

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

MAX STORY, *et al.*, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

HEARTLAND PAYMENT SYSTEMS,
LLC,

Defendant.

No. 3:19-cv-724-TJC

**DECLARATION OF JASON L. LICHTMAN IN SUPPORT OF PLAINTIFFS
AND CLASS COUNSEL’S PETITION FOR ATTORNEYS’ FEES AND
REIMBURSEMENT OF EXPENSES**

I, Jason L. Lichtman, declare and state as follows:

1. I am a partner in the law firm of Lieff Cabraser Heimann & Bernstein, LLP (“LCHB”), and I am counsel of record for Plaintiffs Max Story and Nancy Murrey-Settle in this matter.¹ I, along with Janet Varnell and Brian Warwick of Varnell & Warwick (“V&W”) and Lisa R. Considine and David DiSabato of Nagel Rice LLP (and formerly of Siri & Glimstad LLP) were appointed as Settlement Class Counsel (“Class Counsel”) in this Action. Dkt. 278 ¶ 14.²

2. I make this Declaration in support of Plaintiffs and Class Counsel’s Petition for Attorneys’ Fees and Reimbursement of Expenses. Unless otherwise indicated, I make this Declaration of my own personal knowledge, and if called to do so, I could testify competently to the matters stated herein.

¹ I am a member in good standing of the bars of Illinois, New Jersey, New York, Utah, and Washington, D.C.

² Capitalized terms are defined in the Settlement Agreement. Dkt. 271-2.

BACKGROUND AND EXPERIENCE

3. LCHB is a national law firm with offices in San Francisco, New York, Nashville, and Munich (Germany). LCHB's practice focuses on complex and class action litigation involving consumer protection, product liability, data privacy, employment, financial fraud, securities, environmental, and personal injury matters. LCHB's firm résumé, including biographical information for each attorney, shows some of the firm's experience in complex and class action litigation, and can be found here: https://www.lieffcabraser.com/pdf/Lieff_Cabraser_Firm_Resume.pdf. This résumé is not a complete listing of all cases in which LCHB has been class counsel or otherwise served as counsel of record.

4. I graduated with a B.A. from Northwestern University in 2000 and a J.D. with honors from the University of Michigan law School in 2006, where I also was the recipient of the Clarence M. Darrow Scholar award. After law school, I served as a Judicial Law Clerk to the Honorable Kathleen M. O'Malley of the U.S. District Court for the Northern District of Ohio. This year, I was elected to be a member of the American Law Institute. I joined LCHB as an associate in 2010 and was promoted to partner in 2016. I have served as the Chair of the firm's Economic Injury Product Defect Practice Group since 2021. My career at LCHB has focused on consumer class actions, including economic injury product defect cases and data breach litigation. I have been admitted pro hac vice in this matter.

5. Numerous courts have appointed me as lead or class counsel in large consumer protection and data security cases where I have recovered hundreds of millions in economic value, including: (1) *Corker, et al. v. Costco Wholesale Corp., et al.*, No. 2:19-cv-290 (W.D. Wash.); (2) *In re: Samsung Top-Load Washing Machine Mktg. Sales Prac. & Prods. Liab. Litig.*, MDL Case No. 5:17-ml-2792 (W.D. Okla.) (Co-Lead Counsel); (3) *In re Whirlpool Corp. Front-Loading Washer Prods. Litig.*, No. 1:08-WP-65000 (MDL 2001) (N.D. Ohio) (Co-Lead Counsel); (4) *In re LG Front Loading*

Washing Machine Class Action Litig., No. 2:08-cv-51 (D.N.J.); (5) *In re Sears, Roebuck & Co Front-Loading Washer Products Liab. Litig.*, No. 1:06-cv-7023 (N.D. Ill.); (6) *Dover v. British Airways, PLC (UK)*, No. 1:12-cv-5567 (E.D.N.Y.); (7) *Chabak v. Somnia, Inc.*, No. 7:22-cv-9341 (S.D.N.Y.); and (8) *In re American Med. Collection Agency, Inc., Customer Data Sec. Breach Litig.*, No. 2:19-md-2904 (D.N.J.) (Co-Lead Counsel of the Quest track).

6. I have been recognized by Lawdragon as a “Lawdragon 500 Leading Plaintiff Consumer Lawyers in America” for 2023, 2024, and 2025; and as a “Lawdragon 500 Global Plaintiff Lawyer” for 2024, by Super Lawyers as a “Super Lawyer for New York Metro” 2017–2024, and as a “Rising Star” 2013–2016. Law360 named me as a “Rising Star” for Consumer Protection law in 2017, and I served on the Law360 Privacy and Consumer Protection Editorial Advisory Boards. I am also an Executive Committee Member of Public Justice.

CLASS COUNSEL’S AND LCHB’S WORK IN THIS MATTER

7. LCHB had not provided Mr. Story and Ms. Murrey-Settle with legal representation prior to joining this litigation.

8. The Parties actively litigated this case on contingency for nearly six intense years, and devoted all resources necessary to develop and successfully prosecute Plaintiffs’ claims. Class Counsel did not have assistance from any governmental agencies in prosecuting this Action.

9. Formal discovery lasted 1.5 years and required Class Counsel to invest significant time and labor. Class Counsel propounded 16 requests for admission (“RFAs”), 47 requests for production (“RFPS”) and 19 interrogatories, as well as four third-party subpoenas. LCHB then took the laboring oar to analyze more than 12,600 documents, comprised of over 167,000 pages, and assess nearly 40 gigabytes of data produced by Heartland and third parties in response. Class Counsel then

prepared for and deposed nine Heartland fact witnesses as well as the company itself through a corporate designee under Rule 30(b)(6). Class Counsel also advised the two named Plaintiffs in responding to 24 RFFAs, 21 RFPs, and 29 interrogatories, and to prepare to sit for depositions defended by Class Counsel.

10. Expert discovery work in this Action was extensive. Plaintiffs and Class Counsel produced three experts, all of whom are prepared to testify at trial, and presented five different and highly detailed expert reports in connection with Heartland's compliance with the network rules, the reliability of Heartland's survey evidence, and the operative dates of the technical source code produced by Heartland for its MySchoolBucks website. I defended all three of Plaintiffs' experts in expert depositions. Heartland produced three experts and three reports of their own, and LCHB attorneys deposed all three experts.

11. Prompted by the Court's recommendation at the July 17, 2024 hearing, the parties mediated this case with Hunter Hughes, who is a nationally-renowned mediator with vast experience in complex class action mediations. Before the mediation, LCHB drafted a detailed mediation statement setting forth Plaintiffs' views on the merits and value of the case. The Parties participated in an all-day, in-person, and adversarial mediation with Mr. Hughes in San Diego, CA on November 8, 2024. The Parties failed to reach a settlement during the in-person mediation, and I personally left the mediation doubtful that the parties could reach a settlement in the foreseeable future. Discussions between Mr. Hughes and each party continued over the ensuing week. Mr. Hughes ultimately made a "mediator's proposal" and guided the parties to an agreement in principle on November 26, 2024, which became the basis for the Settlement. The Parties refined the agreement over the next several months, finalized all material terms in March 2025 (Dkt. 270), and signed the Settlement Agreement on March 31, 2025. Dkt. 271-2.

12. Class Member reactions to the Settlement have been predominantly positive. 98,296 claims have been submitted as of July 23, 2025, excluding those that the settlement administrator has identified as potentially fraudulent based on its initial review. At present, there is also only **one** objector, who supports the Settlement other than the potential cy pres recipient. There are also only **three** opt-out requests. LCHB has also received two e-mails to date from notice recipients requesting representation in other matters.

13. After joining the litigation in August 2022, my colleagues and I at LCHB played a significant role in every aspect of the case. Although all work in this case has been a collaborative effort, LCHB attorneys were instrumental in the following tasks:

- a. Fully briefing a motion for injunctive relief, a motion to compel, class certification, summary judgment, and *Daubert* (Dkts. 97, 182, 202, 221, 222, and 241);
- b. Presenting oral argument on the latter five motions;
- c. Propounding and responding to discovery;
- d. Reviewing thousands of documents and substantial data files in preparation for depositions and to assist with expert work;
- e. Taking and defending a combined fifteen fact depositions and six expert depositions;
- f. Coordinating with experts;
- g. Drafting meticulous mediation documents and participating in mediations;
- h. Conducting successful settlement efforts involving numerous agreement drafting sessions to perfect the resolution for the Class;
- i. Coordinating with a settlement administrator to develop and implement a notice plan; and
- j. Moving for preliminary approval of the Settlement.

14. Going forward, LCHB will continue to commit more time and resources to the case to the following tasks:

- a. Continuing to administer the Settlement;
- b. Responding to Class Members' inquiries concerning the Settlement and claims process;
- c. Overseeing and coordinating distribution of the Settlement funds to Class Members; and
- d. Presenting the Settlement to the Court at the Fairness Hearing.

15. Throughout the litigation, LCHB partners, associates, paralegals, case clerks, and support staff made significant and important contributions to litigating this case.

a. I am a partner in LCHB's New York office and the lead LCHB attorney in this litigation. In this case, my tasks included: investigating Plaintiffs' claims prior to LCHB joining the this case in August 2022; developing the case strategy and more novel legal theories pursued; supervising more junior attorneys and staff; overseeing offensive and defensive discovery; representing Plaintiffs at status conferences; editing and finalizing substantive briefs, including a motion to compel, motion for class certification, and motion for preliminary approval, and summary judgment and *Daubert* oppositions; arguing the motion to compel and summary judgment and *Daubert* oppositions before the Court; working with experts; preparing Plaintiffs' three experts for and defending them at depositions; preparing for and deposing two of Heartland's experts and one Heartland fact witness; and working on mediations and Settlement negotiations, including notice and Settlement implementation efforts.

b. Andrew R. Kaufman, formerly a partner in LCHB's Nashville office, also played a key role in this litigation. Mr. Kaufman's work in this litigation involved: investigating Plaintiffs' claims before LCHB joined the Action in August 2022; developing the creative case strategy to pursue complex claims; assuming responsibility for the day-to-day management of the case and supervising more junior attorneys and staff; overseeing discovery; identifying and retaining Plaintiffs' three

experts; preparing each expert to produce five reports on various technical and sophisticated issues and sit for depositions; leading the drafting of substantive briefing, including class certification, *Daubert*, summary judgment, and preliminary approval briefing; giving one of the top three oral arguments I have heard in my professional experience on July 17, 2024 in connection with class certification; participating in mediation and drafting relevant documents; evaluating and negotiating a favorable Settlement and preparing Settlement documents; and retaining the settlement administrator.

c. Kenneth (“Kenny”) Byrd is a partner in LCHB’s Nashville office. Mr. Byrd’s work in this case included: preparing for and deposing Heartland through a corporate designee under Rule 30(b)(6) as well as a Heartland fact witness; helping counsel to prepare for oral arguments; assisting with developing novel legal claims; coordinating with other counsel on discovery strategy and analysis; researching and working with experts; and assisting with Settlement negotiations and mediation efforts.

d. Reilly Stoler is a partner in LCHB’s San Francisco office. Mr. Stoler’s tasks in this Action have included: researching and drafting substantive briefs, including motions to compel and for class certification, and summary judgment and *Daubert* oppositions; deposing a Heartland expert witness and three Heartland fact witnesses; drafting and negotiating discovery; overseeing document review and the named Plaintiffs’ discovery production; conducting legal research; and managing more junior attorneys and staff.

e. Sarah D. Zandi is an associate in LCHB’s San Francisco office. In this litigation, Ms. Zandi’s tasks included: heavily assisting Mr. Kaufman with substantive motions practice, including class certification, summary judgment, *Daubert*, and preliminary approval briefing; overseeing complex filings; arguing a *Daubert* motion before the Court; assisting other Class Counsel with preparing for

oral argument in connection with class certification, summary judgment, and *Daubert* motions; conducting legal research; managing staff assigned to the case; participating in mediation and drafting mediation documents; drafting Settlement documents; designing the notice plan; and continuing to administer the Settlement and claims process.

f. Jacob Polin is a former LCHB associate who worked in the San Francisco office. Mr. Polin's tasks in this case included: preparing for and deposing three of Heartland's fact witnesses; managing day-to-day discovery tasks, including document review; drafting discovery responses and requests; assisting with negotiations regarding discovery issues and disputes, including the ESI protocol; managing the named Plaintiffs' document collection; coordinating with the firm's Litigation Support department, discussed below, concerning document discovery and review; representing Plaintiffs at meet and confers with defense counsel; conducting legal research; brief drafting; and expert discovery work.

g. Victoria Chinn is a staff attorney in the San Francisco office of LCHB. Along with Mr. Garcia, Ms. Chinn was primarily responsible for reviewing documents produced by Defendants. This required a sophisticated understanding of the case in order to understand, process, and explain the contents of Defendants' productions. Ms. Chinn also reviewed Plaintiffs' records to assist with responding to Heartland's discovery requests. Ms. Chinn spent significant amounts of time explaining the contents of both Defendants' and Plaintiffs' document productions to Class Counsel; drafting privilege descriptions and designations for the named Plaintiffs' documents; assisting with deposition preparations; and providing factual research for Plaintiffs' class certification motion.

h. Mr. Garcia is a staff attorney in the San Francisco office of LCHB. Mr. Garcia spent significant amounts of time providing factual research in

connection with Plaintiffs' class certification, *Daubert*, summary judgment, and preliminary approval briefing and oral arguments.

i. Appropriate tasks were also assigned to LCHB paralegal Ariana Delucchi, who took over the role of primary paralegal assigned to the case in April 2023. Ms. Delucchi performed critical factual research, case tracking, filing, and cite-checking functions throughout the case. She also assisted in preparing filing materials and tracking case deadlines and calendars.

j. Jennifer Williams was a paralegal at LCHB from 2007 to 2023, and then transitioned to a different role at LCHB as a Research Assistant. Ms. Williams was the primary paralegal assigned to this case at LCHB from July 2022 through March 2023. Ms. Williams' tasks in this case as a paralegal included: organizing case documents; assisting with filings; coordinating deposition logistics; conducting factual research; assisting with the service of case documents; and managing LCHB's case file.

k. LCHB maintained and managed the substantial document database for this Action in house, through its Litigation Support department. The team of Litigation Support staff, including Anthony Grant, Margie Calangian, and Fawad Rahimi, managed all aspects of Defendants' document productions and the collection, preservation, and production of the named Plaintiffs' files. They assisted with a variety of other projects as well, including: providing assistance with technical aspects of the ESI protocol; preparing complex searches to assist in the document review efforts; and responding to various troubleshooting requests inherent to any large case.

LCHB'S LODESTAR AND BILLING RATES

16. For the Court's reference, I report LCHB's summary time and lodestar incurred in this Action and for the benefit of the Settlement Class.

17. During the time that this litigation has been pending, LCHB lawyers, paralegals, and staff have spent considerable time working on this litigation that could have been spent on other fee-generating matters. In total, LCHB spent **5,027.60** hours on this matter, with work still continuing. For purposes of this cross-check, the lodestar invested in this case by LCHB through July 18, 2025 comes to **\$3,915,558**.

18. The time that LCHB has spent on this litigation has been completely contingent on the outcome. LCHB has not been paid for any of its time spent on this litigation, nor has it been reimbursed for any of its expenses incurred in this litigation. LCHB will continue to devote its time and resources to prosecute the class action claims in this matter on a contingent-fee basis.

19. The information regarding LCHB's summary time and lodestar derives directly from LCHB's time records, which are maintained by LCHB in the regular course of business. All LCHB timekeepers are required to contemporaneously record their time in six-minute increments. The *Firm Policy Manual*, "Time-Keeping Policy," requires timekeepers to keep time sheets on a daily basis, and to submit them by the close of each business week. LCHB's accounting department runs a regular time report that lists timekeepers without time in the system for any given week. Kelly M. Dermody, managing partner of the San Francisco office of the firm, receives that report and personally follows up with tardy attorney timekeepers, and instructs staff managers to follow up with any tardy staff. The firm does not abide late timekeeping, and we advise employees, "Failure to comply with the Firm's timekeeping policy may be taken into account in connection with promotions, raises, and bonuses, and may subject the delinquent timekeeper to discipline, up to and including termination."

20. LCHB allocated work to maximize efficiency. To the extent practicable, senior attorneys did not perform work that could be accomplished by more junior attorneys, and attorneys did not perform work that could be completed by paralegals.

21. The hourly rates charged by LCHB set forth below are my firm's current billing rates for 2025. The hourly rates charged by timekeepers are the firm's regular rates for contingent cases and those generally charged to clients for their services in non-contingent/hourly matters. While LCHB principally works on contingency, our rate structure is occasionally paid to my firm by hourly-paying clients. Except in rare circumstances, LCHB does not bill at different rates for different clients or different types of cases. The hourly rates charged by LCHB fall within the range of market rates charged by attorneys of equivalent experience, skill, and expertise. LCHB's rates reflect the market rates in the markets within which LCHB's primary offices are located and from which this matter has been handled—namely, San Francisco, New York, and Nashville.

22. For five decades, LCHB's hourly rates have been repeatedly approved by courts throughout the country, including in this District, sometimes as the basis for a lodestar fee, other times on cross-check. *See, e.g., Wendy v. Electrolux Home Prods., Inc.*, 2018 WL 11351711, at *1 (M.D. Fla. Apr. 23, 2018) (holding that LCHB's hourly rates "are [] reasonable and appropriate in a case of this complexity"); *Chen-Oster, et al. v. Goldman Sachs & Co. LLC, et al.*, No. 10 CIV 6950 (AT) (RWL), Dkt. 1467 at 10–12 (S.D.N.Y. Nov. 7, 2023) (approving LCHB partner rates between \$650 and \$1,230); *Jenkins, et al. v. Nat'l Grid USA Serv. Co., Inc., et al.*, No. 2:15-cv-01219-JS-ARL, Dkt. 760, at *9–10 (E.D.N.Y. June 24, 2022) (approving rates of \$490 for LCHB associates and between \$585 and \$975 for LCHB partners); *In re Samsung Top-Load Washing Machine Mktg., Sales Prac. & Prods. Liab. Litig.*, No. 17-2792, Dkt. 256 (W.D. Okla. June 11, 2020).

23. In reviewing time records, LCHB exercised billing discretion to remove the time for all timekeepers, including attorneys, who worked fewer than 40 hours on this matter. None of this excluded time is included in the figures below, nor is the additional time that LCHB will spend working on this matter going forward, including in connection with: (1) continued administration of the Settlement; (2) responding to Class Members' inquiries concerning the Settlement and the claims process; (2) overseeing and coordinating distribution of the Settlement funds to Class Members; (4) presenting the Settlement to the Court at the Fairness Hearing; and (5) any potential appeals.

24. Below is a summary listing each timekeeper for which LCHB is seeking compensation for legal services in connection with this litigation, the hours each individual has expended as of July 18, 2025, and the hourly rate at which compensation is sought for each individual.

NAME	TITLE	HOURLY RATE	TOTAL HOURS	TOTAL
Jason L. Lichtman	Partner	\$1,080	662.90	\$715,932.00
Andrew R. Kaufman	Partner	\$880	439.00	\$386,320.00
Kenneth Byrd	Partner	\$1,120	266.60	\$298,592.00
Reilly L. Stoler ³	Partner	\$835 (Partner)	668.20 (Partner)	\$557,947.00 (Partner)
		\$615 (Associate)	68.30 (Associate)	\$42,004.50 (Associate)
			736.50 (Total)	\$599,951.50 (Total)
Sarah D. Zandi	Associate	\$655	470.20	\$307,981.00
Jacob Polin	Associate	\$720	833.20	\$599,904.00
Victoria Chinn	Staff Attorney	\$655	1,101.90	\$721,744.50
Jose Garcia	Staff Attorney	\$630	66.40	\$41,832.00

³ Mr. Stoler was an associate through 2022 and became a partner effective in 2023.

NAME	TITLE	HOURLY RATE	TOTAL HOURS	TOTAL
Matthew Grayson	Contract Attorney	\$525	54.50	\$28,612.50
Paul Sasik	Contract Attorney	\$525	101.00	\$53,025.00
Ariana Delucchi	Paralegal	\$540	112.70	\$60,858.00
Jennifer Williams ⁴	Paralegal	\$510 (Paralegal)	44.00 (Paralegal)	\$22,440.00 (Paralegal)
Anthony Grant	Litigation Support	\$565	41.40	\$23,391.00
Margie Calangian	Litigation Support	\$565	46.40	\$26,216.00
Fawad Rahimi	Litigation Support	\$565	50.90	\$28,758.50
TOTAL			5,027.60	\$3,915,558

25. Attorneys working under my direction and supervision audited my firm's time records to confirm their accuracy and reduced or eliminated time entries to ensure there was no duplication of efforts. I have also reviewed the time reported for the attorneys listed in the schedule set forth above. The lodestar reported in this Declaration is reasonable, particularly given the need to match the thorough and high-quality work performed by the sophisticated counsel representing the Defendant.

26. Upon request, I will submit LCHB's contemporaneous billing records from this Action *in camera*.

LCHB'S COSTS

27. For the Court's reference, I report LCHB's summary costs incurred in this Action and for the benefit of the Settlement Class. These costs were reasonable and necessary to prosecute this matter, and include typical litigation costs, such as expert work, electronic database research, mediation costs, and travel. To the limited extent that LCHB incurred the type of expenses that a sophisticated client might or

⁴ Ms. Williams performed both paralegal and research functions at LCHB during the litigation.

might not pay for depending on the terms of a particular engagement, such as a bottle of wine for a group dinner or a particularly expensive plane ticket, those expenses are either excluded entirely or reduced significantly in this request.

28. LCHB maintains contemporaneous costs expended on each case in the ordinary course of business, which book and records are prepared from expense vouchers and check and credit card reports. Attorneys working under my direction and supervision audited my firm's costs to confirm their accuracy. I have also reviewed the costs expended in this matter.

29. LCHB seeks reimbursement for a total of **\$481,182.57** in out-of-pocket expenses in this matter. The following is breakdown of the expenses for which LCHB seeks reimbursement in this matter:

Expense	Amount
In-House Copies	\$28.20
Postage	\$45.01
Print	\$9,354.00
Telephone	\$13.09
Books/Subscriptions	\$12.47
Computer Research	\$5,503.80
Depositions/Transcripts	\$67,691.63
Electronic Database	\$22,118.80
Experts/Consultants	\$323,622.44
Federal Express/Messenger	\$1,546.42
Mediation	\$11,000.00
Outside Copy Service	\$1,542.98
Process Service	\$1,804.90
Supplies	\$106.82
Travel	\$35,614.97
Miscellaneous	\$1,177.04
TOTAL	\$481,182.57

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

Executed in Salt Lake City, Utah on this 24th day of July, 2025.

/s/ Jason L. Lichtman
Jason L. Lichtman