UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

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JANE DOE 1 and JANE DOE 2, *on*
behalf of themselves and all others
similarly situated,

        Case No. 2:23-CV-11691-LVP-DRG

        Plaintiffs,

v.

        Hon. Linda V. Parker
        Magistrate Judge David R. Grand

WORKIT HEALTH, INC.,

        Defendant.

DECLARATION OF DAVID S. ALMEIDA IN SUPPORT OF
MOTION FOR AWARD OF ATTORNEYS' FEES, REIMBURSEMENT OF
COSTS AND EXPENSES AND INCENTIVE AWARDS

I, David S. Almeida, declare:

1.   I have personal knowledge of the matters herein. If called as a witness,

I could and would testify truthfully and competently thereto under oath.

2.   I am counsel of record for the Plaintiffs in this action.

3.   I am an attorney admitted to practice in the United States District Court

for the Eastern District of Michigan. I am further licensed to practice in the State of

New York with a State Bar of New York Identification No. 3056520. I have been

licensed to practice law in the State of New York since 2000. Since that time, I have

been continually licensed to practice. I have never been disciplined, suspended or

disbarred. I am also admitted to the bars of the states of Illinois, Wisconsin and

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Arizona, as well admitted to practice in the United States District Courts for the Western District of Wisconsin, the Eastern District of Wisconsin, the Southern District of Illinois, the Central District of Illinois, the Northern District of Illinois, the Eastern District of New York, the Northern District of New York and the Southern District of New York, in addition to the United States Courts of Appeals for the Second, Sixth and Eleventh Circuits.

4.   I submit this declaration in support of Plaintiffs' Motion for Award of Attorneys' Fees, Reimbursement of Costs and Expenses and Incentive Awards. This Declaration includes a discussion of Class Counsel's work in this litigation as well as certain of my professional qualifications.

5.   I am the founding and principal partner of the law firm Almeida Law Group LLC. Prior to founding the Almeida Law Group, I was a Partner with Benesch, Friedlander, Coplan and Aronoff LLP in its Chicago office. While at Benesch, I founded and chaired the Firm's Class Action Practice Group and served as the Chair of the Firm's Telephone Consumer Protection Act Team and its Retail, Hospitality and Consumer Products Practice Group.

6.   I am a 1999 graduate of Cornell Law School and since then I have practiced at several prominent firms in New York City and Chicago. Over my twenty-five-year career, I have gained extensive experience both prosecuting and defending class action litigation.

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7. I have been appointed or served as lead or co-lead class counsel in many putative class action lawsuits involving data privacy and security issues including, without limitation:

- *Tambroni v. WellNow Urgent Care, P.C.*, 1:24-cv-01595 (N.D. Ill.) (co-lead counsel in data breach class action)
- *Pattison v. Teladoc Health, Inc.*, 7:23-cv-11305-NSR (S.D.N.Y) (co-lead counsel in operative pixel tracking class action)
- *John v. Froedtert Health, Inc.*, 23-CV-1935 (Wis. Cir. Ct.) (co-counsel in pixel tracking class action, settled on a class-wide basis; final approval Sept. 29, 2023)
- *In re Advocate Aurora Health Pixel Litigation*, 2:22-cv-01253 (E.D. Wis.) (co-counsel in consolidated pixel tracking class action which settled on a class-wide basis, final approval July 10, 2024)
- *Guenther v. Rogers Behavioral Health System, Inc.*, (Wis. Cir. Ct.) (co-counsel in pixel tracking class action, settled on a class-wide basis; final approval hearing August 12, 2024)
- *K.S.B. v. Wisp, Inc.*, 3:23-cv-06155 (N.D. Cal.) (counsel in telehealth pixel tracking class action).
- *Kane v. University of Rochester Medical Center*, 6:23-cv-06027 (W.D.N.Y.) (lead counsel in pixel tracking class action)
- *Aragon v. Weil Foot & Ankle Institute LLC*, 2021-CH-01437 (Cook County Cir. Ct.) (co-lead counsel in BIPA class action, preliminary approval granted)
- *John v. Delta Defense LLC*, 2:23-cv-01253 (E.D. Wisc.) (lead counsel in VPPA class action)

8. Moreover, I have been integral in the development of decisions in the novel area of pixel-tracking case law in numerous states including, but not limited to, California, New York and Illinois. *See, e.g.*, R.C. v. Walgreen Co., 2024 WL 2263395 (C.D. Cal. May 9, 2024) (denying in relevant part motion to dismiss); *Cooper v. Mount Sinai Health Sys., Inc.*, 2024 WL 3586357 (S.D.N.Y. July 30,

2024) (same); *Smith v. Loyola Univ. Med. Ctr.*, 2024 WL 3338941 (N.D. Ill. July 9, 2024) (same).

9. My law firm's website, found at https://almeidalawgroup.com/, provides additional information about certain other class action lawsuits that my firm is currently prosecuting in state and federal courts.

10. Given our breadth of experience and subject matter expertise, I believe Almeida Law Group LLC and Coulson P.C. are more than qualified to represent the interests of the Class as Class Counsel. We have diligently represented the interests of the proposed Settlement Class in this action. We have carefully investigated both the liability issues and class issues alleged in the complaint and have reached a settlement that provides meaningful benefits to the Class.

11. We began investigating WorkIt's use of third-party tracking technologies to disclose the sensitive information of visitors to and users of its website in December 2022. After completing our initial investigation, we prepared a comprehensive demand letter and ultimately prepared and filed an extremely detailed 116-page Complaint that we believe was instrumental in confronting the Defendant with the risks it faced in this case.

12. While Defendant brought a motion to compel individual arbitration, we engaged defense counsel in discussions regarding the potential resolution of this action. We believe that our extensive background in both litigating and arbitrating

similar cases assisted in this regard. Ultimately, the parties agreed to participate in mediation.

13. The parties participated in a full-day mediation session on March 21, 2024 with mediator Bruce Freidman, *Esq.*, of Judicial Arbitration and Mediation Services, who has extensive experience in similar privacy matters.

14. In advance of mediation, we undertook an extensive review of the case file, the available information and the applicable law and prepared a detailed mediation statement.

15. Defendant shared confidential information at mediation (which we expect to provide at the final approval stage) sufficient for us to fully evaluate the fairness, adequacy and reasonableness of any potential settlement.

16. While we reached agreement on certain material terms of the proposed settlement at the mediation, the parties continued to negotiate other terms for several months, culminating in the final Settlement Agreement. This process included the negotiation of the various exhibits to the Settlement Agreement and the papers necessary for its effectuation.

17. Since the settlement was preliminarily approved, we have supervised the Court-appointed settlement administrator's delivery of notice and performance of administration duties related to the Settlement Agreement.

18. Complex data privacy class actions are incredibly time consuming to litigate, and the complexity and potential liability involved lends itself to prolonged litigation and appeals. While it is always possible that more would be recovered at trial, data privacy cases face many significant hurdles in reaching trial, any one of which could be the death-knell of the case. Complex issues of causation and damages place the outcome of any trial in doubt, and the specter of appeal introduces even more risk. These cases are also extremely expensive to litigate, and it is generally (or at least often) not economically feasible to take on cases like this on an individual basis.

19. This settlement provides meaningful compensation to Plaintiffs and the Class and avoids the risk, complexity, time, and cost of further litigation. I believe, based on the benefits being made available to the Class under the proposed Settlement, and considering the risk and potential duration of further protracted litigation, that the instant Settlement confers substantial benefits upon the Settlement Class and is therefore in the best interests of the Class, in addition to being reasonable, fair, and adequate.

20. As part of the Settlement Agreement, Defendant agreed not to oppose an application by Plaintiffs' counsel for an award of attorneys' fees, costs and expenses not to exceed 1/3 of the Settlement Fund. This amount was negotiated after the primary terms of the Settlement were negotiated.

21. Attorneys and professional staff at my law firm have devoted significant time to the prosecution of this action as follows:

Attorney	Role	2024 Rate	Hours	Lodestar
David S. Almeida	Partner/Principal	$835	95.1	$79,408.50
Elena A. Belov	Of Counsel	$550	38.2	$ 21,010.00
Britany A. Kabakov	Associate	$535	14.34	$7,002.30
Katy R. Liebhold	Paralegal	$225	4.1	$922.50
Total			151.74	$108,343.30

22. The reported time does not include what I expect to be extensive future time, including further oversight of settlement administration, seeking and obtaining final approval, handling inquiries from class members and verifying proper distribution of the settlement proceeds.

23. My law firm has incurred unreimbursed costs and/or expenses in this action as follows:

Item	Category	Amount
Consulting Expert	Research	$ 337.50
JAMS- Mediation Fee	Mediation	$ 4,634.55
Airfare to Irvine CA for Mediation	Travel	$ 827.21
Transportation for Mediation	Travel	$ 341.58
Hotel for Mediation	Travel	$ 591.02

DSA SDNY COG for E.D. Mich. Admission App.	Court Fees	$ 21.00
DSA Admission fee for E.D. Mich.	Court Fees	$ 318.00
Total:		$ 7,209.86

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Dated: December 9, 2024   /s/ David S. Almeida
Chicago, Illinois   David S. Almeida