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13
14 **UNITED STATES DISTRICT COURT**
15 **CENTRAL DISTRICT OF CALIFORNIA**
SOUTHERN DIVISION

16 TERRI N. WHITE, et al.,
17
18 Plaintiffs,

19 v.

20 EXPERIAN INFORMATION
SOLUTIONS, INC.,
21 Defendant.

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

**DECLARATION OF STUART T. ROSSMAN
IN SUPPORT OF PLAINTIFFS' MOTION
FOR ORDER GRANTING PLAINTIFFS'
APPLICATION FOR ATTORNEYS' FEES
FOR RULE 23(b)(3)_SETTLEMENT**

22 and Related Cases:

23 05-CV-01073-DOC (MLGx)
24 05-CV-7821-DOC (MLGx)
06-CV-0392-DOC (MLGx)
25 05-cv-1172-DOC(MLGx)
06-cv-5060-DOC (MLGx)

1 I, Stuart T. Rossman, declare as follows:

2 1. I have personal knowledge of the matters set forth herein, and
3 could and would testify competently thereto if called upon to do so. I submit this
4 Declaration on behalf of the National Consumer Law Center in support of
5 Plaintiffs' Motion for Order Granting Plaintiffs' Application for Attorneys' Fees for
6 Monetary Relief Settlement.

7 **BACKGROUND AND EXPERIENCE**

8 2. I have been admitted to practice before the Massachusetts
9 Supreme Court since 1978. I also am authorized to practice before the United
10 States District Court for the
11 District of Massachusetts (1979), the First Circuit Court of Appeals (1979), the
12 United States Supreme Court (1984), the United States Court of Claims (1984), the
13 Sixth Circuit Court of Appeals (2000), the Ninth Circuit Court of Appeals (2004),
14 the Fourth Circuit Court of Appeals (2011), and the United States District Court for
15 the Western District of New York (2016). I presently am, and always have been, a
16 member in good standing in every bar and court to which I have been admitted to
17 practice law.

18 3. I am a graduate of the Harvard Law School (J.D., *cum laude*,
19 1978) and the University of Michigan (B.A. *magna cum laude*, 1975).

20 4. From 1978 to 1991 I was first an associate, and then a partner, in
21 the litigation department at the Boston law firm of Gaston & Snow. My practice
22 consisted entirely of civil trial cases, including, but not limited to, litigation on
23 behalf of consumers injured by unfair and deceptive business practices.

24 5. From 1991 to 1999 I served as an Assistant Attorney General in
25 the Massachusetts' Attorney General's Office. From 1991 to 1995 I was Chief of
26 the Trial Division, representing government agencies in a wide variety of civil
27 litigation cases, primarily in defensive, but also in affirmative, matters. The nature
28 of the cases I supervised or tried included a full spectrum of tort and contract claims

1 brought against the Commonwealth. The practice also included representation of
2 government agencies in employment disputes, environmental and civil rights
3 violation claims

4 6. From 1995 to 1999 I was Chief of the Business and Labor
5 Protection Bureau. The newly created Bureau focused on combating white-collar
6 economic fraud through criminal and civil enforcement. It consisted of the
7 Insurance Fraud Division, the Unemployment Fraud Division, the Medicaid Fraud
8 Control Unit and the Fair Labor and Business Practices Division.

9 7. Since 1993 I have been a member of the adjunct faculty at the
10 Northeastern School of Law teaching annual courses in Civil Trial Advocacy and in
11 2010 I was appointed as that year's Givelber Distinguished Lecturer on Public
12 Interest at the law school. In 2003 I co-taught a Consumer Law Class at the Suffolk
13 University School of Law. In 2015 and 2016, I taught a class on Consumer Class
14 Actions at the University of Michigan Law School. I also have lectured frequently
15 and/or chaired litigation oriented educational programs for PLI, the American
16 Association for Justice, the National Association of Consumer Advocates, the
17 National Legal Aid and Defenders Association, Massachusetts Continuing Legal
18 Education, the Massachusetts Bar Association and the Boston Bar Association,
19 among others.

20 8. On July 1, 1999, I became the Director of Litigation at the
21 National Consumer Law Center ("NCLC") where I am responsible for coordinating
22 and litigating cases on behalf of income and /or age qualified individuals, primarily
23 in the areas of consumer financing, utilities regulation and affordable housing. In
24 that capacity, I have been qualified to file appearances, *pro hac vice*, on behalf of
25 consumer in over 100 cases, including matters formerly or currently pending in the
26 United States District Courts for the Southern District of New York, New Jersey,
27 Eastern District of Pennsylvania, Puerto Rico, Georgia, Central District of
28 Tennessee, Central and Northern Districts of Illinois, Kansas, the Central and

1 Northern Districts of California and the Western District of Washington. In
2 addition, I have been qualified to file appearances, *pro hac vice*, on behalf of
3 consumers in class actions filed in the state courts of California, Ohio, Rhode
4 Island, Washington and Wisconsin. Finally, I have participated in numerous
5 consumer class actions filed in the United States District Court for Massachusetts
6 and the courts of the Commonwealth of Massachusetts.

7 9. While at the National Consumer Law Center I have been lead or
8 co-counsel in over 90 filed consumer class action cases, including, but not limited
9 to, Cason v. Nissan Motor Acceptance Corp., C.A. No. 3-98-0223, U.S. D. Ct.
10 Middle District of Tennessee; Coleman v. General Motors Acceptance Corp., C.A.
11 No. 3-98-0211, U.S. D. Ct. Middle District of Tennessee; Morkavage v. Morgan
12 Stanley Dean Witter, C.A. 99-40114, U.S. D. Ct. District of Massachusetts;
13 Follansbee v. Discover Financial Services, C.A. N. 99-C-3827, U.S. D. Ct.
14 Northern District of Illinois; and Chilson v. Associates National Bank, C.A. 2000-
15 0776, Massachusetts (Worcester County) Superior Court; Samuel v. EquiCredit,
16 C.A. No. 00-6196, U.S. D. Ct. Eastern District of Pennsylvania; Jones v. Ford
17 Motor Credit Co., Case No. 00-Civ-8330, U.S. D. Ct. Southern District of New
18 York; Smith v. Chrysler Financial Company, Civil Action No. 00-6003, U.S. D. Ct.
19 of New Jersey; Sandoval v. Washington Mutual, C.A. No. 01-2-06488-1, Superior
20 Court of the State of Washington ; Baltimore v. Toyota Motor Credit Corp., C.A.
21 No CV-01-05564 NM, U.S. D. Ct. Central District of California; Borlay v. Primus
22 Automotive Financial Services, Inc., Civil No. 3:02-0382, U.S. D. Ct. Middle
23 District of Tennessee; Willis v. American Honda Finance Corp., Case No. 3-02-
24 0490, U.S. D. Ct. Middle District of Tennessee; Osborne v. Bank of America, Case
25 No. 3-02-0364, U.S. D. Ct. Middle District of Tennessee; Russell v. Bank One,
26 Case No. 3-02-0365, U.S. D. Ct. Middle District of Tennessee; Logan v. Firstar,
27 Case No. 3-02-0681, U.S. D. Ct. Middle District of Tennessee; Zipperer v.
28 Supportkids, Inc., Case No. 02 CV 233, State of Wisconsin Circuit Court

1 (Manitowoc County); In Re Washington Mutual Overdraft Protection Litigation,
2 Case No. 03-2566 ABC, U.S. D. Ct. Central District of California; Hood v. Santa
3 Barbara Bank & Trust, Case No. 1156354, Superior Court of the State of California
4 (Santa Barbara County); Pettway v. Harmon Law Offices, P.C., Case No. 03-
5 10932-RCL, U.S. D. Ct. District of Massachusetts; Wilborn v. Bank One Corp.,
6 Case No. 03-cv-02674, Ohio Common Pleas Court (Mahoning County); Amos v.
7 Advanced Funding, Inc, Civil Action No. 1-04-CV-2911, U.S. D. Ct. Northern
8 District of Georgia (Atlanta Division); Henry v. Structured Investments Co., Inc.,
9 Case No. 05CC00167, Superior Court of the State of California (Orange County);
10 Duff v. Washington Mutual Bank, Case No. 2:04-cv-2309 JLR, U.S. D. Ct.
11 Western District of Washington at Seattle; White, et al. v. Experian Information
12 Solutions, Inc., et al., Case No. SA CV05-2070, U.S. D. Ct. Central District of
13 California; Alleynes v. Flagstar, et al., Case No. 07-12128, U.S. D. Ct. District of
14 Massachusetts; Mogel v. Unum Life Insurance Company of America, Case No. 07-
15 CA-10955, U.S. D. Ct. District of Massachusetts; Puello v.
16 Citifinancial/Citigroup., Case No. 08-10417, U.S. D. Ct. District of Massachusetts;
17 Barrett v. Option One/ H& R Block Bank, Case No. 08-10157, U.S. D. Ct. District
18 of Massachusetts; Blake v. Riddle & Wood, P.C., Case N. 08-12033, U.S. D. Ct.
19 District of Massachusetts; Faber v. Metropolitan Life Insurance Company, Civ.
20 Act. No.: 08 Civ. 10588, U.S. D. Ct. Southern District of New York; Tamaro v.
21 Direct Federal Credit Union, C.A. No. 08-5508-BLS2, Massachusetts (Suffolk
22 Business Litigation Session) Superior Court: Rodriguez v. Chase Bank USA, N.A.,
23 Case No. 1:09-CV-10614, U.S. D. Ct. District of Massachusetts; Vander Luitgaren
24 v. Sun Life Assurance Company, et al., Case No. 09-CV-11410, U.S. D. Ct. District
25 of Massachusetts; Powell-Perry v. Branch Banking & Trust, Inc., et al., C.A. 1:09-
26 cv-619, U.S. D. Ct. Middle District of North Carolina; Yourke v. Bank of America,
27 N.A., et al., Civil Action No. 09-02186, U.S. D. Ct. Northern District of California;
28 Bosque v. Wells Fargo Bank, N.A., Civil Action No. 10-10311, U.S. D. Ct. District

1 of Massachusetts; Johnson v. BAC Home Loans Servicing , LP, Civil Action No.
2 10-10316, U.S. D. Ct. District of Massachusetts; Durmic v. J.P. Morgan Chase
3 Bank, N.A., Civil Action No. 10-10380, U.S. D. Ct. District of Massachusetts;
4 Belyea v. Litton Loan Servicing, LLP, Case Number 1:10-cv-10931.LLP., U.S. D.
5 Ct. District of Massachusetts; Merrimon v. Unum Life Insurance Company of
6 America, Civ. No. 10-cv-447, U.S. D. Ct. District of Maine; Otte v. Life Insurance
7 Company of North America, Civ. No. 09 CV 11537, U.S. D. Ct. District of
8 Massachusetts; Adkins v. Morgan Stanley, No. 12-CIV-7667, U.S. D. Ct. Southern
9 District of New York; Stromberg v. Ocwen, No. 15-cv-4719, U.S. D. Ct. Northern
10 District of California; Maddox v. Bank of New York Mellon Trust, No. 15-cv-
11 1053, U.S. D. Ct. Western District of New York; White v. Fein Such & Crane, No.
12 15-cv-438, U.S. D. Ct. Western District of New York; Taylor v. Ocwen. No 4:16-
13 cv-4167, U.S. D. Ct. Central District of Illinois.

14 10. As Director of Litigation at NCLC I have served as a
15 coordinator for the National Consumer Law Center's annual Consumer Class
16 Action Symposium since its first presentation in Baltimore, MD, in October, 2001.
17 I am the co-editor of the 9th Edition of the NCLC Consumer Class Actions manual
18 (2016) and supplements.

19 11. From 2013-2016 I served as the Co-Chairman of the National
20 Association of Consumer Advocates and was a member of the Board of Directors
21 of the organization from 2011-2016.

22 12. My colleague at NCLC and co-counsel throughout this case,
23 Charles M. Delbaum, is a graduate of Harvard Law School (J.D. 1971) and
24 Amherst College (B.A., *cum laude*, 1968).

25 13. From 1971 to 1973, he served as a law clerk to the Hon.
26 Malcolm Muir, U.S. District Court, M.D. Pa. and was admitted to practice before
27 the Massachusetts Supreme Judicial Court in 1973, the Ohio Supreme Court in
28 1974, and the Louisiana Supreme Court in 1993 (the latter two admissions are on

1 voluntary inactive status), as well as the United States District Courts for
2 Massachusetts, the Northern District of Ohio, the Eastern and Western Districts of
3 Louisiana, as well as the Sixth Circuit Court of Appeals, the Fifth Circuit Court of
4 Appeals, the Federal Circuit and numerous federal courts on a pro hac vice basis.

5 14. From 1973 to 1975, he was a member of the Ohio bar and an
6 associate engaged in general trial practice at Berkman, Gordon and Kancelbaum,
7 Cleveland, Ohio.

8 15. From 1975 to 1979, he was a staff attorney in the law reform
9 division of the Cleveland Legal Aid Society and was lead or co-counsel in several
10 class actions on behalf of nursing home patients, residents of mental health
11 facilities, and prisons.

12 16. From 1979 to 1992, he was a partner in the firm of Stege,
13 Delbaum and Hickman, Cleveland, Ohio engaged in general civil trial practice,
14 including conducting a dozen jury trials as lead counsel.

15 17. From 1992 to 2005, he was admitted to practice in the State of
16 Louisiana, and Director of Litigation and Advocacy at New Orleans Legal
17 Assistance and lead or co-counsel in several class actions during that time.

18 18. In 2005, he joined the National Consumer Law Center in
19 Boston, Massachusetts, as a senior staff attorney working primarily on consumer
20 class actions.

21 19. He is Co-Editor of and a contributing author to the most recent
22 edition of Consumer Class Actions, and a contributing author to Fair Debt
23 Collection and Fair Credit Reporting, all of which are published annually by
24 NCLC. In addition, he has been joint coordinator of the annual NCLC Consumer
25 Class Action Symposiums for the past eleven years.

26 20. He has been lead or co-counsel in more than forty consumer
27 class action cases, the majority of which have achieved court-approved settlements.
28 Of these, the following cases all have been brought to a successful conclusion in the

1 past ten years, with settlement approved and final judgment entered for the class of
2 plaintiffs: Hood v. Santa Barbara Bank & Trust, Case No. 1156354, Superior Court
3 of the State of California (Santa Barbara County); Mogel v. UNUM Life Insurance
4 Company of America, Case No. 07-cv-10955-NMG, U.S. D. Ct. (D. Mass.); Blake
5 v. Riddle and Wood, Case No. 08-12033 (D. Mass.); Tammaro v. Direct Federal
6 Credit Union, Case No. 08-5508-BLS2 (Ma. Superior Court); Yourke v. Bank of
7 America, Case No. 09-487100 (Cal. Sup. Court, San Francisco); Rodriguez v.
8 Chase Bank USA, Case No. 09-10614 (D. Mass.); Ramirez v. Greenpoint Mortgage
9 Funding, Case No. 08-369 (N.D. Cal.); Puello v. Citifinancial/Citigroup, Case No.
10 08-10417, U.S. D. Ct. District of Massachusetts; Bosque v. Wells Fargo Bank,
11 N.A., Civil Action No. 10-10311, U.S.D.Ct. (D. Mass.) (settled on group basis);
12 Durmic v. J.P. Morgan Chase Bank, N.A., Civil Action No. 10-10380, U.S. D. Ct.
13 D. Mass.; Otte v. Life Insurance Company of North America, Civil Action No. 09-
14 11537, U.S. D. Ct. D. Mass.); Chester v. Tancorde Finance, Case No. 1:14-cv-
15 00092, U.S.D.Ct. (D.N.M.); Charlessaint v. Persian Auto Corp., Case No. 14-11937
16 U.S.D.Ct. (D. Mass.); Spence v. Cavalry Portfolio Services, LLC, Case No. 1:14-
17 cv-12655-PBS (D. Mass); Fritz v. Resurgent Capital Services, LLC, Case No. 1:11-
18 cv-03300-FB-VVP (E.D.N.Y.); Lannan v. Levy & White, Case No. 1:14-cv-
19 113866-IT, U.S.D.Ct. (D. Mass.); Bible v. United Student Aid Funds, Inc.,
20 U.S.D.Ct. Case No. 1:13-cv-575 (S.D. Ind).

21 COUNSEL'S TIME AND EXPENSES

22 21. NCLC has participated in all major strategy decisions and brief
23 writing in these cases for the past twelve years, conducted extensive legal research,
24 appeared in person at the majority of the conferences and motion hearings before
25 the Court, and actively participated in more than half of the mediation sessions
26 concerning the Litigation.

27 22. NCLC has spent time on this litigation that could have been
28 spent on other matters. At various times during the litigation of this class action,

1 this lawsuit has consumed a substantial percentage of billable time that could
2 otherwise have been spent on other fee-generating work.

3 23. The time NCLC has spent on this case has been completely
4 contingent on the outcome of the action. NCLC has not been paid for any of the
5 time spent on the action.

6 24. From the inception of our involvement in this litigation in 2006
7 through the date of the filing of the 23(b)(2) Settlement (April 3, 2008), NCLC's
8 work involved prosecuting and resolving both the injunctive relief claims resulting
9 in the 23(b)(2) Settlement, on the one hand, and prosecuting and resolving the
10 monetary relief claims resulting in the 23(b)(3) Settlement on the other. While both
11 sets of claims were pending, the work performed with respect to those claims was
12 substantially indistinguishable from one another. For example, success on the
13 merits of the claims is a necessary precursor to obtaining either injunctive or
14 monetary relief, and the efforts involved with respect to demonstrating success on
15 the merits involved the same discovery and proof for both types of relief, whether
16 presented in mediation or in court.

17 25. Accordingly, NCLC has allocated one-half of the time incurred
18 from inception through the time of the filing of the 23(b)(2) Settlement (April 3,
19 2008) to the 23(b)(2) Settlement (plus time incurred subsequent to April 3, 2008 in
20 connection with the hearing on the approval of that settlement).

21 26. Based on our contemporaneous time records, my co-counsel at
22 NCLC, Charles M. Delbaum, created a summary chart showing how NCLC's
23 lodestar and expenses for work on the current 23(b)(3) settlement has been
24 calculated. First, he determined all of the work NCLC performed since the
25 inception of this case. The lodestar for this work, at our billing rates of \$625 per
26 hour for his time and mine, totals \$1,625,861.75. As referenced in our previous
27 Declarations submitted in support of Plaintiffs' Application for Attorneys' Fees in
28 connection with the 2008 Injunctive Relief Settlement, one-half of NCLC's time

1 incurred from inception through filing of the Injunctive Relief Settlement (April 3,
 2 2008), totaling 647 hours, was allocated to the Injunctive Relief Settlement, and
 3 NCLC also expended an additional 8.3 hours in connection with obtaining approval
 4 of that settlement to obtaining injunctive relief. (Dkt. 575-5, chart.) NCLC has
 5 accordingly deducted this same number of hours from our lodestar for our work in
 6 obtaining this new Settlement, reducing the total lodestar by \$409,562.50.¹ We also
 7 subtracted from our total lodestar all of the time that NCLC spent on this litigation
 8 during the period from April 1, 2009 to May 2, 2013 (the “conflict period”), for
 9 which we otherwise would have billed \$469,330.50. Based on these calculations,
 10 which are summarized in the chart immediately below, NCLC’s Adjusted Lodestar
 11 for the new settlement is \$746,968.75. Our Adjusted Expenses are \$10,439.86.²

Total Lodestar	\$1,625,861.75
Deductions for Lodestar Allocated to Injunctive Relief Settlement	\$409,562.50
Deductions for Period of Conflict (April 1, 2009 through May 1, 2013)	\$469,330.50
Adjusted Lodestar	\$746,968.75
Total Expenses	\$15,690.84
Deductions for Expenses Allocated to Injunctive Relief Settlement	\$4,999.97
Deductions for Period of Conflict (April 1, 2009 through May 1, 2013)	\$251.00
Adjusted Expenses	\$10,439.86

24
 25 ¹ Because NCLC has used current rates to calculate our lodestar for purposes of the Motion being
 26 filed herewith, the total dollar amount deducted for the lodestar allocated to obtaining injunctive
 relief is greater than the amount referenced in my earlier declaration, which was calculated using
 NCLC’s rates at the time. (Dkt. 575-5, chart).

27 ² These expenses were incurred solely in connection with this Litigation and are reflected on
 28 NCLC’s books and records as maintained in the ordinary course of business. These books and
 records are prepared from invoices, receipts, expense vouchers, check records and other records,
 and are an accurate record of the expenses incurred in this case.

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27. NCLC’s customary rates, which were used for purposes of calculating lodestar here, are based on prevailing rates in Boston, MA. NCLC sets its hourly rates according to prevailing market rates for small consumer firms, and is routinely awarded fees according to those rates. Our current rates were last changed in 2014.

28. Based upon my experience with other class action matters, I believe that the total time expended by all of plaintiffs’ counsel in connection with this litigation, when compared to the result achieved for the Class, is reasonable in amount and was necessary to ensure the successful relief obtained on behalf of the Class.

I declare under penalty of perjury that the foregoing is true and correct and that this Declaration was signed in Boston, Massachusetts, on October 30, 2017.

/s/ Stuart T. Rossman
Stuart T. Rossman