

Exhibit 2

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

In re:

Case No. 8:22-cv-01472-TPB-AAS

LINCARE HOLDINGS INC. DATA
BREACH LITIGATION

**JOINT DECLARATION OF CLASS COUNSEL IN SUPPORT OF FINAL
APPROVAL OF CLASS ACTION SETTLEMENT**

1. We, the undersigned counsel, are counsel for Plaintiffs and counsel for the proposed settlement class in this matter. This declaration explains and supports the final approval of the settlement reached in this case. Plaintiffs and Class Counsel previously filed a declaration supporting preliminary approval which outlined the litigation background, mediation, settlement terms and benefits, and Class Counsel's qualifications and recommendations on the Settlement. Doc. 105. Consistent with this Court's Local Rules, Plaintiffs and Class Counsel will avoid the duplicative nature of re-filing that information, including Class Counsels' firm resume and qualifications, and would incorporate them by reference herein.

2. Plaintiffs respectfully request that the Court appoint: John A. Yanchunis of Morgan & Morgan Complex Litigation Group, Stephen R. Basser of Barrack, Rodos & Bacine, Raina Borrelli of Turke & Strauss LLP, Alexandra M. Honeycutt of Milberg, Coleman, Bryson, Phillips, Grossman PLLC, and Carl V. Malmstrom of Wolf Haldenstein Adler Freeman & Herz LLC, as Settlement Class Counsel (collectively, "Class Counsel").

3. The Court preliminarily granted that request in granting Plaintiffs' Motion for Preliminary Approval. Class Counsel have invested considerable time and resources into the investigation of the facts underlying the claims and the prosecution of this action. Since the outset of this litigation, the firms have cooperatively and effectively collaborated to prosecute, and ultimately resolve, this case on behalf of their clients and the Class. They have performed work critical to achieving benefits for the Class, including by investigating the facts surrounding the Data Security Incident, researching and analyzing legal claims under state, federal, and common law, preparing and filing the Complaint, motion and discovery practice, depositions, participating in meetings with defense counsel to discuss the parties' respective positions, negotiating the proposed Settlement, drafting the motion for and obtaining preliminary approval, overseeing the notice and claims administration, drafting this motion for final approval, and will continue to devote time and resources to see this case to finality.

4. As noted above, and as reflected in our respective resumes and biographies previously filed with the Court in support of Plaintiffs' Motion for Preliminary Approval, Class Counsel are qualified, experienced, and able to prosecute this litigation. Class Counsel have a wealth of experience in litigating complex class action lawsuits similar to this one and have extensive knowledge of the applicable law and sufficient resources to commit to the Settlement Class.

5. Throughout the pendency of this case, proposed Class Counsel have maintained regular contact with the Plaintiffs to discuss with them the prosecution of

the case. With the assistance of counsel, Plaintiffs have been at the helm of this case and continue to be focused on the advancement of the interests and claims of the Class over their own interests. Plaintiffs have always been concerned about obtaining a result that was best for the Class. Plaintiffs are adequate class representatives with no conflicts of interest.

6. This Action was initiated following Defendant's disclosure that on or about September 2021, it identified unusual activity on certain systems within its network. Doc. 50, ¶ 4. After launching an investigation, Lincare learned that it had experienced a cyberattack resulting in potential exposure of sensitive and private personal information of certain of its current and former patients (the "Data Security Incident").

7. On July 28, 2022, Plaintiffs filed a proposed class action lawsuit in the United States District Court, Middle District of Florida, relating to the Data Security Incident. Thereafter, on December 30, 2022, Plaintiffs filed a Consolidated Class Action Complaint. Doc. 50.

8. On July 11, 2023, the parties engaged in mediation with well respected and renown mediator Rodney A. Max. The negotiations were hard-fought throughout and the process was conducted at arm's length. After extensive arm's length settlement negotiations conducted through Mr. Max, the parties reached an understanding in principle on the essential terms of settlement on July 17, 2023. The subject of attorneys' fees, costs, and expenses (i.e., the Fee Award and Costs that Plaintiffs will seek contemporaneously with this motion for final approval), subject to Court approval, was

negotiated only after all substantive terms of the Settlement were agreed upon by the parties. We attest that the negotiations between the parties were hard fought, always arm's length, and were noncollusive.

9. This Settlement Agreement provides for the resolution of all claims and causes of action asserted, or that could have been asserted, against Defendant and the Released Parties (as defined in the Settlement Agreement and provided below) relating to the Data Security Incident, by and on behalf of the Plaintiffs and Settlement Class Members.

10. As discussed in detail in Plaintiffs' Motion for Preliminary Approval (Doc. 105), the Settlement is fair, reasonable, and adequate, and represents an excellent result for the Settlement Class.

11. The Settlement provides for the funding by Defendant of a \$7,250,000.00 Settlement Fund that will be used to pay for all resolution related sums, including: (i) Notice and Administrative Expenses; (ii) Taxes and Tax-Related Expenses; (iii) Identity-Theft Protection and medical information monitoring services through Medical Shield; (iv) Statutory Damages Payments for California Confidentiality of Medical Information Act Claims; (v) Reimbursement for Out-of-Pocket Losses and Attested Time; and (vi) Attorneys' Fee Award and Costs. *See* S.A. ¶ 49. Notably, "[n]o portion of the Settlement Fund shall revert or be repaid to Defendant after the Effective Date."

12. The parties negotiated Class Counsel's attorneys' fees, costs, and expenses only after they had reached an agreement on the benefits for the Class.

13. Defendant agreed not to oppose Class Counsel's request for a fee award not to exceed one-third (33.33%) of the Settlement Fund and reimbursement of Litigation Costs and Expenses not to exceed \$50,000.00. Contemporaneously herewith, Plaintiffs have filed their unopposed motion for attorneys' fees and costs seeking \$2,416,666.67 in attorneys' fees and more than \$40,000 in litigation costs. We have and will continue to devote time and resources to the administration of the Notice Program and Settlement.

14. Throughout the settlement process, we have carefully weighed with the Plaintiffs: (1) the benefits to the Class under the terms of this Settlement Agreement, which provides significant relief to the Class; (2) the quantum of damages which might have been sustained by individual Settlement Class Members, the likelihood that in the absence of a class action consumers would not pursue individual claims, particularly due to the high cost and expense, including the cost of cyber and damage experts to litigate these claims if pursued in individual litigation, and the fact that the quantum of damages would not justify the retention of an attorney, either on an hourly or contingent basis, to pursue the claims individually; (3) the difficulty in proving and calculating those damages; (4) the attendant risks and uncertainty of litigation, as well as the difficulties and delays inherent in such litigation including the challenges to certification of a class; (5) Defendant's vigorous defense of the litigation and continued denial of the claims contained in the Complaint; (6) the desirability of consummating the present Settlement Agreement to ensure that the Class receives a fair and reasonable Settlement; and (7) providing Settlement Class Members prompt relief.

15. In particular, it is our opinion that the Settlement Agreement provides significant benefits to Settlement Class Members.

16. The relief provided by the Settlement is reasonable and adequate, particularly in light of the risks and delay of trial and associated appeals. At bottom, Plaintiffs faced difficult hurdles certifying a class.

17. Further, the proposed Settlement Class is functionally equivalent to that alleged in the Complaint. The proposed Settlement Class is defined as the:

All individuals in the United States whose PII was stored by Lincare Holdings Inc. and potentially disclosed, compromised, or accessed as a result of the cyber-breach or data incident experienced by Lincare Holdings Inc. in September 2021.

18. Plaintiffs seek final approval and certification of this nationwide class. All members of the proposed Settlement Class are entitled to the same benefits. All Settlement Class Members who do not exclude themselves from the Settlement will be eligible to submit claims. The dollar amounts of these reimbursements may vary, but those differences reflect the differing amounts of losses that Settlement Class Members incurred as a result of the Data Security Incident. Thus, each Settlement Class Member who submits a valid claim will be paid proportionate to the harm they suffered. And all Settlement Class Members are eligible to claim Identity-Theft Protection and medical information monitoring services through Medical Shield.

19. With the benefit of formal discovery, and the parties' exchange of information in the mediation setting, this provided Class Counsel—who have considerable experience in data privacy cases, including data breaches like the one at

issue here—with the ability to make a well informed decision about the litigation risks and the benefits of the Settlement.

20. After investigating the facts and carefully considering applicable law, Plaintiffs and Class Counsel have concluded that it is in the best interests of the Settlement Class Members to enter into the Settlement in order to avoid the uncertainties of litigation and to assure meaningful and timely benefits to the Settlement Class Members. We, along with Plaintiffs, respectfully submit that the terms and conditions of this Settlement are fair, reasonable, adequate, and in the best interests of all Settlement Class Members.

21. The relief provided by the Settlement is reasonable and adequate, particularly in light of the risks and delay with trial and associated appeals.

22. The reaction of the Settlement Class to the Settlement here has been positive. There have been 16,337 claims, no objections, and 53 opt-outs received. These are powerful indicia that the Settlement is fair, reasonable, adequate and deserves final approval.

23. Given our extensive experience with class action settlements, it is our informed collective opinion that the Notice Program, with all the attendant forms and as outlined in the Settlement, made every effort to ensure that Class Members were made aware of their right to recovery under the Settlement. As reflected in the Declaration of Jeanne C. Finnegan, notice of the Settlement was provided directly to a majority of Settlement Class Members, and bolstered with the supplemental notice via the Settlement Website, social media advertisements, and the internet sponsored

search listings that provided additional notice of the Settlement and Settlement Website to individuals (including but not limited to Settlement Class Members) who browsed prominent internet search engines. This resulted in the Notice Program reaching more than 81% of the Settlement Class.

24. It is our opinion that the relief achieved through the Settlement is close to if not the same relief Plaintiffs, the Class, and Class Counsel would have achieved had the case been taken to trial and succeeded.

25. It our opinion that the Settlement is fair, reasonable, and adequate and that the Settlement should be given final approval.

Pursuant to 28 U.S.C. § 1746, we declare under penalty of perjury that the foregoing is true and correct.

Executed on February 13, 2024 at Tampa, Florida.

By: John A. Yanchunis
John A. Yanchunis, Esq.

By: Stephen R. Basser
Stephen R. Basser, Esq.

By: Raina C. Borrelli
Raina C. Borrelli, Esq.

By: Alexandra M. Honeycutt
Alexandra M. Honeycutt, Esq.

By: Carl V. Malmstrom
Carl V. Malmstrom, Esq.