

THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

CHRISTINA CAIN, DARRON
DANNA, STEPHANIE
YOUNGBLOOD, JOSHUA WOLF,
KIM WHITE, BRANDON GUERRA,
and CHARLES WILLIAMS, on
behalf of themselves, and all others
similarly situated,

Plaintiffs,

v.

CGM, L.L.C. d/b/a CGM, INC.,

Defendant.

Case No.: 1:23-cv-02604-SEG

**MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION FOR CLASS
REPRESENTATIVES' SERVICE AWARDS**

Plaintiffs Christina Cain, Darron Danna, Stephanie Youngblood, Joshua Wolf, Kim White, Brandon Guerra, and Charles Williams, individually and on behalf of all others similarly situated (“Plaintiffs”) submit this Motion for Class Representatives’ Service Awards in the amount of \$2,500 for Christina Cain and \$1,500 each for the remaining Class Representatives, as agreed in the Parties’ Settlement Agreement. Settlement Agreement, § 7. Because the requested amount is reasonable and was negotiated at arms’-length, the Court should grant the Motion.

I. Background

This case arises from a cyberattack on Defendant CGM, LLC’s (“CGM”)

information systems (the “Data Breach”). Dkt. 29 (hereinafter “Am. Compl.”). Plaintiffs alleged that the Data Breach occurred between December 15, 2022, and December 28, 2022, and that the cybercriminals who perpetrated the attack were able to spend enough time undetected in CGM’s systems to be able to steal the names, drivers’ license numbers, and social security numbers of approximately 279,063 individuals. Am. Compl. ¶ 1. Plaintiffs alleged that CGM failed to implement reasonable, industry standard cybersecurity measures designed to prevent the Data Breach. *Id.* ¶¶ 29–47.

On June 10, 2023, Plaintiff Christina Cain filed suit against Defendant in this Court. After another six class actions were filed challenging the same conduct, the Court consolidated the various class actions. Dkt. 25. Plaintiffs then filed their consolidated class complaint on September 27, 2023, asserting negligence, negligence per se, breach of an express or implied contract, third-party beneficiary, unjust enrichment, invasion of privacy, claims to declaratory and injunctive relief, and claims for violations of the California Consumer Protection Act and the California Consumer Records Act. Dkt. 29. The case was then stayed pending mediation. Dkt. 46.

The Parties then participated in mediation on December 19, 2023, before the Honorable Elizabeth McBath, Magistrate Judge. Though the mediation did not result in a settlement, the Parties continued the progress made during mediation and the

Parties ultimately reached a Settlement Agreement. On April 26, 2024, the Court preliminarily approved the Parties' Settlement Agreement. Dkt. 61. Throughout the litigation, Class Representatives have been engaged and attentive to the needs of the Class, they have participated in Counsel's investigation, and have effectively prosecuted this class action on behalf of all other Class Members. Decl. of Lynn A. Toops, ¶ 6. As compensation for their service, Class Counsel negotiated Service Awards for each Class Representative of \$1,500. Class Representative Christina Cain's negotiated Service Award is \$2,500 because of her participation in the Parties' mediation in this case.

II. Argument

Under the terms of the Parties' negotiated settlement agreement, each Class Representative should receive \$1,500 as a Service Award, with Class Representative Christina Cain receiving \$2,500 for her service in attending the Parties' mediation. Settlement Agreement, § 7.

Although Service Awards are not permitted in some circumstance in the Eleventh Circuit, *see Johnson v. NPAS Solutions, LLC*, 975 F.3d 1244 (11th Cir. 2020), Courts sitting in diversity apply state law when analyzing the propriety of such awards. *Mitchell v. Allstate Vehicle and Prop. Ins.*, No. 2:21-cv-347, 2023 WL 5004064, *6 (S.D. Ala. Aug. 3, 2023). Indeed, Court's in this Circuit have approved many such awards precisely because they sit in diversity and thus apply state law as

to the reasonableness of the award. *Id.* (collecting cases). Like in *Mitchell*, the Court here sits in diversity and the underlying claim arise under Georgia state law.

Moreover, Service Awards are proper under Georgia law. “Georgia courts have consistently found service awards to be an efficient and productive way to encourage members of a class to become a class representative.” *Old Town Trolley Tours of Savannah, Inc. v. The Mayor and Aldermen of the City of Savannah*, SPCV20-00767-MO, Super. Ct. of Chatham Cty., Amended Order on Attorney’s Fees and Costs and Service Award (Nov. 23, 2021) (citing *Coleman v. Glynn Cty.*, CE12-01785-063, CE13-01480-063 and CE14-00750-063, Super. Ct. of Glynn Cty., Order on Attorney’s Fees and Costs and Service Award (Nov. 8, 2019) (awarding the Class Representatives \$350,000.00 as a service award); *Altamaha Bluff, LLC v. Thomas*, 14CV0376, Super. Ct. of Wayne Cty., Order on Attorney’s Fees and Costs and Service Award (Oct. 19, 2020) (awarding the Class Representatives a total class service award of \$40,000.00); *Toledo Mfg. Co. v. Charlton Cty.*, SUCV201900232, Super. Ct. of Charlton Cty., Order on Attorney’s Fees and Costs and Service Award (Dec. 10, 2020) (awarding the Class Representatives a total class service award of \$40,000.00)). A copy of these cases was attached to Plaintiffs’ Motion for preliminary approval as Exhibit 3, at Dkt. 56-4.

Pursuant to the Parties’ Settlement Agreement, Plaintiffs request the Court award Plaintiff Christina Cain a Service Award of \$2,500 and Service Awards of

\$1,500 each for the remaining Class Representatives. Settlement Agreement, § 7. These amounts are warranted because Class Representatives effectively prosecuted this matter with Class Counsel, including by reviewing filings, providing documents, participating in Class Counsel’s investigation, and otherwise actively pursuing relief on behalf the Class. Decl. of Lynn A. Toops, ¶ 6; *E.g.*, *Coleman v. Glynn Cty.*, No. CE12-01785-063 (Ga. Super. Ct., Nov. 8, 2019) (Dkt. 56-4, at 59, ¶ 46) (approving a service award because of class representatives’ service to counsel in prosecuting the case). Moreover, Class Counsel negotiated a higher Service Award of \$2,500 for Christina Cain in recognition of her service as the Class Representative who attended and participated in the Parties’ mediation. *Id.* ¶ 4. Based on Class Counsel’s experience in numerous similar data breach matters, these Service Awards are in line with other data breach class actions. *Id.* ¶ 5. Moreover, these sums were agreed to by experienced counsel in hard-fought, arms’-length negotiations. *Id.* ¶ 7.

Thus, the Court should grant Class Representatives’ Service Awards as reasonable.

III. Conclusion

Plaintiffs’ request of \$2,500 for Christina Cain—as the Plaintiff who attended mediation—and \$1,500 for each of the other Class Representatives is reasonable. The Court should grant the motion.

Dated: June 17, 2024

Respectfully Submitted,

/s/ Lynn A. Toops

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Counsel for Plaintiffs and the Class

CERTIFICATE OF COMPLIANCE

The undersigned certifies that this document has been prepared with one of the font and point selections approved by the Court in Civil Local Rule of Practice 5.1B.

Cohen & Malad, LLP

By: /s/ Lynn A. Toops
Lynn A. Toops (Admitted Pro Hac Vice)

Counsel for Plaintiffs and the Class

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of June 2024, I caused a true and correct copy of the foregoing motion to be filed with the Clerk of the Court via the Court's CM/ECF system, which will send notification of such filing to the counsel of record in the above-captioned matter.

Cohen & Malad, LLP

By: /s/ Lynn A. Toops
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