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Attorneys for Plaintiffs and the Proposed Class

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ALAN BRINKER, AUSTIN RUGG, and
ANA SANDERS, individually and on behalf
of all others similarly situated,

Plaintiffs,

v.

NORMANDIN’S, a California corporation,
d/b/a NORMANDIN CHRYSLER JEEP
DODGE RAM, and ONECOMMAND, INC.,

Defendants.

NO. 5:14-cv-03007-EJD-HRL

**DECLARATION OF BETH E.
TERRELL IN SUPPORT OF
PLAINTIFFS’ MOTION FOR
ATTORNEYS’ FEES, COSTS AND
SERVICE AWARDS**

JURY TRIAL DEMAND

HON. EDWARD J. DAVILA

Complaint Filed: July 1, 2014

DATE: March 29, 2018

TIME: 10:00 a.m.

LOCATION: Courtroom 4 – 5th Floor

I, Beth E. Terrell, declare as follows:

A. Background and Experience

1. I am a member of the law firm of Terrell Marshall Law Group PLLC (“TMLG”),
counsel of record for Plaintiff in this matter. I am admitted to practice before this Court and am a

1 member in good standing of the bars of the states of Washington and California. I respectfully
2 submit this declaration in support of Plaintiff's Motion for Award of Attorneys' Fees, Costs, and
3 Service Awards. Except as otherwise noted, I have personal knowledge of the facts set forth in
4 this declaration, and could testify competently to them if called upon to do so.

5 2. TMLG is a law firm in Seattle, Washington, that focuses on complex civil and
6 commercial litigation with an emphasis on consumer protection, product defect, civil rights,
7 employment, wage and hour, real estate, and personal injury matters. The attorneys of TMLG
8 have extensive experience in class actions, collective actions, and other complex matters. They
9 have been appointed lead or co-lead class counsel in numerous cases at both the state and federal
10 level. They have prosecuted a variety of multi-million-dollar consumer fraud, civil rights, wage
11 and hour, and product defect class actions. The defendants in these cases have included
12 companies such as Wal-Mart, Microsoft, Best Buy, Toyota, Honda, Sallie Mae, Comcast, ABM
13 Industries, Inc., AT&T, T- Mobile USA, Weyerhaeuser, Behr Products, American Cemwood,
14 Bank of America, Discover Financial Services, Capital One, and HSBC.

15 3. I am the lead attorney from TMLG in the instant litigation. A founding member of
16 TMLG, I concentrate my practice in complex litigation, including the prosecution of consumer,
17 defective product, and wage and hour class actions. I have served as co-lead counsel on
18 numerous multi-state and nationwide class actions. I also handle a variety of employment issues
19 including employment discrimination, restrictive covenant litigation, and pre-litigation
20 counseling and advice.

21 4. I received a B.A., magna cum laude, from Gonzaga University in 1990. In 1995, I
22 received my J.D. from the University of California, Davis School of Law, Order of the Coif.
23 Prior to forming TMLG in May 2008, I was a member of Tousley Brain Stephens PLLC. I am a
24 frequent speaker at legal conferences on a wide variety of topics including consumer class
25 actions, employment litigation, and electronic discovery, and I have been awarded an "AV"
26 rating in Martindale Hubble by my peers.

1 5. I am actively involved in several professional organizations and activities. For
2 example, I currently am an Eagle Member of the Washington State Association of Justice
3 (“WSAJ”), and serve as the Chair of its Consumer Protection Section. I am the current Chair of
4 the Washington Employment Lawyers Association and a member of the Public Justice
5 Foundation’s Board of Directors. I also serve on the Foundation’s Executive and Development
6 Committees.

7 6. I have been repeatedly named to the annual Washington Super Lawyers list
8 (2005, 2010, 2011, 2012, 2013, 2014, 2015, 2016, and 2017) by Washington Law & Politics
9 Magazine. I was also named to their Top 100 Washington Super Lawyers list (2014 and 2015)
10 and their Top 50 Women Super Lawyers list (2012, 2013, 2014, 2015, and 2016).

11 **B. Qualifications of Other TMLG Attorneys and Staff**

12 7. Adrienne D. McEntee is a member of TMLG. Ms. McEntee graduated from the
13 University of Washington School of Law in 2003, where she was a member of the Pacific Rim
14 Law and Policy Journal and Moot Court Honor Board. Prior to joining TMLG, Ms. McEntee was
15 a member of Tousley Brain Stephens PLLC, where she practiced for five years. Before entering
16 private practice, Ms. McEntee worked with the King County Prosecuting Attorney’s Office,
17 where she prosecuted a broad range of crimes. Ms. McEntee has tried approximately fifty cases
18 and has briefed, argued, and won cases before the Washington State Court of Appeals. Since her
19 admission to the bar, Ms. McEntee has been an active member of the Washington State Bar
20 Association and Washington Women Lawyers, as a member of the Judicial Evaluation
21 Committee.

22 8. Amanda Steiner is a member of TMLG with nearly twenty years of experience in
23 class action and complex civil litigation. A 1997 graduate of UC Berkeley School of Law who is
24 admitted in Washington, California, New York and Hawaii, she has authored briefs that have
25 resulted in numerous favorable decisions for plaintiffs in high-profile and complex securities,
26 antitrust, consumer and civil rights class action in federal and state courts throughout the United
27 States. Ms. Steiner was selected for inclusion in the annual Northern California “Super Lawyers”

1 list (2012-2016) and was named to the Top 50 Women Lawyers of Northern California. She is a
2 member of the Legal Writing Institute and the American Bar Association's Appellate Practice
3 Committee, and is a Fellow of the American Bar Foundation.

4 9. A. Janay Ferguson was of counsel with TMLG. Ms. Ferguson received her B.A.,
5 cum laude, from the University of Texas and graduated magna cum laude from Seattle
6 University, School of Law in 2000. Ms. Ferguson is a member of the bar of the states of
7 Washington, Oregon, and Texas. She has extensive experience in complex civil litigation,
8 professional malpractice, and employment law. Prior to joining TMLG, Ms. Ferguson was a
9 member of Lee Smart, P.S., Inc., where she practiced for seven years. Ms. Ferguson has
10 represented attorneys, brokers, accountants, realtors, and other professionals in matters involving
11 a variety of claims, including those related to professional discipline, corporate dissolution,
12 employment disputes, significant personal injury claims, and malpractice. Prior to entering
13 private practice, Ms. Ferguson served as a judicial clerk to Justice Charles W. Johnson of the
14 Washington Supreme Court. Ms. Ferguson is an active member of the QLaw Foundation and
15 served on its Judicial Evaluation Committee from 2007 to 2014. Ms. Ferguson was named a
16 Washington "Rising Star" by Washington Law & Politics magazine in 2005, 2006, and 2009.

17 10. Kerem Levitas is a former associate at TMLG. Mr. Levitas graduated from the
18 University of Washington School of Law in 2009. Mr. Levitas is now with the City of Seattle's
19 Office of Labor Standards.

20 11. A number of TMLG staff members performed substantial legal services in
21 connection with this case. Those staff members include Jennifer J. Boschen, Rachel E. Hoover,
22 and Bradford K. Kinsey.

23 **C. Other Cases Litigated by TMLG**

24 12. TMLG has actively and successfully litigated class action lawsuits under the
25 Telephone Consumer Protection Act ("TCPA"). TMLG has taken the lead in some of the largest
26 nationwide class actions filed under the TCPA, including those filed against large financial
27 institutions such as Sallie Mae, Bank of America, Discover Financial Services, Capital One, and

1 HSBC. I have been appointed co-lead counsel in two of the largest MDLs involving TCPA
2 claims, *In re Capital One Telephone Consumer Protection Act Litigation*, 1:12-cv-10064 (N.D.
3 Illinois), and *In re Monitronics International, Inc. Telephone Consumer Protection Act*
4 *Litigation*, MDL No. 1:13-MD-2493 (N.D. W. Va.).

5 13. TMLG is litigating or has recently settled the following Telephone Consumer
6 Protection Class Actions:

- 7 • *In re Capital One Telephone Consumer Protection Act Litigation*—
8 Filed on behalf of consumers who received automated, prerecorded
9 collection telephone calls on their cellular telephones without their
10 prior express consent within the meaning of the Telephone Consumer
11 Protection Act, 47 U.S.C. § 227 *et seq.* I served as court-appointed
12 Interim Co-Lead Counsel; final approval of the \$75,455,098.74
13 settlement was granted in February 2015.
- 14 • *In re Monitronics International, Inc. Telephone Consumer Protection*
15 *Act Litigation*—Filed on behalf consumers who received automated,
16 prerecorded solicitation telephone calls on their residential and
17 business telephones without their prior express consent within the
18 meaning of the Telephone Consumer Protection Act, 47 U.S.C. § 227
19 *et seq.*, the Washington Automatic Dialing and Announcing Device
20 statute, RCW 80.36.400, and the Washington Consumer Protection
21 Act, RCW 19.86 *et seq.* I serve as co-lead counsel in the MDL. The
22 case settled on a class-wide basis in 2017, and preliminary approval
23 was granted in September 2017.
- 24 • *Wilkins, et al. v. HSBC Bank Nevada, N.A., et al.*—Filed on behalf of
25 individuals who alleged that HSBC made prerecorded calls using an
26 automatic dialing system. The case settled on a class-wide basis in
27 2014 for \$39,975,000, and final approval was granted in March 2015.
- *Ott, et al. v. Mortgage Investors Corporation*—Filed on behalf of
consumers who received automated solicitation telephone calls on
their cellular and residential telephones without their prior express
consent within the meaning of the Telephone Consumer Protection
Act, 47 U.S.C. § 227 *et seq.* TMLG negotiated a \$7,483,600 class-
wide settlement; final approval was granted in January 2016.
- *Abante Rooter and Plumbing, Inc., et al. v. Alarm.com Incorporated,*
et al.—TMLG represents three certified classes of consumers who
received automated solicitation telephone calls on their cellular and
residential telephones without their prior express consent within the

1 meaning of the Telephone Consumer Protection Act, 47 U.S.C. § 227
2 *et seq.* The case is pending in the United States District Court for the
Northern District of California.

- 3 • *Abante Rooter and Plumbing, Inc., et al. v. Pivotal Payments Inc., et*
4 *al.*—Filed on behalf of consumers who received automated solicitation
5 telephone calls on their cellular telephones without their prior express
6 consent within the meaning of the Telephone Consumer Protection
Act, 47 U.S.C. § 227 *et seq.* The case is pending in the United States
District Court for the Northern District of California.
- 7 • *Snyder, et al. v. Ocwen Loan Servicing, LLC*—Filed on behalf of
8 consumers who received automated collection telephone calls on their
9 cellular telephones without their prior express consent within the
10 meaning of the Telephone Consumer Protection Act, 47 U.S.C. § 227
et seq. The case settled on a class-wide basis in 2017, and final
11 approval is pending in the United States District Court for the
Northern District of Illinois.
- 12 • *Charvat, et al. v. Plymouth Rock Energy, et al.*—Filed on behalf of
13 consumers who received automated solicitation telephone calls on
14 their cellular and residential telephones without their prior express
15 consent within the meaning of the Telephone Consumer Protection
Act, 47 U.S.C. § 227 *et seq.* and/or to telephone numbers registered on
16 the National-Do-Not-Call Registry. The case settled on a class-wide
basis in 2016, and final approval is pending in the United States
District Court for the Eastern District of New York.
- 17 • *Davenport v. Discover Financial Services, et al.*—Filed on behalf of
18 consumers who received automated solicitation telephone calls on
19 their cellular telephones without their prior express consent within the
20 meaning of the Telephone Consumer Protection Act, 47 U.S.C. § 227
et seq. The case settled on a class-wide basis for \$5,000,000 in 2016,
and final approval was granted in December 2017.
- 21 • *Melito, et al. v. American Eagle Outfitters, Inc., et al.*—Filed on behalf
22 of consumers who received spam text messages on their cellular
23 telephones without their prior express consent within the meaning of
the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.* The
24 case settled on a class-wide basis in 2016, and final approval was
granted in September 2017. The case is currently on appeal with the
United States Court of Appeals for the Second Circuit.
- 25 • *Ashack v. Caliber Home Loans*—Filed on behalf of consumers who
26 received automated, prerecorded collection telephone calls on their
27 cellular telephones without their prior express consent within the
meaning of the Telephone Consumer Protection Act, 47 U.S.C. § 227

1 *et seq.* TMLG worked to negotiate a \$2,895,000 nationwide settlement
2 in 2016, and final approval was granted in June 2017.

- 3 • *Joseph v. TrueBlue Inc., et al.*—Filed on behalf of consumers who
4 received spam text messages on their cellular telephones without their
5 prior express consent within the meaning of the Telephone Consumer
6 Protection Act, 47 U.S.C. § 227 *et seq.* The case settled on a class-
7 wide basis in 2016, and final approval was granted in March 2017.
- 8 • *Booth, et al. v. AppStack, et al.*—TMLG represents a certified class of
9 consumers who received automated, prerecorded solicitation telephone
10 calls on their cellular telephones without their prior express consent
11 within the meaning of the Telephone Consumer Protection Act, 47
12 U.S.C. § 227 *et seq.* The case settled on a class-wide basis in 2016,
13 and final approval was granted in January 2017.
- 14 • *Bee, Denning, Inc., et al. v. Capital Alliance Group, et al.*—TMLG
15 represented two certified classes of consumers who received junk
16 faxes and automated, prerecorded solicitation telephone calls on their
17 cellular telephones without their prior express consent within the
18 meaning of the Telephone Consumer Protection Act, 47 U.S.C. § 227
19 *et seq.* The case settled on a class-wide basis, and final was granted in
20 November 2016.
- 21 • *Lushe, et al. v. Verengo, Inc.*—Filed on behalf of consumers who
22 received automated, prerecorded solicitation telephone calls on their
23 cellular and residential telephones without their prior express consent,
24 within the meaning of the Telephone Consumer Protection Act,
25 47 U.S.C. § 227 *et seq.* The case settled on a class-wide basis in 2015,
26 and final approval was granted in May 2016.
- 27 • *Rinky Dink, et al. v. Electronic Merchant Systems, Inc., et al.*—Filed
on behalf of consumers who received automated, prerecorded
solicitation telephone calls on their cellular telephones and
Washington landlines without their prior express consent within the
meaning of the Telephone Consumer Protection Act, 47 U.S.C. § 227
et seq., the Washington Automatic Dialing and Announcing Device
statute, RCW 80.36.400, and the Washington Consumer Protection
Act, RCW 19.86 *et seq.* The case settled on a class-wide basis in 2015,
and final approval was granted in April 2016.
- *Rinky Dink, et al. v. World Business Lenders, LLC*—Filed on behalf of
consumers who received automated, prerecorded solicitation telephone
calls on their cellular telephones and Washington landlines without
their prior express consent within the meaning of the Telephone
Consumer Protection Act, 47 U.S.C. § 227 *et seq.*, the Washington
Automatic Dialing and Announcing Device statute, RCW 80.36.400,

1 and the Washington Consumer Protection Act, RCW 19.86 *et seq.* The
2 case settled on a class-wide basis in 2015, and final approval was
granted in May 2016.

- 3 • *Taylor v. Universal Auto Group I*—Filed on behalf of consumers who
4 received automated, prerecorded solicitation telephone calls on their
5 cellular telephones without their prior express consent within the
6 meaning of the Telephone Consumer Protection Act, 47 U.S.C. § 227
et seq. The case settled on a class-wide basis, and final approval was
granted in February 2016.
- 7 • *Gehrich v. Chase Bank USA*—Filed on behalf of consumers who
8 received automated, prerecorded collection telephone calls on their
9 cellular telephones without their prior express consent within the
10 meaning of the Telephone Consumer Protection Act, 47 U.S.C. § 227
et seq. TMLG worked to negotiate a \$34,000,000 nationwide
settlement; final approval was granted in March 2016.
- 11 • *Chesbro v. Best Buy Stores, L.P.*—Filed on behalf of consumers who
12 received automated, prerecorded solicitation telephone calls on their
13 residential telephones without their prior express consent within the
14 meaning of the Telephone Consumer Protection Act, 47 U.S.C. § 227
et seq. TMLG negotiated a \$4.5 million settlement, which was granted
final approval in September 2014.
- 15 • *Rose, et al. v. Bank of America Corp., et al.*—Filed on behalf of
16 consumers who received automated, prerecorded collection telephone
17 calls on their cellular telephones without their prior express consent
18 within the meaning of the Telephone Consumer Protection Act, 47
U.S.C. § 227 *et seq.* TMLG worked to negotiate a nationwide
19 settlement of \$32,083,905, which was granted final approval in August
20 2014.
- 21 • *Steinfeld v. Discover Financial Services, et al.*—Filed on behalf of
22 consumers who received automated, prerecorded collection telephone
23 calls on their cellular telephones without their prior express consent
24 within the meaning of the Telephone Consumer Protection Act,
25 47 U.S.C. § 227 *et seq.* TMLG negotiated an \$8.7 million settlement,
26 which was granted final approval in March 2014.
- 27 • *Hanley v. Fifth Third Bank*—Filed on behalf of consumers who
received automated, prerecorded collection telephone calls on their
cellular telephones without their prior express consent within the
meaning of the Telephone Consumer Protection Act, 47 U.S.C. § 227
et seq. TMLG negotiated a \$4.5 million settlement, which was granted
final approval in December 2013.

- 1 • *Arthur v. Sallie Mae, Inc.*—Filed on behalf of consumers who received
2 automated, prerecorded collection telephone calls on their cellular
3 telephones without their prior express consent within the meaning of
4 the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.*
TMLG worked to negotiate a \$24.15 million nationwide settlement,
and final approval was granted in 2012.

5 14. TMLG is litigating or has recently settled the following consumer protection class
6 actions:

- 7 • *Gold, et al. v. Lumber Liquidators, Inc.*—Filed in 2014 on behalf of
8 consumers who purchased defective flooring. TMLG represents a
9 certified nationwide class of consumers as well as six certified sub-
10 classes of consumers in the states of California, Illinois, West Virginia,
11 Minnesota, Pennsylvania, and Florida. The case is pending in the
12 United States District Court for the Northern District of California.
- 13 • *Jordan v. Nationstar Mortgage, LLC*—TMLG represents a certified
14 class of homeowners who were improperly locked out of their homes
15 by their mortgage lender. The court granted summary judgment on
16 liability on claims for two of the classes and, subsequently, the case
17 settled on a class-wide basis shortly before trial. The class will seek
18 preliminary approval of the settlement in the United States District
19 Court for the Eastern District of Washington in early 2018.
- 20 • *Breazeale, et al v. Victim Services, Inc., et al*—TMLG currently
21 represents a proposed class of consumers who allege violations of the
22 FDCPA. The lawsuit is pending in U.S. District Court for the Northern
23 District of California.
- 24 • *Dibb, et al. v. AllianceOne Receivables Management, Inc.*—TMLG
25 represents three certified classes of Washington consumers who
26 received unfair and deceptive debt collection notices that included
27 threats of criminal prosecution. The case settled on a class-wide basis
for \$1,900,000 in March 2017, and final approval was granted in July
2017.
- *Cavnar, et al. v. BounceBack, Inc.*—Filed in 2014 on behalf of
Washington consumers who received false, misleading, and deceptive
debt collection letters printed on the letter head of county prosecuting
attorneys. TMLG worked to negotiate a class-wide settlement, and
final approval was granted in September 2016.
- *Soto v. American Honda Motor Corporation*—Filed in 2012 on behalf
of owners and lessees of 2008-2010 Honda Accords that consume
motor oil at a much higher rate than intended, due to a systemic design

1 defect. The case settled on a class-wide basis and final approval was
2 granted in March 2014.

- 3 • *Smith v. Legal Helpers Debt Resolution LLC*—Filed in 2011 on behalf
4 of consumers who were charged excessive fees for debt adjusting
5 services in violation of Washington law. Class settlements were
6 approved by the Court in December 2012 and December 2013.
- 7 • *Brown v. Consumer Law Associates LLC, et al.*—Filed in 2011 on
8 behalf of consumers who were charged excessive fees for debt
9 adjusting services in violation of Washington law. A class settlement
10 was approved by the Court in 2013.
- 11 • *Bronzich, et al. v. Persels & Associates, LLC, et al.*—Filed in 2010 on
12 behalf of consumers who were charged excessive fees for debt
13 adjusting services in violation of Washington law. A class settlement
14 was approved by the Court in 2013.
- 15 • *Milligan, et al. v. Toyota Motor Sales, Inc.*—Filed in 2009 on behalf of
16 owners of 2001-2003 Toyota RAV4s containing defective Electronic
17 Computer Modules, which cause harsh shifting conditions and
18 permanent damage to the transmissions. TMLG worked to negotiate a
19 nationwide class action settlement, and final approval was granted in
20 January 2012.
- *Kitec Consolidated Cases*—Served as co-counsel in a national class
action lawsuit against the manufacturers of defective hydronic heating
and plumbing systems. The case settled for \$125,000,000, and final
approval was granted in 2011.
- *Seraphin v. AT&T Internet Services, Inc., et al.*—A multi-state class
action filed in 2009 on behalf of AT&T internet customers who paid
\$20 a month or less for internet service and were assessed an Early
Termination Fee when they cancelled service. A class settlement was
approved by the Court in 2011.

21 15. TMLG is litigating or has recently settled the following wage and hour class

22 actions:

- 23 • *Helde v. Knight Transportation, Inc.*—TMLG represented a certified
24 class of current and former truck drivers alleging violations of wage
25 and hour laws in Washington. After several years of vigorous
26 litigation, TMLG reached a class-wide settlement of \$1.45 million, not
27 including attorneys' fees and costs. Final Approval is currently
pending in U.S. District Court for the Western District of Washington.

- 1 • *Tolliver, et al. v. Avvo, Inc.*—TMLG represented a class of current and
2 former sales employees who alleged they were misclassified as
3 overtime exempt. The case settled on a class-wide basis for \$1.75
4 million, and final approval was granted in September 2017.
- 5 • *McCracken v. Pacific Cargo Services, LLC, et al.*—TMLG represented
6 a certified class of truck drivers in Washington and Oregon who
7 alleged wage and hour violations. After years of complex litigation in
8 Washington and Oregon Courts, TMLG reached a settlement of
9 \$475,000 on behalf of the class. King County Superior Court granted
10 final approval of the settlement in August 2017.
- 11 • *Spencer v. FedEx Ground Package System, Inc.*—TMLG represented a
12 certified class of current and former delivery drivers who allege
13 violations of state wage and hour laws. The case settled on a class-
14 wide basis for \$10,500,000, and final approval was granted in
15 December 2016.
- 16 • *Romatka, et al. v. Brinker International Payroll Company, L.P., et*
17 *al.*—Filed in 2013 on behalf of approximated 900 workers who alleged
18 violations of Washington State wage and hour laws. The case settled
19 on a class-wide basis, and final approval was granted in March 2015.
- 20 • *Newell v. Home Care of Washington, Inc., et al.*—TMLG represented a
21 certified class of more than 400 in-home health care workers who
22 alleged violations of state wage and hour laws. The case settled on a
23 class-wide basis, and final approval was granted in January 2015.
- 24 • *Paz v. Sakuma Brothers Farms, Inc.*—Filed in 2013 on behalf of
25 migrant and seasonal workers who alleged violations of Washington
26 State wage and hours laws. A class-wide settlement was approved by
27 the Court in December 2014.
- *Hill v. Xerox Business Services, LLC, et al., and Douglas v. Xerox*
Business Services, LLC, et al.—TMLG represents two certified classes
of current and former call center workers who allege violations of state
and federal wage and hour laws. Both cases were filed in 2012 and are
pending in the United States District Court for the Western District of
Washington.
- *Dickerson v. Cable Communications, Inc., et al.*—Filed in 2012 on
behalf of approximately 500 individuals alleging their employer
violated Oregon’s wage and hour laws. Defendants’ systematic
scheme of wage and hour violations involved, among other things,
failure to pay non-managerial installation technicians for all hours
worked, including overtime. The case settled on a class-wide basis,
and final approval was granted in 2013.

- 1 • *Khadera v. ABM Industries, Inc.*—TMLG represented 337 employees
2 who alleged violations of federal and state wage and hour laws. The
3 case settled, and final approval was granted in 2012.
- 4 • *Simpson v. ABM Industries, Inc.*—TMLG represented a CR 23 class of
5 approximately 6,800 employees who alleged Washington State wage
6 and hour violations. The case settled in March 2012, and final
7 approval of the settlement was granted in September 2012.
- 8 • *Barnett, et al. v. Wal-Mart Stores, Inc.*—Filed in 2001 on behalf of
9 Washington employees alleging wage and hour violations by the
10 country’s largest private employer. After more than seven years of
11 litigation, TMLG obtained a settlement of \$35 million on behalf of a
12 certified class of approximately 88,000 employees. That settlement
13 was approved in July 2009.
- 14 • *McGinnity, et al. v. AutoNation, Inc., et al.*—TMLG represented a
15 certified class of more than 500 employees who were denied earned
16 vacation benefits. After nearly two years of litigation before an
17 arbitrator, we obtained an award of \$2.34 million on behalf of the
18 class. We successfully defended the award on appeal, and the
19 Washington Supreme Court denied Defendants’ petition for review. A
20 judgment in excess of \$2,600,000 was satisfied in September 2009.
- 21 • *Ramirez, et al. v. Precision Drywall, Inc.*—TMLG represented a
22 certified class of workers who alleged they were not paid for overtime
23 work. The case was tried before a jury during a five-week period in
24 2010, and TMLG successfully obtained a judgment for the workers in
25 excess of \$4,000,000. TMLG continues to work on enforcing the
26 judgment against multiple defendants.

18 **D. The Prosecution of This Action**

19 16. TMLG has invested numerous hours and advanced significant costs into the
20 investigation and prosecution of this case.

21 17. The following table lists the TMLG attorneys and professional personnel and their
22 current hourly rates. The hourly rate shown reflects the last rate that applied at the time of their
23 employment in that position. The chart also details the time each of these attorneys and
24 professional personnel worked on this case and their contribution to TMLG’s total lodestar:

25 ///

26 ///

NAME AND POSITION	DESCRIPTION OF WORK PERFORMED	RATE	HOURS BILLED	TOTAL
ATTORNEYS				
Beth E. Terrell Partner at Terrell Marshall Law Group PLLCs	Prepared for, traveled to, and conducted depositions; prepared for, traveled to and attended mediation.	\$725	47.3	\$34,292.50
Amanda M. Steiner Partner at Terrell Marshall Law Group PLLC since 2016	Drafted motion for reconsideration of the Court's order granting OneCommand's motion to dismiss and reply in support of that motion.	\$700	13.3	\$9,310.00
Adrienne D. McEntee Partner at Terrell Marshall Law Group PLLC since 2014	Reviewed discovery responses and documents; conferred with opposing counsel regarding discovery disputes; drafted amended complaint and motion for leave to amend; drafted discovery motions; drafted discovery responses; communicated with client; drafted motion for class certification; traveled to and participated in mediation; traveled to and participated in hearing on motion for class certification; defended expert deposition; drafted opposition to motion to dismiss; engaged in extensive settlement negotiations and drafting of settlement agreement terms; drafted motion for preliminary approval of settlement; traveled to and participated in hearing on motion for preliminary approval.	\$575	524.4	\$301,530.00
A. Janay Ferguson Of Counsel at Terrell Marshall Law Group PLLC from April 2015 to March 2017	Prepared for, traveled to, and conducted depositions; reviewed discovery responses; conferred with opposing counsel regarding discovery issues and ESI; drafted letters regarding discovery deficiencies; drafted discovery motions.	\$550	206.3	\$113,465.00
Kerem M. Levitas Associate at Terrell Marshall Law Group PLLC July 2014 to July 2015	Drafted discovery letter; researched and drafted motion for sanctions.	\$325	22.3	\$7,247.50
PARALEGALS/LEGAL ASSISTANTS				
Rachel E. Hoover Paralegal at Terrell Marshall Law Group PLLC since	Worked on subpoenas; worked on document review; worked on discovery issues; worked on discovery requests; worked on motion for class certification.	\$275	57.5	\$15,812.50

DECLARATION OF BETH E. TERRELL IN SUPPORT OF PLAINTIFFS' MOTION FOR ATTORNEYS' FEES, COSTS AND SERVICE AWARDS - 13
CASE No. 5:14-cv-03007-EJD-HRL

NAME AND POSITION	DESCRIPTION OF WORK PERFORMED	RATE	HOURS BILLED	TOTAL
March 2011				
Bradford Kinsey Legal Assistant at Terrell Marshall Law Group PLLC since October 2009	Drafted and revised pleadings; worked on discovery requests; served motions, pleadings and discovery-related documents; coordinated process service of initiating case documents; prepared and forwarded correspondence; researched court rules and procedures; worked on court filings.	\$225	74.1	\$16,672.50
Jennifer J. Boschen Paralegal at Terrell Marshall Law Group PLLC since	Worked on issues relating to document productions.	\$275	28.6	\$7,865.00
TOTAL:			973.8	\$506,195.00

18. TMLG sets its rates for attorneys and staff members based on a variety of factors, including among others: the experience, skill, and sophistication required for the types of legal services typically performed; the rates customarily charged in similar matters; and the experience, reputation, and ability of the attorneys and staff members.

19. Our lodestar calculations are based on reasonable hourly rates. Indeed, courts have routinely approved fee requests by TMLG that were based on these rates (or similar rates in place at the time of application). A sample of cases, since 2010, in which federal courts have awarded fees based on TMLG's billing rates, and/or reimbursed costs as reasonable, are:

a. December 2017, in *In re: Honest Marketing Litigation*, 1:16-cv-01125-VM (S.D.N.Y.);

b. May 2016, in *Lushe v. Verengo, Inc.*, CV13-07632-AB (PJWx) (C.D. Cal.);

c. April 2016, in *Rinky Dink, Inc., et al. v. Electronic Merchant Systems, Inc.*, NO. 2:13-cv-01347-JCC (W.D. Wash.);

d. September 2014, in *Chesbro v. Best Buy Stores, L.P.*, C10-774 RAJ (W.D. Wash.);

1 e. August 2014, in *Rose v. Bank of America Corp.*, Case No.: 5:11-CV-
2 02390-EJD; 5:12-CV-04009-EJD (N.D. Cal.);

3 f. March 2013, in *Meilleur v. AT&T Corp.*, C11-01025 MJP (W.D. Wash.);

4 g. October 2012, in *Khadera v. ABM Industries, Inc.*, C08-0417 RSM (W.D.
5 Wash.);

6 h. September 2012, in *Arthur v. Sallie Mae, Inc.*, C10-00198 JLR (W.D.
7 Wash.);

8 i. January 2012, in *Milligan v. Toyota Motor Sales, U.S.A., Inc.*, C09-
9 05418 RS (N.D. Cal.);

10 j. August 2011, in *Seraphin v. AT&T Internet Svcs.*, CV-00131-REB (D.
11 Idaho); and

12 k. December 2010, in *Carideo v. Dell Inc.*, No. CV-01772-JLR (W.D.
13 Wash.).

14 20. TMLG is prepared to submit summary and/or detailed time records and billing
15 rates should the Court so request.

16 21. I reviewed the billing records and reduced or eliminated time where necessary. In
17 addition to time billed by the above primary billers on this litigation, several other staff persons
18 assisted on the case when needed. I omitted time reported by timekeepers who spent time on
19 routine, purely clerical matters, including time billed by China Davis, Eden Nordby, Hannelore
20 Ohaus, Holly Rota, Jessica Langsted, Megan Wildhood, Razel Agustino, Sam Hoover, and
21 Samuel Levy. In addition, I omitted time reported by timekeepers who spent fewer than 10 hours
22 on this matter, including time billed by attorneys Elizabeth Adams, Erika Nusser, Mary Reiten,
23 and Michael Daudt.

24 22. TMLG has incurred \$32,724.60 in expenses, which includes expert work,
25 deposition fees, mediation fees, electronic data expenses, TMLG's travel costs associated with
26 the depositions and mediation, filing fees, PACER costs, messenger, process server charges, and
27 postage.

CATEGORY OF EXPENSE	TOTAL
Courier/Personal Service	\$794.00
Electronic Production	\$1,096.00
Expert	\$8,674.44
FedEx	\$504.48
Filing Fees	\$1,358.00
Mediation	\$3,225.00
PACER	\$16.70
Postage	\$27.03
Professional Fees	\$61.25
Transcripts	\$7,136.87
Travel	\$9,830.83
TOTAL:	\$32,724.60

23. Before filing this action against Normandin's in July 2014, Plaintiffs' counsel intensively investigated the factual and legal bases of Plaintiff Brinker's claims against Normandin's. After the complaint was filed, counsel propounded written discovery requests designed to elicit information regarding Normandin's telemarketing policies and practices, the scripts Normandin's used, and any electronic records that Normandin's maintained documenting the calls. Through these requests, counsel learned that Normandin's retained a third-party vendor called OneCommand to place the calls and that OneCommand maintained records relating to calls placed on Normandin's behalf.

24. To obtain these crucial electronic call records, which identify the telephone number to which the call was placed as well as the call date, counsel sent a subpoena to OneCommand. OneCommand initially produced a list of approximately 5,800 cellular telephone

1 numbers that received the same types of calls as those received by Plaintiff Brinker. However,
2 OneCommand did not produce information relating to these calls, including the number of calls
3 placed to each telephone number, and the dates of the calls. Rather than initiate an action to
4 enforce the subpoena in Ohio, where OneCommand is based, Plaintiff Brinker successfully
5 moved to add OneCommand as a Defendant. And on November 20, 2015, following Plaintiff
6 Brinker's motion to compel, the Court ordered OneCommand to produce complete calling data.
7 Since then, OneCommand has provided additional data identifying 8,313 cell phone numbers
8 that were called by OneCommand on Normandin's behalf on or after October 16, 2013.

9 25. Plaintiffs also reviewed approximately seventy-five thousand pages of documents
10 produced by Normandin's and OneCommand; deposed three key individuals responsible for
11 Normandin's operations, Normandin's Service Manager, General Sales Manager, and President;
12 and deposed two key individuals responsible for OneCommand's operations, OneCommand's
13 Chief Compliance Officer and Vice President of Information Technology.

14 26. Because Defendants blamed one another for the alleged failure to comply with the
15 TCPA, Plaintiffs also engaged in third party discovery directed at understanding the contractual
16 relationship between Defendants and any controlling or affiliated companies that could
17 potentially bear responsibility for Plaintiffs' claims. Specifically, OneCommand asserted that
18 Normandin's responsibility for the calls stemmed from the terms of an agreement between
19 Normandin's and Chrysler Digital, while Normandin's argued that OneCommand was
20 responsible based on its contractual relationship with Chrysler Digital's marketing agent, Shift
21 Digital. Plaintiffs sent subpoenas to both entities in an effort to clarify these assertions.

22 27. On April 20, 2016, the parties voluntarily participated in a full-day mediation with
23 experienced JAMS mediator and former Chief Magistrate Judge of the Northern District of
24 California, Edward A. Infante. The parties submitted detailed mediation briefs and, during the
25 mediation session, discussed their relative views of the law and the facts and potential relief for
26 the proposed class. Defendants emphasized their position that proposed class members had
27 consented to receive informational calls by providing their telephone numbers to Normandin's,

1 or consented to receive telemarketing calls by providing written prior express consent in sales
2 contracts or leases.

3 28. The parties made significant progress toward resolution during their mediation
4 with Judge Infante, but the mediation did not result in an agreement. Afterward, the parties
5 continued to work toward settlement, but also steadfastly litigated the case. Just weeks prior to
6 mediation, Plaintiffs moved for class certification, and also to amend the complaint to add
7 Plaintiffs Austin Rugg and Ana Sanders and new TCPA claims based on calls made to
8 individuals on the National Do-Not-Call Registry.

9 29. In addition, one month after mediation, the Supreme Court released its decision in
10 *Spokeo, Inc. v. Robins*, 136 S.Ct. 1540 (2016), in which it held that a consumer could not satisfy
11 the injury-in-fact demands of Article III standing by alleging a bare procedural violation of the
12 Fair Credit Reporting Act. In response, OneCommand moved to dismiss for lack of Article III
13 standing. Plaintiffs opposed the motion. During the four-month period in which the motion was
14 pending, the parties came very close to reaching a settlement. Those negotiations came to a
15 standstill when the Court granted OneCommand's motion. Following the Court's April 2017
16 order granting Plaintiffs' request for reconsideration, the parties were finally able to reach
17 agreement on all material terms.

18 30. I understand from the Claims Administrator that as of January 12, 2018, 3,314
19 claims have been submitted and that no class members have opted out or objected.

20 **E. The Contingent Nature of the Action**

21 31. TMLG prosecuted this matter on a purely contingent basis, agreeing to advance
22 all necessary expenses and that they would only receive a fee if there was a recovery. We have
23 invested considerable time and money prosecuting this action and our out-of-pocket costs exceed
24 \$30,000.

25 32. This matter has required TMLG to spend time on this litigation that could have
26 been spent on other matters. At various times during the litigation of this class action, this
27

1 lawsuit has consumed my time, along with the time of my partners, associates, paralegals, and
2 other staff. Such time could otherwise have been spent on other fee-generating work.

3 33. TMLG has always worked with no guarantee of being compensated for its time
4 and efforts in this case. Payment of TMLG's fees has always been contingent on successfully
5 obtaining relief for Plaintiff and Class members. I always believed and understood there was a
6 substantial risk of non-payment. This belief and understanding was based upon past experience
7 in class actions cases, and particularly in other TCPA class actions.

8 34. TMLG negotiated the requested fees only *after* reaching agreement regarding the
9 benefits to Settlement Class Members. At all times, the parties engaged in arms-length
10 negotiations.

11 I declare under penalty of perjury under the laws of the State of Washington and the
12 United States of America that the foregoing is true and correct.

13 EXECUTED this 12th day of January, 2018 at Seattle, Washington.

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/s/ Beth E. Terrell, WSBA #26759
Beth E. Terrell, WSBA #26759

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CERTIFICATE OF SERVICE

I, Beth E. Terrell, hereby certify that on January 12, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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1 DATED this 12th day of January, 2018.

2 TERRELL MARSHALL LAW GROUP PLLC

3
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