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15 UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
16 OAKLAND DIVISION

17 ABANTE ROOTER AND PLUMBING,
18 INC., MARK HANKINS, and PHILIP J.
19 CHARVAT, individually and on behalf of all
others similarly situated,

20 Plaintiffs,

21 v.

22 ALARM.COM INCORPORATED, and
23 ALARM.COM HOLDINGS, INC.,

24 Defendants.

NO. 4:15-cv-06314-YGR

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

JURY TRIAL DEMAND

Complaint Filed: December 30, 2015

Honorable Yvonne Gonzalez Rogers

DATE: August 13, 2019

TIME: 2:00 p.m.

LOCATION: Oakland Courthouse
Courtroom 1 - 4th Floor

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DECLARATION OF BETH E. TERRELL IN SUPPORT OF PLAINTIFFS' MOTION
FOR ATTORNEYS' FEES, COSTS, AND SERVICE AWARDS - 1

CASE No. 4:15-cv-06314-YGR

1 I, Beth E. Terrell, declare as follows:

2 1. I am a member of the law firm of Terrell Marshall Law Group PLLC, co-counsel
3 of record for Plaintiffs in this matter. I am admitted to practice before this Court and am a
4 member in good standing of the bars of the states of Washington and California. I respectfully
5 submit this declaration in support of Plaintiffs' Motion for Attorneys' Fees, Reimbursement of
6 Costs, and Service Award. Except as otherwise noted, I have personal knowledge of the facts set
7 forth in this declaration, and could testify competently to them if called upon to do so.

8 **Our Work on the Case**

9 2. Following an investigation, Plaintiffs filed a class action complaint on December
10 20, 2015, alleging that Alarm.com was liable under the TCPA for four types of calls made on its
11 behalf: (1) to cell phones using an ADTS and a prerecorded voice, in violation of 47 U.S.C.
12 § 227(b)(1)(A); (2) to residential lines using an artificial or prerecorded voice, in violation of
13 § 227(b)(1)(B)); (3) to numbers on the National Do Not Call list, in violation of § 227(c)(5); and
14 (4) in violation of the internal Do Not Call regulations, 47 C.F.R. § 64.1200(c). Plaintiffs alleged
15 that Alarm.com hired Alliance to make calls to market Alarm.com's security services and
16 products. Plaintiffs each received multiple calls made by Alliance or one of Alliance's agents on
17 Alarm.com's behalf.

18 3. The parties initially focused on targeted discovery. They served and responded to
19 written discovery requests and produced and reviewed tens of thousands of pages of documents.
20 Plaintiffs took seven depositions of Alarm.com and Alarm.com deposed the three Plaintiffs.

21 4. Plaintiffs issued third party subpoenas to Alliance and to Alliance's agent,
22 Nationwide Alarms, Inc., to obtain records of telemarketing calls made to class members and
23 other documents. Plaintiffs retained an expert, Anya Verkhovskaya, to process and analyze the
24 records to identify the telephone numbers of potential members of the National Do-Not-Call
25 Class.

26 5. Plaintiffs were able to obtain an affidavit from Nationwide's principle, Joseph
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1 Moretti, who stated that Nationwide used a dialing system called “Ytel” to contact individuals
2 who previously received pre-recorded messages promoting the services of the companies that
3 had retained Alliance as an authorized dealer. *See* ECF No. 89. Plaintiffs sent a subpoena to Ytel
4 through which they obtained additional data documenting Nationwide’s calls. Plaintiffs refer to
5 the data they received from Ytel and Nationwide as the “Nationwide data.” Plaintiffs analyzed
6 the Nationwide data to identify the cell phone and residential numbers Nationwide contacted
7 using the Ytel calling system. *See generally* ECF No. 87.

8 6. Plaintiffs moved for class certification in March 2017. ECF No. 85. Following a
9 hearing, the Court granted the motion and certified a Cell Phone Class, Residential Class, and
10 National Do-Not-Call Class. ECF No. 126.

11 7. The parties resumed discovery. In an effort to identify class members, Plaintiffs
12 sent subpoenas to 38 companies they understood operated as Alliance’s subdealers requesting
13 calling data for calls placed on behalf of Alliance and Alarm.com. Plaintiffs received no calling
14 data in response to any of the subpoenas. Plaintiffs obtained permission to use documents and
15 data that Alliance produced in the MDL litigation against Monitronics (N.D.W.V. Case No. 13-
16 md-2943) that they thought might include calling data for class members. Plaintiffs also took
17 several additional depositions, including depositions of Alliance’s corporate officers,
18 Nationwide’s principal, Mr. Moretti, and lead generator Justin Ramsey.

19 8. After completing discovery and their expert’s analysis of the Monitronics calling
20 data, Plaintiffs filed a motion requesting that the Court modify its class certification order to (1)
21 limit the Cell Phone class to individuals who were called by Nationwide because they did not
22 have authenticated data of calls made by Alliance’s other subdealers; (2) decertify the
23 Residential Class because there was no way to tell from the available calling data whether a class
24 member received a pre-recorded message, raising individualized issues; and (3) modify the
25 National Do-Not-Call Class definition to correct a clerical error. The Court granted the motion.
26 ECF No. 176.

1 9. The parties exchanged expert disclosures and deposed each other’s experts in
2 early 2018.

3 10. Alarm.com moved for summary judgment in May 2018, arguing that it was not
4 liable for calls made by Alliance on its behalf. ECF No. 195. Alarm.com also filed a motion to
5 strike Plaintiffs’ experts. ECF No. 198. Plaintiffs opposed both motions and filed a cross-motion
6 for summary judgment. ECF Nos. 205 & 211. Following a hearing, the Court denied the
7 summary judgment motions and Alarm.com’s motion to exclude Plaintiffs’ experts. ECF. No.
8 242.

9 11. Trial was set for October 9, 2018. After the summary judgment ruling, the parties
10 prepared and exchanged exhibit lists, deposition designations, trial stipulations, jury instructions,
11 and motions in limine.

12 12. The parties engaged in settlement negotiations in December 2016 with Judge
13 James F. Holderman (Ret.) of JAMS Chicago and in November 2017 with Judge Morton Denlow
14 (Ret.), also of JAMS Chicago. Neither was successful. With trial fast approaching, the parties
15 reopened their discussions. This time, the parties were able to reach agreement on the terms of a
16 settlement. Plaintiffs previously filed the Settlement Agreement, at ECF 273-1, and the
17 Addendum to Settlement Agreement, at ECF 287-1.

18 **Challenges Presented by the Litigation**

19 13. Class Counsel chose to take on and vigorously litigate this case even though there
20 was a significant risk that they would not ultimately be paid for their work. In addition to the
21 risks inherent in any litigation, Plaintiffs risked losing on the merits. Plaintiffs believe they have
22 a case for liability. They maintain the evidence supports Alarm.com’s vicarious liability for the
23 calls placed by Alliance and its agents, as discussed at length in Plaintiffs’ response to
24 Alarm.com’s motion for summary judgment. Alarm.com’s dealer agreements show that
25 Alarm.com had the ability to control and monitor its dealer’s marketing techniques and activities.
26 Until the summer of 2017, Alliance was required to exclusively sell Alarm.com products and
27

1 services. *See* ECF No. 205 at 4. And Alarm.com was on notice of a *Today Show* report
2 concerning Alliance's telemarketing violations. *Id.* at 5-6.

3 14. But success on this score was certainly not guaranteed. Alarm.com denies liability
4 for Plaintiffs' claims. Alarm.com asserted fifty affirmative defenses, *see* ECF No. 35, and
5 continues to deny that it can be held vicariously liable for Alliance's alleged telemarketing
6 violations. Proving vicarious liability can be challenging in TCPA cases. The Ninth Circuit
7 recently affirmed summary dismissal of two TCPA cases, finding that the defendants could not
8 be held vicariously liable for telemarketing calls made by third parties. *See Jones v. Royal*
9 *Admin. Servs. Inc.*, 887 F.3d 443 (9th Cir. 2018); *Kristensen v. Credit Payment Servs.*, 879 F.3d
10 1010 (9th Cir. 2018). While there are ways to distinguish these cases, they demonstrate the risk
11 Plaintiffs faced of losing the entire case on the merits. I know from my experienced in litigating
12 TCPA cases that proving vicarious liability is always a challenge and an entire case can be lost
13 on this issue at summary judgment. *See Hodgin v. UTC Fire & Security Americas Corp., Inc.*,
14 885 F.3d 243 (4th Cir. 2018); *Makaron v. GE Security Mfg. Co.*, No. CV-14-1274-GW (AGRx),
15 2015 WL 3526253, at *10 (C.D. Cal. May 18, 2015).

16 15. Plaintiffs had additional hurdles to clear before they would ever recover any
17 damages. They would not only have to prevail at trial, but also retain any favorable judgment
18 through the appellate process. Litigating this case to trial and through any appeals would be
19 expensive and time-consuming and would present risk to both parties.

20 16. Even if Plaintiffs prevailed at trial and on any appeal, the damages available under
21 the TCPA in a class action with more than a million class members are so significant that they
22 make it hard for any company to bond an appeal and satisfy the judgment. Assuming each
23 Settlement Class Member received just one call, a judgment on behalf of the approximately
24 1,215,993 Settlement Class Members whose telephone numbers have been identified from
25 calling data would total more than \$607,996,500 (1,215,993 x \$500), which could then be
26 subject to trebling up to \$1.8 billion. Thus, in addition to the risk of a loss at trial, even a verdict
27 for Plaintiffs posed a substantial risk that the judgment would never be paid.

1 17. I understand the risks involved with prosecuting TCPA class actions. Our firm
2 unfortunately has lost a number of TCPA cases without having gained a single penny in fees. *See*
3 *Gannon v. Network Telephone Servs., Inc.*, No. CV 12-9777-RGK (PJWx), 2013 WL 2450199,
4 at *1 (C.D. Cal. June 5, 2013) (denying plaintiff's motion for class certification in TCPA case),
5 *aff'd* 628 F. App'x. 551 (9th Cir. 2016); *Latner v. Mount Sinai Health Sys., Inc.*, No. 16 Civ. 683
6 (AKH), 2016 WL 10571897 (S.D.N.Y. Dec. 14, 2016) (granting defendants' motion for
7 summary judgment in TCPA case), *aff'd* 879 F.3d 52 (2d Cir. 2018); *Wengle v. DialAmerica*
8 *Marketing, Inc.*, 132 F. Supp. 3d 910, 922 (E.D. Mich. 2015) (same); *Jackson v. Safeway, Inc.*,
9 No. 15-cv-04419-JSC, 2016 WL 5907917, at *1 (N.D. Cal. Oct. 11, 2016) (same).

10 TMLG's Experience

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

21 19. TMLG has actively and successfully litigated class action lawsuits under the
22 Telephone Consumer Protection Act. TMLG has taken the lead in some of the largest nationwide
23 class actions filed under the TCPA, including those filed against large financial institutions such
24 as Sallie Mae, Bank of America, Discover Financial Services, Capital One, and HSBC. I have
25 been appointed co-lead counsel in two of the largest MDLs involving TCPA claims, *In re*
26 *Capital One Telephone Consumer Protection Act Litigation*, 1:12-cv-10064 (N.D. Illinois), and
27

1 *In re Monitronics International, Inc. Telephone Consumer Protection Act Litigation*, MDL No.
2 1:13-MD-2493 (N.D. W. Va.).

3 20. TMLG is litigating or has settled the following TCPA class actions:

- 4 • *In re Capital One Telephone Consumer Protection Act Litigation*—
5 Filed on behalf of consumers who received automated, prerecorded
6 collection telephone calls on their cellular telephones without their
7 prior express consent. I served as court-appointed interim co-lead
8 counsel. The court granted final approval of a \$75,455,098.74
9 settlement in February 2015.
- 10 • *In re Monitronics International, Inc. Telephone Consumer Protection*
11 *Act Litigation*—Filed on behalf consumers who received automated,
12 prerecorded solicitation telephone calls on their residential and
13 business telephones without their prior express consent within the
14 meaning of the Telephone Consumer Protection Act, 47 U.S.C. § 227
15 *et seq.*, the Washington Automatic Dialing and Announcing Device
16 statute, RCW 80.36.400, and the Washington Consumer Protection
17 Act, RCW 19.86 *et seq.* I serve as co-lead counsel in the MDL. The
18 case settled on a class-wide basis in 2017 for \$28,000,000, and final
19 approval was granted on June 12, 2018.
- 20 • *Abante Rooter and Plumbing, Inc. v. Pivotal Payments Inc*— Filed on
21 behalf of small businesses that received automated solicitation
22 telephone calls to their cell phones. The case settled on a class-wide
23 basis for \$9 million and final approval was granted by the United
24 States District Court for the Northern District of California in October
25 2018.
- 26 • *Snyder v. Ocwen Loan Servicing, LLC*—Filed on behalf of consumers
27 who received automated 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.* The
case settled on a class-wide basis in 2017 for \$17,500,000, and final
approval is pending in the United States District Court for the
Northern District of Illinois.
- *Charvat v. Plymouth Rock Energy*—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. and/or to telephone numbers registered on 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.

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- *Melito v. American Eagle Outfitters, Inc.*—Filed on behalf of consumers who received spam text messages 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.* The case settled on a class-wide basis in 2016 for \$14,500,000, and final approval was granted by the United States District Court for the Southern District of New York in September 2017. The case is currently on appeal before the United States Court of Appeals for the Second Circuit.
 - *Ashack v. Caliber Home Loans*—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 nationwide settlement in 2016 for \$2,895,000, and final approval was granted in June 2017.
 - *Joseph v. TrueBlue Inc.*—Filed on behalf of consumers who received spam text messages 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.* The case settled on a class-wide basis in 2016 for \$5,000,000, and final approval was granted in March 2017.
 - *Gehrich v. Chase Bank USA*—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 \$34,000,000 nationwide settlement; final approval was granted in March 2016.
 - *Ott 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 and final approval was granted in January 2016.
 - *Wilkins v. HSBC Bank Nevada, N.A.*—Filed on behalf of individuals who alleged that HSBC made prerecorded calls using an automatic dialing system. The case settled on a class-wide basis in 2014 for \$39,975,000, and final approval was granted in March 2015.
 - *Rose v. Bank of America Corp.*—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

1 *et seq.* TMLG negotiated a nationwide settlement of \$32,083,905,
2 which was granted final approval in August 2014.

- 3 • *Steinfeld v. Discover Financial Services*—Filed on behalf of
4 consumers who received automated, prerecorded collection telephone
5 calls on their cellular telephones without their prior express consent
6 within the meaning of the Telephone Consumer Protection Act,
7 47 U.S.C. § 227 *et seq.* TMLG negotiated an \$8.7 million settlement,
8 which was granted final approval in March 2014.
- 9 • *Arthur v. Sallie Mae, Inc.*—Filed on behalf of consumers who received
10 automated, prerecorded collection telephone calls on their cellular
11 telephones without their prior express consent within the meaning of
12 the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.*
13 TMLG negotiated a \$24.15 million nationwide settlement, and final
14 approval was granted in 2012.

11 **Qualifications of TMLG Attorneys and Staff**

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

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

24 23. I am actively involved in several professional organizations and activities. For
25 example, I am currently an Eagle Member of the Washington State Association of Justice, and
26 serve as the Chair of its Consumer Protection Section. I am the current Chair of the Washington
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1 Employment Lawyers Association and a member of the Public Justice Foundation's Board of
2 Directors. I also serve on the Foundation's Executive and Development Committees.

3 24. I have been repeatedly named to the annual Washington Super Lawyers list. I
4 have also been named to the Top 100 Washington Super Lawyers list and the Top 50 Women
5 Super Lawyers list.

6 25. **Jennifer Rust Murray** is a founding member of TMLG. Ms. Murray graduated
7 from the University of Washington School of Law in 2005 where she was a member of the
8 Washington Law Review. Ms. Murray's law review article entitled "Proving Cause in Fact under
9 Washington's Consumer Protection Act: The Case for a Rebuttable Presumption of Reliance"
10 won the Carkeek prize for best submission by a student author. Prior to law school, Ms. Murray
11 earned a Ph.D. in Philosophy from Emory University. Ms. Murray has been an active member of
12 the Washington State Bar Association since her admission to the bar in 2005. In 2010, Ms.
13 Murray was admitted to the Oregon State Bar. In 2011, 2012, 2013, 2014, and 2015, Ms. Murray
14 was named a Washington "Rising Star" by SuperLawyer Magazine.

15 26. **Amanda M. Steiner** is a member of TMLG with twenty years of experience in
16 class action and complex civil litigation. A 1997 graduate of UC Berkeley School of Law who is
17 admitted in Washington, California, New York and Hawaii, she has authored briefs that have
18 resulted in numerous favorable decisions for plaintiffs in high-profile and complex securities,
19 employment, consumer and civil rights class action in federal and state courts throughout the
20 United States. Ms. Steiner was selected for inclusion in the annual Northern California "Super
21 Lawyers" list (2012-2017) and was named to the Top 50 Women Lawyers of Northern
22 California. She is a member of the Legal Writing Institute and the American Bar Association's
23 Appellate Practice Committee, and is a Fellow of the American Bar Foundation

24 27. **Mary B. Reiten** is a member of TMLG. Ms. Reiten received her B.A. with high
25 honors from the University of California, Berkeley in 1991 and graduated from the University of
26 California, Hastings College of Law in 1998. Prior to joining TMLG, Ms. Reiten was a member
27 of Tousley Brain Stephens PLLC. Ms. Reiten was also an associate at Lieff Cabraser Heiman &

1 Bernstein for one year and clerked for the superior courts of Sitka, Alaska and San Francisco,
2 California. Ms. Reiten has represented plaintiffs in several consumer class actions, including
3 *Spafford v. EchoStar; Hartman, et al. v. Comcast; Richison v. American Cemwood Corp.;*
4 *Zwicker et al. v. General Motors Corporation;* and *Trimble v. Holmes Harbor Sewer District, et*
5 *al.* In 2004, Ms. Reiten was named a Washington “Rising Star” by Washington Law & Politics
6 magazine.

7 28. **Blythe H. Chandler** is a member of TMLG. Ms. Chandler has played a lead role
8 in numerous consumer class actions litigated by TMLG since joining the firm in 2014. Ms.
9 Chandler graduated from the University of Washington School of Law with high honors, Order
10 of the Coif, in 2010. In her third year of law school, she received the Eugene A. Wright Scholar
11 Award, which is awarded by the faculty for outstanding scholarship. Prior to joining TMLG, Ms.
12 Chandler served as a law clerk to the Honorable Betty B. Fletcher, Senior United States Circuit
13 Judge for the Ninth Circuit Court of Appeals, and to the Honorable John C. Coughenour, Senior
14 United States District Judge for the Western District of Washington. Ms. Chandler also served as
15 a judicial extern to the Honorable Robert S. Lasnik, United States District Judge for the Western
16 District of Washington. Ms. Chandler is a member of the Washington Employment Lawyers
17 Association (WELA) Amicus Committee. She is an Eagle member of the Washington State
18 Association for Justice (WSAJ) and currently co-chairs WSAJ’s Consumer Protection Section.

19 29. **Elizabeth Adams** has been an associate at TMLG since 2015. She concentrates
20 her practice on complex civil litigation including consumer protection and civil rights class
21 actions. Ms. Adams is a 2012 graduate of the UCLA School of Law, where she received the
22 Order of the Coif and served as a Comments Editor for the UCLA Law Review. Before joining
23 TMLG, Ms. Adams served as a law clerk to the Honorable Dean D. Pregerson, the Honorable
24 George Wu, and the Honorable John A. Kronstadt, all of the United States District Court for the
25 Central District of California.

26 30. **Ben Drachler** is an associate at TMLG. He concentrates his practice on complex
27 civil litigation, with a particular focus on consumer, product defect, and wage and hour class

1 actions. Mr. Drachler graduated from the Seattle University School of Law where he was
2 recognized with the CALI Excellence for the Future Awards in Constitutional Law and Legal
3 Writing and was also the Associate Editor for the Seattle University Law Review. Prior to
4 joining TMLG, he served as law clerk to the Honorable Robert H. Whaley in the Eastern District
5 of Washington, and to the Honorable Thomas S. Zilly in the Western District of Washington.

6 31. **Brittany Madderra** was an associate at TMLG from 2016 to 2017. Ms.
7 Madderra graduated from the University of Washington School of Law in 2014.

8 32. **Kerem Levitas** was an associate at TMLG from 2015 to 2016. Mr. Levitas
9 graduated from the University of Washington School of Law in 2009.

10 33. **Seth Dawson** is a law clerk at TMLG. Mr. Dawson is a third-year law student at
11 the University of Washington School of Law.

12 34. **Kaylan Lovrovich** is a law clerk at TMLG. Ms. Lovrovich is a third-year law
13 student at the University of Washington School of Law.

14 35. **Jennifer Boschen** is a senior paralegal at TMLG with 18 years of experience in
15 the legal field.

16 36. **Rachel Hoover** was a senior paralegal at TMLG from 2011 to 2018 and had
17 worked in the legal field since 2001.

18 37. **Jodi Nuss** has been a senior paralegal at TMLG since 2018 and has worked in the
19 legal field since 2010.

20 38. **Heather Brown** has been a paralegal at TMLG since 2018. Ms. Brown has
21 worked in the legal field since 2002.

22 39. **Jessica Langstead** has been a legal assistant at TMLG since 2017.

23 40. **Amanda Nelson** was a legal assistant at TMLG from 2016 until March 2019.

24 41. **Hannelore Ohaus** was a legal assistant at TMLG from 2012 until 2017.
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Attorneys' Fees

42. Class Counsel have received no payment for their fees and costs. Class Counsel request 30% of the settlement fund to compensate them for the work performed in the case and the risk they undertook in representing Plaintiffs and class members on a contingent basis.

43. The following table identifies the attorneys and staff members from TMLG who worked on this case and for whom the recovery of fees is sought. For each of the timekeepers below, I have stated the current hourly rate, the number of hours billed after the reductions discussed below, and the total amount of fees.

	RATE	HOURS	TOTAL
Beth E. Terrell Partner	\$750	353.1	\$264,825.00
Jennifer Rust Murray Partner	\$700	998.2	\$698,740.00
Amanda M. Steiner Partner	\$725	275.9	\$200,027.50
Mary B. Reiten Partner	\$575	43.5	\$25,012.50
Blythe Chandler Partner	\$425	83.8	\$35,615.00
Elizabeth Adams Senior Associate	\$350	45.7	\$15,995.00
Ben Drachler Associate	\$325	10.8	\$3,510.00
Brittany Madderra Associate	\$325	37.8	\$12,285.00
Kerem Levitas Associate	\$325	182.1	\$59,182.50
Seth Dawson Law Clerk	\$275	36.2	\$9,955.00
Kaylan Lovrovich Law Clerk	\$275	18.8	\$5,170.00

	RATE	HOURS	TOTAL
Jennifer Boschen Senior Paralegal	\$275	63.8	\$17,545.00
Rachel Hoover Senior Paralegal	\$275	100.3	\$27,582.50
Jodi Nuss Senior Paralegal	\$275	124.5	\$34,237.50
Heather Brown Paralegal	\$225	94.4	\$21,240.00
Amanda Nelson Legal Assistant	\$200	35.5	\$7,100.00
Hannelore Ohaus Legal Assistant	\$150	21.9	\$3,285.00
Jessica Langstead Legal Assistant	\$100	118	\$11,800.00
TOTAL		1627.2	\$1,453,107.50

44. Since beginning work on this case in December 2015, TMLG worked with no guarantee of being compensated for its time and efforts. Payment of TMLG's fees has always been contingent on successfully obtaining relief for the Plaintiffs and class members. As a result, there was a substantial risk of non-payment, particularly in light of the legal challenges involved in litigating this case. Work on this case has necessarily been to the exclusion of work on other matters that likely would have generated fees. TMLG has also been denied use of the fees it earned over the course of this case.

45. I reviewed TMLG's billing records and reduced or eliminated time where appropriate. I made reductions where time was largely administrative in nature. I also eliminated time billed by attorneys and staff members who devoted fewer than ten hours to the case. Through this process, I reduced TMLG's lodestar by more than \$60,000.00.

46. We have not included any time spent preparing this motion in TMLG's lodestar. The lodestar also does not include the work we will do after completion of this motion, which

1 will include working with the settlement administrator, preparing the motion for final approval
2 and attending the hearing, and communicating with class members.

3 **TMLG's Rates Have Been Approved by Courts Around the Country**

4 47. TMLG sets its rates for attorneys and staff members based on a variety of factors,
5 including among others: the experience, skill and sophistication required for the types of legal
6 services typically performed; the rates customarily charged in similar matters; the rates
7 customarily charged by other lawyers of similar skill and experience; and the experience,
8 reputation, and ability of the attorneys and staff members We set our rates to be consistent with
9 the prevailing market rates in the private sector for attorneys and staff of comparable skill,
10 qualifications and experience who litigate class actions and complex litigation.

11 48. Our lodestar calculations are based on our current standard hourly rates. Courts
12 around the country have approved fee requests based on TMLG's standard rates at the time of
13 the application. Here is a sample of the courts that have approved TMLG's rates as reasonable in
14 class action litigation:

15 a. September 2017, in *Melito v. American Eagle Outfitters, Inc.*, No. 14-CV-
16 2440 (VEC) (S.D.N.Y.);

17 b. May 2016, in *Lushe v. Verengo, Inc.*, No. CV 13-07632-AB (PJWx) (C.D.
18 Cal.);

19 c. September 2014, in *Chesbro v. Best Buy Stores, L.P.*, No. C10-774 RAJ
20 (W.D. Wash.);

21 d. March 2013, in *Meilleur v. AT&T Corp.*, No. C11-01025 MJP (W.D.
22 Wash.);

23 e. October 2012, in *Khadera v. ABM Industries, Inc.*, No. C08-0417 RSM
24 (W.D. Wash.);

25 f. September 2012, in *Arthur v. Sallie Mae, Inc.*, No. C10-00198 JLR (W.D.
26 Wash.);

1 g. January 2012, in *Milligan v. Toyota Motor Sales, U.S.A., Inc.*, No. C09-
2 05418 RS (N.D. Cal.); and

3 h. August 2011, in *Seraphin v. AT&T Internet Services*, CV-00131-REB (D.
4 Idaho).

5 **Summary of Class Counsel's Lodestar Across All Four Law Firms**

6 49. Collectively, Class Counsel devoted 3,527 hours to this case for a total lodestar of
7 \$2,576,774.50. Class Counsel worked collaboratively, but also took care to avoid duplication of
8 effort by dividing tasks according to each professional's skill, experience, and availability, both
9 within and amongst the firms. Class Counsel kept contemporaneous, detailed time records in
10 chronological order by timekeeper in the regular course of business. The resulting hours are
11 those that would be billed to a fee-paying client in a non-contingent case. Class Counsel's hours,
12 by firm, are summarized in this chart:

13

FIRM	TOTAL HOURS	TOTAL LODESTAR
Terrell Marshall Law Group PLLC	1,627.2	\$1,453,107.50
Bailey & Glasser LLP	513.4	\$264,747.00
Broderick & Paronich, P.C.	946.7	\$551,165.00
The Law Office of Matthew P. McCue	439.7	\$307,755.00

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23 **Litigation Costs**

24 50. Collectively, Class Counsel incurred \$529,313.20 in costs prosecuting this case,
25 including \$221,293.77 owed to claims administrator KCC (ECF 288) for its design and
26 implementation of the class certification notice program the Court approved on February 2, 2018
27 (ECF 178), and \$308,019.43 in unreimbursed litigation costs, as summarized in this chart:

DESCRIPTION	AMOUNT
Computer Research and Pacer Expenses	\$769.64
Courier, Postage, Process Service, Subpoenas	\$7,167.63
Court Reporters and Transcripts	\$19,047.56
Expert Costs	\$240,081.49
Filing and Pro Hac Vice Fees	\$3,981.00
Mediation Costs	\$10,205.95
Travel (Airfare, Hotel, Meals, Rides, and Parking)	\$26,766.16
Total	\$308,019.43

Service Awards

51. We are requesting service awards of \$10,000 to each of the three Class Representatives. Each Plaintiff worked closely with Class Counsel to respond to discovery from Alarm.com. Each sat for a deposition. And each was ready and willing to testify at trial. I believe \$10,000 service awards for their efforts are reasonable and appropriate.

Estimated Awards to Settlement Class Members

52. Claims administrator KCC has already received 25,740 claims, and Settlement Class Members still have more than a month—until April 16, 2019—to submit claims, opt out, or object. If 10% of the identified Settlement Class Members file claims, each will receive approximately \$142. If 15% file claims, each will receive approximately \$94.

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

EXECUTED at Seattle, Washington this 18th day of March, 2019.

/s/ Beth E. Terrell, SBN #178181

Beth E. Terrell, SBN #178181

CERTIFICATE OF SERVICE

I, Beth E. Terrell, hereby certify that on March 18, 2019, 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 18th day of March, 2019.

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