

Exhibit 4

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

GEORGE HENGLE, <i>et al.</i> ,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	Civil Action No. 3:19-cv-00250 (DJN)
	:	
SCOTT ASNER, <i>et al.</i> ,	:	
	:	
Defendants.	:	
_____	:	

DECLARATION OF MATTHEW W.H. WESSLER

I, Matthew W.H. Wessler, declare as follows:

1. I am co-counsel for the plaintiffs in the above-captioned matter, and a principal at the law firm of Gupta Wessler PLLC, a national appellate and complex-litigation boutique in Washington, D.C. I am a member of the Bars of the District of Columbia and Massachusetts and am admitted to the Bars of the U.S. Supreme Court as well as the U.S. Court of Appeals for the First, Second, Third, Fourth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, and D.C. Circuits.

2. Both my and my firm’s practice is focused on Supreme Court, appellate, and complex litigation with an emphasis on class-action issues and consumer-protection law. My caseload consists primarily of handling appeals of consumer and worker-protection cases, including class actions, in federal appellate courts and the Supreme Court. I have argued before the U.S. Supreme Court on behalf of plaintiffs in a number of major consumer and worker rights cases, including *Coventry Health Care v. Nevils*, 137 S. Ct. 1190 (2017), *U.S. Airways v. McCutchen*, 133 S. Ct. 1537 (2013), and *Heimeshoff v. Hartford Life Insurance*, 134 S. Ct. 604 (2013). Two years ago I argued and won another plaintiffs’-side class-action case in the U.S. Supreme Court, *Intel Investment Policy Cmte. v. Sulyma*, 140 S. Ct. 768 (2020).

3. Within just the past several years, I have also argued and won significant class-action and consumer-protection appeals around the country. *See, e.g., Berman v. Freedom Financial* 30 F.4th 849 (9th Cir. 2022); *In re MDL Genentech Herceptin Marketing & Sale Practice Litig.*, 960 F.3d 1210 (10th Cir. 2020); *Molock v. Whole Foods Group, Inc.*, 952 F.3d 293 (D.C. Cir. 2020); *In re Lantus Direct Purchaser Antitrust Litig.*, 950 F.3d 1 (1st Cir. 2020); *Cullinane v. Uber Technologies, Inc.*, 893 F.3d 53 (1st Cir. 2018); *Roberts v. Capital One, N.A.*, 719 Fed. App'x. 33 (2d Cir. 2017). In all of these cases, I represented plaintiffs seeking to recover for injuries caused by illegal conduct committed by companies.

4. For my appellate work, I won the Pound Civil Justice Institute's 2020 Appellate Advocacy Award, which recognizes excellence in appellate advocacy in cases that have a significant impact on public health and safety, consumer rights, civil rights, environmental justice, access to justice. *See* <http://www.poundinstitute.org/appellate-advocacy-award/>. My firm was also named to the National Law Journal's Appellate Hot List 2020 and 2021—the only plaintiffs'-side, consumer- and worker-rights firm to be recognized. *See* <https://www.law.com/nationallawjournal/2020/11/01/appellate-hot-list-2020-gupta-wessler/>.

5. In my work, I have also developed a specific expertise in payday-lending matters and my firm has built an unparalleled track record in handling payday-lending issues and appeals. In 2020 alone, I argued and won multiple major appellate decisions involving tribal lending enterprises—including in this matter. *See Hengle v. Treppa*, 19 F. 4th 324 (4th Cir. 2021); *Williams v. Medley Opportunity Fund II, LP*, 965 F.3d 229 (3d Cir. 2020); *Gibbs v. Haynes Inv. LLC*, 965 F.3d 229 (4th Cir. July 21, 2020); *Gibbs v. Sequoia Capital Operations, LLC*, 966 F.3d 286 (4th Cir. 2020). In another recent tribal-payday lending case I argued, after losing in front of a merits panel 2-1 I convinced the full Ninth Circuit to grant rehearing en banc and vacate the panel decision. *See*

Brice v. Plain Green, 13 F.4th 823, *rehearing en banc granted, vacated by* 35 F.4th 1219 (9th Cir. 2022).

6. I was also lead appellate counsel and argued *Hayes v. Delbert Services Corp.*, 811 F.3d 666 (4th Cir. 2016), a landmark decision from the Fourth Circuit holding that a tribal payday lender's forced-arbitration contract was categorically unenforceable because it prospectively waived consumers' statutory rights. That decision directly led to one of the largest settlements against a payday lender in Virginia, as well as several of the largest such settlements in other states. As another example, I argued and won a similar appeal in the Third Circuit. *See MacDonald v. CashCall, Inc.*, 883 F.3d 220 (3d Cir. 2018). As a result of my work in this area, I regularly speak on consumer law and payday lending issues across the country.

7. My work litigating against consumer lenders is not limited to appeals. I was co-counsel in several other cases against tribal payday-lender enterprises across the country, including *Williams v. Red Stone Inc.*, 18-02747 (E.D. Pa.), and *Nolte v. Franklin, et al.*, No. 20-cv-05585 (N.D. Cal.). In 2015-16, multiple legal teams litigating parallel class cases against a particular lending enterprise in Virginia, North Carolina, Florida, Illinois, Kentucky, Wisconsin, and Georgia jointly retained my firm and me to intervene in a proposed settlement in a competing case in South Dakota that would have, if approved, halted the other pending cases. We were granted intervention and successfully convinced the district judge in South Dakota to deny approval of the proposed settlement, which would have delivered only pennies on the dollar and a fraction of the available relief to injured consumers across the country. As the district court explained in its decision denying preliminary approval in that case, “[b]luntly put, there [were] signs” that the plaintiffs’ attorneys for the class there had “not adequately represented the class.” The court specifically commended our “zealous and highly effective advocacy,” on “very short notice,” in bringing this inadequacy to light

on behalf of consumers nationwide. *See Heldt v. Payday Financial, LLC*, 2016 WL 96156, at *10 (D.S.D. Jan. 8, 2016).

8. More broadly, my firm routinely handles consumer-protection and class-action appeals in the Fourth Circuit. Within the past several years, we have been lead counsel and argued numerous cases covering a wide range of consumer-protection and class-action issues in the Fourth Circuit. *See, e.g., Dreher v. Experian Info. Solutions, Inc.*, 856 F.3d 337 (4th Cir. 2017); *Daugherty v. Ocwen Loan Servicing, LLC*, 701 Fed. App'x. 246 (4th Cir. 2017); *Plotnick v. Computer Sci. Deferred Comp. Plan for Key Executives*, 875 F.3d 160 (4th Cir. 2017); *Hayes*, 811 F.3d at 666; *Clark v. Absolute Collection Serv., Inc.*, 741 F.3d 487 (4th Cir. 2014); *Kingery v. Quicken Loans, Inc.*, 629 F. App'x 509 (4th Cir. 2015); *Moses*, 781 F.3d at 63; *Russell v. Absolute Collection Servs., Inc.*, 763 F.3d 385 (4th Cir. 2014); *Soutter v. Equifax Info. Servs., LLC*, 498 F. App'x 260 (4th Cir. 2012). Our work on similar issues in other circuits is comparable.

9. My firm has also been appointed class counsel in a number of cases, including in *Houser v. United States*, No. 13-607C (Fed. Cl.), a certified nationwide class of current and former federal bankruptcy judges (and their surviving spouses, life-insurance beneficiaries, and estates) that was litigated to judgment in the Court of Federal claims, in *Steele v. United States*, No. 14-cv-01523-RCL (D.D.C.), a certified nationwide class of tax-return preparers suing the federal government under the Little Tucker Act for excessive user fees, and most recently, and more recently, in *Turner v. ZestFinance, Inc.*, and *MacDonald v. CashCall, Inc.*, both of which were certified classes on behalf of consumers who obtained illegal payday loans from a payday lending enterprise and for which nationwide settlements were recently finally approved. *See Turner v. ZestFinance, Inc.*, No. 19-cv-00293, Dkt. # 115 (July 9, 2020); *Macdonald v. CashCall, Inc.*, No. 2:16-cv-02781, Dkt. #125 (Oct. 2, 2020).

10. My firm and I are also well known within the broader consumer- and financial-protection advocacy community. After graduating from Cornell University Law School in 2005 and serving as a law clerk to the Honorable Richard L. Nygaard of the U.S. Court of Appeals for the Third Circuit and the Honorable William E. Smith of the U.S. District Court for the District of Rhode Island, I spent two years as an associate at Williams & Connolly LLP. I then spent six years at Public Justice, P.C., a national public interest and impact litigation law firm in Washington, D.C. While there, I spearheaded the firm's focus on Supreme Court litigation and took the lead in several high-profile cases involving class actions, arbitration, preemption, and consumer and worker rights. In 2015, I became a named partner at Gupta Wessler PLLC, in Washington, D.C.

11. My firm has spent a significant amount of time investigating, researching, and litigating the matters that are being resolved by the settlement. In this case, I was lead appellate counsel for class in the cross-appeal that went up to the Fourth Circuit. I personally provided strategic advice and research during the district court proceedings, developed, researched, and drafted the multiple briefs in the appeal, which included a number of issues of first impression in the Fourth Circuit, and prepped for and handled the oral argument in the Fourth Circuit. After the Fourth Circuit issued a decision, the defendants then sought to stay the case in the U.S. Supreme Court pending the filing of a petition for certiorari. I personally developed, researched, and drafted the successful stay opposition brief in the U.S. Supreme Court. Given that the Fourth Circuit issued a published decision affirming the district court and rejecting all of the defendants' various arguments for reversal, I believe my firm's work provided substantial benefit to the class.

12. The settlement in this case represents an excellent result for class members, providing automatic payments to many and obtaining substantial and meaningful debt relief. Absent the settlement, there would have been potentially years of additional litigation and a significant risk of no recovery whatsoever. Many issues in tribal lending cases are factually complex, and legally

unsettled. The cases are time-intensive and can be hotly and bitterly contested as the core of a lucrative business model is being challenged. Based on my experience, I believe that the proposed settlement is fair, reasonable, and adequate.

13. In my own federal practice, I charge clients a standard hourly rate of \$950. I agreed to work on this appeal on behalf of the class on a contingent basis. I have substantial expertise in federal consumer-protection law and class actions and have handled multiple appeals arising from consumer class actions.

14. After excluding timekeepers with minimal time in the case and exercising appropriate billing judgment, the following table contains the hourly rate and lodestar for my firm at our standard market rates.

Timekeeper	Position	Hourly Rate	Total Lodestar
Matt Wessler	Principal	\$950	\$864,975.00
Diana Li	Legal Intern	\$300	\$31,800.00
Sara Evall	Legal Assistant	\$200	\$4,200.00

15. I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct.

Executed on September 19, 2022

/s/ Matthew W.H. Wessler
Matthew W.H. Wessler