

1 Todd M. Friedman (216752)
2 Adrian R. Bacon (SBN 280332)
3 LAW OFFICES OF TODD M. FRIEDMAN, P.C.
4 21031 Ventura Blvd., #340
5 Woodland Hills, CA 91364
6 Phone: 323-306-4234
7 Fax: 866-633-0228
8 tfriedman@toddfllaw.com
9 abacon@toddfllaw.com
10 Attorney for Plaintiff

7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
8 **FOR THE COUNTY OF LOS ANGELES**

9) **CASE NO.: 20STCV03833**
10 DAVE VACCARO, individually and on)
11 behalf of all others similarly situated,)
12) **DECLARATION OF TODD M.**
13 Plaintiff,) **FRIEDMAN IN SUPPORT OF**
14) **PLAINTIFF’S MOTION FOR FINAL**
15 vs.) **APPROVAL OF CLASS ACTION**
16) **SETTLEMENT AND PLAINITFF’S**
17 SUPERCARE, INC. and DOES 1 through 10,) **MOTION FOR ATTORNYES FEES AND**
18 inclusive,) **COURT COSTS**
19)
20 Defendant.) **Hearing Date: March 7, 2023**
21) **Hearing Time: 9:30 am**
22) **Dept: 11**
23
24
25
26
27
28

DECLARATION OF TODD M. FRIEDMAN

I, TODD M. FRIEDMAN, declare:

1
2 1. I am one of the attorneys for the plaintiff in this action, Davide Vaccaro (“Mr.
3 Vaccaro” or “Plaintiff”). I am an attorney licensed to practice law in the State of California
4 since 2001, the State of Illinois since 2002, and the State of Pennsylvania since 2011. I have
5 been continuously licensed in California since 2001, Illinois since 2002, and Pennsylvania since
6 2011, and am in good standing with the California State Bar, Illinois State Bar, and
7 Pennsylvania State Bar. I have litigated cases in both state and federal courts in California,
8 Colorado, Florida, Ohio and Illinois. I am also admitted in every Federal district in California
9 and have handled federal litigation in the federal districts of California.

10 2. The declaration is based upon my personal knowledge, except where expressly
11 noted otherwise.

12 3. I submit this declaration in support of both Plaintiff’s Motion for Final Approval
13 of Class Action Settlement; and Plaintiff’s Motion for Attorneys’ Fees and Costs in the action
14 against defendant Supercare, Inc. (“SUPERCARE” or “Defendant”).

CASE HISTORY

15 4. Plaintiff filed the initial class action complaint (“Complaint”) on January 30,
16 2020. In the Complaint, Plaintiff alleged causes of action for unintentional and intentional
17 violations of the IPA. Based on those allegations, Plaintiff sought \$5,000 per violation, as well
18 as injunctive relief. Plaintiff’s claims were brought on behalf of a class of individuals who
19 allegedly participated in calls to and from their mobile phones from Supercare without timely
20 advising them that the call was being recorded.

21 5. Thereafter, the Parties engaged in extensive discovery, including the exchange of
22 policy and procedure documents, data comprising the class list, and detailed financial records.

23 6. The Parties attended a full day mediation with Lynn Frank on February 2, 2021,
24 which eventually resulted in a settlement. Thereafter, the parties entered into a classwide
25 settlement.

26 7. Defendant strongly contested both the legal and factual issues in this matter.
27 Defendant further contested class certification on numerous grounds.

28 8. With Lynn Frank’s guidance, a Settlement Agreement and Release was
ultimately agreed upon in principle by the Parties.

9. Plaintiff filed his first Motion for Preliminary Approval, which was set to be

1 heard on November 9, 2021. Prior to the hearing, this Honorable Court expressed concerns with
2 the settlement and Ordered both parties to go back and make extensive changes to the
3 agreement and notice, including, but not limited to, changes to the Civil 1542 Waiver and final
4 Judgment.

5 10. Both parties worked to make changes to the settlement, notices and provide
6 further information to the Court and a new hearing on the parties Motion for Preliminary
7 Approval was set to be heard on April 22, 2022. On that date the Court issued an Order requiring
8 more supplemental briefing and information/changes to be provided before preliminary approval
9 could be granted. This information was provided to the Court on July 18, 2022, and on October
10 11, 2022, this Court granted Preliminary Approval of this settlement.

11 SETTLEMENT TERMS AND CLASS DEFINITION

12 11. Pursuant to the Settlement Agreement (the “Agreement”), those persons in the
13 Settlement Class (defined below) who submit a valid claim form, receive a pro rata distribution
14 from the Settlement Fund after payment of administration costs, attorneys’ fees, costs of
15 litigation, and any incentive payment.

16 12. As part of that Agreement, Defendant will make a Payment of \$750,000 as the
17 settlement benefits (the “Settlement Fund”) for all approved claims. Defendant will also pay all
18 attorneys’ fees and expenses, and costs of notice and claims administration from the Settlement
19 Fund.

20 13. Available Settlement Funds will be apportioned in the form of a check mailed to
21 all Class Members who submit valid claim forms. The amount of the check received by each
22 such claimant will be calculated on a pro rata basis by deducting all attorney’s fees, costs,
23 administration expenses and incentive award distributions from the net Settlement Fund, and
24 dividing the remainder by the total number of valid claims submitted by Class Members. The
25 Claims Administrator will send payment via mail by check to each such claimant.

26 14. The Class or Settlement Class Members refers to:

27 *“All persons who, from January 30, 2019 to October 11, 2022,,
28 participated in a call with Defendant and/or Defendant’s vendors
whose call was allegedly recorded.” (Settlement § 2)*

15. Plaintiff contends that the class as so defined satisfies the requirements of
Certification for Settlement Purposes because all persons in the Settlement Class are persons
who participated in recorded phone conversations with Supercare on their cell phones between
January 30, 2019 and October 4, 2022. approval. The total number of phone numbers

participating in relevant calls were 75,234. This was confirmed in informal discovery by both parties, as well as the class settlement administrator through data analysis. Furthermore, Defendant had obtained these phone numbers and were able to identify the same as part of its normal practices.

16. Class Member contact information has been disclosed to the claims administrator to create a Notice Database. My office was in possession of this information, has analyzed it and provided it to the administrator for purposes of their providing notice and administration.

17. Postlethwaite & Netterville. ("P&N") was appointed as claims administrator by this Honorable Court in its October 11, 2022 order granting Preliminary Approval. P&N specializes in providing administrative services in class action litigation, and has extensive experience in administering consumer protection and privacy class action settlements.

ADEQUACY OF SETTLEMENT

18. Defendant shall provide class benefits of \$750,000. The Settlement Class Members who submit a valid Claim Form stand to receive a cash payment from the Settlement Fund in the form of a check per Approved Claim, on a pro rata basis after deducting Settlement Costs.

19. Costs of litigation, notice, claims administration and attorneys' fees are being paid by the Defendant from the Settlement Fund.

20. Any incentive payment awarded to the Representative Plaintiff, any attorneys' fees and costs awarded to Class Counsel and certain expenses including Claims Administration Costs, are to be paid from the Settlement Fund by Defendant as follows:

Administration Expenses and payment of notice, originally estimated by P&N are to be approximately \$110,000.00, with actual costs being \$120,265.00. (See Declaration of Brad Madden filed OC currently with Plaintiff's Motion for Final Approval)

Attorneys' fees to Class Counsel, as approved by the Court, up to \$250,000;

Costs to Class Counsel, as approved by the Court, up to \$10,000; and

Incentive/Service Award to Representative Plaintiff in an amount up to \$10,000; and.

21. The costs of notice by mail and claims administration will be paid as part of the Settlement Fund.

22. The proposed Settlement contemplates that Class Counsel will request an incentive award in the amount of \$10,000 to Mr. Vaccaro, as proposed by Class Counsel, subject to Court approval. Defendant has agreed not to oppose a request for such incentive

award in the agreed-upon amount. I believe that the incentive award in this case to Mr. Vaccaro is eminently fair and reasonable because not only did he act as a class representative and work on this case, but his investigation into the secret practices of Defendant in observing the violation of his and Class Members CIPA rights is a direct but for cause for the success of this litigation. Due to the nature of the violations being inherently secret, no Class members would even have realized that their privacy rights were being violated without Mr. Vaccaro's vigilance. This differentiates CIPA cases from other types of class actions where consumers may be aware that they suffered a violation of rights and would be more inclined to bring their own case. Without Mr. Vaccaro doing this, the Class would have never known and would have recovered nothing. He should be rewarded for this. No Class Members have objected to his incentive award, and the high claims rate suggests a strong interest in the Class in participating in the settlement as proposed.

23. The proposed Settlement contemplates that Class Counsel shall be entitled to apply to the Court for an award of attorneys' fees, costs, and expenses to be paid from within the Settlement Fund. Defendant has agreed not to oppose an application by Class Counsel for an award of attorneys' fees and costs up to \$250,000 from the Settlement Fund, which represents approximately 33.33% of \$750,000. I believe the excellent results of this Settlement warrant attorney's fees in this amount, as well as the risk my law firm undertook in litigating this matter, given the uncertainty of litigation as a result of the *Loanme* appeal that was pending at the time. Class Counsel also intend to request that the costs of Notice and Claims administration, to be paid from the Settlement Benefits. The attorneys' fees and costs application will be prepared solely by Class Counsel, and any attorneys' fees and costs shall be paid to all counsel through Class Counsel.

24. As Defendant maintains physical address information for many of the Settlement Class Members called by Defendant, Class Notice was provided by mail to all persons with valid addresses, along with the addresses P&N uncovered using the reverse look up process. It is my undersading that durect mail notice was sent to approximately 70,603 class members.

25. Thr class notices adequately informed the Settlement Class Members about the settlement and their rights to opt out or object to the Settlement.

26. Class Members were required to submit a claim in order to receive settlement benefits. There were ultimately 8,454 valid claims, which equates to a 11.2% take rate. This is **above** the range of what is typically seen in consumer class actions of this nature on which I

have been class counsel on, as participation rates will typically range from 1% to 10%.

27. Of the Class Members, zero have objected and only five have opted out. For the Court’s records and to protect these members from having their claims subject to the proposed judgment, the names of the opt out class members are Shannon Robinson, Ricky Session, Donald Ghiselli, Anna Triglia, and Clyde Reed.:

28. After deducting Attorney Fees of \$250,000, \$10,000.00 in costs¹, \$10,000 for the incentive award of Plaintiff, and \$120,265.00 in Administrative Fees, the amount to be distributed to each participating Class Members who submitted a claim is approximately \$42.55. I believe this is a fair result for the Class given the risks of this litigation, Defendant’s limited ability to pay, and also based on other CIPA class action settlements that my office has been part of which were granted final approval.

29. I am unaware of any conflict of interest between Plaintiff and any putative class member or between Plaintiff and Plaintiff’s attorneys.

30. I am unaware of any competing litigation.

RISKS OF CONTINUED LITIGATION

31. Taking into account the burdens, uncertainty and risks inherent in this litigation, Class Counsel have concluded that further prosecution of this action could be protracted, unduly burdensome, and expensive, and that it is desirable, fair, and beneficial to the class that the action now be fully and finally compromised, settled and terminated in the manner and upon the terms and conditions set forth in the Settlement Agreement.

32. The named Plaintiff and his counsel believe that the claims asserted in the action have merit. However, taking into account the risks of continued litigation, as well as the delays and uncertainties inherent in such litigation including the risks in any subsequent appeal, they believe that it is desirable that the action be fully and finally compromised, settled and terminated now with prejudice, and forever barred pursuant to the terms and conditions set forth in this Settlement Agreement. Class Counsel have concluded that with the Settlement Benefit and with the deterrent effects of the this Settlement, the terms and conditions of this Settlement Agreement are fair, reasonable and adequate to the proposed class, and that it is in the best interests of the proposed class to settle the Action.

33. Further recent developments in case law under the IPA, show substantial risks

¹ Plaintiff’s counsel have incurred over \$11,000 in costs but for purposes of Final Approval will cap their request at \$10,000.

1 regarding both merits and certification issues, and were given due weight in settlement
2 discussions. Of great importance were the financials of Defendant which demonstrated a
3 small family business with low cash reserves. Certification of the class or substantial litigation
4 would unquestionably have forced the company into bankruptcy in our view. We were advised
5 that bankruptcy counsel had been consulted by Defendant in conjunction with this litigation. A
6 settlement for terms that either had a larger fund or different distribution timeline would not
7 have been feasible.

8 34. As such, it is my belief as class counsel that this Settlement represents an
9 outstanding result for the Class. The result that was achieved is highly favorable in my opinion
10 to the Class, and was achieved without subjecting Class Members to the risks and delay
11 associated with further litigation.

12 35. A settlement was finalized, agreed upon by all Parties and counsel and a formal
13 Settlement Agreement was executed. This motion for preliminary approval of class action
14 settlement followed, which Defendant has agreed in the Settlement Agreement not to oppose.

15 **ATTORNEY'S FEES AND COSTS**

16 36. The proposed awards of attorneys' fees of \$250,000.00 to my office (one-third of
17 the maximum Settlement Fund) and costs of \$10,00.00 are well within the range of
18 reasonableness and warrant this Court's final approval. This is especially so in view of Plaintiffs'
19 attorneys' efforts and risks in pursuing this case, and the results achieved (i.e., obtaining a
20 favorable class-wide resolution in the face of a highly uncertain, and ever-evolving, legal
21 landscape as to core issues in this case). Fee awards of one-third of the maximum Settlement
22 Fund have been consistently approved as reasonable based on my experience in numerous wage
23 and hour class action matters

24 37. Plaintiff seeks the Court's approval of the following to be paid for his counsel
25 from the \$750,000.00 Total Settlement Amount:

- 26 i. Attorneys' fees in the amount of \$250,000.00, representing 33.33% of the
27 Total Settlement Amount; and
- 28 ii. Reasonable and appropriate cost of litigation, in an amount of \$10,000.00.

38 38. As part of the Settlement Agreement, previously filed as Exhibit A to the
Declaration of Todd Friedman In Support of Preliminary Approval of Class Action Settlement
and Certification of Settlement Class, Plaintiff and Defendant (hereinafter the "Parties"), agreed

1 that Defendant would pay the following from the total Settlement Amount: (i) the settlement
2 administration and notice costs; (ii) attorneys' fees not to exceed \$250,000.00, in a total amount
3 of approximately 33.33% of the Total Settlement Amount); (iii) reasonable and appropriate costs
4 of litigation; (iv) and an incentive award of \$10,000 to the named Plaintiff.

5 39. Class Counsel believes, and, for purposes of settlement, Defendant does not
6 challenge, that such an award of attorney's fees is reasonable. No Class Members have objected
7 to this request.

8 CLASS COUNSEL'S EXPERIENCE

9 40. The Law Offices of Todd M. Friedman, P.C. seeks appointment as Class Counsel
10 in this Action. I am informed and believe that Class Counsel are qualified and able to conduct
11 this litigation as a class action.

12 41. As one of the main plaintiff litigators of consumer rights cases in Southern
13 California, I have been requested to and have made regular presentations to community
14 organizations regarding debt collection laws and consumer rights.

15 42. I have extensive experience prosecuting cases related to consumer issues. My
16 firm, The Law Offices of Todd M. Friedman, P.C., in which I am a principal, has litigated over
17 1000 individual based consumer cases and litigated over 100 consumer class actions. These
18 class actions were litigated in federal courts in California, as well as California State Courts.
19 Approximately 100% percent of my practice concerns consumer litigation in general, with
20 approximately 90% of my class action experience involving consumer protection, and
21 approximately 10-20% percent of my class action practice involves litigating claims under the
22 CIPA.

23 43. My firm has been approved by courts as adequate class counsel on numerous
24 occasions and is highly experienced in litigating CIPA class actions. In fact, my office certified
25 two CIPA class actions by contested motion: *Zaklit et. al. v. Nationstar Mortgage, LLC*, 2017
26 WL 3174901 (C.D. Cal. July 24, 2017); *Raffin v. Medicredit, Inc.*, 2017 WL 131745 (C.D. Cal.
27 Jan. 3, 2017). Both cases later settled for multiple millions of dollars on a class-wide basis.

28 44. Additionally, my firm has settled and litigated many additional CIPA class
actions, including through appeal. Just recently, we petitioned the California Supreme Court to
hear a novel CIPA issue that had the potential to completely gut the Invasion of Privacy Act

1 which would have had the effect of dismantling Plaintiffs' ability to certify class actions under
2 this law if the petition was denied. The Supreme Court unanimously granted our petition for
3 review. My partner Adrian Bacon argued the case, and we secured a unanimous ruling in favor
4 of consumer rights, overturning the Court of Appeal Order. See *Smith v. LoanMe, Inc.*, (Cal.
5 S.Ct. 2021) 11 Cal.5th 183. We also have reversed a dismissal in another CIPA appeal in the
6 case of *Monzon v. Atlantic Credit & Finance*, Case No. B302501 (Ct. App. Second District Div.
8).

7 45. I do not think it would be an exaggeration to say that my firm is currently
8 comprised of the leading Plaintiffs' side legal experts on CIPA. We've heavily litigated more
9 class actions under this law than any other firm of which I am aware, and judging by available
10 case law available on Westlaw and PACER.

11 46. Therefore, my experience in litigating class actions and my years in practice
12 allow me to provide outstanding representation to the Settlement Class. I will continue to strive
13 to fairly, responsibly, vigorously and adequately represent the putative class members in this
14 action.

15 47. I am unaware of any conflicts of interest between Plaintiff and putative class
16 members and between proposed class counsel and the other parties to this litigation.

17 48. The Law Offices of Todd M. Friedman has served as plaintiff's counsel in at
18 least the following class actions where a settlement was reached on a class-wide basis and has
19 achieved over \$300,000,000 in class-wide relief for consumers and employees.

- 20 a. *Dancer v. L.A. Times*, BC472154 (L.A. Superior Court) (common fund class-
21 wide settlement of \$3 million to \$4 million; final approval granted);
- 22 b. *Couser v. Comenity Bank*, 3:12-cv-02484-MMA-BGS (S.D. Cal.) (\$8.475
23 million class-wide settlement achieved; final approval granted);
- 24 c. *Stemple v. QC Financial Services Group of California, Inc.*, 3:12-cv-01997-
25 CAB-WVG (S.D. Cal.) (certified class achieved by motion, and subsequent
26 class-wide settlement of \$1.5 million achieved; final approval granted);
- 27 d. *Couser v. Apria Healthcare, Inc.* 8:13-cv-00035-JVS-RNB (C.D. Cal.) (common
28 fund class-wide settlement of \$400,000 to \$750,000; final approval granted);

- 1 e. *Abdeljalil v. General Electric Capital Corporation*, 12-CV-02078-IEG-RBB
(S.D. Cal.) (class-wide settlement with common fund of \$6.125 million
2 achieved; final approval granted);
- 3 f. *Fox v. Asset Acceptance*, 3:13-CV-00922-DMS-BGS (S.D. Cal.) (common fund
4 of \$1 million in class-wide relief achieved; final approval granted);
- 5 g. *Friedman v. LAC Basketball Club, Inc.*, 2:13-cv-00818-CBM-AN (C.D. Cal.)
(class-wide settlement achieved; final approval granted);
- 6 h. *Gerich et al. v. Chase Bank USA et al.* Case No 1:12-cv-5510 (N.D. Ill.) (class-
7 wide settlement of \$34 million; final approval granted);
- 8 i. *Than Zaw v Nelnet, Inc.*, Penal Code § 632 class – (Achieved class-wide
9 settlement of \$1,188,110; final approval granted);
- 10 j. *Medeiros v HSBC*, (common fund settlement of \$4.5 million - \$6.5 million
11 achieved; final approval granted);
- 12 k. *Ann Fox v. Spectrum Club Holding Company et al.*, Case No. 2:14-CV-06766-
13 PSG-FFMx (class-wide settlement; final approval granted);
- 14 l. *Sayan Aboudi v. T-Mobile USA, Inc.*, Case No. 3:12-cv-02169-BTM-NLS (class-
15 wide settlement in TCPA case, with common fund of \$2.5 million to \$5 million
16 and average per class member payment of \$500; final approval granted);
- 17 m. *Andrew Roseman v. BGASC, LLC, et al.*, Case No. EDCV 15-1100-VAP (SPx)
(C.D. Cal.) (class-wide relief achieved; final approval granted);
- 18 n. *Everado Gonzalez v The Scotts Company*, Case No. BC577875, Consolidated
19 with Case No: BC570350 (LASC) (class-wide settlement of \$925,000 in wage
20 and hour class action on behalf of approximately 603 employees achieved; final
21 approval granted);
- 22 o. *Payton v Luxe Valet*, Case No. BC588462 (LASC) (\$2.4 million class-wide
23 settlement on behalf of 1,800 employees misclassified as independent contractor;
24 final approval granted);
- 25 p. *Shelby v Two Jinn, Inc.*, Case No. 2:15-cv-03794-AB-GJS (C.D. Cal.) (EFTA
26 class action involving no cognizable actual damages, with company net worth of
27 \$25 million, settled for non-reversionary common fund of \$457,000, despite
28 liability under 15 U.S. Code § 1693m(a) likely being only \$250,000; zero
objections; final approval granted);

- 1 q. *Couser v Dish One Satellite*, Case No. 5:15-cv-02218-CBM-DTB (C.D. Cal.)
(TCPA class action; final approval granted);
- 2 r. *Couser v Dish One Satellite*, Case No. RIC 1603185 (Riverside S.C.) (Penal
3 Code 632 class action; final approval granted);
- 4 s. *De La Paz v Accurate Courier NCA LLC*, Case No. 16CV00555 (Santa Cruz
5 County Superior Court) (PAGA and Labor Code class action; final approval
6 granted);
- 7 t. *Ross v Zurixx LLC*, Case No. 34-2016-00190874 (Sacramento SC) (UCL, FAL
8 and CLRA class action alleging false advertising for real estate educational
9 courses, non-reversionary common fund settlement for over \$600 per class
10 member; final approval granted);
- 11 u. *Eubank v Terminix International, Inc.*, Case No. 3:15-cv-00145-WQH-JMA
12 (PAGA settlement reached in wage and hour action on behalf of pest control
13 technicians; final approval granted);
- 14 v. *Holland v Tenet Healthcare Corporation*, Case No. 15CVP0226 (Superior Court
15 of San Luis Obispo County) (PAGA settlement reached in wage and hour action
16 on behalf of nurses; final approval granted);
- 17 w. *Jonathan Weisberg, v. HD Supply, Inc.*, Case No. 15-cv-08248-FMO (MRWx)
18 (class-wide settlement in TCPA class action, settled for \$1.225 million; final
19 approval granted);
- 20 x. *Miler v Pacific Auto Wash Partners*, Case No. 30-2015-00813013-CU-OE-CXC
21 (wage and hour class action; final approval granted);
- 22 y. *Sonia Barrientos v Law Office of Jeffrey H. Jordan*, Case No. 2:15-cv-06282-
23 JAK-GJS (FDCPA/RFDCPA letter class action, settled on class wide basis; final
24 approval granted);
- 25 z. *Tahmasian v Midway Rent A Car*, Case No. 30-2015-00813013-CU-OE-CXC
26 (LASC) (PAGA and Labor Code class action; final approval granted);
- 27 aa. *Craig Cunningham v Lexington Law Firm*, Case No. 1:17-cv-00087-EJF (N.D.
28 UT) (TCPA class action MDL involving solicitation prerecorded voice calls
made by a third party, vicarious liability alleged; final approval granted).
- bb. *Sheena Raffin v Medicredit, Inc., et al.*, Case No. 2:15-cv-04912-MWF-PJW
(C.D. Cal.) (Cal. Penal Code § 632.7 class action certified by Hon. George H.

1 King Ret under Rule 23(b)(2) and (b)(3) by contested motion on behalf of 11,000
2 class members whose calls were recorded without knowledge or consent, settled
3 for \$5 million; final approval granted);

4 cc. *Fernandez v Reliance Home Services, Inc. Case No. BC607572 Los Angeles*
5 *Superior Court* (wage and hour plus PAGA class action; final approval granted);

6 dd. *Anne Wolf v Hewlett Packard Company, Case No. 5:15-cv-01221-TJH-GJS*
7 *(C.D. Cal.) (CLRA class action certified by contested motion on behalf of tens of*
8 *thousands of consumers who purchased printer that was falsely advertised to*
9 *include Smart Install feature, settled on a wider multi-state, multi-product basis;*
10 *final approval granted);*

11 ee. *Jaylinda Girardot et al v. Bail Hotline Bail Bonds, Inc., Case No. BC700131 Los*
12 *Angeles County Superior Court* (wage and hour plus PAGA class action; final
13 approval granted);

14 ff. *Ryoo Dental, Inc. v OCO Biomedical, Inc., Case No. 8:16-cv-01626-DOC-KES*
15 *(TCPA fax blast class action, settled on class-wide basis; final approval granted);*

16 gg. *Wondra Curtis v The Anthem Companies, Inc., Case No. 8:16-cv-01654-DOC-*
17 *JCG* (wage and hour class action for off the clock work, settled on class-wide
18 basis; final approval granted);

19 hh. *Weinberg v Clariant, Inc. Case No. 56-2017-00494914-CU-NP-VTA Ventura*
20 *County Superior Court* (Rosenthal Fair Debt Collection Practices Act class
21 action settled on behalf of 1,830 class members for privacy infringements
22 through clear envelope debt collection letters; final approval granted);

23 ii. *Aliav v Sunset Eats, LLC, Case No. BC655401 Los Angeles Superior Court*
24 *(false advertising class action on behalf of approximately 10,000 consumers,*
25 *settled on class-wide basis; final approval granted);*

26 jj. *Alfred Zaklit, et al. v. Nationstar Mortgage LLC, Case No. 5:15-cv-02190-CAS-*
27 *KK (C.D. Cal.) (Cal. Penal Code § 632.7 class action certified by contested*
28 *motion under Rule 23(b)(2) and (b)(3) on behalf of over 40,000 class members*
whose calls were recorded without knowledge or consent; final approval
granted);

- 1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
- kk. *Mark Silva v. Olson and Co. Steel*, Case No. 17CV001045 (Contra Costa County Superior Court) (wage and hour class action settled on behalf of 563 class members, final approval granted);
 - ll. *Cohen v. Coca-Cola Refreshments, USA, Inc.*, Case No. 2:19-cv-04083-JAK (PLAx) (C.D. Cal.) (wage and hour class action settlement on behalf of trucking employees; final approval granted);
 - mm. *Manopla v. Home Depot USA, Inc.* Case No. 15-1120 (D. N.J.) (TCPA class action; final approval granted);
 - nn. *Cawthorne v Rush Truck Centers of California, Inc.* Case No. 5:17-cv-01541-JGB-SP (wage and hour class action on behalf of 560 employees; final approval granted);
 - oo. *Lizama v Medical Data Systems, Inc.* Case No. 34-2017-00210986-CU-NP-GDS (Sacramento County Superior Court) (Penal Code 632.7 class action alleging illegal call recording, settled for \$2.2 million on behalf of over 30,000 consumers, final approval granted);
 - pp. *Romano v SCI, Inc.* Case No. 2:17-cv-03537-ODW-JEM (wage and hour class action for independent contractor misclassification, settled for \$2.5 million on behalf of 230 employees, final approval granted);
 - qq. *Edward Makaron v. Enagic USA, Inc.*, Case No. 2:15-cv-05145-DDP-E (C.D. Cal.) (TCPA class action certified on behalf of approximately 2,000,000 class members under Rule 23(b)(2) and 23(b)(3), subsequently settled on a Rule 23(b)(2) and 23(b)(3) basis, final approval granted);
 - rr. *Walsh v Fry's Electronics, Inc.* Case No. MSC18-01681 (Contra Costa County Superior Court) (Gift Card Act, CLRA, UCL, FAL class action settled for class-wide public injunctive relief; final approval granted);
 - ss. *In RE HP Firmware Update Litigation*, Case No. 5:16-cv-05820-EJD (N.D. Cal.) (co-lead class counsel in consolidated Unfair Competition class action alleging HP pushed a firmware update on consumers' printers that blocked their ability to use third party ink cartridges, preliminary approval granted; final approval granted);

- 1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
- tt. *Nishimoto v T&S Business Corporation*, Case No. 34-2017-00211426 (Sacramento County Superior Court) (wage and hour and PAGA class action on behalf of janitorial workers; final approval granted);
 - uu. *Rodriguez v. Experian Information Solutions, Inc. et al.* Case No. 2:15-cv-01224-RAJ (W.D. Wash.) (FCRA class action for improper credit pulls; certified under Rule 23 by contested motion, and settled on class-wide basis, final approval granted);
 - vv. *Ahmed v HSBC Bank USA*, Case No. 5:15-cv-02057-FMO (SPx) (C.D. Cal.) (TCPA class; final approval granted);
 - ww. *Garcia et al. v. HMS Host, Inc.*, Case Jo. 17-cv-03069-RS (N.D. Cal.) (wage and hour class action, final approval granted);
 - xx. *Aiken v. Malcolm Cisneros, A Law Corporation*, Case No. 5:17-cv-02462-JLS-SP (C.D. Cal.) (Fair Debt Collection Practices Act class action, settled on class wide basis, preliminary approval granted);
 - yy. *Bonilla, et al. v. Windsor Fashion, LLC*, Case No. CIVDS1723088 (wage and hour class action settled on behalf of over 5,000 employees, final approval granted);
 - zz. *Medina v. Enhanced Recovery Company, LLC*, Case No. 2:15-cv-14342-JEM/MAYNARD (S.D. Fla.) (TCPA class settlement common fund of \$1.45M, final approval granted);
 - aaa. *Pena v. John C Heath Attorney at Law, PLLC*, Case No. 1:18-cv-24407-UU (S.D. FL.) (consolidated TCPA class action, final approval granted);
 - bbb. *Kim v. Tinder, Inc.*, Case No. 2:18-cv-03093-JFW-AS (C.D. Cal.) (Unruh Act class settlement on behalf of 240,000 consumers; granted final approval, case on appeal);
 - ccc. *Griffey v. TA Operating, LLC*, Case No. CIVDS1907259 (San Bernardino County Superior Court) (PAGA settlement \$390,000; final approval granted);
 - ddd. *D'Angelo Santana v. Rady Children's Hospital*, Case No. 37-2014-00022411-CU-MT-CTL (San Diego County Superior Court) (Confidentiality of Medical Information Act, Cal. Civ. Code § 56, *et seq.* class settlement; final approval granted);

- 1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
- eee. *Chavis v. Three Group, Inc.*, Case No. 18STCV08737 (Los Angeles County Superior Court) (wage and hour PAGA settlement on behalf of dancers alleging contractor misclassification; final approval granted);
 - fff. *Fabricant v. AmeriSave Mortgage Corporation*, Case No. 2:19-cv-04659-AB-AS (C.D. Cal.) (\$6.25 million common fund TCPA class action settlement, final approval granted);
 - ggg. *El Nasleh v. California Spaghetti Restaurants, Inc.*, Case No. CIVDS1812587 (San Bernardino County Superior Court) (consolidated wage and hour class action settlement on behalf of restaurant employees settled for \$1.5M, final approval granted);
 - hhh. *Fisher v Osmose Utilities Services, Inc.*, Case No. 1:18-cv-01704-NONE-EPG (E.D. Cal.) (wage and hour class action settlement on behalf of electrical utilities employees, preliminary approval pending);
 - iii. *Nizam v Phiadon International USA, Inc.*, Case No. CGC-20-582322 (San Francisco Superior Court) (wage and hour misclassification class action settlement, preliminary approval granted);
 - jjj. *Martinez v Mattucini Plumbing, Inc.*, Case No. 18TRCV00133 (Los Angeles Superior Court) (wage and hour class action settlement on behalf of plumbers, final approval granted);
 - kkk. *Western Dental Wage and Hour Cases*, JCCP No. 5079 (County of Sacramento) (consolidated JCCP wage and hour class action settlement, LOTMF acted as lead liaison counsel on behalf of dental employees, final approval granted);
 - lll. *Barron v Paragon Building Maintenance, Inc.*, Case No. BC713754 (Los Angeles Superior Court) (wage and hour class action settlement on behalf of janitorial employees, final approval granted);
 - mmm. *Randolph v. Amazon.com LLC et. al.*, Case No. 37-2017-00011078-CU-OE-CTL (San Diego County Superior Court) (wage and hour class action settlement on behalf of delivery drivers, final approval granted);
 - nnn. *Barnett v Trigram Education Partners, LLC*, Case No. ESX-L-006106-20 (N.J. Superior Court county of Essex) (wage and hour class action settlement on behalf of university employees, preliminary approval pending);

- 1 ooo. *Dilworth v Hong Holdings, LLC* Case No. 19STCV24101 (Los Angeles Superior
2 Court) (consolidated wage and hour class action settlement on behalf of gas
3 station employees, preliminary approval pending);
- 4 ppp. *Winters v Two Towns Ciderhouse, Inc.* Case No. 20-cv-00468-BAS-BGS (S.D.
5 Cal.) (nationwide false advertising class action settlement on behalf of
6 consumers who purchased mislabeled products, preliminary approval granted,
7 final approval granted);
- 8 qqq. *Vaccaro v Super Care, Inc.*, Case No. 20STCV03833 (Los Angeles Superior
9 Court) (CIPA class action settlement on behalf of over 50,000 consumers,
10 preliminary approval granted);
- 11 rrr. *Mansour v. Bumble, Inc.*, Case No. RIC1810011 (Riverside Superior Court)
12 (Largest Unruh Act class settlement in the history of statute, \$70M in classwide
13 benefits on behalf of 2 million consumers; final approval granted);
- 14 sss. *Caldera v. American Medical Collection Association*, (C.D. Cal.) Case No. 2:16-
15 cv-00381-CBM-AJW (TCPA class action certified by contested motion, settled
16 on classwide basis out of bankruptcy proceeding, final approval granted);
- 17 ttt. *Hale v. Mana Pro Products, LLC*, Case No. 2:18-cv-00209-KJM-DB (E.D. Cal.)
18 (false advertising class action, final approval granted);
- 19 uuu. *Marko, et al. v. Doordash, Inc.*, Case No. BC659841 (Los Angeles County
20 Superior Court) (First-filed and co-lead counsel in consolidated gig economy
21 misclassification class action on behalf of delivery drivers, secured \$100 million
22 common fund settlement, largest gig economy class settlement to date; final
23 approval granted); and
- 24 vvv. *Aleksanian, et al. v. Enrich Financial, Inc.*, Case No. BC698829 (Los Angeles
25 County Superior Court) (certified class by contested motion under Credit Repair
26 Organization Act, California Credit Services Act and Federal Credit Repair
27 Organization Act, preliminary approval pending).

28 49. In addition to the present case, my firm also certified the following cases as class
actions by contested motion and was appointed class counsel. I wrote the certification briefs for
the majority of these cases:

- a. *Anne Wolf v. Hewlett Packard Company*, Case No. 5:15-cv-01221-TJH-GJS (C.D.
Cal.) (class action certified by contested motion on behalf of tens of thousands of

1 class members who purchased printer that was falsely advertised to include Smart
2 Install feature);

3 b. *Caldera v. American Medical Collection Association*, Case No. 2:16-cv-00381-
4 CBM-AJW (C.D. Cal.) (TCPA class action certified by contested motion);

5 c. *Alfred Zaklit, et al. v. Nationstar Mortgage LLC*, Case No. 5:15-cv-02190-CAS-KK
6 (C.D. Cal.) Cal. Penal Code § 632.7 class action certified under Rule 23(b)(2) and
7 (b)(3) on behalf of class members whose calls were recorded without knowledge or
8 consent);

9 d. *D'Angelo Santana v. Rady Children's Hospital*, Case No. 37-2014-00022411-CU-
10 MT-CTL (San Diego County Superior Court) (Confidentiality of Medical
11 Information Act, Cal. Civ. Code § 56, *et seq.*);

12 e. *Edward Makaron v. Enagic USA, Inc.*, Case No. 2:15-cv-05145-DDP-E (C.D. Cal.)
13 (TCPA class action certified on behalf of approximately 2,000,000 class members
14 under Rule 23(b)(2) and 23(b)(3));

15 f. *Rodriguez v. Experian Information Solutions, Inc., et al.*, Case No. 2:15-cv-01224-
16 RAJ (W.D. Wash.) (FCRA class action for improper credit pulls; certified under
17 Rule 23);

18 g. *Sheena Raffin v. Mediacredit, Inc., et al.*, Case No. 2:15-cv-04912-MWF-PJW (C.D.
19 Cal.) (Cal. Penal Code § 632.7 class action certified by Hon. George H. King Ret.
20 under Rule 23(b)(2) and (b)(3) on behalf of class members whose calls were
21 recorded without knowledge or consent);

22 h. *Stemple v. QC Financial Services Group of California, Inc.*, Case No. 3:12-cv-
23 01997-CAB-WVG (S.D. Cal.) (certified class achieved by motion, and subsequent
24 class-wide settlement);

25 i. *Abdeljalil v. General Electric Capital Corporation*, Case No. 12-CV-02078-IEG-
26 RBB (S.D. Cal.) (certified class achieved by motion, and subsequent class-wide
27 settlement);

28 j. *Aleksanian, et al. v. Enrich Financial, Inc.*, Case No. BC698829 (Los Angeles
County Superior Court) (certified class under Credit Repair Organization Act,

California Credit Services Act and Federal Credit Repair Organization Act);

1 k. *Noohi v Johnson & Johnson Consumer, Inc.*, Case No. 2:20-cv-03575-TJH-JEM
2 (Central District Cal.) (false advertising mislabeling class action certified on behalf
3 of purchasers of oil free face moisturizer, alleging product contained oils).

4 **OVERVIEW OF EFFORTS OF THE LAW OFFICES OF TODD M. FRIEDMAN**

5 **A. CONTINGENT NATURE OF ACTION**

6 50. This action, required the Law Offices of Todd M. Friedman, P.C. to spend time
7 on this litigation that could have been spent on other matters. At various times during the
8 litigation of this class action, this lawsuit has consumed my time as well as my firm's resources.
9 My firm has not been paid anything for our work on this case since it was filed. It is my opinion
10 that law firms in such a position expect to receive a multiplier in cases such as these because of
11 the risk taken, the extent to which firms are unable to take on other cases, the delay in getting
12 paid and the costs we have to advance.

13 **B. LAW OFFICES OF TODD M. FRIEDMAN, P.C.'S LODESTAR**

14 51. To date, My office has incurred 238.4 hours of attorney time for this case,² with a
15 total lodestar of \$186,690.00.

16 52. This includes the anticipated time will expend through final judgment and
17 distribution. My billing rate is \$900 per hour in this case, and the billing rate for my partner
18 Adrian Bacon is \$750 per hour. We are not including billing records for associates and
19 paralegals in this fee motion because our lodestar justifies our fee request as it stands. These
20 same rates were approved by Judge Hogue over objections, in our recent *DoorDash* final
approval settlement with a 4x multiplier.

21 **C. LAW OFFICES OF TODD M. FRIEDMAN, P.C.'S COSTS**

22 53. My firm has incurred litigation costs in this matter in the amount of \$11,072.42,
23 for which my firm is seeking reimbursement. These costs are comprised of costs for filing and
24 serving the complaint, transmitting copies of filings to the Honorable Court via courier service,
25 payment of mediation fees for two mediations, reimbursement of incidentals such as parking and
26 transportation and courtcall fees. However, this amount exceeds the \$10,000.00 allotted by the
27 Court in preliminary approval so Counsel will cap their request at \$10,000.00.

28 ² In calculating these hours, I have excluded time spent by legal clerks and paralegals. While
dozens of hours' worth of time were spent by such individuals on this case, we have not included
those hours in the lodestar calculation

Filing and Service Fees	\$2,278.82
Case Anywhere	\$1,293.60
Mediation	\$7,500.00
Total	\$11,072.42

D. REASONABLENESS OF HOURLY RATES

54. The Law Offices of Todd M. Friedman, P.C.’s hourly rates are reasonable in respect to the ranges charged by comparable law firms in the State of California.³ My billing rate is \$900 per hour in this case, the billing rate for Adrian Bacon is \$750 per hour, the billing rate for junior associates is \$425 poer hour, and senior associates is \$650 per hour.

55. Regarding my rate, I have been practicing law since 2001, and am the managing partner of one of the most active consumer protection and employment law firms in California. He has been counsel of record on hundreds of class action lawsuits, dozens of which have resolved on a class-wide basis. Our firm has been counsel on cases totaling over \$300 million in class-wide relief for consumers. Based on the Laffey Matrix, the requested hourly rate falls within the scope of reasonable fees.

56. Adrian Bacon isa Partner at The Law Offices of Todd M. Friedman, P.C. and the lead litigation attorney at the firm. He has practiced almost exclusively as a plaintiffs’ class action attorney for the duration of his career as a litigator, which has included both wage and hour and consumer class actions. He oversees all the firm’s class actions and act in either a lead or co-lead role in nearly all of them.

57. Mr. Bacon has been licensed to practice since 2011 and has worked as a plaintiffs’ side class action litigation attorney for the duration of his career. Prior to receiving his law license, he worked for the Federal Trade Commission, and was involved in several “sweeps” including one dubbed Operation Shortchange, where the FTC shut down a series of scammers who were taking advantage of consumers during the financial downturn and achieved a multi-nine figure judgment against them which made headlines. He also worked on and participated in a federal raid, referred to as an “Immediate Access” and thereafter a receivership against a scam boiler room posing as part of the Obamacare plan by selling fake medical discount cards to vulnerable sick people during the last economic downturn. The company was bilking people out of their last savings by selling them substitutes for medical insurance through bogus discount cards that were not recognized or accepted anywhere that they were advertised. He was part of

³ See Laffey Matrix at <http://www.laffeymatrix.com/see.html>

1 the team that shut down their operations in Tempe Arizona along with a team of agents and
2 federal marshals.

3 58. Once licensed to practice, Mr. Bacon began by working at Strange & Carpenter as
4 an associate on consumer protection class actions, including heading up the document production
5 team on the Toyota Unintended Acceleration Litigation. While there, he drafted and worked on
6 several published opinions, including a Ninth Circuit decision *Corvello v. Wells Fargo* and the
7 now heavily-cited opinion *Nguyen v. Barnes & Noble* denying a motion to compel arbitration,
8 which was upheld by the Ninth Circuit.

9 59. He left the firm and went to work at Marlin & Saltzman in their Orange County
10 office under Louis M. Marlin, a highly decorated retired class action attorney, and now respected
11 mediator. Marlin & Saltzman is a class action litigation firm that specializes in wage and hour
12 class actions. He worked there for two years and was appointed class counsel on several wage
13 and hour class actions. He was instrumental in favorably settling one such class action against
14 Ikea for more than twice what the company came to mediation willing to pay.

15 60. In 2014 Mr. Bacon lateralled over to The Law Offices of Todd M. Friedman,
16 where he has served as the head of litigation at the office for the past seven years. He was made
17 a partner in 2018 after having certified and settled numerous class actions for clients of our firm
18 and helped revamp our litigation department. Almost every single one of the class actions that
19 our firm has settled, certified or otherwise litigated in earnest on behalf of our clients out of our
20 California office have been cases that he has overseen with myself.

21 61. Mr. Bacon has argued multiple class action cases before the Ninth Circuit,
22 Eleventh Circuit, Second Circuit, and California Supreme Court, including *Gallion v United*
23 *States*, 772 Fed.Appx. 604 (9th Cir. July 8, 2019), *McCurley v. Royal Seas Cruises, Inc.*, (9th Cir.
24 April 5, 2022) 2022 WL 1012471, *Smith v. LoanMe, Inc.*, 11 Cal.5th 183 (Cal. S.Ct. 2021), and
25 *Soliman v. Subway Franchisee Advertising Fund Trust, Ltd.*, 999 F.3d 828 (2nd Cir. 2021). He
26 has assisted in briefing on two United States Supreme Court cases, and been the primary author
27 of Amicus briefs to the US. Supreme Court, as well as multiple comments to federal regulators
28 including the FCC for advancement of consumer privacy rights.

62. It is this level of experience for both myself and Mr. Bacon that enabled the firm
to undertake the instant matter and to successfully combat the resources of the Defendant and
their capable and experienced counsel. On account of the concerted and dedicated effort this
case demanded in order to properly handle and prosecute, my office and our co-counsel were

precluded from taking other cases, and in fact, had to turn away other potential fee generating cases.

63. In light of this experience and the customary rates on the Laffey Matrix, a \$900 hourly rate of is warranted for myself, and \$750 is warranted for Adrian Bacon. These are the same rates Judge Hogue approved for us in our DoorDash case, by contested motion over an objector.

64. With regard to a bare bones' loadstar amount, our billing records reflect 238.4 hours. Based on these rates, and our time entries for each corresponding individual, the loadstar estimate is \$186,690.00. Here is a breakdown and summary of the fees incurred in connection with this Case, excluding paralegal and law clerk time:


Name	Number of Hours	Rate/Hr	Total
Todd M. Friedman	52.6	\$900.00	\$47,340.00
Adrian R. Bacon	185.8	\$750.00	\$139,350.00
TOTAL	238.40		\$186,690.00

65. Regarding a breakdown of time spent by counsel, similar summaries were done and approved recently in our *DoorDash* settlement over objections. See also *Martino v. Denevi* (1986) 182 Cal.App.3d 553, 558-559. We can provide detailed time records to the Court upon request.

66. My office is requesting a multiplier to the lodestar of 1.34.

67. Based on the foregoing, I submit that our request for an award of 33.33% of the Common Fund is reasonable.

I declare under penalty of perjury under the laws of California and the United States of America that the foregoing is true and correct, and that this declaration was executed on February 14, 2023.

By: 
TODD M. FRIEDMAN, ESQ.