

1 Edward A. Broderick, *Admitted Pro Hac Vice*
2 ted@broderick-law.com
3 BRODERICK & PARONICH, P.C.
4 99 High Street, Suite 304
5 Boston, Massachusetts 02110
6 Telephone: (617) 738-7080
7 Facsimile: (617) 830-0327

8
9 *Attorney for Plaintiff Daniel Berman and the*
10 *Proposed Class*

11
12 UNITED STATES DISTRICT COURT
13 FOR THE NORTHERN DISTRICT OF CALIFORNIA
14 OAKLAND DIVISION

15 DANIEL BERMAN, STEPHANIE
16 HERNANDEZ, and ERICA RUSSELL,

17 Plaintiff,

18 v.

19 FREEDOM FINANCIAL NETWORK, LLC,
20 FREEDOM DEBT RELIEF, LLC, FLUENT,
21 INC., and LEAD SCIENCE, LLC,

22 Defendants.

Case No. 4:18-cv-01060-YGR

**DECLARATION OF EDWARD A.
BRODERICK IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

DATE: April 25, 2023
TIME: 2:00 p.m.
LOCATION: Oakland Courthouse
Courtroom 1 - 4th Floor

23 I, Edward A. Broderick, declare under penalty of perjury:

24 1. I am an attorney duly admitted to practice in the Commonwealth of
25 Massachusetts, I am over 18 years of age, am competent to testify and make this affidavit on
26 personal knowledge. I make this declaration in support of Plaintiff's Motion for Preliminary
27 Approval of Class Action Settlement and to describe the work that I and my co-counsel have
28 done in identifying and investigating potential claims in the action and to set forth my
qualifications to serve as class counsel, and to describe my experience in representing plaintiff
classes in class actions, and cases brought under the 47 U.S.C. § 227, the Telephone Protection

1 Act.

2 2. I believe the proposed settlement in this case represents an excellent result for the
3 proposed class and merits preliminary and final approval by the Court.

4 3. I was involved in every stage of representing Plaintiffs Daniel Berman, Stephane
5 Hernandez and Erica Russell in this case, from pre-trial investigation, analysis of Plaintiffs'
6 potential claims, review of documents and discovery responses, taking multiple depositions,
7 arguing dispositive motions and a motion for class certification and retaining and working with
8 three expert witnesses to prepare expert reports and to testify on behalf of Plaintiffs. I
9 participated in motion practice and argument before the Court on discovery motions, as well as
10 mediation and settlement negotiations.

11 4. My firm and that of my co-counsel have received no payment for fees and costs.
12 Since beginning work on this case in February of 2018 my firm worked with no guarantee of
13 being compensated for its time and efforts. Payment of my fees has always been contingent on
14 successfully obtaining relief for the Plaintiffs and class members. As a result, there was a
15 substantial risk of non-payment, particularly in light of the legal challenges involved in litigating
16 this case. Work on this case has necessarily been to the exclusion of work on other matters that
17 likely would have generated fees. I have also been denied use of the any such fees the course of
18 this case.

19 5. The lodestar set forth herein also does not include the work Plaintiffs' Counsel
20 will do after completion of this motion, which will include working with the settlement
21 administrator, preparing the motion for final approval and attending the hearing, and
22 communicating with class members.

23 6. My firm has spent 874.6 hours prosecuting Plaintiffs' claims. Billed at my hourly
24 rate of \$800 and \$550 for my former partner Anthony Paronich, my firm's hours yield a lodestar
25 of \$680,880. I am familiar with the billing rates for attorneys with similar experience, particularly
26 with expertise in matters arising under the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et*
27 *seq.* and my billing rate and Mr. Paronich's rate are reasonable and are consistent with the rates of
28

1 attorneys of similar experience and qualification. My firm additionally expended \$102,327.90 in
2 reasonable and necessary expenses in the litigation, including court reporter costs, expert fees,
3 mediator fees and court charges.

4 **Qualifications of Counsel**

5 7. I am an attorney duly admitted to practice in the Commonwealth of
6 Massachusetts, I am over 18 years of age, am competent to testify and make this affidavit on
7 personal knowledge. I have extensive experience in the prosecution of class actions on behalf of
8 consumers.

9 8. I am a 1993 graduate of Harvard Law School. Following graduation from law
10 school, I served as a law clerk to the Honorable Martin L.C. Feldman, United States District
11 Judge in the Eastern District of Louisiana.

12 9. Following my clerkship, from 1994 to December 1996, I was an associate in the
13 litigation department of Ropes & Gray in Boston, where I gained class action experience in the
14 defense of a securities class action, *Schaeffer v. Timberland*, in the United States District Court
15 in New Hampshire, and participated in many types of complex litigation.

16 10. From January 1997 to March 2000, I was an associate with Ellis & Rapacki, a
17 three-lawyer Boston firm focused on the representation of consumers in class actions.

18 11. In March 2000, I co-founded the firm of Shlansky & Broderick, LLP, focusing
19 my practice on complex litigation and the representation of consumers.

20 12. In 2003, I started my own law firm focusing exclusively on the litigation
21 consumer class actions.

22 13. A sampling of other class actions in which I have represented classes of
23 consumers and been appointed class counsel follows:
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26 i. *In re General Electric Capital Corp. Bankruptcy Debtor Reaffirmation*
27 *Agreements Litigation*, (MDL Docket No. 1192) (N.D. Ill) (nationwide class
28 action challenging reaffirmation practices of General Electric Capital
Corporation, settlement worth estimated \$60,000,000.)

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- 2 ii. *Hurley v. Federated Department Stores, Inc., et al*, USDC D. Mass. Civil Action
- 3 No. 97-11479-NG (nationwide class action challenged bankruptcy reaffirmation
- 4 practices of Federated Department Stores and others; \$8,000,000 recovery for
- 5 class.)
- 6 iii. *Valerie Ciardi v. F. Hoffman LaRoche, et al*, Middlesex Superior Court Civil Action
- 7 No. 99-3244D, (class action pursuant to Massachusetts Consumer Protection Act,
- 8 M.G.L. c. 93A brought on behalf of Massachusetts consumers harmed by price-fixing
- 9 conspiracy by manufactures of vitamins; settled for \$19,600,000.)
- 10 iv. *Shelah Feiss v. Mediaone Group, Inc, et al*, USDC N. District Georgia, Civil Action
- 11 No. 99-CV-1170, (multistate class action on behalf of consumers; estimated class
- 12 recovery of \$15,000,000--\$20,000,000.)
- 13 v. *Mey v. Herbalife International, Inc.*, Ohio County Circuit Court (West Virginia),
- 14 Civil Action No. 01-cv-263. \$7,000,000 TCPA class action settlement granted final
- 15 approval on February 5, 2008 following the grant of a contested class certification
- 16 motion.
- 17 vi. *Mulhern v. MacLeod d/b/a ABC Mortgage Company*, Norfolk Superior Court
- 18 (Massachusetts), Civil Action No. 05-01619-BLS. TCPA class settlement of
- 19 \$475,000 following the grant of a contested class certification motion, granted final
- 20 approval by the Court on July 25, 2007.
- 21 vii. *Evan Fray-Witzer, v. Metropolitan Antiques, LLC*, Suffolk Superior Court
- 22 (Massachusetts), Civil Action No. 02-5827-BLS. After the grant of a contested class
- 23 certification motion, a companion case went to the Massachusetts Supreme Judicial
- 24 Court, which issued a decision finding insurance coverage. *See Terra Nova Insurance*
- 25 *v. Fray-Witzer et. al.*, 449 Mass. 206 (2007). There was then a TCPA class settlement
- 26 of \$1,800,000 which was granted final approval.
- 27 viii. *Shonk Land Company, LLC v. SG Sales Company*, Circuit Court of Kanswaha
- 28 County (West Virginia), Civil Action No. 07-C-1800 TCPA class settlement for
- \$2,450,000, final approval granted in September of 2009.
- ix. *Mann & Company, P.C. v. C-Tech Industries, Inc.*, USDC, D. Mass., Civil Action
- No. 1:08-CV-11312-RGS, TCPA class settlement of \$1,000,000, final approval
- granted in January of 2010.
- x. *Evan Fray Witzer v. Olde Stone Land Survey Company, Inc.*, Suffolk Superior
- Court (Massachusetts), Civil Action No. 08-04165. TCPA class settlement
- \$1,300,000 granted final approval on February 3, 2011.

- 1 xi. *Milford & Ford Associates, Inc. and D. Michael Collins vs. Cell-Tek, LLC*,
2 USDC, D. Mass., Civil Action No. 1:09-cv-11261-DPW. TCPA class settlement
3 of \$1,800,000, final approval granted August 17, 2011.
- 4 xii. *Collins v. Locks & Keys of Woburn, Inc.*, Suffolk Superior Court
5 (Massachusetts), Civil Action No. 07-4207-BLS2, TCPA class settlement of
6 \$2,000,000 following the granting of a contested class certification motion,
7 granted final approval on December 14, 2011.
- 8 xiii. *Brey Corp t/a Hobby Works v. Life Time Pavers, Inc.*, Circuit Court for
9 Montgomery County (Maryland), Civil Action No. 349410-V, TCPA class
10 settlement of \$1,575,000 granted final approval in March of 2012.
- 11 xiv. *Collins, et al v. ACS, Inc. et al*, USDC, D. Mass., Civil Action No. 10-CV-11912,
12 TCPA class settlement \$1,875,000 granted final approval on September 25, 2012.
- 13 xv. *Desai and Charvat v. ADT Security Services, Inc.*, USDC, ND. Ill., Civil Action
14 No. 11-CV-1925, TCPA class settlement of \$15,000,000 granted final approval
15 on June 21, 2013.
- 16 xvi. *Kensington Physical Therapy, Inc. v. Jackson Therapy Partners, LLC*, USDC, D.
17 MD, Civil Action No. 11-CV-02467, TCPA class settlement of \$4,500,000
18 granted final approval on February 12, 2015.
- 19 xvii. *Jay Clogg Realty Group, Inc. v. Burger King Corporation*, USDC, D. MD., Civil
20 Action No. 13-cv-00662, TCPA class settlement of \$8,500,000 granted final
21 approval on April 15, 2015.
- 22 xviii. *Charvat v. AEP Energy, Inc.*, USDC, ND. Ill., 1:14-cv-03121, TCPA class
23 settlement of \$6,000,000 granted final approval on September 28, 2015.
- 24 xix. *Mey v. Interstate National Dealer Services, Inc.*, USDC, ND. Ga., 1:14-cv-01846-
25 ELR, TCPA class settlement of \$4,200,000 granted final approval on June 8,
26 2016.
- 27 xx. *Philip Charvat and Ken Johansen v. National Guardian Life Insurance Company*,
28 USDC, WD. Wi., 15-cv-43-JDP, TCPA class settlement for \$1,500,000 granted
final approval on August 4, 2016.
- xxi. *Bull v. US Coachways, Inc.*, USDC, ND. Ill., 1:14-cv-05789, TCPA class
settlement finally approved on November 11, 2016 with an agreement for
judgment in the amount of \$49,932,375 and an assignment of rights against
defendant's insurance carrier.
- xxii. *Toney v. Quality Resources, Inc., Cheryl Mercuris and Sempris LLC, et al.*,
USDC, ND. Ill., 1:13-cv-00042, TCPA class settlement of \$2,150,000 was
granted final approval on December 1, 2016 with one of three defendants, and an

1 assignment of rights against defendant's insurance carrier. Second settlement on
2 behalf of class against two remaining defendants of \$3,300,000 granted final
approval on September 25, 2018.

3 xxiii. *Smith v. State Farm Mut. Auto. Ins. Co., et al.*, USDC, ND. Ill., 1:13-cv-02018,
4 TCPA class settlement of \$7,000,000.00 granted final approval on December 8,
2016.

5 xxiv. *Mey v. Frontier Communications Corporation*, USDC, D. Ct., 3:13-cv-1191-
6 MPS, a TCPA class settlement of \$11,000,000 granted final approval on June 2,
7 2017.

8 xxv. *Biringer v. First Family Insurance, Inc.*, USDC, ND. Fla., a TCPA class
9 settlement of \$2,900,000 granted final approval on April 24, 2017.

10 xxvi. *Abramson v. Alpha Gas and Electric, LLC*, USDC, SD. NY., 7:15-cv-05299-
11 KMK, a TCPA class settlement of \$1,100,000 granted final approval on May 3,
2017.

12 xxvii. *Heidarpour v. Central Payment Co.*, USDC, MD. Ga., 16-cv-01215, a TCPA
13 class settlement of \$6,500,000 granted final approval on May 4, 2017.

14 xxviii. *Abante Rooter and Plumbing, Inc. v. New York Life Insurance Company*, USDC,
15 SD. NY., 1:16-cv-03588-BCM, a TCPA class settlement of \$3,250,000 granted
final approval on February 27, 2018.

16 xxix. *Abramson v. CWS Apartment Home, LLC*, USDC, WD. Tex., 16-cv-01215, a
17 TCPA class settlement of \$368,000.00 granted final approval on May 19, 2017.

18 xxx. *Thomas Krakauer v. Dish Network, L.L.C.*, USDC MDNC, Civil Action No. 1:14-
19 CV-333 on September 9, 2015. Following a contested class certification motion,
20 this case went to trial in January of 2017 returning a verdict of \$20,446,400. On
21 May 22, 2017, this amount was trebled by the Court after finding that Dish
Network's violations were "willful or knowing", for a revised damages award of
\$61,339,200. (Dkt. No. 338).

22 xxxi. *Mey v. Got Warranty, Inc., et al.*, USDC, NDWV., 5:15-cv-00101-JPB-JES, a
23 TCPA class settlement of \$650,000 granted final approval on July 26, 2017.

24 xxxii. *Mey v. Patriot Payment Group, LLC*, USDC, NDWV., 5:15-cv-00027-JPB-JES, a
25 TCPA class settlement of \$3,700,000 granted final approval on July 26, 2017.

26 xxxiii. *Charvat and Wheeler v. Plymouth Rock Energy, LLC, et al*, USDC, EDNY, 2:15-
27 cv-04106-JMA-SIL, a TCPA class settlement of \$1,675.000 granted final
28 approval on July 31, 2018.

- 1 xxxiv. *Mey v. Venture Data, LLC and Public Opinion Strategies*, USDC, NDWV, 5:14-
2 cv-123. Final approval of TCPA settlement granted on September 8, 2018.
- 3 xxxv. *In Re Monitronics International, Inc. Telephone Consumer Protection Act*
4 *Litigation*, USDC, NDWV, 1:13-md-02493-JPB-MJA, a TCPA class settlement
5 of \$28,000,000 granted final approval on June 12, 2018.
- 6 xxxvi. *Abante Rooter and Plumbing, Inc, et al v. Alarm.com incorporated and*
7 *Alarm.com holdings, Inc., 4:15-cv-06314-YGR*, preliminary approval of
8 \$28,000,000 settlement granted December 19, 2018. (Dkt. 291).
- 9 xxxvii. *Abante Rooter and Plumbing, Inc. v. Allstate Insurance Company, et al*, USDC,
10 NDIL 1:15-cv-00925. TCPA class settlement of \$10,500,000 granted final
11 approval on August 15, 2019.
- 12 xxxviii. *Kaiser v. CVS Pharmacy, Inc., et al*, USDC NDIL, 1:14-cv-03687, TCPA class
13 settlement of \$15,000,000 approved on January 30, 2020.
- 14 xxxix. *Louis Floyd, et al v. First Data Merchant Services, et al.*, USDC, NDCA, 5:20-cv-
15 02162-EJD. TCPA class settlement of \$1,600,000 granted final approval on
16 October 7, 2022.

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PURSUANT TO 28 U.S.C. § 1746, I DECLARE UNDER PENALTY OF PERJURY THAT
THE FOREGOING IS TRUE AND CORRECT. EXECUTED THIS THIS 17th DAY OF
MARCH 2023 IN THE COMMONWEALTH OF MASSACHUSETTS.

/s/ Edward A. Broderick
Edward A. Broderick