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16 *Lead Plaintiffs' Counsel*
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18 **UNITED STATES DISTRICT COURT**
19 **NORTHERN DISTRICT OF CALIFORNIA**
20 **SAN JOSE DIVISION**

21 *In Re Anthem, Inc. Data Breach Litigation*

Case No. 15-MD-02617-LHK

22 **DECLARATION OF ERIC H. GIBBS IN**
23 **SUPPORT OF PLAINTIFFS' MOTIONS**
24 **FOR FINAL APPROVAL OF CLASS**
ACTION SETTLEMENT AND FOR
ATTORNEYS' FEES AND COSTS

25 Date: February 1, 2018

26 Time: 1:30 p.m.

Judge: Hon. Lucy H. Koh

27 Crtrm: 8, 4th Floor
28

1 I, Eric H. Gibbs, declare as follows:

2 1. I am a partner with Girard Gibbs LLP, and one of the two attorneys appointed by
3 the Court to serve on Plaintiff's Steering Committee.

4 2. The proposed settlement before the Court on Plaintiffs' Motion for Final Approval
5 is, in my professional opinion, a very high-quality settlement that provides both meaningful relief
6 for injured class members and a powerful incentive for custodians of consumer data to maintain
7 appropriate data security. For the reasons set forth in Plaintiffs' supporting memorandum and Co-
8 Lead Counsel Eve Cervantez's declaration, I have no hesitation in recommending that the
9 settlement be approved.

10 3. With regard to Plaintiffs' Motion for Attorneys' Fees and Costs, Co-Lead Counsel
11 has submitted a comprehensive declaration that provides the Court with the combined lodestar
12 figures for all Plaintiffs' counsel and an overview of the immense amount of work that went into
13 prosecuting this case. Exhibits 1 and 3 to Ms. Cervantez's declaration include information about
14 my firm's lodestar, including each biller, year of graduation, hours worked, and lodestar. Below I
15 provide the Court with additional information specific to my firm's contributions to the case,
16 expertise, and rates.

17 **A. Summary of Girard Gibbs's Contributions to the Litigation**

18 4. Altogether, Girard Gibbs attorneys have devoted 10,844 hours for the benefit of the
19 class over the past two years. This required my firm to commit a significant percentage of its
20 resources to just one case, and was time that key partners and associates were unavailable to work
21 on other matters. In particular, my partner David Berger worked full time, or nearly full time, on
22 the case for most of two years; associate Aaron Blumenthal worked full time on the case for almost
23 a year; and at various key moments in the litigation, other key partners and associates—including
24 myself and partner Geoffrey Munroe—devoted substantial stretches of time to the case that
25 precluded work on other matters.

26 5. Exhibit 2 to Ms. Cervantez's declaration reflects how Girard Gibbs' time was
27 distributed across the task categories prescribed by Lead Counsel. This time was compiled from
28 the firm's contemporaneous time records, which were reviewed by firm personnel and submitted to

1 Lead Counsel on a monthly basis. At the conclusion of the litigation, they were again reviewed
2 both by us and by Lead Counsel to ensure that the reported time was necessary, non-duplicative,
3 and in compliance with the time-keeping standards established by Lead Counsel at the onset of the
4 litigation.

5 6. Lead Counsel and the Plaintiffs' Steering Committee members typically held
6 weekly calls to discuss work that needed to be done (in addition to case strategy and other matters)
7 and to ensure that assigned tasks were being completed on time and to a high standard. I was
8 responsible for ensuring that the work assigned to my firm was completed in an effective and
9 timely manner, and reporting back to Lead Counsel regarding our progress, findings, and resultant
10 recommendations.

11 7. My partner, David Berger, was responsible for much of the firm's day-to-day work
12 on the case and took on major roles in nearly all aspects of the case. Working with associate
13 attorneys, Mr. Berger took the lead on much of the written discovery efforts, including preparing
14 initial drafts of document requests; meeting and conferring with Anthem and BCBS entities
15 regarding their responses to that discovery; and monitoring and analyzing the effectiveness of
16 search term queries. This was very much an iterative process that continued throughout almost the
17 entire litigation, and led to dozens of document productions from Anthem and the various BCBS
18 entities.

19 8. As one would expect in a case that involved over 3.8 million pages of documents, a
20 great deal of time was spent on document review. Among the attorneys at Girard Gibbs who
21 contributed to the initial review and coding of Defendants' document productions were Marcus
22 McElhenney, Joshua Bloomfield, and Michael Marchese.

23 9. Mr. Berger worked closely with attorneys at Lief, Cabraser, Heimann & Bernstein
24 (LCHB) to oversee the document review process, which involved a diverse array of firms and
25 document reviewers, including by monitoring how the liability case was unfolding, putting the
26 technical aspects of the case together, and directing reviewers what to look for as the case evolved.

27 10. As the case progressed to the deposition phase, Mr. Berger and his team—most
28 notably, Aaron Blumenthal and Mr. Bloomfield—continued to play a major role. They helped

1 pick the cybersecurity witnesses to depose, prepared detailed dossiers for numerous technical
2 topics and Anthem personnel, and took the laboring oar on deposition outlines for many of the
3 cybersecurity witnesses

4 11. Mr. Berger deposed a number of the key cybersecurity witnesses at Anthem over
5 multiple days, including the database administrator who discovered the breach, Anthem's Chief
6 Audit/Risk Officer, and Anthem's corporate designee on virtually all substantive cybersecurity
7 topics. In addition, Mr. Blumenthal deposed four witnesses designated by BCBS Michigan to
8 testify on its behalf.

9 12. The firm's expertise in cybersecurity matters proved instrumental to expert
10 discovery as well. Mr. Berger and Mr. Blumenthal worked extensively with LCHB and Plaintiffs'
11 cybersecurity expert on his liability reports, conducted research used to rebut Anthem's
12 cybersecurity expert, and helped prepare for the depositions of Anthem's liability experts.

13 13. Girard Gibbs attorneys also assisted Lead Counsel with the major pleadings and
14 briefs in the case, and took the lead on certain discovery motions and legal research projects. My
15 partner Geoffrey Munroe took the lead on many of our briefing efforts, including preparing initial
16 drafts of sections of Plaintiffs' oppositions to Anthem's motions to dismiss, Plaintiffs' motion for
17 class certification, and Plaintiffs' class certification reply. Mr. Berger also contributed to our
18 briefing efforts, particularly as to factual sections concerning cybersecurity and the technical
19 aspects of the data breach.

20 14. Finally, Girard Gibbs played a major role during mediation and settlement. We
21 prepared initial drafts of Plaintiffs' mediation briefing, developed proposed lists of security
22 improvements, and researched other data breach settlements for use in mediation. I attended all
23 three days of mediation and worked closely with the other members of the leadership team to
24 develop and refine our settlement strategy. And after settlement had been reached, we prepared
25 initial drafts of Plaintiffs' motions for preliminary settlement approval and final settlement
26 approval, and worked with vendors to bid and develop the notice plan approved by the Court.

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1 **B. Girard Gibbs's Experience and Hourly Rates**

2 15. Girard Gibbs's hourly rates are based on our knowledge of the legal market for
3 complex litigation, which includes regular review of the hourly rates used by courts in lodestar
4 calculations and published surveys of hourly rates charged by firms who represent clients in
5 complex class litigation on a non-contingency basis. Based on my years of experience in
6 consumer class actions and complex litigation, I believe these hourly rates to be reasonable and
7 commensurate with the rates charged by attorneys of similar skill and experience for
8 noncontingent litigation of the same type.

9 16. In connection with fee applications like this one, our billing rates have been
10 regularly evaluated and approved by courts in this district and throughout California. *See, e.g.,*
11 *Sater v. FCA US LLC*, No. 5:14-cv-00700-VAP-DTB, ECF No. 229 (C.D. Cal. Aug. 16, 2017);
12 *Mendoza v. Hyundai Motor Co.*, No. 15-cv-01685-BLF, ECF No. 85, at *21 (N.D. Cal. Jan. 23,
13 2017); *Velasco v. Chrysler Group, LLC*, No. 2:13-cv-08080-DDP, ECF No. 167 (C.D. Cal. Jan.
14 27, 2016); *In re Adobe Systems In. Privacy Litigation*, No. 5:13-cv-05226-LHK, ECF No. 107
15 (N.D. Cal. Aug. 13, 2015); *In re Hyundai and Kia Fuel Economy Litig.*, No. 2:13-ml-024240-GW,
16 ECF No. 437 (C.D. Cal. March 19, 2015); *Skold v. Intel Corp.*, No. 1-05-CV-039231, Online Dkt.
17 No. 589 (Cal. Super. Ct., Santa Clara Cty. Jan. 29, 2015); *In re Chase Bank USA, N.A. "Check*
18 *Loan" Contract Litigation*, No. 09-MD-02032-MMC, ECF No. 386, ¶ 9 (N.D. Cal. Nov. 19,
19 2012); *Sugarman v. Ducati N. Am., Inc.*, No. 5:10-CV-05246-JF, 2012 WL 113361, at *6 & n.7
20 (N.D. Cal. Jan. 12, 2012).

21 17. In addition, Girard Gibbs's current hourly rates fall within the range of rates
22 previously found reasonable for attorneys practicing in this district. *See, e.g., Ridgeway v. Wal-*
23 *Mart Stores Inc.*, No. 08-CV-05221-SI, 2017 WL 4071293, at *4 (N.D. Cal. Sept. 14, 2017) (\$730-
24 \$900 for partners, \$300-500 for associates, and \$195-225 for paralegals); *In re Optical Disk Drive*
25 *Prod. Antitrust Litig.*, No. 3:10-MD-2143 RS, 2016 WL 7364803, at *8 (N.D. Cal. Dec. 19, 2016)
26 (\$525-950 for partners, \$250 to \$605 for associates, and \$125 to \$265); *Gutierrez v. Wells Fargo*
27 *Bank, N.A.*, 2015 WL 2438274, at *5 (N.D. Cal. May 21, 2015) (\$475-\$975 for partners, \$300-
28 \$490 for associates, and \$150-\$430 for paralegals); *In re High-Tech Employee Antitrust Litig.*, No.

1 11-CV-02509-LHK, 2015 WL 5158730, at *9 (N.D. Cal. Sept. 2, 2015) (\$490-975 for partners;
2 \$310 to \$800 for non-partner attorneys, with most under \$500; \$190-\$430 for paralegals, clerks,
3 and support staff, with most in the \$300 range); *see also In re LinkedIn User Privacy Litig.*, No.
4 5:12-CV-03088-EJD, 2015 WL 5440975, at *12 (N.D. Cal. Sept. 15, 2015) (finding in 2015 that
5 “reasonable hourly rates for partners range from \$560 to \$800, for associates from \$285 to \$510,
6 and for paralegals and litigation support staff from \$150 to \$240”).

7 18. Girard Gibbs is a national litigation firm representing plaintiffs in class and
8 collective actions in state and federal courts. We been distinguished as a Tier 1 law firm for
9 plaintiffs’ mass tort and class-action litigation in the “Best Law Firms” list published in U.S. News
10 & World Report’s Money Issue, and *The National Law Journal (NLJ)* has named Girard Gibbs to
11 its elite “Plaintiffs’ Hot List,” a selection of top U.S. plaintiffs’ firms recognized for wins in high-
12 profile cases.

13 19. My practice is devoted to consumer class actions, including litigation seeking relief
14 for consumers whose private information has been compromised through data breaches. The *Daily*
15 *Journal* named me to its list of “Top Plaintiff Lawyers in California for 2016”; Law360 recognized
16 me as a “2016 Consumer Protection MVP,” the only plaintiff-side lawyer in the country selected in
17 that category; and Consumer Attorneys of California selected me and my co-counsel as finalists for
18 the Consumer Attorney of the Year award for our work achieving a \$100 million settlement in the
19 Chase “Check Loan” Litigation.

20 20. Examples of cases in which I’ve served as class counsel, include *In re Adobe*
21 *Systems, Inc. Privacy Litigation*, No. No. 13-cv-05226 (N.D. Cal.), where we helped reverse a long
22 line of decisions adverse to consumers whose personal information was stolen in data breaches; *In*
23 *re Chase Bank U.S.A., N.A. “Check Loan” Contract Litigation*, No. 3:09-md-02032-MMC (N.D.
24 Cal.), where my co-counsel and I recovered \$100 million in multidistrict litigation that alleged
25 Chase Bank wronged consumers by offering long-term fixed-rate loans, only to later more-than-
26 double the required loan payments; *In re Hyundai & Kia Fuel Econ. Litigation*, No. MDL 13-
27 2424-GW-FFMx (C.D. Cal), where as court-appointed liaison counsel, I reconciled the various
28 plaintiffs’ interests, coordinated discovery and settlement negotiations, and helped finalize a

1 settlement with an estimated value of up to \$360 million; and *Skold v. Intel Corp.*, No. 1-05-cv-
2 039231 (Cal. Super. Ct. Santa Clara Cnty.), where after more than a decade of litigation, we
3 achieved a nationwide class action settlement on behalf of approximately 5 million consumers of
4 Intel processors.

5 21. As discussed above, firm partner David Berger played a major role in this case. Mr.
6 Berger has represented plaintiffs in complex lawsuits following some of the nation's largest retail
7 and healthcare data breaches, including litigation against Adobe, Home Depot, Experian, and
8 Excellus BlueCross BlueShield, among others. Prior to joining Gibbs Law Group, Mr. Berger was
9 a law clerk in the Northern District of California, litigation counsel for the Economic Community
10 of West African States, and an associate at Robins, Kaplan, Miller, and Ciresi. He has extensive
11 knowledge of cybersecurity matters, and has been recognized as a Northern California "Rising
12 Star" by Super Lawyers.

13 22. Firm partner Geoffrey Munroe also contributed extensively to this case, as
14 described above. Mr. Munroe has worked with me representing plaintiffs in high-profile class
15 action cases for over a decade, and has been recognized as a Northern California Super Lawyer on
16 multiple occasions. Representative cases in which he has played a major role, often leading the
17 firm's briefing efforts, include *Skold v. Intel Corp.*, No. 1-05-cv-039231 (Cal. Super. Ct. Santa
18 Clara Cnty.); *In re Chase Bank U.S.A., N.A. "Check Loan" Contract Litigation*, No. 3:09-md-
19 02032-MMC (N.D. Cal.); *In re Adobe Systems, Inc. Privacy Litigation*, No. No. 13-cv-05226
20 (N.D. Cal.); and *In re Mercedes-Benz Tele Aid Contract Litigation*, MDL No. 1914, Civ. No. 07-
21 2720-DRD (D. N.J.).

22 23. Associate Aaron Blumenthal is a 2015 graduate of Berkeley Law, where he earned
23 admission to the Order of the Coif honorary society. His practice focuses on consumers in class
24 action lawsuits, with a special emphasis on data breach and privacy litigation.

25 24. Additional information about Girard Gibbs and the attorneys who worked on this
26 case is available at <https://www.girardgibbs.com>.

27 **C. Girard Gibbs's Costs and Expenses**

