

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

In re Morgan Stanley Data Security Litigation

Civil Action No. 1:20-cv-05914-PAE

**[PROPOSED]
ORDER AWARDING ATTORNEYS' FEES, REIMBURSEMENT OF LITIGATION
EXPENSES, AND SERVICE AWARDS TO THE NAMED PLAINTIFFS**

This matter came before the Court for a duly noticed hearing on August 5, 2022 (the “Fairness Hearing”), upon Plaintiffs’ Motion for an Award of Attorneys’ Fees, Reimbursement of Litigation Expenses, and Service Awards to the Named Plaintiffs (the “Fee and Expense Application”) in the above-captioned action (“Action”). The Court has considered the Fee and Expense Application and all supporting and other related materials, including the matters presented at the Fairness Hearing. Due and adequate notice of the Settlement Agreement and Release with Morgan Stanley Smith Barney, LLC (“Morgan Stanley”) entered into on December 31, 2021 (“Settlement Agreement”)¹ (ECF. No. 81-2) having been given to the Class Members; the Fairness Hearing having been held; and the Court having considered all papers filed and proceedings conducted herein, having found the Settlement of the Action to be fair, reasonable and adequate, and otherwise being fully informed in the premises and good cause appearing therefore,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

¹ Unless otherwise defined herein, all capitalized terms used herein shall have the same meanings set forth and defined in the Settlement Agreement.

1. This Court has personal jurisdiction over Plaintiffs, Morgan Stanley and all Class Members who have not timely and validly requested exclusion and subject matter jurisdiction over the Action to approve the Settlement Agreement and all exhibits attached thereto.

2. Notice of the Fee and Expense Application was provided to potential Class Members in a reasonable manner, and such notice complies with Rule 23(h)(1) of the Federal Rules of Civil Procedure.

3. The Court hereby awards Settlement Class Counsel attorneys' fees of ____ % of the Settlement Fund in the amount of \$ _____. The Court finds these attorneys' fees to be fair, reasonable and appropriate.

4. The Court hereby awards Settlement Class Counsel litigation expenses in the amount of \$ _____. The Court finds these litigation expenses to be reasonable, appropriate and necessarily incurred in the prosecution and resolution of the Action.

5. Class Counsel are hereby authorized to allocate the attorneys' fees award among Plaintiffs' Counsel in a manner in which, in Class Counsel's good faith judgment, reflects the contributions of such counsel to the institution, prosecution and settlement of the Action.

6. In making this award of attorneys' fees and payment of litigation expenses, the Court has considered and found that:

a. The Settlement Agreement with Morgan Stanley has created a fund of \$60,000,000 in cash that Morgan Stanley has paid into escrow pursuant to the terms of the Settlement Agreement;

b. The overall value of the Settlement is greater than \$68,000,000 when adding in the separately paid notice and administration costs;

c. Class Members who submit valid Proofs of Claim and Release and/or enroll in Aura Financial Shield will benefit from the Settlement reached because of the efforts of Class Counsel;

d. Class Counsel have prosecuted the Action and achieved the Settlement with skill, perseverance and diligent advocacy;

e. The Action involves numerous complex factual and legal issues and was actively litigated;

f. Had Class Counsel not achieved the Settlement with Morgan Stanley, there would remain a significant risk that Plaintiffs and the Settlement Class may have recovered less or nothing from Morgan Stanley;

g. The contingent nature, risks and complexity of the Action favor the fee percentage awarded above;

h. Public policy considerations support the requested fee;

i. Notice was disseminated to members of the Settlement Class stating that Class Counsel would be moving for an award of attorneys' fees in an amount up to 33 1/3% of the Settlement Fund and reimbursement of reasonable litigation expenses; and

j. The amount of attorneys' fees and expenses to be paid from the Settlement Fund are fair and reasonable in view of the applicable legal principles and the particular facts and circumstances of the Action.

7. The Court hereby awards each of the eleven named Plaintiffs a Service Award in the amount of \$ _____, for their services as class representatives in this Action.

8. Without affecting the finality of this Order in any way, this Court hereby retains continuing jurisdiction over the Parties and the Class Members for all matters relating to this Action, including the administration, interpretation, effectuation, or enforcement of this Order.

9. In the event that the Settlement is terminated or the Effective Date does not occur in accordance with the terms of the Settlement Agreement, this Order shall be null and void, of no further force or effect, and without prejudice to any of the Parties, and may not be introduced as evidence or used in any actions or proceedings by any Person against the Parties.

10. Pursuant to the Settlement Agreement, the attorneys' fees, expense award and service awards are independent of the Court's consideration of the fairness, reasonableness and adequacy of the Settlement.

11. The attorneys' fees, reimbursement of expenses and Service Awards awarded herein may be paid to Class Counsel from the Settlement Fund as provided by the Settlement Agreement ¶ 12.2.

IT IS SO ORDERED.

Signed this ___ day of August, 2022.

The Honorable Paul A. Engelmayer
United States District Judge