

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

**MARK WILLIAM THOMAS, et al., on behalf of
himself and all others similarly situated,**

Plaintiffs,

v.

Civil Action No. 3:18-cv-00684-MHL

EQUIFAX INFORMATION SERVICES, LLC.,

Defendant.

**PLAINTIFFS' MEMORANDUM IN SUPPORT OF MOTION FOR
ATTORNEYS' FEES, AND CLASS REPRESENTATIVE SERVICE AWARDS**

Plaintiffs Mark William Thomas, Bertram M. Brown, and C. Ralph Copeland, Jr., on behalf of themselves and all others similarly situated, by counsel, and Class Counsel respectfully submit this memorandum of law in support of their Motion for Attorney's Fees and Class Representative Service Awards.¹

I. OVERVIEW

This case and proposed settlement consolidates the numerous cases across the country brought against Equifax Information Services, LLC ("Equifax"). This nationwide settlement resolves at least eighteen pending Fair Credit Reporting Act ("FCRA") putative class action cases (*see* Exhibit A to Settlement Agreement, Doc. No. 33-2) challenging Equifax's alleged failure to update tax liens and civil judgements that had been satisfied, vacated, dismissed, expunged, or

¹ Pursuant to the Preliminary Approval Order and briefing schedule contained therein (Doc. No. 40), Plaintiffs and Class Counsel are to file two separate motions – one as to fees and the other as to final approval – by two different dates. A separate Motion for Final Approval of the Class settlement will be filed by its August 30, 2019 deadline.

withdrawn. 15 U.S.C. § 1681e(b). Equifax (and Experian and Trans Union) (collectively the “Big-3”) each hid LexisNexis’s involvement in the records collection process and reported the source as the courthouse or government agency.

As will be addressed more fully next week, the Settlement provides tremendous benefit to the Class. The Court has already considered and preliminarily found that the Settlement would be fair and adequate. (Doc. No.40, entered May 14, 2019.) As a result of the Settlement, Equifax has agreed to cease reporting tax liens and civil judgments, permanently removing existing and past records from its database. Now, after national notice—both by publication and direct to roughly 2 million consumers—no objections have been lodged, and not one of the state Attorneys General or any federal agency have noted any opposition or disagreement with this result. While class members may still serve objections as to attorneys’ fees after this present motion, the basics of the proposed fee and service awards have been fully disclosed.

Like the Trans Union and Experian settlements approved by the Court, the Settlement with Equifax is an excellent resolution for consumers (who otherwise retain their existing claims) and a landmark achievement in reforming the way in which public records are reported. The fees herein sought would compensate Class Counsel for this achievement and the substantial work required – to date and hereafter – to make it happen.

II. HISTORY OF THIS LITIGATION

The history of this case was set out in detail in Plaintiffs’ motion for preliminary approval and will be only summarized here. In short, this case is the culmination of the decade-long effort by Class Counsel to change how consumer reporting agencies report public records. In addition to this *Thomas* action, this Settlement resolves eighteen class action cases pending against Equifax around the country. The present case is a consolidation of these efforts and is the docket within which approval is sought in order to maintain the uniformity between the three comparable “Big-

3” public records settlements. The other class actions against Equifax challenging Defendant’s public record reporting practices are venued in a number of States, including New York, California, Tennessee, Alabama, Arkansas, South Carolina, Florida, Pennsylvania, Hawaii, Nevada, Vermont, Maryland, Minnesota, Iowa, Washington and North Carolina. Significant discovery had been conducted in many of these cases, with public records data obtained, expert discovery underway, and class certification motion practice imminent.

Each of these cases challenged either Equifax’s failure to accurately report public record information or its practice of shielding LexisNexis as a source of information, from consumers. At all times during the pendency of these cases, Equifax vigorously denied all claims asserted against it. Equifax argued that its procedures regarding the updating and reporting of public records did comply with section 1681e(b), and that its merits defense barred plaintiffs’ claim.

The Parties engaged in extensive settlement negotiations, including three full-day sessions and multiple telephonic conferences with a private mediator, Eric Green, and follow up before Magistrate Judge David Novak.

Pursuant to Federal Rule of Civil Procedure 23 and 54, Plaintiffs now seek approval of Class Counsel’s attorneys’ fees and Class Representative service awards.

III. THE REQUESTED ATTORNEYS’ FEES SHOULD BE APPROVED.

The Rule 23(b)(2) Settlement presented here produced a tremendous value for the Class. It is difficult to overstate the value of overhauling Equifax’s public record reporting. As with the Trans Union and Experian settlements, an industry expert and an economist, Plaintiffs’ expert Corey Stone—who created and then ran the division of the CFPB that handled the credit reporting industry—and will provide their opinion in support of final approval as to the substantial value brought by the injunctive relief mandated by the Settlement. Settlement Agreement, Doc. No. 33-2, at §§ 4.1, 4.4.

The alternative dispute resolution program (“ADR Program”) provided in the Settlement also provides the opportunity for a cash payment for any consumer, with attorneys’ fees for assistance of such efforts – often reaching tens of thousands of dollars in individual FCRA cases – entirely paid by Equifax. For all consumers who seek help—whether (1) with questions about the Settlement; (2) assistance in determining if they have a claim; (3) presenting that claim through the ADR Program, including obtaining records and drafting any submissions to Magistrate Judge Novak in connection with binding resolution—legal assistance will be provided regardless of how many hours are required over the multi-year settlement term. As Class Counsel has previously detailed in support of the settlements with TransUnion and Experian, the work required post-settlement can be substantial depending on the number of consumers who reach out for assistance with the ADR program. For all of the same reasons, Class Counsel anticipate expending substantial additional time in connection with the ADR program here. Declaration of Micah Adkins (“Adkins Decl.”) at ¶ 17; Leonard Bennett (“Bennett Decl.”) at ¶¶ 36-40; Declaration of E. Michelle Drake (“Drake Decl.”) at ¶ 17; Declaration of James A. Francis (“Francis Decl.”) at ¶¶ 67-70; Declaration of Kristi C. Kelly (“Kelly Decl.”) at ¶¶ 22-23. Unlike in the TransUnion settlement briefing, here Class Counsel can now actually confirm that this burden is real. Even today, at least six attorneys and support staff at various firms spend the majority of their work day assisting TransUnion and Experian consumers, and Class Counsel expect to continue this work in connection with the Equifax ADR program. *Id.* In fact, there is reason to believe that the consumer response rate in connection with the Equifax ADR program will be even greater than in connection with TransUnion and Experian, because of the well-publicized Equifax data breach settlement, which has already led to additional consumers contacting Class Counsel. *See, e.g.* Francis Decl. at ¶ 69.

These estimates do not account for the substantial work required for the ongoing notice program or later motions practice as to future public records reporting procedures Equifax might propose. The fee sought in this settlement is substantially less than in the TransUnion and Experian cases - \$9,500,000 versus \$16,200,000 (Trans Union) and \$15,935,000 (Experian). This is because of three differences: a) the settlement here did not include a claim under 15 U.S.C. § 1681g(a), which had been previously resolved (and for which fees were already compensated) in *Jenkins v. Equifax Information Services, LLC*, No. 3:15cv443, Doc. No. 73 (E.D. Va. Oct. 31, 2016); b) this settlement comes after that in *Soutter v. Equifax Information Services, LLC*, No.3:10cv107, Doc. No. 247 (E.D. Va. April 5, 2016), in which Virginia General District Court judgments had already been addressed; and, c) there was modestly less work in these cases than in those against TransUnion and Experian. Still, Class Counsel here are seeking a fee, which, even though paid for entirely by Equifax, is very large. But so is the burden and risk that Class Counsel will be ordered to accept going forward. In exchange for all of this relief, consumers are not releasing any individual claims that they may have against Equifax.

Rule 23(h) allows for the award of “reasonable attorneys’ fees and nontaxable costs that are authorized by law or the parties’ agreement.” In determining a reasonable fee in a class action, courts generally use two different methods, the “lodestar” method and the “percentage of the fund” method. *In re Microstrategy, Inc.*, 172 F. Supp. 2d 778, 786 (E.D. Va. 2001). Under the lodestar method, the Court determines the number of hours reasonably expended by counsel that created the fund and then multiplies those hours by a reasonable hourly rate to arrive at a lodestar figure. *Id.*

The lodestar can then be increased or decreased pursuant to various factors as set forth by

the Fourth Circuit.² *Id.* & n.23. The percentage of the fund method requires the trial court to determine a percentage of the recovery “with the precise percentage selected by the trial court with reference to essentially the same case-specific factors used to adjust, or determine a multiplier, for a lodestar figure.” *Id.* The Fourth Circuit has not specified a preference for the lodestar method or the percentage of the fund. *Kay Co. v. Equitable Prod. Co.*, 749 F. Supp. 2d 455, 463 (S.D.W. Va. 2010). Ultimately, the determination of a reasonable fee is in the discretion of the district court. *Id.* “With either method, the goal is to make sure that counsel is fairly compensated.” *Brown v. Transurban USA, Inc.*, 318 F.R.D. 560, 575 (E.D. Va. 2016).

Here, Class Counsel requests \$9,500,000. At the outset, it bears mention that the “most critical factor in determining the reasonableness of a fee award is the degree of success obtained.” *Carroll v. Wolpoff & Abramson*, 53 F.3d 626, 629 (4th Cir. 1995) (citations and quotations omitted). Here, Class Counsel have achieved a complete overhaul of how Equifax collects, reports, and discloses Public Records, and has established an ADR process that will allow aggrieved consumers to recover in a streamlined and expeditious fashion. The injunctive relief in this Settlement will benefit millions of consumers going forward, and could probably only have been achieved in the settlement context as the FCRA is generally thought not to allow private litigants to obtain injunctive relief. The result is nothing short of extraordinary, and is a testament to Class Counsel’s collective expertise, skill, credibility, and hard work. Given the unique settlement structure, neither the percentage-of-the-fund, nor the lodestar method fit perfectly onto

² These factors are: “(1) time and labor expended; (2) novelty and difficulty of the questions raised; (3) skill required to properly perform the legal services; (4) attorney’s opportunity costs in pressing the litigation; (5) customary fee for like work; (6) attorney’s expectations at the outset of litigation; (7) time limitations imposed by the client or circumstances; (8) amount in controversy and results obtained; (9) experience, reputation, and ability of the attorney; (10) undesirability of the case within the legal community in which the suit arose; (11) nature and length of the professional relationship between the attorney and client; (12) fee awards in similar cases.” *Id.*, citing *Barber v. Kimbrell’s, Inc.*, 577 F.2d 216, 226 (4th Cir. 1978).

this Settlement.

While no cash common fund in the traditional sense has been created, the unquestionable value of the Settlement would exceed the fee Equifax has agreed to pay by many multiples. The credit monitoring and services benefit alone, which has a retail value potentially in the hundreds of millions of dollars if even a small fraction of the Class elects the benefit, would justify Counsel's fee. As with the Trans Union and Experian settlements, the Settlement is superior to a conventional common fund. In a standard common-fund settlement, the defendant agrees to pay out a fund of a certain amount in exchange for a release of the claims asserted (regardless of whether the class members claim into the fund), and fees are awarded out of that fund, with typical amounts ranging from 25%–33% of the fund. *Manuel v. Wells Fargo Bank, N.A.*, 2016 WL 1070819, *5 (E.D. Va. March 15, 2016). But in this case, there is no cap to recovery through the ADR Program.

As discussed above, a nationwide common fund, non-reversionary settlement with a full release of claims was not feasible in this litigation. Instead, through their efforts, Class Counsel have created an uncapped program that provides a straightforward process. At this point, it is difficult to measure how many consumers will eventually participate in the ADR Program, but unlike a more traditional common fund settlement, the establishment of the Program here does not by itself release any individual consumer's claims against Equifax. Thus, while the Settlement here does not create a "common fund" in the traditional sense, it does create a streamlined process and legal assistance incidental to it—which is less onerous on consumers than some claims processes common in common fund settlements—for consumers to achieve meaningful monetary relief.

Likewise, the lodestar method does not adequately capture Class Counsel's efforts here. This Settlement is the culmination of a decade-long effort by Class Counsel to reform the way public records are reported on credit reports by the Big-3 credit bureaus. The lodestar in this

Settlement, while high, does not account for these years spent acquiring the knowledge and earning the credibility necessary to successfully prosecute these claims. To be blunt, a less sophisticated and less experienced group of lawyers could not have accomplished what Class Counsel did here. Moreover, one persistent criticism of the lodestar method is that it discourages early settlement and encourages lawyers to churn time just to build up lodestar. *See Swedish Hosp. Corp. v. Shalala*, 1 F.3d 1261, 1268 (D.C. Cir. 1993) (noting that under lodestar method “there is a strong incentive against early settlement since attorneys will earn more the longer a litigation lasts”). Here, this Settlement resolves not just *Thomas*, but eighteen other cases pending against Equifax in jurisdictions across the country, each one of which would have potentially justified a seven-figure fee award had the case been litigated to judgment. Class Counsel, which includes the lead attorneys from each of those cases, however, recognized that this Settlement provides the best and most efficient relief to the Class, and opted to focus their efforts of Settlement rather than litigating solely for the sake of billing hours.

Class Counsel have put significant time and resources into litigating the cases that are resolved by this Settlement. As set forth in the declarations of Class Counsel, counsel’s current collective lodestar is estimated in excess of \$2,429,128.90 and counsel’s out-of-pocket expenses are \$117,458.96. Bennett Decl. at ¶¶ 34-35 (attached as Ex. 1); Adkins Decl. at ¶¶ 12,14 (attached as Ex. 2); Drake Decl. at ¶¶ 14, 16 (attached as Ex. 3); Francis Decl. at ¶ 71 (attached as Ex. 4); Kelly Decl. at ¶¶ 22, 24 (attached as Ex. 5).³ The requested attorneys’ fees also recognize the substantial post-approval work that Class Counsel will undertake. This Settlement contemplates at least a 24-month commitment to monitor the Mediation and Binding Arbitration Programs, and

³ These figures also include time and expenses incurred by David A. Chami, Esq., who is not class counsel but is counsel in two of the Related Actions, *Ledbetter v. Equifax Info. Servs., LLC*, 5:18-cv-5177-PKH (D. Ark.) and *Price v. Equifax Info. Servs., LLC*, 4:18-cv-00236 (S.D. Iowa). *See* Declaration of David Chami regarding *Ledbetter v. Equifax* at ¶¶ 2, 32 (attached as Ex. 6); Declaration of David Chami regarding *Price v. Equifax* at 2, 31 (attached as Ex. 7).

represent and assist consumers in the process. The Settlement Class has millions of members and Class Counsel have already spent more than 200 attorney and staff hours responding to class member calls and emails *before* the massive publicity process begins.

In the Trans Union and Experian settlements, for comparison, Class Counsel have already spent literally thousands of hours of paralegal and administrative, and hundreds of hours of attorney time administering, monitoring and assisting consumers in participating in the ADR program. Bennett Decl. ¶ 3. Indeed, Class Counsel have hired an additional attorney and multiple administrative employees and licensed a substantial database program in order to deal with the volume of class member inquiries and assistance needed. Class Counsel fully expect that the amount of time that they will spend on this Settlement and related tasks will be substantial, and that they will incur at least \$2,000,000 in additional lodestar between all of the firms in connection with the ADR program. Adkins Decl. at ¶ 17; Bennett Decl. at ¶¶ 36-40; Drake Decl. at ¶ 17, Francis Decl. at ¶¶ 67-70; Kelly Decl. at ¶¶ 22-23. In short, Class Counsel anticipate spending at least thousands of additional attorney and staff hours assisting class members in taking full advantage of the Settlement.

When calculated based only on lodestar already incurred, the attorneys' fees awarded would constitute a multiplier in the range of **3.73 to 3.91** (the lower end including unreimbursed expenses as part of the fee award). When anticipated time to be expended in connection with the ADR program is included, as it was in connection with the Experian and Trans Union settlements, the attorneys' fees award would be likely to result in a multiplier in the range of **2.09 to 2.14**. Each of these figures is well in line with multipliers approved in other settlements. *Clark v. Experian Information Solutions, Inc.*, C.A. No. 16-32-MHL, ECF 150 (E.D. Va. Feb. 1, 2019) (approximately 3.7 multiplier when accounting for time for ADR program); *Clark v. Trans Union LLC*, C.A. No. 15-391-MHL, ECF 272 (E.D. Va. Aug. 29, 2018) (approximately 2.7 multiplier

when accounting for time for ADR program); *New Eng. Carpenters Health Benefits Fund v. First Databank*, No. 05-cv-11148, 2009 WL 2408560, at *2 (D. Mass. Aug. 3, 2009) (8.3 multiplier); *Stop & Shop Supermarket Co. v. SmithKline Beecham Corp.*, No. 03-cv-04578, 2005 WL 1213926 (E.D. Pa. May 19, 2005) (15.6 multiplier); *Cosgrove v. Sullivan*, 759 F. Supp. 166 (S.D.N.Y. 1991) (8.74 multiplier); *In re Merry-Go-Round Enterprise, Inc.*, 244 B.R. 327 (Bankr. D. Md. 2000) (19.6 multiplier); *Glendora Community Redevelopment Agency v. Demeter*, 155 Cal. App. 3d 465 (1984) (12 multiplier); *Weiss v. Mercedes-Benz of No. Am., Inc.*, 899 F. Supp. 1297 (D.N.J. 1995) (9.3 multiplier); *see also Merkner v. AK Steel Corp.*, 1:09-cv-00423-TSB, ECF No. 79 (S.D. Ohio Jan. 10, 2011) (multiplier of 5.3 in lodestar crosscheck); *In re Cardinal Health*, 528 F. Supp. 2d at 767 (multiplier of 5.9 in lodestar crosscheck); *In re Fernald Litig.*, No. C-1-85-149, 1989 WL 267038, at *5 (S.D. Ohio Sept. 29, 1989) (multiplier of 5 in lodestar crosscheck).

Further, FCRA cases are risky cases where recovery is far from guaranteed. In these cases, to recover the statutory damages of \$100 to \$1,000 sought by plaintiffs under 15 U.S.C. § 1681n, plaintiffs would have had to prove that Equifax not only violated the statute, but did so willfully. Equifax was prepared to vigorously challenge this element of plaintiffs' claim, and to prevail, plaintiffs would have had to show not only that their interpretation of the FCRA was correct, but that Defendant's interpretation of the statute was objectively unreasonable. *See Safeco Ins. Co. of Am. v. Burr*, 551 U.S. 47, 69 (2007). This is a high standard, and considering the uncertainty surrounding interpretation of the provision and the difficulties of proving willfulness, there was a substantial risk of nonpayment. *See Domonoske v. Bank of Am.*, 790 F. Supp. 2d 466, 476 (W.D. Va. 2011) (“[G]iven the difficulties of proving willfulness or even negligence with actual damages [under the FCRA], there was a substantial risk of nonpayment.”).

In the face of these risks, Class Counsel were still able to achieve a landmark settlement that benefits millions of consumers, and fundamentally alters the way that Equifax collects and

reports Public Record information. The Settlement is a testament to Class Counsel's skill, experience, tenacity, and dedication to these matters. The fee that Equifax has stipulated to pay fairly compensates Class Counsel for their efforts and recognizes that Class Counsel's settlement-related work is far from complete. Class Counsel's request for the agreed-upon attorneys' fees should be approved.

IV. THE COURT SHOULD GRANT THE REQUESTED SERVICE AWARDS

Courts generally recognize that “[i]ncentive or service awards reward representative plaintiffs’ work in support of the class, as well as their promotion of the public interest.” *Deem*, 2013 WL 2285972, at *6 (citing *Jones*, 601 F. Supp. 2d at 767). Plaintiffs request, and Defendant does not oppose, a service award for each Named Plaintiff in the amount of \$5,000 each, for their service as Class Representatives, as provided in the Settlement Agreement. Doc. 33.2 at ¶ 5.1. Service awards have been regularly approved by judges in the Eastern District of Virginia in cases such as this one where the class representative took a role in prosecuting the claims on behalf of the class. *Cappetta v. GC Servs. LP*, No. 3:08cv288-JRS (E.D. Va. April 27, 2011) (Judge Spencer approved a \$5,000 service award to each named plaintiff); *Henderson v. Verifications Inc.*, No. 3:11cv514 (E.D. Va. Mar. 13, 2013) (Judge Payne approved a \$5,000 service award to named plaintiff); *Pitt v. Kmart Corp.*, No. 3:11cv697 (E.D. Va. May 24, 2013) (Judge Gibney approved a \$5,000 service award to the class representative); *Conley v. First Tenn. Bank, N.A.*, No. 1:10cv1247 (E.D. Va. Aug. 18, 2011) (Judge Ellis awarded a \$5,000 service award to each named plaintiff); *Ryals v. HireRight Sols., Inc.*, No. 3:09cv625 (E.D. Va. Dec. 22, 2011) (Judge Gibney approved a service award to each class representative in the amount of \$10,000). As described above, the Named Plaintiffs amply fulfilled their duties as Class Representatives, and the requested service awards are appropriate.

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CERTIFICATE OF SERVICE

I hereby certify that on August 23, 2019, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to all counsel of record.

_____/s/_____
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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division**

MARK WILLIAM THOMAS, *et al*,

Plaintiff,

v.

Civil Action No. 3:18-cv-00684-MHL

EQUIFAX INFORMATION SERVICES, LLC,

Defendant.

**DECLARATION OF LEONARD A. BENNETT IN SUPPORT OF CONSENT MOTION
FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT,
DISMISSAL OF CLAIMS WITH PREJUDICE,
AND AWARD OF ATTORNEYS' FEES, COSTS, AND SERVICE AWARD**

I, Leonard A. Bennett, hereby declare the following:

1. My name is Leonard A. Bennett. I am over 21 years of age, of sound mind, capable of executing this Declaration, and have personal knowledge of the facts stated herein, and they are all true and correct.

Consumer Litigation Associates, P.C.

2. I am one of the attorneys working on behalf of the Plaintiffs and the Class in the above-styled litigation, and I am an attorney and principal of the law firm of Consumer Litigation Associates, P.C., a seven-attorney law firm with offices in Hampton Roads, Harrisonburg, Alexandria and Richmond, Virginia. My primary office is at 763 J. Clyde Morris Boulevard, Suite 1-A, Newport News, Virginia 23601. I submit this Declaration in support of Plaintiff's Consent Motion for Final Approval of Class Action Settlement, Dismissal of Claims With Prejudice, and Award of Attorneys' Fees, Costs, and Class Representative Service Award.

3. I am an attorney in good standing with the State Bar of Virginia. I have also been admitted to practice before and am presently admitted to numerous other federal courts. I have also been admitted to or by pro hac vice in United States District Courts including Alabama, Arizona, California, Connecticut, Florida, Georgia, Hawaii, Idaho, Illinois, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Nevada, New Hampshire, New Jersey, New York, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Washington, West Virginia, Wisconsin, Wyoming, and the District of Columbia.

4. Since 1996, my practice has focused exclusively on consumer protection litigation. While my experience representing consumers has come within several areas, my most developed area of expertise is in plaintiffs' litigation under the Federal Consumer Credit Protect Act, 15 U.S.C. § 1601, et seq., and in particular the Fair Credit Reporting Act, 15 U.S.C. § 1681, et seq. Our firm has litigated more FCRA cases and taken more to trial than all but two other firms in the nation (those two firms being are co-counsel in this case).

5. Since 2001, I have been asked to and did speak at numerous CLE programs, seminars and events in the area of Consumer Credit Protection litigation, mostly regarding the FCRA.¹

¹ National Consumer Law Center, Consumer Rights Conference, Denver, Colorado (November 2018); Military U.S. Navy Legal Assistance, Consumer Awareness, Buying, Financing and Owning an Automobile (July 2018); Practising Law Institute, 23rd Annual Consumer Financial Services Institute, Chicago, Fair Credit Reporting Act/Debt Collection Issues (April 2018); National Consumer Law Center, Consumer Rights Conference, Washington, D.C., Speaker (November 2017); National Consumer Law Center, Consumer Rights Conference, Anaheim, California, Speaker for Multiple Sessions (October 2016); Fair Debt Collection Practices Act/Fair Credit Reporting Act, Norfolk and Portsmouth, , VA Bar Association (October 29. 2015); National Consumer Law Center, Consumer Rights Conference, Washington, D.C., Speaker for Multiple Sessions (November 2013); National Consumer Law Center, Fair Debt Collection Practices Act Conference, Fair Credit Reporting Act Claims Against Debt Buyers (March 2013); National

Association of Consumer Advocates, Webinar CLE: FCRA Dispute Process (December 2012); Rossdale CLE, Fair Credit Reporting Act (August 2012); Virginia Trial Lawyers Association, Advocacy Seminar (October, 2011); National Association of Consumer Advocates, Fair Credit Reporting Act National Conference - Memphis, TN (May 2011); Stafford Publications CLE, National Webinar, "FCRA and FACTA Class Actions: Leveraging New Developments in Certification, Damages and Preemption" (April 2011); National Consumer Law Center, National Consumer Rights Conference, Boston, Speaker for Multiple Sessions (November, 2010); Virginia State Bar, Telephone and Webinar Course, Virginia, 2009; "What's Going On Here? Surging Consumer Litigation - Including Class Actions in State and Federal Court"; National Association of Consumer Advocates, Fair Credit Reporting Act National Conference, Chicago, IL (May 2009); National Consumer Law Center, National Consumer Rights Conference, Philadelphia, Speaker for Multiple Sessions (November 2009); National Consumer Law Center, National Consumer Rights Conference, Portland, OR, Speaker for Multiple Sessions (November 2008); Washington State Bar, Consumer Law CLE, Speaker (September 2008); Washington State Bar, Consumer Law CLE, Speaker (July 2007); House Financial Services Committee (June 2007); National Consumer Law Center, National Consumer Rights Conference, Washington, D.C., Speaker for Multiple Sessions (November 2007); National Association of Consumer Advocates, Fair Credit Reporting Act National Conference; Denver, Colorado (May 2007); Multiple Panels; U.S. Army JAG School, Charlottesville, Virginia, Consumer Law Course Instructor (May 2007); Georgia State Bar, Consumer Law CLE, Speaker (March 2007); Contributing Author, Fair Credit Reporting Act, Sixth Edition, National Consumer Law Center, 2006; National Consumer Law Center, National Consumer Rights Conference, Miami, FL, Speaker for Multiple Sessions (November 2006); Texas State Bar, Consumer Law CLE, Speaker (October 2006) Federal Claims in Auto fraud Litigation; Santa Clara University Law School, Course, (March 2006); Fair Credit Reporting Act; Widener University Law School, Course (March 2006) Fair Credit Reporting Act; United States Navy, Navy Legal Services, Norfolk, Virginia (April 2006) Auto Fraud; Missouri State Bar CLE, Oklahoma City, Oklahoma; Identity Theft; National Consumer Law Center, National Consumer Rights Conference, Boston, Mass, Multiple panels; National Association of Consumer Advocates, Fair Credit Reporting Act National Conference, New Orleans, Louisiana (May 2005), Multiple Panels; United States Navy, Naval Justice School (JAG Training), Newport , Rhode Island, Consumer Law; American Bar Association, Telephone Seminar; Changing Faces of Consumer Law, National Consumer Law Center, National Consumer Rights Conference, Boston, Mass; Fair Credit Reporting Act Experts Panel; and ABCs of the Fair Credit Reporting Act; National Association of Consumer Advocates, Fair Credit Reporting Act National Conference, Chicago, Illinois; Multiple Panels; Oklahoma State Bar CLE, Oklahoma City, Oklahoma, Identity Theft; Virginia State Bar, Telephone Seminar, Identity Theft; United States Navy, Naval Justice School (JAG Training), Newport, Rhode Island, Consumer Law; United States Navy, Navy Legal Services, Norfolk, Virginia, Auto Fraud; Virginia State Bar, Richmond and Fairfax, Virginia, Consumer Protection Law; Michigan State Bar, Consumer Law Section, Ann Arbor, Michigan; Keynote Speaker.

6. I have testified before the United States House Financial Services Committee on multiple occasions. In 2014, I spoke before the Consumer Financial Protection Bureau Consumer Advocacy Board. I have also served on a Federal Trade Commission Round Table. I was on the Board of Directors of the National Association of Consumer Advocates, and am on the Partners Council of the National Consumer Law Center, on the Board of Directors for the Virginia Poverty Law Center, and am on the Board of Directors for Public Justice, amongst other positions and organizations. I have been named as a multi-year Super Lawyer, a Law Dragon Top 500 Plaintiffs' Attorney, to Best Lawyers in America and a Virginia Leader in the Law. In November 2017, I was recognized as the Consumer Attorney of the Year by the National Association of Consumer Advocates. This year, my firm earned the National Law Journal's Elite Trial Lawyers Award for top firm in Financial Products class action litigation.

7. I was one of the contributing authors of the leading and comprehensive treatise "Fair Credit Reporting" published by the National Consumer Law Center and used by judges and advocates nationally.

Consumer Litigation Associates, P.C.'s Class Action Experience

8. CLA has litigated scores of class action cases based on consumer protection claims in the past decade.

9. I have substantial experience in complex litigation, including class action cases, prosecuted under the Consumer Credit Protection statutes, including the Fair Credit Reporting Act, the Equal Credit Opportunity Act, and the Fair Debt Collection Practices Act.

10. In each of the class cases where I have represented plaintiffs in a consumer credit case, when asked to do so by either contested or uncontested motion, the Court found me to be adequate class counsel. In each of these, I served in a lead or executive committee counsel role.

Just a few of these cases include: *Melo v. Experian Information Solutions, Inc.*, Case No. 3:17-cv-642 (E.D. Va.); *Epps v. Orange Lake Country Club*, Case No. 3:17-cv-253 (E.D. Va.); *Clark v. Experian Information Solutions, Inc.*, Case No. 3:16-cv-32 (E.D. Va.); *Bartlow v. Medical Facilities of America*, Case No. 3:16-cv-572 (E.D. Va.); *Moody v. Ascenda USA, Inc.*, Case No. 16-cv-60364 (S.D. Fla.); *Clark v. Trans Union, LLC*, Case No. 3:15-cv-391 (E.D. Va.); *Hargrett v. Amazon.com*, Case No. 8:15-cv-2456 (M.D. Fla.); *Ridenour v. Multi-Color Corp.*, Case No. 2:15-cv-41-MSD-DEM (E.D. Va.); *Jenkins v. Equifax Information Services, LLC*, Case No. 3:15-cv-443 (E.D. Va.); *Burke v. Shapiro, Brown & Alt, LLP*, Case No. 3:14-cv-838 (E.D. Va.); *Henderson v. Allied Barton Security Services, LLC*, Case No. 3:14-cv-82 (E.D. Va.); *Hayes v. Delbert Services Corp.*, Case No. 3:14-cv-258 (E.D. Va.); *Thomas v. FTS USA, LLC*, Case No. 3:13-cv-825 (E.D. Va.); *Milbourne v. JRK Residential Am., Inc.*, Case No. 3:12-cv-861 (E.D. Va.); *Stinson v. Advance Auto Parts, Inc.*, Case No. 7:12-cv-433 (W.D. Va.); *Henderson v. Corelogic Nat'l Background Data, LLC*, Case No. 3:12-cv-97 (E.D. Va.); *James v. Experian Information Solutions, Inc.*, Case No. 3:12-cv-902 (E.D. Va.); *Roe/Thomas/Johnson v. Intellicorp*, Case No. 1:12-cv-02288 (N.D. Oh.); *White v. CRST*, Case No. 1:11-cv-2615 (N.D. Oh.); *Lengrand v. Wellpoint*, Case No. 3:11-cv-333 (E.D. Va.); *Soutter v. Equifax Information Services, LLC*, Case No. 3:10-cv-107 (E.D. Va.); *Berry v. LexisNexis Risk & Information Analytical Group*, Case No. 3:11-cv-754 (E.D. Va.); *Pitt v. K-Mart Corp.*, Case No. 3:11-cv-697 (E.D. Va.); *Henderson v. Verifications Inc.*, Case No. 3:11-cv-514 (E.D. Va.); *Teagle v. LexisNexis Screening Solutions, Inc.*, Case No. 1:11-cv-1280 (N.D. Ga.); *Harris v. U.S. Physical Therapy, Inc.*, Case No. 2:10-cv-1508 (D. NV.); *Soutter v. Trans Union*, Case No. 3:10-cv-514 (E.D. Va.); *Daily v. NCO*, Case No. 3:09-cv-031 (E.D. Va.); *Ryals v. HireRight Solutions Inc.*, Case No. 3:09-cv-625 (E.D. Va.); *Black v. Win-Dixie Stores, Inc.*, Case No. 3:09-cv-502 (M.D. Fla.); *Smith v. Telecris Biotherapeutics*,

Inc., Case No. 1:09-cv-153 (M.D.N.C.); *Hall v. Vitran Express, Inc.*, Case No. 1:09-cv-00800 (N.D. Ohio); *Anderson v. Signix, Inc.*, Case No. 3:08-cv-570 (E.D. Va.); *Reardon v. ClosetMaid, Inc.*, Case No. 2:08-cv-1730 (W.D. Pa.); *Domonoske v. Bank of America, N.A.*, Case No. 5:08-cv-66 (W.D. Va.); *Beverly v. Wal-Mart Stores, Inc.*, Case No. 3:07-cv-469 (E.D. Va.); *Williams v. Lexis-Nexis Risk Mgt.*, Case No. 3:06-cv-241 (E.D. Va.); *White v. Experian*, Case No. 8:05-cv-1070 (C.D. Ca.); *Capetta v. GC Servs. LP.*, Case No. 3:02-cv-288-JRS (E.D. Va.).

11. My law partner, Matthew J. Erasquin, is also working on behalf of the Class in the above-styled litigation. Mr. Erasquin is a trial attorney with more than 15 years of experience. He has served in a critical role leading the discovery teams in many of the national class actions in which I have litigated. He is licensed to practice law in Virginia and California and is admitted to practice in multiple federal district courts.

12. Another attorney in my firm who has worked extensively on this case is Craig C. Marchiando. His practice is also exclusively consumer protection litigation. He is among the most experienced attorneys in the nation in this highly-specialized field of Fair Credit Reporting Act class action litigation. Mr. Marchiando graduated from South Texas College of Law *cum laude* in 2004, served a one-year appellate clerkship before moving to private practice, and was named a Texas Super Lawyers Rising Star in class action and mass tort litigation in 2013 and 2014. He is licensed to practice in California, Texas, Virginia, and Florida.

13. Mr. Marchiando joined Consumer Litigation Associates in 2015. Since joining CLA, Mr. Marchiando has focused his practice on federal consumer protection law and class actions, representing consumers in cases against banks, mortgage companies, consumer reporting agencies, and debt collectors. He is a member of the National Association of Consumer Advocates

and a member in good standing of the bars of multiple federal district and appellate courts. He has represented consumers in more than 75 federal cases, including more than twenty class actions.

14. Another attorney in my firm who has worked extensively on this case is Elizabeth W. Hanes. Her practice is also primarily focused on consumer-protection litigation, including the FCRA. She is an experienced trial attorney, with extensive experience in federal court. Ms. Hanes graduated from the University of Richmond *summa cum laude* in 2007, and served two one-year federal clerkships at the appellate and trial levels before joining the Federal Public Defender's Office.

15. Ms. Hanes joined Consumer Litigation Associates in 2016, and since that time has focused her practice on federal consumer protection law and class actions, representing consumers in cases against banks, consumer reporting agencies and debt collectors. She has practiced law in Virginia since 2009 and is admitted to practice in the United States District Court for the Eastern District of Virginia and the United States Court of Appeals for the Fourth Circuit. She has represented hundreds of individuals in federal court and has served as an adjunct professor at Virginia Commonwealth University and the University of Richmond School of Law. She is a member of the National Association of Consumer Advocates, the Richmond Bar Association, and serves on the Board of the Virginia Law Foundation.

16. The primary paralegals that worked for our firm in this case are experienced in the field of consumer protection and the legal field generally. Donna Winters and Vicki Ward have been legal assistants and then paralegals for more than twenty years each. Both have been with me practically since I began my practice and have deep understanding of the FCRA and class action litigation.

17. The hourly rates charged by my firm were most recently approved in a consumer protection financial services lodestar case by the United States District Court for the Eastern District of Virginia, Richmond Division as follows: \$675 for Leonard Bennett, \$450 for Craig Marchiando and Elizabeth Hanes, and \$200 for paralegals Donna Winters and Vicki Ward. *Hayes v. Delbert Services Corp.*, No. 3:14-cv-258 (E.D. Va. 2017). We have recently increased these rates but are seeking approval at the rates herein because these were in place during most of the present litigation. Matthew Erausquin's hourly rate (\$450.00) was approved in *Berry v. LexisNexis Risk & Information Analytics Group, Inc.*, 3:11cv754 (E.D. Va.). Those rates were increased in 2018 and are reflected in the rates herein.

Work Completed In This Litigation

18. My litigation of the issues in this case and as to this Defendant date at least to the filing of *Soutter v. Equifax Information Services, LLC*, 3:10-cv-107 (E.D. Va.). After years of litigation – through contested class certification practice and two appeals to the Fourth Circuit, that case finally settled with substantial injunctive and monetary relief for all Virginia consumers impacted by Virginia General District Court judgments. During that litigation, we deposed numerous Equifax employees, obtained tens of thousands of pages of documents and literally created a means to identify class members and prove liability on a class basis.

19. Thereafter, we continued this litigation against Experian and TransUnion in both Virginia and in other jurisdictions. Finally, we again began litigation as to Equifax and most recently filed the present case in this Court, as well as in other jurisdictions around the country. *See, e.g. Hajjaj v. Equifax Info. Servs. LLC*, Case No. 3:18-cv-01637 (D.S.C.); *Fryett v. Equifax Info. Servs. LLC*, Case No. 5:18-cv-00109 (E.D.N.C.); *Justice v. Equifax Info. Servs. LLC*, Case

No. 1:18-cv-00342 (M.D.N.C.). Litigation in these many cases was hotly contested. Only after this exhaustive process did we attempt to reach the present proposed settlement.

20. My firm served as co-lead counsel in this case, from investigating and researching the pending claims against the Defendant all the way through Settlement and ultimately Class Administration. I was the co-lead for all cases in the settlement negotiations that ultimately led to this Agreement.

21. I co-led the extensive settlement negotiations in this case, including multiple formal mediations with a private mediator, Eric Green. We approached settlement negotiations as we always do, focusing on achieving the best benefit possible for our clients and the Class. Mediation attempts did not immediately result in a compromise, and the case continued to be litigated.

22. In this case, all Parties face the prospect of continued litigation through the completion of a trial and jury deliberations, followed by an appeal.

23. Given the number of cases pending throughout the country and with the recent settlements by TransUnion and Experian, Equifax was not interested in anything other than a global resolution of the two challenged FCRA violations. At the same time, identifying all 20 million class members on a state-by-state basis, providing them notice, and targeting significant monetary relief to those consumers who actually suffered an adverse action would have taken a monumental amount of time and resources-significantly more than Equifax could have devoted to the Settlement, even if it was feasible.

24. On the other hand, as before, Plaintiffs' Counsel entered the case and then settlement negotiations with several structural conditions that would remain "off the table" throughout this process. First, they would not agree to a release of damages unless the class received a cash settlement. Second, even if financial relief was not automatically provided,

Counsel required that those consumers who were directly harmed by Equifax's practice have an available recourse.

25. And, of course, Plaintiffs were also focused on requiring Equifax to address and remedy the procedural process that was the source of the claims asserted in these cases. The FCRA provides no real injunctive relief remedy.

26. Given these challenges, and how they are overcome, the proposed settlement brings unquestionably significant and ground-breaking relief to every American consumer who may have a civil judgment or lien in their Equifax credit report, and obtains it in exchange for no individual release. This Settlement meaningfully addresses Equifax's challenged conduct such that the violations are significantly less likely to occur in the future.

27. The Settlement also guarantees relief for every consumer who can show they suffered some adverse action as a result of Equifax's inaccurately reported judgment or lien. The remedy is in place for Eighteen (18) months from Final Approval and will be very heavily publicized independent of the Rule 23(c) settlement notice process. Consumers will be eligible to receive \$1,500. They will have access to the assistance of counsel, be able to submit the ADR request for payment online and can decide to reject the payment and proceed to litigation of their individual claim if they so choose.

28. The impact to consumers of this injunctive relief is substantial and immediate, as all existing public records (except bankruptcy records) will be removed from consumer's reports. Additionally, the relief is also prospective, as the demands placed on Equifax prior to reinstatement of reporting of public records will ensure that consumers are not harmed by inaccurate or outdated information appearing on their credit reports.

29. All of this relief was obtained without requiring that Class Members release their individual claims for actual, statutory, or punitive damages.

30. I am pleased with the outcome we were able to obtain for the Class in this case. Although each class member will not automatically receive a cash payment, each will retain the right to pursue a new claim for actual damages after now having been educated that they have such rights through the class notice process. And, as outlined above, the injunctive relief is valuable. In all cases, the Court would necessarily need to evaluate the benefit to the class against the backdrop of what the class member is releasing. It is our belief that this settlement, coupled with the non-release of actual damages claims is an extraordinary result for the class members.

31. My firm has also committed to making their own contact information available and providing direct attorney-to-client representation. Here, the targeted class will exceed 20,000,000 consumers.

32. Taken as a whole, there is little doubt that the decision to settle was as informed as it possibly could have been. This action has been appropriately litigated by the Parties and sufficient discovery has been obtained by both Plaintiff and Defendants to assess the strength of their respective claims and defenses. Class Counsel endorses the Settlement as fair and adequate under the circumstances.

33. My firm staffed each of the above cases in a manner to avoid the expenditure of duplicative time or redundant staffing. I have reviewed the time records submitted in this case, and have eliminated time that I felt was duplicative.

34. In total, my firm's estimated attorney and paralegal lodestar at current rates is in excess of \$ 234,000.00, representing no less than 600 hours of attorney and paralegal time.

35. My firm has also expended resources for expenses and the costs of litigation paid to third parties (and thus not including intra-office expenses such as mailing, copies and legal research), totaling nearly \$4,000 in this case, and over another \$1,500 in the companion cases *Hajjaj v. Equifax Info. Servs. LLC*, Case No. 3:18-cv-01637 (D.S.C.); *Fryett v. Equifax Info. Servs. LLC*, Case No. 5:18-cv-00109 (E.D.N.C.); and *Justice v. Equifax Info. Servs. LLC*, Case No. 1:18-cv-00342 (M.D.N.C.).

36. Additionally, based upon the experience we have gained in the Trans Union and Experian settlements, this settlement will require the collective knowledge and experience of all Class Counsel. I anticipate that my firm will expend additional, and significant, time and resources going forward in the administration of this Settlement. We will play a pivotal role in the ongoing coordination of the settlement program and provide critical subject matter expertise. The total number of consumers about whom a public record has been furnished by Equifax during the class period is approximately 20 million. In previously class cases with large classes, we have received contact from between .5% and 1% of the class. In Transunion, there have been over 7,000 claims identified thus far, and in Experian, there have been over 2,000 claims identified to date. So far, there have been over 12,000 substantive contacts between class counsel and claimants in these two programs.

37. I estimate that within the first six months after settlement Class Counsel will receive at least 10,000 substantive contacts from class members to which an attorney or paralegals will have to respond. These would be in addition to simpler contacts requesting basic information typical in a class settlement. This estimate is based upon response and contact rates in multiple other “accuracy” focused FCRA class settlements we have negotiated and transacted, most recently the Trans Union and Experian settlement.

38. For example, in the Trans Union and Experian settlements, my firm has already spent many hundreds (or even thousands) of hours of attorney, paralegal and administrative time to respond to, monitor and assist consumers in participating in the program. My firm hired an additional attorney, hired additional paralegal support and licensed a database program in order to deal with the volume of class member inquiries and assistance needed. Most inquiries from class members ultimately require attorney assistance or help with obtaining documentation. We continue to litigate and negotiate with Trans Union about nearly every material implementation dispute. Likewise, coordination with Experian has required a substantial amount of time and resources in order to implement and manage the program in that settlement.

39. These substantive contacts have taken and are expected to continue to take significant time for Class Counsel's paralegals and attorneys. I conservatively estimate that the average contact will require at least 1 hour of work and a hybrid lodestar addition of \$300. This is because, while many of these issues can be addressed with 15 minutes of work, many will require multiple hours each as we develop the consumer class member's claim for the ADR submission or otherwise. And as has been the case in Trans Union and Experian, many claimants have required in-depth assistance in document collection and review in order to cure deficiencies with their claims. I anticipate a similarly high level of assistance in Equifax settlement program.

40. I estimate the additional work described above for the Mediation program to easily exceed an additional \$1 million.

41. We negotiated this settlement – including attorneys fees – in the context of that history. Further, we did so with the understanding that there would be substantially more in-depth work required after settlement for those class members who contact us than in typical class action

settlements. In fact, this settlement was built in part to provide legal assistance after settlement as much as before it.

42. Absent approval of the Settlement, Plaintiff would be put to challenging proofs, including a key factual question, the Defendants' willfulness. Additionally, all Parties face the prospect of continued litigation through the completion of a trial and jury deliberations, followed by an appeal. And there is no real injunctive relief remedy otherwise available under the FCRA.

43. Named Plaintiffs agreed to serve as Class Representative in this lawsuit after Class Counsel explained to them the responsibilities required of an individual serving in this role. The Plaintiffs took an active role by keeping abreast of the case's status, reviewing documents provided to them by Counsel, and discussing with Counsel aspects of the case, discovery issues, and factual information. Additionally, several of the class representatives were deposed, and all Plaintiffs participated in settlement conferences and mediations. Each understands his/her role as class representative and was responsive to counsel during the prosecution of the case.

44. The Class Representatives have had the opportunity to review and comment on the proposed Settlement and agree that it is in the best interest of the Class. They ask that the Court approve it.

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

DATED: August 21, 2019, Newport News, Virginia



Leonard A. Bennett

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division**

MARK WILLIAM THOMAS, *et al.*,

Plaintiffs,

v.

Civil No. 3:18-cv-00684-MHL

EQUIFAX INFORMATION SERVICES, LLC,

Defendant.

**DECLARATION OF MICAH S. ADKINS SUBMITTED IN SUPPORT OF PLAINTIFF'S
MOTION FOR ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES
INCURRED ON BEHALF OF THE ADKINS FIRM, P.C.**

I, Micah S. Adkins, declare as follows:

1. I am an attorney with the firm of The Adkins Firm, P.C. I submit this Declaration in support of my firm's application for an award of attorneys' fees in connection with services rendered in this case and in related matters, as well as the reimbursement of expenses incurred by my firm in connection with this litigation.

2. My firm acted as Class Counsel in this action and the related matters described below. I personally handled or was directly involved in many aspects of this litigation. To date, the tasks my firm performed can be summarized as follows:

- a. Pre-suit investigation;
- b. Reviewing and revising materials, including pleadings;
- c. Drafted discovery, including Initial Disclosures, written discovery to Defendant; Plaintiffs' objections, responses and answers to Defendant's discovery, document production and non-party discovery in the form of subpoenas;

- d. Document review;
- e. Motion practice, including stipulated protective orders and stays;
- f. Drafting Status Reports in related matters;
- g. Participating in settlement negotiations, including multiple mediation sessions in Washington, D.C. and Boston, Massachusetts;
- h. Updating the plaintiffs throughout the litigation of this matter on the status of the related matters;
- i. Addressing inquiries from putative class members;
- j. Attending the preliminary approval hearing; and
- k. Drafting, editing and revising class papers.

3. The Summary of Time Expended and Expenses is attached hereto as Exhibit 1, and includes a detailed and specific summary indicating the amount of time, by specific work expended, spent by each attorney, paralegal or law clerk in my firm who was involved in this litigation, and the lodestar fee calculation based on my firm's current billing rates. The Summary of Time and Expenses was prepared by summarizing detailed time record entries which were kept contemporaneous to the time expended and maintained by my firm. Time expended in preparing this application for fees and reimbursement of expenses has been included in this request and anticipated time going forward has been estimated and included as well.

4. The hourly rates charged by my firm are the same as the regular current rates charged to clients who retain the firm in connection with non-class matters. My current hourly rate is \$475.00 per hour. This is the rate I charge most clients for representation in litigation matters under the federal Fair Credit Reporting Act ("FCRA"). I graduated from the University of Texas, at

Dallas, *cum laude*, in 2000. In 2005, I earned my juris doctorate from Samford University, Cumberland School of Law.

5. I am a member of the Alabama, Tennessee and Texas Bars. I am admitted to practice in all U.S. District Courts for Alabama, Arkansas, Colorado, Tennessee and Texas. I am also admitted to practice in the Eastern District of Michigan and the Fifth, Sixth, Ninth and Eleventh Court of Appeals. I have been admitted on motion in numerous districts, including California, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Mississippi, New Jersey, New York, Ohio, Oregon, Pennsylvania, Virginia and the District of Columbia.

6. My practice is almost exclusively in federal court and under the FCRA. I have prosecuted more than one-hundred and fifty individual actions under the FCRA. I also regularly represent consumers in FCRA class cases, and I have represented named class representatives in other types of consumer class actions and complex litigation matters across the United States.

7. I am regularly invited to speak on federal consumer protection issues, especially the FCRA, by professional organizations. I have presented lectures on consumer rights under the FCRA to the Alabama Bar Association, Alliance for Legal Services, Association for Certified Fraud Examiners, Birmingham Bar Association, Community Legal Services of Mid-Florida, Dallas Bar Association, Houston Bar Association, Huntsville/Madison County Bar Association, Montgomery County Bar Association, Florida Bar Association, Jacksonville Area Legal Aid Society, Legal Aid Society of San Diego, City of Orlando's Mayor's Summit, National Association for Consumer Advocates and the Williamson County Bar Association.

8. My consumer practice has been recognized by my peers. I have been named one of Alabama's Top Attorneys from 2012 to 2019. My consumer practice has also been recognized by Super Lawyers as I have been named a Rising Star for years 2014-2017 and as a Mid-South Super

Lawyer for 2019. In May 2019, the California Lawyers Association awarded me the Wiley W. Manuel Certificate for offering *pro bono* legal services related to my expertise on the Fair Credit Reporting Act to low-income individuals and not-for-profit organizations.

9. Attorney Sarah E. Baber is an associate with the firm. I supervise and work closely with Mrs. Baber and she practices almost exclusively under the FCRA. Mrs. Baber graduated from Arkansas State University with her Bachelor of Arts in 2004. She earned her juris doctorate from the University of Arkansas William H. Bowen School of Law in 2007. Mrs. Baber is a graduate of the Arkansas Bar Association's Leadership Academy Class of 2014, and she was elected by her peers to serve on the Arkansas Trial Lawyers Association's Board of Governors. Her currently hourly rate is \$375.00 per hour. Mrs. Baber is a member of the Alabama and Tennessee Bars and admitted to practice in the Eastern and Western Districts of Arkansas.

10. The attorney rates charged by my firm are reasonable and within the range of the appropriate market rates charged by attorneys with comparable experience levels for litigation of a similar nature, given their experience level, practice concentration and background. *See Sapp v. Experian Information Solutions, Inc.*, 2013 WL 2130956, at *2 (E.D. Pa. May 15, 2013); *Chakejian v. Equifax Information Services, LLC*, 275 F.R.D. 201, 216-17 (E.D. Pa. 2011). The hourly rate petitioned for in this litigation is consistent with which have been approved for the undersigned by other courts in the past. *See Young v. Catherines*, No. 13-cv-03288-CMR (E.D. Pa. Nov. 5, 2014) (approving fee petition in full and awarding hourly rate of \$325, plus a 2.4 multiplier); *Fuller v. Avis/Budget Rental Car*, No. 2:15-cv-03856-KM-MAH (D. N.J. Dec. 15, 2017) (approving fee petition in full and awarding hourly rate of \$375, plus a 2.59 multiplier); *Clark v. Trans Union, LLC*, Case No. 2:15-cv-3:15-cv-00391-MHL (E.D. Va.) and *Anderson v. Trans Union, LLC*, Case No. 3:16-cv-00558-MHL (E.D. Va.) (approving fee petition in full and

awarding hourly rate of \$450); *Clark v. Experian Information Solutions, Inc.* No. 3:16-cv-00032-MHL (E.D. Va) and *Brown v. Experian Information Solutions, Inc.*, No. 3:16-cv-00670-MHL (E.D. Va). (approving fee petition in full and awarding hourly rate of \$450).

11. With respect to the standing of counsel in this case, attached hereto as Exhibit 2 is a brief biography of my firm and my curriculum vitae.

12. I have reviewed the time and expense records submitted in this case, and I have eliminated time or expenses that I felt were duplicative. The lodestar of the firm for work already performed with respect to this case¹ is as follows:

	Hourly Rate	Hours	Fees
Micah S. Adkins, Attorney	\$475	322.5	\$ 153,187.50
Sarah E. Baber, Attorney	\$375	42	\$ 15,750.00
Paralegal	\$150	70.9	\$ 10,635.00
Law Clerk	\$75	42.1	\$ 3,157.50
Total Hours and Fees		477.90	\$ 182,730.00

13. My firm's lodestar figures are based upon the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately, and such charges are not duplicated in my firm's billing rates.

14. As detailed in Exhibit 1, my firm has incurred a total of \$ 15,526.83, in unreimbursed expenses in connection with the prosecution of related cases and the above-styled matter. The category and total expenses incurred to date are listed for each matter.

¹ Time and expenses include the above-named matter and the following related matters: *Nyanjom v. Equifax Information Services, LLC*, No. 2:18-cv-02143-HLT-GEB (D. Kan.); *Jones v. Equifax Information Services, LLC*, No. 1:17-cv-1166-STA-egb (W.D. Tenn.), and *Peters v. Equifax Information Services, LLC*, No. 2:17-cv-01274-KOB (N.D. Ala.).

15. The expenses incurred in this action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, receipts, check records and other source materials and are an accurate recordation of the expenses.

16. In addition to serving as Class Counsel in this action, my firm worked with local counsel in one of the related actions. Those attorneys are identified herein and separate declarations detailing their involvement in the relevant actions and summarizing their time expended is attached hereto as an Exhibit 3.

17. In addition to the time already incurred and documented as set forth above, as part of the settlement agreement, Class Counsel have agreed to represent class members in connection with the Alternative Dispute Resolution (ADR) Program established by the settlement for twenty-four months from the Effective Date. During that time period, I anticipate that my firm will expend hundreds of attorney hours and paralegal hours through completion of the settlement and for the further work for the ADR Program. My firm has hired additional attorney and paralegal support in order to deal with the volume of class member inquiries and ADR Participants as needed.

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

Signed this 23rd day of August 2019.

Respectfully submitted,

/s/ Micah S. Adkins

Micah S. Adkins (admitted *pro hac vice*)

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Attorney for Plaintiffs

Exhibit 1Summary of Time & Expenses*Thomas v. Equifax Information Services, LLC*

	Hourly Rate	Hours	Fees
Micah S. Adkins, Shareholder	\$475	88.2	\$41,895.00
Sarah E. Baber, Associate	\$375	14	\$5,250.00
Paralegal	\$150	16.40	\$2,460.00
Law Clerk	\$75	22.2	\$1,665.00
Total Hours/Fees		140.80	\$51,270.00

CATEGORY	HOURS	LODESTAR
Settlement, including: <ul style="list-style-type: none"> • work and research done in furtherance of settlement, discussions and negotiations related to mediation and/or settlement; • review of settlement related documents; and • mediation attendance or settlement related court appearances. 	104.8	\$ 39,970.00
Case Management, including: <ul style="list-style-type: none"> • correspondence with clients, opposing counsel, non-parties, co-counsel; and • review of matter materials 	36	\$ 11,300.00
Total Hours & Fees	140.8	\$ 51,270.00

Expenses

Category	Cost
Airfare, travel expenses, transportation, lodging/meals	\$ 12,261.58
Total Expenses	\$ 12,261.58

Nyanjom v. Equifax Information Services, LLC

	Hourly Rate	Hours	Fees
Micah S. Adkins, Shareholder	\$475	137.90	\$ 65,502.50
Sarah E. Baber, Associate	\$375	13.2	\$ 4,950.00
Paralegal	\$150	27.2	\$ 4,080.00
Law Clerk	\$75	13.3	\$ 997.50
Total Hours/Fees		191.60	\$ 75,530.00

CATEGORY	HOURS	LODESTAR
Pre-Suit Investigation, including: <ul style="list-style-type: none"> • development of case theory; • factual investigation; and • legal drafting related to initiating papers. 	19.30	\$ 6,447.50
Litigation, including: <ul style="list-style-type: none"> • work and research done in furtherance of litigation; • court appearances; • discovery; • motion practice; and • pleadings and service review. 	91.4	\$ 36,095.00
Settlement, including: <ul style="list-style-type: none"> • work and research done in furtherance of settlement; • discussions and negotiations related to mediation and/or settlement; • review of settlement related documents; • mediation attendance or settlement related court appearances. 	49	\$ 20,150.00
Case Management, including: <ul style="list-style-type: none"> • correspondence with clients, opposing counsel, non-parties, co-counsel; and • review of matter materials 	31.90	\$ 12,837.50
Total Hours & Fees	191.60	75,530.00

Nyanjom v. Equifax Information Services, LLC

EXPENSES

Category	COST
Court Filing Fees	\$450.00
Print/copy/postage/FedEx delivery charges	\$ 155.70
Travel, Transportation, Lodging/Meals	\$ 2,093.30
Pacer Fees	\$ 14.80
Total Expenses	\$ 2,713.80

Jones v. Equifax Information Services, LLC

	Hourly Rate	Hours	Fees
Micah S. Adkins, Shareholder	\$475	62.7	\$ 29,782.50
Sarah E. Baber, Associate	\$375	6.6	\$ 2,475.00
Paralegal	\$150	15.3	\$ 2,295.00
Law Clerk	\$75	3.6	\$ 270.00
Total Hours/Fees		88.2	\$ 34,822.50

CATEGORY	HOURS EXPENDED	LODESTAR
Litigation, including: <ul style="list-style-type: none"> • Work and research done in furtherance of litigation; • court appearances; • discovery; • motion practice; • and pleadings and service review. 	58.3	\$ 24,032.50
Case Management, including: <ul style="list-style-type: none"> • correspondence with clients, opposing counsel, non-parties, co-counsel; and • review of matter materials. 	29.9	\$ 10,790.00
Total Hours & Fees	88.2	\$ 34,822.50

Expenses

Category	Cost
Print/copy/postage /FedEx delivery charges	\$ 48.45
Total Expenses	\$ 48.45

Peters v. Equifax Information Services, LLC

	Hourly Rate	Hours	Fees
Micah S. Adkins, Shareholder	\$475	33.7	\$16,007.50
Sarah E. Baber, Associate	\$375	8.2	\$ 3,075.00
Paralegal	\$150	12	\$ 1,800.00
Law Clerk	\$75	3.0	\$ 225.00
Total Hours/Fees		56.9	\$ 21,107.50

CATEGORY	Hours	Fees
Litigation, including: <ul style="list-style-type: none"> • work and research done in furtherance of litigation; • court appearances; • discovery; • motion practice; and • pleadings and service review. 	35.8	\$ 13,535.00
Case Management, including: <ul style="list-style-type: none"> • correspondence with clients; • opposing counsel, non-parties, co-counsel; and • review of matter materials. 	21.1	\$ 7,572.50
Total Hours & Fees	56.9	\$ 21,107.50

Expenses

Category	Cost
Print/copy/postage/FedEx delivery charges	\$103.00
Court Filing Fees	\$ 400.00
Total Expenses	\$ 503.00

EXHIBIT 2

THE ADKINS FIRM
PROTECTING  CONSUMERS
NASHVILLE • BIRMINGHAM • DALLAS • HOUSTON

The Adkins Firm, P.C. was founded in 2014 by Micah S. Adkins. The Adkins Firm represents consumers in federal court under various consumer protection statutes, including the Fair Credit Reporting Act (“FCRA”). The Adkins Firm maintains offices in Birmingham, Alabama, Dallas, Texas, Houston, Texas and Nashville, Tennessee and is active in the legal community. The Adkins Firm focuses on the representation of consumers who have credit report or background report errors. We have represented consumers in over one-hundred and fifty individual actions in federal court across the U.S. under the FCRA.

Mr. Adkins earned his Bachelor of Science degree from the University of Texas, at Dallas, with honors (*cum laude*), in 2000. He earned his juris doctorate from the Cumberland School of Law, at Samford University, in 2005. Mr. Adkins was honored by his classmates as the Peer Scholarship Recipient and served as an Associate Justice on the Honor Court.

Mr. Adkins is admitted to the Alabama, Tennessee and Texas Bars. He is also admitted to the United States Court of Appeals for the Fifth, Sixth, Ninth and Eleventh Circuits and to all federal district courts in Alabama, Arkansas, Colorado, Tennessee and Texas. He is also a member of the Eastern District of Michigan. Mr. Adkins has been admitted by motion in various district courts, including California, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Mississippi, New Jersey, New York, Ohio, Oregon, Pennsylvania, Virginia and the District of Columbia.

Mr. Adkins has represented the named class representatives in the following certified class actions: *Thomason v. Surin of Thailand*, N.D. Ala., Case No. 07-B-1710-S; *Kanakis v. Surin 280, LLC*, N.D. Ala. Case No. 07-B-17-11; *Iradiji v. Surin West, Inc.*, N.D. Ala. Case No. 07-B-1712-S; *Countrywide Financial Corp. Customer Data Security Breach Litigation*, MDL No. 1998; *TJX Companies Retail Security Breach*, MDL No. 1838; *Department of Veterans (VA) Affairs Data Theft Litigation*, MDL No. 1796; *Young v. Charming Shoppes, Inc., et al.*, E.D. Pa. Case No. 2-13-cv-03288-CMR; *Almanzar, et al v. Select Portfolio Servicing, Inc., et al.*, S.D. Fla. Case No. 1:14-cv-22586-FAM; *Fuller v. Avis/Budget Rental Car*, Case No. 2:15-cv-03856-KM-MAH (D. N.J. Dec. 15, 2017); *Clark v. Trans Union, LLC*, Case No. 2:15-cv-3:15-cv-00391 (MHL) and *Anderson v. Trans Union, LLC*, Case No. 3:16-cv-00558 (MHL); *Clark v. Experian Information Solutions, Inc.* Case No. 3:16-cv-00032 (MHL) and *Brown v. Experian Information Solutions, Inc.* Case No. 3:16-cv-00670 (MHL). Mr. Adkins currently represents the named class representatives in other nationwide putative consumer class actions.

Mr. Adkins' consumer advocacy has been recognized by the members of the Bar, including the Birmingham Bar Association where he was named as a Top Consumer Lawyer in 2012, 2013, 2014 and 2016. Super Lawyers also recognized him as a Rising Star 2014 - 2017. He is regularly invited to lecture on federal consumer protection issues by the: Alabama Bar Association; Birmingham Bar Association; Dallas Bar Association; Florida Bar Association; Houston Bar Association; Huntsville/Madison County Bar Association; Montgomery Bar Association; Williamson County Bar Association and the National Association of Consumer Advocates.

Mr. Adkins is a member of the Alabama Association for Justice; Birmingham Bar Association, Collin County Bar Association, Dallas Bar Association, Federal Bar Association; Houston Bar Association; National Association of Consumer Advocates; and the Tennessee Trial Lawyers Association.

Attorney Sarah E. Baber is an associate with the firm. Mrs. Baber and she practices almost exclusively under the FCRA. Mrs. Baber graduated from Arkansas State University with her Bachelor of Arts in 2004. She earned her juris doctorate from the University of Arkansas William H. Bowen School of Law in 2007. Mrs. Baber is a graduate of the Arkansas Baber Association's Leadership Academy Class of 2014 and was elected to serve the Arkansas Trial Lawyers Association's Board of Governors. Mrs. Baber is a member of the Alabama and Tennessee Bars and admitted to practice in the Eastern and Western Districts of Arkansas.

List of Speaking Engagements
Micah S. Adkins

Introduction to the Fair Credit Reporting Act and Housing Issues, Tennessee Alliance for Legal Services, Nashville, Tennessee July 19, 2019.

ID Theft: What Should My Client Do? Williamson County Bar Association, Franklin, Tennessee, October 5, 2018.

My client's identity was stolen! What should my client's do? Houston Bar Association, Houston, Texas, April 20, 2018.

Reseller Liability: Consumers' Rights and Remedies Under the FCRA, National Association of Consumer Advocates, Webinar, November 6, 2018.

Reseller Liability Under the Fair Credit Reporting Act, National Association of Consumer Advocates, Fair Credit Reporting Act Conference, Baltimore, MD, April 27, 2017.

Private/Public Partnerships, National Association of Consumer Advocates, Fair Credit Reporting Act Conference, Baltimore, MD, April 27, 2017.

ID Theft Take Charge, Memorial High School, Houston, Texas, April 19, 2017.

Common Claims: Reasonable Procedures Under § 1681e(b), National Association of Consumer Advocates, 2015 Fair Credit Reporting Act Conference, Las Vegas, NV, May 2, 2015.

Overview of the Fair Credit Reporting Act, Jacksonville Area Legal Aid, Jacksonville, Florida, December 12, 2016.

ID Theft Consumer Rights, Sonangol, Houston, Texas, August 22, 2016.

ID Theft and Consumers' Rights, Bridgeworth Financial, Birmingham, Alabama, May 23, 2016

Avoid ID Theft, Alabama Association of Legal Secretaries, January 20, 2012, Birmingham, Alabama.

Overview of the Fair Credit Reporting Act, Bridgeport Webinar CLE, September, 23, 2015.

Consumer Rights and the Fair Credit Reporting Act, Rotary Club, Madison, Alabama, August 23, 2015.

ABC's of the Fair Credit Reporting Act, Alabama Bar Association, Montgomery, Alabama, July 15, 2015.

Consumers' Rights and the Fair Credit Reporting Act, Jefferson County Public Defenders Office, Birmingham, Alabama, May 29, 2015.

Elder Exploitation, Elder Law Section, Birmingham Bar Association, October 22, 2014, Birmingham, Alabama.

How to Deter, Detect and Defend Against Identity Theft, Dallas Bar Association, Dallas, Texas, September 19, 2014.

Defending Against ID Theft in Alabama, Montgomery Bar Association, Montgomery, Alabama, May 15, 2014.

Introduction to the Fair Credit Reporting Act, Birmingham Bar Association, Birmingham, Alabama, November 16, 2012.

Avoid ID Theft, Association of Certified Fraud Examiners, Birmingham, Alabama, 2012.

Avoid ID Theft, Peoples Law School, Huntsville, Alabama Public Broadcasting Service, February 27, 2012.

Avoid ID Theft, Birmingham Legal Secretaries Association, Birmingham, Alabama, July 21, 2011.

EXHIBIT 3

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division**

MARK WILLIAM THOMAS, *et al.*,

Plaintiffs,

v.

Civil No. 3:18-cv-00684-MHL

EQUIFAX INFORMATION SERVICES, LLC,

Defendant.

DECLARATION OF A.J. STECKLEIN

A.J. Stecklein declares under penalty of perjury, that the following statements are true:

1. I am over the age of eighteen, and fully competent to make this declaration based upon my personal knowledge.
2. My firm acted as local counsel for The Adkins Firm, P.C., in a related matter to the above-styled action, *Nyanjom v. Equifax Information Services, LLC*, pending in the District of Kansas, case number 2:18-cv-02143-HLT-GEB.
3. To date, the tasks performed my firm performed can be summarized as follows:
 - a. Reviewing and revising materials, including pleadings;
 - b. Document review;
 - c. Motion practice, including protective order and multiple stays;
 - d. Legal drafting;
 - e. Correspondence and teleconferences with lead counsel and opposing counsel; and
 - f. Drafting, editing and revising class papers in support of final approval.

4. The Summary of Time Expended below includes a detailed and specific summary indicating the amount of time, by specific work expended, spent by each attorney or paralegal in my firm who was involved in this litigation and the lodestar calculation based on my firm's current billing rates. The Summary of Time was prepared by summarizing detailed time record entries which were kept contemporaneous to the time expended and maintained by my firm.

Counsels' Experience

5. As shown below, my firm has regularly engaged in complex consumer litigation. My firm has the resources necessary to conduct litigation of this nature, and has experience prosecuting individual and class actions of similar size, scope, and complexity to the instant case.

6. Stecklein & Rapp, Chtd. is a Kansas City law firm and consists of four attorneys primarily focusing on consumer protection cases for both individuals and class actions.

7. I am a shareholder of the firm and member of the bars of Kansas and Missouri as well as several bar associations and the National Association of Consumer Advocates.

8. I received my undergraduate degree in business administration from Kansas State University in 1991, and my law degree from the University of Kansas 1994. I was admitted to practice law in 1994 in the courts of Kansas, and I have also been admitted to practice law in the courts of the State of Missouri in 1995. Additionally, I am admitted to practice before the United States District Court for the Western District of Missouri, and the United States District Court for the District of Kansas. My practice is primarily devoted to civil litigation relating to consumer cases, especially cases involving the federal Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* and the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.*

9. I have handled numerous Fair Debt Collection Practices Act and Fair Credit Reporting Act and other consumer protection cases and have been directly involved in the

investigations and prosecution of those cases. I have regularly attended conferences relating to consumer law issues across the country. I have handled a number of appeals in state and federal district court cases resulting in reported decisions. Prior to working exclusively in the area of consumer protection I worked as an assistant district attorney in Wyandotte County, Kansas and was the president of the Wyandotte County Bar Association in 2004.

10. I have practiced law in Kansas and Missouri since 1994. I have focused my practice nearly exclusively on consumer law cases since 2008.

11. I have been certified as class counsel in the following cases: *North Star Capital Acquisition LLC v. Dennis Budd*, Case Number 09-CV-836, Wyandotte County, Kansas District Court; *Ramona Curnal v. LVNV Funding, LLC*, Case Number 10-CV-001667, Wyandotte County, Kansas District Court; *Phillys Johnson v. MKA Enterprises Inc.*, Case Number 12-CV-498, Wyandotte County, Kansas District Court; *Oneida Ruby v. Atlantic Credit & Finance Inc.*, 12-CV-577, Wyandotte County, Kansas District Court; *Dan Holiday Furniture LLC v. Heather Morris*, Case Number 1416-CV-14459, Jackson County, Missouri Circuit Court; *Russell Wilson v. Ridgmar Group, LLC*, Case Number 1616-CV01555, Jackson County, Missouri Circuit Court; *Jeffrey Hoelflicker v. CPS Logistics, Inc.* 15-cv-00679-BP, United States District Court for the Western District of Missouri; *Dean Barrett v. Selene Finance LP*, Case No. 4:17-cv-00985-BCW, United States District Court for the Western District of Missouri; *Timothy Detter v. KeyBank, N.A.*, No. 1616-CV10036, Circuit Court of Jackson County, Missouri; *Samantha Hennessy v. Mid-America Apartment Communities, Inc. & Mid-America Apartments, L.P.*, Case No. 17-CV-00872 BCW, United States District Court for the Western District of Missouri.

12. I have argued before the Kansas and Missouri Court of Appeals in class cases including the following: *North Star Capital Acquisition LLC v. Dennis Budd*, Case Number 09-

CV-836, Wyandotte County, Kansas District Court; *Ramona Curnal v. LVNV Funding, LLC*, Case Number 10-CV-001667, Wyandotte County, Kansas District Court; *Phillys Johnson v. MKA Enterprises Inc.*, Case Number 12-CV-498, Wyandotte County, Kansas District Court; *Oneida Ruby v. Atlantic Credit & Finance Inc.*, 12-CV-577, Wyandotte County, Kansas District Court; *Portfolio Recovery Associates v. Danette Dixon*, Case Number 11-CV-55, Rice County, District Court; *LVNV Funding, LLC v. Linda Mavaega*, Case Number 1416-CV24917, Jackson County, Missouri Circuit Court.

13. I have presented continuing legal education seminars both nationally and in the Kansas City Metropolitan area and lectured to community groups regularly on consumer issues, including class actions in both the Fair Debt Collection Practices Act and the Fair Credit Reporting Act contexts.

14. In addition, I closely track pending consumer protection cases, especially in the Fair Debt Collection Practices act and Fair Credit Reporting Act context, to continually keep myself apprised of new developments in this area.

15. My Partner Michael Rapp is an experienced consumer protection attorney who earned his law degree from UMKC School of law where he served as Research Administrator for Friedman on Leases and was awarded the Sanford B. Ladd Award for his exceptional achievement in Real Estate Law. Michel Rapp is a member of both the Kansas and Missouri bars and is admitted to practice before the United States District Court for the District of Colorado, the United States District Court for the District of Kansas, and the United States District Court for the Western District of Missouri. Mr. Rapp has a wide-ranging consumer law practice and has appeared *Pro Hac Vice* in cases in Nebraska and Florida. Since graduating law school, Michael has focused his practice exclusively on Consumer Law with a concentration on Fair Debt Collection Practices

(FDCPA), Credit Reporting (FCRA) and Telephone Consumer Protection (TCPA). Michael regularly gives talks around the Kansas City area to community groups on the topics of Debt and Credit and blogs about FDCPA stories of interest. He is a member of the American Bar Association, Kansas City Metropolitan Bar Association, Wyandotte County Bar Association, as well as the National Association of Consumer Advocates.

16. My second-year associate is Matthew Robertson. Mr. Robertson earned his law degree from Washburn University School of Law in 2016 with Dean's Honors, and he was twice published as a member of the Washburn Law Journal. One of Mr. Robertson's publications was about recent developments in Fair Debt Collection Practices Act Litigation. ROBERTSON, MATTHEW, *Of Language and Symbols: A Move Toward Defining What is "Benign" Under the Fair Debt Collection Practices Act [Douglass v. Convergent Outsourcing, 765 F.3d 299 (3d Cir. 2014)]*, 54 WASHBURN L.J. 761 (2014-2015). Mr. Robertson is a member of both the Kansas and Missouri bars and is admitted to practice before the United States District Court for the District of Colorado, the United States District Court for the District of Kansas, and the United States District Court for the Western District of Missouri. Mr. Robertson's practice focuses almost exclusively on the prosecution of individual and class action cases under the Fair Debt Collection Practices Act and the Fair Credit Reporting Act. Mr. Robertson is a member of the National Association of Consumer Advocates.

17. Anne Lamoy assisted in this case as a paralegal. She has been employed by my firm as a paralegal since 2003. Anne Lamoy has been an integral part of my federal practice for the entirety of her tenure at my firm. Prior to joining my firm, Anne Lamoy worked as an investigative reporter for the Kansas City Star for twenty years.

18. The lodestar of the firm for work already performed with respect to this case is as

follows:

SUMMARY OF TIME EXPENDED

Staff:	Role:	Years in Practice:	Time (Hrs):	Rate:	Total:
A.J. Stecklein	Partner	25	4.9	\$400.00	\$1,960.00
Michael H. Rapp	Partner	7	4.1	\$325.00	\$1,332.50
Matthew S. Robertson	Associate	3	2.6	\$275.00	\$715.00
Anne M. Lamoy	Paralegal	15	10.3	\$195.00	\$2,008.50
				Sub Total:	\$6,016.00
				Reduced by:	-\$793.00
				Total:	\$5,223.00

CATEGORY	HOURS	LODESTAR
Case Management, including: <ul style="list-style-type: none"> • Correspondence with Lead Counsel and opposing counsel; • Review of matter materials; • Assistance with local services, including litigation strategy and motion practice; and • Pleadings and service. 	21.90	\$ 6,016.00
Total Hours and Fees	21.90	\$ 6,016.00

19. The fee award requested above has been reduced to remove time spent on electronic mail that was not adequately supported with descriptions and other tasks. In total, the above requested award was reduced by more than 10% of the total time spent litigating this case by my firm. This reduction was done in accordance with our duty to exercise billing judgment in our request for an attorneys' fee award. *See Erickson v. City of Topeka, Kansas*, 239 F. Supp. 2d 1202, 1207 (D. Kan. 2002) (“[a]ttorneys normally do not bill all hours expended in litigation to a client,

and an applicant should exercise billing judgment with respect to a claim of the number of hours worked”) (*quoting Ellis v. Univ. of Kan. Med. Ctr.*, 163 F.3d 1186, 1202 (10th Cir.1998)) (internal quotation marks removed).

20. The rates outlined above are, in my experience, reasonable for attorneys and paralegals of comparable experience and education in the Kansas City metropolitan area.

21. The rates requested for Messrs. Stecklein and Rapp have been previously approved by Chief Judge Robinson of this District. *Farabee v. Perfection Collection LLC*, No. 17-cv-2528-JAR-GEB, 2018 WL 3495843, at *6 (D. Kan. July 20, 2018) (“While certainly on the high end for Mr. Stecklein and Mr. Rapp, the Court finds that the rates requested for Plaintiff’s attorneys are within a reasonable range for counsel of comparable experience within the Kansas City community.”).

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

Executed at Kansas City, Missouri on August 23, 2019.

Respectfully submitted,

/s/ A.J. Stecklein
A.J. Stecklein
Stecklein & Rapp Chartered
748 Ann Avenue
Kansas City, Kansas 66101
Tel: 913-371-0727
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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

MARK WILLIAM THOMAS, *et al.*

Case No. 3:18-cv-00684-MHL

Plaintiff,

v.

EQUIFAX INFORMATION SERVICES,
LLC,

Defendant.

I, E. Michelle Drake, hereby declare as follows:

1. I am one of Class Counsel in the above-captioned matter.
2. I submit this Declaration in support of Plaintiffs' Motion for Final Approval of Class Action Settlement, and for Attorneys' Fees, Costs, and Class Representative Service Awards.
3. I am a Shareholder at Berger Montague PC. I have been practicing law since 2001 and am a graduate of Harvard College, Oxford University, and Harvard Law School. In 2016, I joined Berger Montague as a Shareholder. Prior to joining Berger Montague, I was a partner at Nichols Kaster, PLLP, where I ran that firm's consumer protection group.
4. Berger Montague specializes in class action litigation and is one of the preeminent class action law firms in the United States. The firm employs over 60 attorneys and primarily represents plaintiffs in complex civil litigation in federal and state courts. Berger Montague has played lead roles in major class action cases for over 48 years, and has obtained settlement and recoveries totaling over \$30 billion for its clients and the classes they have represented. A copy of the firm's resume is attached hereto as **Exhibit A**.

5. I serve as co-chair of the firm's Consumer Protection, Credit Reporting & Background Checks, and Technology, Privacy & Data Breach practice groups. My practice focuses on protecting consumers' rights when they are injured by improper credit reporting, and other illegal business practices. I currently serve as lead or co-lead counsel in dozens of class action consumer protection cases in federal and state courts across the country, including numerous cases brought pursuant to the Fair Credit Reporting Act. A copy of my personal resume is attached hereto as **Exhibit B**.

6. I serve on the Board of the National Association of Consumer Advocates, am a member of the Partner's Council of the National Consumer Law Center, and am a Co-Chair of the Consumer Litigation Section for the Minnesota State Bar Association. I have previously served as a member of the Ethics Committee for the National Association of Consumer Advocates, and as Treasurer and At-Large Council Member for the Consumer Litigation Section of the Minnesota State Bar Association. I was also an appointee to the Federal Practice Committee in 2010 by the U.S. District Court for the District of Minnesota.

7. I am consistently named to the annual lists of The Best Lawyers of America, Top 50 Women Minnesota Super Lawyers, and Super Lawyers. I have been quoted in the New York Times, the L.A. Times, Fortune, Bloomberg News and the National Law Journal. Two of my cases have been named as "Lawsuits of the Year" by Minnesota Law & Politics.

8. I present frequently at national and local conferences on class actions, consumer protection, and Fair Credit Reporting Act-related topics, and I co-authored a book chapter on background checks and related issues, "Financial and Criminal Background Checks," Job Applicant Screening: A Practice Guide, Minnesota Continuing Legal Education Publication, May 2014, and the forthcoming 2d. ed. I was a contributing author to "Consumer Law," The

Complete Lawyer's Quick Answer Book, Minnesota Continuing Legal Education Publication, 2d. ed., 2019, and "Chapter 1: Case and Claims Selection, Other First Considerations," Consumer Class Actions, National Consumer Law Center, 10th ed., 2019. My recent speaking engagements have included:

- "Fair Credit Reporting Act/Debt Collection Issues," 24th Annual Consumer Financial Services Institute, Practising Law Institute, Chicago, IL, May 2019.
- "Ethics Session: Referrals and Fee-Sharing," Fair Credit Reporting Act Conference, National Association of Consumer Advocates, Long Beach, CA, May 2019.
- "Consumer Law: Recent Trends and Hot Topics in FCRA Litigation," Minnesota Continuing Legal Education, Minneapolis, MN, January 2019.
- "Diamonds in the Rough: Identifying Good Class Claims," Mass Torts Made Perfect Fall Seminar, Las Vegas, NV, October 2018.
- "Nationwide Settlement Classes – The Impact of the Hyundai/Kia Litigation," Class Action Symposium, Consumer Rights Litigation Conference, National Consumer Law Center, Denver, CO, October 2018.
- "Developments in Public Records Litigation," Consumer Rights Litigation Conference, National Consumer Law Center, Denver, CO, October 2018.
- "Big Challenges in the City of BIG Shoulders, Electronic Discovery's Rise to Prominence," ABA 22nd Annual National Institute on Class Actions, Chicago, IL, October 2018.
- "Jurisdiction Issues Post *Bristol-Myers*," Bridgeport 2018 Class Action Litigation Conference, San Francisco, CA, September 2018.

- “New Developments in the Law of Personal Jurisdiction in the Aftermath of the Supreme Court’s Decisions in *BNSF Railway Co. v. Tyrrell* and *Bristol Myers* and the Strategies,” Plaintiffs’ Class Action Roundtable, Rancho Palos Verdes, CA, April 2018.
- “New Developments in Personal Jurisdiction,” Litigator’s Short Course, Minnesota Continuing Legal Education, Minneapolis, MN, February 2018.
- “Game Changing Blindspots that Create Privacy Liabilities – a Plaintiff-Side Litigator’s Insights,” Midwest Legal Conference on Privacy & Data Security, Minneapolis, MN, January 2018.
- “Federal Discovery: Winning Your Cases Early,” & “FCRA Report Disclosures: Issues and Litigation,” Consumer Rights Litigation Conference, National Consumer Law Center, Washington, D.C., November 2017.
- “Strategic Response to Recent Supreme Court Decision in *Bristol-Meyers*,” Class Action Symposium, Consumer Rights Litigation Conference, National Consumer Law Center, Washington, D.C., November 2017.
- Conference Co-Chair, “Class Actions: Legislative Developments, Updates & More,” CLE International, Los Angeles, CA, November 2017.
- “The Times They Are a-Changin’: The Role of Administrative Agencies and Private Counsel in the Trump Era,” American Bar Association Annual National Institute on Class Actions, Washington, D.C., October 2017.
- “The CFPB’s New Rule on Arbitration: What It Is and What Comes Next,” Minnesota State Bar Association Continuing Legal Education, Minneapolis, MN, September 2017.

- “Standing: Assessing Article III Jurisdiction One Year after Spokeo,” Minnesota State Bar Association Continuing Legal Education, Minneapolis, MN, June 2017.
- “House Resolution 985 – Update and Strategies for Defeat,” Cambridge Forums’ Plaintiffs’ Class Action Forum, Carefree, AZ, May 2017.
- “TCPA/FCRA/Debt Collection Issues,” PLI 22nd Annual Consumer Financial Services Institute, Chicago, IL, May 2017.
- “Case Law and Recent Trial Update Panel,” Fair Credit Reporting Act Conference, National Association of Consumer Advocates, Baltimore, MD, April 2017.

9. I litigate cases throughout the United States and have been admitted to, and am a member in good standing with, the following courts:

- United States Supreme Court, 2017
- State Bar of Georgia, 2001
- Georgia Supreme Court, 2006
- Minnesota Supreme Court, 2007
- U.S. Court of Appeals for the Eighth Circuit, 2010
- U.S. Court of Appeals for the First Circuit, 2011
- U.S. Court of Appeals for the Seventh Circuit, 2014
- U.S. Court of Appeals for the Ninth Circuit, 2015
- U.S. Court of Appeals for the Tenth Circuit, 2018
- U.S. Court of Appeals for the Third Circuit, 2019
- U.S. District Court for the Northern District of Georgia, 2007
- U.S. District Court for the District of Minnesota, 2007

- U.S. District Court for the Eastern District of Wisconsin, 2011
- U.S. District Court for the Western District of Texas, 2011
- U.S. District Court for the Western District of Wisconsin, 2015
- U.S. District Court for the Eastern District of Michigan, 2015
- U.S. District Court for the Central District of Illinois, 2016
- U.S. District Court for the Southern District of Texas, 2017
- U.S. District Court for the District of Colorado, 2017
- U.S. District Court for the Western District of New York, 2017
- U.S. District Court for the Western District of Michigan, 2018

10. I have served as lead, or co-lead, class counsel in numerous notable consumer protection matters, including, but not limited to, the following:

Clark v. Experian Info. Sols., Inc., No. 16-cv-32 (E.D. Va.). FCRA class action, alleging violations by credit bureau, providing a nationwide resolution of class action claims asserted by 32 plaintiffs in 16 jurisdictions, including injunctive relief and an uncapped mediation program, for millions of consumers.

Clark/Anderson v. Trans Union, LLC, No. 15-cv-391 & No. 16-cv-558 (E.D. Va.). FCRA consolidated class action, alleging violations by credit bureau, providing groundbreaking injunctive relief, and an opportunity to recover monetary relief, for millions of consumers.

Rubio-Delgado v. Aerotek, Inc., No. 16-cv-1066 (S.D. Ohio). FCRA class action, alleging violations by employer, resulting in a \$15 million settlement.

Knights v. Publix Super Markets, Inc., No. 14-cv-720 (M.D. Tenn.). FCRA class action, alleging violations by employer, resulting in a \$6.75 million settlement.

Hillson v. Kelly Services, Inc., No. 15-cv-10803 (E.D. Mich.). FCRA class action, alleging violations by employer, resulting in a \$6.749 million settlement.

Ernst v. DISH Network, LLC & Sterling Infosystems, Inc., No. 12-cv-8794 (S.D.N.Y.). FCRA class action, alleging violations by employer and consumer reporting agency, resulting in a \$4.75 million settlement with consumer reporting agency, and a \$1.75 million settlement with employer.

Howell v. Checkr, Inc., No. 17-cv-4305 (N.D. Cal.). FCRA class action, alleging violations by consumer reporting agency, resulting in a \$4.46 million settlement.

Brown v. Delhaize America, LLC, No. 14-cv-195 (M.D.N.C.). FCRA class action, alleging violations by employer, resulting in \$2.99 million settlement.

Nesbitt v. Postmates, Inc., No. CGC-15-547146 (Cal. Super. Ct., San Fran. Cnty.). FCRA class action, alleging violations by employer, resulting in a \$2.5 million settlement.

Singleton v. Domino's Pizza, LLC, No. 11-cv-1823 (D. Md.). FCRA class action, alleging violations by employer, resulting in a \$2.5 million settlement.

Heaton v. Social Finance, Inc., No. 14-cv-5191 (N.D. Cal.). FCRA class action, alleging violations by lender, resulting in a \$2.5 million settlement.

Terrell v. Costco Wholesale Corp., No. 10-2-33915-9 (Wash. Super. Ct., King Cnty.). FCRA class action, alleging violations by employer, resulting in a \$2.49 million settlement.

Halvorson v. TalentBin, Inc., No. 15-cv-5166 (N.D. Cal.). FCRA class action, alleging violations by online data aggregator, resulting in a \$1.15 million settlement.

Legrand v. IntelliCorp Records, Inc., No. 15-cv-2091 (N.D. Ohio). FCRA class action, alleging violations by consumer reporting agency, resulting in a \$1.1 million settlement.

In re Target Corp. Customer Data Security Breach Litig., MDL No. 14-2522 (D. Minn.). Data security breach class action, resulting in a \$10 million settlement for consumers (approval currently pending on appeal).

11. My litigation efforts and experience have received judicial acknowledgement and praise throughout the years of my practice. Examples of such recognition include:

From Judge Harold E. Kahn, Dep't 302, Superior Court of Cal., San Fran. Cnty.:

You're very articulate on this issue. ... Obviously, you're very thoughtful and you have given it a great deal of thought. ... And I appreciate your ability to respond to my questions off the cuff. ... It shows that you have given these issues a lot of thought ... I have to say that your thoughtfulness this morning has somewhat diminished my concerns [regarding high multiplier on attorney fees]... You're demonstrating credibility by a mile as you go...You are extraordinarily impressive. And I thank you for being here, and for your candid, noninvasive [sic] response to every question I have. I was extremely skeptical at the outset this morning. You have allayed all of my concerns and have persuaded me that this is an

important issue, and that you have done a great service to the class. And for that reason, I am going to approve your settlement in all respects... And I congratulate you on your excellent work.

Nov. 7, 2017, Final Approval Hearing, *Nesbitt v. Postmates, Inc.*, No. CGC-15-547146.

From Judge Laurie J. Michelson, United States District Court, E.D. Mich.:

Counsel's quality of work in this case was high. The Court has been impressed with counsel's in-court arguments. And counsel has provided the Court with quality briefing as well.

Aug. 11, 2017, Opinion & Order on Mtn. for Atty. Fees, and Mtn. for Final Approval, *Hillson v. Kelly Services, Inc.*, No. 15-cv-10803.

From Magistrate Judge Terence P. Kemp, United States District Court, S.D. Ohio:

The parties in this case are represented by counsel with substantial experience in class action litigation, and FCRA cases in particular. ... Class Counsel are experienced and knowledgeable in FCRA litigation, are skilled, and are in good standing.

June 30, 2017, Report & Recomm'n. on Final Approval, *Rubio-Delgado v. Aerotek, Inc.*, No. 16-cv-1066.

From Judge Paul A. Magnuson, United States District Court, D. Minn.:

[T]he class representatives and their counsel more than adequately protected the class's interests. ... [T]he comprehensive nature of the settlement in turn, reflects the adequacy, indeed the superiority, of the representation the class received from its named Plaintiffs and from class counsel.

May 17, 2017, Mem. & Order on Mtn. to Certify Class, *In re Target Corp. Customer Data Sec. Breach Litig.*, MDL No. 14-2522.

From Judge Paul A. Engelmayer, United States District Court, S.D.N.Y.:

The high quality of [plaintiffs' counsel]'s representation strongly supports approval of the requested fees. The Court has previously commended counsel for their excellent lawyering. ...The point is worth reiterating here. [Plaintiffs' counsel] was energetic, effective, and creative throughout this long litigation. The Court found [Plaintiffs' counsel]'s briefs and arguments first-rate. And the documents and deposition

transcripts which the Court reviewed in the course of resolving motions revealed the firm's far-sighted and strategic approach to discovery. ... Further, unlike in many class actions, plaintiffs' counsel did not build their case by piggybacking on regulatory investigation or settlement. ... The lawyers [] can genuinely claim to have been the authors of their clients' success.

Sept. 22, 2015, Final Approval Order, *Hart v. RCI Hospitality Holdings, Inc.*, No. 09-cv-3043.

From Magistrate Judge Laurel Beeler, United States District Court, N.D. Cal.:

Counsel have worked vigorously to identify and investigate the claims in this case, and, as this litigation has revealed, understand the applicable law and have represented their clients vigorously and effectively.

June 13, 2014, Order Granting Mtn. for Class Cert., *Ellsworth v. U.S. Bank, N.A.*, No. 12-cv-2506.

From Judge Deborah Chasanow, United States District Court, D. Md.:

[Plaintiffs' counsel] are qualified, experienced, and competent, as evidenced by their background in litigating class-action cases involving FCRA violations. ... As noted above, Plaintiffs' attorneys are experienced and skilled consumer class action litigators who achieved a favorable result for the Settlement Classes.

Oct. 2, 2013, Final Approval Order, *Singleton v. Domino's Pizza, LLC*, No. 11-cv1823.

From Judge Susan M. Robiner, Minnesota District Court, Henn. Cnty.:

Plaintiffs' counsel are adequate legal representatives for the class. They have done work identifying and investigating potential claims, have handled class actions in the past, know the applicable law, and have the resources necessary to represent the class. The class will be fairly and adequately represented.

Oct. 16, 2012, Order Granting Mtn. for Class Cert., *Spar v. Cedar Towing & Auction, Inc.*, No. 27-CV-411-24993.

12. One of the primary roles that I have played in public records litigation against the

Big 3 credit bureaus has been to assist with the design and implementation of the notice program

associated with the settlement. Had litigation continued here, I also would have played a significant role in developing expert testimony regarding identifying and notifying class members regarding the pendency of this litigation. In preparation for that expert work and for developing methodology to identify class members on a state by state basis in public records litigation, I have expended a significant amount of time developing expert witnesses and researching the information available in public records. My firm has also been responsible for monitoring the progress and status of the dozens of public records cases on file against the Big 3 Consumer Reporting Agencies on file around the country. We have monitored filings and developments in these cases around the country, and provided updates to plaintiffs' counsel as needed. Much of this general litigation development work on public records cases has inured to the benefit of the Settlement Class in this matter, but has not been directly billed to the matters at issue in this settlement.

13. Attached hereto as **Exhibit C** is a report showing Berger Montague's total hours expended on this litigation to date, and corresponding lodestar computed at the current rates charged by the firm. The attached summary of Berger Montague's lodestar in **Exhibit C** was prepared from contemporaneous, daily time records regularly prepared and maintained by the attorneys and professionals who worked on the cases, in tenths of an hour. All of the hours that contributed to the lodestar amount were expended for the benefit of Plaintiffs and the Settlement Class Members.

14. The total number of hours spent by Berger Montague which has been billed to the matters at issue here through today is 375.7, with a corresponding lodestar of \$191,358.00. If the work detailed in the Paragraph 12 had been directly billed or included, this number would be substantially higher.

15. The hourly rates for the timekeeping attorneys and professional support staff on these matters at Berger Montague are listed below, and the rates are consistent with those that have been accepted as reasonable by district courts in other cases. *See, e.g., In re Domestic Drywall Antitrust Litig.*, No. 13-md-2437, 2018 WL 3439454, *20 (E.D. Pa. July 17, 2018) (holding that the hourly rates claimed by Berger, among other firms, were “well within the range of rates charged by counsel in this district in complex cases”); *Devlin v. Ferrandino & Son, Inc.*, No. 15-4976, 2016 WL 7178338, *10 (E.D. Pa. Dec. 9, 2016) (“[T]he hourly rates for Class Counsel [including Berger Montague] are well within the range of what is reasonable and appropriate in this market”).

Timekeeper	Position	Attorney Years of Experience	Hourly Rate	Hours Billed
Twersky, Martin I.	Shareholder	39	\$ 790.00	0.5
Drake, E. Michelle	Shareholder	18	\$ 725.00	151.2
Lechtzin, Eric	Shareholder	28	\$ 675.00	1.5
Hashmall, Joseph C	Associate	10	\$ 525.00	5.7
Albanese, John G	Associate	7	\$ 450.00	118.2
Hibray, Jean K	Paralegal		\$ 285.00	65
Gebo, Rachel	Case Intake Analyst		\$ 250.00	0.3
Thomas, Devona B	Case Intake Analyst		\$ 250.00	1
Xiong, Mai	Paralegal		\$ 250.00	1.3
Albanese, Anthony	Case Intake Analyst		\$ 175.00	27.4
McCollum, Sandy	Litigation Support		\$ 57.50	1.6
Rajendran, Arun	Litigation Support		\$ 43.00	2
Grand Total				375.7

16. Berger Montague has expended a total of \$18,271.96 in unreimbursed out-of-pocket expenses to date in connection with litigation that is resolved by the Settlement in this matter. These expenses are summarized in the chart attached hereto as **Exhibit D**, were incurred

on behalf of Plaintiffs and the Settlement Class on a contingent basis, and have not been reimbursed.

17. There will be significant post-settlement work in this case. To illustrate, in the Experian and TransUnion Public Record Settlements, which are exemplars for the instant settlement, my firm alone has billed over 800 hours since final approval, and expects to bill at least 500 additional hours, if not more, by the time the ADR programs close in those matters. My firm has hired an additional staff person to collect information from class members and respond to class member inquiries. Other firms involved in the Experian and TransUnion Public Record Settlements have also devoted hundreds of hours to post-settlement work. The post-approval work required by the Equifax settlement will be similar to that undertaken in Experian and TransUnion.

18. My firm, along with co-counsel, has prepared a list of attorneys general, regulatory bodies, legal aid lawyers, consumer advocacy organizations, listservs, and members of the private consumer bar. To date, the list includes over 630 entities that we intend to notify of the Settlement's terms when it receives final approval. Further, we intend to identify individuals within the organizations and firms with whom there are personal connections and to personally reach out regarding the terms of the Settlement.

The foregoing statement is made under penalty of perjury, and is true and correct to the best of my knowledge and belief.

Date: August 21, 2019

/s/E. Michelle Drake
E. Michelle Drake

EXHIBIT A



PHILADELPHIA | MINNEAPOLIS | WASHINGTON, D.C.

About Berger Montague

Berger Montague is a full-spectrum class action and complex civil litigation firm, with nationally known attorneys highly sought after for their legal skills. The firm has been recognized by courts throughout the country for its ability and experience in handling major complex litigation, particularly in the fields of antitrust, securities, mass torts, civil and human rights, whistleblower cases, employment, and consumer litigation. In numerous precedent-setting cases, the firm has played a principal or lead role.

The Legal Intelligencer honored the firm with its inaugural “Law Firm Innovator” award in 2018, an award which recognizes attorneys or whole firms on the cutting edge of the profession, and who think outside the box and have demonstrated an ability to distinguish their brands. *The National Law Journal*, which recognizes a select group of law firms each year that have done “exemplary, cutting-edge work on the plaintiffs side,” has selected Berger & Montague in 12 out of the last 14 years (2003-05, 2007-13, 2015, 2016) for its “Hot List” of top plaintiffs’ oriented litigation firms in the United States. The firm has also achieved the highest possible rating by its peers and opponents as reported in *Martindale-Hubbell*.

Currently, the firm consists of 60 lawyers; 18 paralegals; and an experienced support staff. Few firms in the United States have Berger Montague’s breadth of practice and match the firm’s successful track record in such a broad array of complex litigation.

History of the Firm

Berger Montague was founded in 1970 by the late David Berger to concentrate on the representation of plaintiffs in a series of antitrust class actions. David Berger helped pioneer the use of class actions in antitrust litigation and was instrumental in extending the use of the class action procedure to other litigation areas, including securities, employment discrimination, civil and human rights, and mass torts. The firm’s complement of nationally recognized lawyers has represented both plaintiffs and defendants in these and other areas, and has recovered billions of dollars for its clients. In complex litigation, particularly in areas of class action litigation, Berger Montague has established new law and forged the path for recovery.

The firm has been involved in a series of notable cases, some of them among the most important in the last 40 years of civil litigation. For example, the firm was one of the principal counsel for plaintiffs in the *Drexel Burnham Lambert/Michael Milken* securities and bankruptcy litigation. Claimants in these cases recovered approximately \$2 billion in the aftermath of the collapse of the junk bond market and the bankruptcy of *Drexel* in the late 1980s. The firm was also among the principal trial counsel in the *Exxon Valdez Oil Spill* litigation in Anchorage, Alaska, a trial resulting in a record jury award of \$5 billion against Exxon, later reduced by the

U.S. Supreme Court to \$507.5 million. Berger Montague was lead counsel in the *School Asbestos Litigation*, in which a national class of secondary and elementary schools recovered in excess of \$300 million to defray the costs of asbestos abatement. The case was the first mass tort property damage class action certified on a national basis. Berger Montague was also lead/liaison counsel in the *Three Mile Island Litigation* arising out of a serious nuclear incident.

Additionally, in the human rights area, the firm, through its membership on the executive committee in the *Holocaust Victim Assets Litigation*, helped to achieve a \$1.25 billion settlement with the largest Swiss banks on behalf of victims of Nazi aggression whose deposits were not returned after the Second World War. The firm also played an instrumental role in bringing about a \$4.37 billion settlement with German industry and government for the use of slave and forced labor during the Holocaust.

Practice Areas and Notable Cases

Antitrust

In antitrust litigation, the firm has served as lead, co-lead or co-trial counsel on many of the most significant civil antitrust cases over the last 40 years, including *In re Corrugated Container Antitrust Litigation* (recovery in excess of \$366 million), the *Infant Formula* case (recovery of \$125 million), the *Brand Name Prescription Drug* price fixing case (settlement of more than \$700 million), the *State of Connecticut Tobacco Litigation* (settlement of \$3.6 billion), the *Graphite Electrodes Antitrust Litigation* (settlement of more than \$134 million), and the *High-Fructose Corn Syrup Litigation* (\$531 million). Most recently, the firm is one of three co-lead counsel *In re Payment Cards Antitrust Litigation*, which has resulted in the highest private class action settlement in U.S. history of \$7.2B (reduced to \$5.7 billion after opt outs). The firm has also played a leading role in cases in the pharmaceutical arena, especially in cases involving the delayed entry of generic or other rival drug competition, having achieved over \$1 billion in settlements in such cases over the past decade.

The *Legal 500*, a guide to worldwide legal services providers, ranked Berger Montague as a Top-Tier Firm for Antitrust: Civil Litigation and Class Actions in the United States in its 2015 guide and has repeatedly cited Berger Montague's antitrust practice as "stand[ing] out by virtue of its first-class trial skills."

For five straight years, Berger Montague has been selected by *Chambers and Partners' USA's* America's Leading Lawyers for Business as one of Pennsylvania's top antitrust firms.

In re Currency Conversion Fee Antitrust Litigation: Berger Montague, as one of two co-lead counsel, spearheaded a class action lawsuit alleging that the major credit cards had conspired to fix prices for foreign currency conversion fees imposed on credit card transactions. After eight years of litigation, a settlement of \$336 million was approved in October 2009, with a Final Judgment entered in November 2009. Following the resolution of eleven appeals, the District Court, on October 5, 2011, directed distribution of the settlement funds to more than 10 million timely filed claimants, among the largest class of claimants in an antitrust consumer class action. (MDL No. 1409 (S.D.N.Y)).

In re March banks Truck Service Inc., et al. v. Comdata Network, Inc.: Berger Montague was co-lead counsel in this antitrust class action brought on behalf of a class of thousands of Independent Truck Stops. The lawsuit alleged that defendant Comdata Network, Inc. had monopolized the market for specialized Fleet Cards used by long haul truckers. Comdata imposed anticompetitive provisions in its agreements with Independent Truck Stops that artificially inflated the fees Independents paid when accepting the Comdata's Fleet Card for payment. These contractual provisions, commonly referred to as anti-steering provisions or merchant restraints, barred Independents from taking various competitive steps that could have been used to steer fleets to rival payment cards. The settlement for \$130 million and valuable prospective relief was preliminary approved on March 17, 2014, and finally approved on July 14, 2014. In its July 14, 2014 order approving Class Counsel's fee request, entered contemporaneously with its order finally approving the settlement, the Court described this outcome as "substantial, both in absolute terms, and when assessed in light of the risks of establishing liability and damages in this case."

Ross, et al. v. Bank of America (USA) N.A., et al.: Berger Montague, as lead counsel for the cardholder classes, obtained final approval of settlements reached with Chase, Bank of America, Capital One and HSBC, on claims that the defendant banks unlawfully acted in concert to require cardholders to arbitrate disputes, including debt collections, and to preclude cardholders from participating in any class actions. The case was brought for injunctive relief only. The settlements remove arbitration clauses nationwide for 3.5 years from the so-called "cardholder agreements" for over 100 million credit card holders. This victory for consumers and small businesses came after nearly five years of hard-fought litigation, including obtaining a decision by the Court of Appeals reversing the order dismissing the case, and will aid consumers and small businesses in their ability to resist unfair and abusive credit card practices. A proposed settlement has been reached with the non-bank defendant arbitration provider (NAF), and, after defeating summary judgment, Berger Montague is preparing the case for trial against the remaining two bank defendants.

In re High Fructose Corn Syrup Antitrust Litigation: Berger Montague was one of three co-lead counsel in this nationwide class action alleging a conspiracy to allocate volumes and customers and to price-fix among five producers of high fructose corn syrup. After nine years of litigation, including four appeals, the case was settled on the eve of trial for \$531 million. (MDL No. 1087, Master File No. 95- 1477 (C.D. Ill.)).

In re Linerboard Antitrust Litigation: Berger Montague was one of a small group of court-appointed executive committee members who led this nationwide class action against producers of linerboard. The complaint alleged that the defendants conspired to reduce production of linerboard in order to increase the price of linerboard and corrugated boxes made therefrom. At the close of discovery, the case was settled for more than \$200 million. (98 Civ. 5055 and 99-1341 (E.D. Pa.)).

Johnson, et al. v AzHHA, et al.: Berger Montague is co-lead counsel in this litigation on behalf of a class of temporary nursing personnel, against the Arizona Hospital and Healthcare Association, and its member hospitals, for agreeing and conspiring to fix the rates and wages for temporary nursing personnel, causing class members to be underpaid. The court approved a nearly \$22.5 million settlement on behalf of this class of nurses. (Case No. 07-1292 (D. Ariz.)).

In re Graphite Electrodes Antitrust Litigation: Berger Montague was one of the four co-lead counsel in a nationwide class action price-fixing case. The case settled for in excess of \$134 million and over 100% of claimed damages. (02 Civ. 99-482 (E.D. Pa.)).

North Shore Hematology-Oncology Assoc., Inc. v. Bristol-Myers Squibb Co.: The firm was one of several prosecuting an action complaining of Bristol Myers's use of invalid patents to block competitors from marketing more affordable generic versions of its life-saving cancer drug, Platinol (cisplatin). The case settled for \$50 million. (No. 1:04CV248 (EGS)(D.D.C.)).

In re Catfish Antitrust Litig. Action: The firm was co-trial counsel in this action which settled with the last defendant a week before trial, for total settlements approximating \$27 million. (No. 2:92CV073-D-O, MDL No. 928 (N.D. Miss.)).

In re Carbon Dioxide Antitrust Litigation: The firm was co-trial counsel in this antitrust class action which settled with the last defendant days prior to trial, for total settlements approximating \$53 million, plus injunctive relief. (MDL No. 940 (M.D. Fla.)).

In re Infant Formula Antitrust Litigation: The firm served as co-lead counsel in an antitrust class action where settlement was achieved two days prior to trial, bringing the total settlement proceeds to \$125 million. (MDL No. 878 (N.D. Fla.)).

Red Eagle Resources Corp., Inc., v. Baker Hughes, Inc.: The firm was a member of the plaintiffs' executive committee in this antitrust class action which yielded a settlement of \$52.5 million. (C.A. No. H- 91-627 (S.D. Tex.)).

In re Corrugated Container Antitrust Litigation: The firm, led by H. Laddie Montague, was co-trial counsel in an antitrust class action which yielded a settlement of \$366 million, plus interest, following trial. (MDL No. 310 (S.D. Tex.)).

Bogosian v. Gulf Oil Corp.: With Berger Montague as sole lead counsel, this landmark action on behalf of a national class of more than 100,000 gasoline dealers against 13 major oil companies led to settlements of over \$35 million plus equitable relief on the eve of trial. (No. 71-1137 (E.D. Pa.)).

In re Master Key Antitrust Litigation: The firm served as co-lead counsel in an antitrust class action that yielded a settlement of \$21 million during trial. (MDL No. 45 (D. Conn.)).

The firm has also played a leading role in cases in the pharmaceutical arena, especially in cases involving the delayed entry of generic competition, having achieved over \$1 billion in settlements in such cases over the past decade, including:

In re Prandin Direct Purchaser Antitrust Litigation: Berger Montague served as co-lead counsel and recovered \$19 million on behalf of direct purchasers of the diabetes medication Prandin. (Case No. 2:10- cv-12141 (E.D. Mich.)).

Mylan Pharmaceuticals, Inc. v. Warner Chilcott Public Ltd. Co.: Berger Montague was appointed as co-lead counsel in a case challenging Warner Chilcott's alleged anticompetitive practices with respect to the branded drug Doryx. The case was settled for \$15 million. (Case No. 2:12-cv-03824 (E.D. Pa.)).

In re Neurontin Antitrust Litigation: Berger Montague served as part of a small group of firms challenging the maintenance of a monopoly relating to the pain medication Neurontin. The case settled for \$190 million. (Case No. 02-1830 (D.N.J.)).

In re Skelaxin Antitrust Litigation: Berger Montague was among a small group of firms litigating on behalf of direct purchasers of the drug Skelaxin. The case settled for \$73 million. (Case No. 2:12-cv-83 / 1:12-md-02343) (E.D. Tenn.)).

In re Wellbutrin XL Antitrust Litigation: Berger Montague is serving as co-lead counsel for a class of direct purchasers of the antidepressant Wellbutrin XL. A settlement of \$37.5 million was reached with Valeant Pharmaceuticals (formerly Biovail), one of two defendants in the case. Litigation is proceeding against the remaining defendant, GlaxoSmithKline. (Case No. 08-cv-2431 (E.D. Pa.)).

Rochester Drug Co-Operative, Inc. v. Braintree Labs., Inc.: Berger Montague, appointed as co-lead counsel, prosecuted this case on behalf of direct purchasers alleging sham litigation led to the delay of generic forms of the brand drug Miralax. The case settled for \$17.25 million. (Case No. 07-142 (D. Del.)).

In re Oxycontin Antitrust Litigation: Berger Montague served as co-lead counsel on behalf of direct purchasers of the prescription drug Oxycontin. The case settled in 2011 for \$16 million. (Case No. 1:04- md-01603 (S.D.N.Y.)).

Meijer, Inc., et al. v. Abbott Laboratories: Berger Montague served as co-lead counsel in a class action on behalf of pharmaceutical wholesalers and pharmacies charging Abbott Laboratories with illegally maintaining monopoly power and overcharging purchasers in violation of the federal antitrust laws. Plaintiffs alleged that Abbott had used its monopoly with respect to its anti-HIV medicine Norvir (ritonavir) to protect its monopoly power for another highly profitable Abbott HIV drug, Kaletra. This antitrust class action settled for \$52 million after four days of a jury trial in federal court in Oakland, California. (Case No. 07-5985 (N.D. Cal.)).

In re Nifedipine Antitrust Litigation: Berger Montague played a major role (serving on the executive committee) in this antitrust class action on behalf of direct purchasers of generic versions of the anti-hypertension drug Adalat (nifedipine). After eight years of hard-fought litigation, the court approved a total of \$35 million in settlements. (Case No. 1:03-223 (D.D.C.)).

In re DDAVP Direct Purchaser Antitrust Litigation: Berger Montague served as co-lead counsel in a case that charged defendants with using sham litigation and a fraudulently obtained patent to delay the entry of generic versions of the prescription drug DDAVP. Berger Montague achieved a \$20.25 million settlement only after winning a precedent-setting victory before the United States Court of Appeals for the Second Circuit that ruled that direct purchasers had standing to recover overcharges arising from a patent-holder's misuse of an allegedly fraudulently obtained patent. (Case No. 05-2237 (S.D.N.Y.)).

In re Terazosin Antitrust Litigation: Berger Montague was one of a small group of counsel in a case alleging that Abbott Laboratories was paying its competitors to refrain from introducing less expensive generic versions of Hytrin. The case settled for \$74.5 million. (Case No. 99-MDL-1317 (S.D. Fla.)).

In re Remeron Antitrust Litigation: Berger Montague was one of a small group of counsel in a case alleging that the manufacturer of this drug was paying its competitors to refrain from introducing less expensive generic versions of Remeron. The case settled for \$75 million. (2:02-CV-02007-FSH(D. N.J.)).

In re Tricor Antitrust Litigation: Berger Montague was one of a small group of counsel in a case alleging that the manufacturer of this drug was paying its competitors to refrain from introducing less expensive generic versions of Tricor. The case settled for \$250 million. (No. 05-340 (D. Del.)).

In re Relafen Antitrust Litigation: Berger Montague was one of a small group of firms who prepared for the trial of this nationwide class action against GlaxoSmithKline, which was alleged to have used fraudulently-procured patents to block competitors from marketing less-expensive generic versions of its popular nonsteroidal anti-inflammatory drug, Relafen (nabumetone). Just before trial, the case was settled for \$175 million. (No. 01-12239-WGY (D. Mass.)).

In re Cardizem CD Antitrust Litigation: Berger Montague served on the executive committee of firms appointed to represent the class of direct purchasers of Cardizem CD. The suit charged that Aventis (the brand-name drug manufacturer of Cardizem CD) entered into an illegal agreement to pay Andrx (the maker of a generic substitute to Cardizem CD) millions of dollars to delay the entry of the less expensive generic product. On November 26, 2002, the district court approved a final settlement against both defendants for \$110 million. (No. 99-MD-1278, MDL No. 1278 (E.D. Mich.)).

In re Buspirone Antitrust Litigation: The firm served on the court-appointed steering committee in this class action, representing a class of primarily pharmaceutical wholesalers and resellers. The Buspirone class action alleged that pharmaceutical manufacturer BMS engaged in a pattern of illegal conduct surrounding its popular anti-anxiety medication, Buspar, by paying a competitor to refrain from marketing a generic version of Buspar, improperly listing a patent with the FDA, and wrongfully prosecuting patent infringement actions against generic competitors to Buspar. On April 11, 2003, the Court approved a \$220 million settlement. (MDL No. 1410 (S.D.N.Y.)).

North Shore Hematology-Oncology Assoc., Inc. v. Bristol-Myers Squibb Co.: The firm was one of several prosecuting an action complaining of Bristol Myers's use of invalid patents to block competitors from marketing more affordable generic versions of its life-saving cancer drug, Platinol (cisplatin). The case settled for \$50 million. (No. 1:04CV248 (EGS)(D.D.C.)).

Commercial Litigation

Berger Montague helps business clients achieve extraordinary successes in a wide variety of complex commercial litigation matters. The firm's attorneys appear regularly on behalf of clients in high stakes federal and state court commercial litigation across the United States. The firm works with its clients to develop a comprehensive and detailed litigation plan, and then organize, allocate and deploy whatever resources are necessary to successfully prosecute or defend the case.

Erie Power Technologies, Inc. v. Aalborg Industries A/S, et al.: Berger Montague represented a trustee in bankruptcy against officers and directors and the former corporate parent and obtained a very favorable confidential settlement. (No. 04-282E (W.D. Pa.)).

Moglia v. Harris et al.: Berger Montague represented a liquidating trustee against the officers of U.S. Aggregates, Inc. and obtained a settlement of \$4 million. (No. C 04 2663 (CW) (N.D. Cal.)).

Gray v. Gessow et al.: The firm represented a litigation trust and brought two actions, one against the officers and directors of Sunterra Inc. an insolvent company, and the second against Sunterra's accountants, Arthur Andersen and obtained an aggregate settlement of \$4.5 million. (Case No. MJG 02-CV-1853 (D. Md.) and No. 6:02-CV-633-ORL-28JGG (M.D. Fla.)).

Fitz, Inc. v. Ralph Wilson Plastics Co.: The firm served as sole lead counsel and obtained, after 7 years of litigation, in 2000 a settlement whereby fabricator class members could obtain full recoveries for their losses resulting from defendants' defective contact adhesives. (No. 1-94-CV-06017 (D.N.J.)).

Provident American Corp. and Provident Indemnity Life Insurance Company v. The Loewen Group Inc. and Loewen Group International Inc.: Berger Montague settled this individual claim, alleging a 10-year oral contract (despite six subsequent writings attempting to reduce terms to writing, each with materially different terms added, all of which were not signed), for a combined payment in cash and stock of the defendant, of \$30 Million. (No. 92-1964 (E.D. Pa.)).

Marilou Whitney (Estate of Cornelius Vanderbilt Whitney) v. Turner/Time Warner. Berger Montague settled this individual claim for a confidential amount, seeking interpretation of the distribution agreement for the movie, *Gone with the Wind*, and undistributed profits for the years 1993-1997, with forward changes in accounting and distribution.

American Hotel Holdings Co., et. al v. Ocean Hospitalities, Inc., et. al.: Berger Montague defended against a claim for approximately \$16 million and imposition of a constructive trust, arising out of the purchase of the Latham Hotel in Philadelphia. Berger & Montague settled the case for less than the cost of the trial that was avoided. (June Term, 1997, No. 2144 (Pa. Ct. Com. Pl., Phila. Cty.))

Creative Dimensions and Management, Inc. v. Thomas Group, Inc.: Berger Montague defended this case against a claim for \$30 million for breach of contract. The jury rendered a verdict in favor of Berger Montague's client on the claim (i.e., \$0), and a verdict for the full amount of Berger Montague's client on the counterclaim against the plaintiff. (No. 96-6318 (E.D. Pa.)).

Robert S. Spencer, et al. v. The Arden Group, Inc., et al.: Berger Montague represented an owner of limited partnership interests in several commercial real estate partnerships in a lawsuit against the partnerships' general partner. The terms of the settlement are subject to a confidentiality agreement. (Aug. Term, 2007, No. 02066 (Pa. Ct. Com. Pl., Phila. Cty. - Commerce Program)).

Forbes v. GMH: Berger Montague represented a private real estate developer/investor who sold a valuable apartment complex to GMH for cash and publicly-held securities. The case which claimed securities fraud in connection with the transaction settled for a confidential sum which represented a significant portion of the losses experienced. (No. 07-cv-00979 (E.D. Pa.)).

Commodities & Financial Instruments

Berger Montague ranks among the country's preeminent firms for managing and trying complex commodities and options related cases on behalf of individuals and as class actions. The firm's commodities clients include individual hedge and speculation traders, hedge funds, energy firms, investment funds, and precious metals clients.

In re MF Global Holdings Ltd. Investment Litigation: Berger Montague is one of two co-lead counsel representing thousands of commodities account holders who fell victim to the alleged massive theft and misappropriation of client funds at the major global commodities brokerage firm MF Global. Over the last year, substantial settlements have been reached with JPMorgan Chase Bank, the MF Global SIPA Trustee, and the CME Group. These settlements will ultimately enable MF Global customers to recover over one billion dollars. Berger Montague is continuing to pursue claims against former directors and officers of MF Global, including Jon Corzine, and against MF Global's former auditor, PricewaterhouseCoopers. (No. 11-cv-07866 (S.D.N.Y.)).

In re Commodity Exchange, Inc., Gold Futures and Options Trading Litigation: Berger Montague is one of two co-lead counsel representing traders of gold-based derivative contracts, physical gold, and gold-based securities against The Bank of Nova Scotia, Barclays Bank plc, Deutsche Bank AG, HSBC Bank plc, Société Générale and the London Gold Market Fixing Limited. Plaintiffs allege that the defendants, members of the London Gold Market Fixing Limited, which sets an important benchmark price for gold, conspired to manipulate this benchmark for their collective benefit. (1:14-md-02548 (S.D.N.Y.)).

In re Libor-Based Financial Instruments Antitrust Litigation: Berger Montague represents investors who transacted in Eurodollar futures contracts and options on futures contracts on the Chicago Mercantile Exchange ("CME") between August 2007 and May 2010. The lawsuit alleges that the defendant banks knowingly and intentionally understated their true borrowing costs. By doing so, the defendant banks caused Libor to be calculated or suppressed at artificially low rates. The defendants' alleged manipulation of Libor allowed their banks to pay artificially low interest rates to purchasers of Libor-based financial instruments. (No. 1:11-md-02262-NRB (S.D.N.Y.)).

In re North Sea Brent Crude Oil Futures Litigation: Berger Montague filed a proposed class action on behalf of traders of Brent Crude Oil futures contracts against Royal Dutch Shell plc, BP plc, Statoil ASA, Morgan Stanley, Trafigura Beheer B.V., Trafigura AG, Phibro Trading LLC, and Vitol, S.A. (collectively, "Defendants") during the period of at least 2002 through the present. The complaint alleges that the Defendants violated the antitrust laws and the Commodity Exchange Act by using Platts reporting service's methodology for reporting prices to control the Brent Crude Oil physical market and thereby to manipulate Brent Crude Oil prices and the prices of Brent Crude oil futures contracts traded on the New York Mercantile Exchange ("NYMEX") and the Intercontinental Exchange ("ICE"). (No. 13-cv-8240 (S.D.N.Y.)).

Brown, et al. v. Kinross Gold, U.S.A., et al.: Berger Montague was one of two co-lead counsel in this action alleging that a leading gold mining company illegally forced out preferred shareholders. The action resulted in a settlement of \$29.25 million in cash and \$6.5 million in other consideration (approximately 100% of damages and accrued dividends after fees and costs). (No. 02-cv-00605 (D.N.V.)).

Consumer Protection

Berger Montague protects consumers when they are injured by false or misleading advertising, defective products, data privacy breaches, and various other unfair trade practices. Consumers too often suffer the brunt of corporate wrongdoing, particularly in the area of false or misleading advertising, defective products, and data or privacy breaches.

Countrywide Predatory Lending Enforcement Action: Berger Montague advised the Ohio Attorney General (and several other state attorneys general) regarding predatory lending in a landmark law enforcement proceeding against *Countrywide* (and its parent, Bank of America) culminating in 2008 in mortgage-related modifications and other relief for borrowers across the country valued at some \$8.6 billion.

In re Pet Foods Product Liability Litigation: The firm served as one of plaintiffs' co-lead counsel in this multidistrict class action suit seeking to redress the harm resulting from the manufacture and sale of contaminated dog and cat food. The case settled for \$24 million. Many terms of the settlement are unique and highly beneficial to the class, including allowing class members to recover up to 100% of their economic damages without any limitation on the types of economic damages they may recover. (1:07-cv- 02867 (D.N.J.), MDL Docket No. 1850 (D.N.J.)).

In re TJX Companies Retail Security Breach Litigation: The firm served as co-lead counsel in this multidistrict litigation brought on behalf of individuals whose personal and financial data was compromised in the then-largest theft of personal data in history. The breach involved more than 45 million credit and debit card numbers and 450,000 customers' driver's license numbers. The case was settled for benefits valued at over \$200 million. Class members whose driver's license numbers were at risk were entitled to 3 years of credit monitoring and identity theft insurance (a value of \$390 per person based on the retail cost for this service), reimbursement of actual identity theft losses, and reimbursement of driver's license replacement costs. Class members whose credit and debit card numbers were at risk were entitled to cash of \$15-\$30 or store vouchers of \$30-\$60. (No. 1:07-cv-10162-WGY, (D. Mass.)).

In Re: Heartland Payment Systems, Inc. Customer Data Security Breach Litigation: The firm served on the Executive Committee of this multidistrict litigation and obtained a settlement of cash and injunctive relief for a class of 130 million credit card holders whose credit card information was stolen by computer hackers. The breach was the largest known theft of credit card information in history. The settlement is subject to court approval. (No. 4:09-MD-2046 (S.D. Tex. 2009)).

In re: Countrywide Financial Corp. Customer Data Security Breach Litigation: The firm served on the Executive Committee of this multidistrict litigation and obtained a settlement for a class of 17 million individuals whose personal information was at risk when a rogue employee sold their information to unauthorized third parties. Settlement benefits included: (i) reimbursement of several categories of out-of- pocket costs; (ii) credit monitoring and identity theft insurance for 2 years for consumers who did not accept Countrywide's prior offer of credit monitoring; and (iii) injunctive relief. The settlement was approved by the court in 2010. (3:08-md-01998-TBR (W.D. Ky. 2008)).

In re Educational Testing Service Praxis Principles of Learning and Teaching: Grades 7-12 Litigation: The firm served on the plaintiffs' steering committee and obtained an \$11.1 million settlement in 2006 on behalf of persons who were incorrectly scored on a teacher's licensing exam. (MDL No. 1643 (E.D. La.)).

Vadino, et al. v. American Home Products Corporation, et al.: The firm filed a class complaint different from that filed by any other of the filing firms in the New Jersey State Court "Fen Phen" class action, and the class sought in the firm's complaint was ultimately certified. It was the only case anywhere in the country to include a claim for medical monitoring. In the midst of trial, the New Jersey case was folded into a national settlement which occurred as the trial was ongoing, and which was structured to include a medical monitoring component worth in excess of \$1 billion. (Case Code No. 240 (N.J. Super. Ct.)).

Parker v. American Isuzu Motors, Inc.: The firm served as sole lead counsel and obtained a settlement whereby class members recovered up to \$500 each for economic damages resulting from accidents caused by faulty brakes. (Sept. Term 2003, No. 3476 (Pa. Ct. Com. Pl., Phila. Cty.)).

Salvucci v. Volkswagen of America, Inc. d/b/a Audi of America, Inc.: The firm served as co-lead counsel in litigation brought on behalf of a nationwide class alleging that defendants failed to disclose that its vehicles contained defectively designed timing belt tensioners and associated parts and that defendants misrepresented the appropriate service interval for replacement of the timing belt tensioner system. After extensive discovery, a settlement was reached. (Docket No. ATL-1461-03 (N.J. Sup. Ct. 2007)).

Burgo v. Volkswagen of America, Inc. d/b/a Audi of America, Inc.: The firm served as co-lead counsel in litigation brought on behalf of a nationwide class against defendants' defective tires that were prone to bubbles and bulges. Counsel completed extensive discovery and class certification briefing. A settlement was reached while the decision on class certification was pending. The settlement consisted of remedies including total or partial reimbursement for snow tires, free inspection/replacement of tires for those who experienced sidewall bubbles, blisters, or bulges, and remedies for those class members who incurred other costs related to the tires' defects. (Docket No. HUD-L-2392-01 (N.J. Sup. Ct. 2001)).

Crawford v. Philadelphia Hotel Operating Co.: The firm served as co-lead counsel and obtained a settlement whereby persons who contracted food poisoning at a business convention recovered \$1,500 each. (March Term, 2004, No. 000070 (Pa. Ct. Com. Pl., Phila. Cty.)).

Block v. McDonald's Corporation: The firm served as co-lead counsel and obtained a settlement of \$12.5 million with McDonald's stemming from its failure to disclose the use of beef fat in its french fries. (No. 01-CH-9137 (Ill. Cir. Ct., Cook Cty.)).

Credit Reporting & Background Checks

Berger Montague's Credit Reporting and Background Checks Practice Group litigates on behalf of consumers nationwide to protect them against violations of their rights under the Fair Credit Reporting Act and other consumer protection laws that protect consumers from inaccurate, unfair, or discriminatory credit reports or background checks.

The Fair Credit Reporting Act is a federal law that governs credit reports, background checks, and many other reports containing information about individuals. Potential and current employers and creditors are relying more and more on background checks and credit reports when making hiring and firing decisions, and the consumer reporting agencies that prepare the reports are often more concerned with profits than with accuracy. The firm is committed to ensuring that credit report and background check information is accurate and that it only be sold and used for legal purposes.

Berger Montague is dedicated to protecting consumers and ensuring that consumers receive justice when their rights have been violated by employers, consumer reporting agencies, and debt collectors. The attorneys in the Credit Reporting and Background Checks Practice Group team are dedicated to protecting consumers' rights and privacy. They are highly experienced in effectively litigating these claims and have successfully represented hundreds of thousands of consumers across the country and achieved relief worth millions of dollars on behalf of their clients.

Rubio-Delgado v. Aerotek, Inc., No. 16-cv-1066 (S.D. Ohio). FCRA class action, alleging violations by employer regarding the disclosure & authorization provided to applicants and current employees, as well as the provision of notice to applicants and employees if an adverse action was based on a background check, resulting in a \$15 million settlement.

Hillson v. Kelly Services, Inc., No. 15-cv-10803 (E.D. Mich.). FCRA class action, alleging similar violations by employer as those in *Aerotek*, resulting in a \$6.749 million settlement.

Ernst v. DISH Network, LLC & Sterling Infosystems, Inc., No. 12-cv-8794 (S.D.N.Y.). FCRA class action, alleging violations by employer regarding the disclosure & authorization provided to contractors, resulting in a \$1.75 million settlement with employer.

Nesbitt v. Postmates, Inc., No. CGC-15-547146 (Cal. Super. Ct., San Fran. Cnty.). FCRA class action, alleging violations by employer regarding the disclosure & authorization provided to applicants and current employees, as well as the provision of notice to applicants and employees if an adverse action was based on a background check, resulting in a \$2.5 million settlement.

Halvorson v. TalentBin, Inc., No. 15-cv-5166 (N.D. Cal.). FCRA class action, alleging violations by online data aggregator regarding its obligations to notify users of its profiles about FCRA regulations, and to obtain certifications from those users regarding compliance with the FCRA, resulting in a \$1.15 million settlement.

Legrand v. IntelliCorp Records, Inc., No. 15-cv-2091 (N.D. Ohio). FCRA class action, alleging violations by consumer reporting agency regarding accuracy of its reports, resulting in a \$1.1 million settlement.

Defective Drugs & Medical Devices

Berger Montague's Defective Drugs and Medical Devices Group is committed to helping individuals injured by defective drugs and medical devices. Every year, millions of Americans take a prescription drug or undergo a major surgery that includes a medical device implant. In some instances, the drug or device has an adverse effect or does not work as intended.

Defective Products

Berger Montague's Defective Products Group represents homeowners, vehicle owners and other consumers nationwide who have been harmed by failing products. Whether the problem is with a construction product, an appliance or an automobile, the firm will vigorously fight to protect consumers' rights under the law and to make them whole.

Manufacturers seem to have an unfair advantage when evaluating — and often rejecting or dismissing — warranty claims and other complaints made by consumers concerning faulty products. Berger Montague, however, has the ability to level the playing field through the legal system.

When a product is defective, a consumer may feel like he or she is the only one affected. But, there is a good chance that hundreds, thousands or even hundreds of thousands of other consumers have experienced the same problem. Through class action litigation, Berger Montague is able to work to right these wrongs by representing all similar claims in a single lawsuit.

Corporate Governance & Shareholder Rights

Berger Montague protects the interests of individual and institutional investors in shareholder derivative actions in state and federal courts across the United States. The firm's attorneys help individual and institutional investors reform poor corporate governance, as well as represent them in litigation against directors of a company for violating their fiduciary duty or provide guidance on shareholder rights.

Emil Rossdeutscher and Dennis Kelly v. Viacom: The firm, as lead counsel, obtained a settlement resulting in a fund of \$14.25 million for the class. (C.A. No. 98C-03-091 (JEB) (Del. Super. Ct.)).

Fox v. Riverview Realty Partners, f/k/a Prime Group Realty Trust, et al.: The firm, as lead counsel, obtained a settlement resulting in a fund of \$8.25 million for the class.

Employee Benefits & ERISA

Berger Montague represents employees who have claims under the federal Employee Retirement Income Security Act. The firm litigates cases on behalf of employees whose 401(k) and pension investments have suffered severe losses as a result of the breach of fiduciary duties by plan administrators and the companies they represent. Berger Montague has recovered hundreds of millions of dollars in lost retirement benefits for American workers, and also favorably structured their retirement plans.

In re Unisys Corp. Retiree Medical Benefits: The firm, as co-lead counsel, handled the presentation of over 70 witnesses, 30 depositions, and over 700 trial exhibits in this action that has resulted in partial settlements in 1990 of over \$110 million for retirees whose health benefits were terminated. (MDL No. 969 (E.D. Pa.)).

Local 56 U.F.C.W. v. Campbell Soup Co.: The firm represented a class of retired Campbell Soup employees in an ERISA class action to preserve and restore retiree medical benefits. A settlement yielded benefits to the class valued at \$114.5 million. (No. 93-MC-276 (SSB)(D.N.J.)).

Employment & Unpaid Wages

Berger Montague works tirelessly to safeguard the rights of employees, and the Employment & Unpaid Wages Practice Group devotes all of its energies to helping the firm's clients achieve their goals. The attorneys' understanding of federal and state wage and hour laws, federal and state civil rights and discrimination laws, ERISA, the WARN Act, laws protecting whistleblowers, such as federal and state False Claims Acts, and other employment laws, allows them to develop creative strategies to vindicate their clients' rights and help them secure the compensation to which they are entitled.

Jantz v. Social Security Administration: The firm served as co-lead counsel and obtained a settlement on behalf of employees with targeted disabilities ("TDEs") alleged that SSA discriminated against TDEs by denying them promotional and other career advancement opportunities. The settlement was reached after more than ten years of litigation, and the Class withstood challenges to class certification on four separate occasions. The settlement includes a monetary fund of \$9.98 million and an unprecedented package of extensive programmatic changes valued at approximately \$20 million. EEOC No. 531-2006-00276X (2015).

Ciamillo v. Baker Hughes, Incorporated: The firm served as lead counsel and obtained a settlement of \$5 million on behalf of a class of oil and gas workers who did not receive any overtime compensation for working hours in excess of 40 per week. (Civil Action No. 14-cv-81 (D. Alaska)).

Employees Committed for Justice v. Eastman Kodak Company: The firm served as co-lead counsel and obtained a settlement of \$21.4 million on behalf of a nationwide class of African American employees of Kodak alleging a pattern and practice of racial discrimination. A significant opinion issued in the case is *Employees Committed For Justice v. Eastman Kodak Co.*, 407 F. Supp. 2d 423 (W.D.N.Y. 2005) (denying Kodak's motion to dismiss). No. 6:04-cv-06098 (W.D.N.Y.).

Salcido v. Cargill Meat Solutions Corp.: The firm served as co-lead counsel and obtained a settlement of \$7.5 million on behalf of a class of thousands of employees of Cargill Meat Solutions Corp. alleging that they were forced to work off-the-clock and during their breaks. This is one of the largest settlements of this type of case involving a single plant in U.S. history. (Civil Action Nos. 1:07-cv-01347-LJO-GSA and 1:08-cv-00605-LJO-GSA (E.D. Cal.)).

Miller v. Hygrade Food Products, Inc.: The firm served as lead counsel and obtained a settlement of \$3.5 million on behalf of a group of African American employees of Sara Lee Foods Corp. to resolve charges of racial discrimination and retaliation at its Ball Park Franks plant. (No. 99-1087 (E.D. Pa.)).

Chabrier v. Wilmington Finance, Inc.: The firm served as co-lead counsel and obtained a settlement of \$2,925,000 on behalf of loan officers who worked in four offices to resolve claims for unpaid overtime wages. A significant opinion issued in the case is *Chabrier v. Wilmington Finance, Inc.*, 2008 WL 938872 (E.D. Pa. April 04, 2008) (denying the defendant's motion to decertify the class). (No. 06-4176 (E.D. Pa.)).

Bonnette v. Rochester Gas & Electric Co.: The firm served as co-lead counsel and obtained a settlement of \$2 million on behalf of a class of African American employees of Rochester Gas & Electric Co. to resolve charges of racial discrimination in hiring, job assignments, compensation, promotions, discipline, terminations, retaliation, and a hostile work environment. (No. 07-6635 (W.D.N.Y.)).

Environment & Public Health

Berger Montague lawyers are trailblazers in the fields of environmental class action litigation and mass torts. The firm's attorneys have earned their reputation in the fields of environmental litigation and mass torts by successfully prosecuting some of the largest, most well-known cases of our time. The Environment & Public Health Practice Group also prosecutes significant claims for personal injury, commercial losses, property damage, and environmental response costs.

Cook v. Rockwell International Corporation: In February 2006, the firm won a \$554 million jury verdict on behalf of thousands of property owners whose homes were exposed to plutonium or other toxins. Judgment in the case was entered by the court in June 2008 which, with interest, totaled \$926 million (with proceedings now continuing on appeal). Recognizing this tremendous achievement, the Public Justice Foundation bestowed its prestigious Trial Lawyer of the Year Award for 2009 on Mr. Davidoff, Mr. Sorensen and the entire trial team for their "long and hard-fought" victory against "formidable corporate and government defendants." (No. 90-cv-00181-JLK (D. Colo.)). The jury verdict in that case was vacated on appeal in 2010, but on a second trip to the Tenth Circuit, Plaintiffs secured a victory in 2015, with the case then being sent back to the district court, where it remains pending.

In re Exxon Valdez Oil Spill Litigation: On September 16, 1994, a jury trial of several months duration resulted in a record punitive damages award of \$5 billion against the Exxon defendants as a consequence of one of the largest oil spills in U.S. history. The award was reduced to \$507.5 million pursuant to a Supreme Court decision. David Berger was co-chair of the plaintiffs' discovery committee (appointed by both the federal and state courts). Harold Berger served as a member of the organizing case management committee. H. Laddie Montague was specifically appointed by the federal court as one of the four designated trial counsel. Both Mr. Montague and Peter Kahana shared (with the entire trial team) the 1995 "Trial Lawyer of the Year Award" given by the Trial Lawyers for Public Justice. (No. A89-0095-CVCHRH (D. Alaska)).

In re Ashland Oil Spill Litigation: The firm led by Harold Berger served as co-lead counsel and obtained a \$30 million settlement for damages resulting from a very large oil spill. (Master File No. M-14670 (W.D. Pa.)).

State of Connecticut Tobacco Litigation: Berger Montague was one of three firms to represent the State of Connecticut in a separate action in state court against the tobacco companies. The case was litigated separate from the coordinated nationwide actions. Although eventually Connecticut joined the national settlement, its counsel's contributions were recognized by being awarded the fifth largest award among the states from the fifty states' Strategic Contribution Fund.

In re School Asbestos Litigation: As co-lead counsel, the firm successfully litigated a case in which a nationwide class of elementary and secondary schools and school districts suffering property damage as a result of asbestos in their buildings were provided relief. Pursuant to an approved settlement, the class received in excess of \$70 million in cash and \$145 million in discounts toward replacement building materials. (No. 83-0268 (E.D. Pa.)).

Drayton v. Pilgrim's Pride Corp.: The firm served as counsel in a consolidation of wrongful death and other catastrophic injury cases brought against two manufacturers of turkey products, arising out of a 2002 outbreak of *Listeria Monocytogenes* in the Northeastern United States, which resulted in the recall of over 32 million pounds of turkey – the second largest meat recall in U.S. history at that time. A significant opinion issued in the case is *Drayton v. Pilgrim's Pride Corp.*, 472 F. Supp. 2d 638 (E.D. Pa. 2006) (denying the defendants' motions for summary judgment and applying the alternative liability doctrine). All of the cases settled on confidential terms in 2006. (No. 03-2334 (E.D. Pa.)).

In re SEPTA 30th Street Subway/Elevated Crash Class Action: Berger Montague represented a class of 220 persons asserting injury in a subway crash. Despite a statutory cap of \$1 million on damages recovery from the public carrier, and despite a finding of sole fault of the public carrier in the investigation by the National Highway Transit Safety Administration, Berger Montague was able to recover an aggregate of \$3.03 million for the class. (1990 Master File No. 0001 (Pa. Ct. Com. Pls., Phila. Cty.)).

In re Three Mile Island Litigation: As lead/liaison counsel, the firm successfully litigated the case and reached a settlement in 1981 of \$25 million in favor of individuals, corporations and other entities suffering property damage as a result of the nuclear incident involved. (C.A. No. 79-0432 (M.D. Pa.)).

False Claims Act/Qui Tam/Whistleblower

Berger Montague has represented whistleblowers in matters involving healthcare fraud, defense contracting fraud, IRS fraud, securities fraud, and commodities fraud, helping to return more than \$1.1 billion to federal and state governments. In return, whistleblower clients retaining Berger Montague to represent them in state and federal courts have received more than \$100 million in rewards. Berger Montague's time-tested approach in Whistleblower/Qui Tam representation involves cultivating close, productive attorney-client relationships with the maximum degree of confidentiality for its clients.

Government Representation

Berger Montague has successfully represented state, county and local governments in a wide array of matters for decades. In addition to working with state attorney general offices and other government officials in multiple securities class action and opt-out cases, the firm has also assisted its government clients in mortgage lending, consumer, environmental and a number of other matters.

Berger Montague's representation of government entities frequently involves important issues of public health and safety and requires vast experience, resources and knowledge. The firm understands the concerns of its government clients, their limited budgets and the public law enforcement interests at stake. The firm is also familiar with the special sensitivities government clients often have to what may become sprawling, prolonged and costly litigation. Berger Montague minimizes the burdens on its government clients and their personnel while also deferring to their ultimate control over each matter the firm undertakes. Leveraging the firm's substantial expertise and success across multiple practice areas, together with its nationwide reputation and steadfast resolve, enables the firm to effectively assist government clients whether in actual litigation or "behind-the-scenes" confidential investigations.

Insurance Fraud

When insurance companies and affiliated financial services entities engage in fraudulent, deceptive or unfair practices, Berger Montague helps injured parties recover their losses. The firm focuses on fraudulent, deceptive and unfair business practices across all lines of insurance and financial products and services sold by insurers and their affiliates, which include annuities, securities and other investment vehicles.

Spencer v. Hartford Financial Services Group, Inc.: The firm, together with co-counsel, prosecuted this national class action against The Hartford Financial Services Group, Inc. and its affiliates in the United States District Court for the District of Connecticut (*Spencer v. Hartford Financial Services Group, Inc.*, Case No. 05-cv-1681) on behalf of approximately 22,000 claimants, each of whom entered into structured settlements with Hartford property and casualty insurers to settle personal injury and workers' compensation claims. To fund these structured settlements, the Hartford property and casualty insurers purchased annuities from their affiliate, Hartford Life. By purchasing the annuity from Hartford Life, The Hartford companies allegedly were able to retain up to 15% of the structured amount of the settlement in the form of undisclosed costs, commissions and profit - all of which was concealed from the settling claimants. On March 10, 2009, the U.S. District Court certified for trial claims on behalf of two national subclasses for civil RICO and fraud (256 F.R.D. 284 (D. Conn. 2009)). On October 14, 2009, the Second Circuit Court of Appeals denied The Hartford's petition for interlocutory appeal under Federal Rule of Civil Procedure 23(f). On September 21, 2010, the U.S. District Court entered judgment granting final approval of a \$72.5 million cash settlement.

Nationwide Mutual Insurance Company v. O'Dell: The firm, together with co-counsel, prosecuted this class action against Nationwide Mutual Insurance Company in West Virginia Circuit Court, Roane County (*Nationwide Mutual Insurance Company v. O'Dell*, Case No. 00-C-37), on behalf of current and former West Virginia automobile insurance policyholders, which arose out of Nationwide's failure, dating back to 1993, to offer policyholders the ability to

purchase statutorily-required optional levels of underinsured (“UIM”) and uninsured (“UM”) motorist coverage in accordance with West Virginia Code 33-6-31. The court certified a trial class seeking monetary damages, alleging that the failure to offer these optional levels of coverage, and the failure to provide increased first party benefits to personal injury claimants, breached Nationwide’s insurance policies and its duty of good faith and fair dealing, and violated the West Virginia Unfair Trade Practices Act. On June 25, 2009, the court issued final approval of a settlement that provided a minimum estimated value of \$75 million to Nationwide auto policyholders and their passengers who were injured in an accident or who suffered property damage.

Predatory Lending & Borrower’s Rights

Berger Montague’s attorneys fight vigorously to protect the rights of borrowers when they are injured by the practices of banks and other financial institutions that lend money or service borrowers’ loans. Berger Montague has successfully obtained multi-million dollar class action settlements for nationwide classes of borrowers against banks and financial institutions and works tirelessly to protect the rights of borrowers suffering from these and other deceptive and unfair lending practices.

Representing Opt-Outs in Class Actions

Berger Montague offers exceptional representation of businesses, institutional investors, employee benefit or ERISA plans and governmental entities when they wish to opt out of securities and antitrust class actions filed by others and file an individual lawsuit to maximize their recovery or have a say in the proceedings. The firm advises and represents clients who may opt out of class actions filed by others – often securities fraud cases and price-fixing and monopolization antitrust claims – and helps them pursue their claims independently of the class action, where they often stand to receive a much greater financial recovery.

Securities & Investor Protection

In the area of securities litigation, the firm has represented public institutional investors – such as the retirement funds for the States of Pennsylvania, Connecticut, New Hampshire, New Jersey, Louisiana and Ohio, as well as the City of Philadelphia and numerous individual investors and private institutional investors. The firm was co-lead counsel in the *Melridge Securities Litigation* in the federal District Court in Oregon, in which jury verdicts of \$88.2 million and a RICO judgment of \$239 million were obtained. Berger Montague has served as lead or co-lead counsel in numerous other major securities class action cases where substantial settlements were achieved on behalf of investors.

In re Merrill Lynch Securities Litigation: Berger Montague, as co-lead counsel, obtained a recovery of \$475 million for the benefit of the class in one of the largest recoveries among the recent financial crisis cases. (No. 07-cv-09633 (S.D.N.Y.)).

In re Sotheby's Holding, Inc. Securities Litigation: The firm, as lead counsel, obtained a \$70 million settlement, of which \$30 million was contributed, personally, by an individual defendant. (No. 00-cv-1041 (DLC) (S.D.N.Y.)).

In re: Oppenheimer Rochester Funds Group Securities Litigation: The firm, as co-lead counsel, obtained a \$89.5 million settlement on behalf of investors in six tax-exempt bond mutual funds managed by Oppenheimer Funds, Inc. (No. 09-md-02063-JLK (D. Col.)).

In re KLA Tencor Securities Litigation: The firm, as a member of Plaintiffs' Counsel's Executive Committee, obtained a cash settlement of \$65 million in an action on behalf of investors against KLA- Tencor and certain of its officers and directors. (No. 06-cv-04065 (N.D. Cal.)).

Ginsburg v. Philadelphia Stock Exchange, Inc., et al.: The firm represented certain shareholders of the Philadelphia Stock Exchange in the Delaware Court of Chancery and obtained a settlement valued in excess of \$99 million settlement. (C.A. No. 2202-CC (Del. Ch.)).

In re Sepracor Inc. Securities Litigation: The firm, as co-lead counsel, obtained a settlement of \$52.5 million for the benefit of bond and stock purchaser classes. (No. 02-cv-12235-MEL (D. Mass.)).

In re CIGNA Corp. Securities Litigation: The firm, as co-lead counsel, obtained a settlement of \$93 million for the benefit of the class. (Master File No. 2:02-cv-8088 (E.D. Pa.)).

In re Fleming Companies, Inc. Securities Litigation: The firm, as lead counsel, obtained a class settlement of \$94 million for the benefit of the class. (No. 5-03-MD-1530 (TJW) (E.D. Tex.)).

In re Xcel Energy Inc. Securities, Derivative & "ERISA" Litigation: The firm, as co-lead counsel in the securities actions, obtained a cash settlement of \$80 million on behalf of investors against Xcel Energy and certain of its officers and directors. (No. 02-cv-2677 (DSD/FLN) (D. Minn.)).

In re NetBank, Inc. Securities Litigation: The firm served as lead counsel in this certified class action on behalf of the former common shareholders of NetBank, Inc. The \$12.5 million settlement, which occurred after class certification proceedings and substantial discovery, is particularly noteworthy because it is one of the few successful securities fraud class actions litigated against a subprime lender and bank in the wake of the financial crisis. (No. 07-cv-2298-TCB (N.D. Ga.)).

Brown v. Kinross Gold U.S.A. Inc.: The firm represented lead plaintiffs as co-lead counsel and obtained \$29.25 million cash settlement and an additional \$6,528,371 in dividends for a gross settlement value of \$35,778,371. (No. 02-cv-0605 (D. Nev.)) All class members recovered 100% of their damages after fees and expenses.

In re Campbell Soup Co. Securities Litigation: The firm, as co-lead counsel, obtained a settlement of \$35 million for the benefit of the class. (No. 00-cv-152 (JEI)(D.N.J.)).

In re Premiere Technologies, Inc. Securities Litigation: The firm, as co-lead counsel, obtained a class settlement of over \$20 million in combination of cash and common stock. (No.1:98-cv-1804-JOF (N.D. Ga.)).

In re PSINet, Inc., Securities Litigation: The firm, as co-lead counsel, obtained a settlement of \$17.83 million on behalf of investors. (No. 00-cv-1850-A (E.D. Va.)).

In re Safety-Kleen Corp. Securities Litigation: The firm, as co-lead counsel, obtained a class settlement in the amount of \$45 million against Safety-Kleen's outside accounting firm and certain of the Company's officers and directors. The final settlement was obtained 2 business days before the trial was to commence. (No. 3:00-cv-736-17 (D.S.C.)).

The City Of Hialeah Employees' Retirement System v. Toll Brothers, Inc.: The firm, as co-lead counsel, obtained a class settlement of \$25 million against Home Builder Toll Brothers, Inc. (No. 07-cv-1513 (E.D. Pa.)).

In re Rite Aid Corp. Securities Litigation: The firm, as co-lead counsel, obtained settlements totaling \$334 million against Rite Aid's outside accounting firm and certain of the company's former officers. (No. 99-cv-1349 (E.D. Pa.)).

In re Sunbeam Inc. Securities Litigation: As co-lead counsel and designated lead trial counsel (by Mr. Davidoff), the firm obtained a settlement on behalf of investors of \$142 million in the action against Sunbeam's outside accounting firm and Sunbeam's officers. (No. 98-cv-8258 (S.D. Fla.)).

In re Waste Management, Inc. Securities Litigation: In 1999, the firm, as co-lead counsel, obtained a class settlement for investors of \$220 million cash which included a settlement against Waste Management's outside accountants. (No. 97-cv-7709 (N.D. Ill.)).

In re IKON Office Solutions Inc. Securities Litigation: The firm, serving as both co-lead and liaison counsel, obtained a cash settlement of \$111 million in an action on behalf of investors against IKON and certain of its officers. (MDL Dkt. No. 1318 (E.D. Pa.)).

In re Melridge Securities Litigation: The firm served as lead counsel and co-lead trial counsel for a class of purchasers of Melridge common stock and convertible debentures. A four-month jury trial yielded a verdict in plaintiffs' favor for \$88.2 million, and judgment was entered on RICO claims against certain defendants for \$239 million. The court approved settlements totaling \$57.5 million. (No. 87-cv-1426 FR (D. Ore.)).

Aldridge v. A.T. Cross Corp.: The firm represented a class of investors in a securities fraud class action against A.T. Cross, and won a significant victory in the U.S. Court of Appeals for the First Circuit when that Court reversed the dismissal of the complaint and lessened the pleading standard for such cases in the First Circuit, holding that it would not require plaintiffs in a shareholder suit to submit proof of financial restatement in order to prove revenue inflation. See *Aldridge v. A.T. Cross Corp.*, 284 F.3d 72 (1st Cir. 2002). The case ultimately settled for \$1.5 million. (C.A. No. 00-203 ML (D.R.I.)).

Silver v. UIC: The firm, as co-lead counsel, obtained a settlement resulting in a fund of \$16 million for the class. (No. 3:99-cv-2860-L (N.D. Tex.)).

In re Alcatel Alsthom Securities Litigation: The firm, as co-lead counsel, obtained a class settlement for investors of \$75 million cash. (MDL Docket No. 1263 (PNB) (E.D. Tex.)).

Walco Investments, Inc. et al. v. Kenneth Thenen, et al. (Premium Sales): The firm, as a member of the plaintiffs' steering committee, obtained settlements of \$141 million for investors victimized by a Ponzi scheme. Reported at: 881 F. Supp. 1576 (S.D. Fla. 1995); 168 F.R.D. 315 (S.D. Fla. 1996); 947 F. Supp. 491 (S.D. Fla. 1996)).

In re The Drexel Burnham Lambert Group, Inc.: The firm was appointed co-counsel for a mandatory non-opt-out class consisting of all claimants who had filed billions of dollars in securities litigation-related proofs of claim against The Drexel Burnham Lambert Group, Inc. and/or its subsidiaries. Settlements in excess of \$2.0 billion were approved in August 1991 and became effective upon consummation of Drexel's Plan of Reorganization on April 30, 1992. (No. 90-cv-6954 (MP), Chapter 11, Case No. 90 B 10421 (FGC), Jointly Administered, reported at, *inter alia*, 960 F.2d 285 (2d Cir. 1992), *cert. dismissed*, 506 U.S. 1088 (1993) ("Drexel I") and 995 F.2d 1138 (2d Cir. 1993) ("Drexel II")).

In re Michael Milken and Associates Securities Litigation: As court-appointed liaison counsel, the firm was one of four lead counsel who structured the \$1.3 billion "global" settlement of all claims pending against Michael R. Milken, over 200 present and former officers and directors of Drexel Burnham Lambert, and more than 350 Drexel/Milken-related entities. (MDL Dkt. No. 924, M21-62-MP (S.D.N.Y.)).

RJR Nabisco Securities Litigation: The firm represented individuals who sold RJR Nabisco securities prior to the announcement of a corporate change of control. This securities case settled for \$72 million. (No. 88-cv-7905 MBM (S.D.N.Y.)).

Technology, Privacy & Data Breach

Berger Montague's Technology, Privacy & Data Breach practice group litigates on behalf of consumers nationwide to protect their privacy rights and seek redress when privacy violations occur.

In the modern economy where sensitive financial, medical and other personal information is routinely stored electronically in large data sets, protecting personal information is increasingly important. All too frequently, companies fail to protect consumers' personal information, leading to large privacy breaches with devastating consequences to consumers.

Berger Montague is committed to ensuring that the fundamental right to privacy is respected as technology evolves and society changes. The practice group's attorneys possess extensive experience and the requisite background to successfully litigate a comprehensive range of privacy claims. The firm represents individuals in cases impacting tens of thousands to hundreds of millions of Americans against both prominent and lesser-known companies for violations of privacy rights and the failure to protect sensitive personal data.

Beckett v. Aetna, Inc., No. 17-cv-03864 (E.D. Pa.). This case involved public disclosure of HIV information. Aetna mailed letters to 12,000 insureds with the insureds' HIV medication information visible through a large transparent window on the envelope. The HIV information was accessible to third parties such as family members, roommates, neighbors and mail carriers. The case settled in 2018 shortly after it was filed, resulting in a non-reversionary \$17 million fund. Each class member will receive an automatic payment of \$500 without being required to fill out a claim form, and class members will also be allowed to submit claims for up to \$20,000 for financial or non-financial harm resulting from the disclosure. Berger Montague serves as Co-Lead Counsel.

In re Experian Data Breach Litig., No. 15-cv-01592 (C.D. Cal.). Hackers stole 15 million Social Security numbers and related personal information from a big-3 credit reporting agency. Many plaintiffs experienced misuse of their personal information after the breach. The litigation is currently pending. Berger Montague serves on the Executive Committee.

In re: Anthem, Inc. Data Breach Litig., MDL 2617, No. 15-MD-02617 (N.D. Cal.). Hackers stole 80 million insureds' personal information including Social Security numbers and other sensitive information. Many plaintiffs experienced misuse of their personal information after the breach. The case settled in 2018 for benefits valued at \$115 million, representing the largest data breach settlement in history. Settlement benefits included reimbursement of identity theft losses and other out-of-pocket costs; credit monitoring services and identity theft insurance for two years, paid for by Anthem and substantial improvements to Anthem's data security systems. Berger Montague assisted lead counsel throughout the litigation.

In re: Medical Informatics Engineering, Inc. Customer Data Security Breach Litig., MDL 2667, No. 15-md-02667 (N.D. Ind.). Hackers stole medical and personal information for four million individuals from a medical records company. The litigation is currently pending. Berger Montague assists lead counsel.

In re: Heartland Payment Systems, Inc. Customer Data Security Breach Litig., MDL 2046, No. 09-MD-2046 (S.D. Tex.). Hackers stole more than 100 million credit and debit card numbers from a large credit card processor. The case settled in 2011 for a cash fund to reimburse out-of-pocket costs, and injunctive relief. Berger Montague served on the Steering Committee.

In re Countrywide Fin'l. Corp. Customer Data Security Breach Litig., MDL 1998, No. 08-MD-01998-TBR (W.D. Ky.). A Countrywide employee was arrested for stealing and selling Countrywide customers' Social Security numbers, bank account information and other sensitive data. The case settled in 2010 for benefits including two years of credit monitoring offered to 1.9 million individuals; a \$6.5 million cash fund to reimburse out-of-pocket losses for 17 million individuals and injunctive relief involving improvements to Countrywide's data security systems. Berger Montague served on the Executive Committee.

In re Hannaford Bros. Co. Customer Data Sec. Breach Litig., MDL 1954, No. 08-md-01954 (D. Me.). Hackers stole 4 million credit and debit card numbers from a large grocery store chain. The litigation led to groundbreaking appellate law recognizing the availability of damages for out-of-pocket credit monitoring costs and replacement credit card fees. *Anderson v. Hannaford Bros. Co.*, 659 F.3d 151, 167 (1st Cir. 2011). The appellate ruling serves as often-cited precedent in data breach litigation. Berger Montague assisted lead counsel throughout the litigation and on appeal.

In re TJX Cos. Retail Security Breach Litig., MDL No. 1838, No. 07-cv-10162-WGY (D. Mass.). Hackers stole 45 million credit and debit card numbers and 455,000 driver's license numbers, which in many instances matched Social Security numbers. The breach was the then-largest theft of consumer data in U.S. history. Berger Montague obtained a settlement in 2008 valued at over \$200 million, including: (i) two years of credit monitoring and identity theft insurance offered to 455,000 individuals whose driver's license numbers were exposed; (ii) a \$17 million fund offered to 45 million individuals to reimburse out-of-pocket costs and lost time to mitigate or correct actual or potential identity theft and (iii) injunctive relief regarding improvements to TJX's data security systems. These elements became the template for most subsequent data breach settlements. In approving the settlement, former Chief Judge William

Young praised the result as an “excellent settlement” containing “innovative” and “groundbreaking” elements. Berger Montague served as Co-Lead Counsel.

Judicial Praise for Berger Montague Attorneys

Berger Montague’s record of successful prosecution of class actions and other complex litigation has been recognized and commended by judges and arbitrators across the country. Some remarks on the skill, efficiency, and expertise of the firm’s attorneys are excerpted below.

From **Judge Madeline Cox Arleo** of the U.S. District Court for the District of New Jersey praising the efforts of all counsel:

I just want to thank you for an outstanding presentation. I don’t say that lightly . . . it’s not lost on me at all when lawyers come very, very prepared. And really, your clients should be very proud to have such fine lawyering. I don’t see lawyering like this every day in the federal courts, and I am very grateful. And I appreciate the time and the effort you put in, not only to the merits, but the respect you’ve shown for each other, the respect you’ve shown for the Court, the staff, and the time constraints. And as I tell my law clerks all the time, good lawyers don’t fight, good lawyers advocate. And I really appreciate that more than I can express.

Transcript of the September 9 to 11, 2015 *Daubert* Hearing in **antitrust** action *Castro v. Sanofi Pasteur*, No. 11-cv-07178 (D.N.J.) at 658:14-659:4.

From **Judge William H. Pauley, III**, of the U.S. District Court of the Southern District of New York:

Class Counsel did their work on their own with enormous attention to detail and unflagging devotion to the cause. Many of the issues in this litigation . . . were unique and issues of first impression.

* * *

Class Counsel provided extraordinarily high-quality representation. This case raised a number of unique and complex legal issues The law firms of Berger & Montague and Coughlin Stoia were indefatigable. They represented the Class with a high degree of professionalism, and vigorously litigated every issue against some of the ablest lawyers in the antitrust defense bar.

In re Currency Conversion Fee Antitrust Litigation, 263 F.R.D. 110, 129 (2009), an **antitrust** action.

From **Judge Faith S. Hochberg** of the U.S. District Court for the District of New Jersey:

[W]e sitting here don't always get to see such fine lawyering, and it's really wonderful for me both to have tough issues and smart lawyers ... I want to congratulate all of you for the really hard work you put into this, the way you presented the issues, ... On behalf of the entire federal judiciary I want to thank you for the kind of lawyering we wish everybody would do.

In re Remeron Antitrust Litig., Civ. No. 02-2007 (Nov. 2, 2005), an **antitrust** action.

From **Judge Jan DuBois** of the U.S. District Court of the Eastern District of Pennsylvania:

[T]he size of the settlements in absolute terms and expressed as a percentage of total damages evidence a high level of skill by petitioners ... The Court has repeatedly stated that the lawyering in the case at every stage was superb, and does so again.

In Re Linerboard Antitrust Litig., 2004 WL 1221350, at *5-*6 (E.D. Pa. 2004), an **antitrust** action.

From **Judge Nancy G. Edmunds** of the U.S. District Court of the Eastern District of Michigan:

[T]his represents an excellent settlement for the Class and reflects the outstanding effort on the part of highly experienced, skilled, and hard working Class Counsel....[T]heir efforts were not only successful, but were highly organized and efficient in addressing numerous complex issues raised in this litigation[.]

In re Cardizem CD Antitrust Litig., MDL No. 1278 (E.D. Mich., Nov. 26, 2002), an **antitrust** action.

From **Judge Charles P. Kocoras** of the U.S. District Court for the Northern District of Illinois:

The stakes were high here, with the result that most matters of consequence were contested. There were numerous trips to the courthouse, and the path to the trial court and the Court of Appeals frequently traveled. The efforts of counsel for the class has [sic] produced a substantial recovery, and it is represented that the cash settlement alone is the second largest in the history of class action litigation. . . . There is no question that the results achieved by class counsel were extraordinary[.]

In Re Brand Name Prescription Drugs Antitrust Litigation, 2000 U.S. Dist. LEXIS 1734, at *3-*6 (N.D. Ill. Feb. 9, 2000), regarding the work of Berger Montague in achieving more than \$700 million in settlements with some of the defendants in **antitrust** action.

From **Judge Peter J. Messitte** of the U.S. District Court for the District of Maryland:

The experience and ability of the attorneys I have mentioned earlier, in my view in reviewing the documents, which I have no reason to doubt, the plaintiffs' counsel are at the top of the profession in this regard and certainly have used their expertise to craft an extremely favorable settlement for their clients, and to that extent they deserve to be rewarded.

Settlement Approval Hearing, Oct. 28, 1994, in *Spawd, Inc. and General Generics v. Bolar Pharmaceutical Co., Inc.*, CA No. PJM-92-3624 (D. Md.), an **antitrust** action.

From **Judge Donald W. Van Artsdalen** of the U.S. District Court for the Eastern District of Pennsylvania:

As to the quality of the work performed, although that would normally be reflected in the not immodest hourly rates of all attorneys, for which one would expect to obtain excellent quality work at all times, the results of the settlements speak for themselves. Despite the extreme uncertainties of trial, plaintiffs' counsel were able to negotiate a cash settlement of a not insubstantial sum, and in addition, by way of equitable relief, substantial concessions by the defendants which, subject to various condition, will afford the right, at least, to lessee-dealers to obtain gasoline supply product from major oil companies and suppliers other than from their respective lessors. The additional benefits obtained for the classes by way of equitable relief would, in and of itself, justify some upward adjustment of the lodestar figure.

Bogosian v. Gulf Oil Corp., 621 F. Supp. 27, 31 (E.D. Pa. 1985), an **antitrust** action.

From **Judge Krupansky**, who has been elevated to the Sixth Circuit Court of Appeals:

Finally, the court unhesitatingly concludes that the quality of the representation rendered by counsel was uniformly high. The attorneys involved in this litigation are extremely experienced and skilled in their prosecution of antitrust litigation and other complex actions. Their services have been rendered in an efficient and expeditious manner, but have nevertheless been productive of highly favorable result.

In re Art Materials Antitrust Litigation, 1984 CCH Trade Cases ¶ 65, 815 (N.D. Ohio 1983), an **antitrust** action.

From **Judge Joseph Blumenfeld** of the U.S. District Court for the District of Connecticut:

The work of the Berger firm showed a high degree of efficiency and imagination, particularly in the maintenance and management of the national class actions.

In re Master Key Antitrust Litigation, 1977 U.S. Dist. LEXIS 12948, at *35 (Nov. 4, 1977), an **antitrust** action.

From **Judge Jed Rakoff** of the U.S. District Court for the Southern District of New York:

[Lead counsel made] very full and well-crafted ... excellent submissions ... very fine job done by plaintiffs' counsel in this case ... [this was] surely a very good result under all the facts and circumstances.

In re Merrill Lynch & Co., Inc. Securities, Derivative & ERISA Litigation, Master File No. 07-cv-9633(JSR)(DFE) (S.D.N.Y., July 27, 2009), a **securities** action.

From **Judge Michael M. Baylson** of the U.S. District Court for the Eastern District of Pennsylvania:

The Court is aware of and attests to the skill and efficiency of class counsel: they have been diligent in every respect, and their briefs and arguments before the Court were of the highest quality. The firm of Berger & Montague took the lead in the Court proceedings; its attorneys were well prepared, articulate and persuasive.

In re CIGNA Corp. Sec. Litig., 2007 U.S. Dist. LEXIS 51089, at *17-*18 (E.D. Pa. July 13, 2007). a **securities** action.

From **Chancellor William Chandler, III** of the Delaware Chancery Court:

All I can tell you, from someone who has only been doing this for roughly 22 years, is that I have yet to see a more fiercely and intensely litigated case than this case. Never in 22 years have I seen counsel going at it, hammer and tong, like they have gone at it in this case. And I think that's a testimony – Mr. Valihura correctly says that's what they are supposed to do. I recognize that; that is their job, and they were doing it professionally.

Ginsburg v. Philadelphia Stock Exchange, Inc., No. 2202 (Del. Ch., Oct. 22, 2007), a **securities** action.

From **Judge Stewart Dalzell** of the U.S. District Court for the Eastern District of Pennsylvania:

Thanks to the nimble class counsel, this sum, which once included securities worth \$149.5 million is now all cash. Seizing on an opportunity Rite Aid presented, class counsel first renegotiated what had been stock consideration into Rite Aid Notes and then this year monetized those Notes. Thus, on February

11, 2003, Rite Aid redeemed those Notes from the class, which then received \$145,754,922.00. The class also received \$14,435,104 in interest on the Notes.

...

Co-lead counsel ... here were extraordinarily deft and efficient in handling this most complex matter... they were at least eighteen months ahead of the United States Department of Justice in ferreting out the conduct that ultimately resulted in the write down of over \$1.6 billion in previously reported Rite Aid earnings. In short, it would be hard to equal the skill class counsel demonstrated here.

In re Rite Aid Corp. Securities Litigation, 269 F. Supp. 2d 603, 605, n.1, 611 (E.D. Pa.2003), a securities action.

From **Judge Helen J. Frye**, United States District Judge for the U.S. District Court for the District of Oregon:

In order to bring about this result [partial settlements then totaling \$54.25 million], Class Counsel were required to devote an unusual amount of time and effort over more than eight years of intense legal litigation which included a four-month long jury trial and full briefing and argument of an appeal before the Ninth Circuit Court of Appeals, and which produced one of the most voluminous case files in the history of this District.

* * *

Throughout the course of their representation, the attorneys at Berger & Montague and Stoll, Stoll, Berne, Lokting & Shlachter who have worked on this case have exhibited an unusual degree of skill and diligence, and have had to contend with opposing counsel who also displayed unusual skill and diligence.

In Re Melridge, Inc. Securities Litigation, No. CV 87-1426-FR (D. Ore. April 15, 1996), a securities action.

From **Judge Marvin Katz** of the U.S. District Court for the Eastern District of Pennsylvania:

[T]he co-lead attorneys have extensive experience in large class actions, experience that has enabled this case to proceed efficiently and professionally even under short deadlines and the pressure of handling thousands of documents in a large multi-district action... These counsel have also acted vigorously in their clients' interests....

* * *

The management of the case was also of extremely high quality.... [C]lass counsel is of high caliber and has extensive experience in similar class action litigation.... The submissions were of consistently high quality, and class counsel has been notably diligent in preparing filings in a timely manner even when under tight deadlines.

In re Ikon Office Solutions, Inc. Securities Litigation, 194 F.R.D. 166, 177, 195 (E.D. Pa. 2000), commenting on class counsel, where the firm served as both co-lead and liaison counsel in this securities action.

From **Judge William K. Thomas**, Senior District Judge for the United States District Court for the Northern District of Ohio:

In the proceedings it has presided over, this court has become directly familiar with the specialized, highly competent, and effective quality of the legal services performed by Merrill G. Davidoff, Esq. and Martin I. Twersky, Esq. of Berger & Montague....

* * *

Examination of the experience-studded biographies of the attorneys primarily involved in this litigation and review of their pioneering prosecution of many class actions in antitrust, securities, toxic tort matters and some defense representation in antitrust and other litigation, this court has no difficulty in approving and adopting the hourly rates fixed by Judge Aldrich.

In re Revco Securities Litigation, Case No. 1:89CV0593, Order (N.D. Oh. September 14, 1993), a securities action.

From **Deputy Treasury Secretary Stuart E. Eizenstat**:

We must be frank. It was the American lawyers, through the lawsuits they brought in U.S. courts, who placed the long-forgotten wrongs by German companies during the Nazi era on the international agenda. It was their research and their work which highlighted these old injustices and forced us to confront them. Without question, we would not be here without them.... For this dedication and commitment to the victims, we should always be grateful to these lawyers.

in his remarks at the July 17, 2000 signing ceremony for the international agreements which established the German Foundation to act as a funding vehicle for the payment of claims to Holocaust survivors.

From **Judge Janet C. Hall**, of the U.S. District Court of the District of Connecticut, noting:

[V]ery significant risk in pursuing this action [given its] uniqueness [as] there was no prior investigation to rely on in establishing the facts or a legal basis for the case....[and] no other prior or even now similar case involving parties like these plaintiffs and a party like these defendants.

...

[T]he quality of the representation provided to the plaintiffs ... in this case has been consistently excellent.... [T]he defendant[s] ... mounted throughout the course of the five years the case pended, an extremely vigorous defense.... [B]ut for counsel's outstanding work in this case and substantial effort over five years,

no member of the class would have recovered a penny.... [I]t was an extremely complex and substantial class ... case ... [with an] outstanding result.

Spencer, et al. v. The Hartford Financial Services Group, Inc., et al., order approving the \$72.5 million final settlement of this action, dated September 21, 2010 (No. 3:05-cv-1681, D. Conn.), regarding the work of Berger Montague attorneys Peter R. Kahana and Steven L. Bloch, among other co-class counsel, in this [insurance fraud](#) action.

From **Judge Harold E. Kahn**, Dep't 302, Superior Court of Cal., San Fran. Cnty.:

You're very articulate on this issue. ... Obviously, you're very thoughtful and you have given it a great deal of thought. ... And I appreciate your ability to respond to my questions off the cuff. ... It shows that you have given these issues a lot of thought ... I have to say that your thoughtfulness this morning has somewhat diminished my concerns [regarding high multiplier on attorney fees]... You're demonstrating credibility by a mile as you go....You are extraordinarily impressive. And I thank you for being here, and for your candid, noninvasive [sic] response to every question I have. I was extremely skeptical at the outset this morning. You have allayed all of my concerns and have persuaded me that this is an important issue, and that you have done a great service to the class. And for that reason, I am going to approve your settlement in all respects... And I congratulate you on your excellent work.

Nov. 7, 2017, Final Approval Hearing, *Nesbitt v. Postmates, Inc.*, No. CGC-15-547146, regarding Berger Montague shareholder E. Michelle Drake in this [credit reporting & background checks class action](#).

From **Judge Laurie J. Michelson**, U.S. District Court for the Eastern District of Michigan:

Counsel's quality of work in this case was high. The Court has been impressed with counsel's in-court arguments. And counsel has provided the Court with quality briefing as well.

Aug. 11, 2017, Opinion & Order on Mtn. for Atty. Fees, and Mtn. for Final Approval, *Hillson v. Kelly Services, Inc.*, No. 15-cv-10803, regarding Berger Montague shareholder E. Michelle Drake, and other co-lead counsel, in this [credit reporting & background checks class action](#).

From **Magistrate Judge Terence P. Kemp**, U.S. District Court for the Southern District of Ohio:

The parties in this case are represented by counsel with substantial experience in class action litigation, and FCRA cases in particular. ... Class Counsel are experienced and knowledgeable in FCRA litigation, are skilled, and are in good standing.

June 30, 2017, Report & Recomm'n. on Final Approval, *Rubio-Delgado v. Aerotek, Inc.*, No. 16-cv-1066, regarding Berger Montague shareholder E. Michelle Drake, and other co-lead counsel, in this [credit reporting & background checks class action](#).

From **Judge Paul A. Magnuson**, U.S. District Court for the District of Minnesota:

[T]he class representatives and their counsel more than adequately protected the class's interests. ... [T]he comprehensive nature of the settlement in turn, reflects the adequacy, indeed the superiority, of the representation the class received from its named Plaintiffs and from class counsel.

May 17, 2017, Mem. & Order on Mtn. to Certify Class, *In re Target Corp. Customer Data Sec. Breach Litig.*, MDL No. 14-2522, regarding Berger Montague shareholder E. Michelle Drake, and other lead counsel, in this [data breach class action](#).

From **Magistrate Judge Jonathan W. Feldman** of the U.S. District Court for the Western District of New York:

First of all, I want to tell both parties that the briefing was really, really good here. And both briefs were very well written and persuasive. .. the arguments were as good as the briefing, so good job.

Transcript of the June 14, 2018 Hearing in *Koppers v. Weyerhaeuser Company*, Case No. 17-cv-6557 (W.D.N.Y.), in a [defective products class action](#).

From **Robert E. Conner**, Public Arbitrator with the National Association of Securities Dealers, Inc.:

[H]aving participated over the last 17 years in 400 arbitrations and trials in various settings, ... the professionalism and the detail and generally the civility of everyone involved has been not just a cause for commentary at the end of these proceedings but between ourselves [the arbitration panel] during the course of them, and ... the detail and the intellectual rigor that went into the documents was fully reflective of the effort that was made in general. I wanted to make that known to everyone and to express my particular respect and admiration.

June 13, 2000 at Closing Argument, *Steinman v. LMP Hedge Fund, et al.*, NASD Case No. 98-04152, about the efforts of Berger Montague shareholders Merrill G. Davidoff and Eric L. Cramer, who achieved a \$1.1 million award for their client, in this arbitration.

From **Stephen M. Feiler, Ph.D.**, Director of Judicial Education, Supreme Court of Pennsylvania, Administrative Office of Pennsylvania Courts, Mechanicsburg, PA, on behalf of the Common Pleas Court Judges (trial judges) of Pennsylvania:

On behalf of the Supreme Court of Pennsylvania and AOPC's Judicial Education Department, thank you for your extraordinary commitment to the *Dealing with Complexities in Civil Litigation* symposia. We appreciate the considerable time you spent preparing and delivering this important course across the state. It is no surprise to me that the judges rated this among the best programs they have attended in recent years.

regarding the efforts of Berger Montague attorneys Merrill G. Davidoff, Peter Nordberg and David F. Sorensen in planning and presenting a CLE Program to trial judges in the Commonwealth of Pennsylvania.

EXHIBIT B

E. MICHELLE DRAKE

BERGER MONTAGUE PC
43 SE Main Street, Suite 505
Minneapolis, Minnesota 55414
612.594.5933
emdrake@bm.net



Experience

Admissions

- ◇ U.S. Supreme Court, 2017
- ◇ State Bar of Georgia, 2001
- ◇ Georgia Supreme Court, 2006
- ◇ Minnesota Supreme Court, 2007
- ◇ U.S. Court of Appeals for the 8th Cir., 2010
- ◇ U.S. Court of Appeals for the 1st Cir., 2011
- ◇ U.S. Court of Appeals for the 7th Cir., 2014
- ◇ U.S. Court of Appeals for the 9th Cir., 2015
- ◇ U.S. Court of Appeals for the 10th Cir., 2018
- ◇ U.S. Court of Appeals for the 3d Cir., 2019
- ◇ U.S. District Court for the Northern District of Georgia, 2007
- ◇ U.S. District Court for the District of Minnesota, 2007
- ◇ U.S. District Court for the Eastern District of Wisconsin, 2011
- ◇ U.S. District Court for the Western District of Texas, 2011
- ◇ U.S. District Court for the Western District of Wisconsin, 2015
- ◇ U.S. District Court for the Eastern District of Michigan, 2015
- ◇ U.S. District Court for the Central District of Illinois, 2016
- ◇ U.S. District Court for the Southern District of Texas, 2017
- ◇ U.S. District Court for the District of Colorado, 2017
- ◇ U.S. District Court for the Western District of New York, 2017
- ◇ U.S. District Court for the Western District of Michigan, 2018

Shareholder Berger Montague

Minneapolis, Minnesota

January 2016-present

Manage the firm's Minneapolis office. Chair of the Credit Reporting and Background Checks practice group. Chair of the Credit Reporting and Background Checks Practice Group. Co-chair of the Consumer Protection and Technology, Privacy & Data Breach practice groups. Serve as lead class counsel on dozens of consumer class actions filed throughout the United States, including cases involving improper credit and background reporting, defective consumer products and unlawful financial services practices.

Partner

Nichols Kaster, PLLP

Minneapolis, Minnesota

May 2007-December 2015

Represented thousands of employees and consumers in collective and class actions. Led the firm's Consumer Class Action Team which originated individual and class action cases.

Solo Practitioner

E. Michelle Drake, LLC

Atlanta, Georgia

March 2006-May 2007

Practiced both civil and criminal law. Served as "of counsel" attorney to Richard S. Alembik, P.C., a civil firm focused on real estate litigation. Served as co-counsel in pending death penalty case which was accepted by the Georgia Supreme Court for interim appellate review.

Attorney

Georgia Capital Defender Office

Atlanta, Georgia

October 2004-March 2006

Provided trial level representation for indigent clients facing the death penalty. Directed all aspects of death penalty litigation in capital cases throughout Georgia.

Staff Attorney

Fulton County Conflict Defender, Major Case Division

Atlanta, Georgia

May 2002-August 2004

Served as lead counsel for over one hundred indigent defendants facing felony criminal charges. Had primary responsibility for cases where juveniles were being tried as adults in Superior Court. Served as lead counsel in four murder trials to verdict.

Staff Attorney

Fulton County Public Defender,

Atlanta, Georgia

August 2001-May 2002

Served as lead counsel for pre-indictment felony cases and probation revocations.

Law Clerk**Defense Team For Kristen Gilbert**

Springfield, Massachusetts

Fall 1999-May 2001

Assisted in the first federal death penalty trial in Massachusetts. Lived in Springfield, MA three days a week during last year of law school to assist with eighth month trial which resulted in a life sentence.

Recent
Judicial Praise

You're **very articulate** on this issue...

Obviously, you're **very thoughtful** and you have given it a great deal of thought...

You're **demonstrating credibility by a mile** as you go ...

You are **extraordinarily impressive...**

You have allayed all of my concerns and have persuaded me that this is an important issue, and that **you have done a great service to the class...** I

congratulate you on your **excellent work.**

Hon. Harold E. Kahn, Cal. Super. Ct., San Fran. Cnty., Nov. 7, 2017 Final Approval Hearing, *Nesbitt v. Postmates, Inc.*, No. CGC-15-547146 (emphasis added)

Education**Harvard Law School, J.D., cum laude***June 2001*

Recipient of Edith Fine Fellowship, awarded to graduating woman most committed to public interest law. Recipient of Kauffman Fellowship, awarded to graduating students most committed to public interest law. Co-chair of Harvard Innocence and Justice Project, an organization which provided legal research and assistance to capital defense attorneys nationwide.

Oxford University, M.Sc. in Sociology*June 1998*Recipient of Rotary International Ambassadorial Scholarship, nominated by Edina Rotary Club. Thesis: *Criticisms of Herbert Packer's Two Models of the Criminal Process.***Harvard College, B.A. in Government, cum laude***June 1996*

Harvard Nominee for the Rhodes Scholarship. Graduated with Advanced Standing (in three years instead of four).

Titles, Awards, Memberships

Partner's Council Member for the National Consumer Law Center, 2014 – present

Board Member for the National Association of Consumer Advocates, 2014 – present

Board Member for the Southern Center for Human Rights, 2018 – present

Co-Chair of Minnesota State Bar Association Consumer Litigation Section, 2016 – present

Member of Ethics Committee for the National Association of Consumer Advocates, 2015

2014-2015 Treasurer, MSBA Consumer Litigation Section Council. 2013-14 At-Large Council Member.

Named to The Best Lawyers of America since 2016

Named to the Top 50 Women Minnesota Super Lawyers since 2015

Named to the Super Lawyers list, Minnesota Super Lawyers, Minneapolis/St. Paul Magazine, and Minnesota Business Journal, 2013 - 2019

Named to the Rising Stars list, Minnesota Super Lawyers, Minneapolis/St. Paul Magazine, and Minnesota Business Journal, 2011-2012

Federal Practice Committee, U.S. District Court, Minnesota, Appointed 2010

Thurgood Marshall Defender Award, Massachusetts Committee for Public Counsel Services Recipient, 2001

American Bar Association Member

Federal Bar Association Member

Hennepin County Bar Association Member

Minnesota Association for Justice Member

Minnesota State Bar Association Member

National Association of Consumer Advocates Member

Public Justice Member

American Association for Justice Member

Publications/Speaking Engagements

“Fair Credit Reporting Act/Debt Collection Issues,” 24th Annual Consumer Financial Services Institute, Practising Law Institute, Chicago, IL, May 2019.

“Ethics Session: Referrals and Fee-Sharing,” Fair Credit Reporting Act Conference, National Association of Consumer Advocates, Long Beach, CA, May 2019.

Contributing Author, “Consumer Law,” The Complete Lawyer’s Quick Answer Book, Minnesota Continuing Legal Education, 2d. ed. (forthcoming.)

Contributing Author, “Financial and Criminal Background Checks,” Job Applicant Screening: A Practice Guide, Minnesota Continuing Legal Education Publication, 2d. Edition (forthcoming).

Contributing Author, “Chapter 1: Case and Claims Selection, Other First Considerations,” Consumer Class Actions, National Consumer Law Center, 10th ed. (forthcoming),

“Consumer Law: Recent Trends and Hot Topics in FCRA Litigation,” Minnesota Continuing Legal Education, Minneapolis, MN, January 2019.

“Diamonds in the Rough: Identifying Good Class Claims,” Mass Torts Made Perfect Fall Seminar, Las Vegas, NV, October 2018.

“Nationwide Settlement Classes – The Impact of the Hyundai/Kia Litigation,” Class Action Symposium, Consumer Rights Litigation Conference, National Consumer Law Center, Denver, CO, October 2018.

“Developments in Public Records Litigation,” Consumer Rights Litigation Conference, National Consumer Law Center, Denver, CO, October 2018.

“Big Challenges in the City of BIG Shoulders, Electronic Discovery’s Rise to Prominence,” ABA 22nd Annual National Institute on Class Actions, Chicago, IL, October 2018.

“Jurisdiction Issues Post *Bristol-Myers*,” Bridgeport 2018 Class Action Litigation Conference, San Francisco, CA, September 2018.

“New Developments in the Law of Personal Jurisdiction in the Aftermath of the Supreme Court’s Decisions in *BNSF Railway Co. v. Tyrrell* and *Bristol Myers* and the Strategies,” Plaintiffs’ Class Action Roundtable, Rancho Palos Verdes, CA, April 2018.

“New Developments in Personal Jurisdiction,” Litigator’s Short Course, Minnesota Continuing Legal Education, Minneapolis, MN, February 2018.

“Game Changing Blindspots that Create Privacy Liabilities – a Plaintiff-Side Litigator’s Insights,” Midwest Legal Conference on Privacy & Data Security, Minneapolis, MN, January 2018.

“Federal Discovery: Winning Your Cases Early,” “FCRA Report Disclosures: Issues and Litigation,” Consumer Rights Litigation Conference, National Consumer Law Center, Washington, D.C., November 2017.

“Strategic Response to Recent Supreme Court Decision in *Bristol-Myers*,” Consumer Rights Litigation Conference, Class Action Symposium, National Consumer Law Center, Washington, D.C., November 2017.

Conference Co-Chair, “Class Actions: Legislative Developments, Updates & More,” CLE International, Los Angeles, CA, November 2017.

“The Times They Are a-Changin’: The Role of Administrative Agencies and Private Counsel in the Trump Era,” American Bar Association Annual National Institute on Class Actions, Washington, D.C., October 2017.

“The CFPB’s New Rule on Arbitration: What It Is and What Comes Next,” Minnesota State Bar Association Continuing Legal Education Presentation, Minneapolis, MN, September 2017.

“Standing: Assessing Article III Jurisdiction One Year After Spokeo,” Minnesota State Bar Association Continuing Legal Education Presentation, Minneapolis, MN, June 2017.

“House Resolution 985 – Update and Strategies for Defeat,” Cambridge Forums – Plaintiffs’ Class Action Forum, Carefree, AZ, May 2017.

“TCPA/Fair Credit Reporting Act/Debt Collection Issues,” PLI 22nd Annual Consumer Financial Services Institute, Chicago, IL, May 2017.

“Case Law and Recent Trial Update,” Panelist, Fair Credit Reporting Act Conference, National Association of Consumer Advocates, Baltimore, MD, April 2017.

“Using the FCRA for Criminal Background Checks,” “Spokeo Standing Challenges (and Opportunities).” Consumer Rights Litigation Conference, National Consumer Law Center, Anaheim, CA, October 2016.

“Appeals: Whether, When and How.” Consumer Rights Litigation Conference Class Action Symposium, National Consumer Law Center, Anaheim, CA, October 2016.

“Recent Developments in Food Class Action Litigation.” Perrin Food & Beverage Litigation Conference, New York, NY, October 2016.

“A Winning Hand or a Flop? After 50 Years are Class Actions Still Legit?” American Bar Association Annual National Institute on Class Actions, Las Vegas, NV, October 2016.

Contributing Author, “Consumer Law,” The Complete Lawyer’s Quick Answer Book, Minnesota Continuing Legal Education, 2016.

“Changing Standard for Class Certification Including a Discussion of the Use of Experts and Statistical Sampling at Class Certification in Light of Spokeo and Tyson.” Bridgeport Continuing Education 2016 Class Action Litigation Conference, San Francisco, CA, September 2016.

“The U.S. Supreme Court’s Big New Decisions.” Minnesota Continuing Legal Education Presentation, Minneapolis, MN, August 2016.

“The Complete Lawyer Series: Consumer Law, Debt Collection and Credit Reporting.” Minnesota Continuing Legal Education Webcast, Minneapolis, MN, July 2016.

“What Does the Spokeo Decision Mean for Consumer Lawyers.” National Association of Consumer Advocates Webinar, May 2016.

“Hot Button Consumer Issues.” Practising Law Institute’s Annual Consumer Financial Services Institute, Chicago, IL, May 2016.

“Consumer Law.” Minnesota Continuing Education Seminar, Minneapolis, MN, May 2016.

“Hot Topics in Class Actions.” Bridgeport Class Action Conference, Hollywood, CA, April 2016.

“Hot Button Consumer Issues.” Practising Law Institute’s Annual Consumer Financial Services Institute, New York, NY, April 2016.

“Beyond the Headlines – What EVERY Lawyer Should Know About the U.S. Supreme Court’s Big New Decisions.” Minnesota Continuing Legal Education Seminar, Minneapolis, MN, August 2015.

“Financial and Criminal Background Checks.” National Employment Lawyers Association Annual Convention Presentation, Atlanta, GA, June 2015.

“The Complete Lawyer: Consumer Law.” Minnesota Continuing Legal Education Presentation, Minneapolis, MN, May 2015.

“Protecting Your Plaintiffs and the Class: Rule 68 Offers and Other Pick-Off Tactics.” Impact Fund Class Action Conference, Berkeley, CA, February 2015.

“Be Careful what you Wish For: Trends in Arbitration.” ACI Wage & Hour Claims and Class Actions Summit Panel, Miami, FL, January 2015.

“Job Applicant Screening, Financial & Criminal Background Checks – Applicant Rights and Employer Best Practices.” Minnesota Continuing Legal Education Seminar, Minneapolis, MN, December 2014.

“Economics of Objecting for the Right Reasons.” Class Action Symposium Panel, National Consumer Rights Litigation Conference, Tampa, FL, November 2014.

“Data Harvesting, Background Checks, and the Fair Credit Reporting Act for Criminal Attorneys.” Criminal Law Section, Minnesota State Bar Association Presentation, November 2014.

“Discovery Strategies in Class Actions: When Less is More and When it Isn’t.” Bridgeport Class Action Conference, Chicago, IL, June 2014.

“Job Applicant Screening Crash Course.” Upper Midwest Employment Law Institute, Saint Paul, MN, May 2014.

“Financial and Criminal Background Checks.” Job Applicant Screening: A Practice Guide, Minnesota Continuing Legal Education Publication, May 2014.

“The Complete Lawyer: Quick Answers to Questions about Consumer Law.” Minnesota Continuing Legal Education Seminar, Minneapolis, MN, May 2014.

“Employment Law 360.” Minnesota Continuing Legal Education Seminar, Minneapolis, MN, February 2014.

“Precertification Discovery Strategies including Issues of Standing & Certification.” Bridgeport Class Action Conference, San Francisco, CA, August 2013.

“Beyond the Headlines – What Every Lawyer Should Know About the U.S. Supreme Court’s Big New Decision.” Minnesota Continuing Legal Education Seminar, Minneapolis, MN, August 2013.

“The Complete Lawyer: Quick Answers to Questions about Consumer Law.” Minnesota Continuing Legal Education Seminar, Minneapolis, MN, June 2013.

“The Misclassification Mess – What Do You Do If You Have Misclassified Workers as Exempt?” Upper Midwest Employment Law Institute, Minneapolis, MN, May 2013.

“Housing Finance – Consumer Financial Services.” Panelist, American Bar Association Business Law Section Spring Meeting, Washington, D.C., April 2013.

“5 Developments in E-Discovery.” The Civil Litigator’s Annual Short Course, Minnesota Continuing Legal Education, Minneapolis, MN, February 2013.

“Employment Rights & Criminal Backgrounds in the Context of the FCRA and Title VII.” Goodwill Easter Seals Presentation, Saint Paul, MN, December 2012.

“Federal Court 101.” National Business Institute Webinar, Eau Claire, WI, December 2012.

“Employment Law Series: Ethics Issues for Employment Law Lawyers.” Minnesota Continuing Legal Education Webcast, Minneapolis, MN, October 2012.

“Real World Ethics Issues and Answers for the Employment Lawyer.” Upper Midwest Employment Law Institute, Minneapolis, MN, May 2012.

“Real World Ethics Issues and Answers for the Employment Lawyer.” Minnesota Continuing Legal Education Seminar, Minneapolis, MN, November 2011.

“The Complete Lawyer: Consumer Law 101.” Minnesota Continuing Legal Education Seminar, Minneapolis, MN, November 2011.

“Litigation and the Federal Rules. What Every Paralegal Should Know”, National Federation of Paralegal Associations, Annual Convention, Bloomington, MN, October 2011.

“Dukes v. Wal-Mart: the View from the Plaintiff’s Bar.” American Conference Institute’s Defending and Managing Retaliation and Discrimination Claims Conference, New York City, NY, July 2011.

“How to Practice in Federal Court: Complaints, Answers, and Service of Process.” Minnesota Continuing Legal Education Seminar, Minneapolis, MN, October 2010.

“Recent Trends in FLSA Collective Actions Panel.” Minnesota Federal Bar Association Annual Seminar, Minneapolis, MN, June 2010,

Minnesota Continuing Legal Education Panel on Real-World Ethics Issues and Answers for the Employment Lawyer, Minneapolis, MN, June 2010.

"Maintaining Privilege and Confidentiality." National Federation of Paralegal Association Annual Convention, Bloomington, MN, June 2010.

"Strategic Discovery Practice", Upper Midwest Employment Law Institute, Minneapolis, MN, May 2010.

Minnesota Continuing Legal Education Panel on the Impact of Twombly and Iqbal on the Pleading standard, Minneapolis, MN, February 2010.

Interviewed by National Law Journal regarding recent wave of tip pooling cases (June 2009).

Strategic Discovery: How to Fight Discovery Abuses and Win Discovery Disputes, Minnesota Institute for Continuing Legal Education (May 2009).

Who's the Boss? Joint employers, successor employers and integrated enterprises, Equal Employment Opportunity Commission Investigator training (March 2008).

Litigating Capital Cases Under Georgia's New Discovery Statutes, Advanced Capital Defender Training (St. Simons Island, GA, January 2006).

Responding to Changes in Georgia's Criminal Discovery Statutes, Advanced Capital Defender Training. (St. Simons Island, GA, July 2005).

EXHIBIT C

Timekeeper	Hourly Rate	Hours Billed	Amount Billed
Albanese, Anthony	\$ 175.00	27.4	\$ 4,795.00
Albanese, John G	\$ 450.00	118.2	\$ 53,190.00
Drake, E. Michelle	\$ 725.00	151.2	\$ 109,620.00
Gebo, Rachel X	\$ 250.00	0.3	\$ 75.00
Hashmall, Joseph C	\$ 525.00	5.7	\$ 2,992.50
Hibray, Jean K	\$ 285.00	65	\$ 18,525.00
Lechtzin, Eric	\$ 675.00	1.5	\$ 1,012.50
McCollum, Sandy	\$ 57.50	1.6	\$ 92.00
Rajendran, Arun	\$ 43.00	2	\$ 86.00
Thomas, Devona B	\$ 250.00	1	\$ 250.00
Twersky, Martin I.	\$ 790.00	0.5	\$ 395.00
Xiong, Mai	\$ 250.00	1.3	\$ 325.00
Grand Total		375.7	\$ 191,358.00

EXHIBIT D

Expense Category	Amount
Advertising	\$ 424.25
COLOR PRINTS	\$ 44.10
Computer Research	\$ 8,732.27
Consulting fees	\$ 250.00
Convert To Tiff	\$ 37.02
Delivery & freight	\$ 26.31
Docusign	\$ 7.44
Endorse	\$ 0.71
Filing & Misc. Fees	\$ 719.72
Kaleidoscope Database Hosting	\$ 25.20
OCR	\$ 12.34
Outside Contractor	\$ 935.00
Postage	\$ 56.59
Reproduction costs	\$ 22.80
Reproduction costs Print	\$ 35.40
Reproduction costs Scans	\$ 1.70
Telephone	\$ 49.37
Travel	\$ 6,891.74
Grand Total	\$ 18,271.96

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division**

MARK WILLIAM THOMAS, *et al.*,

Plaintiffs,

v.

Civil No. 3:18-cv-00684-MHL

EQUIFAX INFORMATION SERVICES, LLC,

Defendant.

**DECLARATION OF JAMES A. FRANCIS SUBMITTED IN SUPPORT OF
PLAINTIFF'S MOTION FOR ATTORNEYS' FEES AND REIMBURSEMENT OF
EXPENSES INCURRED ON BEHALF OF FRANCIS & MAILMAN, P.C.**

I, James A. Francis, declare as follows:

I. INTRODUCTION

1. I am a founding shareholder of the firm of Francis & Mailman, P.C. (hereafter, "F&M"). I submit this Declaration in support of the firm's application for an award of attorneys' fees in connection with services rendered in this case, as well as the reimbursement of expenses incurred by my firm in connection with this litigation and with the global settlement efforts which led to the settlement agreement here.

2. My firm acted as Class Counsel in this action, and was instrumental in many aspects of the case from its inception through settlement, as set forth in further detail below.

3. In addition, my firm was counsel of record and involved in the prosecution of nine other class action cases (the "Related Actions") bringing similar claims against Equifax Information Solutions, Inc., each of which is resolved through the settlement agreement reached in this action:

a. *De La Rosa v. Equifax Info. Servs., LLC*, No. 1:18-cv-00078-AT (S.D.N.Y.).

- b. *Foley v. Equifax Info. Servs., LLC*, No. 0:17-cv-04320-JNE/BRT (D. Minn.).
- c. *Fryett v. Equifax Info. Servs., LLC*, No. 5:18-cv-00109-BO (E.D.N.C.).
- d. *Hotchkiss v. Equifax Info. Servs., LLC*, No. 5:18-cv-00060-GWC (D. Vt.).
- e. *Jones v. Equifax Info. Servs., LLC*, No. 1:17-cv-1166-STA-egb (W.D. Tenn.).
- f. *Lemmon v. Equifax Info. Servs., LLC*, No. 2:17-cv-01464-JLR (W.D. Wa.).
- g. *Lustig v. Equifax Info. Servs., LLC*, No. 2:17-cv-02913-GAM (E.D. Pa.).
- h. *Morales v. Equifax Info. Servs., LLC*, No. 3:18-cv-01153-WHO (N.D. Cal.).
- i. *Peters v. Equifax Info. Servs., LLC*, No. 2:17-cv-01274-KOB (N.D. Ala.).

4. This declaration describes the history and experience of my firm, and the work undertaken by my firm in connection with this action, as well as in each of the Related Actions, and details the specific work done and amount of time expended by each attorney and paralegal who was involved in each action. Attached hereto for each action is a Schedule of Time prepared from contemporaneous time records regularly prepared and maintained by my firm.

5. Along with the attorneys working on this case, I was in charge of staffing the case with appropriate, experienced counsel and support staff working at my firm, and supervising their work. Consistent with our firm's usual practice, tasks and assignments were apportioned to avoid the expenditure of duplicative time and redundant staffing. Time expended which has been considered duplicative or redundant has been eliminated from this lodestar. Time expended in preparing this application for fees and reimbursement of expenses has been included in this request. Additionally, anticipated time going forward has been estimated and included as well.

6. In addition to our co-Class Counsel in this action, my firm worked with local

counsel and other attorneys in connection with the Related Actions. Those attorneys are identified herein and separate declarations detailing their involvement in the relevant action and summarizing their time expended are attached hereto as Exhibits.

II. F&M FIRM HISTORY AND EXPERIENCE

7. Francis & Mailman, P.C. was founded in 1998, and we have concentrated our practice in consumer protection litigation ever since. The firm has a particular emphasis in Fair Credit Reporting Act (“FCRA”) litigation and consumer class actions. The firm has been recognized for its expertise in FCRA litigation and the high caliber of its work for the classes it represents. *See White v. Equifax Info. Solutions*, No. 05-01070, 2014 WL 1716154, at *13, 19, 22 (C.D. Cal. May 1, 2014), *aff’d sub nom. Radcliffe v. Equifax Info. Sol’ns., Inc.*, 818 F.3d 537, 548 (9th Cir. 2016) (finding the firm “FCRA specialists” and appointing firm and its team as interim class counsel over objections from a competing national law firm (Boies Schiller) because their team’s “credentials and experience [we]re significantly stronger in class action and FCRA litigation.”); *Patel v. Trans Union, LLC*, 308 F.R.D. 292, 307 (N.D. Cal. 2015) (Beeler, J.) (noting counsel have “extensive experience in litigating [FCRA cases] ... have represented consumer classes in many cases in many districts ... [and] have shown their proficiency in this case....”); *Larson v. Trans Union, LLC*, C.A. 12-cv-05726, 2015 WL 3945052, at *12 (N.D. Cal. June 26, 2015) (appointing firm as class counsel); *Barel v. Bank of America*, 255 F.R.D. 393, 398-99 (E.D. Pa. 2009) (finding firm “competent, experienced and well-qualified to prosecute class actions” and noting that class counsel “have done an excellent job in representing the class in the instant litigation.”).

8. In 2015, I was ranked one of the Top 100 attorneys in Pennsylvania in *Philadelphia Magazine* and *Pennsylvania Super Lawyers*, a distinction I have been awarded 5 times. I have been regularly ranked one of the Top 100 Superlawyers in Philadelphia since 2004. In October of

2014, I was selected as one of a small group of nationally recognized plaintiffs' lawyers and featured in *Law 360's* "Titans of the Plaintiff's Bar" series.

9. In recognition of my commitment to consumer justice, in May of 2014, I was presented with the *Equal Justice Award* by Community Legal Services of Philadelphia. I currently serve on the Board of Directors of the National Association of Consumer Advocates.

10. As detailed in our firm's biography, attached hereto as **Exhibit 1**, I regularly lecture and serve as faculty on continuing legal education programs focused on FCRA litigation and consumer class actions for both the plaintiff's and defense bar, and have published articles on the subject as well. I have appeared on various news programs including the *Today Show* and *PBS NewsHour* to discuss consumer-related issues and was featured in *The Philadelphia Inquirer's* biographical "Question & Answer" segment in February of 2009.

11. I personally have litigated hundreds of FCRA cases, primarily in federal courts throughout the country. My firm has tried a number of individual FCRA cases and class actions and has obtained the highest FCRA jury verdicts in Pennsylvania. *See, e.g., Cortez v. Trans Union, LLC*, 2008 WL 19442160 (E.D. Pa. May 1, 2008), *aff'd* 617 F.3d 688 (3d Cir. 2010). I argued *Cortez* before the United States Court of Appeals for the Third Circuit.

12. F&M is in the small of minority of class action firms that has actual experience in the trial of a class action. We have brought four class actions to trial, three of which resulted in successful verdicts for the consumer classes tried over a period of weeks, and the fourth which resulted in a settlement:

- a. In *Ramirez v. Trans Union, LLC*, No. 3:12-cv-632-JSC, 2017 WL 5153280 (N.D. Cal. Nov. 7, 2017), my firm obtained a jury verdict in a case against Trans Union where the jury awarded statutory damages of \$984.22 and punitive damages of \$6,353.08 for each of 8,185 class members. The total verdict exceeded \$60 million, which is believed to be the largest FCRA verdict ever obtained.

- b. In *Samuel-Bassett v. Kia Motors America, Inc.*, 34 A.3d 1 (Pa. 2011), we obtained a \$5.6 million verdict for class of Pennsylvania car purchasers, plus award of attorney's fees upheld by the Pennsylvania Supreme Court.
- c. In *Little v. Kia Motors America, Inc.*, 2003 WL 25568765 (N.J. Super. L. 2003), we obtained an approximate \$6 million verdict for a class of New Jersey car purchasers.
- d. In *Chakejian v. Equifax Information Services, LLC*, 275 F.R.D. 201 (E.D. Pa. 2011), we obtained a favorable class settlement following opening statements to the jury.

13. As demonstrated by our firm's biography, my firm and I personally have been certified to serve as class counsel (and/or are currently serve) on over 50 occasions by courts throughout the country, including the largest FCRA class settlements in history:

- a. *White et al. v. Equifax Info. Solutions, Inc., et al.*, C.A. No. 8:05-cv-01070, 2018 WL 1989514 (S.D. Cal. Apr. 6, 2018) - \$38.7 million;
- b. *Ryals et al. v. Hireright Solutions, Inc.*, C.A. No. 3:09cv625 (E.D. Va. Dec. 22, 2011) – \$28.3 million;
- c. *Henderson v. Acxiom Risk Mitigation, Inc.*, C.A. No. 12-589 (E.D. Va., Aug. 7, 2015)- \$20.8 million;
- d. *Thomas v. BackgroundChecks.com*, C.A. No. 13-029 (E.D. Va. Aug. 11, 2015) –\$18 million;
- e. *Berry v. LexisNexis Risk & Info. Analytics Group, Inc.*, No. 3:11-cv-754, 2014 WL 4403524, at *11 (E.D. Va. Sept. 5, 2014) - \$13.5-million plus national injunctive relief.

14. My firm, and I personally, have been certified to serve as class counsel by this Court and by numerous courts in cases throughout the country. *See, e.g., Berry v. LexisNexis Risk & Info. Analytics Group, Inc.*, 2014 WL 4403524, *11 (E.D. Va. Sept. 5, 2014), *aff'd sub nom. Berry v. Schulman*, 807 F.3d 600 (4th Cir. 2015); *Clark v. Experian Info. Sols, Inc.*, No. 3:16-cv-00032-MHL (E.D. Va.) (ECF 150); *Clark v. Trans Union, LLC*, No. 3:15-cv-00391-MHL (E.D Va. Aug. 29, 2018) (ECF 272); *Stokes v. RealPage, Inc.*, C.A. No. 15-1520 (E.D. Pa. Feb. 6, 2018) (ECF 63); *Flores v. Express Services Inc.*, 2017 WL 1177098 (E.D. Pa. March 29, 2017); *Carter v.*

Shalhoub Management Company Inc., No. 15-cv-1531 (C.D. Ca. March 15, 2017); *Miller v. Trans Union, LLC*, 2017 WL 412641 (M.D. Pa. Jan. 18, 2017); *Larson v. Trans Union, LLC*, 2016 WL 4367253 (N.D. Ca. Aug. 11, 2016); *Magallon v. Robert Half International, Inc.*, 2015 WL 8778398 (D. Or. Nov. 10, 2015); *Blandina v. Midland Funding, LLC*, 2014 WL 7338744 (E.D. Pa. Dec. 23, 2014); *Patel v. Trans Union, LLC*, 308 F.R.D. 292 (N.D. Ca. 2014); *Ramirez v. Trans Union, LLC*, 2014 WL 3734525 (N.D. Ca. July 24, 2014); *Sapp v. Equifax Info. Solutions*, No. 10-4312, 2013 WL 2130956 (E.D. Pa. May 15, 2013); *LaRocque v. TRS Recovery Services, Inc.*, 285 F.R.D. 139 (D. Me. 2012); *Giddiens v. First Advantage LNS Screening Solutions, Inc.*, No. 2:12-cv-2624 (E.D. Pa. Jan. 20, 2015); *Serrano v. Sterling Testing Systems, Inc.*, 711 F. Supp. 2d 402, 412 (E.D. Pa. 2010); *Summerfield v. Equifax Info. Services, LCC*, 264 F.R.D. 133 (D.N.J. 2009); *Chakejian v. Equifax Info. Services, LLC*, 256 F.R.D. 492 (E.D. Pa. 2009); *Jones v. Midland Funding, LLC*, C.A. No. 3:08cv802 (RNC) (D. Conn. Oct. 13, 2009); *Jordan v. Commonwealth Financial Systems, Inc.*, 237 F.R.D. 132 (E.D. Pa. 2006); *Bonett v. Education Debt Services, Inc.*, No. 01-6528, 2003 WL 21658267 (E.D. Pa. 2003).

III. HOURLY RATES

15. The hourly rates charged by my firm as reflected herein and in the attached Schedules of Time are the same as the regular current rates charged to clients who retain the firm in connection with non-class matters.

16. The hourly rate charged by me is \$605; for Mark D. Mailman is \$605; for John Soumilas is \$495; for David A. Searles is \$725; for Geoffrey H. Baskerville is \$495; for Lauren KW Brennan is \$225; for Jordan M. Sartell is \$225; and, for paralegals is \$180.

17. The rates charged by the attorneys and paralegals of my firm are reasonable and within the range of the appropriate market rates charged by attorneys with comparable experience levels for litigation of a similar nature, given their experience level, practice concentration and

background. See February 27, 2017 expert report of Abraham C. Reich, Esquire, Partner/Chair Emeritus for the law firm of Fox Rothschild, LLP, attached hereto as **Exhibit 2**. These rates were set based upon the opinions of independent outside counsel at the law firm of Fox Rothschild, LLP. *Id.* My firm's standard hourly rates have been set following consultation with Mr. Reich for several years, independently from this and any other class action case. My firm frequently submits an expert report by Mr. Reich in support of our standard hourly rates in support of fee petition. Courts across the country have relied upon Mr. Reich's expert opinion to approve our hourly rates.¹

IV. THE THOMAS ACTION

18. My firm has taken a lead role in the prosecution and resolution of this case, was instrumental in many aspects of the case, including:

- a. preparing the of Complaint and framing the allegations therein;
- b. reviewing Defendant's Answer;

¹ See *Berry v. Schulman*, 807 F.3d 600, 617 (4th Cir. 2015) (affirming fee award approving hourly rates); *Clark v. Experian Info Sols, Inc.*, No. 3:16-cv-00032-MHL at ECF 150 (E.D. Va. Feb. 1, 2019) (approving same hourly rates requested here based upon same expert report); *Clark v. Trans Union LLC*, No. 3:15-cv-00391-MHL at ECF 272 (E.D. Va. Aug. 29, 2018) (same); *Henderson v. CoreLogic Nat'l Background Data, LLC*, No. 3:12-cv-97, 2018 WL 1558556, at *5 (E.D. Va. Mar. 22, 2018) (Novak, J.) (same); *Patel v. Trans Union, LLC*, No. 14-cv-00522-LB, 2018 WL 1258194, at *7 (N.D. Cal. Mar. 11, 2018) (approving requested hourly rates enhanced to reflect San Francisco legal market); *Stokes v. RealPage, Inc.*, C.A. No. 15-1520 (E.D. Pa. Feb. 6, 2018) (ECF 65) (approving requested hourly rates); *Flores v. Express Services Inc.*, 2017 WL 1177098, at *4 (E.D. Pa. Mar. 29, 2017) (approving hourly rates and granting multiplier of 4.6); *Carter v. Shalhoub Management Company Inc.*, No. 15-cv-1531 (C.D. Ca. Mar. 15, 2017) (ECF 69) (granting firm's fee petition in full); *Blandina v. Midland Funding, LLC*, 2016 WL 3101270, *7-8 (E.D. Pa. 2016) (approving hourly rates and granting fee request in full); *Giddiens v. Infinity Staffing Solutions, Inc.*, No. 2:13-cv-7115 (E.D. Pa. Jan. 12, 2016) (ECF 36) (same); *Sholinsky v. Frost-Arnett Company*, No. 1:14-cv-7889 (D.N.J. Jan. 19, 2016) (ECF 33) (same); *Giddiens v. LexisNexis Risk Solutions, Inc.*, No. 2:12-cv-2624 (E.D. Pa. Jan. 20, 2015) (ECF 56) (granting same); *Sapp v. Equifax Information Solutions, Inc.*, 2013 WL 2130956, at *2-3 (E.D. Pa. 2013) (approving fee petition in full); *Baker v. International Bank*, C.A. No. 08-5668 (D.N.J. Feb. 28, 2013) (ECF 110) (approving firm's fee petition in full); *Chakejian v. Equifax Information Services, LLC*, 275 F.R.D. 201, 216, n.19-20 (E.D. Pa. 2011) (adopting expert opinion testimony of Abraham Reich, Esq.); *Reibstein v. Rite Aid Corporation*, 761 F. Supp. 2d 241, 260 (E.D. Pa. 2011).

- c. initiating and taking a lead role in in settlement discussions with Defendant regarding broad settlement of all related cases, including scheduling and participating in mediation session with Magistrate Judge Novak, as well as numerous follow-up conversations;
- d. drafting and editing settlement documents and conferring extensively with counsel for Defendant regarding same;
- e. drafting and editing Motion for Preliminary Approval of Class Action Settlement and appearing at court hearing for same;
- f. overseeing the settlement notice process, including handling all consumer contacts in response to notice program;
- g. drafting and editing forthcoming Motion for Final Approval of Class Action Settlement and appearing at court hearing for same.

19. In addition to the attorney and paralegal time and litigation expenses attributable to the *Thomas* case and the particular Related Cases described below, my firm expended time and unreimbursed expenses which were not attributable to a single case, but which ultimately contributed to the settlement of these cases against Equifax, under the umbrella of the *Thomas* litigation. Particularly, F&M was heavily involved in a multi-day mediation seeking a global resolution of all public records litigation against all three major consumer reporting agencies, including Equifax. Although no global resolution was reached, those settlement discussions formed the groundwork for the successful settlement with Equifax, and involved substantial effort to coordinate cases with co-counsel For recordkeeping purposes, my firm billed time and expenses related to these global efforts to a file called “Public Records Litigation – Equifax.” When it became clear that all of the cases would settle under the umbrella of the *Thomas* case, we combined our billing records for these matters.

20. A breakdown of the activities of the attorneys and paralegals working on the *Thomas* case and the global Equifax settlement efforts is contained in the Schedule of Time attached hereto as **Exhibit 3**.

21. The lodestar of the firm for work performed with respect to the *Thomas* case and global Equifax settlement efforts totals \$568,623.50.

22. The lodestar figure above, and those listed in connection with the Related Actions below, do not include charges for expenses and costs of the litigation. The costs of the litigation are billed separately and such charges are not duplicated in my firm's billing rates.

23. As detailed in **Exhibit 4** hereto, my firm has incurred a total of \$55,905.69 in unreimbursed expenses in connection with the prosecution of the *Thomas* case and global Equifax settlement efforts, including the costs of mediation which were undertaken by F&M. Each of the expenses described therein would typically be billed to paying clients. The expenses incurred in this action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, software and other source materials and are an accurate recordation of the expenses.

V. THE RELATED ACTIONS

A. *De La Rosa*

24. *De La Rosa v. Equifax Info. Servs., LLC*, No. 1:18-cv-00078-AT (S.D.N.Y.), was filed on January 5, 2018 on behalf of all persons about whom Equifax prepared a consumer report including a civil judgment recorded in the State of New York which had been paid, satisfied, or released, without reporting this updated status.

25. My firm served as lead counsel in the case, and was responsible for all aspects of the case, including investigating the underlying facts of the case and framing the causes of action, drafting and editing the Complaint, overseeing all discovery in this matter, including drafting and editing Plaintiff's discovery requests, reviewing and drafting responses to Equifax's discovery requests, and reviewing documents produced by Equifax.

26. A breakdown of the activities of the F&M attorneys and paralegals working on the

case is contained in the Schedule of Time attached hereto as **Exhibit 5**.

27. The lodestar of my firm for work performed with respect to the *De La Rosa* case totals \$33,613.00.

28. As detailed in **Exhibit 6** hereto, my firm has incurred a total of \$400.00 in unreimbursed expenses in connection with the prosecution of the *De La Rosa* litigation. Each of the expenses described therein would typically be billed to paying clients. The expenses incurred in this action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, software and other source materials and are an accurate recordation of the expenses.

29. The time and expenses of our co-counsel in the case, Mallon Consumer Law Group, PLLC, is detailed in the declaration of Kevin C. Mallon, attached hereto as **Exhibit 7**. The total lodestar for Mallon Consumer Law Group, PLLC in this matter is \$91,025, and their total unreimbursed expenses are \$4,554.11.

B. Foley

30. *Foley v. Equifax Info. Servs., LLC*, No. 0:17-cv-04320-JNE/BRT (D. Minn.), was filed on September 20, 2017 on behalf a class of consumers about whom Equifax reported a tax lien recorded in the State of Minnesota without reporting that it had been paid, satisfied, released, or cancelled prior to the date of the report. My firm has served as lead counsel in the case and was responsible for all aspects of the case, including investigating the underlying facts of the case, framing the causes of action, drafting and editing the Complaint, and conferring with counsel for Equifax pursuant to Fed. R. Civ. P. 26(f) and drafting, editing, and submitting a case management plan and proposed scheduling order, and conducting discovery. A breakdown of the activities of the attorneys and paralegals working on the case is contained in the Schedule of Time attached hereto as **Exhibit 8**.

31. The lodestar of my firm for work performed with respect to the *Foley* case totals \$46,222.25.

32. As detailed in **Exhibit 9** hereto, my firm has incurred a total of \$604.50 in unreimbursed expenses in connection with the prosecution of the *Foley* litigation. Each of the expenses described therein would typically be billed to paying clients. The expenses incurred in this action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, software and other source materials and are an accurate recordation of the expenses

33. The time and expenses of our co-counsel in the case, Consumer Justice Center P.A and Lyons Law Firm, is detailed in the declaration of Thomas J. Lyons Jr., attached hereto as **Exhibit 10**. The total lodestar for Consumer Justice Center P.A. and Lyons Law Firm in this matter is \$7,868.55.

C. Fryett

34. *Fryett v. Equifax Info. Sols., Inc.*, No. 5:18-cv-00109-BO (E.D. N.C.), was filed March 23, 2018 on behalf of a class of consumers about whom Equifax reported a civil judgment recorded in the State of North Carolina but did not report that it had been paid, satisfied or cancelled prior to the date of the report. My firm has served as lead counsel in the case and was responsible for all aspects of the case, including investigating the underlying facts of the case, framing the causes of action, drafting and editing the Complaint, reviewing Equifax's Answer, and conducting initial discovery steps including conferring with counsel for Equifax pursuant to Fed. R. Civ. P. 26(f), and drafting written discovery requests. A breakdown of the activities of the attorneys and paralegals working on the case is contained in the Schedule of Time attached hereto as **Exhibit 11**.

35. The lodestar of my firm for work performed with respect to the *Fryett* case totals

\$29,462.10.

36. As detailed in **Exhibit 12** hereto, my firm has incurred a total of \$121.00 in unreimbursed expenses in connection with the prosecution of the *Fryett* litigation. Each of the expenses described therein would typically be billed to paying clients. The expenses incurred in this action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, software and other source materials and are an accurate recordation of the expenses

37. Any time and expenses of our co-counsel in the case, Consumer Litigation Associations, P.C., are detailed in the concurrently-filed declaration of Leonard A. Bennett.

D. Hotchkiss

38. *Hotchkiss v. Equifax Info. Servs., LLC*, 5:18-cv-00060-GWC (D. Vt.), was filed March 30, 2018 on behalf of a class of consumers about whom Equifax reported a tax lien recorded in the State of Vermont without indicating that the lien had been satisfied or released prior to the date of the report. My firm participated in all aspects of the case, including investigating the underlying facts of the case, framing the causes of action, drafting and editing the Complaint, reviewing Equifax's Answer, and conducting initial discovery steps including preparing for the initial discovery conference pursuant to Fed. R. Civ. P. 26(f). A breakdown of the activities of the attorneys and paralegals working on the case is contained in the Schedule of Time attached hereto as **Exhibit 13**.

39. The lodestar of my firm for work performed with respect to the *Hotchkiss* case totals \$32,206.50.

40. As detailed in **Exhibit 14** hereto, my firm has incurred a total of \$717.11 in unreimbursed expenses in connection with the prosecution of the *Hotchkiss* litigation. Each of the expenses described therein would typically be billed to paying clients. The expenses incurred in

this action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, software and other source materials and are an accurate recordation of the expenses.

41. The time and expenses of our co-counsel in the case, The Burlington Law Practice, PLLC, are detailed in the declaration of Joshua Simonds, attached hereto as **Exhibit 15**. The total time for The Burlington Law Practice, PLLC in this matter is \$6,092.50, and the firm reflected no unreimbursed expenses in the case.

E. Jones

42. *Jones v. Equifax Info. Servs., LLC*, 1:17-cv-01166-STA-egb (W.D. Tenn.), was filed on August 31, 2017, on behalf of a class of consumers about whom Equifax reported a civil judgment recorded in the state of Tennessee, without also reporting that the judgment had been paid or satisfied on a date prior to the report. My firm participated in all aspects of the case, including investigating the underlying facts of the case, framing the causes of action, drafting and editing the Complaint, conducting early settlement discussions and moving to stay the case pending such discussions, conferring with counsel for Equifax pursuant to Rule 26(f), preparing a report of this meeting for the court, and drafting and reviewing Plaintiff's written discovery requests. A breakdown of the activities of the attorneys and paralegals working on the case is contained in the Schedule of Time attached hereto as **Exhibit 16**.

43. The lodestar of my firm for work performed with respect to the *Jones* case totals \$20,080.50.

44. As detailed in **Exhibit 17** hereto, my firm has incurred a total of \$819.20 in unreimbursed expenses in connection with the prosecution of the *Jones* litigation. Each of the expenses described therein would typically be billed to paying clients. The expenses incurred in this action are reflected on the books and records of my firm. These books and records are prepared

from expense vouchers, check records, software and other source materials and are an accurate recordation of the expenses.

45. Any time and expenses of our co-counsel in the case, The Adkins Firm, P.C., are detailed in the concurrently-filed declaration of Micah Adkins.

F. *Lemmon*

46. *Lemmon v. Equifax Info. Servs., LLC.*, No. 2:17-cv-1464-JLR (W.D. Wa.), was filed on September 27, 2017 on behalf of a class of consumers about whom Equifax reported a civil judgment recorded in the State of Washington, without reporting that the judgment had been paid, satisfied, released, or cancelled prior to the date of the report. My firm served as lead counsel and was involved in all aspects of the case, including investigating the underlying facts of the case, framing the causes of action, drafting and editing the Complaint, reviewing Equifax's Answer to the Complaint and Answer to the Amended Complaint, conferring with co-counsel regarding discovery planning and Rule 26(f) conference with Equifax, drafting and editing Plaintiff's written discovery requests, reviewing Equifax's responses to discovery. A breakdown of the activities of the attorneys and paralegals working on the case is contained in the Schedule of Time attached hereto as **Exhibit 18**.

47. The lodestar of my firm for work performed with respect to the *Lemmon* case totals \$42,693.50.

48. The time and expenses of our co-counsel in the case, Terrell Marshall Law Group PLLC, is detailed in the declaration of Beth E. Terrell, attached hereto as **Exhibit 19**. The total lodestar for Terrell Marshall Law Group PLLC for this matter is \$4,527.50. The total unreimbursed expenses for Terrell Marshall Law Group PLLC for this matter is \$ 1,100.50.

G. *Lustig*

49. *Lustig v. Equifax Info. Servs., LLC*, No. 2:17-cv-2913-GAM (E.D. Pa.), was filed on June 28, 2017 on behalf of all persons about whom Equifax prepared a consumer report containing a civil judgment entered in a Pennsylvania court, which had been stricken, dismissed or vacated according to publicly available Pennsylvania court records, without reporting this updated status.

50. My firm served as lead counsel in the *Lustig* case, and we were responsible for all aspect of the case, including, investigating the underlying facts of the case and framing the causes of action, drafting and editing the Complaint, and overseeing all discovery in this matter, including drafting and editing Plaintiff's discovery requests, reviewing and drafting responses to Equifax's discovery requests, and reviewing Equifax's discovery responses and document production.

51. A breakdown of the activities of the F&M attorneys and paralegals working on the case is contained in the Schedule of Time attached hereto as **Exhibit 20**.

52. The lodestar of my firm for work performed with respect to the *Lustig* case totals \$140,795.50.

53. As detailed in **Exhibit 21** hereto, my firm has incurred a total of \$400.00 in unreimbursed expenses in connection with the prosecution of the *Lustig* litigation. Each of the expenses described therein would typically be billed to paying clients. The expenses incurred in this action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, software and other source materials and are an accurate recordation of the expenses.

H. *Morales*

54. *Morales v. Equifax Info. Servs., LLC*, No. 3:18-cv-01153-WHO (N.D. Cal.) was filed on February 22, 2018 on behalf of a class of consumers about whom Equifax reported a civil

judgment recorded in the State of California but did not indicate that the judgment had been set aside, vacate, paid, or satisfied prior to the date of the report. In addition to the FCRA claim, the case included a class claim under the California Consumer Credit Reporting Agencies Act, Cal. Civ. Code 1785 *et seq.* My firm participated in all aspects of the case, including investigating the underlying facts of the case, framing the causes of action, drafting and editing the Complaint, reviewing Equifax's Answer, preparing for the initial discovery conference pursuant to Fed. R. Civ. P. 26(f), attending the initial court conference in San Francisco, revising the civil case management plan and proposed schedule, and drafting Plaintiff's written discovery requests, A breakdown of the activities of the attorneys and paralegals working on the case is contained in the Schedule of Time attached hereto as **Exhibit 22**.

55. The lodestar of my firm for work performed with respect to the *Morales* case totals \$58,710.00.

56. As detailed in **Exhibit 23** hereto, my firm has incurred a total of \$648.31 in unreimbursed expenses in connection with the prosecution of the *Morales* litigation. Each of the expenses described therein would typically be billed to paying clients. The expenses incurred in this action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, software and other source materials and are an accurate recordation of the expenses

57. The time and expenses of our co-counsel in the case, Duckworth & Peters, LLP, are detailed in the declaration of Erika Heath, attached hereto as **Exhibit 24**. The total lodestar of Duckworth & Peters, LLP² in this matter is \$25,365.00, and their total unreimbursed expenses are

² When the case was filed, F&M was associated with Duckworth Peters Lebowitz Olivier LLP, as well as Robert S. Sola, P.C. as discussed below. During the pendency of the case, Duckworth Peters Lebowitz Olivier LLP dissolved, and F&M continued to work with the same attorneys through their subsequent firms, Duckworth & Peters LLP and Olivier Schreiber & Chao LLP.

\$435.00.

58. The time and expenses of our additional co-counsel in the case, Olivier Schreiber & Chao LLP, are detailed in the declaration of Monique Olivier, attached hereto as **Exhibit 25**. The total lodestar of Olivier Schreiber & Chao LLP in this matter is \$13,125.00, and the firm reflected no unreimbursed expenses in the case.

59. The time and expenses of our additional co-counsel in the case, Robert S. Sola, P.C., are detailed in the declaration of Robert S. Sola, attached hereto as **Exhibit 26**. The total lodestar of Robert S. Sola, P.C. in this matter is \$166,950.00, and reflected no unreimbursed expenses in the case.

I. Peters

60. *Peters v. Equifax Info. Servs., LLC.*, No. 2:17-cv-01274 (N.D. Ala.) was filed on July 28, 2017 on behalf of a class of consumers about whom Equifax reported a civil judgment recorded in the State of Alabama, without reporting that the judgment had been paid or satisfied prior to the date of the report. My firm has served as lead counsel in the case and was responsible for all aspects of the case, including investigating the underlying facts of the case, framing the causes of action, drafting and editing the Complaint, reviewing Equifax's Answer, conferring with co-counsel regarding discovery planning and Rule 26(f) conference with Equifax, and drafting and editing Plaintiff's written discovery requests. A breakdown of the activities of the attorneys and paralegals working on the case is contained in the Schedule of Time attached hereto as **Exhibit 27**.

61. The lodestar of my firm for work performed with respect to the *Peters* case totals \$15,330.50.

62. As detailed in **Exhibit 28** hereto, my firm has incurred a total of \$593.23 in unreimbursed expenses in connection with the prosecution of the *Peters* litigation. Each of the expenses described therein would typically be billed to paying clients. The expenses incurred in

this action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, software and other source materials and are an accurate recordation of the expenses.

63. Any time and expenses of our co-counsel in the case, The Adkins Firm, P.C., are detailed in the concurrently-filed declaration of Micah Adkins.

VI. TOTAL LODESTAR AND EXPENSES

64. Based upon the foregoing, my firm's total lodestar in this case and the nine Related Actions is \$987,737.35, and the total expenses for my firm for all of the cases is \$61,309.54.

65. Further, based upon the foregoing, the total lodestar for our co-counsel Mallon Consumer Law Group, PLLC, The Adkins Firm, P.C., The Burlington Law Practice, PLLC, Duckworth & Peters, LLP, Olivier Schreiber & Chao LLP, Robert S. Sola, P.C., Consumer Justice Center P.A, Lyons Law Firm, and Terrell Marshall Law Group PLLC, in this case and the nine Related Actions is \$314,953.55, and the total expenses for these firms is \$1,935.50.

66. The total lodestar already incurred for Francis & Mailman, Mallon Consumer Law Group, PLLC, The Adkins Firm, P.C., The Burlington Law Practice, PLLC, Duckworth & Peters, LLP, Olivier Schreiber & Chao LLP, Robert S. Sola, P.C., Consumer Justice Center P.A, Lyons Law Firm, and Terrell Marshall Law Group PLLC in this case and the nine Related Actions is \$1,302,690.90, and the total expenses for these firms is \$63,245.04.

67. In addition to the time already incurred and documented as set forth above, as part of the settlement agreement, Class Counsel have agreed to represent Class members in connection with the Alternative Dispute Resolution (ADR) process established by the settlement. My firm will take the lead in addressing consumer claims through the ADR program, and will need to expend substantial additional time in assisting consumers in preparing their ADR Requests, which will include reviewing class member records, evaluating the strength of their claims, advising class

members regarding the options afforded under the settlement and the ADR program, and communicating with the Equifax regarding class member claims.

68. In the Trans Union and Experian settlements, my firm has already expended hundreds of attorney and paralegal hours as well as administrative time in monitoring and assisting consumer participating in the ADR programs established by those settlements. My firm hired additional paralegal support in order to handle the volume of class member inquiries and assistance needed. Many inquiries from class members require attorney assistance and review of documentation. We continue to litigate and negotiate with Trans Union with respect to multiple class members. Similarly, coordination of the Experian ADR program has required substantial attorney and paralegal time to implement and manage.

69. I anticipate that an even larger number of consumers will contact my firm and other Class Counsel in connection with the Equifax ADR program than for the Trans Union and Experian settlements, because of the well-publicized Equifax data breach litigation. The attorneys and paralegals at my firm have already received and responded to numerous inquiries from individuals with questions regarding Equifax stemming from the data breach litigation, but who are also members of the Settlement Class here.

70. Based upon our experience with the Trans Union and Experian ADR programs, and the fact that Francis & Mailman anticipates taking an even larger role in the Equifax ADR program than previously, I estimate that Francis & Mailman will expend hundreds of additional hours of attorney and paralegal time hours going forward in connection with the ADR program, for a lodestar that will easily exceed an additional \$1 million.

I declare under penalty of perjury, under the laws of the United States, that the foregoing

is true and correct.

DATED: August 23, 2019

/s/ James A. Francis
JAMES A. FRANCIS
Attorney for Plaintiffs

Exhibit 1



FRANCIS & MAILMAN, P.C. is a law firm located in center city Philadelphia, Pennsylvania that concentrates in consumer protection litigation. Founded in 1998, the firm’s goal is to provide exceptional advocacy to consumers subjected to unfair business, industry and trade practices. The firm represents consumers in individual actions, as well as through class action lawsuits, in the areas of unlawful consumer credit reporting, employment background screening, fair debt collection, unlawful robo calls, unfair and deceptive trade practices litigation, and other consumer matters.

F&M is one of the preeminent consumer litigation firms in the country. In June of 2017, the firm obtained a record \$60 million dollar jury verdict in a class action brought under the Fair Credit Reporting Act. The firm has been certified to serve as class counsel in over 50 class actions nationally, and has helped obtain groundbreaking legal rulings and decisions at both the trial court and appellate court levels. The firm has also served as counsel in some of the largest class action settlements in history. Due to the quality of its trial and appellate advocacy, F&M has been recognized by courts throughout the country for the high caliber of its work and its expertise. *White v. Experian Info. Solutions*, No. 05-01070, 2014 WL 1716154, at *13, 19, 22 (C.D. Cal. May 1, 2014) (finding Francis & Mailman “FCRA specialists” and appointing firm and its team as interim class counsel over objections from competing national law firm because their team’s “credentials and experience [we]re significantly stronger in class action and FCRA litigation.”); *Barel v. Bank of America*, 255 F.R.D. 393, 398-99 (E.D. Pa. 2009) (finding firm “competent, experienced and well-qualified to prosecute class actions” and noting that class counsel “have done an excellent job in representing the class in the instant litigation.”)

JAMES A. FRANCIS

JIM FRANCIS has been admitted to practice before the United States Court of Appeals for the Third, Fourth and Ninth Circuits, the United States District Court for the Eastern District of Pennsylvania, the United States District Court for the District of New Jersey, as well as the Pennsylvania and New Jersey state courts. He is a 1992 graduate of Muhlenberg College (B.A., *cum laude*) and a 1995 graduate of the Temple University Beasley School of Law. In law school, he won the 1995 Wapner, Newman & Wigrizer, P.C. award for excellence in civil trial advocacy, was awarded outstanding oral advocacy and served as President of the Student Bar Association. Following law school, Mr. Francis was associated with Kolsby, Gordon, Robin, Shore & Rothweiler in Philadelphia. Since 1998, he has focused his practice in consumer protection litigation, with a particular concentration in fair credit reporting, fair debt collection practices and consumer class actions.

In 2004, Mr. Francis was the youngest lawyer to be ranked in the Top 100 Superlawyers in the Commonwealth of Pennsylvania in *Philadelphia Magazine* and *Pennsylvania Super Lawyers* magazine. He was subsequently ranked a Top 100 Pennsylvania Superlawyer in 2008, 2012, and 2014, and has been regularly ranked one of the Top 100 Superlawyers in Philadelphia since 2004.

In 2017, Mr. Francis served as trial counsel in a \$60 million dollar class action jury verdict, which is the largest verdict in history for a case brought under the Fair Credit Reporting Act. In 2009, Mr. Francis argued the seminal FCRA case of *Cortez v. Trans Union* before the Third Circuit Court of Appeals. He lectures and speaks extensively on the FCRA for continuing legal education seminars, law schools and community groups, and has published articles on the FCRA. He has appeared on various news programs including the *Today Show* and *PBS NewsHour* to discuss consumer-related issues, and was featured in *The Philadelphia Inquirer's* biographical "Question & Answer" segment in February of 2009. He has been certified to serve as class counsel in over 50 consumer class actions, has been trial counsel in three class actions to successful plaintiff's verdicts, and has served as counsel in some of the largest FCRA settlements in history.

In May of 2014, Mr. Francis was awarded the Community Legal Services of Philadelphia's *Equal Justice Award* at its annual Breakfast of Champions. He was also selected as one of a small national group of plaintiffs' lawyers to be featured in Law 360's *Titans of the Plaintiff's Bar* series in October of 2014. He currently serves on the Board of Directors of the National Association of Consumer Advocates (NACA).

CLASS COUNSEL CERTIFICATIONS

Ridenour v. Multi-Color Corporation, C.A. No. 2:15-cv-00041, (E.D. Va., Jan. 13, 2017)
Flores v. Express Personnel, C.A. No. 14-cv-03298, (E.D. Pa. Oct. 21, 2016)
Larson v. Trans Union, LLC, C.A. No. 12-cv-05726, (N.D. CA, Aug. 11, 2016)
Miller v. Trans Union, LLC, C.A. No. 12-cv-1715, (M.D. PA, Dec. 26, 2016)
Henderson v. Trans Union, LLC, C.A. No. 14-cv-00679, E.D. Va., May 3, 2016)
Pawlowski v. United Tranzactions, LLC, C.A. no. 15-cv-2330, (E.D. PA, April 18, 2016)
Giddiens v. Infinity Staffing, C.A. No. 13-cv-07115, (E.D. Pa., Jan. 12, 2016)
Giddiens v. First Advantage, C.A. No. 14-cv-5105, (E.D. Pa., July 11, 2015)
Jones v. Halstead Management Corporation, C.A. No. 14-cv-03125 (S.D. N.Y., May 5, 2016)
Berry v. LexisNexis Risk & Info. Analytics Group, Inc., No. 3:11-cv-754, 2014 WL 4403524 (E.D. Va. Sept. 5, 2014)
Thomas v. BackgroundChecks.com, C.A. No. 13-029 2015 WL 11004870 (E.D. Va. Aug. 5, 2015)
Henderson v. Acxiom Risk Mitigation, Inc., C.A. No. 12-589 (E.D. Va., Aug. 7, 2015)
Magallon v. Robert Half International, Inc. WL 8778398 (D. Or. Nov. 10, 2015)
Patel v. Trans Union, LLC, 308 F.R.D. 292 (N.D. Cal, 2014)
Goode v. First Advantage LNS Screening Solutions, Inc., C.A. No. 11-cv-02950 (E.D. Pa. Dec. 29, 2014)
Blandina v. Midland Funding, LLC, 2014 WL 7338744 (E.D. Pa. Dec. 23, 2014)
King v. General Information Services, Inc., C.A. No. 11-06850 (E.D. Pa. Nov. 4, 2014)
Robinson v. General Information Services, Inc., C.A. No. 11-07782 (E.D. Pa. Nov. 4, 2014)
Ramirez v. Trans Union, LLC, 2014 WL 3734525 (N.D. Cal. July 24, 2014)
White v. Experian Information Solutions, 993 F. Supp. 2d 1154, 1172 (C.D. Ca. 2014)

Sapp v. Experian Information Solutions, Inc., 2:10-04312 (E.D. Pa. Jan. 29, 2013)
LaRocque v. TRS Recovery Services, Inc., 2012 WL 291191 (D. Me. July 17, 2012)
Ryals et al. v. Hireright Solutions, Inc., C.A. No. 3:09-625 (E.D. Va. July 7, 2011)
Serrano v. Sterling Testing Systems, Inc., 711 F. Supp. 2d 402 (E.D. Pa. 2010)
Summerfield v. Equifax Information Services, LCC, 264 F.R.D. 133 (D. N.J. 2009)
Chakejian v. Equifax Information Services, LLC, 256 F.R.D. 492 (E.D. Pa. 2009)
Jones v. Midland Funding, LLC, C.A. No. 3:08-802 (RNC) (D. Conn. October 13, 2009)
Barel v. Bank of America, 255 F.R.D. 393 (E.D. Pa. 2009)
Mann v. Verizon, C.A. No. 06-5370 (E.D. Pa. Sept. 26, 2008)
Smith v. Grayling Corp., 2008 WL 3861286, C.A. No. 07-1905 (E.D. Pa. 2008)
Strausser v. ACB Receivables Management, Inc., 2008 WL 859224 (E.D. Pa. March 28, 2008)
Nienaber v. Citibank (South Dakota), N.A., 2007 WL 2003761 (D.S.D. July 5, 2007)
Jordan v. Commonwealth Financial Systems, Inc., 237 F.R.D. 132, (E.D. Pa. 2006)
Marino v. UDR, 2006 WL 1687026, C.A. No. 05-2268 (E.D. Pa. June 14, 2006)
Seawell v. Universal Fidelity Corp., 235 F.R.D. 64 (E.D. Pa. 2006)
Perry v. FleetBoston Financial Corp., 229 F.R.D.105 (E.D. Pa. 2005)
Beck v. Maximus, Inc., 2005 WL 589749 (E.D. Pa. 2005)
Beck v. Maximus, 457 F. 3d 291, 2006 WL 2193603 (3d Cir. Aug. 4, 2006)
Stoner v. CBA Information Services, 352 F. Supp. 2d 549 (E.D. Pa. 2005)
Bittner v. Trans Union, LLC, C.A. No. 04-2562 (E.D. Pa. January 4, 2005)
Wisneski v. Nationwide Collections, Inc., 227 F.R.D. 259 (E.D. Pa. 2004)
Petrolito v. Arrow Financial Services, LLC, 221 F.R.D. 303 (D. Conn. 2004)
Orloff v. Syndicated Office Systems, Inc., 2004 WL 870691 (E.D. Pa 2004)
Bonett v. Education Debt Services, Inc., 2003 WL 21658267 (E.D. Pa. 2003)
Gaumer v. The Bon-Ton Stores, C.A. No. 02-8611 (E.D. Pa. Dec. 30, 2003)
Street v. Portfolio Recovery Associates, C.A. No. 01-3684 (E.D. Pa. July 30, 2003)
Samuel-Bassett v. Kia Motors America, Inc., 212 F.R.D. 271 (E.D. Pa. 2000)
Oslan v. Law Offices of Mitchell N. Kay, 232 F. Supp. 2d 436 (E.D. Pa. 2002)
Oslan v. Collection Bureau of Hudson Valley, 206 F.R.D. 109 (E.D. Pa. 2002)
Saunders v. Berks Credit & Collections, 2002 WL 1497374 (E.D. Pa. 2002)
Schilling v. Let's Talk Cellular and Wireless, 2002 U.S. Dist. LEXIS 3352 (E.D. Pa. 2002)
Fry v. Hayt, Hayt and Landau, 198 F.R.D. 461 (E.D. Pa. 2000)
Smith v. First Union Mortgage Corporation, 1999 WL 509967 (E.D. Pa. 1999)
Miller v. Inovision, December Term, 1999, No. 3504 (C.P. Phila. County).

NOTABLE CASES

- *Ramirez v. Trans Union, LLC*—served as trial counsel in record \$60 million jury verdict, highest verdict in FCRA history.

- *In Re: TRS Recovery Services, Inc. And Telecheck Services, Inc.*, Fair Debt Collection Practices Act (FDCPA Litigation)- Served as Class Counsel in a national FDCPA class action and obtained a 3.4-million-dollar settlement against one of the nation's largest check history consumer reporting agencies.
- *Berry v. LexisNexis Risk & Info. Analytics Group, Inc.*, No. 3:11-cv-754, 2014 WL 4403524, at *11 (E.D. Va. Sept. 5, 2014) -- Appointed class counsel in national FCRA class action that obtained a \$13.5-million-dollar settlement against Lexis/Nexis, one of the largest information providers in the world, along with a groundbreaking injunctive relief settlement on behalf of 200 million Americans in which LexisNexis agreed to bring its Accurint product into FCRA compliance.
- *Thomas v. BackgroundChecks.com*, C.A. No. 13-029 (E.D. Va. Aug. 11, 2015) –Appointed class counsel in an FCRA national class action which obtained \$18 million against another of the largest background screening companies in the world, and also obtained significant injunctive and remedial relief.
- *Henderson v. Axiom Risk Mitigation, Inc.*, C.A. No. 12-589 (E.D. Va., Aug. 7, 2015)- Appointed class counsel in a national FCRA class action which obtained a \$20.8 million settlement against one of the largest data sellers and background screening companies in the world.
- *Ryals et al. v. Hireright Solutions, Inc.*, C.A. No. 3:09cv625 (E.D. Va. Dec. 22, 2011) – \$28.3 million national settlement achieved for class of consumers subjected to employment background checks in case brought under Fair Credit Reporting Act (FCRA); believed to be the third largest FCRA settlement in history.
- *Cortez v. Trans Union, LLC*, 617 F.3d 688 (3d. Cir. 2010) – argued precedential case of first impression before the U.S. Court of Appeals for the Third Circuit which outlines the liability, causation and damages standards for FCRA cases against credit reporting agencies; \$800,000 jury verdict against Trans Union in fair credit reporting case (remitted to \$150,000).
- *Little v. Kia Motors America, Inc.*, 2003 WL 25568765 (N.J. Super. L. 2003) – \$6 million (approximate) verdict for class of New Jersey car purchasers.
- *Samuel-Bassett v. Kia Motors America, Inc.*, __ A.3d __, 2011 WL 60559098 (Pa. 2011), C.P. Phila. County, January Term, 2001, No. 2199 – \$5.6 million verdict for class of Pennsylvania car purchasers, plus award of attorney's fees.
- *Serrano v. Sterling Testing Systems, Inc.*, __ F. Supp. 2d __, 2008 WL 2223007 (E.D. Pa. May 30, 2008) – federal court finding as a matter of first impression what defines a record of arrest under the FCRA.
- *Ziegenfuse v. Apex Asset Management, LLC*, 239 F.R.D. 400 (E.D. Pa. 2006) – obtained court decision holding that offers of judgment under Rule 68 of the Federal Rules of Civil Procedure cannot be used in class actions.
- *Stoner v. CBA Information Services*, 352 F. Supp. 2d 549 (E.D. Pa. 2005) – obtained \$772,500 settlement for class of consumers who disputed errors in their credit reports.
- *Richburg v. Palisades Collection, LLC*, 247 F.R.D. 457 (E.D. Pa. 2008); federal court ruled that actions to collect delinquent credit card debt in Pennsylvania subject to 4 year statute of limitations (not 6 as the defendant collection agency had argued).

- *Perry v. FleetBoston Financial Corp.*, 2004 WL 1508518 (E.D. Pa. 2004) – defeated motion to compel arbitration in class action brought under Fair Credit Reporting Act.
- *Crane v. Trans Union, LLC*, 282 F. Supp. 2d 311 (E.D. Pa. 2003) – federal court held that credit reporting agencies that merely parrot information from credit furnishers and fail to forward dispute documentation face claims for punitive damages under the Fair Credit Reporting Act; violation of the Fair Credit Reporting Act presents a violation of Pennsylvania’s Consumer Protection Law).
- *Lawrence v. Trans Union, LLC*, 296 F. Supp. 2d 582 (E.D. Pa. 2003) (same).
- *Wisneski v. Nationwide Collections, Inc.*, 227 F.R.D. 259 (E.D. Pa. 2004) – obtained class certification in Fair Debt Collection Practices action in which a Pennsylvania federal court held for the first time that statutory net worth limitation is not limited to balance sheet net worth, and includes equity, capital stock and goodwill.
- *Evantash v. G.E. Capital Mortgage Services, Inc.*, 2003 WL 22844198 (E.D. Pa. 2003) – federal court held that technical accuracy defense was not available to defendants under the Fair Credit Reporting Act.
- *Sheffer v. Experian Information Solutions, Inc.*, 2003 WL 21710573 (E.D. Pa. 2003) – federal court held that Fair Credit Reporting Act permits as recoverable damage emotional distress in trying to correct errors in a consumer’s credit file, even where no pecuniary or out-of-pocket losses.
- *Sheffer v. Experian Information Solutions Inc.*, 249 F. Supp. 2d 560 (E.D. Pa. 2003) – federal court held that FCRA provides a private right of action against furnishers of information.
- *Sullivan v. Equifax, Inc. et al.*, 2002 U.S. Dist. LEXIS 7884 (E.D. Pa. 2002) – federal court held that reporting a debt to a credit reporting agency is a communication covered by the Fair Debt Collection Practices Act.
- *Wenrich v. Cole*, 2000 U.S. Dist. LEXIS 18687 (E.D. Pa. 2000) – federal court held that FDCPA provides protection for all persons, not just consumers.
- *Jaramillo v. Experian Information Solutions, Inc.*, 155 F. Supp. 2d 356 (E.D. Pa. 2001) – federal court held that single publication rule does not apply to actions brought for violation of the Fair Credit Reporting Act.

LECTURES/PRESENTATIONS BY INVITATION

Faculty, 21st Annual Consumer Financial Services Litigation Institute (CLE-accredited), "Fair Credit Reporting and Debt Collection Litigation", March and April 2016, NYC and Chicago;

Speaker, The Conference on Consumer Finance Law, Annual Consumer Financial Services Conference, Loyola University School of Law, Chicago, Illinois, September 16, 2016

Speaker, "New Frontiers: FCRA Litigation Against Lesser Known CRAs", Consumer Rights Litigation Conference, National Consumer Law Center, Anaheim, California, October 2016

Faculty, "Pursuing and Defending FDCPA, FCRA and TCPA Claims", Consumer Finance Class Actions, Strafford Publications, June 2, 2016

Speaker, "Stump the Champs", Consumer Rights Litigation Conference, National Consumer Law Center, San Antonio, Texas, October 2015

Speaker, *Fair Credit Reporting Act Conference*, National Association of Consumer Advocates, Las Vegas, NV May 1–3, 2015.

Co-Chair and Speaker, NACA 2013 FCRA Conference, National Association of Consumer Advocates, May 29 – June 1, 2013;

Presenter, *Beyond E-Oscar: Litigating "Non-Credit" FCRA Cases*, Webinar, National Association of Consumer Advocates, February 27, 2013;

Faculty, *FDCPA Class Actions: Latest Litigation Developments*, Strafford Webinars and Publications, November 8, 2012;

Speaker, Consumer Finance Class Actions: *FCRA and FACTA: Leveraging New Developments in Certification, Damages and Preemption*, Strafford Webinars and Publications, March 21, 2012;

Speaker, *FCRA Developments*, Consumer Rights Litigation Conference, National Consumer Law Center, Seattle, Washington, October 2012;

Speaker, *11th Consumer Class Action Symposium*, National Consumer Law Center, Chicago, Illinois, November 6, 2011;

Speaker, *Tenant, Employment and Chexsystems Reports*, Consumer Rights Litigation Conference, National Consumer Law Center, Chicago, Illinois, November 3 – 6, 2011;

Speaker, *Specialty Consumer Reports and the FCRA*, FCRA Conference on Consumer Credit, National Association of Consumer Advocates, Memphis, Tennessee, May 20 – 22, 2011;

Panelist, *Taking on the Challenges Facing Workers with Criminal Records: Advancing the Legal and Policy Advocacy Agenda*, National Employment Law Project, Washington, D.C., April 5, 2011;

Faculty, 16th Annual Consumer Financial Services Litigation Institute (CLE-accredited), *Collection Issues Including The TCPA & Hot Topics*, Practicing Law Institute, New York, NY and Chicago, IL, March 2011,

Speaker, *ABCs of Fair Credit Reporting, Tips on FCRA Depositions, Evolution of Credit Reporting Industries*, Consumer Rights Litigation Conference, National Consumer Law Center, Boston, Massachusetts, November 11 – 14, 2010;

Faculty, Banking and Consumer Financial Services Law Update, *Litigation and Arbitration Update*, Pennsylvania Bar Institute, April 14, 2010;

Faculty, *Deposit-Side Litigation Developments & Credit Card Developments*, 14th Annual Consumer Financial Services Litigation Institute, New York, NY and Chicago, IL, March and April 2009;

Faculty, 13th Annual Consumer Financial Services Litigation Institute (CLE-accredited), Practicing Law Institute, New York, NY and Chicago, IL, January 2008, March 2008;

Speaker, *Fair Credit Reporting Act Conference*, National Association of Consumer Advocates, Chicago, IL May 8 – 10, 2009;

Faculty, 12th Annual Consumer Financial Services Litigation Institute (CLE-accredited), Practicing Law Institute, New York, NY, March 2007;

Faculty, *Fair Credit Reporting Litigation*, Consumer Protection Law (CLE-accredited), Pennsylvania Bar Institute, Philadelphia, PA and Mechanicsburg, PA, December 2004, March 2007;

Speaker, *Litigating Accuracy Issues with Furnishers of Credit Data*, National Association of Consumer Advocates, New Orleans, LA, June 2 – 5, 2005;

Speaker, Philadelphia Housing Expo, Homeownership Counseling Association of the Delaware Valley, 2005 and 2006;

Speaker, *Understanding Credit Scoring*, Consumer Rights Litigation Conference, National Consumer Law Center, Boston, MA, November 7, 2004;

Speaker, *Litigating Accuracy Issues With Credit Reporting Agencies*, National Association of Consumer Advocates, Chicago, Ill., May 14 – 16, 2004;

Speaker, *Protecting Privacy, Ensuring Accuracy*, National Association of Consumer Advocates, Albuquerque, NM, June 1, 2002;

Faculty/Speaker, *Credit Reporting and Debt Collection Litigation*, Municipal Court Judicial Conference (CLE), Pennsylvania, PA, May 6, 1999;

Speaker, The People's Law School, Philadelphia Bar Association, Philadelphia, PA, October 2004;

Guest Lecturer, Consumer Protection Law, Temple Law School, 2003 – 2012;

Guest Lecturer, Consumer Protection Law, Widener Law School, 2004 – 2009.

PUBLICATIONS

The FCRA: A Double-Edged Sword for Consumer Data Sellers,

GP SOLO Magazine, American Bar Association, Volume 29, Number 6, November/December 2012

Credit Rating Damage: Compensable, Yet Overlooked Damage in Tort Cases,

The Verdict, Philadelphia Trial Lawyers Association, Volume 2008-2009, Issue 6 (2009).

COMMITTEE APPOINTMENTS AND POSITIONS

Mr. Francis currently serves as co-chair on the National Association of Consumer Advocates Fair Debt Collection and Credit Reporting Legislative Issue Committee. He has served on the Editorial Board of the Consumer Financial Services Law Report, the Philadelphia Bar Association's Lawyer Referral and Information Service Committee (where he served as chair or co-chair for 3 years), and has served on the Philadelphia Bar Association's Federal Court's Committee. He has served as an arbitrator for the Court of Common Pleas of Philadelphia County and is on the Judge Pro Tem panel. He is a member of the Philadelphia Bar Association, Pennsylvania Trial Lawyers Association, Philadelphia Trial Lawyers Association, and National Association of Consumer Advocates.

MARK D. MAILMAN

MARK MAILMAN is admitted to practice before the United States for the Eastern District of Pennsylvania and District of New Jersey as well as the state courts of Pennsylvania and New Jersey. He is a graduate of Muhlenberg College (B.A. *magna cum laude*, 1991) when he was also inducted into Phi Beta Kappa. Mr. Mailman received his law degree from the Temple University School of Law (J.D. 1995). While at Temple Law School, he achieved the highest grade in his Trial Advocacy clinic.

Throughout law school, Mr. Mailman interned at the Philadelphia District Attorney's Office where he tried cases and argued motions in the areas of domestic violence and sexual assault. Following graduation from law school, Mr. Mailman was an attorney with the law firm of Hwang & Associates where his practice focused on Lemon Law litigation. In 1996, Mr. Mailman was associated with the law firm of Fellheimer, Eichen, Braverman & Kaskey where his practice focused on complex commercial litigation including creditor's rights. He has been certified to serve as class counsel by state and federal courts in both contested and settlement class actions.

In October 2018, Mr. Mailman was awarded the 2018 Consumer Attorney of the Year award from the National Association of Consumer Advocates (NACA). NACA is a nationwide organization of more than 1,500 consumer attorneys and advocates who represent the victims of abusive and fraudulent business practices.

CLASS COUNSEL CERTIFICATIONS

Serrano v. Sterling Testing Systems, Inc., 711 F. Supp. 2d 402 (E.D. Pa. 2010)

Summerfield v. Equifax Information Services, LCC, 2009 WL 3234191 (D.N.J. Sept. 30, 2009)

Chakejian v. Equifax Information Services, LLC, 256 F.R.D. 492, 2009 WL 764656 (E.D. Pa. 2009)

Barel v. Bank of America, __ F.R.D. __, 2009 WL 122805 (E.D. Pa. 2009)

Mann v. Verizon, C.A. No. 06-5370 (E.D. Pa. Sept. 26, 2008)

Smith v. Grayling Corp., 2008 WL 3861286, C.A. No. 07-1905 (E.D. Pa. 2008)

Strausser v. ACB Receivables Management, Inc., 2008 WL 859224 (E.D. Pa., March 28, 2008)

Nienaber v. Citibank (South Dakota), N.A., 2007 WL 2003761 (D.S.D., July 5, 2007)

Jordan v. Commonwealth Financial Systems, Inc., 237 F.R.D. 132, 2006 WL 2294855 (E.D. Pa. 2006);

Seawell v. Universal Fidelity Corp, 235 F.R.D. 64 (E.D. Pa. 2006);

Perry v. FleetBoston Financial Corp., 299 F.R.D. 105, 2005 WL 1527694 (E.D. Pa. 2005);

Beck v. Maximus, Inc., 2005 WL 589749 (E.D. Pa. 2005);

Beck v. Maximus, 457 F. 3d 291, 2006 WL 2193603 (3d Cir. Aug. 4, 2006)

Stoner v. CBA Information Services, 352 F. Supp. 2d 549 (E.D. Pa. 2005)

Bittner v. Trans Union, LLC, C.A. No. 04-2562 (E.D. Pa. January 4, 2005)

Wisneski v. Nationwide Collections, Inc., 227 F.R.D. 259 (E.D. Pa. 2004)

Petrolito v. Arrow Financial Services, LLC, 221 F.R.D. 303 (D. Conn. 2004)

Orloff v. Syndicated Office Systems, Inc., 2004 WL 870691 (E.D. Pa. 2004)
Bonett v. Education Debt Services, Inc., 2003 WL 21658267 (E.D. Pa. 2003)
Gaumer v. The Bon-Ton Stores, C.A. No. 02-8611 (E.D. Pa. Dec. 30, 2003)
Street v. Portfolio Recovery Associates, C.A. No. 01-3684 (E.D. Pa. July 30, 2003)
Samuel-Bassett v. Kia Motors America, Inc., 212 F.R.D. 271 (E.D. Pa. 2000),
Oslan v. Law Offices of Mitchell N. Kay, 232 F. Supp. 2d 436 (E.D. Pa. 2002)
Oslan v. Collection Bureau of Hudson Valley, 206 F.R.D. 109 (E.D. Pa. 2002)
Saunders v. Berks Credit & Collections, 2002 WL 1497374 (E.D. Pa. 2002)
Schilling v. Let's Talk Cellular and Wireless, 2002 U.S. Dist. LEXIS 3352 (E.D. Pa. 2002)
Fry v. Hayt, Hayt and Landau, 198 F.R.D. 461 (E.D. Pa. 2000);
Smith v. First Union Mortgage Corporation, 1999 WL 509967 (E.D. Pa. 1999)
Miller v. Inovision, C.P. Phila. County, December Term, 1999, No. 3504.

NOTABLE CASES

- *Schwartz v. Aracor Search & Abstract, Inc.*, 2014 WL 4493662 (E.D. Pa. Sept. 11, 2014) (upholding compensatory and punitive damages judgment against title company that misappropriated certain funds at real estate closing)
- *Ferguson v. Wells Fargo Bank, NA*, 538 Fed. Appx. 782 (9th Cir. 2013) (reversing summary judgment for bank that failed to properly remove bankruptcy notation)
- *King v. General Info. Servs., Inc.*, 903 F. Supp. 2d 303 (E.D. Pa. 2012) (first court to uphold constitutionality of FCRA's obsolescence provision)
- *Seamans v. Temple University*, Civil No. 11-6774 (E.D. Pa., Oct. 28, 2011) – precedential case of first impression before U.S. Court of Appeals for the Third Circuit addressing duties of furnishers and interplay between the FCRA and HCA.
- *Dixon-Rollins v. Trans Union, LLC*, Civil No. 09-646 (E.D. Pa., April 10, 2010) – \$530,000 jury verdict against a credit reporting agency that falsely reported an old landlord collection claim for rent (*remitted* to \$300,000).
- *Adams v. LexisNexis Risk & Info. Analytics Group, Inc.*, 2010 WL 1931135 (D.N.J. May 12, 2010) (first court to find that consumers may sue under FRCA over information in specialty Accurint report used by debt collectors)
- *Shames-Yeakel v. Citizens Financial Bank*, 677 F. Supp. 2d 994 (N.D. Ill. 2009) (first court to rule that consumer may proceed to jury trial on claim that bank breached its duty to sufficiently secure its online banking system).
- *Cortez v. Trans Union, LLC*, Civil No. 05-5684 (E.D. Pa., April 26, 2007) – \$800,000 jury verdict against Trans Union in fair credit reporting case (*remitted* to \$150,000).
- *Samuel-Bassett v. Kia Motors America, Inc.*, C.P. Phila. County, January Term, 2001, No. 2199 – \$5.6 million verdict for class of Pennsylvania car purchasers;
- *Little v. Kia Motors America, Inc.*, 2003 WL 25568765 (N.J. Super. L. 2003) – \$6 million (approximate) verdict for class of New Jersey car purchasers, damages later decertified.

- *Serrano v. Sterling Testing Systems, Inc.*, __F.Supp.2d__, 2008 WL 2223007 (E.D. Pa. May 30, 2008) – federal court finding as a matter of first impression what defines a record of arrest under the FCRA.
- *Stoner v. CBA Information Services*, 352 F. Supp. 2d 549 (E.D. Pa. 2005) – obtained \$772,500 settlement for class of consumers who disputed errors in their credit reports.
- *Perry v. FleetBoston Financial Corp.*, 2004 WL 1508518 (E.D. Pa. 2004) – defeated motion to compel arbitration in class action brought under Fair Credit Reporting Act.
- *Crane v. Trans Union, LLC*, 282 F. Supp. 2d 311 (E.D. Pa. 2003) – federal court held that credit reporting agencies that merely parrot information from credit furnishers and fail to forward dispute documentation face claims for punitive damages under the Fair Credit Reporting Act; violation of the Fair Credit Reporting Act presents a violation of Pennsylvania’s Consumer Protection Law);
- *Lawrence v. Trans Union, LLC*, 296 F. Supp. 2d 582 (E.D. Pa. 2003) – same.
- *Wisneski v. Nationwide Collections, Inc.*, 227 F.R.D. 259 (E.D. Pa. 2004) – in fair debt class action, Pennsylvania federal court held for the first time that statutory net worth limitation is not limited to balance sheet net worth, and includes equity, capital stock and goodwill.
- *Evantash v. G.E. Capital Mortgage Services, Inc.*, 2003 WL 22844198 (E.D. Pa. 2003) – in fair credit reporting case, court held that technical accuracy is not a defense.
- *Sheffer v. Experian Information Solutions, Inc.*, 2003 WL 21710573 (E.D. Pa. 2003) – federal court held that Fair Credit Reporting Act permits as recoverable damage emotional distress in trying to correct errors in a consumer’s credit file, even where no pecuniary or out-of-pocket losses.
- *Sheffer v. Experian Information Solutions Inc.*, 249 F. Supp. 2d 560 (E.D. Pa. 2003) – federal court held that FCRA provides a private right of action against furnishers of information.
- *Sullivan v. Equifax, Inc. et al.*, 2002 U.S. Dist. LEXIS 7884 (E.D. Pa. 2002) – federal court held that reporting a debt to a credit reporting agency is a communication covered by the Fair Debt Collection Practices Act;
- *Wenrich v. Cole*, 2000 U.S. Dist. LEXIS 18687 (E.D. Pa. 2000) – federal court held that FDCPA provides protection for all persons, not just consumers; and
- *Jaramillo v. Experian Information Solutions, Inc.*, 155 F. Supp. 2d 356 (E.D. Pa. 2001); 2001 U.S. Dist. LEXIS 10221 (E.D. Pa. 2001) – federal court held that single publication rule does not apply to actions brought for violation of the Fair Credit Reporting Act.

PRESENTATIONS/LECTURES BY INVITATION

Speaker, *Fair Credit Reporting Act Conference*, National Association of Consumer Advocates, Las Vegas, NV May 1–3, 2015.

Speaker, *Fair Debt Collection Experienced Training Conference*, National Association of Consumer Advocates, Baltimore, MD, March 7–8, 2013

Speaker, *Fair Debt Collection Experienced Training Conference*, National Association of Consumer Advocates, New Orleans, LA, February 23–24, 2012.

Speaker, *Negotiating 101*, National Association of Consumer Advocates, Memphis, TN, May 20–22, 2011

Speaker, *Fair Credit Reporting Act Conference*, National Association of Consumer Advocates, Chicago, IL May 8–10, 2009.

Speaker, *Fair Debt Collection Experienced Training Conference*, National Association of Consumer Advocates, Nashville, TN, March 27–29, 2008.

Speaker, *Litigation Trends: “Getting to Know the Other Team”*, 11th Annual DBA International World Championship of Debt Buying, Las Vegas, NV, February 5–7, 2008.

Speaker, *Protecting Vulnerable Consumers and Promoting Marketplace Justice*, Consumer Rights Litigation Conference, National Consumer Law Center, Miami, FL, November 10–13, 2006.

Speaker, *FCRA: Playing to Win*, National Association of Consumer Advocates, Las Vegas, NV, May 5–7, 2006.

Speaker, *Litigating Accuracy Issues With Furnishers of Credit Data*, National Association of Consumer Advocates, New Orleans, LA, June 2–5, 2005.

Speaker, *Understanding Credit Scoring*, Consumer Rights Litigation Conference, National Consumer Law Center, Boston, MA, November 7, 2004.

Speaker, *Litigating Accuracy Issues With Credit Reporting Agencies*, National Association of Consumer Advocates, Chicago, Ill., May 14–16, 2004.

Speaker, *FCRA/Building On Our Success*, National Association of Consumer Advocates, Orlando, FL, March 7–9, 2003.

Speaker, *Protecting Privacy, Ensuring Accuracy*, National Association of Consumer Advocates, Albuquerque, NM, June 1, 2002.

Faculty/Speaker, *Credit Reporting and Debt Collection Litigation*, Municipal Court Judicial Conference (CLE), Pennsylvania, PA, May 6, 1999.

Mr. Mailman has been consistently voted and named one of Pennsylvania’s Super Lawyers by *Law and Politics* published by *Philadelphia Magazine* and *Pennsylvania Super* for the years 2004-2016. Mr. Mailman has lectured before judges, lawyers and various professional organizations on the topics of Fair Debt Collection and Fair Credit Reporting litigation. He has also appeared on various news programs to discuss consumer relevant issues.

Mr. Mailman has litigated cases on behalf of victimized consumers throughout Pennsylvania. He concentrates his practice in the areas of Fair Debt Collection, Fair Credit Reporting, unwanted auto calls and texts, Credit Repair Litigation and consumer class actions. He serves as a certified arbitration panelist with the Federal Arbitration Panel and serves on the Editorial Board of the Consumer Financial Services Law Report. Additionally, he is a member of the Pennsylvania Trial Lawyers Association, Philadelphia Trial Lawyers Association, Philadelphia Bar Association, and National Association of Consumer Advocates, and regularly serves on the Philadelphia Bar Association’s Federal Courts Committee.

JOHN SOUMILAS

JOHN SOUMILAS concentrates his practice in consumer protection law, including fair credit reporting, fair debt collection, and consumer class actions. John litigates individual and class action cases primarily in federal court on behalf of victims of identity theft, persons defamed and otherwise harmed by credit errors, individuals harassed and deceived by debt collectors, and many others who are subjected to unwelcome invasions of their privacy, fraud, overcharging and other unfair business or employment practices.

John has been repeatedly recognized by Philadelphia Magazine as a “*SuperLawyer*,” a recognition received by only 5% of attorneys in Pennsylvania. Through settlements and verdicts, John has recovered tens of millions of dollars on behalf of victimized consumers and has forced banks, credit bureaus and other businesses to make pro-consumer changes to their records and practices. He was lead class counsel and lead trial counsel in the June 2017 record-breaking \$60 million dollar class action jury verdict, the largest verdict in history for a case brought under the Fair Credit Reporting Act.

John is a 1994 cum laude graduate of Rutgers University, where he was inducted into Phi Beta Kappa. He also holds a master’s degree in American history from the State University of New York at Stony Brook. John received his law degree cum laude from the Temple University Beasley School of Law in 1999, where he was a member of the Jessup Moot Court and Temple Law Review. He began his legal career by clerking for Justice Russell M. Nigro of the Supreme Court of Pennsylvania.

John is admitted to practice before the United States Courts of Appeals for the Third, Fourth, Sixth, Seventh, Ninth and Eleventh Circuits, the United States District Courts for the District of Colorado, Eastern District of Michigan, Eastern District of Pennsylvania, and the District of New Jersey, as well as the state courts of Pennsylvania and New Jersey. He has also successfully litigated cases on a *pro hac vice* basis throughout the country.

JURY TRIALS

Tried several cases and obtained among the highest jury verdicts in cases brought under the Fair Credit Reporting Act (FCRA), including the highest known FCRA jury verdicts in California, Pennsylvania and Michigan.

- *Cortez v. Trans Union, LLC*, Civ. No. 05-5684 (E.D. Pa. Apr. 26, 2007)
- *Dixon-Rollins v. Trans Union, LLC*, Civ. No. 09-0646 (E.D. Pa. March 9, 2010)
- *Smith v. LexisNexis Screening Solutions, Inc.*, Civ. No. 13-10774 (E.D. Mich. Oct. 24, 2014).
- *Ramirez v. Trans Union, LLC*, No. 12-cv-00632-JSC, 2017 WL 5153280 (N.D. Cal. Nov. 7, 2017).

APPEALS

Successfully handled several appeals and obtained some of the most favorable appellate decisions for consumers under the FCRA.

- *Seamans v. Temple University*, 744 F.3d 853 (3d Cir. 2014)
- *Cortez v. Trans Union, LLC*, 617 F.3d 688 (3d Cir. 2010).

CLASS ACTIONS

Has served as class counsel in over two dozen cases, including some of the largest FCRA settlements and verdicts.

- *Flores v. Express Personnel*, C.A. No. 14-cv-03298, (E.D. Pa. Oct. 21, 2016) (several improper background screening practices);
- *Magallon v. Robert Half International, Inc.* WL 8778398 (D. Or. Nov. 10, 2015) (employment candidate notices to late);
- *Ramirez v. Trans Union, LLC*, 301 F.R.D. 408 (N.D. Cal. 2014) (false terrorist alerts on credit reports);
- *LaRocque v. TRS Recovery Services Inc.*, 285 F.R.D. 139 (D. Maine 2012) (deceptive collection letter for returned check and other fees);
- *Summerfield v. Equifax Info. Servs., LLC*, 264 F.R.D. 133 (D.N.J. 2010) (misrepresenting reinvestigation results of disputed bankruptcies, tax liens and civil judgments listed on credit reports).

NOTABLE CASES

- *Dennis v. Trans Union, LLC*, 2014 WL 5325231 (E.D. Pa. Oct. 20, 2014) (first court to rule that consumer may sue credit reporting agency for failing to identify private vendors of public records information placed on consumer's credit file);
- *Schwartz v. Aracor Search & Abstract, Inc.*, 2014 WL 4493662 (E.D. Pa. Sept. 11, 2014) (upholding compensatory and punitive damages judgment against title company that misappropriated certain funds at real estate closing);
- *Ferguson v. Wells Fargo Bank, NA*, 538 Fed. Appx. 782 (9th Cir. 2013) (reversing summary judgment for bank that failed to properly remove bankruptcy notation);
- *King v. General Info. Servs., Inc.*, 903 F. Supp. 2d 303 (E.D. Pa. 2012) (first court to uphold constitutionality of FCRA's obsolescence provision);
- *Howley v. Experian Info. Solutions, Inc.*, 813 F. Supp. 2d 629 (D.N.J. 2011) (first court to find that consumer may sue credit reporting agency that improperly disclosed his information to an identity thief);
- *Adams v. LexisNexis Risk & Info. Analytics Group, Inc.*, 2010 WL 1931135 (D.N.J. May 12, 2010) (first court to find that consumers may sue under FCRA over information in specialty Accurant report used by debt collectors); and
- *Shames-Yeakel v. Citizens Financial Bank*, 677 F. Supp. 2d 994 (N.D. Ill. 2009) (first court to rule that consumer may proceed to jury trial on claim that bank breached its duty to sufficiently secure its online banking system).

LECTURES / PUBLICATIONS

John is a regular lecturer on consumer matters, including for the National Business Institute, National Consumer Law Center, Practicing Law Institute, National Association of Consumer Advocates, and other organizations. John has been interviewed and quoted concerning many legal issues affecting consumers by a wide range of media outlets, from the Wall Street Journal and Forbes Magazine to Consumer Reports and Free Speech Radio. He has authored several popular

and scholarly articles, including *Predatory Lending, the FCRA and the FDCPA* (NBI 2009) and *How Can I Combat Identity Theft* (Philadelphia Magazine, Dec. 2008).

DAVID A. SEARLES

DAVID A. SEARLES, of counsel to the firm, is admitted to practice before the Supreme Court of the United States, the United States Courts of Appeals for the Third, Fourth and Sixth Circuits, and the United States District Courts for the District of Maryland, the District of Colorado, the Northern District of Oklahoma, and Eastern and Middle Districts of Pennsylvania, as well as the state courts of Pennsylvania. He is a graduate of the American University School of Law, Washington, D.C., where he served on law review.

Following graduation from law school, Mr. Searles was an attorney for Community Legal Services of Philadelphia, where he specialized in consumer and bankruptcy law. In 1990, he successfully argued the first consumer reorganization bankruptcy case considered by the U.S. Supreme Court, *Pennsylvania v. Davenport*, 495 U.S. 552 (1990), and has served as lead counsel and presented argument in numerous consumer law cases before the United States Court of Appeals for the Third Circuit. From 1992 through 1997, Mr. Searles was associated with the Philadelphia law firm of Drinker Biddle & Reath LLP, where his practice focused on Chapter 11 bankruptcy and creditors' rights. Thereafter, he was a member of Donovan Searles, LLC until 2011, specializing in consumer class action litigation.

In 2005, Mr. Searles was awarded the Equal Justice Award at the Community Legal Services Breakfast of Champions for his role in directing funding for legal assistance for low-income residents of Philadelphia. Mr. Searles has served as the Pennsylvania contributor to SURVEY OF STATE CLASS ACTION LAW (ABA Section of Litigation – 2010), and as a contributing author of PENNSYLVANIA CONSUMER LAW (2010). He has taught advanced bankruptcy law at the Rutgers University School of Law – Camden, business law at Widener University and bankruptcy law at Pierce Junior College, Philadelphia. He is a past co-chairperson of the Education Committee of the Eastern District of Pennsylvania Bankruptcy Conference. Mr. Searles has been named a Pennsylvania Super Lawyer for many years.

CLASS ACTIONS

Patel v. Trans Union, LLC, 2018 WL 1258194 (N.D. Ca. March 11, 2018);

Carter v. Shalhoub Management Company, Inc., 2017 WL 5634300 (C.D. Ca. March 15, 2017);

Flores v. Express Services, Inc., 2017 WL 1177098 (E.D. Pa. March 30, 2017);

Miller v. Trans Union, LLC, 2017 WL 412641 (M.D. Pa. Jan. 18, 2017);

Larson v. Trans Union, LLC, No. 12-5726 (N.D. Ca. June 26, 2015);

Blandina v. Midland Funding, LLC, 2014 WL 7338744 (E.D. Pa. Dec. 23, 2014);

King v. General Information Services, Inc., C.A. No. 2:11-cv-06850 (E.D. Pa. Nov. 4, 2014);

Robinson v. General Information Services, Inc., C.A. No. 2:11-cv-07782 (E.D. Pa. Nov. 4, 2014);

Jones v. Midland Funding, LLC, 2013 WL 12286081 (D. Conn. Dec. 3, 2013);

Sapp v. Experian Information Solutions, Inc., 2:10-cv-04312 (E.D. Pa. Jan. 29, 2013);
Reibstein v. Rite Aid Corporation, 2011 WL 192512 (E.D. Pa. Jan. 18, 2011);
McCall v. Drive Financial, January Term 2006, No. 0005 (C.P. Phila. July 20, 2010);
Serrano v. Sterling Testing Systems, Inc., 711 F.Supp.2d 402 (E.D. Pa. 2010);
Summerfield v. Equifax Information Services, LLC, 264 F.R.D. 133 (D.N.J. 2009);
Chakejian v. Equifax Information Services, LLC, 256 F.R.D. 492 (E.D. Pa. 2009);
Barel v. Bank of America, 255 F.R.D. 393 (E.D. Pa. 2009);
Markocki v. Old Republic National Title Ins. Co., 254 F.R.D. 242 (E.D. Pa. 2008);
Strausser v. ACB Receivables Management, Inc., 2008 WL 859224 (E.D. Pa. Mar. 28, 2008);
Allen v. Holiday Universal, Inc., 249 F.R.D. 166 (E.D. Pa. 2008);
Cohen v. Chicago Title Insurance Company, 242 F.R.D. 295 (E.D. Pa. 2007);
Jordan v. Commonwealth Financial Systems, Inc., 237 F.R.D. 132 (E.D. Pa. 2006);
Braun v. Wal-Mart Stores, Inc., 2005 WL 3623389 (C.P. Phila. Dec. 27, 2005);
Perry v. FleetBoston Financial Corp., 229 F.R.D. 105 (E.D. Pa. 2005);
Beck v. Maximus, Inc., 2005 WL 589749 (E.D. Pa. March 11, 2005);
Stoner v. CBA Information Services, 352 F.Supp.2d 549 (E.D. Pa. 2005);
Orloff v. Syndicated Office Systems, Inc., 2004 WL 870691 (E.D. Pa. April 22, 2004);
Petrolito v. Arrow Financial Services, LLC, 221 F.R.D. 303 (D. Conn. 2004);
Piper v. Portnoff Law Associates, Ltd., 216 F.R.D. 325 (E.D. Pa. 2003);
Bonett v. Education Debt Services, Inc., 2003 WL 21658267 (E.D. Pa. 2003).

GEOFFREY H. BASKERVILLE

GEOFF BASKERVILLE is admitted to practice before the United States District Court for the Eastern District of Pennsylvania, the United States District Court for the District of New Jersey, as well as the Pennsylvania and New Jersey state courts. He is a 1982 graduate of Gettysburg College and a 1992 graduate of the Dickinson School of Law. During law school, Mr. Baskerville published an article entitled *Human Gene Therapy: Application, Ethics and Regulation* in the Dickinson Law Review, Vol. 96, No. 4.

Since graduating from law school, Mr. Baskerville has worked for both plaintiff and defense litigation firms practicing in the areas of medical malpractice, architect's and engineer's malpractice, the Federal Employer's Liability Act, and trucking litigation. In 2007, Mr. Baskerville began to practice in the area of consumer protection litigation, including fair credit reporting and fair debt collection.

Mr. Baskerville is an active member of his community and volunteers his time by serving on his local Land Use Board and Historic Preservation Commission.

LAUREN KW BRENNAN

LAUREN BRENNAN joined Francis & Mailman, P.C. in 2013, and concentrates her practice on class action litigation on behalf of consumers harmed by credit reporting errors, inaccurate employment background screening, abusive debt collection practices, and other unfair and fraudulent trade practices.

Ms. Brennan is a 2008 graduate of Swarthmore College where she majored in political science and English literature. Ms. Brennan received her J.D. *cum laude* from Temple University's Beasley School of Law, where she was a Beasley Scholar and a member of the Temple Political & Civil Rights Law Review. While in law school, Ms. Brennan worked as a law clerk at the Federal Trade Commission Bureau of Consumer Protection, and served as a judicial intern for Chief Judge Eric L. Frank of the U.S. Bankruptcy Court for the Eastern District of Pennsylvania.

Ms. Brennan is admitted to practice in the U.S. Courts of Appeal for the Third, Seventh, Ninth, and Eleventh Circuits, in the state courts of Pennsylvania and New Jersey, as well as before the United States District Court for the Eastern District of Pennsylvania and the United States District Court for the District of New Jersey.

JORDAN M. SARTELL

Jordan M. Sartell joined Francis & Mailman, P.C. in 2017 and litigates on behalf of consumers damaged by erroneous credit reports, inaccurate employment background checks, abusive debt collection practices, and other deceptive and unfair business practices.

A *summa cum laude* graduate of the DePaul University College of Law and member of the DePaul Law Review, Jordan began his legal career protecting vulnerable senior citizens from financial exploitation with Prairie State Legal Services in Wheaton, Illinois. His consumer protection practice with the Zamparo Law Group focused on debt collection abuses and credit reporting litigation. Jordan is admitted to practice in Illinois and before the United States District Court for the Northern District of Illinois.

Jordan lives in suburban Chicagoland with his wife and children where he volunteers regularly with the Willow Creek Community Church Legal Aid Ministry. He is a member of the National Association of Consumer Advocates, the DuPage County Bar Journal Editorial Board, and the DuPage County Volunteer Money Management Program Advisory Board.

ALEXIS I. LEHMANN

Alexis I. Lehmann, joined Francis & Mailman P.C. in 2016 and represents individual consumers' rights under the Fair Debt Collections Practices Act and the Fair Credit Reporting Act, in addition to various other consumer protection laws. Prior to joining Francis & Mailman, Alexis

worked as a civil litigator for local and state law enforcement officers handling cases under Title VII, The Americans With Disabilities Act, The Age Discrimination in Employment Act and the First Amendment Free Speech and Petition Clause. She has won several jury trials, most notably a \$1.97 million-dollar verdict against the Pennsylvania State Police in 2014 for discrimination in employment, and violations of the First Amendment and Equal Protection clause.

Alexis received her J.D. in 2009 from the University of Detroit Mercy School of Law. While attending law school, she received a Book Award for achieving excellence in Employment Discrimination and was an active member in the Women's Law Caucus. In 2007 she clerked for The Honorable Nicholas Tsoucalas in the New York Federal Court of International Trade, assisting in drafting opinions regarding trade adjustment benefits, countervailing duties and classifications of imported goods. Alexis obtained her Bachelor of Arts degree from Temple University where she was an NCAA scholarship athlete and four time All-American.

Alexis is admitted to practice in the Supreme Court of Pennsylvania, the Pennsylvania Eastern District Court, and the Court of Appeals for the Third Circuit.

JOSEPH GENTILCORE

Joseph Gentilcore focuses his practice on Fair Credit Reporting Act cases and other consumer protection matters under both state and federal law. He currently represents consumers in cases against credit card companies, banks, debt collectors, mortgage servicers and background check companies. Prior to joining Francis & Mailman, Joseph worked with a New Jersey law firm helping to expand their consumer protection practice, and successfully litigated cases against numerous large financial institutions.

Joseph graduated Ursinus College in 2008, and Temple University School of Law in 2011. While still a student at Temple, he was certified to formally participate in legal proceedings and represented Pennsylvania in criminal misdemeanor trials in Philadelphia. Joseph was also on the executive board of Temple's Moot Court Honors Society. Every year since 2013, Joseph has been named a Rising Star by Pennsylvania Super Lawyers.

Joseph is licensed to practice in Pennsylvania and New Jersey, and is admitted in numerous federal districts throughout the country.

The Firm's Staff

The firm employs a highly qualified staff of paralegals, legal assistants and secretaries to advance its objectives.

Exhibit 2



Fox Rothschild LLP
ATTORNEYS AT LAW

2000 Market Street, 20th Floor
Philadelphia, PA 19103-3222
Tel 215.299.2000 Fax 215.299.2150
www.foxrothschild.com

ABRAHAM C. REICH
Direct No: 215-299-2090
Email: AReich@FoxRothschild.com

February 27, 2017

James A. Francis, Esquire
Francis & Mailman, PC
100 S. Broad Street
19th Floor
Philadelphia, PA 19110

Re: Billing Rates at Francis & Mailman, P.C.

Dear Mr. Francis:

I. INTRODUCTION

By letter dated July 1, 2014, I gave you my expert opinion with regard to the proposed range of reasonable hourly billing rates for the lawyers at Francis & Mailman, P.C. (“Francis & Mailman”) and, specifically, whether such rates were consistent with the Pennsylvania Rules of Professional Conduct and the Philadelphia market for legal services. You have asked me to analyze whether the rates currently charged by your firm, as outlined in my opinion, are within market rates and whether any adjustment is warranted. This serves as a supplement to that opinion.

II. QUALIFICATIONS

I am a partner at the law firm of Fox Rothschild LLP (“Fox Rothschild” or “the Firm”). I have been at Fox Rothschild since 1974 as a member of its Litigation Department. For the past twelve years, I have served as Co-Chair of Fox Rothschild. For five years prior to becoming Co-Chair, I was the Managing Partner of the Philadelphia office. I have been a member of the management group at the Firm since 1985. I was the founding member of Fox Rothschild’s Professional Responsibility Committee (in 1988) and served as Chair of the Committee for eight years.

As part of the management of my Firm over the past thirty-two years, I have participated in the review and analysis of the hourly rates that we charge for our lawyers. This review is completed at least once a year and involves a review and analysis of the markets in which we participate to

A Pennsylvania Limited Liability Partnership

California Colorado Connecticut Delaware District of Columbia Florida
Illinois Minnesota Nevada New Jersey New York Pennsylvania Texas



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ensure that we set competitive rates and that the rates we charge are consistent with the Rules of Professional Conduct (or its predecessor, the Code of Professional Responsibility).

The process of setting hourly billable rates encompasses a number of steps. Initially, the Firm obtains public data of national, regional and local law firms' hourly billing rates. In addition, Firm management often speaks with consultants with expertise in this area to ensure that the Firm's rates are within the range of its competitors in the market. The management team, which comprises leaders from each of our offices, discuss the hourly billing rates in each of our markets. We try to establish rates that are fair and competitive.

I have had an active litigation practice for more than forty years. The majority of my practice involves commercial litigation matters, in which I represent plaintiffs and defendants. I have also been active for many years representing lawyers and law firms in a myriad of issues involving professional responsibility and legal ethics, including the defense of legal malpractice claims. I have also been involved in dealing with fee disputes between and among lawyers and their clients. In 1998, I was selected to be a Fellow of the American College of Trial Lawyers.

In Fox Rothschild's litigation practice, we have handled matters in the area of consumer law. Our Firm has represented large financial institutions, which have been sued for violations of the Fair Credit Reporting Act ("FCRA"), the Consumer Credit Protection Act ("CCPA") and the Fair Debt Collection Protections Act ("FDCPA"). We have defended some of the parties sued by clients of Francis & Mailman.

For over thirty years, I have been active in the area of legal ethics and the interpretation and application of the Pennsylvania Rules of Professional Conduct (and its predecessor, the Code of Professional Responsibility). I have been a member of the Philadelphia Bar Association's Professional Responsibility Committee and Professional Guidance Committee. In 1983 and 1984, I served as Chair of the Professional Responsibility Committee. In 1987 and 1988, I served as Chair of the Professional Guidance Committee. I have also served as a member of a Hearing Committee for the Disciplinary Board of the Supreme Court of Pennsylvania for six years. For a portion of that time, I chaired the Hearing Committee. From approximately 1988 to 1995, I have also served as one of two appointed lawyers (non-judicial) liaisons to the Judicial Ethics Committee of the Pennsylvania Conference of State Trial Judges.

I have, for many years, served on the Legal Ethics and Professional Responsibility Committee of the Pennsylvania Bar Association. For the past eleven years, I have taught legal ethics and professional responsibility at the University of Pennsylvania Law School.

In 1995, I served as Chancellor of the Philadelphia Bar Association. I was a member of the House of Delegates of the American Bar Association for twenty years and the Pennsylvania Bar



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Association for over twenty years. I participated in the debates surrounding the enactment of the Model Rules of Professional Conduct and many of the Amendments.

I have spoken and written on issues of trial practice and legal ethics over many years in many different forums. I have counseled hundreds of lawyers on issues of legal ethics and professional responsibility.

III. DOCUMENTS REVIEWED

I have reviewed the following documents as part of my analysis:

1. Francis & Mailman Firm Biography.
2. Francis & Mailman 2014 hourly rates.
3. ALM Legal Intelligencer, “2016 Survey Report: Billing Rates and Practices – A Study of Billing Rates and Billing Practices of Attorneys in Small and Midsize Firms.”
4. National Law Journal Billing Survey 2014.
5. Updated Laffey Matrix.
6. Fox Rothschild LLP current rate schedule for its Philadelphia lawyers.
7. Altman Weil Flash Survey, Law Firms In Transition, 2016.
8. Consumer Price Index.

IV. DISCUSSION

A. The Firm’s Accomplishments

Francis & Mailman is one of the leading law firms representing clients in consumer-related litigation in both individual and class action suits. When the firm was founded in 1998, few firms were actively litigating cases under the CCPA. In addition, Francis & Mailman was one of the first firms to have a significant legal practice concentrating in federal fair credit reporting, fair debt collection and consumer class actions. Over the past 19 years, Francis & Mailman has become a well-known and highly regarded firm in the area of consumer law. The firm and its clients have been the subject of numerous published legal decisions, many of which have been groundbreaking in the area of consumer law.



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In *White v. Experian Info. Solutions*, C.A. No. 05-01070, 2014 WL 1716154 (C.D. Cal. May 1, 2014), the court found Francis & Mailman “FCRA specialists” and appointed the firm and its team as interim class counsel over objections from competing groups (including Boise Schiller) because the Francis & Mailman team’s “credentials and experience [we]re significantly stronger in class action and FCRA litigation”; affirmed sub nom *Radcliffe v. Experian Information Solutions, Inc.*, 818 F.3d 537 (9th Cir. 2016). In *Henderson v. Acxiom Risk Mitigation, Inc.*, C.A. No. 12-589 (E.D. Va. Aug. 7, 2015), Francis & Mailman was appointed class counsel in a national FCRA class action and obtained a \$20.8 million settlement against one of the largest data sellers and background screening companies in the world. And, in *Thomas v. BackgroundChecks.com*, C.A. No. 13-029 (E.D. Va. Aug. 11, 2015), Francis & Mailman was appointed class counsel in an FCRA national class action and obtained \$18 million against another one of the largest background screening companies in the world, in addition to significant injunctive and remedial relief.

In addition to obtaining substantial and favorable verdicts, the Firm has also made significant contributions to public policy. The firm set legal precedent and clarified legal issues, including: (i) the proper standard for the investigation of a consumer dispute by credit reporting agencies and furnishers of information; (ii) the standard for proving willfulness under the FCRA; (iii) the accuracy standard for credit reports; (iv) the types of information permitted to be included in credit reports; (iv) the types of cognizable actual damages available in an FCRA action; (v) the consumer’s burden of proof in an FCRA action; and, (vi) proper jury charges. Francis & Mailman has also been counsel to some of the largest FCRA settlements in history, such as *Hireright*, (\$29 million) and *White/Hernandez* (\$45 million).

Through Francis & Mailman’s jury verdicts and class settlements, the Firm has established the “market value” for class and individual cases under the FCRA and the FDCPA. I have been informed that there were no reported plaintiff FCRA verdicts prior to the Firm’s victories. Moreover, Francis & Mailman has helped establish the standards for obtaining class certification in an FCRA and an FDCPA case. To date, the firm has been certified as counsel in 54 cases throughout the country.

The attorneys at Francis & Mailman are very active and well known in the legal community. They regularly share their expertise at local and national conferences. By way of example, attorneys from the firm spoke at the Fair Credit Reporting Act Conference, National Association of Consumer Advocates, in Las Vegas, NV in May 2015. They also served on the faculty for the 21st Annual Consumer Financial Services Litigation Institute (which was CLE accredited) on “Fair Credit Reporting and Debt Collection Litigation,” which took place in March and April 2016 in New York City and Chicago. They also presented at the 2014, 2015, and 2016 Consumer Rights Litigation Conference, National Consumer Law Center.



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One of the founding partners, James Francis, was featured on LAW360 in October 2014 as one of a small handful of American plaintiff's lawyers to be selected from a national pool and featured as part of the "Titans of the Plaintiff's Bar" series. *See* <https://www.law360.com/articles/583536/titan-of-the-plaintiffs-bar-jim-francis>. Further, attorneys at the firm have published articles and appeared on television programs discussing developments in consumer law.

B. Methodology for Determining Rates

There are two complimentary approaches for determining reasonable hourly rates.

The **first approach** is to consider the rates for comparably skilled practitioners in the relevant market. To that end, I have reviewed the hourly billing rates of lawyers in Philadelphia

I reviewed the 2014 National Law Journal Billing Survey where Philadelphia law firms provided billing rates. It appears that 2014 is the last year for which the NLJ published this survey. The firms were Ballard Spahr, Blank Rome, Cozen O'Connor, Duane Morris, Fox Rothschild, Morgan, Lewis & Bockius, Pepper Hamilton, Saul Ewing. The hourly billing rate range for partners with the highest billing rate was \$650 to \$1135, while the hourly billing rate range for partners with the lowest billing rate was \$275 to \$465. For associates, the highest hourly billing rate range was \$495 to \$640, while the lowest hourly billing rate range was \$175 to \$280. I would expect additional increases in 2015 and 2016, if those years had been reported.

In addition, the hourly rates of lawyers listed in the Updated Laffey Matrix was a source I consulted.¹ For the period of June 2015 through May 2016, the hourly billing rates identified were: (i) \$796 for an attorney with twenty or more years of experience; (ii) \$661 for an attorney with eleven to nineteen years of experience; (iii) \$586 for an attorney with eight to ten years of experience; (iv) \$406 for an attorney with four to seven years of experience; (v) \$331 for an attorney with one to three years of experience; and (vi) \$180 for a paralegal or law clerk. These numbers reflect an increase of approximately 3% - or slightly more – from the 2014 rates.

I have also reviewed the current hourly rates set by my firm for its Philadelphia lawyers. As I stated above the process of setting hourly rates for my firm begins with obtaining public data, speaking with knowledgeable consultants and discussions with the management team. I also considered the fact that the Consumer Price Index has increased 3.6% between 2014-2016, and Francis & Mailman has not increased its rates since 2014.

¹ The Laffey Matrix is reflective of market rates in the Baltimore/Washington area. *See* www.laffeymatrix.com. In my experience, the rates in the Baltimore/Washington area are comparable to the Philadelphia Market.



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A **second approach** to determine a reasonable hourly rate would look at the relevant factors set forth in Rule 1.5(a) of the Rules of Professional Conduct.

While the Pennsylvania Rules of Professional Conduct do not specifically address the reasonableness of a specific hourly rate, they do address the considerations for assessing “the propriety of a fee” in Rule 1.5. In my opinion, some of those considerations can provide a useful analytical checklist when trying to determine a reasonable hourly rate.

The factors set forth in Rule 1.5(a) are:

1. Whether the fee is contingent or fixed;
2. The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal services properly;
3. The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
4. The fee customarily charged in the locality for similar legal services;
5. The amount involved and results obtained;
6. The time limitations imposed by the client or by the circumstances;
7. The nature and length of the professional relationship with the client; and
8. The experience, reputation and ability of the lawyer or lawyers performing the services.

Factor Number 4 (“The fee customarily charged in the locality for similar legal services”) has already been addressed. This is a comparative review of rates charged by other lawyers in the market.

Factor Number 1 [“whether the fee is contingent on fixed”] suggests that higher rates may be justified when fees are contingent. Francis & Mailman handles its cases on a contingent fee basis. As a result, the firm bears all the risk of the cost of litigation until resolution. In some instances, the firm may not receive payment of its fees for several years. Further, most of the defendants are large companies with substantial financial resources and lawyers equipped to defend the actions. Many of the lawsuits address novel areas of law. In order to obtain favorable outcomes, the attorneys at Francis & Mailman spend numerous hours conducting research, conducting discovery, and crafting innovative legal arguments to overcome attempts to have their clients’ cases dismissed



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before trial. The firm's investment of time and resources prevent it from litigating numerous matters at the same time.

Factor Number 2 ["The time and labor required, the novelty and difficulty of the questions involved and the skill requisite to perform the legal services properly"], also supports the notion that a higher rate would be justified for lawyers at Francis & Mailman, who have distinguished themselves in their area of expertise. Finally, Factor Number 8 ["The expertise, reputation and ability of the lawyer or lawyers performing the services"], likewise provides another reason to justify increasing rates recommended for the lawyers at Francis & Mailman.

The table below displays Francis & Mailman's current hourly billing rates and dates of admission to the Bar. You have advised us that every judge presented with the rates supported by your report found them to be reasonable. *See, Chakejian v. Equifax Information Services, LLC*, 275 F.R.D. 201 (E.D. Pa. 2011) and *Sapp v. Experian Information Solutions, Inc.*, 2013 WL 2130956 (E.D. Pa. May 15, 2013).

Attorney/Paralegal	Hourly Billing Rate	Date of Admission
James A. Francis	\$500-580	1995
Mark D. Mailman	\$500-580	1995
David A. Searles	\$650-700	1975
Geoffrey H. Baskerville	\$440-470	1992
John Soumilas	\$440-470	1999
Alexis Lehman	* ²	2010
Erin A. Novak	\$320-360	2005
Lauren KW Brennan	\$160-\$200	2013
Jordan M. Sartell	*	2012
Experienced paralegal	\$165	
Inexperienced paralegal	\$140	

In consideration of the attorneys' years of experience, successful verdicts and recognition in the legal community, the level of current hourly billing rates is, in my opinion, below the market. An increase in the firm's hourly billing rates is justified. The firm has not raised its hourly billing

² * Recent hires with no historical rates at the Firm.



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rates in the last three years. The increase in legal fees and in the Consumer Price Index during this time period justifies a reasonable increase for Francis & Mailman.

V. CONCLUSION

In accordance with the foregoing analysis, and based upon my review of the prevailing market hourly billing rates, it is my opinion, within a reasonable degree of professional certainty, that the following range of hourly billing rates at Francis & Mailman is consistent with the hourly billing rates charged in the Philadelphia market and within the considerations outlined in the Rules of Professional Conduct. The level of hourly billing rates within the range will depend on the complexity of the matter, the duration of the dispute and the result obtained.

Attorney/Paralegal	Range of hourly billing rates
James Francis	\$525-605
Mark D. Mailman	\$525-605
David A. Searles	\$690-725
Geoffrey H. Baskerville	\$450-495
John Soumilas	\$450-495
Alexis Lehman	\$225-265
Erin A. Novak	\$340-375
Lauren KW Brennan	\$175-225
Jordan Sartell	\$175-225
Experienced paralegal	\$180
Inexperienced paralegal	\$150

VI. SUPPLEMENTAL INFORMATION

Attached as Exhibit A is a copy of my curriculum vitae. It contains a list of all publications that I have authored in the past 10 years. I have not testified as an expert at trial or by depositions in the past 4 years. My current hourly rate is \$745.00. I have been assisted in preparing this opinion by my partner, Beth Weisser, whose hourly rate is \$475.00. We spent approximately \$5,000.00 in preparing this opinion.



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ATTORNEYS AT LAW

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If I am provided with additional information, I reserve the right to supplement or amend my opinion.

Very truly yours,

A handwritten signature in blue ink that reads "A.C. Reich". The signature is written in a cursive, flowing style.

Abraham C. Reich
ACR:cah

ABRAHAM C. REICH

2000 Market Street | 20th Floor | Philadelphia, PA 19103-3291
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PROFESSIONAL ASSOCIATION

FOX ROTHSCHILD LLP

- Co-Chairman, Fox Rothschild LLP (April 2005 to Present)
- Partner, Litigation Department
- Former Managing Partner, Philadelphia Office (2000- April 2005)
- Professional Responsibility Committee (1998-2008),
(Founding Member and Former Chair)

Abe has been with the firm since 1974. His area of practice involves all aspects of business litigation and counseling, including representation of lawyers and law firms in defense of legal malpractice claims and other disputes. Abe has taught professional responsibility at Penn Law School since 2007. He also provides expert testimony in connection with legal ethics and professional responsibility and business litigation matters.

EDUCATION

The Beasley School of Law at Temple University, J.D. 1974, Editor, Law Review

University of Connecticut, B.A., magna cum laude; 1971,
Elected to Phi Beta Kappa and Phi Kappa Phi

ADMISSIONS

- Pennsylvania
- United States Supreme Court
- United States Courts of Appeal for the Third, Fourth, Seventh and Eighth Circuits

PROFESSIONAL ASSOCIATIONS

- Fellow, American College of Trial Lawyers
- American Bar Association, House of Delegates (1995-2015)
- American Bar Foundation
- American Association for Justice (formerly American Trial Lawyers Association)
- Association of Professional Responsibility Lawyers
- Pennsylvania Bar Association, House of Delegates; First Statewide Bench Bar Conference, Chair, 1986; Legal Ethics and Professional Responsibility Committee; Co-Chair, Task Force to Revise the Code of Judicial Conduct, 2012- 2013
- Pennsylvania Association for Justice (Formerly Pennsylvania Trial Lawyers Association) Board of Governors, 1985-1990; Commercial Litigation Committee, Former Co-Chair
- The Beasley School of Law at Temple University, Board of Overseers

PHILADELPHIA BAR ASSOCIATION ACTIVITY

- Chancellor, 1995
- Board of Governors, 1987-1999; Chair, 1989
- Commission on Judicial Selection and Retention, 1986-1989, 1993-1994; Vice-Chair, 1989; Chair, Investigative Division, 1988-1989
- Professional Guidance Committee; Chair, 1987-1988
- Professional Responsibility Committee; Chair, 1983-1984
- Annual Conference Committee (Bench Bar Conference), Vice-Chair, 1984; Chair, 1985
- Trustee, Philadelphia Bar Foundation, 1993-1996
- Trustee, Philadelphia Bar Education Center, 1993-1999
- Trustee, International Human Rights Fund, 1993-1995
- Federal Courts Committee
- State Civil Judicial Procedures Committee
- Editorial Board, the Philadelphia Lawyer, 1975-1987 (Former Publication of Business Law Section)
- Counsel to Philadelphia Bar Association in Restifo v. Philadelphia Bar Association, 1991-1994

OTHER ORGANIZATIONAL ACTIVITY

- Lecturer in Law, University of Pennsylvania School of Law, "Ethics and Advocacy – From the Boardroom to the Courtroom"; Spring Semesters 2007-2017.
- The Continuing Legal Education Board of the Supreme Court Of Pennsylvania, Board Member 2005 – 2010; Chair, 2011
- The Disciplinary Board of the Supreme Court of Pennsylvania, Former Hearing Committee Member and Chair, 1985-1991
- Pennsylvania Committee of State Trial Judges, Lawyer Liaison, Judicial Ethics Committee, 1988-1995
- Campaign for Qualified Judges, Former Trustee
- Pennsylvania Law Journal-Reporter, Former Member of Corporate Law Advisory Board
- The Legal Intelligencer, Former Editorial Board Member, 1992
- Lawyers Club of Philadelphia, Former Member of Board of Directors
- United States Court of Appeals for the Third Circuit, Task Force on Equal Treatment in the Courts, 1996
- Lawyer's Advisory Committee, United States Court of Appeals for the Third Circuit, Chair, 1998
- Jenkins Law Library, Board Member and President (1995-2015)
- Pennsylvanians for Modern Courts, Advisory Board Member
- Brandeis Law Society Foundation, Director

PUBLICATIONS

- Contributing Author, *Successful Partnering Between Inside and Outside Counsel – Ethics*, Chapter 31 (Thomson Reuters 2009-2016)
- Contributing Author, *Pennsylvania Ethics Handbook*, Pennsylvania Bar Institute, 2008, 2011, 2014
- Co-Author, *Attorney Self-Governance, Federal Oversight Clash in Dodd-Frank Act*, The Legal Intelligencer, November 15, 2010
- Co-Author: *The Lawyer's Duty of Disclosure: Ethics and Sarbanes-Oxley – The New Conundrum for Patent Lawyers*, Akron Intell. Prop. 43-63, 2007
- "The IP Lawyer's Duty of Disclosure Under Sarbanes-Oxley," The Legal Intelligencer – May 8, 2006
- Co-Author: *When Competition Crosses The Line*, Mid-Atlantic Executive Legal Advisor, Winter 2005
- Co-Author: *What Do You Do When Confronted With Client Fraud*, Business Law Today, Vol. 12, Number 1, September/October 2002
- Co-Author: *Screening Mechanisms: A Broader Application? Balancing Economic Realities and Ethical Obligations*, Vol. 72, Temple Law Review 1023, 2000
- *Lawyer Controlled MDPs: Critical to the Future Economic Vitality Of Our Profession*, American Bar Association Section of Environment Energy and Resources, Ethics Committee Newsletter, Vol. 1 No. 1, November 2000
- Co-Author: *The Private Securities Litigation Reform Act of 1995; An Overview*, The Barrister, Vol. XXVII, No. 2, Fall, 1996
- Co-Editor: *Commercial Litigation Case Notes*, Pennsylvania Trial Lawyers Association, 1985-1995
- Co-Author: *Time Out – A Time for Reflection on Statutes of Limitation in Federal Securities Laws and RICO Claims*, The Barrister, Vol. XVIII, No. 1, Spring 1987
- Co-Author: *Getting Even*, Litigation, Vol. 13, No. 2, Winter, 1987
- Book Review, *Newberg on Class Actions, (Second)*, The Barrister, Vol. XVI No. 4, Winter 1985/1986
- Co-Author: *Mandamus Used as Pretrial Appeal*, Pennsylvania Law Journal Reporter, Vol. VI, No. 10, March 1983
- Co-Author: *Derivative Action Requirements Eased*, Pennsylvania Law Journal Reporter, Vol. V., No. 46, December 1982
- Co-Author: *Non-Parties May Recover Discovery Costs*, Pennsylvania Law Journal Reporter, Vol. V, No. 39, October 1982
- *Action in Restraint of Trade: What Constitutes Conspiracy?*, Pennsylvania Law Journal Reporter, Vol. IV, No. 15, April 1981

- *A Shot in the Arm for Dissenting Shareholders*, *The Philadelphia Lawyer*, Vol. 17, No. 2, March 1980
- *The New Judicial Code as Part of Pennsylvania's Consolidated Statutes*, *The Philadelphia Lawyer*, Vol. 16, No. 2, June 1979
- *Equal Fault Revisited*; *The Philadelphia Lawyer*, Vol. 14, No 4, December 1977
- Co-Author: *Individual Issues in Securities Class Actions*, *The Philadelphia Lawyer*, Vol. 13, No. 3, October 1976
- *United States v. Byrum: The Troubled Application of Section 2036*, Vol. 46, *Temple Law Quarterly* 498, 1973

LECTURES

- **American Association for Justice** (Formerly American Trial Lawyers Association): Commercial Litigation, 1986
- **American Bar Association**: Section of Business Law, *Client Fraud: To Disclose or Not to Disclose*, October 2002 (National Teleconference)
- **American Conference Institute Forum On Reduced Legal Costs**, The Ethics of Alternative Fee Arrangements and Cost Reduction Strategies, Nov. 2009
- **American Intellectual Property Law Association**: *Advanced Computer & Electronic Patent Practice Seminar, The Lawyers Duty of Disclosure – Ethics and Sarbanes-Oxley – The New Conundrum for Patent Attorneys*, Boston, June 2006
- **Berks County Bar Association**: Legal Ethics, 1993
- **Delaware Valley Corporate Counsel Association**: Legal Ethics, 1987
- **Dickinson Law School**: Intellectual Property Forum, Trade Secrets, 1983 and 1985
- **DuPont Chemical CLE Series**, Ethics and the Federal Circuit, September 2007
- **Federal Bar Association**: Federal Class Actions, 1986
- **Frankford's Rotary Club**: Legal Ethics, 1987
- **Intellectual Property Owners Association**: Annual Meeting "Sarbanes-Oxley and the Duty of Disclosure for IP Lawyers", Seattle, September 2005
- **Lorman Seminars, Ethics and Social Media**, 2013, 2014, 2015, 2016
- **Minnesota Institute of Legal Education**: Securities/Commercial Litigation, 1986;
- **Antitrust/Unfair Competition**, 1987; Securities/Commercial Litigation, 1989
- **Montgomery County Trial Lawyers Association**: Legal Ethics/Fee Disputes, 1991

- **Pennsylvania Association for Justice** (Formerly Pennsylvania Trial Lawyers Association)
 - Broker/Dealer Litigation, 1984;
 - Commercial Litigation Update, 1986-1989;
 - Antitrust/Health Care, 1989;
 - Legal Ethics/Professional Responsibility, 1992/1993 (Multiple Seminars);
 - Winning with Expert Testimony, April 2002;
 - “What’s It Worth” Seminar (Ethics Component), November 2002; March 2010
- **Pennsylvania Bar Association: Young Lawyers Section**, The Transition from Associate to Partner, 1986
- **Pennsylvania Bar Institute**
 - Directors and Officers Insurance, 1987;
 - Legal Ethics/Professional Responsibility, 1988;
 - Legal Ethics/Professional Responsibility – Bucknell University, 1992;
 - Legal Ethics/Professional Responsibility, 1993;
 - Alternative Dispute Resolution, 1994;
 - Legal Ethics/Professional Responsibility, 1997;
 - Alternative Dispute Resolution, 1997;
 - Recent Developments in Federal Practice/Federal Evidence, 1998;
 - The Ethics of Law Firm Governance, 2000;
 - Intellectual Property Issues for Business Lawyers, April 2002;
 - Accounting Litigation After Enron, WorldCom. (Ethics Component), November 2002;
 - Attorney Fees, June 2003;
 - My First Federal Court Trial, October 2004;
 - Tortious Interference in Business/Professional Relationships, August 2005;
 - Ethical Considerations in Litigating Employment Discrimination Cases, December 2005;
 - Best Practices in Pretrial Litigation in Federal Courts, 2012, 2013, 2014; 2015, 2016
 - Annual Labor Law Update (Ethics Component) 2014

- **Philadelphia Bar Association**
 - Bench Bar Conference, Commercial Litigation, 1979
 - Commercial Litigation, 1982
 - Professional Responsibility, 1983
 - Federal Bench Bar Conference
 - Client Confidentiality/Duty of Disclosure, 1985
 - Professional Responsibility Committee, May 2004; September 2004 (New Rules of Professional Conduct)
 - Federal Bench Bar Conference “The Rocket Docket”, 2005
- **Philadelphia Bar Education Center**
 - Legal Ethics/Solicitation, October 1992;
 - Legal Ethics/Pro Bono Representation, November 1992; November 1993
 - “Client Conflicts: Charting Safe Courses After Maritrans”, April 1993;
 - Legal Ethics: “Attorney/Accountant Ethical Clashes in the 90’s: How to Bridge the Gap”, January 1994;
 - Ethics of Pro Bono, 1992, 1994, 1996
- **Philadelphia Business Journal**, Roundtable: The Future of Law Firms (May 22-28, 2009)
- **Pennsylvania Law Journal-Reporter**: Antitrust Law Seminar, 1981 – Course Planner
- **Philadelphia Trial Lawyers Association**
 - Commercial Litigation, 1985
 - Legal Ethics/Fee Disputes, 1991
 - Legal Ethics/Trial Practice, 1997
 - Legal Ethics and Attorney Malpractice, 2016
- **Philadelphia Intellectual Property Law Association**
 - Legal Ethics and Professional Responsibility for the Intellectual Property Lawyer, 1996;
 - ADR in IP Cases, 2005
 - IP Lawyers and the Duty of Disclosure under the Sarbanes-Oxley Act, May 2006
 - Ethics, May 2010.
- **Smithsonian Institution/American Association of Museums**: Legal Ethics: Who is the Client? – The Museum Board, Officers, Employee, or the “Public” - 2007
- **Temple University School of Law**: Legal Ethics, 1995; Rome Program, Visiting Professor, International Civil Litigation, June 2004; Legal Ethics and Social Media 2013; 2014

- **Third Circuit Judicial Conference:** Litigating Federal Civil Cases in the 21st Century: Changes and Challenges (Course Planner) 1997; Ethics in a Digital Age (Panelist), 2011
- **Thomson Reuters:** *Conflicts and Ethical Duties to Clients and the Public: Are They Reconcilable?*, Speaker, June 25, 2013
- **University of Akron School of Law,** Eighth Annual Richard C. Sughrue Symposium: The New Conundrum for Patent Lawyers: Sarbanes-Oxley, March 2006
- **University of Pennsylvania School of Law:** Social Media and Ethics, 2012
- **Villanova School of Law:** Professional Responsibility, 1983

AWARDS

- Named as one of the Leading Litigation Attorneys in Pennsylvania, Chambers USA (2008 through 2016)
- Philadelphia Magazine Super Lawyers, "The Top Ten", 2006; 2011-2016 "The Top 100", 2006-2016
- Most Admired CEO Award by *Philadelphia Business Journal*, 2014
- Brandeis Society Community Achievement Award (Ben Levy), 2014
- Pennsylvania Bar Association, Award for Service as Co-Chair of Task Force on Code of Judicial Conduct, 2014
- Learned Hand Award, American Jewish Committee, 2012
- Temple University, Founder's Day Award, 2009
- Wachovia Fidelity Award, 2007
- Fund for Religious Liberty Award, American Jewish Congress, 1997
- Outstanding Leadership Award by Pennsylvania Legal Services, 1996
- IOLTA Leadership Award, 1993
- Equal Justice Award by Community Legal Services, 1991

PERSONAL

Born: April 17, 1949, Waterbury, Connecticut

Married: Sherri Engelman Reich

Children: Two sons, Spencer and Alexander; Daughter-in-Law, Elena Steiger Reich
(lawyer), Two grandchildren, Gabriella and Levi

Exhibit 3

SCHEDULE OF TIME BY FRANCIS & MAILMAN, P.C.

Thomas - Global Equifax Public Records

	James A. Francis	John Soumilas	Mark Mailman	Lauren KW Brennan	Jordan M. Sartell	Geoffrey Baskerville	David A. Searles	Paralegals
File Admin					4	1.7		1.68
Pre-Suit Investigation					0.4			1.25
Pleadings and Service		1.2		0.1	1.9			
Disclosures, Appearances, and Case Management Conferences		1.7			0.6			
Written Discovery		0.5		0.7	2.6			
Mediation, Settlement Conferences	284.7	191		13.9	11.1		97.9	0.2
Depositions					1.2			
Motion Practice and Legal Research	89.9	14.5		35.5	6.6		104.5	35.7
Class Action Notices and Administration	15.2	6.1	2.8	2.7	40.5		7.4	206.82
Subtotal Hours	389.8	215	2.8	52.9	68.9	1.7	209.8	245.65
Hourly Rate	\$ 605.00	\$495.00	\$625.00	\$225.00	\$225.00	\$525.00	\$725.00	\$ 180.00
Subtotal Fees	\$235,829.00	\$106,425.00	\$1,750.00	\$11,902.50	\$15,502.50	\$892.50	\$152,105.00	\$ 44,217.00
Grand Total Fees								\$568,623.50

Exhibit 4

Francis & Mailman	
Thomas/EQU Global Records	
All Dates	
Expenses	Total
Court Costs	29.16
Expert Fees	16,500.00
FedEx	29.12
Mediation	27,419.12
Travel Expenses	
Airfare	2,717.36
Cabs	540.81
Meals	2,686.42
Lodging	3869.78
Parking	156.39
Tolls	21.90
Car Rental	519.63
Train	1,416.00
Total Expenses	\$ 55,905.69

Exhibit 5

SCHEDULE OF TIME BY FRANCIS & MAILMAN, P.C.

De La Rosa v. Equifax Information Solutions

	James A. Francis	John Soumilas	Lauren KW Brennan	Jordan M. Sartell	Paralegals
File Admin				0.4	26.5
Pre-Suit Investigation	10.5	6.5			
Pleadings and Service	1.6	5.5			
Disclosures, Appearances, and Case Management Conferences	0.2	1.5			
Written Discovery	7.7	11.1	1.1	0.6	10.6
Mediation, Settlement Conferences	0.3	0.3	0.4		
Depositions					
Motion Practice and Legal Research	0.3	1.0		1.8	3.5
Class Action Notices and Administration					0.3
Subtotal Hours	20.6	25.9	1.5	2.8	40.9
Hourly Rate	\$605.00	\$495.00	\$225.00	\$225.00	\$180.00
Subtotal Fees	\$12,463.00	\$12,820.50	\$337.50	\$630.00	\$7,362.00
Grand Total Fees					\$ 33,613.00

Exhibit 6

Francis & Mailman	
De La Rosa v. EQU	
All Dates	
Expenses	Total
Court Costs	400.00
Total Expenses	\$400.00

Exhibit 7

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division**

MARK WILLIAM THOMAS, *et al.*, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

Case No. 3:18-cv-00684 (MHL)

EQUIFAX INFORMATION SERVICES, LLC,

Defendant.

KEVIN C. MALLON, declares under penalties of perjury, pursuant to 28 USC § 1746, that the following is true and correct.

1. I am the owner of Mallon Consumer Law Group, PLLC.
2. I am fully, and personally, familiar with the facts and circumstances set forth herein.
3. This Declaration is offered in support of the plaintiff's Motion for Final Approval of the Class Settlement.
4. I have been practicing law since 2000 and graduated magna cum laude from CW Post College of Long Island University and summa cum laude from Santa Clara University School of Law.
5. I have practiced exclusively consumer protection law since 2000 and my practice has focused on bringing cases under the Fair Credit Reporting Act ("FCRA") since 2004.
6. I have served as lead or co-lead counsel over a dozen class actions and several FCRA class actions, including *Massy v. On-Site Manager, Inc.*, EDNY Index No. 1:11-cv-02612 (BMC), which resulted in a certified class consisting of 7,259 class members and

settlement of \$1.1 million dollars against a nation credit reporting agency for reporting obsolete civil judgment records, and the two similar national public record class actions settled class actions against the other national credit reporting agencies, Experian and Trans Union.

7. I have also been selected to speak at numerous national conferences presented by the National Association of Consumer Advocates and the National Consumer Law Center focused on FCRA litigation.
8. I am counsel in a proposed class actions filed against Equifax in New York for violating the FCRA by failing to adequately update public records. That case, *De La Rosa v. Equifax*, Index No. 1:18-cv-00078, was filed in the Southern District of New York on January 5, 2018.
9. The named Plaintiff in that action has agreed to resolve his claims against Equifax as part of the nationwide proposed agreement reached in the instant action.
10. My hourly billing rate for that case is \$550/hour and is based upon the comparable billing rates of class action counsel in the New York market. In fact, this hourly rate is significantly lower than comparable rates for class account counsel in the New York market.

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11. Attached as Exhibit 1 are a summary of my firm's billing records in the *De La Rosa* case. My firm billed 165.5 of attorney hours on the case for a total sum of \$91,025 and incurred expenses totaling \$4,554.11.

Dated: August 20, 2019

A handwritten signature in blue ink, appearing to read "Kevin C. Mallon", written over a horizontal line.

KEVIN C. MALLON

EXHIBIT 1

DE LA ROSA v. EQUIFAX INFORMATION SERVICES, LLC.; No. 1:18-cv-00078 (S.D.N.Y.)**SCHEDULE OF TIME EXPENDED BY MALLON CONSUMER LAW GROUP**

	Kevin Mallon
File Administration	16.7
Pre-Suit Investigation	23.3
Pleadings and Service	7.5
Disclosures and Rule 16 Conference	5.6
Written Discovery	23.4
Settlement and Mediation	86.6
Depositions	0
Motion Practice	2.4
GRAND TOTAL	165.5

Exhibit 8

SCHEDULE OF TIME BY FRANCIS & MAILMAN, P.C.
Foley v. Equifax Information Solutions

	James A. Francis	John Soumilas	Lauren KW Brennan	Jordan M. Sartell	Paralegals
File Admin	3.5	0.2			0.4
Pre-Suit Investigation	9.5	4.4		0.6	4.2
Pleadings and Service	3.3	13.9	5.7		
Disclosures, Appearances, and Case Management Conferences	1.0	8.6	5.9	1.5	
Written Discovery	0.8	4.7	1.8	7.13	
Mediation, Settlement Conferences	7.6	14.7	0.8	0.7	
Depositions		0.1			
Motion Practice and Legal Research		1.6		1.5	
Class Action Notices and Administration					
Pre-Trial	0.2	0.2			
Subtotal Hours	25.9	48.4	14.2	11.43	4.6
Hourly Rate	\$605.00	\$495.00	\$225.00	\$225.00	\$180.00
Subtotal Fees	\$15,669.50	\$23,958.00	\$3,195.00	\$2,571.75	\$828.00
Grand Total Fees					\$46,222.25

Exhibit 9

Francis & Mailman	
Foley v. EQU	
All Dates	
Expenses	Total
Court Costs	600.00
Records	4.50
Total Expenses	\$ 604.50

Exhibit 10

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
COURT FILE NO.: 17-cv-4320-JNE/ECW**

<p>John Henry Foley, on behalf of himself and all others similarly situated,</p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>Equifax Information Services, LLC,</p> <p style="text-align: center;">Defendant.</p>	<p>DECLARATION OF THOMAS J. LYONS JR. IN SUPPORT OF ATTORNEYS' FEES</p>
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I, Thomas J. Lyons Jr., declare:

1. My law firm, Consumer Justice Center P.A. in conjunction with Lyons Law Firm served as local counsel for Francis & Mailman in prosecuting this Fair Credit Reporting Act case against Equifax.

2. I participated in all aspects of this case here in the District of Minnesota including reviewing pleadings, attending Court appearances and communicating with co-counsel.

3. Consumer Justice Center P.A., focuses solely on consumer protection and has litigated numerous individual and class actions throughout the country. Attached hereto as Exhibit A is a true and correct copy of the current resume regarding the firm's experience in class action litigation.

4. I have been involved in over 1000 consumer cases in various United States District Courts and specifically the following are examples of class actions in which my

firm or myself has be appointed as class counsel to represent consumers: *Jade Johnson and Claude MaGee v. Universal Car Credit Co., Inc. and Jim Lupient Oldsmobile Company*, USDC, Court File No. 3-94-1174; *Davies v. West Publishing Company*, Dakota County District Court, Court File No. 19-C6-99-8478; *David Ofert v. Jacques D. Schira, P.C., Law Office, and Jacques D. Schira, Esq., Individually*, USDC, CV 98-125; *Amy Monson v. Check Guarantee Services, Inc.*, USDC, Court File No. CV 99-1224 MJD/JGL; *In re American Family Publishers Business Practices Litigation*, MDL Docket No. 1235, District of New Jersey No. 98 CV 3850 (NHP) and *In re American Family Enterprises, et al*, Case No. 99-41774(RG) (State of Minnesota class counsel); *Byrd v. Metropolitan Corporation*, Hennepin County District Court, Court File No.: CT 00-016055; *Reinke v. Harold Chevrolet*, Hennepin County District Court, CT 01-001519; *Avent and Clay v. Alandale Corporation*, Hennepin County District Court, Court File No.: CT00-7438; *Sheryl Lynn Logan et. al. v. Norwest Bank of Minnesota, N.A.*, Hennepin Co. Dist. Court File #94-018688; *Domzalski v. Coldata*, USDC, Court File No.: 01-1883 DSD/SRN; *Jancik v. Account Services*, USDC Western District of Texas – San Antonio Division, C.A. SA-04-CA-0097 RF; *Baier, et al v. FleetBoston Financial*, USDC EDPA, 04-0507; *Keener, et al v. Sears Roebuck*, EDCV-03-01265-RT (SGLx); *Thinesen v. JBC Legal Group, et al*, USDC Minnesota, CV 05-518 DWF/JSM; *Nienaber v. Citibank*, USDC Southern District of South Dakota, 2007 WL 5404595; *Jancik v. Cavalry Portfolio Services, LLC*, No. 06-3104 (D.Minn. July 3, 2007); *Drinkman v. Encore*, USDC Western District of Wisconsin, 07-CV-363-S, December 3, 2007; *Brower v. Financial Crime Services, LLC*, No. 06-cv-4237 (D.Minn. July 25, 2007); *Sleezer v.*

Chase Bank USA, N.A., Civ. No. SA-07-CA-0961 (W.D. Tex. 2009); *DeLa Cruz-Martinez & Porter v. Hellmuth & Johnson*, 08-CV-4289 PJS/FLN USDC Minnesota (July 23, 2009); *Sutton v. FCA Restaurant Co., LLC*, 08-cv-05122, USDC District of Minnesota (September 16, 2009); *Johnson v. Kleinsmith & Associates, P.C.*, No. 3:09-cv-03, USDC Eastern District of North Dakota (October 14, 2009); *Pobuda v. Financial Crimes*, 09-cv-1227 DSD/AJB, USDC District of Minnesota (March 11, 2010); *Ebert v. Warner Stellan*, 11-cv-2325 JRT/SER, USDC District of Minnesota (September 19, 2012); *Thompson v. NCA, et al*, 10-cv-2307 SRN/FLN, USDC District of Minnesota (October 24, 2012); *Fischbach v. Pinnacle*, 11-1925 JJK, USDC District of Minnesota (November 16, 2012); *Johnson v. BlackRidgeBANK*, 11-cv-2367 LIB, USDC District of Minnesota (December 28, 2012); *Tandeski v. Coulter*, 3:12-00069-KKK, USDC District of North Dakota (March 4, 2013); *Hupperts v. APOGEE, et al*, 12-cv-915 JNE/TNL, District of Minnesota (April 18, 2013); *Fouks v. Red Wing Hotel*, 12-cv-2160 JNE/FLN, District of Minnesota (June 14, 2013); *Hartley v. Suburban, et al*, 11-cv-2664 JRT/JJG, District of Minnesota (September 30, 2013); *Rouse v. Hennepin County*, 12-cv-326 DWF/SER, District of Minnesota (May 5, 2014); *Gawarecki v. ATM Network*, 11-cv-1923 SRN/JJG, District of Minnesota (June 10, 2014); *Schmitt v. Cornerstone Parking*, 13-cv-2289 DWF/SER, District of Minnesota (June 19, 2014); *St. Clair v. MRB*, 12-cv-1572 MJD/JSM, District of Minnesota (July 9, 2014); *Smith v. Thrift Stores et al*, 1:13-cv-02455-BPG, District of Maryland (October 1, 2014); *Walsh v. Prosser*, 12-cv-2823 PJS/HB, District of Minnesota (October 28, 2014); *Arend v. Innovative*, 14-cv-1243 HB, District of Minnesota (October 31, 2014); *Lund v. John's Pizza*, 14-cv-63 SER, District

of Minnesota (November 13, 2014); *Broberg v. DebtArbitrators*, 13-cv-2131 TNL, District of Minnesota (November 5, 2014); *Barton v. SLS*, 13-cv-2366 SRN/FLN, District of Minnesota (November 24, 2014); *Rosen v. Spirit Airlines*, 15-61375-CIV-COHN/SELTZER, Southern District of Florida (October 27, 2015); *Crofoot v. Center for Diagnostic Imaging, et al*, 13-cv-3455 TNL, District of Minnesota (November 20, 2015); *Conradie v. Caliber Home Loans*, 4:14-cv-00430-SBT, Southern District of Iowa (December 21, 2015); *Eggen v. WESTconsin*, 14-cv-873-bbc, Western District of Wisconsin (February 26, 2016); *Cassidy v. Active Sports*, 14-cv-3022 SER, District of Minnesota (April 6, 2016); *Nelson v. BMW Financial et al*, 15-cv-2661 SER, District of Minnesota (March 8, 2017); *Spuhler et al v. State Collection*, 2:16-cv-1149-NJ, Eastern District of Wisconsin (October 26, 2017); *Vonasek v. BOTW, et al*, 16-cv-342-DTS, District of Minnesota (January 30, 2018); *Swenson v. WESTconsin*, 16-cv-2344 MJD/HB, District of Minnesota (February 28, 2018); *Rizzo v. Kohn Law Firm*, 17-cv-408-jdp, Western District of Wisconsin (July 18, 2018); *Clark v. JP Morgan Chase, et al*, 17-cv-01069 SRN/KMM, District of Minnesota (December 12, 2018); *Blanks v. Machol v. Johannes*, 1:18-cv-02291-CMA-KMT, District of Colorado (February 13, 2019); *Busch v. Bluestem Brands*, 16-cv-0644 WMW/HB, District of Minnesota (May 3, 2019); *Simmons v. Jeremy B.A. Feitelson, et al*, 4:18-cv-206-JAJ-CFB, Southern District of Iowa (May 9, 2019; and *Kealy v. Wings Financial et al*, 18-cv-1226 JRT/LIB, District of Minnesota (July 1, 2019).

5. I have represented consumers in federal courts around the country on a *pro hac vice* basis, such as Southern District of Florida, Southern District of Iowa, Northern

District of Iowa, Northern District of Illinois, Southern District of Texas and the Central District of California.

6. I received my Juris Doctorate from the University of Minnesota Law School in 1994. I was admitted to practice in Minnesota in 1994. I am currently a member of that bar in good standing.

7. The schedule for the hourly rate charged by the Consumer Justice Center P.A. (“CJC”) attorneys are listed below in Paragraph 7. The rates are comparable to hourly rates being charged by consumer class action attorneys in this District and within the range charged by attorneys with comparable experience levels for consumer litigation of a similar nature. *See Roth v. Life Time Fitness*, Civil No. 16-2476 (JRT) (D. Minn. July 22, 2019). (Attached hereto as Exhibit C).

8. I have been acknowledged as a “leading member of the local consumer protection bar,” see *Lamberson v. Bank of America*, 2012 WL 4129807 (D. Minn. Sept. 19, 2012) and “leading attorney[s] in the field of consumer protection law with a national practice.” *Gorton v. Debt Equities*, Civ. No. 08-4817 (D. Minn. July 29, 2019).

9. The lodestar devoted to the case by the CJC for work performed with respect to this contested case is as follows:

<u>Attorneys</u>	<u>Hourly Rate</u>	<u>Hours</u>	<u>Fees</u>
Thomas J. Lyons, Jr.	\$450.00	17.49	\$7,868.55
TOTAL FEES INCURRED TO DATE:			<u>\$7,868.55</u>

(See attached Exhibit B).

10. Further, my rates have consistently been approved from \$425 to \$450 since 2018. *See Eggen v. WESTconsin*, 14-cv-873-bbc, Western District of Wisconsin (April 21, 2017)(Rate \$425.00); *Cassidy v. Active Sports*, 14-cv-3022 SER, District of Minnesota (April 6, 2016)(Rates \$400.00and \$425.00); *Vonasek v. BOTW, et al*, 16-cv-342-DTS, District of Minnesota (January 30, 2018)(Rate \$450.00); *Swenson v. WESTconsin*, 16-cv-2344 MJD/HB, District of Minnesota (February 28, 2018)(Rate \$450.00); *Love Stone v. Aargon Agency*, 17-cv-2314-KMM, District of Minnesota (October 25, 2018)(Rate \$450.00); *Clark v. JP Morgan Chase Bank, et al*, 17-cv-01069 SRN/KMM, District of Minnesota (December 12, 2018)(Rate \$450.00); *Rizzo v. Kohn Law Firm*, 17-cv-408-jdp, Western District of Wisconsin (June 24, 2019)(Rate \$450.00); and *Blanks v. Machol Johannes*, 1:18-cv-02291-CMA-KMT, District of Colorado (May 29, 2019)(Rate \$450.00).

I, Thomas J. Lyons Jr., declare under penalty of perjury that the above statements are true and correct to the best of my knowledge, recollection and belief.

Dated this 21st day of August, 2019.

s/Thomas J. Lyons Jr.
Thomas J. Lyons Jr.
MN Attorney I.D. No. 0249646
CONSUMER JUSTICE CENTER P.A.
367 Commerce Court
Vadnais Heights, MN 55127
Telephone: 651-770-9707
tommy@consumerjusticecenter.com

ONE OF THE ATTORNEYS FOR PLAINTIFF
JOHN FOLEY

EXHIBIT A

CURRICULUM VITAE

Thomas J. Lyons Jr.

Consumer Justice Center, P.A.

367 Commerce Court, Vadnais Heights, Minnesota 55127

Telephone: (651) 770-9707 Facsimile: (651) 704-0907 Toll Free: (800) 477-6910

Website: www.consumerjusticecenter.com

AREAS OF PRACTICE

- **Equal Credit Opportunity Act**
- **Fair Debt Collection Practices Act**
- **Fair Credit Reporting Act**
- **Telephone Consumer Protection Act**
- **Invasion of Privacy**
- **Electronic Funds Transfer Act**
- **Fair and Accurate Credit Transaction Act**
- **Numerous State law litigation including class actions involving:**
 - Usury, salvaged vehicles, retail installment contract fraud, odometer fraud and consumer fraud.
- **Truth In Lending Act**
- **Wrongful Repossession litigation**

CLASS ACTION INVOLVEMENT

The Consumer Justice Center attorneys have been approved as Class Counsel in the following cases:

- Jade Johnson and Claude MaGee v. Universal Car Credit Co., Inc. and Jim Lupient Oldsmobile Company, USDC, Court File No. 3-94-1174;
- Davies v. West Publishing Company, Dakota County District Court, Court File No. 19-C6-99-8478;
- David Ofert v. Jacques D. Schira, P.C., Law Office, and Jacques D. Schira, Esq., Individually, USDC, CV 98-125;
- Amy Monson v. Check Guarantee Services, Inc., USDC, Court File No. CV 99-1224 MJD/JGL;
- In re American Family Publishers Business Practices Litigation, MDL Docket No. 1235, District of New Jersey No. 98 CV 3850 (NHP) and In re American Family Enterprises, et al, Case No. 99-41774(RG) (State of Minnesota class counsel);
- Byrd v. Metropolitan Corporation, Hennepin County District Court, Court File No.: CT 00-016055;

- Reinke v. Harold Chevrolet, Hennepin County District Court, CT 01-001519;
- Avent and Clay v. Alandale Corporation, Hennepin County District Court, Court File No.: CT00-7438;
- Sheryl Lynn Logan et. al. v. Norwest Bank of Minnesota, N.A., Hennepin Co. Dist. Court File #94-018688;
- Domzalski v. Coldata, USDC, Court File No.: 01-1883 DSD/SRN;
- Remely v. Etan General, USDC Northern District of Texas, Court File No.: 3:01-cv-02658 (March 26, 2004);
- Jancik v. Account Services, USDC Western District of Texas – San Antonio Division, C.A. SA-04-CA-0097 RF;
- Baier, et al v. FleetBoston Financial, USDC EDPA, 04-0507;
- Keener, et al v. Sears Roebuck, EDCV-03-01265-RT (SGLx);
- Thinesen v. JBC Legal Group, et al, USDC Minnesota, CV 05-518 DWF/JSM;
- Nienaber v. Citibank, USDC Southern District of South Dakota, 2007 WL 5404595;
- Jancik v. Cavalry Portfolio Services, LLC, No. 06-3104 (D.Minn. July 3, 2007);
- Drinkman v. Encore, USDC Western District of Wisconsin, 07-CV-363-S, December 3, 2007;
- Brower v. Financial Crime Services, LLC, No. 06-cv-4237 (D.Minn. July 25, 2007);
- Sleezer v. Chase Bank USA, N.A., Civ. No. SA-07-CA-0961 (W.D. Tex. 2009);
- DeLa Cruz-Martinez & Porter v. Hellmuth & Johnson, 08-CV-4289 PJS/FLN USDC Minnesota (July 23, 2009);
- Sutton v. FCA Restaurant Co., LLC, 08-cv-05122, USDC District of Minnesota (September 16, 2009);
- Johnson v. Kleinsmith & Associates, P.C., No. 3:09-cv-03, USDC Eastern District of North Dakota (October 14, 2009);
- Pobuda v. Financial Crimes, 09-cv-1227 DSD/AJB, USDC District of Minnesota (March 11, 2010);
- Ebert v. Warner Stellan, 11-cv-2325 JRT/SER, USDC District of Minnesota (September 19, 2012);
- Thompson v. NCA, et al, 10-cv-2307 SRN/FLN, USDC District of Minnesota (October 24, 2012);
- Fischbach v. Pinnacle, 11-1925 JJK, USDC District of Minnesota (November 16, 2012);
- Johnson v. BlackRidgeBANK, 11-cv-2367 LIB, USDC District of Minnesota (December 28, 2012);

- Tandeski v. Coulter, 3:12-00069-KKK, USDC District of North Dakota (March 4, 2013);
- Hupperts v. APOGEE, et al, 12-cv-915 JNE/TNL, District of Minnesota (April 18, 2013);
- Fouks v. Red Wing Hotel, 12-cv-2160 JNE/FLN, District of Minnesota (June 14, 2013);
- Hartley v. Suburban, et al, 11-cv-2664 JRT/JJG, District of Minnesota (September 30, 2013);
- Rouse v. Hennepin County, 12-cv-326 DWF/SER, District of Minnesota (May 5, 2014);
- Gawarecki v. ATM Network, 11-cv-1923 SRN/JJG, District of Minnesota (June 10, 2014);
- Schmitt v. Cornerstone Parking, 13-cv-2289 DWF/SER, District of Minnesota (June 19, 2014); and
- St. Clair v. MRB, 12-cv-1572 MJD/JSM, District of Minnesota (July 9, 2014);
- Smith v. Thrift Stores et al, 1:13-cv-02455-BPG, District of Maryland (October 1, 2014);
- Walsh v. Prosser et al, 12-cv-02823 PJS/HB, District of Minnesota (October 27, 2014);
- Arend v. Innovative, 14-cv-01243-HB, District of Minnesota (October 31, 2014);
- Broberg v. DebtArbitrators, 13-cv-2131 TNL, District of Minnesota (November 5, 2014);
- Lund v. Johns Pizza, 14-cv-63 SER, District of Minnesota (November 13, 2014);
- Barton v. SLS, 13-cv-2366 SRN/FLN, District of Minnesota (June 1, 2015);
- Rosen v. Spirit Airlines, 15-61375-CIV-COHN/SELTZER, Southern District of Florida (October 27, 2015);
- Crofoot v. Center for Diagnostic Imaging, et al, 13-cv-3455 TNL, District of Minnesota (November 20, 2015);
- Conradie v. Caliber Home Loans, 4:14-cv-00430-SBT, Southern District of Iowa (December 21, 2015);
- Eggen v. WESTconsin, 14-cv-873-bbc, Western District of Wisconsin (February 26, 2016);
- Cassidy v. Active Sports, 14-cv-3022 SER, District of Minnesota (April 6, 2016);
- Nelson v. BMW Financial et al, 15-cv-2661 SER, District of Minnesota (March 8, 2017);
- Spuhler v. State Collection Services, 2:16-cv-1149-NJ, E.D. Wisconsin (October 26, 2017);
- Vonasek v. BOTW, et al, 16-cv-342-DTS, District of Minnesota (January 30, 2018);

- Swenson v. WESTconsin, 16-cv-2344 MJD/HB, District of Minnesota (February 28, 2018);
- Love Stone v. Aargon Agency, 17-cv-2314-KMM, District of Minnesota (May 15, 2018);
- Rizzo v. Kohn Law Firm, 17-cv-408-jdp, Western District of Wisconsin (July 18, 2018);
- Clark v. JP Morgan Chase Bank, et al, 17-cv-01069 SRN/KMM, District of Minnesota (December 12, 2018);
- Blanks v. Machol Johannes, 1:18-cv-02291-CMA-KMT, District of Colorado (February 13, 2019);
- Busch v. Bluestem Brands, 16-cv-0644 WMW/HB, District of Minnesota (May 3, 2019);
- Simmons v. Jeremy B.A. Feitelson, et al, 4:18-cv-206-JAJ-CFB, Southern District of Iowa (May 9, 2019); and
- Kealy v. Wings Financial, et al, 18-cv-1226 JRT/LIB, District of Minnesota (July 1, 2019).

CY PRES AWARDS

The Consumer Justice Center, while serving as Class Counsel, has negotiated the following Cy Pres Awards:

2003:

- **\$7,121** as Cy Pres Award to the Minnesota Legal Services Coalition, St. Paul, Minnesota arising out of Remely v. Etan General, Inc. litigation;
- **\$11,824** as Cy Pres Award to the National Consumer Law Center arising out of Domzalski v. Coldata, Inc. litigation;

2005:

- **\$50,000** as Cy Pres Award to Consumer Bankruptcy Assistance Project and the Consumer Credit Counseling Service of Delaware Valley arising out of Baier, et al v. FleetBoston Financial litigation;

2007:

- **\$3,880** as Cy Pres Award to the Fund for Legal Aid arising out of Brower v. Financial Crimes Services litigation;
- **\$50,000** as Cy Pres Award to the Minnesota Chapter of the Federal Bar Association, **\$75,000** as Cy Pres Award to the South Dakota Bar Foundation, **\$12,500** as Cy Pres Award to the Philadelphia Bar Foundation, **\$12,500** as Cy Pres Award to National Consumer Law Center, and **\$150,000** as Cy Pres Award to the

South Dakota Community Foundation, arising out of Nienaber v. Citibank litigation;

- **\$4,216.70** as Cy Pres Award to the University of Wisconsin, Madison Law School Consumer Law Clinic, arising out of Drinkman v. Encore litigation;

2009:

- **\$6,920.04** as Cy Pres Award to the Legal Aid Society of Minneapolis arising out of DeLa Cruz-Martinez & Porter v. Hellmuth & Johnson litigation;

2010:

- **\$833.34** as Cy Pres Award to the North Dakota State Bar Association arising out of Johnson v. Kleinsmith & Associates, P.C.;

2013:

- **\$17,700** as Cy Pres Award to the United Hospital arising out of Thompson v. NCA;
- **\$10,000** as Cy Pres Award to the Legal Services of North Dakota arising out of Tandeski v. Coulter;
- **\$4,954.25** as Cy Pres Award to the MN Chapter Federal Bar Association arising out of Fischbach v. Pinnacle;
- **\$50,000** as Cy Pres Award to Randy Shaver Cancer Research and Community Fund arising out of Ebert, et al. v. Warners' Stellan;
- **\$21,525** as Cy Pres Award to the Brainerd YMCA arising out of Johnson v. Blackridge;
- **\$20,000** as Cy Pres Award to the Red Wing Environmental Learning Center arising out of Fouks v. Red Wing Hotel; and
- **\$1,249.82** as Cy Pres Award to the Minnesota Disability Law Center arising out of Hartley v. Suburban.

2015:

- **\$7,500** as Cy Pres Award to the University of Minnesota Amplatz Children's Hospital arising out of Schmitt v. Cornerstone;
- **\$209,476**, including **\$62,842** as Cy Pres Award to American Veterans Foundation Inc. arising out of Smith v. Thrift Stores;
- **\$22,876.83** as Cy Pres Award to the Federal Pro Se Project of the United States District Court for the District of Minnesota arising out of St. Clair v. MRB;
- **\$675.00** as total Cy Pres Award, which includes \$337.50 to The Haitian Project and \$447.50 to the Kipp Foundation, arising out Walsh v. Prosser;
- **\$700.00** as total Cy Pres Award to the Northfield Women's Center arising out of Arend v. Innovative; and
- **\$8,976.00** as total Cy Pres Award to Lutheran Social Services arising out of Broberg v. DebtArbitrators.

2016:

- **\$22,015** as total Cy Pres Award to the Federal Pro Se Project arising out of Crofoot v. Center for Diagnostic Imaging.

2017:

- **\$247,522.12** as total Cy Pres Award with half going to U.S. PIRG (Public Interest Research Group) and half to the Sedona Conference, Working Group 11, Data Security and Privacy Liability arising out of Rosen and Legg v. Spirit Airlines;
- **\$68,781.84** as total Cy Pres Award to the Polk County Bar Association arising out of Conradie v. Caliber Homes;
- **\$50,000** as total Cy Pres Award to Goodwill arising out of Cassidy v. Active Sports; and
- **\$112,445.73** as total Cy Pres Award to Legal Action of Wisconsin arising out of Eggen v. WESTconsin.
<https://www.jsonline.com/story/news/local/wisconsin/2017/12/15/how-wisconsin-legal-service-poor-came-into-unexpected-windfall/948730001/>

2018:

- **33,109.07** as total Cy Pres Award to West Central Wisconsin Community Action Agency Inc. arising out of Swenson v. WESTconsin.

2019:

- **24,705.45** as total Cy Pres Award to Federal Pro Se Project of the United States District Court for the District of Minnesota arising out of Nelson v. Repossessors, et al; and
- **\$26,856** as total Cy Pres Award to the UofM Law Consumer Clinic arising out of LoveStone v. Aargon.

❖ *Cy Pres awards recovered in excess of \$800,000.*

EXHIBIT B

FOLEY V. EQUIFAX, No. 17-cv-4320-JNE/ECW

SCHEDULE OF TIME BY THOMAS J. LYONS JR., ESQ. / CONSUMER JUSTICE CENTER P.A.

	Thomas J Lyons Jr
File Review	5.57
Litigation Plan	1.18
Pleadings and Service	.24
Disclosures and Rule 16 Conference	5.46
Motion Practice	5.04
Subtotal Hours	17.49
Hourly Rates	X \$450.00
Grand Total Fees	\$7,868.55

EXHIBIT C

UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

JENNIFER ROTH, *on behalf of herself*
and others similarly situated,

Civil No. 16-2476 (JRT)

Plaintiff,

ORDER

v.

LIFE TIME FITNESS, INC., LTF CLUB
OPERATIONS COMPANY, INC., LTF
CLUB MANAGEMENT COMPANY,
LLC, and LTF YOGA COMPANY, LLC

Defendants.

Daniel R. Karon, **KARON LLC**, 700 W. Saint Claire Avenue, Suite 200,
Cleveland, OH 44113, and Garrett D. Blanchfield, Jr., **REINHARDT
WENDORF & BLANCHFIELD**, W1050 First National Bank Building,
332 Minnesota Street, Saint Paul, MN 55101, for plaintiff.

Elizabeth S. Gerling, **JACKSON LEWIS P.C.**, 150 South Fifth Street, Suite
3500, Minneapolis, MN 55402, for defendants.

This matter came before the Court on two motions by Plaintiff Jennifer Roth. First, Roth moved for final approval of settlement, certification of class, and appointment of class representative and class counsel. (Mot. for Approval, Jan. 18, 2019, Docket No. 71.) Next, Roth moved for attorneys' fees, expenses, and class representative award. (Mot. for Attorney Fees, Jan. 18, 2019, Docket No. 77.) Because the Court will find that certification

of the class is appropriate, and that the requested attorneys' fees, expenses, and class representative award are reasonable, the Court will grant both motions.

Roth brought this action on behalf of herself and all others similarly situated against Defendants Life Time Fitness, Inc., LTF Club Operations Company, Inc., LTF Club Management Company, LLC, and LTF Yoga Company, LLC (collectively "Life Time" or "Defendants") for violating the Ohio Prompt Pay Act or, alternatively, for unjust enrichment. (2d Am. Compl. ¶¶ 26-34, Sept. 21, 2018, Docket No. 61.) Roth alleged that Life Time failed to compensate group fitness instructors for work done before and after they taught fitness classes. (*Id.* ¶¶ 10-18.)

On October 24, 2018, the Court entered an Order granting preliminary approval of the proposed class Settlement. (Preliminary Approval Order at 1, Oct. 24, 2018, Docket No. 69.) The Order preliminarily certified a class for settlement purposes under Federal Rule of Civil Procedure 23(b)(3), preliminarily approved the terms of the settlement, and approved notice to the Rule 23 Settlement Class. (*See generally id.*)

Roth's attorneys, through a class-action administration company called Simpluris, Inc., sent claim packets to all Class Members, which included the court-approved notice and instructions on how to file a claim. (*See Decl. of Garrett D. Blanchfield* ¶ 2; Ex. A at 12, Sept. 21, 2018, Docket No. 64-1.) For Class Members who did not file a claim within 21 days, Simpluris phoned them. (*Decl. of Jeremiah Kincannon* ¶ 7, Jan. 18, 2019, Docket No. 75.) Of the 283 mailers that were sent out, 100 class members submitted claims, only one Class Member opted out, and no Class Member objected to the settlement. (*Id.* ¶ 8.) Total claims amounted to \$115,681.10. (*Id.* ¶ 9.)

Collectively, Roth's counsel worked on this case for a total of 2224.57 hours.¹ Life Time's counsel spent 871.8 hours on this case. (Decl. of Eric R. Magnus ¶ 3, Feb. 15, 2019, Docket No. 90.) Roth's counsel's rates are summarized in the table below.

Firm	Partner Rate (average)	Associate Rate (average)	Paralegal Rate
Karon LLC	\$696	\$457	N/A
Shindler, Anderson, Goplerud & Weese, P.C.	\$600	\$280	N/A
RoscaLaw LLC	\$700	\$300	N/A
Reinhardt Wendorf & Blanchfield	\$730	\$439	\$250

(Karon Second at 3; Goplerud Decl. at 3; Rosca Decl. at 4; Blanchfield 2d at 3-4.)

Plaintiff now seeks judicial approval of the class settlement, appointment of class representative and counsel, attorneys' fees, reimbursement for expenses, and a class representative service award.

DISCUSSION

I. CLASS ACTION SETTLEMENT

On October 24, 2018, this Court preliminarily approved the Class Settlement Agreement. (Preliminary Approval Order.) Now, Plaintiffs move for final approval.

¹ (See 2d Decl. of Daniel R. Karon ("Karon 2d") ¶ 3, Jan. 18, 2019, Docket No. 83; Decl. of J. Barton Goplerud ("Goplerud Decl.") ¶ 3, Jan. 18, 2019, Docket No. 84; Decl. of Alan Rosca ("Rosca Decl.") ¶ 3, Jan. 18, 2019, Docket No. 85; Decl. of Garrett D. Blanchfield ("Blanchfield 2d") ¶ 3, Jan. 18, 2019, Docket No. 86.)

Under Federal Rule of Civil Procedure 23 the Court finds that certification of a class is appropriate and hereby certifies the class as set forth in Paragraph 3 of the Preliminary Approval Order.

The Court further finds that the transmission of Notice of Proposed Class Action Settlement by U.S. mail was appropriate in the circumstances of this case and that such notice satisfied the requirements of due process and Rule 23.

The Court appoints Karon LLC, Shindler, Anderson, Goplerud & Weese, P.C. RoscaLaw LLC, and Reinhardt Wendorf & Blanchfield as Joint Settlement Class Counsel. The Court appoints Jennifer Roth as Class Representative.

Finally, the Court finds that the settlement is fair, adequate, and reasonable, and hereby approves the Class Settlement Agreement submitted by the parties. This includes the creation of Settlement Fund by Defendants in the amount of \$725,000. The first portion of the Settlement Fund is a Class Member Fund of up to \$276,743.40 to be distributed to Settlement Class Members. The Class Member Fund is comprised of (1) up to \$269,243.40 allocable to eligible Settlement Class Members who timely file a claim and (2) \$7,500 allocable to Jennifer Roth, the named plaintiff, as a service award. The second portion of the Settlement Fund is a Fees and Costs Fund of up to \$448,256.60 for payment of attorneys' fees and costs and claims administration expense.

II. ATTORNEYS' FEES

Roth also seeks \$428,004.81 in attorneys' fees. In determining a reasonable award of attorneys' fees, the Court begins with the "lodestar" amount, obtained by calculating

“the number of hours reasonably expended on the litigation multiplied by a reasonable hourly rate.” *See Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983). “[T]he fee applicant bears the burden of establishing entitlement to an award and documenting the appropriate hours expended and hourly rates.” *Id.* at 437. “When determining reasonable hourly rates, district courts may rely on their own experience and knowledge of prevailing market rates.” *Hanig v. Lee*, 415 F.3d 822, 825 (8th Cir. 2005). The Court must also consider “the [party]’s overall success; the necessity and usefulness of the [party]’s activity in the particular matter for which fees are requested; and the efficiency with which the [party]’s attorneys conducted that activity.” *Jenkins ex rel. Jenkins v. Missouri*, 127 F.3d 709, 718 (8th Cir. 1997). The Court must exclude claimed hours that are not “reasonably expended,” such as hours that are “excessive, redundant, or otherwise unnecessary.” *Hensley*, 461 U.S. at 434. “The most critical factor in assessing fees is the degree of success obtained.” *Jenkins ex rel. Jenkins*, 127 F.3d at 716; *Fish v. St. Cloud State Univ.*, 295 F.3d 849, 852 (8th Cir. 2002).

The Court finds that Roth’s level of success warrants an award of attorneys’ fees. Although the settlement is only for two of Roth’s original twenty-three claims, Roth’s success on those claims serves a public good. Furthermore, the attorney’s fees request was reduced from a total lodestar over \$1,000,000 to roughly a third of total lodestar. The Court finds that this adequately represents the degree of success Roth achieved.

The Court further finds that the number of hours worked and the fees incurred were reasonable. Although Roth’s attorneys expended significantly more hours than Defendant’s attorneys, the Court finds the hours reasonable. Roth’s attorneys state that

they excluded hours worked on Roth's multi-state claims, and whatever multi-state claims hours remain have been heavily discounted. Lastly, the fees charged by Roth's attorneys are within reasonable ranges for similar work. *Austin v. Metro. Council*, Civ. No. 11-3621 (D. Minn. Mar. 27, 2012) (stating that a rate of \$500 per hour is at the low end of complex class action rates); *Yarrington v. Solvay Pharms., Inc.*, 697 F. Supp. 2d 1057 (D. Minn. 2010) (approving partner rates up to \$850 per hour and associate rates up to \$410 per hour). Thus, the Court will grant Roth's motion for attorneys' fees in the full amount requested of \$428,004.81.

III. EXPENSES AND CLASS REPRESENTATIVE AWARD

Roth seeks \$20,251.79 in expenses, and \$7,500 in class representative award. The Court will grant Roth's motion.

ORDER

Based on the foregoing, and all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Plaintiff's Motion for Final Approval of Class Settlement [Docket No. 71] is **GRANTED**.
2. Plaintiff's motion for Attorney Fees, Expenses, and Class Representative Award [Docket No. 77] is **GRANTED**.
3. Within 30 days of the entry of this Order, the Settlement Administrator shall calculate and pay via check from the Settlement Fund each Class Member who timely submitted a valid claim based on the number of weeks they taught

group fitness classes for Defendants in Ohio between August 1, 2013 to August 1, 2015. Any funds that remain in the Settlement Fund after distributions shall remain in Defendants' possession.

4. Upon creation of the Settlement Fund, the Settlement Administrator is authorized and directed to make disbursements as follows:
 - a. The Settlement Administrator shall pay to Plaintiff \$7,500.00, such amount representing an incentive awards for her service as class representative, from the Class Member Fund. Such payment shall be made payable to the order of Karon LLC and delivered to Plaintiff's counsel Daniel Karon.
 - b. The Settlement Administrator shall pay to Class Counsel the sum of \$428,004.81 (representing the Court's award of attorneys' fees) plus \$20,251.79 (representing reimbursement of expenses) from the Fees and Costs Fund. Such payments are to be made by issuance of a single check in the amount of \$448,256.60 made payable to the order of Karon LLC and delivered to Plaintiff's counsel Daniel Karon.
5. If there are sufficient funds available in the Fees and Costs Fund after the Court's award of attorneys' fees and costs, Defendants will pay for claims administration expense from the Fees and Costs Fund; if there are not, then Defendants will separately pay the claims administration expense.
6. All claims in this case are hereby dismissed with prejudice and all Class Members are hereby enjoined from prosecuting settled claims.

7. The Court retains jurisdiction over the interpretation, enforcement, and implementation of the Class Settlement Agreement and of this Order.

LET JUDGMENT BE ENTERED ACCORDINGLY.

DATED: July 22, 2019
at Minneapolis, Minnesota.

s/John R. Tunheim
JOHN R. TUNHEIM
Chief Judge
United States District Court

Exhibit 11

SCHEDULE OF TIME BY FRANCIS & MAILMAN, P.C.

Fryett v. Equifax Information Solutions

	James A. Francis	John Soumilas	Lauren KW Brennan	Jordan M. Sartell	Paralegals
Administrative				0.8	22.3
Pre-Suit Investigation	8.3	7.3	0.2		
Pleadings and Service	3.5	6.0	0.2		4.77
Disclosures, Appearances, and Case Management Conferences		1.6	0.2	6.5	0.5
Written Discovery	5.6	7.6			0.8
Mediation, Settlement Conferences				0.4	
Depositions					
Motion Practice and Legal Research		0.6		0.5	2.3
Class Action Notices and Administration					
Subtotal Hours	17.4	23.1	0.6	8.2	30.67
Hourly Rate	\$605.00	\$495.00	\$225.00	\$225.00	\$180.00
Subtotal Fees	\$10,527.00	\$11,434.50	\$135.00	\$1,845.00	\$5,520.60
Grand Total Fees					\$29,462.10

Exhibit 12

Francis & Mailman	
Fryett v. EQU	
All Dates	
Expenses	Total
Travel (train)	121.00
Total Expenses	\$ 121.00

Exhibit 13

SCHEDULE OF TIME BY FRANCIS & MAILMAN, P.C.
Hotchkiss v. Equifax Information Solutions

	James A. Francis	John Soumilas	Lauren KW Brennan	Jordan M. Sartell	Paralegals
File Admin		0.4		0.4	10.0
Pre-Suit Investigation	2.5	12.1		15.2	
Pleadings and Service	4.0	4.8		3.1	
Disclosures, Appearances, and Case Management Conferences		3.7		6.2	0.2
Written Discovery	1.6	3.1	2.0	12.5	10.8
Mediation, Settlement Conferences		1.4		0.4	
Depositions					
Motion Practice and Legal Research		2.4		0.9	3.1
Class Action Notices and Administration					
Subtotal Hours	8.1	27.9	2.0	38.7	24.1
Hourly Rate	\$605.00	\$495.00	\$225.00	\$225.00	\$180.00
Subtotal Fees	\$4,900.50	\$13,810.50	\$450.00	\$8,707.50	\$4,338.00
Grand Total Fees					\$32,206.50

Exhibit 14

Francis & Mailman	
Hotchkiss v. EQU	
All Dates	
Expenses	Total
Court Costs (Filing Fee, PHV)	700.00
FedEx	17.11
Total Expenses	\$ 717.11

Exhibit 15

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

MARK WILLIAM THOMAS, *et al.*,

Plaintiffs,

v.

EQUIFAX INFORMATION SERVICES, LLC,

Defendant.

No. 3:18-CV-00684-MHL

DECLARATION OF JOSHUA L. SIMONDS

I, Joshua L. Simonds, pursuant to 28 U.S.C. § 1746, declare that the following is true and correct:

1. Together with lead counsel Francis & Mailman, P.C., I am counsel to Elizabeth Hotchkiss in the matter of *Hotchkiss v. Equifax Information Services, LLC* No. 5:18-cv-00060-GWC, filed in the United States District Court for the District of Vermont. I submit this declaration in support of Plaintiff's Motion for Attorney's Fees and Reimbursement of Expenses Incurred.

2. I am a 1988 graduate of Boston College Law School.

3. I am a member in good standing of the bars of Massachusetts, where I was admitted in 1988; Vermont, where I was admitted in 1997; the United States District Court for the District of Vermont, where I was admitted in 1997; and the United States Court of Appeals for the Second Circuit, where I was admitted in 2018.

4. I have been in private practice my entire legal career. I spent six years doing litigation, including consumer protection work, with the of firms Fitch, Miller and Tourse and Conn, Kavanaugh, Rosenthal & Piesch, both in Massachusetts. In Vermont, I was associated with the firm of Affolter, Clapp, Gannon and then founded the firm of Mertz, Talbott & Simonds, PLC in 2001. I have been a sole practitioner with The Burlington Law Practice, PLLC since August 2010. I have had a general civil litigation practice during my career, including plaintiff and defense work for personal injury claims, insurance bad faith litigation, consumer protection and commercial litigation including construction disputes.

5. I have obtained various published appellate decisions in the Massachusetts Court of Appeals, the Massachusetts Supreme Court, the United States Court of Appeals for the First Circuit, the Vermont Supreme Court, and the United States Supreme Court (petition for certiorari denied). I have a matter currently on appeal to the United States Court of Appeals for the Second Circuit.

6. I am an experienced trial attorney in both state and federal court. My usual billing rate is \$325 per hour.

7. I have had fees awarded under statutory fee shifting schemes in eight cases tried to verdict including:

a. 2004 *The Electric Man v. Charos*, (Windham County) and on appeal at 2016 VT 16, 179 VT 351 (2006). Construction – Prompt Payment of Contractors Act.

b. 2009 *Brennan v. Glick, et al.*, (Windham County) Wrongful eviction and 42 USC sec. 1983 claim.

c. 2012 companion cases *Scott Gladstone v. Amidon Construction* and *Scott and Simone Gladstone v. Amidon Construction* (Windham County). Construction – Prompt Payment of Contractors Act

d. 2012 *Joseph and Josephine Pacelli v. Amidon Construction* (Windham County). Construction – Prompt Payment of Contractors Act (paid voluntarily after jury verdict)

e. 2013 *McKinstry v. Fecteau Homes* (Washington County). Consumer Protection claim involving purchase of modular home.

f. 2014 *Bartley Consulting v. Len Britton for VT, LLC* (Windsor County). Contract claim against Senate Campaign (bench trial).

g. 2016 *Falcon Management v. Brenda LeClair* (Chittenden County). Consumer Protection claim involving mobile home park tenancy.

h. 2018 *Centrella v. Ritz-Craft Corporation of Penn.*, (USDC VT) Consumer Protection claim involving purchase of modular home (on appeal).

8. In 2014, the Chittenden Superior Court issued a Final Approval of Class Action Settlement, which included an award of attorneys' fees and expenses, in *Vermont Federal Credit Union v. Sandra Spaulding, et al.* I was co-counsel and appointed Class Counsel in that matter.

9. As one of the attorneys representing plaintiff in the *Hotchkiss* matter, I was responsible for local counsel representation and assisted in conforming pleadings to local practice and consulting on various strategic decisions on handling the case. I reviewed, and where appropriate, edited all pleadings. I also familiarized myself with the facts and law underlying the claims.

10. My time records reflect that I performed 18.3 hours of work in the *Hotchkiss* matter, as follows:

a. Review of pleadings, motions, proposed orders, and all matters filed on behalf of Plaintiff: 14.2 hours;


b. Attend 26(f) conference, review discovery prepared and served by Plaintiff and Defendant: 2.2 hours; and

c. Correspondence and conferral with co-counsel: 1.9 hours.

11. The time records of my legal assistant, Joya B. Beattie, indicate that she performed an additional 1 hour of work in the *Hotchkiss* matter assisting with the filing and service of the complaint. Her usual billing rate is \$145 per hour.

12. Therefore, my firm's lodestar for work performed in the *Hotchkiss* matter is \$6,092.50.

Signed and sworn to at Burlington, Vermont this 12th day of August, 2019.



JOSHUA L. SIMONDS, ESQ.

Exhibit 16

SCHEDULE OF TIME BY FRANCIS & MAILMAN, P.C.

Jones v. Equifax Information Solutions

	James A. Francis	John Soumilas	Lauren KW Brennan	Jordan M. Sartell	Paralegals
Administrative			0.2		0.9
Pre-Suit Investigation	1.2	6.6		0.2	3.6
Pleadings and Service	1.5	3.2	0.7	1.7	0.7
Disclosures, Appearances, and Case Management Conferences		1.3		0.4	
Written Discovery	3.0	6.2		1.4	13.3
Mediation, Settlement Conferences			0.1	10.3	
Depositions					
Motion Practice and Legal Research		1.9		1.0	1.0
Class Action Notices and Administration					
Pre Trial					0.1
Subtotal Hours	5.7	19.2	1.0	15.0	19.6
Hourly Rate	\$605.00	\$495.00	\$225.00	\$225.00	\$180.00
Subtotal Fees	\$3,448.50	\$9,504.00	\$225.00	\$3,375.00	\$3,528.00
Grand Total Fees					\$20,080.50

Exhibit 17

Francis & Mailman	
Jones v. EQU	
All Dates	
Expenses	Total
Court Costs (Filing Fee, Certificate of Good Standing, PHV)	719.00
FedEx	29.12
Conferences	71.08
Total Expenses	\$ 819.20

Exhibit 18

SCHEDULE OF TIME BY FRANCIS & MAILMAN, P.C.
Lemmon v. Equifax Information Solutions

	James A. Francis	John Soumilas	Lauren KW Brennan	Jordan M. Sartell	Paralegals
File Admin					0.7
Pre-Suit Investigation	7.5	13.8	0.6	0.2	
Pleadings and Service	3.5	4.6	6.0	0.2	
Disclosures, Appearances, and Case Management Conferences	3.6	8.5	4.9		0.1
Written Discovery	8.5	4.4	3.3	9.16	0.8
Mediation, Settlement Conferences		0.5		0.9	0.3
Depositions	1.2			0.3	
Motion Practice and Legal Research	3.7	4.6	3.7	3.6	
Class Action Notices and Administration					
Subtotal Hours	28.0	36.4	18.5	14.36	1.9
Hourly Rate	\$605.00	\$495.00	\$225.00	\$225.00	\$180.00
Subtotal Fees	\$16,940.00	\$18,018.00	\$4,162.50	\$3,231.00	\$342.00
Grand Total Fees					\$42,693.50

Exhibit 19

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

MARK WILLIAM THOMAS, *et al.*,

Plaintiffs,

v.

EQUIFAX INFORMATION SERVICES LLC,

Defendant.

No. 3:18-cv-000684 (MHL)

DECLARATION OF BETH E. TERRELL

I, Beth E. Terrell, pursuant to 28 U.S.C. § 1746, declare that the following is true and correct:

1. Together with lead counsel Francis & Mailman, P.C., I am counsel for Plaintiff Leonard A. Lemmon in the matter of *Lemmon v. Equifax Information Services LLC*, No. 2:17-cv-01464 JLR, filed in the United States District Court for the Western District of Washington. I submit this declaration in support of Plaintiff's Motion for Attorney's Fees and Reimbursement of Expenses Incurred.

2. I received a B.A., magna cum laude, from Gonzaga University in 1990. In 1995, I received my J.D. from the University of California, Davis School of Law, Order of the Coif. Prior to forming TMLG in May 2008, I was a member of Tousley Brain Stephens PLLC. I am a frequent speaker at legal conferences on a wide variety of topics including consumer class actions, employment litigation, and electronic discovery, and I have been awarded an "AV" rating in Martindale Hubble by my peers.

3. I am a member in good standing of the bars of the states of California and Washington.

4. I am actively involved in several professional organizations and activities. For example, I currently am an Eagle Member of the Washington State Association of Justice (“WSAJ”). I am the current Chair of the Washington Employment Lawyers Association, Chair of the Northwest Consumer Law Center, and President of the Public Justice Foundation.

5. I have been repeatedly named to the annual Washington Super Lawyers list. I have also been named to the Top 100 Washington Super Lawyers list and the Top 50 Women Super Lawyers list.

6. A substantial part of TMLG’s practice involves class actions brought on behalf of consumers whose state or federal rights have been violated. TMLG attorneys have litigated, certified, and settled consumer class actions involving state consumer protection statutes, the Fair Debt Collections Practices Act, the Fair Credit Reporting Act, the Truth in Lending Act, and the Telephone Consumer Protection Act, among others.

7. Erika L. Nusser is a partner at TMLG. Ms. Nusser graduated from the University of San Francisco School of Law in 2008. Ms. Nusser concentrates her practice in complex litigation, including individual and class action consumer fraud and employment litigation. She litigated and served as trial counsel in *Ramirez v. Precision Drywall, Inc.* (King County Superior Court), and has been actively involved in every aspect of numerous other class actions, including *Smith v. JEM Group, Inc.*

(W.D. Wash.), *Friel v. Legal Helpers Debt Resolution* (King County Superior Court), *Helde v. Knight Transportation, Inc.* (W.D. Wash.), *Wilkes v. Newsvine, Inc.* (King County Superior Court), and *Thompson v. Green Financial Services International, Inc.* (Spokane County Superior Court). In addition, Ms. Nusser served as the Vice-Chair of the Employment Section for the Washington State Association for Justice from 2010-2012 and has served as the Vice-Chair of the Interpersonal Violence Section for the Washington State Association for Justice from 2017-2019. She has also been named to the annual Washington “Rising Star” list by Washington Law & Politics magazine every year for the last seven years.

8. TMLG has actively and successfully litigated consumer protection and product liability class action lawsuits. TMLG is litigating or has recently settled the following consumer protection class actions:

- *Gold, et al. v. Lumber Liquidators, Inc.*—Filed in 2014 on behalf of consumers who purchased defective flooring. TMLG represents a nationwide class of consumers as well as seven sub-classes of consumers in the states of California, New York, Illinois, West Virginia, Minnesota, Pennsylvania, and Florida. The case is pending in the United States District Court for the Northern District of California.
- *Jordan v. Nationstar Mortgage, LLC*—After a plaintiff class was certified by a Washington trial court, the action was removed to District Court in 2014. TMLG represents a class of homeowners who were improperly locked out of their homes by their mortgage lender.
- *Dibb, et al. v. AllianceOne Receivables Management, Inc.*—TMLG represents three certified classes of Washington consumers who received unfair and deceptive debt collection notices that included threats of criminal prosecution. The case settled on a class-wide basis for \$1,900,000, and final approval was granted in July 2017.

- *Cavnar, et al. v. BounceBack, Inc.*—Filed in 2014 on behalf of Washington consumers who received false, misleading, and deceptive debt collection letters printed on the letter head of county prosecuting attorneys. TMLG worked to negotiate a class-wide settlement, and final approval was granted in September 2016.
- *Soto v. American Honda Motor Corporation*—Filed in 2012 on behalf of owners and lessees of 2008-2010 Honda Accords that consume motor oil at a much higher rate than intended, due to a systemic design defect. The case settled on a class-wide basis and final approval was granted in March 2014.
- *Smith v. Legal Helpers Debt Resolution LLC*—Filed in 2011 on behalf of consumers who were charged excessive fees for debt adjusting services in violation of Washington law. Class settlements were approved by the Court in December 2012 and December 2013.
- *Brown v. Consumer Law Associates LLC, et al.*—Filed in 2011 on behalf of consumers who were charged excessive fees for debt adjusting services in violation of Washington law. A class settlement was approved by the Court in 2013.
- *Bronzich, et al. v. Persels & Associates, LLC, et al.*—Filed in 2010 on behalf of consumers who were charged excessive fees for debt adjusting services in violation of Washington law. A class settlement was approved by the Court in 2013.
- *Milligan, et al. v. Toyota Motor Sales, Inc.*—Filed in 2009 on behalf of owners of 2001-2003 Toyota RAV4s containing defective Electronic Computer Modules, which cause harsh shifting conditions and permanent damage to the transmissions. TMLG worked to negotiate a nationwide class action settlement, and final approval was granted in January 2012.
- *Kitec Consolidated Cases*—Served as co-counsel in a national class action lawsuit against the manufacturers of defective hydronic heating and plumbing systems. The case settled for \$125,000,000, and final approval was granted in 2011.
- *Seraphin v. AT&T Internet Services, Inc., et al.*—A multi-state class action filed in 2009 on behalf of AT&T internet customers who paid \$20 a month or less for internet service and were

assessed and Early Termination Fee when they cancelled service. A class settlement was approved by the Court in 2011.

9. As local counsel in this case, my firm was familiar with the factual and legal theories in the case, assisted in conforming pleadings to local practice, and reviewed, and where appropriate, edited all pleadings. My partner, Erika Nusser, was the point person for this matter. Although I supervised the work of my firm, I have not charged for that time.

10. TMLG's time records reflect that we performed 13.1 hours of work in the *Lemmon* matter, as follows:

NAME AND POSITION	DESCRIPTION OF WORK PERFORMED	RATE	HOURS BILLED	TOTAL
ATTORNEYS				
Erika L. Nusser Partner at Terrell Marshall Law Group PLLC	Reviewed and revised complaint; analyzed MDL pleadings, and conferences and emails regarding the same; researched docket, deadlines and legal issues, and worked on opposition to transfer and consolidation with Customer Data Security Breach MDL; emails regarding response to motion to transfer and consolidate case with customer data breach MDL; conferences regarding order setting class certification briefing schedule; worked on proposed revisions to joint status report.	\$525	6.10	\$3,202.50

PARALEGALS/LEGAL ASSISTANTS				
Bradford Kinsey Legal Secretary at Terrell Marshall Law Group PLLC 27 years legal experience	Reviewed and revised complaint; prepared and finalized civil cover sheet; prepared and finalized summons; arranged new case filing; reviewed, revised and finalized stipulation and proposed order extending discovery and class certification deadlines.	\$225	1.6	\$360.00
Jessica Langsted Legal Assistant at Terrell Marshall Law Group PLLC since July 2017	Maintained internal docketing system.	\$125	1.2	\$240.00
Sam Levy Legal Assistant 3 years legal experience	Maintained internal docketing system.	\$200	2.5	\$500.00
Holly Rota Legal Secretary at Terrell Marshall Law Group PLLC 14 years legal experience	Prepared and finalized applications for admission pro hac vice.	\$225	1.0	\$225.00

11. Therefore, my firm's lodestar for work performed in the *Lemmon* matter is \$4,527.50.

12. TMLG reasonably and necessarily incurred the following litigation costs. These expenses are customarily charged to and paid by hourly clients. The

following chart, which summarizes TMLG's litigation expenses, is taken from contemporaneous, documented expense records regularly prepared and maintained by TMLG in the regular course of business:

CATEGORY	AMOUNT
Filing Fees	\$1,093.00
Pacer Documents	\$7.50
Total	\$1,100.50

Signed and sworn to at Seattle, Washington, this 23rd day of August, 2019.



Beth E. Terrell

Exhibit 20

SCHEDULE OF TIME BY FRANCIS & MAILMAN, P.C.

Lustig v. Equifax Information Solutions

	James A. Francis	John Soumilas	Lauren KW Brennan	Jordan M. Sartell	Paralegals
File Admin				0.2	2.3
Pre-Suit Investigation	17.8	0.1			11.3
Pleadings and Service	8.3	3.9	2.3		0.1
Disclosures, Appearances, and Case Management Conferences		4.6	4.9	0.2	
Written Discovery	6.5	3.8	0.9	115.56	
Mediation, Settlement Conferences	67.5	64	0.2		8.4
Depositions		0.2		2.0	
Motion Practice and Legal Research	9.0	3.6	3.6	1.9	7.6
Pre-Trial		0.2			
Class Action Notices and Administration					
Subtotal Hours	109.1	80.4	11.9	119.86	29.7
Hourly Rate	\$605.00	\$495.00	\$225.00	\$225.00	\$180.00
Subtotal Fees	\$66,005.50	\$39,798.00	\$2,677.50	\$26,968.50	\$5,346.00
Grand Total Fees					\$140,795.50

Exhibit 21

Francis & Mailman	
Lustig v. EQU	
All Dates	
Expenses	Total
Court Costs	400.00
Total Expenses	\$ 400.00

Exhibit 22

SCHEDULE OF TIME BY FRANCIS & MAILMAN, P.C.
Morales v. Equifax Information Solutions

	James A. Francis	John Soumilas	Lauren KW Brennan	Jordan M. Sartell	Paralegals
File Admin		0.1		0.2	1.0
Pre-Suit Investigation	6.0	2.5		0.5	1.0
Pleadings and Service	3.5	7.6		2.7	0.4
Disclosures, Appearances, and Case Management Conferences	22.7	17.6	5.3	17.2	0.2
Written Discovery	6.5	10.7	4.2	11.4	1.2
Mediation, Settlement Conferences		2.1			0.7
Depositions				3.3	
Motion Practice and Legal Research	1.5	2.6	4.2	5.2	
Class Action Notices and Administration					
Subtotal Hours	40.2	43.2	13.7	40.5	4.5
Hourly Rate	\$605.00	\$495.00	\$225.00	\$225.00	\$180.00
Subtotal Fees	\$24,321.00	\$21,384.00	\$3,082.50	\$9,112.50	\$810.00
Grand Total Fees					\$58,710.00

Exhibit 23

Francis & Mailman	
Morales v. EQU	
All Dates	
Expenses	Total
Court Costs (PHV)	620.00
Conferences	28.31
Total Expenses	\$ 648.31

Exhibit 24

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division

MARK W. THOMAS, *et al.*, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

Case No. 3:18-cv-00684 (MHL)

EQUIFAX INFORMATION SERVICES, LLC,

Defendant.

DECLARATION OF ERIKA A. HEATH

I, ERIKA. A. HEATH, declare under penalty of perjury, pursuant to 28 USC § 1746, that the following is true and correct.

1. I am Of Counsel at Duckworth & Peters LLP.
2. I am fully, and personally, familiar with the facts and circumstances set forth below.
3. This Declaration is offered in support of Plaintiff's Motion for Final Approval of the Class Settlement.
4. I have been practicing law since 2009. I am a licensed attorney in the State of Georgia since 2009, the State of California since 2015, and the State of New York since 2018. I received my juris doctor from Northeastern University School of Law in Boston, Massachusetts, and my B.A. in finance from Southern Methodist University in Dallas, Texas.
5. Following graduation from law school, I worked at Atlanta Legal Aid Society (ALAS) as a Staff Attorney from November 2009 through March 2015. At ALAS, I focused on consumer issues affecting low income clients. For example, I was lead counsel in the case of *Strickland v. Alexander*, 153 F.Supp.3d 1397 (N.D. Ga. 2015), where Georgia's garnishment

statute was declared unconstitutional for violating the due process rights of low-income judgment debtors.

6. Since my departure from ALAS, I have been in private practice in two different roles. Since 2015, I have maintained a solo law practice. I have also separately been Of Counsel to the law firm of Duckworth Peters Lebowitz Olivier LLP (DPLO) from January 2016 through April 2018, and Duckworth & Peters LLP (D&P) from April 2018 through the present day. In both roles, I have focused my work on the protection of consumer and employee rights.

7. I have been selected to speak on consumer topics at a number of national conferences, including those held by the National Association of Consumer Advocates, National Consumer Law Center, and the National Association of Consumer Bankruptcy Attorneys.

8. In my capacity with DPLO, and subsequently with D&P, I have also participated in a number of class actions, including *Ambrosio v. Cogent Communications, Inc.* (N.D. Cal. Case No. 3:14-cv-02182-RS); *Bernstein v. Virgin America, Inc.* (N.D. Cal. Case No. 3:15-cv-02277-JST); *Bowerman v. Field Asset Services, Inc.* (N.D. Cal. Case No. 3:13-cv-00057-WHO); *Morales v. Experian Information Solutions, Inc.* (N.D. Cal. Case No. 3:18-cv-02178-WHO); *Loginova v. The Russian School of Mathematics, Inc.* (Alameda County Superior Court Case No. RG18919000), as well as individual consumer cases including matters arising under the Fair Credit Reporting Act (FCRA), *see e.g., Prado v. Equifax Information Services, LLC* (N.D. Cal. Case No. 4:18-cv-02405-PJH).

9. I am also counsel in a putative class action filed against Equifax Information Services, Inc. (“Equifax”), in San Francisco, California, alleging, as in the above-styled case, that Equifax violated the FCRA by failing to update public records in its consumer reports. The case,

Morales v. Equifax Information Services, LLC, was filed in the Northern District of California on February 22, 2018 (Case No. 3:18-cv-01153-WHO).

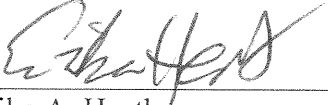
10. The named Plaintiff in *Morales* has agreed to resolve his claims against Equifax as part of the nationwide proposed agreement reached in the instant action.

11. My hourly billing rate is \$475/hour and is based upon the comparable billing rates of class action counsel with my experience in the San Francisco market. My hourly rate was recently approved in *Bowerman v. Field Asset Services*, No. 3:13-cv-00057-WHO, 2018 U.S. Dist. LEXIS 194421 (N.D. Cal. Nov. 14, 2018), and on a lodestar cross-check in *Loginova v. The Russian School of Mathematics, Inc.*, Alameda County Superior Court Case No. RG18919000 (Jun. 26, 2019).

12. Attached as Exhibit 1 is a summary of my billing records in the *Morales* case. To date, I have billed 53.4 hours on the case for a total sum of \$25,365.00 in attorneys fees, and incurred expenses totaling \$435.

13. Accordingly, my fees and expenses in the *Morales* case currently total \$25,800.00.

Dated: July 26, 2019



Erika A. Heath

EXHIBIT 1

Lewis Morales v. Equifax Information Services, LLC, No. 3:18-cv-01153-WHO

Schedule of Time Expended by Erika A. Heath

Tasks	Hours
File Administration	10.0
Pre-Suit Investigation	6.0
Pleadings and Service	8.5
Disclosures and Rule 16/26 Conferences	5.6
Written Discovery	17.0
Settlement and Mediation	5.7
Depositions	0.6
Motion Practice	0.0
Total	53.4

Expenses

Item	Cost
Filing Fee	\$400.00
Service of Process	\$35.00
Total	\$435.00

Exhibit 25

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division**

MARK W. THOMAS, *et al.*, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

Case No. 3:18-cv-00684 (MHL)

EQUIFAX INFORMATION SERVICES, LLC,

Defendant.

DECLARATION OF MONIQUE OLIVIER

I, MONIQUE OLIVIER, declare under penalty of perjury, pursuant to 28 USC § 1746, that the following is true and correct.

1. I am fully, and personally, familiar with the facts and circumstances set forth below.
2. This Declaration is offered in support of Plaintiff's Motion for Final Approval of the Class Settlement.
3. I am a partner of Olivier Schreiber & Chao LLP, a San Francisco-based firm representing individuals and classes in civil litigation and appeals. OSC specializes in employment, consumer, and civil rights matters. All of OSC's partners are leaders in their fields and are widely recognized as experienced and capable litigators on behalf of plaintiffs. More information on our firm is available at www.osclegal.com.
4. Prior to forming OSC in April 2018, I was a partner at Duckworth Peters Lebowitz Olivier LLP. DPLO is a San Francisco-based firm specializing in individual and complex litigation and appeals in the areas of employment, civil rights and consumer protection. All of DPLO's founding partners have been named "Northern California Super Lawyers" by their peers,

in recognition of their outstanding legal achievements and high ethical standards, every year since 2011. More information on DPLO is available at www.dplolaw.com.

5. I have been practicing law since 1997. Since that time, my practice has been devoted in substantial part to complex litigation and class actions. In particular, I have significant experience as lead counsel in employment, civil rights, and consumer class actions as well as appeals involving class action issues. I am also an Appellate Specialist certified by the California State Bar Board of Legal Specialization. In 2016, I was the recipient of the California Lawyer of the Year (CLAY) Award for my appellate work.

6. I serve as a Mediator and an Early Neutral Evaluator for the U.S. District Court, Northern District of California's ADR Program and am a member of the Northern District's Pro Bono Panel. I am also the San Francisco Vice President for the Federal Bar Association's Northern California Chapter, a member of the Board of Directors of the National Association of Consumer Advocates, and a former member of the Lawyer Representative Committee for the Northern District. I am regularly invited to speak on class action and appellate issues, and have co-chaired the Federal Bar Association Northern District Chapter's Class Action Symposium since 2015.

7. I received my J.D. (Order of the Coif) from the U.C. Davis King Hall School of Law and my B.A. from Boston College. I served as a judicial extern to the Hon. Lawrence K. Karlton, Eastern District of California. Prior to founding DPLO and then OSC, I was the managing attorney at The Sturdevant Law Firm where I litigated employment, civil rights and consumer class actions nationally.

8. OSC and DPLO have had significant success in litigating complex class action cases. A few examples of our work include:

- a. *Bowerman v. Field Asset Services, Inc. et al.*, U.S. Dist. Court, N.D.Cal., No. 13-00057-WHO (jury verdict in excess of \$2.3M for the first 11 of over 100 class members in wage and hour class action, and award of fees over \$5M).
- b. *Bernstein v. Virgin Am., Inc.*, U.S. Dist. Court, N.D.Cal., No. 15-CV-02277-JST, 2018 WL 3344316, at *1 (N.D. Cal. July 9, 2018) (judgment of over \$77M exclusive of fees for a certified class of flight attendants in wage and hour class action).
- c. *Ambrosio et al. v. Cogent Communications, Inc.*, U.S. Dist. Court, N.D.Cal., No. 14-02182-RS (certified class action on behalf of California sales personnel for overtime violations, resulting in classwide settlement of \$3M).
- d. *Morales v. Experian Information Solutions, Inc.* (N.D. Cal. Case No. 3:18-cv-02178-WHO) (proposed class action, alleging that Experian violated FCRA by failing to update public records in consumer reports, resulting in national class action settlement as part of a series of cases).

9. I am also counsel in a putative class action filed against Equifax Information Services, Inc. (“Equifax”), in San Francisco, California, alleging, as in the above-styled case, that Equifax violated the FCRA by failing to update public records in its consumer reports. The case, *Morales v. Equifax Information Services, LLC*, was filed in the Northern District of California on February 22, 2018 (Case No. 3:18-cv-01153-WHO).

10. The named Plaintiff in *Morales* has agreed to resolve his claims against Equifax as part of the nationwide proposed agreement reached in the instant action.

11. My hourly billing rate is \$750/hour and is based upon the comparable billing rates of class action counsel with my experience in the San Francisco market. My 2018 hourly rate of

\$700 was recently approved in *Bowerman v. Field Asset Services*, No. 3:13-cv-00057-WHO, 2018 U.S. Dist. LEXIS 194421 (N.D. Cal. Nov. 14, 2018).

12. Attached as Exhibit 1 is a summary of my billing records in the *Morales* action. To date, I have billed 17.5 hours on the case for a total sum of \$13,125 in attorneys' fees.

13. Accordingly, my fees and expenses in the *Morales* action currently total \$13,125.

Dated: August 12, 2019



Monique Olivier

Exhibit 1

Morales v. Equifax Information Services, LLC, No. 3:18-cv-01153-WHO

Schedule of Time Expended by Monique Olivier

Tasks	Hours
Pre-Suit Investigation	2.4
Pleadings and Service	2.8
Disclosures and Rule 16/26 Conferences	4.7
Written Discovery	3.7
Settlement and Mediation	1.7
Motion Practice	2.2
Total	17.5

Exhibit 26

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

LEWIS MORALES,
on behalf of himself and all others similarly
situated,

Plaintiff,

v.

**EQUIFAX INFORMATION SERVICES,
LLC.,**

Defendant.

Case No. 3:18-cv-01153-WHO

DECLARATION OF ROBERT S. SOLA

I, Robert S. Sola, declare as follows:

1. I am an attorney with the firm of Robert S. Sola, P.C. I submit this Declaration in connection with services rendered in *Lewis Morales v. Equifax Information Services, LLC.*, Case No. 3:18-cv-01153-WHO (N.D. Cal.) (hereafter referred to as “*Morales*”).

2. I am one of the attorneys representing Plaintiff and acting as Class Counsel in *Morales*. I was involved in all aspects of that litigation. The tasks I worked on included:

- a. Drafting of the Class Action Complaint;
- b. Drafting of the Initial Disclosures;
- c. Drafting of the Joint Case Management Statement
- d. Reviewing pleadings and correspondence;
- e. Reviewing all emails and court notices;
- f. Attending a Case Management Conference;
- g. Attending a preliminary settlement meeting with Equifax counsel;
- h. Attending three mediation sessions; and
- i. Composing, sending and reading hundreds of emails, and attachments to email, sent among counsel, and with Mr. Morales, regarding claims, pleadings, discovery, settlement, mediation and other matters.

3. I kept a record of the amount of time and the specific work performed by me in this case. Those time records reflect that I spent a total of 190.8, which was comprised of the time amounts listed below for the categories of work listed below:

Pre-suit investigation and review of client documents: 5.6 hours

Pleadings and service: 3.4 hours

Case Management Conference (and travel time): 4.8 hours

Disclosures and written discovery: 3.1 hours

Settlement meetings, discussions (and travel time): 18.3 hours

Mediations (and travel time): 79.9 hours

Composing, sending and reading emails that did not have attachments: 44.3 hours

Composing, sending and reading emails that had attachments which I created, revised or reviewed: 27.6 hours.

4. Because I do not regularly practice in the Northern District of California, I do not have an hourly rate that I charge for work done in that district. Plaintiff is seeking attorneys' fees for the work I performed at the rate of \$875 an hour. This rate is reasonable and well within the acceptable range charged by attorneys with comparable skill, reputation and experience in the Northern District of California.

A fair comparison can be made with attorney David Searles, with the firm of Francis & Mailman, who are also counsel in *Morales* and many other class actions filed pursuant to the Fair Credit Reporting Act. In 2018, Mr. Searles had an hourly rate of \$925 approved by Judge Orrick and by Judge Beeler in two separate class actions in the Northern District of California, respectively, *Larson v. Trans Union, LLC*, Case No. 3:12-cv-5726-WHO, and *Patel v. Trans Union, LLC*, Case No. 14-cv-00522-LB. Mr. Searles and I have comparable skill and reputation.

We are both very experienced. Mr. Searles was admitted to practice in 1975. I was admitted in 1984. So Mr. Searles has more experience and his rate would be somewhat higher than mine. Reducing his rate by a bit more than 5% would result in a rate of \$875.

5. The lodestar fee for my work is \$166,950, based on 190.8 hours at \$875 an hour. The lodestar fee does not include any charges for expenses, which are billed separately.

6. I have handled Fair Credit Reporting Act (FCRA) cases for the past 21 years and devoted my practice almost entirely to FCRA cases for the past 14 years. I have obtained two multi-million dollar verdicts in FCRA trials. In 2002, I was lead counsel in *Thomas v. Trans Union, LLC*, U.S.D.C. (Oregon) Case No. CV-00-1150-JE where the jury awarded the consumer \$300,000 in actual damages and \$5 million in punitive damages. In 2007, my client obtained a verdict of \$219,000 in actual damages and \$2,700,000 in punitive damages against Equifax in Florida state court. *Williams v. Equifax Information Services, LLC*, Orange County Circuit Court, Florida, Case No. 48-2003-CA-9035-0.

My first FCRA trial was in 1998, against TRW, resulting in a \$600,000 verdict. *Novinger-Jorgensen v. TRW, Inc.*, U.S.D.C. (Oregon) Case No. CV-96-0286-JE. In 2005, I was co-counsel in *Kirkpatrick v. Equifax Information Services LLC*, U.S.D.C. (Oregon) Case No. CV-02-1197-MO Lead, in which the consumer obtained a verdict of \$210,000.

I was one of the pioneers in the field of FCRA litigation in the 1990's. I was named Trial Lawyer of the Year in 2003 by the National Association of Consumer Advocates based on the *Thomas* case.

My reputation has led to a national practice in FCRA cases, as other attorneys associate me on FCRA cases, or consumers outside Oregon contact me to represent them. I have litigated FCRA

cases in more than 20 states. I have successfully settled more than 150 FCRA cases with Equifax, Experian, Trans Union, banks, collection agencies, and other companies.

7. I have been in private practice since 1984, when I became an associate at Stoel Rives in Portland, Oregon. In 1987, I moved to Washington, D.C., and joined the staff of Congressman Bill Richardson, where I became Legislative Director. In 1991, I became an associate at Williams and Troutwine, PC, specializing in complex litigation, including products liability and medical malpractice. I started my own practice in 1995, and soon began specializing in consumer law.

8. I have served as a member of the executive committee of the Oregon State Bar Consumer Law Section. Prior to that, I was chair of the executive committee of the Oregon State Bar Products Liability Section.

9. For more than the past 12 years, I have been chair or co-chair of the FCRA Litigation Conference organized by the National Association of Consumer Advocates. I have made numerous presentations on the FCRA for the National Consumer Law Center, the National Association of Consumer Advocates, the Oregon Trial Lawyers Association, the Oregon State Bar and other associations.

10. In December 2018, I was one of the primary speakers at a credit reporting conference in Lagos, Nigeria that was sponsored by the Conference of Western Attorneys General, Lagos Business School and the Credit Bureau Association of Nigeria.

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

Signed this 17th day of July 2019.

/s/ Robert S. Sola
Robert S. Sola
Of Attorney for Plaintiffs

Exhibit 27

SCHEDULE OF TIME BY FRANCIS & MAILMAN, P.C.
Peters v. Equifax Information Solutions

	James A. Francis	John Soumilas	Lauren KW Brennan	Jordan M. Sartell	Paralegals
File Admin				0.2	
Pre-Suit Investigation	4.3	3.7		0.3	1.3
Pleadings and Service	0.6	6.4	0.4		2.4
Disclosures, Appearances, and Case Management Conferences		3.4		1.9	
Written Discovery		2.4	0.2	4.5	
Mediation, Settlement Conferences		0.5		0.6	
Depositions					
Motion Practice and Legal Research		3.1		1.0	
Class Action Notices and Administration					
Subtotal Hours	4.9	19.5	0.6	8.5	3.7
Hourly Rate	\$605.00	\$495.00	\$225.00	\$225.00	\$180.00
Subtotal Fees	\$2,964.50	\$9,652.50	\$135.00	\$1,912.50	\$666.00
Grand Total Fees					\$15,330.50

Exhibit 28

Francis & Mailman	
Peters v. EQU	
All Dates	
Expenses	Total
Court Costs (Filing Fee, PHV)	550.00
FedEx	43.23
Total Expenses	\$ 593.23

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division**

MARK WILLIAM THOMAS, *et al.*,

Plaintiffs,

v.

Civil No. 3:18-cv-00684-MHL

EQUIFAX INFORMATION SERVICES, LLC,

Defendant.

DECLARATION OF KRISTI C. KELLY

I, Kristi C. Kelly declare:

1. My name is Kristi C. Kelly. I am over 21 years of age, of sound mind, capable of executing this declaration, and have personal knowledge of the facts stated herein, and they are all true and correct.

2. I am one of the attorneys working on behalf of the Plaintiffs in the above-styled litigation, and I am a founder and a partner of Kelly Guzzo, PLC, a law firm located at 3925 Chain Bridge Road, Suite 202, Fairfax, VA 22030. Prior to January 15, 2014, I was an attorney and equity partner at Surovell Isaacs Petersen & Levy, PLC, a nineteen-attorney law firm with offices in Fairfax, Virginia. My primary office was 4010 University Drive, Suite 200, Fairfax, Virginia 22030. I also worked for Legal Services of Northern Virginia focusing exclusively on housing and consumer law for approximately three years prior to joining Surovell Isaacs Petersen & Levy, PLC.

3. Since 2006, I have been and presently am a member in good standing of the Bar of the highest court of the State of Virginia, where I regularly practice law. Since 2007, I have been and presently am a member in good standing of the Bar of the highest courts of the District of

Columbia and since 2014 of Maryland. I am also admitted in the United States District Courts for the District of Columbia and Maryland.

4. Since 2007, my practice has been devoted to consumer protection litigation. Initially my experience focused on mortgage related litigation such as prosecuting mortgage servicing abuses and wrongful foreclosures through various state and federal causes of action. In this capacity, I have taught multiple Continuing Legal Education programs and trained attorneys, paralegals and housing counselors as part of Legal Services of Northern Virginia's Foreclosure Legal Assistance Program. I have litigated numerous mortgage related litigation matters in state and federal courts and have helped to craft legislation and testified before Virginia's General Assembly regarding various mortgage related and foreclosure reform bills.

5. My law firm has a genuine commitment to represent the most vulnerable – and often overlooked – consumers. We work with various legal aid organizations to help identify areas of need, where our firm can “step up” and meet those need through class action litigation or pro bono work. Many of these cases include seeking remedies for credit reporting errors or lending abuses.

6. I also have significant experience representing consumers in litigation under the Federal Consumer Credit Protection Act, 15 U.S.C. § 1601, *et seq.*, and in particular the Fair Credit Reporting Act, 15 U.S.C. § 1681, *et seq.*, the Equal Credit Opportunity Act, 15 U.S.C. § 1691, *et seq.*, the Real Estate Settlement Procedures Act, 12 U.S.C. § 2605, *et seq.*, and the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.*, particularly with each statutes overlap in the mortgage servicing and foreclosure and loss mitigation processes.

7. I have taught numerous Continuing Legal Education (CLE) programs for other attorneys throughout Virginia (for Virginia CLE, the Fairfax Bar, Alexandria Bar, and various

legal aid organizations) and nationally in the areas of consumer law, including mortgage servicing abuses, landlord tenant defense, dealing with debt collectors, understanding credit reports and the Fair Credit Reporting Act, defenses to foreclosure, discovery in federal court, leveraging settlements in mortgage cases, discovery for the Fair Credit Reporting Act and internet lending. I have also taught and trained lawyers on the intersection of credit reporting claims with mortgage related litigation and discovery strategies for the National Consumer Law Center and National Association of Consumer Advocates at its various conferences.

8. My peers have recognized me as a Super Lawyer and Super Lawyer Rising Star consistently for the past seven years. Additionally, I was selected to be a member of the Virginia Lawyers Weekly “Leader in the Law,” class of 2014. I serve on the Board of Directors for the Legal Aid Justice Center and Virginia Poverty Law Center. I am a former State Chair for Virginia of the National Association of Consumer Advocates and am currently a member of the Partners’ Council for the National Consumer Law Center and Board of Directors of the National Association of Consumer Advocates.

9. In each of the class cases where I have represented plaintiffs in a consumer protection case, including cases such as the instant case, the Court found me to be adequate class counsel. *See Tsvetovat, v. Segan, Mason, & Mason, PC*, Case No. 1:12-cv-510 (E.D. Va.); *Conley v. First Tennessee Bank*, Case No. 1:10-cv-1247 (E.D. Va.); *Dreher v. Experian Information Solutions, Inc.*, Case No. 3:11-cv-624 (E.D. Va.); *Shami v. Middle East Broadcast Network*, Case No. 1:13-cv-467 (E.D. Va.); *Goodrow v. Friedman & MacFadyen*, Case No. 3:11-cv-20 (E.D. Va.); *Kelly v. Nationstar*, Case No. 3:13-cv-311 (E.D. Va.); *Thomas v. Wittstadt*, Case No. 3:12-cv-450 (E.D. Va.); *Fariasantos v. Rosenberg & Associates, LLC*, No. 3:13-cv-543 (E.D. Va.); *Morgan v. McCabe Weisberg & Conway, LLC*, Case No. 3:14-cv-695 (E.D. Va.); *Burke v.*

Shapiro, Brown & Alt, LLP, Case No. 3:14-cv-838 (E.D. Va.); *Bartlow, et al., v Medical Facilities of America, Inc.*, Case No. 3:16-cv-573 (E.D. Va.); *Blocker v. Marshalls of MA, Inc.*, Case No. 1:14-cv-1940 (D.D.C.); *Ceccone v. Equifax Info. Servs., LLC*, Case No. 1:13-cv-1314 (D.D.C.); *Jenkins v. Equifax Info. Servs., LLC*, Case No. 1:15-cv-443 (E.D. Va.); *Ridenour v. Multi-Color Corporation*, Case No. 2:15-cv-00041 (E.D. Va.); *Hayes, et al. v. Delbert Services Corp.*, Case No. 3:14-cv-258 (E.D. Va.); *Campos-Carranza, et al. v. Credit Plus, Inc.*, Case No. 1:16-cv-120 (E.D. Va.); *Jenkins v. Realpage, Inc.*, 2:15-cv-1520 (E.D. Pa.); *Kelly v. First Advantage Background Services, Corp.*, 3:15-cv-5813 (D.N.J.); *Burke v. Seterus, Inc.*, 3:16-cv-785 (E.D. Va.); *Williams v. Corelogic Rental Property Solutions, LLC*, Case No. 8:16-cv-58 (D. Md.); *Clark v. Trans Union, LLC*, Case No. 3:15-cv-391 (E.D. Va.); and *Clark v. Experian Information Solutions, Inc.*, 3:16-cv-32 (E.D. Va.).

10. At Kelly Guzzo, PLC, we use MyCase billing software to contemporaneously record our time expended and costs advanced in client matters. Each month we forward our clients invoices detailing our time and expenses expended for the preceding calendar month.

11. My current hourly rate is \$450.00 per hour. This is the rate I charge most clients for representation in litigation matters and it is included in my retainer agreements that I transact with my clients. The majority of my work is contingent or brought under a fee-shifting statute so I will generally not charge my client a fee, but if I do engage in hourly work, my standard rate would be \$450.00 per hour. Because of my experience, my rate of \$450.00 per hour has always been approved in the District and Division where I have practiced, most recently in the *Clark* matter listed above.

12. Other attorneys from my firm that have worked on this case include Andrew Guzzo, Casey Nash, and Paisly Bender.

13. Andrew Guzzo was an associate at Surovell Isaacs Petersen & Levy, PLC and is currently is a partner at Kelly Guzzo, PLC. His current hourly rate is \$375.00 per hour. He graduated from law school at Washington & Lee University in 2011. The entire time he has been practicing law, he has practiced exclusively in the field of consumer protection litigation; litigating more than 300 hundred cases in federal court, including dozens of class actions. He is licensed to practice law in Virginia and Hawaii. He is the State Chair for Hawaii of the National Association of Consumer Advocates. He has also taught and trained lawyers, including class action training sessions for the National Association of Consumer Advocates, as well as trainings for the annual Virginia Legal Aid Conference and the Consumer Federation of America. He has been named a Super Lawyer Rising Star for the past several years.

14. Casey Nash was an associate at Consumer Litigation Associates, PC and is currently an associate at Kelly & Crandall, PLC. I supervise and work closely with Casey. Her current hourly rate is \$375.00 per hour. She graduated from law school at the Catholic University of America in 2012. The entire time she has been practicing law, she has practiced exclusively in the field of consumer protection litigation. She has significant federal litigation experience, including litigation of over 250 federal cases and dozens of complex, class-action cases. She is licensed to practice law in Virginia and Washington, D.C. She has been named a Super Lawyers' Rising Star in Virginia and Washington, D.C. for the past several years. She has also taught and trained lawyers, including providing training about the FCRA and other consumer protection statutes to legal aid organizations. She has been approved as class counsel in numerous class action cases, including some of the cases listed above, as well as several others that she litigated during her time at Consumer Litigation Associates. *See, e.g., Soutter v. Equifax Information Services, LLC*, 3:10-cv-107 (E.D. Va.); *James v. Experian Information Solutions, Inc.*, 3:12-cv-908 (E.D.

Va.); *Manuel v. Wells Fargo Nat'l Bank, N.A.*, No. 3:14-cv-00238 (E.D. Va.); *Milbourne v. JRK Residential Am., LLC*, 3:12-cv-00861 (E.D. Va.); *Thomas v. FTS USA, LLC*, No. 3:13-cv-825-REP (E.D. Va.).

15. Paisly Bender is also a lawyer at Kelly Guzzo, PLC. Her current hourly rate is \$375.00 per hour. Prior to joining the firm, she clerked for the Honorable Richard W. Pollack of the Hawai'i Supreme Court for two years. Ms. Bender attended George Mason University School of Law where she served as the Senior Research Editor for the *George Mason Law Review*. Following law school, Ms. Bender was a Law Fellow for the National Education Association's Office of General Counsel.

16. Julie Fitzgerald was a paralegal at Kelly Guzzo, PLC, with over twenty-nine years of paralegal experience. She received her Paralegal Certificate from Georgetown University in 1989. Her hourly rate was \$225.00 per hour.

17. Jennifer Doughton is a paralegal at Kelly Guzzo, PLC, with over five years of experience in the legal field. She graduated from Marymount University. Her current hourly rate is \$165.00 per hour.

18. Natalie Cahoon is a paralegal at Kelly Guzzo, PLC, with over two years of experience in the legal field. She graduated from the University of Maine. Her current hourly rate is \$165.00 per hour.

19. Generally, if a task does not take more than .1 (or six minutes), attorneys and paralegals at Kelly Guzzo, PLC will not bill for that task. This includes reviewing PACER ECFs, fielding brief telephone calls, responding to quick emails, etc.

20. I took the amount of time expended by each individual in the *Thomas* case and categorized it in a chart as best as practicable by the categories listed in what is attached as Exhibit

A. This time was taken from my law firm's billing software. The total amount of our attorney's fees from the *Thomas* case are \$136,680.00.

21. I am also class counsel in two other related class cases pending against Equifax outside of this District, *Jerman v. Equifax Information Services, LLC*, 1:17-cv-602 (D. HI.) and *Inscho v. Equifax Information Services, LLC*, 2:18-cv-790 (D. NV.), which are being settled as part of this settlement. I also took the time from these cases from my law firm's billing software and categorized it into charts, which are attached as Exhibits B and C, respectively. The total amount of our attorney's fees from the *Jerman* case are \$108,435.00, and the total amount of our attorney's fees from *Inscho* are \$57,735.00.

22. The total amount of our attorney's fees in all cases is \$302,850.00, none of which have been collected or otherwise paid. Based on my past experience, Class Counsel will collectively spend a significant additional amount of time after final approval in administering the settlement, responding to class member inquiries, and assisting the settlement administrator with disbursement issues.

23. I expect that a significant number of additional class members will contact us after final approval of the settlement and we will continue to expend time conferencing and corresponding with class members. For example, in the similar Trans Union settlement, my law firm has already spent over 245 hours corresponding, researching and conferencing with over 500 potential class members.

24. My law firm as also advanced \$9,423.17 for our portion of the litigation costs in *Jerman*; and \$5,841.96 for our portion of the litigation costs in *Inscho*. The total cost for all cases is \$15,265.13. These costs include filing and pro hac vice fees, process server fees, mediation costs, travel, federal express charges, land records research fees and expert witness fees.

25. I am familiar with the fees charged for attorneys with my experience and expertise and believe the rates of my law firm are consistent with the prevailing market rates in Virginia and for national class action work.

26. Kelly Guzzo, PLC was instrumental in many aspects of these three cases from their inception through settlement. Tasks that my firm completed in this case includes (1) personally interviewing and consulting with Plaintiff Inscho prior to filing the *Inscho* case and Plaintiff Jerman in the *Jerman* case; (2) engaging in extensive investigation of the claims before deciding to file these cases; (3) drafting and amending the Complaints in each of the cases; (4) drafting and serving discovery requests; (5) reviewing the extensive document productions made by Defendant; (6) serving and reviewing third-party discovery; (6) conducting numerous meet and confers regarding the discovery; (7) providing disclosures and documents for Plaintiffs; (8) attending multiple private mediations and settlement conferences; (9) negotiating a comprehensive class-action Settlement; (10) reviewing the preliminary approval papers filed with the Court; (11) fielding inquiries from Settlement Class members; and (12) drafting and filing the instant motion for attorneys' fees, costs, and class representative service awards.

27. In addition, there is still significant work to be done in the case, including responding to any class member objections about attorney's fees, preparing for and attending the final fairness hearing, continuing to respond to class member inquiries, and promoting the settlement to professional and government organizations, overseeing the mediation and arbitration processes and any changes to Equifax's public records reporting, and helping class members to submit claims to the mediation and binding arbitration processes. We have only included 125 hours into our fee request.

28. The time spent on this matter kept our firm from taking on other work. We

accepted this case on a contingent fee basis, bearing all the risk that Plaintiff would lose a vital motion or issue.

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

Signed this 22nd day of August, 2019.

/s/ Kristi C. Kelly

Thomas v. Equifax Information Services, LLC
TIME REPORT

CLASS COUNSEL:
Kelly Guzzo, PLC

	<u>Timekeeper</u>		<u>Description:</u>			(A) Attorney (P) Paralegal		TOTAL
	Kristi Kelly (A)	Andrew Guzzo (A)	Casey Nash (A)	Paisly Bender (A)	Julie Fitzgerald (P)	Natalie Cahoon (P)		
<u>Task</u>								
Case Assessment, Presuit Work, Drafting Complaint	10.00	8.00	0.00	0.00	0.00	0.00		
Correspondences and Administrative Work	5.00	5.00	4.00	0.00	0.00	12.00		
Discovery (includes drafting requests and reviewing Equifax's responses including documents, third party discovery, meet and confers)	0.00	0.00	0.00	0.00	0.00	0.00		
Court Appearances	8.50	0.00	0.00	0.00	0.00	0.00		
Mediation (includes preparation of submission to mediator) and Settlement Negotiations	53.00	19.00	42.00	0.00	0.00	0.00		
Preparation of Settlement Documents, including Motion for Preliminary Approval and Final Approval	37.00	12.00	25.00	0.00	0.00	0.00		
Class Member Contact and Settlement Administration	25.00	25.00	25.00	25.00	0.00	25.00		
Total Hours	138.50	61.00	96.00	25.00	0.00	37.00		357.50
Hourly Rate	450.00	375.00	375.00	375.00	225.00	165.00		
Individual Total Lodestar	\$62,325.00	\$22,875.00	\$36,000.00	\$9,375.00	\$0.00	\$6,105.00		\$136,680.00
Class Counsel Total Lodestar	\$136,680.00							

Jerman v. Equifax Information Services, LLC
TIME REPORT

CLASS COUNSEL:
Kelly Guzzo, PLC

	<u>Timekeeper</u>		<u>Description:</u>			(A) Attorney (P) Paralegal		TOTAL
	Kristi Kelly (A)	Andrew Guzzo (A)	Casey Nash (A)	Paisly Bender (A)	Julie Fitzgerald (P)	Natalie Cahoon (P)		
<u>Task</u>								
Case Assessment, Presuit Work, Drafting Complaint	12.00	27.00	0.00	10.00	0.00	15.00		
Correspondences and Administrative Work	25.00	18.00	12.00	0.00	17.00	22.00		
Discovery (includes drafting requests and reviewing Equifax's responses including documents, third party discovery, meet and confers)	50.00	65.00	0.00	22.00	0.00	57.00		
Court Appearances	0.00	6.20	0.00	0.00	0.00	0.00		
Mediation (includes preparation of submission to mediator) and Settlement Negotiations	0.00	0.00	0.00	0.00	0.00	0.00		
Preparation of Settlement Documents, including Motion for Preliminary Approval and Final Approval	0.00	0.00	0.00	0.00	0.00	0.00		
Class Member Contact and Settlement Administration	0.00	0.00	0.00	0.00	0.00	0.00		
Total Hours	87.00	89.20	12.00	32.00	17.00	94.00		331.20
Hourly Rate	450.00	375.00	375.00	375.00	225.00	165.00		
Individual Total Lodestar	\$39,150.00	\$33,450.00	\$4,500.00	\$12,000.00	\$3,825.00	\$15,510.00		\$108,435.00
Class Counsel Total Lodestar	\$108,435.00							

Inscho v. Equifax Information Services, LLC
TIME REPORT

CLASS COUNSEL:
Kelly Guzzo, PLC

	<u>Timekeeper</u>	<u>Description:</u>				<u>(A) Attorney</u> <u>(P) Paralegal</u>		
	Kristi Kelly (A)	Andrew Guzzo (A)	Casey Nash (A)	Paisly Bender (A)	Julie Fitzgerald (P)	Natalie Cahoon (P)	TOTAL	
<u>Task</u>								
Case Assessment, Presuit Work, Drafting Complaint	19.00	12.00	0.00	0.00	0.00	15.00		
Correspondences and Administrative Work	10.00	6.00	2.00	0.00	0.00	17.00		
Discovery (includes drafting requests and reviewing Equifax's responses including documents, third party discovery, meet and confers)	32.00	25.00	12.00	0.00	0.00	22.00		
Court Appearances	0.00	0.00	0.00	0.00	0.00	0.00		
Mediation (includes preparation of submission to mediator) and Settlement Negotiations	0.00	0.00	12.00	0.00	0.00	0.00		
Preparation of Settlement Documents, including Motion for Preliminary Approval and Final Approval	0.00	0.00	0.00	0.00	0.00	0.00		
Class Member Contact and Settlement Administration	0.00	0.00	0.00	0.00	0.00	0.00		
Total Hours	61.00	31.00	26.00	0.00	0.00	54.00	172.00	
Hourly Rate	450.00	375.00	375.00	375.00	225.00	165.00		
Individual Total Lodestar	\$27,450.00	\$11,625.00	\$9,750.00	\$0.00	\$0.00	\$8,910.00	\$57,735.00	
Class Counsel Total Lodestar	\$57,735.00							

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION**

CURT LEDBETTER,

*on behalf of himself and those
similarly situated*

Plaintiff,

v.

EQUIFAX INFORMATION SERVICES,
LLC.

Defendant.

Case No.: 5:18-cv-05177-PKH

DECLARATION OF DAVID A. CHAMI

In relation to the Plaintiff's application for attorneys' fees and costs related to the judgment in this case, and pursuant to the laws of the United States and under penalty of perjury, I declare:

1. I am an attorney duly licensed to practice in the State of Arizona. This declaration is based on personal knowledge of the matters set forth herein.
2. I am the attorney who represented Curt Ledbetter in a class action along with other Arkansas consumers in *Ledbetter v. Equifax Information Services, LLC.*, 5:18-cv-05177-PKH. In this litigation I have incurred a lodestar of \$137,500.00. My hourly rate is \$500.00 per hour and I reasonably expended 270 hours of attorney time in this case.
3. I have been licensed to practice in the State of Arizona since April 2010.
4. I graduated from the Sandra Day O'Connor College of Law in 2009.
5. I am the managing partner of the Price Law Group's litigation practice and have been so since 2014.

6. Price Law Group is a national consumer advocacy law firm, with offices across the country.
7. I have focused my practice primarily on Consumer Protection related cases since 2015 and have either acted as lead Counsel or as the supervising attorney in over 400 Consumer cases.
8. I represented Mr. Ledbetter at the customary fee in this action that I charge for all of my other clients.

Counsel's Experience

9. For the purposes of calculating attorneys' fees in this action, I have determined my reasonable hourly rate for my services in this district at \$500/hour.
10. On or about October 23, 2014 I was awarded \$400.00 per hour in Sullivan v. SRP case No. 2:12-cv-01810-SRB in the US District Court, District of Arizona.
11. My rate has incrementally increased over time as my trial experience has increased and my litigation practice has grown.
12. Since my fee award in the Sullivan matter I have tried to verdict more than one dozen cases.
13. The Judge awarded attorneys' fees in excess of two hundred eighty-six thousand dollars.
14. In 2014, I acted as lead counsel in an insurance bad faith case and obtained a jury verdict of \$952,000 in compensatory damages and \$1,904,000.00 in punitive damages. *Woodland Springs HOA v. Mid-Century Insurance Company, et al.*, (Case No. CV-2012-090967), Superior Court of Arizona, Maricopa County.
15. In 2018, I obtained summary judgment on both of Plaintiffs' claims under the Fair Credit Reporting Act (FCRA) and the Telephone Consumer Protection Act (TCPA). *Heard v. Nationstar Mortg. LLC*, (Case No. 2:16-cv-00694-MHH). Since the *ACA Int'l v. FCC*, 885 F.3d 687 (D.C. Cir. 2018) decision, the *Heard* decision has been cited by multiple courts.

16. In 2018 I obtained summary judgment in a consumer debt collection case under the Fair Debt Collection Practices Act (FDCPA). *Keli Parker v. Peters and Freedman* 8:17-cv-00667 (Central District CA, 2018).
17. In the *Paker* matter I was awarded \$500.00 per hour as a reasonable hourly rate for my attorneys' fees.
18. From June 2017 through April 2019, I was lead counsel in the Arizona class action suit against Equifax, *Wendy Espinoza v. Experian Information Solutions, Inc.*, CV-17-01977-PHX-DLR (District of Arizona), now settled.
19. Since 2014, I have recovered nearly twenty million dollars on behalf of my clients.
20. I am the state Co-Chair for the National Association of Consumer Advocates in Arizona.
21. I have been an active member of the National Association of Consumer Advocates since 2015.
22. There are a small number of consumer protection attorneys in the state of Arkansas.
23. I have been an instructor for Fair Credit Reporting Act CLE for NACA.
24. I am a Member of the Trial Lawyers College.
25. I was a member of American Association for Justice.
26. I successfully argued in front of the 9th Circuit Court of Appeal reversing the lower courts granting of summary judgment in favor of defendants. *Rodney Cable v. City of Phoenix et. Al.* 14-15037.
27. I am admitted in and regularly practice in most of the following Districts/Courts:
 - a. 9th Circuit Court of Appeals
 - b. Arizona Supreme Court
 - c. United States District Court of Arizona
 - d. United States District Court Eastern District of Michigan
 - e. United States District Court Southern District of Texas

- f. United States District Court Southern District of Indiana
 - g. United States District Court Northern District of Illinois
 - h. United States District Court Central District of Illinois
 - i. United States District Court Southern District of Illinois
 - j. United States District Court Western District of Arkansas
 - k. United States District Court Eastern District of Arkansas
 - l. United States District Court of Wisconsin
 - m. United States District Court District Northern District of Ohio
 - n. United States District Court of Colorado
28. Due to my extensive experience litigating credit reporting cases, I was able to quickly ascertain that the issue complained of by Mr. Ledbetter was likely suitable for class action.
29. The time and labor required to perform the tasks for which we have billed for are conservative and do not take into account the time of the Price Law Group administrative staff or associate attorneys who also contributed to our efforts.
30. Mr. Ledbetter, for his part, was always available to his attorneys and always cooperated to advance the needs of the case.
31. The fee arrangement in this case was based on a contingency fee and the Plaintiff has not been asked to advance any of the attorneys' fees or costs incurred in this case.
32. Our firm also incurred over \$550.00 in litigation costs and expenses related to deposition transcripts, filing and service fees. I further incurred travel related expenses \$2,500.00 for airfare and hotels for two separate settlement conferences. I am only including \$1,250.00 as part of this affidavit and will include the balance in the other related matter.

Respectfully submitted this 29th day of July 2019.

PRICE LAW GROUP, APC

By: /s/David A. Chami

David A. Chami, AZ #027585

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Attorneys for Plaintiff
Jimmy Price,
*for himself and on behalf of all
those similarly situated individuals*

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION**

JIMMY PRICE,
*on behalf of himself and those
similarly situated*

Plaintiff,

vs.

EQUIFAX INFORMATION SERVICES,
LLC.

Defendant.

Case No.: 4:18-cv-00236-SMR-SBJ

DECLARATION OF DAVID A. CHAMI

In relation to the Plaintiff's application for attorneys' fees and costs related to the judgment in this case, and pursuant to the laws of the United States and under penalty of perjury, I declare:

1. I am an attorney duly licensed to practice in the State of Arizona. This declaration is based on personal knowledge of the matters set forth herein.
2. I am one of the attorneys who represented Jimmy Price in a class action along with other Iowa consumers in *Price v. Experian Solutions, Inc.*, 4:18-cv-00236-SMR-SBJ. In this litigation I have incurred a lodestar of \$78,000.00_____. My hourly rate is \$500.00 per hour and I reasonably expended 156_____ hours of attorney time in this case.
3. I have been licensed to practice in the State of Arizona since April 2010.
4. I graduated from the Sandra Day O'Connor College of Law in 2009.
5. I am the managing partner of the Price Law Group's litigation practice and have been so since 2014.
6. Price Law Group is a national consumer advocacy law firm, with offices across the country.
7. I have focused my practice primarily on Consumer Protection related cases since 2015 and have either acted as lead Counsel or as the supervising attorney in over 400 Consumer cases.
8. I represented Mr. Price at the customary fee in this action that I charge for all of my other clients.

Counsel's Experience

9. For the purposes of calculating attorneys' fees in this action, I have determined my reasonable hourly rate for my services in this district at \$500/hour.
10. On or about October 23, 2014 I was awarded \$400.00 per hour in *Sullivan v. SRP* case No. 2:12-cv-01810-SRB in the US District Court, District of Arizona.
11. My rate has incrementally increased over time as my trial experience has increased and my litigation practice has grown.
12. Since my fee award in the *Sullivan* matter I have tried to verdict more than one dozen cases.

13. The Judge awarded attorneys' fees in excess of two hundred eighty-six thousand dollars.
14. In 2014, I acted as lead counsel in an insurance bad faith case and obtained a jury verdict of \$952,000 in compensatory damages and \$1,904,000.00 in punitive damages. *Woodland Springs HOA v. Mid-Century Insurance Company, et al.*, (Case No. CV-2012-090967), Superior Court of Arizona, Maricopa County.
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16. In 2018 I obtained summary judgment in a consumer debt collection case under the Fair Debt Collection Practices Act (FDCPA). *Keli Parker v. Peters and Freedman* 8:17-cv-00667 (Central District CA, 2018).
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20. I am the state Co-Chair for the National Association of Consumer Advocates in Arizona.
21. I have been an active member of the National Association of Consumer Advocates since 2015.
22. There are only a handful of consumer protection attorneys in the state of Arizona.
23. I have been an instructor for Fair Credit Reporting Act CLE for NACA.
24. I am a Member of the Trial Lawyers College.

25. I was a member of American Association for Justice.

26. I successfully argued in front of the 9th Circuit Court of Appeal reversing the lower courts granting of summary judgment in favor of defendants. *Rodney Cable v. City of Phoenix et. Al. 14-15037.*

27. I am admitted in and regularly practice in most of the following Districts/Courts:

- a. 9th Circuit Court of Appeals
- b. Arizona Supreme Court
- c. United States District Court of Arizona
- d. United States District Court Eastern District of Michigan
- e. United States District Court Southern District of Texas
- f. United States District Court Southern District of Indiana
- g. United States District Court Northern District of Illinois
- h. United States District Court Central District of Illinois
- i. United States District Court Southern District of Illinois
- j. United States District Court Western District of Arkansas
- k. United States District Court Eastern District of Arkansas
- l. United States District Court of Wisconsin
- m. United States District Court District Northern District of Ohio
- n. United States District Court of Colorado

28. Due to my extensive experience litigating credit reporting cases, I was able to quickly ascertain that the issue complained of by Mr. Price was likely suitable for class action.

29. Mr. Price, for his part, was always available to her attorneys and always cooperated to advance the needs of the case.

30. The fee arrangement in this case was based on a contingency fee and the Plaintiff has not been asked to advance any of the attorneys' fees or costs incurred in this case.

31. Our firm also incurred over \$600.00_____ in litigation costs and expenses for filing and service fees as well as other postage and printing costs. Travel related expenses exceeded \$1,250.00_____ for airfare and hotels for settlement conferences and depositions which I have pro-rated and accounted for in this declaration. _____

Respectfully submitted this 29th __day of July 2019.

PRICE LAW GROUP, APC.

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Attorneys for Plaintiff
Jimmy Price,
*for himself and on behalf of all
those similarly situated individuals*