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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTHERN CALIFORNIA  
SAN JOSE DIVISION**

IN RE HP PRINTER FIRMWARE UPDATE  
LITIGATION

Case No. 5:16-cv-05820-EJD-SVK

**DECLARATION OF TODD M. FRIEDMAN  
IN SUPPORT OF PLAINTIFFS' MOTION  
FOR FINAL APPROVAL OF CLASS  
ACTION SETTLEMENT AND  
ATTORNEYS' FEES AND COSTS**

Judge: Hon. Edward J. Davila

**DECLARATION OF TODD M. FRIEDMAN**

**I, TODD M. FRIEDMAN, declare:**

1. I am one of the attorneys for the plaintiffs in this action. I am an attorney licensed to practice law in the State of California since 2001, the State of Illinois since 2002, and the State of Pennsylvania since 2011. I have been continuously licensed in California since 2001, Illinois since 2002, and Pennsylvania since 2011, and am in good standing with the California State Bar, Illinois State Bar, and Pennsylvania State Bar. I have litigated cases in both state and federal courts in California and Illinois. I am also admitted in every Federal district in California and have handled federal litigation in the federal districts of California.
2. I have personal knowledge of the following facts and, if called upon as a witness, could and would competently testify thereto, except as to those matters which are explicitly set forth as based upon my information and belief and, as to such matters, I am informed and believe that they are true and correct.
3. I am writing this declaration in support of Plaintiffs’ Motion for Final Approval of Class Action Settlement and Certification of Settlement Class, and Plaintiffs’ Motion for Attorney’s Fees and Costs, and specifically, to support the strength of This Settlement, to establish that I am appropriate and qualified Class Counsel pursuant to *Fed. R. Civ. Proc.* 23(a)(4) and (g), that I will adequately and fairly represent the interests of the putative class, and to set forth the efforts engaged in by my office regarding hours worked and reasonableness of the hourly rates.

**I. CASE HISTORY**

4. Plaintiff Robert Doty filed a class action complaint in the Central District of California on September 28, 2016, in the matter of *Robert Doty v HP, Inc.*, Case No. 5:16-cv-02063-GHK-RAO. Shortly after the filing of the complaint, my office was contacted by a second consumer interested in pursuing claims – James Andrews. Mr. Andrews subsequently retained my office as counsel.
5. Defendant filed a motion to dismiss in the *Doty* matter. My office amended the complaint in response, to address some of the points raised in Defendant’s Motion. Defendant filed a second motion to dismiss, which my office opposed.
6. After the filing of the *Doty* matter, my office learned of several other competing lawsuits.

1 Plaintiffs' Counsel collectively met and conferred and determined that jointly pursuing these  
2 matters would be more efficient for the parties and the Honorable Courts in which these actions  
3 were pending.

- 4 7. Plaintiffs' Counsel collectively drafted an amended consolidated complaint (Dkt. No. 60), which  
5 was filed before This Honorable Court after a great deal of pre-filing diligence by all counsel,  
6 including myself and Adrian R. Bacon a partner at my office.
- 7 8. Defendant filed a motion to dismiss in response to the consolidated complaint. My office  
8 assisted in the drafting of the opposition papers, and I also flew up to San Jose to attend the  
9 hearing, which was argued by my co-counsel from Girard Gibbs. The Honorable Court  
10 thereafter took the matter under submission.
- 11 9. Thereafter, the parties engaged in extensive discovery. My office reviewed and contributed to  
12 the discovery requests served on Defendant, and has assisted in the review of responsive  
13 documents, as well as attended depositions. My office has also engaged in third party discovery  
14 with competitors to Defendant who produced competing products, as well as retailers who  
15 carried Defendant's ink cartridges and printers during the applicable time periods. My office  
16 has also worked with our clients Robert Doty and James Andrews to respond to all discovery  
17 served upon them, and has attended and defended both of their depositions.
- 18 10. Throughout this litigation, my office has participated in dozens of phone calls with our co-  
19 counsel and with Defense counsel, and thousands of emails, in an effort to collectively advance  
20 this litigation on behalf of the class.
- 21 11. Counsel have engaged in a robust, ongoing meet-and-confer process with HP's counsel to obtain  
22 HP's relevant internal documents and answers to interrogatories, as well as having engaged in  
23 third party discovery.
- 24 12. Counsel established a document review platform; developed a protocol for, and conducted, the  
25 review and analysis of thousands of pages of HP documents; examined both of HP's Rule 30(b)(6)  
26 deponents; negotiated extensively with HP's counsel over the technical inspection of Plaintiffs'  
27 computers and ink cartridges; vetted numerous experts and retained a technical consultant; and  
28

1 coordinated the assignment and completion of various litigation tasks amongst Plaintiffs’  
2 counsel, in an effective and efficient manner.

3 13. Counsel also researched and drafted a Motion for Class Certification, with Girard Gibbs taking  
4 lead on researching and drafting, and my office and other co-counsel contributing to the legal  
5 theories advanced, and the research surrounding both class certification and merits issues.

6 14. The class representatives have cooperated and assisted throughout this litigation by promptly  
7 responding to our inquiries, providing detailed information about their experiences with their  
8 printers, responding to discovery, sitting for depositions, and subjecting their printers and  
9 computers to an inspection by Defendant.

10 15. Over the course of the litigation during the last two years, my firm has worked on this matter.  
11 The Settlement that has been reached, which is the product of substantial effort by the Parties and  
12 counsel should be approved as fair, reasonable and adequate. The Settlement was the result of  
13 arms-length negotiations during lengthy and informed negotiations. These negotiations were held  
14 after the exchange of thousands of pages of documents in formal discovery, after significant third  
15 party discovery with retailers and manufacturers, after briefing multiple motions to dismiss, after  
16 the filing of Plaintiffs’ class certification motion, after depositions of all of the named Plaintiffs,  
17 and depositions of multiple witnesses of Defendant. In other words, the Settlement was only  
18 reached after extensive factual and legal investigation and research, careful evaluation of the  
19 respective parties’ strengths and weaknesses, and diligent litigation and negotiation efforts. The  
20 Settlement amount is a negotiated compromise which took into account risks related to liability,  
21 damages, and all the defenses asserted by Defendant. The risk that class certification would not  
22 be granted was an important consideration, as the denial of class certification would mean that  
23 the class would receive nothing. In my experience, I am of the opinion that the settlement with  
24 the Defendant for the consideration and on the terms set forth in the Settlement is fair, reasonable,  
25 and adequate and is in the best interest of the class in light of all known facts and circumstances,  
26 including the risk of significant delay, the defenses asserted by Defendant, and numerous potential  
27 appellate issues.

28 16. Plaintiff James Andrews has commendably served as a class representative in this litigation. He

1 communicated effectively, supervised my work and participated in every aspect of the litigation.  
2 He has performed all services required of a class representative and in my opinion, is deserving  
3 of their service award as a result of this service and the risks and burdens he undertook in  
4 representing a class of similarly situated employees. I believe that the proposed incentive awards  
5 to the Named Plaintiffs is reasonable in light of the amount of work performed by the class  
6 representatives furthering the case and the reputational risks associated with being listed as a  
7 plaintiff in a class action such as this one, especially in the age of the internet. Plaintiffs were  
8 instrumental throughout the entire process, providing counsel with the necessary documentation  
9 and documents that enabled counsel to reach this outstanding class-wide result. Mr. Andrews  
10 for instance was very responsive to my frequent requests, via email and phone, for more  
11 information about Defendant's practices and policies. He spent a significant number of hours  
12 working on this case, including responding to written discovery and sitting for a deposition, and  
13 we will provide a detailed declaration from Mr. Andrews at final approval describing his efforts  
14 in more detail.

## 14 **II. CLASS COUNSEL'S EXPERIENCE**

15 17. The Law Offices of Todd M. Friedman, P.C. seeks appointment as Class Counsel in this Action.

16 I am informed and believe that Class Counsel are qualified and able to conduct this litigation as  
17 a class action.

18 18. As one of the main plaintiff litigators of consumer rights cases in Southern of California, I have  
19 been requested to and have made regular presentations to community organizations regarding  
20 debt collection laws and consumer rights.

21 19. I have extensive experience prosecuting cases related to consumer issues. My firm, The Law  
22 Offices of Todd M. Friedman, P.C., in which I am a principal, has litigated over 1000 individual  
23 based consumer cases and litigated over 200 consumer class actions. These class actions were  
24 litigated in federal courts in California, as well as California State Courts. Approximately 100%  
25 percent of my practice concerns plaintiffs' side consumer and employment litigation in general,  
26 with approximately 80% of my class action experience involving consumer protection, and  
27 approximately 20% percent of my class action practice involves litigating claims under the  
28 CLRA, UCL and/or FAL.

20. Therefore, my experience in litigating class actions and my years in practice allow me to provide  
outstanding representation to the Settlement Class. I will continue to strive to fairly, responsibly,

1 vigorously and adequately represent the putative class members in this action.

2 21. The Law Offices of Todd M. Friedman has served as plaintiff's counsel in at least the following  
3 class action cases involving various class actions claims consumer rights claims, where a  
4 settlement was reached on a class-wide basis, and have achieved over \$160,000,000 in class-  
5 wide relief for consumers:

- 6 a. *Dancer v. L.A. Times*, BC472154 (L.A. Superior Court) (common fund class-wide  
7 settlement of \$3 million to \$4 million granted final approval);
- 8 b. *Couser v. Comenity Bank*, 3:12-cv-02484-MMA-BGS (S.D. Cal.) (\$8.475 million class-  
9 wide settlement achieved and granted final approval);
- 10 c. *Stemple v. QC Financial Services Group of California, Inc.*, 3:12-cv-01997-CAB-WVG  
11 (S.D. Cal.) (certified class achieved by motion, and subsequent class-wide settlement of  
12 \$1.5 million achieved, with final approval granted);
- 13 d. *Couser v. Apria Healthcare, Inc.* 8:13-cv-00035-JVS-RNB (C.D. Cal.) (common fund  
14 class-wide settlement of \$400,000 to \$750,000, granted final approval);
- 15 e. *Abdeljalil v. General Electric Capital Corporation*, 12-CV-02078-IEG-RBB (S.D. Cal.)  
16 (class-wide settlement with common fund of \$6.125 million achieved, preliminary  
17 approval granted, final approval granted);
- 18 f. *Fox v. Asset Acceptance*, 3:13-CV-00922-DMS-BGS (S.D. Cal.) (common fund of \$1  
19 million in class-wide relief achieved, granted final approval);
- 20 g. *Friedman v. LAC Basketball Club, Inc.*, 2:13-cv-00818-CBM-AN (C.D. Cal.) (class-wide  
21 settlement achieved and granted final approval);
- 22 h. *Gerich et al. v. Chase Bank USA et al.* Case No 1:12-cv-5510 (N.D. Ill.) (class-wide  
23 settlement of \$34 million, granted final approval);
- 24 i. *Than Zaw v Nelnet, Inc.*, Penal Code § 632 class – (Achieved class-wide settlement of  
25 \$1,188,110, granted final approval of court);  
26  
27  
28

- 1 j. *Medeiros v HSBC*, (common fund settlement of between \$4.5 million and \$6.5 million  
2 achieved, final approval granted);
- 3 k. *Ann Fox v. Spectrum Club Holding Company et al.*, Case No. 2:14-CV-06766-PSG-FFMx  
4 (class-wide settlement, final approval granted);
- 5  
6 l. *Sayan Aboudi v. T-Mobile USA, Inc.*, Case No. 3:12-cv-02169-BTM-NLS (class-wide  
7 settlement in TCPA case, with common fund of \$2.5 million to \$5 million, with average  
8 per class member payment of \$500, final approval granted);
- 9 m. *Andrew Roseman v. BGASC, LLC, et al.*, Case No. EDCV 15-1100-VAP (SPx) (C.D. Cal.)  
10 (class-wide relief achieved, final approval granted);
- 11  
12 n. *Everado Gonzalez v The Scotts Company*, Case No. BC577875, Consolidated with Case  
13 No: BC570350 (LASC) (class-wide settlement of \$925,000 in wage and hour class action  
14 on behalf of approximately 603 employees achieved, final approval granted);
- 15  
16 o. *Payton v Luxe Valet*, Case No. BC588462 (LASC) (class-wide settlement in wage and  
17 hour independent contractor misclassification class action, on behalf of 1,800 employees,  
18 settled for \$2.4 million, final approval granted);
- 19  
20 p. *Shelby v Two Jinn, Inc.*, Case No. 2:15-cv-03794-AB-GJS (C.D. Cal.) (EFTA class action  
21 involving no cognizable actual damages, with net worth of company of \$25 million,  
22 settled for non-reversionary common fund of \$457,000, despite liability under 15 U.S.  
23 Code § 1693m(a) likely being only \$250,000; final approval granted, zero objections);
- 24  
25 q. *Couser v Dish One Satellite*, Case No. 5:15-cv-02218-CBM-DTB (C.D. Cal.) (TCPA  
26 class action, final approval granted);
- 27  
28 r. *Couser v Dish One Satellite*, Case No. RIC 1603185 (Riverside S.C.) (Penal Code 632  
class action, preliminary approval granted);

- 1 s. *De La Paz v Accurate Courier NCA LLC*, Case No. 16CV00555 (Santa Cruz County  
2 Superior Court) (PAGA and Labor Code class action, final approval granted);  
3  
4 t. *Ross v Zurixx LLC*, Case No. 34-2016-00190874 (Sacramento SC) (UCL, FAL and CLRA  
5 class action alleging false advertising for real estate educational courses, non-reversionary  
6 common fund settlement for over \$600 per class member, final approval granted);  
7  
8 u. *Eubank v Terminix International, Inc.*, Case No. 3:15-cv-00145-WQH-JMA (PAGA  
9 settlement reached in wage and hour action on behalf of pest control technicians,  
10 preliminary approval pending);  
11  
12 v. *Jonathan Weisberg, v. HD Supply, Inc.*, Case No. 15-cv-08248-FMO (MRWx) (class-  
13 wide settlement in TCPA class action, settled for \$1.225 million, final approval granted);  
14  
15 w. *Miler v Pacific Auto Wash Partners*, Case No. 30-2015-00813013-CU-OE-CXC (wage  
16 and hour class action, final approval granted);  
17  
18 x. *Sonia Barrientos v Law Office of Jeffrey H. Jordan*, Case No. 2:15-cv-06282-JAK-GJS  
19 (FDCPA/RFDCPA letter class action, settled on class wide basis, final approval granted);  
20  
21 y. *Tahmasian v Midway Rent A Car*, Case No. 30-2015-00813013-CU-OE-CXC (LASC)  
22 (PAGA and Labor Code class action, final approval granted);  
23  
24 z. *Craig Cunningham v Lexington Law Firm*, Case No. 1:17-cv-00087-EJF (N.D. UT)  
25 (TCPA class action MDL involving solicitation prerecorded voice calls made by a third  
26 party, vicarious liability alleged, preliminary approval pending).  
27  
28 aa. *Sheena Raffin v Mediacredit, Inc., et al.*, Case No. 2:15-cv-04912-MWF-PJW (C.D. Cal.)  
(Cal. Penal Code § 632.7 class action certified by Hon. George H. King Ret under Rule  
23(b)(2) and (b)(3) by contested motion on behalf of 11,000 class members whose calls



1           were recorded without knowledge or consent, settled for \$5 million, final approval  
2           granted);

3           bb. *Fernandez v Reliance Home Services, Inc.* Case No. BC607572 Los Angeles Superior  
4           Court (wage and hour plus PAGA class action, final approval granted);

5           cc. *Anne Wolf v Hewlett Packard Company*, Case No. 5:15-cv-01221-TJH-GJS (C.D. Cal.)  
6           (CLRA class action certified by contested motion on behalf of tens of thousands of class  
7           members who purchased printer that was falsely advertised to include Smart Install  
8           feature, settled on a wider multi-state, multi-product basis, preliminary approval granted,  
9           final approval pending);

10           dd. *Jaylinda Girardot et al v. Bail Hotline Bail Bonds, Inc.*, Case No. BC700131 Los Angeles  
11           County Superior Court (wage and hour plus PAGA class action, final approval granted);

12           ee. *Ryoo Dental, Inc. v OCO Biomedical, Inc.*, Case No. 8:16-cv-01626-DOC-KES (TCPA  
13           fax blast class action, settled on class wide basis, final approval granted);

14           ff. *Wondra Curtis v The Anthem Companies, Inc.*, Case No. 8:16-cv-01654-DOC-JCG (wage  
15           and hour class action for off the clock work, settled on class wide basis, final approval  
16           granted);

17           gg. *Weinberg v Clariant, Inc.* Case No. 56-2017-00494914-CU-NP-VTA Ventura County  
18           Superior Court (Rosenthal Fair Debt Collection Practices Act class action settled on behalf  
19           of 1,830 class members for privacy infringements through clear envelope debt collection  
20           letters, final approval granted);

21           hh. *Aliav v Sunset Eats, LLC*, Case No. BC655401 Los Angeles Superior Court (false  
22           advertising class action on behalf of approximately 10,000 class members, settled on class  
23           wide basis; preliminary approval pending);

- 1 ii. *Alfred Zaklit, et al. v. Nationstar Mortgage LLC*, Case No. 5:15-cv-02190-CAS-KK (C.D.  
2 Cal.) (Cal. Penal Code § 632.7 class action certified by contested motion under Rule  
3 23(b)(2) and (b)(3) on behalf of over 40,000 class members whose calls were recorded  
4 without knowledge or consent, preliminary approval pending);  
5  
6 jj. *Mark Silva v. Olson and Co. Steel* Case No. 17CV001045 Contra Costa County Superior  
7 Court (wage and hour class action settled on behalf of 563 class members, preliminary  
8 approval granted);  
9  
10 kk. *Richards v. CoreCivic of Tennessee, LLC*, Case No. 1:17-cv-01094-LJO-JLT (E.D. Cal.)  
11 (wage and hour class action settled for approximately \$3 million, preliminary approval  
12 pending);  
13  
14 ll. *Kim v Tinder, Inc. et al.*, Case No. 2-18-cv-03093 (C.D. Cal. (Unfair Competition Law  
15 and Unruh Act class action alleging illegal price discrimination based on age, settlement  
16 value of approximately \$23 million on behalf of approximately 230,000 class members,  
17 preliminary approval pending);  
18  
19 mm. *Manopla v. Home Depot USA, Inc.* Case No. 15-1120 (D. N.J.) (TCPA class action,  
20 preliminary approval pending);  
21  
22 nn. *Cawthorne v Rush Truck Centers of California, Inc.* Case No. 5:17-cv-01541-JGB-SP  
23 (wage and hour class action on behalf of 560 employees, preliminary approval pending);  
24  
25 oo. *Lizama v Medical Data Systems, Inc.* Case No. 34-2017-00210986-CU-NP-GDS  
26 (Sacramento County Superior Court) (Penal Code 632.7 class action alleging illegal call  
27 recording, settled for \$2.2 million on behalf of over 30,000 consumers, preliminary  
28 approval pending);

- 1 pp. *Romano v SCI, Inc.* Case No. 2:17-cv-03537-ODW-JEM (wage and hour class action for  
2 independent contractor misclassification, settled for \$2.5 million on behalf of 230  
3 employees, preliminary approval pending);
- 4  
5 qq. *Caldera v. American Medical Collection Association*, (C.D. Cal.) Case No. 2:16-cv-  
6 00381-CBM-AJW (TCPA class action certified by contested motion, settled on a Rule  
7 23(b)(2) basis for classwide injunctive relief, preliminary approval pending);
- 8 rr. *Edward Makaron v. Enagic USA, Inc.*, Case No. 2:15-cv-05145-DDP-E (C.D. Cal.)  
9 (TCPA class action certified on behalf of approximately 2,000,000 class members under  
10 Rule 23(b)(2) and 23(b)(3), subsequently settled on a Rule 23(b)(2) and 23(b)(3) basis,  
11 preliminary approval pending);
- 12 ss. *Audrey Hernandez v. Pegasus Building Services, Inc.*, SDSC Case No. 37-2018-  
13 00023176-CU-OE-CTL (consolidated wage and hour and PAGA class action on behalf  
14 of janitorial workers, preliminary approval pending);
- 15 tt. *Walsh v Fry's Electronics, Inc.* Case No. MSC18-01681 (Contra Costa County Superior  
16 Court) (Gift Card Act, CLRA, UCL, FAL class action settled for class-wide public  
17 injunctive relief, preliminary approval pending);
- 18 uu. *Nishimoto v T&S Business Corporation*, Case No. 34-2017-00211426 (Sacramento  
19 County Superior Court) (wage and hour and PAGA class action on behalf of janitorial  
20 workers, preliminary approval pending);
- 21 vv. *Rodriguez v. Experian Information Solutions, Inc. et. al.* Case No. 2:15-cv-01224-RAJ  
22 (W.D. Wash.) (FCRA class action for improper credit pulls; certified under Rule 23 by  
23 contested motion, and settled on class-wide basis, preliminary approval pending);
- 24 ww. *Ahmed v HSBC Bank USA*, Case No. 5:15-cv-02057-FMO (SPx) (C.D. Cal.) (TCPA  
25 class, preliminary approval pending); and
- 26 xx. *Aiken v. Malcolm Cisneros, A Law Corporation*, Case No. 5:17-cv-02462-JLS-SP (C.D.  
27 Cal.) (Fair Debt Collection Practices Act class action, settled on class wide basis,  
28 preliminary approval pending).

- 1 22. My firm is also currently litigating, in addition to the case at bar which was certified under Rule  
2 23, the following cases which were certified as class actions under Rule 23 by contested motion:
- 3 a. *Anne Wolf v Hewlett Packard Company*, Case No. 5:15-cv-01221-TJH-GJS (C.D. Cal.)  
4 (CLRA class action certified by contested motion on behalf of tens of thousands of class  
5 members who purchased printer that was falsely advertised to include Smart Install  
6 feature);
- 7 b. *Caldera v. American Medical Collection Association*, (C.D. Cal.) Case No. 2:16-cv-  
8 00381-CBM-AJW (TCPA class action certified by contested motion)
- 9 c. *Alfred Zaklit, et. al. v. Nationstar Mortgage LLC*, Case No. 5:15-cv-02190-CAS-KK  
10 (C.D. Cal.) Cal. Penal Code § 632.7 class action certified under Rule 23(b)(2) and (b)(3)  
11 on behalf of class members whose calls were recorded without knowledge or consent);
- 12 d. *D'Angelo Santana vs Rady Children's Hospital*, Case No. 37-2014-00022411-CU-MT-  
13 CTL (San Diego Superior Court) Confidentiality of Medical Information Act, Cal. Civ.  
14 Code § 56 *et seq.*;
- 15 e. *Edward Makaron v. Enagic USA, Inc.*, Case No. 2:15-cv-05145-DDP-E (C.D. Cal.)  
16 (TCPA class action certified on behalf of approximately 2,000,000 class members under  
17 Rule 23(b)(2) and 23(b)(3)); and
- 18 f. *Rodriguez v. Experian Information Solutions, Inc. et. al.* Case No. 2:15-cv-01224-RAJ  
19 (W.D. Wash.) (FCRA class action for improper credit pulls; certified under Rule 23).
- 20 g. *Sheena Raffin v Mediacredit, Inc. et. al.*, Case No. 2:15-cv-04912-MWF-PJW (C.D. Cal.)  
21 (Cal. Penal Code § 632.7 class action certified by Hon. George H. King Ret. under Rule  
22 23(b)(2) and (b)(3) on behalf of class members whose calls were recorded without  
23 knowledge or consent);
- 24 h. *Stemple v. QC Financial Services Group of California, Inc.*, 3:12-cv-01997-CAB-WVG  
25 (S.D. Cal.) (certified class achieved by motion, and subsequent class-wide settlement);  
26 and
- 27 i. *Abdeljalil v. General Electric Capital Corporation*, 12-CV-02078-IEG-RBB (S.D. Cal.)  
28 (certified class achieved by motion, and subsequent class-wide settlement);

1 23. It is this level of experience which enabled the firm to undertake the instant matter and to  
2 successfully combat the resources of the defendant and their capable and experienced counsel.  
3 On account of the concerted and dedicated effort this case demanded in order to properly handle  
4 and prosecute, my office and our co-counsel were precluded from taking other cases, and in fact,  
5 had to turn away other potential fee generating cases.

6  
7 **III. OVERVIEW OF LAW OFFICES OF TODD M. FRIEDMAN, P.C.'S**  
8 **EFFORTS IN THIS ACTION**

9 **A. CONTINGENT NATURE OF ACTION**

10 24. This action, required the Law Offices of Todd M. Friedman, P.C. to spend over two years on this  
11 litigation that could have been spent on other matters. At various times during the litigation of  
12 this class action, this lawsuit has consumed my time as well as my firm's resources. Over 3,000  
13 emails have been exchanged during that time between members of my firm, our co-counsel,  
14 counsel for Defendant, the claims administrator, class members, Plaintiffs, and others. My firm  
15 has not been paid anything for our work on this case since it was filed and we have contributed  
16 over \$13,763.69 in hard costs prosecuting this action on behalf of Plaintiffs and the proposed  
17 class. It is my opinion that law firms in such a position expect to receive a multiplier in cases  
18 such as these because of the risk taken, the extent to which firms are unable to take on other  
19 cases, the delay in getting paid and the costs we have to advance.

20  
21 **B. OVERVIEW OF LAW OFFICES OF TODD M. FRIEDMAN, P.C.'S LODESTAR AND COSTS**

22 25. Law Offices of Todd M. Friedman, P.C. has maintained contemporaneous time records since the  
23 commencement of this action. To date, my office has incurred 631 hours of attorney time for this  
24 case, with a total lodestar of \$400,355.00. This figure does not include the estimated hours for  
25 preparing the final approval hearing papers, appearing at the hearing and overseeing the  
26 settlement administration. I anticipate my firm will expend approximately 20 hours working on  
27 these matters, in addition to the hours described herein, which are anticipated to be split equally  
28 between myself and my partner Adrian R. Bacon. Once those hours are accounted for, through

1 final approval, I anticipate our Lodestar will be \$413,855. My billing rate is \$725 per hour in this  
 2 case, the billing rate for Adrian R. Bacon is \$625 per hour, the billing rate for Arvin Ratanavongse  
 3 is \$575 per hour and the billing rate for Thomas E. Wheeler is \$370 per hour.

4 **C. LAW OFFICES OF TODD M. FRIEDMAN, P.C.'S COSTS**

5 26. My firm has incurred litigation costs in this matter in the amount of \$13,763.00, for which my  
 6 firm is seeking reimbursement. These costs are comprised of costs for filing and serving the  
 7 complaint, transmitting copies of filings to the Court, parking expenses, airfare traveling to san  
 8 francisco for meetings and court appearances, and to portland for a deposition, costs associated  
 9 therewith, mileage and transportation expenses, and payment of \$10,000 into a joint co-counsel  
 10 litigation expense fund, which I anticipate my co-counsel Girard and Gibbs will address in their  
 11 papers, so as not to double-count these costs. The breakdown of costs is as follows:

Description	Cost
Court Filing and Service Fees	\$518.80
Parking Fees	\$122.00
Mileage and Transportation Expenses	\$735.68
Flights	\$2,295.35
Meals	\$91.17
Payment Into Co-counsel Expense Fund	\$10,000.00
<b>TOTAL</b>	<b>\$13,763.00</b>

18  
 19 27. Should my firm incur costs through final approval of this action, Plaintiffs will seek  
 20 reimbursement of such costs, as set forth in the Settlement Agreement. Such anticipated costs  
 21 would primarily be in the form of my traveling to the final approval hearing for this matter on  
 22 behalf of the Class, which would likely include airfare, hotel and transportation expenses. I do  
 23 not anticipate these expenses will exceed another \$1,000.

24 **D. REASONABLENESS OF HOURLY RATES**

25 28. Law Offices of Todd M. Friedman, P.C.'s hourly rates are reasonable in respect to the ranges  
 26 charged by comparable law firms in the State of California.<sup>1</sup> My billing rate is \$725 per hour in  
 27

28  
<sup>1</sup> See Laffey Matrix attached hereto as Exhibit B.

1 this case, the billing rate for Adrian R. Bacon is \$625 per hour, the biling rate for Arvin  
2 Ratanavongse is \$575 per hour, and the rate of Thomas R. Wheeler is \$370 per hour. For  
3 purposes of this Lodestar analysis, I did not include the hours worked by law clerks, or  
4 paralegals.

5 29. Regarding my rate, I have been practicing law since 2001, and am the managing partner of one  
6 of the most active consumer protection law firms in California. I have been counsel of record  
7 on hundreds of class action lawsuits, nearly 50 of which have resolved on a class-wide basis, and  
8 approximately 10 of which were certified by contested motion after considerable litigation.

9 30. The hourly rates sought herein have been approved by numerous courts. Recently in the case of  
10 *Sheena Raffin v Medicredit, Inc. et. al.*, Case No. 2:15-cv-04912-MWF-PJW (C.D. Cal.), Judge  
11 Fitzgerald of the Central District of California explicitly found that my rate of \$725 and Mr.  
12 Bacon's rate of \$625 per hour, as well as Mr. Wheeler's rate of \$370 per hour were all reasonable.  
13 The court awarded us fees and granted final approval of a class action settlement, which my  
14 office had litigated for over three years. Our fees were also recently approved as reasonable at  
15 these same rates in the case of *Jaylinda Girardot et al v. Bail Hotline Bail Bonds, Inc.*, Case No.  
16 BC700131 Los Angeles County Superior Court, where Judge Berle found at oral argument that  
17 our hourly rates were fair and reasonable and granted approval. Mr. Bacon's hourly rate of \$625  
18 was also recently approved in a motion for sanctions he filed against a defendant in the case of  
19 *Fryt v. SRBV Staffing, LLC* Case No. BC682078 Los Angeles Superior Court.

20  
21 31. My partner Adrian R Bacon is the head of litigation at my firm. He has been practicing law since  
22 2011, and has practiced primarily class action litigation. He began working on consumer  
23 protection class action litigation, including extensive work on the Toyota Unintended  
24 Acceleration Litigation. Mr. Bacon played a pivotal role in drafting numerous complex class  
25 action briefs in his first year of practice, including drafting significant portions of the briefs in  
26 notable cases such as *Nguyen v. Barnes & Noble, Inc.*, 2012 WL 3711081 (C.D. Cal. August 28,  
27 2012) affirmed at *Nguyen v. Barnes & Noble Inc.*, 763 F.3d 1171 (9<sup>th</sup> Cir. 2014), and *Corvello*  
28 *v. Wells Fargo Bank, NA*, 728 F.3d 878 (9<sup>th</sup> Cir. 2013).

1 32. In only his third year of practice he was approved as class counsel, at an hourly billing rate of  
2 \$475 per hour in three class action matters that were granted final approval:

- 3 a. *Miller v. Ikea California, LLC*, Case No.: 30-2009 00331682, California Superior Court  
4 County of Orange (\$5.75M class settlement granted final approval and motion for fees  
5 and approved at a rate of \$475 per hour);  
6 b. *David Paiva et al v. Denny Corporation et al.*, Case No. 37-2010-00103831-CU-OE-  
7 CTL, California Superior Court County of San Diego (granted final approval and motion  
8 for fees and approved at a rate of \$475 per hour); and  
9 c. *Juan Martinez et al v. Valley Pride, Inc. et al.*, Case No. M108688, California Superior  
10 Court County of Monterey  
11

12 33. Mr. Bacon is responsible for drafting and filing the majority of the Complex Motions filed by  
13 my firm in Class Action cases, as well as managing discovery, taking depositions and overseeing  
14 and engaging in virtually every aspect of litigation as either lead or co-lead counsel in hundreds  
15 of active cases handled by my firm. He also oversees and manages the firm's Orange County  
16 office. My office recently successfully achieved class certification by contested motion in five  
17 hotly contested class actions, the motions for which Mr. Bacon took point in drafting:

- 18 a. *Sheena Raffin v Mediacredit, Inc. et. al.*, Case No. 2:15-cv-04912-MWF-PJW (C.D. Cal.);  
19 b. *Anne Wolf v Hewlett Packard Company*, Case No. 5:15-cv-01221-BRO-GJS (C.D. Cal.)  
20 (CLRA class action certified on behalf of tens of thousands of class members who  
21 purchased printer that was falsely advertised to include Smart Install feature);  
22 c. *Caldera v. American Medical Collection Association*, (C.D. Cal.) Case No. 2:16-cv-  
23 00381-CBM-AJW (TCPA class action on behalf of 30,000-100,000 class members,  
24 certified by contested motion); and  
25 d. *Alfred Zaklit, et. al. v. Nationstar Mortgage LLC*, Case No. 5:15-cv-02190-CAS-KK  
26 (C.D. Cal.) Cal. Penal Code § 632.7 class action certified under Rule 23(b)(2) and (b)(3)  
27 on behalf of approximately 70,000 class members whose calls were recorded without  
28 knowledge or consent); and



1 e. *Edward Makaron v. Enagic USA, Inc.*, Case No. 2:15-cv-05145-DDP-E (C.D. Cal.)  
2 (TCPA class action certified on behalf of approximately 1,000,000 class members under  
3 Rule 23(b)(2) and 23(b)(3)).  
4

5 34. Following class certification, each of the five matters above were resolved on a class-wide basis  
6 and are in various stages of approval, as described above. Mr. Bacon's efforts were instrumental  
7 in achieving this class-wide results, as he was the primary attorney who took the depositions in  
8 these matters, handled motion practice, drafted the motions for class certification, and argued the  
9 motions for class certification.

10 35. Mr. Bacon was recently approved at a rate of \$575 at final approval in close to a dozen class  
11 actions over the past two years, including the case of *Shelby v Two Jinn, Inc.*, Case No. 2:15-cv-  
12 03794-AB-GJS (C.D. Cal.). More recently, he has been approved on several instances at a rate  
13 of \$625 per hour.

14 36. Mr. Wheeler is a graduate of U. Penn Law and a junior associate at my firm. He has worked  
15 extensively on consumer protection matters, including class actions, during his two years with  
16 my firm. His work includes assisting on the *Caldera* and *Makaron* matters cited above, a  
17 certified TCPA class action. In light of his experience, an hourly rate of \$370 is warranted, and  
18 is further warranted in light of customary rates for junior associates on the Laffey Matrix.

19 37. Mr. Ratanavongse was a senior associate at my firm, having practiced for ten years. His rates  
20 are lower than those in the Laffye Matrix as well.

21 38. I anticipate Law Offices of Todd M. Friedman, P.C. will incur an additional 20 hours for  
22 preparing for the final approval hearing, appearing at the hearing, and overseeing the settlement  
23 administration, including addressing any questions by settlement Class Members, as well as  
24 filing status reports after final approval.

25 39. With regard to a bare bones loadstar amount, our current billing records reflect approximately  
26 652 hours of time. Based on these rates, and the accompanying time entries for each  
27 corresponding individual, the loadstar estimate for this Case is \$413,855.  
28

40. Here is a breakdown and summary of the fees incurred by Plaintiff’s counsel in connection with this Case:

Name	Number of Hours	Rate/Hr	Total
Todd M. Friedman	141.3	\$725.00	\$102,442.50
Adrian R. Bacon	441.3	\$625.00	\$275,812.50
Thomas E. Wheeler	21	\$370.00	\$7,770.00
Arvin Ratanavongse	47.4	\$575.00	\$27,255.00
<b>TOTAL</b>	<b>652</b>		<b>\$413,855.00</b>

41. Attached hereto as Exhibit A is a true and correct of a categorized summary of time entries from my firm’s records for this matter. I can provide detailed time entries upon request of the Court.

42. Based on the foregoing, I submit that our request for fees and costs, as set forth in the contemporaneously-filed motion, is fair and reasonable.

43. I also would submit that Plaintiff James Andrews was significantly involved in this litigation, and should be awarded an incentive award of \$5,000. He went above and beyond his duties to the class, by being very involved in litigation, including pre-filing diligence and investigative efforts, providing my office with documents and information necessary to formulate the complaint, responding diligently and promptly to information requests from my office, responding to formal written discovery, sitting for a deposition, and participating in settlement discussions. He was a model class representative. His involvement throughout this litigation and strongly advocacy on behalf of the class warrants the award of a \$5,000 incentive award.

44. I am unaware of any conflicts of interest between Plaintiffs and putative class members and between proposed class counsel and the other parties to this litigation.

I declare under penalty of perjury under the laws of California and the United States of America that the foregoing is true and correct, and that this declaration was executed on February 4, 2019.

By: /s/ Todd M. Friedman

Todd M. Friedman, Esq.

**ATTESTATION STATEMENT**

I, Elizabeth A. Kramer, am the ECF User whose identification and password are being used to file this Declaration of Todd M. Friedman in Support of Plaintiffs' Motion for Final Approval of Class Action Settlement and Attorneys' Fees and Costs pursuant to Civil L.R. 5-1(i)(3). I attest under penalty of perjury that Todd M. Friedman concurred in this filing.

DATED: February 7, 2019

/s/ Elizabeth A. Kramer

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# EXHIBIT A

## THE LAW OFFICES OF TODD M. FRIEDMAN, P.C.

Name	Title	Hours By Category of Work					Hourly Rate	Lodestar
		1	2	3	4	5		
Friedman, Todd	P	12.6	29.3	13.2	42.4	46.8	\$725	\$102,442.50
Bacon, Adrian	P	36	96	190.5	65.6	53.2	\$625	\$275,812.50
Wheeler, Thomas	A	0	0	21	0	0	\$370	\$7,770.00
Ratanavongse, Arvin	A	0	0	48.4	0	0	\$575	\$27,830.00
<b>TOTAL</b>		<b>48.6</b>	<b>125.3</b>	<b>273.1</b>	<b>108</b>	<b>100</b>		<b>\$413,855.00</b>

**Titles:**

P Partner  
A Associate

**Category of Work:**

1 – Case Investigation and Factual Research  
2 – Pleadings  
3 – Discovery and Document Review  
4 – Pretrial Motions and Hearings  
5 – Settlement Negotiations and Motions

# EXHIBIT B

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# LAFFEY MATRIX

[History](#)
[Case Law](#)
[Expert Opinions](#)
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			Years Out of Law School *				
Year	Adjustmt Factor**	Paralegal/ Law Clerk	1-3	4-7	8-10	11-19	20 +
6/01/18- 5/31/19	1.0350	\$202	\$371	\$455	\$658	\$742	\$894
6/01/17- 5/31/18	1.0463	\$196	\$359	\$440	\$636	\$717	\$864
6/01/16- 5/31/17	1.0369	\$187	\$343	\$421	\$608	\$685	\$826
6/01/15- 5/31/16	1.0089	\$180	\$331	\$406	\$586	\$661	\$796
6/01/14- 5/31/15	1.0235	\$179	\$328	\$402	\$581	\$655	\$789
6/01/13- 5/31/14	1.0244	\$175	\$320	\$393	\$567	\$640	\$771
6/01/12- 5/31/13	1.0258	\$170	\$312	\$383	\$554	\$625	\$753
6/01/11- 5/31/12	1.0352	\$166	\$305	\$374	\$540	\$609	\$734
6/01/10- 5/31/11	1.0337	\$161	\$294	\$361	\$522	\$589	\$709
6/01/09- 5/31/10	1.0220	\$155	\$285	\$349	\$505	\$569	\$686
6/01/08- 5/31/09	1.0399	\$152	\$279	\$342	\$494	\$557	\$671
6/01/07-5/31/08	1.0516	\$146	\$268	\$329	\$475	\$536	\$645
6/01/06-5/31/07	1.0256	\$139	\$255	\$313	\$452	\$509	\$614
6/1/05-5/31/06	1.0427	\$136	\$249	\$305	\$441	\$497	\$598
6/1/04-5/31/05	1.0455	\$130	\$239	\$293	\$423	\$476	\$574
6/1/03-6/1/04	1.0507	\$124	\$228	\$280	\$405	\$456	\$549
6/1/02-5/31/03	1.0727	\$118	\$217	\$267	\$385	\$434	\$522
6/1/01-5/31/02	1.0407	\$110	\$203	\$249	\$359	\$404	\$487
6/1/00-5/31/01	1.0529	\$106	\$195	\$239	\$345	\$388	\$468
6/1/99-5/31/00	1.0491	\$101	\$185	\$227	\$328	\$369	\$444
6/1/98-5/31/99	1.0439	\$96	\$176	\$216	\$312	\$352	\$424
6/1/97-5/31/98	1.0419	\$92	\$169	\$207	\$299	\$337	\$406
6/1/96-5/31/97	1.0396	\$88	\$162	\$198	\$287	\$323	\$389
6/1/95-5/31/96	1.032	\$85	\$155	\$191	\$276	\$311	\$375

6/1/94-5/31/95	1.0237	\$82	\$151	\$185	\$267	\$301	\$363
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The methodology of calculation and benchmarking for this Updated Laffey Matrix has been approved in a number of cases. See, e.g., McDowell v. District of Columbia, Civ. A. No. 00-594 (RCL), LEXSEE 2001 U.S. Dist. LEXIS 8114 (D.D.C. June 4, 2001); Salazar v. Dist. of Col., 123 F.Supp.2d 8 (D.D.C. 2000).

\* "Years Out of Law School" is calculated from June 1 of each year, when most law students graduate. "1-3" includes an attorney in his 1st, 2nd and 3rd years of practice, measured from date of graduation (June 1). "4-7" applies to attorneys in their 4th, 5th, 6th and 7th years of practice. An attorney who graduated in May 1996 would be in tier "1-3" from June 1, 1996 until May 31, 1999, would move into tier "4-7" on June 1, 1999, and tier "8-10" on June 1, 2003.

\*\* The Adjustment Factor refers to the nation-wide Legal Services Component of the Consumer Price Index produced by the Bureau of Labor Statistics of the United States Department of Labor.