

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

TERRY BROWN, <i>on behalf of himself and</i>	:	
<i>all similarly situated individuals,</i>	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 1:20-cv-482-AJT-JFA
	:	
RP ON-SITE, LLC,	:	
	:	
Defendant.	:	

**PLAINTIFF’S MOTION FOR SERVICE AWARD AND
ATTORNEYS’ FEES AND COSTS**

Plaintiff, Terry Brown, under Federal Rules of Civil Procedure 23(h) and 54(d)(2), moves the Court for his attorney’s fees, costs, and a service award under the Class Action Settlement Agreement for the reasons supplied in the accompanying memorandum of law.

Respectfully submitted,
TERRY BROWN

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Plaintiff, :

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Civil Action No. 1:20-cv-482-AJT-JFA

RP ON-SITE, LLC, :

Defendant. :

**PLAINTIFF’S MEMORANDUM IN SUPPORT OF
MOTION FOR SERVICE AWARD AND ATTORNEYS’ FEES AND COSTS**

Under Federal Rules of Civil Procedure 23(h) and 54(d)(2), Plaintiff Terry Brown and Class Counsel bring this motion seeking \$695,000 in attorneys’ fees and costs and a \$5,000 service award to Plaintiff as Class Representative. As discussed below, the requested attorneys’ fees and costs represent 33% of the Settlement’s value. This percentage is fair and reasonable because it recognizes the substantial relief obtained for class members and compensates Class Counsel for the significant resources invested in the case.

Class Counsel obtained an excellent settlement for the class members that provides substantial monetary and injunctive relief for the Settlement Class. The Settlement creates a common fund of \$2.1 million from which all 1,394 class members will receive automatic payments of around \$875, less fees and costs. In addition, class members who disputed inaccurate sex-offender information with RP On-Site, LLC (“On-Site”), as well as consumers who submit a claim

form showing that they were delayed in obtaining or denied housing, will also receive a second payment, which may exceed \$1,500 from the fund.¹

Although the Settlement is not the largest of its kind as to total dollars, Plaintiff believes it is very favorable among FCRA settlements for the total amount to be distributed to each consumer. In other words, while the class size is small, the total recovery for each class member is comparatively large. On-Site has also agreed to implement changes to its procedures, which will prevent similar inaccuracies from occurring in the future. This Settlement is an excellent recovery, particularly given that injunctive relief is likely not available as a remedy at trial.

This meaningful relief would have been impossible without Class Counsel's diligent litigation efforts. As detailed below, discovery was almost complete by the time of Settlement. As a result of the discovery process, which involved significant written discovery, the production of thousands of pages of documents, third-party discovery, exchange of expert reports, motions practice, and nine depositions, the Parties understood all the claims and issues in the case. Plaintiff was prepared to move for class certification, with summary judgment briefing to follow. Settlement required significant informal discussions among counsel and was followed by two all-day mediation sessions with a private mediator.

Class Counsel, who took this litigation on a contingency basis and risked recovering nothing if they did not succeed, should be reasonably compensated for these efforts and risks. Plaintiff also seeks a reasonable service award, which is in line with other service awards that this

¹ Both estimates, which were provided in Plaintiff's preliminary approval motion, are subject to change based on the actual fees and costs, the final number of class members, and the number of claim forms received. Since the deadline for class members to submit a claim and exclude themselves from the Settlement has not yet expired, Plaintiff will provide updated estimate payments in his motion for final approval of the settlement. Regardless, there is no reverter and, thus, the amount received by consumers who claim into the secondary fund may be larger than \$1,500 if all class members do not opt into the secondary fund (or cash their checks).

Court has awarded, to compensate him for the time and efforts that he spent representing the Class. Plaintiff therefore requests that the Court grant his Motion and award \$695,000 in attorneys' fees and costs and a service award of \$5,000. On-Site does not oppose this request.

BACKGROUND

This class action challenged On-Site's procedures for matching sex-offender information to consumers when preparing the background checks that it sold to its landlord customers for use in screening rental applicants. The Complaint alleged that On-Site placed sex-offender records into Plaintiff's and the putative class members' background reports even though the underlying records showed that the sex offender had a different date of birth than the rental applicant. Based on these allegations, the Complaint alleged claims against On-Site for violating the Fair Credit Reporting Act ("FCRA"), 15 U.S.C. § 1681e(b), and sought punitive damages, statutory damages, attorneys' fees, and costs from On-Site. On-Site denies that its procedures violate the statute or are unlawful.

Plaintiff filed the Complaint on April 27, 2020. ECF No. 1. Prior to filing, Class Counsel spent significant time and resources investigating the claims, reviewing Plaintiff's documents, and preparing the Complaint. Ex. 1, Kelly Decl. ¶ 17. After On-Site answered the Complaint (ECF No. 9) and the Court issued its Scheduling Order (ECF No. 10), the Parties proceeded to discovery. Discovery was extensive, with both sides completing written discovery and producing thousands of pages of documents. Ex. 1, Kelly Decl. ¶ 17. Both parties engaged in third-party discovery, and nine witnesses were deposed, including Plaintiff, several of On-Site's employees, and third parties. *Id.* Plaintiff moved to compel what he perceived to be deficient discovery responses and a privilege dispute. ECF No. 19. The motion was fully briefed and decided by Judge Anderson after reviewing the documents *in camera*. ECF Nos. 27, 32. On-Site objected to Judge Anderson's Order, ECF No. 34, which required more briefing and led to Plaintiff's filing of a sanctions motion. ECF No. 42.

Simultaneously, Class Counsel hired two expert witnesses and engaged in significant efforts to review On-Site's records and identify class members. Ex. 1, Kelly Decl. ¶¶ 17-18. This required that counsel request the underlying criminal records to confirm that the sex offender had a different date of birth than the subject of On-Site's background reports. Ex. 1, Kelly Decl. ¶ 18. On-Site engaged its own experts to challenge the identifiability of class membership, and the Parties prepared for motions practice on expert witness challenges, class certification, and summary judgment. Ex. 1, Kelly Decl. ¶ 17. Class Counsel also had extensive informal settlement discussions with On-Site's counsel, which ultimately led to the parties agreeing to conduct mediation with a private mediator. Ex. 1, Kelly Decl. ¶ 17.

The Parties engaged Louis D. Peterson of Hillis, Clark, Martin & Peterson, P.S. and conducted two all-day mediation sessions before reaching the Settlement. The settlement process, although respectful, was hard fought and contentious. As evidenced by the fact that the final mediation session that led to the settlement agreement was conducted at the same time as a deposition of one of On-Site's employees, Class Counsel were willing to continue to litigate the case rather than accept a settlement that was not in Plaintiff's and the class members' best interests. And importantly, the Parties did not discuss attorneys' fees or a service award until they had agreed on all of the other material settlement terms.

ARGUMENT

A. The Court should award the well-earned service award to Plaintiff.

Plaintiff requests—and On-Site does not oppose—a modest award of \$5,000 for Plaintiff's participation and service to the Class. He took an active role in the litigation, including responding to written discovery and sitting for a deposition. Ex. 1, Kelly Decl. ¶¶ 25-27. He also understands his role as class representative and responded to Class Counsel throughout the litigation. *Id.* He reviewed and approved the settlement. Service awards in this range are reasonable and this Court

routinely awards them. *See, e.g., Hayes v. Delbert Servs. Corp.*, 3:14-cv-258 (JAG) (E.D. Va.); *Manuel v. Wells Fargo Nat'l Ass'n*, No. 3:14cv238(DJN), 2016 WL 1070819, at *6 (E.D. Va. Mar. 15, 2016); *Beverly v. Wal-Mart Stores, Inc.*, No. 3:07-cv-469 (E.D. Va.); *Williams v. Lexis Nexis Risk Mgmt.*, No. 3:06cv241 (E.D. Va.); *Cappetta v. GC Servs. LP*, No. 3:08-cv-288-JRS (E.D. Va.); *Makson v. Portfolio Recovery Assoc., Inc.*, No. 3:07-cv-982-HEH (E.D. Va. Feb. 9, 2009); *Daily v. NCO*, No. 3:09-cv-31-JAG (E.D. Va.); *Conley v. First Tenn.*, No. 1:10-cv-1247-TSE (E.D. Va.); *Lengrand v. Wellpoint*, No. 3:11-cv-333-HEH (E.D. Va.); *Henderson v. Verifications, Inc.*, No. 3:11-cv-514-REP (E.D. Va.); *Pitt v. K-Mart Corp.*, No. 3:11-cv-697 (E.D. Va.); *James v. Experian Info. Sols.*, No. 3:12-cv-902 (E.D. Va.); *Manuel v. Wittstadt*, No. 3:12-cv-450 (E.D. Va.); *Shami v. Middle E. Broadcast Network*, 1:13-cv-467-CMH (E.D. Va.); *Goodrow v. Freidman Freidman & MacFadyen*, No. 3:11-cv-20 (E.D. Va.); *Berry v. LexisNexis Risk & Info. Analytics Grp., Inc.*, No. 3:11-cv-274 (E.D. Va.); *Marcum v. Dolgencorp*, No. 3:12-cv-108 (E.D. Va.); *Kelly v. Nationstar*, No. 3:13-cv-311 (E.D. Va.); *Wyatt v. SunTrust Bank*, No. 3:13-cv-662 (E.D. Va.). So do other judicial districts. *See, e.g., Staton v. Boeing Co.*, 327 F.3d 938, 976–77 (9th Cir. 2003); *In re Bancorp Litig.*, 291 F.3d 1035, 1038 (8th Cir. 2002); *Cook v. Niedert*, 142 F.3d 1004, 1016 (7th Cir. 1998). In fact, the requested service award is well below the national average—an empirical study published in 2006 suggests that the average award per class representative is about \$16,000. 4 *Newberg on Class Actions* § 11:38 (4th ed.). Because Plaintiff earned it through his participation in the case, the Court should approve it.

B. The requested attorneys' fees and costs are appropriate and should be awarded.

Under the Settlement Agreement, Class Counsel can seek an award for attorneys' fees and costs of 33% of the Settlement Fund. In this case, that fee amounts to \$695,000.

1. A percentage fee is appropriate and reasonable here.

Rule 23(h) grants the Court authority to “award reasonable attorneys’ fees and nontaxable costs that are authorized by law or by the parties’ agreement” in class actions. Fed. R. Civ. P. 23(h). When the case leads to a common fund for the class, the Court may award fees as a percentage of that common fund. The doctrine originates from the equitable principles of quantum meruit and unjust enrichment and aims to shift the expense of litigation from named plaintiffs, who obtained the fund’s benefits, to the absent class members, who benefit from the fund but likely contributed little, or nothing, to the process. *Brundle ex rel. Constellis Employee Stock Ownership Plan v. Wilmington Tr., N.A.*, 919 F.3d 763, 785 (4th Cir. 2019), as amended (Mar. 22, 2019). As the Fourth Circuit has explained, awarding fees as a percentage of the common fund “hold[s] the beneficiaries of a judgment or settlement responsible for compensating the counsel who obtained the judgment or settlement for them.” *Id.* at 786.²

Courts’ preference for the percentage method is common sense. It is easily administered and saves valuable court and party resources, which heeds the Supreme Court’s mandate that “request for attorney’s fees . . . not result in a second major litigation.” *Hensley v. Eckerhart*, 461 U.S. 424, 437 (1983). The percentage method also aligns the interests of class counsel and the class members because it both motivates class counsel to generate the largest possible recovery for the class and rewards efficient litigation. This is because their fee increases with the class’s take, removing any incentive to run up their hours in order obtain a higher fee. A percentage fee also

² Most Circuits either permit or require the percentage method. 5 *Newberg on Class Actions* § 15:66 (5th ed. Dec. 2020 Update). For example, the Eleventh Circuit and the District of Columbia Circuit require the use of the percentage method. *Id.* at n.6 (citing cases). The Third Circuit prefers the percentage method. *Id.* at n.7. And the First, Second, Fifth, Sixth, Eighth, Ninth, and Tenth allows district courts to use either method. *Id.* at n.5 (citing cases).

encourages early settlements because class counsel will not receive more fee for unnecessary motions or discovery. *Johnson v. Metro-Goldwyn-Mayer Studios, Inc.*, No. C17-541RSM, 2018 WL 5013764, at *11 (W.D. Wash. 2018) (“the percentage-of-recovery method plays an important role in aligning the interests of the class and class counsel” and “[i]n such situations, class counsel is motivated to obtain the largest tangible benefit possible, to provide for the best possible notice to the class, and to assure that the claims process is not overly burdensome”); *In re Anthem, Inc. Data Breach Litigation*, No. 15-MD-02617-LHK, 2018 WL 3960068, at *5 (N.D. Cal. 2018) (“By tying the award to the recovery of the Class, Class Counsel’s interests are aligned with the Class, and Class Counsel are incentivized to achieve the best possible result.”); *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, 991 F. Supp. 2d 437, 440 (E.D.N.Y. 2014) (“The percentage method better aligns the incentives of plaintiffs’ counsel with those of the class members because it bases the attorneys’ fees on the results they achieve for their clients, rather than on the number of motions they file, documents they review, or hours they work.”); *Swedish Hosp. Corp. v. Shalala*, 1 F.3d 1261, 1268–69 (D.C. Cir. 1993) (“using the lodestar approach in common fund cases encourages significant elements of inefficiency,” while “if a percentage-of-the-fund calculation controls, inefficiently expended hours only serve to reduce the per hour compensation of the attorney expending them”).

On the other hand, the lodestar method is time consuming and requires lawyers to submit voluminous records that courts must then review and scrutinize in detail. Furthermore, a lodestar fee encourages class counsel to increase the number of hours they spend on a case to maximize their fees, even if that time advances the case or class members’ interests. *In re General Motors Corp. Pick-Up Truck Fuel Tank Products Liability Litigation*, 55 F.3d 768, 821 (3d Cir. 1995) (“[T]he lodestar method has been criticized as giving class counsel the incentive to delay

settlement in order to run up fees while still failing to align the interests of the class”). Indeed, the lodestar method is used in only a fraction of class-action cases, usually those involving fee-shifting statutes or where the settlement provides injunctive relief that cannot be reliably calculated. *See, e.g.,* Theodore Eisenberg et al., *Attorneys’ Fees in Class Actions: 2009-2013*, 92 N.Y.U. Law Review 937, 945 (2017) (finding that the lodestar method used only 6.29% of the time from 2009 to 2013, down from 13.6% from 1993 to 2002 and 9.6% from 2003 to 2008); Brian T. Fitzpatrick, *An Empirical Study of Class Action Settlements and Their Fee Awards*, 7 J. Empirical L. Stud. 811, 832 (2010) (finding that the lodestar method used in only 12% of settlements).

While the Fourth Circuit has not explicitly required its use in class actions, the percentage method is overwhelmingly preferred by the district courts in this circuit. *Galloway v. Williams*, 3:19-cv-470, 2020 WL 7482191, at *5 (E.D. Va. Dec. 18, 2020) (“Nevertheless, over time, certain customs have developed, both in the Fourth Circuit and across the country; for example, the favored method for calculating attorneys’ fees in common fund cases is the percentage of the fund method.”); *Thomas v. FTS USA, LLC*, 3:13-cv-825 (REP), 2017 WL 1148283, at *3 (E.D. Va. Jan. 9, 2017), *report and recommendation adopted*, 3:13-cv-825, 2017 WL 1147460 (E.D. Va. Mar. 27, 2017) (“District Courts within this Circuit have also favored the percentage of the fund method.”(citations omitted)); *see also Kelly v. Johns Hopkins Univ.*, 1:16-cv-2835-GLR, 2020 WL 434473, at *2 (D. Md. Jan. 28, 2020); *Seaman v. Duke Univ.*, 1:15-cv-462, 2019 WL 4674758, at *2 (M.D.N.C. Sept. 25, 2019); *Cox v. Branch Banking & Tr. Co.*, 5:16-cv-10501, 2019 WL 164814, at *5 (S.D. W. Va. Jan. 10, 2019) (collecting cases and stating, “In sum, there is a clear consensus among the federal and state courts, consistent with Supreme Court precedent, that the award of attorneys’ fees in common fund cases should be based on a percentage of the recovery. This consensus derives from the recognition that the percentage of fund approach is the better-

reasoned and more equitable method of determining attorneys' fees in such cases."); *Krakauer v. Dish Network, L.L.C.*, No. 14-333, 2018 WL 6305785, at *2 (M.D.N.C. Dec. 3, 2018); *Phillips v. Triad Guar. Inc.*, No. 1:09-cv-71, 2016 WL 2636289, at *2 (M.D.N.C. May 9, 2016); *Archbold v. Wells Fargo Bank, N.A.*, No. 13-24599, 2015 WL 4276295, at *5 (S.D. W. Va. July 14, 2015) (“[T]he Court concludes that there is a clear consensus . . . that the award of attorneys’ fees in common fund cases should be based on a percentage of the recovery.”).

Although the Fourth Circuit has not designated factors for courts to apply under the percentage-of-the-fund method, district courts in this Circuit typically use these seven factors: (1) the results obtained for the class; (2) the quality, skill, and efficiency of the attorneys involved; (3) the risk of nonpayment; (4) objections by members of the class to the settlement terms or fees requested by counsel; (5) awards in similar cases; (6) the complexity and duration of the case; and (7) public policy. *Fangman v. Genuine Title, LLC*, No. CV RDB-14-0081, 2017 WL 86010, at *3-4 (D. Md. Jan. 10, 2017). Here, these factors all support an award of the requested fee.

i. Results Obtained for the Class

In the Fourth Circuit, “the most critical factor in calculating a reasonable fee award is the degree of success obtained.” *McDonnell v. Miller Oil Co.*, 134 F.3d 638, 641 (4th Cir. 1998) (citation and internal quotation omitted). Here, the Settlement provides an excellent result for the Settlement Class. Under the FCRA, if this case were to go to trial, class members would only be able to recover statutory damages between \$100 and \$1,000 and potentially punitive damages. *See* 15 U.S.C. § 1681n. Here, each class member will receive a check for around the midpoint of the statutory damage range. They can also seek a second payment that will likely be more than \$1,500. This is a significant recovery in an FCRA class action. In addition, the Settlement also provides

injunctive relief, which will prevent the class members from suffering future harm. This relief was unavailable at trial.

Even putting aside the litigation risks, the Settlement is excellent by any measure. Class Counsel have been practicing in the field of consumer protection for more than 15 years, and they believe this settlement stacks up very favorably when compared to other FCRA settlements over that time. See, e.g., *Reyes v. Experian Info. Sols., Inc.*, 2021 WL 1310961, at *1 (9th Cir. Apr. 8, 2021) (noting that the proposed settlement resulted in class members receiving “at least \$270 after deductions” in a § 1681e(b) case); *Serrano v. Sterling Testing Sys., Inc.*, 711 F. Supp. 2d 402, 416 (E.D. Pa. 2010) (approving an FCRA settlement where “Plaintiffs have secured a result which comes close to the minimum range of [statutory] damages without any risk”); *Berry v. Schulman*, 807 F.3d 600, 604 (4th Cir. 2015) (affirming approval of an FCRA class settlement that only provided injunctive relief).

All class members will receive the monetary distribution without the need to submit a claim. They are also eligible to submit a claim for another payment, and some class members—ones who successfully disputed the inaccurate reporting with On-site—will receive this second payment automatically. In addition, in this case, all of the Net Settlement Fund will be distributed to Settlement Class Members or contributed to a *cy pres*. There will be no reversion of unclaimed funds to On-Site. In short, the Settlement provides significant benefits to Settlement Class Members.

ii. Quality, Skill, and Efficiency of Attorneys

Class Counsel here have extensive experience in consumer class-action litigation, and in FCRA litigation in particular. ECF No. 68-2 at ¶¶ 8-10. There are few firms in the nation with the Class Counsel’s expertise in FCRA litigation. Class Counsel leveraged that expertise to litigate

this case and negotiate a favorable settlement for the Settlement Class. Class Counsel also litigated this action efficiently. Class Counsel negotiated a settlement after conducting significant discovery and building settlement leverages. This settlement provides immediate relief to class members, without the extensive delay that would result from litigating the case through class certification, summary judgment, trial, and the inevitable appeals that would result. The settlement not only benefits the class, but emphasizes Class Counsel's skill and efficiency.

iii. Risk of Nonpayment

From the outset, Class Counsel litigated this case on a contingent basis, risking their own resources in litigation. Without this Settlement, class members, Plaintiff, and Class Counsel risked obtaining no recovery. The case's contingent nature therefore favors the fee award. *See Decohen v. Abbasi, LLC*, 299 F.R.D. 469, 482 (D. Md. 2014) ("public policy favors the requested award" where risk of nonpayment exists "because the relevant public policy considerations involve the balancing of the policy goals of encouraging counsel to pursue meritorious . . . litigation.") (citation and internal quotations omitted). Defense counsel similarly are well-respected and experienced. Given this formidable opposition, a high level of experience was required for success. *See, e.g., In re Royal Ahold N.V. Securities & ERISA Litig.*, 461 F. Supp. 2d at 387 (class counsel competence along with highly qualified defense counsel supports awarding requested attorneys' fees).

There was also a real risk of nonpayment in this case when considering On-Site's primary defenses, namely that the case was not eligible for class certification and that Plaintiff could not establish a willful violation. While Plaintiff believed that they would overcome both of these arguments, they were conceivably viable defenses. *See, e.g., Kelly v. RealPage, Inc.*, No. 2:19-CV-01706-JDW, 2020 WL 7479620, at *1 (E.D. Pa. Dec. 18, 2020) (denying class certification in a case involving On-Site). A loss on certification would mean that Class Members would receive

nothing. The same is true for a loss on willfulness as the FCRA only permits recovery of statutory damages when a plaintiff proves a willful violation. Compare 15 U.S.C. § 1681n; with 15 U.S.C. § 1681o (only allowing for actual damages when a violation is negligent).

Class Counsel assumed a very real risk in taking on this complex case. These two factors, risk and complexity, are evaluated together and are reflected by the results that Class Counsel achieved in the Settlement, as detailed above. There were risks and uncertainty in this case, including proving willfulness to recover punitive damages, obtaining class certification, and surviving summary judgment. There was also a risk that class members would be more difficult to locate as the litigation continued. Class Counsel took the case on a contingency basis, and invested substantial time, effort, and money with no guarantee of any recovery.

iv. Objections

So far, no class member has objected to the settlement or the attorney's fees listed in the settlement agreement. However, the objection deadline has not passed. If any objections are received after this motion is filed, Class Counsel will file a separate response.

v. Awards in Similar Cases

The Fourth Circuit has not established a benchmark for fee awards in common-fund cases. Class Counsel is requesting a 33% fee. This is well within the 25-to-40-percent range that courts within the Fourth Circuit have held appropriate.³ It is also within the appropriate range found by

³ Indeed, “empirical studies show that, regardless whether the percentage method or the lodestar method is used, fee awards in the class actions average around one-third of the recovery.” 4 Newberg *on Class Actions* § 14:6 (4th ed.); *see also In re Rite Aid Corp. Sec. Litig.*, 146 F. Supp. 2d 706, 735 (E.D. Pa. 2001) (review of 289 class action settlements shows “average attorney’s fees percentage [of] 31.31%” with a median value that “turns out to be one-third.”). In an analysis of such historic patterns, Silber and Goodrich explained that empirical evidence need not establish what a court should do in any given case, but it does provide guidance to the court in determining whether a fee is reasonable. Reagan W. Silber & Frank E. Goodrick, *Common Funds and Common Problems: Fee Objections and Class Counsel’s Response*, 17 Rev. Litig. 525, 545–46 (1998).

the recent comprehensive study of attorneys' fees in class action cases. Theodore Eisenberg & Geoffrey P. Miller, *Attorney Fees in Class Action Settlements: An Empirical Study*, 1 J. Empirical Legal Studies 27, 31, 33 (2004) (noting "a remarkable uniformity in awards between roughly 30% to 33% of the settlement amount.").

This Court has also approved similar percentage awards in other consumer-protection class cases. *Heath v. Trans Union*, No. 3:18-cv-720 (E.D. Va.), Dec. 3, 2019 Final Approval Order at Dkt. 65 (approving a 33% fee request in an FCRA case); *Ridenour v. Sterling Infosystems, Inc.*, No. 2:15-cv-00041 (E.D. Va.), July 26, 2017 Final Approval Order at Dkt. 204 (approving a 32% fee request in an FCRA case against a background check company); *Gibbs v. TCV V, LP*, No. 3:19-cv-789 (E.D. Va.) (approving a one-third of common fund fee request inclusive of costs); *Gibbs v. Rees*, No. 3:20-cv-717 (E.D. Va.) (approving a one-third of common fund fee request inclusive of costs); *Galloway v. Williams*, No. 3:19-cv-470, 2020 WL 7482191, at *11 (E.D. Va. Dec. 18, 2020) ("A percentage award of 33% of a common fund is a bit on the high side for this circuit and in general, but it is certainly not outside of the realm of reasonable percentage awards, particularly given that the award will be inclusive of costs.") (citing *In re Celebrex (Celecoxib) Antitrust Litig.*, No. 2:14-cv-361, 2018 WL 2382091, at *5 (E.D. Va. Apr. 18, 2018); see also *Liggio v. Apple Federal Credit Union*, No. 1:18-cv-01059-LO-MSN (E.D. Va.) (approving one-third of common fund fee request); *Lambert v. Navy Federal Credit Union*, No. 1:19-cv-103 (E.D. Va.) (approving a one-third of common fund fee request inclusive of costs).⁴ In consumer class actions generally, there is a tremendous amount of necessary post-approval work. Class Counsel will continue to

⁴ Other courts have also approved similar fee requests in FCRA cases. See *Jenkins v. Realpage, Inc.*, 2:15-cv-1520 (E.D. Pa.) (approving a 33% fee request in an FCRA case); *Kelly v. First Advantage Background Services, Corp.*, 3:15-cv-5813 (D.N.J.) (approving a 33% fee request in an FCRA case).

work with class members after the Settlement to ensure that they are receiving their monetary benefits and will be available to answer questions about their specific background check issues. As Judge Novak recently held in another consumer case: “I am going to approve that. It represents 33 percent of the monetary value. The lodestar multiplier is 3.86, but believing that number is going to fall for the reasons you just said about the continuing work.” *Turner v. ZestFinance, Inc.*, No. 3:19-cv-293, ECF No. 116 at 16:1-5 (E.D. Va. Aug. 4, 2020).

vi. Duration and Complexity of the Case

As detailed above, this case was thoroughly litigated, and discovery was almost complete when the settlement was reached. As a result, all of the case’s claims and defenses had been thoroughly explored and the parties were fully informed about the case’s strengths and weaknesses when negotiating the settlement. Moreover, this was a complex case that required Class Counsel to establish willfulness in order to make a meaningful recovery for class members at trial. Although Class Counsel were confident that they could make this showing, it was not a guaranteed outcome, and likely would have led to an appeal. Class Counsel also needed to use multiple sources to compile a class list so that all of the affected class members could be identified. The complexity of this case warrants approval of the requested fee award.

vii. Public Policy

When assessing the reasonableness of a class-action fee award, the “court must strike the appropriate balance between promoting the important public policy that attorneys continue litigating class action cases that ‘vindicate rights that might otherwise go unprotected,’ and perpetuating the public perception that ‘class action plaintiffs’ lawyers are overcompensated for the work that they do.” *Fangman*, 2017 WL 86010, at *6 (quoting *Singleton*, 976 F. Supp. 2d at

687). This case does not raise serious public policy concerns, and so far, none of the class members have objected to the proposed fee. As a result, this factor supports approval of the requested award.

In sum, the seven factors that the Fourth Circuit uses to assess the reasonableness of a fee award all support approving the requested award. As with any class case that they agree to take on, Class Counsel live by the result that they obtain for the class members. Even though the fee here is significant, Class Counsel has consistently advocated for fees based on the percentage method, even when it leads to a small fee well below their lodestar. *Conley v. First Tennessee*, No. 1:10-cv-1247 (E.D. Va.) (300 consumers and fee of \$20,000). In each case, Rule 23 demands that Class Counsel represent the interest of the class with the same attention, zeal, and competence whether the class is in the millions or not. In this case, where Class Counsel bore the risk of the litigation and advanced significant funds to advance the litigation, the requested fee is reasonable.

2. A cross-check against Class Counsel's lodestar supports requested fee.

A cross-check is not required to determine the fairness of a fee when the percentage method is used. But courts have, sometimes, used a lodestar estimate as a cross-check in assessing Class Counsel's fee request. *Manual for Complex Litigation (Fourth)* § 21.724. As this Court has recently recognized, "where used as a mere cross-check, the hours documented by counsel need not be exhaustively scrutinized by the district court." *Galloway v. Williams*, No. 3:19-cv-470, 2020 WL 7482191, at *11 (E.D. Va. Dec. 18, 2020).

Here, the requested award includes both attorneys' fees and costs. For fees, Class Counsel's lodestar is approximately \$339,325.00. Ex. 1, Kelly Decl. ¶ 19.⁵ Class Counsel has also incurred \$25,676.36 in unreimbursed expenses, including filing fees, process server fees, federal express

⁵ Class Counsel's hourly rates are reasonable. Ex. 1, Kelly Decl. ¶¶ 9-13, 20; Ex. 2, Pittman Decl.

charges, public records research, copying fees, deposition costs, expert witness fees, and secure database hosting charges for the class list. Ex. 1, Kelly Decl. ¶ 19. In addition, Class Counsel's fee request includes no estimated lodestar for any time incurred after this motion is filed or for their post-approval work in the case.

The requested \$695,000 fee represents a 1.98 multiplier for Class Counsel, after subtracting litigation costs. In light of the Settlement's benefits, this multiplier is reasonable. *Berry v. Schulman*, 807 F.3d 600, 617 n.9 (4th Cir. 2015) (noting that using the lodestar method, "the district court multiplies the number of hours worked by a reasonable hourly rate. And it can then adjust the lodestar figure using a 'multiplier' derived from a number of factors, such as the benefit achieved for the class and the complexity of the case."). This multiplier is well-within the range approved in other settlements both in the Fourth Circuit and nationally.⁶ Particularly given the result achieved, the requested fee is reasonable and appropriate. Ex. 2, Pittman Decl.

CONCLUSION

Plaintiff's and Class Counsel's request for \$695,000 in attorneys' fees and costs and a \$5,000 service award for Plaintiff is appropriate, particularly given the substantial relief that the Settlement provides to the class members and the work that the Plaintiff has done to litigate the case on the class's behalf. The Court should grant the Motion.

⁶ See, e.g., *Skochin v. Genworth Financial, Inc.*, No. 3:19-cv-49, 2020 WL 6708388 (E.D. Va. Nov. 13, 2020) (9.05 multiplier); *Spartanburg Reg'l Health Services District, Inc. v. Hillenbrand Industries, Inc.*, 7:03-2141-HFF, 2006 WL 8446464 (D.S.C. Aug. 15, 2016) (multiplier slightly above 6); see also *Lloyd v. Navy Fed. Credit Union*, No. 3:17-cv-01280-BAS-RBB (S.D. Cal. 2019) (10.96 multiplier); *Stop & Shop Supermarket Co. v. SmithKline Beecham Corp.*, No. 03-cv-04578, 2005 WL 1213926 (E.D. Pa. May 19, 2005) (15.6 multiplier); *New Eng. Carpenters Health Benefits Fund v. First Databank*, No. 05-cv-11148, 2009 WL 2408560, at *2 (D. Mass. Aug. 3, 2009) (8.3 multiplier); *In re Doral Financial Corp. Securities Litigation*, No. 05-cv-04014-RO (S.D.N.Y. Jul. 17, 2007) (10.26 multiplier); *Beckman v. KeyBank, N.A.*, 293 F.R.D. 467, 481 (S.D.N.Y. 2013) ("Courts regularly award lodestar multipliers of up to eight times the lodestar, and in some cases, even higher multipliers.").

Respectfully submitted,
TERRY BROWN

By: /s/ Kristi C. Kelly
Kristi C. Kelly, VSB #72791
Andrew J. Guzzo, VSB #82170
Casey S. Nash, VSB #84261
J. Patrick McNichol, VSB #92699
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Counsel for Plaintiff

Exhibit 1

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

TERRY BROWN, *on behalf of himself and* :
all similarly situated individuals, :

Plaintiff, :

v. :

Civil Action No. 1:20-cv-482-AJT-JFA

RP ON-SITE, LLC, :

Defendant. :

DECLARATION OF KRISTI C. KELLY

I, Kristi C. Kelly declare:

1. My name is Kristi C. Kelly. I am over 21 years of age, of sound mind, capable of executing this declaration, and have personal knowledge of the facts stated herein, and they are all true and correct.

2. I am one of the attorneys working on behalf of the Plaintiff in the above-styled litigation, and I am a founder and a partner of Kelly Guzzo, PLC, a law firm located at 3925 Chain Bridge Road, Suite 202, Fairfax, Virginia 22030. Prior to January 15, 2014, I was an attorney and equity partner at Surovell Isaacs Petersen & Levy, PLC, a nineteen-attorney law firm with offices in Fairfax, Virginia. My primary office was 4010 University Drive, Suite 200, Fairfax, Virginia 22030. I also worked for Legal Services of Northern Virginia focusing exclusively on housing and consumer law for approximately three years prior to Surovell Isaacs Petersen & Levy, PLC.

3. Since 2006, I have been and presently am a member in good standing of the Bar of the highest court of the State of Virginia, where I regularly practice law. Since 2007, I have been and presently am a member in good standing of the Bar of the highest courts of the District of Columbia and since 2014 of Maryland. I am also admitted in the United States District Courts for

the District of Columbia and Maryland.

4. My law firm is committed to representing the most vulnerable – and often overlooked – consumers. We work with various legal aid organizations to help identify areas of need, where our firm can “step up” and meet those need through class action litigation or pro bono work. Many of these cases include seeking remedies for credit reporting errors or lending abuses. Kelly Guzzo was the co-recipient of the 2019 Frankie Muse Freeman Organizational Pro Bono Award by the Virginia State Bar Association.

5. I have taught numerous Continuing Legal Education programs for other attorneys in the areas of consumer law, including mortgage servicing abuses, landlord tenant defense, dealing with debt collectors, credit reporting, defenses to foreclosure, discovery in federal court, resolving cases, and internet lending for various legal aid organizations, state and local bar associations, National Consumer Law Center, Consumer Federation of America, National Council of Higher Education and National Association of Consumer Advocates at its various conferences. I was also recently asked to be a panelist for the Consumer Financial Protection Bureau and Federal Trade Commission on the issue of credit reporting.

6. My peers have recognized me as a Super Lawyer and Rising Star consistently for the past eight years. Additionally, I was selected to be a member of the Virginia Lawyers Weekly “Leader in the Law,” class of 2014 and Influential Women in the Law, class of 2020. I serve on the Board of Directors for the Legal Aid Justice Center and Virginia Poverty Law Center. I am a former State Chair for Virginia of the National Association of Consumer Advocates and am currently a member of the Partners’ Council for the National Consumer Law Center and Board of Directors of the National Association of Consumer Advocates.

7. I have also been appointed to the Merit Selection Panel for recommendation for the Magistrate Judge by the United States District Court Eastern District of Virginia, Richmond

Division.

8. In each of the class cases where I have represented plaintiffs in a consumer protection case, including cases such as the instant case, the Court found me to be adequate class counsel. See *Tsvetovat, v. Segan, Mason, & Mason, PC*, Case No. 1:12-cv-510 (E.D. Va.); *Conley v. First Tennessee Bank*, Case No. 1:10-cv-1247 (E.D. Va.); *Dreher v. Experian Information Solutions, Inc.*, Case No. 3:11-cv-624 (E.D. Va.); *Shami v. Middle East Broadcast Network*, Case No. 1:13-cv-467 (E.D. Va.); *Goodrow v. Friedman & MacFadyen*, Case No. 3:11-cv-20 (E.D. Va.); *Kelly v. Nationstar*, Case No. 3:13-cv-311 (E.D. Va.); *Thomas v. Wittstadt*, Case No. 3:12-cv-450 (E.D. Va.); *Fariasantos v. Rosenberg & Associates, LLC*, No. 3:13-cv-543 (E.D. Va.); *Morgan v. McCabe Weisberg & Conway, LLC*, Case No. 3:14-cv-695 (E.D. Va.); *Burke v. Shapiro, Brown & Alt, LLP*, Case No. 3:14-cv-838 (E.D. Va.); *Bartlow, et al., v Medical Facilities of America, Inc.*, Case No. 3:16-cv-573 (E.D. Va.); *Blocker v. Marshalls of MA, Inc.*, Case No. 1:14-cv-1940 (D.D.C.); *Ceccone v. Equifax Info. Servs., LLC*, Case No. 1:13-cv-1314 (D.D.C.); *Jenkins v. Equifax Info. Servs., LLC*, Case No. 1:15-cv-443 (E.D. Va.); *Ridenour v. Multi-Color Corporation*, Case No. 2:15-cv-00041 (E.D. Va.); *Hayes, v. Delbert Services Corp.*, Case No. 3:14-cv-258 (E.D. Va.); *Campos-Carranza, v. Credit Plus, Inc.*, Case No. 1:16-cv-120 (E.D. Va.); *Jenkins v. Realpage, Inc.*, 2:15-cv-1520 (E.D. Pa.); *Kelly v. First Advantage Background Services, Corp.*, 3:15-cv-5813 (D.N.J.); *Burke v. Seterus, Inc.*, 3:16-cv-785 (E.D. Va.); *Williams v. Corelogic Rental Property Solutions, LLC*, Case No. 8:16-cv-58 (D. Md.); *Clark v. Trans Union, LLC*, Case No. 3:15-cv-391 (E.D. Va.); *Clark v. Experian Information Solutions, Inc.*, 3:16-cv-32 (E.D. Va.); *Thomas v. Equifax Info. Servs., LLC*, Case No. 3:18-cv-684 (E.D. Va.); *Heath v. Trans Union, LLC*, Case No. 3:18-cv-720 (E.D. Va.); *Turner, v. ZestFinance, Inc.*, Case No. 3:19-cv-293 (E.D. Va.); *Galloway v. Williams*, No. 3:19-cv-470, 2020 WL 7482191, at *4 (E.D. Va. Dec. 18, 2020); *Gibbs v. TCV V, LP*, 3:19-cv-789 (E.D. Va.); and *Gibbs v. Rees*, 3:20-cv-717 (E.D.

Va.).

9. The majority of my work is contingent or brought under a fee-shifting statute so I will generally not charge my clients a fee. For the past couple years, I have been regularly approved in this Court at a rate of \$550.00 per hour. *Gibbs v. Plain Green, LLC*, 3:17-cv-00495 (E.D. Va. Dec. 13, 2019); *Turner v. ZestFinance, Inc.*, 3:19-cv-293 (E.D. Va. June 30, 2020); *Galloway v. Williams*, No. 3:19-cv-470, 2020 WL 7482191, at *11-12 (E.D. Va. Dec. 18, 2020); *Gibbs v. TCV V, LP*, 3:19-cv-789 (E.D. Va.); *Gibbs v. Rees*, 3:20-cv-717 (E.D. Va.). These rates have even been approved as reasonable in individual cases. *Garmer v. Easy Motors*, 1:20-cv-540 (E.D. Va. Nov. 23, 2020) (ECF 27 at 50); *Tsuchida v. Blackacre 1031 Exchange Services, LLC*, 2019-15803 (Fairfax County Circuit Court); *Rivera v. Blackacre 1031 Exchange Services, LLC*, 2019-15802 (Fairfax County Circuit Court).

10. Other attorneys from my firm that have worked on these cases include Andrew Guzzo and Casey Nash.

11. Andrew Guzzo was an associate at Surovell Isaacs Petersen & Levy, PLC and is currently is a partner at Kelly Guzzo, PLC. He has been approved by this Court at a rate of \$550.00 per hour. He graduated from law school at Washington & Lee University in 2011. The entire time he has been practicing law, he has practiced exclusively in the field of consumer protection litigation; litigating more than 400 hundred cases in federal court, including dozens of class actions. He is licensed to practice law in Virginia and Hawaii. He is the State Chair for Hawaii of the National Association of Consumer Advocates. He has also taught and trained lawyers, including class action and internet lending training sessions, as well as trainings for the annual Virginia Legal Aid Conference and the Consumer Federation of America. He has been named a Super Lawyer Rising Star for the past several years. He received the National Consumer Law Center's Rising Star Award in 2019.

12. Casey Nash was an associate at Consumer Litigation Associates, PC and is currently an associate at Kelly Guzzo, PLC. I supervise and work closely with Casey. She has been approved by this Court at a rate of \$475.00 per hour. She graduated from law school at the Catholic University of America in 2012. The entire time she has been practicing law, she has practiced exclusively in the field of consumer protection litigation. She has significant federal litigation experience, including litigation of over 250 federal cases and dozens of complex, class-action cases. She is licensed to practice law in Virginia and Washington, D.C. She has been named a Super Lawyers' Rising Star in Virginia and Washington, D.C. for the past several years. She has also taught and trained lawyers, including providing training about the FCRA and other consumer protection statutes to legal aid organizations. She has been approved as class counsel in numerous class action cases, including some of the cases listed above, as well as several others that she litigated during her time at Consumer Litigation Associates. *See, e.g., Soutter v. Equifax Information Services, LLC*, No. 3:10-cv-107 (E.D. Va.); *James v. Experian Information Solutions, Inc.*, No. 3:12-cv-908 (E.D. Va.); *Manuel v. Wells Fargo Nat'l Bank, N.A.*, No. 3:14-cv-00238 (E.D. Va.); *Milbourne v. JRK Residential Am., LLC*, No. 3:12-cv-00861 (E.D. Va.); *Thomas v. FTS USA, LLC*, No. 3:13-cv-825- REP (E.D. Va.).

13. Natalie Cahoon is a paralegal at Kelly Guzzo, PLC, with five years of experience in the legal field. She graduated from the University of Maine. She has been approved by this Court at a rate of \$200.00 per hour.

14. At Kelly Guzzo, PLC, we use MyCase billing software to contemporaneously record our time expended and costs advanced in client matters. While, the majority of our work is contingent, pro bono, or brought under a fee-shifting statute and we do not generally charge our clients a fee, we still forward our clients invoices detailing our time and expenses expended for the preceding calendar month.

15. Generally, if a task does not take more than .1 (or six minutes), attorneys and paralegals at Kelly Guzzo, PLC will not bill for that task. This includes reviewing routine court filings, fielding brief telephone calls, responding to quick emails, etc.

16. My office staff took the amount of time expended by each individual in this case and categorized it in a chart as best as practicable by the categories listed in what is attached as Exhibit A.

17. We completed significant work in this case, including: spending significant time and resources investigating the claims, reviewing Plaintiff's documents, and preparing the complaint; extensive discovery, including written discovery responses, the review of the thousands of pages that On-Site produced, third-party discovery, nine depositions, and motions practice; the engagement of two experts to support our claims; the review and research of On-Site's expert and expert report; and significant formal and informal settlement discussions.

18. My office also spent a significant amount of time analyzing the class-member data that On-Site produced in discovery in order to compile a class list. This effort required the significant expense of hosting this sensitive data on a secure sever, and requesting hundreds of court records from various jurisdictions to locate sex offenders' date of birth so that we could identify class members. This effort took my office several weeks to complete.

19. The total amount of our attorney's fees is \$339,325.00, which does not include any estimated time for the work that we will complete between now and the final approval hearing, or after final approval if the settlement is approved. My law firm has also advanced \$25,676.36 in costs. These costs include filing fees, process server fees, federal express charges, public records research, copying fees, deposition costs, expert witness fees, and secure database hosting charges for the class list.

20. I am familiar with the fees charged for attorneys with my experience and expertise

and believe the rates of my law firm are consistent, if not low, compared with the prevailing market rates in Virginia and for national class action work. Further, the time spent on this matter kept our firm from taking on other work. We accepted this case on a contingent fee basis, bearing all the risk that Plaintiff would lose a vital motion or issue.

21. The settlement provides meaningful relief for class members, including significant monetary and injunctive relief.

22. Despite the Plaintiff's belief in the strength of his claims, there was also a risk that he could recover nothing at trial. In addition, even assuming success at trial, the case would likely continue with lengthy appeals related to class certification and liability, during which time some class members would continue to move and be harder to locate for class notice. The settlement avoids these uncertainties and provides the class members with immediate, meaningful, and certain monetary relief.

23. Given these circumstances and the risk of not coming to a resolution, I endorse the settlement as fair and adequate.

24. I have no doubt that Class Counsel will spend a significant amount of additional time between now and the Final Approval Hearing and even after final approval to help administer the settlement, continue to respond to class member inquiries, and assist the settlement administrator with disbursement issues.

25. Lastly, the Plaintiff was committed to litigating this case as a class action and securing relief for all of the class members affected by On-Site's conduct.

26. Throughout the course of this litigation, the Plaintiff regularly communicated with counsel to stay updated on the case's status, reviewed the copies of pleadings that we sent to him, responded to discovery, sat for a deposition, and stayed informed of settlement negotiations. He was also available for consultation during the mediation sessions and reviewed and approved the

settlement agreement.

27. The Plaintiff also put his reputation and privacy on the line by agreeing to participate in this hard-fought litigation. He spent significant time and effort to help Class Counsel prosecute the claims on behalf on the class.

I declare under penalty of perjury of the laws of the United States that the foregoing is correct.

Signed this 16th of September, 2021.

/s/ Kristi C. Kelly
Kristi C. Kelly

Exhibit A

TIME REPORT

CLASS COUNSEL:
Kelly Guzzo, PLC

Timekeeper **Description:** **(A) Attorney**
(P) Paralegal

	Kristi Kelly (A)	Andrew Guzzo (A)	Casey Nash (A)	Natalie Cahoon (P)	TOTAL
<u>Task</u>					
Case Assessment, Presuit Work, Drafting Complaint	12.00	15.00	18.00	4.50	
Correspondences and Administrative Work	7.00	2.50	15.00	35.00	
Motions Practice (Motion to Compel, Motion for Sanctions, Motions for Extension)	32.00	14.00	12.00	0.00	
Discovery (includes drafting requests and reviewing Defendants' responses including documents, third-party discovery, depositions meet and confers)	84.00	42.00	69.00	55.00	
Court Appearances	3.50	0.00	0.00	0.00	
Mediation (includes preparation of submission to mediator) and Settlement Negotiations	36.50	12.00	20.00	0.00	
Preparation of Settlement Documents, including preparation of class list, Motion for Preliminary Approval and Final Approval	47.00	12.00	62.00	155.00	
Class Member Contact and Settlement Administration	32.00	0.00	0.00	15.00	
Total Hours	254.00	97.50	196.00	264.50	812.00
Hourly Rate	550.00	550.00	475.00	200.00	
Individual Total Lodestar	\$139,700.00	\$53,625.00	\$93,100.00	\$52,900.00	\$339,325.00
Class Counsel Total Lodestar	\$339,325.00				

Exhibit 2

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

TERRY BROWN, *on behalf of himself and* :
all similarly situated individuals, :

Plaintiff, :

v. :

Civil Action No. 1:20-cv-482-AJT-JFA

RP ON-SITE, LLC, :

Defendant. :

DECLARATION OF DALE W. PITTMAN

Dale W. Pittman declares under penalty of perjury that the following statements are true:

1. My name is Dale W. Pittman. I am over the age of 18 and have personal knowledge of the facts set forth herein.

2. I am a member in good standing of the bars of the following courts:

Supreme Court of the United States
Washington, DC
February, 1997

Supreme Court of Virginia
Richmond, Virginia
June 8, 1976

U. S. Court of Appeals for the Fourth Circuit
Richmond, Virginia
September 2, 1980

U. S. District Court for the Western District of Virginia
Roanoke, Virginia

U. S. District Court for the Eastern District of Virginia
Richmond, Virginia
December 30, 1976

U. S. Bankruptcy Court for the Eastern District of Virginia
Richmond, Virginia

November, 1997.

3. I am a 1971 graduate of Hampden-Sydney College and a 1976 graduate of the T. C. Williams School of Law of the University of Richmond, Virginia. I am a member of the Virginia State Bar, the Virginia Trial Lawyers Association, the Virginia Bar Association, the National Association of Consumer Advocates, and the Petersburg Bar Association, of which I am a past President. I am a past member of the Council of the Virginia State Bar, the State Bar's governing body, having served five terms over the course of the past twenty-five years as the elected representative of the Eleventh Judicial Circuit. I am a member of the Board of Governors of the Virginia Trial Lawyers Association, and I chair the VTLA's Consumer Law Section. I serve on the Board of Directors of the Legal Services Corporation of Virginia, which provides funding for programs offering civil legal assistance to low-income Virginians. I served as President of the LSCV Board for five years.

4. From February 1, 1977 until September 13, 1996 I was employed by Southside Virginia Legal Services, in Petersburg, Virginia, as its General Counsel (Chief Executive Officer). My caseload at Southside Virginia Legal Services evolved over the years into a primarily consumer law practice.

5. From September 16, 1996 until the present I have maintained a private law practice with an office located in Petersburg. My work in private practice is limited almost exclusively to the representation of consumers, with particular emphasis on representing consumer debtors under the Fair Debt Collections Practices Act. I have a statewide consumer law practice, and have represented consumers from all regions of the Commonwealth and elsewhere.

6. I was a contributing editor to the consumer law sections of *Virginia Practice Manual*, a practice manual for Legal Aid lawyers and for private lawyers handling cases under the auspices of *pro bono* initiatives in Virginia.

7. Pleadings and discovery from many of my consumer law cases appear in the National Consumer Law Center’s *Consumer Law Pleadings*, nationally distributed form books of consumer law pleadings, beginning in 1994. Pleadings and discovery from my cases appear in Books 1, 2, 5, 6, 7, 10, and 11.

8. I have given over eighty lectures to lawyers that qualified for continuing legal education credit.

9. I have made two presentations on consumer protection law and litigation to Virginia’s General District Court judges at the Judicial Conference of Virginia for General District Court judges, one in 1987 on consumer protection laws generally and one in 2008 on arbitration in consumer financial services cases.

10. My consumer protection law continuing legal education lectures include the following:

Spotting Violations of the FDCPA Regulations: Communications	National Consumer Law Center Fair Debt Collections Conference	March 4, 2021
Phone Cases	2018 Fair Debt Collections Conference, Chicago	March 19, 2018
Consumer Protection Litigation and Bankruptcy: Intersections and Collisions, Fair Debt Collections Practices Act	Richmond Bar Association, Richmond	October 24, 2017
Class Actions and Multiple Claims: End Games Planning	Hampden-Sydney Bar Association CLE Event Hampden-Sydney	October 20, 2017

(co-presenter with Judge John A. Gibney, Jr., Orran L. Brown, Sr, W. James Young, and M. Peebles Harrison)

Serious Illness, the Law, and Pro Bono Services, Part 3: Relief from Creditors	Legal Information Network Cancer, in conjunction with Virginia State Bar Access to Legal Services Committee	November 17, 2016
Representing the Pro Bono Client: Consumer Law Basics 2016	Practicing Law Institute, San Francisco	July 22, 2016
Fair Debt Collections Practices Act	Old Dominion Bar Association Winter Meeting, Williamsburg	January, 30, 2016
Fair Debt Collections Practices Act Overview	Virginia State Bar Young Lawyers Section Professional Development Conference	September 24, 2015
Consumer Law (FDCPA)	A Law Day Celebration Ft. Lee, Virginia	May 1, 2015
FDCPA: Ask the Experts	National Association of Consumer Advocates Fair Debt Collection Training Conference, Washington, DC	March 11, 2015
“It May Not Be a Payday Loan....”	Virginia Poverty Law Center 2014 Annual Statewide Legal Aid Conference, Portsmouth	October 23, 2014
Meeting the Legal Needs of Individuals Facing Serious Illness Through Pro Bono – Relief From Creditors	Virginia State Bar and the Legal Information Network for Cancer Webinar	April 23, 2014

Ethical Responsibilities of Class Counsel to Class Representatives, the Class and Objectors	Fair Debt Collection Practices Act Training Conference, San Antonio, Texas	March 8, 2014
Fair Debt Collections Practices Act	Working With Military Clients, Military Law Section of the Virginia State Bar, Williamsburg, Virginia	October 18, 2013
How the Consumer Bar Views FDCPA Compliance by Collection Attorneys	National Association of Retail Collection Attorneys Fall Collection Conference, Washington, DC	October 17, 2013
Making the Bad Guys Pay	Virginia Poverty Law Center, Richmond	May 9, 2013
FDCPA: Ask the Experts	National Association of Consumer Advocates Fair Debt Collection Training Conference, Baltimore	March 8, 2013
FDCPA Update	JAG School, Charlottesville, VA	December 11, 2012
Fair Debt Collections Practices Act	VA CLE, Charlottesville, VA	September, 2012
FDCPA	ABA Standing Committee on Legal Assistance to Military Personnel, George Mason University Law School	March 15, 2012

Fair Debt Collections Practices Act	Ft. Lee Legal Assistance Division JAG Office CLE	May 5, 2011
Handling Fair Debt Collections Practices Act Cases	65 th Legal Assistance Course, The Judge Advocate General's Legal Center and School, Charlottesville	November 16, 2009
Handling Fair Debt Collections Practices Act Cases	VPLC Statewide Legal Aid Conference, Williamsburg	November 5, 2009
Challenging Predatory Small Loans	National Consumer Law Center Consumer Rights Litigation Conference, Philadelphia	October 23, 2009
The Fair Debt Collections Practices Act: Update 2009	VA CLE Webinar	September, 2009
Handling Fair Debt Collections Practices Act Cases	2009 Mid-Atlantic Joint Services Consumer Law Symposium, Naval Legal Service Office Mid-Atlantic Legal Assistance Department, Norfolk	June 12, 2009
Handling Fair Debt Collections Practices Act Cases	64 th Legal Assistance Course, The Judge Advocate General's Legal Center and School, Charlottesville	April 2, 2009
Defending Consumers in Medical Debt Collection Cases	National Consumer Law Center's Consumer Rights Litigation Conference in Portland, Oregon	October, 2008

Combating Consumer Issues Facing the Military, FDCPA Cases	Consumer Law Intensive for Military Personnel Advocates, National Consumer Law Center's Consumer Rights Litigation Conference in Portland, Oregon	October, 2008
Issues in Arbitration Cases	Judicial Conference of Virginia for District Court Judges, Virginia Beach	August 13, 2008
A Perfect Storm – The Intersection of the FDCPA and the FCRA in Debt Collection Harassment Cases	Virginia CLE Solo and Small Firm Institute, Williamsburg	May 13, 2008
Defending Debt Collection Suits	National Consumer Rights Litigation Conference, Washington, D.C.	November 11, 2007
Emerging Issues in Debt Collection Abuse & False Credit Reporting	Virginia Trial Lawyers Association Solo & Small Firm Conference, Richmond	October 19, 2007
The Fair Debt Collections Practices Act (Including 2006 Amendments)	Virginia CLE	September 24, 2007
Fair Debt Collections Practices Act	Naval Legal Service Office Mid-Atlantic Joint Services Consumer Law Symposium, Norfolk	May 11, 2007
How to Win (or Not Lose) an Arbitration	National Consumer Rights Litigation Conference Miami, Florida	November 11, 2006

Consumer Debt Collection	59 th Legal Assistance Course The Judge Advocate's School Charlottesville	November 2, 2006
Consumer Credit: Remedies You Should be Aware Of	Virginia Trial Lawyers Association Solo & Small Firm Conference, Williamsburg	October 20, 2006
Collection Law From Start to Finish (Presentation on the FDCPA)	National Business Institute Richmond	October 10, 2006
Overview of the Fair Debt Collections Practices Act	Framme Law Firm, Richmond	June 23, 2006
Fair Debt Collection Practices Act	Naval Justice School Newport, Rhode Island	May 22 , 2006
Fair Debt Collection Practices Act – Essential Tips for Both Debtors and Creditors	Virginia CLE - 4 th Annual Advanced Consumer Bankruptcy, Richmond	April 28, 2006
Fair Debt Collection Practices Act	3 rd Annual Naval Legal Service Office, Mid-Atlantic, Auto Fraud Symposium, Norfolk	April 12, 2006
What the Virginia Lawyer Must Know about Consumer Protection	Solo and Small Firm Conference – Virginia Trial Lawyers Association, Charlottesville	September 30, 2005
Points to Consider if You are Going to Arbitration	National Consumer Law Center's 13 th Annual	November 7, 2004

	Consumer Rights Litigation Conference	
Protecting Your Client's Consumer Rights – Fair Debt Collections Practices Act	Virginia CLE - Richmond and Tysons Corner	April 21 and 22, 2004
Fair Debt Collections Practices Act Training Conference – Practice Issues	National Consumer Law Center and National Association of Consumer Advocates, Kansas City	February 22, 2004
Fair Debt Collections Practices Act	Henrico County Bar Association and Virginia Creditor's Bar Association, Richmond	February 19, 2004
Using Experts in Automobile Sale Wreck Damage Cases	IVAN Diminished Value Conference, Chesapeake	January 31, 2004
Consumer Law: Everything You Need to Know to be an Expert in Handling the Latest in Consumer Cases	First Annual Solo and Small Firm Conference – Virginia Trial Lawyers Association, Charlottesville	October 10, 2003
Points To Consider If You Are Going To Arbitration	Virginia Women Attorney's Association, Southside Chapter, Petersburg	July 31, 2003
Fair Debt Collection Practices Act	Virginia CLE, First Advanced Consumer Bankruptcy Conference	May 2, 2003
Fair Debt Collection Practices Act Fair Credit Reporting Act	Naval Justice School Newport, Rhode Island	April 3, 2003
Overview of the Fair Debt Collections Practices Act	Framme Law Firm, Richmond	December 17 & 18, 2002

Arbitrating: Who's Afraid of the Big Bad Wolf?	National Consumer Law Center Consumer Rights Litigation Conference, Atlanta	October 26, 2002
Mobile Home Litigation Issues	National Consumer Law Center Consumer Rights Litigation Conference, Atlanta	October 25, 2002
Settlement Agreements and Confidentiality Issues: Recent Cases in the News and the Problems News Attention Can Create	Virginia Trial Lawyers Association Fall Fiesta, Richmond	September 28, 2002
Practice Pointers Roundtable	Virginia Trial Lawyers Association Fall Fiesta, Richmond	September 27, 2002
Arbitration and Beyond: What to Do If You Are Forced Into Arbitration and What Happens After the Arbitral Award	Virginia Trial Lawyers Association Fall Fiesta, Richmond	September 27, 2002
Fair Debt Collection	ABA Standing Committee on Legal Assistance for Military Personnel Legal Assistance Symposium, Quantico	August 15, 2002
Practical Applications of Consumer Protection Laws for the General Practitioner – Part II	Virginia Women Attorneys Association, Southside Chapter, Petersburg	June 27, 2002
Practical Applications of Consumer Protection Laws for the General Practitioner – Part I	Virginia Women Attorneys Association, Southside Chapter, Petersburg	April 25, 2002

Federal Court-Fun & Easy	Annual Statewide Legal Aid Conference, Virginia Beach	November 1, 2001
FDCPA Compliance for the Virginia Practitioner	National Business Institute CLE for Virginia Lawyers, Richmond	October 11, 2001
Use of Magnuson-Moss Warranty Act in the Recovery of Attorney's Fees	Virginia Trial Lawyers Association Fiesta 3, Richmond	September 28, 2001
Credit Reporting Abuse	Petersburg Kiwanis Breakfast Club, Petersburg	September 18, 2001
A Consumer Lawyer's Perspective on Mobile Home Transactions	Virginia Manufactured Housing Association, Virginia Beach	August 8, 2001
Debt Collection Harassment, Credit Reporting Abuse, Home Solicitation Sales, Fraud.	Elder Law Day	May 11, 2001
Truth in Lending Act and Title Issues in Car Sales	VA Independent Automobile Dealers Association, District 1 Dinner Meeting, Virginia Beach, Virginia	April 11, 2001
What Do These Attorneys Know About The Used Car Business That You Don't?	VA Independent Automobile Dealers Association, District 2 Dinner Meeting, Richmond, Virginia	January 30, 2001
Mobile Home Litigation Issues	National Consumer Law Center Consumer Rights Conference	October 28, 2000

Update on the Fair Debt Collection Practices Act	Virginia CLE®	July 12 and 19, 2000
Consumer Privacy in the Electronic Age	The Bar Association of the City of Richmond	May 31, 2000
Consumer Law Update for Virginia Practitioners, Fair Debt Collection Practices Act.	Virginia CLE®	December 7 and 8, 1999
Recent Developments in Fair Debt Collection, With an Emphasis on the Fourth Circuit	Annual Statewide Legal Aid Conference	November 3, 1999
Recent Developments in Fair Debt Collection	The Bankruptcy Section of the Bar Association of the City of Richmond	October 26, 1999
Consumer Law Seminar	Office of the Staff Judge Advocate, Ft. Eustis, Virginia	August 27, 1999
Automobile Fraud and Financing Issues	Annual Statewide Legal Aid Conference	November 11, 1998
Consumer Law for Support Staff	Annual Statewide Legal Aid Conference	November 11, 1998
First Day in Practice (Topic: Consumer Law Practice)	Virginia State Bar	November 3, 1998
Complying with the Fair Debt Collection Practices Act in Virginia	National Business Institute CLE for Virginia Lawyers	September 9, 1998
Basic Overview of Several Consumer Protection Laws Available to Assist Victims of Consumer Fraud and Abuse	Charlottesville-Albemarle Bar Association Bankruptcy/Creditors' Rights Committee	February 10, 1998

Overview of Consumer Law for Support Staff	Annual Statewide Legal Aid Conference	November 6, 1997
The Fair Debt Collection Practices Act	Annual Statewide Legal Aid Conference	November 6, 1997
Recent Developments under the Fair Debt Collection Practices Act	Virginia Creditor’s Bar Association	September 25, 1997
Fair Debt Collection Practices Act	10 th Circuit Bar Association, Keysville, VA	April 23, 1997
Complying With the Fair Debt Collection Practices Act in Virginia	National Business Institute CLE for Virginia Lawyers	February 11, 1997
Handling Repossession Cases (gave segment on odometer law)	Virginia Legal Services Consumer Law Task Force	
State and Federal Consumer Protection Statutes Frequently Applicable to General District Court Cases	Judicial Conference of Virginia General District Court Judges	April 29, 1989
Everything Under the Sun You Ever Wanted to Know About Handling Home Improvement Cases	Elderly Law Task Force of Virginia Legal Services Programs	
Consumer Law for Non Consumer Lawyers	Virginia Legal Services Attorneys	
Handling Home Improvement Cases	Consumer Law Training for Virginia Legal Services Attorneys	

11. The Summer 2006 edition of *The Journal of the Virginia Trial Lawyers Association* included “Disputing Home Loan Servicing Abuse Through RESPA,” an article that I prepared for that publication.

12. From 2001 through 2010, I prepared annual reports on Virginia law for the American Bar Association’s *Survey of State Class Action Law*.

13. I was Section Chairman and Program Moderator for a Virginia Trial Lawyers Association Consumer Law Seminar entitled “Keeping the Big Boys Honest,” that took place on April 25, 1997, and covered the Fair Debt Collections Practices Act, the Fair Credit Reporting Act, Consumer Class Actions, Motor Vehicle Litigation, and Recovering Attorney’s Fees in Consumer Litigation. I was Program Chair for the Consumer Law portion of the VTLA’s February Fiesta CLE that took place in Williamsburg in February, 2000. I was a presenter on Mobile Home Sales, and in a Consumer Law Practice Roundtable. I was Program Chair for the Consumer Law portion of the VTLA’s Fall Fiesta that took place in Williamsburg on October 14 and 15, 2000, and was a presenter on Emerging Issues in Mobile Home Sales Fraud. I was Program Chair for the Consumer Law portion of the VTLA’s Fiesta 3 that took place in Richmond on September 28 and 29, 2001, and was a presenter on “Use of the Magnuson-Moss Warranty Act to Recover Attorney’s Fees.” I was Program Chair for the Consumer Law portion of the VTLA’s Fiesta 2002 that took place in Richmond on September 27 and 28, 2002, and was a presenter on “Settlement Agreements and Confidentiality Issues: Recent Cases in the News and the Problems News Attention Can Create,” “Arbitration and Beyond: What to Do If You Are Forced Into Arbitration and What Happens After the Arbitral Award,” and a roundtable participant in a “Practice Pointers Roundtable.”

14. I was the 1996 recipient of the Virginia State Bar Legal Aid Award, given annually by the Virginia State Bar to recognize a Legal Aid attorney in Virginia who demonstrates

innovation and creativity in advocacy and excellence in service to low-income clients. On November 9, 2007, I received the 2007 Consumer Attorney of the Year Award from the National Association of Consumer Advocates at its Annual Meeting in Washington, D.C. On October 21, 2010, I received the *Virginia Lawyers Weekly* “Leader in the Law 2010” award. On November 4, 2010, I received the Virginia Poverty Law Center’s John Kent Shumate, Jr. Advocate of the Year Award, in recognition of my having made a significant impact in advocating for low-income Virginia residents. The Virginia Trial Lawyers Association recognized me as only the fifth recipient of its Oliver White Hill Courageous Advocate Award at the VTLA's 2014 annual convention, an award periodically presented to an advocate who has demonstrated courage and commitment to the ideals of justice in representing an individual or cause at considerable personal risk. I received the Dr. David E. Marion Award for Legal Excellence, presented by the Hampden-Sydney College Bar Association, on October 20, 2017. I was named to the Virginia Lawyers Hall of Fame for 2019 by Virginia Lawyers Media, being honored for my career accomplishments, contributions to the development of the law in Virginia, contributions to the Bar and to the Commonwealth at Large and efforts to improve the quality of justice in Virginia. I have been selected to Virginia Super Lawyers every year since 2011. I was recently inducted as a fellow of the Virginia Law Foundation, whose mission is to promote, through philanthropy, the rule of law, access to justice, and law-related education.

15. I have been involved in many consumer cases involving a range of consumer protection laws, with an emphasis on the Fair Debt Collection Practices Act. Fair Debt Collection Practices Act, Fair Credit Reporting Act and Equal Credit Opportunity Act cases that I have handled alone or co-counseled with others include *Withers v. Eveland*, 988 F. Supp. 942 (E.D. Va. 1997); *Creighton v. Emporia Credit Service, Inc.*, 981 F. Supp. 411 (E.D. Va. 1997); *Morgan v.*

Credit Adjustment Board, 999 F. Supp. 803 (E.D. Va. 1998); *Talbott v. GC Services Limited Partnership*, 53 F. Supp. 2d 846 (W.D. Va. 1999); *Talbott v. GC Services Limited Partnership*, 191 F.R.D. 99 (W.D. Va. 2000); *Woodard v. Online Information Servs.*, 191 F.R.D. 502 (E.D.N.C., Jan. 19, 2000); *Pitchford v. Oakwood Mobile Homes*, 124 F. Supp.2d 958, 961 (W.D. Va. 2000); *Sydnor v. Conseco Financial Services Corp.*, 252 F.3d 302, 305 (4th Circ. 2001); *Jones v. Robert Vest*, 2000 U.S. Dist. LEXIS 18413 (E.D. Va. 2000); *Kelly v. Jormandy*, 2005 U.S. Dist. Lexis 29901 (W.D. Va. 2005); *Lynch v. McGeorge Camping Center*, 2005 U.S. Dist. LEXIS 10201, *12 (E.D. Va. 2005); *Thornton v. Cappo Mgmt. V, Inc.*, 2005 U.S. Dist. LEXIS 10202, *6 (E.D. Va. 2005); *Gansauer v. Transworld Systems, Inc.*, Civil Action No. 7:00cv00931 (W.D. Va. 2007); *Croy v. E. Hall & Associates, P.L.L.C.*, 2007 U.S. Dist. LEXIS 14830 (W.D. Va. 2007); *Turner v. Shenandoah Legal Group, P.C.*, 2006 U.S. Dist. LEXIS 39341 (E.D. Va., June 12, 2006); *Karnette v. Wolpoff & Abramson L.L.C.*, 444 F. Supp. 2d 640 (E.D. Va. 2006); *Karnette v. Wolpoff & Abramson, L.L.P.*, 2007 U.S. Dist. LEXIS 20794 (E.D. Va. March 23, 2007); *Bicking v. Law Offices of Rubenstein and Cogan*, 783 F. Supp. 2d at 841v (E.D. Va. 2011); *James v. Encore Capital Corp.*, No. 3:11cv226 (E.D. Va.), *Goodrow v. Friedman & MacFadyen, P.A.*, 788 F. Supp. 2d 464 (E.D. Va. 2011); *Goodrow v. Friedman & MacFadyen, P.A.*, 2013 U.S. Dist. LEXIS 105395 (E.D. Va. July 26, 2013); *Kelly v. Nationstar*, 2013 U.S. Dist. Lexis 156515 (E.D. VA 2013); *Cross v. Prospect Mortgage, LLC*, 986 F. Supp. 2d 688 (E.D. Va. 2013); *Fariasantos v. Rosenberg & Associates, LLC*, 2014 WL 928206, 2014 U.S. Dist. Lexis 30898, (E.D. Va. 2014); *DeCapri v. Law Offices of Shapiro Brown & Alt, LLP*, 2014 U.S. Dist. Lexis 131979, 2014 WL 4699591 (E.D. Va. 2014); *Lengrand v. WellPoint*, No. 3:11-CV-333 (E.D. Va.); *Henderson v. Verifications, Incorporated*, Civil Action No. 3:11cv514 (ED Va.); and *Thomas v. Wittstadt Title & Escrow Company, LLC*, No. 3:12cv450 (E.D. Va.); *Soutter v. Equifax Information Services*,

LLC, 307 F.R.D. 183 (E.D. Va. 2015); *Henderson v. Corelogic, Inc., et al.*, Civil Action No. 3:12cv97 (E.D. Va.); *Berry, et al. v. LexisNexis Risk & Information Analytics Group, Inc.*, Civil Action No. 3:11cv754 (E.D. Va.); *Henderson v. First Advantage Background Services Corp.*, Civil Action No. 3:14cv221 (E.D. Va.); *Cornell v. Brock & Scott, PLLC*, Civil Action No. 3:14cv841 (E.D. Va.); *Reese v. Stern & Eisenberg Mid Atlantic, PC*, Civil Action No. 3:16cv496 (E.D. Va.); *Bralley v. Carey*, 2011 U.S. Dist. LEXIS 107015 (E.D. Va. 2011); *Bralley v. Carey*, 2011 U.S. Dist. LEXIS 142896 (E.D. Va. 2011); *Bralley v. Carey*, 2012 U.S. Dist LEXIS 15191 (E.D. Va. 2012); *Biber v. Pioneer Credit Recovery, Inc.*, 2018 U.S. Dist. LEXIS 62325 (E.D. Va. 2018); and *Curtis v. Propel Property Tax Funding*, 915 F.3d 234 (2019). I was one of several lawyers representing plaintiff classes in a Multidistrict FDCPA class action, styled *In Re Dun & Bradstreet, Inc. Debt Collection Practices Litigation*, MDL #1198. The cases, originally transferred by the Judicial Panel on Multidistrict Litigation to the Western District of Virginia, Danville Division, for consolidated pretrial proceedings, were centralized before the Northern District of Illinois for purposes of finalizing settlement. Classes were certified in *Talbott, Woodard, Gansauer, Karnette, Bicking, Goodrow, Kelly, Fariasantos, DeCapri, Lengrand, Henderson v. Verifications, Incorporated, Thomas, Soutter, Henderson v. Corelogic, Inc., Berry, Henderson v. First Advantage Background Services Corp., Cornell and Reese*.

16. I served as Special Master in a case styled *Silva v. Haynes Furniture Company, Inc.*, Civil Action No. 4:04cv082, (E.D. Va.), an ECOA/FCRA class action, having been appointed by Judge Kelley on January 27, 2006.

17. Less than a handful of Virginia attorneys are willing to accept consumer cases because of the special expertise required and the risk of nonpayment. This case is a consumer case requiring such special expertise at the risk of nonpayment.

18. I have extensive experience in consumer cases brought this Court, and in the Eastern District of Virginia. I routinely represent plaintiffs in cases brought in the Eastern District of Virginia under the FDCPA and FCRA. I have been involved in many cases involving requests for attorneys' fees under different consumer protection claims and statutes and am familiar with the rates charged by both plaintiffs' and defendant' attorneys in this region. My knowledge of the prevailing rates in this region comes from a variety of sources, including my own personal experience requesting, or opposing requests for, attorneys' fees, discussions with other attorneys, advertised rates, case decisions and other publications. I have had an opportunity to survey the current hourly rates charged in this District and Division, as well as in the consumer protection field.

19. Given the specific knowledge I have as to hourly rates charged and approved in this District and Division, I am comfortable stating that the average hourly rates for federal litigation attorneys in this District and Division range between \$300 and at least \$800. However, given the complexity of these cases and that they have been litigated in multiple venues across the country, it is my considered opinion that a higher hourly rate is more appropriate. Specifically, it is my considered opinion that the "LSI Adjusted Laffey Matrix" rates (<http://www.laffeymatrix.com/>) would be a fair reflection of a reasonable rate here for Class Counsel, particularly in light of the hourly rates of defense counsel and the particularized knowledge and skill Class Counsel has developed in litigating RICO predatory tribal lending cases.

20. I am familiar with the law firm of Kelly Guzzo, Class Counsel in this case. I know from personal observation that each lawyer participating in this case at the firm is a top-notch attorney. I also know from personal observation that they are among the very best attorneys who

constitute Virginia's consumer-side consumer protection bar, and also are among the best in their field nationwide.

21. In my opinion, Kelly Guzzo is one of America's best consumer-side consumer protection litigation law firms. I cannot point to any other law firm in the country that I would describe as doing a better job representing consumers in federal court in consumer protection litigation.

22. I have known Kristi C. Kelly for roughly fourteen years. I have followed her career by attending consumer protection lectures that she has given, by consulting regularly with her on matters of consumer protection law, and by working together with her in cases that we have co-counseled. I know her to be an extremely skilled, thorough and tenacious litigator, who enjoys the well-deserved reputation of being perhaps the top mortgage lending and mortgage foreclosure abuse lawyer in Virginia and nationally is recognized for her work on mortgage cases with a credit-reporting component.

23. I have known Andrew J. Guzzo for roughly ten years. Throughout the time that I have known Mr. Guzzo, he has worked in affiliation with Ms. Kelly.

24. Mr. Guzzo and I have collaborated on motions briefing, discovery issues, and other aspects of a number of consumer protection matters, primarily in cases arising under the Fair Debt Collection Practices Act. As an example, we worked closely together on a Motion to Dismiss briefing in *Kelly v. Nationstar Mortgage*, Civil Action No. 3:13-cv-311(JAG), a Richmond Division FDCPA case. His work there, as in all the other work that I have seen him do, was excellent, and contributed significantly in my opinion to the favorable ruling that we received from Judge Gibney in that case. *Kelly v. Nationstar Mortgage, LLC*, 3013 U.S. Dist. Lexis 156515 (E.D. Va. 2013).

25. I have known Casey Nash for roughly eleven years, having met her through her work at the Consumer Litigation Associates law firm. I know Ms. Nash to be a conscientious, extremely bright, and hard-working lawyer who has assisted in developing and litigating several ground-breaking consumer-protection litigation theories in cases in which I have worked as co-counsel, including for example her enormous contributions to the Complaint preparation and briefing in *Goodrow v. Friedman & MacFadyen*, Civil Action No. 3:11-cv-20(MHL), a mortgage foreclosure case in the Richmond Division that asserted a number of cutting edge consumer protection theories.

27. I have reviewed the Plaintiffs' intended Motion for Final Approval and for an Award of Attorney's Fees.

28. I believe that the rates charged by Class Counsel in this matter are fair, reasonable, and within the prevailing market rates for attorneys of similar education, training, and experience. I am further of the opinion that the customary rates for Kelly Guzzo are decidedly on the low side for each of these lawyers and particularly for a case of this magnitude and complexity, given their demonstrated skills, stature, and contributions to consumer protection civil litigation practice here and elsewhere. Kelly Guzzo has been litigating consumer cases across the country for many years and, in particular, their respective attorneys who participated in this litigation are seasoned national class action attorneys and are recognized as such.

29. I also believe that the rates charged by Class Counsel in this matter are not only fair and reasonable, given the qualifications of Class Counsel, but also that anything less would underestimate the value of Class Counsel's work and effort expended on this litigation given its complexity. It is clear to me that Class Counsel in this case both possess and implemented the

necessary specialized skill and experience. In addition, they faced these challenges while facing one of the most premier consumer reporting agency defense law firms in the country.

30. Given this background, using the adjusted *Laffey* rates would be eminently reasonable here. These rates are reflective of what nationwide rates would be for a similar case.

31. It is therefore my opinion, based on my knowledge and experience, after considering the experience, training and skill of Class Counsel, who rendered the legal services at issue herein, the complexity and work required to render the services, the fact that the services were necessary and appropriate, that the fees and hourly rates incurred are in every respect fair and reasonable for this case in this Court, and in the Alexandria Division. Specifically, it is my opinion that the adjusted *Laffey* rates would be fair and reasonable hourly rates for the work they did in the Eastern District of Virginia Richmond Division.

I declare under penalty of perjury of the laws of the United States that the foregoing is correct.

Signed this 15th day of September 2021.

/s/ Dale W. Pittman
Dale W. Pittman