

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

JULIO LOPEZ and MICHAEL OROS,

*On Behalf of Themselves and All Others
Similarly Situated,*

Plaintiffs,

v.

VOLUSION, LLC,

Defendant.

Case No.: 1:20-cv-00761-LY

**DECLARATION OF MICHAEL SINGLEY IN SUPPORT OF
PLAINTIFFS' MOTION FOR PAYMENT OF ATTORNEYS' FEES,
REIMBURSEMENT OF LITIGATION EXPENSES, AND
CLASS REPRESENTATIVE SERVICE AWARDS**

I, MICHAEL SINGLEY, declare and state as follows:

1. I am a partner at The Edwards Law Group in Austin, Texas ("Edwards Law"). My resume is attached hereto as **Exhibit 1**. I have been appointed by the Court as Class Counsel for Plaintiffs and the Class in this matter, and I have personal knowledge of the facts stated herein. I submit this Declaration in support of Plaintiffs' Motion for Payment of Attorneys' Fees, Reimbursement of Litigation Expenses, and Class Representative Service Awards, and in connection with services rendered and expenses incurred by my firm in connection with this litigation.

2. My firm has acted as counsel to Plaintiffs and the Class in this action since the inception of this action in the Western District of Texas, specifically serving as local counsel.

3. This declaration generally summarizes the work I performed for Plaintiffs and the Class Members in this litigation. As demonstrated below, Edwards Law has worked diligently to perform tasks throughout the entire course of this litigation.

4. During the period from case inception through the current date, my firm, in collaboration with co-counsel Melissa S. Weiner of Pearson Simon & Warshaw, LLP, Hassan A. Zavareei of Tykco & Zavareei LLP, and Jonathan M. Streisfeld of Kopelowitz Ostrow Ferguson Weiselberg Gilbert (hereinafter “Class Counsel”), and their colleagues conducted the following activities for the common benefit of Plaintiffs (my firm’s involvement began with the filing of the action in the Western District of Texas):

- a. before filing Plaintiffs’ Class Action Complaint in this Litigation¹ (the “Complaint”), investigated the potential claims against Volusion, interviewed potential plaintiffs, and gathered information about the Data Security Incident (referred to in the Complaint as the “Data Breach”) and its potential impact on consumers;
- b. conducted continued investigation of the facts underlying the Data Security Incident during the course of the Litigation;
- c. drafted and filed a complaint in the United States District Court for the Southern District of Florida (which was voluntarily dismissed because of Volusion’s personal jurisdiction challenge in a motion to dismiss) and the Complaint in this Court (asserting the same claims alleged in the Florida action, as well as additional claims);

¹ Unless defined herein, capitalized terms shall have the same meaning as those assigned to them in the Settlement Agreement. Dkt. No. 39-1.

- d. participated in Volusion's Chapter 11 bankruptcy proceeding, which was filed after the Litigation was commenced, filing a bankruptcy claim for the Plaintiffs;
- e. negotiated a stipulation in the bankruptcy court following confirmation of Volusion's bankruptcy plan to allow this Litigation to return to this Court so it could be litigated on the merits in exchange for an agreement to cap Volusion's exposure to the limits of its Hartford insurance coverage for the benefit of the putative class;
- f. briefed a heavily contested Motion to Dismiss in advance of mediation;
- g. pursued and discussed with Volusion the potential for early resolution, pursuant to which Volusion provided settlement discovery to Plaintiffs regarding the limited insurance funds it had to resolve this Litigation;
- h. reviewed and analyzed documents produced by Volusion;
- i. drafted a lengthy mediation brief and prepared for and participated in a mediation session with Volusion before well-respected mediator Bruce A. Friedman, Esq. of JAMS on February 7, 2022, and engaged in numerous follow-up telephonic efforts after the mediation in order to resolve this Litigation and agree to the material terms of the Settlement;
- j. prepared and submitted the Joint Notice of Settlement and Request to Stay Deadlines Pending Settlement Approval (Dkt. No. 35);
- k. negotiated and prepared the Agreement and supporting documents, including the Claim Form, Postcard Notice, Email Notice, Long Form Notice, proposed preliminary and proposed Final Approval Order;

- l. solicited and analyzed bids from settlement and claims administrators;
- m. prepared and submitted Plaintiffs' Preliminary Approval Motion (Dkt. No. 39), which was ultimately granted when the Court preliminarily approved the Settlement (Dkt. No. 40);
- n. worked with the Settlement Administrator and Volusion's counsel to implement the notice plan, including the notices and claims forms sent to Class Members, create and launch the settlement website and toll-free line, and monitor the receipt of claims from Class Members; and
- o. regularly conferred with Plaintiffs about the status, strategy, and direction of the Litigation and settlement negotiations.

5. The total number of hours expended on this litigation by Edwards Law from case inception through August 1, 2022 is 13.1 hours. The total lodestar for Edwards Law in this time period is \$8,515.00. This consists of my time for work as local counsel in the Western District of Texas action.

6. The total number of hours was determined from my daily time records regularly prepared and maintained. The lodestar figure is based on my current hourly billing rate. The hourly rate is the same as the usual and customary hourly rates charged for my services in contingent billable matters. Class Counsel will likely expend dozens of additional hours bringing the Settlement through completion.

7. I billed this case at my usual and customary hourly billing rate of \$650.00, which rate was submitted and approved by the Court along with the rates of others in my firm in the class action settlement in *Coleman v. Young*, No. 1:20-CV-00847-RP (W.D. Tex. 2021) (Dkt. No. 69, 12-6-21: "the Court finds the hourly rates charged and expenses incurred by Class Counsel to be

fair and reasonable for attorneys of their experience . . .”), and which rate is commensurate with the prevailing market rates attorneys of comparable experience and skill handling complex litigation. Also, more than three years ago, in approving a complex class action case settlement, a federal court awarded fees to the lawyers at Edwards Law fees and approved then-current rates, including a rate for me at \$550/hour, finding that the rates were “reasonable” for “highly skilled” attorneys. *Cole v. Collier*, No. 4:14-cv-1698, 2018 WL 2766028, *13 (S.D. Tex., June 8, 2018).

8. The following is a summary indicating the amount of time I spent in this litigation, and the lodestar calculation is based on current hourly billing rates from case inception through August 4, 2022, and my experience as reflected in the attached resume:

Professional	Title	Hourly Rate	Total Hours	Total Lodestar
Michael Singley	Partner	\$650.00	13.10	\$8,515.00

9. As detailed in the following table, Edwards Law has incurred a total of \$885.00 in unreimbursed litigation costs during the period from case inception through August 4, 2022:

Costs	Amount
Court Costs (<i>i.e.</i> , Filing Fees/Pro Hac Vice Fees)	\$400.00 for filing W.D. Tex. Case; \$400.00 for W.D. Tex. <i>Pro Hac Vice</i> Motion Fees
Service of Process	\$85.00 for W.D. Tex. Case
Total	\$885.00

10. The costs incurred in this action are reflected on the books and records of my firm. These books and records are prepared from cost invoices, check records, and other source materials and represent an accurate recordation of the costs incurred.

11. Class Counsel necessarily must continue to work with the Settlement Administrator, review and respond to objections, if any, prepare for the final approval hearing, handle appeals, if any, and oversee the final administration of benefits to Class Members, including

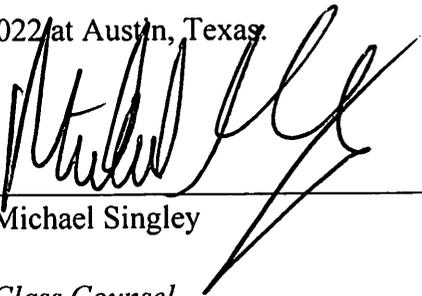
the claims process. Based upon experience, this could amount to dozens of additional hours of attorney time.

12. Edwards Law has the experience, resources, and ability to adequately represent the class members in this class action lawsuit.

13. My resume reflects that my firm and I have successfully adjudicated important class action lawsuits in the United States and have obtained significant settlements and results not only in complex class actions but in a wide range of cases. My attached resume identifies a number of those cases.

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

Executed on this 3rd day of August, 2022 at Austin, Texas.



Michael Singley
Class Counsel

EXHIBIT 1

Michael Singley
The Edwards Law Group

1. My name is Michael Singley. I am a member in good standing of the State Bar of Texas. I am a partner at Edwards Law Group, and have been with the firm for 5 years.
2. I serve as co-counsel for the named Plaintiffs and the putative class of plaintiffs in this class action.
3. I graduated from Stanford University in 1991, and subsequently in 1995, I graduated from the University of Texas School of Law. After graduating law school, I worked as a briefing attorney for the Honorable Mack Kidd of the Texas Court of Appeals for the Third District, in Austin for a year between 1995 and 1996.
4. I was admitted to the Texas State Bar in 1995, and I am admitted to practice law in all four of the state's federal districts, the United States Court of Appeals for the Fifth Circuit, and the United States Supreme Court. I was also admitted to the Oklahoma State Bar in 2012.
5. I have been in the private practice of law in Austin, Texas, for over 20 years—first as a defense attorney with Clark, Thomas & Winters and Brobeck Phleger & Harrison from 1996-2002; on behalf of plaintiffs with the firm of Mundy & Singley, LLP from 2002-2012; and as a sole practitioner with The Singley Law Firm, PLLC from 2012-2017. In 2017, I joined Edwards Law Group.
6. My legal practice consists primarily of personal injury and wrongful death cases, civil rights cases, and class action cases. I have represented plaintiffs in the asbestos litigation and other complex civil cases, including trials and all areas of pretrial work, involving complex expert work and legal issues.
7. Over the years in which I have been a plaintiff's lawyer, I have handled numerous complex cases, particularly in the area of asbestos cancer mass-tort litigation, including participation in the State of Texas multidistrict litigation for asbestos. In addition to trial and workup of all phases of asbestos cancer cases, Singley has argued and prevailed on many types of complex motion practice before the asbestos multidistrict court for all asbestos proceedings in Texas and has consistently achieved significant confidential results in asbestos cancer cases.
8. I have also regularly handled federal civil rights cases. In a highly complex civil rights police shooting case, I prevailed on a interlocutory appeal to the Fifth Circuit affirming the denial of a summary judgment based on official and qualified immunity invoked by the Officer Defendants, among other issues. *Meadours v. Ermel*, 483 F.3d 417 (5th Cir. 2007).
9. In a multi-defendant asbestos cancer case in Oklahoma, I prevailed on an interlocutory appeal to reverse the trial court's grant of summary judgement based on the statute of repose, involving a high degree of legal and factual complexity. *Olsen v. Oklahoma Gas & Elec. Co.*, 288 P.3d 940 (Okla. App. 2012).

10. I also argued an appeal of a wrongful death case with significantly complex legal issues to the Waco Court of Appeals and the Texas Supreme Court. See *Kirwan v. City of Waco*, 249 S.W.3d 544 (Tex. App.—Waco 2008), reversed by *City of Waco v. Kirwan*, 298 S.W.3d 618 (Tex. 2009). I have been lead counsel in numerous wrongful death and other complex cases, most of which were multi-party, multi-defendant cases, and has achieved significant results in the vast majority. I have successfully prosecuted complex claims and achieved significant confidential results against major national law firms and Fortune 500 companies, particularly in the asbestos cancer mass tort cases.
11. As a partner at Edwards Law Group, I have devoted significant time to work on class action cases. This includes work in all phases of three significant class actions against agencies of the State of Texas in which our firm served as lead counsel or co-lead counsel, and in which I was appointed as class counsel after the cases resolved with settlements approved by courts in the Southern and Western District of Texas: *Cole v. Collier*, No. 4:14-cv-1698 (S.D. Tex. 2018); *Roppolo v. Linthicum*, No. 2:19-CV-262 (S.D. Tex. 2021); *Coleman v. Young*, No. 1:20-CV-00847-RP (W.D. Tex. 2021).