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**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH**

**AIMEE MORRISON, ON
BEHALF OF HERSELF AND
OTHERS SIMILARLY
SITUATED,**

Plaintiff,

v.

**EXPRESS RECOVERY
SERVICES, INC. D/B/A CLEAR
MANAGEMENT SOLUTIONS,**

Defendant.

**MEMORANDUM OF POINTS
AND AUTHORITIES IN
SUPPORT OF MOTION FOR
ATTORNEYS' FEES, COSTS
AND INCENTIVE PAYMENT**

Case No.: 1:17-cv-0051-CW-EJF

I. INTRODUCTION

Pursuant to Plaintiff's Motion for Preliminary Approval of Class Action and the Court's January 2, 2020 preliminary approval order (ECF Nos. 62, 66), Plaintiff Aimee Morrison ("Plaintiff") submits this timely motion for attorneys' fees, costs and incentive payment in connection with this case.

According to Federal Rules of Civil Procedure, “[i]n a certified class action, the court may award reasonable attorneys’ fees and nontaxable costs that are authorized by law or by the parties agreement.” Fed. R. Civ. P. 23 (emphasis added). Here, the parties came to an agreement on the amount owed to the class, and the parties separately agreed that “[c]lass counsel shall move the Court for an award of attorneys’ fees and costs incurred in connection with the Action to be paid by Defendant separate from the Settlement Fund.” ECF No. 62-3.

The reasonableness of the requested fees is supported by the “lodestar” approach. Class Counsel have incurred a combined total of 293.8 hours litigating this action for a combined lodestar of \$118,534. Class Counsel are requesting a multiplier of 1.5 be applied to the lodestar due to the exceptional result, and novel and complex issues addressed. Therefore, Class Counsel is requesting a total of \$177,801 in attorneys’ fees.

Class Counsel additionally have incurred costs of \$21,940.66 to date, which include class administration costs to date (administration costs will likely be just under \$30,000 according to the class administrator). *See* Angeion Group’s Invoice for class administration costs to date attached as Exhibit A. Plaintiff will provide the final number for class administration and other costs at the Final Approval hearing.

Through this fee petition, Plaintiff seeks Court approval of the amounts as follows: (1) attorneys’ fees of \$177,801; (2) Costs to be determined at the final

approval hearing after class administration costs are finalized; and (3) an incentive award to Ms. Morrison of \$2,000. Plaintiff requests Defendant pay these amounts.

As more thoroughly stated herein and as detailed in the supporting declarations filed herewith, these sums are fair and reasonable as they resulted from extensive litigation and are further supported by the lodestar methodology with a lodestar multiplier. *See* Declaration of David J. McGlothlin (“McGlothlin Decl.”) ¶ 38 and Declaration of Ryan L. McBride (“McBride Decl.”) ¶41.

II. SUMMARY OF PLAINTIFF’S COUNSELS’ ATTORNEYS’ FEES

Federal Rules of Civil Procedure provide that “[i]n a certified class action, the court may award reasonable attorneys’ fees and nontaxable costs that are authorized by law or by the parties agreement.” Fed. R. Civ. P. 23(h) (emphasis added).

A. Class Counsel Are Entitled to Reasonable Attorney’s Fees and Costs as the Prevailing Party under the FDCPA

As a prevailing Plaintiff under the FDCPA, Plaintiff is entitled to statutory damages, actual damages and attorney’s fees and costs. *See*, 15 U.S.C. § 1692k(a). The Supreme Court has defined a “prevailing party” as the party in whose favor a judgment is rendered. *Buckhannon Bd. And Care Home, Inc. v. VA Dep’t. of Health*, 532 U.S. 598, 603. Consumers are prevailing parties entitled to an award of attorney’s fees and costs for time expended in bringing the action. *Smith v. Law*

Offices of Mitchell N. Kay, 762 F. Supp. 82 (D. Del. 1991). The statutory language of the FDCPA makes an award of attorney fees to the successful consumer mandatory. *Booth v. Collection Experts, Inc.*, 969 F. Supp. 1161 (E.D. Wis. 1997).

“The reason for mandatory fees is that Congress chose a ‘private attorney general’ approach for enforcement of the FDCPA.” Attorney fee awards exceed the damage awards in most cases, and there need be no proportionality between attorney fees and costs. The Truth in Lending Act (“TILA”) has identical attorney fee language and courts interpret TILA as requiring the award of attorney fees even in cases of minor violations. In other words, fee shifting is central to the congressional goals for the FDCPA as can be seen from the statute and its history.

The FDCPA mandates the payment of attorney fees to a successful consumer. The FDCPA states:

Except as otherwise provided by this section, any debt collector who fails to comply with any provision of this subchapter with respect to any person is liable to such person in an amount equal to the sum of— [actual damages]; [statutory damages]; and;

(3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court. 15 U.S.C. §1692k(a)(3).

The purpose of this fee shifting provision is to attract competent counsel. *Zagorski v. Midwest Billing Services, Inc.*, 128 F.3d 1164, 1167 (7th Cir. 1997) In litigation under the FDCPA, an award of reasonable attorney fees is mandatory, and not discretionary. *Graziano v. Harrison*, 950 F.2d 107, 113 (3rd Cir. 1991);

Piples v. Credit Bureau of Lockport, Inc., 886 F.2d 22, 28 (2d Cir. 1989) (“Because the FDCPA was violated, however, the statute requires the award of costs and reasonable attorney's fees. . .”); *Mace v. Van Ru Credit*, 109 F.3d 338, 344 N.3 (7th Cir. 1997). An award of attorney’s fees to a successful consumer under the FDCPA is designed to compensate the consumer for his role in privately enforcing the FDCPA, and Congress intended that the prevailing consumer recover reasonable attorney’s fees.

“Once a party has established that he is entitled to attorneys’ fees, ‘[i]t remains for the [] court to determine what fee is ‘reasonable.’” *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983). The party requesting an award of fees bears the burden of proving the claimed number of hours and the reasonableness of the hourly rate. *Malloy v. Monahan*, 73 F.3d 1012, 1018 (10th Cir. 1996).

Here, Class Counsel were successful in litigating this action because a class was certified and the Court granted Plaintiff’s Motion for Summary Judgment. ECF No. 47. Therefore, Plaintiff was the prevailing party and is entitled to the full amount of reasonable attorney’s fees and costs incurred in successfully litigating this action.

B. Detailed Time Records

A detailed Billing Summary and time log for David J. McGlothlin and Ryan L. McBride’s time spent on the case is attached as Exhibit B.

C. Reasonableness of Hourly Rates

Plaintiff's attorneys' hourly rates are also reasonable. In assessing the reasonableness of an attorney's hourly rate, courts consider whether the claimed rate is "in line with those prevailing in the community for similar services by lawyers of reasonably comparable skill, experience and reputation." *Blum v. Stevenson*, 465 U.S. 886, 895, n.11 (1994). See also *Davis v. City and County of San Francisco*, 976 F.3d 1536, 1546 (9th Cir. 1992); and, *Serrano v. Unruh*, 32 Cal. 3d 621, 643 (1982).

The Tenth Circuit has found that "[i]n this circuit, we generally do limit the hourly rate to one "based upon the norm for comparable private firm lawyers in the area in which the court sits calculated as of the time the court awards fees." *Gottlieb v. Barry*, 43 F.3d 474 (10th Cir 1994) citing *Zuchel v. City & County of Denver*, 997 F.2d 730, 746 (10th Cir. 1993) (quoting *Ramos v. Lamm*, 713 F.2d 546, 555 (10th Cir. 1983)). "However, in an unusual case, where the prevailing party used out-of-town counsel whose rates were higher than those charged locally, we have permitted an award based on those higher rates..." *Id.* In *Gottlieb*, the Court rejected what it perceived as the master's limitation of the hourly rates to those charged in the forum location, stating, "when the court deems it appropriate to authorize the employment of services of lawyers who do not office

in the forum location, they should not be penalized by restricting their rates to those charged locally." Mem. Op. & Order at 10, Appellants' J.A. at 1514.

1. Experience of Counsel and Hourly Rates Approved In Other Cases

Plaintiff's counsel here are experienced, highly regarded members of the multiple bars with extensive expertise in the area of class actions and complex litigation involving consumer claims like those at issue here. Plaintiff's counsel is unaware of other attorneys in Utah who have the experience of Kazerouni Law Group with complex consumer cases such as this one.

a. *David J. McGlothlin - Partner*

Mr. McGlothlin, of Kazerouni Law Group, APC, has considerable experience litigating FDCPA class actions. See McGlothlin Decl., ¶¶ 17, 24, 26. Mr. McGlothlin has spent 181.7 hours on this litigation, as explained in the accompanying declaration and billing summary. See Exhibit B. Mr. McGlothlin has been approved for an hourly rate of \$450, most recently in *Griggs v. Revenue Management Group LLC*, United States District Court, District of Arizona case number, 18-cv-02976-GMS, Dkt. No. 16 (May 7, 2019) McGlothlin Decl., ¶ 24.

b. *Ryan L. McBride – Managing Associate (Arizona office)*

Mr. McBride, of Kazerouni Law Group, ACP, also has considerable experience litigating FDCPA individual and class actions. See McBride Decl., ¶¶

21-24. Mr. McBride has spent 107.9 hours in this litigation, as explained in the accompanying declaration and billing summary.

Mr. McBride has been approved in other recent cases for an hourly rate of \$350, which is the hourly rate sought here. *See e.g., Sylvester v. Merchants Credit Corporation*, 2:17-cv-00168-TSZ, Dkt. No. 49 (W.D. WA February 18, 2020); *See also McGilvra v. Abbott & Rose Associates, LLC.*, 2:19-cv-00106-SAB, Dkt. No. 7 (E.D. WA October 28, 2019). McBride Decl., ¶¶31-32.

In further support of the hourly rate for Mr. McBride, *see Browne v. American Honda Motor Co.*, 2010 U.S. Dist. LEXIS 144823, at *26 (C.D. Cal. Oct. 5, 2010) finding that associate's hourly rate of \$380 falls within the range of billing rates for lawyers two years out of school; *Aarons v. BMW of N. Am., LLC*, 2014 U.S. Dist. LEXIS 118442 at *45 (C.D. Cal. Apr. 29, 2014) approving hourly rates for associates up to \$550 in consumer class action.¹

Case law from courts in the Central District of California (one of the districts where both Mr. McGlothlin and Mr. McBride regularly practice) also support the hourly rates for Class Counsel. *See Klee v. Nissan N. Am., Inc.*, 2015 U.S. Dist. LEXIS 88270 (C.D. Cal. July 7, 2015) (supporting hourly rates for senior attorneys between \$370-\$695 in consumer class action); *Aarons v. BMW of N. Am., LLC*, 2014 U.S. Dist. LEXIS 118442 (C.D. Cal. Apr. 29, 2014) (supporting hourly rates

¹ According to the Court in *Shames v. Hertz Corp.*, 2012 U.S. Dist. LEXIS 158577, *60 (S.D. Cal. Nov. 5, 2012) (“[t]he National Law Journal data reveals that rates at six national defense firms with San Diego offices averaged between \$550 and \$747

for partners up to \$775 in consumer class action); *Kearney v. Hyundai Motor Am.*, No. SACV 09-1298-JST, 2013 WL 3287996, at *8 (C.D. Cal. June 28, 2013) (authorizing hourly rates for attorneys ranging from \$650-\$800 in consumer class action); *Parkinson v. Hyundai Motor Am.*, 796 F. Supp. 2d 1160, 1172 (C.D. Cal. 2010) (supporting hourly rates between \$445-\$675 in consumer class action); *Browne v. Am. Honda Motor Co.*, 09-cv-06750 MMM DTBX, 2010 WL 9499073, at *7 (C.D. Cal. Oct. 5, 2010) (authorizing hourly rates between \$445-\$675 for attorneys with experience ranging from seven to fifteen years of experience in consumer class action).²

Plaintiff's counsels' lodestar is \$118,534. Plaintiff is requesting a lodestar multiplier of 1.5 based on the novel and complex issues successfully litigated in this case. The relevant lodestar factors support the requested award of attorneys' fees of \$177,801.

D. Lodestar

"There is a strong presumption that the lodestar method, alone, will reflect a reasonable attorney fee." *Chieftain Royalty Co. v. Enervest Energy Institutional Fund XIII-A, L.P.*, 888 F.3d 455 (10th Cir. 2018) citing *Hess v. Volkswagen of Am., Inc.* 2014 OK 111, 341 P.3d at 671 (Okla. 2014). In support of that presumption the court cited *Perdue v. Kenny A. ex rel. Winn*, 559 U.S. 542, 552-54, 130 S. Ct.

² See also *Rutti v. Lojack Corp.*, 2012 U.S. Dist. LEXIS 107677, 19 Wage & Hour Cas. 2d (BNA) 938, 2012 WL 3151077 (C.D. Cal. July 31, 2012) (approving hourly rates of \$650 and \$750 in FLRA class action).

1662, 176 L. Ed. 2d 494 (2010), thereby signaling that it would follow the lead of the United States Supreme Court in greatly limiting departures from the lodestar figure. *Chieftain* at 464. The court first determines the lodestar by multiplying the number of hours reasonably spent on the litigation by a reasonable hourly rate. See *Anchondo v. Anderson*, Crenshaw & Assocs. LLC, 616 F.3d 1098, 1102 (10th Cir. 2010). This "produces a presumptively reasonable fee," but it "may in rare circumstances be adjusted to account for the presence of special circumstances." *Id.*

E. Lodestar Multiplier

Multipliers, or fee enhancements to the Lodestar calculation, are permissible in some cases of "exceptional success." *Blum*, 465 U.S. 886, 895, 104 S. Ct. 1541, 79 L. Ed. 2d 891. The key issue is whether an adjustment is necessary to the determination of a reasonable fee. *Id.* Courts in the Tenth Circuit have found that a multiplier of 2.57 was well within the range of multipliers approved in the Tenth Circuit, and other circuits, when a lodestar cross-check is used. *Chieftain*, 2018 U.S. Dist. LEXIS 225922; See, e.g., *Cook v. Rockwell Int'l Corp.*, No. 90-cv-00181-JLK, 2017 U.S. Dist. LEXIS 181814, at *10, *16-17 & n.6 (D. Colo. April 28, 2017) (finding that "[t]ypical multipliers range from one to four depending on the facts, with many courts awarding multipliers larger than four on case-specific grounds" and collecting federal cases to support conclusion that "multiplier of 2.41 is within the range of those frequently awarded in common fund

cases."); *Campbell v. C.R. Eng., Inc.*, No. 2:13-cv-00262, 2015 U.S. Dist. LEXIS 134235, at *20 n.5 (D. Utah Sept. 30, 2015) (finding "lodestar crosscheck calculation here results in multiplier of 2.9, which is within a reasonable range" of approved multipliers within the Tenth Circuit); *see also, e.g., Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1051-52 & n.6 (9th Cir. 2002) (affirming district court's fee award based on 3.65 lodestar multiplier and listing nationwide class action settlements from 1996-2001 approving multipliers ranging up to 8.5).

The FDCPA is a complex statute. *See Obduskey v. McCarthy & Holthus LLP*, 139 S. Ct. 1029 (S. Ct. 2019). Furthermore, this case presented novel and complex issues that had not been addressed in the Tenth Circuit previously including the issue of what constituted when a debt was in "default" and whether Defendant's subsidiary company was considered a debt collector pursuant to the FDCPA in the Tenth Circuit. Additionally, this case was protracted as a result of Defendant's stalwart defense. *See McGowan v. King, Inc.*, 661 F.2d 48 (5th Cir. 1981). Defendant has stubbornly opposed every aspect of this litigation down to this current fee petition, which has required that Plaintiff needlessly incur fees throughout the case.

Moreover, other circuits outside of the Tenth Circuit regularly and systematically apply multipliers. Courts stress that "[i]t is an abuse of discretion to fail to apply a risk multiplier when...there is evidence that the case was risky."

Fischel v. Equit. Life Assurance Soc’y, 307 F.3d 997, 1008 (9th Cir. 2002); *see also Glass v. UBS Fin. Servs., Inc.*, 2007 WL 221862, *16 (N.D. Cal. 2007).

Here, Class Counsel took this matter on a contingency fee basis. McGlothlin Decl., ¶16; McBride Decl., ¶28. This factor supports the fee request, as Class Counsel have incurred hundreds of hours of work (293.8 as of February 28, 2020; the action was filed on April 11, 2017) and thousands of dollars of costs (\$22,684.62 as of February 28, 2020) without the guarantee they would obtain a recovery.

Plaintiff is requesting the lodestar be multiplied by 1.5 considering the degree of success achieved and the complexity of issues dealt with by Class Counsel. When considering whether a lodestar is reasonable and whether to apply a lodestar multiplier, the Tenth Circuit has traditionally relied on the 12 factors in the *Johnson* case. *See Hensley v. Eckerhart*, 461 U.S. 424, 433, 103 S. Ct. 1933, 76 L. Ed. 2d 40 (1983); *See also Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974). *Johnson* enunciated twelve factors that trial courts may consider in calculating reasonable attorney fee awards. The Supreme Court has determined that "Johnson's 'list of 12' ... provides a useful catalog of the many factors to be considered in assessing the reasonableness of an award of attorney's fees...." *Blanchard v. Bergeron*, 489 U.S. 87, 93, 109 S. Ct. 939, 103 L. Ed. 2d 67 (1989).

1. Time and Labor Required

Plaintiff's counsel spent more than 293 hours litigating this case to its successful conclusion. The work was not duplicated by the two main attorneys working on the case but was instead a collaborative effort to prosecute the case. The work completed on the case was necessary due to the stalwart defense presented by Defendant. The hours Class counsel have submitted for this case are reasonable. However, in an effort to be as reasonable as possible, Class counsel have reduced their hours by over 20 hours.

2. Novelty and Difficulty of the Questions

Class Counsel were successful in litigating a novel issue in the Tenth Circuit, whether Defendant was required to include notices in its "early out" program collection letters. The issue of whether Defendant was required to include notices in its collection letters required several layers of analysis including what constituted "default" under Tenth Circuit law and the FDCPA. This took many hours of research and analysis to effectively argue against Defendant's staunch positions.

3. The Skill Requisite to Perform the Legal Service Properly

As discussed above, Class Counsel spent many hours researching the underlying issues. Additionally, Class Counsel used their extensive experience in class action litigation to win a heavily opposed class certification motion and motion for summary judgment against a well-funded Defendant. Class Counsel

used many tools to achieve this success including third party subpoenas, written discovery, and depositions.

4. The Preclusion of Other Employment By the Attorney due to Acceptance of the Case

While Class Counsel did not turn down any cases as a result of this case, work that could have and would have been put into other cases in Class Counsel's caseload was diverted to this case especially in the months of February and March of 2018 when Class Counsel filed a motion for summary judgment, responded to Defendant's motion for summary judgment, and filed a motion for class certification all within that two month period. These three motions resulted in counsel having to draft five memorandums (two motions, two replies and one opposition) and review four memorandums from Defendant. Class Counsel were confident they would be successful in this case. However, the time and effort required to actually succeed was extensive as a result of Defendant's stalwart defense as laid out in the billing summary provided.

5. The Customary Fee

As described in the declarations of Mr. McGlothlin and Mr. McBride, the fees requested by Class Counsel are reasonable, especially considering the customary fees in the jurisdictions where Class Counsel regularly litigate. *See Gottlieb*, 43 F.3d 474; *Zuchel*, 997 F.2d 730, 746; *Ramos*, 713 F.2d 546.

6. Whether the Fee is Fixed or Contingent

The Tenth Circuit relies on *Johnson* and states the fee should be reasonable and no greater than what was contracted between party and its counsel. *Johnson*, 488 F.2d 714 at 12. The Ninth Circuit believes the risk inherent in contingency representation is a critical factor. The Ninth Circuit stresses that “[i]t is an abuse of discretion to fail to apply a risk multiplier when...there is evidence that the case was risky.” *Fischel*, 307 F.3d 997, 1008; *see also Glass*, 2007 WL 221862, *16 (N.D. Cal. 2007). Here, Class Counsel took this matter on a contingency fee basis and incurred great risk at doing so. McGlothlin Decl., ¶16; McBride Decl., ¶28. This factor supports the fee request, as Class Counsel have incurred hundreds of hours of work (293.8 as of February 28, 2020; the action was filed on April 11, 2017) and thousands of dollars of costs (\$22,684.62 as of February 28, 2020) without the guarantee they would obtain a recovery.

6. Results Obtained

As discussed previously, Class Counsel achieved exceptional success in this case including certifying the class and winning on a Motion for Summary Judgment on an issue of first impression within this district and circuit. *See Blum*, 465 U.S. 886, 895, 104 S. Ct. 1541, 79 L. Ed. 2d 891 (1984). This success was achieved over Defendant’s strenuous and stalwart opposition. *See McGowan*, 661 F.2d 48.

7. Time Limitations Imposed by the Client or the Circumstances

Class Counsel was required to set aside an enormous amount of time for this case and give up time to work on other cases. Class Counsel were required to fly to Utah on multiple occasions from Arizona, which cost time and money that could have been spent on other cases. *See Billing Summary and time log* attached as Exhibit B.

8. The Amount Involved and the Results Obtained

Plaintiff achieved exceptional results here. Class Counsel were able to negotiate a statewide settlement requiring a change in Defendant's practices and requiring Defendant to comply with the FDCPA and include the proper notices to consumers in its letters so that Utah residents are properly apprised of their rights. The injunction, subject to final approval, would further the purposes of the statute to protect consumers against debt collection abuses. 15 U.S.C. § 1692e; *see also Wade v. Regional Credit Association*, 87 F.3d 1098, 1099 (9th Cir. 1996) (discussing the purpose of the FDCPA).³

In light of the limited damages allowed in this case under the FDCPA and Defendant's net worth, Class Counsel have obtained significant relief for the

³ "Collection abuse takes many forms, including obscene or profane language, threats of violence, telephone calls at unreasonable hours, misrepresentation of a consumer's legal rights, disclosing a consumer's personal affairs to friends, neighbors, or an employee, obtaining information about a consumer through false pretense, impersonating public officials and attorneys, and simulating legal process." *See Lewis v. ABC Bus. Servs., Inc.*, 135 F.3d 389, 398 (6th Cir. 1998) quoting S. Rep. No. 382 (1977), reprinted in 1977 U.S.C.C.A.N. 1695, 1696). *See also Dunaway v. JBC & Assocs.*, 2005 U.S. Dist. LEXIS 48621, at *6-7, 2005 WL 1529574 (E.D. Mich. 2005).

settlement Class Members in the form of a cy pres award. In fact, Class Counsel obtained approximately 1/3rd more than the Class was entitled to under the FDCPA based on Defendant's net worth.

9. The Experience, Reputation, and Ability of the Attorneys

As mentioned above and explained in Plaintiff's counsels' declarations, Plaintiff's counsel are very experienced in consumer actions, including FDCPA individual and class actions. *See* McGlothlin Decl., ¶¶ 17, 24, 26; McBride Decl., ¶¶21-24.

10. The Undesirability of the Case

Often times FDCPA cases are undesirable because of the cap on statutory damages at \$1,000. In addition, the FDCPA caps class recovery at 1% of the Defendant's net worth or \$500,000, whichever is less. As a result of this cap, most plaintiffs' counsel are unwilling to pursue an FDCPA action all the way through class certification. Class Counsel took the case knowing that the final recovery of damages for the class and Plaintiff might be minimal and the risk of not recovering any attorneys' fees was great. Class Counsel is unaware of many attorneys, if any, in Utah who would have taken this case, especially regarding such a novel issue in the Tenth Circuit.

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11. The Nature and Length of the Professional Relationship with the Client

This factor does not apply in this case as Class Counsel have not represented Ms. Morrison before this litigation.

12. Awards in Similar Cases

In a recent class settlement entered into by Kazerouni Law Group in the District of Utah, Judge Jenkins approved of a \$20,000 award to Class Counsel. *McPolin v. Credit Serv. Of Logan*, Case No. 1:16-cv-00116-BSJ (D. Ut 2017). However, The *McPolin* case is a case that was voluntarily settled early on before any substantive discovery or motion work was completed in the case. Here, Class Counsel completed substantial discovery and litigated the case all the way through an opposed motion for class certification and motion for summary judgment. The contested nature of this case and length of case (nearly three years) required Class Counsel to expend many more hours than was necessary in the *McPolin* case. Furthermore, Defendant protracted the litigation by providing a stalwart defense to nearly every issue encountered throughout the case, including the instant fee petition.

Consequently, as of February 28, 2020, Plaintiff's counsels' lodestar is \$118,534, and is reasonable in light of the work performed. Furthermore, Class Counsel requests a multiplier of 1.5 in this case based on the exceptional result, novel and complex issues in the case, and the extensive work done for the Plaintiff

and class members for a total of \$177,801. As the requested award of attorneys' fees and costs is reasonable here, the Court should find that proposed class counsel are adequate under Fed. R. Civ. P. 23(a)(4) and that the proposed fee request is reasonable.

III. CLASS COUNSELS' CURRENT LITIGATION COSTS OF \$22,684.62 ARE REASONABLE

The significant litigation expenses Class Counsel incurred in this case were necessary to secure the resolution of this litigation. *See In re Immune Response Sec. Litig.*, 497 F. Supp. 2d 1166, 1177-78 (S.D. Cal. 2007) (finding that costs such as filing fees, photocopy costs, travel expenses, postage, telephone and fax costs, computerized legal research fees, and mediation expenses are relevant and necessary expenses in class action litigation). Based upon the discussion herein, Class Counsel believe that the costs incurred in this matter are fair and reasonable.

Additionally, it was necessary for Class Counsel to pay for the class administration costs in order to give the class members proper notice. The class administration costs are recoverable by Plaintiff as well. The class administration costs are currently at \$13,704.45. However, the class administrator estimates that the final costs will be just under \$30,000. Plaintiff will provide a final accounting of the class administration costs at the hearing for final approval.

The current reasonable litigation costs requested of \$22,684.62 (as of approximately February 28, 2020) are itemized in, and supported by, the

accompanying attorney declarations and Billing Summary. *See* McGlothlin Decl. generally; McBride Decl. generally; Exhibit B.⁴ However, Class Counsel will include a request in the final approval motion for the final amount, which will include the final class administration costs.

IV. THE NUMBER OF HOURS EXPENDED ARE REASONABLE

The U.S. Supreme Court has explained the calculation for an award of attorney's fees:

The most useful starting point for determining the amount of a reasonable fee is the number of hours reasonably expended on the litigation multiplied by a reasonable hourly rate. The calculation provides an objective basis on which to make an initial estimate of the value of a lawyer's services.

Hensley v. Eckerhart, 461 U.S. 424, 433; 103 S. Ct. 1933, 1339; 76 L. Ed. 2d. 40 (1983); *See also Thorpe v. Collection Information Bureau, Inc.*, 963 F.Supp. 1172, 1174 (S.D. Fla. 1996).

Although this decision, and many others cited hereinafter, arise in the context of the Civil Rights Attorneys Fees Award Act, 42 U.S.C. § 1988, its criteria is equally applicable here. "The standards set forth in this opinion are generally applicable in all cases in which Congress has authorized an award of fees to a prevailing party." *Id.* 103 S. Ct. at 1939, n.7. "We have stated in the past that

⁴ Class Counsel are willing to submit physical copies of invoices, receipts and other billing records upon request by the Court, should the Court wish to see such records in addition to the declarations from Class Counsel attesting to the litigation costs incurred in this matter.

the fee-shifting statutes' similar language is 'a strong indication that they are to be interpreted alike.'" *Independent Federation of Flight Attendants v. Zipes*, 491 U.S. 754; 109 S. Ct. 2732, 2735 n.2; 105 L. Ed. 2d. 639 (1989) (quoting *Northcross v. Memphis Bd. of Education*, 412 U.S. 427, 428; 93 S. Ct. 2201, 2202 37 L. Ed. 2d. 48 (1973)).

To determine the number of hours expended, the court reviews counsel's billing entries to ensure that counsel exercised proper billing judgment. *Case v. Unified Sch. Dist. No. 233, Johnson Cnty., Kan.*, 157 F.3d 1243, 1250 (10th Cir. 1998). "Billing judgment consists of winnowing the hours actually expended down to the hours reasonably expended." *Case*, 157 F.3d at 1250. "In determining what is a reasonable time in which to perform a given task," an attorney submitting billing entries should consider the following factors: (1) the complexity of the case; (2) the number of reasonable strategies pursued; (3) the responses necessitated by the maneuvering of the other side; and (4) "the potential duplication of services" caused by the presence of multiple attorneys when one would suffice. *Ramos*, 713 F.2d 546, 554.⁵

All of Plaintiff's attorneys assigned to this matter have considerable experience litigating a variety of consumer rights issues, including actions under the FDCPA as detailed in the Declarations filed in conjunction with this motion.

⁵ "[T]rial courts need not, and indeed should not become green-eyeshade accountants" when determining a fee application. "The essential goal in shifting fees (to either party) is to do rough justice, not to achieve auditing perfection." *Fox v. Vice*, 131 S.Ct. 2205, 2216 (2011).

As discussed previously this was a complex FDCPA case due to the novel issues litigated. Plaintiff not only had to prove the base violation, but also had to thwart the many unsuccessful attempts by defendant to show Plaintiff's account was not in default, respond to Defendant's motion for summary judgment, and research complex issues relating to Defendant's interlocutory appeal among other issues. To date, Plaintiff's counsel has expended 293.8 hours during the course of this litigation. That number consists of the total hours spent by David J. McGlothlin of 181.7 hours; Ryan L. McBride of 107.9 hours; and Emily Torromeo (paralegal) of 4.2 hours.

V. AN INCENTIVE PAYMENT OF \$2,000 TO PLAINTIFF IS REASONABLE

“Incentive awards are not uncommon in class action cases and are within the discretion of the court.” *Frank v. Eastman Kodak Co.*, 228 F.R.D. 174, 187 (W.D.N.Y. 2005) (internal quotations omitted). “A powerful basis for separate awards to named plaintiff in class action settlements is the need to reimburse them for specific expenses they have incurred, including out-of-pocket costs of asserting the litigation, the use of leave time in order to attend depositions and other such costs.” *Sheppard v. Consolidated Edison Co. of NY*, 2002 WL 2003206, at*6, n.9 (E.D.N.Y. Aug. 1, 2002). Here, this entire litigation would not have been possible without Plaintiff's involvement and cooperation with Class Counsel.

The \$2,000 incentive award amount is more than reasonable and is far less than the size of incentive awards routinely granted by courts in class action cases. *See, e.g., People United for Children, Inc. v. City of New York*, 2007 WL 582720, at *2 (S.D.N.Y. Feb. 26, 2007) (approving class action settlement that called for incentive awards to class action plaintiffs ranging from \$10,000 to \$15,000); *In re Assicurazioni Generali S.p.a. Holocaust Insurance*, 2007 WL 601846, at *3 (S.D.N.Y. Feb. 27, 2007) (awarding each of the named representatives incentive award of \$5,000 as part of class action settlement approval); *Gross v. Washington Mutual Bank, F.A.*, 2006 WL 318814, at *6 (S.D.N.Y. Feb. 26, 2006) (awarding class plaintiff \$5,000 incentive award as part of class action settlement approval).

Ms. Morrison received a letter from Defendant, which was determined be a violating letter of the FDCPA. Therefore, Ms. Morrison is entitled to up to \$1,000 in statutory damages. However, Ms. Morrison is not receiving any statutory damages under the Settlement; instead, Plaintiff is requesting that Ms. Morrison receive an incentive award of \$2,000 to compensate her for her time and effort spent in litigating this case.

In addition to lending her name to this matter, and thus subjecting herself to public attention, Plaintiff has actively engaged in this action. Ms. Morrison has spent hours engaged in this action, which includes time spent in pre-litigation investigation, reviewing the complaint, assisting with initial disclosures, assisting with written discovery, reviewing motions, attending her own deposition,

reviewing and signing settlement documents, and communicating with Plaintiff's counsel throughout the litigation. McGlothlin Decl. ¶11; McBride Decl. ¶11.

Ms. Morrison requests a modest incentive award of \$2,000 as sole compensation for litigating this action and reaching a statewide settlement for injunctive relief to protect consumers from Defendant's violations of the FDCPA. The requested incentive award of \$2,000 for Ms. Morrison is justified.⁶ Other courts have approved similar or larger incentive awards in class action cases. *See e.g., Vandervort v. Balboa Capital Corp.*, 88 Fed. R. Serv. 3d 365 (C.D. Cal. 2014) (awarding an incentive payment of \$10,000 total for two name plaintiffs; \$5,000 each); *Fox v. Asset Acceptance, LLC*, 2:14-cv-00734-GW-FFM (C.D. Cal. July 1, 2016) (awarding \$2,500 incentive award to named plaintiff).⁷ Thus, this amount awarded as a service award is well in line with similar awards approved by other federal courts, and is also supported by the recent Ninth Circuit authority in *Radcliffe v. Experian Info. Solutions, Inc.*, 2013 U.S. App. LEXIS 9126 (9th Cir. Mar. 4, 2013).

Therefore, the Court should award Ms. Morrison an incentive award of

⁶ Such compensation provides the economic motivation to induce potential plaintiffs to lend their names and support to class actions generally. *West v. Circle K Stores, Inc.*, 2006 U.S. Dist. LEXIS 76558 at *26 (E.D. Cal. Oct. 19, 2006). The same incentive fees further ensure that meritorious actions are prosecuted to completion. *Linney v. Cellular Alaska Part.*, 1997 U.S. Dist. LEXIS 24300, at *23 (N.D. Cal. 1997).

⁷ *See also Adams v. AllianceOne Receivables Management, Inc.*, 08-cv-00248-JAH-WVG (S.D. Cal. Sept. 28m 2012) (Pre-*Radcliffe*; Awarding incentive payments in the amount of \$5,000, \$2,500 and \$2,500 to the named plaintiffs in TCPA case).

\$2,000 to be paid by Defendant under the Settlement.

VI. CONCLUSION

For all the foregoing reasons, Plaintiff respectfully requests that the Court enter an order (i) awarding Class Counsel \$177,801 in reasonable attorneys' fees from Defendant; (ii) Costs to be determined at the final approval hearing after class administration costs are finalized from Defendant; and (iii) awarding Ms. Morrison an incentive payment of \$2,000 from Defendant.⁸

Dated: February 28, 2020

Respectfully submitted,

/s/ Ryan L. McBride
RYAN L. MCBRIDE, ESQ.
ATTORNEY FOR PLAINTIFF

⁸ A proposed order will be submitted in connection with the motion for final approval of class action settlement, which will include a proposal for an award of the requested attorneys' fees, costs and incentive payment.

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Facsimile: (800) 520-5523

Attorneys for Plaintiff

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH**

**AIMEE MORRISON, ON BEHALF
OF HERSELF AND OTHERS
SIMILARLY SITUATED,**

Plaintiff,

v.

**EXPRESS RECOVERY SERVICES,
INC. D/B/A CLEAR
MANAGEMENT SOLUTIONS,**

Defendant.

**DECLARATION OF DAVID J.
MCGLOTHLIN IN SUPPORT OF
PLAINTIFF'S MEMORANDUM
OF POINTS AND AUTHORITIES
IN SUPPORT OF MOTION FOR
ATTORNEYS' FEES, COSTS,
AND INCENTIVE PAYMENT**

Case No.: 1:17-cv-0051-CW-EJF

DECLARATION OF DAVID J. MCGLOTHLIN

I, David J. McGlothlin, declare as follows:

1. I am one of the attorneys for the Plaintiff Aimee Morrison ("Plaintiff"). I am over the age of 18 and am fully competent to make this declaration. I am a member in good standing of the bars of the States of California, Arizona and Oregon. I am also admitted in every federal district in those states and have also handled federal litigation in Georgia, Arizona, Nevada, Utah, Colorado and Ohio.

2. If called as a witness, I would competently testify to the matters herein from personal knowledge. The declaration is based upon my personal knowledge, except where expressly noted otherwise.
3. I am writing this declaration in support of Plaintiff's Motion for Attorneys' Fees and Costs and Incentive Payment.

Procedural History

4. Plaintiff filed a Complaint in this court on April 11, 2017.
5. Plaintiff, through a process server, served the Complaint upon Defendant on July 6, 2017.
6. Defendant filed an Answer on July 27, 2017.
7. Plaintiff and Defendant then participated in substantial discovery including written discovery, third party subpoenas for documents and testimony, and depositions of Defendant's representative.
8. After the discovery period ended, Plaintiff filed a motion for class certification and a motion for summary judgment, both of which were granted by the Court.
9. Defendant subsequently filed a Motion for Interlocutory Appeal, which was denied by the Court. ECF Nos. 50, 51.
10. On June 25, 2019, the Parties participated in a settlement conference led by Judge Paul Kohler. At this mediation, the parties came to an agreement on the amount owed to the class, and the parties separately agreed that "[c]lass counsel shall move the Court for an award of attorneys' fees and costs incurred in connection with the Action to be paid by Defendant separate from the Settlement Fund." ECF No. 62-3.

Plaintiff's Involvement

11. In addition to lending her name to this matter, and thus subjecting herself to public attention, Plaintiff has actively engaged in this action. Ms. Morrison

has spent hours engaged in this action, which includes time spent in pre-litigation investigation, reviewing the complaint, assisting with initial disclosures, assisting with written discovery, reviewing motions, attending her own deposition, reviewing and signing settlement documents, and communicating with Plaintiff's counsel throughout the litigation.

12. Based on her participation, Plaintiff requests \$2,000 for an incentive payment out of the settlement fund.

Kazerouni Law Group Practice

13. Kazerouni Law Group's practice is almost exclusively devoted to the litigation of consumer law, primarily focusing on cases under the Federal Fair Debt Collection Practices Act and Fair Credit Reporting Act matters and has seven offices in six states.
14. I am the Managing Partner of individual consumer litigation and direct supervisor of up to fifteen attorneys at a given time.
15. The firm has litigated over 2,000 cases in the past 10 years.
16. On all FDCPA cases Kazerouni Law Group represents consumers on a contingency fee (including this case), funding all litigation costs, and usually waiting a considerable amount of time before being paid for services.
17. Kazerouni Law Group has extensive experience in consumer related issues.
18. A brief summary of a non-inclusive list of notable decisions are as follows:
 - a. *Knell v. FIA Card Services, N.A., et al.*, 12-CV-426 AJB(WVG)(S.D. Cal. 2014) (Co-lead counsel on a California class action involving privacy rights under Cal. Penal Code § 632 et seq. Class relief provided for a common fund in the amount of \$2,750,000. Counsel obtained final approval on August 15, 2014);
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- rights under Cal. Penal Code § 632 et seq. Class relief provided for a common fund in the amount of \$2,600,000. Finally approved on November 6, 2014);
- c. *Zaw v. Nelnet Business Solutions, Inc.*, et al., C 13-05788 RS (N.D. Cal. 2014) (Co-lead counsel on a California class action involving privacy rights under Cal. Penal Code § 632 et seq. Class relief provided for a common fund in the amount of \$1,188,110. Final approval granted on December 1, 2014);
 - d. *CashCall, Inc. v. Superior Court*, 159 Cal. App. 273 (2008) (Allowing the original plaintiff who lacked standing in a class action to conduct pre-certification discovery of the identities of potential plaintiffs with standing);
 - e. *Kight v. CashCall, Inc.*, 200 Cal. App. 4th 1377 (2011) (Co-lead counsel on a class action involving privacy rights under Cal. Penal Code § 632 et seq. Appeals court reversing the trial courts granting of Defendant's motion for summary judgment after case was certified);
 - f. *Engelen v. Erin Capital Management, LLC*, et al., No. 12-55039 (9th Cir. 2013, not for publication, D.C. No.: 3:10-cv-01125-BEN-RBB) (Reversing the lower court's granting of summary judgment to the defendant debt collector on the basis of the bona fide error defense and remanding for further proceedings);
 - g. *Sherman v. Yahoo!, Inc.*, 2014 U.S. Dist. LEXIS 13286; 13-CV-0041-GPC-WVG (S.D. Cal.) (TCPA class action where Defendant's motion for summary judgment was denied holding that a single call or text message with the use of an ATDS may be actionable under the TCPA);
 - h. *Olney v. Progressive Casualty Insurance Company*, 13-CV-2058-GPC-NLS, 2014 U.S. Dist. LEXIS 9146 (S.D. Cal.) (Defendant's motion to

dismiss or in the alternative to strike the class allegations was denied finding that debt collection calls were not exempt from coverage under the TCPA);

- i. *Iniguez v. The CBE Group, Inc.*, 13-CV-00843-JAM-AC, 2013 U.S. Dist. LEXIS 127066 (E.D. Cal.) (The court denying Defendant's motion to dismiss and to strike class allegations holding that the TCPA applies to any call made to a cellular telephone with an ATDS);
- j. *Catala v. Resurgent Capital Servs., L.P.*, 08-CV-2401 NLS, 2010 U.S. Dist. LEXIS 63501 (S.D. Cal.) (Co-lead counsel on a class settlement involving the Fair Debt Collection Practices Act);
- k. *Hosseinzadeh v. M.R.S. Assocs.*, 387 F. Supp. 2d 1104 (C.D. Cal. 2005) (Summary judgment was granted *sua sponte* in favor of a debtor where debt collector violated the Fair Debt Collection Practices Act, when its employees failed to disclose the debt collector's identity and the nature of its business in the messages left on the debtor's answering machine). This case has now been followed in at least four different districts throughout the country.
- l. *Edstrom v. All Servs. & Processing*, 2005 U.S. Dist. LEXIS 2773 (N.D. Cal. 2005) (Numerous omissions from a letter sent by a debt collector to members of a homeowners association, and a statement requiring any dispute to be put in writing, violated 15 U.S.C. § 1692g(a) of the FDCPA and Cal. Civ. Code §1788.17. The FDCPA required strict compliance; actual confusion on debtors' part was not required);
- m. *Forsberg v. Fid. Nat'l Credit Servs.*, 2004 U.S. Dist. LEXIS 7622 (S.D. Cal. 2004) (Plaintiff alleged sufficient facts to support his claim that a collection company, in its initial communication, did not comply with the

- statutory requirements for notice of validation of debts under the FDCPA);
- n. *Sparrow v. Mazda Am. Credit*, 385 F. Supp. 2d 1063 (N.D. Cal. 2005) (Court struck Defendant's counter claim of the underlying debt in a fair debt action based on lack of subject matter jurisdiction);
 - o. *Geoffroy, et al. v. Washington Mutual Bank*, 484 F. Supp. 2d 1115 (S.D. Cal. 2007) (Court striking down Defendant's arbitration agreement as both procedurally and substantively unconscionable);
 - p. *Yang v. DTS Financial Group*, 07-CV-1731 JLS (WMc) (Holding that for profit debt settlement companies are covered under the FDCPA and can be construed as "debt collectors" under 15 U.S.C. § 1692a(6));
 - q. *Mason v. Creditanswers*, 2008 U.S. Dist. LEXIS 68575 (Holding that a forum selection clause causing a California consumer to litigate its claims seems contrary to the policies advanced by certain consumer protection statutes);
 - r. *Myers v. LHR, Inc.*, 543 F.Supp.2d 1215 (2008) (Recognizing actual and statutory damages in the amount of \$92,000 in a default judgment based on violations of the State and Federal collection statutes);
 - s. *Yates v. Allied Intl Credit Corp.*, 578 F. Supp. 2d 1251 (2008) (Holding a debtors claim based on the FDCPA stemming from the filing of a false police report was not subject to the litigation privilege under Cal. Civ. Code § 47(b));
 - t. *Owings v. Hunt & Henriques, et al.*, 2010 U.S. Dist. LEXIS 91819 (S.D. Cal.) (Recognizing that the Service Members Civil Relief Act applies to California National Guard Members and that the debt collection attorney's false declaration the court violates the FDCPA);

- u. *Heathman v. Portfolio Recovery Assocs., LLC*, 2013 U.S. Dist. LEXIS 98742 (S.D. Cal. 2013) (Holding that failing to properly list and disclose the identify of the original creditor in a state collection pleading is a violation of the Fair Debt Collection Practices Act under 15 U.S.C. § 1692e);
- v. *Stemple v. QC Holdings, Inc.*, 12-cv-01997-BAS-WVG (S.D. Cal. Nov. 7, 2016) (TCPA action finally approved for \$1,500,000);
- w. *Abdeljalil v. GE Capital Retail Bank*, 12-cv-02078-JAH-MDD (S.D. al.) (Class Certification granted and finally approved for \$7,000,000).

Counsel's Experience in Support of Attorneys' Fees Request

- 19. Since my admission to the California bar in 2007, I have been engaged exclusively in the area of consumer rights litigation, primarily in the area of fair debt collections, the defense of debt collection lawsuits, class action litigation under the Telephone Consumer Protection Act, California's invasion of privacy statutes pursuant to Penal Code § 630, *et seq.*, and false advertising actions concerning consumer products.
- 20. The hourly rate for my work in this action is \$450.
- 21. In May of 2017 my hourly rate of \$395 was approved in United States District Court, District of Arizona by the Honorable John J. Tuchi in *Roberts v. Barrett Asset Recovery Services LLC, et al.*, case no 2:16-cv-02809-JJT (Ariz. May 2017 ECF #19).
- 22. In *Pastor v. Bank of America*, United States District Court, Northern District of California case number 3:15-cv-03831-VC, I filed a Motion for Attorneys Fees and Costs in which my hourly rate requested was \$450 per hour. The full amount requested was granted on August 16, 2018, ECF# 84.
- 23. In *Reid v. IC System Inc.* United States District Court, District of Arizona case number 12-cv-02661-ROS I was part of a Motion for Attorneys Fees

and Costs in which my hourly rate requested was \$450 per hour. The full amount requested was granted on July 27, 2018, ECF# 260, whereby Judge Silver stated, “And for this work, counsel’s hourly rates ranged from \$300 to \$550 an hour, which is reasonable for counsel in Arizona performing similar work.”

24. Most recently, in May of 2019, in the case, *Griggs v. Revenue Management Group LLC*, United States District Court, District of Arizona case number 18-cv-02976-GMS, my hourly of \$450 was approved by Judge G. Murray Snow, where he stated, “Plaintiff’s counsel seeks an hourly rate of \$450.00, and given the Plaintiff’s counsel’s training, experience, and skill level, the Court concludes that the hourly rate charged is reasonable and consistent with the prevailing market rate in the area for lawyers of his skill level.”
25. My firm, Kazerouni Law Group, in which I am a partner, has litigated over 2,000 cases in the past 10 years I have been employed as an attorney. My firm has several offices, including in San Diego, California; Riverside, California; Phoenix, Arizona; Boulder, Colorado; Minneapolis, Minnesota; Dallas, Texas; and Las Vegas, Nevada.
26. Kazerouni Law Group has extensive experience in consumer class actions and other complex litigation. My firm has a history of aggressive, successful prosecution of consumer class actions.
27. I have been requested to and have made regular appearances on KFNN 1510 Financial News Radio regarding consumer rights and debt collection laws.
28. I have appeared on KPHO’s Channel 5 10:00 p.m. news program to discuss abusive debt collectors and consumer’s rights.
29. I have appeared on 3TV’s news program to discuss abusive debt collectors and the credit industry.

30. I have appeared on the local NBC affiliate's 12 News to discuss consumer issues including the recent fraud by Wells Fargo Bank.
31. I have given a presentation regarding consumer rights and the military to the Judge Advocates Office at the Marine Corp Air Station Base in Yuma, Arizona.
32. I have undergone extensive training in the area of consumer law. The following is a list of recent training conferences I attended:
 - a. Three-day National Consumer Law Center: Fair Debt Collection Practices Training Conference, in Tucson, AZ - 2007;
 - b. Four-day National Consumer Law Center Conference; Nashville, TN – 2008;
 - c. Three-day National Consumer Law Center Conference; Portland, OR - 2008;
 - d. Three-day National Consumer Law Center Conference; San Diego, CA - 2009.
 - e. Three-day National Consumer Law Center: Fair Debt Collecting Training Conference in Seattle, WA in March 2011;
 - f. Three-day National Consumer Law Center: Fair Debt Collecting Training Conference in New Orleans, LA in March 2012;
 - g. Four-day National Consumer Law Center Conference; Seattle, WA – October, 2012;
 - h. Three-day National Consumer Law Center: Fair Debt Collection Practices Training Conference, in Baltimore, MD - March 2013;
 - i. Three-day National Consumer Law Center: Fair Debt Collection Practices Training Conference, in San Antonio, Tx - March 2014.
 - j. Consumer Attorneys Association of Los Angeles, Annual Convention; Las Vegas, NV – September 2014;

- k. Four-day National Consumer Law Center Conference; Tampa, FL – November, 2014;
 - l. Three-day National Consumer Law Center: Fair Credit Reporting Act Training Conference, in Las Vegas, NV - May 2015;
 - m. Consumer Attorneys Association of Los Angeles, Annual Convention; Las Vegas, NV – September 2015;
 - n. Four-day National Consumer Law Center Conference; San Antonio, TX – November, 2015;
 - o. Three-day National Consumer Law Center: Fair Debt Collection Practices Training Conference, in Miami, FL - March 2016;
 - p. Four-day National Consumer Law Center Conference; Anaheim, CA – October 2016.
33. I am a member in good standing of the following local and national associations:
- a. National Association of Consumer Advocates;
 - b. Federal Bar Association,;
 - c. Maricopa County Bar Association;
34. I have been preliminarily approved as Class Counsel in this matter.

Attorneys' Fees and Costs Incurred

35. I respectfully submit that this firm utilized skill, careful and thorough preparation and investigation through litigation to reach a favorable result for the Plaintiff. After carefully reviewing my firm's billing records, I determined that the fees were reasonably incurred in litigating this case to a successful resolution.
36. I billed 181.7 hours at a rate of \$450 per hour for work on this case for a total of \$80,013.00.
37. A reduction of approximately 20 hours was taken at arriving at these

numbers including: reducing the hours billed sending and receiving of emails, for reviewing documents, corresponding with the client, co-counsel, phone calls, clerical work, messages, etc. I reduced the amount based on reasonable billing discretion.

38. The billing for my hours in this case was fair and reasonable based on the novel and complex issues addressed over nearly three years of litigation.

39. My office has incurred a total of \$22,684.62 in costs to date for this entire action. That amount represents a filing fee, process server fees, travel expenses for numerous depositions, and court hearings, printing, and mailing costs.

40. The total amount of fees my office seeks with a 1.5 multiplier is **\$177, 801**.

41. Attached to Plaintiff's Motion as "Exhibit B", is a true and correct copy of Kazerouni Law Group's Fees and Costs Report for the instant action detailing all attorney's fees and costs incurred successfully litigating this action through the date of Plaintiffs' Motion for Attorney's Fees and Costs.

I declare under penalty of perjury under the laws of the State of Utah that the foregoing is true and correct and that this declaration was signed on February 28, 2020 in Phoenix, Arizona.

Dated: February 28, 2018

Respectfully submitted,

/s/ David J. McGlothlin
DAVID J. MCGLOTHLIN, ESQ.
ATTORNEY FOR PLAINTIFF

David J. McGlothlin, Esq. (admitted pro hac vice)
david@kazlg.com
Ryan L. McBride, Esq. (SBN 297557)
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Attorneys for Plaintiff

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH**

**AIMEE MORRISON, ON BEHALF
OF HERSELF AND OTHERS
SIMILARLY SITUATED,**

Plaintiff,

v.

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MANAGEMENT SOLUTIONS,**

Defendant.

**DECLARATION OF RYAN L.
MCBRIDE IN SUPPORT OF
PLAINTIFF'S MEMORANDUM
OF POINTS AND AUTHORITIES
IN SUPPORT OF MOTION FOR
ATTORNEYS' FEES, COSTS,
AND INCENTIVE PAYMENT**

Case No.: 1:17-cv-0051-CW-EJF

DECLARATION OF RYAN L. MCBRIDE

I, Ryan L. McBride hereby declare under penalty of perjury that the following is true and correct:

1. I have personal knowledge of the following facts and, if called as a witness, would testify as follows.
2. I am one of the Plaintiffs' co-counsel in this action and make this declaration in support of Plaintiff's Motion for Attorney's Fees and Costs.
3. A detailed time log describing the work I completed on this case is attached

as “Exhibit B.”

Procedural History

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5. Plaintiff, through a process server, served the Complaint upon Defendant on July 6, 2017.
6. Defendant filed an Answer on July 27, 2017.
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communicating with Plaintiff's counsel throughout the litigation.

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15. On all FDCPA cases Kazerouni Law Group represents consumers on a contingency fee, funding all litigation costs, and usually waiting a considerable amount of time before being paid for services.

16. A brief summary of a non-inclusive list of notable decisions are as follows:

- a. *Knell v. FIA Card Services, N.A., et al.*, 12-CV-426 AJB(WVG)(S.D. Cal. 2014) (Co-lead counsel on a California class action involving privacy rights under Cal. Penal Code § 632 et seq. Class relief provided for a common fund in the amount of \$2,750,000. Counsel obtained final approval on August 15, 2014);
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- c. *Zaw v. Nelnet Business Solutions, Inc., et al.*, C 13-05788 RS (N.D. Cal. 2014) (Co-lead counsel on a California class action involving privacy rights under Cal. Penal Code § 632 et seq. Class relief provided for a

- common fund in the amount of \$1,188,110. Final approval granted on December 1, 2014);
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 - f. *Engelen v. Erin Capital Management, LLC*, et al., No. 12-55039 (9th Cir. 2013, not for publication, D.C. No.: 3:10-cv-01125-BEN-RBB) (Reversing the lower court's granting of summary judgment to the defendant debt collector on the basis of the bona fide error defense and remanding for further proceedings);
 - g. *Sherman v. Yahoo!, Inc.*, 2014 U.S. Dist. LEXIS 13286; 13-CV-0041-GPC-WVG (S.D. Cal.) (TCPA class action where Defendant's motion for summary judgment was denied holding that a single call or text message with the use of an ATDS may be actionable under the TCPA);
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 - m. *Forsberg v. Fid. Nat'l Credit Servs.*, 2004 U.S. Dist. LEXIS 7622 (S.D. Cal. 2004) (Plaintiff alleged sufficient facts to support his claim that a collection company, in its initial communication, did not comply with the statutory requirements for notice of validation of debts under the FDCPA);
 - n. *Sparrow v. Mazda Am. Credit*, 385 F. Supp. 2d 1063 (N.D. Cal. 2005) (Court struck Defendant's counter claim of the underlying debt in a fair debt action based on lack of subject matter jurisdiction);

- o. *Geoffroy, et al. v. Washington Mutual Bank*, 484 F. Supp. 2d 1115 (S.D. Cal. 2007) (Court striking down Defendant’s arbitration agreement as both procedurally and substantively unconscionable);
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- q. *Mason v. Creditanswers*, 2008 U.S. Dist. LEXIS 68575 (Holding that a forum selection clause causing a California consumer to litigate its claims seems contrary to the policies advanced by certain consumer protection statutes);
- r. *Myers v. LHR, Inc.*, 543 F.Supp.2d 1215 (2008) (Recognizing actual and statutory damages in the amount of \$92,000 in a default judgment based on violations of the State and Federal collection statutes);
- s. *Yates v. Allied Intl Credit Corp.*, 578 F. Supp. 2d 1251 (2008) (Holding a debtors claim based on the FDCPA stemming from the filing of a false police report was not subject to the litigation privilege under Cal. Civ. Code § 47(b));
- t. *Owings v. Hunt & Henriques, et al.*, 2010 U.S. Dist. LEXIS 91819 (S.D. Cal.) (Recognizing that the Service Members Civil Relief Act applies to California National Guard Members and that the debt collection attorney’s false declaration the court violates the FDCPA);
- u. *Heathman v. Portfolio Recovery Assocs., LLC*, 2013 U.S. Dist. LEXIS 98742 (S.D. Cal. 2013) (Holding that failing to properly list and disclose the identify of the original creditor in a state collection pleading is a violation of the Fair Debt Collection Practices Act under 15 U.S.C. § 1692e);

- v. *Stemple v. QC Holdings, Inc.*, 12-cv-01997-BAS-WVG (S.D. Cal. Nov. 7, 2016) (TCPA action finally approved for \$1,500,000);
- w. *Abdeljalil v. GE Capital Retail Bank*, 12-cv-02078-JAH-MDD (S.D. al.) (Class Certification granted and finally approved for \$7,000,000).

Counsel's Experience in Support of Attorneys' Fees Request

- 17.I practice law full time as a private consumer rights plaintiff's attorney and am the Managing Associate Attorney at Kazerouni Law Group in Arizona.
- 18.I am licensed in Washington, Arizona, Utah, California, and Florida.
- 19.My primary responsibilities include managing the Arizona and Utah offices, which includes handling cases and attorney responsibilities within those two states.
- 20.I regularly manage and supervise other associates and staff within our firm, assigning projects and giving advice.
- 21.I was primarily responsible for opening our office in Phoenix, Arizona, and developing this location's caseload in 2015.
- 22.Kazerouni Law Group's and my practice is substantially devoted to consumer rights and the litigation of Federal Fair Debt Collection Practices Act matters.
- 23.I have worked for this firm for over four years and as an attorney since 2014.
- 24.I have undergone extensive training in the area of the fair debt collection practices. The following is a list of recent training conferences:

Three-day National Consumer Law Center: Fair Credit Reporting Act Training Conference, in Las Vegas, NV - May 2015;

Four-day National Consumer Law Center Conference; San Antonio, TX – November, 2015;

Three-day Mass Torts Made Perfect Conference; Las Vegas, Nevada

– April 2019.

Three-day Fair Credit Reporting Act Conference; Long Beach, CA –
May 2019.

25. Plaintiffs' counsel's hourly rates include many factors beyond personal compensation, including non-billed office personnel, equipment, insurance, research materials, office and other overhead expenses. FDCPA litigation inevitably involves large corporations, which have the capacity to bring enormous resources to bear that individual consumers are simply unable to meet on their own.
26. Collection companies vigorously resist settling cases, and as here, at times refuse to file any responsive pleading in response to our Complaint. If plaintiff's attorneys are not compensated at a rate that allows them to maintain the technological – as well as intellectual and professional resources – to match corporate defendants' exhaustive resources, consumers simply cannot prevail. Few attorneys have the means and ability to take these cases, and if those that do so are not compensated at a rate that allows them the chance of prevailing on behalf of consumers, these cases will not be brought, and the remedial purpose of this legislation will fail.
27. Unfortunately, there are very few attorneys who regularly represent plaintiffs in cases involving the FDCPA. This is most likely due to the specialized and complex nature of the statute and case law and due to the relative financial resources of the respective parties, whereby the consumer is often forced to “match resources” with the defendant and litigate his or her rights up to – and sometimes through – trial.
28. The average consumer does not have funds to litigate this type of case. Therefore, in further justification of our fees, I note that we take such cases

(this case included) on a contingency fee basis, advance all litigation costs and do not charge the consumer one penny up front. If the case is lost, we do not get paid. This alone would justify a fee rate well in excess of the fees we charge for doing hourly work.

29. My firm's fees are based on our experience, our proficiency, and our winning track record.
30. In the last year I have represented consumers charging them hourly for my services. For my services I charged, and my clients agreed to pay, \$350 per hour for my work.
31. On February 18, 2020, Judge Thomas S. Zilly, of the Western District of Washington, approved my request for \$350 per hour for attorney's fees in an FDCPA case, *Sylvester v. Merchants Credit Corporation*, case number 2:17-cv-00168-TSZ.
32. On October 28, 2019, Judge Bastian of the Eastern District of Washington approved my request for \$350 per hour for attorney's fees in an FDCPA case, *McGilvra v. Abbott & Rose Associates, LLC*, case number 2:19-cv-00106.
33. In *Pastor v. Bank of America*, United States District Court, Northern District of California case number 3:15-cv-03831-VC, I filed a Motion for Attorneys Fees and Costs in which my hourly rate requested was \$300 per hour. The full amount requested was granted on August 16, 2018, ECF# 84.
34. In February of 2018 my hourly rate of \$300 was approved by Arbitrator Marc Kalish through the American Arbitration Association in *Larranaga v. Eveland Sales Inc.*, case no 01-17-0000-4724.
35. Additionally, I am routinely retained to defend consumers on debt defense cases and am compensated by my clients at a rate of up to \$350 per hour.
36. Furthermore, during the litigation of this matter, I regularly consulted with

the senior partners of the firm, and had the benefit of their experience in bringing this matter to a successful conclusion, without having Plaintiffs incur attorneys fees at the higher rate charged by the partners.

37.I have been preliminarily approved as Class Counsel in this matter.

Attorneys' Fees and Costs Incurred

38.I respectfully submit that this firm utilized skill, careful and thorough preparation and investigation through litigation to reach a favorable result for the Plaintiff. After carefully reviewing my firms billing records, I determined that the fees were reasonably incurred in litigating this case to a successful resolution.

39.I billed 107.9 hours at a rate of \$350 per hour for work on this case for a total of \$37,765.00.

40.A reduction of approximately 10 hours was taken at arriving at these numbers including: reducing the hours billed for reviewing documents, researching various issues of the case and motions, corresponding with the client, co-counsel, phone calls, clerical work, emails, messages, etc. I reduced the amount based on reasonable billing discretion.

41.The billing for my hours in this case was fair and reasonable based on the novel and complex issues addressed over nearly three years of litigation.

42.My office has incurred a total of \$118,534 in costs for this entire action. That amount represents a filing fee, traveling to numerous depositions, hearings, a settlement conference, process server fees, printing, and mailing costs.

43.The total amount of fees my office seeks is **\$177,801**.

44.Attached to Plaintiff's Motion as "Exhibit B", is a true and correct copy of Kazerouni Law Group's Fees and Costs Report for the instant action detailing all attorney's fees and costs incurred successfully litigating this

action through the date of Plaintiffs' Motion for Attorney's Fees and Costs.

I declare under penalty of perjury under the laws of the State of Utah that the foregoing is true and correct and that this declaration was signed on February 28, 2020 in Phoenix, Arizona.

Dated: February 28, 2020

Respectfully submitted,

/s/ Ryan L. McBride
RYAN L. MCBRIDE, ESQ.
ATTORNEY FOR PLAINTIFF

Exhibit A



1650 ARCH STREET • SUITE 2210 • PHILADELPHIA, PA 19103
PHONE 215.563.4116 • FAX 215.525.0209 • INVOICES@ANGEIONGROUP.COM

ISSUED TO: Express Recovery Services, Inc. DBA Clean Management Solutions
c/o Patricia Jo Stone, P.C.
19751 E. Mainstreet
Parker, CO 80138

INVOICE DATE: 2/28/2020

INVOICE NUMBER: NY004187

CASE NAME: *Morrison v. Clear Management Solutions*

DEPARTMENT NUMBER: 3451

TERMS OF PAYMENT: Due Upon Receipt

DESCRIPTION OF SERVICES	VOLUME	QUANTITY	PER UNIT PRICE	TOTAL
Processing Undeliverable Direct Mail Notices				
Set up, formatting and proofing the postcard notice remails	Per Hour	1.50	█ \$	█
Process notices returned as undeliverable	Per Notice	2,500	█ \$	█
Address Verification (Skip tracing)	Per Hit	1,750	█ \$	█
Print returned notices & notices that have a forwarding address	Per Notice	1,946	█ \$	█
Postage for remails and forwards	Per Notice	1,946	█ \$	█
Processing Notice Requests and Class Member Correspondence				
Receive and respond to requests for Long Form Notice	Per Notice	2	█ \$	█
Class Member correspondence	Per Hour	10.68	█ \$	█
Special letters to Class Members	Per Letter	2	█ \$	█
Postage for special letters to Class Members	Per Letter	2	█ \$	█
Website Requirements				
Monthly maintenance/monthly hosting fee	Per Month	10	█ \$	█
Revisions to website subsequent to set-up	Per Hour	5.00	█ \$	█

DESCRIPTION OF SERVICES	VOLUME	QUANTITY	PER UNIT PRICE	TOTAL
Call Center Requirements				
Monthly maintenance fee	Per Month	10	█	\$ █
Angeion Reporting Requirements				
Drafting court documents, affidavits, status reports and opt out reports to counsel	Per Hour	18	█	\$ █
Additional reporting	Per Hour	1.39	█	\$ █
Process Opt Outs and Objections				
Review and process Opt Outs received	Per Letter	5	█	\$ █
Review and process Objections received	Per Letter	1	█	\$ █
Tax Return				
Tax return for the QSF	Per Return	1	█	\$ █
Cy pres Distribution	Per Hour	3.50	█	\$ █
Document Intake				
Scanning of all documents	Per Page	209	█	\$ █
Document Storage	Per Box/Month	8	█	\$ █
Image Storage	Per Image/Month	209	█	\$ █

Subtotal:	\$ 13,704.45
Sales Tax:	\$ -
Payments/Credit Applied:	\$ -
Total Due:	\$ 13,704.45

Exhibit B

Fees Report for Aimee Morrison v. Clear Management Solutions

Kazerouni Law Group APC	\$118,534.00
David J. McGlothlin, ATTORNEY (AT \$450.00 per hr.)	
<i>March 20, 2017</i>	
Review and finalize complaint. Approve for filing.	0.80 hrs.
<i>April 11, 2017</i>	
Review complaint, discuss case with RLM	0.30 hrs.
<i>June 23, 2017</i>	
Discuss service date with Ryan. He notified process server to have served.	0.00 hrs.
<i>July 3, 2017</i>	
Sent RM an email re: service.	0.20 hrs.
<i>August 1, 2017</i>	
Reviewed 26f, discuss case strategy with Ryan. Need to move class cert deadline	0.20 hrs.
Review answer, research issue, reivew court notice	0.80 hrs.
<i>August 23, 2017</i>	
Review and approve stip	0.00 hrs.
Reviewed 26f report, stip regarding class cert.	0.40 hrs.
<i>August 24, 2017</i>	
Discuss case with Ryan	0.00 hrs.
<i>September 1, 2017</i>	
Review, edit discovery requests.	0.80 hrs.
<i>September 13, 2017</i>	
Discuss scheduling hearing with RLM.	0.20 hrs.
<i>September 15, 2017</i>	
reviewed first set of discovery, reviewed entire case file. Drafted second set of discovery sent to Ryan.	1.60 hrs.
Discussion with Ryan regarding case and case strategy.	0.00 hrs.
<i>October 16, 2017</i>	
Review D's discovery responses, and edits to written discovery.	1.90 hrs.
<i>October 31, 2017</i>	
Review MSJ. Read Garner v. Select Profolio regarding default issue.	1.20 hrs.
<i>November 9, 2017</i>	
Case strategy meeting with RLM. Discuss MSJ, issue of default, missing discovery, 56d oppo, need for deposition, deposition topics, case deadlines, other issues.	1.20 hrs.
<i>November 17, 2017</i>	
Revisions to MSJ. Researched default issue.	1.50 hrs.
Emails regarding case	0.00 hrs.
<i>November 20, 2017</i>	
Revisions to MSJ. Discuss with RLM. Discuss discovery plan.	0.60 hrs.
<i>December 12, 2017</i>	
Reviewed reply to MSJ. Discuss case with RLM- Update client	0.50 hrs.
<i>December 20, 2017</i>	
Review court notice, Hearing set, discuss with RLM	0.00 hrs.

Fees Report for Aimee Morrison v. Clear Management Solutions

<i>January 8, 2018</i>		
	Drafted Pro hac, sent to Ryan	0.50 hrs.
<i>January 9, 2018</i>		
	Order granting PHV	0.00 hrs.
<i>January 15, 2018</i>		
	Start prepping for 30b6 depo and depo of original creditor.	3.50 hrs.
<i>January 16, 2018</i>		
	Travel to and prep for depositions.	2.80 hrs.
<i>January 17, 2018</i>		
	Take deposition of D's 30b6 and 30b6 of original creditor.	6.00 hrs.
	Travel home from depositions.	2.50 hrs.
<i>January 31, 2018</i>		
	Begin research for class cert. Review 6 FD CPA class actions, mostly within 10th circuit	2.60 hrs.
	Start draft of class cert motion.	2.50 hrs.
<i>February 2, 2018</i>		
	Emails on case	0.00 hrs.
<i>February 20, 2018</i>		
	Travel to and defend depositions of Plaintiff and her husband.	7.00 hrs.
<i>February 21, 2018</i>		
	Travel home from depositions, email to OC about amended MSJ oppo, start researching oppo and issue of Utah interest rate during flight home.	3.10 hrs.
<i>February 26, 2018</i>		
	Work on class cert motion, send draft to Ryan for input.	2.10 hrs.
<i>February 27, 2018</i>		
	Review Ryan's redlines. continue working on motion.	1.20 hrs.
<i>February 28, 2018</i>		
	Research case law on default.	2.50 hrs.
	Finalize motion, plug in exact citations to the various exhibits, gather and attach supporting exhibits, edit and approve supporting declarations. E-file	3.10 hrs.
<i>March 1, 2018</i>		
	Continued researching Amended MSJ oppo and our MSJ. Statutory background, least sophisticated consumer standard applicable to this case, default issue	1.20 hrs.
	Research Utah pre-judgment tax issue for Amended MSJ oppo	1.60 hrs.
	Worked on Amended MSJ oppo, focus on legal arguments.	3.40 hrs.
	Soft File Created	0.00 hrs.
<i>March 6, 2018</i>		
	Emails to and from co-counsel	0.00 hrs.
<i>March 8, 2018</i>		
	Continue working on Amended MSJ oppo, gather supporting exhibits. stmt of controverting facts. Send to Ryan to proof read	4.00 hrs.

Fees Report for Aimee Morrison v. Clear Management Solutions

<i>March 9, 2018</i>	Finalize Amended MSJ oppo, supporting declarations, exhibits, etc. Inc Ryan's changes. E-file	2.80 hrs.
<i>March 15, 2018</i>	Review the Plaintiff MSJ, last minute revisions, switch around argument, approve for Ryan to file	1.30 hrs.
<i>March 16, 2018</i>	Emails on case	0.00 hrs.
<i>March 22, 2018</i>	Review D's Class cert opposition, start researching issues he raised.	2.10 hrs.
<i>March 23, 2018</i>	Outline Reply brief, start drafting	1.20 hrs.
<i>March 29, 2018</i>	Finish draft of cert reply brief, send to Ryan to review	3.20 hrs.
<i>April 4, 2018</i>	Finalize and e-file class cert reply brief	1.90 hrs.
<i>April 9, 2018</i>	Review D's opposition to P's MSJ. Outline arguments in response	1.70 hrs.
<i>April 20, 2018</i>	Reviewed reply brief. Added in one argument, revised a section. Approved for e-filing	1.60 hrs.
	Review reply on P's MSJ from Ryan. Edit, redline, discuss with Ryan. Approve to e-file after changes are made.	1.40 hrs.
<i>June 18, 2018</i>	Start preparation for upcoming hearing. Direct paralegals to prepare binders, discuss strategy and pleadings with Ryan.	0.90 hrs.
<i>June 26, 2018</i>	Prepare for MSJ/Class cert hearing- outline verbal arguments, read all briefing.	4.30 hrs.
<i>June 28, 2018</i>	Travel to- attend- and then travel back from MSJ/Class Cert hearing. Prepare for hearing during trip out. Outline case strategy moving forward and update co-counsel during trip back.	7.00 hrs.
<i>July 31, 2018</i>	Depo Invoice- Sent to accounting to pay.	0.00 hrs.
<i>September 17, 2018</i>	Reviewed motion to amend to correct name. Discussed with McBride. He e-filed motion today.	0.20 hrs.
<i>January 14, 2019</i>	Review orders granting MSJ and class cert. Discuss with co-counsel. Update client. Approve FAC	2.20 hrs.
<i>January 21, 2019</i>	Review D's motion to appeal. Research issue to determine if we should file an opposition. Reviewed several decisions. Then Discussed strategy with co-counsel, decide to just let the judge rule	2.70 hrs.

Fees Report for Aimee Morrison v. Clear Management Solutions

<i>May 9, 2019</i>	Review Court orders, emails with OC	0.30 hrs.
<i>May 10, 2019</i>	Call with OC.	0.00 hrs.
<i>May 13, 2019</i>	Research idea of cy pres receipt for settlement. Begin draft of settlement conference brief. Speak to OC about excusing client's attendance	1.80 hrs.
<i>May 14, 2019</i>	Discuss case and strategy with co-counsel. Finalize settlement conference brief.	1.50 hrs.
<i>May 29, 2019</i>	Review case status. Discussions with client regarding attendance at settlement conference. Email court clerk about issue. Review response from Magistrate Judge. Inform co-counsel and client.	1.00 hrs.
<i>June 24, 2019</i>	Prepared for settlement conference with RLM. Check procedural history, re-review MSJ/Cert orders, outline plan to settle, research an issue	3.00 hrs.
<i>June 25, 2019</i>	Enter time for traveling to- attending- and traveling home to AZ for settlement conference.	9.00 hrs.
<i>July 17, 2019</i>	Review case status. Email OC for settlement agreement	0.00 hrs.
<i>July 18, 2019</i>	Email from OC with initial draft of settlement. Brief preliminary review. Appears to be based on a template from an individual settlement, missing several topics that need to be covered in a class settlement	0.60 hrs.
<i>July 22, 2019</i>	Revisions to settlement agreement. Decided to start over with my own format and agreement and incorporate Lico's language as much as possible. (4.4 hours, reduced by .4) Email to co-counsel for their input. Then email OC asking about requesting more time. (.2)	4.20 hrs.
<i>July 24, 2019</i>	Draft joint motion to continue date. Final edits to our first draft of SA.	0.80 hrs.
<i>July 25, 2019</i>	Review edits to joint motion from OC. Approve and e-file	0.30 hrs.
<i>August 13, 2019</i>	Start draft of motion for preliminary approval, research various issues, best method of notice, neutral mediation, further cy pres research	3.80 hrs.
<i>August 14, 2019</i>	Start outlining actual motion. Draft intro, facts, standard.	2.20 hrs.
<i>August 15, 2019</i>	Draft notices. Long form notice and post card notice.	3.30 hrs.
	Review case. Then Email to OC to set up call to discuss settlement.	0.20 hrs.
<i>August 16, 2019</i>	Continue working on draft of preliminary approval motion. Fill in most of details from section IV Settlement section	2.70 hrs.

Fees Report for Aimee Morrison v. Clear Management Solutions

<i>August 19, 2019</i>	
Finish first draft of motion. Completed legal analysis section. Discussed various things with co-counsel. Researched a couple small issues.	4.10 hrs.
Review email from OC, sent him a response	0.00 hrs.
<i>August 21, 2019</i>	
Call to OC regarding settlement, email OC, revise settlement agreement	1.30 hrs.
<i>August 26, 2019</i>	
Finalize my portions of preliminary approval motion. Draft supporting declaration. Discuss final pieces and filing of motion with paralegal	2.10 hrs.
Review settlement agreement. Emails with opposing counsel. Final changes, review his edits.	0.80 hrs.
<i>August 27, 2019</i>	
Review and agree on final version of settlement agreement. Discuss with co-counsel. Then discuss with client, get her signature.	0.80 hrs.
<i>August 28, 2019</i>	
Several emails with co-counsel, then OC, review status of everything. (.8 then reduced)	0.40 hrs.
<i>August 29, 2019</i>	
Review Court order, emails with OC on settlement agreement signatures.	0.00 hrs.
<i>November 20, 2019</i>	
Order from Court regarding hearing. Meet with co-counsel to determine who is attending. Calendar dates. Inform client.	0.00 hrs.
<i>December 17, 2019</i>	
prepare for final approval hearing. Review supreme court cy pres case, prepare for oral arguments in support.	3.00 hrs.
<i>December 18, 2019</i>	
Travel to preliminary approval hearing. Last minute review of documents, briefing during travels.	2.50 hrs.
Attend preliminary approval hearing.	0.50 hrs.
Travel from preliminary approval hearing	2.50 hrs.
<i>December 27, 2019</i>	
Review case, notes from hearing, research remedies to get exact language, revise notices, prepare court pleadings related to the long form notice	2.20 hrs.
<i>January 2, 2020</i>	
Email from clerk, review motion, calculate deadlines, respond to Court clerk. Then contact claims admin regarding case. Then emailed OC regarding class list.	0.70 hrs.
Meetings, emails with claims admin, provide notice docs., review Court orders to ensure compliance.	0.90 hrs.
Court granted preliminary approval. Review Court order. Calendar dates. Discuss with claims admin and co-counsel	0.40 hrs.
<i>January 6, 2020</i>	
Claims admin raised CAFA issue. We believed it was not applicable. Start researching this issue.	2.80 hrs.
Determine Defendant probably should have complied with CAFA but did not. Research implications of non-compliance. Conclusion reached, non-compliance shouldn't be big problem because AGs still have 90 days before final approval.	1.30 hrs.

Fees Report for Aimee Morrison v. Clear Management Solutions

<i>January 7, 2020</i>	
Emails with claims admin and OC regarding class size, and CAFA obligations. Meeting with co-counsel to discuss and strategize on these two issues.	1.00 hrs.
<i>January 8, 2020</i>	
Email from Defendant regarding his proposed CAFA notice. Research into requirements of content of notice. Several topics needed. Email initial response to OC and then complete research to ensure his letter is for sure in compliance.	1.20 hrs.
<i>January 9, 2020</i>	
Email from claims admin.	0.00 hrs.
<i>January 10, 2020</i>	
Research regarding class list change. Meeting with co-counsel. Determine we should notify Court. Email explaining our position to opposing counsel.	1.50 hrs.
Email to OC, then Call from OC to discuss class size issue, we decide to just call Court clerk together and get some guidance	0.50 hrs.
Email from Court clerk instructing us to file joint motion	0.00 hrs.
<i>January 14, 2020</i>	
Emails to and from OC regarding joint motion. He wants me to draft it. Start researching issues for class size analysis and CAFA	1.30 hrs.
<i>January 15, 2020</i>	
Start researching and drafting supplemental motion. Review discovery, identify exhibits for paralegal to attach, request declaration from opposing counsel.	2.10 hrs.
Call with claims administrator, discuss timing of notice, issues with duplicates in class size, website, CAFA issues. Update co-counsel after call. Email to claims admin and OC.	0.90 hrs.
<i>January 16, 2020</i>	
Email to OC about Joint motion.	0.00 hrs.
Meeting with co-counsel to discuss claim admin issues, and supplemental filings. (.4) Then complete first draft of motion. Email to OC. 1.8	2.20 hrs.
<i>January 21, 2020</i>	
Finalize and file Joint memorandum, gather and attach supporting documentation, communicate with claims administrator	1.70 hrs.
<i>January 22, 2020</i>	
Review Court's order, alert claims administrator	0.30 hrs.
<i>January 23, 2020</i>	
Communicate with claims administrator. Review and approve notices, post card, website. Compare to court orders.	2.80 hrs.
<i>January 31, 2020</i>	
communicate with claims administrator, review everything again. Make sure in compliance with court order.	1.50 hrs.
<i>February 3, 2020</i>	
Review claims admin website. Navigate site, test all documents are viewable, review. Discuss with co-counsel.	1.10 hrs.
<i>February 19, 2020</i>	
call with class member, explain settlement and process	0.40 hrs.

Fees Report for Aimee Morrison v. Clear Management Solutions

February 26, 2020

Review and revise motion for attorney fees. Suggest further arguments to be made to Ryan	2.10 hrs.
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February 28, 2020

Final review of motion for attorneys fees, supporting documents, draft and finalize declaration.	3.80 hrs.
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David J. McGlothlin, In Summary:	\$80,013.00	181.70 hrs.
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Ryan L. McBride, ATTORNEY (AT \$350.00 per hr.)

March 16, 2017

Research and draft complaint, speak with client. Discuss class allegations with Partner.	3.30 hrs.
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April 11, 2017

Filed complaint	0.60 hrs.
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July 14, 2017

Filed POS, D was served on July 6th, Motion to Certify is Due OCTOBER 3rd	0.20 hrs.
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August 1, 2017

Drafted 26f report, to DJM for review	0.80 hrs.
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August 2, 2017

Meet and Confer with OC, he agreed to motion for cert being due at the end of the discovery period	0.40 hrs.
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August 10, 2017

Drafted 26f report, to OC for changes	1.20 hrs.
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August 11, 2017

Sent in mag. consent form via email to clerk	0.00 hrs.
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August 23, 2017

Finalized and filed attorney planning meeting report and proposed scheduling order	0.80 hrs.
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Drafted stip. for extension of time to file cert. motion, to DJM for review	0.40 hrs.
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August 24, 2017

Drafted and filed Motion for ext. of class cert. deadline	0.80 hrs.
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September 1, 2017

Drafted discovery and mailed to OC	2.70 hrs.
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September 12, 2017

Drafted initial disclosures. Emailed and Mailed to OC	1.10 hrs.
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October 5, 2017

Received produced docs in response to RFPs from D	0.20 hrs.
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October 13, 2017

Reviewed D's responses, need to send M & C	1.50 hrs.
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Revised set 2 discovery, to DJM for review	1.20 hrs.
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October 20, 2017

Revised and mailed 2nd set of discovery to OC	0.50 hrs.
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October 26, 2017

OC filed MSJ, asked to stay discovery. I rejected his request, and said that we needed responses to discovery to respond to the MSJ	0.30 hrs.
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Fees Report for Aimee Morrison v. Clear Management Solutions

<i>November 9, 2017</i>	
Email to OC RE need more information to oppose MSJ. Want a 30b6 and financial responsibility document. Asked to extend time to respond until after 30b6 depo	0.80 hrs.
<i>November 14, 2017</i>	
Drafted opp. to MSJ, still need to finish	3.20 hrs.
<i>November 15, 2017</i>	
Continued to draft opp. to MSJ. Still need to finish	2.50 hrs.
<i>November 17, 2017</i>	
drafted MSJ and sent to DJM for review	1.20 hrs.
<i>November 18, 2017</i>	
Made revisions to Opp. to MSJ, to DJM for review	1.20 hrs.
<i>November 20, 2017</i>	
Discuss case with David	0.00 hrs.
Drafted depo notice to D's 30b6. Sent to OC	1.40 hrs.
Revised and filed opp. to MSJ	2.50 hrs.
<i>December 12, 2017</i>	
Received Reply to MSJ. Reviewed	0.90 hrs.
<i>December 20, 2017</i>	
MSJ hearing schedule. Discuss with DJM	0.00 hrs.
<i>December 22, 2017</i>	
Need to file certificate of discovery. Need to also Mail certificate and depo notices to OC	0.00 hrs.
<i>January 4, 2018</i>	
Meet and confer email to OC RE depo topics and dates	0.80 hrs.
<i>January 5, 2018</i>	
Received discovery responses from UIA, I need to review	0.00 hrs.
<i>January 8, 2018</i>	
Sent depo notices to Veritext to set up depositions	0.30 hrs.
Revised and filed PHV application for DJM	0.50 hrs.
<i>January 17, 2018</i>	
Attended depositions of 30b6 for CMS and UIA	6.20 hrs.
<i>February 2, 2018</i>	
reviewed stip to push discovery, made redlines and sent back	0.50 hrs.
<i>February 27, 2018</i>	
Reviewed class cert motion, researched issue discussed with David. Made redlines. Sent back to DJM	3.20 hrs.
<i>February 28, 2018</i>	
Drafted declaration. Revised DJM declaration	1.50 hrs.
<i>March 1, 2018</i>	
Reviewed opp. to MSJ, sent to DJM	1.00 hrs.
<i>March 5, 2018</i>	
Worked on MSJ, still need to finish	6.20 hrs.

Fees Report for Aimee Morrison v. Clear Management Solutions

<i>March 8, 2018</i>	Review Amended MSJ oppo, gave David some suggestions, redlined.	1.10 hrs.
<i>March 14, 2018</i>	Revised MSJ, need to finish still	1.50 hrs.
<i>March 15, 2018</i>	Revised MSJ and created exhibits and appendix. Will review one more time tomorrow morning and file	2.10 hrs.
<i>March 16, 2018</i>	Revised MSJ and filed. Sent to Lili to mail to judge and OC	1.00 hrs.
<i>April 2, 2018</i>	Mark up class cert reply brief, give back to David	1.50 hrs.
<i>April 16, 2018</i>	Drafted Reply. Still need to finish	4.50 hrs.
<i>April 20, 2018</i>	Revised Reply. to DJM for review	2.00 hrs.
	Filed reply to P's MSJ. Sent to Lili for mailing	0.50 hrs.
<i>June 27, 2018</i>	Meet with DJM. Discuss case strategy, help prep arguments for hearing	1.20 hrs.
<i>September 14, 2018</i>	Researched and drafted motion to amend to correct name	4.00 hrs.
<i>October 29, 2018</i>	Drafted reply to motion to amend. To DJM for review	1.90 hrs.
	Finalized and filed Reply to motion to amend	0.50 hrs.
<i>January 14, 2019</i>	Court granted our motion to amend. I revised and filed FAC	0.50 hrs.
	Judge granted MSJ and class cert. Reviewed and discussed with co-counsel	1.50 hrs.
<i>June 17, 2019</i>	Discussed case strategy with DJM	0.40 hrs.
	Booked travel for settlement conference	0.00 hrs.
<i>June 24, 2019</i>	Prepared for settlement conference	2.50 hrs.
<i>June 25, 2019</i>	Attended settlement conference	3.00 hrs.
	Came to a settlement. \$18k to class, \$2k to class rep. Parties will propose to give to Cy Pres.	0.30 hrs.
<i>August 21, 2019</i>	Reviewed and redlined long form notice and post card notice	0.90 hrs.
	Reviewed and redlined Settlement agreement and motion for preliminary approval	3.20 hrs.
<i>January 16, 2020</i>	Reviewed and redlined Supplemental approval pleading and sent back to DJM	0.40 hrs.
<i>January 23, 2020</i>	Reviewed short and long form notice. Sent DJM my redlines	0.90 hrs.

Fees Report for Aimee Morrison v. Clear Management Solutions

<i>February 6, 2020</i>		
Calls with several class members explaining case		0.60 hrs.
<i>February 12, 2020</i>		
Calls with class members		0.90 hrs.
<i>February 18, 2020</i>		
Reviewed orders and motions. Atty fee petition is due 30 days before objections deadline according to our motion. The objection deadline is the same deadline as the last day to make a claim. Claims cannot be made in this case. The last day to exclude yourself is the same as the objection deadline. Final approval hearing is June 4, 2020.		0.50 hrs.
<i>February 20, 2020</i>		
Calls with class members RE settlement		0.90 hrs.
Started drafting Fee petition		5.10 hrs.
<i>February 21, 2020</i>		
Continued to work on fee petition		4.10 hrs.
<i>February 24, 2020</i>		
Calls with class member explaining class		1.30 hrs.
<i>February 25, 2020</i>		
Worked on fee petition and two attorney declarations. Research. Sent to DJM for review.		4.10 hrs.
<i>February 27, 2020</i>		
Email to IT re formatting issue. Discuss fee petition with co-counsel		0.40 hrs.
Reviewed billing summary. Revised fee petition		1.20 hrs.
<i>February 28, 2020</i>		
Revised Fee Petition, declarations.		3.50 hrs.
	Ryan L. McBride, In Summary:	<u>\$37,765.00</u> <u>107.90 hrs.</u>
Emily Torromeo, PARALEGAL (AT \$180.00 per hr.)		
<i>March 12, 2018</i>		
Added mailing cost, spoke to attorney about case		0.20 hrs.
<i>June 21, 2018</i>		
Printed and compiled MSJ Binder		1.20 hrs.
Sent binder to DJM (781533108609)		0.00 hrs.
<i>May 10, 2019</i>		
Prepared joint settlement status report and confidential settlement statement templates for DJM.		0.20 hrs.
<i>May 30, 2019</i>		
Reviewed docket, most recent order is dkt. 56 re: confidential settlement stmt. Prepared template for DJM.		0.20 hrs.
<i>August 27, 2019</i>		
Sent SAR for client signature via RS.		0.20 hrs.
Received signed SAR from client.		0.00 hrs.
<i>August 28, 2019</i>		
Prepared TOC/TOC for motion for prelim approval of class settlement.		1.50 hrs.
Updated motion.		0.50 hrs.

Fees Report for Aimee Morrison v. Clear Management Solutions

December 27, 2019

e-filed revised long form notices (clean and redlined) re: motion for prelim approval of class settlement - Dkt. 65. 0.20 hrs.

Emily Torromeo, In Summary: \$756.00 4.20 hrs.

Grand Total: \$118,534.00

COST OR EXPENSE DESCRIPTION	COUNT	COST	CHARGE
Kazerouni Law Group APC			
Cost and Expenses Incurred on 4/11/17			
Filing Fee	1	\$400.00	\$400.00
Cost and Expenses Incurred on 7/31/17			
Clockwork Inv 3700	1	\$119.00	\$119.00
Cost and Expenses Incurred on 12/12/17			
Service of UIA subpoena for depo	1	\$105.00	\$105.00
Cost and Expenses Incurred on 12/18/17			
Sano Attorney Service Inv 17140126	1	\$105.00	\$105.00
Cost and Expenses Incurred on 1/8/18			
Flight- depo - Ryan	1	\$278.48	\$278.48
PHV Application- Ryan	1	\$250.00	\$250.00
Cost and Expenses Incurred on 1/11/18			
Airfare to and from depos DJM	1	\$717.96	\$717.96
Cost and Expenses Incurred on 1/16/18			
Uber from Airport to Hotel	1	\$14.71	\$14.71
Travel Incidental - Ryan	1	\$1.94	\$1.94
Meal - Ryan	1	\$4.57	\$4.57
Meal - Ryan	1	\$21.51	\$21.51
Lunch H&S AZ	1	\$13.73	\$13.73
Dinner prior to depo	1	\$55.00	\$55.00
Cost and Expenses Incurred on 1/17/18			
Uber Reimbursement -Ryan	1	\$7.27	\$7.27
Uber Reimbursement -Ryan	1	\$14.61	\$14.61
Meal - Ryan	1	\$11.44	\$11.44
Airport Parking - Ryan	1	\$14.00	\$14.00
Hotel - DJM	1	\$270.34	\$270.34
Lunch	1	\$22.00	\$22.00
Depo Printing Costs	1	\$23.75	\$23.75
Cost and Expenses Incurred on 1/18/18			
Meal - Ryan	1	\$4.42	\$4.42
Cost and Expenses Incurred on 2/14/18			
Airfare to and from SLC for DJM	1	\$717.96	\$717.96
Cost and Expenses Incurred on 2/15/18			
Veritext Inv OC3227993 (open invoice)	1	\$982.85	\$982.85
Cost and Expenses Incurred on 2/20/18			
Meal expenses during trip for depo	1	\$68.65	\$68.65

COST OR EXPENSE DESCRIPTION	COUNT	COST	CHARGE
Airport Parking	1	\$54.00	\$54.00
Cost and Expenses Incurred on 2/22/18			
Uber from Airport to Depo	1	\$19.79	\$19.79
Cost and Expenses Incurred on 3/12/18			
Mail Cost	2	\$3.52	\$7.04
Cost and Expenses Incurred on 6/21/18			
MSJ Binder	433	\$0.30	\$129.90
MSJ Binder supplies	1	\$10.00	\$10.00
Fed Ex - Binder to DJM	1	\$49.23	\$49.23
Cost and Expenses Incurred on 6/28/18			
Uber re: court hearing	1	\$13.69	\$13.69
Airport parking for MSJ trip	1	\$27.00	\$27.00
Meal expense, MSJ travel	1	\$11.21	\$11.21
Cost and Expenses Incurred on 7/18/18			
Pacer - July Statement	1	\$44.50	\$44.50
Cost and Expenses Incurred on 7/31/18			
Depo of Aimee and Theron Morrisson	1	\$375.10	\$375.10
Cost and Expenses Incurred on 8/2/18			
Depo - Garcia McCall & Co.; Inv #RMR40976 (AZ operating chk #1444)	1	\$375.10	\$375.10
Cost and Expenses Incurred on 8/10/18			
Flight from MSJ and Class Cert Hearing	1	\$332.20	\$332.20
Uber to Court for hearing	1	\$15.85	\$15.85
Flight to MSJ Class Cert hearing	1	\$360.98	\$360.98
Cost and Expenses Incurred on 9/11/18			
Flight change fee	1	\$75.00	\$75.00
Cost and Expenses Incurred on 10/26/18			
Pacer - docket and image	1	\$2.30	\$2.30
Cost and Expenses Incurred on 5/30/19			
Pacer	1	\$0.70	\$0.70
Cost and Expenses Incurred on 6/1/19			
Flight to and from mediation DJM	1	\$731.96	\$731.96
Cost and Expenses Incurred on 6/17/19			
Flight - Ryan	1	\$583.97	\$583.97
Cost and Expenses Incurred on 6/20/19			
Hotel - Ryan	1	\$176.42	\$176.42
Cost and Expenses Incurred on 6/24/19			
Travel Incidental - Ryan	1	\$3.00	\$3.00

COST OR EXPENSE DESCRIPTION	COUNT	COST	CHARGE
Meal - Ryan	1	\$61.65	\$61.65
Cost and Expenses Incurred on 6/25/19			
Meal - Ryan	1	\$12.56	\$12.56
Meal - Ryan	1	\$24.12	\$24.12
Parking - Ryan	1	\$28.00	\$28.00
Cost and Expenses Incurred on 6/27/19			
Meal - Ryan	1	\$2.45	\$2.45
Cost and Expenses Incurred on 12/8/19			
Flight to SLC - David	1	\$371.98	\$371.98
Cost and Expenses Incurred on 12/18/19			
Meal - David M	1	\$14.88	\$14.88
Meal - David M	1	\$25.00	\$25.00
Uber - David M	1	\$15.21	\$15.21
Uber- Dabid	1	\$7.63	\$7.63
Uber- Dabid	1	\$16.68	\$16.68
Cost and Expenses Incurred on 12/20/19			
SLC CNBC News - David	1	\$4.92	\$4.92
Cost and Expenses Incurred on 12/22/19			
Parking - David M	1	\$28.00	\$28.00
Cost and Expenses Incurred on 2/28/20			
refundable/adjustable Flights to final approval hearing	1	\$743.96	\$743.96

Total Fees: \$118,921.50

Total Expenses: \$8,980.17

Total Fees and Costs For The Entire Case: \$127,901.67

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

**AIMEE MORRISON, ON BEHALF OF
HERSELF AND OTHERS SIMILARLY
SITUATED,**

Plaintiff,

v.

**EXPRESS RECOVERY SERVICES, INC.
D/B/A CLEAR MANAGEMENT
SOLUTIONS,**

Defendant.

ORDER

Case No. 1:17-cv-0051-CW-EJF

Hon. Clark Waddoups

Pursuant to Plaintiff's motion and for good cause shown:

The Court enters an order (i) awarding Class Counsel \$177,801 in reasonable attorneys' fees from Defendant; (ii) Costs to be determined at the final approval hearing after class administration costs are finalized from Defendant; and (iii) awarding Ms. Morrison an incentive payment of \$2,000 from Defendant.

Dated: _____

Judge Clark Waddoups