No. 24-304

IN THE

Supreme Court of the United States

LABORATORY CORPORATION OF AMERICA HOLDINGS, D/B/A LABCORP,

Petitioner,

v.

LUKE DAVIS, JULIAN VARGAS, AND AMERICAN COUNCIL OF THE BLIND, Individually and on Behalf of All Others Similarly Situated,

Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

BRIEF OF *AMICI CURIAE* CLAIMS ADMINISTRATORS IN SUPPORT OF NEITHER PARTY

TILLMAN J. BRECKENRIDGE
STRIS & MAHER LLP
1717 K Street NW
Suite 900
Washington, DC 20006
(202) 800-6030

PETER K. STRIS
Counsel of Record
JOHN STOKES
STRIS & MAHER LLP
17785 Center Court Dr. North
Suite 600
Cerritos, CA 90703
(213) 995-6800
pstris@stris.com

Counsel for Amici Curiae

March 12, 2025

TABLE OF CONTENTS

TABLE OF AUTHORITIES

TABLE OF AUTHORITIES—Continued

TABLE OF AUTHORITIES—Continued

TABLE OF AUTHORITIES—Continued

TABLE OF AUTHORITIES—Continued

INTEREST OF AMICI CURIAE

Amici, listed in the Appendix to this brief, are some of the largest and most sophisticated class action claims administrators in the country.[1] Claims administrators are neutral, court-appointed entities that play key functions in federal class action lawsuits, including notifying potential class members of ongoing litigation or proposed settlements, verifying that people who claim to be class members are, in fact, class members, and distributing settlement or post-judgment funds to class members who are entitled to damages.

While Amici have not been retained by any party in this lawsuit—and take no position on whether class certification was appropriate here—they wish to explain their role in administering class action litigation, which bears on the question presented.

SUMMARY OF ARGUMENT

Petitioners assert that "[u]ninjured class members cannot prevail on the merits, so their claims must be winnowed away at some point." Pet. Br. 39 (cleaned up).[2] Thus, they say a district court overseeing a class action must identify "common evidence establishing that all class members have standing," *or* "find some way to segregate the uninjured from the truly injured." *Id.* (cleaned up). According to Petitioners, "[n]o viable tool exists for that job." *Id.* at 40. In Amici's experience, that is not true. District courts do this all the time, and so do claims administrators.

---

[1] No counsel for either party authored this brief in whole or in part, nor did any party or other person or entity other than *Amici curiae* or their counsel make a monetary contribution to the brief's preparation or submission.

[2] Amici take no position on whether this premise is correct.

Claims administrators have an arsenal of sophisticated tools to distinguish uninjured from "truly injured" individuals, and they use these tools every day, across a variety of cases. This isn't "magic[]." Pet. Br. 39-40 (cleaned up). It is meticulous, data-driven work informed by decades of experience and tailored to the needs of each case.

Claims administrators perform three essential functions to identify injured class members and allocate damages among them: (1) notifying class members of a class certification decision, proposed settlement, or class judgment and giving them an opportunity to opt out or object; (2) working under a court-approved plan to evaluate the claims of individuals who say they are class members; and (3) distributing damages to class members with adequate proof of their injuries. Claims administrators have developed sophisticated and customizable processes for each of these functions.

In Amici's experience, these processes are very effective, allowing claims administrators to identify individuals who have the type of injury—and the proof of injury—that courts deem necessary to recover damages. They are also essential labor-saving devices for courts, who, in the absence of these processes, could be forced to sift through databases, receipts, and business records to identify class members and calculate their damages.

When analyzing predominance and superiority under Federal Rule of Civil Procedure 23(b)(3), district courts often consider the functions they can effectively delegate to claims administrators, given the facts and circumstances of each case. To aid the district court with this evaluation, claims administrators may submit declarations describing the case-specific tools

they could use to identify class members with the relevant type of injury.

Claims administrators may also help parties make informed decisions about settlements. Amici urge the Court not to adopt a bright-line rule requiring litigants to identify *every* injured individual class member prematurely and to recognize that claims administrators can (and do) prevent uninjured people from recovering class funds or affecting class settlements.

ARGUMENT

I. Claims Administrators Provide Essential, Case-Specific Tools for Identifying Injured Class Members.

Working under court-approved plans, claims administrators routinely identify class members and verify their entitlement to damages, without burdening the courts with full-blown damages trials for each class member. They do this by: (1) notifying potential class members of class litigation, class judgments, and proposed class settlements; and (2) collecting the requisite evidence (under a court-approved plan) that class members have compensable injuries.

A. Claims Administrators Design Case-Specific Notice Processes.

Claims administrators provide notice to potential class members after a district court certifies a class for litigation purposes or preliminarily approves a settlement between a defendant and a proposed settlement class.[3] The notice informs absent class members of their rights—including their right to opt out of the

[3] Class notice is also provided before claims administrators distribute post-judgment funds to class members.

class and pursue their claims on an individual basis and their right to object to the terms of a proposed settlement.[4]

Rule 23 allows for a flexible, case-specific approach to notice, instructing district courts to identify "the best notice that is *practicable under the circumstances*[.]" Fed. R. Civ. P. 23(c)(2)(B) (emphasis added). To assist courts in making this determination, the parties—with input and guidance from claims administrators—propose the form and content of class notice. District courts then evaluate proposed notice plans and ensure that such plans meet the requirements of Rule 23 and due process.

The specific notice employed for a given case—and, importantly, the universe of individuals contacted—will vary according to the nature of the class. For certain cases, it is easy for claims administrators to identify members of a proposed class. In many employment cases, for example, defendants will have records of their employees' work history and pay rates, and claims administrators may be able to rely on these records to identify and contact potential class members.[5]

---

[4] *See* 3 Newberg and Rubenstein on Class Actions § 8:1 (6th ed. 2024) ("As a class action necessarily implicates the rights of parties not present at the court proceedings themselves, the court needs to keep those absent parties—whose rights will be extinguished through the litigation—apprised of the case's progress."); *id.* ("[C]lass members must be given notice that a class has been certified (*i.e.*, that their rights are being adjudicated), and they invariably must be given notice that their claims have been settled and their counsel are seeking compensation for their work.").

[5] *See, e.g.*, *Scott v. Family Dollar Stores, Inc.*, No. 3:08-cv-00540, 2018 WL 1321048, at *2 (W.D.N.C. Mar. 14, 2018) ("The class list of Notice recipients was determined using employment data provided by Family Dollar and data gathered by Class Counsel during the course of litigation.").

Similarly, in certain data breach cases, defendants' records include the contact information for the individuals whose data was implicated by the breach.

In other cases, however, a wider net may be cast to ensure that the class receives adequate notice. These cases may include circumstances where the parties do not possess records with contact information for individuals affected by the challenged conduct.[6] Under those circumstances, claims administrators may rely on targeted advertising (e.g., through newspapers, websites, and/or social media platforms) to identify individuals who may have been injured by defendants' conduct. Notice in such a case may reach individuals who may not ultimately be eligible for recovery. But even in the (uncommon) scenario where such individuals attempt to make a claim against a class-wide fund, the claims administrator—in most situations the same entity overseeing class notice—can design the claims review process to weed them out.

B. In Almost All Cases, Claims Administrators Have Efficient Tools to Verify Class Members' Injuries.

In addition to their expertise with class notice, claims administrators have a well-established roster of techniques to prevent individuals from recovering class funds if they lack compensable injuries (*i.e.*, if they lack the type of injury—or the proof of injury—that the district court requires). These techniques

---

[6] *See, e.g.*, Mem. and Order at 1, *In re EpiPen (Epinephrine Injection, USP) Marketing, Sales Pracs. and Antitrust Litig.*, No. 2:17-md-02785 (D. Kan. June 1, 2020) (ECF No. 2074) (authorizing class counsel to issue subpoenas *duces tecum* to third-parties seeking contact information and purchase data for class members for notice administration).

include analyzing defendants' data and third-party data and reviewing documents or other proof submitted by class members. Claims administrators choose and tailor these procedures for each case, and often incorporate several in tandem.

Generally, class notice directs people or entities who believe they are entitled to recover damages (from a settlement or a post-judgment fund) to submit a claim form with information concerning their eligibility to receive a payout. Then, claims administrators use evidence to verify the information provided in the form. In many cases, claims administrators electronically code claim forms in a way that facilitates eligibility determinations. Administrators' trained professional staff may also perform manual review of claim form responses and supporting documents to ensure claimants satisfy the court-ordered criteria for recovering damages. A key component of the process is a quality assurance review, which includes a series of database-driven, algorithmic, and/or manual audits to ensure that claim forms have been properly processed and evaluated pursuant to the requirements of a court-approved plan.

The claims review process thus allows administrators to identify and sort: (1) claimants who have presented sufficient evidence that they have compensable injuries; (2) claimants who have provided insufficient information or documentation, such that follow-up is required; and (3) claimants who are ineligible to receive class funds because they do not meet the class definition or cannot provide the proof of injury the court has required. For claimants who have provided insufficient information, the claims administrator follows a remedial process agreed upon by the parties. Typically, this involves notifying claimants of any

problems and affording them an opportunity to provide additional information or supporting documentation. Throughout the process, claims administrators ensure compliance with the terms of the settlement or judgment, which is designed to winnow uninjured individuals out of the pool of people who can recover from a settlement or post-judgment fund.

A few examples illustrate the rigorous procedures claims administrators may employ to ensure that individuals recovering class funds have demonstrated their entitlement to relief through a court-approved process.

1. Use of Defendants' Records.

One of the primary methods claims administrators use to prevent uninjured people from collecting class funds is to check information provided in claim forms against defendants' data. Although the precise way claims administrators might use defendants' data varies case-by-case, some examples show the broad array of options available.

Consumer Cases. Defendants' data often is used to confirm claimants' entitlement to damages in consumer class actions. In Telephone Consumer Protection Act cases, for example, claims administrators use defendants' records to verify that only class members who received unsolicited phone calls, texts, and faxes recover from the class fund. Claims administrators can use defendants' own list of targeted phone numbers that were sent unsolicited communications to cross-check sworn affidavits from class members attesting to their name, contact information (telephone number and address), their receipt of a communication from the defendants,

and that they did not invite the communication.[7] A similar approach can be used in data breach cases where defendants' databases often contain the names and contact information for class members whose information was compromised. Claims administrators can cross-check any affidavits from claimants against defendants' databases to verify class members were affected by the conduct at issue.[8]

Employment Cases. Defendants' data is also commonly used in cases in which employees allege their employers have underpaid them (most commonly under various employment and antitrust laws). In such cases, defendants' data may indicate whether and to what extent claimants are eligible to receive back

---

[7] *See, e.g.*, *Lyngaas v. Curaden AG*, 992 F.3d 412, 432 (6th Cir. 2021) (affirming the district court's order, following a bench trial, establishing a claims administration process for class members to verify their receipt of defendant's unsolicited fax advertisements and determining that "the claims-administration process [was] designed by the district court to weed out those who do not fit within the class definition").

[8] *See, e.g.*, Email Notice at 49, *In re MGM Int'l Resorts Data Breach Litig.*, No. 2:20-cv-00376 (D. Nev. Jan. 17, 2025) (ECF No. 243-1) ("You are receiving this Email Notice because data provided by MGM indicates your information was included in one of the Data Incidents and you are a Settlement Class member."); Order, *In re MGM Int'l Resorts Data Breach Litig.*, No. 2:20-cv-00376 (D. Nev. Jan. 22, 2025) (ECF No. 244) (approving notice program); *In re Marriott Int'l, Inc., Customer Data Sec. Breach Litig.*, 341 F.R.D. 128, 144-45 (D. Md. 2022), *vacated on other grounds and remanded sub nom. In re Marriott Int'l, Inc.*, 78 F.4th 677 (4th Cir. 2023), *reinstated by In re Marriott Int'l Customer Data Sec. Breach Litig.*, 345 F.R.D. 137 (D. Md. 2023) (determining that defendants' database could be used to identify class members, where defendants used the database to notify class members of the data breach, in conjunction with other methods to verify proof of injury).

pay.[9] Defendants' own payroll data can be used to confirm claimants' dates of employment and their pay rates, for example, which claims administrators could then use to determine the amount (if any) of back pay owed. Alternatively, an expert could make those determinations and share them with the claims administrator.

Using this data enables the claims administrator (or relevant expert) to identify and weed out claimants who have not met the court-approved criteria for recovering damages. If a claimant did not work for the defendant during the relevant time period, for example, the administrator can identify that issue—and weed out that claimant—by checking the claimant's form against defendants' data. The same is true for claimants who, for whatever reason, were not underpaid.

Antitrust Cases. Antitrust cases also frequently rely on defendants' data to evaluate claims made against a class-wide fund. This is especially true in price-fixing cases where class members have purchased the product at issue directly from a defendant. In these cases, district courts generally review expert analyses and make determinations about antitrust impact. Claims administrators then use a court-approved process to confirm that class members are entitled to damages. Claims administrators often use defendants' sales records (among other tools) to confirm that any party making a claim has, in fact, made a qualifying purchase.[10]

---

[9] *See, e.g.*, *Hargrove v. Sleepy's LLC*, 974 F.3d 467, 479-481 (3d Cir. 2020) (discussing the use of payroll data to identify class members).

[10] *See, e.g.*, *In re Ethylene Propylene Diene Monomer (EPDM) Antitrust Litig.*, 256 F.R.D. 82, 85 (D. Conn. 2009) (granting class certification where defendants' sales and invoice records could be used to identify class members); Long Form Notice at 5, *In re Urethane Antitrust Litig.*, No. 2:04-md-01616 (D. Kan. Mar. 24, 2016) (ECF No. 3238-4) (using defendants' sales data as a

Of course, defendants' records are not always perfect, and claims processes usually allow claimants to contest or supplement claim determinations (or their amounts) based on defendants' records with evidence of their own. Any supplemental proof submitted by claimants is examined and verified. While the district court retains jurisdiction to supervise the claims process and resolve disputed claims, judicial intervention is rarely needed. Thus, where available, defendants' records may be used to resolve hundreds, thousands, or millions of individual injury issues efficiently and narrow disputes to a manageable handful at most.

2. Use of Third-Party Data.

Claims administrators also can use third-party data to confirm (to a standard approved by the court) that claimants are entitled to damages. This method of claims verification is particularly prevalent in cases involving transactions where intermediaries sit between claimants and the defendant(s). Because of the lack of a direct relationship between the claimant and the defendant, the defendant's data may not be as useful in evaluating the claims of putative class members. One or more intermediaries often can fill this gap by providing documentation and data to evaluate claimants' assertions of injury.

Pharmaceutical Cases. Third-party data often is used in cases involving pharmaceutical transactions, reflecting the myriad intermediaries—including wholesalers and pharmacy benefit managers ("PBMs")—that may separate the ultimate purchaser from the pharmaceutical company that manufactures the drug

---

mechanism to identify and verify class members); Order Authorizing Dissemination of Notice to the Class, *In re Urethane Antitrust Litig.*, No. 2:04-md-01616 (D. Kan. Apr. 27, 2016) (ECF No. 3243).

at issue.[11] Certain entities, however, play a dual role, acting as an intermediary for some transactions, while acting as the ultimate purchaser in other transactions—an important distinction in cases where the class is limited to indirect purchasers. To distinguish between these two kinds of situations (and to determine the entity that ultimately suffered injury), claims administrators can use third-party data—such as PBM data. Where that data demonstrates that a claimant either did not purchase the pharmaceutical in question or was not the ultimate purchaser, the claims administrator may use the third-party data to weed out those entities or individuals.[12]

ERISA Cases. Third-party data is also often examined in Employee Retirement Income Security Act ("ERISA") cases, where there are strict recordkeeping requirements for data and information concerning the vested retirement benefits and savings of all current and former employees. Recordkeepers are often third-parties hired by companies to maintain their 401(k) plan data. These records, which all ERISA governed

---

[11] *See, e.g.*, *In re Ranbaxy Generic Drug Application Antitrust Litig.*, 338 F.R.D. 294, 308 (D. Mass. 2021) ("[T]he Court is satisfied that the use of retail prescription transactions information from (at least) the seven largest PBMs is an administratively feasible process by which virtually all eligible class members can be identified."); *In re Namenda Indirect Purchaser Antitrust Litig.*, 338 F.R.D. 527, 549-550 (S.D.N.Y. 2021) (discussing the use of data from PBMs to identify class members).

[12] *See, e.g.*, Long Form Notice at 4-5, *Mahoney v. Endo Health Solutions, Inc.*, No. 1:15-cv-09841 (S.D.N.Y. Nov. 29, 2016) (ECF No. 99-1) ("Class counsel intends to follow the following distribution plan set forth herein. First, the Claims Administrator will utilize the data obtained from pharmacy chains, third party payors and pharmacy benefits administrators to, where possible, identify individual consumer Class members[.]").

plans must maintain, are routinely used by claims administrators to determine which class members incurred the type of injury a court has deemed compensable. For example, in cases challenging the prudence of a subset of investments offered on a 401(k) plan menu, the recordkeeper maintains detailed records of which 401(k) participants invested in the challenged funds and the amount invested therein. Using this information, claims administrators can identify the amount of money each 401(k) participant invested in imprudently selected products and quantify their losses.[13]

Securities Cases. Third-party data is routinely used in securities litigation, and in all Section 10(b) and Section 11 cases involving allegations of a material misrepresentation affecting a public company's stock price. In those cases, an economic expert conducts an economic model called a "plan of allocation," that, among other things, calculates the amount of artificial inflation in a company's stock price throughout the class period. Once the plan of allocation has been approved, the claims administrator obtains trading data from each claimant demonstrating how many shares the claimant held prior to the class period, and how many shares and at what price the claimant

---

[13] *See, e.g.*, *In re Mutual Funds Inv. Litig.*, MDL No. 1586, 2010 WL 2342459, at *11 (D. Md. May 19, 2010) (discussing the claims administrators use of data provided by the defendant, and often managed by a third-party recordkeeper, to "administer the process of receiving, reviewing, and approving or denying Proofs of Claim"); *cf. Waldner v. Natixis Inv. Managers, L.P.*, No. 21-cv-10273, 2023 WL 3466272, at *10 (D. Mass. Mar. 24, 2023), *report and recommendation adopted*, No. 21-cv-10273, 2023 WL 3467112 (D. Mass. May 15, 2023) (discussing the use of data obtained from a third-party recordkeeper tracking investment selections in ERISA plans to "cull uninjured class members").

purchased and sold shares during the class period and in the 90 days following the end of the class period. The administrator applies that information to the plan of allocation to determine the claimant's loss amount (in other words, the size—and existence—of the claimant's injury). Where that process generates a zero or negative number, the claimant is ineligible to recover.[14]

3. Class Member Proof.

In addition to the methods described above, claims administrators often examine documentation submitted by class members to evaluate whether they can provide the requisite proof of a compensable injury to recover from a class fund. This documentation can include receipts for proof of purchase, records of financial transactions, sworn affidavits, and other forms of corroboration (such as photographic evidence). Typically, processes that depend on class member proof are supplemented with audit practices that flag suspicious claims for further inquiry and random audits to ensure the validity of the method used.[15]

---

[14] *See, e.g.*, *McDermid v. Inovio Pharms., Inc.*, No. 2:20-cv-01402, 2023 WL 227355, at *6 (E.D. Pa. Jan. 18, 2023) (discussing how the plan of allocation "calculates a 'Recognized Loss Amount' for purchases of Inovio stock during the Class Period depending on when the stock was purchased and sold" for each class member to determine the amount and existence of an injury); *Howard v. Liquidity Servs. Inc.*, No. 1:14-cv-01183, 2018 WL 4853898, at *2 (D.D.C. Oct. 5, 2018); *see also In re Gilat Satellite Networks, Ltd.*, No. 1:02-cv-01510, 2009 WL 803382, at *4 (E.D.N.Y. Mar. 25, 2009) (noting that, using this process, "[a] total of 3,257 claims were rejected by the Claims Administrator in whole or in part for one or more of the following reasons," including that "the claim did not result in a Recognized Loss").

[15] Courts have recognized the critical role that claims administrators play in implementing procedures to avoid fraudulent claims.

Claims administrators often examine documentation submitted by potential class members to evaluate their claims of injury. In some consumer cases, for example, claimants must submit an affidavit attesting under penalty of perjury to the purchase of the product in question, or must provide a receipt or other documentation of that purchase.[16] In financial-industry antitrust cases, class members often submit their own transaction records in an electronic form that enables administrators to review and verify injury and calculate awards; these records are also supported by affidavit and subject to audit.[17]

A similar process takes place in pharmaceutical cases, in which claimants often must attest to their purchase of the pharmaceutical in question subject to criminal penalties and then may be required to submit supporting documentation to confirm they meet the

---

See Mullins v. Direct Dig., LLC, 795 F.3d 654, 667 (7th Cir. 2015) ("[Courts] can rely, as they have for decades, on claims administrators, various auditing processes, sampling for fraud detection, follow-up notices to explain the claims process, and other techniques tailored by the parties and the court[.]"). Nonetheless, there is no evidence that fraudulent claims are widespread. *See id.* ("We are aware of no empirical evidence that the risk of dilution caused by inaccurate of fraudulent claims in the typical low-value consumer class action is significant.").

[16] *See, e.g.*, *Rikos v. Procter & Gamble Co.*, 799 F.3d 497, 526-527 (6th Cir. 2015) (discussing the use of store receipts and affidavits to verify purchase, in addition to reviewing sales records).

[17] *See, e.g.*, Claim Form at 2-3, *Iowa Pub. Employees' Ret. Sys. v. Bank of Am. Corp.*, No. 1:17-cv-06221 (S.D.N.Y. Feb. 28, 2024) (ECF No. 662-2) (requiring claimants to provide documentation of financial transactions in order for claims administrator to verify injury); Order, *Iowa Pub. Employees' Ret. Sys. v. Bank of Am., Corp.*, No. 1:17-cv-06221 (S.D.N.Y. Mar. 8, 2024) (ECF No. 664) (approving claim form).

other court-approved criteria to show injury.[18] To further verify injury, claims administrators can and do use data from defendants or third parties as a cross-check against the proof of purchase submitted by the claimant.

In sum, claims administrators have developed increasingly sophisticated processes for evaluating claims accurately and efficiently. These processes work well even in cases with unusually detailed or varied claim submissions. Robust claims verification processes, conducted according to plans approved by district courts, can be an efficient means for identifying individuals with the proof of injury courts deem necessary to recover damages.

II. Under Rule 23(b)(3), Courts Consider the Efficacy of the Services Provided by Claims Administrators.

To determine whether a class satisfies the requirements of Rule 23, courts often consider the tools claims administrators have at their disposal. Rule 23(b)(3) permits courts to certify a class only if "questions of

---

[18] *See, e.g.*, Claim Form at 2, *In re Seroquel XR (Extended Release Quetiapine Fumarate) Antitrust Litig.*, No. 1:20-cv-01076 (D. Del. Sept. 30, 2024) (ECF No. 768-6) (requiring claimants to produce transaction data to verify proof of purchase); Order, *In re Seroquel XR (Extended Release Quetiapine Fumarate) Antitrust Litig.*, No. 1:20-cv-01076 (D. Del. Dec. 9, 2024) (ECF No. 817) (approving claim form); Consumer Claim Form at 3-5, *In re Restasis (Cyclosporine Ophthalmic Emulsion) Antitrust Litig.*, No. 1:18-md-02819 (E.D.N.Y. Dec. 22, 2021) (ECF No. 715-4) (class members attested to purchase information and were encouraged to also submit pharmacy records or documentation from a medical provider confirming purchase and the amount of the medication prescribed); Order, *In re Restasis (Cyclosporine Ophthalmic Emulsion) Antitrust Litig*., No. 1:18-md-02819 (E.D.N.Y. Jan. 18, 2022) (ECF No. 716) (approving notice and claims plan).

law or fact common to class members predominate over any questions affecting only individual members, and . . . a class action is superior to other available methods for fairly and efficiently adjudicating the controversy." Fed. R. Civ. P. 23(b)(3). Though the two prongs are closely related, the predominance inquiry asks "whether proposed classes are sufficiently cohesive to warrant adjudication by representation," *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 623 (1997), weighing the relative import of common vs. individual issues, while the superiority requirement compares class litigation to other available forms of adjudication, particularly from a judicial management perspective, *see* 7AA Charles Allen Wright & Arthur R. Miller, Fed. Prac. & Proc. Civ. § 1779 (3d ed. 2024).

Both analyses are *contextual* and *comparative*; the outcome depends on not only the individual issues presented, but also the common ones; and not only on the manageability challenges of resolving individual issues, but also their solutions, and the broader efficiencies of class litigation.[19] *See* 2 Newberg and Rubenstein on Class Actions § 4:51 (6th ed. 2024) ("The predominance analysis is a pragmatic one . . . [a] single common issue may be the overriding one in the litigation, despite the fact that the suit also entails numerous remaining individual questions.").

When the question "who is injured" raises *some* number of individualized inquiries, the predominance

---

[19] *See Cherry v. Dometic Corp.*, 986 F.3d 1296, 1304-1305 (11th Cir. 2021) ("[B]ecause the superiority requirement of Rule 23(b)(3) turns on whether a class action is better than other available methods of adjudication," courts must determine how "manageability concerns compare with the other advantages or disadvantages of a class action"—questions that necessarily "will depend on the facts of each case.").

and superiority analyses may depend—at least in part—on whether (or how many of) those inquiries can be resolved by claims administrators. For this reason, claims administrators routinely submit declarations in support of motions for class certification that explain how they can identify class members with the requisite proof of injury.[20] Whether those procedures are sufficient is a question committed to the sound discretion of the district court.[21]

III. Claims Administrators Can Work with Parties to Ensure that Settlements Are Based on Accurate Information.

Finally, Petitioners contend that, without their proposed bright-line rule, "a plaintiff can inflate the size of a class with *uninjured* persons," which would "drive up potential liability, and thus manufacture leverage to extort a settlement[.]" Pet. Br. 3 (emphasis added). This argument is inconsistent with Amici's experience in two respects.

First, in some cases, parties work with claims administrators *in advance of settlement* to estimate

---

[20] *See, e.g.*, Decl. of Eric Schachter in Support of Mot. for Class Certification, *In re Telexfree Securities Litig.*, No. 4:14-md-02566 (D. Mass. Dec. 16, 2024) (ECF No. 2157-27); Decl. of Eric Schachter in Support of Mot. for Class Certification, *Barrett v. Apple, Inc.*, No. 5:20-cv-04812 (N.D. Cal. June 15, 2023) (ECF No. 238-5); Decl. of Eric Schachter in Support of Consumer Indirect Purchaser Pls.' Mot. for Class Certification, *In re Pork Antitrust Litig.*, No. 0:18-cv-01776 (D. Minn. May 2, 2022) (ECF No. 1348); Decl. of Cameron R. Azari in Support of End-User Consumer Purchaser Pls.' Mot. for Class Certification, *In re Broiler Chicken Antitrust Litig.*, No. 1:16-cv-08637 (N.D. Ill. Oct. 30, 2020) (ECF No. 3972).

[21] *See Califano v. Yamasaki*, 442 U.S. 682, 703 (1979) (class certification decisions are reviewed for abuse of discretion).

the number of injured class members and design a process to identify those individuals. In such cases, settlements are insulated from unsubstantiated assertions about the number of people who were injured or fears that there is no way to separate injured from uninjured claimants.

Second, parties routinely settle *after* they have exchanged expert reports containing aggregate damages calculations. Though such calculations are not necessarily *required*, *see* 4 Newberg and Rubenstein on Class Actions § 12:2 (6th ed. 2024), in many cases they are offered in certification motions as a means of demonstrating the predominance of common issues. Thus, parties often negotiate settlements with full knowledge of their experts' calculations of defendants' total liability. In such cases, claims administrators may rely on the experts' work—or the data underlying the experts' work—to identify injured class members and allocate settlement funds among them.[22]

[22] Parties do sometimes settle *before class certification* without the benefit of aggregate damages calculations, but the concern Petitioner identifies presumes that it is *the inclusion of uninjured class members in a certified class* that inflates perceived damages. If this argument is *ever* really an issue, it is an issue *only* in the rare case where plaintiffs have made no effort to estimate aggregate damages. And, as noted above, in those rare cases, the parties may call on claims administrators or experts to estimate defendants' exposure.

CONCLUSION

For the foregoing reasons, Amici urge the Court to recognize that, across many kinds of cases, claims administrators use a diverse array of tools to prevent uninjured individuals from recovering class funds or affecting class settlements.

Respectfully submitted,

TILLMAN J. BRECKENRIDGE
STRIS & MAHER LLP
1717 K Street NW
Suite 900
Washington, DC 20006
(202) 800-6030

PETER K. STRIS
Counsel of Record
JOHN STOKES
STRIS & MAHER LLP
17785 Center Court Dr. North
Suite 600
Cerritos, CA 90703
(213) 995-6800
pstris@stris.com

Counsel for Amici Curiae

March 12, 2025

APPENDIX

APPENDIX TABLE OF CONTENTS

APPENDIX

List of *Amici Curiae*

A.B. Data, Ltd.

Angeion Group, LLC

Epiq Class Action & Claims Solutions, Inc.