

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

TERRY BROWN, *on behalf of himself and  
all similarly situated individuals,*

Plaintiff,

v.

Civil Action No. 3:20-cv-363(JAG)

CORELOGIC RENTAL PROPERTY  
SOLUTIONS, LLC,

Defendant.

**MEMORANDUM IN SUPPORT OF PLAINTIFF'S  
MOTION FOR SERVICE AWARD AND ATTORNEYS' FEES AND COSTS**

Under Rule 23(h) of the Federal Rules of Civil Procedure and this Court's September 16, 2020 Preliminary Approval Order (ECF No. 62), this motion seeks an award of \$7,500 to Plaintiff for his service as class representative, and \$2,741,639.00 (one third of the cash common fund) to Class Counsel for attorneys' fees and costs. As detailed below, these amounts are fair and reasonable in light of the substantial relief obtained for class members and to compensate Class Counsel for the risks taken and resources invested in this case.

**I. OVERVIEW**

Almost two years ago, Plaintiff filed this class action alleging that Defendant CoreLogic Property Solutions, LLC ("RPS") used unlawful and improperly inclusive criteria to match sex offender records to housing applicants in response to landlords' requests for background checks. The result was that thousands of innocent consumers were inaccurately reported as sex offenders. RPS provided Plaintiff's potential landlord with a report that labeled him as a sex offender, including for multiple charges of statutory rape. RPS matched this information to Plaintiff even

though the underlying record from the courthouse showed that Plaintiff had a different date of birth than the offender and never resided in the same state as the offender where the criminal case occurred. Plaintiff brought this case as a class action to force the comprehensive correction of these obviously harmful inaccuracies and to obtain substantial compensation for those other victims who suffered the same reporting violation. As detailed below, both Class Counsel firms here had previously, separately and successfully litigated against the same Defendant on similar issues.<sup>1</sup> They spent significant time and work unifying that knowledge and adapting it to this case. They retained a high-end database expert, and pushed this Action. With their deep understanding of Defendant and its systems, Plaintiff needed to find a way to identify and prove a certifiable class. After he developed evidence he believed necessary to show classwide harm and a means to identify those affected, Plaintiff began negotiating a solution, which resulted in this Settlement.

After more than a year of litigation during a challenging time, work to translate past knowledge and documents and then review of data of over eight thousand consumers with months of data work and analysis with Plaintiff's expert, Plaintiff identified a class and negotiated a record-breaking outcome. Identifying the flaws in Defendant's reporting and matching procedures was a substantial achievement that will protect this class as well as future consumer housing applicants nationwide. That itself may be the greater settlement consideration. But the Settlement also resulted in a non-reversionary cash common fund of \$8,225,000.00 for just 5,213 class members who will receive an automatic payment, plus an additional estimated 250 additional consumers who are expected to submit a claim form.<sup>2</sup> If the Court approves the amounts requested in this

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<sup>1</sup> *Witt v. CoreLogic SafeRent, LLC*, 3:15-cv-386 (E.D. Va.); *Henderson v. CoreLogic Nat'l Background Data, LLC*, 3:12-cv-97 (E.D. Va.); *Williams v. Corelogic Rental Property Solutions, LLC*, Case No. 8:16-cv-58 (D. Md.).

<sup>2</sup> Because the deadline for certain consumers to submit a claim has not yet expired, only an estimate of the total number of class members can be provided. Although Plaintiff anticipates that additional

motion, Class Counsel estimates that class members will each receive a check for more than \$1,000 *after* payment of fees and costs.<sup>3</sup> This is an excellent financial result for class members, who would only be able to recover statutory damages between \$100 and \$1,000 (and potentially punitive damages) under the Fair Credit Reporting Act. *See* 15 U.S.C. § 1681n. Each class member will receive a check that will likely *exceed* the FCRA’s maximum statutory damage award—while at the same time avoiding the risk of a denial of class certification or a loss at trial on the merits of their claims.

Plaintiff and Class Counsel’s risk, work, experience, and skill were necessary to obtain this result. Class Counsel, who took this litigation on a contingency basis and risked recovering nothing if they did not succeed, should be fairly compensated for these efforts and risks. Plaintiff also seeks a reasonable service award—in line with other service awards that this Court has awarded—to compensate him for the time and effort that he spent representing the Class. Accordingly, for the reasons explained in more detail below, Plaintiff requests that the Court award \$7,500 to Plaintiff for his service as class representative and \$2,741,639.00 (*i.e.*, one third of the common fund) to Class Counsel for attorneys’ fees and costs.

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claims will be submitted and approved, Plaintiff expects a claims rate of approximately 7.5% since the Claims Class includes individuals who are actually sex offenders and thus ineligible to submit a claim. Therefore, Plaintiff estimates that more than 5,450 class members will receive payment.

<sup>3</sup> This class member recovery is extraordinary. *See, e.g., Reyes v. Experian Info. Sols., Inc.*, 2021 WL 1310961, at \*1 (9th Cir. Apr. 8, 2021) (noting that the proposed settlement resulted in class members receiving “at least \$270 after deductions” in a § 1681e(b) case); *Gibbs v. Centerplate, Inc.*, 2018 WL 6983498, at \*8 (M.D. Fla. Dec. 28, 2018) (characterizing a recovery of \$100 per class member in an FCRA case as an “excellent result”).

## II. ARGUMENT

### A. PLAINTIFF'S SERVICE AWARD IS APPROPRIATE.

Plaintiff requests—to date without objection—a modest award of \$7,500 for Plaintiff's participation and service to the Class. This amount is reasonable as none of the recovery here could have occurred but for his willingness to step forward and publicly litigate a case in which he had been reported as a sex offender and to do so knowing his own recovery would be subordinated to that of the Class. Plaintiff took an active role in the litigation, including participating in discovery and the Opposition to the Motion to Transfer Venue. Ex. 1, Kelly Decl. ¶¶ 22-23; Ex. 2, Bennett Decl. ¶ 32. He also understood his role as class representative and both supervised and responded to Class Counsel throughout the litigation. *Id.* He reviewed and approved the settlement. Plaintiff also stuck his neck out for other class members and pursued the claims despite the embarrassing nature of the events, *i.e.*, being labeled as a sex offender because of the similarity of his name with the criminal offender.

Service awards in this range are reasonable and this Court routinely awards them. *See, e.g., Hayes v. Delbert Servs. Corp.*, 3:14-cv-258 (JAG) (E.D. Va.); *Manuel v. Wells Fargo Nat'l Ass'n*, No. 3:14-cv-238 (DJN), 2016 WL 1070819, at \*6 (E.D. Va. Mar. 15, 2016); *Beverly v. Wal-Mart Stores, Inc.*, No. 3:07-cv-469 (E.D. Va.); *Williams v. Lexis Nexis Risk Mgmt.*, No. 3:06cv241 (E.D. Va.); *Cappetta v. GC Servs. LP*, No. 3:08-cv-288-JRS (E.D. Va.); *Makson v. Portfolio Recovery Assoc., Inc.*, No. 3:07-cv-982-HEH (E.D. Va. Feb. 9, 2009); *Daily v. NCO*, No. 3:09-cv-31-JAG (E.D. Va.); *Conley v. First Tenn.*, No. 1:10-cv-1247-TSE (E.D. Va.); *Lengrand v. Wellpoint*, No. 3:11-cv-333-HEH (E.D. Va.); *Henderson v. Verifications, Inc.*, No. 3:11-cv-514-REP (E.D. Va.); *Pitt v. K-Mart Corp.*, No. 3:11-cv-697 (E.D. Va.); *James v. Experian Info. Sols.*, No. 3:12-cv-902 (E.D. Va.); *Manuel v. Wittstadt*, No. 3:12-cv-450 (E.D. Va.); *Shami v. Middle E. Broadcast Network*, 1:13-cv-467-CMH (E.D. Va.); *Goodrow v. Freidman Freidman & MacFadyen*, No.

3:11-cv-20 (E.D. Va.); *Berry v. LexisNexis Risk & Info. Analytics Grp., Inc.*, No. 3:11-cv-274 (E.D. Va.); *Marcum v. Dolgencorp*, No. 3:12-cv-108 (E.D. Va.); *Kelly v. Nationstar*, No. 3:13-cv-311 (E.D. Va.); *Wyatt v. SunTrust Bank*, No. 3:13-cv-662 (E.D. Va.). So do other judicial districts. See, e.g., *Staton v. Boeing Co.*, 327 F.3d 938, 976–77 (9<sup>th</sup> Cir. 2003); *In re Bancorp Litig.*, 291 F.3d 1035, 1038 (8<sup>th</sup> Cir. 2002); *Cook v. Niedert*, 142 F.3d 1004, 1016 (7<sup>th</sup> Cir. 1998).

In fact, the requested service award is well below the national average—an empirical study published in 2006 suggests that the average award per class representative is about \$16,000. 4 *Newberg on Class Actions* § 11:38 (4<sup>th</sup> ed.). Because Plaintiff’s participation and willingness to stand up for the class was instrumental to their recovery, an award of \$7,500 is reasonable. Mr. Brown agreed to serve the Class by: (1) subordinating his own self-interest and resist any pressure to sell his role as Class Representative for a larger individual settlement; (2) devote time and work to the case; and (3) allow a national class settlement and notice necessary to satisfy Rule 23I, though it advertises that he was (though inaccurately) branded as a sex offender. This service award is well-deserved.

**B. CLASS COUNSEL’S FEE AND COST REQUEST IS FAIR AND REASONABLE.**

**1. Awarding attorneys’ fees based on a percentage of a Fed. R. Civ. P. 23(b)(3) common fund—in this case and generally—is correct and appropriate.**

Rule 23(h) affords the Court authority to “award reasonable attorneys’ fees and nontaxable costs that are authorized by law or by the parties’ agreement” in class actions. Fed. R. Civ. P. 23(h). When the case leads to a common fund for the class, the Court may award fees as a percentage of that common fund. The doctrine originates from the equitable principles of quantum meruit and unjust enrichment and aims to shift the expense of litigation from named plaintiffs, who obtained the fund’s benefits, to the absent class members, who benefit from the fund but likely contributed little, or nothing, to the process. *Brundle ex rel. Constellis Employee Stock Ownership*

*Plan v. Wilmington Tr., N.A.*, 919 F.3d 763, 785 (4th Cir. 2019), *as amended* (Mar. 22, 2019). As the Fourth Circuit has explained, awarding fees as a percentage of the common fund “hold[s] the beneficiaries of a judgment or settlement responsible for compensating the counsel who obtained the judgment or settlement for them.” *Id.* at 786.<sup>4</sup> More generally, the Fourth Circuit has expressly recognized the importance and purpose of a contingency fee approach in a different, but applicable context, noting that contingency fees:

transfer a significant portion of the risk of loss to the attorneys taking a case. Access to the courts would be difficult to achieve without compensating attorneys for that risk. . . . In addition, it may be necessary to provide a greater return than an hourly fee offers to induce lawyers to take on representation for which they might never be paid, and it makes sense to arrange these fees as a percentage of any recovery. . . .

Conversely, an attorney compensated on a contingency basis has a strong economic motivation to achieve results for his client, precisely because of the risk accepted. As the Seventh Circuit has explained, “[t]he contingent fee uses private incentives rather than careful monitoring to align the interests of lawyer and client. The lawyer gains only to the extent his client gains.” *Kirchoff v. Flynn*, 786 F.2d 320, 325 (7th Cir. 1986). A contingency fee “automatically handles compensation for the uncertainty of litigation” because it “rewards exceptional success, and penalizes failure.” *Id.* at 326.

*In re Abrams & Abrams, P.A.*, 605 F.3d 238, 246 (4th Cir. 2010).

Courts’ preference for the percentage method is common sense. It is easily administered and saves valuable court and party resources, which heeds the Supreme Court’s mandate that “request for attorney’s fees . . . not result in a second major litigation.” *Hensley v. Eckerhart*, 461 U.S. 424, 437 (1983). The percentage method also aligns the interests of class counsel and the class members because it both motivates class counsel to generate the largest possible recovery for

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<sup>4</sup> Most circuits either permit or require the percentage method. 5 *Newberg on Class Actions* § 15:66 (5th ed. Dec. 2020 Update). For example, the Eleventh Circuit and the District of Columbia Circuit require the use of the percentage method. *Id.* at n.6 (citing cases). The Third Circuit prefers the percentage method. *Id.* at n.7. And the First, Second, Fifth, Sixth, Eighth, Ninth, and Tenth allows district courts to use either method. *Id.* at n.5 (citing cases).

the class and rewards efficient litigation. This is because their fee increases with the class's take, removing any incentive to run up their hours in order obtain a higher fee. A percentage fee also encourages early settlements because class counsel will not receive more fee for unnecessary motions or discovery. *Johnson v. Metro-Goldwyn-Mayer Studios, Inc.*, No. C17-541RSM, 2018 WL 5013764, at \*11 (W.D. Wash. 2018) (“the percentage-of-recovery method plays an important role in aligning the interests of the class and class counsel” and “[i]n such situations, class counsel is motivated to obtain the largest tangible benefit possible, to provide for the best possible notice to the class, and to assure that the claims process is not overly burdensome”); *In re Anthem, Inc. Data Breach Litigation*, No. 15-MD-02617-LHK, 2018 WL 3960068, at \*5 (N.D. Cal. 2018) (“By tying the award to the recovery of the Class, Class Counsel’s interests are aligned with the Class, and Class Counsel are incentivized to achieve the best possible result.”); *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, 991 F. Supp. 2d 437, 440 (E.D.N.Y. 2014) (“The percentage method better aligns the incentives of plaintiffs’ counsel with those of the class members because it bases the attorneys’ fees on the results they achieve for their clients, rather than on the number of motions they file, documents they review, or hours they work.”); *Swedish Hosp. Corp. v. Shalala*, 1 F.3d 1261, 1268–69 (D.C. Cir. 1993) (“using the lodestar approach in common fund cases encourages significant elements of inefficiency,” while “if a percentage-of-the-fund calculation controls, inefficiently expended hours only serve to reduce the per hour compensation of the attorney expending them”).

On the other hand, the lodestar method is time consuming and requires lawyers to submit voluminous records that courts must then review and scrutinize in detail. Furthermore, a lodestar fee encourages class counsel to increase the number of hours they spend on a case to maximize their fees, even if that time advances the case or class members’ interests. *In re General Motors Corp. Pick-Up Truck Fuel Tank Products Liability Litigation*, 55 F.3d 768, 821 (3d Cir. 1995)

("[T]he lodestar method has been criticized as giving class counsel the incentive to delay settlement in order to run up fees while still failing to align the interests of the class"). Indeed, the lodestar method is used in only a fraction of class-action cases, usually those involving fee-shifting statutes or where the settlement provides injunctive relief that cannot be reliably calculated. *See, e.g.,* Theodore Eisenberg, *Attorneys' Fees in Class Actions: 2009-2013*, 92 N.Y.U. Law Review 937, 945 (2017) (finding that the lodestar method used only 6.29% of the time from 2009 to 2013, down from 13.6% from 1993 to 2002 and 9.6% from 2003 to 2008); Brian T. Fitzpatrick, *An Empirical Study of Class Action Settlements and Their Fee Awards*, 7 J. Empirical L. Stud. 811, 832 (2010) (finding that the lodestar method used in only 12% of settlements).

While the Fourth Circuit itself has not explicitly required its use in class actions, the percentage method is overwhelmingly preferred by the district courts in this circuit and certainly almost uniformly by this Court. *Manuel v. Wells Fargo Bank, Nat'l Ass'n*, No. 3:14-cv-238 (DJN), 2016 WL 1070819, at \*5 (E.D. Va. Mar. 15, 2016) ("The Supreme Court has long held that an attorney who recovers a common fund can assess his fee against the entire fund. *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980) (citing a line of decisions dating back to *Trustees v. Greenough*, 105 U.S. 527 (1882)). In fact, by the time the Supreme Court decided *Blum v. Stenson* in 1984, the point that 'under the 'common fund doctrine' . . . a reasonable fee is based on a percentage of the fund bestowed on the class' had such widespread acknowledgement that the Court needed only a footnote to make it. 465 U.S. 886, 900 n.16 (1984). District Courts within this Circuit have also favored the percentage method." *See, e.g., Galloway v. Williams*, 3:19-cv-470, 2020 WL 7482191, at \*5 (E.D. Va. Dec. 18, 2020) ("Nevertheless, over time, certain customs have developed, both in the Fourth Circuit and across the country; for example, the favored method for calculating attorneys' fees in common fund cases is the percentage of the fund method."); *Thomas v. FTS USA, LLC*, 3:13-cv-825 (REP), 2017 WL 1148283, at \*3 (E.D. Va. Jan. 9, 2017), *report and*



*recommendation adopted*, 3:13-cv-825, 2017 WL 1147460 (E.D. Va. Mar. 27, 2017) (“District Courts within this Circuit have also favored the percentage of the fund method.”(citations omitted)); *see also Kelly v. Johns Hopkins Univ.*, 1:16-cv-2835-GLR, 2020 WL 434473, at \*2 (D. Md. Jan. 28, 2020); *Seaman v. Duke Univ.*, 1:15-cv-462, 2019 WL 4674758, at \*2 (M.D.N.C. Sept. 25, 2019); *Cox v. Branch Banking & Tr. Co.*, 5:16-cv-10501, 2019 WL 164814, at \*5 (S.D. W. Va. Jan. 10, 2019) (collecting cases and stating, “In sum, there is a clear consensus among the federal and state courts, consistent with Supreme Court precedent, that the award of attorneys’ fees in common fund cases should be based on a percentage of the recovery. This consensus derives from the recognition that the percentage of fund approach is the better-reasoned and more equitable method of determining attorneys’ fees in such cases.”); *Krakauer v. Dish Network, L.L.C.*, No. 14-333, 2018 WL 6305785, at \*2 (M.D.N.C. Dec. 3, 2018); *Phillips v. Triad Guar. Inc.*, No. 1:09-cv-71, 2016 WL 2636289, at \*2 (M.D.N.C. May 9, 2016); *Archbold v. Wells Fargo Bank, N.A.*, No. 13-24599, 2015 WL 4276295, at \*5 (S.D. W. Va. July 14, 2015) (“[T]he Court concludes that there is a clear consensus . . . that the award of attorneys’ fees in common fund cases should be based on a percentage of the recovery.”).

This Court, of course, has long recognized this precept. Plaintiffs’ counsel, however, have also remained unwavering in making their fee requests as a percentage of the recovery in other class settlements. Consumer Litigation Associates and Kelly Guzzo have had tremendous success in class action litigation and have recovered substantial attorneys’ fees as a percentage of common fund. But in numerous other cases, including many in this Court, they have moved forward with settlement at a negative fee multiplier to ensure they sought only a (usually one-third) percentage of the cash recovered for the class. *See, e.g., Conley v. First Tennessee Bank, N.A.*, No. 1:10-cv-1247-TSE-JFA (E.D. Va.) (negative lodestar); *Mayfield v. Memberstrust Credit Union*, 3:07-cv-506 (E.D. Va.) (same); *Lengrand v. Wellpoint*, No. 3:11-cv-333-HEH (E.D. Va.) (same);

*Milbourne v. JRK Residential Am., LLC*, No. 3:12-cv-861-REP (E.D. Va.) (same); *Thomas v. FTS USA, LLC*, No. 3:13-cv-825-REP (E.D. Va.) (same).<sup>5</sup> The Court should continue its recognition that a percentage of common fund is the appropriate method of determining class counsel fees in a Rule 23(b)(3) settlement.

**2. The One-Third Fee Request is Appropriate and Reasonable.**

Under the Settlement Agreement, Class Counsel can seek an award for attorneys' fees and costs of one third of the Settlement Fund. In this case, that fee amounts to \$2,741,639.00, or one-third of the non-reversionary cash common fund of \$8,225,000.00.<sup>6</sup> This measure—one-third—is the appropriate and a reasonable percentage of fund. As this Court has offered, "Of course, any discussion of percentage awards should acknowledge the age-old assumption that a lawyer receives a third of his client's recovery under most contingency agreements." *Thomas v. FTS USA, LLC*, No. 3:13-cv-825, 2017 WL 1148283, at \*5 (E.D. Va. Jan. 9, 2017), *report and recommendation adopted*, No. 3:13-cv-825, 2017 WL 1147460 (E.D. Va. Mar. 27, 2017).

**a. One-Third Percentage is Consistent with Previous Fees.**

The Court has received the argument before—that in most cases, a common fund settlement should model traditional contingency fees. As this Court—observed nearly a decade ago, "Most settlements that I looked at seemed to be generally essentially, they are saying PI cases, average about a third." *Daily v. NCO Fin.*, 3:09-cv-31 (E.D. Va.), ECF No. 56, at 19:3–6. This conclusion is consistent with various studies which have been done over the decades. Indeed,

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<sup>5</sup> In each of these cases, present counsel elected to seek only a percentage of fund and made the same arguments they now make here.

<sup>6</sup> Class Counsel remain consistent in their Rule 23(b)(3) class settlements in monetizing—and seeking a percentage from—only the *cash* recovered for the Class. That is not a uniform practice. *See* § 15:71. Applying the percentage method—Value of fund—Valuing coupons under the Class Action Fairness Act (CAFA), 5 Newberg on Class Actions § 15:71 (5th ed.).

“empirical studies show that, regardless whether the percentage method or the lodestar method is used, fee awards in the class actions average around one-third of the recovery.” *Newberg on Class Actions* § 14:6 (4th ed.). One decision in fact reviewing 289 class actions settlements found an “average attorney’s fee percentage [of] 31.31%” and a median value “that turns out to be of one-third.” *In re Rite Aid Corp. Sec. Litig.*, 146 F. Supp. 2d 706, 735 (E.D. Pa. 2001). “Yet another study finds that courts consistently award between 30% and 33% of the common fund.” *Thomas v. FTS USA, LLC*, No. 3:13-cv-825 (REP), 2017 WL 1148283, at \*5 (E.D. Va. Jan. 9, 2017) (citing Theodore Eisenberg & Geoffrey P. Miller, *Attorney Fees in Class Action Settlements: An Empirical Study*, 1 J. of Empirical Legal Studies, 27, 31, 33 (2004)), *report and recommendation adopted*, No. 3:13-cv-825, 2017 WL 1147460 (E.D. Va. Mar. 27, 2017).<sup>7</sup>

This Court has also approved similar percentage awards in other FCRA and consumer protection cases. *Heath v. Trans Union*, No. 3:18-cv-720 (E.D. Va.), ECF No. 65 (approving a 33% fee request in an FCRA case); *Ridenour v. Sterling Infosystems, Inc.*, No. 2:15-cv-00041 (E.D. Va.), ECF No. 204 (Davis, J.) (approving a 32% fee request in an FCRA case against a background check company); *Wyatt, et al v. Early Warning Services, LLC and SunTrust*, No. 3:13-cv-662 (E.D. Va. May 21, 2015) (33.33% fee in FCRA case); *Henderson, et al v. AlliedBarton Security Services LLC, d/b/a HR Plus*, No. 3:14-cv-82 (E.D. Va. June 22, 2015) (33.33% fee request in an FCRA case against a background check company); *Henderson v. Acxiom*, No. 3:12-cv-589 (E.D. Va. August 7, 2015) (30% of net fund in FCRA case against background check company); *Thomas v. Backgroundchecks.com*, No. 3:13-cv-029-REP (E.D. Va. Aug. 11, 2015) (fee of \$5,149,000 amounting to roughly 30% of net fund in FCRA case against background check

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<sup>7</sup> Theodore Eisenberg & Geoffrey P. Miller actually observed “**a remarkable uniformity in awards between roughly 30% to 33% of the settlement amount.**” *Attorney Fees in Class Action Settlements: An Empirical Study*, 1 J. Empirical Legal Studies 27, 31, 33 (2004) (emphasis added).

company); *Soutter v. Equifax Information Services, LLC*, No. 3:10-cv-107 (E.D. Va. April 5, 2016) (fee of \$3,725,000, amounting to 33.33% of cash paid to class in FCRA case); *Gibbs v. TCV V, LP*, No. 3:19-cv-789 (E.D. Va.) (33.33%); *Gibbs v. Rees*, No. 3:20-cv-717 (E.D. Va.) (33.33%); *Galloway v. Williams*, No. 3:19-cv-470, 2020 WL 7482191, at \*11 (E.D. Va. Dec. 18, 2020) (“33% of a common fund.” (citing *In re Celebrex (Celecoxib) Antitrust Litig.*, No. 2:14-cv-361, 2018 WL 2382091, at \*5 (E.D. Va. Apr. 18, 2018))); *see also Liggio v. Apple Federal Credit Union*, No. 1:18-cv-01059-LO-MSN (E.D. Va.) (approving one-third of common fund fee request); *Lambert v. Navy Federal Credit Union*, No. 1:19-cv-103 (E.D. Va.) (approving a one-third of common fund fee request inclusive of costs); *see also* Ex. 3, Declaration of Dale W. Pittman.

Other courts have also approved similar fee requests in FCRA cases, including cases that did not achieve nearly the same results as this case. *Gibbs*, 2018 WL 6983498, at \*8 (approving a 30% fee where each class member received a gross recovery of \$100); *Serrano*, 711 F. Supp. 2d at 416, 421 (approving a 33.1% fee where class members received less than \$100); *Estes*, 2019 WL 141564 at \*8 (awarding 33% fee where each of the 764 FCRA Class members received \$75); *Gustafson v. Valley Ins. Co.*, 2004 WL 2260605, at \*1 (D. Or. 2004) (approving a 30% fee percentage where the settlement resulted in the creation of a fund totaling “approximately 50% of the Class’s maximum statutory damages authorized under FCRA”); *Moore v. Aerotek, Inc.*, 2017 WL 2838148, at \*4 (S.D. Ohio June 30, 2017) (approving a 33% fee of a common fund of \$15,000,000,” where class members were to receive “payments between \$13-\$80”). These cases, especially when compared to the excellent result obtained by Class Counsel, demonstrate that the requested fee percentage is reasonable and appropriate.

**b. *The Degree of Success Supports the One-Third Percentage.***

In the Fourth Circuit, “the most critical factor in calculating a reasonable fee award is the degree of success obtained.” *McDonnell v. Miller Oil Co.*, 134 F.3d 638, 641 (4th Cir. 1998)

(citation and internal quotation omitted). As this Court has noted, “The results obtained factor plays the most important role in a fee award.” *Thomas v. FTS USA, LLC*, No. 3:13CV825 (REP), 2017 WL 1148283, at \*5 (E.D. Va. Jan. 9, 2017), *report and recommendation adopted*, No. 3:13-cv-825, 2017 WL 1147460 (E.D. Va. Mar. 27, 2017). In this matter, the degree of success in is extraordinary. The FCRA statutory damages ceiling is \$1,000. 15 U.S.C. § 1681n. Each class member eligible for payment will receive a check that exceeds the maximum statutory damages amount that they could have been awarded at trial. This is obviously an excellent result as it guarantees all class members an amount that exceeds the available recovery at trial without any risk of loss.

A comparison of this class settlement with other comparable settlements also demonstrates that the settlement is an excellent result. *See, e.g., Reyes v. Experian Info. Sols., Inc.*, 2021 WL 1310961, at \*1 (9th Cir. Apr. 8, 2021) (noting that the proposed settlement resulted in class members receiving “at least \$270 after deductions” in a § 1681e(b) case); *Serrano v. Sterling Testing Sys., Inc.*, 711 F. Supp. 2d 402, 416 (E.D. Pa. 2010) (approving an FCRA settlement where “Plaintiffs have secured a result which comes close to the minimum range of [statutory] damages without any risk”); *Lengel v. HomeAdvisor, Inc.*, 2017 WL 364582, at \*9 (D. Kan. Jan. 25, 2017) (approving, with modifications, a settlement where “each settlement class member will receive at least \$50”); *Pietras v. Sentry Ins. Co.*, 513 F. Supp. 2d 983, 985 (N.D. Ill. 2007) (citing “eighteen cases, which settled for an average of \$34.59 per class member”); *Bailes v. Lineage Logistics, LLC*, 2016 WL 4415356, at \*6 (D. Kan. Aug. 19, 2016) (approving an FCRA settlement for \$149,205 for a class of 3,430, which correlates to \$43.50 per person); *Estes v. L3 Techs., Inc.*, 2019 WL 141564, at \*2 (S.D. Cal. Jan. 9, 2019) (granting final approval of class settlement of “FCRA claims” where “each of the 764 FCRA Class members receives \$75”). As one court has noted:

after conducting a review of similar FCRA class actions, the Court concludes that the per-class member gross recovery of \$100.00 obtained in this case is an **excellent result** and weighs in favor of the requested fee award [of 30% of the fund].

*Gibbs v. Centerplate, Inc.*, 2018 WL 6983498, at \*8 (M.D. Fla. Dec. 28, 2018) (emphasis added), *report and recommendation adopted*, 2019 WL 1093441 (M.D. Fla. Jan. 7, 2019).<sup>8</sup> In short, when considering the available damages under the FCRA and comparable litigation, there can be no doubt that this settlement is excellent by every measure.

**c. *The Risks Taken Support a One-Third Percentage.***

As noted above, the fee here was earned by a team of attorneys who assumed all of the risk to achieve it. From the outset, Class Counsel litigated this case on a contingent basis, risking their own time and resources in litigation. As one court has explained: allowing a reasonable contingency fee is favored because “very few lawyers c[an] take on the representation of a class client given the investment of substantial time, effort and money, especially in light of the risks of recovering nothing.” *Behrens v. Wometco Enters.*, 118 F.R.D. 534, 548 (S.D. Fla. 1988); *see also Decohen v. Abbasi, LLC*, 299 F.R.D. 469, 482 (D. Md. 2014) (“public policy favors the requested award” where risk of nonpayment exists “because the relevant public policy considerations involve the balancing of the policy goals of encouraging counsel to pursue meritorious . . . litigation.” (citation and internal quotations omitted)).

In addition to the inherent risk of class actions, courts have recognized that “risks relevant to assessing an atypically large or small fee request are the distinctive risks specific to a particular litigation.” *Good v. W. Virginia-Am. Water Co.*, No. 14-1374, 2017 WL 2884535, at \*25 (S.D. W.Va. July 6, 2017). Here, there was a significant risk of non-payment when considering

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<sup>8</sup> Class Counsel here have led and obtained dozens of FCRA class action settlements, many greater than these cited outcomes. Even still, only a handful have exceeded \$1,000 class member recoveries.

CoreLogic's primary defenses, namely that the case was not eligible for class certification and that Plaintiff could not establish a willful violation. While Plaintiff believed that they would overcome both of these arguments, courts have routinely denied certification in FCRA class actions and cases have often been dismissed or lost on willfulness. *See, e.g., Kelly v. RealPage, Inc.*, No. 2:19-cv-01706-JDW, 2020 WL 7479620, at \*1 (E.D. Pa. Dec. 18, 2020) (denying class certification in a case involving a background check company); *Shekar v. Accurate Background, Inc.*, 428 F. Supp. 3d 9, 13 (E.D. Wis. 2019) (denying motion for class certification of FCRA case). A loss on certification would mean that class members would receive nothing. The same is true for a loss on willfulness as the FCRA only permits recovery of statutory damages when a plaintiff proves a willful violation. *Compare* 15 U.S.C. § 1681n, *with* 15 U.S.C. § 1681o (only allowing for actual damages when a violation is negligent).

This Court has had a front row seat to two of the clearest examples of this risk taken, case lost, and foregone fees and expenses. In *Henderson v. Trans Union, LLC*, present counsel successfully obtained class certification of a class of several hundred thousand consumers. 3:14-cv-00679-JAG, ECF 80 (E.D. Va. May 3, 2016). Counsel then advanced the costs for notice and continued litigation of the case. Nearly a year later, after roughly \$100,000 in notice and related costs and significantly more in fee had been incurred, the Court granted summary judgment against the plaintiff and class. *Id.*, ECF No. 118 (E.D. Va. March 3, 2017). Worse still, even if successful on class certification and at trial, there is also uncertainty on appeal. *See, e.g., Dreher v. Experian Info. Sols., Inc.*, 856 F.3d 337, 340 (4th Cir. 2017) (vacating a class judgment of approximately \$12 million and dismissing the case).

Class Counsel assumed a very real risk in taking on this complex case. These two factors, risk and complexity, are evaluated together and are reflected by the results that Class Counsel achieved in the Settlement, as detailed above. There were risks and uncertainty in this case,

including proving willfulness to recover punitive damages, obtaining class certification, and surviving summary judgment. There was also a risk that class members would be more difficult to locate as the litigation continued. Class Counsel took the case on a contingency basis, and invested substantial time, effort, and money with no guarantee of any recovery.

**d. *The Degree of Success was Because of the Experience and Skill of Class Counsel, further Supporting a One-Third Percentage.***

As this Court has also recognized on multiple occasions, Class Counsel have extensive experience in consumer class-action litigation, and in FCRA litigation in particular. Class Counsel have been on the forefront of FCRA litigation related to the inaccurate matching of public records to consumers' reports.<sup>9</sup> No attorneys or firms have more experience in this area; and none of have achieved the results of Class Counsel in comparable cases. For example, in approving as class counsel these two firms here, District Judge Novak described Class Counsel as "the all-star team of consumer litigation." *Turner v. Zestfinance, Inc.*, 3:19-cv-293,(E.D. Va.). Other judges in this Court have also repeatedly recognized Class Counsel's quality and skill in consumer class-action litigation, and in FCRA litigation in particular. *See, e.g., Clark v. Trans Union, LLC*, 3:15-cv-391, 2017 WL 814252, at \*13 (E.D. Va. 2017) (collecting cases and stating "This Court has repeatedly found that [proposed Class Counsel] is qualified to conduct such litigation. . . . This Court echoes the sentiments previously stated about [proposed Class Counsel] because they pertain here with

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<sup>9</sup> *See, e.g., Witt v. CoreLogic SafeRent, LLC*, 3:15-cv-386 (E.D. Va.); *Henderson v. CoreLogic Nat'l Background Data, LLC*, 3:12-cv-97 (E.D. Va.); *Smith v. Sterling Infosystems, Inc.*, 1:16-cv-714 (N.D. Ohio); *Thomas v. First Advantage Screening Solutions, Inc.*, 1:13-cv-04161-CC-LTW (N.D. Ga.); *Henderson v. Backgroundchecks.com*, 3:13-cv- 29 (E.D. Va.); *Henderson v. Acxiom Risk Sols.*, 3:12-cv-589 (E.D. Va.); *Roe v. Intellicorp*, 1:12-cv-02288 (N.D. Ohio); *White v. CRST*, 1:11-cv-2615 (N.D. Ohio); *Henderson v. Verifications, Inc.*, 3:11-cv-514 (E.D. Va.); *Ceccone v. Equifax Info. Servs. LLC*, 2016 WL 5107202, at \*1 (D.D.C. Aug. 29, 2016); *Williams v. Corelogic Rental Property Solutions, LLC*, Case No. 8:16-cv-58 (D. Md.); *Brown v. RP On-Site, LLC*, Case No. 1:20-cv-00482 (E.D. Va. 2020); *Jenkins v. Realpage, Inc.*, 2:15-cv-1520 (E.D. Pa.); *Kelly v. First Advantage Background Services, Corp.*, 3:15-cv-5813 (D.N.J.).



equal vigor.” (citations omitted)); *Galloway v. Williams, Jr.*, 2020 WL 7482191, at \*8 (E.D. Va. Dec. 18, 2020) (finding “Class Counsel and their firms have extensive backgrounds in complex and class action litigation and consumer protection litigation”) (citing, e.g., *Hayes, et al. v. Delbert Servs. Corp.*, 3:14-cv-00258-JAG, ECF No. 193 ¶ 4, 14 (Jan. 20, 2017)); *Dreher v. Experian Info. Sols., Inc.*, 3:11-cv-00624-JAG, 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.”); *Manuel v. Wells Fargo Bank, Nat’l Ass’n*, No. 3:14-cv-238, 2016 WL 1070819, at \*3 (E.D. Va. Mar. 15, 2016) (stating that “this Court would have difficulty overstating Class Coun’el’s experience[.]”); see also Exs. 2, 3.<sup>10</sup>

In addition to broad FCRA class experience, Class Counsel has been on the forefront of litigation targeting FCRA violations based on this Defendant’s matching of criminal and sex offender records. See, e.g., *Witt v. CoreLogic SafeRent, LLC*, 3:15-cv-386 (E.D. Va.); and *Henderson v. CoreLogic Nat’l Background Data, LLC*, 3:12-cv-97 (E.D. Va.); *Williams v. Corelogic Rental Property Solutions, LLC*, Case No. 8:16-cv-58 (D. Md.). It is through this extensive litigation and familiarity with this Defendant that Class Counsel was able to leverage such a remarkable settlement. Additionally, Class Counsel is on the forefront of litigation relating to the inaccurate matching of public records more generally to consumers’ reports. These types of cases are far more challenging than a typical FCRA class action because they inevitably require acquiring and cross-referencing of data from multiple sources and jurisdictions to prove a record was, in fact, inaccurately attributed to a class member. Put differently, proving class membership

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<sup>10</sup> *Soutter v. Equifax Info. Servs., LLC*, No. 3:10-cv-107, 2011 WL 1226025 (E.D. Va. Mar. 30, 2011) (“[T]he Court finds that Soutter’s counsel is qualified, experienced, and able to conduct this litigation. Counsel is experienced in class action work, as well as consumer protection issues, and has been approved by this Court and others as class counsel in numerous cases.”); *Heath v. Trans Union*, No. 3:18-cv-720 (E.D. Va. Aug. 6, 2019) (Kelly Guzzo’s “reputation in this district, and I am sure in others, are sterling.”).

or liability in this case is not as simple as, for example, determining such problems as whether a consumer received a form disclosure that failed to provide certain information, whether a form credit report omitted the actual source of the information, or whether reporting uniform information in a certain manner was inaccurate or misleading.

Class Counsel's significant experience in this specialized litigation allowed them to achieve the excellent result in this case. After the Court denied the Motion to Transfer Venue on November 20, 2020 (ECF 33), Class Counsel immediately sought the discovery necessary to prove class membership. This process was aided by recent, similar litigation involving Class Counsel and the same defense team in a case before Judge Trenga. *Brown v. RP On-Site, LLC*, Case No. 1:20-cv-00482 (E.D. Va.). In that litigation, Class Counsel was able to obtain certain data from a comparable consumer reporting agency who, like here, was alleged to have violated the FCRA by allowing sex offender records to be attributed to consumers who had different dates of birth than the registered sex offenders. (*See, e.g.*, ECF No. 1 at ¶ 4.) Using an expert who specializes in programming and data analytics, Class Counsel was able to identify class members by acquiring data from courts and sex offender registries and cross-referencing data from the consumer reports with data from multiple sources and jurisdictions. Over the course of several months, Class Counsel engaged in the same process in this case. These time-consuming, complicated, and exhaustive efforts armed Class Counsel with the leverage needed to negotiate an excellent result during the parties' mediation efforts.

**3. No class member has objected to the settlement or requested fees.**

To date, no class member has objected to the Settlement or the proposed attorneys' fee amount. And despite delivery of the required CAFA notice to each state Attorney General and the appropriate federal agencies, not one has reached out with a concern. While it is late in the process, technically the objection deadline has not passed. If by chance an objection is made, Class Counsel

will file a separate response. But it is of course an important factor as to fees and it is notable that none of the class members who are responsible for paying the attorneys' fee has objected to the proposed amount.

### III. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court enter an individual award of \$7,500 to Plaintiff for his service as class representative, as well as \$2,741,639.00 (*i.e.*, one third of the common fund) in fees and costs to be awarded to Class Counsel.

Respectfully submitted,  
**TERRY BROWN**

By:           /s/ Leonard A. Bennett            
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*Counsel for Plaintiff*

# Exhibit 1

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

TERRY BROWN, *on behalf of himself and* :  
*all similarly situated individuals,* :

Plaintiff, :

v. :

Civil Action No. 3:20-cv-363

CORELOGIC RENTAL PROPERTY :  
SOLUTIONS, LLC, :

Defendant. :

**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 Plaintiff 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, I have been and presently am a member in good standing of the Bar of the highest courts of the

District of Columbia and since 2014 of 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 include seeking 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 in the areas of consumer law, including mortgage servicing abuses, landlord tenant defense, dealing with debt collectors, credit reporting, defenses to foreclosure, discovery in federal court, resolving cases, and internet lending for various legal aid organizations, state and local bar associations, National Consumer Law Center, Consumer Federation of America, National Council of Higher Education and National Association of Consumer Advocates at its various conferences. I was also recently asked to be 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 nine years. Additionally, I was selected to be a member 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 Eastern District of Virginia, in both the Richmond and Alexandria Divisions.

8. 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*, Case No. 1:12-cv-510 (E.D. Va.); *Conley v. First Tennessee Bank*, Case No. 1:10-cv-1247 (E.D. Va.); *Dreher v. Experian Information Solutions, Inc.*, Case No. 3:11-cv-624 (E.D. Va.); *Shami v. Middle East Broadcast Network*, Case No. 1:13-cv-467 (E.D. Va.); *Goodrow v. Friedman & MacFadyen*, Case No. 3:11-cv-20 (E.D. Va.); *Kelly v. Nationstar*, Case No. 3:13-cv-311 (E.D. Va.); *Thomas v. Wittstadt*, Case 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*, Case No. 3:14-cv-695 (E.D. Va.); *Burke v. Shapiro, Brown & Alt, LLP*, Case No. 3:14-cv-838 (E.D. Va.); *Bartlow, et al., v Medical Facilities of America, Inc.*, Case No. 3:16-cv-573 (E.D. Va.); *Blocker v. Marshalls of MA, Inc.*, Case No. 1:14-cv-1940 (D.D.C.); *Ceccone v. Equifax Info. Servs., LLC*, Case No. 1:13-cv-1314 (D.D.C.); *Jenkins v. Equifax Info. Servs., LLC*, Case No. 1:15-cv-443 (E.D. Va.); *Ridenour v. Multi-Color Corporation*, Case No. 2:15-cv-00041 (E.D. Va.); *Hayes v. Delbert Services Corp.*, Case No. 3:14-cv-258 (E.D. Va.); *Campos-Carranza v. Credit Plus, Inc.*, Case No. 1:16-cv-120 (E.D. Va.); *Jenkins v. Realpage, Inc.*, Case No. 2:15-cv-1520 (E.D. Pa.); *Kelly v. First Advantage Background Services, Corp.*, Case No. 3:15-cv-5813 (D.N.J.); *Burke v. Seterus, Inc.*, Case No. 3:16-cv-785 (E.D. Va.); *Williams v. Corelogic Rental Property Solutions, LLC*, Case No. 8:16-cv-58 (D. Md.); *Clark v. Trans Union, LLC*, Case No. 3:15-cv-391 (E.D. Va.); *Clark v. Experian Information Solutions, Inc.*, Case No. 3:16-cv-32 (E.D. Va.); *Thomas v. Equifax Info. Servs., LLC*, Case No. 3:18-cv-684 (E.D. Va.); *Heath v. Trans Union, LLC*, Case No. 3:18-cv-720 (E.D. Va.), *Turner, v.*

*ZestFinance, Inc.*, Case No. 3:19-cv-293 (E.D. Va.); *Galloway v. Williams*, Case No. 3:19-cv-470, 2020 WL 7482191, at \*4 (E.D. Va. Dec. 18, 2020); *Gibbs v. TCV V, LP*, Case No. 3:19-cv-789 (E.D. Va.); *Gibbs v. Rees*, Case No. 3:20-cv-717 (E.D. Va.); *Pang v. Credit Plus, Inc.*, Case No. 1:20-cv-122 (D. Md.); and *Brown v. RP On-Site, LLC*, Case No. 1:20-cv-482 (E.D. Va.).

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

10. Andrew Guzzo was an associate at Surovell Isaacs Petersen & Levy, PLC and is currently is a partner at Kelly Guzzo, PLC. 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, 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.

11. Casey Nash was an associate at Consumer Litigation Associates, PC and is currently an associate at Kelly Guzzo, PLC. 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-action cases. 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. She has been approved as class counsel in numerous class action cases, 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.).

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

13. J. Patrick McNichol is another lawyer at Kelly Guzzo, PLC. Prior to joining Kelly Guzzo, Mr. McNichol 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, where he worked on the largest MDL in federal court history; and then, for the Honorable M. Hannah Lauck of the United States District Court for the Eastern District of Virginia. Pat has twice been named one of *The Best Lawyers in America: Ones to Watch for Banking and Finance Law* (2021 and 2022), and he twice co-authored the Virginia chapter in the ABA's *The Law of Class Action: Fifty-State Survey* (2020 and 2021).

14. Natalie Cahoon is a paralegal at Kelly Guzzo, PLC, with over five years of experience in the legal field. She graduated from the University of Maine.

15. The majority of work my law firm handles is contingent, *pro bono* or brought under a fee-shifting statute, so our clients do not get charged a fee. My law firm takes on significant risk on 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. And class action cases are even more risky, because they require more front-end work and the risk of nonpayment remains. 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, seek relief for those harmed by the conduct who are usually unaware of their rights or unable to afford counsel, and deter other actors from the same behavior.

16. We completed significant work in this case, including: 1) spending significant time and resources investigating the claims, reviewing Plaintiff's documents, obtaining the underlying court records and preparing the complaint; 2) conducting discovery, including written discovery, third-party discovery; motions practice; 3) the engagement of an expert to support our claims and help identify the class; and 4) significant formal and informal settlement discussions.

17. My office also spent a significant amount of time analyzing the class-member data that CoreLogic produced in discovery in order to compile a class list. This effort required hosting this sensitive data on a secure sever and working with an expert to identify a methodology for identifying class members, and then cross-referencing class-member data with court records from various jurisdictions to make sure our methodology was sound. This effort was undertaken prior to the mediation with Rodney Max and took several months after a settlement was reached to confirm the class-member data.

18. My law firm has also advanced \$10,436.04 in costs. These costs include filing fees, process server fees, federal express charges, public records research, copying fees, expert witness fees, and secure database hosting charges.

19. I am familiar with the fees charged by other attorneys and approved by this Court for class action litigation. Attorneys' fees in most class settlements are calculated as a percentage of the settlement fund unless a fee amount is separately negotiated at the settlement, usually with the assistance of a mediator or Magistrate Judge. Most percentage fees in class settlements that I am aware of are generally between 30-35%. I believe that an attorneys' fee and cost award of one-third in this instance is fair and appropriate. It is for these three main reasons: 1) both Consumer Litigation Associates and my law firm were familiar with this Defendant and had extensive litigation in the past with it<sup>1</sup>, allowing us to bring and litigate this matter in an efficient and strategic manner that provided an extraordinary result; 2) both Consumer Litigation Associates and my law firm are one of just a handful of law firms in the country that have experience litigating both tenant screening cases and public records mismatch cases; 3) it promotes sound public policy to encourage thoughtful, efficient and strategic litigation, such as this, making this settlement possible.

20. We were also able to litigate this case efficiently because of previous work that we had conducted in a similar class case against CoreLogic's competitor, RP On-Site, Inc. *Brown v. RP On-Site, LLC*, 1:20-cv-482 (E.D. Va.). In that case, my firm requested hundreds of court files and subpoenaed sex offender registries across the country, which assisted our identification of the class in this case, allowing us to litigate the case efficiently.

21. I am very proud of this settlement and our work to identify class members who will receive a substantial payment to remedy their housing denials.

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<sup>1</sup> See *Williams v. Corelogic Rental Property Solutions, LLC*, Case No. 8:16-cv-58 (D. Md.); *Witt v. CoreLogic SafeRent, LLC*, 3:15-cv-386 (E.D. Va.); *Henderson v. CoreLogic Nat'l Background Data, LLC*, 3:12-cv-97 (E.D. Va.).

22. Lastly, the Plaintiff was committed to litigating this case as a class action and securing relief for all of the class members affected by CoreLogic's conduct.

23. Throughout the course of this litigation, the Plaintiff regularly communicated with counsel to stay updated on the case's status, reviewed the copies of pleadings that we sent to him, and stayed informed of settlement negotiations. He was also available for consultation during the mediation session and reviewed and approved the settlement agreement.

24. The Plaintiff also put his reputation and privacy on the line by agreeing to participate in this litigation. He spent significant time and effort to help Class Counsel prosecute the claims on behalf on the class.

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

Signed this 10th of January, 2022.

/s/ Kristi C. Kelly  
Kristi C. Kelly

# Exhibit 2

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

TERRY BROWN, *on behalf of himself and* :  
*all similarly situated individuals,* :

Plaintiff, :

v. :

Civil Action No. 3:20-cv-363

CORELOGIC RENTAL PROPERTY :  
SOLUTIONS, LLC, :

Defendant. :

**DECLARATION OF LEONARD A. BENNETT IN SUPPORT OF  
PLAINTIFFS' MOTION FOR FINAL APPROVAL OF SETTLEMENT**

I, Leonard A. Bennett, hereby declare the following:

1. My name is Leonard A. Bennett. 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 submit this Declaration in support of Plaintiff's Consent Motion for Final Approval of Class Action Settlement.

**Consumer Litigation Associates, P.C.**

3. I am one of the attorneys working on behalf of the Plaintiff and the Class in the above-styled litigation, and I am an attorney and principal of the law firm of Consumer Litigation Associates, P.C., a six-attorney law firm with offices in Hampton Roads, Richmond, Alexandria and Harrisonburg, Virginia. My primary office is at 763 J. Clyde Morris Boulevard, Suite 1-A, Newport News, Virginia 23601.

4. Since 1994, 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. Additionally, since 1995, I have been a member in good standing of the Bar of the highest court of the State of North Carolina.

5. I have also been admitted to practice before and am presently admitted to numerous other federal courts. I have also been admitted to or by *pro hac vice* in United States District Courts including Alabama, Arizona, California, Connecticut, Florida, Georgia, Hawaii, Idaho, Illinois, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Nevada, New Hampshire, New Jersey, New York, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Washington, West Virginia, Wisconsin, Wyoming, and the District of Columbia.

6. I was selected as the 2017 Consumer Lawyer of the Year by the National Association of Consumer Advocates.

7. In both 2019 and 2020, my firm earned the National Law Journal's Elite Trial Lawyers Award for top firm in Financial Products class action litigation.

8. In 2019, CLA was selected as the co-recipient of the Frankie Muse Freeman Organizational Award – the year's top Pro Bono law firm – by the Virginia State Bar.

9. Public interest leaders in the consumer protection field have also offered substantial praise for our law firm. Paul Bland, Executive Director of Public Justice, wrote of the law firm Bennett runs, "CLA is an elite consumer protection law firm. They are at the pinnacle of their field, one of the very most successful law firms in the country at representing individual consumers or classes of consumers, particularly those who've suffered from privacy injuries."

10. Ira Rheingold, Executive Director, National Association of Consumer Advocates joined, “The work they do is on the cutting edge of consumer law and is guided by a unique passion and desire to achieve real justice for their clients and for consumers in general.”

11. And Stuart Rossman, Director of Litigation of the National Consumer Law Center offered, “Consumer Litigation Associates is one of the most innovative, and successful, consumer advocacy practices in the United States. CLA attorneys are recognized as the leading experts in their field whose legal acumen is highly respected and appreciated within our consumer advocacy community.”

12. Since before 2001, I have spoken at numerous CLE programs, seminars, and events in the area of Consumer Protection litigation.<sup>1</sup>

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<sup>1</sup> NCLC 2021 Mortgage Conference, Credit Reporting Issues in Mortgage Cases, June 25, 2021; NACA Online Spring Training 2021, COVID and Post-COVID Issues in FCRA Litigation, April 30, 2021; NCLC 2020 Consumer Rights Litigation Conference, Discovery in FCRA Cases, November 18, 2020; NACA Webinar, Understanding the Metro 2 Reporting Format, September 24, 2020; NCLC 2021 Mortgage Conference, Credit Reporting Issues in Mortgage Cases, June 25, 2021; NACA Online Spring Training 2020, Dealing with FCRA Paradigm Shifts: New Equifax Defense and COVID-19 Challenges, May 11, 2020; NACA Webinar, Virtual Depositions, March 31, 2020; National Consumer Law Center, Consumer Rights Conference, Denver, Colorado (November 2018); Military U.S. Navy Legal Assistance, Consumer Awareness, Buying, Financing and Owning an Automobile (July 2018); Practicing Law Institute (PLI), 23rd Annual Consumer Financial Services Institute, April 2018; National Consumer Law Center, Consumer Rights Conference, Washington, D.C., Speaker (November 2017); National Consumer Law Center, Consumer Rights Conference, Anaheim, California, Speaker for Multiple Sessions (October 2016); Fair Debt Collection Practices Act/Fair Credit Reporting Act, Norfolk and Portsmouth, VA Bar Association (October 29, 2015); National Consumer Law Center, Consumer Rights Conference, Washington, D.C., Speaker for Multiple Sessions (November 2013); National Consumer Law Center, Fair Debt Collection Practices Act Conference, Fair Credit Reporting Act Claims Against Debt Buyers, March 2013; National Association of Consumer Advocates, Webinar CLE: FCRA Dispute Process, December 2012; Rossdale CLE, Fair Credit Reporting Act (August 2012); Virginia Trial Lawyers Association, Advocacy Seminar - October, 2011; National Association of Consumer Advocates, Fair Credit Reporting Act National Conference - Memphis, TN, May 2011; Stafford Publications CLE, National Webinar, “FCRA and FACTA Class Actions: Leveraging New Developments in Certification, Damages and Preemption” (April 2011); National Consumer Law Center, National Consumer Rights Conference, Boston, Speaker for Multiple Sessions, November, 2010; Virginia State Bar, Telephone and Webinar Course, Virginia, 2009; “What’s Going On Here? Surging Consumer Litigation - Including Class Actions in State and Federal Court”; National Association of Consumer Advocates, Fair Credit Reporting Act National Conference, Chicago, IL, May 2009; National Consumer Law Center, National Consumer Rights Conference, Philadelphia, Speaker for Multiple Sessions, November 2009; National Consumer Law Center, National Consumer Rights Conference, Portland, OR, Speaker for Multiple Sessions, November 2008; Washington State Bar, Consumer Law CLE, Speaker, September 2008; Washington State Bar, Consumer Law CLE, Speaker, July 2007; House Financial Services Committee, June 2007; National Consumer Law Center, National Consumer Rights Conference, Washington, D.C., Speaker for Multiple Sessions, November 2007; National Association of Consumer Advocates, Fair Credit Reporting Act National Conference; Denver, Colorado, May 2007, Multiple Panels; U.S. Army JAG School, Charlottesville, Virginia, Consumer Law Course Instructor, May



13. I testified before the United States House Financial Services Committee on multiple occasions. In 2014, I spoke before the Consumer Financial Protection Bureau Consumer Advisory Board.

14. I have also served on a Federal Trade Commission Round Table and Governor Kaine's Virginia Protecting Consumer Privacy Working Group all within this field. I was recently on the Board of Directors of the National Association of Consumer Advocates, and am on the Partners Council of the National Consumer Law Center, on the Board of Directors for Public Justice and the Advisory Council of the Virginia Poverty Law Center.

15. I have been named as a multi-year Super Lawyer, a Law Dragon Top 500 Plaintiffs' Attorney, to Best Lawyers in America and a Virginia Leader in the Law.

16. Our firm has been selected by U.S. NEWS & WORLD REPORT Best Law Firm, First Tier Nationwide.

17. I was and am one of the contributing authors of the leading and comprehensive treatises published by National Consumer Law Center and used by judges and advocates nationally, including the leading treatise in the case field, FAIR CREDIT REPORTING.

### **Consumer Litigation Associates, P.C.'s Experience**

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2007; Georgia State Bar, Consumer Law CLE, Speaker, March 2007; Contributing Author, Fair Credit Reporting Act, Sixth Edition, National Consumer Law Center, 2006; National Consumer Law Center, National Consumer Rights Conference, Miami, FL, Speaker for Multiple Sessions, November 2006; Texas State Bar, Consumer Law CLE, Speaker, October 2006 Federal Claims in Auto fraud Litigation; Santa Clara University Law School, Course, March 2006; Fair Credit Reporting Act; Widener University Law School, Course, March 2006 Fair Credit Reporting Act; United States Navy, Navy Legal Services, Norfolk, Virginia, April 2006 Auto Fraud; Missouri State Bar CLE, Oklahoma City, Oklahoma; Identity Theft; National Consumer Law Center, National Consumer Rights Conference, Boston, Mass, Multiple panels; National Association of Consumer Advocates, Fair Credit Reporting Act National Conference, New Orleans, Louisiana (May 2005), Multiple Panels; United States Navy, Naval Justice School (JAG Training), Newport, Rhode Island, Consumer Law; American Bar Association, Telephone Seminar; Changing Faces of Consumer Law, National Consumer Law Center, National Consumer Rights Conference, Boston, Mass; Fair Credit Reporting Act Experts Panel; and ABCs of the Fair Credit Reporting Act; National Association of Consumer Advocates, Fair Credit Reporting Act National Conference, Chicago, Illinois; Multiple Panels; Oklahoma State Bar CLE, Oklahoma City, Oklahoma, Identity Theft; Virginia State Bar, Telephone Seminar, Identity Theft; United States Navy, Naval Justice School (JAG Training), Newport, Rhode Island, Consumer Law; United States Navy, Navy Legal Services, Norfolk, Virginia, Auto Fraud; Virginia State Bar, Richmond and Fairfax, Virginia, Consumer Protection Law; Michigan State Bar, Consumer Law Section, Ann Arbor, Michigan, *Keynote Speaker*.

18. I have substantial experience in complex litigation, including class action cases, prosecuted in Federal court.

19. I have litigated scores of class action cases based on consumer protection claims in the past decade. In each of the class cases, when asked to do so by either contested or uncontested motion, the court found me to be adequate class counsel. In each of these, I served in a lead or executive committee counsel role. Just a few of comparable cases include, by example only: *Pitt v. K-Mart Corp*, 3:11-cv-697 (E.D. Va.); *Ryals v. HireRight Sols., Inc.*, 3:09-cv-625 (E.D. Va.); *White v. Experian Info. Sols. Inc.*, 8:05-cv-01070 (C.D. Cal.); *Teagle v. LexisNexis Screening Sols., Inc.*, 1:11-cv-1280 (N.D. Ga.); *Roe v. Intellicorp*, 1:12-cv-02288 (N.D. Ohio); *White v. CRST*, 1:11-cv-2615 (N.D. Ohio); *Williams v. LexisNexis Risk Mgmt.*, 3:06-cv-241 (E.D. Va.); *Goode v. LexisNexis*, 11-cv-2950 (E.D. Pa.); *Beverly v. Wal-Mart Stores, Inc.*, 3:07-cv-469 (E.D. Va.); *Berry v. LexisNexis Risk & Info. Analytical Group*, 3:11-cv-754 (E.D. Va.); *Stinson v. Advance Auto Parts, Inc.*, (W.D. Va.); *Black v. Winn-Dixie Stores, Inc.*, 3:09-cv-502 (M.D. Fla.); *Cappetta v. GC Servs. LP*, 3:08-cv-288-JRS (E.D. Va.); *Henderson v. Verifications, Inc.*, 3:11-cv-514 (E.D. Va.); *Harris v. US Physical Therapy, Inc.*, 2:10-cv-1508 (D. Nev.); *Domonoske v. Bank of Am., N.A.*, 5:08-cv-66 (W.D. Va.); *Smith v. Telecris Biotherapeutics, Inc.*, 1:09-cv-153 (M.D.N.C.); *Daily v. NCO Fin.*, 3:09-cv-31 (E.D. Va.); *Lengrand v. Wellpoint*, 3:11-cv-333 (E.D. Va.); *Burke v. Shapiro, Brown & Alt, LLP*, No. 3:14-cv-838 (DJN) (E.D. Va.); *Ridenour v. Multi-Color Corp.*, No. 2:15-cv-41-MSD-DEM (E.D. Va.); *Manuel v. Wells Fargo Nat'l Ass'n*, No. 3:14-cv-238 (E.D. Va.); *Thomas v. FTS USA, LLC*, No. 3:13-cv-825-REP (E.D. Va.); *Milbourne v. JRK Residential Am., Inc.*, No. 3:12-cv-861-REP (E.D. Va.); *Hall v. Vitran Express, Inc.*, No. 1:09-cv-00800 (N.D. Ohio); *Anderson v. Signix, Inc.*, No. 3:08-CV-570 (E.D. Va.); *Reardon v. Closetmaid*, No. 2:08-cv-1730 (W.D. Pa.); *Bell v. U.S. Express, Inc.*, 1:11-CV- 181 (E.D. Tenn.); *Goode v. First*

*Advantage LNS Screening Sols., Inc.*, 2:11-cv-2950 (E.D. Pa.) *Ellis v. Swift Transp. Co. of Az.*, 3:13-cv-473 (E.D. Va.); *Edwards v. Horizon Staffing, Inc.*, No. 1:13-cv-3002 (N.D. Ga.); *Shami v. Middle E. Broadcasting, Inc.*, 1:13-cv-467 (E.D. Va.); *Marcum v. Dolgencorp*, 3:12-cv-108 (E.D. Va.); *Wyatt v. SunTrust Bank*, 3:13-cv-662 (E.D. Va.); *Henderson v. HRPlus*, No. 3:14-cv-82 (E.D. Va.); *Henderson v. Backgroundchecks.com*, 3:13-cv-29 (E.D. Va.); *Henderson v. Acxiom Risk Sols.*, 3:12-cv-589 (E.D. Va.); *Ryals v. Strategic Screening Sols., Inc.*, 3:14-cv-00643-REP (E.D. Va.); *Thomas v. First Advantage Screening Solutions, Inc.*, 1:13-cv-04161-CC-LTW (N.D. Ga.); *Smith v. Harbor Freight Tools USA, Inc.*, No. 2:13-cv-06262-JFW-VBK (C.D. Cal.); *Smith v. Rescare*, 3:13-cv-5211 (S.D. W. Va.); *Oliver v. FirstPoint, Inc.*, No. 1:14-cv-517 (M.D.N.C.); *Blocker v. Marshalls of MA, Inc.*, No. 1:14-cv-01940-ABJ; *Brown v. Lowe's Cos., Inc.*, 5:13-cv-79 (W.D.N.C.); *Reese v. Stern & Eisenberg Mid- Atlantic*, 3:16-cv-496-REP (E.D. Va.); *Hayes v. Delbert Servs. Corp.*, No. 3:14-cv-258-JAG (E.D. Va.); *Soutter v. Equifax Info. Servs., LLC*, 3:10-cv-107 (E.D. Va.); *Fariasantos v. Rosenberg & Assocs., LLC*, 3:13-cv-543 (E.D. Va.); *James v. Experian Info. Sols., Inc.*, 3:12-cv-902 (E.D. Va.); *Goodrow v. Friedman & MacFadyen, P.A.*, 3:11-cv-20 (E.D. Va.); *Witt v. CoreLogic SafeRent, LLC*, 3:15-cv-386 (E.D. Va.); *Henderson v. CoreLogic Nat'l Background Data, LLC*, 3:12-cv-97 (E.D. Va.); *Smith v. Sterling Infosystems, Inc.*, 1:16-cv-714 (N.D. Ohio).

20. I have extensive experience litigating class actions in the Eastern District of Virginia, one which requires an intimate knowledge of the rules and procedures unique to the district commonly known as the Rocket Docket because of the speed with which cases are typically brought to resolution. The ABA's Committee on Commercial and Business Litigation advises that the "Rocket Docket" is a potential trap for the uninitiated" and recommends that "visiting litigants and lawyers alike would be well advised to retain experienced lead or local counsel to help them

safely navigate the Rocket Docket.” *A Winning Motions Practice in the Rocket Docket*, Vol. 10, No. 4 (Summer 2009). Having practiced in that division and district for over 20 years and having appeared in over 900 cases in that district, I am well versed in the rules and procedures unique to the district. In addition to the sheer volume of cases I have handled, I have also appeared in numerous complex class action cases brought there. *See, e.g., Witt v. CoreLogic SafeRent, LLC*, 3:15-cv-386 (E.D. Va.); *Henderson v. CoreLogic Nat’l Background Data, LLC*, 3:12-cv-97 (E.D. Va.); *Hayes v. Delbert Servs. Corp.*, No. 3:14-cv-258-JAG (E.D. Va.); *Soutter v. Equifax Info. Servs., LLC*, 3:10-cv-107 (E.D. Va.); *Ridenour v. Multi-Color Corp.*, No. 2:15-cv-41-MSD-DEM (E.D. Va.).

21. I have experience litigating FCRA class claims, unusually, all the way to trial. *Thomas v. FTS USA, LLC*, 312 F.R.D. 407, 420 (E.D. Va. 2016) and *Milbourne v. JRK Residential Am., LLC*, No. 3:12-cv-861, 2016 WL 1070818, at \*1 (E.D. Va. Mar. 15, 2016). I have experience in seeing claims like those presented here through discovery, dispositive motions practice, and the posturing of such cases for successful trials.

22. Most relevant here, I have substantial experience litigating FCRA cases against CRAs – consumer reporting agencies – operating as criminal or public records background check companies, especially where the CRA has systemically mismatched consumers to public records. *See, e.g., Witt v. CoreLogic SafeRent, LLC*, 3:15-cv-386 (E.D. Va.); *Henderson v. CoreLogic Nat’l Background Data, LLC*, 3:12-cv-97 (E.D. Va.); *Henderson v. Verifications, Inc.*, 3:11-cv-514 (E.D. Va.); *Henderson v. HRPlus*, No. 3:14-cv-82 (E.D. Va.); *Henderson v. Backgroundchecks.com*, 3:13-cv-29 (E.D. Va.); *Henderson v. Acxiom Risk Sols.*, 3:12-cv-589 (E.D. Va.); *Roe v. Intellicorp* 1:12-cv-02288 (N.D. Ohio).

23. My firm assisted in each phase of the litigation of this case since inception. We were involved in the discovery, pre-trial motions work, class identification and then negotiation of the Settlement. We approached settlement negotiations as we always do, focusing on achieving the best benefit possible for our clients and the Class. The Settlement here represents an excellent result for the class, and I am pleased with the outcome we were able to obtain for the Class in this case.

24. All Parties faced the prospect of continued litigation throughout the country and through the completion of a trial followed by potential appeals.

25. Settlement administration has proceeded as intended. The Administrator was able to reach nearly every Class Member by mail and email notice. The notice process was certainly the best available given the circumstances of this case.

26. Taken as a whole, there is little doubt that the decision to settle was as informed as it possibly could have been. This action has been appropriately litigated by the Parties and sufficient discovery has been obtained by both Plaintiff and Defendant to assess the strength of their respective claims and defenses. Class Counsel endorses the Settlement as fair and adequate under the circumstances.

27. The primary paralegals that worked for our firm in this case are experienced in the field of consumer protection and the legal field generally. Donna Winters and Vicki Ward Crissman have been legal assistants and then paralegals for more than thirty years each. Both have been with me practically since I began my practice and have deep understanding of class action litigation.

28. At the level of complexity of the litigation in which my firm, but also Kelly Guzzo, are engaged, we are almost always opposite experienced and skilled defense attorneys, and

defendants with practically unlimited litigation resources. That was the case here. This Troutman team has all but two of the nation's top ten FCRA defense lawyers. These attorneys have been the most challenging against which to litigate the issues in this specific matter. And the defense lawyers here are defense experience that largely matches ours in this field and District over the last decade.

29. I feel strongly that settlements like the one achieved here are significant and meaningful to Class Members because they receive a real, cash award with little effort to participate. Providing a cash benefit, that consumers can use how they choose, is in my view more desirable than something like a discount on future purchases that requires the consumer to patronize the defendant again or an extended warranty that nearly forces the consumer to keep a product with which they are likely now dissatisfied.

30. Where cash benefits are at stake, defendants tend to take stronger settlement positions or seek to avoid settlement outright until a significant decision goes against them. Cash-benefit cases do not permit defendants to dilute the costs of settlement or lower the dollar burden by providing, for example, repairs to a product rather than a cash payment. Cases like this one tend to be more difficult to settle because the settlement will cause dollars to be paid that likely cannot be otherwise discounted.

31. With these realities in mind, I believe the settlement is fair, reasonable, and adequate, and in the best interests of Class Members. They will receive a genuine benefit, in cash, and may use that money as they choose. And obtaining their benefits takes little effort, as most will recover large payments automatically and only a narrow category need provide any other information. I therefore strongly believe that the settlement is an excellent result for Class Members, and the Court should approve it.

32. The \$7,500 service award to Mr. Brown is reasonable and warranted. He has been in near-constant touch with his Counsel throughout this litigation and the settlement process, and has provided us with important insight and comments as settlement discussions progressed. The award is in line with others awarded in similar cases, and I likewise believe it is appropriate here.

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

DATED: January 10, 2022, Newport News, Virginia

A handwritten signature in blue ink, appearing to read 'L.A. Bennett', is written over a horizontal line. The signature is stylized and cursive.

Leonard A. Bennett, Esq.

# Exhibit 3



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

TERRY BROWN, <i>on behalf of himself and</i>	:	
<i>all similarly situated individuals,</i>	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 3:20-cv-363
	:	
CORELOGIC RENTAL PROPERTY	:	
SOLUTIONS, LLC,	:	
	:	
Defendant.	:	

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**DECLARATION OF DALE W. PITTMAN**

Dale W. Pittman declares under penalty of perjury that the following statements are true:

1. My name is Dale W. Pittman. I am over the age of 18 and have personal knowledge of the facts set forth herein.

2. I am a member in good standing of the bars of the following courts:

Supreme Court of the United States  
Washington, DC  
February, 1997

Supreme Court of Virginia  
Richmond, Virginia  
June 8, 1976

U. S. Court of Appeals for the Fourth Circuit  
Richmond, Virginia  
September 2, 1980

U. S. District Court for the Western District of Virginia  
Roanoke, Virginia

U. S. District Court for the Eastern District of Virginia  
Richmond, Virginia  
December 30, 1976

U. S. Bankruptcy Court for the Eastern District of Virginia  
Richmond, Virginia  
November, 1997.

3. I am a 1971 graduate of Hampden-Sydney College and a 1976 graduate of the T. C. Williams School of Law of the University of Richmond, Virginia. I am a member of the Virginia State Bar, the Virginia Trial Lawyers Association, the Virginia Bar Association, the National Association of Consumer Advocates, and the Petersburg Bar Association, of which I am a past President. I am a past member of the Council of the Virginia State Bar, the State Bar's governing body, having served five terms over the course of the past twenty-five years as the elected representative of the Eleventh Judicial Circuit. I am a member of the Board of Governors of the Virginia Trial Lawyers Association, and I chair the VTLA's Consumer Law Section. I serve on the Board of Directors of the Legal Services Corporation of Virginia (LSCV), which provides funding for programs offering civil legal assistance to low-income Virginians. I served as President of the LSCV Board for five years.

4. From February 1, 1977 until September 13, 1996 I was employed by Southside Virginia Legal Services, in Petersburg, Virginia, as its General Counsel (Chief Executive Officer). My caseload at Southside Virginia Legal Services evolved over the years into a primarily consumer law practice.

5. From September 16, 1996 until the present I have maintained a private law practice with an office located in Petersburg. My work in private practice is limited almost exclusively to the representation of consumers, with particular emphasis on representing consumer debtors under the Fair Debt Collections Practices Act. I have a statewide consumer law practice, and have represented consumers from all regions of the Commonwealth and elsewhere.

6. I was a contributing editor to the consumer law sections of *Virginia Practice Manual*, a practice manual for Legal Aid lawyers and for private lawyers handling cases under the auspices of *pro bono* initiatives in Virginia.

7. Pleadings and discovery from many of my consumer law cases appear in the National Consumer Law Center's *Consumer Law Pleadings*, nationally distributed form books of consumer law pleadings, beginning in 1994. Pleadings and discovery from my cases appear in Books 1, 2, 5, 6, 7, 10, and 11.

8. I have given over eighty lectures to lawyers that qualified for continuing legal education credit.

9. I have made two presentations on consumer protection law and litigation to Virginia's General District Court judges at the Judicial Conference of Virginia for General District Court judges, one in 1987 on consumer protection laws generally and one in 2008 on arbitration in consumer financial services cases.

10. My consumer protection law continuing legal education lectures include the following:

Rental Repairs: Making the Right Choice for Your Client	Virginia Poverty Law Center Annual Statewide Training Conference	October 14, 2021
Spotting Violations of the FDCPA Regulations: Communications	National Consumer Law Center Fair Debt Collections Conference	March 4, 2021
Phone Cases	2018 Fair Debt Collections Conference, Chicago	March 19, 2018

Consumer Protection Litigation and Bankruptcy: Intersections and Collisions, Fair Debt Collections Practices Act	Richmond Bar Association, Richmond	October 24, 2017
Class Actions and Multiple Claims: End Games Planning (co-presenter with Judge John A. Gibney, Jr., Orran L. Brown, Sr, W. James Young, and M. Peebles Harrison)	Hampden-Sydney Bar Association CLE Event Hampden-Sydney	October 20, 2017
Serious Illness, the Law, and Pro Bono Services, Part 3: Relief from Creditors	Legal Information Network Cancer, in conjunction with Virginia State Bar Access to Legal Services Committee	November 17, 2016
Representing the Pro Bono Client: Consumer Law Basics 2016	Practicing Law Institute, San Francisco	July 22, 2016
Fair Debt Collections Practices Act	Old Dominion Bar Association Winter Meeting, Williamsburg	January, 30, 2016
Fair Debt Collections Practices Act Overview	Virginia State Bar Young Lawyers Section Professional Development Conference	September 24, 2015
Consumer Law (FDCPA)	A Law Day Celebration Ft. Lee, Virginia	May 1, 2015
FDCPA: Ask the Experts	National Association of Consumer Advocates Fair Debt Collection Training Conference, Washington, DC	March 11, 2015
“It May Not Be a Payday Loan....”	Virginia Poverty Law Center 2014 Annual	October 23, 2014

	Statewide Legal Aid Conference, Portsmouth	
Meeting the Legal Needs of Individuals Facing Serious Illness Through Pro Bono – Relief From Creditors	Virginia State Bar and the Legal Information Network for Cancer Webinar	April 23, 2014
Ethical Responsibilities of Class Counsel to Class Representatives, the Class and Objectors	Fair Debt Collection Practices Act Training Conference, San Antonio, Texas	March 8, 2014
Fair Debt Collections Practices Act	Working With Military Clients, Military Law Section of the Virginia State Bar, Williamsburg, Virginia	October 18, 2013
How the Consumer Bar Views FDCPA Compliance by Collection Attorneys	National Association of Retail Collection Attorneys Fall Collection Conference, Washington, DC	October 17, 2013
Making the Bad Guys Pay	Virginia Poverty Law Center, Richmond	May 9, 2013
FDCPA: Ask the Experts	National Association of Consumer Advocates Fair Debt Collection Training Conference, Baltimore	March 8, 2013
FDCPA Update	JAG School, Charlottesville, VA	December 11, 2012
Fair Debt Collections Practices Act	VA CLE, Charlottesville, VA	September, 2012

FDCPA	ABA Standing Committee on Legal Assistance to Military Personnel, George Mason University Law School	March 15, 2012
Fair Debt Collections Practices Act	Ft. Lee Legal Assistance Division JAG Office CLE	May 5, 2011
Handling Fair Debt Collections Practices Act Cases	65 <sup>th</sup> Legal Assistance Course, The Judge Advocate General's Legal Center and School, Charlottesville	November 16, 2009
Handling Fair Debt Collections Practices Act Cases	VPLC Statewide Legal Aid Conference, Williamsburg	November 5, 2009
Challenging Predatory Small Loans	National Consumer Law Center Consumer Rights Litigation Conference, Philadelphia	October 23, 2009
The Fair Debt Collections Practices Act: Update 2009	VA CLE Webinar	September, 2009
Handling Fair Debt Collections Practices Act Cases	2009 Mid-Atlantic Joint Services Consumer Law Symposium, Naval Legal Service Office Mid-Atlantic Legal Assistance Department, Norfolk	June 12, 2009
Handling Fair Debt Collections Practices Act Cases	64 <sup>th</sup> Legal Assistance Course, The Judge Advocate General's Legal Center and School, Charlottesville	April 2, 2009

Defending Consumers in Medical Debt Collection Cases	National Consumer Law Center's Consumer Rights Litigation Conference in Portland, Oregon	October, 2008
Combating Consumer Issues Facing the Military, FDCPA Cases	Consumer Law Intensive for Military Personnel Advocates, National Consumer Law Center's Consumer Rights Litigation Conference in Portland, Oregon	October, 2008
Issues in Arbitration Cases	Judicial Conference of Virginia for District Court Judges, Virginia Beach	August 13, 2008
A Perfect Storm – The Intersection of the FDCPA and the FCRA in Debt Collection Harassment Cases	Virginia CLE Solo and Small Firm Institute, Williamsburg	May 13, 2008
Defending Debt Collection Suits	National Consumer Rights Litigation Conference, Washington, D.C.	November 11, 2007
Emerging Issues in Debt Collection Abuse & False Credit Reporting	Virginia Trial Lawyers Association Solo & Small Firm Conference, Richmond	October 19, 2007
The Fair Debt Collections Practices Act (Including 2006 Amendments)	Virginia CLE	September 24, 2007
Fair Debt Collections Practices Act	Naval Legal Service Office Mid-Atlantic Joint Services Consumer Law Symposium, Norfolk	May 11, 2007

How to Win (or Not Lose) an Arbitration	National Consumer Rights Litigation Conference Miami, Florida	November 11, 2006
Consumer Debt Collection	59 <sup>th</sup> Legal Assistance Course The Judge Advocate's School Charlottesville	November 2, 2006
Consumer Credit: Remedies You Should be Aware Of	Virginia Trial Lawyers Association Solo & Small Firm Conference, Williamsburg	October 20, 2006
Collection Law From Start to Finish (Presentation on the FDCPA)	National Business Institute Richmond	October 10, 2006
Overview of the Fair Debt Collections Practices Act	Framme Law Firm, Richmond	June 23, 2006
Fair Debt Collection Practices Act	Naval Justice School Newport, Rhode Island	May 22 , 2006
Fair Debt Collection Practices Act – Essential Tips for Both Debtors and Creditors	Virginia CLE - 4 <sup>th</sup> Annual Advanced Consumer Bankruptcy, Richmond	April 28, 2006
Fair Debt Collection Practices Act	3 <sup>rd</sup> Annual Naval Legal Service Office, Mid-Atlantic, Auto Fraud Symposium, Norfolk	April 12, 2006
What the Virginia Lawyer Must Know about Consumer Protection	Solo and Small Firm Conference – Virginia	September 30, 2005



	Trial Lawyers Association, Charlottesville	
Points to Consider if You are Going to Arbitration	National Consumer Law Center's 13 <sup>th</sup> Annual Consumer Rights Litigation Conference	November 7, 2004
Protecting Your Client's Consumer Rights – Fair Debt Collections Practices Act	Virginia CLE - Richmond and Tysons Corner	April 21 and 22, 2004
Fair Debt Collections Practices Act Training Conference – Practice Issues	National Consumer Law Center and National Association of Consumer Advocates, Kansas City	February 22, 2004
Fair Debt Collections Practices Act	Henrico County Bar Association and Virginia Creditor's Bar Association, Richmond	February 19, 2004
Using Experts in Automobile Sale Wreck Damage Cases	IVAN Diminished Value Conference, Chesapeake	January 31, 2004
Consumer Law: Everything You Need to Know to be an Expert in Handling the Latest in Consumer Cases	First Annual Solo and Small Firm Conference – Virginia Trial Lawyers Association, Charlottesville	October 10, 2003
Points To Consider If You Are Going To Arbitration	Virginia Women Attorney's Association, Southside Chapter, Petersburg	July 31, 2003
Fair Debt Collection Practices Act	Virginia CLE, First Advanced Consumer Bankruptcy Conference	May 2, 2003

Fair Debt Collection Practices Act Fair Credit Reporting Act	Naval Justice School Newport, Rhode Island	April 3, 2003
Overview of the Fair Debt Collections Practices Act	Framme Law Firm, Richmond	December 17 & 18, 2002
Arbitrating: Who's Afraid of the Big Bad Wolf?	National Consumer Law Center Consumer Rights Litigation Conference, Atlanta	October 26, 2002
Mobile Home Litigation Issues	National Consumer Law Center Consumer Rights Litigation Conference, Atlanta	October 25, 2002
Settlement Agreements and Confidentiality Issues: Recent Cases in the News and the Problems News Attention Can Create	Virginia Trial Lawyers Association Fall Fiesta, Richmond	September 28, 2002
Practice Pointers Roundtable	Virginia Trial Lawyers Association Fall Fiesta, Richmond	September 27, 2002
Arbitration and Beyond: What to Do If You Are Forced Into Arbitration and What Happens After the Arbitral Award	Virginia Trial Lawyers Association Fall Fiesta, Richmond	September 27, 2002
Fair Debt Collection	ABA Standing Committee on Legal Assistance for Military Personnel Legal Assistance Symposium, Quantico	August 15, 2002
Practical Applications of Consumer Protection Laws for the General Practitioner – Part II	Virginia Women Attorneys Association, Southside Chapter, Petersburg	June 27, 2002

Practical Applications of Consumer Protection Laws for the General Practitioner – Part I	Virginia Women Attorneys Association, Southside Chapter, Petersburg	April 25, 2002
Federal Court-Fun & Easy	Annual Statewide Legal Aid Conference, Virginia Beach	November 1, 2001
FDCPA Compliance for the Virginia Practitioner	National Business Institute CLE for Virginia Lawyers, Richmond	October 11, 2001
Use of Magnuson-Moss Warranty Act in the Recovery of Attorney’s Fees	Virginia Trial Lawyers Association Fiesta 3, Richmond	September 28, 2001
Credit Reporting Abuse	Petersburg Kiwanis Breakfast Club, Petersburg	September 18, 2001
A Consumer Lawyer’s Perspective on Mobile Home Transactions	Virginia Manufactured Housing Association, Virginia Beach	August 8, 2001
Debt Collection Harassment, Credit Reporting Abuse, Home Solicitation Sales, Fraud.	Elder Law Day	May 11, 2001
Truth in Lending Act and Title Issues in Car Sales	VA Independent Automobile Dealers Association, District 1 Dinner Meeting, Virginia Beach, Virginia	April 11, 2001
What Do These Attorneys Know About The Used Car Business That You Don’t?	VA Independent Automobile Dealers Association, District 2 Dinner Meeting, Richmond, Virginia	January 30, 2001

Mobile Home Litigation Issues	National Consumer Law Center Consumer Rights Conference	October 28, 2000
Update on the Fair Debt Collection Practices Act	Virginia CLE®	July 12 and 19, 2000
Consumer Privacy in the Electronic Age	The Bar Association of the City of Richmond	May 31, 2000
Consumer Law Update for Virginia Practitioners, Fair Debt Collection Practices Act.	Virginia CLE®	December 7 and 8, 1999
Recent Developments in Fair Debt Collection, With an Emphasis on the Fourth Circuit	Annual Statewide Legal Aid Conference	November 3, 1999
Recent Developments in Fair Debt Collection	The Bankruptcy Section of the Bar Association of the City of Richmond	October 26, 1999
Consumer Law Seminar	Office of the Staff Judge Advocate, Ft. Eustis, Virginia	August 27, 1999
Automobile Fraud and Financing Issues	Annual Statewide Legal Aid Conference	November 11, 1998
Consumer Law for Support Staff	Annual Statewide Legal Aid Conference	November 11, 1998
First Day in Practice (Topic: Consumer Law Practice)	Virginia State Bar	November 3, 1998
Complying with the Fair Debt Collection Practices Act in Virginia	National Business Institute CLE for Virginia Lawyers	September 9, 1998

Basic Overview of Several Consumer Protection Laws Available to Assist Victims of Consumer Fraud and Abuse	Charlottesville-Albemarle Bar Association Bankruptcy/Creditors' Rights Committee	February 10, 1998
Overview of Consumer Law for Support Staff	Annual Statewide Legal Aid Conference	November 6, 1997
The Fair Debt Collection Practices Act	Annual Statewide Legal Aid Conference	November 6, 1997
Recent Developments under the Fair Debt Collection Practices Act	Virginia Creditor's Bar Association	September 25, 1997
Fair Debt Collection Practices Act	10 <sup>th</sup> Circuit Bar Association, Keysville, VA	April 23, 1997
Complying With the Fair Debt Collection Practices Act in Virginia	National Business Institute CLE for Virginia Lawyers	February 11, 1997
Handling Repossession Cases (gave segment on odometer law)	Virginia Legal Services Consumer Law Task Force	
State and Federal Consumer Protection Statutes Frequently Applicable to General District Court Cases	Judicial Conference of Virginia General District Court Judges	April 29, 1989
Everything Under the Sun You Ever Wanted to Know About Handling Home Improvement Cases	Elderly Law Task Force of Virginia Legal Services Programs	
Consumer Law for Non Consumer Lawyers	Virginia Legal Services Attorneys	

Handling Home Improvement Cases

Consumer Law Training  
for Virginia Legal  
Services Attorneys

11. The Summer 2006 edition of *The Journal of the Virginia Trial Lawyers Association* included “Disputing Home Loan Servicing Abuse Through RESPA,” an article that I prepared for that publication.

12. For nearly a decade, I prepared annual reports on Virginia law for the American Bar Association’s *Survey of State Class Action Law*.

13. I was Section Chairman and Program Moderator for a Virginia Trial Lawyers Association Consumer Law Seminar entitled “Keeping the Big Boys Honest,” that took place on April 25, 1997, and covered the Fair Debt Collections Practices Act, the Fair Credit Reporting Act, Consumer Class Actions, Motor Vehicle Litigation, and Recovering Attorney’s Fees in Consumer Litigation. I was Program Chair for the Consumer Law portion of the VTLA’s February Fiesta CLE that took place in Williamsburg in February, 2000. I was a presenter on Mobile Home Sales, and in a Consumer Law Practice Roundtable. I was Program Chair for the Consumer Law portion of the VTLA’s Fall Fiesta that took place in Williamsburg on October 14 and 15, 2000, and was a presenter on Emerging Issues in Mobile Home Sales Fraud. I was Program Chair for the Consumer Law portion of the VTLA’s Fiesta 3 that took place in Richmond on September 28 and 29, 2001, and was a presenter on “Use of the Magnuson-Moss Warranty Act to Recover Attorney’s Fees.” I was Program Chair for the Consumer Law portion of the VTLA’s Fiesta 2002 that took place in Richmond on September 27 and 28, 2002, and was a presenter on “Settlement Agreements and Confidentiality Issues: Recent Cases in the News and the Problems News Attention Can Create,” “Arbitration and Beyond: What to Do If You Are Forced Into Arbitration and What Happens After the Arbitral Award,” and a roundtable participant in a “Practice Pointers Roundtable.”

14. I was the 1996 recipient of the Virginia State Bar Legal Aid Award, given annually by the Virginia State Bar to recognize a Legal Aid attorney in Virginia who demonstrates innovation and creativity in advocacy and excellence in service to low-income clients. On November 9, 2007, I received the 2007 Consumer Attorney of the Year Award from the National Association of Consumer Advocates at its Annual Meeting in Washington, D.C. On October 21, 2010, I received the *Virginia Lawyers Weekly* “Leader in the Law 2010” award. On November 4, 2010, I received the Virginia Poverty Law Center’s John Kent Shumate, Jr. Advocate of the Year Award, in recognition of my having made a significant impact in advocating for low-income Virginia residents. The Virginia Trial Lawyers Association recognized me as only the fifth recipient of its Oliver White Hill Courageous Advocate Award at the VTLA’s 2014 annual convention, an award periodically presented to an advocate who has demonstrated courage and commitment to the ideals of justice in representing an individual or cause at considerable personal risk. I received the Dr. David E. Marion Award for Legal Excellence, presented by the Hampden-Sydney College Bar Association, on October 20, 2017. I was named to the Virginia Lawyers Hall of Fame for 2019 by Virginia Lawyers Media, being honored for my career accomplishments, contributions to the development of the law in Virginia, contributions to the Bar and to the Commonwealth at Large and efforts to improve the quality of justice in Virginia. I have been selected to Virginia Super Lawyers every year since 2011. I was recently inducted as a fellow of the Virginia Law Foundation, whose mission is to promote, through philanthropy, the rule of law, access to justice, and law-related education.

15. I have been involved in many consumer cases involving a range of consumer protection laws, with an emphasis on the Fair Debt Collection Practices Act. Fair Debt Collection Practices Act, Fair Credit Reporting Act and Equal Credit Opportunity Act cases that I have

handled alone or co-counseled with others include *Withers v. Eveland*, 988 F. Supp. 942 (E.D. Va. 1997); *Creighton v. Emporia Credit Service, Inc.*, 981 F. Supp. 411 (E.D. Va. 1997); *Morgan v. Credit Adjustment Board*, 999 F. Supp. 803 (E.D. Va. 1998); *Talbott v. GC Services Limited Partnership*, 53 F. Supp. 2d 846 (W.D. Va. 1999); *Talbott v. GC Services Limited Partnership*, 191 F.R.D. 99 (W.D. Va. 2000); *Woodard v. Online Information Servs.*, 191 F.R.D. 502 (E.D.N.C., Jan. 19, 2000); *Pitchford v. Oakwood Mobile Homes*, 124 F. Supp.2d 958, 961 (W.D. Va. 2000); *Sydnor v. Conseco Financial Services Corp.*, 252 F.3d 302, 305 (4<sup>th</sup> Circ. 2001); *Jones v. Robert Vest*, 2000 U.S. Dist. LEXIS 18413 (E.D. Va. 2000); *Kelly v. Jormandy*, 2005 U.S. Dist. Lexis 29901 (W.D. Va. 2005); *Lynch v. McGeorge Camping Center*, 2005 U.S. Dist. LEXIS 10201, \*12 (E.D. Va. 2005); *Thornton v. Cappo Mgmt. V, Inc.*, 2005 U.S. Dist. LEXIS 10202, \*6 (E.D. Va. 2005); *Gansauer v. Transworld Systems, Inc.*, Civil Action No. 7:00cv00931 (W.D. Va. 2007); *Croy v. E. Hall & Associates, P.L.L.C.*, 2007 U.S. Dist. LEXIS 14830 (W.D. Va. 2007); *Turner v. Shenandoah Legal Group, P.C.*, 2006 U.S. Dist. LEXIS 39341 (E.D. Va., June 12, 2006); *Karnette v. Wolpoff & Abramson L.L.C.*, 444 F. Supp. 2d 640 (E.D. Va. 2006); *Karnette v. Wolpoff & Abramson, L.L.P.*, 2007 U.S. Dist. LEXIS 20794 (E.D. Va. March 23, 2007); *Bicking v. Law Offices of Rubenstein and Cogan*, 783 F. Supp. 2d at 841v (E.D. Va. 2011); *James v. Encore Capital Corp.*, No. 3:11cv226 (E.D. Va.), *Goodrow v. Friedman & MacFadyen, P.A.*, 788 F. Supp. 2d 464 (E.D. Va. 2011); *Goodrow v. Friedman & MacFadyen, P.A.*, 2013 U.S. Dist. LEXIS 105395 (E.D. Va. July 26, 2013); *Kelly v. Nationstar*, 2013 U.S. Dist. Lexis 156515 (E.D. VA 2013); *Cross v. Prospect Mortgage, LLC*, 986 F. Supp. 2d 688 (E.D. Va. 2013); *Fariasantos v. Rosenberg & Associates, LLC*, 2014 WL 928206, 2014 U.S. Dist. Lexis 30898, (E.D. Va. 2014); *DeCapri v. Law Offices of Shapiro Brown & Alt, LLP*, 2014 U.S. Dist. Lexis 131979, 2014 WL 4699591 (E.D. Va. 2014); *Lengrand v. WellPoint*, No. 3:11-CV-333 (E.D. Va.); *Henderson v.*



*Verifications, Incorporated*, Civil Action No. 3:11cv514 (ED Va.); and *Thomas v. Wittstadt Title & Escrow Company, LLC*, No. 3:12cv450 (E.D. Va.); *Soutter v. Equifax Information Services, LLC*, 307 F.R.D. 183 (E.D. Va. 2015); *Henderson v. Corelogic, Inc., et al.*, Civil Action No. 3:12cv97 (E.D. Va.); *Berry, et al. v. LexisNexis Risk & Information Analytics Group, Inc.*, Civil Action No. 3:11cv754 (E.D. Va.); *Henderson v. First Advantage Background Services Corp.*, Civil Action No. 3:14cv221 (E.D. Va.); *Cornell v. Brock & Scott, PLLC*, Civil Action No. 3:14cv841 (E.D. Va.); *Reese v. Stern & Eisenberg Mid Atlantic, PC*, Civil Action No. 3:16cv496 (E.D. Va.); *Bralley v. Carey*, 2011 U.S. Dist. LEXIS 107015 (E.D. Va. 2011); *Bralley v. Carey*, 2011 U.S. Dist. LEXIS 142896 (E.D. Va. 2011); *Bralley v. Carey*, 2012 U.S. Dist LEXIS 15191 (E.D. Va. 2012); *Biber v. Pioneer Credit Recovery, Inc.*, 2018 U.S. Dist. LEXIS 62325 (E.D. Va. 2018); and *Curtis v. Propel Property Tax Funding*, 915 F.3d 234 (2019). I was one of several lawyers representing plaintiff classes in a Multidistrict FDCPA class action, styled *In Re Dun & Bradstreet, Inc. Debt Collection Practices Litigation*, MDL #1198. The cases, originally transferred by the Judicial Panel on Multidistrict Litigation to the Western District of Virginia, Danville Division, for consolidated pretrial proceedings, were centralized before the Northern District of Illinois for purposes of finalizing settlement. Classes were certified in *Talbott, Woodard, Gansauer, Karnette, Bicking, Goodrow, Kelly, Fariasantos, DeCapri, Lengrand, Henderson v. Verifications, Incorporated, Thomas, Soutter, Henderson v. Corelogic, Inc., Berry, Henderson v. First Advantage Background Services Corp., Cornell and Reese*.

16. I served as Special Master in a case styled *Silva v. Haynes Furniture Company, Inc.*, Civil Action No. 4:04cv082, (E.D. Va.), an ECOA/FCRA class action, having been appointed by Judge Kelley on January 27, 2006.

17. Very few Virginia attorneys are willing to accept consumer cases because of the special expertise required and the risk of nonpayment. This case is not only a consumer case requiring such special expertise at the risk of nonpayment, but it is more complex than most consumer actions I have seen in my years of legal practice.

18. I have extensive experience in consumer cases brought this Court, and in the Eastern District of Virginia. I routinely represent plaintiffs in cases brought in the Eastern District of Virginia under the FDCPA and FCRA. I have been involved in many cases involving requests for attorneys' fees under different consumer protection claims and statute and am familiar with the rates charged by both plaintiffs' and defense attorneys in this region. My knowledge of the attorneys fee recoveries, factors and rates in this District and this region comes from a variety of sources, including my own personal experience requesting, or opposing requests for, attorneys' fees, research and discussions with other attorneys, advertised rates, case decisions and other publications. I have had an opportunity to survey and I keep track of the attorneys fees recovered in complex and consumer finance class action cases in this District and Division, as well as in the consumer protection field.

19. Given the specific knowledge I have as to attorneys fees awarded and charged in this field and this market, I am able to testify as to the reasonable and expected ranges of fees in class action common fund settlements. In this District, an approved common fund percentage will almost always be between 25% and 35%. Within that range, the most common fee percentages are 30%, 33% and 35%.

20. The largest factor effecting the percentage of common fund approved is the size of the common fund. Cases that settle for gross funds in excess of \$15,000,000 are more likely to

have a fee set at 30%. Cases with gross settlement funds below \$2,000,000 are more likely to have a fee set at 35%.

21. In this case, the Plaintiff has recovered a gross settlement common fund greater than \$8,000,000, but less than \$10,000,000. While I believe this settlement for such a small class size is excellent, this is not a “superfund” settlement with a gross fund amount of \$50,000,00, or even \$15,000,000, that would likely result in a lowered percentage. The 33.33% sought by Plaintiff here is a reasonable percentage that is not an outlier, but rather consistent with my expectations for the awards made for funds in this range.

22. I am familiar with the law firms of Kelly Guzzo and Consumer Litigation Associates, two of the firms that comprise Class Counsel in this case. I know from personal observation that each such lawyer participating from those firms is a top-notch attorney. I also know from personal observation that they are among the very best attorneys who constitute Virginia’s consumer-side consumer protection bar, and also are among the best in their field nationwide.

23. In my opinion, Consumer Litigation Associates (CLA) and Kelly Guzzo (KG) are two of America’s best consumer-side consumer protection litigation law firms. I cannot point to any other law firm in the country that I would describe as doing a better job representing consumers in federal court in consumer protection litigation.

24. I have known Leonard A. Bennett of CLA professionally for roughly twenty-one years. We met when Mr. Bennett represented a client adverse to my client in a Richmond Division case, *Amresco New England II, L.P. v. Poindexter*, Civil Action No. 3:98cv112. Over the ensuing years, Mr. Bennett and I have co-counseled a great many cases. I routinely consult with Mr. Bennett by e-mail and by telephone regarding litigation issues in my cases, regarding both

litigation strategy and tactics and questions of how various players in the consumer financial services industry operate.

25. No other law firm comes close to CLA in the number of consumer protection cases handled in the Eastern District. Mr. Bennett's experience and talents are essential to the success that we as a consumer protection bar consistently experience in our representation of consumers.

26. Mr. Bennett's trial work, and successful post-trial and appellate defense of his verdicts, have made him a trailblazer within the still relatively young consumer protection bar in the United States.

27. I have known Kristi C. Kelly for roughly fourteen years. I have followed her career by attending consumer protection lectures that she has given, by consulting regularly with her on matters of consumer protection law, and by working together with her in cases that we have co-counseled. I know her to be an extremely skilled, thorough and tenacious litigator, who enjoys the well-deserved reputation of being perhaps the top mortgage lending and mortgage foreclosure abuse lawyer in Virginia and nationally is recognized for her work on mortgage cases with a credit-reporting component.

28. I have known Andrew J. Guzzo for roughly ten years. Throughout the time that I have known Mr. Guzzo, he has worked in affiliation with Ms. Kelly.

29. Mr. Guzzo and I have collaborated on motions briefing, discovery issues, and other aspects of a number of consumer protection matters, primarily in cases arising under the Fair Debt Collection Practices Act. As an example, we worked closely together on a Motion to Dismiss briefing in *Kelly v. Nationstar Mortgage*, Civil Action No. 3:13-cv-311(JAG), a Richmond Division FDCPA case. His work there, as in all the other work that I have seen him do, was excellent, and contributed significantly in my opinion to the favorable ruling that we received from

Judge Gibney in that case. *Kelly v. Nationstar Mortgage, LLC*, 3013 U.S. Dist. Lexis 156515 (E.D. Va. 2013).

30. I have known Casey Nash for roughly eleven years, having met her through her work at CLA. I know Ms. Nash to be a conscientious, extremely bright, and hard-working lawyer who has assisted in developing and litigating several ground-breaking consumer-protection litigation theories in cases in which I have worked as co-counsel, including for example her enormous contributions to the Complaint preparation and briefing in *Goodrow v. Friedman & MacFadyen*, Civil Action No. 3:11-cv-20(MHL), a mortgage foreclosure case in the Richmond Division that asserted a number of cutting edge consumer protection theories.

31. I have known Paisly Bender for several years. I understand her role is primarily in drafting and that she routinely produces Kelly & Guzzo briefs, which I know to be clear, cogent and compelling briefings in the wide range of complex and frequently novel substantive and procedural issues that arise in consumer protection cases.

32. I also believe that the fee sought by Class Counsel in this matter is not only fair and reasonable, given the qualifications of Class Counsel, the strong success in obtaining a large fund for a small class, but also that anything less would underestimate the value of Class Counsel's work and effort expended on this litigation given its incredible complexity. As such, this case demanded specialized skill and experience that even some of the best consumer class action attorneys operating at the highest level of legal practice do not have. It is clear to me that Class Counsel in this case both possess and implemented the necessary specialized skill and experience. In addition, they faced these challenges brilliantly while facing some of the most premier defense law firm in the country.

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

correct.

Signed this 10th day of January 2022.

/s/ Dale W. Pittman  
Dale W. Pittman