

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

LISA HILL-GREEN, <i>on behalf of</i> <i>herself and all others similarly situated,</i>	:	
	:	
Plaintiff,	:	Civil Action No. 3:19-cv-708
	:	
v.	:	
	:	
EXPERIAN INFORMATION SOLUTIONS, INC.,	:	
	:	
Defendant.	:	

**PLAINTIFF’S MEMORANDUM IN SUPPORT OF
MOTION FOR ATTORNEYS’ FEES, COSTS, AND SERVICE AWARD**

This class settlement follows extensive litigation and discovery efforts regarding Experian’s Fraud Shield reporting, which impacted approximately 565,000 consumers. Experian has agreed to pay \$22,450,000 to class members with pro rata distributions made to class members who submit a valid claim form. As of January 5, 2023, class members have submitted 36,867 claims, which is over a 6% claims rate. Anticipating more claims, if eight percent of the Rule 23(b)(3) Class Members submit a valid claim form, they would receive a payment of around \$342.00 if the Court approves the proposed attorneys’ fees, costs, expenses, and service awards. Ex. 1, Kelly Decl. ¶ 21. This significant consideration was achieved despite Experian’s defenses to the litigation, which posed risk to litigating this case to summary judgment or trial.

The substantial relief afforded by the Settlement would not have been possible without Ms. Hill-Green’s willingness to stand up for other consumers who were plagued by Experian’s inaccurate Fraud Shield reporting and Class Counsel’s skill, creativity, hard work, and willingness to take on the long-term risks of litigating this case. As detailed below, the parties conducted significant work before settling, including significant motions practice, written discovery and

document production, depositions, significant third-party discovery, extensive meet and confers with Experian and third parties and expert analysis of Experian's database. As a result, the parties were fully informed when they engaged in settlement discussions. The parties attended several mediation sessions over many months, even more check-in calls with Judge Colombell to ensure progress was being made, and also conducted several direct settlement efforts.

Class Counsel took this case on a contingency basis, which put them at significant risk if the litigation did not succeed. They should be compensated for accepting and overcoming this risk. Ms. Hill-Green also seeks a reasonable service award to compensate her for her long-standing dedication to this case and the significant work that she has completed, including her willingness to have class notices sent to hundreds of thousands of consumers bearing her. Plaintiff, therefore, requests that the Court grant her Motion and award \$7,483,258.50 in attorneys' fees and costs and a \$10,000 service award to Ms. Hill-Green. Experian does not oppose this request.

BACKGROUND

This lawsuit, which challenges Experian's use of its Fraud Shield product, was filed on September 27, 2019. Plaintiff's complaint contained two class claims against Experian. The first claim alleged that Experian incorrectly labeled consumers' home addresses as "high-risk" or "non-residential" with no meaningful or reasonable procedures to ensure that these labels were accurate. Plaintiff's second claim alleged that Experian also lacked procedures to remove outdated business information from its system, meaning that if a consumer's address had ever been linked to a business, that notation remained in Experian's system and continued be linked to that address forever, even if the business were defunct, as it was in Ms. Hill-Green's case.

As this Court is aware, after Plaintiff's complaint was filed, the case was vigorously litigated, including a motion to transfer venue, discovery, and three full days of mediation, which led to a Rule 23(b)(2) settlement. This settlement, which the Court approved on April 27, 2022

(ECF No. 112), addressed some of the issues with Experian's Fraud Shield product, but left many issues unresolved, including Plaintiff's request for monetary damages.

After the Parties reached the Rule 23(b)(2) settlement, and before the final approval of that settlement, they worked to resolve the remaining disputes. These efforts were extensive and required significant work. For example, the Parties engaged in multiple meet-and-confer conferences, many of which lasted several hours, including checking in several times a week to gauge progress and discuss and narrow areas of dispute. The Parties also completed the Court's chart process. This ultimately led to Experian's production of ESI it previously had not produced totaling over 540,000 pages, along with an additional 30,000 of pages of policies, procedures, training materials, marketing materials, customer lists, database schemas and layouts, all of which Plaintiff's counsel thoroughly reviewed for use in the litigation.

Plaintiff's counsel issued over 40 subpoenas to various third parties for source data and information about the effect of the fraud shield indicators for Experian's largest customers. This discovery was necessary to rebut Experian's arguments about how Fraud Shield was used by its customers, the reporting's impact on consumers, and to obtain the complete data that Experian obtained to create the Fraud Shield indicators, including exploring whether historical data was available.

Plaintiff's counsel also used a team of ten document review attorneys to review, code and analyze these documents in a timely and effective manner, given the short turn around. This process that also required the involvement of several supervising attorneys, with Plaintiff's counsel's firms to ensure that the process proceeded smoothly, review was consistent between attorneys, and to review and summarize documents identified as particularly relevant. This review process was crucial to the case—documents identified in the review shaped Plaintiff's approach to

the case, both in settlement and in litigation, and were used extensively in Experian's Rule 30(b)(6) deposition.

Along with this large document production, Experian also produced significant data from its database. The review of this data was an iterative and time-consuming process that involved counsel for both sides and Plaintiff's expert consultant, and which occurred both before and after the settlement. Before agreement on the settlement terms, Plaintiff's counsel negotiated with Defendant the production of a significant volume of anonymized data regarding potential class members, which was reviewed by Plaintiff's expert. This became an iterative process, with Plaintiff's counsel receiving feedback from Plaintiff's expert, leading to further lengthy meet and confers with Defendant's counsel, and additional data production and review. This pre-settlement review process was critical to achieving the settlement here, as it allowed Plaintiff to argue that: (1) a class was certifiable in litigation, and (2) that a settlement class could be identified and administered. After the settlement was achieved, Plaintiff's counsel went back to Defendant's counsel to obtain de-anonymized data, which was used to compile the class list used in this settlement.

Along with these discovery efforts, the Parties also engaged in significant mediation efforts. They had multiple sessions with Magistrate Judge Colombell, whose efforts were numerous, effective, and integral to reaching this settlement. Judge Colombell had many group and private calls with the parties to bridge various divides and keep the parties moving toward a resolution in an expedient manner. These negotiations ultimately resulted in the settlement before

this court.¹ As discussed in Plaintiff’s preliminary approval motion and above, this settlement provides significant benefits to Rule 23(b)(3) class members.

But even though this case settled, it required significant work. Because the mediation and discovery proceeded simultaneously, there were about a dozen lawyers between the two sides working to meet the litigation deadlines in this case. This extensive work was necessary to obtain the meaningful relief provided to class members. And considering Experian’s strong belief in the merit of its defenses, this settlement outcome is a good one. Overcoming Experian’s arguments would have taken many more months—if not years—and would have incurred significant fees and costs. The Settlement is significant because it avoids the risk presented by those defenses, conserves the resources of all parties, and provides the class members with significant relief.

ARGUMENT

A. So far, there are no class member or governmental objections.

Although the class notice process is unfinished because objections can be submitted until January 30, 2023, class notice has been sent to the class members. So far, neither Plaintiff’s counsel nor the Settlement Administrator have received any objection to the settlement or the proposed fees and service awards, which were listed in the class notice. And despite delivery of the required CAFA notice to all state attorneys general and the appropriate federal agencies, not one has reached out to Class Counsel to express concern.² “Such a lack of opposition . . . strongly supports a finding of adequacy, for ‘[t]he attitude of the members of the Class, as expressed directly or by failure to

¹ During that process, the Parties were able to agree on additional injunctive relief terms, which have been detailed in the Plaintiff’s preliminary approval motion, as well as the Rule 23(b)(3) settlement. Because Plaintiff’s counsel already received a fee for the prior injunctive relief settlement, they are not seeking any fee for the additional injunctive relief that has been negotiated, and this brief only addresses the fee that they are seeking for the Rule 23(b)(3) settlement.

² If an objection is made on or before the January 30 objection deadline, Class Counsel will file a separate response.

object, after notice to the settlement is a proper consideration for the trial court.” *In re MicroStrategy, Inc. Sec. Litig.*, 148 F. Supp. 2d 654, 668 (E.D. Va. 2021) (quoting *Flinn v. FMC Corp.*, 528 F.2d 1169, 1173 (4th Cir. 1975)). The lack of objection is particularly dispositive to the reasonableness of service awards and attorney’s fees. *Berry v. Schulman*, 807 F.3d 600, 618-619 (4th Cir. 2015) (affirming fee in part because of lack of objections).

B. Plaintiff’s service award is appropriate.

Lisa Hill-Green requests—and Experian does not oppose—an award of \$10,000 for her participation and service to the Class. Although this amount is at the higher end of the service awards requested by Class Counsel in other settlements, it is both well-earned and deserved. Ms. Hill-Green took a very active role in the litigation and remained engaged throughout the lengthy litigation process. She was committed—at all points of the process—to litigate this case as a class action and to obtain relief for the class members. Ex. 1, Kelly Decl. ¶¶ 32-33. To that end, Ms. Hill-Green responded to written discovery and sat for a deposition³. She communicated with Class Counsel about the litigation, regularly seeking updates on the case status. She also made herself available during the multiple mediations to answer questions from Class Counsel. She has reviewed and approved the settlement.

Where class representative involvement has been as rigorous as in this case, courts, including this one, have approved similar, and even higher, service awards than the \$10,000 award sought here. For example, two consumer class actions, this Court has awarded \$20,000 service awards to class representatives who, like Ms. Hill-Green, remained engaged in a class-action case for several years, participated in discovery, and remained in regular communication with her counsel. *Gibbs v. Stinson*, No. 3:18-cv-676, ECF No. 346 ¶ 20 (E.D. Va. Aug. 16, 2022); *Soutter*

³ Ms. Hill-Green’s deposition occurred during the course of the first Rule 23(b)(2) settlement.

v. Equifax Info. Servs., LLC, No. 3:10-cv-107, ECF No. 247 ¶ 11 (E.D. Va. Apr. 5, 2016).⁴ This Court routinely awards service awards in consumer class actions⁵ and should do so here, as they were amply earned.

B. The requested attorneys' fees and costs are appropriate and should be awarded.

The multi-firm team of Class Counsel collectively seek an award of \$7,483,258.50 for their attorneys' fees and costs in this case. This request represents one-third of the Settlement Fund. And of course, the percentage allocated just to fees, net of costs, would be even lower.

⁶ See also *Loudermilk Servs., Inc. v. Marathon Petroleum Co. LLC*, 623 F. Supp. 2d 713, 727 (S.D. W. Va. 2009) (awarding each of the five class representatives a \$25,000 service award); *Temp. Servs., Inc. v. Am. Int'l Grp., Inc.*, No. 3:08-cv-271, 2012 WL 4061537, at *6 (D.S.C. Sept. 14, 2012) (approving \$20,000 service awards to each of the two class representatives); *In re Lorazepam & Clorazepate Antitrust Litig.*, 205 F.R.D. 369, 400 (D.D.C. 2002) (approving a service award of \$25,000 to each of the three class representatives in the case); *Van Vranken v. Atl. Richfield Co.*, 901 F. Supp. 294, 299–300 (N.D. Cal. 1995) (awarding \$50,000 to the named plaintiff); *In re Dunn & Bradstreet Credit Serv. Customer Litig.*, 130 F.R.D. 366, 374 (S.D. Ohio 1990) (awarding \$55,000 each to two named plaintiffs); *In re Janney Montgomery Scott LLC Fin. Consultant Litig.*, No. 06-3202, 2009 WL 2137224, at *12 (E.D. Pa. July 16, 2009) (approving a service award of \$20,000 to each of the three class representatives in the case); *Garrett v. Morgan Stanley DW, Inc.*, Civ. A. No. 04–1858 (S.D. Cal. Sept. 12, 2006) (order granting final approval) (awarding named plaintiffs service awards of \$20,000 each).

⁵ See, e.g., *Hayes v. Delbert Servs. Corp.*, 3:14-cv-258 (JAG) (E.D. Va.); *Manuel v. Wells Fargo Nat'l Ass'n*, No. 3:14cv238(DJN), 2016 WL 1070819, at *6 (E.D. Va. Mar. 15, 2016); *Beverly v. Wal-Mart Stores, Inc.*, No. 3:07-cv-469; *Williams v. Lexis Nexis Risk Mgmt.*, No. 3:06cv241; *Cappetta v. GC Servs. LP*, No. 3:08-cv-288- (E.D. Va.); *Makson v. Portfolio Recovery Assoc., Inc.*, No. 3:07cv982-HEH (E.D. Va. Feb. 9, 2009); *Daily v. NCO*, No. 3:09-cv-31; *Conley v. First Tenn.*, No. 1:10CV1247-TSE (E.D. Va.); *Lengrand v. Wellpoint*, No. 3:11-cv-333 (E.D. Va.); *Henderson v. Verifications, Inc.*, No. 3:11-cv-514 (E.D. Va.); *Pitt v. K-Mart Corp.*, No. 3:11-cv-697 (E.D. Va.); *James v. Experian Info. Sols.*, No. 3:12-cv-902 (E.D. Va.); *Manuel v. Wittstadt*, No. 3:12-cv-450 (E.D. Va.); *Shami v. Middle E. Broadcast Network*, No. 1:13-cv-467 (E.D. Va.); *Goodrow v. Freidman Freidman & MacFadyen*, No. 3:11-cv-20 (E.D. Va.); *Berry v. LexisNexis Risk & Info. Analytics Grp., Inc.*, No. 3:11-cv-274 (E.D. Va.); *Marcum v. Dolgencorp*, No. 3:12-cv-108 (E.D. Va.); *Kelly v. Nationstar*, No. 3:13-cv-311 (E.D. Va.); *Wyatt v. SunTrust Bank*, No. 3:13-cv-662 (E.D. Va.).

i. A percentage fee is appropriate and reasonable here.

Rule 23(h) gives the Court authority to “award reasonable attorney’s fees and nontaxable costs that are authorized by law or by the parties’ agreement” in class actions. Fed. R. Civ. P. 23(h). If the case results in a common fund for the class, the Court may award fees as a percentage of that common fund. The doctrine originates from the equitable principles of quantum meruit and unjust enrichment and aims to shift the expense of litigation from named plaintiffs, who obtained the fund’s benefits, to the absent class members, who benefit from the fund but likely contributed little, or nothing, to the process. *Brundle ex rel. Constellis Emp. Stock Ownership Plan v. Wilmington Tr., N.A.*, 919 F.3d 763, 785 (4th Cir. 2019), as amended (Mar. 22, 2019). As the Fourth Circuit has explained, awarding fees as a percentage of the common fund “hold[s] the beneficiaries of a judgment or settlement responsible for compensating the counsel who obtained the judgment or settlement for them.” *Id.* at 786.⁶

The collective preference for the percentage method is common sense. It is easily administered and saves valuable court and party resources, which heeds the Supreme Court’s mandate that a “request for attorney’s fees . . . not result in a second major litigation.” *Hensley v. Eckerhart*, 461 U.S. 424, 437 (1983). The percentage method also aligns the interests of class counsel and the class members because it both motivates class counsel to generate the largest possible recovery for the class and rewards efficient litigation. This is because their fee increases with the class’s take, removing any incentive to run up their hours in order obtain a higher fee. A percentage fee also encourages early settlements because class counsel will not receive additional

⁶ Most circuits either permit or require the percentage method. 5 Newberg on Class Actions § 15:66 (5th ed. Dec. 2020 Update). For example, the Eleventh and the District of Columbia Circuits require the use of the percentage method. *Id.* at n.6 (citing cases). The Third Circuit prefers the percentage method. *Id.* at n.7. And the First, Second, Fifth, Sixth, Eighth, Ninth, and Tenth Circuits allow district courts to use either method. *Id.* at n.5 (citing cases).

fees for unnecessary motions or discovery. *Johnson v. Metro-Goldwyn-Mayer Studios, Inc.*, 2018 WL 5013764, at *11 (W.D. Wash. 2018) (“the percentage-of-recovery method plays an important role in aligning the interests of the class and class counsel” and “[i]n such situations, class counsel is motivated to obtain the largest tangible benefit possible, to provide for the best possible notice to the class, and to assure that the claims process is not overly burdensome”); *In re Anthem, Inc. Data Breach Litigation*, 2018 WL 3960068, at *5 (N.D. Cal. 2018) (“By tying the award to the recovery of the Class, Class Counsel’s interests are aligned with the Class, and Class Counsel is incentivized to achieve the best possible result.”); *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, 991 F. Supp. 2d 437, 440 (E.D.N.Y. 2014) (“The percentage method better aligns the incentives of plaintiffs’ counsel with those of the class members because it bases the attorneys’ fees on the results they achieve for their clients, rather than on the number of motions they file, documents they review, or hours they work.”); *Swedish Hosp. Corp. v. Shalala*, 1 F.3d 1261, 1268–69 (D.C. Cir. 1993) (“using the lodestar approach in common fund cases encourages significant elements of inefficiency,” while “if a percentage-of-the-fund calculation controls, inefficiently expended hours only serve to reduce the per hour compensation of the attorney expending them”).

On the other hand, the lodestar method is time consuming and requires lawyers to submit voluminous records that courts must then review and scrutinize in detail. Furthermore, a lodestar fee motivates class counsel to increase the number of hours they spend on a case to maximize their fees, no matter if that time advances the case or class members’ interests. *In re General Motors Corp. Pick-Up Truck Fuel Tank Products Liability Litigation*, 55 F.3d 768, 821 (3d Cir. 1995) (“[T]he lodestar method has been criticized as giving class counsel the incentive to delay settlement in order to run up fees while still failing to align the interests of the class”). Indeed, the

lodestar method is used in only a fraction of class-action cases, usually those involving fee-shifting statutes or where the settlement provides injunctive relief that cannot be reliably calculated. *See, e.g.,* Theodore Eisenberg, *Attorneys' Fees in Class Actions: 2009-2013*, 92 N.Y.U. Law Review 937, 945 (2017) (finding that the lodestar method used only 6.29% of the time from 2009–2013, down from 13.6% from 1993–2002 and 9.6% from 2003–2008); Brian T. Fitzpatrick, *An Empirical Study of Class Action Settlements and Their Fee Awards*, 7 J. Empirical L. Stud. 811, 832 (2010) (finding that the lodestar method used in only 12% of settlements).

Although the Fourth Circuit has not explicitly required its use in class actions, the percentage method is overwhelmingly preferred by the district courts in this circuit. *Galloway v. Williams*, No. 3:19-cv-470, 2020 WL 7482191, at *5 (E.D. Va. Dec. 18, 2020) (noting in a comparable tribal-lending case, “Nevertheless, over time, certain customs have developed, both in the Fourth Circuit and across the country; for example, the favored method for calculating attorneys’ fees in common fund cases is the percentage of the fund method.”); *Thomas v. FTS USA, LLC*, No. 3:13-cv-825, 2017 WL 1148283, at *3 (E.D. Va. Jan. 9, 2017) (“District Courts within this Circuit have also favored the percentage of the fund method.” (citations omitted)), *report and recommendation adopted*, No. 3:13-cv-825, 2017 WL 1147460 (E.D. Va. Mar. 27, 2017); *see also Kelly v. Johns Hopkins Univ.*, No. 1:16-cv-2835, 2020 WL 434473, at *2 (D. Md. Jan. 28, 2020); *Seaman v. Duke Univ.*, No. 1:15-cv-462, 2019 WL 4674758, at *2 (M.D.N.C. Sept. 25, 2019); *Cox v. Branch Banking & Tr. Co.*, No. 5:16-cv-10501, 2019 WL 164814, at *5 (S.D. W. Va. Jan. 10, 2019) (collecting cases and stating, “In sum, there is a clear consensus among the federal and state courts, consistent with Supreme Court precedent, that the award of attorneys’ fees in common fund cases should be based on a percentage of the recovery. This consensus derives from the recognition that the percentage of fund approach is the better-

reasoned and more equitable method of determining attorneys’ fees in such cases.”); *Krakauer v. Dish Network, LLC*, No. 14-333, 2018 WL 6305785, at *2 (M.D.N.C. Dec. 3, 2018); *Phillips v. Triad Guar. Inc.*, No. 1:09-cv-71, 2016 WL 2636289, at *2 (M.D.N.C. May 9, 2016); *Archbold v. Wells Fargo Bank, N.A.*, No. 13-24599, 2015 WL 4276295, at *5 (S.D. W. Va. July 14, 2015) (“[T]he Court concludes that there is a clear consensus . . . that the award of attorneys’ fees in common fund cases should be based on a percentage of the recovery.”).

The Fourth Circuit has not established a benchmark for fee awards in common-fund cases. Class Counsel is requesting a one-third fee. This is well within the 25-to-40-percent range that courts within the Fourth Circuit have held appropriate.⁷ It is also within the appropriate range found by the recent comprehensive study of attorneys’ fees in class action cases. Theodore Eisenberg & Geoffrey P. Miller, *Attorney Fees in Class Action Settlements: An Empirical Study*, 1 J. Empirical Legal Studies 27, 31, 33 (2004) (noting “a remarkable uniformity in awards between roughly 30% to 33% of the settlement amount.”). This Court has recently approved several class action settlements with a one-third fee award. *Gibbs v. Stinson*, No. 3:18-cv-676, ECF No. 346 ¶ 19 (E.D. Va. Aug. 16, 2022); *Gibbs v. Plain Green, LLC*, No. 3:17-cv-495, ECF No. 141 ¶ 24 (E.D. Va. Dec. 13, 2019); *Gibbs v. TCV V, L.P.*, No. 3:19-cv-789, ECF No. 95 at 11–13 (E.D. Va. Mar. 29, 2021); *Gibbs v. Rees*, No. 3:20-cv-717, ECF No. 68 at 9-11 (E.D. Va. Mar. 26, 2021). In

⁷ Indeed, “empirical studies show that, regardless whether the percentage method or the lodestar method is used, fee awards in the class actions average around one-third of the recovery.” 4 Newberg *on Class Actions* § 14:6 (4th ed.); see also *In re Rite Aid Corp. Sec. Litig.*, 146 F. Supp. 2d 706, 735 (E.D. Pa. 2001) (review of 289 class action settlements shows “average attorney’s fees percentage [of] 31.31%” with a median value that “turns out to be one-third.”). In an analysis of such historic patterns, Silber and Goodrich explained that empirical evidence does not necessarily establish what a court should do in any given case, but it does provide guidance to the court in determining whether a fee is reasonable. Reagan W. Silber & Frank E. Goodrich, *Common Funds and Common Problems: Fee Objections and Class Counsel’s Response*, 17 Rev. Litig. 525, 545–46 (1998).

addition, Judge Payne recently awarded a 33-percent fee award in a consumer class action, holding: “A percentage award of 33% of a common fund is a bit on the high side for this circuit and in general, but it is certainly not outside of the realm of reasonable percentage awards, particularly given that the award will be inclusive of costs.” *Galloway v. Williams*, No. 3:19-cv-470, 2020 WL 7482191, at *11 (E.D. Va. Dec. 18, 2020) (citing *In re Celebrex (Celecoxib) Antitrust Litig.*, No. 2:14-cv-361, 2018 WL 2382091, at *5 (E.D. Va. Apr. 18, 2018)). And in consumer class actions like this one, there is a great deal of work necessary post-approval. This case is no exception. After Final Approval, Class Counsel will implement the settlement, communicate with class members, and assist class members with any remaining issues they have obtaining settlement relief. As Judge Novak recently held in a similar case: “I am going to approve that. It represents 33 percent of the monetary value. The lodestar multiplier is 3.86, but believing that number is going to fall for the reasons you just said about the continuing work.” *Turner v. ZestFinance, Inc.*, No. 3:19-cv-293, ECF No/ 116 at 16:1-5 (E.D. Va. Aug. 4, 2020).

As with any class case that they agree to take on, Class Counsel lives by the result that they obtain for the Class Members. Even though the fee here is large, Class Counsel has consistently advocated for fees based on the percentage method, even when it results in a small fee well below their lodestar. *Milbourne v. JRK Residential Am., LLC*, No. 3:12-cv-861 (E.D. Va.); *Mayfield v. Membertrust Credit Union*, No. 3:07-cv-506 (E.D. Va.) (fee of \$8,300); *Thomas v. FTS USA, LLC*, No. 3:13-cv-825, 2017 WL 1148283, at *3 (E.D. Va. Jan. 9, 2017), *report and recommendation adopted*, No. 3:13-cv-825, 2017 WL 1147460 (E.D. Va. Mar. 27, 2017); *Conley v. First Tennessee*, No. 1:10-cv-1247 (E.D. Va.) (300 consumers and fee of \$20,000); *Lengrand v. Wellpoint*, No. 3:11-cv-333, ECF No. 42 (E.D. Va.) (counsel requested only 20% of the class recovery, \$8,550, because of the small class size). In each case, the standards of Rule 23 demanded

that Class Counsel represent the interest of the class with the same attention, zeal, and competence whether the class is in the millions or not. In this case, where Class Counsel bore the risk of the litigation and advanced significant funds to advance the litigation, the requested fee is reasonable.

ii. A cross-check against Class Counsel's lodestar confirms the requested fee is reasonable.

A cross-check is not required to determine the fairness of a fee when the percentage method is used. Courts, however, have at times used a lodestar estimate as a cross-check in assessing Class Counsel's fee request. *Manual for Complex Litigation (Fourth)* § 21.724. As this Court recently recognized, "where used as a mere cross-check, the hours documented by counsel need not be exhaustively scrutinized by the district court." *Galloway v. Williams*, No. 3:19-cv-470, 2020 WL 7482191, at *11 (E.D. Va. Dec. 18, 2020).

Here, the requested award includes both attorneys' fees and costs. For fees, Class Counsel estimates that its combined lodestar is \$1,853,690.00. Ex. 1, Kelly Decl. ¶ 25; Ex. 2, Bennett Decl. ¶ 50; Ex. 3, Drake Decl. ¶ 5.⁸ Class Counsel has also incurred \$57,635.14 in unreimbursed expenses. These costs include filing fees, process server fees, expert witness fees, federal express charges, travel, database hosting charges, mediation fees, and copying fees. Ex. 2, Kelly Decl. ¶ 29; Ex. 2, Bennett Decl. ¶ 49; Ex. 3, Drake Decl. ¶ 13. As a result, the total estimated fees and costs Class Counsel has incurred to obtain this Settlement is \$1,911,325.14. None of this lodestar or expenses include the ones that were previously submitted to this Court regarding the injunctive relief portion of the settlement. Of course, Class Counsel will continue to accrue more time since Class Counsel is committed to complete all post-approval work, regardless of the actual time

⁸ Counsel's hourly rates are reasonable. Ex. 1, Kelly Decl. ¶ 30; Ex. 2, Bennett Decl. ¶ 63; Ex. 3, Drake Decl. ¶ 8; *see generally* Ex. 4, Pittman Decl.

incurred. In past comparable cases, Class Counsel's actual post-approval work has been significant because of the large number of class members.

The requested \$7,483,258.50 for fees and costs represents a 3.92 multiplier for Class Counsel. In light of the Settlement's benefits, this multiplier is reasonable. *Berry v. Schulman*, 807 F.3d 600, 617 n.9 (4th Cir. 2015) (noting that using the lodestar method, "the district court multiplies the number of hours worked by a reasonable hourly rate. And it can then "adjust the lodestar figure using a 'multiplier' derived from a number of factors, such as the benefit achieved for the class and the complexity of the case") This multiplier is well-within the range approved in other settlements both in the Fourth Circuit and nationally.⁹ In fact, this Court recently approved a 4.33 multiplier in another consumer class-action case, that was equally complex and hard fought as this matter. *Hengle v. Asner*, No. 3:19-cv-250, ECF No. 230 (E.D. Va. Oct. 25, 2022). Particularly given the result achieved, the requested fee is reasonable and appropriate. Ex. 4, Pittman Decl. The class notice also has been sent and there has so far been no objection to the proposed fee amounts or requested service awards.

⁹ See, e.g., *Skochin v. Genworth Financial, Inc.*, No. 3:19-cv-49, 2020 WL 6708388 (E.D. Va. Nov. 13, 2020) (finding 9.05 multiplier not unreasonable in lodestar cross-check analysis); *Spartanburg Reg'l Health Services District, Inc. v. Hillenbrand Industries, Inc.*, No. 7:03-2141, 2006 WL 8446464 (D.S.C. Aug. 15, 2016) (approving fee award which resulted in multiplier above 6); see also *Lloyd v. Navy Federal Credit Union*, Case No. 3:17-cv-01280-BAS-RBB (S.D. Cal. 2019) (approving fee which resulted in multiplier of 10.96); *Stop & Shop Supermarket Co. v. SmithKline Beecham Corp.*, No. 03-cv-04578, 2005 WL 1213926 (E.D. Pa. May 19, 2005) (15.6 multiplier); *New Eng. Carpenters Health Benefits Fund v. First Databank*, No. 05-cv-11148, 2009 WL 2408560, at *2 (D. Mass. Aug. 3, 2009) (8.3 multiplier); *In re Doral Financial Corp. Securities Litigation*, No. 05-cv-04014-RO (S.D.N.Y. Jul. 17, 2007) (10.26 multiplier); *Beckman v. KeyBank*, N.A., 293 F.R.D. 467, 481 (S.D.N.Y. 2013) ("Courts regularly award lodestar multipliers of up to eight times the lodestar, and in some cases, even higher multipliers.").

CONCLUSION

The requested attorneys' fees and costs are reasonable and well within the range typically awarded by this Court in similar cases. The requested service award was also well-earned by Ms. Hill-Green. No class member has objected to the proposed fee amounts. For these reasons, Plaintiff asks that this Court grant her Motion for Attorneys' Fees, Expenses, and Class Representative Service Awards.

Respectfully submitted,
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Counsel for Plaintiff

Exhibit 1

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

LISA HILL-GREEN, <i>on behalf of herself and all others similarly situated,</i>	:	
	:	
Plaintiff,	:	Civil Action No. 3:19-cv-708
	:	
v.	:	
	:	
EXPERIAN INFORMATION SOLUTIONS, INC.,	:	
	:	
Defendant.	:	

DECLARATION OF KRISTI C. KELLY

I, Kristi C. Kelly declare:

1. My name is Kristi C. Kelly. I am over 21 years of age, of sound mind, capable of executing this declaration, and have personal knowledge of the facts stated herein, and they are all true and correct.

2. I am one of the attorneys working on behalf of the Plaintiff in the above-styled litigation, and I am a founder and a partner of Kelly Guzzo, PLC, a law firm located at 3925 Chain Bridge Road, Suite 202, Fairfax, Virginia 22030. Prior to January 15, 2014, I was an attorney and equity partner at Surovell Isaacs Petersen & Levy, PLC, a nineteen-attorney law firm with offices in Fairfax, Virginia. My primary office was 4010 University Drive, Suite 200, Fairfax, Virginia 22030. I also worked for Legal Services of Northern Virginia, focusing exclusively on housing and consumer law for approximately three years prior to Surovell Isaacs Petersen & Levy, PLC.

3. Since 2006, I have been and presently am a member in good standing of the Bar of the highest court of the Commonwealth of Virginia, where I regularly practice law. Since 2007 and 2014, respectively, I also have been and presently am members in good standing of the Bars

of the highest courts of the District of Columbia and Maryland. I am also admitted in the United States District Courts for the District of Columbia and Maryland.

4. My law firm is committed to representing the most vulnerable—and often overlooked—consumers. We work with various legal aid organizations to help identify areas of need, where our firm can “step up” and meet those need through class action litigation or pro bono work. Many of these cases seek remedies for credit reporting errors or lending abuses. Kelly Guzzo was the co-recipient of the 2019 Frankie Muse Freeman Organizational Pro Bono Award by the Virginia State Bar Association.

5. I have taught numerous Continuing Legal Education programs for other attorneys in the areas of consumer law, including mortgage servicing abuses, landlord tenant defense, dealing with debt collectors, credit reporting, defenses to foreclosure, discovery in federal court, resolving cases, and internet lending. I have taught these courses for various legal aid organizations, state and local bar associations, the National Consumer Law Center, the Consumer Federation of America, the National Council of Higher Education, and the National Association of Consumer Advocates at its various conferences. I was also recently asked to be a panelist for the Consumer Financial Protection Bureau and Federal Trade Commission on the issue of credit reporting.

6. My peers have recognized me as a Super Lawyer and Rising Star consistently for the past nine years. Additionally, I was selected to be members of the Virginia Lawyers Weekly “Leader in the Law,” class of 2014, and Influential Women in the Law, class of 2020. I serve on the Board of Directors for the Legal Aid Justice Center and Virginia Poverty Law Center. I am a former State Chair for Virginia of the National Association of Consumer Advocates and am currently a member of the Partners’ Council for the National Consumer Law Center and Board of Directors of the National Association of Consumer Advocates.

7. I have also been appointed to the Merit Selection Panel for recommendation for the Magistrate Judge by the United States District Court for the Eastern District of Virginia, in both the Richmond and Alexandria Divisions.

8. In each of the class cases where I have represented plaintiffs in a consumer protection case, including cases such as the instant case, the Court found me to be adequate class counsel. See *Tsvetovat, v. Segan, Mason, & Mason, PC*, No. 1:12-cv-510 (E.D. Va.); *Conley v. First Tennessee Bank*, No. 1:10-cv-1247 (E.D. Va.); *Dreher v. Experian Information Solutions, Inc.*, No. 3:11-cv-624 (E.D. Va.); *Shami v. Middle East Broadcast Network*, No. 1:13-cv-467 (E.D. Va.); *Goodrow v. Friedman & MacFadyen*, No. 3:11-cv-20 (E.D. Va.); *Kelly v. Nationstar*, Case No. 3:13-cv-311 (E.D. Va.); *Thomas v. Wittstadt*, No. 3:12-cv-450 (E.D. Va.); *Fariasantos v. Rosenberg & Associates, LLC*, No. 3:13-cv-543 (E.D. Va.); *Morgan v. McCabe Weisberg & Conway, LLC*, No. 3:14-cv-695 (E.D. Va.); *Burke v. Shapiro, Brown & Alt, LLP*, No. 3:14-cv-838 (E.D. Va.); *Bartlow, et al., v Medical Facilities of America, Inc.*, No. 3:16-cv-573 (E.D. Va.); *Blocker v. Marshalls of MA, Inc.*, No. 1:14-cv-1940 (D.D.C.); *Ceccone v. Equifax Info. Servs., LLC*, No. 1:13-cv-1314 (D.D.C.); *Jenkins v. Equifax Info. Servs., LLC*, No. 1:15-cv-443 (E.D. Va.); *Ridenour v. Multi-Color Corporation*, No. 2:15-cv-41 (E.D. Va.); *Hayes v. Delbert Services Corp.*, No. 3:14-cv-258 (E.D. Va.); *Campos-Carranza v. Credit Plus, Inc.*, No. 1:16-cv-120 (E.D. Va.); *Jenkins v. Realpage, Inc.*, No. 2:15-cv-1520 (E.D. Pa.); *Kelly v. First Advantage Background Services, Corp.*, No. 3:15-cv-5813 (D.N.J.); *Burke v. Seterus, Inc.*, No. 3:16-cv-785 (E.D. Va.); *Williams v. Corelogic Rental Property Solutions, LLC*, No. 8:16-cv-58 (D. Md.); *Clark v. Trans Union, LLC*, No. 3:15-cv-391 (E.D. Va.); *Clark v. Experian Information Solutions, Inc.*, No. 3:16-cv-32 (E.D. Va.); *Thomas v. Equifax Info. Servs., LLC*, No. 3:18-cv-684 (E.D. Va.); *Heath v. Trans Union, LLC*, No. 3:18-cv-720 (E.D. Va.); *Turner, v. ZestFinance, Inc.*, No. 3:19-cv-293 (E.D. Va.); *Galloway v. Williams*, No. 3:19-cv-470, 2020 WL 7482191, at *4 (E.D. Va. Dec. 18, 2020);

Gibbs v. TCVV, LP, No. 3:19-cv-789 (E.D. Va.); *Gibbs v. Rees*, No. 3:20-cv-717 (E.D. Va.); *Pang v. Credit Plus, Inc.*, No. 1:20-cv-122 (D. Md.); *Brown v. RP On-Site, LLC*, No. 1:20-cv-482 (E.D. Va.); *Brown v. Corelogic Rental Property Solutions, LLC*, No. 3:20-cv363 (E.D. Va.); *Gibbs v. Stinson*, No. 3:18-cv-676 (E.D. Va.); and *Hengle v. Asner*, No. 3:19-cv-250 (E.D. Va.).

9. The majority of my work is contingent or brought under a fee-shifting statute so I generally do not charge my clients a fee. For the past few years, I have been regularly approved in this Court at a rate of \$550.00 per hour. *Brown v. RP On-Site, LLC*, No. 1:20-cv-482 (E.D. Va.); *Gibbs v. Plain Green, LLC*, No. 3:17-cv-00495 (E.D. Va. Dec. 13, 2019); *Turner v. ZestFinance, Inc.*, No. 3:19-cv-293 (E.D. Va. June 30, 2020); *Galloway v. Williams*, No. 3:19-cv-470, 2020 WL 7482191, at *11–12 (E.D. Va. Dec. 18, 2020); *Gibbs v. TCVV, LP*, No. 3:19-cv-789 (E.D. Va.); *Gibbs v. Rees*, No. 3:20-cv-717 (E.D. Va.); *Gibbs v. Stinson*, No. 3:18-cv-676 (E.D. Va.); and *Hengle v. Asner*, No. 3:19-cv-250 (E.D. Va.). My rate also has been approved as reasonable in individual cases. *Garmer v. Easy Motors*, No. 1:20-cv-540, ECF No. 27 at 50 (E.D. Va. Nov. 23, 2020); *Tsuchida v. Blackacre 1031 Exchange Services, LLC*, 2019-15803 (Fairfax County Circuit Court); *Rivera v. Blackacre 1031 Exchange Services, LLC*, 2019-15802 (Fairfax County Circuit Court).

10. Other attorneys from my firm that have worked on these cases include Andrew Guzzo, Casey Nash, Paisly Bender, and J. Patrick McNichol.

11. Andrew Guzzo was an associate at Surovell Isaacs Petersen & Levy, PLC and currently is a partner at Kelly Guzzo, PLC. He has been approved by this Court at a rate of \$550.00 per hour. He graduated from law school at Washington & Lee University in 2011. The entire time he has been practicing law, he has practiced exclusively in the field of consumer protection litigation, litigating more than 400 hundred cases in federal court, including dozens of class actions. He is licensed to practice law in Virginia and Hawaii. He is the State Chair for Hawaii of

the National Association of Consumer Advocates. He has also taught and trained lawyers, including class action and internet lending training sessions for the National Consumer Law Center and National Association of Consumer Advocates, as well as trainings for the annual Virginia Legal Aid Conference and the Consumer Federation of America. He has been named a Super Lawyer Rising Star for the past several years. He received the National Consumer Law Center's Rising Star Award in 2019.

12. Casey Nash was an associate at Consumer Litigation Associates, PC and is currently an associate at Kelly Guzzo, PLC. Her hourly rate is \$525.00. I supervise and work closely with Casey. She graduated from law school at the Catholic University of America in 2012. The entire time she has been practicing law, she has practiced exclusively in the field of consumer protection litigation. She has significant federal litigation experience, including litigation of over 250 federal cases and dozens of complex class actions. She is licensed to practice law in Virginia and Washington, D.C. She has been named a Super Lawyers' Rising Star in Virginia and Washington, D.C. for the past several years. She has also taught and trained lawyers, including providing training about the FCRA and other consumer protection statutes to legal aid organizations and the National Consumer Law Center and National Association of Consumer Advocates. She has been approved as class counsel in numerous class actions, including some of the cases listed above, as well as several others that she litigated during her time at Consumer Litigation Associates. *See, e.g., Soutter v. Equifax Information Services, LLC*, No. 3:10-cv-107 (E.D. Va.); *James v. Experian Information Solutions, Inc.*, No. 3:12-cv-908 (E.D. Va.); *Manuel v. Wells Fargo Nat'l Bank, N.A.*, No. 3:14-cv-00238 (E.D. Va.); *Milbourne v. JRK Residential Am., LLC*, No. 3:12-cv-00861 (E.D. Va.); *Thomas v. FTS USA, LLC*, No. 3:13-cv-825- REP (E.D. Va.).

13. Paisly Bender is also a lawyer at Kelly Guzzo, PLC. Her hourly rate is \$525.00. Prior to joining the firm, she clerked for the Honorable Richard W. Pollack of the Hawaii Supreme

Court for two years. Paisly attended George Mason University School of Law where she served as the Senior Research Editor for the *George Mason Law Review*. Following law school, Paisly was a Law Fellow for the National Education Association's Office of General Counsel.

14. J. Patrick McNichol is also a lawyer at Kelly Guzzo, PLC. Prior to joining Kelly Guzzo, Pat practiced law at McGuire Woods, where he handled hundreds of credit card, banking, and auto finance matters for large financial institutions. Before that, Pat completed two federal clerkships: first, for the Honorable Joseph R. Goodwin of the United States District Court for the Southern District of West Virginia, where he worked on the largest MDL in federal court history; and then, for the Honorable M. Hannah Lauck of the United States District Court for the Eastern District of Virginia. Pat has twice been named one of *The Best Lawyers in America: Ones to Watch for Banking and Finance Law* (2021 and 2022), and he twice co-authored the Virginia chapter in the ABA's *The Law of Class Action: Fifty-State Survey* (2020 and 2021). In the past year, he has spoken on defense perspectives at the national conference for the National Association of Consumer Advocates and drafted and edited a section of the Consumer Credit Regulation treatise published by the National Consumer Law Center. His hourly rate is \$525.00.

15. Natalie Cahoon is a paralegal at Kelly Guzzo, PLC, with over six years of experience in the legal field. She graduated from the University of Maine. Her hourly rate is \$225.00.

16. My law firm takes on significant risks in contingent fee cases: the risk of time spent researching and evaluating claims; the risk of not prevailing on a case; and time lost for unsuccessful cases. Class actions are even riskier because they require more front-end work in addition to the risk of nonpayment. However, my law firm is committed to identifying problems in the marketplace and seeking redress for a class of consumers (where appropriate). We do this because it is important to prevent future misconduct, to seek relief for those harmed by the conduct

who are usually unaware of their rights or unable to afford counsel, and to deter other actors from the same behavior.

17. Kelly Guzzo, PLC has been involved in this litigation since the case was filed in September 2019. As the Court is aware, there was already a partial settlement of the case that resulted in significant changes to Experian's use of its Fraud Shield product. This Rule 23(b)(2) settlement was approved on April 27, 2022. (ECF No. 112.) Despite the significant changes that were made because of that settlement, the Parties had a long way to go to resolve the Rule 23(b)(3) portion of the case.

18. After the Rule 23(b)(2) language was formalized in early 2022, my law firm shifted its focus to litigating the Rule 23(b)(3) portion of the case. We reengaged Experian in discovery, including the completion of the Court's discovery chart process. This process involved several weeks of meet-and-confer efforts, numerous written correspondences, and lots of compromise by all sides. My firm took the lead on these written discovery issues, and our efforts resulted in Experian producing nearly 550,000 pages of ESI, along with any additional 30,000 pages in responsive non-ESI discovery. There was a very short time to review and effectively process all this new information. My office worked with my co-counsel to set up an orderly and efficient review process and used what we learned in the review to target third parties to issue third-party subpoenas and negotiate parameters for data.

19. As to data, there was extensive meet-and-confer efforts as well. Experian created a "sandbox" that would hold approximately 25 TB of data, including certain File One consumer data: Allouts A, B, S and Z. However, in order to effectively identify the class, we also used sampling and eventually reached a methodology that resulted in identification of consumers based on their historical credit data and credit score. Our expert was able to use these various data points to develop a class list.

20. I was also heavily involved in the mediation efforts in this case. There were many moving parts as the parties dual tracked both data and written discovery with efforts to resolve this case. Judge Colombell oversaw the moving parts of this settlement over the course of many months. The parties negotiated additional process changes, class membership parameters and class member compensation with the oversight of Judge Colombell. The parties had calls almost daily to work through the many moving parts that remained in this case. And, Judge Colombell regularly checked in and urged us to make additional progress, which ultimately resulted in the settlement in this case.

21. The settlement now before this Court provides substantial monetary relief for class members in the form of a \$22,450,000 monetary fund. Class members have until January 30, 2023 to submit a claim for a pro rata portion of the settlement fund. As of January 5, 2023, we have received a total of 36,867 claims, which is over a 6% claims rate. Anticipating more claims, if eight percent of the Rule 23(b)(3) Class Members submit a valid claim form, they would receive a payment of around \$342.00 if the Court approves the proposed attorneys' fees, costs, expenses, and service awards.

22. We were able to achieve this relief despite Experian's steadfast belief that it would prevail against Plaintiff's claims including, if necessary, at the appellate level. And, while the Plaintiff believed in the strength of her claims, there was also a risk that she could recover nothing at trial or after a summary judgment motion, due to the amount of resources that Experian devoted to the defense of this litigation and potentially damaging caselaw in other jurisdictions on similar (but not identical) issues. In addition, even assuming success at summary judgment and trial, Experian indicated its belief that it would prevail at the Fourth Circuit, not only as to liability but also class certification. The Settlement avoids these uncertainties and provides the class members with immediate, meaningful, and certain monetary relief.

23. The settlement provides meaningful relief for class members, including significant monetary and injunctive relief, and I endorse the Settlement.

24. We billed our time for this case contemporaneously using our case management software.

25. My office staff took the amount of time expended by each individual at our firm and categorized it in the attached chart as best as practicable by categories. As shown in the attached Exhibit A, Kelly Guzzo has billed a total of 973 hours for a total fee of \$488,962.50.

26. Generally, if a task does not take more than .1 (or six minutes), attorneys and paralegals at Kelly Guzzo, PLC will not bill for that task. This includes reviewing routine court filings, fielding brief telephone calls, responding to quick emails, etc.

27. This time and expenses we are seeking in this motion does not include any of the time that we spent negotiating the prior Rule 23(b)(2) settlement in this case. We sought that time in a prior motion, and all of it was not included in Exhibit A. After the prior fee motion was submitted, all of the work that my office performed on this case was targeted towards obtaining the Rule 23(b)(3) settlement. I have also been the point of contact for Class Members with questions, and have included time to date in Exhibit A.

28. The time listed in Exhibit A does not include any estimated time for the work that we will complete between now and the final approval hearing, or after final approval if the settlement is approved. This includes all fees that my law firm has incurred prosecuting this case.

29. My law firm has also advanced \$2,624.06 in costs. These costs include research charges, federal express charges, copying charges, and travel expenses.

30. I am familiar with the fees charged by other attorneys and approved by this Court for class action litigation. I believe the rates of my law firm are consistent, if not low, compared with the prevailing market rates in Virginia and for national class action work.

31. I have no doubt that Class Counsel will spend a significant amount of additional time between now and the Final Approval Hearing and even after final approval to help administer the settlement.

32. Lastly, Ms. Hill-Green was committed to litigating this case as a class action and securing class wide relief for the consumers affected by Experian's conduct.

33. Ms. Hill-Green remained engaged in the process for several years, as these cases involved significant motions practice, discovery, and negotiation. Throughout the litigation, Ms. Hill-Green regularly communicated with my office to stay updated on the case's status. She also provided documents to support her claims, reviewed the copies of pleadings that we sent to her, sat for a deposition (which was mentioned as part of the 23b(2) settlement), and was available during mediation for consultation. She also reviewed and approved the settlement agreement.

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

Signed this 6th day of January, 2023.

/s/ Kristi C. Kelly
Kristi C. Kelly

EXHIBIT A

Exhibit 2

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

LISA HILL-GREEN, *individually and
on behalf of others similarly situated,*

Plaintiff,

v.

Civil Action No. 3:19-cv-00708-MHL

EXPERIAN INFORMATION SOLUTIONS, INC.,

Defendant.

DECLARATION OF LEONARD A. BENNETT

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

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

2. I submit this Declaration in support of Motion for Attorneys' Fees and Costs in connection with the Rule 23(b)(3) Settlement.

Introduction

3. This matter is a FCRA national class action that challenges Experian's use of various "fraud" indicators that are really no indication of fraud and rely on stale information which are provided to potential creditors when consumers apply for credit, housing and insurance.

4. My firm has worked closely with Lisa Hill-Green, the named Plaintiff since she resides in Richmond, Virginia.

5. Ms. Hill-Green initially contacted us when she suffered a foreclosure sale of her

home.

6. Our initial goal was to keep Ms. Hill-Green in her home, but once we learned the reason that put the foreclosure in motion, we (including Ms. Hill-Green) wanted to make sure this did not happen to other consumers.

7. Experian provided inaccurate and old address information stated that a mail drop business was located at her home. Because she could not provide documentation about a business she had never heard of, Plaintiff was unable to complete the modification process and a foreclosure sale occurred on her home.

8. Ms. Hill-Green even disputed this information to Experian, but it was not corrected.

9. Ms. Hill-Green brought claims against Experian for violations of sections 1681c(a), 1681e(b), and 1681i of the FCRA. The primary class action claim in this case was that Experian had inaccurately – falsely – reported through its FraudShield results that Ms. Green (and other consumers like here) had applied for credit using as a home address, a business address that was not residential. While generally such reporting of a home as a commercial property was inaccurate, Experian also associated businesses with Plaintiff and class members that it then warned its subscribing report customers were likely fraudulent.

Consumer Litigation Associates, P.C.

10. I am one of the attorneys working on behalf of the Plaintiffs and the Class in the above-styled litigation, and I am an attorney and principal of the law firm of Consumer Litigation Associates, P.C., a six-attorney law firm with offices in Hampton Roads, Richmond, Harrisonburg and Alexandria, Virginia. My primary office is at 763 J. Clyde Morris Boulevard, Suite 1-A, Newport News, Virginia 23601.

11. Since 1994, I have been and presently am a member in good standing of the Bar of

the highest court of the Commonwealth of Virginia, where I regularly practice law. Additionally, since 1995, I have been a member in good standing of the Bar of the highest court of the State of North Carolina.

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

13. I was selected as the 2017 Consumer Lawyer of the Year by the National Association of Consumer Advocates.

14. In both 2019 and 2020, my firm earned the Nation Law Journal's Elite Trial Lawyers Award for top firm in Financial Products class action litigation.

15. In 2019, CLA was selected as the co-recipient of the Frankie Muse Freeman Organizational Pro Bono Award – the year's top Pro Bono law firm – by the Virginia State Bar.

16. Public interest leaders in the consumer protection field have also offered substantial praise for our law firm. Paul Bland, Executive Director of Public Justice, wrote, "CLA is an elite consumer protection law firm. They are at the pinnacle of their field, one of the very most successful law firms in the country at representing individual consumers or classes of consumers, particularly those who've suffered from privacy injuries."

17. Ira Rheingold, Executive Director, National Association of Consumer Advocates joined, "The work they do is on the cutting edge of consumer law and is guided by a unique

passion and desire to achieve real justice for their clients and for consumers in general.”

18. And Stuart Rossman, Director of Litigation of the National Consumer Law Center offered, “Consumer Litigation Associates is one of the most innovative, and successful, consumer advocacy practices in the United States. CLA attorneys are recognized as the leading experts in their field whose legal acumen is highly respected and appreciated within our consumer advocacy community.”

19. Since 1996, my practice has been limited to consumer protection litigation. While my experience representing consumers has come within several areas, with nearly all of my litigation experience in Federal court.

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

¹ 2022 NCLC Consumer Litigation Conference; PLI Representing the Pro Bono Client: Consumer Law Basics, San Francisco August 12, 2022; NACA Spring Training 2022, National Landscape in FCRA, May 2022; NCLC 2021 Mortgage Conference, Credit Reporting Issues in Mortgage Cases, June 25, 2021; NACA Online Spring Training 2021, COVID and Post-COVID Issues in FCRA Litigation, April 30, 2021; NCLC 2020 Consumer Rights Litigation Conference, Discovery in FCRA Cases, November 18, 2020; NACA Webinar, Understanding the Metro 2 Reporting Format, September 24, 2020; NCLC 2021 Mortgage Conference, Credit Reporting Issues in Mortgage Cases, June 25, 2021; NACA Online Spring Training 2020, Dealing with FCRA Paradigm Shifts: New Equifax Defense and COVID-19 Challenges, May 11, 2020; NACA Webinar, Virtual Depositions, March 31, 2020; National Consumer Law Center, Consumer Rights Conference, Denver, Colorado (November 2018); Military U.S. Navy Legal Assistance, Consumer Awareness, Buying, Financing and Owning an Automobile (July 2018); Practicing Law Institute (PLI), 23rd Annual Consumer Financial Services Institute, April 2018; National Consumer Law Center, Consumer Rights Conference, Washington, D.C., Speaker (November 2017); National Consumer Law Center, Consumer Rights Conference, Anaheim, California, Speaker for Multiple Sessions (October 2016); Fair Debt Collection Practices Act/Fair Credit Reporting Act, Norfolk and Portsmouth, VA Bar Association (October 29, 2015); National Consumer Law Center, Consumer Rights Conference, Washington, D.C., Speaker for Multiple Sessions (November 2013); National Consumer Law Center, Fair Debt Collection Practices Act Conference, Fair Credit Reporting Act Claims Against Debt Buyers, March 2013; National Association of Consumer Advocates, Webinar CLE: FCRA Dispute Process, December 2012; Rossdale CLE, Fair Credit Reporting Act (August 2012); Virginia Trial Lawyers Association, Advocacy Seminar - October, 2011; National Association of Consumer Advocates, Fair Credit Reporting Act National Conference - Memphis, TN, May 2011; Stafford Publications CLE, National Webinar, “FCRA and FACTA Class Actions: Leveraging New Developments in Certification, Damages and Preemption” (April 2011); National Consumer Law Center, National Consumer Rights Conference, Boston, Speaker for Multiple Sessions, November, 2010; Virginia State Bar, Telephone and Webinar Course, Virginia, 2009; "What's Going On Here? Surging Consumer Litigation - Including Class Actions in State and Federal Court"; National Association of Consumer Advocates, Fair Credit Reporting Act National Conference, Chicago, IL, May 2009; National Consumer Law Center, National Consumer Rights Conference, Philadelphia, Speaker for Multiple Sessions, November 2009; National Consumer Law Center, National Consumer Rights Conference, Portland, OR, Speaker for Multiple Sessions, November 2008; Washington State Bar, Consumer Law CLE, Speaker, September 2008; Washington State Bar,

21. I testified before the United States House Financial Services Committee on multiple occasions. In 2014, I spoke before the Consumer Financial Protection Bureau Consumer Advisory Board.

22. I have also served on a Federal Trade Commission Round Table and Governor Kaine's Virginia Protecting Consumer Privacy Working Group all within this field. I was recently on the Board of Directors of the National Association of Consumer Advocates, and am on the Partners Council of the National Consumer Law Center, on the Board of Directors for Public Justice and the Advisory Council of the Virginia Poverty Law Center.

23. I have been named as a multi-year Super Lawyer, a Law Dragon Top 500 Plaintiffs' Attorney, to Best Lawyers in America and a Virginia Leader in the Law.

24. My firm has been selected by U.S. NEWS & WORLD REPORT Best Law Firm, First Tier Nationwide.

25. I was and am one of the contributing authors of the leading and comprehensive

Consumer Law CLE, Speaker, July 2007; House Financial Services Committee, June 2007; National Consumer Law Center, National Consumer Rights Conference, Washington, D.C., Speaker for Multiple Sessions, November 2007; National Association of Consumer Advocates, Fair Credit Reporting Act National Conference; Denver, Colorado, May 2007, Multiple Panels; U.S. Army JAG School, Charlottesville, Virginia, Consumer Law Course Instructor, May 2007; Georgia State Bar, Consumer Law CLE, Speaker, March 2007; Contributing Author, Fair Credit Reporting Act, Sixth Edition, National Consumer Law Center, 2006; National Consumer Law Center, National Consumer Rights Conference, Miami, FL, Speaker for Multiple Sessions, November 2006; Texas State Bar, Consumer Law CLE, Speaker, October 2006 Federal Claims in Auto fraud Litigation; Santa Clara University Law School, Course, March 2006; Fair Credit Reporting Act; Widener University Law School, Course, March 2006 Fair Credit Reporting Act; United States Navy, Navy Legal Services, Norfolk, Virginia, April 2006 Auto Fraud; Missouri State Bar CLE, Oklahoma City, Oklahoma; Identity Theft; National Consumer Law Center, National Consumer Rights Conference, Boston, Mass, Multiple panels; National Association of Consumer Advocates, Fair Credit Reporting Act National Conference, New Orleans, Louisiana (May 2005), Multiple Panels; United States Navy, Naval Justice School (JAG Training), Newport, Rhode Island, Consumer Law; American Bar Association, Telephone Seminar; Changing Faces of Consumer Law, National Consumer Law Center, National Consumer Rights Conference, Boston, Mass; Fair Credit Reporting Act Experts Panel; and ABCs of the Fair Credit Reporting Act; National Association of Consumer Advocates, Fair Credit Reporting Act National Conference, Chicago, Illinois; Multiple Panels; Oklahoma State Bar CLE, Oklahoma City, Oklahoma, Identity Theft; Virginia State Bar, Telephone Seminar, Identity Theft; United States Navy, Naval Justice School (JAG Training), Newport, Rhode Island, Consumer Law; United States Navy, Navy Legal Services, Norfolk, Virginia, Auto Fraud; Virginia State Bar, Richmond and Fairfax, Virginia, Consumer Protection Law; Michigan State Bar, Consumer Law Section, Ann Arbor, Michigan, *Keynote Speaker*.

treatises published by National Consumer Law Center and used by judges and advocates nationally.

Consumer Litigation Associates, P.C.'s Experience

26. I have substantial experience in complex litigation, including class action cases, prosecuted in Federal court.

27. I have litigated scores of class action cases based on consumer protection claims in the past two decades. In each of the class cases, when asked to do so by either contested or uncontested motion, the court found me to be adequate class counsel. In each of these, I served in a lead or executive committee counsel role. Just a few of comparable cases include, by example only: *Pitt v. K-Mart Corp*, 3:11-cv-697 (E.D. Va.); *Ryals v. HireRight Sols., Inc.*, 3:09-cv-625 (E.D. Va.); *White v. Experian Info. Sols. Inc.*, 8:05-cv-01070 (C.D. Cal.); *Teagle v. LexisNexis Screening Sols., Inc.*, 1:11-cv-1280 (N.D. Ga.); *Roe v. Intellicorp*, 1:12-cv-02288 (N.D. Ohio); *White v. CRST*, 1:11-cv-2615 (N.D. Ohio); *Williams v. LexisNexis Risk Mgmt.*, 3:06-cv-241 (E.D. Va.); *Goode v. LexisNexis*, 11-cv-2950 (E.D. Pa.); *Beverly v. Wal-Mart Stores, Inc.*, 3:07-cv-469 (E.D. Va.); *Berry v. LexisNexis Risk & Info. Analytical Group*, 3:11-cv-754 (E.D. Va.); *Stinson v. Advance Auto Parts, Inc.*, (W.D. Va.); *Black v. Winn-Dixie Stores, Inc.*, 3:09-cv-502 (M.D. Fla.); *Cappetta v. GC Servs. LP*, 3:08-cv-288-JRS (E.D. Va.); *Henderson v. Verifications, Inc.*, 3:11-cv-514 (E.D. Va.); *Harris v. US Physical Therapy, Inc.*, 2:10-cv-1508 (D. Nev.); *Domonoske v. Bank of Am., N.A.*, 5:08-cv-66 (W.D. Va.); *Smith v. Telecris Biotherapeutics, Inc.*, 1:09-cv-153 (M.D.N.C.); *Daily v. NCO Fin.*, 3:09-cv-31 (E.D. Va.); *Lengrand v. Wellpoint*, 3:11-cv-333 (E.D. Va.); *Burke v. Shapiro, Brown & Alt, LLP*, No. 3:14-cv-838 (DJN) (E.D. Va.); *Ridenour v. Multi-Color Corp.*, No. 2:15-cv-41-MSD-DEM (E.D. Va.); *Manuel v. Wells Fargo Nat'l Ass'n*, No. 3:14-cv-238 (E.D. Va.); *Thomas v. FTS USA, LLC*, No. 3:13-cv-825-REP (E.D. Va.); *Milbourne*

v. JRK Residential Am., Inc., No. 3:12-cv-861-REP (E.D. Va.); *Hall v. Vitran Express, Inc.*, No. 1:09-cv-00800 (N.D. Ohio); *Anderson v. Signix, Inc.*, No. 3:08-CV-570 (E.D. Va.); *Reardon v. Closetmaid*, No. 2:08-cv-1730 (W.D. Pa.); *Bell v. U.S. Express, Inc.*, 1:11-CV-181 (E.D. Tenn.); *Goode v. First Advantage LNS Screening Sols., Inc.*, 2:11-cv-2950 (E.D. Pa.) *Ellis v. Swift Transp. Co. of Az.*, 3:13-cv-473 (E.D. Va.); *Edwards v. Horizon Staffing, Inc.*, No. 1:13-cv-3002 (N.D. Ga.); *Shami v. Middle E. Broadcasting, Inc.*, 1:13-cv-467 (E.D. Va.); *Marcum v. Dolgencorp*, 3:12-cv-108 (E.D. Va.); *Wyatt v. SunTrust Bank*, 3:13-cv-662 (E.D. Va.); *Henderson v. HRPlus*, No. 3:14-cv-82 (E.D. Va.); *Henderson v. Backgroundchecks.com*, 3:13-cv-29 (E.D. Va.); *Henderson v. Axiom Risk Sols.*, 3:12-cv-589 (E.D. Va.); *Ryals v. Strategic Screening Sols., Inc.*, 3:14-cv-00643-REP (E.D. Va.); *Thomas v. First Advantage Screening Solutions, Inc.*, 1:13-cv-04161-CC-LTW (N.D. Ga.); *Smith v. Harbor Freight Tools USA, Inc.*, No. 2:13-cv-06262-JFW-VBK (C.D. Cal.); *Smith v. ResCare*, 3:13-cv-5211 (S.D. W. Va.); *Oliver v. FirstPoint, Inc.*, No. 1:14-cv-517 (M.D.N.C.); *Blocker v. Marshalls of MA, Inc.*, No. 1:14-cv-01940-ABJ; *Brown v. Lowe's Cos., Inc.*, 5:13-cv-79 (W.D.N.C.); *Reese v. Stern & Eisenberg Mid-Atlantic*, 3:16-cv-496-REP (E.D. Va.); *Hayes v. Delbert Servs. Corp.*, No. 3:14-cv-258-JAG (E.D. Va.); *Soutter v. Equifax Info. Servs., LLC*, 3:10-cv-107 (E.D. Va.); *Fariasantos v. Rosenberg & Assocs., LLC*, 3:13-cv-543 (E.D. Va.); *James v. Experian Info. Sols., Inc.*, 3:12-cv-902 (E.D. Va.); *Goodrow v. Friedman & MacFadyen, P.A.*, 3:11-cv-20 (E.D. Va.); *Witt v. CoreLogic SafeRent, LLC*, 3:15-cv-386 (E.D. Va.); *Henderson v. CoreLogic Nat'l Background Data, LLC*, 3:12-cv-97 (E.D. Va.); *Smith v. Sterling Infosystems, Inc.*, 1:16-cv-714 (N.D. Ohio).

28. I have extensive experience litigating class actions in the Eastern District of Virginia. As this Court is well aware, practicing in this district requires an intimate knowledge of the rules and procedures unique to the district. The ABA's Committee on Commercial and

Business Litigation advises that the “‘Rocket Docket’ is a potential trap for the uninitiated” and recommends that “visiting litigants and lawyers alike would be well advised to retain experienced lead or local counsel to help them safely navigate the Rocket Docket.” *A Winning Motions Practice in the Rocket Docket*, Vol. 10, No. 4 (Summer 2009). Having practiced in this division and district for over 20 years, and having appeared in over 900 cases in this district, I am well versed in the rules and procedures unique to this district. In addition to the sheer volume of cases I have handled, I have also appeared in numerous complex class action cases brought in this district. *See, e.g., Witt v. CoreLogic SafeRent, LLC*, 3:15-cv-386 (E.D. Va.); *Henderson v. CoreLogic Nat’l Background Data, LLC*, 3:12-cv-97 (E.D. Va.); *Hayes v. Delbert Servs. Corp.*, No. 3:14-cv-258-JAG (E.D. Va.); *Soutter v. Equifax Info. Servs., LLC*, 3:10-cv-107 (E.D. Va.); *Ridenour v. Multi-Color Corp.*, No. 2:15-cv-41-MSD-DEM (E.D. Va.).

29. I have experience litigating FCRA class claims, unusually, all the way to trial. *Thomas v. FTS USA, LLC*, 312 F.R.D. 407, 420 (E.D. Va. 2016) and *Milbourne v. JRK Residential Am., LLC*, No. 3:12-cv-861, 2016 WL 1070818, at *1 (E.D. Va. Mar. 15, 2016). I have experience in seeing claims like those presented here through discovery, dispositive motions practice, and the posturing of such cases for successful trials.

Consumer Litigation Associates’ Involvement

30. My firm litigated this case after the Motion to Transfer Venue was decided. However, I was generally familiar with the issues because I litigated a Fraud Shield case against Experian in the Central District of California relating to employment reports. *Price v. Experian*, Case No. 8:18-cv-340 (C.D. Cal.).

31. My firm has been heavily involved in the discovery aspects of this case from document review, taking of a Rule 30(b)(6) deposition, defending the deposition of Ms. Hill-

Green, and reviewing and understanding the data.

32. As discussed in my March 4, 2022 declaration in this case, I have been involved in all settlement negotiations, first to obtain (b)(2) injunctive relief and now to reach this monetary relief settlement. I either led or co-led the mediations and negotiations.

33. We approached settlement negotiations as we always do, focusing on achieving the best benefit possible for our clients and the Class. The Settlement here represents an excellent result for the class – a process by which class members will receive actual dollars in their pocket, as Defendant has agreed to pay over \$22,000,000 to a fund for payments to consumers through America. I am pleased with the outcome we were able to obtain for the Class in this case.

34. All Parties faced the prospect of continued litigation with different outcomes and challenges throughout the country. As with all litigation, there is the possibility of risk of loss at dispositive motions, trial and even if successful, the possibility of potential appeals.

35. Our settlement negotiations were hard fought and extensive. Settlement required multiple mediation sessions over a period of months. We benefited first from the guidance of JAMS mediator Hon. Diane Welsh (Ret.), one of the nations most experienced mediators in complex FCRA cases. However, we were unable to negotiate further relief beyond the injunctive settlement.

36. Accordingly, we fully returned to litigation, addressing and negotiating the significant disputes and discovery issues outstanding between the Parties. These disputes and our efforts came to head during the two months leading up to final approval of the Rule 23(b)2 settlement. I presented the merits issues in a detailed powerpoint before the Court at that Final Approval hearing in hope that we would also convince Experian and its counsel to re-engage on settlement of the damages class.

37. At that same time and hearing, the Court ordered the Parties to meet and engage in settlement discussions before Magistrate Judge Colombell. It also referred the outstanding discovery disputes to Judge Colombell.

38. Over the course of three months, we attempted to “two-track” the case, with ongoing discovery negotiations and supplementation, at the same time as we continued to mediate.

39. The settlement discussions involved pouring over complex sets of data provided by Experian so that the Parties could reach an agreement on the definition of class. Class counsel spent considerable time and effort in dissecting this data in order to prepare and negotiate at the settlement conferences. Due to the complexity of data involved, it took effort from all firms as part of class counsel to identify and propose a properly ascertained list class for the (b)(3) settlement.

40. Another hotly contested issue was the level of damages suffered by class members. Experian initially questioned whether class members suffered any damages at all. My firm ultimately issued forty third-party subpoenas to companies that made use of Experian’s fraud shield information in order to better illustrate to Experian the damage caused. The issuance of such a large number of subpoenas and the necessary follow up involved—for example, reviewing objections, communicating with outside counsel on substantive responses—took considerable time and effort at my firm.

41. Working with Michelle Drake and our data expert, we developed a set of class members who we concluded and understood to have suffered the harm targeted on behalf of Ms. Hill-Green. We presented a demand based on that class set and held to it as we continued to mediate before Judge Colombell.

42. I am certain that the amount recovered for the Class here is as much as could have been obtained before trial, and any appeals were completed. The settlement negotiations were slow

and arduous – often maybe overly-contentious. Judge Colombell did a fantastic job at keeping the process on track. We made slow, but steady progress towards a fair settlement. Within our team, I believe I was the most aggressive in setting a class recovery target amount. Even on the evening on which we reached a final settlement, I was insisting on a \$25 million recovery. We were not merely accepting either what Experian offered or even what Judge Colombell recommended.

43. Those ambitions turned out higher than was possible in settlement. We simply could not get Experian to agree to the additional recovery. We were faced with a settlement that was one of the largest FCRA settlements ever, about as large as Experian had ever paid, and one that was strongly recommended by Judge Colombell, and experienced voices on our team. This settlement also was consummated in the context of a case that had already extended the Court’s docket and patience.

44. Accordingly, unlike some matters where an advocate can face the question – “How do you know this is all you could negotiate, when you didn’t try for more?” – here we know we obtained as large a settlement that could have been negotiated.

45. In fact, this is close to the largest FCRA settlement ever paid by Experian. *Reyes v. Experian Info. Sols., Inc.*, 856 F. App’x 108, 110 (9th Cir. 2021) (Noting that the \$24 million recovered in that case “was the largest ‘Experian has ever agreed to in a case under the Fair Credit Reporting Act.’”)

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

47. At the level of complexity of the litigation in which my firm, but also co-counsel, are engaged, we are almost always opposite experienced and skilled defense attorneys, and defendants with practically unlimited litigation resources. That was the case here. As mentioned in my earlier declaration, opposing Counsel has some of the nation's top FCRA defense lawyers. These attorneys have been the most challenging against which to litigate the issues in this specific matter. And the defense lawyers here possess significant defense experience that largely matches ours in this field over the last decade.

48. I feel strongly that settlements like the one achieved here are significant and meaningful to Class Members because providing a cash benefit, that consumers can use how they choose, is in my view more desirable than something like a discount on future purchases that requires the consumer to patronize the defendant again or an extended warranty that nearly forces the consumer to keep a product with which they are likely now dissatisfied.

49. Through the date of this Declaration, my firm, Consumer Litigation Associates, P.C., has incurred an additional \$35,727.38 in costs not compensated from the prior approved settlement agreement. These costs consist of e-discovery, court report, deposition, shipping, and process server costs. This total does not embrace every single email response, minute of telephone time, or hour of strategy discussions that are necessary to pursue and settle a case of this magnitude against such a well-funded and sophisticated Defendant and top-notch defense team. Certainly, some of the time individuals at my firm spent on this case was missed in this total.

50. Upon my review of the work performed and the development of the case, I estimate that roughly 15% of the time spent by my firm on this matter up to March 4, 2022 has been focused on getting us to the Rule 23(b)(3) Monetary Relief, and that our billable time spent since March 4, 2022 is attributable to the Rule 23(b)(3) Monetary Relief. Together, if billed as lodestar, my firm's

work attributable to the Rule 23(b)(3) relief will be over \$460,000. The tracked amount is conservatively \$433,875.00.

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

52. The hourly rates and lodestar estimate for my firm are as follows from March 4, 2022 through today, plus conservatively scheduled time through Final Approval:

Timekeeper	Years of Experience	Hourly Rate	Total Hours
Leonard A. Bennett	26	\$850	347.00
Craig Marchiando	16	\$650	17.00
Drew Sarrett	11	\$575	42.00
Kevin Dillon	5	\$450	66.00
Donna Winters	36	\$225	28.00
Vicki Crissman	26	\$225	164.00
Ashleigh Hudson	14	\$225	137.00

53. We have significant experience in the settlement and administration of large national class actions like this one. I believe I can fairly estimate the additional lawyer and administrative work necessary to complete such a settlement to include class member communication, class member document review, communication with defense counsel and the Court, communication with co-Counsel and the Settlement Administrator and other related tasks. It is likely that we will incur at least an additional 30 attorney hours after Final Approval and an

additional 60 paralegal hours after Final Approval.

54. The rates sought in this litigation are similar to the rates approved by other courts. Currently, my standard hourly rate is \$850 per hour. This is the rate I charge in most litigation matters. I have charged this rate to those few clients at least over the last twelve months and in part since 2014.

55. The other attorneys in my firm have hourly rates between \$650 and \$450. Attorneys with more than 10 years of experience bill at a rate of \$575, those with more than 15 years' experience bill at a rate of \$650, and those with less than 10 years experience bill at a rate of \$450. Prior to doing so, rates of \$575 per hour for attorneys in my firm with more than 10 years of experience were approved by this Court in *Gibbs v. Plain Green, LLC*, Case No. 3:17-cv-00495 (E.D. Va.) and \$450 per hour in *Thomas v. Equifax Info. Servs., LLC*, Case No. 3:18-cv-684 (E.D. Va.); *Hayes v. Delbert Services Corp.*, No. 3:14-cv-258 (E.D. Va. 2017); and *Bowden v. Forest River Inc.*, No. 1:18-cv-1578 (E.D. Va. 2020) (affirmed per curiam in *Bowden v. Forest River Inc.*, No. 20-1832 (4th Cir. 2022)).

56. Other attorneys from my firm that have worked on this case include (now United States District Judge) Elizabeth Hanes, Amy Austin and Tara Keller. I have not included time for these attorneys as they performed work prior to our reaching the Rule 23(b)(2) settlement.

57. Craig C. Marchiando, a partner at my Firm, also practices exclusively in the field of consumer protection litigation. He is among the most experienced attorneys in the nation in this highly-specialized field of Fair Credit Reporting Act class action litigation. Mr. Marchiando graduated from South Texas College of Law *cum laude* in 2004, served a one-year appellate clerkship before moving to private practice, and was named a Texas Super Lawyers Rising Star in class action and mass tort litigation in 2013 and 2014. He is licensed to practice in California,

Florida, Texas, and Virginia.

58. Mr. Marchiando joined Consumer Litigation Associates in 2015. Since joining CLA, Mr. Marchiando has focused his practice on federal consumer protection law and class actions, representing consumers in cases against banks, mortgage companies, consumer reporting agencies, and debt collectors. He is a member of the National Association of Consumer Advocates and a member in good standing of the bars of multiple federal district and appellate courts. He has represented consumers in more than 100 federal cases, including more than thirty class actions.

59. Drew Sarrett has represented consumers for over ten years. He has been counsel of record in hundreds of cases involving a range of consumer protection laws, in both state and federal court and arbitration. More than 60 published opinions have been issued in cases in which he served individually as counsel or co-counsel for the Plaintiff. He has successfully argued four appeals before the Supreme Court of Virginia on behalf of the appellants. He graduated with high honors from the Honors College at the College of Charleston in Charleston, South Carolina and with honors from the George Mason University School of Law in Arlington, Virginia. He has been recognized as a multi-year Super Lawyers Rising Star in the area of Consumer Law. A rate of \$550 is no less than appropriate and reasonable for Mr. Sarrett.

60. Kevin Dillon has focused his practice exclusively on consumer protection matters since joining the firm in 2018. Mr. Dillon has been recognized as a Super Lawyers Rising Star in the area of Consumer Law. He graduated from Tufts University with honors and the Northeastern University School of Law. Mr. Dillon clerked for the Honorable Justice Cleo E. Powell of the Virginia Supreme Court. He served as a member of Law Review and was a founding member of the Law and Information Society as well as a member of the National Lawyers Guild. Mr. Dillon has a particular expertise in handling, managing, evaluating, and using data for major litigation,

having built a successful career as a data systems consultant prior to attending law school. He has gained very significant experience in the complex and challenging litigation my firm routinely handles. The requested rate of \$400 for Mr. Dillon is reasonable and appropriate.

61. Mr. Dillon is also a member of the National Association of Consumer Advocates. He has been recognized as Top 40 under 40 for civil plaintiff attorneys in Virginia by The National Trial Lawyers for both 2021 and 2022.

62. The primary paralegals that worked for our firm in this case are experienced in the field of consumer protection and the legal field generally. Donna Winters and Vicki Ward Crissman have been legal assistants and then paralegals for more than thirty years each. Both have been with me practically since I began my practice and have deep understanding of class action litigation. Also, Ashleigh Hudson, who is also a Paralegal with my firm is experienced with class action litigation and has 14 years of experience in litigation.

63. Given these factors, the rates suggested above are reasonable and appropriate given the success of the litigation. I am familiar with the fees charged for attorneys with my experience and expertise and believe the rates my law firm is seeking is below the average for national class action work. Further, the time spent on this matter kept our firm from taking on other work. We accepted this case on a contingent fee basis, bearing all the risk that we would lose a vital motion or issue.

64. With these realities in mind, I believe the settlement is fair, reasonable, and adequate, and in the best interests of Class Members.

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

DATED: January 5, 2023, Newport News, Virginia

A handwritten signature in blue ink, appearing to read 'L.A. Bennett', written over a horizontal line.

Leonard A. Bennett, Esq.

Exhibit 3

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

LISA HILL-GREEN, *on behalf of herself
and all others similarly situated,*

Plaintiff,

Case No. 3:19-cv-00708-MHL

v.

EXPERIAN INFORMATION SOLUTIONS,
INC.,

Defendant.

DECLARATION OF E. MICHELLE DRAKE

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

1. I am one of Class Counsel in the above-captioned matter.
2. I submit this Declaration in support of Motion for Attorneys' Fees and Costs in connection with the Settlement.
3. This Declaration provides an accounting of our time and expenses in connection with this matter. My Declaration submitted in support of preliminary approval (ECF No. 126-3) detailed my and my firm's qualifications and role in the litigation to date.
4. Since preliminary approval, Berger Montague took the lead on all aspects of settlement administration, including formatting and finalizing of notice, continuing to monitor and supervise the selected administrator to facilitate the settlement, and responding to inquiries submitted to Class Counsel by potential class members.
5. Since my declaration submitted in support of the Rule 23(b)(2) Settlement on March 4, 2022 (ECF No. 101-2), my firm has expended 2006.6 hours, resulting in \$930,852.50 in lodestar. Our work included moving discovery forward, reviewing document productions,

conducting data analysis, negotiating the instant settlements, and preparing for preliminary approval.

6. Particularly, Berger Montague engaged and supervised multiple document review attorneys to review and analyze Defendant's extensive document productions to better position Plaintiff for settlement negotiations, and at the time, additional litigation. The review encompassed over 55,000 documents, providing detailed analysis regarding relevance to different issues for the case, and for deposition purposes.

7. Below are two illustrative charts, showing the time spent by each of my firm's timekeepers and the categories of tasks on which we worked.

Timekeeper	Position	Attorney Years of Experience	Hourly Rate	Hours Worked	Lodestar
Drake, E. Michelle	Executive Shareholder	22	\$760	193	\$146,680
Albanese, John	Shareholder	11	\$640	0.5	\$320
Hashmall, Joseph	Senior Counsel	14	\$610	133.8	\$81,618
Cronin, Carol	Document Review Attorney	34	\$450	183.2	\$82,440
Mahoney, Maylin	Document Review Attorney	24	\$450	146.5	\$65,925
McGough, LeighAnna	Document Review Attorney	25	\$450	182.8	\$82,260
Phelps, Landra	Document Review Attorney	22	\$450	207.5	\$93,375
Edwards, Brian	Document Review Attorney	16	\$425	217	\$92,225
Filbert, David	Paralegal		\$400	11.7	\$4,680
Jiminez, Daniel	Document Review Attorney	15	\$400	213.2	\$85,280
Swirsky, Jennifer	Document Review Attorney	12	\$400	222.6	\$89,040
York, Beth	Paralegal		\$400	18.5	\$7,400
Bentley, Kenny	Document Review Attorney	7	\$375	42.6	\$15,975
Hibray, Jean	Paralegal		\$370	60.9	\$22,533
Patterson, Michael	Document Review Attorney	2	\$350	132.5	\$46,375

Walters, Jeremiah	Document Review Attorney	5	\$350	18	\$6,300
Klipa, Stefana	Paralegal		\$340	18.3	\$6,222
Gionnette, Julie	Legal Assistant		\$240	4	\$960
Totals				2006.6	\$930,852.50

Category	Hours	Lodestar
Case Assessment, Development, and Administration	6.3	\$2,904
Fact Investigation/Development	65.1	\$33,725.50
Analysis/Strategy	24.6	\$13,758
Experts/Consultants	7.8	\$5,928
Document/File Management	4.8	\$1,256
Settlement/Non-Binding ADR	205.5	\$138,138
Pre-Trial Pleadings and Motions	4.8	\$2,928
Pleading	7.9	\$2,923
Court Mandated Conferences	1	\$760
Discovery	77.6	\$45,176
Written Discovery	28.4	\$21,584
Discovery Document Review	1,572.3	\$661,563
Depositions	.4	\$148
Expert Discovery	.1	\$61
Total	2006.6	\$930,852.50

8. My firm's hourly rates¹ are regularly accepted by courts throughout the country for purposes of class action fee awards. *See, e.g., In re Domestic Drywall Antitrust Litig.*, No. 13-md-2437, 2018 WL 3439454, *20 (E.D. Pa. July 17, 2018) (holding that the hourly rates claimed by Berger, among other firms, were “well within the range of rates charged by counsel in this district in complex cases”); *Devlin v. Ferrandino & Son, Inc.*, No. 15-4976, 2016 WL 7178338, *10 (E.D. Pa. Dec. 9, 2016) (“[T]he hourly rates for Class Counsel [including Berger Montague] are well within the range of what is reasonable and appropriate in this market”).

¹ Berger Montague adjusts its hourly rates on an annual basis, but to maintain consistency with prior submissions in this matter, the above charts were prepared using prior-submitted rates, rather than 2023.

9. Berger Montague PC's ("BMPC") time records are maintained in accordance with industry standards to ensure reliability and transparency. BMPC's formal policy requires all timekeepers—including attorneys and support staff—to enter time contemporaneously and to provide sufficient detail to convey the nature and merit of the work performed.

10. To ensure contemporaneous recordkeeping, BMPC's formal policy requires that time entries be inputted twice each week. Time billed during Monday, Tuesday, or Wednesday of a given week must be entered by Thursday, and time billed Thursday, Friday, Saturday, or Sunday must be entered by Monday. BMPC continuously monitors compliance.

11. To ensure each time entry contains sufficient detail, BMPC requires time entries to include both matter numbers (corresponding to the specific case) and task codes (corresponding to the type of work performed). BMPC uses the widely-accepted ABA Litigation Code Set, which includes 29 task codes spread across 5 stages of litigation (e.g., Pre-Trial Pleadings and Motions, Discovery, etc.) to allocate time to particular tasks. This model, endorsed by courts,² ensures that time is billed uniform and task-oriented manner.³ Timekeepers are also required to provide narrative descriptions setting forth the case-specific tasks associated with each time entry.

12. This manner of time-keeping, with contemporaneous records and detailed descriptions broken down by task, provides a level of accountability that courts nationwide routinely recommend when scrutinizing applications for attorneys' fees. *Deary v. City of Gloucester*, 9 F.3d. 191, 197-98 (1st Cir. 1993) ("In order to recover fees, attorneys must submit

² See *Yahoo!, Inc. v. Net Games, Inc.*, 329 F. Supp. 2d 1179, 1189 (N.D. Cal. 2004) ("The ABA template commends itself to parties applying for fee awards."); *Albion Pac. Prop. Res., LLC v. Seligman*, 329 F. Supp. 2d 1163, 1174 (N.D. Cal. 2004) (same).

³ American Bar Association, Uniform Task-Based Management System, available at https://www.americanbar.org/groups/litigation/resources/uniform_task_based_management_system/ ("The Litigation Code Set has formed the basis for most, if not all, schemes to record and bill time on an hourly basis.")

a full and precise accounting of their time, including specific information about number of hours, dates, and the nature of the work performed.”); *Bode v. United States*, 919 F.2d 1044, 1047 (5th Cir. 1990) (collecting cases) (“[C]ourts customarily require the applicant to produce contemporaneous billing records or other sufficient documentation so that the district court can fulfill its duty to examine the application....”).

13. Since my declaration submitted in support of the Rule 23(b)(2) Settlement on March 4, 2022 (ECF No. 101-2), my firm has incurred \$19,283.70 in out-of-pocket costs in this matter. We have received no reimbursement to date for these identified costs. Below is a chart showing the categorization of the costs incurred.

Expense Category	Amount
Legal Research (Westlaw)	\$3,781.84
DocuSign	\$4.96
Expert Fees	\$10,825
Filing & Misc Fees	\$188
Ricoh – Data Hosting & Tech Assistance	\$3,537.53
Services	\$460
Grand Total	\$19,283.70

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

Date:

/s/E. Michelle Drake
E. Michelle Drake

Exhibit 4

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

LISA HILL-GREEN, <i>on behalf of</i> <i>herself and all others similarly situated,</i>	:	
	:	
Plaintiff,	:	Civil Action No. 3:19-cv-708
	:	
v.	:	
	:	
EXPERIAN INFORMATION SOLUTIONS, INC.,	:	
	:	
Defendant.	:	

DECLARATION OF DALE W. PITTMAN

Dale W. Pittman declares under penalty of perjury that the following statements are true:

1. My name is Dale W. Pittman. I am over the age of 18 and have personal knowledge of the facts set forth herein.

2. I am a member in good standing of the bars of the following courts:

Supreme Court of the United States
Washington, DC
February, 1997

Supreme Court of Virginia
Richmond, Virginia
June 8, 1976

U. S. Court of Appeals for the Fourth Circuit
Richmond, Virginia
September 2, 1980

U. S. District Court for the Western District of Virginia
Roanoke, Virginia

U. S. District Court for the Eastern District of Virginia
Richmond, Virginia
December 30, 1976

U. S. Bankruptcy Court for the Eastern District of Virginia
Richmond, Virginia
November, 1997.

3. I am a 1971 graduate of Hampden-Sydney College and a 1976 graduate of the T. C. Williams School of Law of the University of Richmond, Virginia. I am a member of the Virginia State Bar, the Virginia Trial Lawyers Association, the Virginia Bar Association, the National Association of Consumer Advocates, and the Petersburg Bar Association, of which I am a past President. I am a past member of the Council of the Virginia State Bar, the State Bar's governing body, having served five terms over the course of the past twenty-five years as the elected representative of the Eleventh Judicial Circuit. I am a member of the Board of Governors of the Virginia Trial Lawyers Association, and I chair the VTLA's Consumer Law Section. I serve on the Board of Directors of the Legal Services Corporation of Virginia (LSCV), which provides funding for programs offering civil legal assistance to low-income Virginians. I served as President of the LSCV Board for five years.

4. From February 1, 1977 until September 13, 1996 I was employed by Southside Virginia Legal Services, in Petersburg, Virginia, as its General Counsel (Chief Executive Officer). My caseload at Southside Virginia Legal Services evolved over the years into a primarily consumer law practice.

5. From September 16, 1996 until the present I have maintained a private law practice with an office located in Petersburg. My work in private practice is limited almost exclusively to the representation of consumers, with particular emphasis on representing consumer debtors under the Fair Debt Collections Practices Act. I have a statewide consumer law practice, and have represented consumers from all regions of the Commonwealth and elsewhere.

6. I was a contributing editor to the consumer law sections of *Virginia Practice Manual*, a practice manual for Legal Aid lawyers and for private lawyers handling cases under the auspices of *pro bono* initiatives in Virginia.

7. Pleadings and discovery from many of my consumer law cases appear in the National Consumer Law Center's *Consumer Law Pleadings*, nationally distributed form books of consumer law pleadings, beginning in 1994. Pleadings and discovery from my cases appear in Books 1, 2, 5, 6, 7, 10, and 11.

8. I have given over eighty lectures to lawyers that qualified for continuing legal education credit.

9. I have made two presentations on consumer protection law and litigation to Virginia's General District Court judges at the Judicial Conference of Virginia for General District Court judges, one in 1987 on consumer protection laws generally and one in 2008 on arbitration in consumer financial services cases.

10. My consumer protection law continuing legal education lectures include the following:

Ethical Issues in FDCPA Practice	2022 Fair Debt Collection Conference, Orlando	April 25, 2022
Rental Repairs: Making the Right Choice for Your Client	Virginia Poverty Law Center Annual Statewide Training Conference	October 14, 2021
Spotting Violations of the FDCPA Regulations: Communications	National Consumer Law Center Fair Debt Collections Conference	March 4, 2021
Phone Cases	2018 Fair Debt Collections Conference, Chicago	March 19, 2018

Consumer Protection Litigation and Bankruptcy: Intersections and Collisions, Fair Debt Collections Practices Act	Richmond Bar Association, Richmond	October 24, 2017
Class Actions and Multiple Claims: End Games Planning (co-presenter with Judge John A. Gibney, Jr., Orran L. Brown, Sr, W. James Young, and M. Peebles Harrison)	Hampden-Sydney Bar Association CLE Event Hampden-Sydney	October 20, 2017
Serious Illness, the Law, and Pro Bono Services, Part 3: Relief from Creditors	Legal Information Network Cancer, in conjunction with Virginia State Bar Access to Legal Services Committee	November 17, 2016
Representing the Pro Bono Client: Consumer Law Basics 2016	Practicing Law Institute, San Francisco	July 22, 2016
Fair Debt Collections Practices Act	Old Dominion Bar Association Winter Meeting, Williamsburg	January, 30, 2016
Fair Debt Collections Practices Act Overview	Virginia State Bar Young Lawyers Section Professional Development Conference	September 24, 2015
Consumer Law (FDCPA)	A Law Day Celebration Ft. Lee, Virginia	May 1, 2015
FDCPA: Ask the Experts	National Association of Consumer Advocates Fair Debt Collection Training Conference, Washington, DC	March 11, 2015
“It May Not Be a Payday Loan....”	Virginia Poverty Law Center 2014 Annual	October 23, 2014

	Statewide Legal Aid Conference, Portsmouth	
Meeting the Legal Needs of Individuals Facing Serious Illness Through Pro Bono – Relief From Creditors	Virginia State Bar and the Legal Information Network for Cancer Webinar	April 23, 2014
Ethical Responsibilities of Class Counsel to Class Representatives, the Class and Objectors	Fair Debt Collection Practices Act Training Conference, San Antonio, Texas	March 8, 2014
Fair Debt Collections Practices Act	Working With Military Clients, Military Law Section of the Virginia State Bar, Williamsburg, Virginia	October 18, 2013
How the Consumer Bar Views FDCPA Compliance by Collection Attorneys	National Association of Retail Collection Attorneys Fall Collection Conference, Washington, DC	October 17, 2013
Making the Bad Guys Pay	Virginia Poverty Law Center, Richmond	May 9, 2013
FDCPA: Ask the Experts	National Association of Consumer Advocates Fair Debt Collection Training Conference, Baltimore	March 8, 2013
FDCPA Update	JAG School, Charlottesville, VA	December 11, 2012
Fair Debt Collections Practices Act	VA CLE, Charlottesville, VA	September, 2012

FDCPA	ABA Standing Committee on Legal Assistance to Military Personnel, George Mason University Law School	March 15, 2012
Fair Debt Collections Practices Act	Ft. Lee Legal Assistance Division JAG Office CLE	May 5, 2011
Handling Fair Debt Collections Practices Act Cases	65 th Legal Assistance Course, The Judge Advocate General's Legal Center and School, Charlottesville	November 16, 2009
Handling Fair Debt Collections Practices Act Cases	VPLC Statewide Legal Aid Conference, Williamsburg	November 5, 2009
Challenging Predatory Small Loans	National Consumer Law Center Consumer Rights Litigation Conference, Philadelphia	October 23, 2009
The Fair Debt Collections Practices Act: Update 2009	VA CLE Webinar	September, 2009
Handling Fair Debt Collections Practices Act Cases	2009 Mid-Atlantic Joint Services Consumer Law Symposium, Naval Legal Service Office Mid-Atlantic Legal Assistance Department, Norfolk	June 12, 2009
Handling Fair Debt Collections Practices Act Cases	64 th Legal Assistance Course, The Judge Advocate General's Legal Center and School, Charlottesville	April 2, 2009

Defending Consumers in Medical Debt Collection Cases	National Consumer Law Center's Consumer Rights Litigation Conference in Portland, Oregon	October, 2008
Combating Consumer Issues Facing the Military, FDCPA Cases	Consumer Law Intensive for Military Personnel Advocates, National Consumer Law Center's Consumer Rights Litigation Conference in Portland, Oregon	October, 2008
Issues in Arbitration Cases	Judicial Conference of Virginia for District Court Judges, Virginia Beach	August 13, 2008
A Perfect Storm – The Intersection of the FDCPA and the FCRA in Debt Collection Harassment Cases	Virginia CLE Solo and Small Firm Institute, Williamsburg	May 13, 2008
Defending Debt Collection Suits	National Consumer Rights Litigation Conference, Washington, D.C.	November 11, 2007
Emerging Issues in Debt Collection Abuse & False Credit Reporting	Virginia Trial Lawyers Association Solo & Small Firm Conference, Richmond	October 19, 2007
The Fair Debt Collections Practices Act (Including 2006 Amendments)	Virginia CLE	September 24, 2007
Fair Debt Collections Practices Act	Naval Legal Service Office Mid-Atlantic Joint Services Consumer Law Symposium, Norfolk	May 11, 2007

How to Win (or Not Lose) an Arbitration	National Consumer Rights Litigation Conference Miami, Florida	November 11, 2006
Consumer Debt Collection	59 th Legal Assistance Course The Judge Advocate's School Charlottesville	November 2, 2006
Consumer Credit: Remedies You Should be Aware Of	Virginia Trial Lawyers Association Solo & Small Firm Conference, Williamsburg	October 20, 2006
Collection Law From Start to Finish (Presentation on the FDCPA)	National Business Institute Richmond	October 10, 2006
Overview of the Fair Debt Collections Practices Act	Framme Law Firm, Richmond	June 23, 2006
Fair Debt Collection Practices Act	Naval Justice School Newport, Rhode Island	May 22 , 2006
Fair Debt Collection Practices Act – Essential Tips for Both Debtors and Creditors	Virginia CLE - 4 th Annual Advanced Consumer Bankruptcy, Richmond	April 28, 2006
Fair Debt Collection Practices Act	3 rd Annual Naval Legal Service Office, Mid-Atlantic, Auto Fraud Symposium, Norfolk	April 12, 2006
What the Virginia Lawyer Must Know about Consumer Protection	Solo and Small Firm Conference – Virginia	September 30, 2005

	Trial Lawyers Association, Charlottesville	
Points to Consider if You are Going to Arbitration	National Consumer Law Center's 13 th Annual Consumer Rights Litigation Conference	November 7, 2004
Protecting Your Client's Consumer Rights – Fair Debt Collections Practices Act	Virginia CLE - Richmond and Tysons Corner	April 21 and 22, 2004
Fair Debt Collections Practices Act Training Conference – Practice Issues	National Consumer Law Center and National Association of Consumer Advocates, Kansas City	February 22, 2004
Fair Debt Collections Practices Act	Henrico County Bar Association and Virginia Creditor's Bar Association, Richmond	February 19, 2004
Using Experts in Automobile Sale Wreck Damage Cases	IVAN Diminished Value Conference, Chesapeake	January 31, 2004
Consumer Law: Everything You Need to Know to be an Expert in Handling the Latest in Consumer Cases	First Annual Solo and Small Firm Conference – Virginia Trial Lawyers Association, Charlottesville	October 10, 2003
Points To Consider If You Are Going To Arbitration	Virginia Women Attorney's Association, Southside Chapter, Petersburg	July 31, 2003
Fair Debt Collection Practices Act	Virginia CLE, First Advanced Consumer Bankruptcy Conference	May 2, 2003

Fair Debt Collection Practices Act Fair Credit Reporting Act	Naval Justice School Newport, Rhode Island	April 3, 2003
Overview of the Fair Debt Collections Practices Act	Framme Law Firm, Richmond	December 17 & 18, 2002
Arbitrating: Who's Afraid of the Big Bad Wolf?	National Consumer Law Center Consumer Rights Litigation Conference, Atlanta	October 26, 2002
Mobile Home Litigation Issues	National Consumer Law Center Consumer Rights Litigation Conference, Atlanta	October 25, 2002
Settlement Agreements and Confidentiality Issues: Recent Cases in the News and the Problems News Attention Can Create	Virginia Trial Lawyers Association Fall Fiesta, Richmond	September 28, 2002
Practice Pointers Roundtable	Virginia Trial Lawyers Association Fall Fiesta, Richmond	September 27, 2002
Arbitration and Beyond: What to Do If You Are Forced Into Arbitration and What Happens After the Arbitral Award	Virginia Trial Lawyers Association Fall Fiesta, Richmond	September 27, 2002
Fair Debt Collection	ABA Standing Committee on Legal Assistance for Military Personnel Legal Assistance Symposium, Quantico	August 15, 2002
Practical Applications of Consumer Protection Laws for the General Practitioner – Part II	Virginia Women Attorneys Association, Southside Chapter, Petersburg	June 27, 2002

Practical Applications of Consumer Protection Laws for the General Practitioner – Part I	Virginia Women Attorneys Association, Southside Chapter, Petersburg	April 25, 2002
Federal Court-Fun & Easy	Annual Statewide Legal Aid Conference, Virginia Beach	November 1, 2001
FDCPA Compliance for the Virginia Practitioner	National Business Institute CLE for Virginia Lawyers, Richmond	October 11, 2001
Use of Magnuson-Moss Warranty Act in the Recovery of Attorney’s Fees	Virginia Trial Lawyers Association Fiesta 3, Richmond	September 28, 2001
Credit Reporting Abuse	Petersburg Kiwanis Breakfast Club, Petersburg	September 18, 2001
A Consumer Lawyer’s Perspective on Mobile Home Transactions	Virginia Manufactured Housing Association, Virginia Beach	August 8, 2001
Debt Collection Harassment, Credit Reporting Abuse, Home Solicitation Sales, Fraud.	Elder Law Day	May 11, 2001
Truth in Lending Act and Title Issues in Car Sales	VA Independent Automobile Dealers Association, District 1 Dinner Meeting, Virginia Beach, Virginia	April 11, 2001
What Do These Attorneys Know About The Used Car Business That You Don’t?	VA Independent Automobile Dealers Association, District 2 Dinner Meeting, Richmond, Virginia	January 30, 2001

Mobile Home Litigation Issues	National Consumer Law Center Consumer Rights Conference	October 28, 2000
Update on the Fair Debt Collection Practices Act	Virginia CLE®	July 12 and 19, 2000
Consumer Privacy in the Electronic Age	The Bar Association of the City of Richmond	May 31, 2000
Consumer Law Update for Virginia Practitioners, Fair Debt Collection Practices Act.	Virginia CLE®	December 7 and 8, 1999
Recent Developments in Fair Debt Collection, With an Emphasis on the Fourth Circuit	Annual Statewide Legal Aid Conference	November 3, 1999
Recent Developments in Fair Debt Collection	The Bankruptcy Section of the Bar Association of the City of Richmond	October 26, 1999
Consumer Law Seminar	Office of the Staff Judge Advocate, Ft. Eustis, Virginia	August 27, 1999
Automobile Fraud and Financing Issues	Annual Statewide Legal Aid Conference	November 11, 1998
Consumer Law for Support Staff	Annual Statewide Legal Aid Conference	November 11, 1998
First Day in Practice (Topic: Consumer Law Practice)	Virginia State Bar	November 3, 1998
Complying with the Fair Debt Collection Practices Act in Virginia	National Business Institute CLE for Virginia Lawyers	September 9, 1998

Basic Overview of Several Consumer Protection Laws Available to Assist Victims of Consumer Fraud and Abuse	Charlottesville-Albemarle Bar Association Bankruptcy/Creditors' Rights Committee	February 10, 1998
Overview of Consumer Law for Support Staff	Annual Statewide Legal Aid Conference	November 6, 1997
The Fair Debt Collection Practices Act	Annual Statewide Legal Aid Conference	November 6, 1997
Recent Developments under the Fair Debt Collection Practices Act	Virginia Creditor's Bar Association	September 25, 1997
Fair Debt Collection Practices Act	10 th Circuit Bar Association, Keysville, VA	April 23, 1997
Complying With the Fair Debt Collection Practices Act in Virginia	National Business Institute CLE for Virginia Lawyers	February 11, 1997
Handling Repossession Cases (gave segment on odometer law)	Virginia Legal Services Consumer Law Task Force	
State and Federal Consumer Protection Statutes Frequently Applicable to General District Court Cases	Judicial Conference of Virginia General District Court Judges	April 29, 1989
Everything Under the Sun You Ever Wanted to Know About Handling Home Improvement Cases	Elderly Law Task Force of Virginia Legal Services Programs	
Consumer Law for Non Consumer Lawyers	Virginia Legal Services Attorneys	

Handling Home Improvement Cases

Consumer Law Training
for Virginia Legal
Services Attorneys

11. The Summer 2006 edition of *The Journal of the Virginia Trial Lawyers Association* included “Disputing Home Loan Servicing Abuse Through RESPA,” an article that I prepared for that publication.

12. For nearly a decade, I prepared annual reports on Virginia law for the American Bar Association’s *Survey of State Class Action Law*.

13. I was Section Chairman and Program Moderator for a Virginia Trial Lawyers Association Consumer Law Seminar entitled “Keeping the Big Boys Honest,” that took place on April 25, 1997, and covered the Fair Debt Collections Practices Act, the Fair Credit Reporting Act, Consumer Class Actions, Motor Vehicle Litigation, and Recovering Attorney’s Fees in Consumer Litigation. I was Program Chair for the Consumer Law portion of the VTLA’s February Fiesta CLE that took place in Williamsburg in February, 2000. I was a presenter on Mobile Home Sales, and in a Consumer Law Practice Roundtable. I was Program Chair for the Consumer Law portion of the VTLA’s Fall Fiesta that took place in Williamsburg on October 14 and 15, 2000, and was a presenter on Emerging Issues in Mobile Home Sales Fraud. I was Program Chair for the Consumer Law portion of the VTLA’s Fiesta 3 that took place in Richmond on September 28 and 29, 2001, and was a presenter on “Use of the Magnuson-Moss Warranty Act to Recover Attorney’s Fees.” I was Program Chair for the Consumer Law portion of the VTLA’s Fiesta 2002 that took place in Richmond on September 27 and 28, 2002, and was a presenter on “Settlement Agreements and Confidentiality Issues: Recent Cases in the News and the Problems News Attention Can Create,” “Arbitration and Beyond: What to Do If You Are Forced Into Arbitration and What Happens After the Arbitral Award,” and a roundtable participant in a “Practice Pointers Roundtable.”

14. I was the 1996 recipient of the Virginia State Bar Legal Aid Award, given annually by the Virginia State Bar to recognize a Legal Aid attorney in Virginia who demonstrates innovation and creativity in advocacy and excellence in service to low-income clients. On November 9, 2007, I received the 2007 Consumer Attorney of the Year Award from the National Association of Consumer Advocates at its Annual Meeting in Washington, D.C. On October 21, 2010, I received the *Virginia Lawyers Weekly* “Leader in the Law 2010” award. On November 4, 2010, I received the Virginia Poverty Law Center’s John Kent Shumate, Jr. Advocate of the Year Award, in recognition of my having made a significant impact in advocating for low-income Virginia residents. The Virginia Trial Lawyers Association recognized me as only the fifth recipient of its Oliver White Hill Courageous Advocate Award at the VTLA’s 2014 annual convention, an award periodically presented to an advocate who has demonstrated courage and commitment to the ideals of justice in representing an individual or cause at considerable personal risk. I received the Dr. David E. Marion Award for Legal Excellence, presented by the Hampden-Sydney College Bar Association, on October 20, 2017. I was named to the Virginia Lawyers Hall of Fame for 2019 by Virginia Lawyers Media, being honored for my career accomplishments, contributions to the development of the law in Virginia, contributions to the Bar and to the Commonwealth at Large and efforts to improve the quality of justice in Virginia. I have been selected to Virginia Super Lawyers every year since 2011. I was recently inducted as a fellow of the Virginia Law Foundation, whose mission is to promote, through philanthropy, the rule of law, access to justice, and law-related education. I am a member of the Virginia Poverty Law Center Advisory Council, a group of key community leaders advising the Center and serving as its ambassador by championing its mission of breaking down systemic barriers that keep low-income consumers in the cycle of poverty.

15. I have been involved in many consumer cases involving a range of consumer protection laws, with an emphasis on the Fair Debt Collection Practices Act. Fair Debt Collection Practices Act, Fair Credit Reporting Act and Equal Credit Opportunity Act cases that I have handled alone or co-counseled with others include *Withers v. Eveland*, 988 F. Supp. 942 (E.D. Va. 1997); *Creighton v. Emporia Credit Service, Inc.*, 981 F. Supp. 411 (E.D. Va. 1997); *Morgan v. Credit Adjustment Board*, 999 F. Supp. 803 (E.D. Va. 1998); *Talbott v. GC Services Limited Partnership*, 53 F. Supp. 2d 846 (W.D. Va. 1999); *Talbott v. GC Services Limited Partnership*, 191 F.R.D. 99 (W.D. Va. 2000); *Woodard v. Online Information Servs.*, 191 F.R.D. 502 (E.D.N.C., Jan. 19, 2000); *Pitchford v. Oakwood Mobile Homes*, 124 F. Supp.2d 958, 961 (W.D. Va. 2000); *Sydnor v. Conseco Financial Services Corp.*, 252 F.3d 302, 305 (4th Circ. 2001); *Jones v. Robert Vest*, 2000 U.S. Dist. LEXIS 18413 (E.D. Va. 2000); *Kelly v. Jormandy*, 2005 U.S. Dist. Lexis 29901 (W.D. Va. 2005); *Lynch v. McGeorge Camping Center*, 2005 U.S. Dist. LEXIS 10201, *12 (E.D. Va. 2005); *Thornton v. Cappo Mgmt. V, Inc.*, 2005 U.S. Dist. LEXIS 10202, *6 (E.D. Va. 2005); *Gansauer v. Transworld Systems, Inc.*, Civil Action No. 7:00cv00931 (W.D. Va. 2007); *Croy v. E. Hall & Associates, P.L.L.C.*, 2007 U.S. Dist. LEXIS 14830 (W.D. Va. 2007); *Turner v. Shenandoah Legal Group, P.C.*, 2006 U.S. Dist. LEXIS 39341 (E.D. Va., June 12, 2006); *Karnette v. Wolpoff & Abramson L.L.C.*, 444 F. Supp. 2d 640 (E.D. Va. 2006); *Karnette v. Wolpoff & Abramson, L.L.P.*, 2007 U.S. Dist. LEXIS 20794 (E.D. Va. March 23, 2007); *Bicking v. Law Offices of Rubenstein and Cogan*, 783 F. Supp. 2d at 841v (E.D. Va. 2011); *James v. Encore Capital Corp.*, No. 3:11cv226 (E.D. Va.), *Goodrow v. Friedman & MacFadyen, P.A.*, 788 F. Supp. 2d 464 (E.D. Va. 2011); *Goodrow v. Friedman & MacFadyen, P.A.*, 2013 U.S. Dist. LEXIS 105395 (E.D. Va. July 26, 2013); *Kelly v. Nationstar*, 2013 U.S. Dist. Lexis 156515 (E.D. VA 2013); *Cross v. Prospect Mortgage, LLC*, 986 F. Supp. 2d 688 (E.D. Va. 2013); *Fariasantos v.*

Rosenberg & Associates, LLC, 2014 WL 928206, 2014 U.S. Dist. Lexis 30898, (E.D. Va. 2014); *DeCapri v. Law Offices of Shapiro Brown & Alt, LLP*, 2014 U.S. Dist. Lexis 131979, 2014 WL 4699591 (E.D. Va. 2014); *Lengrand v. WellPoint*, No. 3:11-CV-333 (E.D. Va.); *Henderson v. Verifications, Incorporated*, Civil Action No. 3:11cv514 (ED Va.); and *Thomas v. Wittstadt Title & Escrow Company, LLC*, No. 3:12cv450 (E.D. Va.); *Soutter v. Equifax Information Services, LLC*, 307 F.R.D. 183 (E.D. Va. 2015); *Henderson v. Corelogic, Inc., et al.*, Civil Action No. 3:12cv97 (E.D. Va.); *Berry, et al. v. LexisNexis Risk & Information Analytics Group, Inc.*, Civil Action No. 3:11cv754 (E.D. Va.); *Henderson v. First Advantage Background Services Corp.*, Civil Action No. 3:14cv221 (E.D. Va.); *Cornell v. Brock & Scott, PLLC*, Civil Action No. 3:14cv841 (E.D. Va.); *Reese v. Stern & Eisenberg Mid Atlantic, PC*, Civil Action No. 3:16cv496 (E.D. Va.); *Bralley v. Carey*, 2011 U.S. Dist. LEXIS 107015 (E.D. Va. 2011); *Bralley v. Carey*, 2011 U.S. Dist. LEXIS 142896 (E.D. Va. 2011); *Bralley v. Carey*, 2012 U.S. Dist LEXIS 15191 (E.D. Va. 2012); *Biber v. Pioneer Credit Recovery, Inc.*, 2018 U.S. Dist. LEXIS 62325 (E.D. Va. 2018); and *Curtis v. Propel Property Tax Funding*, 915 F.3d 234 (2019). I was one of several lawyers representing plaintiff classes in a Multidistrict FDCPA class action, styled *In Re Dun & Bradstreet, Inc. Debt Collection Practices Litigation*, MDL #1198. The cases, originally transferred by the Judicial Panel on Multidistrict Litigation to the Western District of Virginia, Danville Division, for consolidated pretrial proceedings, were centralized before the Northern District of Illinois for purposes of finalizing settlement. Classes were certified in *Talbott, Woodard, Gansauer, Karnette, Bicking, Goodrow, Kelly, Fariasantos, DeCapri, Lengrand, Henderson v. Verifications, Incorporated, Thomas, Soutter, Henderson v. Corelogic, Inc., Berry, Henderson v. First Advantage Background Services Corp., Cornell and Reese*.

16. I served as Special Master in a case styled *Silva v. Haynes Furniture Company, Inc.*, Civil Action No. 4:04cv082, (E.D. Va.), an ECOA/FCRA class action, having been appointed by Judge Kelley on January 27, 2006.

17. Very few Virginia attorneys are willing to accept consumer cases because of the special expertise required and the risk of nonpayment. This case is not only a consumer case requiring such special expertise at the risk of nonpayment, but it is more complex than most consumer actions I have seen in my years of legal practice.

18. I have extensive experience in consumer cases brought this Court, and in the Eastern District of Virginia. I routinely represent plaintiffs in cases brought in the Eastern District of Virginia under the FDCPA and FCRA. I have been involved in many cases involving requests for attorneys' fees under different consumer protection claims and statute and am familiar with the rates charged by both plaintiffs' and defense attorneys in this region. My knowledge of the attorneys fee recoveries, factors and rates in this District and this region comes from a variety of sources, including my own personal experience requesting, or opposing requests for, attorneys' fees, research and discussions with other attorneys, advertised rates, case decisions and other publications. I have had an opportunity to survey and I keep track of the attorneys fees recovered in complex and consumer finance class action cases in this District and Division, as well as in the consumer protection field.

19. Given the specific knowledge I have as to attorneys fees awarded and charged in this field and this market, I am able to testify as to the reasonable and expected ranges of fees in class action settlements and the reasonableness of the hourly rates charged by attorneys that practice in this district and division.

20. Given the specific knowledge I have as to attorneys fees awarded and charged in this field and this market, I am able to testify as to the reasonable and expected ranges of fees in class action common fund settlements. In this District, an approved common fund percentage will almost always be between 25% and 35%. Within that range, the most common fee percentages are 30%, 33% and 35%.

21. In this case, the Plaintiff has recovered a gross settlement common fund of \$22,450,000.00. I understand that Plaintiffs' counsel is seeking a fee award of \$7,408,500.00, which amounts to 33 percent of the settlement fund. This is well within the average fee request in the class cases that I have reviewed.

22. Given the specific knowledge I have as to hourly rates charged and approved in this District and Division, I am comfortable stating that the average hourly rates for federal litigation attorneys in this District and Division range between \$300 and at least \$800. However, given the complexity of these cases and that they have been litigated in multiple venues across the country, it is my considered opinion that a higher hourly rate is more appropriate. Specifically, it is my considered opinion that the "LSI Adjusted Laffey Matrix" rates (<http://www.laffeymatrix.com/>) would be a fair reflection of a reasonable rate here for Class Counsel, particularly in light of the hourly rates of defense counsel and the particularized knowledge and skill Class Counsel has developed in litigating FCRA class-action cases.

23. I am familiar with all of the law firms counsel for the Plaintiffs in this case. I know from personal observation most of the lawyers representing the Plaintiffs in this case and know those to be top-notch attorneys generally. I also know from personal observation that the Virginia attorneys representing the Plaintiffs are among the very best attorneys who constitute Virginia's consumer-side consumer protection bar.

24. I am familiar with the law firms of Kelly Guzzo, and Consumer Litigation Associates, two of the firms that comprise Class Counsel in this case. I know from personal observation that each such lawyer participating from those firms is a top-notch attorney. I also know from personal observation that they are among the very best attorneys who constitute Virginia's consumer-side consumer protection bar, and also are among the best in their field nationwide. And although I have not observed or worked with the firm Berger Montague, the third firm that comprises Class Counsel in this case, I am aware of the firm's success in the greater consumer protection community and believe they easily match Consumer Litigation Associates and Kelly Guzzo in terms of skill, experience, and diligence in approach to consumer litigation.

25. In my opinion, Consumer Litigation Associates (CLA) and Kelly Guzzo (KG) are two of America's best consumer-side consumer protection litigation law firms. I cannot point to any other law firms in the country that I would describe as doing a better job representing consumers in federal court in consumer protection litigation.

26. I have reviewed each firm's fee declarations. Based on my experience, each attorney's hourly rate seems reasonable and in line with other class-action attorneys in this District and Division. Again, given the complexity of this consumer class action, these rates are eminently reasonable and reflective of what nationwide rates would be for such a demanding case.

27. It is my understanding that these are the rates routinely charged by these law firms in the national practices of each. Ordinary hourly rates in Richmond, Virginia are typically lower than some larger venues. However, the field and expertise necessary in a national class action against well-funded nationally defended opponents is the same here as in any venue. Accordingly, I am comfortable stating that the rates contained in the fee declarations are all within the range of approvable hourly charges appropriate in a federal and national class action settlement.

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

Signed this 6th day of January, 2022.

/s/ Dale W. Pittman
Dale W. Pittman