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14 Attorneys for Plaintiffs and

15 Proposed Settlement Class

16 **UNITED STATES DISTRICT COURT**  
17 **SOUTHERN DISTRICT OF CALIFORNIA**

18 **IN RE: MIDLAND CREDIT**  
19 **MANAGEMENT, INC.,**  
20 **TELEPHONE CONSUMER**  
21 **PROTECTION ACT**  
22 **LITIGATION**

23 **Case No.: 3:11-md-02286-MMA-MDD**

24 **CLASS ACTION**

25 **MEMBER CASES:** 10-cv-02261  
26 10-cv-02600  
27 10-cv-02368  
28 10-cv-02370

29 **DECLARATION OF ABBAS**  
30 **KAZEROUNIAN IN SUPPORT OF**  
31 **MOTION FOR ATTORNEYS'**  
32 **FEES AND COSTS AND**  
33 **INCENTIVE PAYMENTS**

34 **DATE:** August 26, 2016

35 **TIME:** 9:00 a.m.

36 **CRTRM:** 3

37 **JUDGE:** Hon. Michael M. Anello

**DECLARATION OF ABBAS KAZEROUNIAN**

**I, ABBAS KAZEROUNIAN, declare:**

1. I am a partner of the law firm of Kazerouni Law Group, APC and a counsel of record for Plaintiff Christopher Robinson in this matter. I am over the age of 18 and am fully competent to make this declaration. I was admitted to the State Bar of California in 2007 and have been a member in good standing ever since that time. I have litigated cases in both state and federal courts in California, Washington, Nevada, Arizona, Arkansas, New York, New Jersey, Colorado, Tennessee, Ohio, Florida, Illinois and Texas. I am admitted in every federal district in California and have handled federal litigation in the federal districts of California. I am also admitted to the state bar of Texas, Illinois, Washington, Michigan, District of Columbia, the Ninth Circuit Court of Appeals, and the Supreme Court of the United States.
2. If called as a witness, I would competently testify to the matters herein from personal knowledge. The declaration is based upon my personal knowledge, except where expressly noted otherwise.
3. I submit this declaration in support of Plaintiff’s Motion for Attorneys’ Fees and Costs and for Incentive Award in which Plaintiff seeks to have the Court approve attorneys’ fees in the amount of \$2,400,000 as negotiated in the Settlement Agreement, subject to Court approval. That amount will also compensate Plaintiff’s counsel for all litigation costs they have incurred. That agreement is set forth in the Settlement Agreement filed with the Preliminary Approval Motion, ECF No. 281-3 at Section 5.05.

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**ATTORNEYS' FEES AND COSTS INCURRED**

- 1
- 2 4. At Kazerouni Law Group, APC, we maintain contemporaneous time records
- 3 reflecting the time spent on this and other matters. According to the time
- 4 records my firm maintained in this case, we have incurred 125.5 hours. At
- 5 my billing rate of \$595 per hour, that is a lodestar of \$74,672.50. I was the
- 6 only attorney at my firm working on this case.
- 7 5. My firm's records indicate we have incurred \$6,550.38 in litigation costs.
- 8 My firm's experience and years in practice, taken with the current legal
- 9 market rates, are sufficient to justify my hourly rate of \$595.

10 **CLASS COUNSEL'S EXPERIENCE**

- 11 6. Since my admission to the California bar in 2007, I have been engaged
- 12 exclusively in the area of consumer rights litigation, primarily in the area of
- 13 fair debt collections, the defense of debt collection lawsuits, and class action
- 14 litigation under the Telephone Consumer Protection Act, California's
- 15 invasion of privacy statutes, under Penal Code § 630 et seq., and false
- 16 advertising actions concerning consumer products.
- 17 7. My firm, Kazerouni Law Group, APC, in which I am a principal, has
- 18 litigated over 1000 cases in the past eight years. My firm has six offices in
- 19 Orange County, California, Oakland, California, San Luis Obispo,
- 20 California, Phoenix, Arizona, Las Vegas, Nevada, and Austin, Texas.
- 21 Kazerouni Law Group, APC has extensive experience in consumer class
- 22 actions and other complex litigation. My firm has a history of aggressive,
- 23 successful prosecution of consumer class actions, specifically under
- 24 California's invasion of privacy statutes and Telephone Consumer
- 25 Protection Act.
- 26 8. To date, there have been no objections filed or received by Class Counsel,
- 27 submitted through the ECF system, or mailed to the Claims Administrator,
- 28

1 as to the settlement and/or the requested payment of attorneys' fees and  
2 costs.

3  
4 **EXPERIENCE RELEVANT TO THE  
TELEPHONE CONSUMER PROTECTION ACT**

5 9. I have filed and litigated numerous other class actions based on the  
6 Telephone Consumer Protection Act in the past four years. The following is  
7 a non-exhaustive list of other TCPA class actions which I am or have been  
8 personally involved in:

- 9 a. *Lemieux v. EZ Lube, LLC, et al.*, 12-CV-01791-JLS-WYG (S.D. Cal.)  
10 (Served as co-lead counsel; finally approved on December 8, 2014);
- 11 b. *Malta, et al. v. Wells Fargo Home Mortgage, et al.*, 10-CV-1290-IEG  
12 (BLM) (Served as co-lead counsel for a settlement class of borrowers in  
13 connection with residential or automotive loans and violations of the  
14 TCPA in attempts to collect on those accounts; obtained a common  
15 settlement fund in the amount of \$17,100,000; final approval granted in  
16 2013);
- 17 c. *Conner v. JPMorgan Chase Bank, et al.*, 10-CV-1284 DMS (BGS) (S.D.  
18 Cal.) (finally approved \$11,973,558);
- 19 d. *In Re: Midland Credit Management, Inc., Telephone Consumer  
20 Protection Act Litigation*, 11-md-2286-MMA (MDD) (S.D. Cal.)  
21 (Counsel for a Plaintiff in the lead action, prior to the action being  
22 recategorized through the multi-district litigation process; preliminarily  
23 approved for \$18,000,000);
- 24 e. *In Re: Portfolio Recovery Associates, LLC Telephone Consumer  
25 Protection Act Litigation*, 11-md-02295-JAH (BGS) (Counsel for a  
26 Plaintiff in the lead action, prior to the action being recategorized through  
27 the multi-district litigation process);  
28

- 1 f. *Arthur v. SLM Corporation*, 10-CV-00198 JLR (W.D. Wash.)  
2 (Nationwide settlement achieving the then-largest monetary settlement in  
3 the history of the TCPA concerning calls to cellular telephone at the time:  
4 \$24.15 million; final approval granted in 2012);
- 5 g. *Lo v. Oxnard European Motors, LLC, et al.*, 11-CV-1009-JLS-MDD  
6 (S.D. Cal.) (Achieving one of the highest class member payouts in a  
7 TCPA action of \$1,331.25 per claimant; final approval granted in 2012);
- 8 h. *Sarabri v. Weltman, Weinberg & Reis Co., L.P.A.*, 10-01777-AJB-NLS  
9 (S.D. Cal.) (Approved as co-lead counsel and worked to obtain a national  
10 TCPA class settlement where claiming class members each received  
11 payment in the amount of \$70.00 per claimant; final approval granted in  
12 2013);
- 13 i. *Barani v. Wells Fargo Bank, N.A.*, 12-CV-02999-GPC (KSC) (S.D. Cal.)  
14 (Co-lead class counsel in a settlement under the TCPA for the sending of  
15 unauthorized text messages to non-account holders in connection to wire  
16 transfers; finally approved on March 6, 2015 for \$1,000,000);
- 17 j. *Mills v. HSBC Bank Nevada, N.A.*, Case No. 12-CV-04010-SI (N.D.  
18 Cal.) (Finally approved for \$39,975,000);
- 19 k. *Martin v. Wells Fargo Bank, N.A.*, 12-CV-06030-SI (N.D. Cal.);
- 20 l. *Heinrichs v. Wells Fargo Bank, N.A.*, 13-CV-05434-WHA (N.D. Cal.);
- 21 m. *Newman v. ER Solutions, Inc.*, 11-CV-0592H (BGS);
- 22 n. *In Re Jiffy Lube International, Inc.*, MDL No. 2261 (Finally approved for  
23 \$47,000,000.00);
- 24 o. *Jaber v. NASCAR*, 11-CV-1783 DMS (WVG) (S.D. Cal.);
- 25 p. *Ridley v. Union Bank, N.A.*, 11-CV-1773 DMS (NLS) (S.D. Cal.);
- 26 q. *Ryabyshchuk v. Citibank (South Dakota) N.A., et al.*, 11-CV-1236-IEG  
27 (WVG);
- 28

- 1 r. *Sherman v. Kaiser Foundation Health Plan, Inc.*, 13-CV-0981-JAH  
2 (JMA) (S.D. Cal.) (Settled for \$5,350,000 and finally approved on May  
3 12, 2015; served as co-lead counsel);
- 4 s. *Rivera v. Nuvel Credit Company LLC*, 13-CV-00164-TJH-OP (E.D.  
5 Cal.);
- 6 t. *Karayan v. Gamestop Corp.*, 3:12-CV-01555-P (N.D. Texas);
- 7 u. *Foote v. Credit One Bank, N.A. et al.*, 13-cv-00512-MWF-PLA (C.D.  
8 Cal.);
- 9 v. *Barrett v. Wesley Financial Group, LLC*, 13-cv-00554-LAB-KSC (S.D.  
10 Cal.) (Class certification granted; permanent injunctive relief ordered);
- 11 w. *Stemple v. QC Holdings, Inc.*, 3:12-cv-01997-BAS-WVG (S.D. Cal.)  
12 (class certification granted and appointed as co-lead counsel);
- 13 x. *Webb v. Healthcare Revenue Recovery Group*, 13-cv-00737-RS (N.D.  
14 Cal.);
- 15 y. *Gehrich v. Chase Bank USA, N.A.*, 1:12-CV-5510 (N.D. IL) (finally  
16 approved for \$34,000,000);
- 17 z. *Couser v. Comenity Bank*, 12-cv-02484-MMA-BGS (S.D. Cal. Oc. 2,  
18 2014) (Finally approved for \$8,475,000 on May 27, 2015 as served as co-  
19 lead counsel);
- 20 aa. *Couser v. Apria Healthcare, Inc. et al.*, 13-cv-00035-JVS-RNB (C.D.  
21 Cal. Oct. 27, 2014) (Finally approved on March 9, 2015 and served as  
22 co-lead counsel); and,
- 23 bb. *Rose v. Bank of America Corporation et al.*, 12-cv-04009-EJD (N.D.  
24 Cal.) (Finally approved for \$32,000,000 in 2014).

25 10. Many of the cases listed above, which have settled, have resulted in the  
26 creation of combined common funds and/or distribution to class member in  
27 the tens of millions of dollars. The outstanding results mentioned above are  
28 a direct result of the diligence and tenacity shown by both myself and

1 Kazerouni Law Group, APC, in successfully prosecuting complex class  
2 actions.

3 11.I argued before the Ninth Circuit Court of Appeals concerning the TCPA  
4 case of *Knutson v. Sirius XM Radio*, No. 12-56120 (9th Cir. 2014) as co-  
5 lead counsel, which resulted in an order in favor of my client.

6 **KAZEROUNI LAW GROUP, APC'S OTHER**  
7 **CONSUMER RELATED EXPERIENCE AND RESULTS**

8 12.Kazerouni Law Group, APC has extensive experience in other consumer  
9 related issues, including the Telephone Consumer Protection Act, the Fair  
10 Debt Collection Practices Act and other related consumer statutes. A brief  
11 summary of a non-inclusive list of notable published decisions are as  
12 follows:

- 13 a. *Knell, et al. v. FIA Card Services, N.A.*, 13-CV-01653-AJB-WVG (S.D.  
14 Cal.) (California class action settlement under Penal Code 632 et seq., for  
15 claims of invasion of privacy. Settlement resulted in a common fund in  
16 the amount of \$2,750,000; finally approved in August 15, 2014);
- 17 b. *Hoffman v. Bank of America Corporation*, 12-CV-00539-JAH-DHB  
18 (S.D. Cal.) (California class action settlement under Penal Code 632 et  
19 seq., for claims of invasion of privacy. Settlement resulted in a common  
20 fund in the amount of \$2,600,000; finally approved on November 6, 2014  
21 and served as co-lead counsel);
- 22 c. *Sherman v. Yahoo!, Inc.*, 2014 U.S. Dist. LEXIS 13286; 13-CV-0041-  
23 GPC-WVG (S.D. Cal.) (TCPA class action where Defendant's motion  
24 for summary judgment was denied holding that a single call or text  
25 message with the use of an ATDS may be actionable under the TCPA);
- 26 d. *Olney v. Progressive Casualty Insurance Company*, 13-CV-2058-GPC-  
27 NLS, 2014 U.S. Dist. LEXIS 9146 (S.D. Cal.) (Defendant's motion to  
28 dismiss or in the alternative to strike the class allegations was denied

1 finding that debt collection calls were not exempt from coverage under  
2 the TCPA);

3 e. *Iniguez v. The CBE Group, Inc.*, 2013 U.S. Dist. LEXIS 127066 (E.D.  
4 Cal.); 13-CV-00843-JAM-AC (The court denied Defendant’s motion to  
5 dismiss and to strike class allegations holding that the TCPA applies to  
6 any call made to a cellular telephone with an ATDS); and,

7 f. *Macias v. Water & Power Community Credit Union*, BC515936 (Los  
8 Angeles Superior Court) (Class certification granted under the Rosenthal  
9 Fair Debt Collection Practices Act; class action settlement preliminarily  
10 approved on November 10, 2015).

11 **ADDITIONAL RELEVANT TRAINING,**  
12 **SPEAKING/TEACHING ENGAGEMENTS AND ASSOCIATIONS**

13 13.I have undergone extensive training in the area of consumer law and the  
14 Telephone Consumer Protection Act. The following is a list of recent  
15 training conferences I attended:

- 16 a. Four-day National Consumer Law Center Conference; Nashville, TN –  
17 2008;
- 18 b. Three-day National Consumer Law Center Conference; Portland, OR -  
19 2008;
- 20 c. Three-day National Consumer Law Center Conference; San Diego, CA -  
21 2009;
- 22 d. Three-day National Consumer Law Center Conference; Seattle, WA -  
23 2011;
- 24 e. Three-day CAALA Conference; Las Vegas, NV – 2009;
- 25 f. Three-day CAALA Conference; Las Vegas, NV – 2013;
- 26 g. Three-day CAALA Conference; Las Vegas, NV – 2015;
- 27 h. Three-day COAC Conference – 2014 and 2015
- 28



- 1 i. Speaker ABA National Conference, Business Litigation Section; Trends
- 2 in Consumer Litigation; San Francisco, CA – 2013; and
- 3 j. Speaker at the ABA TCPA National Webinar (Consumer Protection,
- 4 Privacy & Information Security, Private Advertising Litigation, and
- 5 Media & Technology Committees) – September 2013.
- 6 k. Spoke at the 2014 ACA Conference in November 2014.

7 14.As one of the main plaintiff litigators of consumer rights cases in the  
8 Central District of California, I have been requested to and have made  
9 regular presentations to community organizations regarding debt collection  
10 laws and consumer rights, including the Telephone Consumer Protection  
11 Act (“TCPA”). These organizations include Whittier Law School, Iranian  
12 American Bar Association, Trinity School of Law and Chapman Law  
13 School, University of California, Irvine, and California Western School of  
14 Law.

15 15.I was the principle anchor on Time Television Broadcasting every Thursday  
16 night as an expert on consumer law generally, and the TCPA specifically,  
17 between 2012 and 2013.

18 16.I am an adjunct professor at California Western School of Law where I teach  
19 a three credit course in consumer law.

20 17.I was a panelist in a webinar, ABA Telephonic Brown Bag re: TCPA, on  
21 August 25, 2015.

22 18.I lectured in Class Action Trends at the CAOC 2015 Conference in San  
23 Francisco.

24 19.I lectured on the TCPA before the ABA Business Law Section, Consumer  
25 Financial Services Committee in January 2016 at an event in Utah entitled,  
26 “Impact of the FCC’s 2015 Rulings on TCPA Litigation.”

27 20.I have also been named Rising Star by San Diego Daily Tribune in 2012,  
28 and Rising Star in Super Lawyers Magazine in 2013, 2014, 2015 and 2016.

1 21.I am a member in good standing of the following local and national  
2 associations:

- 3 a. Consumer Attorneys Association of Los Angeles;
- 4 b. The Orange County Bar Association;
- 5 c. Twice served as former President of the Orange County Chapter of  
6 the Iranian American Bar Association;
- 7 d. Member in good standing of National Association of Consumer  
8 Advocates;
- 9 e. Member of Consumer Attorneys of California;
- 10 f. Member of the Federal Bar Association; and
- 11 g. Member of the Leading Forum of the American Association of  
12 Justice.

13 22.I have been appointed class counsel in several class actions brought under  
14 the Telephone Consumer Protection Act of 1991, 47 U.S.C. § 227 (TCPA).  
15 My practice involves significant TCPA litigation and I am or have been  
16 counsel in significant national TCPA class actions including, but not limited  
17 to, class actions against Bank of America, Chase, Wells Fargo and Comenity  
18 Bank, to mention a few.

19 23.In addition to my class action experience, I have experience in commercial  
20 litigation and large-scale products liability litigation including a \$2.5 million  
21 dollar settlement in *Mei Lu Hwei, et al v. American Honda Motor Co., Inc.*,  
22 et al. (Case No. BC401211 in Superior Court of California for County of Los  
23 Angeles). I have regularly litigated cases in state and federal courts, and  
24 have reached numerous confidential seven-figure settlements against  
25 internationally known companies.

26 24.My experience in litigating class actions (specifically the TCPA) and my  
27 years in practice allowed me to provide outstanding monetary relief to this  
28 class through settlement, and are more than sufficient to justify my hourly

1 rate. Recently, the California Appellate Court, Second Appellate District,  
2 Division Eight upheld my hourly rate of \$595 per hour in the case of *Mount*  
3 *v. Wells Fargo* (Case#: B260585). Therefore, my experience and years in  
4 practice are sufficient to justify my hourly billing rate in this case of \$595  
5 per hour.

6 25. This case is such a case that would not have been pursued by any counsel in  
7 the local geographical area unless a multiplier would be awarded. Such a  
8 multiplier is expected because of the type or class of cases in which the  
9 Telephone Consumer Protection Act (“TCPA”) are. There is no fee-shifting  
10 statute in the TCPA. Furthermore, there is absolutely no incentive for a  
11 client to hire an attorney on an hourly basis to pursue the statutory damages  
12 remedy for a TCPA violation that is \$500 for each negligent violation and  
13 \$1,500 for each intentional violation. That would of course be non-  
14 economical for any client as the attorneys’ fees would far exceed any  
15 recovery.

16 26. Furthermore, cases in which I charge an hourly rate take into account that I  
17 will likely be paid for my work. If I am not being paid, I can withdraw from  
18 the case if necessary and not have to be committed to doing work for  
19 perhaps years on a case without knowing if I will be paid or not. Here, and  
20 in this class of TCPA cases, I and other counsel take these cases on only  
21 because the attorneys in this local area expect to be paid a multiplier if the  
22 case is successful. Here, the case was successful as is explained below.

23 27. Based on the type of case, the fact there is not a fee shifting provision and  
24 the result obtained, the multiplier sought is warranted in this case. I took this  
25 case on contingency, with no guarantee of ever being paid and faced  
26 substantial risk should the case proceed to trial. From the onset of this  
27 litigation my firm and co-counsel have expended our own resources with the  
28 risk that we would recover nothing.

INCENTIVE PAYMENTS

1  
2  
3 28.As set forth in the Motion for Preliminary Approval, three named class  
4 representatives are applying for incentive awards. All three Class  
5 Representatives have been active in this litigation and provided critical  
6 information to their counsel which made the successful litigation of this  
7 matter possible. See the declarations of the class representatives filed  
8 herewith. The Class Representatives were critical in the investigation of the  
9 matters surrounding the litigation, the filing of this action and the settlement  
10 process. We seek \$2,500 for each of the three class representatives to be paid  
11 from the Cash Component of the Settlement Fund as per the Settlement  
12 Agreement.

13 29.Based on the amount of work and involvement by Plaintiffs the incentive  
14 awards in this case are justified.

15 I declare under penalty of perjury under the laws of California and the  
16 United States of America that the foregoing is true and correct, and that this  
17 declaration was executed on March 21, 2016.

18  
19 Date: March 21, 2016

By: /s/ Abbas Kazerounian  
Abbas Kazerounian

