

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

<p><b>GRANT MORROW on behalf of himself and other persons similarly situated,</b></p> <p><b>Plaintiffs(s)</b></p> <p><b>v.</b></p> <p><b>QUEST DIAGNOSTICS INCORPORATED</b></p> <p><b>Defendant(s)</b></p>	<p>Civil Action No.: 2:17-cv-0948 (CCC)(JBC)</p> <p>Civil Action</p> <p><b>Fairness Hearing Scheduled: February 25, 2019</b></p>
--	--

---

**PLAINTIFF'S REPLY IN SUPPORT OF FINAL APPROVAL, SERVICE AWARD AND  
FEE REQUEST**

---

**LOCKS LAW FIRM, LLC**

By: James A. Barry, Esquire  
801 N. Kings Highway  
Cherry Hill, NJ 08034  
Tel: (856) 663-8200

**MORGAN & MORGAN COMPLEX LITIGATION GROUP**

By: John A. Yanchunis, Esquire [Admitted *Pro Hac Vice*]  
Patrick Barthle, Esquire [To be admitted *Pro Hac Vice*]  
201 N. Franklin Street, 7<sup>th</sup> Floor  
Tampa, Florida 33602  
Tel.: (813) 223-5505

**JAVERBAUM WURGAFT HICKS KAHN WIKSTROM AND SININS, P.C.**

By: Michael A. Galpern, Esquire  
100 Century Parkway, Suite 305  
Mount Laurel, NJ 08054  
Tel: (856)596-4100

*Attorneys for Plaintiff and the Class*

Pursuant to the Preliminary Approval Order [ECF No. 116 at ¶ 36], Plaintiff Grant Morrow respectfully submits this reply in support of his Motion for Final Approval [ECF No. 119], and his Motion for Attorney’s Fees and Expenses, and Service Award [ECF No. 120].

As previously noted in the Motion for Final Approval, the reaction of the Settlement Class<sup>1</sup> has been brisk and roundly positive. [ECF No. 119-1 at 15, 31–32].<sup>2</sup> That trend has only continued since the filing of the Final Approval and Fee motions. Specifically, as of February 17, 2020, zero objections and only seven requests for exclusion have been received. *See* Declaration of Scott M. Fenwick, attached as **Exhibit 1**, ¶¶ 12–13 (hereinafter “Fenwick Decl.”). However, 1,806 claims have been submitted, some 5.2% of the Settlement Class, although the claims deadline does not pass until May 22, 2020. *Id.* ¶ 11. This claims’ rate far exceeds that seen in other data breach cases. *In re Anthem, Inc. Data Breach Litig.*, 327 F.R.D. 299, 321 (N.D. Cal. 2018) (noting that “[o]nly about 1.8% of the Settlement Class Members have submitted claims” in that case, compared to “claims rates of approximately 0.2% and 0.23% in the *In re Home Depot* and *In re Target* data-breach actions, respectively”); *see also Sullivan v. DB Invs., Inc.*, 667 F.3d 273, 329 n.60 (3d Cir.2011) (en banc) (noting evidence that claims rates in consumer class settlements “rarely” exceed 7%, “even with the most extensive notice campaigns”).

Such a promising claims rate, coupled with a complete lack of objections and great paucity of exclusions, strongly supports entry of final approval and granting of the motion for fees. *In re Cendant Corp. Litig.*, 264 F.3d 201, 235 (3d Cir. 2001) (“The vast disparity between the number of potential class members who received notice of the Settlement and the number of objectors

---

<sup>1</sup> Unless otherwise defined, all terms with initial capitalization are defined terms set forth in the Settlement Agreement, previously filed at ECF No. 115-2.

<sup>2</sup> Pincites to materials filed in the Court’s CM/ECF system refer to the system’s pagination in the upper right-hand corner of the document.

creates a strong presumption that this factor weighs in favor of the Settlement”); *Boone v. City of Phila.*, 668 F. Supp. 2d 693, 712 (E.D. Pa. 2009) (“A low number of objectors compared to the number of potential class members creates a strong presumption in favor of approving the settlement.”); *In re Pressure Sensitive Labelstock Antitrust Litig.*, 584 F. Supp. 2d 697, 701 (M.D. Pa. 2008) (noting that the fact that there are no pending objections to the Settlement “strongly militates a finding that the settlement is fair and reasonable.” (quoting *In re Linerboard Antitrust Litig.*, 321 F. Supp. 2d 619, 629 (E.D. Pa. 2004)); *In re Auto. Refinishing Paint Antitrust Litig.*, 617 F. Supp. 2d 336, 342 (E.D. Pa. 2007) (“The fact that an overwhelming majority of the Class did not file objections is a significant element to consider in determining the overall fairness of the settlements”).

Accordingly, for the foregoing reasons, the Court should enter an order (i) finally certifying the Settlement Class; (ii) finally appointing Plaintiff as Settlement Class Representative of the Settlement Class; (iii) finally appointing: John A. Yanchunis and Patrick A. Barthle of Morgan & Morgan Complex Litigation Group, James A. Barry of the Locks Law Firm, LLC and Michael A. Galpern of Javerbaum, Wurgaft, Hicks, Kahn, Wikstrom, and Sinins, P.C. as Class Counsel for the Settlement Class; (iv) finally approving the Settlement of this action; (v) finally appointing Heffler Claims Group to serve as the Settlement Administrator, (vi) finding that the Notice Program satisfied Rule 23 and due process, and (vii) granting the Motion for Attorney’s Fees and Expenses and Service Award.

Dated: February 18, 2020

Respectfully submitted,  
**LOCKS LAW FIRM, LLC**

/s/ James A. Barry  
James A. Barry, Esq.

801 N. Kings Highway  
Cherry Hill, NJ 08034  
Tel: (856) 663-8200  
Fax: (856) 661-8400

**MORGAN & MORGAN  
COMPLEX LITIGATION GROUP**

John A. Yanchunis, Esq. [Admitted *Pro Hac Vice*]  
Patrick Barthle, Esq. [To be admitted *Pro Hac Vice*]  
201 Franklin Street, 7<sup>th</sup> Floor  
Tampa, Florida 33602  
Tel.: (813) 223-5505  
Fax: (813) 334-5402

**JAVERBAUM WURGAFT HICKS KAHN WIKSTROM  
AND SININS, P.C.**

Michael A. Galpern, Esq.  
100 Century Parkway, Suite 305  
Mount Laurel, NJ 08054  
Tel: (856)596-4100  
Fax: (856)702-6640

*Attorneys for Plaintiff and the Putative Class*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

GRANT MORROW, on behalf of  
himself and other persons similarly  
situated,

Plaintiff(s),

v.

QUEST DIAGNOSTICS  
INCORPORATED

Defendant(s)

Case No.: 2:17-cv-0948 (CCC)(JBC)

**DECLARATION OF SCOTT  
FENWICK OF HEFFLER  
CLAIMS GROUP IN  
COMPLIANCE WITH NOTICE  
PROVISIONS**

I, Scott M. Fenwick, declare as follows:

1. I am employed as the Chief of Operations at Heffler Claims Group (“Heffler”), a company that handles the administration of class action settlements, class action notices, claims administration, and other significant services related to class action settlements.

2. Heffler has extensive experience in class action matters, having provided services in class action settlements involving antitrust, securities fraud, employment and labor, consumer, and government enforcement matters. Heffler has provided notification and/or claims administration services in more than 2,500 cases. During the past 45 years, Heffler distributed hundreds of millions of notices and billions of dollars in settlement funds and judgment proceeds to class members and claimants.

3. Heffler was appointed as the Settlement Administrator to provide notification and claims administration services in the case, *Grant Morrow, et al. v. Quest Diagnostics Incorporated*, Case No. 2:17-cv-0948 (CCC)(JBC), referred to herein as the “Settlement.” Heffler’s duties in this Settlement have and will include: (a) receiving and analyzing the Class Member Data (“the Class List”) from defense counsel; (b) establishing a post office box for the receipt of mail; (c) creating a Website with online claim filing capabilities; (d) establishing a toll-free number; (e) preparing and sending the Notice; (f) receiving and processing opt-outs and objections; (g) receiving and processing Claim Forms; and (h) such other tasks as counsel for the parties or the Court orders Heffler to perform.

4. On December 24, 2019, Heffler provided a declaration of Scott M. Fenwick in Support of Final Approval that detailed the notification and administrative services provided by Heffler to that date in compliance with the Preliminary Approval Order.

5. Heffler has complied with all notice provisions as defined in the Preliminary Approval Order.

6. As of February 17, 2020, Heffler continues to host a dedicated Website entitled [www.MedicalDataSettlement.com](http://www.MedicalDataSettlement.com).

7. As of February 17, 2020, Heffler continues to manage a toll-free number, 1-844-245-3767, for Class Members to call and obtain additional

information regarding the Settlement using an Interactive Voice Response system, and the ability to leave a message for a live operator to return the call. Due to the confidential nature of the claims, return calls are made by one specific Contact Center representative in a secure environment. As of February 17, 2020, 474 Class Members have called the toll-free number.

8. As of February 17, 2020, Heffler continues to maintain a post office box with the mailing address *Morrow v Quest Diagnostics*, c/o Settlement Administrator, P.O. Box 58214, Philadelphia, PA 19102-8214 in order to receive opt-out requests, Claim Forms, objections and correspondence from Class Members.

9. As of February 17, 2020, Heffler has received a total of 2,714 Notices returned by the USPS as undeliverable as addressed. Heffler has updated the records in the database to identify these as undeliverable. Heffler located updated addresses for 2,092 records through an address trace process with LexisNexis. Summary Notices were re-mailed to Class Members for whom updated address were located.

10. As of February 17, 2020, Heffler, has received 98 notices returned by the USPS with a forwarding address. Heffler has re-mailed 78 notices to Class Members with a forwarding address.

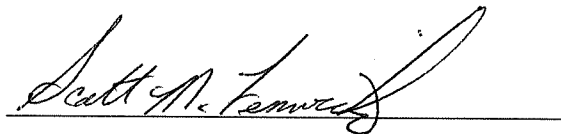
11. As of February 17, 2020, Heffler has received 1,674 Claim Forms submitted through the Settlement Website and 132 paper Claim Forms received through USPS mail. Heffler has been reviewing and will continue to review the

Claims for validity as they are received and processed. The Claim filing deadline is May 22, 2020. To prevent claims from individuals outside the Settlement Class and to prevent fraud, Class Members were provided a unique Class Member ID on their respective Notices. The Class Member ID is required for Settlement Class Members to login and file a Claim Form online.

12. As of February 17, 2020, Heffler has received seven (7) requests for exclusion from the Settlement. A list of Class Members requesting exclusion are attached hereto as **Exhibit A**.

13. As of February 17, 2020, Heffler has not received any objections to the Settlement.

I declare under penalty of perjury under the laws of the United States that the above is true and correct to the best of my knowledge and that this Declaration was executed on February 18, 2020 in Philadelphia, Pennsylvania.

A handwritten signature in cursive script, reading "Scott M. Fenwick", is written over a horizontal line.

Scott M. Fenwick



# Exhibit A

<b>Exclusion</b>	<b>First Name</b>	<b>Last Name</b>
1	ROBERT	CAPLAN
2	ROSEMARY	MASLYK
3	KAREN	MANN
4	WILLIAM	MATHEWS
5	CRAIG	MIERITZ
6	IRINA	DEVOCHKINA
7	ROBERT	WEBER

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

<b>GRANT MORROW on behalf of himself and other persons similarly situated,</b>  <b>Plaintiffs(s)</b>  <b>v.</b>  <b>QUEST DIAGNOSTICS INCORPORATED</b>  <b>Defendant(s)</b>	Civil Action No.: 2:17-cv-0948 (CCC)(JBC)  Civil Action  <b>CERTIFICATION OF SERVICE</b>
---	--

I hereby certify that on February 18, 2020 a true and correct copy of the foregoing Reply in Support of Final Approval, Service award and Fee Request and supporting Exhibit were filed electronically. Notice of this filing will be sent to all parties by operation of the courts electronic filing system.

Parties may access the filing through the Court system.

**LOCKS LAW FIRM, LLC**

By: /s/ James A. Barry  
James A. Barry  
801 N. Kings Highway  
Cherry Hill, NJ 08034  
(856) 663-8200  
jbarry@lockslaw.com

Dated: February 18, 2020