

IN THE CIRCUIT COURT FOR DAVIDSON COUNTY,
STATE OF TENNESSEE, TWENTIETH JUDICIAL DISTRICT

KAREN LYTLE, on behalf of herself)	
and all others similarly situated,)	
)	
Plaintiff,)	
)	
v.)	
)	Case No. 23C1897
REVANCE THERAPEUTICS, INC.,)	
)	
Defendant.)	
)	
)	

**[PROPOSED] ORDER GRANTING PLAINTIFF’S
MOTION FOR ATTORNEYS’ FEES AND EXPENSES**

This matter came before the Court on Plaintiff’s Karen Lytle’s motion for attorneys’ fees and expenses and Class Representatives’ Service Awards. Plaintiffs request \$145,000 in attorneys’ fees and expenses and Service Awards of \$2,000 for each of the two Class Representatives. Because Plaintiff’s requested attorneys’ fees and expenses and Service Awards are reasonable, the Court grants Plaintiff’s motion.

I. The Settlement

Between March 15 and April 10, 2023, an unauthorized cybercriminal allegedly gained access to Defendant Revance Therapeutics’ information systems and allegedly stole the personally identifiable information (“PII”) and protected health information (“PHI”)¹ of Plaintiff and Class Members’, who are Defendant’s current and former employees. Notwithstanding that the attack began at least by March 15, 2023, Plaintiff Karen Lytle received a data breach notification letter

¹ The categories of data allegedly affected include Class Members’ social security number, health insurance information, and payment card information, security codes, and expiration dates. Settlement Agreement, § I; Compl. ¶ 2.

on July 10, 2023. Settlement Agreement, § I.² Soon thereafter, on August 15, 2023, Plaintiff Karen Lytle filed the present suit. On August 24, 2023, Plaintiff Cameron Crisler filed a related suit in Davidson County Chancery Court. *Crisler v. Revance Therapeutics, Inc.*, No. 23-1146-II (Davidson Cty. Tenn. Cir. Ct.). On May 6, 2024, the *Crisler* case was stayed pending the Court's settlement approval process here. The crux of Plaintiffs' claims is that Defendant failed to uphold its duty under the law to implement reasonable, industry standard cybersecurity safeguards.³ *E.g.*, Compl. ¶ 1, 5. Plaintiffs' claims include negligence, negligence per se, invasion of privacy—public disclosure of private facts, breach of implied contract, and unjust enrichment. Settlement Agreement, § I.

Though Defendant continues to deny wrongdoing, the Parties reached a Class Settlement on behalf of the 2,636 putative Class Members, which was signed on December 1, 2023. On April 15, 2024, this Court granted preliminary approval of the Class Settlement and ordered the Settlement Administrator to provide notice to Class Members. To date, no Class Members have objected and only one has requested exclusion.

II. Discussion

Tennessee Rule of Civil Procedure 23.05 requires that “a motion for fees must be filed and served on all parties and, for motions by class counsel, directed to class members in a reasonable manner.” Tenn. R. Civ. P. 23.05. The Court has discretion in awarding class counsel's requested fees. *Kline v. Eyrich*, 69 S.W.3d 197, 203 (Tenn. 2002).

² The Class Settlement Agreement was filed along with the motion for preliminary approval.

³ Though the Plaintiff in this case is Karen Lytle, the term Plaintiffs or Class Representatives is used to refer to both Karen Lytle and Cameron Crisler, the plaintiff in the Davidson County Chancery Court case, which was stayed in favor of this Settlement approval process. If the Settlement is granted final approval, Counsel has represented that they will voluntarily dismiss the Chancery Court case.

When awarding fees, Tennessee Supreme Court Rule 8 provides a list of potentially relevant factors to guide the Court's determination: (1) the time and labor required, the novelty and difficult of the litigation, and the skill required; (2) whether taking the case would reasonably appear to preclude other employment; (3) fees customarily charged in similar cases; (4) the amount involved and the results obtained; (5) any time limitations imposed by client or the circumstances; (6) the nature and length of the professional relationship; (7) the experience, reputation, and ability of counsel; (8) whether the fee is contingent or fixed; (9) prior advertisements, if any, by the counsel with respect to the fees the attorney charges; and (10) whether the fee agreement is in writing. *Smith v. All Nations Church of God*, No. W2019-02184-COA-R3-CV, 2020 WL 6940703, at *5 (Tenn. Ct. App. Nov. 25, 2020) (quoting Tenn. Sup. Ct. R. 8; Rules of Prof. Cond. 1.5(a)). Not all will be relevant in each case.

Here, the relevant factors weigh in favor of the reasonableness of Class Counsel's fee request. Given the class size of 2,636, the Court finds that the value made available to the class is not less than \$3,114,243.40, which does not include the value of the increased cybersecurity that Defendant has or is implementing. The total value is based on the minimum cost of credit monitoring services for one years, the value made available in lost time and out-of-pocket expenses, the cost of settlement administration, the cost of Class Counsel's unreimbursed litigation expenses, and the requested attorneys' fees and Class Representatives' service awards. Given this, Class Counsel's fee of request of \$145,000 is 4.66% of the value created by the Settlement for the Class. *Robles v. Comtrak Logistics, Inc.*, 2022 WL 17672639, at *10 (W.D. Tenn. Dec. 14, 2022) (holding that a one-third fee is within the range of reasonableness nationwide).

Other than the low percentage, Class Counsel's fee request is furthermore reasonable given Class Counsel's experience in consumer class action litigation, including many recent data breach

settlements. Decl. of J. Gerard Stranch, IV, ¶ 4. Moreover, Counsel accepted this work on a contingency basis, so Counsel risked being paid nothing if the case was not successful. *Id.* ¶ 2. Additionally, no party has presented any evidence of collusion. Indeed, Counsel has presented that negotiations were hard fought and at arms'-length. *Id.* ¶ 15. *Seen v. Kansas City Royals Baseball Corp.*, No. 14-cv-00608, 2023 WL 2699972, at *7 (N.D. Cal. Mar. 29, 2023) (“Class Settlements are presumed fair when they are reached following sufficient discovery and genuine arms-length negotiation.”) (quoting *Foster v. Adams & Assocs., Inc.*, No 18-cv-02723, 2022 WL 425559, at *6 (N.D. Cal. Feb. 11, 2022)). The remaining factors do not appear relevant. Thus, because all relevant factors support the motion, the Court finds that Class Counsel’s request for fees and expenses totaling \$145,000 is reasonable.

The Court furthermore finds that Class Representatives’ Service Award of \$2,000 each is reasonable. The request is lower than many such Service Awards. William B. Rubenstein, *Newberg on Class Action*, § 17.1 (6th ed.); *see also In re Family Dollar Stores, Inc. Pest Infestation Litig.*, 2024 WL 2000059, at *6 (W.D. Tenn. May 6, 2024) (awarding \$5,000 for each class representative); *Fusion Elite All Stars v. Varsity Brands, LLC*, No. 2:20-cv-02600, 2023 WL 6466398, at *8 (W.D. Tenn. Oct. 4, 2023) (awarding between \$5,000 and \$20,000 in Service Awards); *O’Bryant v. ABC Phones of North Carolina, Inc.*, No. 19-cv-02378, 2021 WL 5016872, at *7 (W.D. Tenn. Oct. 28, 2021). Moreover, Class Counsel represents that Class Representatives have sufficiently participated in this action and have vigorously prosecuted it on behalf of the Class. Decl. of J. Gerard Stranch, IV, ¶ 9. Furthermore, the award is reasonable in light of the publicity that class plaintiffs accept in being named in the lawsuit. The award is justified, the Court holds that it is reasonable.

III. Conclusion

For the foregoing reasons, the Court finds that Class Counsel's request for \$145,000 in fees and expenses is reasonable, as is Class Representatives' Service Awards of \$2,000 each for a total of \$4,000. Thus, the Court grants the motion.

IT IS SO ORDERED this ____ day of _____, 2024.

Hon. Thomas Brothers, Circuit Court Judge

Respectfully submitted for entry by:

/s/ Grayson Wells

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J. Gerard Stranch, IV (BPR 23045)

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CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of July 2024, a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system and/or U.S. Mail to:

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Case Title: LYTLE V REVANCE THERAPEUTICS INC

Case Number: 23C1897

Type: ORDER- GENERAL

The foregoing is hereby ORDERED, ADJUDGED
AND DECREED:

Judge Thomas Brothers, Sixth Circuit