lead counsel appointments include:

- In Re: Rackspace Data Security Litigation, No. SA-22-cv-01296-XR (W.D. Tex.) (court appointed sole lead counsel)
- Henderson v. Reventics, LLC, Case No. 1:23-cv-00586-MEH (D. Colo.) (court appointed co-lead counsel)
- Hinds v. Community Medical Centers, Inc., Case No. STK-CV-UNPI-2021-10404 (Super. Ct. Cal. San Joaquin Cnty.) (court appointed co-lead counsel)

- Tsvetanova v. UCSD Health, Case No. 37-2021-00039888-CU-PO-CTL (Super. Ct. Cal. San Diego Cnty.) (court appointed co-lead counsel)
- Fedorys v. Ethos Group Inc., Case No. 3:22-cv-2573-M (N.D. Tex.) (court appointed co-lead counsel)
- Moreland v. 1<sup>st</sup> Franklin Financial Corporation, Case No. 2:23-cv-00038-SCJ (N.D. Ga.) (court appointed co-lead counsel)
- Domitrovich v. MC Dean, Inc., Case No. 1:23-cv-00210-CMH-JFA (E.D. Va.) (court appointed co-lead counsel)
- Deevers v. Wing Financial Services, LLC, Case No. 4:22-cv-00550-CVE-MTS (N.D. Okla.) (court appointed co-lead counsel)
- Darrin v. Huntington Ingalls Industries, Inc., Case No. 4:23-cv-00053-JKW-DEM (E.D. Va.) (court appointed co-lead counsel)
- Guerrero v. Merritt Healthcare Holdings, LLC, Case No. 3:23-cv-00389-MPS (D. Conn.) (court appointed co-lead counsel)
- Prutsman v. Nonstop Administration and Insurance Services, Inc., Case No. 3:23-Cv-01131-VC (N.D. Cal.) (court appointed co-lead counsel)
- In re DISH Network Data Security Incident Litigation, Case No. 1:23-cv-01168-RMR-SBP (D. Colo.) (court appointed co-lead counsel)
- Byers v. OrthoAlaska, LLC, Case No. 3:23-cv-00243-SLG (D. Alaska) (court appointed co-lead counsel)
- Tambroni v. WellNow Urgent Care, P.C., Case No. 1:24-cv-01595 (N.D. Ill.) (court appointed co-lead counsel)
- Dryden v. Tri Counties Bank, Case No. 23CV03115 (Super. Ct. Cal. Butte Cnty.) (court appointed co-lead counsel)
- Brett v. Valley Mountain Regional Center, Case No. STK-CV-UPI-2024-0005025 (Super. Ct. Cal. San Joaquin Cnty.) (court appointed co-lead counsel)
- Cordell v. Patelco Credit Union, Case No. 24CV082095 (Super. Ct. Cal. Alameda Cnty.) (court appointed co-lead counsel)
- Skillings v. Access Sports Medicine and Orthopedics, Case No. 218-2024-CV-01086 (Super. Ct. New Hampshire Rockingham Cnty.) (court appointed co-lead counsel)
- Woodard v. Atlanta Women's Health Group, P.C., Case No. 24EV001838H (State Ct. Georgia Fulton Cnty.) (court appointed co-lead counsel)
- In Re: Cleveland Brothers Data Incident Litigation, Case No. 1:23-cv-00501-JPW (M.D. Penn.) (court appointed co-lead counsel)

- Hahn v. Phoenician Medical Center, Inc., Case No. CV2023-010982 (Super. Ct. Az. Maricopa Cnty.) (court appointed executive committee chair)
- Daley v. Risas Holdings LLC, Case No. CV-24-00789-PHX-SMM (D. Az.) (court appointed lead counsel)
- Shweiki v. Donor Network West, Case No. C20-00073 (Super. Ct. Cal. Contra Costa Cnty.) (court appointed lead counsel)
- Lowrey v. Community Psychiatry Mgt., LLC, Case No. 2:23-cv-00185-TLN-DB (E.D. Cal.) (court appointed co-lead counsel)
- In Re: Blackhawk Network Data Breach Litig., Case No. 3:22-cv-07084-CRB (N.D. Cal.) (court appointed co-lead counsel)
- In re Dropbox Sign Data Breach Litigation, Case No. 4:24-cv-02637-JSW (N.D. Cal.) (court appointed co-lead counsel)
- Bujok v. MC2 Data, LLC, Case No. 0:24-cv-61864-LEIBOWITZ (S.D. Fla.) (court appointed co-lead counsel)
- Francisco v. Diligent Acquisitions LLC, Case No. 4:24-cv-04468 (S.D. Tex.) (court appointed co-lead counsel)
- Oliver v. Jewish Home Lifecare, Index No. 157811/2024 (N.Y. Sup. Ct., N.Y. County, Index No. 157811/2024) (court appointed co-lead counsel)
- Hunt v. Charleston Area Medical Center, Inc., Case No. 2:25-cv-00113 (S.D.W.V.) (court appointed co-lead counsel)
- Creutz v. Carespring Health Care Management LLC, Case No. 1:24-cv-00447 (S.D. Ohio) (court appointed co-lead counsel)
- Ceballos vs Tri-City Medical Center ASC Operators LLC, Case No. 24CU017568C (Super. Ct. Cal. San Diego Cnty.) (court appointed co-lead counsel)

Note that CVN has held sole lead and co-leadership roles in, literally, hundreds of additional matters. Please contact our firm for additional leadership information.

## EXEMPLAR COMPLEX & CLASS ACTION CASES

CVN's attorneys have represented tens of millions of individuals in legal disputes across hundreds of class action/complex litigation cases around the nation. For well over three decades, CVN's legal team has amassed extensive experience litigating data breach, wage and hour, environmental, and other personal injury and commercial cases. Today, the firm almost exclusively prosecutes multi-state data breach and other consumer-oriented class actions.

Drawing from various areas of law, and by nowhere close to an exhaustive list, examples of the range of CVN's practice include matters such as:

Augustus/Davis v. ABM Security Services, Inc. (American Commercial Security Service, Inc.)

Superior Court of California, County of Los Angeles, Case No. BC336416; 2 Cal.5th 257 (2016)

Our firm filed this action for violations of California law for denial of meal and rest periods toward security guards. The action achieved class certification status in 2009. Following summary judgment proceedings, a judgment of over \$89 million was entered against the defendant(s). The judgment hinged on the issue of whether "on-duty" rest breaks were legally sufficient. After the Court of Appeal ruled against Plaintiffs on the issue, the case went to the California Supreme Court where Plaintiffs prevailed and, in so doing, created a new legal standard clarifying that "on-duty" rest breaks are invalid. After 12 years of litigation, successful summary judgment and substantial appellate work, this matter resolved for \$110 million.

Bower v. Steel River Systems LLC

Illinois Fourteenth Judicial Circuit Court (Whiteside County), Case No. 2023-LA-000006

This action arose out of Steel River Systems' 2022 data breach which affected numerous consumers and/or employees. This action settled for an undisclosed amount.

Brett v. Valley Mountain Regional Center

Superior Court of California, County of San Joaquin, Case No. STK-CV-UPI-2024-0005025

This action arose out of Valley Mountain's 2023 data breach which affected 17,000 patients of Defendant's facilities. Cole & Van Note was appointed co-lead class counsel.

Bulow v. Wells Fargo Investments, LLC

United States District Court (N.D. Cal.), Case No. 3:06-CV-7924

This matter was filed as a nation-wide class action against Wells Fargo Investments, on behalf of its Financial Consultants to recover overtime pay, compensation for denied meal and rest periods (California only) and reimbursement for business related service and supply expenses (California only). This matter settled for \$6.9 million.

Byers v. OrthoAlaska, LLC

United States District Court (D. Alaska), Case No. 3:23-cv-00243-SLG

This action arose out of OrthoAlaska's massive data breach which affected countless patients, consumers and/or employees. Cole & Van Note was court-appointed as co-lead class counsel.

Cano v. United Parcel Service, Inc.

Superior Court of California, County of Alameda, Case No. RG03089266

This wage and hour complex litigation matter involved the alleged misclassification of overtime non-exempt Operations Management Specialists, Operational Excellence Specialists and Industrial Engineering Specialist at this company's California facilities. This action settled for \$4.5 million.

Chaidez v. Odwalla, Inc.

Superior Court of California, County of San Mateo, Case No. CIV430598

This wage and hour complex litigation matter involved the alleged misclassification of overtime non-exempt California Route Sales Representatives. CVN served as primary counsel for this proposed class of employees. This action settled for \$2.2 million.

CKE Overtime Cases

Superior Court of California, County of Los Angeles, Case No. BC283274 (JCCP No. 4274)

This class action was brought against fast food chain Carl's Jr. for violations of California's overtime laws on behalf of the company's California restaurant chain Managers. The coordinated litigation provided a settlement fund of \$9.0 million.

Cordell v. Patelco Credit Union

Superior Court of California, County of Alameda, Case No. 24CV082095

This action arose out of the well-publicized 2024 data breach and denial of service impacting well over 1,000,000 Patelco customers. As a result of the event, Patelco customers were blocked access to their funds and other services for weeks, resulting in myriad damages including rejection of loan applications, damage to their credit and the inability to pay everyday life expenses. Cole & Van Note was appointed co-lead class counsel. The matter settled for \$7.25 million (settlement pending)

Darrin v. Huntington Ingalls Industries, Inc.

United States District Court (E.D. Va.), Case No. 4:23-cv-00053-JKW-DEM

This action arose out of Huntington Ingalls' massive data breach. Cole & Van Note was appointed by the court to a co-lead counsel position.

Davis v. Universal Protection Security Systems, Inc.

Superior Court of California, County of San Francisco, Case No. CGC-09-495528

Our firm filed a claim in 2009 against Universal Protection Security Systems, Inc. for violations of California law for denial of meal and rest periods toward security guards. This case settled under Cole & Van Note's sole leadership for \$4 million.

Deevers v. Wing Financial Services, LLC

United States District Court (N.D. Okla.), Case No. 4:22-cv-00550-CVE-MTS

This action arose out of Wing Financial's 2022 data breach which affected numerous loan consumers. Cole & Van Note was appointed co-lead class counsel.

Despres (Cornn) v. United Parcel Service, Inc.

United States District Court (N.D. Cal.), Case No. 3:03-CV-02001

This wage and hour class action litigation was brought to remedy violations of meal and rest period regulations on behalf of the company's California ground delivery drivers. CVN served as co-counsel for the certified class of drivers. This action settled for \$87 million, an unprecedented settlement amount at the time for such claims.

Domitrovich v. MC Dean, Inc.

United States District Court (E.D. Va.), Case No. 1:23-cv-00210-CMH-JFA

This action arose out of MC Dean's 2021 data breach which affected 45,000 employees. Cole & Van Note was appointed co-lead class counsel.

Dryden v. Tri Counties Bank

Superior Court of California, County of Butte, Case No. 23CV03115

This action arose out of Tri Counties' 2023 data breach which affected nearly 75,000 consumers. Cole & Van Note was appointed co-lead class counsel.

Escow-Fulton v. Sports and Fitness Clubs of America dba 24 Hour Fitness USA, Inc.

Superior Court of California, County of San Diego County, Case Nos. GIC881669/GIC873193)

Our firm filed this class action on behalf of the company's California "Group X" Instructors to recover regular and overtime pay, related penalties and un-reimbursed expenses. The action achieved class certification status in 2009. In 2011, the parties agreed to a partial settlement (of the expense reimbursement claims) for \$10 million. The parties then filed cross-motions for summary adjudication and, on August 2, 2011, the court issued an Order finding 24 Hour Fitness' session rate compensation scheme to be an invalid piece rate. The parties then agreed to settle the unpaid wage claims for another \$9 million, for a total judgment of \$19 million. This was an industry changing case that helped define "piece rate" standard under California law.

Fedorys v. Ethos Group, Inc.

United States District Court (N.D. Tex.), Case No. 3:22-cv-02573-M

This action arose out of Ethos Group's 2022 data breach which affected at least 267,000 consumers. Cole & Van Note was appointed co-lead class counsel.

Guerrero v. Merritt Healthcare Holdings, LLC

United States District Court (D. Conn.), Case No. 3:23-cv-00389-MPS

This action arose out of Merritt Healthcare's 2022 data breach which affected over 77,000 patients. Cole & Van Note was appointed co-lead class counsel.



Hakeem v. Universal Protection Service, LP

Superior Court of California, County of Sacramento, Case Nos. 34-2020-00286228-CU-OE-GDS; 34-201900270901-CU-OE-GDS

After an exhaustive multi-year process including venue transfer, consolidation, migration of litigants from one case to the other, multiple appeals and, generally, extremely hard-fought litigation, these two security guard class actions achieved a consolidated judgment under Cole & Van Note's sole leadership for \$10 million.

Head v. Regal Medical Group, Inc.

Superior Court of California, County of Los Angeles, Case No. 23STCV02939

This action arose out of this health care group 2023 data breach which affected roughly 3.3 million patients. Cole & Van Note served as the lead firm. The matter settled for roughly \$50 million (settlement pending).

Henderson v. Reventics, LLC

United States District Court (D. Colo.), Case No. 1:23-cv-00586-MEH

This action arose out of Reventics' massive 2022 data breach which affected over four million patients, consumers and employees. Cole & Van Note was appointed co-lead class counsel. The matter settled for \$8.15 million (settlement pending).

Hinds v. Community Medical Centers

Superior Court of California, County of San Joaquin, Case No. STK-CV-UNPI-2021-0010404

This action arose out of Community Medical Centers' massive 2021 data breach which affected countless patients, consumers and/or employees. After reviewing competing requests for leadership over these consolidated actions, Cole & Van Note was appointed by the court to a co-lead counsel position. This action resulted in a multi-million-dollar judgment.

In re Apple Inc. Device Performance Litigation

United States District Court (N.D. Cal.), Case No. 5:18-md-02827-EJD

Following Apple's December 2017 admission that it throttled back performance of its iPhones (versions 6, 6 Plus, 6s, 6s Plus, SE, 7 and 7 Plus) to mask the problem of defective batteries and unexpected iPhone shut-downs, Cole & Van Note filed a class action to recover damages for consumers nationwide. Cole & Van Note served on the Plaintiffs' Steering Committee. This action settled for \$500 million.

In re DISH Network Data Security Incident Litigation

United States District Court (D. Colo.), Case No. 1:23-cv-01168-RMR-SBP

This action arose out of DISH Network's massive data breach which affected over 300,000 workers. Cole & Van Note was appointed by the court to a co-lead counsel position.

#### In re Dropbox Sign Data Breach Litigation

United States District Court (N.D. Cal.), Case No. 4:24-cv-02637-JSW

This action arose out of Dropbox's massive data breach. Cole & Van Note was appointed by the court to a co-lead counsel position.

#### In re Rackspace Security Litigation

United States District Court (W.D. Tex.), Case No. SA-22-cv-01296

This action arises out of Rackspace Technology's 2022 massive ransomware event which shut down functionality for tens of thousands of individuals and businesses across the United States and overseas. Cole & Van Note served as court-appointed sole lead counsel for the nationwide class and representative plaintiffs from over 30 states.

#### In re Tosco SFR Litigation

Superior Court of California, County of Contra Costa, Case No. C97-01637

During incidents in April 1997 and January 1998, the Tosco Refinery in Rodeo, California released tons of airborne toxic chemicals. These harmful substances traveled into neighboring communities, seriously affecting the health of citizens and local workers. CVN served as Lead Counsel in this complex litigation and represented thousands of members of the community in that role. The multi-million-dollar fund created through this litigation under Cole & Van Note's sole leadership was disbursed among thousands of claimants and significantly change practices at this refinery ever since.

#### In re Unocal Refinery Litigation

Superior Court of California, County of Contra Costa, Case No. C94-04141

In response to Unocal's 16-day airborne release of chemicals over the County of Contra Costa in 1994, CVN filed a class action against the corporation on behalf of thousands of victims and thereafter served as one of a handful of firms (among dozens of law firms of record) on the Plaintiffs' Steering Committee. After hard-fought litigation, the matter eventually settled for \$80 million. This litigation, Mr. Cole's efforts to commence it and his grassroots work and exposure of the toxic event to the media provide the backdrop for Mr. Cole's book, "Fallout," published in 2018 (2605 Media LLC). In the end, the impact of this litigation was sweeping, substantially changing practices at this refinery and industry regulations, helping to establish a toxic release community monitoring system that spawned similar systems across the nation, establishing parks, improved roadways and an unprecedented community-industry Good Neighbor agreement.

#### In re Walgreen Co. Wage and Hour Litigation

United States District Court (C.D. Cal.), Case No. 2:11-CV-07664

Our firm served as court-appointed Lead Counsel after an adversarial hearing process in this consolidated action of nine lawsuits bringing a variety of wage and hour claims on behalf of California workers. The case settled under Cole & Van Note's sole leadership for \$23 million.

#### In re Westley Tire Fire Litigation

Superior Court of California, County of Santa Clara, Case No. CV 801282

On September 22, 1999, lightning struck and ignited a pile of approximately 7 million illegally stored waste tires in Westley, California, a town about 70 miles east of San Francisco. Over the subsequent five weeks, the fire spewed smoke and carcinogens over a large portion of the State of California. CVN served as the (sole) Lead and (shared) Liaison Counsel over a Plaintiffs' Steering/Management Committee in the consolidated actions against the owners and operators of this tire pile and related entities. These cases sought compensation for those individuals and businesses suffering personal and/or property damages as a result of these toxic substances and the fire's fall-out. In 2001, CVN reached a settlement with one defendant (CMS Generation Co.) for \$9 million. In 2003, the Court granted final approval of the settlement. In 2005, two of the remaining defendants settled for roughly \$1.4 million (over \$10 million aggregate).

#### Kullar v. Foot Locker, Inc.

Superior Court of California, County of San Francisco, Case No. CGC-05-447044; 168 Cal.App.4th 116 (2008)

This class action was brought on behalf of California employees allegedly forced to purchase shoes of a distinctive color or design as a term and condition of their employment and in violation of state law. After the Court approved a multi-million settlement, two separate appeals challenged the settlement, but the Court of Appeal affirmed the trial court's judgment. This oft-cited case established in California what's now known as the "*Kullar standard*" for court approval of class action settlements.

#### Kurihara v. Best Buy Co., Inc.

United States District Court (N.D. Cal.), Case No. C 06-01884 MHP (EMC)

This class action was brought on behalf of Best Buy's California employees against this chain retailer for violations of California law (for denial of meal and rest periods). This case was granted class certification and Cole & Van Note then settled it for \$5 million following an oft-cited ruling which clarified the distinction between class composition and entitlement to a recovery.

#### Lett v. TTEC

United States District Court (N.D. Cal.), Case No. 3:22-cv-00018

This action arose out of TTEC Service Corporation's massive data breach in 2021 which affected countless patients, consumers and employees. CVN helped negotiate a \$2.5 million settlement for the class of victims.

#### Mambuki v. Securitas Security Services USA, Inc.

Superior Court of California, County of Santa Clara, Case No. 1-05-CV-047499 (JCCP No. 4460)

Our firm filed a claim against this defendant for violations of California law (for denial of meal and rest periods) on behalf of the company's California-based security guards. This coordinated proceeding settled in 2008 for \$15 million.

Mendoza v. CaptureRx

United States District Court (W.D. Texas), Case No. 5:21-CV-00523-OLG

This class action against NEC Networks, LLC, d/b/a CaptureRx ("CaptureRx"), as well as Rite Aid and Community Health Centers of the Central Coast arising out of the massive data breach in 2021 which affected a minimum of 1.6 million people. The hacked information included sensitive personally identifiable information and personal health information. These consolidated cases settled in 2022 for a total value of over \$4.75 million.

Moreland, et al. v. 1<sup>st</sup> Franklin Financial Corporation

United States District Court (N.D. Ga.), Case No. 2:23-cv-00038-SCJ

This action arose out of 1<sup>st</sup> Franklin Financial's 2022 data breach affecting this company's loan consumers. Cole & Van Note was appointed co-lead class counsel.

O'Brien v. Edward D. Jones & Co., LP

United States District Court (N.D. Ohio), Case No. 1:08-CV-00529

We filed a nation-wide (and New York State) class action against this financial securities company on behalf of the company's financial services representatives to recover overtime pay and related penalties. CVN served on a Lead Counsel Committee in this action, which settled in 2007 for \$19 million.

Onyeige v. Union Telecard Alliance, LLC

United States District Court (N.D. Cal.), Case No. 3:05-CV-03971; MDL No. 1550

Our firm filed an action against Union Telecard Alliance, LLC alleging negligent misrepresentation and deceptive advertising practices related to its marketing of pre-paid telephone calling cards. This action settled for \$22 million.

Prutsman v. Nonstop Administration and Insurance Services, Inc.

United States District Court (N.D. Cal.), Case No. 3:23-cv-01131-VC

This action arose out of Nonstop's massive 2022 data breach which affecting consumers, employees and health care affiliates. Cole & Van Note was appointed co-lead class counsel.

Ramirez v. The Coca Cola Company

Superior Court of California, County of San Bernardino, Case No. RCV 056388 (JCCP No. 4280)

This was one of two companion actions CVN prosecuted against this soft drink giant for violations of California's overtime laws. This action was brought on behalf of over 4,000 hourly workers at the company's bottling, distribution and sales centers who were allegedly forced to work "off-the-clock" for Coca Cola and/or whose time records were ordered modified by the company. This well-publicized action resolved under Cole & Van Note's leadership for \$12 million.

Riordan v. Western Digital Corp.

United States District Court (N.D. Cal.), Case No. 5:21-CV-06074

This action arose out of the well-publicized widespread criminal data deletion of consumer hard drives in 2021. According to the lawsuit, the company knew of vulnerabilities in, at least,

six of its products for years which, ultimately, led to the erasure of data for countless purchasers of these products. CVN served as sole counsel for the victims.

Roman/Toussaint v. HanesBrands, Inc.

United States District Court (M.D. N.C.), Case No. 1:22-cv-00879-LCB-LPA

This case involved a data breach of HanesBrands' network system in which worker information was accessed and/or reviewed by cybercriminals.

Tambroni v. WellNow Urgent Care, P.C.

United States District Court (N.D. Ill.), Case No. 1:24-cv-01595

This action arose out of WellNow's 2023 data breach affecting over 400,000 patients. Cole & Van Note was appointed co-lead class counsel.

Thomas v. Cal. State Auto. Assoc.

Superior Court of California, County of Alameda, Case No. CH217752

Our firm filed this class action litigation on behalf of all California claims adjusters working for CSAA after mid-January 1997. This lawsuit alleged that, during those years, CSAA misclassified these workers as exempt "administrators" and refused to pay them for overtime hours worked. This lawsuit settled for \$8 million for nearly 1,200 workers.

Tierno v. Rite Aid Corporation

United States District Court (N.D. Cal.), Case No. 3:05-CV-02520

Our firm filed this action against Rite Aid Corporation on behalf of its salaried California Store Managers. It was alleged that defendant, purportedly the nation's third largest drug store chain, failed to pay overtime to those workers and denied them their meal and rest periods. In 2006, the federal court certified the class in this action, and approved a hard-fought settlement, achieved under Cole & Van Note's sole leadership, of \$6.9 million.

Tsvetanova v. Regents of the University of California, dba U.C. San Diego Health

Superior Court of California, County of San Diego, Case No. 37-2021-00039888-CU-PO-CTL

This action arose out of U.C. San Diego Health's massive data breach between December 2020 and April 2021 which affected countless patients, consumers and employees. After reviewing numerous requests for leadership over these consolidated actions, Cole & Van Note was appointed by the court to a co-lead class counsel position.

Witriol v. LexisNexis

United States District Court (S.D. Cal.), Case No. 3:06-CV-02360

Our firm filed an action against this company for its unlawful disclosure of private credit, financial and/or other personal information. This litigation, resolved by Cole & Van Note, provided a settlement fund of \$2.8 million.

CVN also serves in more informal (e.g., Executive Committee or Plaintiffs' Steering Committee) leadership positions in numerous other data breach cases and in sole counsel roles in many dozens more—actions currently pending across the majority of U.S. states.

### APPELLATE EXPERIENCE

CVN has substantial appellate experience, merely highlighted by some examples below. For other appellate and/or unreported opinions and/or a list of matters currently on appeal, please contact our firm.

Augustus v. ABM Security Services, Inc. (2016) 2 Cal.5th 257 (Case No. S224853).

Baddie v. Berkeley Farms, Inc. (9th Cir. 1995) 64 F.3d 487 (Case No. 93-17187).

Dunbar v. Albertson's, Inc. (2006) 141 Cal.App.4th 1422 (First Dist., Division 1, Case No. A111153).

In re Certified Tire and Service Centers Wage and Hour Cases (2018)  
28 Cal.App.5th 1 (Cal. Ct. of Appeals, Fourth Dist., Division 1, Case No. A086407).

Kullar v. Foot Locker Retail, Inc. (2008) 168 Cal.App.4th 116 (Case No. A119697).

Montano v. The Wet Seal Retail, Inc. (2015) 232 Cal.App.4th 1214 (Cal. Ct. App. 2015)

O'Hara v. Factory 2-U Stores, Inc., 2003 WL 22451991 (Cal. Ct. of Appeals, First District, Division 4, Case No. A101452)

Taylor v. Park Place Asset Management (1999) (Cal. Ct. of Appeals, First Dist., Division 5, Case No. A086407).

Whiteway v. Fedex Kinko's Office and Print Services (9th Cir. 2009) 319 Fed.Appx. 688 (Case No. 07-16696).



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# EXHIBIT B



**Cole & Van Note**  
**Reventics**  
**As of May 19, 2025**

Description	Value
Filing and Serving (vendor and court fees)	\$ 2,440.45
Mediation	\$ 23,104.00
Research Services	\$ 1,927.80
Travel	\$ 11,879.22
Postage, Copies, Supplies	\$ 4,431.90
<b>TOTAL</b>	<b><u>\$ 43,783.37</u></b>