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14 **IN THE UNITED STATES DISTRICT COURT**
15 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
16 **SOUTHERN DIVISION**

17 TERRI N. WHITE, *et al.*,

18 *Plaintiffs,*

19 v.

20 EXPERIAN INFORMATION
SOLUTIONS, INC.,

21 *Defendant.*

Case No. 05-cv-1070 DOC
(MLGx) (Lead Case)

**DECLARATION OF
LEONARD A. BENNETT IN
SUPPORT OF PLAINTIFFS'
NOTICE OF MOTION AND
MOTION FOR ORDER
GRANTING PLAINTIFFS'
APPLICATION FOR
ATTORNEYS' FEES**

22 and related cases:

- 23 05-cv-0173-DOC (MLGx)
24 05-cv-7821-DOC (MLGx)
25 05-cv-0392-DOC (MLGx)
26 05-cv-1172-DOC (MLGx)
27 05-cv-5060-DOC (MLGx)

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

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

5
6 2. I am a member in good standing of the Virginia State Bar, admitted pro hac
7 vice in this case. The Court has appointed me Class Counsel for the 23(b)(3)
8 Settlement Class. I also serve as Class Counsel for the 23(b)(2) Settlement Class.

9 I have personal knowledge of the matters set forth herein, and could and would
10 testify competently thereof if called upon to do so. I submit this Declaration in
11 support of Plaintiffs' Motion for Order Granting Plaintiffs' Application for
12 Attorneys' Fees.
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14

15
16 **Consumer Litigation Associates, P.C.**

17 3. I am one of the attorneys working on behalf of the Plaintiff and the Class in
18 the above-styled litigation, and I am an attorney and principal of the law
19 firm of Consumer Litigation Associates, P.C., a seven-attorney law firm with
20 offices in Newport News, Virginia Harrisonburg, Virginia, Alexandria, Virginia,
21 and Tucson, Arizona. My primary office is at 763 J. Clyde Morris Boulevard, Suite
22 1-A, Newport News, Virginia 23601.
23

24
25 4. Since 1994, I have been and presently am a member in good standing of the
26 Bar of the highest court of the Commonwealth of Virginia, where I regularly
27 practice law. Additionally, since 1995, I have been a member in good standing of
28

1 the Bar of the highest court of the State of North Carolina.

2 5. I have also been admitted to practice before and am presently admitted to
3 numerous other federal courts. I have also been admitted to or approved pro hac
4 vice in United States District Courts across the country including in Alabama,
5 California, Idaho, Kentucky, Louisiana, Florida, Rhode Island, Hawaii, New
6 Hampshire, New York, Maine, Connecticut, Ohio, South Carolina, Pennsylvania,
7 Arizona, Massachusetts, Tennessee, Georgia, Wyoming, Texas, Washington,
8 Nevada, West Virginia, Wisconsin, Illinois, Michigan, South Dakota, Maryland,
9 and the District of Columbia. I have never been denied admission or admission pro
10 hac vice.
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15 6. Since 1996, my practice has been limited to consumer protection litigation.
16 While my experience representing consumers has come within several areas, my
17 most developed area of expertise is in plaintiffs' litigation under the Federal
18 Consumer Credit Protection Act, 15
19 U.S.C. §1601, et seq., and in particular the Fair Credit Reporting Act, 15 U.S.C.
20 §1681, et seq. Our firm has litigated more FCRA cases and taken more to trial than
21 maybe all but two other firms in the nation. And I have been lead or co-lead
22 counsel for the majority of the multi-million dollar recoveries under the statute.
23
24

25 7. Since 2001, I have been asked to and did speak at numerous CLE programs,
26 seminars and
27 events in the area of Consumer Credit Protection litigation, mostly regarding the
28

1 FCRA.¹

2
3 ¹ By example only, National Association of Consumer Advocates, Fair Credit Reporting Act
4 National Conference - Baltimore, MD, April 2017; National Consumer Law Center, Consumer
5 Rights Conference, Anaheim, California, Speaker for Multiple Sessions (October 2016); Fair
6 Debt Collection Practices Act/Fair Credit Reporting Act, Norfolk and Portsmouth, VA Bar
7 Association (October 29, 2015); National Consumer Law Center, Consumer Rights
8 Conference, Washington, D.C., Speaker for Multiple Sessions (November 2013); National
9 Consumer Law Center, Fair Debt Collection Practices Act Conference, Fair Credit Reporting
10 Act Claims Against Debt Buyers, March 2013; National Association of Consumer Advocates,
11 Webinar CLE: FCRA Dispute Process, December 2012; Rossdale CLE, Fair Credit Reporting
12 Act (August 2012); Virginia Trial Lawyers Association, Advocacy Seminar – October, 2011;
13 National Association of Consumer Advocates, Fair Credit Reporting Act National
14 Conference - Memphis, TN, May 2011; Stafford Publications CLE, National Webinar,
15 "FCRA and FACTA Class Actions: Leveraging New Developments in Certification, Damages
16 and Preemption" (April 2011); National Consumer Law Center, National Consumer Rights
17 Conference, Boston, Speaker for Multiple Sessions, November, 2010; Virginia State Bar,
18 Telephone and Webinar Course, Virginia, 2009; "What's Going On Here? Surging Consumer
19 Litigation - Including Class Actions in State and Federal Court"; National Association of
20 Consumer Advocates, Fair Credit Reporting Act National Conference, Chicago, IL, May 2009;
21 National Consumer Law Center, National Consumer Rights Conference, Philadelphia, Speaker
22 for Multiple Sessions, November 2009; National Consumer Law Center, National Consumer
23 Rights Conference, Portland, OR, Speaker for Multiple Sessions, November 2008; Washington
24 State Bar, Consumer Law CLE, Speaker, September 2008; Washington State Bar, Consumer
25 Law CLE, Speaker, July 2007; House Financial Services Committee, June 2007; National
26 Consumer Law Center, National Consumer Rights Conference, Washington, D.C., Speaker for
27 Multiple Sessions, November 2007; National Association of Consumer Advocates, Fair Credit
28 Reporting Act National Conference; Denver, Colorado, May 2007, Multiple Panels; U.S.
Army JAG School, Charlottesville, Virginia, Consumer Law Course Instructor, May 2007;
Georgia State Bar, Consumer Law CLE, Speaker, March 2007; Contributing Author, Fair
Credit Reporting Act, Sixth Edition, National Consumer Law Center, 2006; National
Consumer Law Center, National Consumer Rights Conference, Miami, FL, Speaker for
Multiple Sessions, November 2006; Texas State Bar, Consumer Law CLE, Speaker,
October 2006 Federal Claims in Auto fraud Litigation; Santa Clara University Law School,
Course, March 2006; Fair Credit Reporting Act; Widener University Law School, Course, March
2006 Fair Credit Reporting Act; United States Navy, Navy Legal Services, Norfolk,
Virginia, April 2006 Auto Fraud; Missouri State Bar CLE, Oklahoma City, Oklahoma; Identity
Theft; National Consumer Law Center, National Consumer Rights Conference, Boston, Mass,
Multiple panels; National Association of Consumer Advocates, Fair Credit Reporting Act
National Conference, New Orleans, Louisiana (May 2005), Multiple Panels; United States Navy,
Naval Justice School (JAG Training), Newport, Rhode Island, Consumer Law; American Bar
Association, Telephone Seminar; Changing Faces of Consumer Law, National Consumer Law
Center, National Consumer Rights Conference, Boston, Mass; Fair Credit Reporting Act Experts
Panel; and ABCs of the Fair Credit Reporting Act; National Association of Consumer
Advocates, Fair Credit Reporting Act National Conference, Chicago, Illinois; Multiple Panels;
Oklahoma State Bar CLE, Oklahoma City, Oklahoma, Identity Theft; Virginia State Bar,
Footnote continued on next page

1 8. I testified before the United States House Financial Services Committee
2 on multiple occasions. In 2014, I spoke before the Consumer Financial Protection
3 Bureau Consumer Advisory Board. I have also served on a Federal Trade
4 Commission Round Table and Governor Kaine's Virginia Protecting Consumer
5 Privacy Working Group all within this field. I was recently on the Board of
6 Directors of the National Association of Consumer Advocates, and am on the
7 Partners Council of the National Consumer Law Center, on the Board of Directors
8 for the Virginia Poverty Law Center, and am a member of the Public Justice
9 Foundation. I have been named as a multi- year Super Lawyer, a Law Dragon Top
10 500 Plaintiffs' Attorney and a Virginia Leader in the Law.

11
12 9. I was one of the contributing authors of the leading and comprehensive
13 treatise "Fair Credit Reporting" published by National Consumer Law Center and
14 used by judges and advocates nationally.

15 16 17 18 **Consumer Litigation Associates, P.C.'s Class Action Experience**

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20 10. I have litigated in excess of 800 federal cases under the Fair Credit
21 Reporting Act. I have also been appointed class counsel in at least twenty cases
22 prosecuted under the FCRA or a related Consumer Credit Protection Act statute. I

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Footnote continued from previous page

25 Telephone Seminar, Identity Theft; United States Navy, Naval Justice School (JAG Training),
26 Newport, Rhode Island, Consumer Law; United States Navy, Navy Legal Services, Norfolk,
27 Virginia, Auto Fraud; Virginia State Bar, Richmond and Fairfax, Virginia, Consumer
28 Protection Law; Michigan State Bar, Consumer Law Section, Ann Arbor, Michigan, Keynote
Speaker.

1 have also been Lead Class Counsel (or co-Lead) in most of the largest FCRA class
2 action settlements to date. I have tried numerous FCRA cases to a jury and
3 successfully defended all of our jury verdicts on appeal.
4

5 11. Matthew J. Erausquin, a partner in my law firm, is and has been active in
6 litigating this case. He is admitted to practice before this Court, as well as before
7 the Supreme Courts of California and Virginia, in addition to numerous federal
8 courts around the country. Mr. Erausquin litigates exclusively in federal courts in
9 cases involving violations of consumer protection statutes.
10

11
12 12. Additionally, for example, with respect to litigation of class actions, the
13 attorneys of CLA and I have litigated the following cases to a successful
14 conclusion: *White v. CRST, Inc.*, No. 1:11-cv-2615 (N.D. Ohio); *Hall v. Vitran*
15 *Express, Inc.*, No. 1:09- cv-00800 (N.D. Ohio); *Williams v. LexisNexis Risk Mgmt.*,
16 3:06-CV-241 (E.D. Va.); *Beverly v. Wal-Mart Stores, Inc.*, 3:07-CV-469 (E.D.
17 Va.); *Anderson v. Signix, Inc.*, No. 3:08-CV-570 (E.D. Va.); *Reardon v.*
18 *Closetmaid*, No. 2:08-cv-1730 (W.D. Pa.); *Smith v. Talecris Biotherapeutics, Inc.*,
19 No. 1:09-CV-153 (M.D.N.C. July 7, 2010); *Daily v. NCO Fin.*, No. 3:09-CV-31-
20 JAG (E.D. Va.); *Black v. Winn-Dixie Stores, Inc.*, No. 3:09-CV- 502 (M.D. Fla.);
21 *Ryals v. HireRight Solutions, Inc.*, 3:09-CV-625 (E.D. Va.); *Harris v. U.S.*
22 *Physical Therapy, Inc.*, No. 2:10-CV-1508 (D. NV.); *Bell v. U.S. Express, Inc.*, No.
23 1:11-CV-181 (E.D. Tenn.); *Goode v. First Advantage LNS Screening Solutions,*
24 *Inc.*, No. 2:11-cv-2950 (E.D. Pa.), *Lengrand v. Wellpoint*, No. 3:11-CV-333 (E.D.
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1 Va.); *Henderson v. Verifications Inc.*, No. 3:11-CV-514 (E.D. Va.); *Pitt v. K-Mart*
2 *Corp*, 3:11-CV-697 (E.D. Va.); *Teagle v. LexisNexis Screening Solutions, Inc.*, No.
3 1:11-cv-1280 (N.D. Ga.); *Stinson v. Advance Auto Parts*, No. 7:12-cv-433 (W.D.
4 Va.); *Ellis v. Swift Transp. Co. of Az.*, No. 3:13-cv-473 (E.D. Va.); *Edwards v.*
5 *Horizon Staffing, Inc.*, No. 1:13-cv-3002 (N.D. Ga.); *Shami v. Middle E.*
6 *Broadcasting, Inc.*, No. 1:13-cv-467 (E.D. Va.); *Marcum v. Dolgencorp, d/b/a*
7 *Dollar Gen.*, No. 3:12-cv-108 (E.D. Va.); *Wyatt v. SunTrust Bank*, 3:13CV662
8 (E.D. Va.); *Henderson v. HRPlus*, No. 3:14cv82 (E.D. Va.); *Henderson v.*
9 *Backgroundchecks.com*, 3:13CV29 (E.D. Va.); *Henderson v. Acxiom Risk Sols.*,
10 3:12CV589 (E.D. Va.); *Manuel v. Wells Fargo Bank, Nat'l Ass'n*, No. 3:14-cv-238
11 (DJN) (E.D. Va.); *Ryals v. Strategic Screening Solutions, Inc.*, No. 3:14-cv-00643-
12 REP (E.D. Va.); *Thomas v. First Advantage Screening Solutions, Inc.*, No. 1:13-
13 cv-04161-CC-LTW (N.D. Ga.); *Smith v. Harbor Freight Tools USA, Inc.*, No.
14 2:13-cv-06262-JFW-VBK (C.D. Cal.); *Roe v. Intellicorp Records, Inc.*, No. 1:12-
15 cv-02288 (N.D. Ohio); *Black v. Winn Dixie*, 3:09-cv-502 (M.D. Fla.); *Smith v.*
16 *Rescare*, 3:13-cv-5211 (S.D. W. Va.); *Oliver v. FirstPoint, Inc.*, No. 1:14-cv-517
17 (M.D.N.C.); *Blocker v. Marshalls of MA, Inc.*, No. 1:14-cv-01940-ABJ, *Soutter v.*
18 *Equifax Information Services, LLC.*, 3:10-cv-107 (E.D. Va.), *Soutter v. Trans*
19 *Union*, 3:10-cv-514 (E.D. Va.) *Jenkins v. Equifax*, 3:15-cv-00443-MHL (E.D. Va),
20 *Milbourne v. JRK Residential*, 3:12-cv-861 (E.D. Va), *Campos-Carranza, et al v.*
21 *Credit Plus, Inc.*, 1:16-cv-00120, *Thomas v. FTS USA, LLC*, 3:13-cv-00825- REP

1 (E. D. Va), *Bartlow, et al v. Medical Facilities of America*, 3:16-cv-57 (E.D. Va.),
2 *James v. Experian Information Solutions, Inc*, 3:12-cv-902 (E.D. Va), *Berry v.*
3 *LexisNexis Risk & Information Analytics Group, Inc.*, 3:11-cv-754 (E. D. Va.).
4

5 13. I was also one of the five attorneys on the Executive Committee of
6 Plaintiffs' counsel.
7

8 14. I have personally conducted discovery, taken fact and expert depositions,
9 reviewed documents, appeared at conferences and motion hearings before the
10 Court, and actively participated in the mediation sessions concerning the litigation.
11

12 15. I and the attorneys and paralegals in my law firm have spent time on this
13 litigation that could have been spent on other matters. At various times during the
14 litigation, the active prosecution of the claims has consumed a substantial
15 percentage of my billable time that could otherwise have been spent on other fee-
16 generating work.
17

18 16. The time my firm has spent on this case has been completely contingent on
19 the outcome of the action. We have not been paid for any of the time spent on the
20 action.
21

22 17. In connection with the litigation, our attorney and staff timekeepers have
23 billed a combined total of 5,663.55 hours from inception to October 30, 2017,
24 resulting a total lodestar of \$2,592,714.50 (as a result of variable hourly rates for
25 all staff across the time that this case has been pending).
26
27

28 18. However, this time was incurred prosecuting and resolving both the

1 injunctive relief claims resulting in the 23(b)(2) Settlement and the monetary relief
2 claims resulting in the 23(b)(3) Settlement. As this fee petition relates only to the
3 settlement for the monetary relief claims, we then deducted \$725,747.50 as time
4 attributable to the injunctive relief settlement, and then further deducted
5 \$492,432.76 as the time attributable to the period beginning on April 1, 2009 and
6 ending on May 1, 2013. After applying these deductions, the total lodestar
7 remaining is \$1,374,534.24. Our time is obtained from documented hourly billing
8 as supplemented by a more recent cross-check against telephone records,
9 communication logs and our calendars. The hourly time stated herein represents
10 my best estimate of the actual time incurred in this matter.
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14 19. Based upon my experience with other class action matters, I believe that the
15 time expended by my law firm in connection with this litigation, when compared
16 to the result achieved for the Class, is reasonable in amount and was necessary to
17 ensure the successful monetary relief obtained on behalf of the Class.
18
19

20 20. Our hourly rates, which were used for purposes of calculating lodestar here,
21 are based on prevailing fees in this District and other Courts in this Circuit. These
22 rates are consistent with the rates we have requested and received in other FCRA
23 class action cases.
24

25 21. Our law firm has also a total of \$23,265 outstanding in un-reimbursed
26 expenses that were necessarily incurred in connection with the prosecution of the
27 litigation. From inception through the date of the filing of the 23(b)(2) Settlement
28

1 Agreement, Consumer Litigation Associates expended a total of at least \$8,395.84
2 in un-reimbursed expenses, only one-half of which is hereby allocated to the
3 monetary relief settlement for a total of \$4,197.92, with the remaining half
4 attributable to the injunctive relief settlement. We did not incur any expenses for
5 which we would otherwise include within this petition between April 1, 2009 and
6 May 1, 2013. We have therefore deducted \$4,197.92 (the portion of our expenses
7 attributable to the injunctive relief settlement) from our total expenses of \$23,265
8 to date to reach a figure of \$19,067.08 as the amount currently sought as
9 attributable only to the monetary relief settlement.
10
11
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13 22. The foregoing expenses were incurred solely in connection with this
14 litigation and are reflected on my law firm's books and records as maintained in
15 the ordinary course of business. These books and records are prepared from
16 invoices, receipts, expense vouchers, check records and other records, and are an
17 accurate record of the expenses incurred in this case.
18
19

20 23. All of the work in this case was carefully divided so that not only was it
21 shared as broadly as possible, but so that tasks were allocated to avoid needless
22 duplication of work. In addition, wherever possible, tasks were assigned to
23 minimize the hourly rate assigned to subordinate tasks, meaning, for example,
24 associate or paralegal-level work was not assigned to partners simply to increase
25 counsel's lodestar figures.
26
27

28 24. As stated herein, through the date of this Declaration, my firm, Consumer

1 Litigation Associates, P.C., has accumulated an estimated \$2,592,714.50 in legal
 2 fees litigating the case, at a minimum. This estimate does not include every single
 3 email response, minute of telephone time, or hour of strategy discussions that are
 4 necessary to pursue and settle a case of this magnitude against such well-funded
 5 and sophisticated Defendants and top-notch defense team. Certainly, some of the
 6 time individuals at my firm spent on this case was missed in this total. And at least
 7 for the period beginning on May 1, 2013 through the present, we have calculated
 8 our lodestar herein at hourly rates lower than what we have been approved at in
 9 other courts.
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13 25. The time entries supporting my estimation are as follows:

Timekeeper	Hourly Rate Approved in Other Courts	Hourly Rate Applied Herein	Hours	Total Lodestar (at blended lower hourly rates from past years)
Leonard A. Bennett	\$675	\$625	3335.20	\$1,777,875.00
Matthew Erausquin	\$525	\$500	946.00	\$426,900.00
Donna Winters	\$200	\$190	455.05	\$96,890.50
Vicki Ward	\$200	\$190	235.80	\$55,917.00
Dawn Chaffer	\$200	\$190	86.50	\$22,857.00
Gary Abbott(former employee)	n/a	\$300	230.20	\$24,900.00
Ian Lyngklip (of Counsel)	n/a	\$500	374.75	\$187,375.00

23
 24 26. For example, the hourly rates charged by my firm are less than were most
 25 recently approved in a lodestar case under an analogous statute, the Fair Debt
 26 Collection Practices Act, 15 U.S.C. § 1692, et seq., by the United States District
 27 Court for the Eastern District of Virginia, Richmond Division as follows: \$675 for
 28

1 Leonard Bennett, and \$200 for paralegals Donna Winters and Vicki Ward. Reese
2 et al v. Stern & Eisenberg Mid Atlantic, P.C., 3:16cv496, Doc. 52, at 7 (E.D. Va.
3 June 6, 2017) (In Report and Recommendation on fee calculation based on the
4 same rates stated herein, the Court found “those rates reasonable and aligned with
5 the prevailing market rates in Richmond and other courts in this District. See, e.g.,
6 Denton v. PennyMac Loan Servs., LLC, No. 4:16cv32, 2017 WL 213138, at *13
7 (E.D. Va. May 15, 2017) (finding hourly rates of \$425 and \$575 reasonable);
8 Thomas, 2017 WL 118283, at *13 (finding reasonable hourly rates of \$675 and
9 \$450 for counsel and hourly rates of \$200 and \$125 for paralegals in an FCRA
10 class action); Bralley v. Carey, 2011 WL 4 703098, at *2, *4 (E.D. Va. Sept. 16,
11 2011) (finding \$425 a reasonable hourly rate in an individual FDCPA case),
12 adopted by 2011 WL 4704216 (E.D. Va. Oct. 4, 2011); Randle v. H&P Capital,
13 Inc., 2010 WL 2944907, at *8-9 (E.D. Va. July 21, 2010) (finding the prevailing
14 market rate in Richmond for similar services between \$300 and \$600 per hour and
15 awarding fees based on hourly rates of \$425 and \$450 in an FDCPA putative class
16 action that settled on an individual basis”).

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22 27. The Court is of course aware that litigation is expensive. The Parties
23 engaged in significant discovery. In short, all the time accumulated by Class
24 Counsel was necessary given the defense strategy, and the case was thoroughly
25 investigated. The hours expended were reasonable and necessary under the
26
27
28 circumstances.

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

3
4 DATED: October 30, 2017
5 Newport News, Virginia

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LEONARD A. BENNETT