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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

LINDA SANDERS on behalf of herself, and
all others similarly situated,

Plaintiff,

v.

RBS CITIZENS, N.A.

Defendant.

CASE NO. 13-cv-3136 BAS (RBB)

CLASS ACTION

**DECLARATION OF RONALD A.
MARRON IN SUPPORT OF
PLAINTIFF'S MEMORANDUM OF
POINTS AND AUTHORITIES
REQUESTING ATTORNEYS' FEES,
COSTS AND INCENTIVE PAYMENT**

Date: January 23, 2017

Time: 10:30 a.m.

Ctrm: 4B

Judge: Hon. Cynthia A. Bashant

1 I, Ronald A. Marron, declare:

2 1. I, along with my co-counsel Douglas J. Campion, am counsel of record for
3 Plaintiff and the Class in this action. I am a member in good standing of the State Bar
4 of California, the United States District Courts for the Northern, Central, Eastern, and
5 Southern Districts of California, and of the United States Court of Appeals for the
6 Ninth Circuit. I submit this declaration in support of Plaintiff's Motion for Approval of
7 Attorneys' Fees, Costs, and an Incentive Payment. I make this Declaration based on
8 personal knowledge and if called to testify, I could and would competently testify to the
9 matters contained herein.

10 2. I have practiced civil litigation for over 20 years. Approximately 19 years
11 ago, I started my own law firm with an emphasis in consumer fraud. Over the years, I
12 have acquired extensive experience in class actions and other complex litigation and
13 have obtained large settlements as lead counsel. I have devoted part of my practice to
14 the area of the Telephone Consumer Protection Act. Attached hereto as **Exhibit 1** is
15 my firm's resume.

16 3. The hours billed in this action by my firm are reasonable, reflect the
17 intensity with which issues were disputed in this case, and the amount of work
18 necessary for this litigation to culminate in the successful resolution of injunctive relief
19 on behalf of the Class.

20 4. My firm, as discussed in more detail below, spend a considerable amount
21 of time securing important discovery from third parties involved in this case. My firm
22 has contributed a total of 801.1 hours to this litigation, including 734.3 attorneys hours,
23 60.8 law clerk hours, and 6.0 paralegal hours.

24 5. I reviewed my firm's time records and made my best effort to reduce
25 duplicate billing. In addition, my firm does not use block billing and maintains
26 contemporaneous time records.

6. Class Counsel's request rates are as follows:

Attorney	Position	Hourly Rate
Ronald A. Marron	Partner	\$745
Alexis Wood	Senior Associate	\$475
Skye Resendes	Senior Associate	\$475
Kas Gallucci	Senior Associate	\$450
Law Clerks (M. Houchin, T. Pham)		\$245
Paralegal (Andrea Vasquez)		\$215

7. Plaintiff Linda Sanders ("Sanders" or "Plaintiff") filed her case on December 20, 2013. Since that date, my firm, as well as Mr. Champion's firm, has incurred necessary expenses totaling \$17,693.46 in prosecuting this case. Attached hereto as **Exhibit 2** is a true and correct copy of a chart summarizing the incurred expenses. Class Counsel will be prepared at the final approval hearing with detailed invoices regarding the incurred expenses.

8. Attached hereto as **Exhibit 3** is a true and correct copy of the invoice my firm received from Hansen Legal Technologies, Inc., Plaintiff's expert, regarding work performed on this case.

9. Attached hereto as **Exhibit 4** is a chart prepared by my firm outlining reasonable and comparable class action attorneys' hourly rates recently approved.

10. Attached hereto as **Exhibit 5** are true and correct copies of portions of the published National Law Journal (NLJ) *2011 Law Firm Billing Survey*; a rate analysis for partners and associates in the Southern California area, compiled by summarizing the NLJ 2011 Survey only as to Southern California firms; and a Summary reflecting the market rate increase in Southern California from 2010 to 2011 for partners and associates created by analyzing the 2010 NLJ Survey to the 2011 NLJ Survey. As this evidence shows, Class Counsel's requested attorney rates for 2014-2016 fall within the average prevailing market rates within the community.

1 11. Attached hereto as **Exhibit 6** is a true and correct copy of the *2014 Report*
2 *on the State of the Legal Market* put out by The Center for the Study of the Legal
3 Profession at the Georgetown University Law Center and Thomson Reuters Peer
4 Monitor (Peer Monitor Report). The Peer Monitor report shows that “from the third
5 quarter of 2010 through November 2013 . . . firms increased their standard rates by 11
6 percent[,] from an average of \$429 per hour to \$476 per hour.” This average rate, *see*
7 *id.*, support’s Class Counsel’s hourly rates.

8 12. Courts have recognized that my law firm’s attorney’s hourly rates are
9 reasonable for counsel with similar experience and expertise within the Southern
10 California area; for example:

11 13. On November 16, 2015, the Honorable Maxine M. Chesney, Senior
12 District Court Judge for the Northern District of California, approved the same hourly
13 rates requested in this case (Ronald Marron at \$745, Skye Resendes at \$475, Alexis
14 Wood at \$475, Kas Gallucci at \$450, William Richards at \$440, Marshall Lurtz at
15 \$440, Erin Minelli at \$440, law clerks at \$245, and legal assistants/paralegals at \$215),
16 in the case of *Johnson v. Triple Leaf, Inc.*, Case No. 3:14-cv-01570-MMC. The Court
17 found that the fee requested was “reasonable when judged by the standards in this
18 circuit,” and also that my firm’s attorney, law clerk and staff rates were “reasonable in
19 light of the complexity of this litigation, the work performed, Class Counsel’s
20 reputation, experience, competence, and the prevailing billing rates for comparably
21 complex work by comparably-qualified counsel in the relevant market.” Dkt. 65.

22 14. On August 6, 2015, the Honorable Kenneth R. Freeman of the Superior
23 Court of California, County of Los Angeles, approved the following hourly rates for
24 Class Counsel: Ronald Marron at \$745, Skye Resendes at \$475, Alexis Wood at \$475,
25 Kas Gallucci at \$450, William Richards at \$440, Marshall Lurtz at \$440, Erin Minelli
26 at \$440, and law clerks at \$290 in the case of *Perry v. Truong Giang Corp.*, No.
27 BC58568, a true and correct copy of which is attached hereto as **Exhibit 7**.

1 15. On August 7, 2015, the Honorable Brendan Linehan Shannon of the
2 United States Bankruptcy Court for the District of Delaware approved the following
3 hourly rates for Class Counsel: Ronald Marron at \$745, Skye Resendes at \$475, Alexis
4 Wood at \$475, Kas Gallucci at \$450, William Richards at \$440, Marshall Lurtz at
5 \$440, Beth Goodman at \$440, Erin Minelli at \$440, and law clerks at \$290 in the case
6 of *In re: LEAF123, INC. (f/k/a NATROL, INC.), et al.*, No. 14-11446 (BLS), a true and
7 correct copy of which is attached hereto as **Exhibit 8**.

8 16. On July 29, 2014, the Honorable Richard Seeborg of the Northern District
9 of California approved the following hourly rates for Class Counsel: Ronald Marron at
10 \$715, Skye Resendes at \$440, Kas Gallucci at \$400, and law clerks at \$290 in the case
11 of *In re Quaker Oats Litig.*, No. 5:10-cv-00502-RS (N.D. Cal.), Dkt. No. 221.

12 17. On March 13, 2014, the Honorable Gonzalo P. Curiel of the Southern
13 District of California approved my hourly rate of \$715 per hour; Ms. Resendes' rate of
14 \$440 per hour; Ms. Wood's rate of \$425 per hour; Ms. Minelli and Ms. Gallucci's rates
15 of \$400 per hour; Ms. Danielle Eisner's post-Bar law clerk rate of \$290 per hour; and
16 \$215 per hour for legal assistants in *Mason v. Heel, Inc.*, No. 3:12-cv-3056-GPC-KSC,
17 2014 WL 1664271 (S.D. Cal. Mar. 13, 2014).

18 18. On October 31, 2013, the Honorable Michael M. Anello of the Southern
19 District of California awarded me fees of \$680 per hour, Ms. Resendes fees of \$400 per
20 hour, Ms. Wood fees of \$385 per hour, Ms. Minelli fees of \$385 per hour, and Ms.
21 Gallucci fees of \$385 per hour in a homeopathic drug consumer class action case; and
22 also approved \$280 per hour for patent agent/post-Bar law clerk Danielle Eisner; \$245
23 per hour for regular law clerks; and \$215 hourly rates for support staff such as
24 paralegals. *See also Nigh v. Humphreys Pharmacal Incorporated*, 3:12-cv-02714-
25 MMA-DHB, 2013 WL 5995382 (S.D. Cal. Oct. 23, 2013).

26 19. On March 13, 2013, the Honorable David O. Carter of the Central District
27 of California awarded me fees of \$680 per hour, Ms. Resendes fees of \$400 per hour,
28 and former associate, Maggie Realin, fees of \$375 per hour in a dietary supplement

1 consumer fraud class action case; and also approved \$245 per hour for law clerks and
2 \$215 hourly rates for support staff such as paralegals. *Bruno v. Quten Research Inst.,*
3 *LLC*, No. 8:11-cv-00173-DOC-E, 2013 WL 990495, at *4-5 (C.D. Cal. Mar. 13, 2013)
4 (“Class Counsel, . . . the Law Offices of Ronald A. Marron displayed competence and
5 diligence in the prosecution of this action, and their requested rates are approved as fair
6 and reasonable.”); *see also id.* at *4 (“The Court notes that, in addition to the monetary
7 relief obtained by Class Counsel for class plaintiffs, there is a high value to the
8 injunctive relief obtained in this case. New labeling practices affecting hundreds of
9 thousands of bottles per year, over ten years, bring a benefit to class consumers, the
10 marketplace, and competitors who do not mislabel their products.”).

11 20. On October 31, 2012, the Honorable John A. Houston of the Southern
12 District of California awarded me fees of \$650 per hour and Ms. Resendes fees of \$385
13 per hour in a homeopathic drug consumer fraud class action case. *Gallucci*, 2012 WL
14 5359485, at *9 (S.D. Cal. Oct. 31, 2012) (“The Court finds the [foregoing] hourly
15 billing rates reasonable in light of the complexity of this litigation, the work performed,
16 Class Counsels' reputation, experience, competence, and the prevailing billing rates for
17 comparably complex work by comparably-qualified counsel in the relevant market.”).

18 21. On August 21, 2012, the Honorable Thomas J. Whelan awarded me fees of
19 \$650 per hour, Ms. Resendes at \$385 per hour and Ms. Realin at \$375 per hour, in the
20 consumer dietary supplement class action of *Burton v. Ganeden*, No. 11-cv-1471 W
21 (NLS), Dkt. Nos. 52, 48, 45.

22 22. On July 9, 2012, the Honorable Marilyn L. Huff awarded me fees of \$650
23 per hour, and approved the rates of my associate attorneys, Ms. Resendes at \$385 per
24 hour, and former associate, Maggie Realin, at \$375 per hour in the consumer food class
25 action of *In re Ferrero*, Case No. 3:11-cv-00205 H (KSC) (S.D. Cal.), Dkt. No. 127.
26 Judge Huff noted that the fees requested were “appropriate given the contingent nature
27 of the case and the excellent results obtained for the Class, and because no
28 enhancement or multiplier was sought above the actual amount of Class Counsel's

1 lodestar. The Court concludes the billing rates used by Class Counsel to be justified by
2 prior awards in similar litigation and the evidence presented with their motion showing
3 these rates are in line with prevailing rates in this District.”

4 23. In March 2011, the Honorable Janis L. Sammartino awarded me fees
5 based on a discounted hourly rate of \$595. *Iorio*, 2011 U.S. Dist. LEXIS 21824, at *31
6 (S.D. Cal. Mar. 3, 2011). Despite being of similar seniority and experience, at the
7 request of and in deference to my co-counsel, I reduced my requested rate to \$595.

8 24. Similarly, several California district courts have approved specific fee
9 rates similar to those of Class Counsel. These rates are consistent with the prevailing
10 rates for attorneys of similar experience, skill and reputation. For example, several
11 courts in this district have approved fee ranges into which Class Counsel’s rates easily
12 fall. For example, in *Hartless v. Clorox Co.*, 273 F.R.D. 630, 644 (S.D. Cal. 2011), the
13 Honorable Cathy Ann Bencivengo affirmed the rate of “\$675 for an experienced
14 partner’s time.” *Id.* at 644.¹

15 25. Other California district courts have approved even higher attorney fee
16 rates. For example, in *CLRB Hanson Indus., LLC v. Weiss & Assocs., PC*, 2012 WL
17 20539 (N.D. Cal. Jan. 5, 2012), the court found the hourly rates of two top billers
18 reasonable at \$1100 and \$850. Case No. C05-03649, Dkt. No. 342. Even though the
19 defendants appealed the attorneys’ fees award, the Ninth Circuit affirmed the district
20 court’s finding that the requested fees were justified. *CLRB Hanson Indus., LLC v.*
21 *Weiss & Assocs., PC*, 2012 WL 20539, at * 1.

22 26. Finally, my firm’s law clerk rate of \$245 and legal assistant/paralegal rate
23 of \$215 is in a range commonly approved by other courts in this district. *See, e.g.,*
24 *Craft v. County of San Bernardino*, 624 F. Supp. 2d 1113, 1122 (C.D. Cal. 2008)
25 (finding \$200 hourly rate reasonable for law clerks and up to \$225 hourly rate
26 reasonable for paralegals); *Vasquez*, 2011 U.S. Dist. LEXIS 83696, at *6 (approving
27

28 ¹ *See Hartless v. Clorox Co.*, No. 06-cv-2705-CAB (S.D. Cal.), Dkt. Nos. 82, 84-85,
87-88 (declarations in support of motion for attorney’s fees).

1 rates between \$160 and \$210 for paralegals); *Iorio v. Alliance Life Ins. Co. of N. Am.*,
2 2011 U.S. Dist. LEXIS 21824, at *32 (finding \$195 rate reasonable for paralegals)
3 (S.D. Cal); *Create-A-Card, Inc. v. Intuit, Inc.*, No. C 07-06452, 2009 WL 3073920, at
4 *2 (N.D. Cal. Sept. 22, 2009) (approving rates of \$150-\$235 for paralegals) (N.D. Cal);
5 *Bruno v. Quten Research Institute, LLC*, No. SACV 11-00173, 2013 WL 990495, at
6 *4-5 (C.D. Cal. Mar. 13, 2013) (approving \$215 rate for paralegals and legal assistants
7 and \$245 for law clerks); *Gallucci v. Boiron, Inc.*, No. 11cv2039, 2012 WL 5359485, at
8 *9 (S.D. Cal. Oct. 31, 2012) (approving \$215 rate for paralegals and legal assistants
9 and \$245 for law clerks). These rates have been approved by many courts. *See* Exs. 7
10 & 8 hereto.

11 27. Our firm's practice is to keep contemporaneous records for each
12 timekeeper and to regularly record time records in the normal course of business; and
13 we kept time records in this case consistent with that practice. Moreover, our firm's
14 practice is to bill in 6-minute (tenth-of-an-hour) increments. The firm's billing records
15 are voluminous but shall be provided for in camera review, if the Court deems it
16 necessary.

17 28. The total lodestar for the Law Offices of Ronald A. Marron as set forth in
18 below chart is true and correct, reflecting almost 3 years of work and is made up of:
19 734.3 attorney hours, 60.8 law clerk hours, and 6.0 legal paralegal hours (801.1 total
20 hours) plus an unknown number of hours for post-application work (such as briefing
21 this motion, briefing the final approval motion, ensuring the Notice Administrator
22 complies with the Preliminary Approval Order and the final judgment, and responding
23 to objectors, if any). Prior to finalizing the firm's lodestar, we carefully reviewed our
24 hours and made cuts for time entry errors, duplications, and instances where we
25 determined the hours should be reduced or not billed.

FEE LODESTAR (through 10/13/2016 only):

Timekeeper	Position	Rate Requested	Total Hours	Total Amount
Ron Marron	Partner	\$745.00	74.6	\$55,577.00
Alexis Wood	Senior Associate	\$475.00	489.7	\$232,607.50
Skye Resendes	Senior Associate	\$475.00	54.4	\$25,840.00
Kas Gallucci	Senior Associate	\$450.00	115.6	\$52,020.00
Law Clerks (M. Houchin, T. Pham)		\$245.00	60.8	\$14,896.00
Paralegal (Andrea Vasquez)		\$215.00	6.0	\$1,290.00
TOTAL:			801.1	\$382,230.50

29. The Federal Judicial Center published a report in 1996 entitled, *Empirical Study of Class Actions in Four Federal District Courts: Final Report to the Advisory Committee on Civil Rules* (“FJC Report”). The study was requested by the Judicial Conference Advisory Committee on Civil Rules when it was considering proposals to amend Rule 23 of the Federal Rules of Civil Procedure. The study is based on 407 class action lawsuits that either settled or went to verdict in the two-year period from July 1, 1992 to June 30, 1994 in the following four federal judicial districts: the Eastern District of Pennsylvania (Philadelphia); the Southern District of Florida (Miami); the Northern District of Illinois (Chicago); and the Northern District of California (San Francisco). FJC Report at 3-4, 7-8. For the 407 class actions, the FJC Report reports the following regarding class certification:

- In 59 cases (14.5%), the class claims were certified for settlement purposes only. *Id.* at 35.
- In 93 cases (22.85%), the class claims were certified unconditionally. *Id.*

- 1 • Therefore, a total of 152 cases (37.35%) had certified classes, and the
2 other 255 (62.65%) did not. *Id.*
- 3 • In at least 23 of the certified classes, the outcome was unfavorable to the
4 plaintiffs. This is based on Table 39 of the FJC Report at 179, which lists
5 the following outcomes adverse to plaintiffs in certified class cases
6 (excluding classes certified for settlement purposes only): nine dismissals
7 by motion, one stipulated dismissal, one non-class settlement, and twelve
8 summary judgments. *Id.* at 179, App. C, Table 39.

9 Thus, in sum, the successful class claims from the total 407 filed class actions totaled
10 129 or less (152 minus 23). Using the number 129/407 to get a percentage, 31.7% or
11 less of the filed cases resulted in successful class outcomes for plaintiffs. This does not
12 account for degree of success (i.e., some cases could have resulted in minimal or partial
13 success and would still be in the successful claim category).

14 **Description of Work Performed by Class Counsel**

15 30. On December 20, 2013, Plaintiff Sanders and Plaintiff Dorothy McQueen
16 filed this action against Defendant RBS Citizens, N.A., fka RBS Citizens Bank, N.A.
17 (“Citizens” or “Defendant”) in this Court; however, on April 24, 2014, this Court
18 granted the Parties Joint Motion for Dismissal of Plaintiff Dorothy McQueen’s
19 Individual Claims Only Pursuant to Federal Rules of Civil Procedure 41(a)(1)(A).
20 (Dkt. No. 20).

21 31. At the Case Management Conference, the Parties, through their counsel of
22 record, thoroughly discussed each contention identified in the Parties’ respective
23 statements. We agreed to private mediation that the Court ordered to be conducted
24 within 120 days of the conference. *See* Dkt. No. 41. Immediately following the
25 conference, we personally served on Defendant Plaintiff’s First Set of Interrogatories,
26 Request for Production and Request for Admissions.
27
28

1 32. On February 2, 2015, a hearing was held on Plaintiff's Motion to Compel
2 Discovery from Citizens in which Plaintiff requested Defendant to produce information
3 which included an outbound dial list of calls made by Citizens or made by third party
4 vendors on behalf of Citizens, all prior express consent documents and information
5 regarding the dialers used to make the phone calls. Dkt. No. 48. The Court granted
6 Plaintiff's motion in part, ordering that Defendant provide responsive documents to
7 those particular document requests, alternatively, Defendant was ordered to provide
8 declarations which assert Citizens does not have custody, possession, or control of the
9 requested discovery and the efforts made to make that determination. *Id.* Additionally,
10 the Court also allowed Plaintiff to issue an interrogatory to Defendant requesting it to
11 identify all third parties Defendant hired to aid in the collection process, including those
12 that provided outbound dialing services on its behalf, and further order Defendant to
13 respond within three days. The Court also noted that current order did not preclude
14 Plaintiff from obtaining information regarding third parties via subpoena or by noticing
15 a 30(b)(6) deposition. *Id.*

16 33. On February 18, 2015, Defendant identified eighteen (18) third-party
17 vendors used by Citizens to leverage automated dialing functionality on its behalf.
18 These vendors were in addition to the three (3) vendors Defendant previously identified
19 as placing calls to Plaintiff on its behalf (those three vendors include NCO Financial
20 Systems, Inc. ("NCO"), Mercantile Adjustment Bureau, LLC ("Mercantile"), and
21 Richard J. Boudreau Associates, LLC ("Boudreau")). Upon receipt of the vendor list,
22 Plaintiff issued subpoenas to each vendor with requests that included the production of
23 an outbound dial list of all calls made on behalf of Citizens during the relevant time
24 period, any prior express consent documents and information regarding the vendors'
25 dialers.

26 34. In the midst of third party discovery and the anticipation of receipt of
27 additional discovery from Citizens, the parties agreed to explore settlement and
28 participate in private mediation. Thus, the parties requested that all pending discovery,

1 third party discovery, pretrial deadlines, and pending motions and *ex parte* applications
2 be stayed, so that the parties focus on information necessary for mediation (*ie* the total
3 number of calls made to putative class members cellular phones). (Dkt. No. 87).

4 35. At the time the Parties requested a stay, the following motions were
5 currently before the Hon. Judge Cynthia Bashant: Defendant's November 24, 2014
6 Motion for Leave to File Answer, to Assert Counterclaims and to Join a Counterclaim
7 Defendant (Dkt. No. 38), which was fully briefed and under submission; Defendant's
8 January 29, 2015 Motion for Stay Pending Resolution of a Petition Before the FCC
9 (Dkt. No. 47), which was fully briefed and under submission; Defendant's February 20,
10 2015 Objection to Magistrate Judge's Order Entered on February 3, 2015 (Dkt. No.
11 50), which was fully briefed and under submission; Plaintiff's March 20, 2015 *Ex Parte*
12 Application for Leave to File Supplemental Authority in Support of Plaintiff's
13 Opposition to Defendant's Objection to Magistrate Judge's February 2, 2015 Order
14 (Dkt. No. 66), which was fully briefed and under submission; and Plaintiff's April 10,
15 2015 *Ex Parte* Motion to Amend/Correct the Class Definition (Dkt. No. 70), which was
16 fully briefed and under submission.

17 36. Additionally, the following motions were before the Hon. Judge Ruben
18 Brooks: Defendant's April 15, 2015 Motion to Compel Further Responses from
19 Plaintiff (Dkt. No. 75); Third Party Global Credit & Collection Corp. Motion to Quash
20 Subpoena (Dkt. No. 81) and Plaintiff's Response in Opposition to Motion to Quash and
21 Cross-Motion to Enforce Subpoena (Dkt. No. 82).

22 37. On April 30, 2015, this court granted the Parties' Joint Motion to Stay
23 Pending Mediation and ordered that the Parties submit a status update after mediation.
24 (Dkt. No. 89). The Parties submitted such status update. (Dkt. No. 93) However,
25 Defendant's attempts at verifying the processes and confirming the identity of persons
26 involved for purposes of confirmatory discovery took much longer than expected and
27 consequently, Plaintiff was required to seek extensions of dates imposed by the Court
28 for filing this motion.

1 38. Although both Plaintiff and Defendant strongly believe in the merits of
2 their respective positions, they are acutely aware of the uncertainties and risks
3 associated with complex class action litigation generally and this case in particular.
4 Plaintiff and Class Counsel have carefully balanced the risks of continued protracted
5 and contentious litigation, and potentially adverse rulings on class certification and the
6 merits, against the benefits to the Class of the Settlement including the significant
7 Settlement Fund.

8 39. This Settlement is the result of intensive arms'-length negotiation,
9 including a session with Judge Edward A. Infante, Ret., plus extensive negotiations
10 between the Parties on their own as well. I believe this settlement is fair, reasonable
11 and adequate and should be given final approval.

Class Counsel's Experience

12
13 40. My work experience and education began in 1984 when I enlisted in the
14 United States Marine Corps (Active Duty 1984-1988, Reserves 1988-1990) and
15 thereafter received my Bachelor of Science in Finance from the University of Southern
16 California (1991). While attending Southwestern University School of Law (1992-
17 1994), I also studied Biology and Chemistry at the University of Southern California
18 and interned at the California Department of Corporations with emphasis in consumer
19 complaints and fraud investigations. I was admitted to the State Bar of California in
20 January of 1995 and have been a member in good standing since that time. In 1998, I
21 started my own law firm with an emphasis in consumer fraud. My firm currently
22 employs six full-time attorneys, two paralegals, and support staff.

23 41. Over the years I have acquired extensive experience in class actions and
24 other complex litigation, and have obtained large settlements as lead counsel. In recent
25 years, I devoted almost all of my practice to the area of false and misleading labeling of
26 food, nutrition or over-the-counter products and cases involving violations of the
27 Telephone Consumer Protection Act.

1 42. My firm has an in-depth knowledge of litigating class action cases. In
2 addition to the present action, my firm is litigating the following TCPA cases,
3 including, but not limited to:

- 4 • *Busch v. Bluestem Brands, Inc. d/b/a Fingerhut.*, Case No. 16-cv-
5 00644-WMW-HB (USDC MN.);
- 6 • *Henderson v. USA Funds, Inc.*, Case No. 3:13-cv-1845-L-BLM
- 7 • *Johnson v. Bennett Law, APLLC*, Case No. 2:14-cv-01936-MBS
8 (USDC S.C.);
- 9 • *O’Shea v. American Solar Solution, Inc.*, Case No. 3:14-cv-
10 00894-L-RBB (USDC S.D. Cal.);
- 11 • *Simms v. Simply Fashion Stores, Ltd.*, Case No. 1:14-cv-00737-
12 WTL-DKL (USDC S.D. Ind.)
- 13 • *Phillips v. Mozes, Inc., et al.*, Case No. 2:12-cv-04033-JEO
14 (USDC N.D. AL);
- 15 • *Manson v. Navient Solutions, Inc.*, Case No. 1:16-cv-04015
16 (USDC N.D. IL);
- 17 • *Medina v. Enhanced Recovery Company, LLC*, Case No. 2:15-cv-
18 14342-JEM (USDC S.D. FL); and
- 19 • *Gutierrez-Rodriguez v. R.M. Galicia, Inc. dba Progressive*
20 *Management Systems*, Case No. 3:16-cv-00182-H-BLM (USDC
21 S.D. Cal.).

22 43. In addition to the above TCPA cases and the present action, my firm has
23 an in-depth knowledge of other consumer cases including litigating over-the-counter
24 (“OTC”) product cases, including the FDCA’s history, principles and regulation and
25 Courts have recognized my firms’ ability to litigate complex class actions. For
26 example, in *Gallucci v. Boiron, Inc.*, Case No. 3:11-CV-2039 JAH NLS (S. D. Cal.),
27 we drafted a Complaint with five potential causes of action, and claims under the
28 CLRA, UCL and FAL with respect to OTC homeopathic drugs which “concern[ed]

1 novel legal theories in a specialized area of law.” *See Delarosa v. Boiron, Inc.*, 275
2 F.R.D. 582, 590 n. 4 (C.D. Cal. 2011). This action involved extensive motion practice
3 and my firm’s opposition brief was so persuasive that defendants decided to withdraw
4 their motion. My firm’s well-drafted briefing, knowledge and experience resulted in a
5 \$5 million common fund plus injunctive relief settlement of *Gallucci* against French
6 homeopathic giant, Boiron, Inc. On April 25, 2012, the Honorable John A. Houston
7 granted preliminary approval, noting that:

8 During the pendency of the Litigation, Class Counsel conducted an
9 extensive examination and evaluation of the relevant facts and law
10 to assess the merits of the named plaintiffs’ and class claims to
11 determine how best to serve the interests of Plaintiffs and the Class.
12 . . . Class Counsel conducted thorough review of the Food, Drug and
13 Cosmetic Act, its numerous changes over the years, and the Act’s
14 implementing regulations. Class Counsel have carefully considered
15 the merits of Plaintiffs’ claims, and the defenses raised by
16 defendants. *Gallucci* Dkt. No. 89 at i.

15 44. Accordingly, Judge Houston appointed my firm as Class Counsel, finding
16 that Class Counsel “will fairly and adequately protect the interests of the Class . . .
17 [and] are experienced and competent to prosecute this matter on behalf of the Class.”
18 *Id.* at iii-iv. The Fairness Hearing was held on October 1, 2012 and on October 31,
19 2012, the court granted final approval. *See Gallucci v. Boiron, Inc.*, 2012 U.S. Dist.
20 LEXIS 157039 (S.D. Cal. Oct. 31, 2012).

21 45. Further, on June 26, 2015, the Honorable Maxine M. Chesney of the
22 United States District Court for the Northern District of California granted preliminary
23 approval to a class action settlement with injunctive relief for class wide claims of false
24 representations regarding the defendant’s weight loss teas. *See Johnson v. Triple Leaf*
25 *Tea Inc.*, Case No. 3:4-cv-01570 MMC (Dkt. No. 53) (“Having considered the factors
26 set forth in Rule 23(g)(1) of the Federal Rules of Civil Procedures, the Court appoints
27 Plaintiff’s counsel, the Law offices of Ronald A. Marron APLC, to serve as Class
28 Counsel.”)

1 46. On October 31, 2013, the Honorable Gonzalo P. Curiel of the United
2 States District Court for the Southern District of California granted preliminary
3 approval to a class action settlement of \$1 million and injunctive relief for class wide
4 claims of false and deceptive advertising of OTC drugs negotiated by my firm in
5 *Mason v. Heel, Inc.*, Case No. 3:12-cv-3056 GPC (KSC) (Dkt. No. 27), also finding
6 there was “sufficient basis . . . under the factors set forth in Rule 23(g)(1) of the Federal
7 Rules of Civil Procedure” to appoint my firm as Class Counsel. *Id.* at p. 5. The final
8 approval hearing is set for March 7, 2014. *See id.*

9 47. On October 23, 2013, the Honorable Michael M. Anello of the United
10 States District Court for the Southern District of California granted final approval to a
11 \$1.2 million and injunctive relief class action settlement concerning false and deceptive
12 advertising of OTC drugs negotiated by my firm in *Nigh v. Humphreys Pharmacal,*
13 *Inc.*, Case No. 3:12-cv-02714-MMA-DHB (Dkt. No. 30), finding that “the Class was
14 adequately represented by competent counsel.” *Id.* at p. 14.

15 48. On March 13, 2012, my firm settled a case against manufacturers of OTC
16 dietary supplement products for \$900,000 in a common fund plus injunctive relief,
17 styled *Burton v. Ganeden Biotech, Inc. et al.*, Case No. 3:11-cv-01471 W (NLS) (S.D.
18 Cal.). Burton alleged that defendants falsely advertised their products as containing
19 “clinically proven” proprietary bacteria that improved and benefitted the digestive and
20 immune health of individuals when, in fact, no clinical proof existed. Before this
21 settlement was finalized, my firm rejected defendants’ coupon settlement offer, because
22 we did not believe it constituted the best relief for the class members. Instead, we
23 continued extensive and lengthy rounds of negotiations with the defendants to obtain
24 the best result for the class. These months-long negotiations included back and forth
25 exchange of approximately twenty editions of the Settlement Agreement, multiple
26 conference calls (including on the weekends) and e-mails. On March 14, 2012, the
27 parties filed a Joint Motion for Preliminary Approval of Settlement, (Dkt. No. 38)
28 which the court granted on April 16, 2012 (*Id.* at 42). After the Fairness Hearing in this

1 case on August 21, 2012, Judge Whelan granted final approval on October 5, 2012.
2 Dkt. Nos. 48, 52.

3 49. On March 1, 2012, the Honorable Janis L. Sammartino appointed my firm
4 Interim Class Counsel in an action styled *Margolis v. The Dial Corporation*, currently
5 pending in the United States District Court Southern District of California, Case No.
6 3:12-cv-288 JLS (WVG) (Dkt. No. 14). This case involves an OTC pheromone soap
7 product that its manufacturer alleges enhances a man's sexual attraction to women.

8 50. When my firm was appointed Interim Lead Class Counsel for a class of
9 consumers in a deceptive food labeling case back in March of 2011, the Honorable
10 Marilyn Huff recognized Class Counsel "appears to be well qualified to represent the
11 interest of the purported class and to manage this litigation." *Hohenberg v. Ferrero*
12 *U.S.A., Inc.*, 2011 U.S. Dist. LEXIS 38471, at *6 (S.D. Cal. Mar. 22, 2011).
13 Subsequently, when my firm obtained certification of the proposed class, this court
14 reaffirmed its finding that my firm is adequate Class Counsel. *See In re Ferrero Litig.*,
15 278 F.R.D. 552, 559 (S.D. Cal. 2011). Judge Huff gave Final Approval of a settlement
16 on July 9, 2012. (*Ferrero* Dkt. No. 127).

17 51. On November 14, 2011 my firm obtained the certification of a nationwide
18 class of consumers who purchased Qunol CoQ10, a dietary supplement making
19 misleading efficacy claims. *See Bruno v. Quten Research Inst., LLC*, 2011 U.S. Dist.
20 LEXIS 132323 (C.D. Cal. Nov. 14, 2011). My firm then successfully defeated the
21 defendants' motion to decertify the class following the Ninth Circuit's decision in
22 *Mazza v. Am. Honda Motor Co.*, 666 F.3d 581 (9th Cir. 2012). *See Bruno v. Eckhart*
23 *Corp.*, 2012 U.S. Dist. LEXIS 30873 (C.D. Cal. Mar. 6, 2012). The case recently
24 settled, on the eve of trial (originally scheduled for October 2, 2012).

25 52. On June 14, 2011, the Honorable Richard Seeborg appointed my firm
26 Interim Class Counsel, over a competing application from a former partner at the New
27 York law firm Milberg Weiss regarding a deceptive food labeling case. *See Chacanaca*
28 *v. Quaker Oats Co.*, 2011 U.S. Dist. LEXIS 65023, at *8-9 (N.D. Cal. June 14, 2011)

1 (since restyled as *In re Quaker Oats Labeling Litig.*) (“There is no question here that
2 both the Weston/Marron counsel...have ample experience handling class actions and
3 complex litigation. It is also clear that both have particular familiarity with suits
4 involving issues of mislabeling in the food industry.”)

5 53. I was appointed class counsel in *Peterman v. North American Company*
6 *for Life and Health Ins., et al.*, No. BC357194, (L.A. Co. Sup. Ct.), which was litigated
7 for over 4 years and achieved a settlement of approximately \$60 million for consumers.
8 In granting preliminary approval of the settlement, the Hon. Carolyn B. Kuhl noted that
9 “the excellent work that the plaintiffs’ side has done in this case has absolutely
10 followed through to the settlement...The thought and detail that went into the
11 preparation of every aspect was very impressive to me.”

12 54. I also served as class counsel in *Clark v. National Western Life Insurance*
13 *Company*, No. BC321681 (L.A. Co. Sup. Ct.), a class action that, after litigating the
14 case for well over 6 years, resulted in a settlement of approximately \$25 million for
15 consumers.

16 55. In *Iorio v. Asset Marketing*, No. 05cv00633-IEG (CAB) (S.D. Cal.), I was
17 appointed class counsel on August 24, 2006, following class certification, which was
18 granted on July 25, 2006 by the Honorable Irma E. Gonzalez. Dkts. Nos. 113 and 121.

19 56. After nearly 6 years of intensive litigation, a settlement valued at \$110
20 million was reached in *Iorio, supra*, and approved on March 3, 2011, by the Honorable
21 Janis Sammartino. Dkt. No. 480. Co-counsel and I successfully defended multiple
22 motions brought by defendant in the Southern District of California, including
23 “challenges to the pleadings, class certification, class decertification, summary
24 judgment,...motion to modify the class definition, motion to strike various remedies in
25 the prayer for relief, and motion to decertify the Class’ punitive damages claim,” plus
26 three petitions to the Ninth Circuit, attempting to challenge the Rule 23(f) class
27 certification. *Iorio*, Final Order Approving (1) Class Action Settlement, (2) Awarding
28 Class Counsel Fees and Expenses, (3) Awarding Class Representatives Incentives, (4)

1 Permanently Enjoining Parallel Proceedings, and (5) Dismissing Action with Prejudice,
2 entered on Mar. 3, 2011, at 6:9-15 (commenting that class counsel were “highly
3 experienced trial lawyers with specialized knowledge in insurance and annuity
4 litigation, and complex class action litigation generally” and “capable of properly
5 assessing the risks, expenses, and duration of continued litigation, including at trial and
6 on appeal,” *id.* at 7:18-22). Judge Sammartino also noted “the complexity and subject
7 matter of this litigation, and the skill and diligence with which it has been prosecuted
8 and defended, and the quality of the result obtained for the Class.” *Id.* at 17:25-27.

9 57. In *Tabares v. Equitrust Life Ins. Co.*, No. BC390195 (L.A. Co. Sup. Ct.),
10 my firm obtained a class certification order and was appointed class counsel. The
11 action is still pending.

12 58. Besides these cases, I have also represented plaintiffs victimized in other
13 complex cases such as Ponzi schemes, shareholder derivative suits, and securities fraud
14 cases. I have litigated hundreds of lawsuits and arbitrations against major corporations;
15 of these, approximately 30 cases against the likes of, such corporate titans as Shell Oil,
16 Citigroup, Wells Fargo, Morgan Stanley and Merrill Lynch have gone through trial or
17 arbitration. Many more have settled on the eve of trial so that I was fully prepared to
18 proceed to trial.

19
20 I declare under penalty of perjury under the laws of the United States and the
21 State of California that the foregoing is true and correct.

22 Executed on this 14th day of October 2016 in San Diego, California.

23
24 /s/ Ronald A. Marron

25 Ronald A. Marron

26 *ron@consumersadvocates.com*

27 *Attorney for Plaintiff and the Class*