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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

JENNA GRANADOS, individually and on
behalf of all others similarly situated;

Plaintiff,

v.

ONPOINT COMMUNITY CREDIT UNION;

Defendant.

Case No. 3:21-cv-00847-SI

**DECLARATION OF DAVID F.
SUGERMAN IN SUPPORT OF
PLAINTIFF'S MOTION FOR
ATTORNEY FEES AND COSTS**

I, David F. Sugerman, declare under penalty of perjury:

1. I am counsel for Plaintiff and the proposed settlement class in the above-captioned matter. I have personal knowledge of the matters set forth in this declaration, and if called to testify thereto, I could and would competently do so.

2. I previously provided a declaration in this matter (ECF 86-1) in connection with the motion for preliminary approval. In that declaration, I set forth my qualifications to serve as class counsel. ECF 86-1, at 1–3.

3. I submit this declaration to explain Plaintiff's methodology in setting hourly rates in connection with Plaintiff's Motion for Attorney Fees.

4. While it is not a substantial part of my practice, I have provided testimony relating to hourly fees in lodestar cases in Oregon. I am well acquainted with the Oregon market, including the recent increase in hourly rates.

5. I understand that within the District of Oregon, the Oregon State Bar's 2022 Economic Survey ("Economic Survey") is the Court's reference point. Thus, While I ultimately use rates derived from the Economic Survey, there are significant concerns with using the Economic Survey to set rates in contingent lodestar cases.

6. Generally speaking, there is a disconnect between the hourly rates charged by Oregon lawyers and reasonable rates for purposes of lodestar calculation. Hourly rates are built upon a lower risk business model. Hourly lawyers bill as they go and get paid regardless of the result. But lawyers working on contingent lodestar cases get paid only if they succeed, and they get paid only at the end of the case. In class action cases, that delay is invariably years; sometimes, it can stretch to more than a decade.

7. The Economic Survey does not factor in the risk that a lawyer will not get paid or that the pay will be delayed by years.

8. Nevertheless, courts in this District use the Economic Survey, so the opinions I express here are based upon the survey data.

9. I have not attempted to adjust for inflation, which significantly understates the appropriate rates, as the last survey was published in 2022, and it used data from 2021. The United States has gone through a substantial period of inflation in the last four years. Today's rates are certainly higher.

10. With a few exceptions, I used the 95th percentile rates for Portland for several reasons. First, the particular practice area—consumer class actions—is highly specialized and

requires a substantial level of skill. Only the most skilled lawyers achieve consistent success in this area. Second, the three firms handling this case are nationally recognized for their successes in consumer protection class actions. Third, the 95th percentile calculation makes up for the shortcomings (lack of adjustment for risk of non-payment and delay in payment, and lack of adjustment for inflation). Finally, all three firms are in major markets (Portland, Seattle, and New York City) making the Portland-based rate the correct comparator.

11. There are a few anomalies in the data. For example, for lawyers practicing 0-3 years, the 95th percentile is \$538 per hour. Economic Survey, tbl.36, p.42. That hourly rate is far greater than the rates for the cohorts with 4-9 years. I am not privy to the data and cannot explain the variation. However, based on my experience as a senior partner and, with the benefit of decades of experience, it is my opinion that lawyers in 0-3 years of practice should be paid a lower hourly rate than lawyers with 4-9 years. For purposes of this motion, I believe the correct hourly rate for 0-3 years is \$300 per hour.

12. Similarly, for the cohort at 13-15 years of practice, the 95th percentile rate is \$733, which is substantially higher than the next two cohorts. Economic Survey, tbl.36, p.43. Accordingly, I believe the more appropriate rate for 13-15 years is \$625 per hour.

13. With these two downward adjustments, which are arguably unduly conservative, in my opinion the correct hourly rates for the lodestar in this case should be as follows:

YEARS OF PRACTICE	HOURLY RATE
0-6	\$300
7-9	\$486
10-12	\$567
13-15	\$625
16-20	\$683
21-30	\$697
30+	\$798

I declare that the above statement is true to the best of my knowledge and belief, and that I understand it is subject to penalty for perjury.

EXECUTED on this 18th day of February, 2025.

/s/ David F. Sugerman

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