

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

In re Morgan Stanley Data Security Litigation

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

**NOTICE OF FILING SETTLEMENT CLASS COUNSEL'S
SUPPLEMENTAL DECLARATIONS IN SUPPORT OF
PLAINTIFFS' MOTION FOR AN AWARD OF ATTORNEYS' FEES,
REIMBURSEMENT OF LITIGATION EXPENSES, AND SERVICE AWARDS TO THE
NAMED PLAINTIFFS**

PLEASE TAKE NOTICE that, in support of Plaintiffs' Motion for an Award of Attorneys' Fees, Reimbursement of Litigation Expenses, and Service Awards to the Named Plaintiffs ("Fee Motion"), (ECF. No. 100), Plaintiffs submit to the Court supplemental declarations from Settlement Class Counsel regarding their updated lodestar prior to the Final Approval Hearing. As detailed in Plaintiffs' Memorandum in Support of their Fee Motion, the lodestar and expense numbers presented at the time of filing were based on figures incurred as of March 1, 2022. *See* ECF No. 101 at 3.

The time expended since March 1, 2022, includes time speaking with class members and answering their questions regarding the Settlement and claims process, working with the Settlement Administrator and counsel for Defendant to ensure a smooth claims process, conferring regarding the protocol for Kroll, and preparing for the Final Approval Hearing. The updated lodestar numbers reflected in the attached declarations do not include time spent preparing the Fee Motion or the handling of objections from Class Members related to the Fee Motion.

Settlement Class Counsel Jean S. Martin and Linda P. Nussbaum respectfully submit updated declarations to reflect time spent on the above-captioned matter through July 31, 2022, attached hereto as **Exhibits 1 and 2**.

Dated: August 1, 2022

Respectfully submitted,

MORGAN & MORGAN

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Settlement Class Counsel

CERTIFICATE OF SERVICE

The undersigned certifies that, on August 1 2022, I caused the foregoing document to be filed electronically through the Court's CM/ECF System and served on all counsel of record.

/s/ Jean Sutton Martin

Jean Sutton Martin

Exhibit 1

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

In re Morgan Stanley Data Security Litigation

Docket No.
1:20-cv-05914 (PAE)

**SUPPLEMENTAL DECLARATION OF JEAN S. MARTIN
IN SUPPORT OF PLAINTIFFS' MOTION FOR
AN AWARD OF ATTORNEYS' FEES, REIMBURSEMENT OF LITIGATION
EXPENSES, AND SERVICE AWARDS TO THE NAMED PLAINTIFFS**

Jean S. Martin, pursuant to 28 U.S.C § 1746, hereby declares as follows:

1. I am a lead attorney in the National Consumer Class Action section of Morgan & Morgan's Complex Litigation Group and have been appointed as Settlement Class Counsel along with Linda P. Nussbaum of Nussbaum Law Group, P.C.

2. I respectfully submit this supplemental declaration in connection with and in support of Plaintiffs' unopposed Motion for Attorneys' Fees, Costs, and Expenses and Service Awards to the Named Plaintiffs ("Fee Motion").

3. In support of Plaintiffs' Fee Motion, I submitted a declaration with the Court in which I declared that from the inception of the litigation until March 1, 2022, my law firm expended 2,987 hours on this litigation, for a lodestar total of \$2,156,743.40. *See* ECF No. 104.

4. Since the submission of my previous declaration, my law firm has continued to perform legal work on behalf of the Class. My firm has expended many hours speaking with class members and answering their questions regarding the Settlement, the Notice they received, and the benefits provided by the Settlement. Additional substantial resources were expended assisting Class Members with their Claim Forms and related inquiries and working with the Claims Administrator, Epic Class Action & Claims Solutions, Inc., to ensure the smooth progression of

claims processing and distribution of the Qualified Settlement Fund; working with Aura to ensure a smooth enrollment process for Class Members; preparing Final Approval papers, supporting documents, and proposed orders; and coordinating and consulting with Kroll and defense counsel with respect to Kroll's recovery effort protocol.

5. The updated lodestar reflected in this declaration does not include time spent on Plaintiffs' Fee Motion, Class Member objections with respect to attorneys' fees, or any other attorney fee-related matter. That time was expressly excluded from these numbers.

6. Below is a summary of the hours billed by each timekeeper of my firm from March 1, 2022, through July 31, 2022, their positions, and hourly rates on a historic basis.

Billor Name	Position	Hourly Rate	Years in Practice	Hours Billed	Lodestar
Jean Martin	Partner	\$919	23	181	\$166,339.00
Francesca Kester	Associate	\$468	4	96.8	\$ 45,302.40
Patrick Barthle	Associate	\$676	10	4	\$ 2,704.00
Hope Whalen	Associate	\$381	1	22.7	\$ 8,648.70
Total				304.5	\$222,994.10

7. The hourly rates of the professionals in my firm, including my own, reflect experience and accomplishments in the area of class litigation. Our customary billing rates are commensurate with hourly rates charged by contemporaries around the country, including those rates charged by lawyers with the same level of experience who practice in the area of class litigation across the nation, and courts have approved my firms' rates in the following examples: *Brown et al v. Google LLC*, 4:20-cv-03664-YGR, ECF 631 (N.D. Cal., July 15, 2022); *In re: Yahoo! Inc. Customer Data Sec. Breach Litig.*, 16-MD-02752-LHK, 2020 WL 4212811, at *26 (N.D. Cal. July 22, 2020), and *In re: Equifax Inc. Customer Data Security Breach Litigation*, Case No 1:17-md-02800-TWT, ECF 956 at 105 (N.D. Ga. Jan. 13, 2020).

8. If the Settlement is approved, my law firm will continue to expend time over the next year ensuring successful Settlement administration and assisting in the Kroll recovery efforts for which we will not make an additional application for fees or expenses.

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

Dated this 1st day of August, 2022 in Tampa, Florida

/s/ Jean S. Martin
Jean S. Martin

Exhibit 2

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

In re Morgan Stanley Data Security Litigation

Docket No. 1:20-cv-05914 (PAE)

**SUPPLEMENTAL DECLARATION OF LINDA P. NUSSBAUM, ESQ.
IN SUPPORT OF PLAINTIFFS' MOTION FOR
AN AWARD OF ATTORNEYS' FEES, REIMBURSEMENT OF LITIGATION
EXPENSES, AND SERVICE AWARDS TO THE NAMED PLAINTIFFS**

LINDA P. NUSSBAUM, ESQ., pursuant to 28 U.S.C § 1746, hereby declares as follows:

1. I am the Managing Director of Nussbaum Law Group, P.C., a member of the Bar of this Court, and Court-appointed Settlement Class Counsel in this action, along with Jean S. Martin of Morgan & Morgan ("Class Counsel").

2. I submit this Supplemental Declaration in connection with and in support of Plaintiffs' Motion for an Award of Attorneys' Fees, Reimbursement of Litigation Expenses, and Service Awards to the Named Plaintiffs ("Fee Motion").

3. Subsequent to the filing of the Fee Motion, I, and my firm, have expended considerable time on behalf of the Class including, but not limited to working with the court-appointed claims administrator Epiq with respect to notice, administration and claims issues; answering inquiries of over 50 class members; preparation of legal memoranda and supporting documents filed with this Court on July 22, 2022 in support of the Motion for Final Approval of the Settlement, analyzing the proposed Kroll Protocol, conferences with Kroll representatives, conferences with the Claims Administrator, conferences with Defense Counsel, and other related tasks.

4. No time spent on the Fee Motion, the objections with respect to the Fee Motion, or any other fee-related matters is included in the updated lodestar reflected in this declaration.

5. Below is a summary of the hours billed by each timekeeper of my firm from March 1, 2022, through July 31, 2022, their positions, and hourly rates on a historic basis.

Biller Name	Position	Hourly Rate	Hours Billed	Lodestar
Nussbaum, Linda	Partner	\$995	150.4	\$149,648.00
Schwaiger, Susan	Of Counsel	\$800	161.3	\$132,240.00
Total			311.7	\$281,888.00

6. These rates, or materially similar rates, charged by the attorneys and other professionals in my law firm have been frequently approved in other fee applications by other federal and state courts, including recently by this Court and other courts in this district.

7. If the Settlement is approved, my law firm and I will continue to expend time over the next year ensuring successful Settlement administration and assisting in the Kroll recovery efforts for which we will not make an additional application for fees or expenses.

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

Dated this 1st day of August 2022 in New York, New York.

/s/ Linda P. Nussbaum
LINDA P. NUSSBAUM