

Exhibit 2

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

GEORGE HENGLE, *et al.*, *on behalf of
themselves and all others similarly
situated,*

Plaintiffs,

v.

Case No: 3:19-cv-250-DJN

SCOTT ASNER, *et al.*,

Defendants.

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 Plaintiffs 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 Commonwealth of Virginia, where I regularly practice law. Since 2007 and 2014, respectively, I also have been and presently am members in good standing of the Bars

of the highest courts of the District of Columbia and 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 seek 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 and for various legal aid organizations, state and local bar associations, and other groups focused on consumer law, such as the National Consumer Law Center, the Consumer Federation of America, the National Council of Higher Education, and the National Association of Consumer Advocates. I have taught courses about mortgage servicing abuses, landlord tenant defense, dealing with debt collectors, credit reporting, defenses to foreclosure, discovery in federal court, resolving cases, and internet lending. I also served as 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 ten years. Additionally, I was selected to be members 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 for the Eastern District of Virginia, in both the Richmond and Alexandria Divisions.

8. My firm has litigated hundreds of consumer protection lawsuits in courts across the country. Several courts have recognized Kelly Guzzo's skill in prosecuting class actions for various consumer protection violations. *See, e.g., Campos-Carranza v. Credit Plus, Inc.*, Case No. 16-cv-120, Final Approval Hr'g Trans. at 5:3-7 (LMB/MSN) (E.D. Va. Feb. 17, 2017) ("I think this is an extremely, as I say, extremely fair, reasonable, and adequate settlement. Again, the claims – and I think being generous on the time limit for the claims was also appropriate. So I have no difficulty in signing this order."); *Ceccone v. Equifax Info. Servs. LLC*, No. 13-1314, 2016 WL 5107202, at *6 (D.D.C. Aug. 29, 2016) ("Given these qualifications, and in light of Class Counsel's conduct in court and throughout these proceeding, this Court concludes that Class Counsel is qualified to prosecute the interests of this class vigorously."); *Dreher v. Experian Info. Sols., Inc.*, No. 11-00624, 2014 WL 2800766, at *2 (E.D. Va. June 19, 2014) ("Dreher's counsel is well- experienced in the arena of FCRA class action litigation."); *Burke v. Seterus, Inc.*, No. 16-cv-785, Fairness Hr'g Tr. at 9:19-22 (E.D. Va. 2017) ("Experience of counsel on both sides in this case is extraordinary. Ms. Kelly and Ms. Nash and their colleagues are here in this court all the time with these kinds of cases and do a good job on them.").

9. 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*, No. 1:12-cv-510 (E.D. Va.); *Conley v. First Tennessee Bank*, No. 1:10-cv-1247 (E.D. Va.); *Dreher v. Experian Information Solutions, Inc.*, No. 3:11-cv-624 (E.D. Va.); *Shami v. Middle East Broadcast Network*, No. 1:13-cv-467 (E.D. Va.); *Goodrow v. Friedman & MacFadyen*, No. 3:11-cv-20 (E.D. Va.); *Kelly v. Nationstar*, No.

3:13-cv-311 (E.D. Va.); *Thomas v. Wittstadt*, 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*, No. 3:14-cv-695 (E.D. Va.); *Burke v. Shapiro, Brown & Alt, LLP*, No. 3:14-cv-838 (E.D. Va.); *Bartlow, et al., v Medical Facilities of America, Inc.*, No. 3:16-cv-573 (E.D. Va.); *Blocker v. Marshalls of MA, Inc.*, No. 1:14-cv-1940 (D.D.C.); *Ceccone v. Equifax Info. Servs., LLC*, No. 1:13-cv-1314 (D.D.C.); *Jenkins v. Equifax Info. Servs., LLC*, No. 1:15-cv-443 (E.D. Va.); *Ridenour v. Multi-Color Corporation*, No. 2:15-cv-41 (E.D. Va.); *Hayes v. Delbert Services Corp.*, No. 3:14-cv-258 (E.D. Va.); *Campos-Carranza v. Credit Plus, Inc.*, No. 1:16-cv-120 (E.D. Va.); *Jenkins v. Realpage, Inc.*, No. 2:15-cv-1520 (E.D. Pa.); *Kelly v. First Advantage Background Services, Corp.*, No. 3:15-cv-5813 (D.N.J.); *Burke v. Seterus, Inc.*, No. 3:16-cv-785 (E.D. Va.); *Williams v. Corelogic Rental Property Solutions, LLC*, No. 8:16-cv-58 (D. Md.); *Clark v. Trans Union, LLC*, No. 3:15-cv-391 (E.D. Va.); *Clark v. Experian Information Solutions, Inc.*, No. 3:16-cv-32 (E.D. Va.); *Thomas v. Equifax Info. Servs., LLC*, No. 3:18-cv-684 (E.D. Va.); *Heath v. Trans Union, LLC*, No. 3:18-cv-720 (E.D. Va.); *Turner, v. ZestFinance, Inc.*, 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*, No. 3:19-cv-789 (E.D. Va.); *Gibbs v. Rees*, No. 3:20-cv-717 (E.D. Va.); *Pang v. Credit Plus, Inc.*, No. 1:20-cv-122 (D. Md.); *Brown v. RP On-Site, LLC*, No. 1:20-cv-482 (E.D. Va.); *Brown v. Corelogic Rental Property Solutions, LLC*, No. 3:20-cv363 (E.D. Va.); *Gibbs v. Stinson*, No. 3:18-cv-676 (E.D. Va.); and *Stewart v. Lexis Nexis Risk Data Retrieval Services, LLC*, No. 3:20-cv-903 (E.D. Va.).

10. The majority of my work is contingent or brought under a fee-shifting statute so I generally do 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. *Brown v. RP On-Site, LLC*, No. 1:20-cv-482 (E.D. Va.); *Gibbs v. Plain Green, LLC*, No. 3:17-cv-00495 (E.D. Va. Dec. 13, 2019); *Turner v. ZestFinance*,

Inc., No. 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*, No. 3:19-cv-789 (E.D. Va.); *Gibbs v. Rees*, No. 3:20-cv-717 (E.D. Va.). My rate also has been approved as reasonable in individual cases. *Garmer v. Easy Motors*, No. 1:20-cv-540, ECF No. 27 at 50 (E.D. Va. Nov. 23, 2020); *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).

11. Other attorneys from my firm that have worked on these cases include Andrew Guzzo, Casey Nash, Paisly Bender, and J. Patrick McNichol.

12. Andrew Guzzo was an associate at Surovell Isaacs Petersen & Levy, PLC and 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 for the National Consumer Law Center and National Association of Consumer Advocates, 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.

13. Casey Nash was an associate at Consumer Litigation Associates, PC and is currently an associate at Kelly Guzzo, PLC. Her hourly rate is \$525.00. I supervise and work closely with Casey. 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 actions. 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 and the National Consumer Law Center and National Association of Consumer Advocates. She has been approved as class counsel in numerous class actions, 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.).

14. Paisly Bender is also a lawyer at Kelly Guzzo, PLC. Her hourly rate is \$525.00. Prior to joining the firm, she clerked for the Honorable Richard W. Pollack of the Hawaii Supreme Court for two years. Paisly attended George Mason University School of Law where she served as the Senior Research Editor for the *George Mason Law Review*. Following law school, Paisly was a Law Fellow for the National Education Association's Office of General Counsel.

15. J. Patrick McNichol is also a lawyer at Kelly Guzzo, PLC. Prior to joining Kelly Guzzo, Pat practiced law at McGuire Woods, where he handled hundreds of credit card, banking, and auto finance matters for large financial institutions. Before that, Pat completed two federal clerkships: first, for the Honorable Joseph R. Goodwin of the United States District Court for the Southern District of West Virginia; and then, for the Honorable M. Hannah Lauck of the United States District Court for the Eastern District of Virginia. Pat has been named one of *The Best*

Lawyers in America: Ones to Watch for Banking and Finance Law three times (2021 through present), and he twice co-authored the Virginia chapter in the ABA's *The Law of Class Action: Fifty-State Survey* (2020 and 2021). In the past year, he has spoken on defense perspectives at the national conference for the National Association of Consumer Advocates and drafted and edited a section of the *Consumer Banking and Payments Law* treatise published by the National Consumer Law Center. His hourly rate is \$525.00.

16. Natalie Cahoon is a paralegal at Kelly Guzzo, PLC, with over six years of experience in the legal field. She graduated from the University of Maine. Her hourly rate is \$225.00.

17. Olga Macias is a paralegal at Kelly Guzzo, PLC, with over 15 years of experience in the legal field. She previously worked for Legal Services of Northern Virginia and Surovell Isaacs Petersen & Levy, PLC. Her hourly rate is \$225.00.

18. My law firm takes on significant risks in contingent fee cases: the risk of time spent researching and evaluating claims; the risk of not prevailing on a case; and time lost for unsuccessful cases. Class actions are even riskier because they require more front-end work in addition to the risk of nonpayment. However, my law firm is committed to identifying problems in the marketplace and seeking redress for a class of consumers (where appropriate). We do this because it is important to prevent future misconduct, to seek relief for those harmed by the conduct who are usually unaware of their rights or unable to afford counsel, and to deter other actors from the same behavior.

19. Kelly Guzzo, PLC was aware of this lending enterprise for many years prior to the filing of this lawsuit in 2019. Kelly Guzzo tracked the Consumer Financial Protection Bureau litigation in the Northern District of Illinois since it was filed April 2017. When that litigation was dismissed due to a change in the administration's priorities, Kelly Guzzo began actively working

on bringing this litigation. As a result of this settlement more than 550,000 consumers will receive a benefit, either in the form of cancellation of over \$450 million in outstanding debt, removal of derogatory tradelines, or repayment of amounts paid in excess of their respective state laws. The cash payment will provide real, meaningful relief for these individuals.

20. This settlement provides substantial monetary relief for class members in the form of a \$39,000,000 monetary fund, which will be distributed to class members using the same tiered structure that was used (and approved by this Court) in several other similar cases. *See, e.g., Gibbs v. TCV, V, LLP*, No. 3:19-cv-789, ECF No. 95 (E.D. Va. Mar. 29, 2021) (Final Approval Order); *Gibbs v. Plain Green, LLC*, No. 3:17-cv-495, ECF No. 141 (E.D. Va. Dec. 13, 2019) (Final Approval Order). *See generally Turner v. ZestFinance, Inc.*, No. 3:19-cv-293 (E.D. Va.). To give the Court an idea of what that means to the Plaintiffs in this case, the Plaintiffs would receive the following payments from the settlement fund in the Court were to approve the Settlement:

NAME	ESTIMATED CHECK
George Hengle	\$30.92
Sherry Blackburn	\$119.88
Willie Rose	\$143.05
Elwood Bumbray	\$54.32
Tiffani Myers	\$0.00
Steven Pike	\$47.30
Sue Collins	\$175.48
Lawrence Mwethuku	\$0.00
Regina Nolte	\$781.65
Jo Ann Falash	\$928.80

21. In addition to these payments, the class also receives important injunctive relief in the form of cancellation of over \$450 million in outstanding debt and removal of derogatory tradelines. For each of the Plaintiffs, that amount of debt cancellation is below:

NAME	LOAN CANCELLATION
George Hengle	\$690.00
Sherry Blackburn	\$0.00
Willie Rose	\$325.00
Elwood Bumbray	\$184.50
Tiffani Myers	\$2,489.00
Steven Pike	\$910.00
Sue Collins	\$10.00
Lawrence Mwehuku	\$997.50
Regina Nolte	\$0.00
Jo Ann Falash	\$1,050.00

22. We were able to achieve this relief despite the Defendants' steadfast belief that they would prevail against Plaintiffs' claims. And, while Plaintiffs believed in the strength of their claims, there was also a risk that they could recover nothing at trial due to the amount of resources the Defendants devoted to the defense of this litigation and their limited assets. In addition, even assuming success at trial, each case would likely continue with lengthy appeals about class certification and liability. The Settlement avoids these uncertainties and provides the class members with immediate, meaningful, and certain monetary relief.

23. We completed significant work in this case. There was significant motions practice, which resulted in an extensive opinion—spanning 108 pages—that addressed several matters of first impression in this District and the Fourth Circuit, including: (1) whether sovereign immunity extends to suits seeking to enjoin violations of state law; (2) whether online loans constitute off the reservation activity subject to state law; and (3) the enforceability of tribal choice of law provisions. *Hengle v. Asner*, 433 F. Supp. 3d 825 (E.D. Va. 2020). My office prepared the briefing on these issues, which ultimately resulted in a Fourth Circuit appeal and a petition for writ of certiorari to the Supreme Court. Along with this work, we completed significant discovery, including written discovery on both sides, third party subpoenas, review of the Defendants'

substantial document production and numerous meet and confers. My firm also devoted significant resources to the mediation efforts, which started in late 2021 and involved dozens of email exchanges and phone calls, as well as settlement conferences with Magistrate Judge Colombell and private mediations with Nancy F. Lesser.

24. The settlement provides meaningful relief for class members, including significant monetary and injunctive relief. For those reasons, I endorse the Settlement.

25. We billed our time for this litigation using our case management software. My office staff took the amount of time expended by each individual at our firm and categorized it in charts as best as practicable by categories. As shown in the attached Exhibit A, Kelly Guzzo has billed a total of 3,202 hours for a total fee of \$1,635,075.

26. 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.

27. The time listed in Exhibit A 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. This includes all fees that my law firm has incurred prosecuting this case. My law firm has also advanced \$38,766.02 in costs. These costs include research charges, copying charges, document management hosting, service of process, travel expenses, mediation costs, and appellate binding and copy charges for both the Fourth Circuit and United States Supreme Court.

28. I am familiar with the fees charged by other attorneys and approved by this Court for class action litigation. I 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.

29. 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.

30. Lastly, each Plaintiff was committed to litigating this case as a class action and securing class wide relief for the consumers affected by the Defendants' conduct.

31. Each Plaintiff was willing to identify themselves in public litigation as vulnerable consumers who needed an emergency loan to cover their expenses and then was unable to pay those loans back. Many of these Plaintiffs told me that they were embarrassed to reveal that information in public documents but felt that it was necessary to stop the Defendants from victimizing other consumers.

32. Then, the Plaintiffs remained engaged in the process for several years, as these cases involved significant motions practice and appeals. Throughout the litigation, each Plaintiff regularly communicated with my office to stay updated on the case's status. They provided documents to support their claims, reviewed the copies of pleadings that we sent to them, and regularly asked for case updates.

33. Each Plaintiff also answered written discovery. Plaintiffs have each invested dozens of hours working to obtain the relief contained in the Settlement.

34. Plaintiffs were also available during each of the numerous mediations in these cases to answer questions. And they each reviewed and approved the settlement agreement.

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

Signed this 20th day of September, 2022.

/s/ Kristi C. Kelly
Kristi C. Kelly

EXHIBIT A

