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8 *Attorneys for Plaintiff,*
9 Jeffrey A. Almada

10 **UNITED STATES DISTRICT COURT**
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 **JEFFREY A. ALMADA, on behalf of**
13 **himself and all other similarly situated**
14 **class members,**

15 **Plaintiff,**

16 **v.**

17 **KRIGER LAW FIRM, A.P.C.,**

18 **Defendant.**

19 **CASE No. 3:19-cv-02109-TWR-MDD**

20 **DECLARATION OF DAVID J.**
21 **MCGLOTHLIN SUPPORT OF**
22 **PLAINTIFF’S UNOPPOSED**
23 **MOTION FOR ATTORNEYS’ FEES,**
24 **COSTS AND SERVICE AWARD**



DECLARATION OF DAVID J. MCGLOTHLIN

I, DAVID J. MCGLOTHLIN, declare:

1. I am one of the attorneys for the Plaintiff Jeffrey A. Almada (“Plaintiff”) and the class in this action, against Defendant Kriger Law Firm, A.P.C. (“Kriger” or “Defendant”).
2. I am a partner of the law firm of Kazerouni Law Group. I am a member in good standing of the bars in California, Arizona, Utah and Oregon. I am also admitted in every federal district in California and have handled federal litigation in Arizona, Colorado, Oregon, and Nevada.
3. 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.
4. I submit this declaration in support of Plaintiff’s Unopposed Motion for Attorneys’ Fees, Costs, and Service Award.
5. I am a partner at Kazerouni Law Group, APC. I was admitted to the State Bar of California in 2007, and I have been practicing in the area of consumer protection law since my admission.

HOURS INCURRED

6. As of October 20, 2022, I have incurred approximately 4.30 hours in this action against Defendant. All hours were logged contemporaneously in the normal course of business. I assisted in finalizing the long form settlement agreement in this matter, including negotiating its terms with counsel for the Defendant as well as assisting with the preliminary approval motion.
7. Specifically, I spent approximately: 1.00 hours on communications with co-counsel; .60 hours on communications with opposing counsel; 1.00 hours on other communications; and 1.70 hours on motion practice.
8. Based on my extensive experience litigating complex consumer class actions as detailed below, I believe my proposed hourly rate of \$600 is fair and



1 reasonable, in light of my notable experience combined with my prior fee
2 approval rates. Such requested fee rate is also supported by other attorneys
3 within this District.

4 9. At the \$600 hourly rate and with the 4.40 hours incurred above, my loadstar
5 for this action is \$2,580 without taking into consideration the estimated
6 additional hours likely to be incurred through final approval.

7 10. Based on my experience, as outlined in more detail below, I believe an hourly
8 rate of \$600 for this matter is fair and reasonable for this class action litigation.
9 I have been approved by several courts for a similar hourly rate as requested
10 here.¹

11 11. I was previously approved at a rate of \$500 in a class action case filed in the
12 United States District Court for Utah. *See Rodrigues v. Cascade Collections*
13 *LLC*, Case No. 2:20-CV-00120-JNP-DBP, Dkt. No. 74 (finally approving
14 settlement where I requested a rate of \$500 per hour).

15 12. On October 18, 2021, I was approved at a rate of \$475 in *Barbano v. JP*
16 *Morgan Chase Bank, N.A.*, No. EDCV 19-1218 JGB (SPx), 2021 U.S. Dist.
17 LEXIS 204354, at *24-25 (C.D. Cal. Oct. 18, 2021) (approving an hourly rate
18 of \$475 per hour, and noting that other courts “have approved Mr.
19 McGlothlin’s previous hourly rate of \$450 per hour” and that the average rate
20 for attorneys practicing consumer protection “ranges from \$450 to \$569 per
21 hour”).

22
23
24 _____
25 ¹ Although I am admitted to practice law in California and Arizona (and I reside in
26 Arizona), this Court should look to reasonable billings rates in California, since this
27 action is filed in California and alleges violations of California law. *See Youngevity*
28 *Int'l v. Smith*, No. 3:16-cv-704-BTM-JLB, 2021 U.S. Dist. LEXIS 119533, at *9
(S.D. Cal. May 19, 2021) (noting courts are to look to the reasonable billing rates
prevailing in the community for similar worked preformed, which is in “the forum
in which the . . . court sits”).



1 13. Similarly, I was also approved at the rate of \$450 in *Baumrind v. Brandstorm,*
2 *Inc.*, 30-202001160083-CU-MC-CXC, 2021 Cal. Super. LEXIS 9571 (Sup.
3 Ct. Orange County Dec. 3, 2021).

4 14. On July 7, 2020, Judge Clark Waddoups of the U.S. District of Utah
5 approved my request for \$450 per hour for attorney's fees in a Fair Debt
6 Collection Practices Act ("FDCPA") class action, *Morrison v. Express*
7 *Recovery Services, Inc. d/b/a Clear Management Solutions*, case number 1:17-
8 cv- 00051-CW-DAO (ECF # 82).

9 15. In *Pastor v. Bank of America*, United States District Court, Northern District
10 of California case number 3:15-cv-03831-VC, I filed a Motion for Attorneys
11 Fees and Costs in which my hourly rate requested was \$450 per hour. The full
12 amount requested was granted on August 16, 2018 (*see* ECF # 84).

13 16. In *Reid v. IC System Inc. United States District Court*, District of Arizona
14 case number 12-cv-02661-ROS I was part of a Motion for Attorneys' Fees and
15 Costs in which my hourly rate requested was \$450 per hour. The full amount
16 requested was granted on July 27, 2018, ECF# 260, whereby Judge Silver
17 stated, "And for this work, counsel's hourly rates ranged from \$300 to \$550
18 an hour, which is reasonable for counsel in Arizona performing similar work."

19 17. In May of 2019, in the case, *Griggs v. Revenue Management Group LLC*,
20 United States District Court, District of Arizona case number 18-cv-02976-
21 GMS, my hourly of \$450 was approved by Judge G. Murray Snow, where he
22 stated, "Plaintiff's counsel seeks an hourly rate of \$450.00, and given the
23 Plaintiff's counsel's training, experience, and skill level, the Court concludes
24 that the hourly rate charged is reasonable and consistent with the prevailing
25 market rate in the area for lawyers of his skill level." *See also, Medeiros v.*
26 *HSBC Card Servs.*, No. CV 15-09093 JVS (AFMx), 2017 U.S. Dist. LEXIS
27 178484, at *38 (C.D. Cal. Oct. 23, 2017) (approving Mr. McGlothlin requested
28

1 a rate of \$425 per hour); *Tabitha Roberts v. Barrett Asset Recovery Services*
2 *LLC, et al.* (D. of Ariz. May 22, 2017) (approved at a rate of \$395).

3 18. Additionally, as noted in the declarations of Schuyler Hoffman, Esq. and
4 Edward S. Diab, Esq. submitted herewith, my requested hourly rate of \$600 is
5 reasonable and appropriate in the Southern District of California for a partner
6 such as myself with 15 years of experience handling consumer protection
7 matters and class action litigation.

8 19. I have reviewed the expense records for this matter and believe they were
9 reasonably incurred.

10 **CLASS COUNSEL’S EXPERIENCE**

11 20. Since my admission to the State Bar of California in 2007, I have been engaged
12 primarily in the area of consumer rights litigation, primarily in the area of fair
13 debt collections under the FDCPA and RFDCPA, the defense of debt
14 collection lawsuits, class action litigation under the Telephone Consumer
15 Protection Act, California’s Invasion of Privacy Statute pursuant to Penal
16 Code § 630, *et seq.*, false advertising actions concerning consumer products,
17 unfair competition and other consumer statutes.

18 21. My firm, Kazerouni Law Group, APC, in which I am a partner, has litigated
19 over 10,000 cases in the past thirteen years. Kazerouni Law Group, APC has
20 offices in Orange County, California; San Luis Obispo, California; San Diego,
21 California; Phoenix, Arizona; Las Vegas, Nevada; St. George, Utah; Dallas,
22 Texas; Seattle, Washington; New York, New York; Mt. Laurel, New Jersey;
23 and Minneapolis, Minnesota. Kazerouni Law Group, APC has extensive
24 experience in consumer class actions and other complex litigation. Kazerouni
25 Law Group, APC has a history of aggressive, successful prosecution of
26 consumer class actions. Approximately 95% percent of our practice concerns
27 consumer litigation in general.

28 22. My firm has been appointed lead counsel in numerous federal class actions,



1 resulting in millions of dollars of settlements for our clients.

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

5 24. I recently served as class counsel in *Pastor et al v. Bank of America, N.A.* in
6 the United States District Court, Northern District of California, case number
7 15cv03831-VC. In that case a settlement was reached where the parties
8 anticipated the usual 3-5% claims rate. In *Pastor* the claims administrator was
9 given addresses of the class members, and the direct mail notice postcard
10 resulted in an almost 20% claims rate.

11 25. I was also recently appointed class counsel in the District of Utah for a Fair
12 Debt Collection Practices Act case that was finally approved by Judge Clark
13 Waddoups on June 5, 2020. See *Morrison v. Express Recovery Services, Inc.*
14 *d/b/a Clear Management Solutions*, D. UT., 1:17-cv-00051-CW-DAO (class
15 approval for \$20,000).

16 26. I have been appointed class counsel in several class actions brought pursuant
17 to consumer protection statutes, including the Fair Debt Collection Practices
18 Act, California Penal Code § 630, *et seq.*; and the Telephone Consumer
19 Protection Act of 1991, 47 U.S.C. § 227 (TCPA). My practice involves
20 significant class action litigation, and I am or have been counsel in significant
21 national class actions including, but not limited to, class actions against Bank
22 of America, HSBC and Convergent and I.C. Systems to mention a few.

23 **KAZEROUNI LAW GROUP, APC'S**
24 **CONSUMER RELATED EXPERIENCE AND RESULTS**

25 27. Kazerouni Law Group has experience in litigating false advertising cases,
26 including but not limited to:

- 27 a. *Maxin v. RHG & Company, Inc.*, 2017 U.S. Dist. LEXIS 27374 (S.D.
28 Cal. February 27, 2017) (finally approved class action settlement for
\$900,000);





- 1 b. *Scheuerman v. Vitamin Shoppe Industries, Inc.*, BC592773 (Los
- 2 Angeles Superior Court) (finally approved class action settlement for up
- 3 to \$638,384);
- 4 c. *Oxina v. Lands' End, Inc.*, 3:14-cv-02577-MMA-NLS (S.D. Cal.
- 5 2016) (finally approved settlement under California Made in the USA
- 6 statute);
- 7 d. *Giffin v. Universal Protein Supplements*, BC613414 (Los Angeles
- 8 Superior Court) (finally approved, class received over \$210,000);
- 9 e. *Ayala et al v. Triplepulse, Inc.*, BC655048, Los Angeles Superior
- 10 Court (Nov. 13, 2018) (finally approved consumer false advertising
- 11 class action settlement);
- 12 f. *Holt, et al. v. FoodState Inc.*, 17-CV-00637-LM (District of New
- 13 Hampshire, 2017) (finally approved, \$2.1 million fund).

14 28. Kazerouni Law Group also has extensive experience in other consumer
15 related issues. A brief summary of a non-inclusive list of notable decisions are
16 as follows:

- 17 a. *Knell v. FIA Card Services, N.A., et al.*, 12-CV-426 AJB(WVG)(S.D.
- 18 Cal. 2014) (Co-lead counsel on a California class action involving
- 19 privacy rights under Cal. Penal Code § 632 et seq. Class relief provided
- 20 for a common fund in the amount of \$2,750,000. Counsel obtained
- 21 final approval on August 15, 2014);
- 22 b. *Hoffman v. Bank of America, N.A.*, 12-CV-539 JAH(DHB) (S.D. Cal.
- 23 2014) (Co-lead counsel on a California class action involving privacy
- 24 rights under Cal. Penal Code § 632 et seq. Class relief provided for a
- 25 common fund in the amount of \$2,600,000. Finally approved on
- 26 November 6, 2014);
- 27 c. *Zaw v. Nelnet Business Solutions, Inc.*, et al., C 13-05788 RS (N.D. Cal.
- 28 2014) (Co-lead counsel on a California class action involving privacy

1 rights under Cal. Penal Code § 632 et seq. Class relief provided for a
2 common fund in the amount of \$1,188,110. Final approval granted on
3 December 1, 2014).

- 4 d. *Kight v. CashCall, Inc.*, 200 Cal. App. 4th 1377 (2011) (Co-lead
5 counsel on a class action involving privacy rights under Cal. Penal
6 Code § 632 et seq. Appeals court reversing the trial courts granting of
7 Defendant’s motion for summary judgment after case was certified);
- 8 e. *Engelen v. Erin Capital Management, LLC*, et al., No. 12-55039 (9th
9 Cir. 2013, not for publication, D.C. No.: 3:10-cv-01125-BEN-RBB)
10 (Reversing the lower court’s granting of summary judgment to the
11 defendant debt collector on the basis of the bona fide error defense and
12 remanding for further proceedings);
- 13 f. *Sherman v. Yahoo!, Inc.*, 2014 U.S. Dist. LEXIS 13286; 13-CV-0041-
14 GPC-WVG (S.D. Cal.) (TCPA class action where Defendant’s motion
15 for summary judgment was denied holding that a single call or text
16 message with the use of an ATDS may be actionable under the TCPA);
- 17 g. *Olney v. Progressive Casualty Insurance Company*, 13-CV-2058-
18 GPC-NLS, 2014 U.S. Dist. LEXIS 9146 (S.D. Cal.) (Defendant’s
19 motion to dismiss or in the alternative to strike the class allegations was
20 denied finding that debt collection calls were not exempt from coverage
21 under the TCPA);
- 22 h. *Iniguez v. The CBE Group, Inc.*, 13-CV-00843-JAM-AC, 2013 U.S.
23 Dist. LEXIS 127066 (E.D. Cal.) (The court denying Defendant’s
24 motion to dismiss and to strike class allegations holding that the TCPA
25 applies to any call made to a cellular telephone with an ATDS);
- 26 i. *Hosseinzadeh v. M.R.S. Assocs.*, 387 F. Supp. 2d 1104 (C.D. Cal. 2005)
27 (Summary judgment was granted *sua sponte* in favor of a debtor where
28 debt collector violated the Fair Debt Collection Practices Act, when its



1 employees failed to disclose the debt collector’s identity and the nature
2 of its business in the messages left on the debtor’s answering machine).
3 This case has now been followed in at least four different districts
4 throughout the country.

- 5 j. *Edstrom v. All Servs. & Processing*, 2005 U.S. Dist. LEXIS 2773 (N.D.
6 Cal. 2005) (Numerous omissions from a letter sent by a debt collector
7 to members of a homeowners association, and a statement requiring
8 any dispute to be put in writing, violated 15 U.S.C. § 1692g(a) of the
9 FDCPA and Cal. Civ. Code §1788.17. The FDCPA required strict
10 compliance; actual confusion on debtors’ part was not required);
- 11 k. *Forsberg v. Fid. Nat’l Credit Servs.*, 2004 U.S. Dist. LEXIS 7622 (S.D.
12 Cal. 2004) (Plaintiff alleged sufficient facts to support his claim that a
13 collection company, in its initial communication, did not comply with
14 the statutory requirements for notice of validation of debts under the
15 FDCPA);
- 16 l. *Sparrow v. Mazda Am. Credit*, 385 F. Supp. 2d 1063 (N.D. Cal. 2005)
17 (Court struck Defendant’s counter claim of the underlying debt in a fair
18 debt action based on lack of subject matter jurisdiction);
- 19 m. *Geoffroy, et al. v. Washington Mutual Bank*, 484 F. Supp. 2d 1115 (S.D.
20 Cal. 2007) (Court striking down Defendant’s arbitration agreement as
21 both procedurally and substantively unconscionable);
- 22 n. *Yang v. DTS Financial Group*, 07-CV-1731 JLS (WMc) (Holding that
23 for profit debt settlement companies are covered under the FDCPA and
24 can be construed as “debt collectors” under 15 U.S.C. § 1692a(6));
- 25 o. *Mason v. Creditanswers*, 2008 U.S. Dist. LEXIS 68575 (Holding that
26 a forum selection clause causing a California consumer to litigate its
27 claims seems contrary to the policies advanced by certain consumer
28 protection statutes);





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

29. Many of the cases listed above, which have settled, resulted in the creation of combined common funds and/or distribution to class member in the hundreds of millions of dollars. The outstanding results mentioned above are a direct result of the diligence and tenacity shown by Kazerouni Law Group, APC, and myself, in successfully prosecuting complex class actions.

30. Therefore, my experience in litigating class actions and my years in practice are sufficient to justify my firm’s appointment as class counsel in this case.

**ADDITIONAL RELEVANT TRAINING,
SPEAKING/TEACHING ENGAGEMENTS AND ASSOCIATIONS**

31. I have been requested to and have made regular appearances on KFNN 1510 Financial News Radio regarding consumer rights and debt collection laws.

1 32.I have appeared on KPHO’s Channel 5 10:00 p.m. news program to discuss
2 abusive debt collectors and consumer’s rights.

3 33.I have appeared on 3TV’s news program to discuss abusive debt collectors and
4 the credit industry.

5 34.I have appeared on the local NBC affiliate’s 12 News to discuss consumer
6 issues including the recent fraud by Wells Fargo Bank.

7 35.I have given a presentation regarding consumer rights and the military to the
8 Judge Advocates Office at the Marine Corp Air Station Base in Yuma,
9 Arizona.

10 36.I have undergone extensive training in the area of consumer law. The following
11 is a list of recent training conferences I attended:

- 12 a. Three-day National Consumer Law Center: Fair Debt Collection
13 Practices Training Conference, in Tucson, AZ - 2007;
- 14 b. Four-day National Consumer Law Center Conference; Nashville,
15 TN – 2008;
- 16 c. Three-day National Consumer Law Center Conference; Portland,
17 OR - 2008;
- 18 d. Three-day National Consumer Law Center Conference; San Diego,
19 CA - 2009.
- 20 e. Three-day National Consumer Law Center: Fair Debt Collecting
21 Training Conference in Seattle, WA in March 2011;
- 22 f. Three-day National Consumer Law Center: Fair Debt Collecting
23 Training Conference in New Orleans, LA in March 2012;
- 24 g. Four-day National Consumer Law Center Conference; Seattle, WA
25 – October, 2012;
- 26 h. Three-day National Consumer Law Center: Fair Debt Collection
27 Practices Training Conference, in Baltimore, MD - March 2013;
- 28



- 1 i. Three-day National Consumer Law Center: Fair Debt Collection
- 2 Practices Training Conference, in San Antonio, Tx - March 2014.
- 3 j. Consumer Attorneys Association of Los Angeles, Annual
- 4 Convention; Las Vegas, NV – September 2014;
- 5 k. Four-day National Consumer Law Center Conference; Tampa, FL
- 6 – November, 2014;
- 7 l. Three-day National Consumer Law Center: Fair Credit Reporting
- 8 Act Training Conference, in Las Vegas, NV - May 2015;
- 9 m. Consumer Attorneys Association of Los Angeles, Annual
- 10 Convention; Las Vegas, NV – September 2015;
- 11 n. Four-day National Consumer Law Center Conference; San
- 12 Antonio, TX – November, 2015;
- 13 o. Three-day National Consumer Law Center: Fair Debt Collection
- 14 Practices Training Conference, in Miami, FL - March 2016;
- 15 p. Four-day National Consumer Law Center Conference; Anaheim,
- 16 CA – October 2016.
- 17 q. Three-day Mass Torts Made Perfect Conference; Las Vegas, Nevada
- 18 – April 2019.
- 19 r. Three-day Fair Credit Reporting Act Conference; Long Beach, CA
- 20 – May 2019.
- 21 s. Four-day NACA Spring Training on the FCRA and other consumer
- 22 related matters including Class actions and arbitration – May 2022.
- 23

24 I declare under penalty of perjury under the laws of California and the United
25 States of America that the foregoing is true and correct, and that this declaration was
26 executed on October 20, 2022.

27 By: 
28 DAVID J. MCGLOTHLIN