

IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT
WILLIAMSON COUNTY, ILLINOIS

SUZANNE RESTIVO-CONLEY, individually)
and on behalf of all others similarly situated,)
)
Plaintiff,)
vs.)

Case No.: 2022LA77

SOUTHERN ORTHOPEDIC ASSOCIATES,)
S.C. D/B/A ORTHOPAEDIC INSTITUTE OF)
WESTERN KENTUCKY AND SOUTHERN)
ORTHOPEDIC ASSOCIATES, L.L.C. D/B/A)
ORTHOPAEDIC INSTITUTE OF WESTERN)
KENTUCKY,)
)
Defendant.)

**JOINT DECLARATION OF CLASS COUNSEL IN SUPPORT OF MOTION FOR
APPROVAL OF ATTORNEYS' FEES, EXPENSES, AND SERVICE AWARD FROM
SETTLEMENT FUND**

Class Counsel, Lynn A. Toops, William B. Federman, and Lori Feldman, declare as follows:

1. Lynn A. Toops is over 21 years of age, otherwise competent to testify, has personal knowledge of the matters contained in this declaration, and, if called as a witness, could and would testify competently to them. Ms. Toops is an attorney in good standing, duly licensed and admitted to the state bar of Indiana. She is admitted to practice law in this Court pro hac vice. She is currently a partner in the law firm of Cohen & Malad, LLP (“C&M”), which has offices in Indianapolis, IN. Ms. Toops has been appointed Class Counsel in dozens of class action cases in courts across the country, including complex data breach class actions.

2. Federman & Sherwood is one of the leading boutique AV plaintiff complex litigation law firms in the country. With offices in Oklahoma City and Dallas the firm litigates data breach, securities, shareholder derivative, and consumer class action lawsuits throughout the country. Mr. Federman’s AV Martindale-Hubble rating and participation in forums as a keynote

speaker sponsored by various organizations including the American Bar Association, the Securities Industry Association, the Oklahoma, Oklahoma County and Houston Bar Associations demonstrate his and his law firm's commitment to legal ethics and support of the legal profession.

3. Lori G. Feldman is over 21 years of age, otherwise competent to testify, has personal knowledge of the matters contained in this declaration, and, if called as a witness, could and would testify competently to them. Ms. Feldman is an attorney in good standing, duly licensed and admitted to the state bar of New York. She is filing to be admitted to practice law in this Court pro hac vice. She is currently a named partner in the law firm of George Feldman McDonald, PLLC, which has offices in New York, Florida, and Virginia. Collectively, Class Counsel represent Plaintiffs in this lawsuit.

4. Our firms have extensive experience in class action and complex litigation in courts across the country, with particular experience serving as counsel in data breach class actions.

5. Class Counsel are requesting a fee award in the amount of \$220,000 in this case, which represents one-third of the \$660,000 non-reversionary Settlement Fund that Class Counsel negotiated on behalf of the Class.

6. A one-third fee in a common fund case is the standard rate of payment in class action litigation and is the percentage routinely awarded to Class Counsel.

7. The relevant factors all support the one-third fee requested by Class Counsel: (1) the actual fee agreements between the Class Representatives and Class Counsel called for attorneys' fees of up to one-third for recoveries before trial; (2) the risk of non-payment at the outset of the case was substantial as the matter was entirely contingent-fee based and there were

significant risks and uncertainties of prevailing on the claims to achieve a recovery; (3) Class Counsel performed in a diligent and efficient manner to achieve a settlement that provides for an excellent result for the Class—a non-reversionary guaranteed payment of \$660,000; and (4) one-third of the settlement is the amount of fees that have been awarded in comparable cases.

8. In addition to their time, Class Counsel have advanced no less than \$13,022.69 in expenses, categorized as follows:

Expense	Amount
Mediation	\$ 9,258.89
Westlaw	\$ 2,257.70
Filing/PHV Fees	\$ 1,214.50
Copies/Postage	\$ 202.97
Meals	\$ 74.24
Conference Call	\$ 7.45
Pacer	\$ 6.94
Grand Total	\$ 13,022.69

Of this amount:

- a. Ms. Feldman’s firm has expenses of \$2,063.58;
- b. Mr. Federman’s firm has expenses of \$8,171.85; and
- c. Ms. Toops’s firm has expenses of \$2,787.26.

9. In addition to Class Counsel, the Class Representatives were critical to obtaining the settlement in this case. Without them there would be no recovery at all. Before and during the litigation and settlement, the Class Representatives regularly consulted with Class Counsel in prosecuting the lawsuits, and participated in the decision to accept the proposed Settlement, overall taking their own valuable time to represent the interests of the Class, which ultimately resulted in the Settlement that will benefit all Class Members.

VERIFICATIONS

I affirm, under the penalties for perjury that the foregoing representations in paragraphs 3, 4–7, 8.a, and 9 are true.

Dated: January 12, 2024 /s/Lori Feldman

I affirm, under the penalties for perjury that the foregoing representations in paragraphs 2, 4–7, 8.b, and 9 are true.

Dated: January 12, 2024 /s/William B. Federman

I affirm, under the penalties for perjury that the foregoing representations in paragraphs 1, 4–7, 8.c, and 9 are true.

Dated: January 12, 2024 /s/Lynn A. Toops