

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

Steven L. Markos, Tiffany Davis,  
and Gregory Page, on behalf of  
themselves and all others similarly  
situated,

Plaintiffs,

v.

Wells Fargo Bank, N.A.,

Defendant,

Case No. 1:15-cv-01156-LMM

**CLASS COUNSEL'S MOTION FOR AN AWARD OF ATTORNEYS' FEES,  
COSTS, AND SERVICE AWARDS FOR CLASS REPRESENTATIVES**

Class Counsel respectfully move the Court for an award of (a) attorneys' fees and costs in the total amount of \$4,925,249, which is 30% of the \$16,417,496.70 non-reversionary cash Settlement Fund that Class Counsel obtained for the Class and (b) Service Awards to the three Class Representatives of \$20,000 each, for a total of \$60,000.<sup>1</sup>

As explained in the attached Memorandum and Declarations, the requested fees, costs and Service Awards are fair, reasonable, consistent with Eleventh Circuit law, and should be approved.

Accordingly, Class Counsel respectfully request that the Court:

1. award attorneys' fees and costs in the total amount of \$4,925,249, which is 30% of the \$16,417,496.70 Settlement Fund;
2. award Service Awards to the three Class Representatives of \$20,000 each, for a total of \$60,000, and
3. authorize co-lead Class Counsel to allocate the awarded fees and costs among Class Counsel.

Respectfully submitted,

---

<sup>1</sup> The Settlement is attached as Exhibit 1 to Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement (Dkt. No. 34-2). Unless otherwise stated, all capitalized terms in this Motion carry the same meaning as defined in the Settlement.

Dated: October 25, 2016.

LIEFF CABRASER HEIMANN &  
BERNSTEIN, LLP  
By: /s/ Daniel M. Hutchinson  
Daniel M. Hutchinson (*pro hac vice*)  
Email: [dhutchinson@lchb.com](mailto:dhutchinson@lchb.com)  
275 Battery Street, 29th Floor  
San Francisco, CA 94111-3339  
Telephone: (415) 956-1000  
Facsimile: (415) 956-1008

Jonathan D. Selbin (*pro hac vice*)  
Email: [jselbin@lchb.com](mailto:jselbin@lchb.com)  
250 Hudson Street, 8th Floor  
New York, NY 10013  
Telephone: (212) 355-9500  
Facsimile: (212) 355-9592

Andrew R. Kaufman (*pro hac vice*)  
Email: [akaufman@lchb.com](mailto:akaufman@lchb.com)  
150 Fourth Avenue North, Suite 1650  
Nashville, TN 37219  
Telephone: (615) 313-9000  
Facsimile: (615) 313-9965

BURKE LAW LLC

Alexander h. Burke (*pro hac vice*)  
155 N. Michigan Ave., Suite 9020  
Chicago, IL 60601  
(312) 729-5288  
(312) 729-5289 (fax)  
[Aburke@BurkeLawLLC.com](mailto:Aburke@BurkeLawLLC.com)

*Co-Lead Class Counsel*

SKAAR & FEAGLE, LLP

By: /s/ James M. Feagle  
Georgia Bar No. 256916  
[Jfeagle@skaarandfeagle.com](mailto:Jfeagle@skaarandfeagle.com)  
2374 Main Street, Suite B  
Tucker, GA 30084  
404 / 373-1970  
404 / 601-1855 fax

Justin T. Holcombe  
Georgia Bar No. 552100  
[jholcombe@skaarandfeable.com](mailto:jholcombe@skaarandfeable.com)  
Kris Skaar  
[krisskaar@aol.com](mailto:krisskaar@aol.com)  
133 Mirramont Lake Drive  
Woodstock, GA 30189  
770 / 427-5600  
404 / 601-1855 fax

MEYER WILSON CO., LPA  
Matthew R. Wilson (*pro hac vice*)  
Email: [mwilson@meyerwilson.com](mailto:mwilson@meyerwilson.com)  
Michael J. Boyle, Jr. (*pro hac vice*)  
Email: [mboyle@meyerwilson.com](mailto:mboyle@meyerwilson.com)  
1320 Dublin Road, Ste. 100  
Columbus, OH 43215  
Telephone: (614) 224-6000  
Facsimile: (614) 224-6066

LAW OFFICES OF DOUGLAS J.  
CAMPION, APC  
Douglas J. Champion (*pro hac vice*)  
Email: [doug@djcampion.com](mailto:doug@djcampion.com)  
17150 Via Del Campo, Suite 100  
San Diego, CA 92127  
Telephone: (619) 299-2091  
Facsimile: (619) 858-0034

KEOGH LAW, LTD.

Keith Keogh (*pro hac vice*)  
Email: [keith@koeghlaw.com](mailto:keith@koeghlaw.com)  
55 W. Monroe, Ste. 3390  
Chicago, IL 60603  
Telephone: 312-265-3258  
Facsimile: 312-726-1093

GREENWALD DAVISON RADBIL PLLC  
Michael L. Greenwald (*pro hac vice*)  
Email: [mgreenwald@gdrlawfirm.com](mailto:mgreenwald@gdrlawfirm.com)  
5550 Glades Rd., Suite 500  
Boca Raton, FL 33431  
Telephone: (561) 826-5477  
Facsimile: (561) 961-5684

Aaron D. Radbil (*pro hac vice*)  
Email: [aradbil@gdrlawfirm.com](mailto:aradbil@gdrlawfirm.com)  
106 East Sixth Street, Suite 913  
Austin, TX 78701  
Telephone: (512) 322-3912  
Facsimile: (561) 961-5684

KAZAROUNI LAW GROUP, APC  
Abbas Kazerounian (*pro hac vice*)  
Email: [ak@kazlg.com](mailto:ak@kazlg.com)  
245 Fischer Avenue, Unit D1  
Costa Mesa, CA 92626  
Telephone: (800) 400-6806  
Facsimile: (800) 520-5523

HYDE & SWIGART  
Joshua B. Swigart, Esq. (*pro hac vice*)  
[josh@westcoastlitigation.com](mailto:josh@westcoastlitigation.com)  
2221 Camino del Rio South, Suite 101  
San Diego, CA 92108  
Telephone: (619) 233-7770  
Facsimile: (619) 297-1022

*Additional Class Counsel*

**CERTIFICATE OF COMPLIANCE**

I hereby certify, pursuant to Local Rules 5.1.C and 7.1.D of the Northern District of Georgia, that the foregoing was prepared in 14-point Times New Roman Font.

October 25, 2016.

/s/ Andrew R. Kaufman

**CERTIFICATE OF SERVICE**

I hereby certify that on this day, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system, which will automatically send notification of such filing to all attorneys of record.

October 25, 2016.

/s/ Andrew R. Kaufman



**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

Steven L. Markos, Tiffany Davis,  
and Gregory Page, on behalf of  
themselves and all others similarly  
situated,

Plaintiffs,

v.

Wells Fargo Bank, N.A.,

Defendant,

Case No. 1:15-cv-01156-LMM

**MEMORANDUM IN SUPPORT OF CLASS COUNSEL'S  
MOTION FOR AN AWARD OF ATTORNEYS' FEES, COSTS, AND  
SERVICE AWARDS FOR CLASS REPRESENTATIVES**

## TABLE OF CONTENTS

	<b>Page</b>
I. INTRODUCTION .....	1
II. BACKGROUND .....	2
A. The Common Settlement Fund and Cash Payments to the Class .....	2
B. Class Counsel’s Prosecution of This Matter .....	4
III. ARGUMENT .....	6
A. Class Counsel Are Entitled to a Percentage of the Common Fund Created Through Their Efforts. ....	6
B. The Relevant Factors Support the Requested Fee. ....	9
1. Class Counsel Obtained an Excellent Result for the Class.....	11
2. Class Counsel Worked Hard to Secure Prompt Relief for the Class. ....	13
3. Class Counsel Are Experienced TCPA and Class Action Lawyers.....	14
4. Class Counsel Undertook the Litigation at Significant Risk with No Guarantee of Recovery.....	15
5. The Requested Fee Comports with Fees Awarded in Similar Cases, as well as Customary Fees in Contingent Commercial Litigation.....	20
C. The Class Representative Service Awards are Reasonable. ....	22
IV. CONCLUSION .....	23

**TABLE OF AUTHORITIES**

	<b>Page</b>
<b>Cases</b>	
<i>ACC Int’l v. FCC</i> , No. 15-1211 (D.C. Cir.).....	17
<i>Aliano v. Joe Caputo &amp; Sons—Algonquin, Inc.</i> , No. 09 C 910, 2011 WL 1706061 (N.D. Ill. May 5, 2011).....	18
<i>Allapattah Servs., Inc. v. Exxon Corp.</i> , 454 F. Supp. 2d 1185 (S.D. Fla. 2006).....	passim
<i>Allen v. JPMorgan Chase Bank, N.A.</i> , 13-cv-8285, Dkt. No. 93 (N.D. Ill. Oct. 21, 2015).....	21
<i>Behrens v. Wometco Enters., Inc.</i> , 118 F.R.D. 534 (S.D. Fla. 1988), <i>aff’d</i> , 899 F.2d 21 (11th Cir. 1990) .....	14
<i>Boeing Co. v. Van Gemert</i> , 444 U.S. 472 (1980) .....	7
<i>Camden I Condo. Ass’n, Inc. v. Dunkle</i> , 946 F.2d 768 (11th Cir. 1991) .....	passim
<i>Campbell-Ewald Co. v. Gomez</i> , 136 S. Ct. 663 (2016) .....	18
<i>Carpenters Health &amp; Welfare Fund v. Coca-Cola Co.</i> , 587 F. Supp. 2d 1266 (N.D. Ga. 2008) .....	7
<i>CE Design Ltd. v. Cy’s Crab House N., Inc.</i> , 1:07-cv-5456, Dkt. No. 424 (N.D. Ill. Oct. 21, 2011).....	21
<i>Chapman v. First Index, Inc.</i> , No. 09 C 5555, 2014 WL 840565 (N.D. Ill. Mar. 4, 2014), <i>aff’d in part</i> , 796 F.3d 783 (7th Cir. 2015).....	17
<i>Columbus Drywall &amp; Insulation, Inc. v. Masco Corp.</i> , No. 1:04-v-3066, 2012 WL 12540344 (N.D. Ga. Oct. 26, 2012).....	6, 7
<i>Craft v. North Seattle Cmty. College Found.</i> , No. 07-cv-132, Dkt. No. 135 (M.D. Ga. Sept. 2, 2010).....	9, 20
<i>Craftwood Lumber Co. v. Interline Brands, Inc.</i> , No. 11-CV-4462, 2015 WL 1399367 (N.D. Ill. Mar. 23, 2015).....	23

**TABLE OF AUTHORITIES**  
(continued)

	<b>Page</b>
<i>Cummings v Sallie Mae</i> , 12 C-9984 (N.D. Ill. May 30, 2014).....	21
<i>Desai v. ADT Sec. Servs., Inc.</i> , 1:11-cv-1925, Dkt. No. 243 (N.D. Ill. June 21, 2013) .....	21
<i>Dresdner Bank AG v. M/V Olympia Voyager</i> , 446 F.3d 1377 (11th Cir. 2006) .....	9
<i>Guarisma v. ADCAHB Med. Coverages, Inc.</i> , No. 13-cv-21016, Dkt. No. 95 (S.D. Fla. June 24, 2015) .....	20
<i>Gutierrez v. Wells Fargo Bank</i> , No. C 07-05923 WHA (N.D. Cal.).....	19
<i>Hageman v. AT&amp;T Mobility LLC, et al.</i> , 1:13-cv-50, Dkt. No. 68 (D. Mont. Feb. 11, 2015) .....	21, 23
<i>Hanley v. Fifth Third Bank</i> , 1:12-cv-01612, Dkt. No. 86 (N.D. Ill. Dec. 23, 2013) .....	21
<i>Holtzman v. CCH</i> , 1:07-cv-7033, Dkt. No. 33 (N.D. Ill. Sept. 30, 2009) .....	21
<i>Ikuseghan v. Multicare Health Sys.</i> , No. No. C14-5539, 2016 WL 4363198 (W.D. Wash. Aug. 16, 2016) .....	21
<i>In re Capital One Tel. Consumer Protection Act Litig.</i> , 80 F. Supp. 3d 781 (N.D. Ill. 2015).....	21
<i>In re Checking Account Overdraft Litig.</i> , 830 F. Supp. 2d 1330 (S.D. Fla. 2011).....	passim
<i>In re Domestic Air Transp. Antitrust Litig.</i> , 148 F.R.D. 297 (N.D. Ga. 1993) .....	passim
<i>In re Sunbeam Sec. Litig.</i> , 176 F. Supp. 2d 1323 (S.D. Fla. 2001).....	16
<i>In re: Healthtronics Surgical Servs., Inc. Sec. Litig.</i> , No. 03-cv-02800, Dkt. No. 62 (N.D. Ga. Dec. 1, 2005) .....	20
<i>In re: Managed Care Litig.</i> , No. 00-1334, 2003 WL 22850070 (S.D. Fla. Oct. 24, 2003).....	20
<i>In re: Profit Recovery Grp. Int’l, Inc. Sec. Litig.</i> , No. 00-cv-01416, Dkt. No. 203 (N.D. Gal. May 26, 2005) .....	20

**TABLE OF AUTHORITIES**  
(continued)

	<b>Page</b>
<i>Ingram v. The Coca-Cola Co.</i> , 200 F.R.D. 685 (N.D. Ga. 2001) .....	22
<i>Johnson v. Ga. Hwy. Exp., Inc.</i> , 488 F.2d 714 (5th Cir. 1974) .....	9
<i>Jones v. I.Q. Data Int’l, Inc.</i> , No. 1:14-cv-00130, 2015 WL 5704016 (D.N.M. Sept. 23, 2015) .....	23
<i>Local 703, I.B. of T. Grocery &amp; Food Emps. Welfare Fund v. Regions Fin. Corp.</i> , No. 2:10-CV-02847, 2015 WL 5626414 (N.D. Ala. Sept. 14, 2015) .....	20
<i>Locklear Elec., Inc. v. Norma L. Lay</i> , No. 3:09-cv-00531, Dkt. No. 67 (S.D. Ill. Sept. 8, 2010) .....	21
<i>Martin v. Dun &amp; Bradstreet, Inc. et al</i> , No. 1:12-cv-00215, Dkt. No. 63 (N.D. Ill. Jan. 16, 2014) .....	21, 23
<i>Pinto v. Princess Cruise Lines, Ltd.</i> , 513 F. Supp. 2d 1334 (S.D. Fla. 2007) .....	11, 21
<i>Prater v. Medicredit, Inc.</i> , No. 4:14-cv-00159, 2015 WL 8331602 (E.D. Mo. Dec. 7, 2015) .....	23
<i>Soto v. The Gallup Org.</i> , No. 13-cv-61747, Dkt. No. 95 (S.D. Fla. Nov. 24, 2015) .....	20
<i>Spokeo v. Robins</i> , 136 S. Ct. 1540 (2016) .....	18
<i>Tyson Foods, Inc. v. Bouaphakeo</i> , 136 S. Ct. 1036 (2016) .....	18
<i>Vendervort v. Balboa Capital Corp.</i> , 8 F. Supp. 3d 1200 (C.D. Cal. 2014) .....	21
<i>Waters v. Int’l Precious Metals Corp.</i> , 190 F.3d 1291 (11th Cir. 1999) .....	1, 8, 9, 20
<i>Wolff v. Cash 4 Titles</i> , No. 03-cv-22778, 2012 WL 5290155 (S.D. Fla. Sept. 26, 2012) .....	20
<b>Rules</b>	
Fed. R. Civ. P. 23(h) .....	8
Fed. R. Civ. P. 54(d)(1) .....	8

**TABLE OF AUTHORITIES**  
**(continued)**

**Page**

**Regulations**

*In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, 23 F.C.C.R. 559, 23 FCC Rcd. 559, 43 Communications Reg. (P&F) 877, 2008 WL 65485 (F.C.C.).....16

*In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, 30 F.C.C.R. 7961, 30 FCC Rcd. 7961, 62 Communications Reg. (P&F) 1539, 2015 WL 4387780 (F.C.C.) *pet. for rev. pending*, *ACC Int’l v. FCC*, No. 15-1211 (D.C. Cir.) .....5

**Treatise**

Rubenstein, *Newberg on Class Action* § 16:1 (5th ed. 2016) .....8

## **I. INTRODUCTION**

Class Counsel respectfully move the Court for an award of: (a) attorneys' fees and costs in the total amount of \$4,925,249, which is 30% of the \$16,417,496.70 non-reversionary cash Settlement Fund that Class Counsel obtained for the Class (costs included); and (b) Service Awards to the three Class Representatives of \$20,000 each, for a total of \$60,000. Class counsel respectfully submit that the requested fees and Service Awards are fair, reasonable, consistent with Eleventh Circuit law, and should be approved.<sup>1</sup>

Class Counsel seek attorneys' fees under the percentage-of-the-fund method, which, under long-standing and controlling Circuit authority, is the appropriate method for calculating and awarding fees in a common fund settlement like this. *See Camden I Condo. Ass'n, Inc. v. Dunkle*, 946 F.2d 768, 775 (11th Cir. 1991). Moreover, courts in this Circuit have long held that 30% of the common fund plus costs is appropriate. *See Waters v. Int'l Precious Metals Corp.*, 190 F.3d 1291, 1294-95 (11th Cir. 1999) (affirming where the district court identified 30% plus costs as the benchmark and adjusted upward due to circumstances of the case).

---

<sup>1</sup> The Settlement is attached as Exhibit 1 to Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement (Dkt. No. 34-2). Unless otherwise stated, all capitalized terms in this Memorandum carry the same meaning as defined in the Settlement.

Consistent with this authority, Class Counsel seek 30% of the non-reversionary cash Settlement Fund, inclusive of, and not in addition to, their costs. The relevant factors confirm that Class Counsel's request is well-supported.

The Service Awards are also well-justified for each Class Representative's efforts on behalf of the Class, including their refusal to accept Rule 68 offers of judgment so they could instead pursue a Class recovery, as they ultimately did.

For these reasons, and as detailed below, Class Counsel respectfully submit that the fee request and Service Awards are well-supported and should be approved.

## **II. BACKGROUND**

### **A. The Common Settlement Fund and Cash Payments to the Class**

The Settlement requires Wells Fargo to fund a non-reversionary cash Settlement Fund of \$16,417,496.70. Settlement at ¶ 4.04; Dkt. No. 38-1 (Supp. Hutchinson Decl.) at ¶¶ 3-9. Each Class Member who submits a simple claim form online, by phone, or by mail will receive a Cash Award. Settlement at ¶¶ 4.05, 4.06.<sup>2</sup> Under no circumstances will any amount of the Settlement Fund revert to Wells Fargo.

---

<sup>2</sup> The Class is composed of two Subclasses, Subclass One for persons called in connection with a Residential Mortgage Loan from November 17, 2011 to February 29, 2016, and Subclass Two for persons called in connection with a  
*Footnote continued on next page*



The amount of each Cash Award is the claiming Class Member's *pro rata* share of the Settlement Fund, after payment of attorneys' fees, costs of notice and claims administration, and Service Awards. *Id.* at ¶¶ 4.05, 4.06. Although it is not possible to predict the precise amount of the Cash Awards until all claims have been submitted and verified, Class Counsel, based on their experience in similar TCPA class actions, conservatively estimated that each Cash Award will be in the range of \$25 to \$75. Ex. A (Hutchinson Decl.) at ¶ 25. Class Counsel will provide the Court with a report on the final claims numbers and estimated payment per Class Member with the Motion for Final Approval.

If uncashed checks permit a second *pro rata* distribution equal to or greater than \$1.00 per qualifying claimant, the Claims Administrator will make a second *pro rata* distribution to Settlement Class Members who cashed settlement checks. Settlement at ¶ 7.04(e). Only if a second distribution is not made, or if checks remain uncashed after the second distribution, will the uncashed amount be distributed *cy pres* to Habitat for Humanity, subject to Court approval. *Id.* at ¶ 7.04(f); Dkt. No. 38-1 (Supp. Hutchinson Decl.) at ¶¶ 10-13.

---

*Footnote continued from previous page*

Home Equity Loan from April 14, 2011 to February 29, 2016. *Id.* at ¶¶ 2.13, 2.33. A person who is a member of both Subclasses is eligible to make two claims on the Settlement Fund and receive two Cash Awards. *Id.* at ¶ 4.05.

Although it is early in the Claims Period, initial estimates suggest that the claims rate may be high relative to similar settlements, and may even exceed the claims-rate estimates in the Motion for Preliminary Approval and the Class Notice. Ex. A (Hutchinson Decl.) at ¶ 40.

**B. Class Counsel's Prosecution of This Matter**

Class Counsel worked hard to obtain the substantial, all-cash, non-reversionary Settlement Fund for the Class. Since 2012, co-lead Class Counsel and additional Class Counsel together engaged in a comprehensive litigation strategy to pursue class action TCPA claims against Wells Fargo. Ex. A (Hutchinson Decl.) at ¶ 28. Before filing the *Markos*, *Page*, and *Davis* actions, Class Counsel thoroughly researched and investigated Wells Fargo's practices and Plaintiffs' legal claims by, among other things, interviewing Class Members, reviewing Class Members' pertinent documents and information, including account applications and agreements, and researching relevant TCPA case law and regulations. This information was critical to Class Counsel's understanding of the nature of the Class's claims and the scope of potential damages and remedies, particularly because the TCPA legal landscape is in a state of flux. *Id.* at ¶ 29; *see also, e.g., In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, 30 F.C.C.R. 7961, 30 FCC Rcd. 7961, 62

Communications Reg. (P&F) 1539, 2015 WL 4387780 (F.C.C.) (“2015 Declaratory Ruling”), *pet. for rev. pending, ACC Int’l v. FCC*, No. 15-1211 (D.C. Cir.).

After filing the cases, the parties agreed to explore mediation in large part because Class Counsel’s extensive pre-filing investigation and expertise from dozens of TCPA class actions, including TCPA class actions against Wells Fargo itself, prepared them to navigate an effective—and efficient—resolution of this litigation. Ex. A (Hutchinson Decl.) at ¶ 30. To facilitate mediation, the parties conducted significant informal discovery, including review and analysis of Wells Fargo’s call data and 3,245 pages of key documents. *Id.* at ¶ 31. Concurrent with settlement negotiations, Class Counsel continued to speak with scores of Class Members about their experiences and problems with Wells Fargo’s telephone calls. *Id.* at ¶ 32.

The Settlement was reached only after good faith, contentious, arms’-length negotiations. All settlement discussions took place under the direction of Hunter R. Hughes, an experienced and well-respected private mediator. *Id.* at ¶ 33. To facilitate mediation, the parties submitted detailed mediation submissions setting forth their respective views on the cases. *Id.* at ¶ 34.

The parties participated in an all-day, in-person mediation with Mr. Hughes on January 13, 2016. *Id.* at 35. Although the mediation was productive, the parties were unable to reach a resolution at that time. *Id.* at ¶ 36. After further negotiations<sup>1</sup>, an MOU was executed on January 25, 2016. *Id.* at ¶ 37. With Mr. Hughes' assistance, the parties continued to negotiate the terms of the Settlement Agreement over the course of several months, until a final Settlement Agreement was executed on June 10, 2016. *Id.* The parties initiated additional confirmatory discovery to confirm the Final Class Size, including a deposition of Darrell Hunt, Wells Fargo's corporate representative most knowledgeable about the size of the Settlement Class, which was taken on July 13, 2016. *Id.* at ¶ 38.

### **III. ARGUMENT**

#### **A. Class Counsel Are Entitled to a Percentage of the Common Fund Created Through Their Efforts.**

It is well established that, when a representative party has conferred a substantial benefit upon a class, counsel is entitled to an allowance of attorneys' fees based upon the benefit obtained. *See, e.g., Camden 1 Condo. Ass'n*, 946 F.2d at 771; *Columbus Drywall & Insulation, Inc. v. Masco Corp.*, No. 1:04-v-3066, 2012 WL 12540344, at \*1 (N.D. Ga. Oct. 26, 2012); *In re Checking Account Overdraft Litig.*, 830 F. Supp. 2d 1330, 1358 (S.D. Fla. 2011). The common benefit doctrine "rests on the perception that persons who obtain the benefit of a

lawsuit without contributing to its costs are unjustly enriched at the successful litigant's expense.” *In re Domestic Air Transp. Antitrust Litig.*, 148 F.R.D. 297, 349 (N.D. Ga. 1993) (quoting *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980)). Furthermore, “in order to encourage ‘private attorney general’ class actions brought to enforce laws on behalf of persons with small individual losses, a financial incentive is necessary to entice capable attorneys, who otherwise could be paid regularly by hourly-rate clients, to devote their time to complex, time-consuming cases for which they may never be paid.” *Columbus Drywall*, 2012 WL 12540344, at \*1 (internal quotation marks and alterations omitted).

Where, as in this case, Class Counsel's efforts result in a common, all-cash fund that provides direct monetary payments to the Class, attorneys' fees are determined as a percentage of the fund that Class Counsel's efforts created for the Class's benefit. *See Camden I Condo. Ass'n*, 946 F.2d at 774 (“[A]ttorneys' fees awarded from a common fund shall be based upon a reasonable percentage of the fund established for the benefit of the class.”).

This Court has substantial discretion in determining the appropriate fee percentage awarded to counsel, within a specified range. *See, e.g., Carpenters Health & Welfare Fund v. Coca-Cola Co.*, 587 F. Supp. 2d 1266, 1268-69 (N.D. Ga. 2008) (“[T]here is no hard and fast rule mandating a certain percentage of a

common fund which may reasonably be awarded as a fee because the amount of any fee must be determined upon the facts of the case.”) (quoting *Camden I Condo. Ass’n*, 946 F.2d at 774). Nevertheless, “[t]he majority of common fund fee awards fall between 20 percent to 30 percent of the fund,” although “an upper limit of 50 percent of the fund may be stated as a general rule, though even larger percentages have been awarded.” *Camden I Condo. Ass’n*, 946 F.2d at 774-75; *see also Waters*, 190 F.3d at 1294-95 (explaining that “[*Camden I*] directed district courts to view this range as a ‘benchmark,’” and affirming where the district court identified 30% as the benchmark and adjusted upward due to circumstances of the case).

In addition to a percentage of the fund in fees, Class Counsel are entitled to reimbursement of out-of-pocket costs advanced for the Class. *See, e.g., In re Domestic Air Transp.*, 148 F.R.D. at 306; Rubenstein, Newberg on Class Actions § 16:1 (5th ed. 2016). Class Counsel may recover the taxable costs recoverable by any prevailing party, *see* Fed. R. Civ. P. 54(d)(1), and also “nontaxable costs that are authorized by law or by the parties’ agreement.” Fed. R. Civ. P. 23(h).

In this case, Class Counsel, although entitled to percentage of the fund as fees *plus* expenses, seek 30% of the fund *inclusive* of expenses.<sup>3</sup> The requested award is well within the norm in this Circuit and should be approved. *See, e.g., Waters*, 190 F.3d at 1294-95 (approving 33 1/3%); *In re Checking Account Overdraft Litig.*, 830 F. Supp. 2d at 1365 (“Numerous recent decisions within this Circuit have awarded attorneys’ fees up to (and at times in excess of) 30 percent”).

**B. The Relevant Factors Support the Requested Fee.**

The Eleventh Circuit has identified a list of factors potentially relevant in determining the appropriate percentage to be awarded as a fee. First are twelve factors identified in *Johnson v. Ga. Hwy. Exp., Inc.*, 488 F.2d 714, 717-19 (5th Cir. 1974):<sup>4</sup> (1) the time and labor required; (2) the novelty and difficulty of the questions involved; (3) the skill requisite to perform the legal service properly; (4) the preclusion of other employment by the attorney due to acceptance of the case;

---

<sup>3</sup> Class Counsel request that the Court determine an aggregate fee and costs award and give co-lead Class Counsel the authority to allocate among Class Counsel. *See Craft v. North Seattle Cmty. College Found.*, No. 07-cv-132, Dkt. No. 135 (M.D. Ga. Sept. 2, 2010) (“At the appropriate time, Class Counsel, in its discretion but subject to any agreements with counsel for the Class, shall allocate and distribute this award of Attorneys’ Fees among counsel for the Class.”); *In re Domestic Air Transp.*, 148 F.R.D. at 357 (“Ideally, allocation is a private matter to be handled among class counsel.”).

<sup>4</sup> *Camden I* looked to *Johnson* because “decisions of the former Fifth Circuit rendered before October 1, 1981, are binding on this circuit.” *Dresdner Bank AG v. M/V Olympia Voyager*, 446 F.3d 1377, 1381 n.1 (11th Cir. 2006).

(5) the customary fee; (6) whether the fee is fixed or contingent; (7) the time limitations imposed by the client or the circumstances; (8) the amount involved and the results obtained; (9) the experience, reputation, and ability of the attorneys; (10) the “undesirability” of the case; (11) the nature and length of the professional relationship with the client; and (12) awards in similar cases. *Camden I Condo. Ass’n*, 946 F.2d at 772 n.3, 776. “Other pertinent factors are the time required to reach a settlement, whether there are any substantial objections by class members or other parties to the settlement terms or the fees requested by counsel, any non-monetary benefits conferred upon the class by the settlement, and the economics involved in prosecuting a class action. In most instances, there will also be additional factors unique to a particular case which will be relevant to the district court’s consideration.” *Id.* at 775.

As is evident from the number of factors identified, district courts are not required to evaluate each and every factor. Rather, “[t]he district court’s reasoning should identify all factors upon which it relied and explain how each factor affected its selection of the percentage of the fund awarded as fees.” *Id.*; *see also In re Checking Account Overdraft Litig.*, 830 F. Supp. 2d at 1359 (“These factors are merely guidelines[.]”). Here, the relevant factors demonstrate that the requested fee award is reasonable and should be granted.



**1. Class Counsel Obtained an Excellent Result for the Class.**

The eighth *Johnson* factor—“the amount involved and the results obtained”—is “the most important factor,” recognizing as it does that “a fee award should reflect the relief obtained.” *Allapattah Servs., Inc. v. Exxon Corp.*, 454 F. Supp. 2d 1185, 1204-05 (S.D. Fla. 2006); *see also Pinto v. Princess Cruise Lines, Ltd.*, 513 F. Supp. 2d 1334, 1342 (S.D. Fla. 2007) (“The result achieved is a major factor to consider in making a fee award.”); *In re Domestic Air Transp.*, 148 F.R.D. at 351 (“The most important element in determining the appropriate fee to be awarded class counsel out of a common fund is the result obtained for the class through the efforts of such counsel.”). The Settlement is a terrific result for the Class and supports the 30% fee request that is well within the typical range.

The Settlement requires Wells Fargo to pay \$16,417,496.70 into a non-reversionary cash Settlement Fund that will result in estimated payments of between \$25 and \$75 for Class Members who submit a simple claim form. That result is excellent when measured against twenty-five years of TCPA settlements:<sup>5</sup>

Caption	Amount	Class Members
<i>Gehrich v. Chase Bank USA, N.A.</i> , No. 12 C 5510, 2016 WL 806549 (N.D. Ill. Mar. 3, 2016), <i>appeal filed</i>	\$34 million	More than 32 million
<i>Arthur v. Sallie Mae Inc.</i> , No. 10-cv-00198 (W.D.	\$24.15	7,792,256

<sup>5</sup> *See* Ex. A (Hutchinson Decl.) at ¶ 27.

Wash.)	million	
<i>Malta v. Fed. Home Loan Mortg. Corp.</i> , No. 10-cv-1290, 2013 WL 444619 (S.D. Cal. Feb. 5, 2013)	\$17.1 million	5,887,508
<i>Duke v. Bank of Am., N.A.</i> , No. 5:12-cv-04009 (N.D. Cal.)	\$32,083,905	7,723,860
<i>Connor v. JPMorgan Chase Bank</i> , No. 10 CV 1284 (S.D. Cal.)	\$11,665,592.09	2,684,518
<i>Wilkins v. HSBC Bank Nev., N.A.</i> , No. 14-cv-190 (N.D. Ill.)	\$39,975,000	9,065,262
<i>In re Capital One Tel. Consumer Protection Act Litig.</i> , No. 12-cv-10064 (N.D. Ill.)	\$75,455,098	16,645,221
<i>Kramer v. Autobytel</i> , No. 10-cv-02722, 2012 U.S. Dist. LEXIS 185800 (N.D. Cal. Jan. 27, 2012)	\$12.2 million	47 million
<i>Adams v. AllianceOne Receivables Mgmt. Inc.</i> , No. 08-cv-00248 (S.D. Cal.)	\$9 million	More than 6,079,411

Notable on that list is the *Malta* case, which, like this case, involved Wells Fargo mortgage debt collection calls. This case yields a per-class-member recovery that is approximately *40% higher* than what the class received in *Malta*.<sup>6</sup>

Most importantly, the Settlement provides Class Members with real monetary relief, despite the fact that this is a purely statutory damages case involving nominal economic damages or actual damages (such as harassment and invasion of privacy) that are difficult to quantify. This Settlement provides direct, monetary benefits to Class Members who realistically would not have filed their

---

<sup>6</sup> \$4.95 per Class Member here vs. \$2.90 in *Malta*.

own individual lawsuits because each Class Member's case would have been too small to bring on its own.

**2. Class Counsel Worked Hard to Secure Prompt Relief for the Class.**

The first *Johnson* factor measures Class Counsel's efforts at securing the result for the Class. Those considerations support the fee requested here.

Class Counsel worked hard to obtain the substantial, all-cash, non-reversionary Settlement Fund for the Class. This case and the Settlement are part of a carefully-crafted global litigation strategy to pursue class action TCPA claims against Wells Fargo. Before filing the *Markos*, *Page*, and *Davis* actions, Counsel thoroughly investigated Wells Fargo's practices and Plaintiffs' claims. That investigation and research was critical to Class Counsel's understanding of the claims and remedies at issue, in particular because the TCPA legal landscape is in a state of flux. *See* 2015 Declaratory Ruling.

Before the parties went to mediation, the court in the *Page* action denied Wells Fargo's motion to strike the class allegations; Class Counsel conducted significant informal discovery, including review of Wells Fargo's call data and 3,245 pages of key documents; and both parties submitted detailed mediation briefs. The Settlement was reached only after months of good faith, contentious, arms'-length negotiations under the direction of Hunter R. Hughes, an experienced

and well-respected private mediator. After the Settlement was reached, Class Counsel conducted additional confirmatory discovery, including a Rule 30(b)(6) deposition of Wells Fargo's corporate representative.

The quality of those efforts is best evidenced by the result: a large, all-cash, non-reversionary Settlement Fund that compares very favorably with similar large TCPA class settlements. *See Behrens v. Wometco Enters., Inc.*, 118 F.R.D. 534, 547-48 (S.D. Fla. 1988), *aff'd*, 899 F.2d 21 (11th Cir. 1990) ("The quality of work performed in a case that settles before trial is best measured by the benefit obtained."). Just as important, Class Counsel's pre-filing investigation and approach to mediation resulted in a Settlement *now*, rather than after years of litigation.

**3. Class Counsel Are Experienced TCPA and Class Action Lawyers.**

An important factor in favor of the requested fee is Class Counsel's experience, reputation, and ability. *See Allapattah Servs.*, 454 F. Supp. 2d at 1209 ("Courts in this circuit routinely emphasis this factor in calculating percentage fee awards."). Class Counsel are experienced class action litigators who have successfully prosecuted complex consumer cases, and who are particularly skilled and experienced in litigating TCPA class actions. Ex. A (Hutchinson Decl.) at ¶¶ 3-13; Ex. B (Burke Decl.) at ¶¶ 2-11; Ex. C (Keogh Decl.) at ¶¶ 15-54; Ex. D

(Feagle Decl.) at ¶¶ 6-27; Ex. E (Wilson Decl.) at ¶¶ 1-5; Ex. F (Campion Decl.) at ¶¶ 4-10; Ex. G (Greenwald Decl.) at ¶¶ 7-26; Ex. H (Kazarounian Decl.) at ¶¶ 5-27; Ex. I (Swigart Decl.) at ¶¶ 5-13. Collectively, they have been involved in literally every major piece of TCPA litigation involving banks and debt collectors, and have recovered over \$280 million in non-reversionary cash for class members in those cases. Ex. A (Hutchinson Decl.) at ¶¶ 6, 13; Ex. B (Burke Decl.) at ¶¶ 2-6; Ex. C (Keogh Decl.) at ¶¶ 15-23; Ex. D (Feagle Decl.) at ¶¶ 21, 24; Ex. E (Wilson Decl.) at ¶ 3; Ex. F (Campion Decl.) at ¶¶ 8-10; Ex. G (Greenwald Decl.) at ¶¶ 7-9; Ex. H (Kazarounian Decl.) at ¶¶ 7-9; Ex. I (Swigart Decl.) at ¶¶ 7-9.

Moreover, although Class Counsel seek fees based on a percentage-of-the-fund method (as appropriate in this Circuit), they nonetheless worked closely and in cooperation with one another to divide tasks, ensure efficient case management, and prevent duplication of efforts. By assigning specific tasks among firms, they were able to capitalize on their expertise and obtain the best and most efficient resolution to this matter. Ex. A (Hutchinson Decl.) at ¶ 43.

**4. Class Counsel Undertook the Litigation at Significant Risk with No Guarantee of Recovery.**

Class Counsel prosecuted this matter entirely on a contingent fee basis, *id.* at ¶¶ 45-47, “assum[ing] a significant risk of nonpayment or underpayment.” *In re Checking Account Overdraft Litig.*, 830 F. Supp. 2d at 1364. That factor supports

the requested fee. *See id.* (“Numerous cases recognize that the contingent fee risk is an important factor in determining the fee award.”); *In re Sunbeam Sec. Litig.*, 176 F. Supp. 2d 1323, 1335 (S.D. Fla. 2001) (“A contingency fee arrangement often justifies an increase in the award of attorneys’ fees.”) (citation omitted); *In re Domestic Air Transp.*, 148 F.R.D. at 356 (awarding a fee multiplier where “Class Counsel have borne the entire risk of failing to achieve a successful and substantial result for the class.”).

The risk of diminished or no recovery was substantial because the parties have real disputes on a number of issues relating to both class certification and the merits of Plaintiffs’ claims, including issues that were teed up for resolution in the Supreme Court at the time these cases were filed. First, Wells Fargo contends that “prior express consent” can be given whenever a customer provides a cell phone number to the defendant as a contact number. *See In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, 23 F.C.C.R. 559, 23 FCC Rcd. 559, 43 Communications Reg. (P&F) 877, 2008 WL 65485 (F.C.C.) (hereinafter “2008 Declaratory Ruling”) (declaring that cell phone numbers must be “provided during the transaction that resulted in the debt owed”). Although Plaintiffs take a narrower view of “transaction,” if the Court adopted

Wells Fargo's view, the amount of recoverable damages could be reduced significantly or eliminated altogether.

Second, Plaintiffs maintain that the FCC correctly determined that consent provided by a customer does not transfer to other customers called at the same number. *See* 2015 Declaratory Ruling. Wells Fargo disagrees, and argues that that a pending petition to the D.C. Circuit will overturn the FCC Order. *See ACC Int'l v. FCC*, No. 15-1211 (D.C. Cir.).

Third, while Plaintiffs continue to believe that class certification would be appropriate, Wells Fargo argues that class certification outside the context of settlement would be inappropriate due to the question of whether Settlement Class Members consented to the calls at issue. *See Chapman v. First Index, Inc.*, No. 09 C 5555, 2014 WL 840565, at \*2 (N.D. Ill. Mar. 4, 2014) (citing cases), *aff'd in part*, 796 F.3d 783 (7th Cir. 2015) ("Courts are split on whether the issue of individualized consent renders a TCPA class uncertifiable on predominance and ascertainability grounds, with the outcome depending on the specific facts of each case."). If Wells Fargo were able to present convincing facts to support its position, there is a risk that the Court would decline to certify the class, leaving only the named Plaintiffs to pursue their individual claims.

Fourth, at least some courts view awards of aggregate, statutory damages with skepticism and reduce such awards on due process grounds. *See, e.g., Aliano v. Joe Caputo & Sons—Algonquin, Inc.*, No. 09 C 910, 2011 WL 1706061, at \*4 (N.D. Ill. May 5, 2011) (“[T]he Court cannot fathom how the minimum statutory damages award for willful FACTA violations in this case — between \$100 and \$1,000 per violation — would not violate Defendant’s due process rights . . . . Such an award, although authorized by statute, would be shocking, grossly excessive, and punitive in nature.”).

Fifth, Wells Fargo contends that Plaintiffs may lack standing to pursue their claims after *Spokeo v. Robins*, 136 S. Ct. 1540 (2016). *Spokeo* was pending when the *Markos*, *Davis*, and *Page* actions were filed and remained pending during settlement talks. Class Counsel were at risk of recovery nothing at all throughout the litigation had *Spokeo* come down as many expected.

Sixth, other Supreme Court cases in the past term had the possibility of resulting in no recovery here. In *Campbell-Ewald Co. v. Gomez*, 136 S. Ct. 663 (2016), the Court considered (and ultimately rejected) the argument that an unaccepted Rule 68 offer of judgment could moot a named plaintiff’s claim and prevent her from pursuing a class action. And in *Tyson Foods, Inc. v. Bouaphakeo*, 136 S. Ct. 1036 (2016), the Court considered (though ultimately did not decide)



whether and when a plaintiff must show that each class member suffered the alleged injury.

Finally, there was the ever-present risk of losing a jury trial. And, even if Plaintiffs did prevail, any recovery would be delayed for years by an appeal.<sup>7</sup> Any potential statutory recovery in this case would likely be impossible to recover as a practical matter due in part to the fact that Wells Fargo would have every incentive to litigate appeals of any such judgment over many years. Class Counsel believe that they could have prevailed on these issues, but success was by no means assured. Each of these issues presented an acute and case-dispositive risk that the Class would receive nothing. Yet, despite the risks of recovering nothing for the Class, Class Counsel procured a \$16,417,496.70 all-cash settlement.

---

<sup>7</sup> Wells Fargo was specifically aware that Class Counsel were willing to take cases to trial and on appeal, with all of the attendant risk. In *Gutierrez v. Wells Fargo Bank*, No. C 07-05923 WHA (N.D. Cal.), Lief Cabraser, following years of litigation and a two-week trial, secured an order in August 2010 holding that Wells Fargo violated California law by improperly and illegally assessing overdraft fees on its California customers and ordering \$203 million in restitution to the certified class. Following Wells Fargo's appeal, in December 2012 the Ninth Circuit issued an opinion upholding and reversing portions of Judge Alsup's order, and remanding the case to the District Court for further proceedings. In May 2013, Judge Alsup reinstated the \$203 million judgment against Wells Fargo and imposed post-judgment interest bringing the total award to nearly \$250 million. On October 29, 2014, the Ninth Circuit affirmed the Judge Alsup's order reinstating the judgment. Wells Fargo sought certiorari, which was not finally denied until April 4, 2016.

**5. The Requested Fee Comports with Fees Awarded in Similar Cases, as well as Customary Fees in Contingent Commercial Litigation.**

The requested fee of 30%, inclusive of expenses, is well within the typical range in this Circuit. *Waters*, 190 F.3d at 1294-95 (affirming 33 1/3% fees, plus costs); *Craft*, No. 07-cv-132, Dkt. No. 135 (awarding 33 1/3%, plus costs); *In re Checking Account Overdraft Litig.*, 830 F. Supp. 2d at 1365 (“Numerous recent decisions within this Circuit have awarded attorneys’ fees up to (and at times in excess of) 30 percent.”); *Wolff v. Cash 4 Titles*, No. 03-cv-22778, 2012 WL 5290155, at \*6 (S.D. Fla. Sept. 26, 2012) (collecting cases and concluding that 33% is consistent with the market rate in class actions).<sup>8</sup> Moreover, the requested fee is well within the norm for fees awarded in TCPA class actions, in this Circuit and elsewhere. *See Soto v. The Gallup Org.*, No. 13-cv-61747, Dkt. No. 95 (S.D. Fla. Nov. 24, 2015) (awarding 33 1/3%, inclusive of costs); *Guarisma v. ADCAHB*

---

<sup>8</sup> *See also, e.g., Local 703, I.B. of T. Grocery & Food Emps. Welfare Fund v. Regions Fin. Corp.*, No. 2:10-CV-02847, 2015 WL 5626414, at \*1-2 (N.D. Ala. Sept. 14, 2015) (awarding 30%, plus costs); *Allapattah Servs.*, 454 F. Supp. 2d at 1204 (awarding 31 1/3%, with costs to be awarded in a future order); *In re: Healthtronics Surgical Servs., Inc. Sec. Litig.*, No. 03-cv-02800, Dkt. No. 62 (N.D. Ga. Dec. 1, 2005) (awarding 33% plus costs); *In re: Profit Recovery Grp. Int’l, Inc. Sec. Litig.*, No. 00-cv-01416, Dkt. No. 203 (N.D. Gal. May 26, 2005) (awarding 33 1/3%, plus costs); *In re: Managed Care Litig.*, No. 00-1334, 2003 WL 22850070, at \*6 (S.D. Fla. Oct. 24, 2003) (awarding 35.5% in fees and costs).

*Med. Coverages, Inc.*, No. 13-cv-21016, Dkt. No. 95 (S.D. Fla. June 24, 2015) (awarding 33 1/3%, plus costs).<sup>9</sup>

The requested fee is also less than fees typical in commercial complex litigation. *See Pinto*, 513 F. Supp. 2d at 1341 (“In private litigation, attorneys regularly contract for contingent fees between 30% and 40% directly with their clients.”); *Allapattah Servs.*, 454 F. Supp. 2d at 1209 (“A fee of 31 and 1/3% to Class Counsel is well within the range of customary fees.”). And, of course, in

---

<sup>9</sup> *See also, e.g., Hageman v. AT&T Mobility LLC, et al.*, 1:13-cv-50, Dkt. No. 68 (D. Mont. Feb. 11, 2015) (awarding 33%, inclusive of costs); *Ikuseghan v. Multicare Health Sys.*, No. C14-5539, 2016 WL 4363198, at \*2 (W.D. Wash. Aug. 16, 2016) (awarding 30%, plus costs); *In re Capital One Tel. Consumer Protection Act Litig.*, 80 F. Supp. 3d 781, 803-807 (N.D. Ill. 2015) (awarding a modified fee structure including 36% of the first \$10 million, and 25% of the next \$10 million); *Vendervort v. Balboa Capital Corp.*, 8 F. Supp. 3d 1200, 1210 (C.D. Cal. 2014) (awarding 33%); *Allen v. JPMorgan Chase Bank, N.A.*, 13-cv-8285, Dkt. No. 93 (N.D. Ill. Oct. 21, 2015) (awarding 33%, inclusive of costs); *Cummings v Sallie Mae*, 1:12-cv-9984, Dkt. No. 91 (N.D. Ill. May 30, 2014) (awarding 33%, inclusive of costs); *Hanley v. Fifth Third Bank*, 1:12-cv-01612, Dkt. No. 86 (N.D. Ill. Dec. 23, 2013) (awarding 33%, inclusive of costs); *Desai v. ADT Sec. Servs., Inc.*, 1:11-cv-1925, Dkt. No. 243 (N.D. Ill. June 21, 2013) (awarding 33%, inclusive of costs); *Martin v. Dun & Bradstreet, Inc. et al*, No. 1:12-cv-00215, Dkt. No. 63 (N.D. Ill. Jan. 16, 2014) (awarding more than 33 1/3%); *Locklear Elec., Inc. v. Norma L. Lay*, No. 3:09-cv-00531, Dkt. No. 67 (S.D. Ill. Sept. 8, 2010) (awarding 33 1/3%, plus costs); *CE Design Ltd. v. Cy's Crab House N., Inc.*, 1:07-cv-5456, Dkt. No. 424 (N.D. Ill. Oct. 21, 2011) (awarding 33%, plus costs); *Holtzman v. CCH*, 1:07-cv-7033, Dkt. No. 33 (N.D. Ill. Sept. 30, 2009) (awarding 33%, inclusive of costs).

private litigation, the client typically pays out-of-pocket costs; here, Class Counsel request a fee *inclusive* of, not in addition to, such costs.

**C. The Class Representative Service Awards are Reasonable.**

Courts “routinely approve incentive awards to compensate named plaintiffs for the services they provided and the risks they incurred during the course of the class action litigation.” *Ingram v. The Coca-Cola Co.*, 200 F.R.D. 685, 694 (N.D. Ga. 2001) (citation omitted) (awarding \$300,000 service payments to each of four representative plaintiffs); *see also Allapattah Servs.*, 454 F. Supp. 2d at 1218 (“Incentive awards are not uncommon in class litigation where, as here, a common fund has been created for the benefit of the class.”).

The requested service awards of \$20,000 to each Class Representative are reasonable and should be approved, especially in light of the fact that each Class Representative received, and refused, a Rule 68 offer of judgment from Wells Fargo. Ex. A (Hutchinson Decl.) at ¶ 50. Each Class Representative received multiple calls from Wells Fargo, each potentially justifying \$1,500 in statutory damages. Dkt. No. 36 (First Amended Class Action Complaint) at ¶¶ 35-75. Each Class Representative therefore put the Class’s interests before his or her own, rejecting offers of judgment that likely would have compensated them more than the requested service awards. For example, on October 14, 2015, Wells Fargo

served an offer of judgment providing Dr. Page \$46,501 inclusive of attorney fees. Dr. Page chose not to accept that offer, but instead proceed on behalf of the class. *See* Ex. C (Keogh Decl.) at ¶ 5.

The requested awards are also consistent with awards in other TCPA settlements. *See Craftwood Lumber Co. v. Interline Brands, Inc.*, No. 11-CV-4462, 2015 WL 1399367, at \*6 (N.D. Ill. Mar. 23, 2015) (collecting cases and approving \$25,000 service award to TCPA class representative); *Martin v. Dun & Bradstreet, Inc.*, No. 1:12-cv-215, 2014 WL 9913504, at \*3 (N.D. Ill. Jan. 16, 2014) (approving \$20,000 service award to TCPA class representative); *Benzion*, No. 12-61826, Dkt. No. 201 (awarding \$20,000 incentive award in TCPA class settlement); *Prater v. Medicredit, Inc.*, No. 4:14-cv-00159, 2015 WL 8331602, at \*4 (E.D. Mo. Dec. 7, 2015) (awarding \$20,000 in TCPA class settlement where class representative declined offer of judgment); *Jones v. I.Q. Data Int'l, Inc.*, No. 1:14-cv-00130, 2015 WL 5704016, at \*2 (D.N.M. Sept. 23, 2015) (same); *Hageman*, 1:13-cv-50, Dkt. No. 68 (awarding \$25,000 incentive award in TCPA class settlement).

#### **IV. CONCLUSION**

Class Counsel respectfully request that the Court (a) award attorneys' fees and costs in the total amount of \$4,925,249, which is 30% of the \$16,417,496.70

Settlement Fund (inclusive of costs); (b) award Service Awards to the three Class Representatives of \$20,000 each, for a total of \$60,000; and (c) authorize co-lead Class Counsel to allocate the awarded fees and costs among Class Counsel.

Respectfully submitted,

Dated: October 25, 2016.

LIEFF CABRASER HEIMANN &  
BERNSTEIN, LLP  
By: /s/ Daniel M. Hutchinson  
Daniel M. Hutchinson (*pro hac vice*)  
Email: [dhutchinson@lchb.com](mailto:dhutchinson@lchb.com)  
275 Battery Street, 29th Floor  
San Francisco, CA 94111-3339  
Telephone: (415) 956-1000  
Facsimile: (415) 956-1008

Jonathan D. Selbin (*pro hac vice*)  
Email: [jselbin@lchb.com](mailto:jselbin@lchb.com)  
250 Hudson Street, 8th Floor  
New York, NY 10013  
Telephone: (212) 355-9500  
Facsimile: (212) 355-9592

Andrew R. Kaufman (*pro hac vice*)  
Email: [akaufman@lchb.com](mailto:akaufman@lchb.com)  
150 Fourth Avenue North, Suite 1650  
Nashville, TN 37219  
Telephone: (615) 313-9000  
Facsimile: (615) 313-9965

BURKE LAW LLC

Alexander h. Burke (*pro hac vice*)  
155 N. Michigan Ave., Suite 9020

Chicago, IL 60601  
(312) 729-5288  
(312) 729-5289 (fax)  
[Aburke@BurkeLawLLC.com](mailto:Aburke@BurkeLawLLC.com)

*Co-Lead Class Counsel*

SKAAR & FEAGLE, LLP  
By: /s/ James M. Feagle  
Georgia Bar No. 256916  
[Jfeagle@skaarandfeagle.com](mailto:Jfeagle@skaarandfeagle.com)  
2374 Main Street, Suite B  
Tucker, GA 30084  
404 / 373-1970  
404 / 601-1855 fax

Justin T. Holcombe  
Georgia Bar No. 552100  
[jholcombe@skaarandfeagle.com](mailto:jholcombe@skaarandfeagle.com)  
Kris Skaar  
[krissskaar@aol.com](mailto:krissskaar@aol.com)  
133 Mirramont Lake Drive  
Woodstock, GA 30189  
770 / 427-5600  
404 / 601-1855 fax

MEYER WILSON CO., LPA  
Matthew R. Wilson (*pro hac vice*)  
Email: [mwilson@meyerwilson.com](mailto:mwilson@meyerwilson.com)  
Michael J. Boyle, Jr. (*pro hac vice*)  
Email: [mboyle@meyerwilson.com](mailto:mboyle@meyerwilson.com)  
1320 Dublin Road, Ste. 100  
Columbus, OH 43215  
Telephone: (614) 224-6000  
Facsimile: (614) 224-6066

LAW OFFICES OF DOUGLAS J.  
CAMPION, APC

Douglas J. Champion (*pro hac vice*)  
Email: [doug@djcampion.com](mailto:doug@djcampion.com)  
17150 Via Del Campo, Suite 100  
San Diego, CA 92127  
Telephone: (619) 299-2091  
Facsimile: (619) 858-0034

KEOGH LAW, LTD.  
Keith Keogh (*pro hac vice*)  
Email: [keith@koeghlaw.com](mailto:keith@koeghlaw.com)  
55 W. Monroe, Ste. 3390  
Chicago, IL 60603  
Telephone: 312-265-3258  
Facsimile: 312-726-1093

GREENWALD DAVISON RADBIL PLLC  
Michael L. Greenwald (*pro hac vice*)  
Email: [mgreenwald@gdrlawfirm.com](mailto:mgreenwald@gdrlawfirm.com)  
5550 Glades Rd., Suite 500  
Boca Raton, FL 33431  
Telephone: (561) 826-5477  
Facsimile: (561) 961-5684

Aaron D. Radbil (*pro hac vice*)  
Email: [aradbil@gdrlawfirm.com](mailto:aradbil@gdrlawfirm.com)  
106 East Sixth Street, Suite 913  
Austin, TX 78701  
Telephone: (512) 322-3912  
Facsimile: (561) 961-5684

KAZAROUNI LAW GROUP, APC  
Abbas Kazerounian (*pro hac vice*)  
Email: [ak@kazlg.com](mailto:ak@kazlg.com)  
245 Fischer Avenue, Unit D1  
Costa Mesa, CA 92626  
Telephone: (800) 400-6806  
Facsimile: (800) 520-5523



**HYDE & SWIGART**

Joshua B. Swigart, Esq. (*pro hac vice*)

[josh@westcoastlitigation.com](mailto:josh@westcoastlitigation.com)

2221 Camino del Rio South, Suite 101

San Diego, CA 92108

Telephone: (619) 233-7770

Facsimile: (619) 297-1022

*Additional Class Counsel*

**CERTIFICATE OF COMPLIANCE**

I hereby certify, pursuant to Local Rules 5.1.C and 7.1.D of the Northern District of Georgia, that the foregoing was prepared in 14-point Times New Roman Font.

October 25, 2016.

/s/ Andrew R. Kaufman

**CERTIFICATE OF SERVICE**

I hereby certify that on this day, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system, which will automatically send notification of such filing to all attorneys of record.

October 25, 2016.

/s/ Andrew R. Kaufman

# **EXHIBIT A**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

Steven L. Markos, Tiffany Davis,  
and Gregory Page, on behalf of  
themselves and all others similarly  
situated,

Plaintiffs,

v.

Wells Fargo Bank, N.A.,

Defendant,

Case No. 1:15-cv-01156-LMM

**DECLARATION OF DANIEL M. HUTCHINSON IN  
SUPPORT OF CLASS COUNSEL'S MOTION  
FOR AN AWARD OF ATTORNEYS' FEES, COSTS, AND  
SERVICE AWARDS FOR CLASS REPRESENTATIVES**

Pursuant to 28 U.S.C. § 1746, I, Daniel M. Hutchinson, declare as follows:

1. I am a partner in the law firm of Lief Cabraser Heimann & Bernstein, LLP ("LCHB"), Court-appointed co-lead Class Counsel in this matter. I am a member in good standing of the bar of the State of California;

the United States District Courts for the Central, Northern, and Southern Districts of California; the United States District Court for the Eastern District of Wisconsin; and the U.S. Courts of Appeals for the First, Third, Fourth, and Ninth Circuits.

2. I have been one of the lawyers responsible for the prosecution of Plaintiffs' claims on behalf of the Class. I respectfully submit this declaration in support of Class Counsel's Motion for an Award of Attorneys' Fees, Costs, and Service Awards for Class Representatives. Except as otherwise noted, I have personal knowledge of the facts set forth in this declaration, and could testify competently to them if called upon to do so.

**I. BACKGROUND AND EXPERIENCE**

3. LCHB is a national law firm with offices in San Francisco, New York, Nashville, and Seattle. LCHB's practice focuses on complex and class action litigation involving product liability, consumer, employment, financial, securities, environmental, and personal injury matters. Attached as Exhibit 4 to the Memorandum in Support of Plaintiffs' Unopposed Motion for Preliminary Approval (Dkt. No. 34-10) is a true and correct copy of LCHB's current firm resume, showing some of the firm's experience in complex and class action litigation and a short biographical summary of each LCHB attorney's

educational background, employment history, publications and presentations, and awards and honors. This resume is not a complete listing of all cases in which LCHB has been class counsel or otherwise counsel of record.

4. I graduated from Brown University in 1999. I served as a judicial extern to the Honorable Martin J. Jenkins, U.S. District Court, Northern District of California, in 2004. I graduated from the University of California at Berkeley, Boalt Hall School of Law in 2005.

5. Since 2005, I have practiced with LCHB, where I became a partner in January 2011. At LCHB, I have focused on focused on representing plaintiffs in consumer and financial fraud cases, and employment litigation.

**B. Actions Under the Telephone Consumer Protection Act**

6. LCHB has actively and successfully litigated—and has specifically been at the forefront of—class action lawsuits under the Telephone Consumer Protection Act (“TCPA”). TCPA cases in which LCHB has served as Class Counsel and in which I played a lead role include the following:

a. In September 2012, the court approved a \$24.15 million class settlement against Sallie Mae, the then-largest monetary settlement in the history of the TCPA. *See Arthur v. Sallie Mae, Inc.*, No. C10-0198 JLR, 2012 U.S. Dist. LEXIS 132413 (W.D. Wash. Sept. 17, 2012).

b. I, along with other attorneys from my firm and co-counsel, served as counsel in *Rose v. Bank of Am. Corp.*, 5:11-cv-02390-EJD (N.D. Cal.), and *Duke v. Bank of Am., N.A.*, 5:12-cv-04009-EJD (N.D. Cal.). On August 29, 2014, the Court approved a \$32,083,905 class settlement, which surpassed the *Sallie Mae* settlement as the largest monetary settlement in the history of the TCPA.

c. I, along with other attorneys from my firm and co-counsel, served as counsel in *In re Capital One Telephone Consumer Protection Act Litigation*, Master Docket No. 1:12-cv-10064 (N.D. Ill.). On February 12, 2015, the court approved a \$75,455,098.74 class settlement.

d. I, along with other attorneys from my firm and co-counsel, served as counsel in *Wilkins v. HSBC Bank Nev., N.A.*, Case No. 14-cv-190 (N.D. Ill.). On February 27, 2015, the court approved a \$39,975,000 class settlement. In approving the settlement Judge James F. Holderman commented on “the excellent work” and “professionalism” of LCHB and its co-counsel in securing a \$39.975 million non-reversionary cash settlement in that TCPA class action.

e. I, along with other attorneys from my firm and co-counsel, served as counsel in *Connor v. JPMorgan Chase Bank*, Case No. 10 CV 1284



DMS BGS (S.D. Cal. Mar. 12, 2012), a nationwide TCPA class action. On February 5, 2015, the court approved a \$11,665,592.09 class settlement.

f. I, along with other attorneys from my firm and co-counsel, served as counsel in *Thomas v. Dun & Bradstreet Credibility Corp.*, Case No. 2:15-cv-03194-BRO-GJS (C.D. Cal.). On September 27, 2016, the court preliminarily approved a \$10.5 million cash settlement for a class of small business owners who received telemarketing calls.

g. I, along with other attorneys from my firm and co-counsel, served as counsel in the nationwide TCPA class actions *Bradley v. Discover Financial Services*, Case No. 4:11-cv-5746-YGR (N.D. Cal.), and *Steinfeld v. Discover Financial Services*, Case No. 3:12-cv-01118-JSW (N.D. Cal.). In March 2014, the court approved an \$8.7 million class settlement.

h. I, along with other attorneys from my firm and co counsel, serve as counsel in *Ossola v. American Express Co., et al.*, Case No. 1:13-CV-4836 (N.D. Ill). On July 6, 2015, the court preliminarily approved two separate class settlements of \$8.25 million and \$1 million each.

i. m. I, along with other attorneys from my firm and co-counsel, serve as counsel in *Smith v. State Farm Mutual Auto. Ins. Co., et al.*,

Case No. 1:13-cv-02018 (N.D. Ill.). On August 10, 2015, the court preliminarily approved a \$7 million settlement.

j. I, along with other attorneys from my firm and co-counsel, served as counsel in *Bayat v. Bank of the West*, Case 3:13-cv-02376-EMC (N.D. Cal.). On April 15, 2015, the court approved a \$3,354,745.98 settlement.

k. I, along with other attorneys from my firm and co-counsel, served as counsel in *Wannemacher v. Carrington Mortgage Services LLC*, Case No. 8:12-cv-02016-FMO-AN (C.D. Cal.). On December 22, 2014, the court approved a \$1.035 million settlement.

l. In addition to the foregoing, I currently serve as co-lead counsel in the following cases under the TCPA:

i. *Pritchard v. Comenity Bank*, Case No. 2:15-cv-05994-KM-MAH (D.N.J.) (pending);

ii. *Brown v. Directv LLC*, Case No. 2:13-cv-01170-DMG-E (C.D. Cal.) (pending);

iii. *Jenkins v. National Grid USA, et al.*, Case No. 2:15-cv-01219-JS-GRB (E.D.N.Y.) (pending); and

iv. *Rice-Redding v. Nationwide Mutual Automobile Ins. Co.*, Case No. 1:16-cv-03634-TCB (N.D. Ga.) (pending).

**C. Consumer Protection Class Actions**

7. As an LCHB partner, my practice has focused on a number of nationwide consumer protection class actions.

a. I, along with other attorneys from my firm, served as chair of the Plaintiffs Executive Committee in *In re: Bank of Am. Credit Protection Mktg. & Sales Practices Litig.*, 3:11-md-02269-TEH (N.D. Cal.), multi-district litigation (“MDL”) against Bank of America and FIA Card Services, challenging the imposition of charges for so-called “payment protection” or “credit protection” programs. In January 2013, the Court approved a \$20 million settlement including required practice changes.

b. I was co-lead counsel in *Yarger v. ING Bank, fsb*, Civil Action No. 1:11-cv-00154-LPS (D. Del.), representing consumers who charge that ING Direct breached its promise to allow them to refinance their home mortgages for a fixed flat fee of \$500 or \$750, and instead charged a higher fee of one-monthly mortgage payment for refinancing. In 2012, the court certified a class of consumers in ten states who purchased or retained an ING mortgage during the class period. On October 7, 2014, the court approved a \$20,350,000 class settlement.

8. Prior to my elevation to partner, I participated in successful litigation of a wide variety of other complex federal and state consumer class actions during my professional career. Class action cases I have successfully prosecuted to judgment or settlement, in addition to the foregoing, include: *Sutter Health Uninsured Pricing Cases*, Case No. J.C.C.P. 4388 (Sacramento Super. Ct.) (lead class counsel in consumer class action that resulted in over \$275 million settlement and comprehensive pricing and collections policy changes for uninsured patients across all Sutter hospitals); *Catholic Healthcare West Cases*, Case No. J.C.C.P. 4453 (San Francisco County Super. Ct.) (lead class counsel in consumer class action that resulted in over \$423 million settlement and pricing and collections policy changes for uninsured patients across all CHW hospitals); *Scripps Health Cases*, Case No. IC859468 (S.D. Super. Ct.) (lead class counsel in consumer class action that resulted in over \$73 million settlement and pricing and collections policy changes for uninsured patients at Scripps hospitals); *John Muir Uninsured Healthcare Cases*, Case No. J.C.C.P. 4494 (Contra Costa County Super. Ct.) (lead class counsel in consumer class action that resulted in over \$113 million settlement and pricing and collections policy changes for uninsured patients at John Muir hospitals); *Cincotta v. California Emergency Physicians Medical Group*, No. 07359096

(Cal. Supr. Ct.) (lead class counsel in consumer class action that resulted in over \$27 million settlement and pricing and collections policy changes, including complete debt elimination—100% cancellation of the bill, for nearly 100,000 uninsured patients who alleged they were charged excessive and unfair rates for emergency room service across 55 hospitals throughout California.

**D. Antitrust and Securities Actions**

9. I have also served as Class Counsel in several antitrust and other financial fraud actions.

a. I served, with my co-counsel, as Lead Counsel in *Haley Paint Co. v. E.I. Dupont De Nemours and Co. et al.*, No. 10-cv-00318-RDB (N.D. Md.), a certified nationwide class action lawsuit on behalf of direct purchasers of titanium dioxide charging that defendants conspired to fix, raise, and maintain the price of titanium dioxide in the United States. In November 2013, the court approved class settlements with four defendants totaling \$163.5 million.

10. As an LCHB associate, I played a significant role in several antitrust and securities actions, including:

a. I, along with other attorneys from my firm and co-counsel, served as Plaintiffs' counsel in *Quantegy Recording Solutions, LLC, et al. v.*

*Toda Kogyo Corp., et al.*, No. C-02-1611 (PJH), antitrust litigation against manufacturers, producers, and distributors of magnetic iron oxide (“MIO”). In August 2006 and January 2009, the court approved settlements totaling \$6.35 million.

b. I have also successfully litigated complex individual actions, including *Alaska State Department of Revenue v. America Online*, No. 1JU-04-503 (Alaska Supr. Ct.) (co-counsel in securities fraud action brought by the Alaska State Department of Revenue, Alaska State Pension Investment Board and Alaska Permanent Fund Corporation that settled for \$50 million December 2006).

**E. Employment Class Actions**

11. As an LCHB partner, I have gained extensive experience in the litigation, trial, and settlement of complex employment class actions as Class Counsel in several cases.

a. I served as co-lead counsel in *Vedachalam v. Tata Am. Int’l Corp.*, Case No. 3:06-cv-00963-CW (N.D. Cal.), a case on behalf of a certified class of over 13,000 foreign nationals working in the United States who were denied promised wages and benefits. In July 2013, the court approved a \$29.75 million nationwide class settlement.

b. I served as co-lead counsel in *Ellis v. Costco Wholesale Corp.*, No. 04-03341-EMC (N.D. Cal.), a case on behalf of two certified classes of female employees charging that Costco discriminates against women in promotions to management positions. On May 27, 2014, the Court approved a class settlement requiring changes to Costco's promotion process and establishing an \$8 million settlement fund.

c. I, along with other attorneys from my firm and co-counsel, represented plaintiffs who contracted with MHN Government Services, Inc., to provide counseling services through the Department of Defense to military members and their families. The case was venued in the United States District Court for the Northern District of California. In April 2016, an arbitrator approved a class settlement in the matter, which resulted in payment of \$7,433,109.19 to class members.

d. I served as co-lead counsel in *Martin v. Bohemian Club*, Case No. SCV-258731 (Sonoma Super. Ct.), a wage-and-hour case on behalf of approximately 664 individuals who worked as seasonal camp valets. On September 28, 2016, the court approved a \$7 million class settlement.

e. I, along with other attorneys from my firm and co-counsel, served as co-lead counsel in *Holloway v. Best Buy*, No. C05-5056-PJH (N.D.

Cal.), representing a class of current employees of Best Buy that alleged Best Buy stores nationwide discriminated against women, African Americans, and Latinos. In November 2011, the Court approved a settlement of the class action in which Best Buy agreed to changes to its personnel policies and procedures that will enhance the equal employment opportunities of the tens of thousands of women, African Americans, and Latinos employed by Best Buy nationwide.

f. I, along with other attorneys from my firm and co-counsel, am court-appointed co-lead counsel in *Tatum v. R.J. Reynolds Tobacco Co.*, Case No. 1:02 CV 373 (M.D. N.C.), a class action on behalf of approximately 3,500 participants in the RJR pension plan who brought claims under the Employee Retirement Income Security Act of 1974 (“ERISA”). In February 2010, I, along with co-counsel, completed a five-week trial in this matter. Following a successful appeal to the Fourth Circuit Court of Appeals, *see Tatum v. RJR Pension Inv. Comm.*, 761 F.3d 346 (4th Cir. 2014), the matter has not yet resolved.

12. In addition to the foregoing, prior to my elevation to partner I participated in successful litigation of a wide variety of other complex federal and state employment class actions during my professional career.



a. I, along with other attorneys from my firm and co-counsel, served as co-lead counsel in *Cruz v. U.S., Estados Unidos Mexicanos, Wells Fargo Bank, et al.*, No. 01-0892-CRB (N.D. Cal.), representing Mexican workers and laborers, known as Braceros (“strong arms”), who came from Mexico to the United States pursuant to bilateral agreements from 1942 through 1946 to aid American farms and industries hurt by employee shortages during World War II in the agricultural, railroad, and other industries. A settlement required the Mexican government to provide a payment of approximately \$3,500 to Braceros, or their surviving spouses or children. In approving the settlement in February 2009, U.S. District Court Judge Charles Breyer stated:

I’ve never seen such litigation in eleven years on the bench that was more difficult than this one. . . . Notwithstanding all of these issues that kept surfacing . . . over the years, the plaintiffs persisted. . . . And, in fact, they achieved a settlement of the case, which I find remarkable under all of these circumstances.

b. I, along with other attorneys from my firm and co-counsel, served as co-lead counsel in *Barnett v. Wal-mart Stores, Inc.*, Case No. 01-2-24553-8 SEA (Sup. Ct. Wash.), a certified statewide wage and hour class action filed on behalf of hourly employees challenging the company’s failure to compensate its hourly employees for missed rest and meal breaks and off-the-

clock work in stores throughout Washington state. This case settled for \$35 million, as well as injunctive relief governing company policies.

c. I, along with other attorneys from my firm and co-counsel, served as one of plaintiffs' lead counsel in *Amochaev v. Citigroup d/b/a Smith Barney*, Civ. No. 05-1298-PJH (N.D. Cal.), a gender discrimination class action on behalf of female Financial Advisors employed by Smith Barney that resulted in a settlement involving comprehensive injunctive relief and over \$33 million in monetary relief.

13. Together, the cases described above have resulted in court-approved class action settlements, with a combined total recovery for class members exceeding \$650 million in cash, plus other relief. The TCPA class settlements described in paragraph 6 above (but excluding the proposed Settlement in this action), total over \$280 million. LCHB's experience in these cases, and my experience in particular, has provided LCHB and me with expertise in the legal, factual, management, notice, and administration issues that characterize these types of class actions.

**F. Other Experience and Awards**

14. I have received several awards and honors for my litigation efforts.

15. In 2016, I was named as one of the Daily Journal's Top 40 Under 40 leading lawyers in California.

16. In 2014, Law360 recognized me as one of six of the nation's top employment lawyers under 40. *See Daniel Siegal, Rising Star: Lieff Cabraser's Daniel Hutchinson* (Apr. 22, 2014), available at <http://www.law360.com/employment/articles/530612>; *Law360 Names Top Attorneys Under 40* (Apr. 11, 2014), available at <http://www.law360.com/employment/articles/525943>.

17. In 2012, The Recorder named me as one of "50 Lawyers on the Fast Track."

18. In 2013, 2014, 2015, and 2016, I was recognized as a Northern California Super Lawyer and, from 2009 to 2012, was named as a Northern California Super Lawyer Rising Star.

19. In addition to being an active litigator, I have long been involved in many educational and legal groups, including as of the Lawyers' Committee for Civil Rights of the San Francisco Bay Area (Board Chair, 2015; Board Chair-elect, 2014; Board Secretary, 2011-2013; Member of the Board of Directors, 2009-present); American Bar Association (Section of Labor & Employment Law Leadership Development Program); Association of Business

Trial Lawyers (Leadership Development Committee, 2008-2010); Bar Association of San Francisco; Consumer Attorneys of California; and National Bar Association.

20. I am a frequent speaker on class action and employment law topics, including at events sponsored by the American Bar Association's Section of Labor and Employment Law, the Consumer Attorneys of California, the Mason Judicial Education Program, the Impact Fund, the National Employment Lawyers Association, the Practising Law Institute, and the UCLA School of Law.

21. In 2014, I provided a CLE presentation on arbitration and class actions to approximately 75 California state and federal court judges through the Judicial Education Program provided by the Law & Economics Center at George Mason University School of Law.

22. I have published and presented papers on race and gender class actions under Title VII, including "Ten Points from *Dukes v. Wal-Mart Stores, Inc.*," 20(3) CADS Report 1 (Spring 2010); "Pleading an Employment Discrimination Class Action" and "EEO Litigation: From Complaint to the Courthouse Steps," ABA Section of Labor and Employment Law Second

Annual CLE Conference (2008); and “Rule 23 Basics in Employment Cases,” Strategic Conference on Employment Discrimination Class Actions (2008).

## **II. THE PROPOSED SETTLEMENT**

23. The Settlement requires Wells Fargo to fund a non-reversionary cash Settlement Fund of \$16,417,496.70. Each Class Member who submits a simple claim form online, by phone, or by mail will receive a Cash Award. Under no circumstances will any amount of the Settlement Fund revert to Wells Fargo.

24. The Class is composed of two Subclasses, Subclass One for persons called in connection with a Residential Mortgage Loan from November 17, 2011 to February 29, 2016, and Subclass Two for persons called in connection with a Home Equity Loan from April 14, 2011 to February 29, 2016. A person who is a member of both Subclasses is eligible to make two claims on the Settlement Fund and receive two Cash Awards.

25. The amount of each Cash Award is the claiming Class Member’s *pro rata* share of the Settlement Fund. Based on my experience litigating and settling similar TCPA class actions, I originally estimated that each Cash Award to Class Members who file a valid claim, while dependent upon the number of claims, would be in the range of \$25 to \$75.

26. If uncashed checks permit a second pro rata distribution equal to or greater than \$1.00 per qualifying claimant, the Claims Administrator will make a second pro rata distribution to Settlement Class Members who cashed settlement checks. Only if a second distribution is not made, or if checks remain uncashed after the second distribution, will the uncashed amount be distributed as *cy pres* to Habitat for Humanity, subject to Court approval.

27. The Settlement represents terrific value for the Class, particularly in light of the risks of proceeding with litigation. The amount paid—more than \$16.4 million—is an excellent result when measured against twenty-five years of TCPA settlements. *See, e.g., Gehrlich v. Chase Bank USA, N.A.*, No. 12 C 5510, 2016 WL 806549 (N.D. Ill. Mar. 3, 2016), *appeal filed* (\$34 million for more than 32 million class members); *Arthur v. Sallie Mae Inc.*, No. 10-cv-00198 (W.D. Wash.) (\$24.15 million for 7,792,256 class members); *Malta v. Fed. Home Loan Mortg. Corp.*, No. 10-cv-1290, 2013 WL 444619 (S.D. Cal. Feb. 5, 2013) (\$17.1 million for 4,546,293 class members); *Duke v. Bank of Am., N.A.*, No. 5:12-cv-04009 (N.D. Cal.) (\$32,083,905 for approximately 7,723,860 class members); *Connor v. JPMorgan Chase Bank*, No. 10 CV 1284 (S.D. Cal.) (\$11,665,592.09 for 2,684,518 class members); *Wilkins v. HSBC Bank Nev., N.A.*, No. 14-cv-190 (N.D. Ill.) (\$39,975,000 for 9,065,262 class

members); *In re Capital One Tel. Consumer Protection Act Litig.*, No. 12-cv-10064 (N.D. Ill.) (\$75,455,098 for 16,645,221 class members); *Kramer v. Autobytel*, No. 10-cv-02722, 2012 U.S. Dist. LEXIS 185800 (N.D. Cal. Jan. 27, 2012) (\$12.2 million for 47 million class members); *Adams v. AllianceOne Receivables Mgmt. Inc.*, No. 08-cv-00248 (S.D. Cal.) (\$9 million for more than 6,079,411 class members).

### **III. HISTORY OF THE LITIGATION**

28. Since 2012, LCHB has engaged in a comprehensive litigation strategy to pursue class action TCPA claims against Wells Fargo.

29. Before filing the *Markos*, *Page*, and *Davis* actions, Class Counsel thoroughly researched and investigated Wells Fargo's practices and Plaintiffs' legal claims by, among other things, interviewing Class Members, reviewing Class Members' pertinent document and information, including account applications and agreements, and researching relevant TCPA case law and regulations. This information was critical to LCHB's understanding of the nature of the problem, the scope of potential damages and remedies, and the potential risks and benefits of continued litigation.

30. After the *Markos*, *Davis*, and *Page* actions were filed, the parties agreed to explore mediation in large part because Class Counsel's extensive

pre-filing investigation and expertise from dozens of TCPA class actions prepared them to navigate an effective – and efficient – resolution of this litigation.

31. To facilitate mediation, the parties conducted significant informal discovery, including review and analysis of Wells Fargo's call data and 3,245 pages of key documents.

32. Concurrent with settlement negotiations, Class Counsel continued to speak with scores of Class Members about their experiences and problems with Wells Fargo's telephone calls.

33. The Settlement was reached only after good faith, contentious, arms'-length negotiations. All settlement discussions took place under the direction of Hunter R. Hughes, an experienced and well-respected private mediator.

34. To facilitate mediation, the parties submitted detailed mediation submissions setting forth their respective views on the cases.

35. On January 13, 2016, the parties participated in an all-day, in-person mediation under the direction of Mr. Hughes. During these sessions, the parties discussed their relative views of the law and the facts and potential relief for the proposed Class. Counsel exchanged a series of counterproposals on key



aspects of the Settlement, including the parameters of the monetary relief for the Class, and the meaning and interpretation of the eligibility requirements. At all times, the parties' settlement negotiations were highly adversarial, non-collusive, and at arm's length.

36. Although the mediation was productive, the parties were unable to reach a resolution.

37. With Mr. Hughes' assistance the parties continued to negotiate over the course of several months. Through the mediated settlement negotiations and the investigation efforts, the parties reached an agreement in principle pursuant to a mediator's proposal. The parties executed a Memorandum of Understanding ("MOU") on January 25, 2016, and a final Settlement Agreement on June 10, 2016.

38. As agreed to in the MOU, Wells Fargo provided Class Counsel with confidential and proprietary confirmatory discovery to confirm the Final Class Size. On July 13, 2016, Class Counsel took the deposition of Darrell Hunt, Wells Fargo's corporate representative most knowledgeable about the size of the Settlement Class.

39. Since the Settlement was agreed to, Class Counsel have continued to work hard, including talking to Class Members about the Settlement, and preparing the Settlement papers.

40. Although it is early in the Claims Period, initial estimates suggest that the claims rate may be high relative to similar settlements, and may even exceed the claims-rate estimates in the Motion for Preliminary Approval and the Class Notice.

#### **IV. CLASS COUNSEL'S REQUEST FOR FEES AND COSTS**

41. In my opinion, Class Counsel's request for an award of 30% of the Settlement Fund, inclusive of costs, is fair and reasonable.

42. Class Counsel's efforts resulted in an excellent result for the Class: an all-cash, non-reversionary Settlement Fund that compares well to past TCPA settlements. The Settlement provides Class Members with real monetary relief, despite the fact that this is a purely statutory damages case involving nominal economic damages or actual damages (such as invasion of privacy) that are difficult to quantify. This Settlement provides direct, monetary benefits to Class Members who realistically would not have filed their own individual lawsuits because each Class Member's case would have been too small to bring

on its own. As important, Class Counsel's pre-filing investigation and approach to mediation resulted in a Settlement now, rather than after years of litigation.

43. As detailed above, Class Counsel worked hard to secure the Settlement Fund. Throughout the litigation, LCHB and the other firms comprising Class Counsel worked closely and in cooperation with one another to divide tasks, ensure efficient case management, and prevent duplication of efforts. By assigning specific tasks among firms, they were able to capitalize on their expertise and obtain the best and most efficient resolution to this matter.

44. My firm and the other firms comprising Class Counsel are among the nation's foremost plaintiffs-side TCPA attorneys. Collectively, we have been involved in every major piece of TCPA litigation involving banks and debt collectors. As detailed above, my firm has recovered over \$280 million in non-reversionary cash for class members.

**V. CONTINGENT NATURE OF ACTION.**

45. My firm and the other firms comprising Class Counsel litigated this matter entirely on a contingent fee basis.

46. My firm spent many hours on this matter, including considerable time and effort investigating the facts and the merits of this action; engaging in

discovery and meet and confer efforts; analyzing documents and data; engaging in settlement discussions and participating in a formal mediation with Defendant; negotiating the settlement terms; and meeting and conferring with Defendant and the settlement administrator regarding the notice and administration plan.

47. This matter has required LCHB's attorneys and staff to spend time on this litigation that could have been spent on other fee-generating work. Because LCHB undertook representation of this matter on a contingency-fee basis, LCHB shouldered the risk of expending substantial costs and time in litigating the action without any monetary gain in the event of an adverse judgment.

48. Despite the strengths of this case, it is my opinion that Plaintiffs would face certain risks in litigating any action on a classwide basis. Indeed, LCHB has lost a number of TCPA class actions without any recovery for the proposed class or any fees for their work on behalf of the proposed class. *See Cayanan v. Citi Holdings, Inc.*, 928 F. Supp. 2d 1182, 1208 (S.D. Cal. 2013) (compelling claims to arbitration on an individual basis); *Moore v. Chase Bank USA, N.A.*, Case No. 2:12-cv-10316-PA-E (C.D. Cal. Jan. 9, 2013) (dismissing case); *Delgado v. US Bankcorp*, 2:12-cv-10313-SJO-AJW (C.D. Cal. Jan. 17,

2013) (dismissing case); *Brown v. DIRECTV, LLC*, 2013 U.S. Dist. LEXIS 90894 (C.D. Cal. June 26, 2013) (compelling claims to arbitration on an individual basis); *Evans v. Aetna Inc.*, Case No. 2:13-cv-01039-LA (E.D. Wisc. Nov. 20, 2013) (dismissing case); *Balschmitter v. TD Auto Fin. LLC*, 303 F.R.D. 508, 530 (E.D. Wis. 2014); (denying class certification after significant expert work and discovery); *Levin v. National Rifle Assoc. of Am.*, Case 1:14-cv-24163-JEM (S.D. Fla. Feb. 6, 2015) (dismissing case); *Charvat v. The Allstate Corp.*, Case No. 1:13-cv-07104 (N.D. Ill. Feb. 20, 2015) (terminating case); *Ineman v. Kohl's Corp.*, Case No. Case 3:14-cv-00398-wmc (W.D. Wisc. Mar. 26, 2015) (compelling claims to arbitration on an individual basis); *Aghdasi v. Mercury Insurance Group, Inc.*, Case No. 2:15-cv-04030-R-AGR (C.D. Cal. Mar. 16, 2016) (dismissing case after denial of class certification); *Wolf v. Lyft, Inc.*, Case 4:15-cv-01441-JSW (N.D. Cal. Mar. 28, 2016) (dismissing case); *Jefferson v. General Motors Fin. Co., Inc.*, Case No. 2:16-cv-02349-WHW-CLW (D.N.J. Jun. 28, 2016) (dismissing case).

**VI. THE REQUESTED CLASS REPRESENTATIVE SERVICE AWARDS**

49. In my opinion, the requested service awards of \$20,000 to each Class Representative are reasonable and should be approved.

50. Each Class Representative received, and refused a Rule 68 offer of judgment from Wells Fargo.

51. Each Class Representative received multiple calls from Wells Fargo, each potentially justifying \$1,500 in statutory damages.

52. Each Class Representative therefore put the Class's interests before their own, rejecting offers of judgment that likely would have compensated them more than the requested service awards

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

Executed this the 25th day of October, 2016 in San Francisco, CA.

s/ Daniel M. Hutchinson  
Daniel M. Hutchinson

# **EXHIBIT B**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

Steven L. Markos, Tiffany Davis,  
and Gregory Page, on behalf of  
themselves and all others similarly  
situated,

Plaintiffs,

v.

Wells Fargo Bank, N.A.,

Defendant.

Case No. 1:15-cv-01156-LMM

**DECLARATION OF ALEXANDER H. BURKE**

I, Alexander H. Burke, hereby declare as follows:

1. I am Alexander H. Burke, manager and owner of Burke Law Offices, LLC. I submit this declaration in support of the fee petition in this matter. Except as otherwise noted, I have personal knowledge of the facts set forth in this declaration, and could testify competently to them if called upon to do so.

2. In September 2008, I opened Burke Law Offices, LLC. This firm concentrates on consumer class action and consumer work on the plaintiff side. Since the firm began, it has focused on prosecuting cases pursuant to the Telephone Consumer Protection Act, although the firm accepts the occasional action pursuant to the Fair Debt Collection Practices Act, Fair Credit Reporting



Act, Equal Credit Opportunity Act, Electronic Funds Transfer Act, Illinois Consumer Fraud Act, Truth in Lending Act and the Fair Labor Standards Act, among others. The firm also sometimes accepts mortgage foreclosure defense or credit card defense case. Except for debt collection defense cases, the firm works almost exclusively on a contingency basis.

3. I am regularly asked to speak regarding TCPA issues, on the national level. For example, I conducted a one-hour CLE on prosecuting TCPA autodialer and Do Not Call claims pursuant to the Telephone Consumer Protection Act for the National Association of Consumer Advocates in summer 2012, and spoke on similar subjects at the annual National Consumer Law Center (“NCLC”) national conferences in 2012, 2013, 2014 and 2015, and am slotted to speak there again this year. I also spoke at a National Association of Consumer Advocates conference regarding TCPA issues in March 2015, and in May 2016, I spoke on a panel concerning TCPA issues at the 2016 Practising Law Institute Consumer Financial Services meeting in Chicago, Illinois.

4. I also am actively engaged in policymaking as to TCPA issues, and have had several *ex parte* meetings with various decision makers at the Federal Communications Commission.

5. I make substantial efforts to remain current on the law, including class action issues. I attended the National Consumer Law Center’s Consumer Rights

Litigation Conference in 2006 through 2015, and was an active participant in the Consumer Class Action Intensive Symposium between 2006 and 2013. In October 2009, I spoke on a panel of consumer class action attorneys welcoming newcomers to the conference. In addition to regularly attending Chicago Bar Association meetings and events, I was the vice-chair of the Chicago Bar Association's consumer protection section in 2009 and the chair in 2010. In November 2009, I moderated a panel of judges and attorneys discussing recent events and decisions concerning arbitration of consumer claims and class action bans in consumer contracts.

6. Some notable autodialer TCPA class actions and other cases that my firm has worked on include: *Tillman v. The Hertz Corp.*, No. 16 C 4242, 2016 WL 5934094 (N.D. Ill. Oct. 11, 2016) (motion to compel TCPA class case into arbitration denied); *Hurst v. Monitronics Int'l, Inc.*, No. 1:15-CV-1844-TWT, 2016 WL 523385, at \*1 (N.D. Ga. Feb. 10, 2016); (motion to compel arbitration denied); *Smith v. Royal Bahamas Cruise Line*, No. 14-CV-03462, 2016 WL 232425 (N.D. Ill. Jan. 20, 2016) (personal jurisdiction motion denied); *Bell v. PNC Bank, Nat' Ass'n.*, 800 F.3d 360 (7th Cir. 2015) (class certification affirmed in wage and hour case); *Charvat v. Travel Services*, 2015 WL 3917046 (N.D. Ill. June 24, 2015) (determining proper scope of class representative discovery in TCPA case), and 2015 WL 3575636 (N.D. Ill. June 8, 2015) (granting plaintiff's motion to compel

vicarious liability/agency discovery in TCPA case); *Lees v. Anthem Ins. Cos. Inc.*, 2015 WL 3645208 (E.D. Mo. June 10, 2015) (finally approving TCPA class settlement where I was class counsel); *Hofer v. Synchrony Bank*, 2015 WL 2374696 (E.D. Mo. May 18, 2015) (denying motion to stay TCPA case on primary jurisdiction grounds); *In re Capital One TCPA Litig.*, No. 11-5886, 2015 WL 605203 (N.D. Ill. Feb. 12, 2015) (granting final approval to TCPA class settlement where I was class counsel); *Wilkins v. HSBC Bank Nevada, N.A.*, 2015 WL 890566 (N.D. Ill. Feb. 27, 2015) (granting final approval to TCPA class settlement where I was class counsel); *Hossfeld v. Government Employees Ins. Co.*, 88 F. Supp. 3d 504 (D. Md. 2015) (denying motion to dismiss in TCPA class action); *Legg v. Quicken Loans, Inc.*, 2015 WL 897476 (S.D. Fla. Feb. 25, 2015) (denying motion to dismiss in TCPA case); *Hanley v. Fifth Third Bank*, No. 1:12-cv-1612 (N.D. Ill. Dec. 27, 2013) (final approval for \$4.5 million nonreversionary TCPA settlement); *Markovic v. Appriss, Inc.*, 2013 WL 6887972 (S.D. Ind. Dec. 31, 2013) (motion to dismiss denied in TCPA class case); *Martin v. Comcast Corp.*, 2013 WL 6229934 (N.D. Ill. Nov. 26, 2013) (motion to dismiss denied in TCPA class case); *Gold v. YouMail, Inc.*, 2013 WL 652549 (S.D. Ind. Feb. 21, 2013) (contested motion for leave to amend granted to permit cutting-edge vicarious liability theory allegations); *Martin v. Dun & Bradstreet, Inc.*, No. 1:12-cv-215 (N.D. Ill. Aug. 21, 2012) (Denlow, J.) (certifying litigation class and appointing me as sole class

counsel) (final approval granted for \$7.5 million class settlement granted January 16, 2014); *Desai v. ADT, Inc.*, No. 1:11-cv-1925 (N.D. Ill. June 21, 2013) (final approval for \$15 million TCPA class settlement granted); *Martin v. CCH, Inc.*, No. 1:10-cv-3494 (N.D. Ill. Mar. 20, 2013) (final approval granted for \$2 million class settlement in TCPA autodialer case); *Swope v. Credit Mgmt., LP*, 2013 WL 607830 (E.D. Mo. Feb. 19, 2013) (denying motion to dismiss in "wrong number" TCPA case); *Martin v. Leading Edge Recovery Solutions, LLC*, 2012 WL 3292838 (N.D. Ill. Aug. 10, 2012) (denying motion to dismiss TCPA case on constitutional grounds); *Soppet v. Enhanced Recovery Co.*, 2011 WL 3704681 (N.D. Ill. Aug 21, 2011), *aff'd*, 679 F.3d 637 (7th Cir. 2012) (TCPA defendant's summary judgment motion denied. My participation was limited to litigation in the lower court); *D.G. ex rel. Tang v. William W. Siegel & Assocs., Attorneys at Law, LLC*, 2011 WL 2356390 (N.D. Ill. Jun 14, 2011); *Martin v. Bureau of Collection Recovery*, 2011WL2311869 (N.D. Ill. June 13, 2011) (motion to compel TCPA class discovery granted); *Powell v. West Asset Mgmt., Inc.*, 773 F. Supp. 2d 898 (N.D. Ill. 2011) (debt collector TCPA defendant's "failure to mitigate" defense stricken for failure to state a defense upon which relief may be granted); *Fike v. The Bureaus, Inc.*, 09-cv-2558 (N.D. Ill. Dec. 3, 2010) (final approval granted for \$800,000 TCPA settlement in autodialer case against debt collection agency); *Donnelly v. NCO Fin. Sys., Inc.*, 263 F.R.D. 500 (N.D. Ill. Dec. 16, 2009) (Fed. R.

Civ. P. 72 objections overruled in toto), 2010 WL 308975 (N.D. Ill. Jan 13, 2010) (novel class action and TCPA discovery issues decided favorably to class).

7. Before I opened Burke Law Offices, LLC, I worked at two different plaintiff boutique law firms doing mostly class action work, almost exclusively for consumers. Some decisions that I was actively involved in obtaining while at those law firms include: *Cicilline v. Jewel Food Stores, Inc.*, 542 F. Supp. 2d 831 (N.D. Ill. 2008) (FCRA class certification granted); 542 F. Supp. 2d 842 (N.D. Ill. 2008) (plaintiffs' motion for judgment on pleadings granted); *Harris v. Best Buy Co.*, No. 07 C 2559, 2008 U.S. Dist. LEXIS 22166 (N.D. Ill. Mar. 20, 2008) (Class certification granted); *Matthews v. United Retail, Inc.*, 248 F.R.D. 210 (N.D. Ill. 2008) (FCRA class certification granted); *Redmon v. Uncle Julio's, Inc.*, 249 F.R.D. 290 (N.D. Ill. 2008) (FCRA class certification granted); *Harris v. Circuit City Stores, Inc.*, 2008 U.S. Dist. LEXIS 12596, 2008 WL 400862 (N.D. Ill. Feb. 7, 2008) (FCRA class certification granted); *aff'd upon objection* (Mar. 28, 2008); *Harris v. Wal-Mart Stores, Inc.*, 2007 U.S. Dist. LEXIS 76012 (N.D. Ill. Oct. 10, 2007) (motion to dismiss in putative class action denied); *Barnes v. FleetBoston Fin. Corp.*, C.A. No. 01-10395-NG, 2006 U.S. Dist. LEXIS 71072 (D. Mass. Aug. 22, 2006) (appeal bond required for potentially frivolous objection to large class action settlement, and resulting in a \$12.5 million settlement for Massachusetts consumers); *Longo v. Law Offices of Gerald E. Moore & Assocs., P.C.*, No. 04 C

5759, 2006 U.S. Dist. LEXIS 19624 (N.D. Ill. March 30, 2006) (class certification granted); *Nichols v. Northland Groups, Inc.*, Nos. 05 C 2701, 05 C 5523, 06 C 43, 2006 U.S. Dist. LEXIS 15037 (N.D. Ill. March 31, 2006) (class certification granted for concurrent classes against same defendant for ongoing violations); *Lucas v. GC Services, L.P.*, No. 2:03 cv 498, 226 F.R.D. 328 (N.D. Ind. 2004) (compelling discovery), 226 F.R.D. 337 (N.D. Ind. 2005) (granting class certification); *Murry v. America's Mortg. Banc, Inc.*, Nos. 03 C 5811, 03 C 6186, 2005 WL 1323364 (N.D. Ill. May 5, 2006) (Report and Recommendation granting class certification), *aff'd*, 2006 WL 1647531 (June 5, 2006); *Rawson v. Credigy Receivables, Inc.*, No. 05 C 6032, 2006 U.S. Dist. LEXIS 6450 (N.D. Ill. Feb. 16, 2006) (denying motion to dismiss in class case against debt collector for suing on time-barred debts).

8. I graduated from Colgate University in 1997 (B.A. International Relations), and from Loyola University Chicago School of Law in 2003 (J.D.). During law school I served as an extern to the Honorable Robert W. Gettleman of the District Court for the Northern District of Illinois and as a law clerk for the Honorable Nancy Jo Arnold, Chancery Division, Circuit Court of Cook County. I also served as an extern for the United States Attorney for the Northern District of Illinois, and was a research assistant to adjunct professor Hon. Michael J. Howlett, Jr.

9. I was the Feature Articles Editor of the Loyola Consumer Law Review and Executive Editor of the International Law Forum. My published work includes International Harvesting on the Internet: A Consumer's Perspective on 2001 Proposed Legislation Restricting the Use of Cookies and Information Sharing, 14 Loy. Consumer L. Rev. 125 (2002).

10. I became licensed to practice law in the State of Illinois in 2003 and the State of Wisconsin in March 2011, and am a member of the bar of the United States Court of Appeals for the First, Second, Seventh, Eighth, and Eleventh Circuits, as well as the Northern District of Illinois, Central District of Illinois, Southern District of Illinois, Eastern District of Wisconsin, Western District of Wisconsin, Northern District of Indiana, Southern District of Indiana and the District of Nebraska. I am also a member of the Illinois State Bar Association, the Seventh Circuit Bar Association, and the American Bar Association, as well as the National Association of Consumer Advocates.

11. The above experience, qualifications, decisions and settlements demonstrate my ability and commitment to prosecuting TCPA class cases, and justify the fee requested here. Moreover, my office took this matter on a contingency fee basis, which means that the firm would receive no remuneration absent a settlement or judgment.

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

Executed on October 19, 2016, in Rosemont, Illinois.

/s/Alexander H. Burke



# EXHIBIT C

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

Steven L. Markos, Tiffany Davis,  
and Gregory Page, on behalf of  
themselves and all others similarly  
situated,

Plaintiffs,

v.

Wells Fargo Bank, N.A.,

Defendant,

Case No. 1:15-cv-01156-LMM

**DECLARATION OF KEITH J. KEOGH**

Keith J. Keogh declares under penalty of perjury, that the following statements are true:

1. I am over the age of eighteen and am fully competent to make this declaration. This declaration is based upon my personal knowledge and if called upon to testify to the matters stated herein, I could and would do so competently.

2. I am one of the attorneys for the plaintiffs in this action.

3. On July 27, 2015, Plaintiff Page filed a class action in the Northern District of Illinois against Wells Fargo, Case No. 1:15-cv-06511 (N.D. Ill.), alleging that Wells Fargo made calls to his cell phone using an automatic telephone

dialing system and/or prerecorded voice without prior express consent. *Id.*, Dkt. No. 1.

4. Subsequently, Page propounded discovery requests upon Defendant including discovery seeking class data.

5. On October 14, 2015, Wells Fargo served an offer of judgment that would provide Dr. Page \$46,501, inclusive of attorneys' fees and costs. Dr. Page chose not to accept that offer, but instead proceed on behalf of the class.

6. On October 17, 2015, the Court denied Wells Fargo's motion to strike the class allegations. *Id.*, Dkt. No. 35.

7. On October 19, 2015, the Court stayed the case for mediation. *Id.*, Dkt. No. 37.

8. The Settlement was reached only after good faith, contentious, arms'-length negotiations with the assistance of Hunter R. Hughes, an experienced and well-respected private mediator. To facilitate mediation, the parties submitted detailed mediation submissions setting forth their respective views on the cases.

9. The parties participated in an all-day, in-person mediation with Mr. Hughes on January 13, 2016. Although the mediation was productive, the parties were unable to reach a resolution at that time. After further negotiation, an MOU was executed on January 25, 2016. Over the next several months and with Mr. Hughes' assistance, the parties continued to negotiate the terms of the Settlement

Agreement until a final Settlement Agreement was executed on June 10, 2016. The settlement was based upon the extensive information obtained in discovery, expert analysis, and otherwise and at all times, the settlement negotiations were highly adversarial, non-collusive, and at arm's length.

10. Plaintiffs' counsel is confident in the strength of the claims alleged in the Complaint and that Plaintiffs would ultimately prevail at trial. Notwithstanding the foregoing, litigation is inherently unpredictable and the outcome of a trial is never guaranteed. Indeed, Plaintiffs faced significant risk in taking this matter to trial, including the possibilities that the case would be defeated in dispositive pre-trial motions practice, the Court would deny class certification, or that the result at trial would be in Defendant's favor.

11. Further, there still is the possibility that a pending appeal in the U.S. Court of Appeals for the District of Columbia might overturn rulemakings from Federal Communications Commission ("FCC") on the TCPA that support Plaintiff's position in this action.

12. The risk was real, which is why some courts have stayed litigation pending ruling by the FCC. *See, e.g., Higginbotham v. Hollins*, No. 14-cv-2087, 2014 U.S. Dist. LEXIS 85584 (D. Kan. June 24, 2014) (staying litigation pending FCC's consideration of and rulings on TCPA petitions and citing cases granting similar stays). *See also* Michael O'Rielly, FCC Commissioner, TCPA: It is Time

to Provide Clarity, FCC Blog (Mar. 25, 2014), *available at* <http://www.fcc.gov/blog/tcpa-it-time-provide-clarity> (asserting that “the FCC needs to address this inventory of petitions as soon as possible” as it has the “opportunity to answer important questions and much needed guidance on a variety of TCPA issues, including . . . whether consent can be inferred from consumer behavior or social norms . . .”).

13. In order to combat this risk, myself, along with several consumer groups, have personally met with the FCC staff and the FCC Commissioners’ advisors on several occasions both in person and via teleconference to oppose such narrowing of the scope of the TCPA.

14. Based on my experience doing Plaintiffs’ consumer protection work, including cases under the TCPA, I believe this settlement to be fair and reasonable and in the best interest of the class. The settlement provides real monetary recovery and will act as a deterrent to future conduct by other actors considering activities proscribed by the TCPA.

### **Class Counsel’s Experience**

15. As shown below, my firm has regularly engaged in major complex litigation involving the Telephone Consumer Protection Act, 47 U.S.C. § 227, and other consumer issues. My firm has the resources necessary to conduct litigation of this nature, and has experience prosecuting class actions of similar size, scope, and

complexity to the instant case. Additionally, I have often served as class counsel in similar actions.

16. The TCPA is a technologically focused statute. In my experience, I have learned that in order to successfully litigate TCPA class actions, attorneys must understand the mechanics of automatic telephone dialing systems and must understand how computer databases store and organize call records.

17. In addition, attorneys must closely track pending petitions before the FCC on TCPA issues, as the FCC is very active on TCPA issues and continues to clarify its regulations. In fact, in 2015, the National Association of Consumer Advocates honored me as the Consumer Attorney of the Year for my work in courts as well as the FCC to maintain and advance the important consumer protections in the Telephone Consumer Protection Act.

18. Keogh Law, Ltd. consists of six attorneys and focuses on consumer protection cases for both individuals and class actions. I am a shareholder of the firm and member of the bars of the United States Court of Appeals for the Seventh Circuit, Eastern District of Wisconsin, Northern District of Illinois, Southern District of Indiana, District of Colorado and Illinois State Bar as well as several bar associations and the National Association of Consumer Advocates.

19. I am class counsel in the two largest Telephone Consumer Protection Act (“TCPA”) settlements in the country. *See Hageman v. AT&T Mobility LLC,*

*et al.*, Case 1:13-cv-00050-DLC-RWA (D. MT.) (Co-Lead) (Final Approval Granted February 11, 2015 providing for a \$45 million settlement for a class of 16,000 persons) and *Capital One Telephone Consumer Protection Act Litigation*, *et al.*, 12-cv-10064 (N.D. Ill. Judge Holderman) (Liaison Counsel and additional Class Counsel)(Final Approval Granted February 12, 2015 for a \$75 million settlement).

20. My firm was also class counsel in the three largest all cash Fair and Accurate Credit Transactions Act (FACTA) class action settlements. *Legg v. Laboratory Corporation of America Holdings*, No. 14-cv-61543-RLR (S.D. Fla., filed July 6, 2014) (\$11 million dollars); *Legg v. Spirit Airlines, Inc.*, No. 14-cv-61978-JIC (S.D. Fla., filed Aug. 29, 2014) (\$7.5 million dollars pending final approval) and *Muransky v. Godiva Chocolatier, Inc.*, No. 15-cv-60716-WPD (S.D. Fla., filed Apr. 6, 2015) (\$6.3 million dollars).

21. In addition to the above, I was lead or class counsel in the following class settlements, many of which involve claims under the TCPA: *Joseph et al. v. TrueBlue, Inc. et al.*, Case No. 3:14-cv-05963 (D. Wa.) (TCPA case pending final approval for \$5 million for 1,948 class members); *Willett, et al. v. Redflex Traffic Systems, Inc., et al.*, Case No. 13-cv-01241-JCH-RHS (TCPA); *In re Convergent Outsourcing, Inc. Telephone Consumer Protection Act Litigation*, Master Docket No. 3:13-cv-1866-AWT (D. Conn) (Interim Co-Lead) (pending final approval); *De*

*Los Santos v Millword Brown, Inc.*, 9:13-cv-80670-DPG (S.D. Fl) (TCPA); *Allen v. JPMorgan Chase Bank, N.A.* 13-cv-08285 (N.D. Ill. Judge Pallmeyer) (TCPA); *Cooper v NelNet*, 6:14-cv-314-Orl-37DAB (M.D. Fl.) (TCPA); *Thomas v Bacgroundchecks.com*, 3:13-CV-029-REP (E.D. Va.) (additional class counsel); *Lopera v RMS*, 12-c-9649 (N.D. Ill. Judge Wood), *Kubacki v Peapod*, 13-cv-729 (N.D. Ill. Judge Mason); *Wojcik v. Buffalo Bills, Inc.*, 8:12 CV 2414-SDM-TBM (M.D. Fl. Judge Merryday) (TCPA); *Curnal v LVNV Funding, LLC.*, 10 CV 1667 (Wyandotte County, KS 2014) (Unlicensed debt collector under KS law); *Cummings v Sallie Mae*, 12 C-9984 (N.D. Ill. Judge Gottschall) (TCPA) (co-lead); *Brian J. Wanca, J.D., P.C. v. L.A. Fitness International, LLC*, Case No. 11-CV-4131 (Lake County, Il. Judge Berrones) (TCPA); *Osada v. Experian Info. Solutions, Inc.*, 2012 U.S. Dist. LEXIS 42330 (N.D. Ill. Mar. 28, 2012) (FCRA class); *Saf-T-Gard International, Inc. v. Vanguard Energy Services, L.L.C., et al*, 12-cv-3671 (N.D. Ill. 2013 Judge Gottschall) (TCPA); *Saf-T-Gard v TSI*, 10-c-7671, (N.D. Ill. Judge Rowland) (TCPA); *Cain v Consumer Portfolio Services, Inc.* 10-cv-02697 (N.D. Ill. Judge Keys) (TCPA); *Iverson v Rick Levin & Associates*, 08 CH 42955 Circuit Court Cook County (Judge Cohen) (TCPA); *Saf-T-Gard v Seiko*, 09 C 776 (N.D. Ill. Judge Bucklo) (TCPA); *Jones v. Furniture Bargains, LLC*, 09 C 1070 (N.D. Ill) (FLSA collective action); *Saf-T-Gard v Metrolift*, 07 CH 1266 Circuit Court Cook County (Judge Rochford) (Co-Lead) (TCPA); *Bilek v*



*Countrywide*, 08 C 498 (N.D. Ill. Judge Gottschell); *Pacer v Roehenback*, 07 C 5173 (N.D. Ill. Judge Cole); *Overlord Enterprises v. Wheaton Winfield Dental Associates*, 04 CH 01613, Circuit Court Cook County (Judge McGann) (TCPA); *Whiting v SunGard*, 03 CH 21135, Circuit Court Cook County (Judge McGann) (TCPA); *Whiting v. GoIndustry*, 03 CH 21136, Circuit Court Cook County (Judge McGann) (TCPA).

22. I was the attorney primarily responsible for the following class settlements: *Wollert v. Client Services*, 2000 U.S. Dist. LEXIS 6485 (N.D. Ill. 2000); *Rentas v. Vacation Break USA*, 98 CH 2782, Circuit Court of Cook County (Judge Billik); *McDonald v. Washington Mutual Bank, supra*; *Wright v. Bank One Credit Corp.*, 99 C 7124 (N.D. Ill. Judge Guzman); *Arriaga v. Columbia Mortgage*, 01 C 2509 (N.D. Ill. Judge Lindberg); *Frazier v. Provident Mortgage*, 00 C 5464 (N.D. Ill. Judge Coar); *Largosa v. Universal Lenders*, 99 C 5049 (N.D. Ill. Judge Leinenweber); *Arriaga v. GNMortgage*, (N.D. Ill. Judge Holderman); *Williams v. Mercantile Mortgage*, 00 C 6441 (N.D. Ill. Judge Pallmeyer); *Reid v. First American Title*, 00 C 4000 (N.D. Ill. Magistrate Judge Ashman); *Fabricant v. Old Kent*, 99 C 6846 (N.D. Ill. Magistrate Judge Bobrick); *Mendelovits v. Sears*, 99 C 4730 (N.D. Ill. Magistrate Judge Brown); *Leon v. Washington Mutual*, 01 C 1645 (N.D. Ill. Judge Alesia).

23. The individual class members' recovery in some of these settlements was substantial. For example, in one of the cases against a major bank the class members' recovery was 100% of their actual damages resulting in a payout of \$1,000 to \$9,000 per class member. In another case against a major lender regarding mortgage servicing responses, each class member who submitted a claim form received \$1,431. *McDonald v. Washington Mutual Bank*.

24. In addition, to the above settlements, I was appointed class counsel in *In Re Convergent Outsourcing, Inc. Telephone Consumer Protection Act Litigation*, Master Docket No. 3:13-cv-1866-AWT (D. Conn) (Interim Co-Lead); *Galvan v. NCO Fin. Sys.*, 2012 U.S. Dist. LEXIS 128592 (N.D. Ill. 2012); *Osada v. Experian Info. Solutions, Inc.*, 2012 U.S. Dist. LEXIS 42330 (N.D. Ill. Mar. 28, 2012) (FCRA class); *Pesce v First Credit Services*, 11-cv-01379 (N.D. Ill. December 19 2011) (TCPA Class); *Smith v Greytstone Alliance*, 09 CV 5585 (N.D. Ill. 2010); *Cicilline v. Jewel Food Stores, Inc.*, 542 F. Supp. 2d 831 (N.D.Ill. 2008)(Co-Lead Counsel for FACTA class); *Harris v. Best Buy Co.*, 07 C 2559, 2008 U.S. Dist. LEXIS 22166 (N.D. Ill. March 20, 2008)( FACTA class); *Matthews v. United Retail, Inc.*, 248 F.R.D. 210 (N.D. Ill. 2008)( FACTA class); *Redmon v. Uncle Julio's, Inc.*, 249 F.R.D. 290 (N.D. Ill. 2008)( FACTA class); *Harris v. Circuit City Stores, Inc.*, 2008 U.S. Dist. LEXIS 12596,2008 WL 400862

(N.D. Ill. 2008)(FACTA class); *Pacer v Rockenbach Chevrolet Sales, Inc.*, 07 C 5173 (N.D. Ill. 2008)( FACTA class).

25. Some reported cases of mine involving consumer protection include: *Galvan v. NCO Portfolio Mgmt. Inc.*, 794 F.3d 716, 721 (7th Cir. 2015); *Smith v Greystone*, 772 F.3d 448 (7th Cir. 2014); *Clark v Absolute Collection Agency*, 741 F.3d 487 (4th Cir. 2014); *Lox v. CDA, Ltd.*, 689 F.3d 818 (7th Cir. 2012); *Townsel v. DISH Network L.L.C.*, 668 F.3d 967 (7th Cir. Ill. 2012); *Catalan v. GMAC Mortgage Corp.*, No. 09-2182 (7th Cir. 2011) ; *Gburek v Litton Loan*, 614 F.3d 380 (7th Cir. 2010); *Sawyer v. Ensurance Insurance Services* consolidated with *Killingsworth v. HSBC Bank Nev., NA.*, 507 F3d 614, 617 (7th Cir. 2007), *Echevarria et al. v. Chicago Title and Trust Co.*, 256 F3d 623 (7th Cir. 2001); *Demitro v. GMAC*, 388 Ill. App. 3d 15, 16 (1st Dist. 2009); *Hill v. St. Paul Bank*, 329 Ill. App. 3d 7051, 1768 N.E.2d 322 (1st Dist. 2002); *In re Mercedes-Benz Tele Aid Contract Litig.*, 2009 U.S. Dist. LEXIS 35595 (D.N.J. 2009); *Catalan v. RBC Mortg. Co.*, 2009 U.S. Dist. LEXIS 26963 (N.D. Ill. 2009); *Elkins v. Equifax, Inc.*, 2009 U.S. Dist. LEXIS 18522 (N.D. Ill. 2009); *Harris v. DirecTV Group, Inc.*, 2008 U.S. Dist. LEXIS 8240 (N.D. Ill. 2008); *In re TJX Cos., Inc., Fair & Accurate Credit Transactions Act (FACTA) Litig.*, 2008 U.S. Dist. LEXIS 38258 (D. Kan. 2008); *Martin v. Wal- Mart Stores, Inc.*, 2007 U.S. Dist. LEXIS 89715 (N.D. Ill. 2007); *Elkins v. Ocwen Fed. Sav. Bank Experian Info. Solutions, Inc.*,

2007 U.S. Dist. LEXIS 84556 (N.D. Ill. 2007); *Harris v. Wal-Mart Stores, Inc.*, 2007 U.S. Dist. LEXIS 76012 (N.D. Ill. 2007); *Stegvilas v. Evergreen Motors, Inc.*, 2007 U.S. Dist. LEXIS 35303 (N.D. Ill. 2007); *Cook v. River Oaks Hyundai, Inc.*, 2006 U.S. Dist. LEXIS 21646 (N. D. Ill. 2006); *Gonzalez v. W. Suburban Imps., Inc.*, 411 F. Supp. 2d 970 (N.D. Ill. 2006); *Eromon v. GrandAuto Sales, Inc.*, 333 F. Supp. 2d 702 (N.D. Ill. 2004); *Williams v. Precision Recovery, Inc.*, 2004 U.S. Dist. LEXIS 6190 (N.D. Ill. 2004); *Doe v. Templeton*, 2003 U.S. Dist. LEXIS 24471 (N.D. Ill. 2003); *Ayala v. Sonnenschein Fin. Servs.*, 2003 U.S. Dist. LEXIS 20148 (N.D. Ill. 2003); *Gallegos v. Rizza Chevrolet, Inc.*, 2003 U.S. Dist. LEXIS 18060 (N.D. Ill. 2003); *Szwebel v. Pap's Auto Sales, Inc.*, 2003 U.S. Dist. LEXIS 13044 (N.D. Ill. 2003); *Johnstone v. Bank of America*, 173 F. Supp.2d 809 (N.D. Ill. 2001); *Leon v. Washington Mutual Bank*, 164 F. Supp.2d 1034 (N.D. Ill. 2001); *Ploog v. HomeSide Lending*, 2001 WL 987889 (N.D. Ill. 2001); *Christakos v. Intercounty Title*, 196 F.R.D. 496 (N.D. Ill. 2000); *Batten v. Bank One*, 2000 WL 1364408 (N.D. Ill. 2000); *McDonald v. Washington Mutual Bank*, 2000 WL 875416 (N.D. Ill. 2000); and *Williamson v. Advanta Mtge Corp.*, 1999 U.S. Dist. LEXIS 16374 (N.D. Ill. 1999). The *Christakos* case significantly broadened title and mortgage companies' liability under Real Estate Settlement Procedures Act ("RESPA") and *McDonald* is the first reported decision to certify a class regarding mortgage servicing issues under the Cranston-Gonzales Amendment of RESPA.

26. I have argued before the Seventh Circuit, the First District of Illinois and the MultiLitigation Panel in *Townsel v. DISH Network L.L.C.*, 668 F.3d 967 (7th Cir. Ill. 2012); *Catalan v GMACM* (7th Cir. 2010); *Gburek v Litton Loan Servicing* (7th Cir. 2009); *Sawyer v Esurance* (7th Cir. 2007), *Echevarria, et al. v. Chicago Title and Trust Co.* (7th Cir. 2001); *Morris v Bob Watson*, (1st. Dist. 2009); *Iverson v Gold Coast Motors Inc.*, (1st. Dist. 2009); *Demitro v. GMAC* (1st Dist. 2008), *Hill v. St. Paul Bank* (1st Dist. 2002), and *In Re: Sears, Roebuck & Company Debt Redemption Agreements Litigation* (MDL Docket No. 1389.) *Echevarria* was part of a group of several cases that resulted in a nine million dollar settlement with Chicago Title.

27. My published works include co-authoring and co-editing the 1997 supplement to *Lane's Goldstein Trial Practice Guide* and *Lane's Medical Litigation Guide*.

28. I have lectured extensively on consumer litigation, including extensively on class actions and the TCPA. For example, I:

- a. Presented at the 2015 Fair Debt Collection Training Conference for three sessions on the TCPA.
- b. Presented at the National Consumer Law Center 2014 annual conference in Tampa Fl. for two sessions on the TCPA.

- c. Panelist for the December 2013 Strafford CLE Webinar titled TCPA Class Actions: Pursuing or Defending Claims Over Phone, Text and Fax Solicitations.
- d. Panelist for the December 2014 Chicago Bar Association Class Action Seminar titled “Class Action Settlements in the Seventh Circuit: Navigating Turbulent Waters.”
- e. Presented at the 2014 Fair Debt Collection Training Conference for three sessions on the TCPA.
- f. Panelist for the December 2013 Strafford CLE Webinar titled Class Actions for Telephone and Fax Solicitation and Advertising Post-Mims. Leveraging TCPI lectured at the 2014 Fair Debt Collection Training Conference for three sessions on the TCPA.
- g. Panelist for the December 2013 Strafford CLE Webinar titled Class Actions for Telephone and Fax Solicitation and Advertising Post-Mims. Leveraging TCPA Developments in Federal Jurisdiction, Class Suitability, and New Technology.
- h. Presented for the National Association of Consumer Advocates November 2013 webinar titled Current Telephone Consumer Protection Act Issues Regarding Cell Phones.

- i. Presenter for the November 2013 Chicago Bar Association Class Action Committee presentation titled Future of TCPA Class Actions.
- j. Speaker at the Social Security Administration's Chicago office in August 2013 on a presentation on identity theft, which included consumers' rights under the Fair Credit Reporting Act.
- k. Panelist for the May 14, 2013 Chicago Bar Association Class Action Seminar titled "The Shifting Landscape of Class Litigation" as well as for the March 20, 2013 Strafford CLE webinar titled "Class Actions for Telephone and Fax Solicitation and Advertising Post-Mims. Leveraging TCPA Developments in Federal Jurisdiction, Class Suitability, and New Technology."
- l. Lectured at the June 6, 2013 Consumer Law Committee of the Chicago Bar Association on the topic "Employment Background Reports under the Fair Credit Reporting Act: Improper consent forms to failure to provide background report prior to adverse action."
- m. Lectured at the 2013 Fair Debt Collection Training Conference for three sessions on the TCPA.
- n. Presented at the 2012 National Consumer Law Center annual conference for a session on the TCPA.

- o. Presented at the 2012 Fair Debt Collection Training Conference for a session on the TCPA.
- p. Panelist for Solutions for Employee Classification & Wage/Hour Issues at the 2011 Annual Employment Law Conference hosted by Law Bulletin Seminars.
- q. Lectured at the 2011 National Consumer Law Center conference for a session titled Telephone Consumer Protection Act: Claims, Scope, Remedies as well as lectured at the same 2011 National Consumer Law Center conference for a double session titled ABC's of Class Actions.
- r. Taught *Defenses to Foreclosures* for Lorman Education Services, which was approved for CLE credit, in 2008 and 2010.
- s. Guest lecturer on privacy issues at University of Illinois at Urbana-Champaign School of Law in March 2010.
- t. Guest speaker for the Legal Services Office of The Graduate School and Kellogg MBA Program at Northwestern University for its seminar titled: "Financial Survival Guide: Legal Strategies for Graduate Students During A Period of Economic Uncertainty."

29. I was selected as an Illinois Super Lawyer in 2016-2014 and an Illinois Super Lawyer Rising Star each year from 2008 through 2013 and my cases



have been featured in local newspapers such as the Chicago Tribune, Chicago Sun-Times, The Naperville Sun, Daily Herald and RedEye.

30. In April 2011, Timothy J. Sostrin joined the firm. He is a member in good standing of the Illinois bar, the U.S. District Court District of Colorado, U.S. District Court Northern District of Illinois, U.S. District Court Northern and Southern Districts of Indiana, U.S. District Court Eastern and Western Districts of Michigan, U.S. District Court Eastern District of Missouri, U.S. District Court Southern District of Texas and U.S. District Court Eastern and Western Districts of Wisconsin.

31. Timothy J. Sostrin has zealously represented consumers in Illinois and in federal litigation nationwide against creditors, debt collectors, retailers, and other businesses engaging in unlawful practices. Tim has extensive experience with consumer claims brought under the Fair Debt Collection Practices Act, The Telephone Consumer Protection Act, the Fair Credit Reporting Act, the Electronic Fund Transfer Act, and Illinois law.

32. Tim was appointed as class counsel in *Hill v. Asset Acceptance, LLC*, 2014 U.S. Dist. LEXIS 91190 (S.D. Cal. 2014) and has had primary responsibility for the prosecution of numerous consumer rights class actions in which Keogh Law was appointed as counsel for the class, including: *Johnson v. Yahoo!, Inc.*, 2016 U.S. Dist. LEXIS 256 (N.D. Ill. 2016) (granting class certification in TCPA

case); *Osada v. Experian Info. Solutions, Inc.*, 2012 U.S. Dist. LEXIS 42330 (N.D. Ill. Mar. 28, 2012) (granting class certification); *Galvan v. NCO Financial Systems, Inc.*, 2012 U.S. Dist. LEXIS 128592 (N.D. Ill. 2012) (granting class certification); *Saf-T-Gard International, Inc. v. Vanguard Energy Services, LLC*, (2012 U.S. Dist. LEXIS 174222 (N.D. Ill. December 6, 2012) (granting class certification).

33. Some of Tim's representative cases include: *Jelinek v. The Kroger Co.*, 2013 U.S. Dist. LEXIS 53389 (N.D. Ill. 2013) (denying defendant's motion to dismiss); *Hanson v. Experian Information Solutions, Inc.*, 2012 U.S. Dist. LEXIS 11450 (N.D. Ill. January 27, 2012)(denying defendant's motion for summary judgment); *Warnick v. DISH Network, LLC*, 2013 U.S. Dist. LEXIS 38549 (D. Colo. 2013) (denying defendant's motion to dismiss);*Torres v. Nat'l Enter. Sys.*, 2013 U.S. Dist. LEXIS 31238 (N.D. Ill. 2013) (denying defendant's motion to dismiss); *Griffith v. Consumer Portfolio Serv.*, 838 F. Supp. 2d 723 (N.D. Ill. 2011) (denying defendant's motion for summary judgment); *Frydman et al v. Portfolio Recovery Associates, LLC*, 2011 U.S. Dist. LEXIS 69502 (N.D. Ill 2011) (denying defendant's motion to dismiss); *Rosen Family Chiropractic S.C. v. Chi-Town Pizza*, 2013 U.S. Dist. LEXIS 6385 (N.D. Ill. 2013) (denying defendant's motion to dismiss); *Sengenberger v. Credit Control Services, Inc.*, 2010 U.S. Dist. LEXIS 43874 (N.D. Ill. May 5, 2010) (granting summary judgment on TCPA claim);

34. Tim is a member of the National Association of Consumer Advocates and ISBA. He received his Juris Doctorate, *cum laude*, from Tulane University Law School in 2006.

35. In 2014, Michael Hilicki joined the firm. He has spent nearly all of his approximately 20-year legal career helping consumers and workers subjected to unfair and deceptive business practices, and unpaid wage practices. He is experienced in a variety of consumer and wage-related areas including, but not limited to, the Fair Debt Collection Practices Act, Truth-in-Lending Act, Fair Credit Reporting Act, Real Estate Settlement Procedures Act, Illinois Consumer Fraud & Deceptive Business Practices Act, Telephone Consumer Protection Act, Fair Labor Standards Act and the Illinois Wage & Hour Law. He is experienced in all aspects of consumer and wage litigation, including arbitrations, trials and appeals.

36. Examples of the numerous certified class actions in which Michael has represented consumers or workers include: *Legg v. Spirit Airlines, Inc.*, No. 14-61978-Civ (S.D. Fla.); *Eibert v. Jaburg & Wilk, P.C.*, 13-cv-301 (D. Minn.); *Brinkley v. Zwicker & Associates, P.C.*, 13 C 1555 (N.D. Ill.); *Kraskey v. Shapiro & Zielke, LLP*, 11-cv-3307 (D. Minn.); *Short v. Anastasi & Associates, P.A.*, 11-cv-1612 SRN/JSM (D. Minn.); *Kimball v. Frederick J. Hanna & Associates, P.C.*, 10-cv-130 MJD/JJG (D. Minn.); *Murphy v. Capital One Bank*, 08

C 801 (N.D. Ill.); *In re American Family Mut. Ins. Co. Overtime Pay Litig.*, 06-cv-17430 WYD/CBS (D. Colo.); *Nettles v. Allstate Ins. Co.*, 02 CH 14426 (Cir. Ct. Cook Cty.); *Sanders v. OSI Educ. Servs., Inc.*, 01 C 2081 (N.D. Ill.); *Kort v. Diversified Collection Servs., Inc.*, 01 C 0689 (N.D. Ill.); *Hamid v. Blatt Hasenmiller, et al.*, 00 C 4511 (N.D. Ill.); *Durkin v. Equifax Check Servs., Inc.*, 00 C 4832 (N.D. Ill.); *Torres v. Diversified Collection Services, et al.*, 99-cv-00535 (RL-APR) (N.D. Ind.); *Morris v. Trauner Cohen & Thomas*, 98 C 3428 (N.D. Ill.), *Mitchell v. Schumann*, 97 C 240 (N.D. Ill.); *Pandolfi, et al. v. Viking Office Prods., Inc.*, 97 CH 8875 (Cir. Ct. Cook Cty.); *Trull v. Microsoft Corp.*, 97 CH 3140 (Cir. Ct. Cook Cty.); *Deatherage v. Steven T. Rosso, P.A.*, 97 C 0024 (N.D. Ill.); *Young v. Meyer & Njus, P.A.*, 96 C 4809 (N.D. Ill.); *Newman v. Boehm, Pearlstein & Bright, Ltd.*, 96 C 3233 (N.D. Ill.); *Holman v. Red River Collections, Inc.*, 96 C 2302 (N.D. Ill.); *Farrell v. Frederick J. Hanna*, 96 C 2268 (N.D. Ill.); *Blum v. Fisher and Fisher*, 96 C 2194 (N.D. Ill.); *Riter v. Moss & Bloomberg, Ltd.*, 96 C 2001 (N.D. Ill.); *Clayton v. Cr Sciences Inc.*, 96 C 1401 (N.D. Ill.); *Thomas v. MAC/TCS Inc., Ltd.*, 96 C 1519 (N.D. Ill.); *Young v. Bowman, et al.*, 96 C 1767 (N.D. Ill.); *Depcik v. Mid-Continent Agencies, Inc.*, 96 C 8627 (N.D. Ill.); and *Dumetz v. Alkade, Inc.*, 96 C 4002 (N.D. Ill.)

37. Michael has lectured on consumer law issues at Upper Iowa University and the Chicago Bar Association. He is a member of the Trial Bar of

the United States District Court for the Northern District of Illinois, and he has represented consumers in state and federal courts around the country on a *pro hac vice* basis.

38. Michael's published work includes "*AND THE SURVEY SAYS...*" *When Is Evidence of Actual Consumer Confusion Required to Win a Case Under Section 1692g of the Fair Debt Collection Practices Act in the Seventh Circuit?*, 13 Loy. Consumer L. Rev. 224 (2001).

39. In 2015, Amy Wells joined the firm. Amy brings a wealth of consumer litigation experience. In 2014, Amy Wells was installed as the President of the Miami Valley Trial Lawyers Association. The Miami Valley Trial Lawyers Association (MVTLA) is an association of attorneys throughout Ohio's Miami Valley (Montgomery, Miami, Darke, Preble, Clark, Greene, Warren, Champaign, and Butler Counties). Their members are dedicated to the advancement of fair trials and free access of individuals to the courts of this state. Their members represent injured persons, criminal defendants, consumers and families in the areas of negligence, criminal law, consumer protection, workers' compensation, professional malpractice, products liability, family law, insurance law, employment, and civil rights law.

40. The Ohio Association for Justice named Ms. Wells as recipient of the 2012 President's Award. Ms. Wells was honored by Ohio Association for Justice

at the Annual Convention, where she received her award from President Denise Houston at the Association's flagship President's Dinner on May 3, 2012. The dinner was attended by over 400 attorneys and their guests at the Hilton at Easton Town Center in Columbus, Ohio.

41. Ms. Wells received the highest possible Attorney rating (Superb) by Avvo, Inc., which ranks attorneys according to a variety of criteria, including feedback from clients and peers.

42. In 2011, Ms. Wells was selected to serve on Ohio Attorney General Mike DeWine's Advisory Committee. This panel was assembled by the OAG to review Ohio's primary consumer protection law, the Consumer Sales Practices Act (R.C. 1345 et seq.). Ms. Wells is the only consumer protection attorney in private practice selected for this committee. Ms. Wells has repeatedly been named by Super Lawyers Magazine as a Rising Star. Only 2.5 percent of the attorneys in the state are selected to the Rising Stars list. Super Lawyers, a Thomson Reuters business, is a rating service of attorneys from more than 70 practice areas who have attained a high-degree of peer recognition and professional achievement. The annual selections are made using a statewide survey of attorneys, independent research evaluation of candidates, and peer reviews by practice area. The Super Lawyers lists are published nationwide in Super Lawyers magazines and in leading city and regional magazines across the country.

43. Ms. Wells graduated from the University of Dayton School of Law joint-degree program, earning a Juris Doctorate and Masters of Business Administration. She was the only student in her graduating class to receive this dual degree. During law school, Ms. Wells was a member of the Moot Court Team and Moot Court Board. Ms. Wells was Vice President of the UDSL Women's Caucus and also served as a teaching assistant in the legal research and writing program. Amy was a summer associate at a Dayton law firm in the litigation section. She also clerked in-house at NCR's world headquarters throughout law school, acting as the lead intern during her final year. Amy earned her undergraduate degree in business administration from Ohio University in Athens.

44. Some of Ms. Wells published work include:

a. 2008 article - The Price of Identity Theft for Ohio Consumers was published in Ohio Trial Magazine, Volume 18, Issue 1.

b. In April 2009 her article Protecting Consumers from a "New Breed" of Debt Collector was published in the Dayton Bar Association's Bar Briefs magazine.

c. In 2011, the article titled Proposed Deconstruction of Ohio's UDAP Law, a National Trend was published by the National Association of Consumer Advocate's publication, The Consumer Advocate, Volume 17, No. 4.

d. Ms. Wells wrote Ohio's Consumer Protection Law, which was published in the October 2011 issue of the Advisory.

e. In November 2011 "HB 275 – The Undoing of Ohio's Consumer Protection Law" was published in the Dayton Bar Briefs, Vol. 61, No.3.

f. Ms. Wells is a featured blogger on Neighborhood Housing Services Consumer Law Center Blog

g. Ms. Wells authored a chapter in the Consumer Law Basics book while serving as faculty of the Practising Law Institute.

h. Ms. Wells is a contributing freelance author for NOLO.com (2015- present)

45. Speaking Engagements for Ms. Wells include:

a. Ms. Wells is regularly invited to speak to attorneys and consumers on a state and national basis regarding consumer advocacy issues and laws. Recent presentations include:

b. 2010 National Consumer Law Center Fair Debt Collection Training Conference, Jacksonville, FL, "FDCP Fundamentals: The Care and Feeding of Your FDCP Case."

c. CORT Consumer Law Training 2010, Ann Arbor, MI, "Bringing Claims Under the FCRA and FACTA."



d. 2010 Ohio Association for Justice Annual Convention, Columbus, OH, “Appraisal Litigation: Critical Evidence in an Inflated Appraisal Case & Eminent Domain: Friend or Foe?”

e. 2011 Ohio Association for Justice Insurance Law CLE, Columbus & Dayton, OH, “Protect Thy Consumer, Today’s Consumer Law Issues.”

f. 2011 Ohio Association for Justice Annual Convention, Columbus, OH, Moderator for the Consumer Law Continuing Legal Education panel.

g. 2012 Ohio Association for Justice Annual Convention, Columbus, OH, “How to Practice Under the New Ohio Consumer Law.”

h. 2012 American Bankruptcy Law Forum, Dayton, OH, “Consumer Law for Bankruptcy Attorneys.”

i. 2013 Served as faculty for CLE about Representing the Pro Bono Client, Consumer Law Basics in San Francisco, CA. My presentation was entitled “Introduction to the Fair Credit Reporting Act.”

j. 2015 Ohio State Bar Association Consumer Law CLE, Columbus, OH, “The Basics of the FCRA Including Recent Changes/Oversight from the CFPB.”

46. Ms. Wells has been featured in the following media:

a. Ms. Wells has been interviewed by various media outlets, including the following pieces.

b. ALEC Leads the Legal War Against Consumers, A Lawyers.com Series, Posted May 3, 2012.

c. Right-to-cure bill seen powering its way to approval, Business First, Dec. 16, 2011.

d. 2012, Guest on Americas Workforce Radio, topic: consumer credit reporting.

47. Finally, Ms. Wells served on the Board of Trustees of the Ohio Association for Justice and chaired the Consumer Law Section from 2009-2014. She also served on the Association's Legislative Committee. Ms. Wells is an active member of the National Association of Consumer Advocates and is currently a state chair for the organization. Ms. Wells currently sits on the board of the Miami Valley Trial Lawyers Association, and will served as the Association's President from 2014-2015. Ms. Wells is a member of the American Association for Justice, Illinois Bar Association, Lake County Bar Association, Ohio State Bar Association, and the Dayton Bar Association, Carl D. Kessler Inn of Court, and serves on the DBA Certified Grievance Committee.

48. In 2015, Michael Karnuth joined the firm. His practice focuses on Securities Fraud and Shareholder litigation, as well as consumer protection and other complex litigation matters.

49. In the Securities Fraud area, Mr. Karnuth has extensive experience in prosecuting claims under the federal securities laws, and has actively litigated cases at all levels up to trial, and has obtained significant recoveries for investors. Representative cases and reported decisions include:

In re DVI, Inc. Sec. Litig., 2:03-cv-5336 (E.D. Pa.). Mike has been instrumental in representing equity and debt investors in case raising 10b-5 and 20(a) claims involving a failed healthcare financing company which misrepresented financial statements for several years. To-date, the firm has recovered over \$21 million for investors from ten different defendants, and has achieved important legal victories in the case, including prevailing on numerous motions to dismiss, In re DVI Inc. Sec. Litig., 2005 WL 1307959 (E.D. Pa. May 31, 2005); obtaining class certification, 249 F.R.D. 196 (E.D. Pa. 2008), *aff'd*, 639 F.3d 623 (3d Cir. 2011), *petition for rehearing and en banc denied* (June 24, 2011), and in prevailing on motions for summary judgment, 2010 WL 352086 (E.D. Pa. Sept. 3, 2010), and 2010 WL 3522090 (E.D. Pa. Sept. 3, 2010). Mike presented oral argument to the Third Circuit Court of Appeals and prevailed on an auditor defendant's challenges to market efficiency, loss causation and the

adequacy of an institutional investor to be class representative based on its trading strategies and access to company management.

In re Safety-Kleen Corp. Rollins Shareholder Litigation, No. 3:00-1343-17 (D.S.C.). Mike was also instrumental in the firm's extensive representation of Rollins Environmental Services shareholders in a Section 14(a) proxy case, involving the reverse acquisition of Rollins by Laidlaw Environmental Services, Inc., predecessor of Safety Kleen Corp. The firm obtained a \$3.15 million recovery for the class on the eve of trial, after overcoming numerous legal challenges. The class recovery represented a large percentage of the class's estimated damages in the case.

In re BankAmerica Corp. Sec. Litig., 228 F.Supp.2d 1061 (E.D. Mo. 2002). Mike assisted in the firm's role as Executive Committee Member of the BankAmerica shareholder class, which challenged the 1998 merger of BankAmerica and Nationsbank. Mike's involvement included reviewing discovery, taking depositions and drafting pleadings. The claims of the BankAmerica class settled for over \$160 million.

50. Mike also has extensive experience in consumer protection and other complex litigation. Representative cases and reported decisions include:

Empire Healthchoice Assur., Inc. v. McVeigh, 547 U.S. 677 (2006), where Mike filed an

amicus brief in support of both respondents and the firm's pending certiorari petition on behalf of injured FEHBA-plan insureds, which prevailed in a 5 to 4 ruling that then led to the favorable Supreme Court decision in the firm's case of Cruz v. Blue Cross and Blue Shield of Illinois, 548 U.S. 901 (2006). On remand to the Seventh Circuit, Mike successfully argued that federal preemption and creation of federal common law should not trump state law, which ultimately resulted in the case settling for \$1.5 million in the pending state court case and the class obtaining full recovery of their losses. *See* Blue Cross Blue Shield v. Cruz, 495 F.3d 510 (7th Cir. 2007). Other notable and reported decisions in this case that Mike was integral in achieving include Blue Cross Blue Shield of Illinois v. Cruz, 2003 WL 22715815 (N.D. Ill. Nov. 17, 2003) (dismissing Blue Cross's federal action attacking plaintiff's state court rights); Doyle v. Blue Cross Blue Shield of Illinois, 149 F.Supp.2d 427 (N.D. Ill. 2001) (remanding insured's complaint to state court); and obtaining class certification and summary judgment for the named plaintiff in the state court class action, despite numerous challenges including a brief and oral argument submitted by the U.S. Department of Justice advocating for federal law trumping plaintiff's state law claims. An illustration of Mike's commitment and tenacity to class members' interests is shown in his further representation of a Blue Cross FEHBA-plan class member, a member of the military, who was denied a right to participate in the settlement because her claim

form was submitted late. After a rigorous briefing and oral argument process, Mike prevailed in having her claim allowed, which resulted in an individual payment to her of over \$30,000. See, March 23, 2011 Order allowing Taylor Claim.

Doyle v. Blue Cross Blue Shield of Illinois, 00 CH 14182 (Cir. Ct. Cook County, Ill., Chancery Division) (firm was co-counsel on behalf of ERISA-plan insureds and achieved a \$6.95 million settlement and injunctive relief in 2004 for the class, representing near full recovery of estimated losses; case involved Blue Cross's alleged practice of liening against third-party recoveries obtained by their insureds in excess of what they were entitled to recover).

Primax Recoveries Inc. v. Sevilla, 324 F.3d 544 (7th Cir. 2003). Mike successfully argued to the Seventh Circuit that federal law did not preempt health insured's state law claims seeking application of Illinois' common fund doctrine to insurer's reimbursement lien asserted against insured's third-party recoveries, and that insurer's strategic waiver in state court barred its claims in federal court. *See also Primax Recoveries, Inc. v. Sevilla*, 2002 WL 58816 (N.D. Ill. Jan. 15, 2002) (granting motion to dismiss); Health Cost Controls v. Sevilla, 365 Ill.App.3d 795 (1st Dist. 2006) (reversing denial of class certification). In 2011, after 15 years of litigation, Mike was integral in the firm obtaining full recovery for the class, plus pre- and post-judgment interest, and attorneys' fees from the insurer.

LVNV Funding, Inc. v. Trice, 2011 Ill. App. (1st) 092,773 (Mike was integral in obtaining a modified decision which denied a debt collector's petition for rehearing of an order voiding a default judgment obtained by an unlicensed debt collector; and in having LVNV's petition for leave to appeal to the Illinois Supreme Court denied (Nov. 30, 2011)).

Citibank v. Busuioc, No. 09 CH 49196 (Cir. Ct. Cook County, Ill.) (Mike successfully and extensively briefed and argued a case brought on behalf of homeowners/borrowers who had a mortgage foreclosure pursued against them by an entity who purportedly acquired ownership of the loan through a fraudulent assignment prepared by Lender Processing Services and/or its subsidiary DocX and who lacked standing to pursue the foreclosure; Mike prevailed on Citibank's motion to dismiss the case pursuant to Illinois' Citizens Participation Act and in getting the petition for leave to appeal voluntarily dismissed).

Stinette v. Fisher & Shapiro, et al., No. 09 CH 19758 (Cir. Ct. Cook County, Ill.) (Mike successfully briefed and argued objections to a competing class's proposed settlement on behalf of debtors against a debt collector brought in federal court solely seeking relatively nominal relief under the FDCPA, but which released all viable non-FDCPA claims.

51. Mike's activities, honors, publications, and memberships include:

- September 2014 – article published in ISBA's Business & Securities Law Forum Newsletter titled "Dodd-Frank provides incentives and enhanced protections to blow its new, shiny "whistle," but Sarbanes-Oxley's old whistleblower protections may have more luster in certain situations."
- November 2013 – article published in ISBA's Business & Securities Law Forum Newsletter titled "*Amgen* eases securities fraud plaintiffs' burden at class certification, but the dissent invites challenges to the long-standing 'fraud-on-the-market' theory."
- 2012 – Speaker at the 7th Annual Illinois Public Employee Retirement Systems Summit on the topic of Securities Litigation (Identifying and Pursuing Recoverable Losses).
- 2010 – Speaker and Panelist at Chicago Bar Association Seminar “Defending Federal Securities Class Actions” (May 12, 2010)
- 2009 and 2008 – selected as an Illinois Rising Star by Super Lawyer's Magazine
- 2008 – Speaker and Panelist at Best Practices Forum regarding litigation against accounting firms (September 3, 2008)
- 2006 to Present – Pro bono attorney for the Center for Disability and Elder Law; volunteer attorney to low income, disabled and elderly individuals on various legal issues
- 2010 to Present – Pro bono attorney for Chicago Volunteer Legal Services; providing assistance to homeowners facing foreclosure
- Member of CBA, ISBA, ABA, AICPA and ICPAS; member of ISBA's Business & Securities Law Section (June 2012 to present).

52. Mike earned his J.D. from Chicago-Kent College of Law, December 1998 (w/ Honors) and received Merit Scholarships, Deans List recipient and received CALI Award in Advanced Research – Securities. Mike interned for United States District Court Judge Blanche Manning of the Northern District of Illinois, Spring 1998. In addition to obtaining his law degree, Mike is a Certified Public Accountant since 1991 (passed entire exam on first attempt).

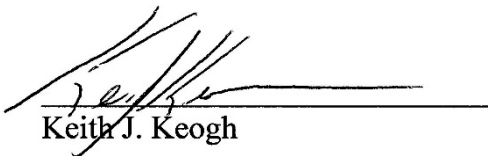
53. Donald L. Sawyer joined Keogh Law, LTD. in 2016 after spending nearly a decade in complex commercial litigation with a primary emphasis on



antitrust class action cases involving territorial division, price fixing, and other anticompetitive practices. Mr. Sawyer has significant experience working on multifaceted cases representing a wide range of consumers, businesses, and labor unions under both federal and state laws. In matters dealing with U.S. and international antitrust law, Mr. Sawyer also specializes in the preservation, collection, review, production, and negotiation of ESI.

54. He is a graduate of Emory University's Goizueta Business School, from which he received a Bachelor of Business Administration degree, concentrating his studies in Finance. In 2006, Mr. Sawyer received his law degree from The John Marshall Law School in Chicago. While attending law school, Mr. Sawyer was a board member of The Corporate Law Association. He was admitted to the Illinois State Bar and U.S. District Court, Northern District of Illinois, in 2006. In addition, Mr. Sawyer has been a presenter at the Complex Litigation E-Discovery Forum.

Executed at Chicago, Illinois, on October 25, 2016.

  
Keith J. Keogh

# **EXHIBIT D**

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

STEVEN L. MARKOS, TIFFANY DAVIS, :  
and GREGORY PAGE, on behalf of :  
himself and all others similarly situated, :

Plaintiffs, :

v. :

WELLS FARGO BANK, N.A., :

Defendant. :

Civil Action File No.

1:15-cv-001156-LMM

**DECLARATION OF JAMES M. FEAGLE**

Pursuant to 28 U.S.C. § 1746, JAMES M. FEAGLE hereby declares under penalty of perjury, as provided for by the laws of the United States, 28 U.S.C.

§1746, that the following statements are true:

1. My name is JAMES M. FEAGLE, I am over the age of twenty-one (21), and I am competent in all respects to testify regarding the matters set forth herein.
2. I voluntarily give this DECLARATION in support of the Motion for Fees, Costs, and Service Awards for Class Representatives in the case of *Steven L.*

*Markos, et al. v. Wells Fargo, N.A.*, U.S. District Court, N.D. Ga., Civil Action File No. 1:15-cv-1156-LMM.

3. I am one of the attorneys for the Plaintiffs and Settlement Class in the above referenced case.
4. The factual matters stated in this DECLARATION are based upon my personal knowledge unless stated otherwise.
5. Matters of opinion expressed in this DECLARATION are my opinions formed based upon my own experience and knowledge.

### **COUNSEL'S EXPERIENCE**

6. I attended college in Atlanta at Emory University and received a B.S. in Psychology and a B.A. in Philosophy in 1988.
7. I became licensed to practice law in the State of Georgia after my graduation from the Georgia State University College of Law in 1991.
8. I have been in the private practice of law since 1991, focusing primarily on consumer litigation in both state and federal court.
9. I am admitted to practice in all trial and appellate courts of the State of Georgia.

10. I am admitted to practice in the United States District Courts for the Northern, Middle and Southern Districts of Georgia, the Northern District of Florida, the Northern District of Illinois as well as the United States Court of Appeals for the Eleventh Circuit.
11. My partner at Skaar & Feagle, LLP, Kris Skaar, is an attorney licensed to practice in the State of Georgia since his graduation from the University of Georgia School of Law in 1986.
12. Following a two year judicial clerkship, Kris Skaar entered private practice in 1988 and began a litigation practice.
13. Kris Skaar is admitted to practice in all trial and appellate courts of the State of Georgia.
14. Kris Skaar is admitted to practice in the United States District Courts for the Northern, Middle and Southern Districts of Georgia.
15. Kris Skaar is admitted to practice in the United States Court of Appeals for the Eleventh Circuit and in the Supreme Court of the United States.
16. My Partner at Skaar & Feagle, LLP, Justin T. Holcombe, attended college in Athens, Georgia at The University of Georgia and received a B.A. in Political Science with a minor in Anthropology in 2005. He became licensed

to practice law in the State of Georgia after his graduation from the Georgia State University College of Law in 2009.

17. Justin T. Holcombe is admitted to practice in all trial courts of the State of Georgia and the Georgia Supreme Court.
18. Justin T. Holcombe is admitted to practice in the United States District Courts for the Northern, Middle and Southern Districts of Georgia and the Northern District of Florida.
19. Justin T. Holcombe is admitted to practice in the United States Court of Appeals for the Eleventh Circuit.
20. Skaar & Feagle, LLP's practice is almost exclusively in the area of consumer rights litigation.
21. Skaar & Feagle, LLP's practice includes litigation of consumer rights issues in federal and state courts, including primarily cases arising under the Federal Fair Debt Collection Practices Act, Fair Credit Reporting Act and Telephone Consumer Protection Act.
22. Skaar & Feagle, LLP's attorneys have successfully concluded thousands of consumer rights cases.

23. Skaar & Feagle, LLP attorneys are highly experienced in the area of class action litigation.
24. Skaar & Feagle, LLP attorneys have been appointed class counsel in other consumer class actions in this District, including but not limited to:  
*Freeman v. A.R.M. Solutions, Inc.*, U.S. District Court, N.D. Ga., Civil Action File No. 1:16-cv-00380-JFK (settled FDCPA class over improper collection notice); *Vinson v. FleetCor Technologies, Inc., et al*, U.S. District Court, N.D. Ga., Civil Action File No. 1:14-cv-01939-ELR-LTW (settled FCRA class [final approval pending] over improper notice and adverse action of employees relating to background searches); *Woodward v. Portfolio Recovery Associates, LLC*, U.S. District Court, N.D. Ga., Civil Action File No. 1:14-cv-00078-WEJ (settled FDCPA class over improper use of court forms); *Luster v. Duncan Solutions, Inc.*, U.S. District Court, N.D. Ga., Civil Action File No. 1:14-cv-00112-AT (settled TCPA class over robo dialed collection calls); *Wreyford v. Citizens for Transportation Mobility, Inc.*, U.S. District Court, N.D. Ga., Civil Action File No. 1:12-cv-02524-JFK (settlement TCPA class over robo dialed political calls); *Scruggs v. Crown Realty & Management Corporation et al*, U.S. District Court, N.D.

Ga., Civil Action File No. 1:12-cv-00233-WSD (settled FDCPA class over alleged illegal collection fee); *Hill v. Asset Acceptance, LLC*, U.S. District Court, N.D. Ga., Civil Action File No. 1:12-cv-00891-AT (settled FDCPA class over envelope markings); *Davis et al. v. HSI Financial Services, LLC*, U.S. District Court, N.D. Ga., Civil Action File No. 1:09-CV-3700-RWS (settled FDCPA class over voice mail disclosures); *Karen Ray et al. v. Richard D. Clay, II, et al.*, U.S. District Court, N.D. Ga., Civil Action File No. 1:03-CV-1695-BBM (payday loan class settlement reached after referral to arbitration); and *Jennie R. Ehlermann et al. v. Cash Thru Payday, Inc.*, U.S. District Court, N.D. Ga., Civil Action File No. 1:00-CV-1822-MHS (payday loan class settlement reached after winning contested motion for class certification).

25. In addition to the cases noted in the preceding two paragraphs, Skaar & Feagle, LLP attorneys have served as local and/or non-lead counsel in numerous other consumer class actions in this District.
26. Skaar & Feagle, LLP attorneys have taught continuing legal education on consumer rights topics, including but not limited to:



- ▶ Legal Services University, *PRACTICAL SURVEY OF THE FAIR CREDIT REPORTING ACT (“FCRA”) FOR LEGAL SERVICES ATTORNEYS*, September 13, 2016.
- ▶ Georgia Trial Lawyers Association, Consumer Law Workshop, *Debt Collection Defense*, Atlanta, Georgia on November 11, 2009
- ▶ Georgia Trial Lawyers Association, 2010 Annual Convention, *Debt Collection Defense and The Fair Debt Collection Practices Act*, Atlanta, Georgia on April 22, 2010
- ▶ Supreme Court Committee on Civil Justice, Administrative Office of the Courts, *Providing First Line Legal Assistance to Seniors, Assisting Seniors with the FDCPA*, Macon, Georgia on June 10, 2010 and Elijay, Georgia on June 25, 2010
- ▶ Institute of Continuing Legal Education in Georgia, *Successful Trial Practice, Consumer Credit Protection Litigation*, Atlanta, Georgia on September 17, 2010
- ▶ Atlanta Volunteer Lawyers, *Debt Collection Defense*, Atlanta, Georgia on March 3, 2010

- ▶ Institute of Continuing Judicial Education in Georgia, 2010 Fall State Court Judge's Conference, *Overview of State Litigation Implications of the Federal Fair Debt Collection Practices Act*, Jekyll Island, Georgia on October 14, 2010
- ▶ Institute of Continuing Legal Education in Georgia, Advanced Debt Collection, *Federal Fair Debt Collection Practices Act*, Atlanta, Georgia on February 24, 2011
- ▶ Georgia Trial Lawyers Association, GTLA Annual Convention, Consumer/Class Actions Program, *Federal Fair Debt Collection Practices Act and Debt Collection Defense*, Atlanta, Georgia on May 5, 2011
- ▶ Telephone Consumer Protection Act at the Georgia Trial Lawyers Association's (GTLA) annual convention.
- ▶ Metro Atlanta Consumer Bankruptcy Group (MACBAG), MACBAG Monthly Diner Meeting, *FDCPA Presentation*, Atlanta, Georgia on May 17, 2012

- ▶ Atlanta Bar Association Elder Law Section, Monthly Breakfast Meeting, *FDCPA Presentation*, Atlanta, Georgia on September 19, 2012
  - ▶ Cobb Bar Association Bankruptcy Section, Monthly Lunch Meeting, *FDCPA Presentation*, Marietta, Georgia on November 11, 2012
27. All Skaar & Feagle, LLP attorneys are active members of the National Association of Consumer Advocates, make substantial efforts to remain current on the state of the Fair Debt Collection Practices Act, the Telephone Consumer Protection Act and the Fair Credit Reporting Act as well as related class action issues, and have attended the two most recent National Consumer Law Center's Consumer Rights Litigation Conferences in Tampa Florida in November of 2014 and San Antonio Texas in November of 2015.
28. Prior to filing this action, Skaar & Feagle, LLP attorneys thoroughly investigated the facts and circumstances surrounding both the *Davis* and *Markos* cases.
29. After filing the *Markos* and *Davis* cases, the Defendant responded by removing both cases to this court shortly thereafter.

30. The parties engaged in good faith settlement discussions as early as July of 2015 and they mutually decided they should explore the possibility of a mediated settlement, rather than continue with protracted and expensive litigation.
31. The parties have engaged in extensive informal discovery about such items as class size, damages, and merits analysis. Negotiations between counsel continued until shortly before the motion for preliminary approval was filed.
32. Settlement negotiations were always at arm's length with several members of Wells Fargo's defense team.
33. During the pendency of the litigation, we have expended significant effort to obtain and finalize the settlement with opposing counsel and gain approval from the court.
34. In my view, given all the risks of litigation and the facts and circumstances of this case, the settlement entered between the parties on behalf of the class is fair, reasonable, adequate, and in the best interest of the Settlement Class and should be approved.
35. In my view, given all the risks of litigation and the facts and circumstances of this case, the total attorney fee request of 30% of the gross settlement is

fair, reasonable, adequate, and reasonable in light of similar cases in this district and circuit and also in light of the overall recovery to each class member and should therefore be approved.

36. In my view, the requested incentive awards of \$20,000.00 to Mr. Markos, Mr. Page, and Ms. Davis are reasonable, particularly in light of the total benefit afforded the entire class action and the substantial individual offers of judgment they turned down to stand up for the class.

FURTHER DECLARANT SAYETH NOT

Executed on this 24<sup>th</sup> day of October, 2016.

/s/ James M. Feagle  
JAMES M. FEAGLE  
DECLARANT

# **EXHIBIT E**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

Steven L. Markos, Tiffany Davis,  
and Gregory Page, on behalf of  
themselves and all others similarly  
situated,

Plaintiffs,

v.

Wells Fargo Bank, N.A.,

Defendant,

Case No. 1:15-cv-01156-LMM

**DECLARATION OF MATTHEW R. WILSON IN SUPPORT OF CLASS  
COUNSEL’S MOTION FOR AN AWARD OF ATTORNEYS’  
FEES, COSTS, AND SERVICE AWARDS FOR CLASS  
REPRESENTATIVES**

I, MATTHEW R. WILSON, declare as follows:

I am a principal attorney with the AV-rated law firm Meyer Wilson Co., LPA (“Meyer Wilson”), one of the counsel of record for Plaintiffs. I have been admitted *pro hac vice* in this case. I respectfully submit this declaration in support of Class Counsel’s Motion for an Award of Attorneys’ Fees, Costs, and Service Awards for Class Representatives. Except as otherwise noted, I have personal

knowledge of the facts set forth in this declaration, and could testify competently to them if called upon to do so.

### **Background and Experience**

1. Meyer Wilson is a plaintiffs' law firm with its primary office in Columbus, Ohio. With co-counsel, Meyer Wilson handles cases across the county. In addition to its practice on behalf of individual and institutional investors in arbitrations before the Financial Industry Regulatory Authority ("FINRA"), Meyer Wilson has a robust complex litigation and class action practice involving consumer, employment, financial, and securities matters. Attached hereto as **Exhibit A** is a true and correct copy of Meyer Wilson's current firm resume, listing a substantial portion of the firm's experience in complex and class action litigation.

2. I graduated from Denison University, *magna cum laude*, in Philosophy in 1997, before graduating from the University of Virginia School of Law in 2000. I came to Meyer Wilson (then called Meyer & Associates Co., LPA) in 2006 as an associate and was promoted to named principal of the firm in 2012. Prior to coming to Meyer Wilson, I worked as an attorney at Jones Day in its Columbus office, where I defended class actions and litigated other complex civil cases. I have been the chair of the Class Action Committee of the Central Ohio Association for Justice since 2007. I was recognized this year and for the last



several years as an Ohio Super Lawyer Rising Star. I am also a member of the Class Action Preservation Project with Public Justice. In addition to the California and Ohio state bars, I am also admitted to the Sixth, Seventh, Ninth, and Eleventh Circuit Courts of Appeals; to the Central, Eastern, Northern, and Southern Districts of California; the Northern and Southern Districts of Ohio; the Central and Northern Districts of Illinois; and the Eastern and Western Districts of Wisconsin. As set forth below, I have significant experience in litigating consumer class actions.

3. I and others at Meyer Wilson have been in the vanguard of the litigation of class action lawsuits under the Telephone Consumer Protection Act. Cases in which I have played a lead or active role include several of the largest TCPA class settlements, as well as a number of other still-pending cases that involve some of the largest banking and financial institutions in the world. For example:

a. *Ossola v. American Express Company*, Case No. 13-cv-04836 (N.D. Ill.) (nationwide class settlement of \$8.5 million; preliminary approval granted July 6, 2016; final approval hearing set for November 30, 2016);

b. *Smith v. State Farm Mutual Auto. Ins. Co.*, Case No. 13-cv-02018 (N.D. Ill.) (nationwide class settlement of \$7 million; preliminary approval granted August 9, 2016; final approval hearing set for December 14, 2016);

- c. *Franklin v. Wells Fargo Bank, N.A.*, Case No. 14-cv-2349-MMA (S.D.Cal.) (nationwide class settlement of \$13.89 million approved January 2016);
- d. *Bayat v. Bank of the West*, Case 3:13-cv-02376-EMC (N.D. Cal.) (nationwide class settlement of \$3.35 million approved in April 2015);
- e. *Connor v. JPMorgan Chase Bank*, Case No. 10 CV 1284 DMS BGS (S.D. Cal. Mar. 12, 2012) (nationwide class settlement of \$11.67 million; final approval granted in early 2015);
- f. *In Re: Capital One Telephone Consumer Protection Act Litigation*, MDL No. 2416 (N.D. Ill.) (nationwide settlement of more than \$75.5 million, currently the largest TCPA class settlement in history; final approval granted February 2015);
- g. *Mills v. HSBC Bank Nevada, N.A.*, Case No. 3:12-cv-04010-SI (N.D. Cal.) (nationwide settlement of over \$39.9 million; final approval granted February 2015);
- h. *Wannemacher v. Carrington Mortgage Services LLC*, Case No. 8:12-cv-02016-FMO-AN (C.D. Cal.) (nationwide settlement of \$1.03 million common fund; final approval granted in December 2014);

i. *Steinfeld v. Discover Financial Services, et al.*, Case No. 3:12-cv-01118-JSW (N.D. Cal.) (nationwide settlement of \$8.7 million common fund; final approval granted in 2014);

j. *Rose v. Bank of America*, Case No. 5:11-cv-02390 (N.D. Cal.) (nationwide settlement of \$32 million common fund, at the time the largest TCPA class settlement; final approval granted in September 2014);

k. *Arthur, et al. v. Sallie Mae, Inc.*, No. C10-0198 JLR (W.D. Wash.) (nationwide class settlement of \$24.15 million; at the time the largest TCPA class settlement; final approval granted in 2012);

l. *Brown v. Directv LLC, et al.*, Case No. 2:13-cv-01170-DMG-E (C.D. Cal.);

n. *Prather v. Wells Fargo Bank, N.A.*, Case No. 1:15-cv-4231 (N.D. Ga.);

o. *Pritchard v. Comenity Bank*, Case No. 2:15-cv-05994-KM-MAH (D.N.J.); and

p. *Rice-Redding, et al. v. Nationwide Mutual Automobile Ins. Co.*, Case No. 1:16-cv-03634-TCB (N.D. Ga.).

4. I also have significant experience in the litigation, trial, and settlement of class actions involving complex economic injury and product defects, false

advertising, and breaches of medical data privacy. Cases in which I have served as Class Counsel in such actions and in which I played a lead or active role include:

a. *Yarger, et al. v. ING Bank FSB*, Case No. 1:11-cv-00154-LPS (D. Del.) (Co-Lead Class Counsel in nationwide case alleging misrepresentations related to marketing of mortgage note modifications; nationwide settlement of over \$20 million in cash relief approved October 2014.)

b. *Struck, et al. v. PNC Bank, N.A.*, Case No.2:11-cv-982 (S.D. Ohio) (Co-Lead Class Counsel in class and collective action involving alleged misclassification of mortgage loan officers; nationwide settlement of \$7 million cash approved May 2014.)

c. *Lazebnik v. Apple, Inc.*, Case No. 5:13-cv-04145-EJD (N.D. Cal.) (Co-Lead Class Counsel in nationwide class action alleging fraudulent marketing of a “season pass” of the television show *Breaking Bad* on Apple’s iTunes service. In response to the lawsuit, Apple provided a full credit to the entire proposed class; settlement reached in October 2014.)

c. *Smith v. Regents of the University of California*, Case No. RG08-410004 (Alameda County, California, Superior Court) (Co-Lead Counsel in California statewide action alleging breaches of medical data privacy. The class was certified on July 9, 2009, and the case settled in late 2011.)

d. *Mack v. hh gregg, Inc., et al.*, Case No. 1:08-cv-664 (S.D. Ind.) (Co-Lead Counsel in putative class action involving alleged incorrect installation of dryers. Nationwide class settlement was granted final court approval on March 18, 2011.)

e. *Kaiser-Flores v. Lowe's Home Centers, Inc.*, Case No. 5:08-CV-00045 (W.D. North Carolina) (Co-Lead Counsel in putative class action involving alleged incorrect installation of dryers. Nationwide class settlement, including cash relief for class members, was granted final court approval on December 15, 2010.)

f. *Sanbrook v. Office Depot, Inc.* Case No. 07CV096374 (N.D. Cal.) (Co-Lead Class Counsel in California statewide class action involving misleading service plan terms and other related issues. After the Court certified a litigation class, the case settled for cash relief for class members, and was granted final approval by the Court on November 23, 2010.)

g. *Frankle v. Best Buy Stores, L.P.*, Case No. 08-5501 (D. Minn.) (Co-Lead Counsel in putative class action involving alleged incorrect installation of dryers. Nationwide class settlement was granted final court approval on November 9, 2010.)

h. *Stout v. Jeld Wen, Inc.* Case No. 1:08-CV-652 (N.D. Ohio) (Lead Class Counsel in putative nationwide class action alleging defective windows. The court granted final approval to the nationwide settlement on August 8, 2010.)

i. *Fulford v. Logitech, Inc.*, Case No. 08-cv-02041 (N.D. Cal.) (Co-Lead Class Counsel in class action alleging deceptive advertising of a consumer product. The nationwide class action settlement was granted final Court approval on March 5, 2010.)

j. *Schweinfurth, et al. v. Motorola, Inc.* Case No. 1:05-CV-0024 (N.D. Ohio) (Co-Lead Class Counsel in nationwide class action alleging defective cellular phones, resulting in nationwide settlement with cash relief for class members, approved by the court on January 25, 2010.)

k. *Steele v. Pergo, Inc.* Case No. CV07-1493 (D. Oregon) (Lead Class Counsel in class action alleging defective laminate flooring. The nationwide settlement was granted final court approval in July, 2009.)

l. *Jenkins v. Hyundai Motor Finance Co.*, Case No. 2:04-cv-00720 (S.D. Ohio) (Appointed Co-Lead Class Counsel in a class action alleging defective notices in connection with the repossession and subsequent disposition of vehicles. The case settled after the court certified a litigation class, and final approval was granted by the court in July, 2009.)

5. In this matter I was assisted by Michael J. Boyle, Jr., an associate attorney at Meyer Wilson. Mr. Boyle graduated *cum laude* from the University of Pennsylvania School of Law in 2008. Mr. Boyle clerked for the Honorable R. Guy Cole, Jr., of the United States Court of Appeals for the Sixth Circuit and worked at the international law firm Covington & Burling, LLP, prior to coming to work at Meyer Wilson in early 2013. Since coming to the firm, Mr. Boyle has worked primarily with me on our firm's TCPA class action cases. In 2014 and 2016, Mr. Boyle was recognized as an Ohio Super Lawyer Rising Star. Mr. Boyle is admitted to and in good standing in the bars of California and Ohio, as well as the Sixth, Seventh, Ninth, and Eleventh Circuit Courts of Appeals, the Northern, Eastern, Central, and Southern Districts of California, the Southern District of Ohio, the Central District of Illinois, and the Eastern and Western Districts of Wisconsin.

**Work on This Matter**

6. Work on this matter required Meyer Wilson to spend time that could have been spent on other matters. At various times during the litigation, this matter has consumed my time, along with the time of Meyer Wilson attorney Michael Boyle.

7. Virtually all of the work that Meyer Wilson undertakes, including its work in this case, is on a contingency fee basis. As such, Meyer Wilson

shouldered the risk of expending costs and time in litigating this action without any monetary gain in the event of an adverse judgment.

8. While Meyer Wilson has achieved notable successes in its TCPA and other class action cases, we have also been involved in cases in which we have not been able to obtain any relief for class members and no fees for ourselves. In contingency fee cases, such an outcome means that all of the time and resources expended by us goes uncompensated. Examples of such cases in the TCPA class action context include: *Wolf v. Lyft, Inc.*, Case 4:15-cv-01441-JSW (N.D. Cal. Mar. 28, 2016) (dismissing case); *Aghdasi v. Mercury Insurance Group, Inc.*, Case No. 2:15-cv-04030-R-AGR (C.D. Cal. Mar. 16, 2016) (dismissing case after denial of class certification); *Ineman v. Kohl's Corp.*, Case No. Case 3:14-cv-00398-wmc (W.D. Wisc. Mar. 26, 2015) (compelling claims to arbitration on an individual basis); *Levin v. National Rifle Assoc. of Am.*, Case 1:14-cv-24163-JEM (S.D. Fla. Feb. 6, 2015) (dismissing case); *Balschmitter v. TD Auto Fin. LLC*, 303 F.R.D. 508, 530 (E.D. Wis. 2014); (denying class certification on eve of trial); *Charvat v. The Allstate Corp.*, Case No. 1:13-cv-07104 (N.D. Ill. Feb. 20, 2015) (terminating case); *Evans v. Aetna Inc.*, Case No. 2:13-cv-01039-LA (E.D. Wisc. Nov. 20, 2013) (dismissing case); *Cayanan v. Citi Holdings, Inc.*, 928 F. Supp. 2d 1182, 1208 (S.D. Cal. 2013); *Brown v. DIRECTV, LLC*, 2013 U.S. Dist. LEXIS 90894 (C.D. Cal. June 26, 2013) (compelling claims to arbitration on an individual basis);



and *Delgado v. US Bankcorp*, 2:12-cv-10313-SJO-AJW (C.D. Cal. Jan. 17, 2013) (dismissing case).

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct, and that this declaration was executed at Columbus, Ohio on October 25, 2016.

/s/Matthew R. Wilson  
Matthew R. Wilson

# **EXHIBIT A**

# MeyerWilson

The law firm of Meyer Wilson Co., LPA is Martindale-Hubbell AV-rated, and is devoted solely to the prosecution of consumer and securities class actions and the representation of investors with claims against the securities industry. The firm prosecutes individual cases and class actions nationwide on behalf of individuals in arbitration and litigation in court. Since its inception, Meyer Wilson has achieved jury awards, arbitration awards, and settlements with combined value of hundreds of millions of dollars on behalf of its clients.

Meyer Wilson has prosecuted numerous nationwide class actions as court-appointed Lead and Co-Lead Class Counsel in federal and state courts throughout the country, including one class action that resulted in what is believed to be the largest jury verdict in Ohio's history at that time and was also reported to be the country's largest securities class action jury verdict in history. In that case, the firm's founding principal David Meyer was appointed Co-Lead Class Counsel action against Prudential Securities. The firm represented more than 250 investors from Marion, Ohio. The jury trial lasted several weeks and the jury returned a Plaintiffs' verdict in excess of \$261 million. The case was *Burns, et al. v. Prudential Securities, Inc.*, Case No. 99CV0438, in the Court of Common Pleas of Marion County, Ohio. The case was pending for more than seven years. Following an appeal of the jury verdict by Prudential Securities, Class Members received in excess of 100% recovery of their actual losses, even after payment of attorneys' fees and expenses.

Meyer Wilson has been appointed class counsel in numerous other class actions that have resulted in significant recoveries. Recent successes in which Meyer Wilson served as Lead or Co-Lead counsel include:

- *In re: Capital One Telephone Consumer Litigation*, Master Docket 1:12-cv-10064 (N.D. Ill) (Class Counsel in MDL proceeding involving claims of improper autodialer and prerecorded message calls to cell phone by Capital One and several of its vendors. The case settled on a nationwide basis for over \$75.5 million, the largest TCPA settlement ever. Final approval was granted in February 2015.).
- *Mills v. HSBC Bank Nevada, N.A., et al.*, Case No. 3:12-cv-04010 (N.D. Cal.) (Class Counsel in nationwide class action alleging unauthorized autodialer calls to cell phones. Final approval of the \$39.975 million cash settlement was approved in February 2015.).

- *Franklin v. Wells Fargo Bank, N.A.*, Case No. 14-cv-2349-MMA (S.D. Cal.) (Class Counsel in a nationwide class settlement of unauthorized autodialer calls to cell phones. Final approval of a \$13.89 million cash settlement was approved January 2016).
- *Rose v. Bank of America Corp., et al.*, Case No.5:11-cv-2390 (N.D. Cal.) (Class Counsel in putative nationwide class action alleging unauthorized autodialer calls to cell phones. The \$32 million cash settlement was approved in 2014.).
- *Bayat v. Bank of the West*, Case 3:13-cv-02376-EMC (N.D. Cal.) (Class Counsel in putative nationwide class alleging unauthorized autodialer calls to cell phones. Settlement of \$3.35 million cash settlement approved in April 2015).
- *Connor v. JPMorgan Chase Bank*, Case No. 10 CV 1284 DMS BGS (S.D. Cal. Mar. 12, 2012) (Class Counsel in nationwide class alleging unauthorized autodialer calls to cell phones. Settlement of \$11.67 million was granted final approval in early 2015).
- *Wannemacher v. Carrington Mortgage Services, LLC*, Case No. 8:12-cv-2016-FMO-AN (C.D. Cal.) (Co-Lead Class Counsel in nationwide class action alleging unauthorized autodialer calls to cell phones. On December 23, 2014, the Court approved a \$1.03 million class settlement).
- *Yarger, et al. v. ING Bank FSB*, Case No. 1:11-cv-00154-LPS (D. Del.) (Co-Lead Class Counsel in nationwide class action alleging misrepresentations related to marketing of mortgage note modifications. A 10-state class was certified in 2012. On October 7, 2014, the Court granted final approval to a \$20.3 million class settlement).
- *Lazebnik v. Apple, Inc.*, Case No. 5:13-cv-04145-EJD (N.D. Cal.) (Co-Lead Class Counsel in nationwide class action alleging fraudulent marketing of a “season pass” of the television show *Breaking Bad* on Apple’s iTunes service. In response to the lawsuit, Apple provided a full credit to the entire proposed class. On October 21, 2014, the parties settled all remaining issues).
- *Steinfeld v. Discover Financial Services*, Case No. 3:12-cv-01118-JSW (N.D. Cal.) (Counsel for the class in action alleging unauthorized autodialer calls to the cell phones. On March 31, 2014, the court approved an \$8.7 million class settlement.)
- *Arthur v. Sallie Mae, Inc.*, Case No. C10-0198 (W.D. Wash) (Co-Lead Class Counsel in putative nationwide class action alleging unauthorized autodialer calls to the cell phones of borrowers who took out student loans with the national lender. The \$24.15 million nationwide settlement was granted final approval on

September 17, 2012. It was, at the time, the largest TCPA settlement since that statute was enacted.).

- *Smith v. Regents of the University of California*, Case No. RG08-410004 (Alameda County, California, Superior Court) (Co-Lead Counsel in California statewide action alleging breaches of medical data privacy. The class was certified on July 9, 2009, and the case settled in late 2011).
- *Mack v. hh gregg, Inc., et al.*, Case No. 1:08-cv-664 (S.D. Indiana) (Co-Lead Counsel in putative class action involving alleged incorrect installation of dryers. Nationwide class settlement was granted final court approval on March 18, 2011).
- *Kaiser-Flores v. Lowe's Home Centers, Inc.*, Case No. 5:08-CV-00045 (W.D. North Carolina) (Co-Lead Counsel in putative class action involving alleged incorrect installation of dryers. Nationwide class settlement, including cash relief for class members, was granted final court approval on December 15, 2010).
- *Frankle v. Best Buy Stores, L.P.*, Case No. 08-5501 (D. Minnesota) (Co-Lead Counsel in putative class action involving alleged incorrect installation of dryers. Nationwide class settlement was granted final court approval on November 9, 2010).
- *Sanbrook v. Office Depot, Inc.* Case No. 07CV096374 (N.D. Cal.) (Co-Lead Class Counsel in California statewide certified class action involving misleading service plan terms and other related issues. The case settled for cash relief for class members, and was granted final approval by the Court on November 23, 2010).
- *Stout v. Jeld Wen, Inc.* Case No. 1:08-CV-652 (N.D. Ohio) (Lead Class Counsel in putative nationwide class action alleging defective windows. The Court granted final approval to the nationwide settlement on August 8, 2010).
- *Fulford v. Logitech, Inc.*, Case No. 08-cv-02041 (N.D. Cal.) (Co-Lead Class Counsel in class action alleging deceptive advertising of a consumer product. The nationwide class action settlement was granted final court approval on March 5, 2010.)
- *Schweinfurth, et al. v. Motorola, Inc.* Case No. 1:05-CV-0024 (N.D. Ohio) (Co-Lead Class Counsel in nationwide class action alleging defective cellular phones, resulting in nationwide settlement with cash relief for class members, approved by the Court on January 25, 2010).

- *Steele v. Pergo, Inc.* Case No. CV07-1493 (D. Oregon) (Lead Class Counsel in class action alleging defective laminate flooring. The nationwide settlement was granted final court approval on July 7, 2009.)
- *Jenkins v. Hyundai Motor Finance Co.*, Case No. 2:04-cv-00720 (S.D. Ohio) (Appointed Co-Lead Class Counsel in a certified class action alleging defective notices in connection with the repossession and subsequent disposition of vehicles. The case settled after certification, and was approved by the Court on July 7, 2009.)
- *Guisseppone v. Wendy's International, Inc., et al.*, Case No. 08-CVC-4-6219 (Common Pleas Court, Franklin County, Ohio) (Liaison Counsel in the derivative and class action suit involving the sale of Wendy's to the parent company of Arby's. The nationwide class action settlement was approved by the Court on July 1, 2009.)
- *In Re Apple iPod Nano Products Liability Litigation*, MDL Docket No. M: 06-cv-01754-RMW (N.D. Cal.) (Co-Lead Counsel in the Multi-District Litigation proceeding in which nationwide class actions allege that screens on Ipod Nanos were susceptible to excessive scratching under normal use and were therefore defective. A nationwide settlement of the related case in state court, including cash relief for consumers, was granted final approval by the Court on April 28, 2009.)
- *Health Science Products LLC v. Sage Software SB, Inc.*, Case No. 1:05-CV-03329-RWS (N.D. Ga.) (Co-Lead Class Counsel in nationwide class action settlement involving allegedly defective software. Settlement included cash relief for Class Members. It was approved by the Court on April 24, 2008.)
- *Wiatrowski, et al. v. Sears, Roebuck & Co., et al.*, Case No. 1:06-CV-00637 (N.D. Ohio) (Co-Lead Counsel in a nationwide class action settlement that provided cash reimbursement of Class Members for out of pocket losses. The court granted final approval on December 20, 2007).
- *Bowen, et al. v. Whirlpool Corp., et al.*, Case No. CV05-8067 (C.D. Cal.) (Co-Class Counsel in nationwide class action alleging defective water heaters. Final approval was granted in the nationwide class settlement on October 11, 2007.)
- *Opperman, et al. v. Cellco Partnership, et al.*, Case No. BC326764 (Superior Court of the State of California, Los Angeles County 2006) (Nationwide settlement approved in 2006. Provided, *inter alia*, for the option to return improperly marketed cellular telephone for a full refund of the purchase price and cancellation of a Class Member's contract without early termination penalties).

- *Heitbrink, et al. v. eMachines*, Case No. G-4801-CI-200501229 (Court of Common Pleas of Lucas County, Ohio 2006) (Nationwide settlement provided cash relief for qualified Class Members for purchasers of defective notebook computers. The Court granted final approval on December 21, 2006.)
- *Martino, et al. v. Motorola, Inc.* Case No. 03-CIV-1562 (Court of Common Pleas, Medina County, Ohio 2004) (Nationwide class action settlement provided relief valued in the millions of dollars and included cash reimbursement of Class Members for out of pocket losses. The Court granted final approval on March 2, 2005)

Meyer Wilson currently serves as Class Counsel in numerous pending class actions throughout the country, including the following:

- *Prather v. Wells Fargo Bank, N.A.*, Case No. 1:15-cv-4231 (N.D. Ga.) (Class Counsel in case alleging unauthorized autodialer debt collection calls to customers and non-customers in connection with student loans).
- *Cross v. Wells Fargo Bank, N.A.*, Case No. 1:15-cv-1270 (N.D. Ga.) (Class Counsel in case alleging unauthorized autodialer debt collection calls to customers and non-customers in connection with deposit accounts).
- *Markos v. Wells Fargo Bank, N.A.*, Case No. 1:15-cv-1156 (N.D. Ga.) (Class Counsel in case alleging unauthorized autodialer debt collection calls to customers and non-customers in connection with mortgage accounts).
- *Walls v. JP Morgan Chase Bank, N.A.*, 3:11-cv-00679 (W.D. Kentucky) (Class Counsel in case alleging the bank and its agents illegally force-placed home insurance with certain consumers.)
- *Brown v. DirectTV, LLC, et al.*, Case No. 2:12-cv-08382 (C.D. Cal.) (Class Counsel in nationwide class action alleging unauthorized autodialer calls to cell phones).
- *Smith v. State Farm, et al.*, Case No. 1:13-cv-02018 (N.D. Ill.) (Class Counsel in putative nationwide class action alleging unauthorized autodialer telemarketing calls by or on behalf of several large insurance companies to millions of cell phones).
- *Ossola, et al. v. American Express Co., et al.*, Case No. 1:13-CV-4836 (N.D. Ill.) (Class Counsel in putative nationwide class action alleging unauthorized autodialer calls to cell phones).

- *Pritchard v. Comenity Bank*, Case No. 2:15-cv-05994-KM-MAH (D.N.J.) (Class Counsel in nationwide class action alleging unauthorized autodialer calls to cell phones).
- *Rice-Redding et al. v. Nationwide Mutual Automobile Ins. Co.*, Case No. 1:16-cv-03634-TCB (N.D. Ga.) (Class Counsel in nationwide class action alleging unauthorized autodialer calls to cell phones).
- *Goodman v. JP Morgan Investment Management, Inc.*, Case No. 2:14-cv-00414 (S.D. Ohio) (Local Counsel in class action case alleging improper and excessive mutual fund management fees charged to investors).



**DAVID P. MEYER** is the founding principal of Meyer Wilson.

Mr. Meyer is recognized as one of the top litigation attorneys in Ohio. Thomson Reuters named him one of the Top 100 lawyers in Ohio and one of the Top 50 in Columbus in 2012. He is also listed in Best Lawyers in America® (2012) in multiple categories and the American Trial Lawyers Association selected him as one of the Top 100 Trial Attorneys in Ohio.

Mr. Meyer has the honor of winning the largest jury verdict in Ohio history; a \$261 million class action verdict against Prudential Securities on behalf of 200 individuals.

Mr. Meyer has earned a national reputation for successfully representing investors who are victims of investment fraud. He has represented over eight hundred individual investors from all across the country in FINRA/NASD securities arbitration and litigation cases against all major brokerage firms and won verdicts, judgments and settlements of hundreds of millions of dollars in losses on their behalf.

He has also been appointed lead or co-lead counsel by state and federal courts throughout the country in numerous consumer class actions.

Mr. Meyer is a recognized authority on securities arbitration procedure and often serves as a guest lecturer on securities fraud and stockbroker malpractice. Numerous bar associations have invited him to speak to attorneys at educational seminars. Mr. Meyer also provides education to investor groups, accountants and other financial professionals concerning investor protection.

Mr. Meyer holds a business administration degree from Ohio University and a law degree and master's degree in tax law from Ohio's Capital University Law School.

**MATTHEW R. WILSON** is a principal attorney with the firm.

At Meyer Wilson, Mr. Wilson prosecutes the firm's class action cases. During the past eight years, Mr. Wilson has served as court-appointed class counsel to more than twenty-five certified classes, either in settlement or in litigation.

Recently, Mr. Wilson has been court-appointed class counsel in numerous cases across the country in which the defendants were alleged to have made unauthorized calls and sent text messages to cellular telephones through the use of an automated telephone dialing system and/or an artificial or prerecorded voice, in violation of the TCPA. The TCPA class settlements - over the last four years alone - in which Matt has been class counsel have provided over \$200 million in cash for consumers.

Several of Mr. Wilson's cases have resulted in nationwide settlements for consumers that are among the largest since the TCPA was enacted in 1991, including *In re: Capital One Telephone Consumer Protection Act Litigation*, 1:12-cv-10064 (N.D. Ill.) (\$75.5 million – largest all-cash TCPA class settlement) (final approval granted February, 2015); *Wilkins v. HSBC Bank Nevada, N.A. et al.*, 1:14-cv-00190 (N.D. Ill.) (\$39.9 million – third-largest all-cash TCPA class settlement); *Rose v. Bank of America Corp.*, 5:11-cv-02390-EJD (N.D. Cal.) (\$32 million – largest all-cash TCPA class settlement at the time final approval was granted in 2014); and *Arthur, et al. v. Sallie Mae, Inc.*, No. 10-cv-198-JLR (W.D. Wash.) (\$24.15 million – largest all-cash TCPA class settlement at the time final approval was granted).

In another recent matter, Mr. Wilson was co-lead counsel in *Yarger v. ING Bank, fsb*, 1:11-cv-00154-LPS (D. Del.), representing consumers who alleged that ING breached its promise to allow them to refinance their home mortgages for a fixed flat fee of \$500 or \$750, and instead charged a higher fee. In 2012, the court certified a class of consumers in ten states who purchased or retained an ING adjustable rate mortgage. In October 2014, the court approved a \$20.35 million all-cash class settlement.

In addition to Mr. Wilson's complex civil litigation practice, his pro bono services have included the representation of indigent criminal defendants in Sixth Circuit appeals in Criminal Justice Act cases, including one case in which the Sixth Circuit vacated the criminal sentence of Mr. Wilson's indigent client on appeal. See *United States v. Boards*, 202 Fed. Appx. 869 (6th Cir. 2006). He has been a frequent Interfaith Legal Services volunteer, where he has assisted low-income clients with all manner of legal difficulties, trying one such case to a jury. He is also a member of the National Association of Consumer Advocates and is a member of the Class Action Preservation Project with Public Justice.

Mr. Wilson graduated *magna cum laude*, Phi Beta Kappa, in Philosophy from Denison University in Granville, Ohio. He received his law degree from the University of Virginia Law School in Charlottesville, Virginia. He is admitted to practice in Ohio and California.

**CHAD M. KOHLER** is an attorney with the firm.

Mr. Kohler devotes his practice to the representation of investors and consumers who have claims against their investment advisors, brokerage firms and insurance companies.

Prior to joining Meyer Wilson, Mr. Kohler was a stockbroker at one of the nation's largest brokerage firms, where he obtained his Series 7, 63 and 65 securities licenses. Mr. Kohler also has experience in managing regulatory compliance matters at two SEC-registered investment adviser firms, including holding the position of Chief Compliance Officer.

He also has significant experience as a practicing attorney. Beginning in 2001, Mr. Kohler's practice focused on business litigation involving contracts, fiduciary relationships and business torts.

Mr. Kohler received his law degree from Case Western Reserve University School of Law in 2001. He is admitted to practice law in the state of Ohio.

Mr. Kohler is a member of the Ohio State Bar Association, the Central Ohio Association for Justice, the Franklin County Democratic Lawyers Club, and the Public Investors' Arbitration Bar Association (PIABA), a national organization of attorneys who represent investors in securities disputes.

**MICHAEL J. BOYLE, JR.** is an attorney with the firm.

Mike Boyle represents investors in FINRA arbitrations and also prosecutes the firm's class action cases on behalf of consumers and investors.

In 2014 and 2016, Mike was named a "Rising Star" by *Ohio Super Lawyers Magazine*.

Prior to joining the firm, Mike clerked for the Honorable R. Guy Cole, Jr., a judge on the United States Court of Appeals for the Sixth Circuit during the 2011-2012 term. Mike began his career with the international law firm Covington & Burling, LLP, in San Francisco. He also worked for the San Francisco firm Carroll Burdick & McDonough, LLP and the Columbus firm Carpenter Lipps & Leland, LLP. With these firms, Mike handled a wide spectrum of legal cases, from nine-figure bankruptcies and insurance coverage actions to individual real estate disputes.

Mike has also maintained a significant pro bono practice. In the aftermath of Hurricane Katrina, Mike volunteered with a free legal clinic run by Loyola University of New Orleans, in which he provided a wide range of services to displaced residents of Louisiana. Mike also served with the San Francisco Bar Association's Legal Assistance project, providing free legal assistance to low income residents of the Bay Area.

Mike attended the University of Pennsylvania School of Law, where he graduated with honors in 2008. He also served as a Senior Editor of the University of Pennsylvania Law Review, and was a finalist in the Keedy Cup Moot Court competition. Prior to law school, Mike graduated with honors from Dominican University in River Forest, Illinois, with a focus on political theory. Mike is a member of the California and Ohio Bars, and is admitted to the United States Court of Appeals for the Sixth and Ninth Circuits, as well as the United States District Courts for the Northern, Central, Southern, and Eastern Districts of California, the Southern District of Ohio, the Central and Northern Districts of Illinois, and the Eastern and Western Districts of Wisconsin.

**COURTNEY YEAGER** is an attorney with the firm.

As an associate attorney with Meyer Wilson, Courtney Yeager devotes her practice to the representation of investors who have claims against their investment advisors and brokerage firms. She also assists in prosecution of the firm's class action cases.

Ms. Yeager joined Meyer Wilson as a law clerk in 2010. She graduated *magna cum laude* from Capital University Law School in 2012. While at Capital Law, she participated in Moot Court and coordinated the law school's pro bono legal volunteering program. She is a member of the Order of the Curia, as well as the Order of the Barristers for excellence in scholastic brief writing and oral advocacy.

Prior to joining Meyer Wilson, Ms. Yeager interned at the Franklin County Municipal Court under the Honorable Anne Taylor, the Federal Public Defender's Office for the Southern District of Ohio, the Ohio State University Office of Legal Affairs, and the Parliament of Canada.

Courtney also regularly volunteers at the Interfaith Legal Clinic, a pro bono clinic that operates through the Legal Aid Society. Interfaith is a monthly clinic where low-income individuals with legal problems can meet with an attorney for free legal advice.

Ms. Yeager is admitted to practice law in the state of Ohio. She is currently a member of the Public Investors Arbitration Bar Association (PIABA), the Central Ohio Association for Justice (COAJ), the Ohio Association for Justice (OAJ), and the Ohio State Bar Association (OSBA). Ms. Yeager is an active participant in the Ohio Supreme Court Lawyer to Lawyer Mentoring Program.

# **EXHIBIT F**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

Steven L. Markos, Tiffany Davis,  
and Gregory Page, on behalf of  
themselves and all others similarly  
situated,

Plaintiffs,

v.

Wells Fargo Bank, N.A.,

Defendant,

Case No. 1:15-cv-01156-LMM

**DECLARATION OF DOUGLAS J. CAMPION IN SUPPORT OF  
MOTION FOR AN AWARD OF ATTORNEYS' FEES, COSTS, AND  
SERVICE AWARDS FOR CLASS REPRESENTATIVES**

**DECLARATION OF DOUGLAS J. CAMPION**

**I, Douglas J. Campion, declare:**

1. I am one of the attorneys for the plaintiffs Steven L. Markos, Tiffany Davis and Gregory Page (“Plaintiffs”) in this action filed against defendant Wells Fargo Bank, N.A. (“Defendant” or “Wells Fargo”). I submit this declaration in support of Class Counsel’s Motion for Attorneys’ Fees and Costs and For Service Awards. I am licensed to practice law in California and before all federal courts in California. If called as a witness, I would competently testify to the matters herein from personal knowledge, except where expressly noted otherwise.
2. I am the owner of the Law Offices of Douglas J. Campion, APC, a member in good standing of the bar of the State of California.
3. I have been preliminarily approved as Class Counsel for the proposed settlement class.

**Class Counsel’s Experience**

4. The Law Offices of Douglas J. Campion, APC has been confirmed as one of the firms acting as Class Counsel for purposes of this action and proceeding with the settlement. I am the only principal and only attorney in my law firm. I was admitted to the State Bar of California in 1977 and have been a member in good standing since that time. Since my admission, I have been engaged in litigation and I have had extensive experience in business litigation prior to working in the class action field. In 1989, I joined the San Diego office of a Philadelphia law firm, Barrack, Rodos & Bacine. Our office engaged in class and derivative litigation exclusively, primarily specializing in



plaintiff's class action securities cases. I resigned from the firm in 1996. Barrack, Rodos & Bacine was often co-counsel with Milberg Weiss Bershad Hynes & Lerach in class actions and litigated the same types of cases.

5. I feel my experience both in other firms and with my own firm for the past fifteen years supports my request for attorney's fees. A few examples of the cases my prior firm litigated, separately or with co-counsel, and in which I actively participated, are as follows:
  - a. The Michael Milken - Drexel securities litigation, with a joint recovery for all plaintiffs of more than a billion dollars;
  - b. The savings and loan securities and derivative litigation of the early 1990's, in which I represented or litigated against California Federal, Far West Financial, Financial Corporation of Santa Barbara, Imperial Savings, and others;
  - c. Defense contractor over-billing cases, including Lockheed, General Dynamics, and Rockwell International;
  - d. A number of health care provider cases including National Health Laboratories;
  - e. National Medical Enterprises, ICN Pharmaceuticals, and Pfizer;
  - f. Cases against insurance companies including Blue Cross of California, and First Executive Life and its progeny; and
  - g. Many other class and derivative actions including L.A. Gear, Countrywide Trucking, and Glen Ivy timeshares, among others.
6. I have also been lead or co-lead counsel in many other class actions or Business & Professions Code representative actions since I opened my own office over fifteen years ago. Most of those are consumer-

related cases. Some other class or 17200 representative actions in which I was lead or co-lead counsel since I opened my own office in 2001 are the following:

- a. Gonzalez, et. al., v. Science Applications International Corporation, et. al. (state court);
- b. Warner, et al. v. Computer Education Institute, et al. (state court),
- c. Smith v. Microskills (state court);
- d. Russell, et al., v. DAT, Inc. dba Laptop Training Solutions (state court);
- e. Jared Smith v. Independent Capital Management, Inc., et al. (state court);
- f. Orttman and Opyrchal, et al., v. New York Life (federal court);
- g. Bowersox v. Laboratory Corporation of America (state court);
- h. O'Neal v. NCO Financial Systems, Inc. (federal court);
- i. McDonald v. Bonded Collectors, Inc. (federal court);
- j. In Re Brocade Derivative Litigation (state court);
- k. Kryptonite Locks Coordinated Litigation (state court);
- l. Shaw v. Tenet Healthcare Corporation, et al. (federal court);
- m. Rodriguez v. Yum Yum Donut Shops, Inc. (state court);
- n. Arnn, et al., v. West Coast Aquarium Industries, Inc. (state court);
- o. Grant v. American Agencies, Inc. (federal court);
- p. Rogers v. Whitney Education Group (state court);
- q. Khosorabi v. Nmih Shore Agency, Inc. (federal court);
- r. Goins v. Checks Cashed for Less, Inc., et al. (state court);
- s. Fanciullo v. CompuCredit dba Aspire VISA (federal court);
- t. Kight v. Eskanos & Adler, P.C. (federal court);
- u. Gulzynski v. Fidelity Title (federal court);
- v. Kight v. CashCall (state court);

- w. Grannan v. Direct Electronics, Inc. (state court);
  - x. Bellows v. NCO Financial, Inc. (federal court);
  - y. Adams v. AllianceOne, Inc. (federal court);
  - z. American Apparel, Inc. Derivative Litigation (federal court);
  - aa. Arthur v. Sallie Mae (federal court);
  - bb. Meeks v. CreditWest, et. al. (state court);
  - cc. Shirdel v. Access Group, Inc. (federal court);
  - dd. Malta v. Wells Fargo (federal court);
  - ee. Robinson v. Midland Funding, LLC (federal court);
  - ff. Bennett v. Discover Bank (federal court);
  - gg. Dominici v. Wells Fargo (federal court);
  - hh. Hurtado v. Progressive Financial Services (federal court);
  - ii. Galbraith v. Resurgent (federal court);
  - jj. Rose v. Bank of America (federal court);
  - kk. Underwood v. San Diego Flight Training, Inc. (state court);
  - ll. In Re Jiffy Lube Multi-District Litigation (federal court).
  - mm. Sojka, et. al. v. Direct Buy, Inc.
  - nn. Johnson v. Bennett Law
  - oo. Hoffman v. Bank of America
  - pp. Becerra v. National Recovery Solutions, LLC
  - qq. Dailey v. John D. Bonewicz, PC
  - rr. Burge v. Pinnacle Financial Group, Inc.
  - ss. Blair v. CBE Group
7. I have also had several state court appellate court opinions published in which our side prevailed and for which I was counsel of record and responsible for the appellate work. Those include *CashCall, Inc. v.*

*Superior Court* (“*CashCall I*”) (2008) 159 Cal. App. 4th 273; *Smith v. Microskills San Diego L.P.* (2007) 153 Cal. App. 4th 892; and *Kight v. CashCall* (2011) 200 Cal. App. 4th 1377 (“*CashCall II*”). The *CashCall I* case expanded the rights of putative class members to obtain pre-certification class member discovery to substitute a new class representative, even when the named plaintiffs had no standing to initially bring the action. In the *Microskills* case, the Court of Appeal limited the ability of the defendant vocational school, a third party to an arbitration agreement between the plaintiff student and the student loan lender, to compel a plaintiff to arbitrate their case against the school. The *CashCall II* case reversed summary adjudication and set forth new law in the field of privacy rights, including eavesdropping.

**EXPERIENCE RELEVANT TO THE TELEPHONE CONSUMER  
PROTECTION ACT**

8. I have filed and litigated many other class actions based on the Telephone Consumer Protection Act in the past seven years. I have been lead counsel, liaison counsel or class counsel in the TCPA cases obtaining the largest monetary and non-monetary settlements to date. As detailed below, those include *Rose v. Bank of America Corporation, et al.*, 11-CV-02390-EJD (N.D. Cal 2014), settled in excess of \$32,000,000; the *Malta v. Wells Fargo* mortgage and auto loan robocalling case, settled in excess of \$17,000,000; *Arthur v. Sallie Mae*, settled in excess of \$24,000,000; *In Re Jiffy Lube*, settled for certificates/cash, with the certificates valued over \$40,000,000 in value, with a reduced cash value if redeemed for cash; and the *Adams*

- v. *AllianceOne* case, with a settlement of more than \$9,000,000.
9. The following is a partial list of the TCPA class actions which I am or have been personally involved in:
- a. *In Re Jiffy Lube Int'l, Inc. Text Spam Litigation*, MDL Case No. 2261, Master Case No. 3:11-MD-02261 – JM- JMA (liaison counsel) (largest combined monetary and certificate for services case to date, approx. \$45,000,000 value);
  - b. *Rose v. Bank of America Corporation, et al.*, 11-CV-02390-EJD (N.D. Cal 2014)(Nationwide TCPA class settlement providing class relief to over 6.9 million class members, which created a common fund in the amount in excess of \$32 million dollars);
  - c. *Bellows v. NCO Financial Systems, Inc.*, 07-CV-01413 W(AJB) (S.D. Cal) (One of the first class action settlements under the TCPA in the nation; served as co-lead counsel; final approval granted in 2009);
  - d. *Adams v. AllianceOne, Inc.*, 08-CV-0248 JAH (S.D. Cal) (Nationwide TCPA class settlement providing class relief of \$40 per claiming class member resulting in over \$2,500,000 paid to claiming class members; final approval granted in 2013);
  - e. *Lemieux v. Global Credit & Collection Corp.*, 08-CV-1012 IEG(POR) (S.D. Cal.) (Co-lead counsel on a national TCPA class settlement providing class recovery in the amount of \$70 for each claiming class member; final approval granted in 2011);
  - f. *Malta, et al. v. Wells Fargo Home Mortgage, et al.*, 10-CV-1290 IEG(BLM)(Served as co-lead counsel for a settlement class of borrowers in connection with residential or automotive loans and violations of the TCPA in attempts to collect on those accounts;

obtained a common settlement fund in the amount of \$17,100,000 which was the second largest TCPA settlement at the time, second only to the *Sallie Mae* settlement; final approval granted in 2013);

g. *Connor v. JPMorgan Chase Bank, et al.*, 10-CV-1284 GPC(BGS) (S.D. Cal.) (Currently serving as co-lead counsel for the settlement class of borrowers in connection with residential loans and TCPA violations stemming from the collection of those accounts); has turned into a bifurcated proceeding with a settlement of more than \$12,000,000, final approval pending);

h. *Franklin v. Wells Fargo Bank, N.A.*, 14cv2349-MMA-BGS (S.D.Cal.) (Counsel for Plaintiff in connection with TCPA violations arising from credit card loans, resulting in a settlement of \$13,859,103.80);

i. *In Re: Midland Credit Management, Inc., Telephone Consumer Protection Act Litigation*, 11-md-2286 MMA(MDD) (S.D. Cal.) (Co-lead counsel) (Counsel for a Plaintiff in the lead action, prior to the action being recategorized through the multi-district litigation process; Final Approval hearing on Sept. 30, 2016, final approval of settlement and fees indicated, order pending);

j. *In Re: Portfolio Recovery Associates, LLC Telephone Consumer Protection Act Litigation*, 11-md-02295-JAH(BGS) (Counsel for a Plaintiff in the lead action, appointed liaison counsel in the multi-district litigation process, case still proceeding in the MDL litigation and settlement process);

k. *Arthur v. SLM Corporation*, 10-CV-00198 JLR (W.D. Wash.) (Nationwide settlement achieving the then-largest monetary

settlement in the history of the TCPA: \$24,115,000; final approval granted in 2012);

l. *Wilkins v. HSBC Bank Nevada, N.A.*, Case No. 1:14-cv-190 (N. D. Ill.) (One of Class Counsel firms, obtained final approval of \$39,975,000 settlement, one of the largest TCPA settlements to date);

m. *Lo v. Oxnard European Motors, LLC, et al.*, 11-CV-1009-JLS-MDD (S.D. Cal.) (Achieving one of the highest class member payouts in a TCPA action of \$1,331.25; final approval granted in 2012);

n. *Sarabri v. Weltman, Weinberg & Reis Co., L.P.A.*, 10-01777-AJB-NLS (S.D. Cal.) (Approved as co-lead counsel and worked to obtain a national TCPA class settlement where claiming class members each received payment in the amount of \$70.00; final approval granted in 2013);

o. *Robbins, et al. v. Coca Cola Co.*, Case No. 13-cv-00132 – IEG –NLS (S.D. Cal.) (Decision often cited on pleading standards on motions to dismiss in TCPA actions);

p. *Maier v. JC Penney*, Case No. 13cv0163 IEG (DHB) (S.D. Cal.) (Favorable ruling obtained on requirements for pleading the use of an automatic telephone dialing system; also obtained a separate ruling rejecting the application of Rule 68 offers in the Ninth Circuit).

10. The cases listed above which have settled have resulted in the creation of combined common funds to class members in the tens of millions of dollars. I am proud of my record in the above cases that resulted in substantial settlements for consumers.

I declare under penalty of perjury of the laws of California and the United States that the foregoing is true and correct, and that this declaration

was executed in San Diego, CA on October 24, 2016.

By: /s/ Douglas J. Campion

Douglas J. Campion



# EXHIBIT G

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

Steven L. Markos, Tiffany Davis,  
and Gregory Page, on behalf of  
themselves and all others similarly  
situated,

Plaintiffs,

v.

Wells Fargo Bank, N.A.,

Defendant,

Case No. 1:15-cv-01156-LMM

**DECLARATION OF MICHAEL L. GREENWALD IN SUPPORT OF  
CLASS COUNSEL’S MOTION FOR AN AWARD OF ATTORNEYS’  
FEES, COSTS, AND SERVICE AWARDS FOR CLASS  
REPRESENTATIVES**

Pursuant to 28 U.S.C. § 1746, I declare as follows:

1. My name is Michael L. Greenwald.
2. I am over twenty-one years of age, I am fully competent to make the statements included in this declaration, and I have personal knowledge of the statements included in this declaration.
3. I am a partner at Greenwald Davidson Radbil PLLC (“GDR”), and I am counsel for the plaintiffs in this matter.
4. GDR, which focuses on consumer protection class action litigation,

maintains offices in Boca Raton, Florida and Austin, Texas.

5. I have been admitted *pro hac vice* in this case.

6. I respectfully submit this declaration in support of Class Counsel's Motion for an Award of Attorneys' Fees, Costs, and Service Awards for Class Representatives.

### **GDR**

7. GDR has been appointed class counsel in a number of class actions brought under the Telephone Consumer Protection Act ("TCPA"), including:

- *Schwyhart v. Amsher Collection Servs., Inc.*, No. 2:15-cv-01175-JEO, Doc. 47 (N.D. Ala. Oct. 19, 2016);
- *Johnson v. Navient Sols., Inc.*, 315 F.R.D. 501(S.D. Ind. 2016);
- *Prater v. Mediacredit, Inc.*, No. 14-00159, 2015 WL 8331602 (E.D. Mo. Dec. 7, 2015);
- *Jones v. I.Q. Data Int'l, Inc.*, No. 1:14-cv-00130-PJK-GBW, 2015 WL 5704016 (D.N.M. Sept. 23, 2015); and
- *Ritchie v. Van Ru Credit Corp.*, No. 2:12-CV-01714-PHX-SM, 2014 WL 3955268 (D. Ariz. Aug. 13, 2014).

8. GDR also has been appointed class counsel in more than two dozen class actions brought under consumer protection statutes other than the TCPA in the past three years, including:

- *McCurdy v. Professional Credit Serv.*, No. 6:15-cv-01498-AA, 2016 WL 5853721 (D. Or. Oct. 3, 2016);

- *Schuchardt v. Law Office of Rory W. Clark*, 314 F.R.D. 673 (N.D. Cal. 2016);
- *Globus v. Pioneer Credit Recovery, Inc.*, No. 15-CV-152V, 2016 WL 4069285 (W.D.N.Y. July 27, 2016);
- *McWilliams v. Advanced Recovery Sys., Inc.*, 310 F.R.D. 337 (S.D. Miss. 2015);
- *Rhodes v. Olson Assocs., P.C., d/b/a Olson Shaner*, 83 F. Supp. 39 1096 (D. Colo. 2015);
- *Roundtree v. Bush Ross, P.A.*, 304 F.R.D 644 (M.D. Fla. 2015);
- *Donnelly v. EquityExperts.org, LLC*, No. 13-10017, 2015 WL 249522 (E.D. Mich. Jan. 14, 2015); and
- *Sharf v. Fin. Asset Resolution, LLC*, 295 F.R.D. 664 (S.D. Fla. Jan. 16, 2014).

9. Multiple district courts have commented on GDR's useful knowledge and experience in connection with class action litigation. For example, in *Ritchie*, a class action like this one brought under the TCPA, Judge Stephen M McNamee, Senior U.S. District Court Judge for the District of Arizona, stated upon granting final approval of the settlement:

I want to thank all of you. It's been a pleasure. I hope that you will come back and see us at some time in the future. And if you don't, I have a lot of cases I would like to assign you, because you've been immensely helpful both to your clients and to the Court. And that's important. So I want to thank you all very much.

No. CIV-12-1714 (D. Ariz. July 21, 2014).

10. Similarly, in *Roundtree*, Judge James D. Whittemore of the Middle

District of Florida wrote in certifying three separate classes and appointing GDR class counsel: “Greenwald [Davidson Radbil PLLC] has been appointed as class counsel in a number of actions and thus provides great experience in representing plaintiffs in consumer class actions.” 304 F.R.D. at 661.

11. And as Judge Carlton W. Reeves of the Southern District of Mississippi noted last year in *McWilliams*, GDR “ha[s] been appointed class counsel in more than a dozen consumer protection class actions in the past two years.” 310 F.R.D. at 340.

12. More information about GDR is available on my firm’s website, [www.gdrllawfirm.com](http://www.gdrllawfirm.com).

**Michael L. Greenwald**

13. I graduated from the University of Virginia in 2001 and Duke University School of Law in 2004.

14. I have extensive experience litigating consumer protection and securities class actions, including class actions brought under the TCPA.

15. Prior to forming GDR, I spent six years as a litigator at Robbins Geller Rudman & Dowd LLP—the nation’s largest plaintiff’s class action firm. My practice at Robbins Geller focused on complex class actions, including securities and consumer protection litigation.

16. While at Robbins Geller, I served on the litigation teams responsible

for the successful prosecution of numerous class actions, including:

- *In re Evergreen Ultra Short Opportunities Fund Secs. Litig.* (D. Mass.) (\$25 million settlement);
- *In re Red Hat, Inc. Secs. Litig.* (E.D.N.C.) (\$20 million);
- *City of Ann Arbor Empls.' Ret. Sys. v. Sonoco Prods. Co., et al.* (D.S.C.) (\$13 million);
- *Norfolk Cnty. Ret. Sys., et al. v. Ustian* (N.D. Ill.) (\$13 million);
- *Romero v. U.S. Unwired, Inc.* (E.D. La.) (\$9.7 million);
- *Lefkoe v. Jos. A. Bank Clothiers, Inc.* (D. Md.) (\$4 million); and
- *In re Odimo, Inc. Secs. Litig.* (Fla.) (\$1.25 million).

17. I started my career as an attorney at Holland & Knight LLP.

### **Aaron D. Radbil**

18. Aaron D. Radbil, who also is admitted *pro hac vice* in this matter, graduated from the University of Arizona in 2002 and from the University of Miami School of Law in 2006.

19. Mr. Radbil has extensive experience litigating consumer protection class actions, including class actions under the TCPA.

20. In addition to Mr. Radbil's experience litigating consumer protection class actions, he has briefed, argued, and prevailed on a variety of issues of significant consumer interest before federal and state courts of appeals, including:

- *Hernandez v. Williams, Zinman & Parham PC*, 829 F.3d 1068 (9th

Cir. 2016);

- *Lea v. Buy Direct, L.L.C.*, 755 F.3d 250 (5th Cir. 2014);
- *Payne v. Progressive Fin. Servs., Inc.*, 748 F.3d 605 (5th Cir. 2014);
- *Stout v. FreeScore, LLC*, 743 F.3d 680 (9th Cir. 2014);
- *Yunker v. Allianceone Receivables Mgmt., Inc.*, 701 F.3d 369 (11th Cir. 2012);
- *Guajardo v. GC Servs., LP*, No. 11-20269, 2012 WL 5419505 (5th Cir. Nov. 7, 2012);
- *Sorensen v. Credit Int'l Corp.*, 475 F. App'x 244 (9th Cir. 2012);
- *Ponce v. BCA Fin. Serv., Inc.*, 467 F. App'x 806 (11th Cir. 2012);
- *Mady v. DaimlerChrysler Corp.*, 59 So. 3d 1129 (Fla. 2011);
- *Talley v. U.S. Dep't of Agric.*, 595 F. 3d 754 (7th Cir. 2010), *reh'g en banc granted, opinion vacated* (June 10, 2010), *on rehearing en banc* (September 24, 2010), *decision affirmed*, No. 09-2123, 2010 WL 5887796 (7th Cir. Oct. 1, 2010);
- *Oppenheim v. I.C. Sys., Inc.*, 627 F. 3d 833 (11th Cir. 2010);
- *Cano v. Hyundai Motor Am., Inc.*, 8 So. 3d 408 (Fla. 4th DCA 2009);  
and
- *Jones v. Nissan N. Am., Inc.*, 385 Ill. App. 3d 740 (2d Dist. 2008).

### **James L. Davidson**

21. James L. Davidson graduated from the University of Florida in 2000 and the University of Florida Fredric G. Levin College of Law in 2003. Mr. Davidson has been appointed class counsel in a host of consumer protection class

actions.

22. Prior to forming GDR, Mr. Davidson spent five years as a litigator at Robbins Geller, where he focused on complex class actions, including securities and consumer protection litigation.

23. While at Robbins Geller, Mr. Davidson served on the litigation teams responsible for the successful prosecution of numerous class actions, including:

- *Local 731 I.B. of T. Excavators and Pavers Pension Trust Fund et al. v. Swanson et al.* (\$25 million settlement);
- *In re Pet Food Prods. Liability Litig.* (\$24 million);
- *In re Mannatech, Inc. Secs. Litig.* (\$11.5 million);
- *In re Webloyalty, Inc. Mktg. and Sales Practices Litigation* (\$10 million); and
- *In re Navisite Migration Litig.* (\$2 million).

**Jesse S. Johnson**

24. Jesse S. Johnson earned his Bachelor of Science degree in Business Administration from the University of Florida, where he graduated magna cum laude in 2005. Mr. Johnson earned his Juris Doctor degree with honors from the University of Florida Fredric G. Levin College of Law in 2009, along with his Master of Arts in Business Administration from the University of Florida Hough Graduate School of Business the same year.

25. While at GDR, Mr. Johnson has been appointed class counsel in more



than a dozen consumer protection class actions, including:

- *Fenderson v. Frederick J. Hanna & Assocs., P.C.*, Case No. 1:15-cv-00964-ODE-JFK, Doc. 52 (N.D. Ga. Oct. 17, 2016);
- *Marcoux v. Susan J. Szwed, P.A.*, 2016 WL 5720713 (D. Me. Oct. 3, 2016);
- *Durham v. Schlee & Stillman, LLC*, Case 8:15-cv-01652-GJH, Doc. 23 (D. Md. Oct. 3, 2016);
- *Cobb v. Edward F. Bukaty, III, PLC*, 2016 WL 4925165 (M.D. La. Sept. 14, 2016);
- *Bellum v. The Law Offices of Frederic I. Weinberg & Assocs., P.C.*, 2016 WL 4766079 (E.D. Pa. Sept. 12, 2016);
- *Kausch v. Berman & Rabin, P.A.*, 2016 WL 3944685 (E.D. Mo. July 8, 2016);
- *Schell v. Frederick J. Hanna & Assocs., P.C.*, 2016 WL 3654472 (S.D. Ohio July 8, 2016);
- *Kemper v. Andreu, Palma & Andreu, PL*, 2016 WL 3545935 (S.D. Fla. June 23, 2016);
- *Hall v. Frederick J. Hanna & Assocs., P.C.*, 2016 WL 2865081 (N.D. Ga. May 10, 2016);
- *Lehmeyer v. Messerli & Kramer, P.A.*, 2016 WL 1576439 (D. Minn. Apr. 15, 2016);
- *Chamberlin v. Mullooly, Jeffrey, Rooney & Flynn, LLP*, No. 1:15-cv-02361-JBS-AMD (D.N.J. Feb. 9, 2016);
- *Garza v. Mitchell Rubenstein & Assocs., P.C.*, 2015 WL 9594286 (D. Md. Dec. 28, 2015);
- *Baldwin v. Glasser & Glasser, P.L.C.*, 2015 WL 7769207 (E.D.

Va. Dec. 1, 2015).

26. Mr. Johnson started his legal career as an associate at Robbins Geller, where he served on the litigation teams responsible for the successful prosecution of numerous class actions, including:

- *Sterling Heights Gen. Emps.’ Ret. Sys. v. Hospira, Inc. et al.*, No. 1:11-cv-08332 (N.D. Ill.) (\$60 million settlement);
- *Eshe Fund v. Fifth Third Bancorp*, No. 1:08-cv-00421 (S.D. Ohio) (\$16 million);
- *City of St. Clair Shores Gen. Emps.’ Ret. Sys. v. Lender Processing Servs., Inc.*, No. 3:10-cv-01073 (M.D. Fla.) (\$14 million); and
- *In re Synovus Fin. Corp.*, No. 1:09-cv-01811 (N.D. Ga.) (\$11.75 million).

#### **GDR’s work on this matter**

27. In tandem with co-counsel, GDR attorneys devoted significant time and resources to this case.

28. GDR performed its work on this case on a contingency fee basis. As a result, GDR assumed significant risk by expending time and costs in litigating this action without any guarantee of success.

29. Given the excellent results achieved for class members in this case, I firmly believe that the settlement is fair, reasonable, and adequate, and that the requested attorneys’ fees—which are inclusive of costs and expenses—are fair and reasonable.

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

Executed on October 25, 2016.

/s/ Michael L. Greenwald  
Michael L. Greenwald

**GZJ DKV J**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

Steven L. Markos, Tiffany Davis,  
and Gregory Page, on behalf of  
themselves and all others similarly  
situated,

Plaintiffs,

v.

Wells Fargo Bank, N.A.,

Defendant,

Case No. 1:15-cv-01156-LMM

**DECLARATION OF ABBAS KAZEROUNIAN IN SUPPORT OF  
MOTION FOR AN AWARD OF ATTORNEYS' FEES, COSTS, AND  
SERVICE AWARDS FOR CLASS REPRESENTATIVES**

**DECLARATION OF ABBAS KAZEROUNIAN**

**I, ABBAS KAZEROUNIAN, declare:**

1. I am one of the attorneys for the plaintiffs Steven L. Markos, Tiffany Davis and Gregory Page (“Plaintiffs”) in this action filed against defendant Wells Fargo Bank, N.A. (“Defendant” or “Wells Fargo”). I am over the age of 18 and am fully competent to make this declaration. I have litigated cases in both state and federal courts in California, Washington, Nevada, Arizona, Arkansas, New York, New Jersey, Colorado, Tennessee, Ohio, Florida, Illinois and Texas. I am admitted in every federal district in California and have handled federal litigation in the federal districts of California. I am also admitted to the state bar of Texas, Illinois, Washington, Michigan, District of Columbia, the Ninth Circuit Court of Appeals, and the Supreme Court of the United States.
2. If called as a witness, I would competently testify to the matters herein from personal knowledge. The declaration is based upon my personal knowledge, except where expressly noted otherwise.
3. In this action under the Telephone Consumer Protection Act (“TCPA”), I submit this declaration in support of Class Counsel’s Motion for Attorneys’ Fees, Costs and Service Awards.
4. I have been preliminarily approved as Class Counsel for the proposed settlement class.

**CLASS COUNSEL’S EXPERIENCE**

5. Since my admission to the California bar in 2007, I have been engaged exclusively in the area of consumer rights litigation, primarily in the area of fair debt collections, the defense of debt collection lawsuits, and class action litigation under the Telephone Consumer Protection Act,

California's invasion of privacy statutes, under Penal Code § 630 et seq., and false advertising actions concerning consumer products.

6. My firm, Kazerouni Law Group, APC, in which I am a principal, has litigated over 1000 cases in the past eight years. My firm has six offices in Orange County, California, Oakland, California, San Luis Obispo, California, Phoenix, Arizona, Las Vegas, Nevada, and Dallas, Texas. Kazerouni Law Group, APC has extensive experience in consumer class actions and other complex litigation. My firm has a history of aggressive, successful prosecution of consumer class actions, specifically under California's invasion of privacy statutes and Telephone Consumer Protection Act. Approximately 95% percent of my practice concerns consumer litigation in general, and approximately 50% percent of my class action practice involves litigating claims under the TCPA.

**EXPERIENCE RELEVANT TO THE  
TELEPHONE CONSUMER PROTECTION ACT**

7. I have filed and litigated numerous other class actions based on the Telephone Consumer Protection Act in the past four years. The following is a non-exhaustive list of other TCPA class actions which I am or have been personally involved in:
  - a. *Lemieux v. EZ Lube, LLC, et al.*, 12-CV-01791-JLS-WYG (S.D. Cal.) (Served as co-lead counsel; finally approved on December 8, 2014);
  - b. *Malta, et al. v. Wells Fargo Home Mortgage, et al.*, 10-CV-1290-IEG (BLM) (Served as co-lead counsel for a settlement class of borrowers in connection with residential or automotive loans and violations of the TCPA in attempts to collect on those accounts;

obtained a common settlement fund in the amount of \$17,100,000; final approval granted in 2013);

- c. *Conner v. JPMorgan Chase Bank, et al.*, 10-CV-1284 DMS (BGS) (S.D. Cal.) (finally approved \$11,973,558);
- d. *In Re: Midland Credit Management, Inc., Telephone Consumer Protection Act Litigation*, 11-md-2286-MMA (MDD) (S.D. Cal.) (Counsel for a Plaintiff in the lead action, prior to the action being recategorized through the multi-district litigation process; preliminarily approved for \$18,000,000);
- e. *In Re: Portfolio Recovery Associates, LLC Telephone Consumer Protection Act Litigation*, 11-md-02295-JAH (BGS) (Counsel for a Plaintiff in the lead action, prior to the action being recategorized through the multi-district litigation process; preliminarily approved);
- f. *Arthur v. SLM Corporation*, 10-CV-00198 JLR (W.D. Wash.) (Nationwide settlement achieving the then-largest monetary settlement in the history of the TCPA concerning calls to cellular telephone at the time: \$24.15 million; final approval granted in 2012);
- g. *Lo v. Oxnard European Motors, LLC, et al.*, 11-CV-1009-JLS-MDD (S.D. Cal.) (Achieving one of the highest class member payouts in a TCPA action of \$1,331.25 per claimant; final approval granted in 2012);
- h. *Sarabri v. Weltman, Weinberg & Reis Co., L.P.A.*, 10-01777-AJB-NLS (S.D. Cal.) (Approved as co-lead counsel and worked to obtain a national TCPA class settlement where claiming class



members each received payment in the amount of \$70.00 per claimant; final approval granted in 2013);

- i. *Barani v. Wells Fargo Bank, N.A.*, 12-CV-02999-GPC (KSC) (S.D. Cal.) (Co-lead class counsel in a settlement under the TCPA for the sending of unauthorized text messages to non-account holders in connection to wire transfers; finally approved on March 6, 2015 for over \$1,000,000);
- j. *Mills v. HSBC Bank Nevada, N.A.*, Case No. 12-CV-04010-SI (N.D. Cal.) (Finally approved for \$39,975,000);
- k. *Newman v. ER Solutions, Inc.*, 11-CV-0592H (BGS);
- l. *In Re Jiffy Lube International, Inc.*, MDL No. 2261 (Finally approved for \$47,000,000.00);
- m. *Jaber v. NASCAR*, 11-CV-1783 DMS (WVG) (S.D. Cal.);
- n. *Ridley v. Union Bank, N.A.*, 11-CV-1773 DMS (NLS) (S.D. Cal.);
- o. *Ryabyshchuk v. Citibank (South Dakota) N.A., et al*, 11-CV-1236-IEG (WVG);
- p. *Sherman v. Kaiser Foundation Health Plan, Inc.*, 13-CV-0981-JAH (JMA) (S.D. Cal.) (Settled for \$5,350,000 and finally approved on May 12, 2015; served as co-lead counsel);
- q. *Rivera v. Nuvel Credit Company LLC*, 13-CV-00164-TJH-OP (E.D. Cal.);
- r. *Karayan v. Gamestop Corp.*, 3:12-CV-01555-P (N.D. Texas);
- s. *Foote v. Credit One Bank, N.A. et al.*, 13-cv-00512-MWF-PLA (C.D. Cal.);
- t. *Webb v. Healthcare Revenue Recovery Group*, 13-cv-00737-RS (N.D. Cal.);

- u. *Couser v. Comenity Bank*, 12-cv-02484-MMA-BGS (S.D. Cal. Oc. 2, 2014) (Finally approved for \$8,475,000 on May 27, 2015 and served as co-lead counsel);
  - v. *Couser v. Apria Healthcare, Inc. et al.*, 13-cv-00035-JVS-RNB (C.D. Cal. Oct. 27, 2014) (Finally approved on March 9, 2015 and served as co-lead counsel);
  - w. *Rose v. Bank of America Corporation et al.*, 12-cv-04009-EJD (N.D. Cal.) (Finally approved for \$32,000,000 in 2014);
  - x. *Newman v. AmeriCredit Financial Services*, 11-cv-03041-DMS-BLM (S.D. Cal.) (finally approving TCPA settlement for over \$6,500,000 on March 28, 2016);
  - y. *Fox v. Asset Acceptance, LLC*, 14-cv-00734-GW-FFM (C.D. Cal. July 1, 2016) (finally approved TCPA class action for \$1,000,000; \$200,000 cash and \$800,000 debt relief);
  - z. *Abdeljalil v. GE Capital Retail Bank*, 12-cv-02078-JAH-MDD (S.D. Cal.) (Class Certification granted and preliminarily approved for \$7,000,000);
  - aa. *Barrett v. Wesley Financial Group, LLC*, 13-cv-00554-LAB-KSC (S.D. Cal.) (Class certification granted); and,
  - bb. *Gehrich v. Chase Bank, N.A.*, 12-cv-5510 (N.D. Cal.) (finally approved for \$34,000,000).
8. Many of the cases listed above, which have settled, have resulted in the creation of combined common funds and/or distribution to class member in the tens of millions of dollars. The outstanding results mentioned above are a direct result of the diligence and tenacity shown by both

myself and Kazerouni Law Group, APC, in successfully prosecuting complex class actions.

9. I argued before the Ninth Circuit Court of Appeals concerning the TCPA case of *Knutson v. Sirius XM Radio*, No. 12-56120 (9th Cir. 2014) as co-lead counsel, which resulted in an order in favor of my client.

**KAZEROUNI LAW GROUP, APC'S OTHER  
CONSUMER RELATED EXPERIENCE AND RESULTS**

10. Kazerouni Law Group, APC has extensive experience in other consumer related issues, including the Telephone Consumer Protection Act, the Fair Debt Collection Practices Act and other related consumer statutes. A brief summary of a non-inclusive list of notable published decisions are as follows:

- a. *Knell, et al. v. FIA Card Services, N.A.*, 13-CV-01653-AJB-WVG (S.D. Cal.) (California class action settlement under Penal Code 632 et seq., for claims of invasion of privacy. Settlement resulted in a common fund in the amount of \$2,750,000; finally approved in August 15, 2014);
- b. *Hoffman v. Bank of America Corporation*, 12-CV-00539-JAH-DHB (S.D. Cal.) (California class action settlement under Penal Code 632 et seq., for claims of invasion of privacy. Settlement resulted in a common fund in the amount of \$2,600,000; finally approved on November 6, 2014 and served as co-lead counsel);
- c. *Sherman v. Yahoo!, Inc.*, 2014 U.S. Dist. LEXIS 13286; 13-CV-0041-GPC-WVG (S.D. Cal.) (TCPA class action where Defendant's motion for summary judgment was denied holding that a single call or text message with the use of an ATDS may be actionable under the TCPA);

- d. *Olney v. Progressive Casualty Insurance Company*, 13-CV-2058-GPC-NLS, 2014 U.S. Dist. LEXIS 9146 (S.D. Cal.) (Defendant's motion to dismiss or in the alternative to strike the class allegations was denied finding that debt collection calls were not exempt from coverage under the TCPA);
- e. *Iniguez v. The CBE Group, Inc.*, 2013 U.S. Dist. LEXIS 127066 (E.D. Cal.); 13-CV-00843-JAM-AC (The court denied Defendant's motion to dismiss and to strike class allegations holding that the TCPA applies to any call made to a cellular telephone with an ATDS);
- f. *Macias v. Water & Power Community Credit Union*, BC515936 (Los Angeles Superior Court) (Class certification granted under the Rosenthal Fair Debt Collection Practices Act; class action settlement preliminarily approved on November 10, 2015); and,
- g. *Mount v. Wells Fargo Bank, N.A.*, BC395959 (Sup. Ct. Los Angeles) (finally approved for \$5,600,000).

**ADDITIONAL RELEVANT TRAINING,  
SPEAKING/TEACHING ENGAGEMENTS AND ASSOCIATIONS**

11. I have undergone extensive training in the area of consumer law and the Telephone Consumer Protection Act. The following is a list of recent training conferences I attended:

- a. Four-day National Consumer Law Center Conference; Nashville, TN –2008;
- b. Three-day National Consumer Law Center Conference; Portland, OR -2008;
- c. Three-day National Consumer Law Center Conference; San Diego, CA - 2009;

- d. Three-day National Consumer Law Center Conference; Seattle, WA -2011;
  - e. Three-day CAALA Conference; Las Vegas, NV – 2009;
  - f. Three-day CAALA Conference; Las Vegas, NV – 2013;
  - g. Three-day CAALA Conference; Las Vegas, NV – 2015;
  - h. Three-day COAC Conference – 2014 and 2015
  - i. Speaker at ABA National Conference, Business Litigation Section; Trends in Consumer Litigation; San Francisco, CA – 2013; and
  - j. Speaker at the ABA TCPA National Webinar (Consumer Protection, Privacy & Information Security, Private Advertising Litigation, and Media & Technology Committees) – September 2013.
  - k. Spoke at the 2014 ACA Conference in November 2014.
  - l. Speaker at ACI Conference in Dallas, TX in September of 2016 concerning The Borrower's Perspective: Insight From The Plaintiffs' Bar and Consumer Advocates.
  - m. Speaker on TCPA panel in September of 2016 at the Annual Consumer Financial Services Conference.
12. As one of the main plaintiff litigators of consumer rights cases in the Central District of California, I have been requested to and have made regular presentations to community organizations regarding debt collection laws and consumer rights, including the Telephone Consumer Protection Act (“TCPA”). These organizations include Whittier Law School, Iranian American Bar Association, Trinity School of Law and Chapman Law School, University of California, Irvine, and California Western School of Law.

13. I was the principle anchor on Time Television Broadcasting every Thursday night as an expert on consumer law generally, and the TCPA specifically, between 2012 and 2013.
14. I am an adjunct professor at California Western School of Law where I teach a three-credit course in consumer law.
15. I have been named Rising Star by San Diego Daily Tribune in 2012, and Rising Star in Super Lawyers Magazine in 2013, 2014 and 2015. I was named a Super Lawyer by Super Lawyers Magazine in 2016.
16. I lectured in Class Action Trends at the CAOC 2015 Conference in San Francisco.
17. I was selected for membership into The National Trial Lawyers: Top 40 Under 40 in 2016.
18. I was a panelist in a webinar, ABA Telephonic Brown Bag re: TCPA, on August 25, 2015.
19. I lectured in Class Action Trends at the CAOC 2015 Conference in San Francisco, California.
20. In January of 2016, I spoke on the impact of the Federal Communications Commission's 2015 Declaratory Ruling on TCPA litigation at the ABA National Convention in Salt Lake City, Utah.
21. In May of 2016, I spoke on Class Action Trends at the CAOC seminar in Palm Springs, California.
22. I lectured on the TCPA before the ABA Business Law Section, Consumer Financial Services Committee in January 2016 at an event in Utah entitled, "Impact of the FCC's 2015 Rulings on TCPA Litigation."
23. In 2016, I wrote an article entitled "Finding a Balance" that was published in the Nutrition Business Journal, concerning a lawsuit filed

under the Racketeer Influenced and Corrupt Organization Act.

24. I am often called upon to give legal analysis on popular television and radio shows such as Dr. Drew Midday Live and Fox 5.

25. I am a member in good standing of the following local and national associations:

- a. Consumer Attorneys Association of Los Angeles;
- b. The Orange County Bar Association;
- c. Twice served as former President of the Orange County Chapter of the Iranian American Bar Association;
- d. Member in good standing of National Association of Consumer Advocates;
- e. Member of Consumer Attorneys of California;
- f. Member of the Federal Bar Association; and
- g. Member of the Leading Forum of the American Association of Justice.

26. I have been appointed class counsel in several class actions brought under the Telephone Consumer Protection Act of 1991, 47 U.S.C. § 227 (TCPA). My practice involves significant TCPA litigation and I am or have been counsel in significant national TCPA class actions including, but not limited to, class actions against Bank of America, Chase, Wells Fargo and Comenity Bank, to mention a few.

27. In addition to my class action experience, I have experience in commercial litigation and large-scale products liability litigation including a \$2.5 million dollar settlement in *Mei Lu Hwei, et al v. American Honda Motor Co., Inc.*, et al. (Case No. BC401211 in Superior Court of California for County of Los Angeles). I have

regularly litigated cases in state and federal courts, and have reached numerous confidential seven-figure settlements against internationally known companies.

I declare under penalty of perjury under the laws of Georgia and the United States of America that the foregoing is true and correct, and that this declaration was executed on October 25, 2016.

By: /s/ Abbas Kazerounian  
Abbas Kazerounian





# **EXHIBIT I**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

Steven L. Markos, Tiffany Davis,  
and Gregory Page, on behalf of  
themselves and all others similarly  
situated,

Plaintiffs,

v.

Wells Fargo Bank, N.A.,

Defendant,

Case No. 1:15-cv-01156-LMM

**DECLARATION OF JOSHUA B. SWIGART IN SUPPORT OF  
MOTION FOR AN AWARD OF ATTORNEYS' FEES, COSTS, AND  
SERVICE AWARDS FOR CLASS REPRESENTATIVES**

**DECLARATION OF JOSHUA B. SWIGART**

**I, JOSHUA B. SWIGART, declare:**

1. I am one of the attorneys for Plaintiffs Steven L. Markos, Tiffany Davis and Gregory Page (“Plaintiffs”) in this action filed against defendant Wells Fargo Bank, N.A. (“Defendant” or “Wells Fargo”). I am over the age of 18 and am fully competent to make this declaration. I have litigated cases in both state and federal courts in California, Washington, Nevada, Arizona, Arkansas, New York, New Jersey, Colorado, Tennessee, Ohio, Florida, Illinois and Texas. I am admitted in every federal district in California and have handled federal litigation in the federal districts of California. I am also admitted to the state bar of Texas, Illinois, Washington, Michigan, District of Columbia, the Ninth Circuit Court of Appeals, and the Supreme Court of the United States.
2. If called as a witness, I would competently testify to the matters herein from personal knowledge. The declaration is based upon my personal knowledge, except where expressly noted otherwise.
3. In this action under the Telephone Consumer Protection Act (“TCPA”), I submit this declaration in support of the Class Counsel’s Motion for Attorneys’ Fees, Costs and Service Awards.
4. I have been preliminarily approved as Class Counsel for the proposed settlement class.

**CLASS COUNSEL’S EXPERIENCE**

5. Since my admission to the California bar in 2003, I have been engaged exclusively in the area of consumer rights litigation, primarily in the area of fair debt collections, the defense of debt collection lawsuits, and class action litigation under the Telephone Consumer Protection Act,

California's invasion of privacy statutes, under Penal Code § 630 et seq., and false advertising actions concerning consumer products.

6. My firm, Hyde & Swigart, in which I am a principal, has litigated over 1,000 cases in the past ten years. My firm has six offices in San Diego, California, Denver, Colorado, Minneapolis, Minnesota, Phoenix, Arizona, Las Vegas, Nevada, and Seattle, Washington. Hyde & Swigart has extensive experience in consumer class actions and other complex litigation. My firm has a history of aggressive, successful prosecution of consumer class actions, specifically under California's invasion of privacy statutes and Telephone Consumer Protection Act. Approximately 95% percent of my practice concerns consumer litigation in general, and approximately 50% percent of my class action practice involves litigating claims under the TCPA.

**EXPERIENCE RELEVANT TO THE  
TELEPHONE CONSUMER PROTECTION ACT**

7. I have filed and litigated numerous other class actions based on the Telephone Consumer Protection Act in the past four years. The following is a non-exhaustive list of other TCPA class actions which I am or have been personally involved in:
  - a. *Lemieux v. EZ Lube, LLC, et al.*, 12-CV-01791-JLS-WYG (S.D. Cal.) (Served as co-lead counsel; finally approved on December 8, 2014);
  - b. *Malta, et al. v. Wells Fargo Home Mortgage, et al.*, 10-CV-1290-IEG (BLM) (Served as co-lead counsel for a settlement class of borrowers in connection with residential or automotive loans and violations of the TCPA in attempts to collect on those accounts;

obtained a common settlement fund in the amount of \$17,100,000; final approval granted in 2013);

- c. *Conner v. JPMorgan Chase Bank, et al.*, 10-CV-1284 DMS (BGS) (S.D. Cal.) (finally approved \$11,973,558);
- d. *In Re: Midland Credit Management, Inc., Telephone Consumer Protection Act Litigation*, 11-md-2286-MMA (MDD) (S.D. Cal.) (Counsel for a Plaintiff in the lead action, prior to the action being recategorized through the multi-district litigation process; preliminarily approved for \$18,000,000);
- e. *In Re: Portfolio Recovery Associates, LLC Telephone Consumer Protection Act Litigation*, 11-md-02295-JAH (BGS) (Counsel for a Plaintiff in the lead action, prior to the action being recategorized through the multi-district litigation process; preliminarily approved);
- f. *Arthur v. SLM Corporation*, 10-CV-00198 JLR (W.D. Wash.) (Nationwide settlement achieving the then-largest monetary settlement in the history of the TCPA concerning calls to cellular telephone at the time: \$24.15 million; final approval granted in 2012);
- g. *Lo v. Oxnard European Motors, LLC, et al.*, 11-CV-1009-JLS-MDD (S.D. Cal.) (Achieving one of the highest class member payouts in a TCPA action of \$1,331.25 per claimant; final approval granted in 2012);
- h. *Sarabri v. Weltman, Weinberg & Reis Co., L.P.A.*, 10-01777-AJB-NLS (S.D. Cal.) (Approved as co-lead counsel and worked to obtain a national TCPA class settlement where claiming class

members each received payment in the amount of \$70.00 per claimant; final approval granted in 2013);

- i. *Barani v. Wells Fargo Bank, N.A.*, 12-CV-02999-GPC (KSC) (S.D. Cal.) (Co-lead class counsel in a settlement under the TCPA for the sending of unauthorized text messages to non-account holders in connection to wire transfers; finally approved on March 6, 2015 for over \$1,000,000);
- j. *Mills v. HSBC Bank Nevada, N.A.*, Case No. 12-CV-04010-SI (N.D. Cal.) (Finally approved for \$39,975,000);
- k. *Newman v. ER Solutions, Inc.*, 11-CV-0592H (BGS);
- l. *In Re Jiffy Lube International, Inc.*, MDL No. 2261 (Finally approved for \$47,000,000.00);
- m. *Jaber v. NASCAR*, 11-CV-1783 DMS (WVG) (S.D. Cal.);
- n. *Ridley v. Union Bank, N.A.*, 11-CV-1773 DMS (NLS) (S.D. Cal.);
- o. *Ryabyshchuk v. Citibank (South Dakota) N.A., et al*, 11-CV-1236-IEG (WVG);
- p. *Sherman v. Kaiser Foundation Health Plan, Inc.*, 13-CV-0981-JAH (JMA) (S.D. Cal.) (Settled for \$5,350,000 and finally approved on May 12, 2015; served as co-lead counsel);
- q. *Rivera v. Nuvel Credit Company LLC*, 13-CV-00164-TJH-OP (E.D. Cal.);
- r. *Karayan v. Gamestop Corp.*, 3:12-CV-01555-P (N.D. Texas);
- s. *Foote v. Credit One Bank, N.A. et al.*, 13-cv-00512-MWF-PLA (C.D. Cal.);
- t. *Webb v. Healthcare Revenue Recovery Group*, 13-cv-00737-RS (N.D. Cal.);

- u. *Couser v. Comenity Bank*, 12-cv-02484-MMA-BGS (S.D. Cal. Oc. 2, 2014) (Finally approved for \$8,475,000 on May 27, 2015 as served as co-lead counsel);
  - v. *Couser v. Apria Healthcare, Inc. et al.*, 13-cv-00035-JVS-RNB (C.D. Cal. Oct. 27, 2014) (Finally approved on March 9, 2015 and served as co-lead counsel);
  - w. *Rose v. Bank of America Corporation et al.*, 12-cv-04009-EJD (N.D. Cal.) (Finally approved for \$32,000,000 in 2014);
  - x. *Newman v. AmeriCredit Financial Services*, 11-cv-03041-DMS-BLM (S.D. Cal.) (finally approving TCPA settlement for over \$6,500,000 on March 28, 2016);
  - y. *Fox v. Asset Acceptance, LLC*, 14-cv-00734-GW-FFM (C.D. Cal. July 1, 2016) (finally approved TCPA class action for \$1,000,000; \$200,000 cash and \$800,000 debt relief);
  - z. *Abdeljalil v. GE Capital Retail Bank*, 12-cv-02078-JAH-MDD (S.D. al.) (Class Certification granted and preliminarily approved for \$7,000,000);
  - aa. *Barrett v. Wesley Financial Group, LLC*, 13-cv-00554-LAB-KSC (S.D. Cal.) (Class certification granted); and,
  - bb. *Gehrich v. Chase Bank, N.A.*, 12-cv-5510 (N.D. Cal.) (finally approved for \$34,000,000).
8. Many of the cases listed above, which have settled, have resulted in the creation of combined common funds and/or distribution to class member in the tens of millions of dollars. The outstanding results mentioned above are a direct result of the diligence and tenacity shown by both myself and Hyde & Swigart, in successfully prosecuting complex class actions.



**HYDE & SWIGART'S OTHER  
CONSUMER RELATED EXPERIENCE AND RESULTS**

9. Hyde & Swigart has extensive experience in other consumer related issues, including the Telephone Consumer Protection Act, the Fair Debt Collection Practices Act and other related consumer statutes. A brief summary of a non-inclusive list of notable published decisions are as follows:
- a. *Knell, et al. v. FIA Card Services, N.A.*, 13-CV-01653-AJB-WVG (S.D. Cal.) (California class action settlement under Penal Code 632 et seq., for claims of invasion of privacy. Settlement resulted in a common fund in the amount of \$2,750,000; finally approved in August 15, 2014);
  - b. *Hoffman v. Bank of America Corporation*, 12-CV-00539-JAH-DHB (S.D. Cal.) (California class action settlement under Penal Code 632 et seq., for claims of invasion of privacy. Settlement resulted in a common fund in the amount of \$2,600,000; finally approved on November 6, 2014 and served as co-lead counsel);
  - c. *Sherman v. Yahoo!, Inc.*, 2014 U.S. Dist. LEXIS 13286; 13-CV-0041-GPC-WVG (S.D. Cal.) (TCPA class action where Defendant's motion for summary judgment was denied holding that a single call or text message with the use of an ATDS may be actionable under the TCPA);
  - d. *Olney v. Progressive Casualty Insurance Company*, 13-CV-2058-GPC-NLS, 2014 U.S. Dist. LEXIS 9146 (S.D. Cal.) (Defendant's motion to dismiss or in the alternative to strike the class allegations was denied finding that debt collection calls were not exempt from coverage under the TCPA);

- e. *Iniguez v. The CBE Group, Inc.*, 2013 U.S. Dist. LEXIS 127066 (E.D. Cal.); 13-CV-00843-JAM-AC (The court denied Defendant's motion to dismiss and to strike class allegations holding that the TCPA applies to any call made to a cellular telephone with an ATDS);
- f. *Macias v. Water & Power Community Credit Union*, BC515936 (Los Angeles Superior Court) (Class certification granted under the Rosenthal Fair Debt Collection Practices Act; class action settlement preliminarily approved on November 10, 2015); and,
- g. *Mount v. Wells Fargo Bank, N.A.*, BC395959 (Sup. Ct. Los Angeles) (finally approved for \$5,600,000).

**ADDITIONAL RELEVANT TRAINING,  
SPEAKING/TEACHING ENGAGEMENTS AND ASSOCIATIONS**

10. I have undergone extensive training in the area of consumer law and the Telephone Consumer Protection Act. The following is a list of recent training conferences I have attended:

- a. National Consumer Law Conference; Oakland, CA – 2003;
- b. National Consumer Law Conference (FDCPA Mini-Conference); Kansas City, MO – 2004;
- c. National Consumer Law Conference; Boston, MA – 2004;
- d. Five-day extensive one-on-one training with The Barry Law Office; San Diego, CA – 2005;
- e. Three-day FDCPA Mini-Conference; Minneapolis, MN – 2005;
- f. Four-day extensive one-on-one training with The Barry Law Office; Minneapolis, MN – 2005;
- g. Four-day National Association of Consumer Advocates Conference; Minneapolis, MN – 2005;

- h. Four-day National Consumer Law Center Conference; Nashville, TN – 2008;
- i. Three-day National Consumer Law Center Conference; Portland, Or – 2008;
- j. Speaker at a Three-day National Consumer Law Center Conference; San Diego, CA – 2009;
- k. Speaker ABA/JAG presentation to military service members and counsel; MCRD, San Diego CA – 2010;
- l. Speaker ABA teleconference on defending consumer credit card debt and related issues; San Diego, CA – 2010;
- m. Three-day National Consumer Law Center Conference; Seattle, WA – 2011;
- n. Two-day FDCPA Mini-Conference; New Orleans; LA – 2012;
- o. Two-day National Consumer Law Center Conference on the FDCPA; Seattle, WA – 2012;
- p. National Consumer Law Center Conference, National Convention; Baltimore, MD – 2013;
- q. Speaker ABA National Conference, Business Litigation Section; Trends in Consumer Litigation; San Francisco, CA – 2013;
- r. Speaker National Consumer Law Center; Nuts and Bolts of TCPA Litigation; San Antonio, TX – 2014;
- s. Speaker San Diego County Bar Association; Convergence of the FDCPA and Consumer Bankruptcy; San Diego, CA – 2014;
- t. Guest Speaker at California Western School of Law; Consumer Law – 2014;
- u. Speaker at NCLC; Miami, FL – 2015;

- v. Speaker at NACA; San Antonio, TX – 2015; and,
  - w. Speaker Three-day FDCPA Mini-Conference; Miami, FL – 2016.
11. I have been requested to, and have made, regular presentations to community organizations regarding debt collection laws. The following are a few examples of such presentations:
- a. California Western School of Law, 2005;
  - b. Canyon Springs High School, Moreno Valley, CA 2003-2008; Careers in the legal field;
  - c. Guest speaker on national talk radio. Topic: the passage of House Bill allowing the IRS to send past due consumer tax bills to private debt collection firms;
  - d. Regular host on 103.7 Free FM on the radio show Know The Law. Topics addressing specific collection issues. Appearances number more than ten shows;
  - e. Department of Defense; JAG Office, Naval Station San Diego (2006);
  - f. Department of Defense; JAG Office, Naval Station San Diego, relevant Fair Credit Reporting issues and the Fair Debt Collection Practices Act (2008);
  - g. American Bar Association – Legal Assistance for Military Personnel, Naval Station – North Island (2008);
  - h. National Consumer Law Center -E-Discovery issues – San Diego (2009);
  - i. National Association of Retail Collection Attorneys – Prosecuting consumer cases – San Francisco (2009);

- j. American Bar Association – Seminar on defending consumer collection cases (2010);
  - k. Military Law Committee (MCRD) – Representing military service members in consumer related issues – San Diego (2010);
  - l. Speaker at a Three-day National Consumer Law Center Conference; San Diego, CA – 2009;
  - m. Speaker at an ABA/JAG presentation to military service members and counsel; MCRD, San Diego – 2010;
  - n. Speaker at an ABA teleconference on defending consumer credit card debt and related issues; San Diego, CA – 2010;
  - o. Speaker ABA on Conducting and Managing Internal Investigations of Financial Institutions; National ABA Conference; San Francisco – 2013.
12. I am a member in good standing of the following local and national associations:
- a. National Association of Consumer Advocates;
  - b. Federal Bar Association;
  - c. Consumer Attorneys of California;
  - d. San Diego County Bar Association;
  - e. Riverside County Bar Association;
  - f. San Bernardino County Bar Association;
  - g. Enright Inns of Court (2011-2014);
  - h. American Association for Justice.
13. I have been appointed class counsel in several class actions brought under the Telephone Consumer Protection Act of 1991, 47 U.S.C. § 227 (TCPA). My practice involves significant TCPA litigation and I am or

have been counsel in significant national TCPA class actions including, but not limited to, class actions against Bank of America, Chase, Wells Fargo and Comenity Bank, to mention a few.

I declare under penalty of perjury under the laws of Georgia and the United States of America that the foregoing is true and correct, and that this declaration was executed on October 19, 2016.

By: /s/ Joshua B. Swigart  
Joshua B. Swigart