

1 Elizabeth Fegan (*pro hac vice*)  
beth@feganscott.com  
2 FEGAN SCOTT LLC  
150 S. Wacker Dr., 24th Floor  
3 Chicago, IL 60606  
Telephone: 312.741.1019  
4 Facsimile: 312.264.0100

5 Steve W. Berman (*pro hac vice*)  
steve@hbsslaw.com  
6 HAGENS BERMAN SOBOL SHAPIRO LLP  
1301 Second Avenue, Suite 2000  
7 Seattle, WA 98101  
Telephone: 206.623.7292  
8 Facsimile: 206.623.0594

9 *Settlement Class Counsel*

10  
11 **UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

12  
13 RAMTIN ZAKIKHANI, KIMBERLY  
ELZINGA, THEODORE MADDOX JR.,  
14 MICHAEL SUMMA, JACQUELINE  
WASHINGTON, PATTI TALLEY, ANA  
15 OLACIREGUI, ELAINE PEACOCK,  
MELODY IRISH, and DONNA  
16 TINSLEY, individually and on behalf of  
all others similarly situated,

17 Plaintiffs,

18 v.

19 HYUNDAI MOTOR COMPANY,  
20 HYUNDAI MOTOR AMERICA, KIA  
CORPORATION, and KIA AMERICA,  
21 INC.,

22 Defendants.

Case No.: 8:20-cv-01584-SB-JDE

**DECLARATION OF KATRINA  
CARROLL IN SUPPORT OF  
PLAINTIFFS' MOTION FOR  
ATTORNEYS' FEES AND SERVICE  
AWARDS**

1 I, KATRINA CARROLL, declare as follows:

2 1. I am an attorney admitted *pro hac vice* in this litigation, a partner of the  
3 law firm Lynch Carpenter LLP (“Lynch Carpenter”), and one of the counsel of record  
4 for Plaintiffs in *Ramtin Zakikhani, et. al. v. Hyundai Motor Company, et al.*, No. 8:20-  
5 cv-01584 (C.D. Cal.). I can competently testify to the matters stated in this Declaration  
6 based on my personal knowledge or discussions with counsel in my firm.

7 2. I submit this Declaration in support of Plaintiffs’ Motion for an Award of  
8 Attorneys’ Fees and Service Awards, which seeks \$8,696,551.50 in attorneys’ fees  
9 and costs up to \$239,767.60 in connection with the amended settlement agreement  
10 (“Settlement”) preliminarily approved by this Court on October 20, 2022. (Doc. No.  
11 130).

12 **A. LYNCH CARPENTER’S EXPERIENCE AND QUALIFICATIONS**

13 3. As demonstrated by our firm résumé, attached as **Exhibit 1**, Lynch  
14 Carpenter is among the most experienced and skilled practitioners in the complex  
15 litigation field, and has a long and successful track record in such cases. Lynch  
16 Carpenter is a nationally recognized law firm, with offices in Pittsburgh, Chicago, San  
17 Diego and Los Angeles. In October 2020, *The Legal Intelligencer* named Lynch  
18 Carpenter (under its predecessor name) “Litigation Department of the Year” for  
19 general litigation in Pennsylvania. The firm has extensive experience litigating  
20 complex class actions asserting claims of securities, investment fraud, product  
21 liability, tort, antitrust, consumer fraud, employment, environmental, and ERISA  
22 cases. Lynch Carpenter, the firm, and I, individually, have been approved by courts to  
23 serve as class counsel in numerous class actions. In addition, Lynch Carpenter’s  
24 diligence and determination in pursuing justice for the class aided in the settlement of  
25 this matter.

26 4. I have significant experience prosecuting consumer class action cases,  
27 including product defect cases, including the following:

- 1 • I served as court appointed Co-Lead counsel in *In re TikTok, Inc. Consumer Privacy Litig.*, 1:20-cv-04699 (N.D. Ill.), a major data privacy  
2 litigation against the popular social media app where preliminary  
3 approval of a \$92 million class action settlement was granted.
- 4 • I served as Co-Lead Counsel in *Bishop v. Behr Process Corp.*, No. 1:17-  
5 cv-4464 (N.D. Ill.), a national product defect matter relating to deck  
6 coating products which resulted in a multi-million dollar settlement.
- 7 • I served as Co-Lead Counsel in *In Re: Rust-Oleum Restore Mkt'g, Sales  
8 Pracs. and Prods. Liab. Litig.*, No. 1:15-cv-1364 (N.D. Ill.), a products  
9 liability MDL which settled favorably.
- 10 • I also served as Co-Lead counsel in *Jones et. al. v. Lemonade Inc.*, 1:21-  
11 cv-04513 (N.D. Ill.), a class action related to data privacy violations.
- 12 • I served as one of the court-appointed Co-Lead Counsel in *Powe v.  
13 Dermalogica, LLC*, 2022-LA-000874 (Circuit Ct. DuPage County,  
14 Illinois), a privacy class action where we negotiated a multi-million dollar  
15 settlement that awaits final approval from the Court.
- 16 • I served on the Plaintiffs' Executive Committee in *In Re: Morgan Stanley  
17 Data Security Litigation*, 1:20-CV-05914 (S.D. N.Y.), a data privacy  
18 class action related to allegations that Morgan Stanley failed to safeguard  
19 its customers' highly sensitive personally identifiable information.
- 20 • I was personally Court-appointed Co-Lead counsel in *Lewert v. PF  
21 Chang's China Bistro, Inc.*, 1:14-cv-04787 (N.D. Ill.). I served as Co-  
22 Lead Class Counsel in *Storm et al. v. Paytime, Inc.*, 1:14-cv-1138 (M.D.  
23 Pa.), which settled while on appeal. I was also appointed to the Plaintiffs'  
24 Steering Committee in *In re Ashley Madison Customer Data Sec. Breach  
25 Litigation*, 4:15-md-2669 (E.D. Mo.), an MDL involving the highly  
26 publicized breach at Ashley Madison, which settled for \$11.2 million.
- 27 • In addition, Lynch Carpenter has led or been appointed to leadership  
28 committee positions in many more data breach and privacy related  
actions, as well as dozens of other complex and class actions, as listed on  
the firm's attached resume.

1 **B. WORK PERFORMED BY LYNCH CARPENTER**

2 5. In connection with this litigation, Lynch Carpenter conducted an  
3 investigation of the background facts of this case concerning the scope of affected  
4 vehicles, identifying the defect and its mechanism, reported incidents of defect  
5 manifestation, the probability of such manifestation, the scope and effectiveness of  
6 existing recalls, and vehicle owner experiences. We also interviewed and worked with  
7 a key industry expert to opine on the defect and its cause.

8 6. Lynch Carpenter conferred with co-counsel regarding strategy and issues  
9 relating to the case.

10 7. Lynch Carpenter participated in discovery strategy, drafting motions and  
11 other court documents and developing a strategy for settlement.

12 Lynch Carpenter also participated in document review.

13 8. Lynch Carpenter attended and participated in mediation of this matter.

14 9. Lynch Carpenter participated in the settlement negotiations and  
15 finalization.

16 10. Once the Settlement was reached in principle, Lynch Carpenter  
17 participated in drafting and revising the Settlement Agreement, drafting documents for  
18 preliminary approval, revising the Settlement and drafting Notice to potential class  
19 members.

20 **C. LYNCH CARPENTER LODESTAR AND EXPENSES**

21 11. Rule 23(h) of the Federal Rules of Civil Procedure provides in relevant  
22 part that “[i]n a certified class action, the court may award reasonable attorney’s fees  
23 and nontaxable costs that are authorized by law or by the parties’ agreement.” Class  
24 Counsel seeks \$8,696,551.50 in attorneys’ fees and costs up to \$239,767.60.

25 12. Lynch Carpenter attorneys and staff keep detailed, contemporaneous time  
26 records in all cases, including here. Time is billed in one-tenth of an hour increments,  
27 captured and submitted electronically on a daily basis, and audited for accuracy.

1           13. Lynch Carpenter’s hourly rates have been approved by federal courts in  
2 previous matters throughout the country.

3           14. As of February 28, 2023, Lynch Carpenter has spent 154 hours litigating  
4 this case, for a total firm lodestar of \$140,120. A summary of hours incurred by  
5 timekeeper, with respective rates and roles included, is below:

<b>Timekeeper</b>	<b>Role</b>	<b>Rate</b>	<b>Hours</b>	<b>Lodestar</b>
Carroll, Katrina	Partner	\$950.00	98.2	\$93,290.00
Kyle Shamberg	Partner	\$850.00	54.8	\$46,580.00
Hart, Daniel	Paralegal	\$300.00	1.0	\$250.00
<b>TOTALS:</b>			<b>154.0</b>	<b>\$140,120.00</b>

6  
7  
8  
9  
10           15. As a general rule, our firm implements internal protocols and procedures  
11 to strive for efficient, cost-effective, and quality work. We delegate tasks appropriately  
12 among partners, associate attorneys, paralegals, and other staff according to  
13 complexity, and with the goal to avoid unnecessary or duplicative work. The work  
14 performed by Lynch Carpenter in this litigation was done at the direction of and in  
15 coordination with Class Counsel, in order to prevent the unnecessary duplication of  
16 work.

17           16. As of February 28, 2023, Lynch Carpenter incurred \$5,152.43 in costs  
18 attributable to this litigation. A summary of these costs by category is below:

<b>Expense Category</b>	<b>Amount</b>
Federal Express / UPS, etc.	\$450.00
Meals	\$423.68
Court Fees	\$72.00
Expert Fees	\$4,206.75
<b>TOTALS:</b>	<b>\$5,152.43</b>

19  
20  
21  
22  
23  
24           17. It is Lynch Carpenter’s policy and practice to prepare records from  
25 expense invoices, check and credit card records, and other source materials. Based on  
26 my oversight of our firm’s work in this litigation and my review of these records, I  
27  
28

1 believe they constitute an accurate record of the expenses actually incurred by our  
2 firm.

3 20. The attorneys of Lynch Carpenter billed this case at their usual and  
4 customary hourly billing rates, which have been approved by courts presiding over  
5 similar complex class action lawsuits, and which are commensurate with the  
6 prevailing market rates attorneys of comparable experience and skill handling  
7 complex litigation, including the following recent cases:

8 a. *In re: TikTok, Inc. Consumer Privacy Litigation*, MDL No. 2948 (N.D.  
9 IL). In 2022, Judge John Z. Lee issued an attorneys' fees award finding that my rate of  
10 \$950 and \$800 for Kyle Shamberg were reasonable hourly rates.

11 b. *Culbertson, et al. v. Deloitte Consulting LLP*, 1:20-cv-03962 (S.D. NY),  
12 Judge Lewis J. Liman approved counsels' fee request in 2022, where hourly rates of  
13 \$950 for me and \$800 for Kyle Shamberg were submitted.

14 c. *In re: Apple iPhone Antitrust Litigation*, 4:11-cv-06714 (N.D. Calif).  
15 Judge Yvonne Gonzalez Rogers approved plaintiffs' counsels' fee application and  
16 found my hourly rate of \$950 to be reasonable.

17 d. *In re: Morgan Stanley Data Security Litigation*, 1:20-cv-05914 (S.D.  
18 NY). In August 2022, Judge Paul A. Engelmayer approved plaintiffs' fee application  
19 and found rates of \$800 to \$950 reasonable for me and \$650 reasonable for Kyle  
20 Shamberg.

21 21. In my professional opinion, these costs are typical and reasonable.

22 22. Should the Court wish to review *in camera* any of the detailed time or  
23 cost records underlying the amounts recited in this Declaration, they are available.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

Executed March 20, 2023, in Chicago, Illinois.

  
KATRINA CARROLL

# Exhibit 1





# LYNCH CARPENTER

Pittsburgh ▪ San Diego ▪ Chicago  
Los Angeles ▪ Philadelphia

## **OUR MISSION**

Lynch Carpenter is a national law firm with a singular mission – to provide a voice to those who have been silenced by the disproportionate powers which too often exist in America. With lawyers based in Pittsburgh, San Diego, Los Angeles, Philadelphia, and Chicago, Lynch Carpenter has created an inclusive national community of like-minded legal talent to represent plaintiffs in complex litigation. Lynch Carpenter lawyers have developed strong collaborative working relationships with counsel throughout the nation and have been involved in numerous high-profile multidistrict litigation proceedings, frequently in leadership roles.

The Lynch Carpenter platform is self-made, without reliance upon the legacy of a long-established “repeat player” law firm, and is based upon the fundamental principle that input from a broad base of lawyers with diverse backgrounds, working together with mutual respect, will result in the strongest possible organization. At Lynch Carpenter, diversity is utilized, not tokenized. To this end, the firm strives to provide equal opportunities for promotion and leadership to its attorneys and supporting professionals. Eleven of the 22 Lynch Carpenter attorneys have been appointed to leadership positions in multidistrict or otherwise consolidated litigation, in class-action matters involving financial fraud (including securities fraud, derivative actions, and lending fraud), data breach, privacy, consumer fraud, breach of contract, labor and employment, antitrust, and civil rights, in federal and state courts throughout the country.

Lynch Carpenter represents a wide variety of clients, including individual consumers and employees, small businesses, non-profits, issue advocacy groups, and governmental entities. Over the past ten years, Lynch Carpenter lawyers emerged as national leaders in data breach and privacy litigation, and in that time have negotiated or contributed to class recoveries totaling more than \$250 million in that sector alone. Along the way, the Lynch Carpenter team has generated seminal legal authority in both trial and appellate courts. For example, in 2018, as a direct result of Lynch Carpenter’s tenacious appellate advocacy, the Pennsylvania Supreme Court became one of the first state high courts to recognize that a common-law duty of reasonable care applies to the collection and storage of sensitive electronically-stored data. This landmark opinion, *Dittman v. UPMC*, 196 A.3d 1036 (Pa. 2018), paved the way for data breach victims to bring viable negligence claims against companies whose inadequate security practices allow major breach incidents to happen.

In October 2020, *The Legal Intelligencer* named Lynch Carpenter (under its predecessor name) “Litigation Department of the Year” for general litigation in Pennsylvania. In 2021, the firm was named as a finalist for Litigation Department of the Year in the Pennsylvania region by *The American Lawyer*. Several of its partners co-author the current edition of *Class Actions: The Law of 50 States* published by Law Journal Press. Lynch Carpenter’s attorneys are recipients of numerous additional individual awards, as described in more detail in the individual biographies on the firm’s website.

Lynch Carpenter continues to grow and establish itself as a leader in representing plaintiffs in complex litigation throughout the country. The firm remains committed to developing its younger lawyers and providing them with opportunities for professional growth, both inside and outside of the firm. In leading major complex litigation, the firm draws strength from its decentralized management structure, which fosters collaboration within the firm and enables the assembly of internal litigation teams for each case. In this way, Lynch Carpenter epitomizes the synergistic benefits which result from a group of good lawyers working together to do good things.

## **REPRESENTATIVE AND NOTABLE CASES**

### **PRIVACY & DATA BREACH LITIGATION**

***Biscan v. Shields Health Care Group, Inc.***, 1:22-cv-10901-PBS (D. Mass). Jude Saris appointed Elizabeth Pollock Avery as Interim Co-Lead Counsel, and Hannah Barnett as member of the Interim Executive Committee in this data breach case against a healthcare company involving patients from several states.

***In re TikTok, Inc., Consumer Privacy Litig.***, No. 20-cv-4699 (MDL No. 2948) (N.D. Ill.). Judge Lee appointed Katrina Carroll as Co-lead Counsel in this multidistrict litigation alleging that one of the world's biggest social media platforms captured, collected, and transmitted personal data from TikTok users and their devices without their consent and/or knowledge, including private information and biometric information within the meaning of the Illinois Biometric Information Privacy Act.

***In re Equifax, Inc. Customer Data Security Breach Litig.***, MDL 2800 (N.D. Ga.). The Equifax data breach compromised the nation's entire credit reporting system. More than 400 lawsuits filed by consumers and financial institutions were consolidated in the MDL. Gary Lynch was appointed co-lead counsel for financial institution plaintiffs. After significant dispositive motions practice and initial rounds of discovery, the parties negotiated a settlement of the financial institution class action that provides up to \$7.75 million in cash benefits, plus additional injunctive relief. The court granted preliminary approval of the settlement in June 2020 and final approval in October 2020.

***In re Blackbaud, Inc. Customer Data Breach Litig.***, MDL 2972 (D.S.C.). In 2020, data security company Blackbaud, Inc. was target for a ransomware attack. In the litigation that followed, brought by Blackbaud's customers, Kelly Iverson was appointed to the Plaintiffs' Steering Committee. On October 19, 2021, the Honorable J. Michelle Childs denied Blackbaud's motion to dismiss Plaintiffs' negligence and gross negligence claims.

***In re Wawa, Inc. Data Security Litig.***, 2:19-cv-6019 (E.D. Pa.). Gary Lynch was appointed co-lead counsel for a putative class of financial institution plaintiffs in consolidated actions brought against Wawa, Inc. arising out of a 2019 payment card data breach involving the convenience store's point-of-sale systems. A consolidated amended complaint was filed in July 2020, and in 2021 the district court denied the defendant's motion to dismiss the primary claims.

***In re Marriott International Customer Data Security Breach Litigation***, MDL No. 2879 (D. MD.). Lynch Carpenter was appointed to the Plaintiffs' Steering Committee in this multidistrict litigation related to the data breach involving Starwood guest information dating back to at least 2014. The MDL includes more than 100 cases and is in pretrial litigation. The District Court certified several bellwether classes in May 2022.

***Opris v. Sincera Reproductive Medicine***, 2:21-cv-3072 (E.D. Pa.). Lynch Carpenter serves as co-lead counsel in this data breach case involving the 2020 compromise of patients' personal identifiable information and protected health information from a reproductive health services provider. In May 2022, Judge Slomsky denied the majority of the defendant's motion to dismiss, and the case is now in discovery.

***In re Anthem, Inc. Customer Data Security Breach Litig.***, No. 5:15-md-02617, MDL 2617 (N.D. Cal.). Lynch Carpenter attorneys represented customers of a national health insurer which experienced a data breach involving the personal information, including social security numbers, of up to an estimated 80 million customers. The case was consolidated and transferred to the Northern District of California in June 2015. Lynch Carpenter attorneys participated in discovery related to Highmark, the Pennsylvania-based member of the Blue Cross Blue Shield Association and a co-defendant in the MDL. The parties reached a settlement valued at \$117 million, which was approved by the Court.

***In re Home Depot Customer Data Breach Litig.***, 1:14-md-02583, MDL 2583 (N.D. Ga.). In this multidistrict litigation, Lynch Carpenter attorneys represented financial institutions in litigation related to the major data breach at the retailer which continued for almost six months in 2014 and resulted in the compromise of approximately 56 million payment card accounts. Lynch Carpenter was appointed by Judge Thrash to be one of three lead counsel managing the financial institution track of the litigation. In September 2017, the Court granted final approval to a comprehensive class settlement that provides over \$27 million in relief to the financial institution class.

***First Choice Federal Credit Union v. The Wendy's Company et al***, 2:16-cv-0506, (W.D. Pa.). This class action arose out of a malware installed on the point-of-sale systems of Wendy's franchised restaurants for the purpose of capturing and ex-filtrating customer payment card data. Approximately 18 million payment cards were exposed. The United States District Court for the Western District of Pennsylvania consolidated several proposed class actions and appointed Lynch Carpenter as Co-lead Counsel on behalf of the plaintiff financial institutions. In November 2018, after three rounds of in-person mediation, Wendy's agreed to pay \$50 million into a non-reversionary fund and to adopt and/or maintain certain reasonable safeguards to manage its data security risks. When the settlement received final approval in November 2019, the Honorable Maureen P. Kelly noted Class Counsel's "national reputation," "significant experience in these types of class actions and in data breach litigation," and "high level of skill and efficiency." Judge Kelly further explained:

This case has gone on for three and a half years...This was a very involved case and everyone brought to the table an incredible wealth of knowledge, was always prepared, really was thorough and professional in everything that was provided to the Court. And as involved as this case was, if every case I had was as well organized and professionally presented as this case has been, my life would be much easier... The briefs I got in this case and any filings were just so well-done and detailed. And my law clerks and I have discussed that a number of times. I want to thank counsel for the way you have conducted yourselves and the way you've all presented this case.

***Dittman et al v. UPMC d/b/a The University of Pittsburgh Medical Center and UPMC McKeesport***, Allegheny Cty., Pa. No. GD-14-003285; 196 A.3d 1036 (Pa. 2018). Lynch Carpenter represented several employees of the health care group UPMC in a class action stemming from a breach of UPMC's personnel files. On November 21, 2018, the Supreme Court of Pennsylvania issued a landmark decision, reversing two lower courts, regarding the viability of common law negligence claims in the wake of a data breach. The Court found that UPMC engaged in affirmative conduct by collecting and storing employee data, and that general principles of negligence support holding actors to "a duty to others to exercise the care of a reasonable man to protect [others] against an unreasonable risk of

harm to them arising out of the act.” As to the economic loss doctrine, the Court agreed with Plaintiffs’ interpretation of Pennsylvania legal precedent on the issue, finding that the question of whether the economic loss doctrine applies necessarily turns on the “source of the duty alleged,” and, accordingly, a plaintiff may seek pecuniary damages under a negligence theory if the duty sought to be enforced arises independently of any contractual relationship between the parties. After remand to the trial court, additional motions practice, and initiating discovery, the parties reached a multimillion-dollar settlement that received final approval in December 2021.

***In re Target Corporation Customer Data Breach Litig.***, 0:14-md-02522, MDL 2522 (D. Minn.). This multidistrict litigation arose out of the massive data breach that occurred in late 2013. Judge Magnuson appointed Gary Lynch to the five-member Plaintiffs’ Executive Committee that managed the litigation on behalf of all Plaintiffs’ tracks (consumer, financial institution, and shareholder). A settlement agreement which provided \$10 million to affected individual customers was granted final approval in November 2015. A separate settlement providing approximately \$39 million in relief to plaintiff financial institutions was granted final approval in May 2016.

***Greater Chautauqua Federal Credit Union et al v. Kmart Corporation et al***, No. 15-cv-02228 (N.D. Ill.). In this consolidated data breach case in which financial institutions were seeking recovery for losses sustained as a result of a 2014 data breach at one of the nation’s largest discount retail chains, Judge Lee appointed Gary Lynch to the Plaintiffs’ Executive Committee, and Katrina Carroll to serve as Liaison Counsel. A settlement was reached and approved in June 2017.

***In re Ashley Madison Customer Data Security Breach Litig.***, MDL No. 2669 (E.D. Mo.). In this well-publicized data breach case Lynch Carpenter attorneys represented individuals whose highly sensitive account information was leaked from a social media company. The case was consolidated and transferred to the Eastern District of Missouri in December 2015. Judge Ross appointed Gary Lynch and Katrina Carroll (while with her prior firm) to the Executive Committee. A class settlement for \$11.2 million was given final approval in November 2017.

***In re Vizio, Inc. Consumer Privacy Litig.***, MDL No. 2693 (C.D. Cal.). This action was filed on behalf of individuals who purchased Vizio “Smart TVs,” which contained software that collected information about the users in a manner that allegedly violates numerous consumer protection statutes. The case was consolidated and transferred to the Central District of California in April 2016, and Lynch Carpenter was appointed to the Plaintiffs’ Steering Committee. The case was settled and received final approval in 2019, providing for a \$17 million common fund.

***Veridian Credit Union v. Eddie Bauer LLC***, 2:17-cv-356 (W.D. Wash.). Lynch Carpenter served as co-lead counsel on behalf of a class of financial institutions in this class action against Eddie Bauer arising out of payment card data breach of the retailer’s point-of-sale systems in 2016, which led to the exposure of up to 1.4 million payment cards. After overcoming a motion to dismiss and engaging in substantial discovery, the parties negotiated a class action settlement, which was approved in 2019. The agreement made up to \$2.8 million available in direct cash relief to class members and provided for an addition \$7 million worth of injunctive relief and other benefits.

***In Re: Solara Medical Supplies Data Breach Litigation***, 19-cv-02284 (S.D. Cal.). In January 2020, Judge Marilyn Huff appointed Kelly Iverson to the Plaintiffs’ Steering Committee in this data

breach action that affected both the personally identifiable information as well as protected health information of Plaintiffs' and the classes.

***In re Community Health Systems, Inc., Customer Data Security Breach Litigation***, 2:15-cv-00222, MDL 2595 (N.D. Ala.). Gary Lynch served as a member of the plaintiffs' steering committee in consolidated multidistrict litigation stemming from a 2014 data breach involving one of the nation's largest hospital chains. The breach affected over 200 hospitals and the sensitive personal information of approximately 4.5 million patients was compromised. The action settled on a class basis for up to \$3.1 million.

***In re Arby's Restaurant Group***, 1:17-mi-55555 (N.D. Ga.). In October 2016, computer hackers accessed Arby's inadequately protected point-of-sale system and installed malware that infected nearly 1,000 Arby's restaurant locations. Gary Lynch was appointed by Judge Totenberg as Chair of the Financial Institution Plaintiffs' Executive Committee. The case settled and received final approval in November 2020.

***Vance v. International Business Machines Corp.***, 1:20-cv-577 (N.D. Ill.). Lynch Carpenter attorneys were appointed Co-lead Counsel in this class action claiming IBM violated Illinois's Biometric Information Privacy Act when it collected, obtained, disclosed, redisclosed, disseminated, and otherwise profited from Illinois residents' unique facial geometric measurements without providing notice or obtaining consent. In September 2020, Lynch Carpenter defeated nearly all of the arguments raised in IBM's motion to dismiss, allowing the case to proceed forward toward class certification.

***In Re: Clearview AI, Inc., Consumer Privacy Litig.***, 1:21-cv-00135 (N.D. Ill.). Lynch Carpenter attorneys served as counsel in this multidistrict litigation on behalf of a proposed class of Illinois citizens alleging that Clearview, in violation of the Illinois Biometric Information Privacy Act, scraped over 3 billion facial images from the internet, scanned the facial images' biometrics, and built a searchable database of the scanned images and biometrics, allowing users to instantly identify an unknown individual with only a photograph. Clearview then sold or otherwise gave access to these biometrics to hundreds of law enforcement agencies, private entities, and individuals.

***Lewert v. PF Chang's China Bistro, Inc.***, No. 1:14-cv-04787 (N.D. Ill.): Katrina Carroll served as Court-appointed co-lead counsel representing P.F. Chang's customers who had their personal financial information compromised in a 2014 security breach. This matter was one of the first data breach cases on record. Ms. Carroll oversaw all of the appellate briefing in ultimately obtaining a landmark ruling in the Seventh Circuit on Article III standing, hailed by Law360 as one of the "top privacy cases" of 2016.

***Salam v. Lifewatch, Inc.***, No. 1:13-cv-09305 (N.D. Ill.): In this hard-fought litigation, Lynch Carpenter partner Katrina Carroll is currently involved as court-appointed Co-lead Counsel on behalf of a certified class in this privacy matter brought under the Telephone Consumer Protection Act ("TCPA"). Ms. Carroll has been directly involved in all aspects of litigation, including discovery and motion practice which culminated in a total victory for plaintiffs in contested class certification.

**CONSUMER PROTECTION/PRODUCTS LIABILITY**

***In re Philips Recalled CPAP, Bi-Level PAP, and Mechanical Ventilator Products Liability Litig.***, MDL No. 3014 (W.D. Pa.). In February 2022, Kelly Iverson was appointed as one of four co-lead counsel from a pool of 75 applicants. The MDL includes over 300 actions involving allegations regarding the potentially harmful degradation of sound abatement foam on recalled continuous positive airway pressure (CPAP) machines and the manufacturers' conduct in marketing and ultimate recall of the machines. The actions are in the early pretrial stages.

***In re Robinhood Outage Litig.***, No. 20-cv-1626 (N.D. Cal.). In July 2020, Jamisen Etzel was appointed to the executive committee overseeing consolidated actions brought by consumers who sustained losses when the trading application Robinhood suffered severe service outages in early 2020 during a period of intense market volatility. A consolidated amended complaint was filed in August 2020, and rulings on class certification are expected in 2022.

***Morrow v. Ann Inc.***, 16-cv-3340 (S.D.N.Y.). Lynch Carpenter attorneys were co-class counsel in a case alleging deceptive pricing practices by a major national retail chain. After plaintiffs overcame a motion to dismiss, the case settled for \$6.1 million worth of class benefits. The settlement was approved in April 2018.

***Luca v. Wyndham Hotel Group, LLC***, 2:16-cv-746 (W.D. Pa.). Lynch Carpenter attorneys were co-lead counsel in a class action against the Wyndham hotel companies for violations of New Jersey consumer protection statutes. Plaintiffs alleged that Wyndham's websites deceptively masked the resort fees charged at certain hotels and forced patrons to agree to illegal terms and conditions. In 2017, plaintiffs defeated a motion to dismiss filed by two of the primary operating subsidiaries. A class settlement worth up to \$7.6 million was reached in 2019 and approved later that year.

***Van v. LLR, Inc.***, 3:18-cv-0197 (D. Ak.); 962 F.3d 1160 (9th Cir. 2020). Lynch Carpenter partners Jamisen Etzel and Kelly Iverson won a significant consumer rights ruling from the United States Court of Appeals for the Ninth Circuit. The appeals court reversed a district court dismissal for lack of standing, and, in a published decision, held that the temporary loss of money is a sufficient "injury-in-fact" under Article III of the Constitution to confer standing on a consumer to file a federal lawsuit. In September 2021, the District of Alaska certified a class of consumers asserting claims under Alaska's Unfair Trade Practices and Consumer Protection Act.

***Mednick v. Precor, Inc.***, No. 14-cv-03624 (N.D. Ill.): Lynch Carpenter partner Katrina Carroll served as court-appointed Co-lead Counsel in this products liability matter concerning the heart rate monitoring feature on Precor fitness machines. Due to Ms. Carroll's efforts, the plaintiffs defeated a contested class certification motion and obtained class certification for a multi-state consumer class. Ms. Carroll was instrumental in negotiating a class settlement providing meaningful relief for class members shortly thereafter, for which the Court recently issued final approval.

***In re Rust-Oleum Restore Marketing, Sales Practices and Prods. Liab. Litig.*** No. 1:15-cv-1364 (N.D. Ill.): In this sprawling products liability MDL relating to defective deck resurfacing products, Katrina Carroll was instrumental in negotiating a \$9.3 million settlement providing meaningful relief to consumers, which received final approval in March of 2017 by the Honorable Amy J. St. Eve of the

United States District Court for the Northern District of Illinois, now a sitting Judge of the Court of Appeals for the Seventh Circuit.

**FINANCIAL FRAUD, LENDING PRACTICES, AND SECURITIES**

***In re: FedLoan Student Loan Servicing Litigation – MDL No. 2833***, (E.D. Pa.). Lynch Carpenter serves as court-appointed co-lead counsel on behalf of student loan borrowers and federal grant recipients in this multidistrict litigation. The claims relate to widespread and systemic failures on the part of a student loan servicer and the U.S. Department of Education to adequately service the programs and advise its participant. A consolidated complaint was filed in November 2019. As of January 2022, a motion to dismiss is fully briefed and currently awaiting resolution by the Court.

***CitiMortgage SCRA Litigation***, (S.D.N.Y.). Lynch Carpenter attorneys were tri-lead counsel in this class action against CitiMortgage on behalf of Sergeant Jorge Rodriguez in the Southern District of New York. This case alleges that CitiMortgage improperly foreclosed upon Mr. Rodriguez's home (and the homes of similarly situated individuals) while he was serving his country in Iraq, in violation of the Servicemembers Civil Relief Act. The case settled and received final approval in October 2015, securing a total recovery of \$38.2 million for members of our military service.

***In re Community Bank of Northern Virginia and Guaranty National Bank of Tallahassee Secondary Mortgage Loan Litigation***, (W.D. Pa./3d Cir.). Lynch Carpenter attorneys were co-lead class counsel in this national litigation on behalf of second mortgage borrowers under the Real Estate Settlement Procedures Act. The class was certified by the district court and affirmed by the Third Circuit, 795 F.3d 380 (2015). A class settlement was finalized in early 2017 and obtained a total recovery of \$24 million.

***In re Tenet Healthcare Corp. Securities Litigation***, 02-cv-8462 (C.D. Cal.). Prior to joining the firm, Katrina Carroll represented the State of New Jersey's Division of Investment in this securities class action against Tenet Healthcare and its outside auditor, KPMG, related to false and misleading public statements those entities made between 2000 and 2002 about Tenet's financial health. Katrina played a large role in drafting motions *in limine* briefing issues regarding the admissibility of plaintiff's expert witness report. Tenet settled in 2006 for \$215 million, and KPMG settled in 2008 for \$65 million.

***In re Motorola Securities Litig.***, 03-cv-287 (N.D. Ill.). Katrina Carroll represented the State of New Jersey's Division of Investment in this securities class action against Motorola, stemming from misrepresentations made by the company regarding a \$2 billion loan it made to a Turkish entity that was not repaid. The case settled a few days before trial for \$190 million.

***Figueroa v. Capital One***, 18-cv-692 (S.D. Cal.). Todd Carpenter and Eddie Kim served as Class Counsel in a class action challenging the unlawful assessment of multiple ATM fees in contravention of the customer account agreement, which resulted in a \$13 million settlement.

***Bingham v. Acorns Grow***, 30-2019-0150842 (Cal. Sup. Ct. Orange Cnty.). Eddie Kim served as Class Counsel in a class action on behalf of customers of a financial mobile app that automatically transferred "spare change" from each purchase using debit cards issued by customers' banks into an Acorns Grow investment account. This action challenged the app's failure to prevent overdrafts of



customers' checking accounts as a result of the automated transfers and the resultant assessment of overdraft fees. A \$2.5 million settlement is pending court approval.

***Schertzer v. Bank of America***, 19-cv-264 (S.D. Cal.). Lynch Carpenter attorneys represent bank customers who were assessed out-of-network ATM fees for balance inquiries transpiring from deceptive ATM prompts utilized by independent ATM operators Cardtronics and FCTI. Plaintiffs prevailed on challenges to the pleadings and a ruling on the motion for class certification is pending.

#### **COVID-19 INSURANCE LITIGATION**

***In re Generali Covid-19 Travel Insurance Litig.***, No. 20-md-2968, MDL 2968 (S.D.N.Y). In January 2021, Jamisen Etzel was appointed co-lead counsel in this MDL comprising actions brought on behalf of consumers whose travel plans were cancelled as a result of the Covid-19 pandemic, and whose travel insurance provider either denied coverage or refused to return premiums paid for post-departure risks the insurer was not required to cover.

***Business Income Insurance Coverage Litigation***, various. Lynch Carpenter attorneys represents numerous business-policyholders who were forced to close or curtail their business operations as a result of government shut down orders in the wake of the Covid-19 pandemic and who have been denied insurance coverage under their "all risks" property insurance coverage.

#### **WAGE AND HOUR & EMPLOYMENT DISCRIMINATION LITIGATION**

***Copley v. Evolution Well Services, LLC***, 2:20-cv-01442 (W.D. Pa.). In February 2022, Lynch Carpenter obtained collective certification under the FLSA of several hundred "hitch employees." These employees spent hours per week travelling to remote job sites, time for which they were unpaid. The litigation is currently in the post-conditional certification discovery phase.

***Verma v. 3001 Castor Inc.***, (E.D. Pa.). As co-class counsel, Lynch Carpenter attorneys won a \$4.59 million jury verdict in 2018 for misclassified workers at a Philadelphia nightclub. The claims were brought under the FLSA and Pennsylvania Minimum Wage Act. The trial verdict was fully affirmed by the Third Circuit in August 2019.

***Genesis Healthcare v. Symczyk*** (U.S. Supreme Court). Gary Lynch served as Counsel of Record before the United States Supreme Court in an appeal addressing the application of mootness principles in a putative collective action filed under Section 216(b) of the Fair Labor Standards Act. When defendant served the plaintiff with a Rule 68 offer of judgment for "make whole" relief, the district court dismissed the case as moot. Gary Lynch successfully argued the appeal in the United States Court of Appeals for the Third Circuit, which held that the FLSA collective action did not become moot upon the plaintiff's receipt of a Rule 68 offer of judgment for full satisfaction of her individual claim. The Supreme Court reversed in a 5-4 opinion, with Justice Kagan writing a strong dissent on behalf of our client—a position which was subsequently adopted by the majority of the Court in *Campbell-Ewald Co. v. Gomez*, 577 U.S. 153 (2016). Plaintiff's position before the Supreme Court was supported by the United States as Amicus Curiae.

**ANTITRUST**

***In Re Railway Industry Employee No-Poach Antitrust Litigation, MDL 2850***, (W.D. Pa.), Chief Judge Joy Flowers Conti appointed Lynch Carpenter partner Kelly K. Iverson as Plaintiffs' Liaison Counsel on behalf of the class of employees who alleged the defendants and their co-conspirators entered into unlawful agreements to reduce and eliminate competition among them for employees and to suppress the compensation of those employees. The two defendants agreed to class settlements worth a combined \$48.95 million, and final approval was granted in August 2020.

***In Re Blue Cross Blue Shield Antitrust Litigation, MDL No. 2406***, (N.D. Ala.). Lynch Carpenter attorneys represent healthcare subscriber plaintiffs in four states in this nationwide class action challenging the anti-competitive practices of Blue Cross/Blue Shield's nationwide network of local insurers who do not compete with each other based on geographic boundaries. A \$2.7 billion settlement received preliminary approval in early 2021.

**CIVIL RIGHTS**

***ADA (Americans with Disabilities Act) Accessibility Litigation***. Lynch Carpenter is currently counsel for plaintiffs in a substantial number of putative class actions filed on behalf of individuals with disabilities to enforce the ADA's accessibility requirements. Over the last ten years, Lynch Carpenter attorneys have represented individuals with visual and mobility disabilities in seeking improved access to physical locations, ATMs, Point of Sale devices, and websites.