

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

ELENA BOTTS, *on behalf of herself and all
others similarly situated,*

Plaintiff,

v.

THE JOHNS HOPKINS UNIVERSITY,

Defendant.

Civil Action No. 1:20-cv-01335-JRR

**PLAINTIFF'S MOTION FOR AN AWARD OF ATTORNEYS' FEES AND
LITIGATION COSTS AND FOR A SERVICE AWARD**

Plaintiff Elena Botts, by Class Counsel and in accordance with the parties' Settlement Agreement and Release, moves the Court for an award of attorneys' fees and litigation costs and for a service award for Plaintiff. Defendant does not oppose the relief sought herein. In support of her motion, Plaintiff relies upon the concurrently filed Memorandum of Law and its Exhibits.

Dated: March 3, 2023

Respectfully submitted,

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/s/John Soumilas

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CERTIFICATE OF SERVICE

The undersigned certifies that he filed the foregoing document and its exhibits using the Court's CM/ECF system, which shall provide notice of same to all counsel of record.

Dated: March 3, 2023

/s/John Soumilas
John Soumilas

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

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TABLE OF CONTENTS

I. INTRODUCTION 1

II. CLASS COUNSEL’S REQUEST FOR AN AWARD OF ATTORNEYS’ FEES AND LITIGATION COSTS IS FAIR AND REASONABLE 1

 A. Awarding attorneys’ fees on a percentage-of-recovery basis is appropriate here .. 1

 B. Awarding One-Third of the Settlement Fund Is Reasonable..... 5

 1. Results obtained for the Class..... 5

 2. Quality, skills, and efficiency of Class Counsel 6

 3. Risk of nonpayment 7

 4. Objections from Class members 7

 5. Awards in similar cases 8

 6. Case complexity and duration..... 8

 7. Public policy 8

 C. A Lodestar Cross-Check Confirms the Reasonableness of Class Counsel’s Request..... 9

III. PLAINTIFF’S REQUEST FOR A SERVICE AWARD IS REASONABLE..... 10

IV. CONCLUSION..... 11

TABLE OF AUTHORITIES

<u>CASES</u>	Page(s)
<i>In re Abrams & Abrams, P.A.</i> , 605 F.3d 238 (4th Cir. 2010)	3
<i>In re Anthem, Inc. Data Breach Litigation</i> , 2018 WL 3960068 (N.D. Cal. 2018)	4
<i>Archbold v. Wells Fargo Bank, N.A.</i> , 2015 WL 4276295 (S.D. W. Va. July 14, 2015)	2
<i>Barber v. Kimbrell’s, Inc.</i> , 577 F.2d 216 (4th Cir. 1978)	9
<i>Behrens v. Wometco Enters.</i> , 118 F.R.D. 534 (S.D. Fla. 1988).....	7
<i>Berry v. Schulman</i> , 807 F.3d 600 (4th Cir. 2015)	7
<i>In re Cardinal Health, Inc. Sec. Litig.</i> , 528 F. Supp. 2d 752 (S.D. Ohio 2007)	9
<i>In re Charger Commc’n, Inc., Sec. Litig.</i> , 2005 WL 4045741 (E.D. Mo. June 20, 2005)	10
<i>Brundle ex rel. Constellis Employee Stock Ownership Plan v. Wilmington Tr., N.A.</i> , 919 F.3d 763 (4th Cir. 2019), <i>as amended</i> (Mar. 22, 2019)	2, 3
<i>Cox v. Branch Banking & Tr. Co.</i> , 2019 WL 164814 (S.D. W. Va. Jan. 10, 2019).....	2
<i>D’Amario v. Univ. of Tampa</i> , No. 7:20-cv-03744, ECF 76 (S.D.N.Y. Oct. 18, 2022)	5
<i>Decohen v. Abbasi, LLC</i> , 299 F.R.D. 469 (D. Md. 2014).....	8, 9
<i>Donaldson v. Primary Residential Mortg., Inc.</i> , 2021 WL 2187013 (D. Md. May 28, 2021).....	2, 10, 11
<i>In re Excel Energy, Inc., Sec., Derivative & ERISA Litig.</i> , 364 F. Supp. 2d 980 (D. Minn. 2005).....	10

Fittipaldi v. Monmouth Univ.,
 No. 3:20-cv-05526, ECF 79 (D.N.J. Sept. 22, 2022).....5

Flinn v. FMC Corp.,
 528 F.2d 1169 (4th Cir. 1975)7

Galloway v. Williams,
 2020 WL 7482191 (E.D. Va. Dec. 18, 2020)2

Good v. W. Virginia-Am. Water Co.,
 2017 WL 2884535 (S.D.W.Va. July 6, 2017)7

Hensley v. Eckerhart,
 461 U.S. 424 (1983).....3

Jernigan v. Protas, Spivok & Collins, LLC,
 2017 WL 4176217 (D. Md. Sept. 20, 2017)2

Johnson v. Metro-Goldwyn-Mayer Studios, Inc.,
 No. C17-541RSM, 2018 WL 5013764 (W.D. Wash. 2018).....4

Kelly v. Johns Hopkins Univ.,
 2020 WL 434473 (D. Md. Jan. 28, 2020).....2

Krakauer v. Dish Network, L.L.C.,
 2018 WL 6305785 (M.D.N.C. Dec. 3, 2018)2

Maley v. Del Glob. Techs. Corp.,
 186 F. Supp. 2d 358 (S.D.N.Y. 2002).....10

Manuel v. Wells Fargo Bank, Nat’l Ass’n,
 2016 WL 1070819 (E.D. Va. Mar. 15, 2016).....9

Martin v. Lindenwood Univ.,
 No. 4:20-cv-01128, ECF 48 (E.D. Mo. May 11, 2022).....6

McAdams v. Robinson,
 26 F.4th 149 (4th Cir. 2022)1

McDaniels v. Westlake Servs., LLC,
 2014 WL 556288 (D. Md. Feb. 7, 2014)2, 10

McDonnell v. Miller Oil Co.,
 134 F.3d 638 (4th Cir. 1998)5, 9

In re NASDAQ Market-Makers Antitrust Litig.,
 187 F.R.D. 465 (S.D.N.Y. 1998)10

In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation,
991 F. Supp. 2d 437 (E.D.N.Y. 2014)4

Phillips v. Triad Guar. Inc.,
2016 WL 2636289 (M.D.N.C. May 9, 2016)2

Porter v. Emerson College,
No. 1:20-cv-11897-RWZ, ECF 87 (D. Mass. Nov. 29, 2022).....5

In re Rite Aid Corp. Sec. Litig.,
146 F. Supp. 2d 706 (E.D. Pa. 2001)8

In re Rite Aid Corp. Sec. Litig.,
362 F. Supp. 2d 587 (E.D. Pa. 2005)10

Rosado v. Barry Univ., Inc.,
No. 1:20-cv-21813, ECF 84 (S.D. Fla. Sept. 7, 2021).....6

In re Royal Ahold N.V. Sec. & ERISA Litig.,
461 F. Supp. 2d 383 (D. Md. 2006)9

Seaman v. Duke Univ.,
2019 WL 4674758 (M.D.N.C. Sept. 25, 2019).....2

Singleton v. Domino’s Pizza, LLC,
976 F. Supp. 2d 665 (D. Md. 2013)4, 5, 9

Swedish Hosp. Corp. v. Shalala,
1 F.3d 1261 (D.C. Cir. 1993)4

Thomas v. FTS USA, LLC,
2017 WL 1148283 (E.D. Va. Jan. 9, 2017)2, 8

In re Tyson Foods, Inc.,
2010 WL 1924012 (D. Md. May 11, 2010)11

In re WorldCom, Inc., Sec. Litig.,
388 F. Supp. 2d 319 (S.D.N.Y. 2005)10

Wright v. S. New Hampshire Univ.,
No. 1:20-cv-00609, ECF 37 (D.N.H. Sept. 7, 2021)6

FEDERAL RULES

FED. R. CIV. P. 2311

FED. R. CIV. P. 23(f)7

FED. R. CIV. P. 23(h)1

OTHER AUTHORITIES

Theodore Eisenberg, *Attorneys’ Fees in Class Actions: 2009-2013*, 92 N.Y.U. Law Review 937 (2017).....4

Theodore Eisenberg & Geoffrey P. Miller, *Attorney Fees in Class Action Settlements: An Empirical Study*, 1 J. of Empirical Legal Studies 27 (2004)8

Brian T. Fitzpatrick, *An Empirical Study of Class Action Settlements and Their Fee Awards*, 7 J. Empirical L. Stud. 811, 832 (2010).....4

4 *Newberg on Class Actions* §§ 11:38, 14:6 (4th ed.)8, 11

5 *Newberg on Class Actions* § 15:73 (5th ed.).....3

I. INTRODUCTION

Pursuant to FED. R. CIV. P. 23(h) and in accordance with this Court’s Preliminary Approval Order of December 20, 2022, ECF 89, this motion seeks: (1) an award of attorneys’ fees and costs in the amount of one-third of the Settlement Fund;¹ and (2) a service award for Named Plaintiff Elena Botts for her service to the Class. As detailed below, these types of requests are routinely approved within this Circuit and are fair and reasonable here in light of the substantial relief obtained for the Settlement Class and to compensate Class Counsel for the risks taken and resources invested in this case over nearly three years and to also reward the Class Representative for her substantial service to the Class.

II. CLASS COUNSEL’S REQUEST FOR AN AWARD OF ATTORNEYS’ FEES AND LITIGATION COSTS IS FAIR AND REASONABLE

A. Awarding attorneys’ fees on a percentage-of-recovery basis is appropriate here

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). “There are two main methods for calculating the reasonableness of attorneys’ fees — the lodestar method and the percentage-of-recovery method.” *McAdams v. Robinson*, 26 F.4th 149, 162 (4th Cir. 2022). The lodestar method calculates reasonable fees “by multiplying the number of reasonable hours expended times a reasonable rate,” *id.* (citation omitted), while the percentage-of-recovery method “considers the portion of the total settlement fund that will go to attorneys’ fees.” *Id.* (citation omitted). This Court “may choose the method it deems appropriate based on its judgment and the facts of the case.” *Id.* (citing *Jones v. Dominion Res. Servs., Inc.*, 601 F. Supp. 2d 756, 760 (S.D. W. Va. 2009)).

¹ Unless otherwise noted, definitions of capitalized terms are found in Section 2 of the Settlement Agreement, filed at ECF 85-2.

When, as in this matter, a proposed settlement creates a common fund for the class, this Court has regularly awarded attorneys' fees using a percentage-of-recovery method with a lodestar crosscheck. *See Donaldson v. Primary Residential Mortg., Inc.*, No. CV ELH-19-1175, 2021 WL 2187013, at *7 (D. Md. May 28, 2021); *Jernigan v. Protas, Spivok & Collins, LLC*, No. CV ELH-16-03058, 2017 WL 4176217, at *8 (D. Md. Sept. 20, 2017); *McDaniels v. Westlake Servs., LLC*, No. CIV.A. ELH-11-1837, 2014 WL 556288, at *13 (D. Md. Feb. 7, 2014).

As one court has recently explained after collecting and reviewing class cases:

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.

Cox v. Branch Banking & Tr. Co., No. 5:16-cv-10501, 2019 WL 164814, at *5 (S.D. W. Va. Jan. 10, 2019).² Employing the percentage-of-recovery method is appropriate here.

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

² The percentage-of-recovery method is also overwhelmingly preferred by district courts in this Circuit. *See, e.g., Galloway v. Williams*, No. 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*, No. 3:13-cv-825, 2017 WL 1148283, at *3 (E.D. Va. Jan. 9, 2017) ("District Courts within this Circuit have also favored the percentage of the fund method." (citations omitted)), *report and recommendation adopted*, No. 3:13-cv-825, 2017 WL 1147460 (E.D. Va. Mar. 27, 2017); *Kelly v. Johns Hopkins Univ.*, No. 1:16-cv-2835, 2020 WL 434473, at *2 (D. Md. Jan. 28, 2020); *Seaman v. Duke Univ.*, No. 1:15-cv-462, 2019 WL 4674758, at *2 (M.D.N.C. Sept. 25, 2019); *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.").

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.

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). Also, as the leading class action treatise explains:

[T]he common fund fee award, as a contingent fee award, should often (if not always) be higher than counsel’s lodestar itself. This is true because the fee reflects both the provision of legal services and the loan to the class of the attorney’s resources and services, at the risk of recovering nothing. . . . Given the higher risk of not getting paid, and the loan of the attorney’s resources and services to the class, there must be some higher reward when a payday arrives.

5 *Newberg on Class Actions* § 15:73 (5th ed.).

Courts’ preference for the percentage-of-recovery 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 the class and rewards efficient litigation, removing any incentive to run up unnecessary attorney hours. *See Singleton v. Domino's Pizza, LLC*, 976 F. Supp. 2d 665, 681 (D. Md. 2013) (“An attractive aspect of the ‘percentage of recovery’ method is its results-driven nature which ‘ties the attorneys’ award to the overall result achieved rather than the hours expended by the attorneys.”) (quoting *Jones v. Dominion Res. Servs.*, 601 F. Supp. 2d 756, 759 (S.D. W.Va. 2009)).³

By comparison, the lodestar method lacks these incentives, is time consuming, and requires lawyers to submit voluminous records that courts must then review and scrutinize in detail. 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).

In sum, the Court should use the percentage-of-recovery method here.

³ *See also Johnson v. Metro-Goldwyn-Mayer Studios, Inc.*, No. C17-541RSM, 2018 WL 5013764, at *11 (W.D. Wash. 2018) (“the percentage-of-recovery method . . . align[s] the interests of the class and class counsel [motivating counsel] 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”).

B. Awarding One-Third of the Settlement Fund Is Reasonable

Pursuant to the parties' Settlement Agreement, Defendant will not oppose Class Counsel's request for an award for attorneys' fees and costs of thirty-three percent (33%) of the Settlement Fund. ECF 85-2 at § 5.3. Here, this amounts to \$2,200,000, one-third of the non-reversionary cash common fund of \$6,600,000. When considering the reasonableness of a percentage-of-recovery attorneys' fee award, district courts in the Fourth Circuit have analyzed the following seven factors:

(1) the results obtained for the class; (2) the quality, skill, and efficiency of the attorneys involved; (3) the risk of nonpayment; (4) objections by members of the class to the settlement terms and/or fees requested by counsel; (5) awards in similar cases; (6) the complexity and duration of the case; and (7) public policy[.]

Singleton, 976 F. Supp. 2d at 682. Importantly, "fee award reasonableness factors need not be applied in a formulaic way because each case is different, and in certain cases, one factor may outweigh the rest." *Id.* (citing *In re AT & T Corp.*, 455 F.3d 160, 166 (3d Cir. 2006) (internal quotation marks omitted)). The above factors favor approval of Class Counsel's request here.

1. *Results obtained for the Class*

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).

In this case, the degree of success is substantial and represents, to Class Counsel's knowledge, one of the most favorable settlements of similar claims against a college or university to date. *See, e.g., Porter v. Emerson College*, No. 1:20-cv-11897-RWZ, ECF 87 (D. Mass. Nov. 29, 2022) (final approval of \$2.06MM common fund); *Fittipaldi v. Monmouth Univ.*, No. 3:20-cv-05526, ECF 79 (D.N.J. Sept. 22, 2022) (preliminary approval of \$1.3MM common fund); *D'Amario v. Univ. of Tampa*, No. 7:20-cv-03744, ECF 76 (S.D.N.Y. Oct. 18, 2022) (final approval

of \$3.4MM common fund); *Rosado v. Barry Univ., Inc.*, No. 1:20-cv-21813, ECF 84 (S.D. Fla. Sept. 7, 2021) (final approval of \$2.4MM common fund); *Wright v. S. New Hampshire Univ.*, No. 1:20-cv-00609, ECF 37 (D.N.H. Sept. 7, 2021) (final approval of \$1.25MM common fund); *Martin v. Lindenwood Univ.*, No. 4:20-cv-01128, ECF 48 (E.D. Mo. May 11, 2022) (final approval of \$1.65MM common fund).

Thus far, no case involving analogous pandemic-related claims against colleges or universities has gone to trial, so it is difficult to determine the top end of potential damages and no class member reasonably expects to go to school — online or otherwise — for free. Some cases have been decided at summary judgment in favor of colleges and/or universities. However, judging the possible recovery as a fraction of the expenses over the 7-8 weeks in Spring 2020 during which instruction moved online at Johns Hopkins University, and considering settlements of similar cases *supra*, the average per head recovery here of approximately \$500, *see* ECF 85-1 at 5, suggests a well above average degree of success. This factor strongly favors approval of Class Counsel's requested fee.

2. *Quality, skills, and efficiency of Class Counsel*

As set forth in Class Counsel's biography, Soumilas Decl. at Ex. A, Class Counsel has decades of consumer class action experience and used their skills to obtain the result for the Class here. Class Counsel's significant experience in consumer class action litigation allowed them to achieve the excellent result in this case. The firms involved in Class Counsel are leaders in consumer protection class action, attorneys at each firm have decades of experience, and each firm has obtained monumental results for classes of consumers throughout the country. Soumilas Decl. at ¶¶ 4-10; *id.* at Ex. A (collecting cases) These time-consuming, complicated, and exhaustive efforts armed Class Counsel with sufficient leverage to negotiate an excellent result during mediation.

3. *Risk of nonpayment*

From the outset, Class Counsel litigated this matter on a wholly contingent basis, risking their own time and resources in litigation that involved novel legal theories and unprecedented facts. Indeed, Defendant sought the dismissal of all Plaintiff's claims and succeeded in obtaining dismissal of Plaintiff's statutory Count III. *See* ECF 42, 59. 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). 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).

If this matter had proceeded in litigation, Plaintiff would have borne considerable additional risks. These include the uncertainty associated with contested class certification and the possibility of an interlocutory appeal pursuant to FED. R. CIV. P. 23(f), dispositive motions, and potential appeals, not to mention trial. This factor favors awarding one-third of the Settlement Fund as attorneys' fees and costs.

4. *Objections from Class members*

To date, no Class members has objected to the Settlement or Class Counsel's requested fee, which was clearly noted in the Notice sent to Class members. Class Admin. Report dated Feb. 23, 2023 (attached hereto). "Such a lack of opposition . . . strongly supports a finding of adequacy, for '[t]he attitude of the members of the Class, as expressed directly or by failure to object, after notice to the settlement is a proper consideration for the trial court.'" *Flinn v. FMC Corp.*, 528 F.2d 1169, 1173 (4th Cir. 1975)); *see also Berry v. Schulman*, 807 F.3d 600, 618-19 (4th Cir. 2015) (affirming fee in part because of lack of objections).

5. *Awards in similar cases*

A one-third percentage-of-recovery award is consistent with various studies that have been performed over the decades: “[E]mpirical studies show that, regardless of whether the percentage method or the lodestar method is used, fee awards in the class actions average around one-third of the recovery.” 4 *Newberg on Class Actions* § 14:6 (4th ed.). In fact, one decision that reviewed 289 class actions settlements found an “average attorney’s fee percentage [of] 31.31%” and a median value “that turns out to be one-third.” *In re Rite Aid Corp. Sec. Litig.*, 146 F. Supp. 2d 706, 735 (E.D. Pa. 2001).⁴

Consistent with these precedents, Class Counsel’s fee is reasonable and should be approved.

6. *Case complexity and duration*

This novel case, which has lasted nearly three years, involved unique factual circumstances stemming from a one-in-a-lifetime pandemic and contested legal claims. Voluminous documentary discovery (over 60,000 pages of documents) enabled Class Counsel and counsel for Defendant to assess the relative strengths and weaknesses of their claims and defenses and to determine an appropriate settlement structure and amount. This factor, too, favors approval of Class Counsel’s fee request.

7. *Public policy*

As one court in this District has observed, “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” *Decohen v. Abbasi*,

⁴ See also *Thomas*, 2017 WL 1148283, at *5 (“Yet another study finds that courts consistently award between 30% and 33% of the common fund.”) (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)).

LLC, 299 F.R.D. 469, 482 (D. Md. 2014) (citation and internal quotations omitted). The same considerations apply here, as demonstrated by Class Counsel’s result for the Class.

C. A Lodestar Cross-Check Confirms the Reasonableness of Class Counsel’s Request

Although a lodestar cross-check is not required to determine the fairness of a fee when the percentage-of-recovery method is used, *see Manuel v. Wells Fargo Bank, Nat’l Ass’n*, No. 3:14-cv-238, 2016 WL 1070819, at *5 (E.D. Va. Mar. 15, 2016) (“The Court’s preference for the percentage method, in addition to the absence of any objection to the fee award, obviates the need for an exhaustive review of each of the twelve lodestar factors.”),⁵ courts that do conduct them “have generally held that lodestar multipliers falling between 2 and 4.5 demonstrate a reasonable attorneys’ fee.” *Singleton*, 976 F. Supp. 2d at 689 (awarding multiplier of 3); *see also Decohen*, 299 F.R.D. at 483 (awarding multiplier of 3.9); *In re Royal Ahold N.V. Sec. & ERISA Litig.*, 461 F. Supp. 2d 383, 385 (D. Md. 2006) (awarding “a fee of \$130,647,868.95, which . . . represents a 2.57 multiplier[.]”).

Class Counsel has incurred \$985,249.50 in fees and \$13,099.24 in expenses to obtain the recovery here. Soumilas Decl. at ¶¶ 14-21. This results in a fee multiplier of 2.2, which is justified given the contingent nature of the case, the significant risk incurred, and the result achieved. *See McDonnell*, 134 F.3d at 641 (finding that the “most critical factor in calculating a reasonable fee award is the degree of success obtained”) (internal quotation marks omitted).⁶ Given the significant

⁵ The 12 factors from *Barber v. Kimbrell’s, Inc.*, 577 F.2d 216, 226 n. 28 (4th Cir. 1978), largely mirror those considered when assessing the reasonableness of a fee calculated using the percentage-of-recovery method and include the following: (1) time and labor expended; (2) novelty and difficulty of the questions raised; (3) skill required to properly perform the legal services; (4) attorney’s opportunity costs in pressing the litigation; (5) customary fee for like work; (6) attorney’s expectations at the outset of litigation; (7) time limitations imposed by the client or circumstances; (8) amount in controversy and results obtained; (9) experience, reputation, and ability of the attorney; (10) undesirability of the case within the legal community in which the suit arose; (11) nature and length of the professional relationship between the attorney and client; (12) fee awards in similar cases.

⁶ Class Counsel’s requested multiplier also aligns with comparable figures approved as cross checks in federal courts throughout the country. *See, e.g., In re Cardinal Health, Inc. Sec. Litig.*, 528 F. Supp. 2d 752, 768 (S.D. Ohio 2007) (finding that requested fee amount with a lodestar multiplier of 7.89 was not unreasonable “[g]iven the

benefit conferred to Class members, Class Counsel's requested fees and costs are reasonable and thus should be awarded as requested.

III. PLAINTIFF'S REQUEST FOR A SERVICE AWARD IS REASONABLE

Plaintiff requests an award of \$12,500 for her service to the Class. This amount, which is less than two-tenths of one percent of the Settlement Fund, is reasonable as the recovery here could not have been obtained but for her willingness to step forward and publicly litigate this case, knowing that her own recovery would be subordinated to that of the Class. Plaintiff took active roles in the litigation, including reviewing pleadings, staying in regular contact with Class Counsel about status of the case, remaining informed about settlement discussions, being available for consultation during mediation sessions, and reviewing and approving the settlement agreement. Soumilas Decl. at ¶ 13(n). She also understood her role as class representative and both supervised and responded to Class Counsel throughout the litigation. *Id.* Further, Defendant does not oppose this award and no Class member has objected to it as of the date of this filing.

Service awards in this range are reasonable and this Court has approved them in the past. *See, e.g., McDaniels v. Westlake Servs., LLC*, 2014 WL 556288, at *12 (approving service award of \$5,000); *Donaldson*, 2021 WL 2187013, at *9 (approving service award of approximately 1%

outstanding settlement in this case and the noticeable skill of counsel"); *In re Charger Commc'n, Inc., Sec. Litig.*, No. MDL 1506, 4:02-cv-1186-CAS, 2005 WL 4045741, at *18 (E.D. Mo. June 20, 2005) (approving lodestar multiplier of 5.61); *In re Excel Energy, Inc., Sec., Derivative & ERISA Litig.*, 364 F. Supp. 2d 980, 989 (D. Minn. 2005) (approving a multiplier of 4.7 in a case that only involved document review, and was resolved with no depositions after two days of mediation); *In re Rite Aid Corp. Sec. Litig.*, 362 F. Supp. 2d 587, 589 (E.D. Pa. 2005) (awarding lodestar multiplier of 6.96 even though the parties engaged mostly in informal discovery and took no depositions); *Maley v. Del Glob. Techs. Corp.*, 186 F. Supp. 2d 358, 362 (S.D.N.Y. 2002) (describing multiplier of 4.65 as "modest" in a case in which plaintiffs conducted no depositions, only interviews, and confirmatory discovery consisted of tens of thousands of pages of documents); *In re NASDAQ Market-Makers Antitrust Litig.*, 187 F.R.D. 465, 489 (S.D.N.Y. 1998) (awarding 3.97 multiplier, that multipliers between 3 and 4.5 were common); *In re WorldCom, Inc., Sec. Litig.*, 388 F. Supp. 2d 319, 353 (S.D.N.Y. 2005) (awarding multiplier of 4).

of the common fund);⁷ *see also In re Tyson Foods, Inc.*, No. CIV.A. RDB-08-1982, 2010 WL 1924012, at *4 (D. Md. May 11, 2010) (approving aggregate service awards of \$20,000).

In fact, the requested service award here 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 (4th ed.). Because Plaintiff’s participation and willingness to stand up for the class was instrumental to their recovery, an award of \$12,500 is reasonable. Plaintiff agreed to serve the Class by: (1) subordinating her own self-interest and resisting any pressure to sell her role as Class Representative for a larger individual settlement; (2) devoting time and work to the case; and (3) allowing a national class settlement and notice necessary to satisfy Rule 23. The requested Service Award is therefore well-deserved.

IV. CONCLUSION

For the above reasons, Plaintiff respectfully requests that the Court enter an Order awarding \$2,200,000.00 — thirty-three percent of the Settlement Fund — to Class Counsel in attorneys’ fees and unreimbursed litigation expenses together, and awarding \$12,500 to Plaintiff Elena Botts for her service to the Class.

⁷ As this Court noted in *Donaldson*, other judges in this District have approved judges of this Court have approved comparable awards. 2021 WL 2187013, at *9 (collecting cases).

Dated: March 3, 2023

Respectfully submitted,

ELENA BOTTS, *by her attorneys,*

/s/John Soumilas

James A. Francis (*pro hac vice*)

John Soumilas (*pro hac vice*)

Jordan M. Sartell (*pro hac vice*)

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*Counsel for Plaintiff and the Proposed
Settlement Class*

CERTIFICATE OF SERVICE

The undersigned certifies that he filed the foregoing document and its exhibits using the Court's CM/ECF system, which shall provide notice of same to all counsel of record.

Dated: March 3, 2023

/s/John Soumilas
John Soumilas

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

ELENA BOTTS, *on behalf of herself and all
others similarly situated,*

Plaintiff,

v.

THE JOHNS HOPKINS UNIVERSITY,

Defendant.

Civil Action No. 1:20-cv-01335-JRR

**DECLARATION OF JOHN SOUMILAS IN SUPPORT OF
PLAINTIFF'S MOTION FOR AN AWARD OF ATTORNEYS' FEES AND
LITIGATION COSTS AND FOR A SERVICE AWARD TO PLAINTIFF**

I, John Soumilas, declare as follows:

I. INTRODUCTION

1. I am a shareholder and attorney at Francis Mailman Soumilas, P.C. ("FMS") and one of the attorneys representing Plaintiff Elena Botts. I submit this declaration in support of Class Counsel's application for an award of attorneys' fees and litigation costs incurred in connection with services rendered in this matter.

2. This declaration describes the history and experience of FMS and the work undertaken by the firm in connection with this litigation. It also summarizes the work done by each attorney and paralegal who was involved in the litigation as well as the firm's costs and expenses.

3. Along with the attorneys working on this case, I oversaw staffing the case with appropriate, experienced of-counsel and support staff and supervised their work. Consistent with the firm's usual practice, tasks and assignments were apportioned to avoid the expenditure of duplicative time and redundant staffing. Time expended that has been considered duplicative or

redundant has been eliminated. Time expended in preparing this application for fees and reimbursement of expenses has been included in this request.

II. FIRM HISTORY AND EXPERIENCE

4. FMS was founded in 1998 as Francis & Mailman, P.C. and has concentrated its practice in consumer protection litigation ever since. Within that more general practice area, we have a particular emphasis in Fair Credit Reporting Act (“FCRA”) litigation and consumer class actions. FMS has been recognized for its expertise in FCRA litigation and the high caliber of its work for the classes it represents. *See White v. Experian Info. Solutions, Inc.*, 993 F. Supp. 2d 1154, 1169, 1172 (C.D. Cal. 2014), *aff’d sub nom. Radcliffe v. Experian Info. Solutions, Inc.*, 818 F.3d 537, 548 (9th Cir. 2016) (finding FMS “FCRA specialists” and appointing firm and its team as interim class counsel over objections from a competing national law firm (Boies Schiller) because their team’s “credentials and experience [we]re significantly stronger in class action and FCRA litigation.”); *see also Patel v. Trans Union, LLC*, 308 F.R.D. 292, 307 (N.D. Cal. 2015) (noting counsel have “extensive experience in litigating [FCRA cases] . . . have represented consumer classes in many cases in many districts . . . [and] have shown their proficiency in this case[.]”); *Barel v. Bank of America*, 255 F.R.D. 393, 398-99 (E.D. Pa. 2009) (finding firm “competent, experienced and well-qualified to prosecute class actions” and noting that class counsel “have done an excellent job in representing the class in the instant litigation.”).

5. A biography of FMS is attached hereto as **Exhibit A**.

6. FMS is in the small minority of class action law firms that has actual experience in trying consumer class actions. We have brought several actions to trial and obtained several noteworthy verdicts and settlements. *See, e.g., Samuel-Bassett v. Kia Motors America, Inc.*, 34 A.3d 1 (Pa. 2011) (upholding \$5.6 million verdict for class of Pennsylvania car purchasers plus

award of attorney's fees); *Little v. Kia Motors America, Inc.*, 2003 WL 25568765 (N.J. Super. L. 2003) (approximately \$6 million verdict for a class of New Jersey consumers); *Chakejian v. Equifax Information Services, LLC*, 275 F.R.D. 201 (E.D. Pa. 2011) (favorable FCRA disclosure claim class settlement following opening statements to the jury); *Ramirez v. Trans Union LLC*, 951 F.3d 1008 (9th Cir. 2020) (affirming liability in \$60 million FCRA jury verdict but reducing punitive damages award to 4:1 ratio of statutory damages) *rev'd in part*, *Trans Union LLC v. Ramirez*, 141 S.Ct. 2190 (2021) (announcing new standard for Article III standing and finding insufficient evidence thereof for approximately three-quarters of class members).

7. FMS and I have been certified to serve as class counsel (and/or is currently serving) on over 70 occasions by courts throughout the country, including some of the largest FCRA class settlements in this area of litigation. *See generally* Exhibit A; *see also Ryals, et al. v. Hireright Solutions, Inc.*, C.A. No. 3:09-cv-625 (E.D. Va. Dec. 22, 2011) (\$28.3 million); *Henderson v. Acxiom Risk Mitigation, Inc.*, C.A. No. 12-589 (E.D. Va. Aug. 7, 2015) (\$20.8 million); *Thomas v. BackgroundChecks.com*, C.A. No. 13-029 (E.D. Va. Aug. 11, 2015) (\$18 million); *Berry v. LexisNexis Risk & Info. Analytics Group, Inc.*, No. 3:11-cv-754, 2014 WL 4403524, at *11 (E.D. Va. Sept. 5, 2014) (\$13.5 million plus national injunctive relief).

8. Other recent instances in which FMS has been appointed to serve as class counsel include *Stokes v. RealPage, Inc.*, C.A. No. 15-1520, ECF 63 (E.D. Pa. Feb. 6, 2018); *Flores v. Express Services Inc.*, 2017 WL 1177098 (E.D. Pa. March 29, 2017); *Miller v. Trans Union, LLC*, 2017 WL 412641 (M.D. Pa. Jan. 18, 2017); *Larson v. Trans Union, LLC*, 2016 WL 4367253 (N.D. Ca. Aug. 11, 2016); *Magallon v. Robert Half International, Inc.*, 2015 WL 8778398 (D. Or. Nov. 10, 2015); *Patel*, 308 F.R.D. 292; *Ramirez v. Trans Union, LLC*, 2014 WL 3734525 (N.D. Ca. July 24, 2014); *Sapp v. Experian Info. Solutions, Inc.*, 2013 WL 2130956 (E.D. Pa. May 15, 2013);

LaRocque v. TRS Recovery Services, Inc., 285 F.R.D. 139 (D. Me. 2012); *Giddiens v. First Advantage LNS Screening Solutions, Inc.*, No. 2:12-cv-2624, ECF 55 (E.D. Pa. Jan. 20, 2015); *Serrano v. Sterling Testing Systems, Inc.*, 711 F. Supp. 2d 402, 412 (E.D. Pa. 2010); *Summerfield v. Equifax Info. Services, LLC*, 264 F.R.D. 133 (D.N.J. 2009); *Chakejian v. Equifax Info. Services, LLC*, 256 F.R.D. 492 (E.D. Pa. 2009).

9. Federal courts across the country, including in this District, have repeatedly recognized FMS's litigation expertise and the high caliber of its work-product. *Der Hacopian v. SentryLink*, C.A. 18-3001, ECF 66 (D. Md. Transcript of Proceedings held Nov. 23, 2020) (firm "many, many times in the past has been found to be not just qualified or competent, but extremely well-qualified and competent to represent consumer classes in many, many other jurisdictions, not only this particular jurisdiction"); *see also Barel*, 255 F.R.D. at 398-99 (finding firm "competent, experienced and well-qualified to prosecute class actions" and noting that class counsel "have done an excellent job in representing the class in the instant litigation."); *Martinez v. Avantus, LLC*, 2023 WL 112807, *9 (D. Conn. Jan. 5, 2023) (firm "has substantial experience in class action litigation, including FCRA class actions [and] demonstrated proficiency at all stages of suit"); *Ramirez v. Trans Union, LLC*, 2022 WL 17722395 (N.D. Cal. Dec. 15, 2022) ("Courts have consistently recognized Francis Mailman Soumilas 'for its expertise in FCRA litigation and the high caliber of its work for the classes it represents.'"); *Flores*, 2017 WL 1177098, at *3 (firm "has extensive experience in consumer class action litigation); *White v. Experian Info. Solutions, Inc.*, 993 F. Supp. 2d 1154, 1169, 1172 (C.D. Cal. 2014), *aff'd sub nom. Radcliffe v. Experian Info. Solutions, Inc.*, 818 F.3d 537, 548 (9th Cir. 2016) (appointing firm and its team as interim class counsel over objections from a competing national law firm (Boies Schiller) because firm's team's "credentials and experience [we]re significantly stronger in class action and FCRA litigation.");

Patel, 308 F.R.D. at 307 (FMS “have represented consumer classes in many cases in many districts . . . [and] have shown their proficiency in this case[.]”); *Kelly v. Business Information Group*, 2019 WL 414915, at *7 (E.D. Pa. 2019) (firm “qualified and experienced attorneys” --- Francis & Mailman, P.C., of Philadelphia[,], who have substantial experience in class action and FCRA consumer litigation and who are qualified to conduct the litigation.”); *Larson v. Trans Union, LLC*, 2015 WL 3945052, at *12 (N.D. Cal. June 26, 2015) (appointing firm as class counsel on contested motion).

10. My firm was appointed as a member of the team of interim class counsel over contest in the massive FCRA class action of *White v. Experian Info. Solutions, Inc.*, 993 F. Supp. 2d 1154, 1169, 1172 (C.D. Cal. 2014), *aff’d sub nom. Radcliffe v. Experian Info. Solutions, Inc.*, 818 F.3d 537, 548 (9th Cir. 2016).

11. I am a member in good standing of the bars of the Commonwealth of Pennsylvania and the State of New Jersey. I have practiced law for over 23 years, having been admitted to the Pennsylvania Bar in 1999.

12. I have personally litigated hundreds of consumer protection cases and have obtained the highest jury verdicts in FCRA trials in Pennsylvania, Michigan, and California.

III. THE INSTANT LITIGATION

13. FMS originated and acted as lead class counsel in this matter, which was filed on May 29, 2020. I personally handled or was directly involved in virtually all attorney aspects of this litigation, along with my partner James A. Francis and other FMS attorneys, principally Jordan M. Sartell of our Chicago office and Kevin Mallon from our New York City office. We were also assisted in select respects by FMS paralegals. Co-counsel Courtney Weiner also provided support

on the case on select issues. The tasks FMS performed in this litigation were substantial and are summarized below:

- a. Pre-suit investigation of the claims and defenses in this matter and venue considerations;
- b. Drafting a class action complaint;
- c. Preparing an amended class action complaint in consideration and response to Defendant's initial motion to dismiss;
- d. Researching and drafting Plaintiff's response in opposition to Defendant's second motion to dismiss;
- e. Continued research regarding developments in college tuition cases that resulted in supplemental briefing and/or supplemental authorities filed and/or responded to by the parties in 13 different supplemental filings. (ECFs. 45-57);
- f. Drafting, editing, and revising the joint report of the parties' FED. R. CIV. P. 26(f) conference; meeting and conferring with Defendant's counsel regarding same;
- g. Engaging in extensive disclosures and discovery, including drafting and editing Plaintiff's discovery requests; reviewing documents produced in this matter, reviewing data and documents concerning class members, engaging in confirmatory discovery after settlement, and meeting and conferring with counsel for Defendant regarding discovery and data-exchange;
- h. Drafting and serving four deposition notices;
- i. Drafting but not filing a motion to compel over a discovery dispute that was untimely resolved between the parties;
- j. Negotiating a protective order;

- k. Conferring with an expert regarding damages calculations;
- l. Review over 60,000 of documents produced during discovery, including complex financial documents;
- m. Participating in settlement discussions, including attending an all-day mediation via videoconference with JAMS mediator David Geronemus on May 11, 2022, and participating in extensive follow-up conferences with counsel for Defendant;
- n. Conferring with Plaintiff Botts who provided detailed information about the facts of her case and relevant documents, and assisted with other aspects of this litigation, the mediation sessions, and the settlement drafting process;
- o. Drafting appropriate scheduling revision motions;
- p. Continued post-mediation negotiations over several weeks in the Summer of 2022.
- q. Drafting, editing, and revising the settlement agreement and several short form and long form class notices;
- r. Conferring with counsel for Defendant regarding same, notice and settlement administration, and the settlement website.
- s. Preparing and filing motion for preliminary approval and to direct notice to the class;
- t. Taking a leadership role with class administration; preparing the instant motion for attorney's fees and a service award; and the anticipated motion for final approval and fairness hearing.

IV. FMS'S TIME INVESTED IN THIS LITIGATION

14. Along with me, the attorneys in my firm who submitted billable time in this litigation are James A. Francis, Kevin Mallon, Jordan M. Sartell, and Lauren KW Brennan. Additionally, my firm seeks billable time for the experienced paralegals who also worked on this case. A detailed summary of the time expended by my firm in this matter, by activity categories maintained within our firm's Philadelphia billing software and by timekeeper, is set forth in the following table. The time entries upon which the table is based were generated from the time records regularly prepared and maintained by my firm within our firm's billing software. Estimates have been added for time expected to be spent in the future in connection with the final approval motion and hearing and for ongoing class administration and delivery of funds to class members. These estimates amount to 70.2 hours in total.¹ Time expended that has been considered duplicative or redundant has been eliminated from this lodestar. Consistent with our firm's usual practice, tasks and assignments were apportioned to avoid the expenditure of duplicative time and redundant staffing.

	James Francis	John Soumilas	Kevin Mallon	Jordan Sartell	Lauren Brennan	Paralegals
File Administration	0.00	0.00	26.6	0.00	0.00	3.50
Pre-Suit Investigation	9.40	10.10	52.9	0.00	0.00	.90
Pleadings & Service	30.70	39.40	15.1	.30	.50	2.10
Disclosures, Court Confs.	8.40	6.00	8.1	0.00	.10	.40
Written Discovery	18.60	115.10	22.8	10.60	2.80	84.80
Depositions	0.00	9.30	0	3.90	0.00	.20
Motion Practice	76.20	256.60	86.8	71.10	.80	28.30

¹ Should the Court wish to review the individual time entry records themselves, they can be exported from our computer systems and made available for an *in camera* review, but they are not attached hereto in order to protect the attorney-client and work-product privileges as the individual records themselves are unredacted and unreviewed for privilege.

17. The lodestar figure above does not include out of pocket expenses and the costs of the litigation, which are billed separately.

18. In addition to FMS, Courtney Weiner assisted with select aspects of this case, particularly in the early stages of the case and with the JAMS mediation. Ms. Weiner expended **\$34,639.50** of attorney time (78.1 hours) in this matter, which is summarized in her firm's billing summary set forth as **Exhibit C**.²

VI. EXPENSES

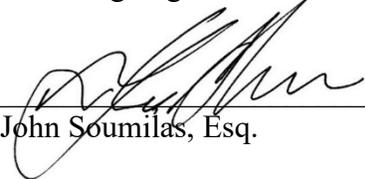
19. As detailed in **Exhibit D** hereto, my firm has incurred a total of **\$13,099.24** in unreimbursed expenses in connection with the prosecution of this litigation. Each of the expenses described therein would typically be billed to paying clients.

20. The expenses incurred in this action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, software, and other source materials and are an accurate record of the expenses.

21. In summary, the total attorney time devoted and expected to be devoted going forward by FMS and Courtney Weiner in this litigation amounts to **\$985,249.50** in fees and **\$13,099.24** in costs and expenses, for a grand total of **\$998,348.74**.

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

Executed on March 3, 2023



John Soumilas, Esq.

² As with FMS's records, should this Court wish to review Ms. Weiner's time records, they can be prepared for an *in camera* review, but they are not attached hereto in order to protect the attorney-client and work-product privileges as the individual records themselves are unredacted and unreviewed for privilege.

Exhibit A



FRANCIS MAILMAN SOUMILAS, P.C. (FMS) is a law firm that concentrates in consumer protection litigation. While principally based in center-city Philadelphia, the firm also maintains offices in New York, Chicago, and San Francisco. FMS represents consumers in both individual and class actions. Founded in 1998 as Francis & Mailman, P.C., the firm’s goal is to provide exceptional advocacy to consumers subjected to unfair business, industry, and trade practices.

FMS is one of the nation’s preeminent consumer protection litigation firms. The firm has obtained numerous ground-breaking legal decisions, record jury verdicts and large consumer settlements. In 2017, FMS obtained a record \$60 million dollar class action verdict for a case tried under the Fair Credit Reporting Act. The case ultimately went to the United States Supreme Court, which resulted in a 5-4 remand decision that has become a landmark case in civil litigation concerning the issue of constitutional standing. The firm has been certified to serve as class counsel in over 70 consumer class actions nationwide.

Due to its litigation proficiency, expertise and the high caliber of its work-product, FMS has been repeatedly recognized and commended by federal courts throughout the country over many years. *Barel v. Bank of America*, 255 F.R.D. 393, 398-99 (E.D. Pa. 2009) (finding firm “competent, experienced and well-qualified to prosecute class actions” and noting that class counsel “have done an excellent job in representing the class in the instant litigation.”); *Martinez v. Avantus, LLC*, ___ F.R.D. ___, 2023 WL 112807, *9 (D. Conn. Jan. 5, 2023)(firm “has substantial experience in class action litigation, including FCRA class actions....[and] demonstrated proficiency at all stages of suit”); *Ramirez v. Trans Union, LLC*, 2022 WL 17722395 (N.D. Cal. Dec. 15, 2022)(“Courts have consistently recognized Francis Mailman Soumilas ‘for its expertise in FCRA litigation and the high caliber of its work for the classes it represents.’”); *Der Hacopian v. SentryLink*, C.A. 18-3001 (D. Md., Nov. 23, 2020)(firm “many, many times in the past has been found to be not just qualified or competent, but extremely well-qualified and competent to represent consumer classes in many, many other jurisdictions, not only this particular jurisdiction”); *Flores v. Express Services, Inc.*, C.A. No.14-3298, 2017 WL 1177098, at *3 (E.D. Pa. March 30, 2017) (firm “has extensive experience in consumer class action litigation); *White v. Equifax Info. Solutions*, No. 05-01070, 2014 WL 1716154, at *13, 19, 22 (C.D. Cal. May 1, 2014), *aff’d sub nom. Radcliffe v. Equifax Info. Sol’ns., Inc.*, 818 F.3d 537, 548 (9th Cir. 2016) (appointing firm and its team as interim class counsel over objections from a competing national law firm (Boies Schiller) because firm’s team’s “credentials and experience [we]re significantly stronger in class action and FCRA litigation.”); *Patel v. Trans Union, LLC*, 308 F.R.D. 292, 307 (N.D. Cal. 2015) (FMS “have represented consumer classes in many cases in many districts . . . [and] have shown their proficiency in this case[.]”); *Kelly v. Business Information Group*, C.A. 15-6668, 2019 WL 414915 (E.D. Pa. 2019) (firm “qualified and experienced attorneys” --- Francis & Mailman, P.C., of Philadelphia...who have substantial experience in class action and FCRA consumer litigation and who are qualified to conduct the litigation.”); *Larson v. Trans Union, LLC*, C.A. 12-cv-05726, 2015 WL 3945052, at *12 (N.D. Cal. June 26, 2015) (appointing firm as class counsel on contested motion);

JAMES A. FRANCIS

JIM FRANCIS co-founded FMS in 1998 with the goal of creating a law firm dedicated exclusively to consumer rights litigation. Since then, he and the firm have consistently achieved ground-breaking results and cutting-edge legal rulings. He was trial and appellate counsel in *Ramirez v. Trans Union, LLC*, a case that obtained a record \$60 million dollar verdict for a case brought under the Fair Credit Reporting Act. In 2009, Jim argued the seminal FCRA case of *Cortez v. Trans Union, LLC* before the Third Circuit Court of Appeals. He has been appointed to serve as class counsel by federal courts all over the country in over 70 cases.

In 2004, Jim was the youngest lawyer to be ranked a Top 100 Superlawyer in Pennsylvania in *Philadelphia Magazine* and *Pennsylvania Super Lawyers* magazine. He has been ranked in the Top 100 for Pennsylvania or Philadelphia many times since. In 2014, Jim was selected as one of a small group of national plaintiffs' lawyers to be profiled in Law 360's *Titans of the Plaintiff's Bar* series. In the same year, he was awarded the *Equal Justice Award* by Community Legal Services of Philadelphia.

In 2021, Jim was selected to join the American Institute of Trial Lawyers as Litigator of the Year, and again named to the Top 100 Pennsylvania Super Lawyers, as well as the Top 100 Philadelphia Super Lawyers.

Jim regularly lectures for continuing legal education programs, law schools and community groups throughout the country, and has been a regular speaker for the National Association of Consumer Advocates (NACA) and National Consumer Law Center (NCLC) for over 20 years. He has appeared on various news programs including the *Today Show* and *PBS NewsHour* to discuss consumer-related issues. He was featured in *The Philadelphia Inquirer's* biographical "Question & Answer" segment in February of 2009.

Prior to forming FMS and after graduating from law school, Jim was an associate with Kolsby, Gordon, Robin, Shore & Rothweiler in Philadelphia.

EDUCATION

Temple University Beasley School of Law, J.D. 1995, President-Student Bar Association, 1995 Wapner, Newman & Wigrizer, P.C. award for excellence in civil trial advocacy; award for outstanding Oral Advocacy;

Muhlenberg College, B.A., *cum laude*, 1992

ADMISSIONS

- Pennsylvania and New Jersey state courts
- United States Courts of Appeal for the First, Second, Third, Fourth, Sixth, Seventh, Ninth and Eleventh Circuits
- United States District Courts for the Eastern District of Pennsylvania, Middle District of Pennsylvania, District of New Jersey, Eastern District of Michigan, Northern District of Oklahoma

- United States Supreme Court

NOTABLE CASES

- *Ramirez v. Trans Union, LLC*, 951 F.3d 1008 (9th Cir. 2020). Served as trial and appellate counsel in record \$60 million jury verdict for a case brought under the Fair Credit Reporting Act; argued appeal against former Solicitor General of the United States affirming verdict (with remittitur), upon certiorari, remanded by US Supreme;
- *Robinson v. National Student Clearinghouse*, No. 1-19-cv-10749, 2020 WL 4873728 (D. Mass. July 8, 2020) *aff'd* 14 F.4th 56 (1st Cir. 2021). In first challenging the defendant as a consumer reporting agency, obtained \$2 million dollar settlement for consumers who were overcharged for college verifications and brought company into FCRA compliance.
- *Patel v. Trans Union, LLC*, 2018 WL 1258194 (N.D. Cal. March 11, 2018). Served as lead Class Counsel in case which obtained an \$8 million dollar settlement for class of consumers who were falsely being reported as terrorists.
- *Thomas v. Equifax Info. Services, LLC*, No. 18-cv-684 (E.D. Va.). National Class Counsel in FCRA class action, alleging violations by credit bureau for misreporting public records, providing nationwide resolution of class action claims asserted across multiple jurisdictions, including injunctive relief, and an uncapped mediation program for millions of consumers.
- *Clark v. Experian Info. Sols., Inc.*, No. 16-cv-32 (E.D. Va.). National Class Counsel in FCRA class action, alleging violations by credit bureau for misreporting public records, providing a nationwide resolution of class action claims asserted by 32 plaintiffs in 16 jurisdictions, including injunctive relief and an uncapped mediation program, for millions of consumers.
- *Clark/Anderson v. Trans Union, LLC*, No. 15-cv-391 & No. 16-cv-558 (E.D. Va.). National Class Counsel in FCRA consolidated class action, alleging violations by credit bureau for misreporting public records, providing groundbreaking injunctive relief, and an opportunity to recover monetary relief, for millions of consumers.
- *In Re: TRS Recovery Services, Inc. and Telecheck Services, Inc.*, Fair Debt Collection Practices Act (FDCPA Litigation)- Served as Class Counsel in a national FDCPA class action and obtained a 3.4-million-dollar settlement against one of the nation's largest check history consumer reporting agencies.
- *Berry v. LexisNexis Risk & Info. Analytics Group, Inc.*, No. 3:11-cv-754, 2014 WL 4403524, at *11 (E.D. Va. Sept. 5, 2014) -- Appointed class counsel in national FCRA class action that obtained a \$13.5-million-dollar settlement against Lexis/Nexis, one of the largest information providers in the world, along with a groundbreaking injunctive relief settlement on behalf of 200 million Americans in which LexisNexis agreed to bring its Accurant product into FCRA compliance.
- *Thomas v. BackgroundChecks.com*, C.A. No. 13-029 (E.D. Va. Aug. 11, 2015) –Appointed class counsel in an FCRA national class action which obtained \$18 million against another of the largest background screening companies in the world, and also obtained significant injunctive and remedial relief.

- *Henderson v. Axiom Risk Mitigation, Inc.*, C.A. No. 12-589 (E.D. Va., Aug. 7, 2015)- Appointed class counsel in a national FCRA class action which obtained a \$20.8 million settlement against one of the largest data sellers and background screening companies in the world.
- *Ryals et al. v. Hireright Solutions, Inc.*, C.A. No. 3:09cv625 (E.D. Va. Dec. 22, 2011) – \$28.3 million national settlement achieved for class of consumers subjected to employment background checks in case brought under Fair Credit Reporting Act (FCRA); believed to be the third largest FCRA settlement in history.
- *Cortez v. Trans Union, LLC*, 617 F.3d 688 (3d. Cir. 2010) – argued precedential case of first impression before the U.S. Court of Appeals for the Third Circuit which outlines the liability, causation and damages standards for FCRA cases against credit reporting agencies; \$800,000 jury verdict against Trans Union in fair credit reporting case (remitted to \$150,000).
- *Little v. Kia Motors America, Inc.*, 2003 WL 25568765 (N.J. Super. L. 2003) – \$6 million (approximate) verdict for class of New Jersey car purchasers.
- *Samuel-Bassett v. Kia Motors America, Inc.*, ___ A.3d ___, 2011 WL 60559098 (Pa. 2011), C.P. Phila. County, January Term, 2001, No. 2199 – \$5.6 million verdict for class of Pennsylvania car purchasers, plus award of attorney’s fees.
- *Serrano v. Sterling Testing Systems, Inc.*, ___ F. Supp. 2d ___, 2008 WL 2223007 (E.D. Pa. May 30, 2008) – federal court finding as a matter of first impression what defines a record of arrest under the FCRA.
- *Ziegenfuse v. Apex Asset Management, LLC*, 239 F.R.D. 400 (E.D. Pa. 2006) – obtained court decision holding that offers of judgment under Rule 68 of the Federal Rules of Civil Procedure cannot be used in class actions.
- *Stoner v. CBA Information Services*, 352 F. Supp. 2d 549 (E.D. Pa. 2005) – obtained \$772,500 settlement for class of consumers who disputed errors in their credit reports.
- *Richburg v. Palisades Collection, LLC*, 247 F.R.D. 457 (E.D. Pa. 2008); federal court ruled that actions to collect delinquent credit card debt in Pennsylvania subject to 4 year statute of limitations (not 6 as the defendant collection agency had argued).
- *Perry v. FleetBoston Financial Corp.*, 2004 WL 1508518 (E.D. Pa. 2004) – defeated motion to compel arbitration in class action brought under Fair Credit Reporting Act.
- *Crane v. Trans Union, LLC*, 282 F. Supp. 2d 311 (E.D. Pa. 2003) – federal court held that credit reporting agencies that merely parrot information from credit furnishers and fail to forward dispute documentation face claims for punitive damages under the Fair Credit Reporting Act; violation of the Fair Credit Reporting Act presents a violation of Pennsylvania’s Consumer Protection Law).
- *Lawrence v. Trans Union, LLC*, 296 F. Supp. 2d 582 (E.D. Pa. 2003) (same).
- *Wisneski v. Nationwide Collections, Inc.*, 227 F.R.D. 259 (E.D. Pa. 2004) – obtained class certification in Fair Debt Collection Practices action in which a Pennsylvania federal court held for the first time that statutory net worth limitation is not limited to balance sheet net worth, and includes equity, capital stock and goodwill.

- *Evantash v. G.E. Capital Mortgage Services, Inc.*, 2003 WL 22844198 (E.D. Pa. 2003) – federal court held that technical accuracy defense was not available to defendants under the Fair Credit Reporting Act.
- *Sheffer v. Experian Information Solutions, Inc.*, 2003 WL 21710573 (E.D. Pa. 2003) – federal court held that Fair Credit Reporting Act permits as recoverable damage emotional distress in trying to correct errors in a consumer’s credit file, even where no pecuniary or out-of-pocket losses.
- *Sheffer v. Experian Information Solutions Inc.*, 249 F. Supp. 2d 560 (E.D. Pa. 2003) – federal court held that FCRA provides a private right of action against furnishers of information.
- *Sullivan v. Equifax, Inc. et al.*, 2002 U.S. Dist. LEXIS 7884 (E.D. Pa. 2002) – federal court held that reporting a debt to a credit reporting agency is a communication covered by the Fair Debt Collection Practices Act.
- *Wenrich v. Cole*, 2000 U.S. Dist. LEXIS 18687 (E.D. Pa. 2000) – federal court held that FDCPA provides protection for all persons, not just consumers.
- *Jaramillo v. Experian Information Solutions, Inc.*, 155 F. Supp. 2d 356 (E.D. Pa. 2001) – federal court held that single publication rule does not apply to actions brought for violation of the Fair Credit Reporting Act.

CLASS COUNSEL CERTIFICATIONS

Martinez v. Avantus, LLC, No. 3:20-CV-1772 (JCH), 2023 WL 112807 (D. Conn. Jan. 5, 2023)

Stewart et al v. LexisNexis Risk Data Retrieval Services, LLC et al., No. 3:20-cv-00903-JAG (E.D. Va. July 27, 2022)

Healy v. Milliman, Inc., No. 2:20-cv-01473-JCC (W.D. Wash. 2022)

Kang v. Credit Bureau Connection, Inc., No. 18-01359, 2022 WL 658105 (E.D. Cal. Mar. 4, 2022)

Watson v. Checkr, Inc., No. 3:19-cv-03396-EMC (N.D. Cal. 2021)

Deaton v. Trans Union, LLC, No. 2:20-cv-01380-AB (E.D. Pa. 2021)

Sanders v. Makespace Labs, Inc., No: 1:18-cv-10016 (S.D.N.Y. Mar. 29, 2021)

Der-Hacopian v. Darktrace, Inc., No: 18-cv-06726-HSG (N.D. Cal. Dec. 10, 2020)

Der-Hacopian v. Sentrylink, LLC, No. 8:18-cv-03001-PWG (N.D. Cal. Nov. 23, 2020)

McIntyre v. RealPage, Inc., No: 2:18-cv-03934, WL 5017612 (E.D. Pa. Aug. 25, 2020)

Norman v. Trans Union, LLC, No: 18-5225, 2020 WL 4735538 (E.D. Pa. Aug. 14, 2020)

Robinson v. National Student Clearinghouse, No. 1-19-cv-10749, 2020 WL 4873728 (D. Mass. July 8, 2020) *aff'd* 14 F.4th 56 (1st Cir. 2021)

Leo v. APPFOLIO, Inc., No.3:17-cv-05771-RJB (W.D. Wash. 2019)

Thomas v. Equifax Info. Services, LLC, No. 18-cv-684 (E.D. Va. 2020)

Clark v. Experian Info. Sols., Inc., No. 16-cv-32 (E.D. Va. 2019)

Clark/Anderson v. Trans Union, LLC, No. 15-cv-391 & No. 16-cv-558 (E.D. Va. 2018)

Gibbons v. Weltman, Weinberg & Reis Co., LPA, 2018 WL 5720749 (E.D. Pa. Oct. 31, 2018)
Kelly v. Business Information Group, C.A. 15-6668, 2019 WL 414915 (E.D. Pa. 2019)
Ridenour v. Multi-Color Corporation, C.A. No. 2:15-cv-00041, (E.D. Va., Jan. 13, 2017)
Flores v. Express Personnel, C.A. No. 14-cv-03298, (E.D. Pa. Oct. 21, 2016)
Larson v. Trans Union, LLC, C.A. No. 12-cv-05726, (N.D. CA, Aug. 11, 2016)
Miller v. Trans Union, LLC, C.A. No. 12-cv-1715, (M.D. PA, Dec. 26, 2016)
Henderson v. Trans Union, LLC, C.A. No. 14-cv-00679, E.D. Va., May 3, 2016)
Pawlowski v. United Tranzactions, LLC, C.A. no. 15-cv-2330, (E.D. PA, April 18, 2016)
Rodriguez v. Calvin Klein, Inc., C.A. 1:15-cv-02590 (S.D. N.Y. 2015)
Giddiens v. Infinity Staffing, C.A. No. 13-cv-07115, (E.D. Pa., Jan. 12, 2016)
Giddiens v. First Advantage, C.A. No. 14-cv-5105, (E.D. Pa., July 11, 2015)
Jones v. Halstead Management Corporation, C.A. No. 14-cv-03125 (S.D. N.Y., May 5, 2016)
Berry v. LexisNexis Risk & Info. Analytics Group, Inc., No. 3:11-cv-754, 2014 WL 4403524 (E.D. Va. Sept. 5, 2014)
Thomas v. BackgroundChecks.com, C.A. No. 13-029 2015 WL 11004870 (E.D. Va. Aug. 5, 2015)
Henderson v. Acxiom Risk Mitigation, Inc., C.A. No. 12-589 (E.D. Va., Aug. 7, 2015)
Magallon v. Robert Half International, Inc. WL 8778398 (D. Or. Nov. 10, 2015)
Carter v. McDonald's Restaurants, 15-01531-MWF (March 15, 2015)
Patel v. Trans Union, LLC, 308 F.R.D. 292 (N.D. Cal. 2014)
Goode v. First Advantage LNS Screening Sols., Inc., No. 11-cv-02950 (E.D. Pa. Dec. 29, 2014)
Blandina v. Midland Funding, LLC, 2014 WL 7338744 (E.D. Pa. Dec. 23, 2014)
King v. General Information Services, Inc., C.A. No. 11-06850 (E.D. Pa. Nov. 4, 2014)
Robinson v. General Information Services, Inc., C.A. No. 11-07782 (E.D. Pa. Nov. 4, 2014)
Ramirez v. Trans Union, LLC, 2014 WL 3734525 (N.D. Cal. July 24, 2014)
White v. Experian Information Solutions, 993 F. Supp. 2d 1154, 1172 (C.D. Ca. 2014)
Sapp v. Experian Information Solutions, Inc., 2:10-04312 (E.D. Pa. Jan. 29, 2013)
LaRocque v. TRS Recovery Services, Inc., 2012 WL 291191 (D. Me. July 17, 2012)
Ryals et al. v. Hireright Solutions, Inc., C.A. No. 3:09-625 (E.D. Va. July 7, 2011)
Serrano v. Sterling Testing Systems, Inc., 711 F. Supp. 2d 402 (E.D. Pa. 2010)
Summerfield v. Equifax Information Services, LCC, 264 F.R.D. 133 (D. N.J. 2009)
Chakejian v. Equifax Information Services, LLC, 256 F.R.D. 492 (E.D. Pa. 2009)
Jones v. Midland Funding, LLC, C.A. No. 3:08-802 (RNC) (D. Conn. October 13, 2009)
Barel v. Bank of America, 255 F.R.D. 393 (E.D. Pa. 2009)
Mann v. Verizon, C.A. No. 06-5370 (E.D. Pa. Sept. 26, 2008)
Smith v. Grayling Corp., 2008 WL 3861286, C.A. No. 07-1905 (E.D. Pa. 2008)
Strausser v. ACB Receivables Management, Inc., 2008 WL 859224 (E.D. Pa. March 28, 2008)

Nienaber v. Citibank (South Dakota), N.A., 2007 WL 2003761 (D.S.D. July 5, 2007)
Jordan v. Commonwealth Financial Systems, Inc., 237 F.R.D. 132, (E.D. Pa. 2006)
Marino v. UDR, 2006 WL 1687026, C.A. No. 05-2268 (E.D. Pa. June 14, 2006)
Seawell v. Universal Fidelity Corp., 235 F.R.D. 64 (E.D. Pa. 2006)
Perry v. FleetBoston Financial Corp., 229 F.R.D.105 (E.D. Pa. 2005)
Beck v. Maximus, Inc., 2005 WL 589749 (E.D. Pa. 2005)
Beck v. Maximus, 457 F. 3d 291, 2006 WL 2193603 (3d Cir. Aug. 4, 2006)
Stoner v. CBA Information Services, 352 F. Supp. 2d 549 (E.D. Pa. 2005)
Bittner v. Trans Union, LLC, C.A. No. 04-2562 (E.D. Pa. January 4, 2005)
Wisneski v. Nationwide Collections, Inc., 227 F.R.D. 259 (E.D. Pa. 2004)
Petrolito v. Arrow Financial Services, LLC, 221 F.R.D. 303 (D. Conn. 2004)
Orloff v. Syndicated Office Systems, Inc., 2004 WL 870691 (E.D. Pa 2004)
Bonett v. Education Debt Services, Inc., 2003 WL 21658267 (E.D. Pa. 2003)
Gaumer v. The Bon-Ton Stores, C.A. No. 02-8611 (E.D. Pa. Dec. 30, 2003)
Street v. Portfolio Recovery Associates, C.A. No. 01-3684 (E.D. Pa. July 30, 2003)
Samuel-Bassett v. Kia Motors America, Inc., 212 F.R.D. 271 (E.D. Pa. 2000)
Oslan v. Law Offices of Mitchell N. Kay, 232 F. Supp. 2d 436 (E.D. Pa. 2002)
Oslan v. Collection Bureau of Hudson Valley, 206 F.R.D. 109 (E.D. Pa. 2002)
Saunders v. Berks Credit & Collections, 2002 WL 1497374 (E.D. Pa. 2002)
Schilling v. Let's Talk Cellular and Wireless, 2002 U.S. Dist. LEXIS 3352 (E.D. Pa. 2002)
Fry v. Hayt, Hayt and Landau, 198 F.R.D. 461 (E.D. Pa. 2000)
Smith v. First Union Mortgage Corporation, 1999 WL 509967 (E.D. Pa. 1999)
Miller v. Inovision, December Term, 1999, No. 3504 (C.P. Phila. County).

LECTURES/PRESENTATIONS BY INVITATION

Speaker, *Data Protection at the Federal Level*, Nevada Bar Association, January 17th, 2023
Speaker, *27th Annual Consumer Financial Services Institute*, Practising Law Institute, *Debt Collection and Credit Reporting Update*, December 7th, 2022, San Francisco, CA
Speaker, *Tenant Screening Litigation: FCRA and Civil Rights Claims*, National Consumer Law Center, Consumer Rights Litigation Conference, November 10, 2022, Seattle, WA
Speaker “Lightning Round-Ascertainability”, Consumer Class Action Symposium, National Consumer Law Center, November 13, 2022, Seattle, WA
Speaker, *27th Annual Consumer Financial Services Institute*, Practising Law Institute, *Debt Collection and Credit Reporting Update*, September 20, 2022, Chicago, IL
Speaker, *Representing the Pro Bono Client: Consumer Law Basics*, Practising Law Institute, August 12, 2022
Speaker, *Perrin Conferences Class Action Litigation Virtual Conference*, April 26, 2022

Speaker, Introduction to Standing in Federal FDCPA Litigation, 2022 Fair Debt Conference, National Consumer Law Center, April 25th, 2022, Orlando, FL

Speaker, *27th Annual Consumer Financial Services Institute- Debt Collection and Credit Reporting Update*, Practising Law Institute, March 18, 2022, New York, NY

Speaker, *Consumer Finance Class Actions: FDCPA, FCRA & TCPA Webinar*, Strafford, September 16, 2020

Faculty, *Introduction to the Fair Credit Reporting Act, Representing the Pro Bono Client: Consumer Law Basics 2020*, Practising Law Institute, August 14, 2020, San Francisco, CA

Faculty, *Representing the Pro Bono Client: Consumer Law Basics 2019*, Practising Law Institute;

Faculty, *Consumer Financial Services & Banking Law Update*, Pennsylvania Bar Institute, October 29, 2019;

Faculty, *Consumer Finance Class Actions*, The Canadian Institute, July 24, 2019;

Faculty, *Representing the Pro Bono Client: Consumer Law Basics 2019*, Practising Law Institute;

Speaker, *Fair Credit Reporting Act Conference*, National Association of Consumer Advocates, Long Beach, CA, May 1–4, 2019;

Faculty, *Judicial Scrutiny of Class Action Settlements: New Standards and Ensuring Timely Release of Attorneys' Fees*, Strafford Webinars and Publications, Tuesday, October 9, 2018;

Speaker, *Fair Credit Reporting Act Conference*, National Association of Consumer Advocates, Baltimore, MD, April 22-29, 2017;

Faculty, 21st Annual Consumer Financial Services Litigation Institute (CLE-accredited), "Fair Credit Reporting and Debt Collection Litigation", March and April 2016, NYC and Chicago;

Speaker, The Conference on Consumer Finance Law, Annual Consumer Financial Services Conference, Loyola University School of Law, Chicago, Illinois, September 16, 2016;

Speaker, "New Frontiers: FCRA Litigation Against Lesser Known CRAs", Consumer Rights Litigation Conference, National Consumer Law Center, Anaheim, California, October 2016;

Faculty, "Pursuing and Defending FDCPA, FCRA and TCPA Claims", Consumer Finance Class Actions, Strafford Publications, June 2, 2016;

Speaker, "Stump the Champs", Consumer Rights Litigation Conference, National Consumer Law Center, San Antonio, Texas, October 2015;

Speaker, *Fair Credit Reporting Act Conference*, National Association of Consumer Advocates, Las Vegas, NV May 1–3, 2015;

Co-Chair and Speaker, NACA 2013 FCRA Conference, National Association of Consumer Advocates, May 29 – June 1, 2013;

Presenter, *Beyond E-Oscar: Litigating "Non-Credit" FCRA Cases*, Webinar, National Association of Consumer Advocates, February 27, 2013;

Faculty, *FDCPA Class Actions: Latest Litigation Developments*, Strafford Webinars and Publications, November 8, 2012;

Speaker, Consumer Finance Class Actions: *FCRA and FACTA: Leveraging New Developments in Certification, Damages and Preemption*, Strafford Webinars and Publications, March 21, 2012;

Speaker, *FCRA Developments*, Consumer Rights Litigation Conference, National Consumer Law Center, Seattle, Washington, October 2012;

Speaker, *11th Consumer Class Action Symposium*, National Consumer Law Center, Chicago, Illinois, November 6, 2011;

Speaker, *Tenant, Employment and Chexsystems Reports*, Consumer Rights Litigation Conference, National Consumer Law Center, Chicago, Illinois, November 3 – 6, 2011;

Speaker, *Specialty Consumer Reports and the FCRA*, FCRA Conference on Consumer Credit, National Association of Consumer Advocates, Memphis, Tennessee, May 20 – 22, 2011;

Panelist, *Taking on the Challenges Facing Workers with Criminal Records: Advancing the Legal and Policy Advocacy Agenda*, National Employment Law Project, Washington, D.C., April 5, 2011;

Faculty, 16th Annual Consumer Financial Services Litigation Institute (CLE-accredited), *Collection Issues Including The TCPA & Hot Topics*, Practicing Law Institute, New York, NY and Chicago, IL, March 2011;

Speaker, *ABCs of Fair Credit Reporting, Tips on FCRA Depositions, Evolution of Credit Reporting Industries*, Consumer Rights Litigation Conference, National Consumer Law Center, Boston, Massachusetts, November 11 – 14, 2010;

Faculty, Banking and Consumer Financial Services Law Update, *Litigation and Arbitration Update*, Pennsylvania Bar Institute, April 14, 2010;

Faculty, *Deposit-Side Litigation Developments & Credit Card Developments*, 14th Annual Consumer Financial Services Litigation Institute, New York, NY and Chicago, IL, March and April 2009;

Faculty, 13th Annual Consumer Financial Services Litigation Institute (CLE-accredited), Practicing Law Institute, New York, NY and Chicago, IL, January 2008, March 2008;

Speaker, *Fair Credit Reporting Act Conference*, National Association of Consumer Advocates, Chicago, IL May 8 – 10, 2009;

Faculty, 12th Annual Consumer Financial Services Litigation Institute (CLE-accredited), Practicing Law Institute, New York, NY, March 2007;

Faculty, *Fair Credit Reporting Litigation*, Consumer Protection Law (CLE-accredited), Pennsylvania Bar Institute, Philadelphia, PA and Mechanicsburg, PA, December 2004, March 2007;

Speaker, *Litigating Accuracy Issues with Furnishers of Credit Data*, National Association of Consumer Advocates, New Orleans, LA, June 2 – 5, 2005;

Speaker, Philadelphia Housing Expo, Homeownership Counseling Association of the Delaware Valley, 2005 and 2006;

Speaker, *Understanding Credit Scoring*, Consumer Rights Litigation Conference, National Consumer Law Center, Boston, MA, November 7, 2004;

Speaker, *Litigating Accuracy Issues With Credit Reporting Agencies*, National Association of Consumer Advocates, Chicago, Ill., May 14 – 16, 2004;

Speaker, *Protecting Privacy, Ensuring Accuracy*, National Association of Consumer Advocates, Albuquerque, NM, June 1, 2002;

Faculty/Speaker, *Credit Reporting and Debt Collection Litigation*, Municipal Court Judicial Conference (CLE), Pennsylvania, PA, May 6, 1999;

Speaker, The People's Law School, Philadelphia Bar Association, Philadelphia, PA, October 2004;

Guest Lecturer, Consumer Protection Law, Temple Law School, 2003 – 2012;

Guest Lecturer, Consumer Protection Law, Widener Law School, 2004 – 2009.

PUBLICATIONS

The FCRA: A Double-Edged Sword for Consumer Data Sellers,
GP SOLO Magazine, American Bar Association, Volume 29, Number 6,
November/December 2012

Credit Rating Damage: Compensable, Yet Overlooked Damage in Tort Cases,
The Verdict, Philadelphia Trial Lawyers Association, Volume 2008-2009, Issue 6 (2009).

APPOINTMENTS, POSITIONS & MEMBERSHIPS

- Editorial Board of the Consumer Financial Services Law Report
- Philadelphia Bar Association's Lawyer Referral and Information Service Committee (chair or co-chair for 3 years)
- Philadelphia Bar Association's Federal Court's Committee.
- Arbitrator for the Court of Common Pleas of Philadelphia County
- Court of Common Pleas of Philadelphia County, Judge Pro Tem panel.

PERSONAL

Born: June 17, 1970, Philadelphia, Pennsylvania

Family: Two Children, Shayna and Noah

MARK D. MAILMAN

MARK D. MAILMAN, Managing Shareholder and one of the firm's founders, is a tenacious and passionate consumer litigator who has for more than 24 years help secure over \$300 million dollars in verdicts and settlements on behalf of more than 8,000 victimized consumers across the nation. Mark concentrates his practice primarily in federal courts, in the areas of Fair Debt Collection, Fair Credit Reporting, False Employment/Background Checks, Identity Theft, Unwanted Auto Calls and Texts, and Consumer Class Actions.

In October 2018, Mark was awarded the 2018 Consumer Attorney of the Year award from the National Association of Consumer Advocates (NACA). NACA is a nationwide organization of more than 1,500 consumer attorneys and advocates who represent the victims of abusive and fraudulent business practices. He has been consistently voted and named one of Pennsylvania's Super Lawyers by Law and Politics published by Philadelphia Magazine and Pennsylvania Super Lawyer Magazine from 2004 to the Present. Mark has repeatedly lectured before judges, lawyers and various professional organizations on the topics of Fair Debt Collection and Fair Credit Reporting litigation. He has also appeared on various news programs to discuss trending consumer issues and recently published an article in The Legal Intelligencer, "*Your clients' consumer rights legal issues may be hiding in plain sight*".

Mark is a graduate of Muhlenberg College (B.A. magna cum laude, 1991), where he was also inducted into Phi Beta Kappa. He received his law degree from the Temple University School of Law (J.D., 1995). While at Temple Law School, he achieved the highest grade in his Trial Advocacy clinic.

Mark is admitted to practice before the United States for the Eastern District of Pennsylvania, Middle District of Pennsylvania, Eastern District of Arkansas, District of North Dakota, and District of New Jersey as well as the state courts of Pennsylvania and New Jersey. He has also successfully litigated cases across the country on a pro hac basis. Mark has been certified to serve as class counsel by state and federal courts in both contested and settlement class actions.

CLASS COUNSEL CERTIFICATIONS

Serrano v. Sterling Testing Systems, Inc., 711 F. Supp. 2d 402 (E.D. Pa. 2010)

Summerfield v. Equifax Info. Services, LCC, 2009 WL 3234191 (D. N.J. Sept. 30, 2009)

Chakejian v. Equifax Info. Services, LLC, 256 F.R.D. 492, 2009 WL 764656 (E.D. Pa. 2009)

Barel v. Bank of America, ___F.R.D.___, 2009 WL 122805 (E.D. Pa. 2009)

Mann v. Verizon, C.A. No. 06-5370 (E.D. Pa. Sept. 26, 2008)

Smith v. Grayling Corp., 2008 WL 3861286, C.A. No. 07-1905 (E.D. Pa. 2008)

Strausser v. ACB Receivables Management, Inc., 2008 WL 859224 (E.D. Pa., March 28, 2008)

Nienaber v. Citibank (South Dakota), N.A., 2007 WL 2003761 (D.S.D., July 5, 2007)

Jordan v. Commonwealth Financial Sys., Inc., 237 F.R.D. 132, 2006 WL 2294855 (E.D. Pa. 2006)

Seawell v. Universal Fidelity Corp., 235 F.R.D. 64 (E.D. Pa. 2006)

Perry v. FleetBoston Financial Corp., 299 F.R.D. 105, 2005 WL 1527694 (E.D. Pa. 2005)

Beck v. Maximus, Inc., 2005 WL 589749 (E.D. Pa. 2005); *vacated on other grounds, Beck v. Maximus*, 457 F. 3d 291, 2006 WL 2193603 (3d. Cir. Aug. 4, 2006)

Stoner v. CBA Information Services, 352 F. Supp. 2d 549 (E.D. Pa. 2005)

Bittner v. Trans Union, LLC, C.A. No. 04-2562 (E.D. Pa. January 4, 2005)

Wisneski v. Nationwide Collections, Inc., 227 F.R.D. 259 (E.D. Pa. 2004)

Petrolito v. Arrow Financial Services, LLC, 221 F.R.D. 303 (D. Conn. 2004)
Orloff v. Syndicated Office Systems, Inc., 2004 WL 870691 (E.D. Pa 2004)
Bonett v. Education Debt Services, Inc., 2003 WL 21658267 (E.D. Pa. 2003)
Gaumer v. The Bon-Ton Stores, C.A. No. 02-8611 (E.D. Pa. Dec. 30, 2003)
Street v. Portfolio Recovery Associates, C.A. No. 01-3684 (E.D. Pa. July 30, 2003)
Samuel-Bassett v. Kia Motors America, Inc., 212 F.R.D. 271 (E.D. Pa. 2000), *vacated on other grounds*
Oslan v. Law Offices of Mitchell N. Kay, 232 F. Supp. 2d 436 (E.D. Pa. 2002)
Oslan v. Collection Bureau of Hudson Valley, 206 F.R.D. 109 (E.D. Pa. 2002)
Saunders v. Berks Credit & Collections, 2002 WL 1497374 (E.D. Pa. 2002)
Schilling v. Let's Talk Cellular and Wireless, 2002 U.S. Dist. LEXIS 3352 (E.D. Pa. 2002)
Fry v. Hayt, Hayt and Landau, 198 F.R.D. 461 (E.D. Pa. 2000)
Smith v. First Union Mortgage Corporation, 1999 WL 509967 (E.D. Pa. 1999)
Miller v. Inovision, C.P. Phila. County, December Term, 1999, No. 3504

NOTABLE CASES

- *Schwartz v. Aracor Search & Abstract, Inc.*, 2014 WL 4493662 (E.D. Pa. Sept. 11, 2014) (upholding compensatory and punitive damages judgment against title company that misappropriated certain funds at real estate closing)
- *Ferguson v. Wells Fargo Bank, NA*, 538 Fed. Appx. 782 (9th Cir. 2013) (reversing summary judgment for bank that failed to properly remove bankruptcy notation)
- *King v. General Info. Servs., Inc.*, 903 F. Supp. 2d 303 (E.D. Pa. 2012) (first court to uphold constitutionality of FCRA's obsolescence provision)
- *Seamans v. Temple University*, Civil No. 11-6774(E.D. Pa., Oct. 28, 2011) — precedential case of first impression before U.S. Court of Appeals for the Third Circuit addressing duties of furnishers and interplay between the FCRA and HCA.
- *Adams v. LexisNexis Risk & Info. Analytics Group, Inc.*, 2010 WL 1931135 (D.N.J. May 12, 2010) (first court to find that consumers may sue under FRCA over information in specialty Accurint report used by debt collectors)
- *Dixon-Rollins v. Trans Union, LLC*, Civil No. 09-646 (E.D. Pa., April 10, 2010) – \$530,000 jury verdict against a credit reporting agency that falsely reported an old landlord collection claim for rent (remitted to \$300,000)
- *Shames-Yeakel v. Citizens Financial Bank*, 677 F. Supp. 2d 994 (N.D. Ill. 2009) (first court to rule that consumer may proceed to jury trial on claim that bank breached its duty to sufficiently secure its online banking system).
- *Cortez v. Trans Union, LLC*, Civil No. 05-5684 (E.D. Pa., April 26, 2007)—\$800,000 jury verdict against Trans Union in fair credit reporting case (remitted to \$150,000)

- *Samuel-Bassett v. Kia Motors America, Inc.*, C.P. Phila. County, January Term, 2001, No. 2199—5.6 million dollar verdict for class of Pennsylvania car purchasers
- *Little v. Kia Motors America, Inc.*, 2003 WL 25568765 (N.J.Super.L. 2003)—6 million dollar (approximate) verdict for class of New Jersey car purchasers, damages later decertified
- *Serrano v. Sterling Testing Systems, Inc.*, —F.Supp.2d—, 2008 WL 2223007 (E.D. Pa. May 30, 2008)—federal court finding as a matter of first impression what defines a record of arrest under the FCRA
- *Stoner v. CBA Information Services*, 352 F. Supp. 2d 549 (E.D. Pa. 2005)—obtained \$772,500 settlement for class of consumers who disputed errors in their credit reports
- *Perry v. FleetBoston Financial Corp.*, 2004 WL 1508518 (E.D. Pa. 2004)—defeated motion to compel arbitration in class action brought under Fair Credit Reporting Act
- *Crane v. Trans Union, LLC*, 282 F. Supp. 2d 311 (E.D. Pa. 2003)—federal court held that credit reporting agencies that merely parrot information from credit furnishers and fail to forward dispute documentation face claims for punitive damages under the Fair Credit Reporting Act; violation of the Fair Credit Reporting Act presents a violation of Pennsylvania’s Consumer Protection Law); *Lawrence v. Trans Union, LLC*, 296 F. Supp. 2d 582 (E.D. Pa. 2003)—same
- *Wisneski v. Nationwide Collections, Inc.*, 227 F.R.D. 259 (E.D. Pa. 2004)—in fair debt class action, Pennsylvania federal court held for the first time that statutory net worth limitation is not limited to balance sheet net worth, and includes equity, capital stock and goodwill
- *Evantash v. G.E. Capital Mortgage Services, Inc.*, 2003 WL 22844198 (E.D. Pa. 2003)—in fair credit reporting case, court held that technical accuracy is not a defense
- *Sheffer v. Experian Information Solutions, Inc.*, 2003 WL 21710573 (E.D. Pa. 2003)—federal court held that Fair Credit Reporting Act permits as recoverable damage emotional distress in trying to correct errors in a consumer’s credit file, even where no pecuniary or out-of-pocket losses
- *Sheffer v. Experian Information Solutions Inc.*, 249 F. Supp. 2d 560 (E.D. Pa. 2003)—federal court held that FCRA provides a private right of action against furnishers of information
- *Sullivan v. Equifax, Inc. et al.*, 2002 U.S. Dist. LEXIS 7884 (E.D. Pa. 2002)—federal court held that reporting a debt to a credit reporting agency is a communication covered by the Fair Debt Collection Practices Act
- *Wenrich v. Cole*, 2000 U.S. Dist. LEXIS 18687 (E.D. Pa. 2000)—federal court held that FDCPA provides protection for all persons, not just consumers
- *Jaramillo v. Experian Information Solutions, Inc.*, 155 F. Supp. 2d 356 (E.D. Pa. 2001); 2001 U.S. Dist. LEXIS 10221 (E.D. Pa. 2001)—federal court held that single publication rule does not apply to actions brought for violation of the Fair Credit Reporting Act

PRESENTATIONS/LECTURES BY INVITATION

Speaker, *Spring Training 2020 (FCRA)*, National Association of Consumer Advocates, Phoenix, AZ, May 11-14, 2022

Speaker, *Consumer Rights Litigation Conference*, National Consumer Law Center's Office Hours with the FCRA Stars, December 6-17, 2021

Speaker, *Spring Training 2020 (FCRA)*, National Association of Consumer Advocates, Online Webinars, May 1-June 30, 2020

Speaker, *Fair Credit Reporting Act Conference*, National Association of Consumer Advocates, Long Beach, CA, May 1-4, 2019

Speaker, *Fair Credit Reporting Act Conference*, National Association of Consumer Advocates, Baltimore, MD, April 22-29, 2017

Speaker, *Fair Credit Reporting Act Conference*, National Association of Consumer Advocates, Las Vegas, NV, May 1-3, 2015

Speaker, *Fair Debt Collection Experienced Training Conference*, National Association of Consumer Advocates, Baltimore, MD, March 7-8, 2013

Speaker, *Fair Debt Collection Experienced Training Conference*, National Association of Consumer Advocates, New Orleans, LA, February 23-24, 2012

Speaker, *Negotiating 101*, National Association of Consumer Advocates, Memphis, TN, May 20-22, 2011

Speaker, *Fair Credit Reporting Act Conference*, National Association of Consumer Advocates, Chicago, IL, May 8-10, 2009

Speaker, *Fair Debt Collection Experienced Training Conference*, National Association of Consumer Advocates, Nashville, TN, March 27-29, 2008

Speaker, *Litigation Trends: "Getting to Know the Other Team"*, 11th Annual DBA International World Championship of Debt Buying, Las Vegas, NV, February 5-7, 2008

Speaker, *Protecting Vulnerable Consumers and Promoting Marketplace Justice*, Consumer Rights Litigation Conference, National Consumer Law Center, Miami, FL, November 10-13, 2006

Speaker, *FCRA: Playing to Win*, National Association of Consumer Advocates, Las Vegas, NV, May 5-7, 2006

Speaker, *Litigating Accuracy Issues With Furnishers of Credit Data*, National Association of Consumer Advocates, New Orleans, LA, June 2-5, 2005

Speaker, *Understanding Credit Scoring*, Consumer Rights Litigation Conference, National Consumer Law Center, Boston, MA, November 7, 2004

Speaker, *Litigating Accuracy Issues With Credit Reporting Agencies*, National Association of Consumer Advocates, Chicago, Ill., May 14-16, 2004

Speaker, *FCRA/Building On Our Success*, National Association of Consumer Advocates, Orlando, FL, March 7-9, 2003

Speaker, *Protecting Privacy, Ensuring Accuracy*, National Association of Consumer Advocates, Albuquerque, NM, June 1, 2002

Faculty/Speaker, *Credit Reporting and Debt Collection Litigation*, Municipal Court Judicial Conference (CLE), Pennsylvania, PA, May 6, 1999

COMMITTEE APPOINTMENTS AND POSITIONS

Mark is a certified arbitration panelist with the Federal Arbitration Panel and serves on the Editorial Board of the Consumer Financial Services Law Report. Additionally, he is a member of the Pennsylvania Trial Lawyers Association, Philadelphia Trial Lawyers Association, Philadelphia Bar Association, and National Association of Consumer Advocates, and regularly serves on the Philadelphia Bar Association's Federal Courts Committee.

JOHN SOUMILAS

JOHN SOUMILAS is a firm shareholder resident in Philadelphia. A seasoned litigator, John has represented thousands of consumers in individual cases and class actions. He currently represents persons defamed and otherwise harmed by credit and background screening errors, victims of identity theft, individuals harassed and deceived by collectors and other businesses, as well as consumers who are subjected to unwelcome invasions of their privacy, fraud, overcharging, and other deceptive or unfair trade practices.

John has been repeatedly recognized by Philadelphia Magazine as a "SuperLawyer," a recognition received by only 5% of attorneys in Pennsylvania. He has been nationally recognized for his work in protecting consumer rights under the federal Fair Credit Reporting Act (FCRA). Throughout his career, John has obtained some of the highest consumer jury verdicts, including the highest known FCRA verdicts in Pennsylvania, California, and Michigan, and had been appointed by federal judges as class counsel in some of the largest FCRA class cases and settlements.

John lives in Old City Philadelphia with his wife and children. John is a 1994 *cum laude* graduate of Rutgers University, where he was inducted into Phi Beta Kappa. He also holds a master's degree in American history from Stony Brook University, obtained in 1996. John received his law degree *cum laude* from the Temple University Beasley School of Law in 1999, where he was a member of the Temple Law Review. He began his legal career by clerking for Justice Russell M. Nigro of the Supreme Court of Pennsylvania.

ADMISSIONS

John has been admitted to practice before the United States Supreme Court, United States Courts of Appeals for the First, Second, Third, Fourth, Sixth, Seventh, Ninth and Eleventh Circuits, the United States District Courts for the District of Colorado, Eastern District of Michigan, Eastern District of Pennsylvania, and the District of New Jersey, as well as the state courts of Pennsylvania and New Jersey. He has also successfully litigated cases on a *pro hac vice* basis throughout the country.

RECENT WORK

John is known for his ability to tackle a wide array of novel and complex legal problems. A sampling of his recent cases is set forth below:

False Terrorist Alerts on Credit Reports

- *Kang v. Credit Bureau Connection, Inc.*, No. 18-01359, 2022 WL 658105 (E.D. Cal. Mar. 4, 2022) (certified class of car buyers in case involving the reporting of inaccurate OFAC “terrorist” alerts appearing on the credit reports of innocent American consumers) (also appointed class counsel and represented classes of similar consumers for false OFAC alert claims in *Patel v. Trans Union, LLC*, 308 F.R.D. 292 (N.D. Cal. 2015) and *Ramirez v. Trans Union, LLC*, 301 F.R.D. 408 (N.D. Cal. 2014); see also *Ramirez v. Trans Union LLC*, 951 F.3d 1008 (9th Cir. 2020) (upholding certification of entire class, but reversed for portion of class that lacked Article III standing per *Trans Union LLC v. Ramirez*, 141 S. Ct. 2190 (2021)).

Unlawful College Charges and Student Loans

- *Teran v. Navient Sols. (In re Teran)*, No. 10-31718, 2022 Bankr. LEXIS 381 (Bankr. N.D. Cal. Feb. 15, 2022) (summary judgment ruling siding with class of student debtors who had collection efforts taken against them even though certain of their student loans were discharged in their bankruptcies);
- *Weiman v. Miami Univ.*, Case Nos. 2020-00614JD, 2020-00644JD (OH Ct. of Claims, Dec. 13, 2021) (certifying class of students seeking Covid-19 related refunds from university following campus shutdown due to pandemic) and *Botts v. Johns Hopkins Univ.*, No. 20-1335, 2021 WL 1561520 (D. Md. Apr. 21, 2021) (leading decision in litigation against universities for class of undergraduate and graduate students claiming overcharging during the Covid-19 pandemic, upholding breach of contract and unjust enrichment claims).

Negligent Recalls of Defective Products

- *Dukich v. IKEA US Retail LLC*, No. 20-2182, 2021 WL 1534520 (E.D. Pa. Apr. 19, 2021) (recognizing negligent recall theory in class case involving the recall of tens of millions of defective dressers which can tip over and injure or kill small children).

Credit Reporting Errors and Problems

- *Norman v. Trans Union, LLC*, 479 F.Supp.3d 98 (E.D. Pa. Aug. 14, 2020) (first court to certify class action for credit report agency’s failure to investigate hundreds of thousands of consumer disputes of certain inquiries disputed as unauthorized); followed by *Rivera v. Equifax Info. Servs., LLC*, 341 F.R.D. 328 (N.D. Ga. 2022) (certifying even larger class of over 300,000 consumers for same claim).

Tenant and Employment Screening Violations

- *McIntyre v. RealPage, Inc.*, 336 F.R.D. 422 (E.D. Pa. Aug. 25, 2020) (certifying claim on behalf of tenant applicants for improper reporting of stale eviction records against them in largest tenant screening class to date);
- *Kelly v. Business Information Group*, No. 15-6668, 2019 WL 414915 (E.D. Pa. Feb. 1, 2019) (as part of approval of multi-million-dollar class settlement requiring employment background

screeners to provide important “same time” notice to job candidates of any adverse information being included in their background reports);

- *Leo v. AppFolio, Inc.*, No. 17-5771, 2018 WL 623647 (W.D. Wash. Jan. 30, 2018) (upholding class action claims against start-up tenant screening company);
- *Flores v. Express Personnel*, No. 14-03298, 2017 WL 1177098 (E.D. Pa. Mar. 30, 2017) (certifying settlement class regarding improper background screening practices by a job placement agency).

NOTEWORTHY CASES

Throughout his career, John has litigated some of the most groundbreaking consumer rights cases including several cases involving issues of first impression. The following is a list of cases involving complex and novel issues that John had litigated through the years:

- *Clark v. Trans Union, LLC*, No. 15-391, 2017 WL 814252 (E.D. Va. Mar. 1, 2017) (certifying one of first misreported public records FCRA classes);
- *Magallon v. Robert Half International, Inc.*, 311 F.R.D. 626 (D. Or. Nov. 10, 2015) (one of few cases certifying a 5-year FCRA class on contest for failure to timely disclose adverse temp-placement decisions against job placement agency);
- *Seamans v. Temple University*, 744 F.3d 853 (3d Cir. 2014) (reversing summary judgment for credit furnisher concerning improperly reported old student loan debt, and setting standard for certain delinquent student debt cannot be reported to the credit agencies after seven-and-a-half years);
- *Schwartz v. Aracor Search & Abstract, Inc.*, No. 13–870, 2014 WL 4493662 (E.D. Pa. Sept. 11, 2014) (upholding compensatory and punitive damages judgment against title company that misappropriated certain funds at real estate closing);
- *Ferguson v. Wells Fargo Bank, NA*, 538 Fed. Appx. 782 (9th Cir. 2013) (reversing summary judgment for bank that failed to remove bankruptcy notation from consumer’s credit report);
- *King v. General Info. Servs., Inc.*, 903 F. Supp. 2d 303 (E.D. Pa. 2012) (first court to uphold constitutionality of FCRA’s obsolescence provision for old or outdated background history);
- *Howley v. Experian Info. Solutions, Inc.*, 813 F. Supp. 2d 629 (D.N.J. 2011) (first court to find that consumer may sue agency that improperly disclosed information to an identity thief);
- *Adams v. LexisNexis Risk & Info. Analytics Group, Inc.*, No. 08–4708, 2010 WL 1931135 (D.N.J. May 12, 2010) (first court to find that consumers may sue under FCRA over information in specialty Accurant report used by debt collectors and others) (leading to *Berry v. LexisNexis Risk & Info. Analytics Group, Inc.*, No. 11-754, 2014 WL 4403524 (E.D. Va. Sept. 5, 2014) and resulting in one of largest consumer class action settlements with LexisNexis);
- *Cortez v. Trans Union, LLC*, 617 F.3d 688 (3d Cir. 2010) (upholding first ever court finding that false terrorist/OFAC alerts are subject to the FCRA, also upholding punitive damages of case tried by same counsel before a jury at the district court level, *Cortez v. Trans Union, LLC*, No. 05-5684 (E.D. Pa. Apr. 26, 2007));

- *Chakejian v. Equifax Info. Servs., LLC*, 256 F.R.D. 492 (E.D. Pa. 2009) (first certified class action under FCRA section 1681i regarding consumer disputes);
- *Shames-Yeakel v. Citizens Financial Bank*, 677 F. Supp. 2d 994 (N.D. Ill. 2009) (first court to rule that consumer may proceed to jury trial on claim that bank breached its duty to sufficiently secure its online banking system).

LECTURES / PUBLICATIONS

John is also a regular lecturer on consumer matters, including for the National Business Institute, National Consumer Law Center, Practicing Law Institute, National Association of Consumer Advocates, and other organizations. John has been interviewed and quoted concerning many legal issues affecting consumers by a wide range of media outlets, from the Wall Street Journal and Forbes Magazine to Consumer Reports and Free Speech Radio. He has authored several popular and scholarly articles, including *CFPB Tries to Nip New Wave of Unlawful Medical Debt Collection in the Bud* (The Legal Intelligencer Apr. 1, 2022), *Predatory Lending, the FCRA and the FDCPA* (NBI 2009), and *How Can I Combat Identity Theft* (Philadelphia Magazine, Dec. 2008).

DAVID A. SEARLES

DAVID A. SEARLES, of counsel to the firm, is admitted to practice before the Supreme Court of the United States, the United States Courts of Appeals for the Third, Fourth and Sixth Circuits, and the United States District Courts for the District of Maryland, the District of Colorado, the Northern District of Oklahoma, and Eastern and Middle Districts of Pennsylvania, as well as the state courts of Pennsylvania. He is a graduate of the American University School of Law, Washington, D.C., where he served on law review.

Following graduation from law school, Mr. Searles was an attorney for Community Legal Services of Philadelphia, where he specialized in consumer and bankruptcy law. In 1990, he successfully argued the first consumer reorganization bankruptcy case considered by the U.S. Supreme Court, *Pennsylvania v. Davenport*, 495 U.S. 552 (1990), and has served as lead counsel and presented arguments in numerous consumer law cases before the United States Court of Appeals for the Third Circuit. From 1992 through 1997, Mr. Searles was associated with the Philadelphia law firm of Drinker Biddle & Reath LLP, where his practice focused on Chapter 11 bankruptcy and creditors' rights. Thereafter, he was a member of Donovan Searles, LLC until 2011, specializing in consumer class action litigation.

In 2005, Mr. Searles was awarded the Equal Justice Award at the Community Legal Services Breakfast of Champions for his role in directing funding for legal assistance for low-income residents of Philadelphia. Mr. Searles has served as the Pennsylvania contributor to SURVEY OF STATE CLASS ACTION LAW (ABA Section of Litigation – 2010), and as a contributing author of PENNSYLVANIA CONSUMER LAW (2010). He has taught advanced bankruptcy law at the Rutgers University School of Law – Camden, business law at Widener University and bankruptcy law at Pierce Junior College, Philadelphia. He is a past co-chairperson of the Education Committee of the Eastern District of Pennsylvania Bankruptcy Conference. Mr. Searles has been named a Pennsylvania Super Lawyer for many years.

CLASS ACTIONS

Lucas v. Accutrace, Inc., No. 18-9059 (S.D.N.Y. June 29, 2020);
Kelly v. Business Information Group, 2019 WL 414915 (E.D. Pa. 2019);
Gibbons v. Weltman, Weinberg & Reis Co., LPA, 2018 WL 5720749 (E.D. Pa. Oct. 31, 2018);
Patel v. Trans Union, LLC, 2018 WL 1258194 (N.D. Ca. March 11, 2018);
Carter v. Shalhoub Management Company, Inc., 2017 WL 5634300 (C.D. Ca. March 15, 2017);
Flores v. Express Services, Inc., 2017 WL 1177098 (E.D. Pa. March 30, 2017);
Miller v. Trans Union, LLC, 2017 WL 412641 (M.D. Pa. Jan. 18, 2017);
Larson v. Trans Union, LLC, No. 12-5726 (N.D. Ca. June 26, 2015);
Blandina v. Midland Funding, LLC, 2014 WL 7338744 (E.D. Pa. Dec. 23, 2014);
King v. General Information Services, Inc., C.A. No. 2:11-cv-06850 (E.D. Pa. Nov. 4, 2014);
Robinson v. General Information Services, Inc., C.A. No. 2:11-cv-07782 (E.D. Pa. Nov. 4, 2014);
Jones v. Midland Funding, LLC, 2013 WL 12286081 (D. Conn. Dec. 3, 2013);
Sapp v. Experian Information Solutions, Inc., 2:10-cv-04312 (E.D. Pa. Jan. 29, 2013);
Reibstein v. Rite Aid Corporation, 2011 WL 192512 (E.D. Pa. Jan. 18, 2011);
McCall v. Drive Financial, January Term 2006, No. 0005 (C.P. Phila. July 20, 2010);
Serrano v. Sterling Testing Systems, Inc., 711 F.Supp.2d 402 (E.D. Pa. 2010);
Summerfield v. Equifax Information Services, LLC, 264 F.R.D. 133 (D.N.J. 2009);
Chakejian v. Equifax Information Services, LLC, 256 F.R.D. 492 (E.D. Pa. 2009);
Barel v. Bank of America, 255 F.R.D. 393 (E.D. Pa. 2009);
Markocki v. Old Republic National Title Ins. Co., 254 F.R.D. 242 (E.D. Pa. 2008);
Strausser v. ACB Receivables Management, Inc., 2008 WL 859224 (E.D. Pa. Mar. 28, 2008);
Allen v. Holiday Universal, Inc., 249 F.R.D. 166 (E.D. Pa. 2008);
Cohen v. Chicago Title Insurance Company, 242 F.R.D. 295 (E.D. Pa. 2007);
Jordan v. Commonwealth Financial Systems, Inc., 237 F.R.D. 132 (E.D. Pa. 2006);
Braun v. Wal-Mart Stores, Inc., 2005 WL 3623389 (C.P. Phila. Dec. 27, 2005);
Perry v. FleetBoston Financial Corp., 229 F.R.D. 105 (E.D. Pa. 2005);
Beck v. Maximus, Inc., 2005 WL 589749 (E.D. Pa. March 11, 2005);
Stoner v. CBA Information Services, 352 F.Supp.2d 549 (E.D. Pa. 2005);
Orloff v. Syndicated Office Systems, Inc., 2004 WL 870691 (E.D. Pa. April 22, 2004);
Petrolito v. Arrow Financial Services, LLC, 221 F.R.D. 303 (D. Conn. 2004);
Piper v. Portnoff Law Associates, Ltd., 216 F.R.D. 325 (E.D. Pa. 2003);

Bonett v. Education Debt Services, Inc., 2003 WL 21658267 (E.D. Pa. 2003).

GEOFFREY H. BASKERVILLE

GEOFFREY H. BASKERVILLE is a 1982 graduate of Gettysburg College and a 1992 graduate of the Dickinson School of Law. During law school, Geoffrey published an article entitled *Human Gene Therapy: Application, Ethics and Regulation* in the Dickinson Law Review, Vol. 96, No. 4.

Since graduating from law school, Geoffrey has worked for both plaintiff and defense litigation firms practicing in the areas of medical malpractice, architect's and engineer's malpractice, the Federal Employer's Liability Act, and trucking litigation. In 2007, Geoffrey joined Francis Mailman Soumilas P.C. and began to practice in the area of consumer protection litigation, including fair credit reporting and fair debt collection.

Since that time, Geoffrey has concentrated his practice on representing consumers in cases under the Fair Credit Reporting Act, the Fair Debt Collection Practices Act, the Telephone Consumer Protection Act and other consumer statutes. He is admitted to practice before the United States Court of Appeals for the Ninth Circuit, the United States District Courts for the Eastern and Middle Districts of Pennsylvania, the District of New Jersey, the Eastern District of Michigan, the District of Colorado and the District of New Mexico, as well as the state courts of Pennsylvania and New Jersey.

Geoffrey is an active member of his community and volunteers his time by serving on his local Historic Preservation Commission. He is also an avid amateur photographer.

LAUREN KW BRENNAN

LAUREN KW BRENNAN joined Francis Mailman Soumilas in 2013 and concentrates her practice on class action litigation on behalf of consumers harmed by credit reporting errors, inaccurate employment background screening, abusive debt collection practices, and other unfair and fraudulent trade practices.

Lauren is a 2008 graduate of Swarthmore College and received her J.D. *cum laude* from Temple University's Beasley School of Law in 2013. She is a member of the National Association of Consumer Advocates (NACA) and is a regular speaker for NACA and the National Consumer Law Center (NCLC).

ADMISSIONS

Lauren is admitted to practice in the state courts of Pennsylvania and New Jersey, as well as before the United States District Court for the Eastern District of Pennsylvania and the United States District Court for the District of New Jersey. She is also admitted to practice before the United States Courts of Appeals for the Third, Seventh, Ninth, and Eleventh Circuits and before the United States Supreme Court.

CLASS COUNSEL CERTIFICATIONS

Healy v. Milliman, Inc., No. 2:20-cv-01473-JCC (W.D. Wash. 2022)
Watson v. Checkr, Inc., No. 3:19-cv-03396-EMC (N.D. Cal. 2021)
Deaton v. Trans Union, LLC, No. 2:20-cv-01380-AB (E.D. Pa. 2021)
Sanders v. Makespace Labs, Inc., No: 1:18-cv-10016 (S.D.N.Y. 2021)
McIntyre v. Realpage, Inc., d/b/a On-Site, No: 2:18-cv-03934-CFK (E.D. Pa. 2020)
Der-Hacopian v. DarkTrace, Inc., No. 4:18-cv-06726-HSG (N.D. Cal. 2020)
Der-Hacopian v. SentryLink, No. 8:18-cv-03001-PWG (D. Md.)
Taylor v. GfK Custom Research, Inc., No. 1:16-cv-09968-ER (S.D.N.Y. 2019)
Leo v. AppFolio, Inc., No.3:17-cv-05771-RJB (W.D. Wash. 2019)
Clark/Anderson v. Trans Union, LLC, No. 15-cv-391 & No. 16-cv-558 (E.D. Va. 2018)
Kelly v. Business Information Group, C.A. 15-6668, 2019 WL 414915 (E.D. Pa. 2019)
Flores v. Express Personnel, C.A. No. 14-cv-03298, (E.D. Pa. Oct. 21, 2016)
Larson v. Trans Union, LLC, C.A. No. 12-cv-05726, (N.D. CA, Aug. 11, 2016)
Miller v. Trans Union, LLC, C.A. No. 12-cv-1715, (M.D. Pa. Dec. 26, 2016)
Henderson v. Trans Union, LLC, C.A. No. 14-cv-00679 (E.D. Va. May 3, 2016)
Pawlowski v. United Tranzactions, LLC, C.A. no. 15-cv-2330, (E.D. Pa. April 18, 2016)
Rodriguez v. Calvin Klein, Inc., C.A. 1:15-cv-02590 (S.D.N.Y. 2015)
Giddiens v. Infinity Staffing, C.A. No. 13-cv-07115, (E.D. Pa. Jan. 12, 2016)
Giddiens v. First Advantage, C.A. No. 14-cv-5105, (E.D. Pa. July 11, 2015)
Magallon v. Robert Half International, Inc., 2015 WL 8778398 (D. Or. Nov. 10, 2015)
Patel v. Trans Union, LLC, 308 F.R.D. 292 (N.D. Cal. 2014)
Blandina v. Midland Funding, LLC, 2014 WL 7338744 (E.D. Pa. Dec. 23, 2014)
Robinson v. General Information Services, Inc., No. 11-07782 (E.D. Pa. Nov. 4, 2014)
Ramirez v. Trans Union, LLC, 2014 WL 3734525 (N.D. Cal. July 24, 2014)

JORDAN M. SARTELL

JORDAN M. SARTELL joined the class action practice of Francis Mailman Soumilas, P.C. in 2017 and litigates on behalf of consumers harmed by unlawful credit reporting, tenant screening, background checks, debt collection, and other deceptive and unfair business practices.

A *summa cum laude* graduate of the DePaul University College of Law in Chicago and member of the DePaul Law Review, Jordan began his legal career protecting vulnerable senior citizens from financial exploitation with Prairie State Legal Services. Jordan is admitted in Illinois and practices in federal district and appellate courts throughout the United States.

Jordan lives in suburban Chicagoland with his wife and two children where he is a member of the DuPage County Bar Association (“DCBA”). Jordan has served on the Editorial Board of the DCBA’s legal journal, *The Brief*, since 2014, including as its Editor in Chief (‘21 to ‘22) and Associate Editor (‘20 to ‘21). Jordan is also a member of the National Association of Consumer Advocates and regularly provides pro bono advice and counsel on a variety of consumer issues.

CLASS COUNSEL CERTIFICATIONS

Stewart v. LexisNexis Risk Data Retrieval Serv’s, LLC,
No. 3:20-cv-00903-JAG (E.D. Va. July 27, 2022)

Rivera v. Equifax Info. Servs., LLC, 341 F.R.D. 328 (N.D. Ga. 2022)

Kang v. Credit Bureau Connection, Inc., No. 1:18-CV-01359-AWI-SKO,
2022 WL 658105 (E.D. Cal. Mar. 4, 2022)

McIntyre v. RealPage, Inc., d/b/a On-Site, 336 F.R.D. 422 (E.D. Pa. 2020)

Norman v. Trans Union, LLC, 479 F. Supp. 3d 98 (E.D. Pa. 2020)

Wills v. Starbucks Corporation, No. 1:16-cv-3654-CAP-CMS, ECF 59 (N.D. Ga. July 16, 2020)

Robinson v. National Student Clearinghouse, No. 1:19-CV-10749,
2020 WL 4873728 (D. Mass. July 8, 2020) *aff’d* 14 F.4th 56 (1st Cir. 2021)

Shekar v. Accurate Background, Inc., No. 17-CV-0585,
2020 WL 2563437 (E.D. Wis. May 14, 2020)

JOSEPH GENTILCORE

JOSEPH GENTILCORE is a passionate advocate for every one of his clients, and truly believes in the work that he does. Joseph focuses his practice on Fair Credit Reporting Act cases and other consumer protection matters under both state and federal law. He currently represents consumers in cases against credit card companies, banks, debt collectors, mortgage servicers and background check companies. Joseph has dedicated the majority of his career to representing individuals who have been wronged by large financial entities, and along the way has helped thousands of consumers obtain compensation from the corporations that have harmed them. As a result of Joseph’s specialties, he has given lectures on various topics, including background checks, credit reporting inaccuracies, and mortgage fraud.

Joseph graduated Ursinus College, and Temple University School of Law.

Joseph has been lead counsel in over 300 individual federal consumer protection cases, and appointed class counsel in consumer protection matters. Every year since 2013, Joseph has been named a Super Lawyer or Rising Star by Pennsylvania Super Lawyers. Joseph is licensed to practice in Pennsylvania and New Jersey, and is admitted in numerous federal courts throughout the country.

SIOBHÁN MCGREAL

SIOBHÁN MCGREAL joined Francis Mailman Soumilas, P.C. in 2021, and concentrates her advocacy on behalf of consumers harmed by credit reporting errors, inaccurate background screening reports for employment and housing applications, and other abusive and unfair trade practices. Siobhán has dedicated the majority of her career to helping those who have had difficulty having their voices heard within the legal system.

Prior to joining FMS, Siobhán was a Deputy City Solicitor in the Child Welfare Unit of the City of Philadelphia Law Department, where she litigated thousands of hearings of child abuse, child neglect, applications for orders of protective custody, permanent legal custodianship, and terminations of parental rights. She started her law career as an attorney for the Administration of Children's Services in Brooklyn, NY, before moving to Southern California and working in private practice for several years. Siobhán earned her B.A. from the University of Pennsylvania and her J.D. from New York Law School after teaching English in Thailand for a short time. She has been admitted to practice in the state courts of Pennsylvania, California, and New York, as well as before the United States District Court for the Eastern District of Pennsylvania.

ERIKA HEATH

ERIKA HEATH joined Francis Mailman Soumilas, P.C. in 2020, and focuses her San Francisco practice on individual and class action litigation for consumers harmed by erroneous credit reports, inaccurate employee background checks, unlawful debt collection practices, and other unfair trade practices.

Erika is a 2002 graduate of Southern Methodist University, where she majored in business. She worked in finance in both Texas and Germany before earning her J.D. from Northeastern University School of Law in 2009. After graduating, Erika got her start as an attorney at Atlanta Legal Aid Society, where she focused on protecting low-income consumers from abusive business practices.

Both during her time as a legal aid attorney and after, Erika has participated in a number of high-profile cases. She served as lead counsel on the case of *Strickland v. Alexander*, which ultimately led to a federal court declaring Georgia's garnishment process to be unconstitutional and enjoining most consumer garnishments in the state. As a result of her work on the *Strickland* case, Erika received numerous awards, including the 2015 Consumer Achievement of the Year award from the National Association of Consumer Advocates (NACA). In the summer of 2017, she served as co-counsel in the trial of *Bowerman v. Field Asset Services, Inc.* (N.D. Cal.), which led to a jury verdict of more than \$2 million for 11 employees who were misclassified as independent contractors. She is currently a lecturer at University of California, Berkeley (BerkeleyLaw), where she teaches course on the Fair Credit Reporting Act.

Erika moved with her family to the San Francisco Bay Area in 2015. She is licensed to practice in California, Georgia, and New York. She is an active member of the National Association of Consumer Advocates.

KEVIN MALLON

KEVIN MALLON joined Francis Mailman Soumilas, P.C. as Of Counsel in 2020. Mr. Mallon is also the owner of Mallon Consumer Law Group, PLLC, a New York City based consumer protection law firm focused on representing consumers harmed by credit reporting agencies, debt collectors, identity theft and consumer fraud.

Mr. Mallon has obtained relief for thousands of consumers harmed by unlawful corporate conduct since becoming an attorney in 1999. He represents consumers in both individual cases and class actions. He has successfully obtained jury verdicts on behalf of consumers as wells as successfully representing consumers on appeal. Mr. Mallon is recognized as a national expert in credit reporting cases and has spoken numerous times at credit reporting conferences.

Mr. Mallon received his undergraduate degree from the C.W. Post campus of Long Island University, magna cum laude, in 1995. He attended the Santa Clara University School of Law on a full Dean's scholarship, and graduated summa cum laude in 1999. He is licensed to practice in all New York State Courts as well as the Southern District of New York and Eastern District of New York federal courts.

THE FIRM'S STAFF

The firm employs a highly qualified staff of paralegals, legal assistants, and secretaries to advance its objectives.

Exhibit B



Fox Rothschild LLP
ATTORNEYS AT LAW

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October 18, 2022

James A. Francis, Esquire
Francis, Mailman, Soumilas, P.C.
1600 Market Street
Suite 2510
Philadelphia, PA 19103

Re: Billing Rates at Francis Mailman Soumilas P.C.

Dear Mr. Francis:

I. INTRODUCTION

By letter dated August 19, 2020, I gave you my expert opinion with regard to the proposed range of reasonable hourly billing rates for the lawyers at Francis Mailman Soumilas, P.C. (“Francis Mailman Soumilas” or “the Firm”) and, specifically, whether such rates were consistent with the Pennsylvania Rules of Professional Conduct and the Philadelphia market for legal services. You have asked me to analyze whether the rates currently charged by the Firm, as outlined in my August 2020 opinion, are within market rates and whether any adjustment is warranted. You have also asked me to consider rates for other jurisdictions where the Firm now has offices: New York, Chicago, and San Francisco. This serves as a supplement to that opinion.

II. QUALIFICATIONS

I am a partner at the law firm of Fox Rothschild LLP (“Fox Rothschild”). I have been at Fox Rothschild since 1974 as a member of its Litigation Department. From 2005 through 2017, I served as Co-Chair of Fox Rothschild and now hold the title of Chair Emeritus. For five years prior to becoming Co-Chair, I was the Managing Partner of the Philadelphia office. I have been a member of the management group at Fox Rothschild since 1985. I was the founding member of Fox Rothschild’s Professional Responsibility Committee (in 1988) and served as Chair of the Committee for eight years.



Fox Rothschild LLP
ATTORNEYS AT LAW

James A. Francis, Esquire
October 18, 2022
Page 2

As part of the management of Fox Rothschild over the past forty years, I have participated in the review and analysis of the hourly rates that we charge for our lawyers. This review is completed at least once a year and involves a review and analysis of the markets in which we participate to ensure that we set competitive rates and that the rates we charge are consistent with the Rules of Professional Conduct (or its predecessor, the Code of Professional Responsibility).

The process of setting hourly billable rates encompasses a number of steps. Initially, Fox Rothschild obtains public data of national, regional and local law firms' hourly billing rates. In addition, management often speaks with consultants with expertise in this area to ensure that our rates are within the range of our competitors in the market. The management team, which comprises leaders from each of our offices, discusses the hourly billing rates in each of our markets.¹ We try to establish rates that are fair and competitive.

I have had an active litigation practice for more than forty-seven years. The majority of my practice involves commercial litigation matters, in which I represent plaintiffs and defendants. I have also been active for many years representing lawyers and law firms in a myriad of issues involving professional responsibility and legal ethics, including the defense of legal malpractice claims. I have also been involved in dealing with fee disputes between and among lawyers and their clients. In 1998, I was selected to be a Fellow of the American College of Trial Lawyers.

In Fox Rothschild's litigation practice, we have handled matters in the area of consumer law. Our firm has represented large financial institutions, which have been sued for violations of the Fair Credit Reporting Act ("FCRA"), the Consumer Credit Protection Act ("CCPA") and the Fair Debt Collection Protections Act ("FDCPA"). We have defended some of the parties sued by clients of Francis Mailman Soumilas.

For over forty years, I have been active in the area of legal ethics and the interpretation and application of the Pennsylvania Rules of Professional Conduct (and its predecessor, the Code of Professional Responsibility). For many years, I have been a member of the Philadelphia Bar Association's Professional Responsibility Committee and Professional Guidance Committee. In 1983 and 1984, I served as Chair of the Professional Responsibility Committee. In 1987 and 1988, I served as Chair of the Professional Guidance Committee. I have also served as a member of a Hearing Committee for the Disciplinary Board of the Supreme Court of Pennsylvania for six years. For a portion of that time, I chaired the Hearing Committee. From approximately 1988 to 1995, I

¹ Fox Rothschild currently has twenty-nine offices in distinct marketplaces throughout the country, including Philadelphia, New York, Chicago, and San Francisco.



Fox Rothschild LLP
ATTORNEYS AT LAW

James A. Francis, Esquire
October 18, 2022
Page 3

have also served as one of two appointed lawyers (non-judicial) liaisons to the Judicial Ethics Committee of the Pennsylvania Conference of State Trial Judges.

I have, for many years, served on the Legal Ethics and Professional Responsibility Committee of the Pennsylvania Bar Association. For the past seventeen years, I have taught legal ethics and professional responsibility at the University of Pennsylvania Carey Law School.

In 1995, I served as Chancellor of the Philadelphia Bar Association. I have been a member of the House of Delegates of the American Bar Association and the Pennsylvania Bar Association for over twenty years. I participated in the debates surrounding the enactment of the Model Rules of Professional Conduct and many of the Amendments.

I have spoken and written on issues of trial practice and legal ethics over many years in many different forums. I have counseled hundreds of lawyers on issues of legal ethics and professional responsibility.

III. DOCUMENTS REVIEWED

I have reviewed the following documents as part of my analysis:

1. Francis Mailman Soumilas Firm Biography.
2. Francis Mailman Soumilas Attorney Biographies.
3. Francis Mailman Soumilas current hourly rates.
4. 49th Annual Survey of Law Firm Economics (2021 Edition).
5. Valeo Reports: Annual Partner Billing Rates by City.
6. Laffey Matrix.
7. Fox Rothschild LLP current rate schedule for its Philadelphia, New York, Chicago, and San Francisco lawyers.
8. Consumer Price Index, 2022.



Fox Rothschild LLP
ATTORNEYS AT LAW

James A. Francis, Esquire
October 18, 2022
Page 4

IV. DISCUSSION

A. The Firm's Accomplishments

Francis Mailman Soumilas (“FMS”) is one of the leading law firms representing clients in consumer-related litigation in both individual and class action suits. When the Firm was founded in 1998, few firms were actively litigating cases under the CCPA. In addition, Francis Mailman Soumilas was one of the first firms to have a significant legal practice concentrating in federal fair credit reporting, fair debt collection and consumer class actions. Over the past twenty-four years, Francis Mailman Soumilas has become a well-known and highly regarded firm in the area of consumer protection litigation.

FMS has obtained record-breaking jury verdicts and settlements in cases brought under the Fair Credit Reporting Act (FCRA). It has been certified to serve as class counsel in more than 60 consumer class actions nationwide and has obtained groundbreaking legal rulings at both the trial and appellate court levels on behalf of its clients. The firm has further served as counsel in some of the largest class action settlements in consumer protection litigation history. The following examples illustrate the groundbreaking work of FMS in the area of consumer law.

In *Ramirez v. Trans Union*, C.A. No. 12-cv-000632-JSC (N.D. Cal.), the Firm tried a class action case against Trans Union (one of the country’s “big three” credit reporting agencies) and obtained a \$60 million verdict on behalf of a class of 8,000 people who were mislabeled as Office of Foreign Assets Control (OFAC) criminals by Trans Union on credit reports in a claim brought under the FCRA. *Ramirez* is a record FCRA verdict, a rare class verdict, and was one of the top verdicts for 2017. Thereafter, Francis Mailman Soumilas argued the appeal against the former Solicitor General of the United States and the Ninth Circuit affirmed the trial court verdict (with remittitur): 951 F.3d 1008 (9th Cir. 2020). The United States Supreme Court granted certiorari in 2020, and in March of 2021, issued a 5-4 decision reversing the trial court’s decision in part on the basis its finding only a portion of the certified class had Article III jurisdiction. The Firm achieved a \$9 million dollar settlement which is currently scheduled for final approval in the Northern District of California on December 15th, 2022.

In *Robinson v. National Student Clearinghouse*, No. 1-19-cv-107490, 2020 WL 4873728 (D. Mass. July 8, 2020) *aff’d* 14 F.4th 56 (1st Cir. 2021), the Firm successfully obtained a \$2 million settlement for consumers who were overcharged for college verifications. This case was notable for the Firm’s decision to challenge the defendant as a consumer reporting agency and ultimately bring the defendant into compliance with the FCRA.



Fox Rothschild LLP
ATTORNEYS AT LAW

James A. Francis, Esquire
October 18, 2022
Page 5

In *Patel v. Trans Union, LLC*, 2018 WL 1258194 (N.D. Cal. March 11, 2018), the Firm served as lead Class Counsel and obtained an \$8 million settlement for a class of consumers who were falsely being reported as terrorists.

In *Thomas v. Equifax Info. Services, LLC*, No. 18-cv-684 (E.D. Va.), Francis Mailman Soumilas served as National Class Counsel in an FCRA class action alleging violations by a credit bureau for misreporting public records. The Firm provided a nationwide resolution of class action claims that were asserted across multiple jurisdictions (including injunctive relief) and an uncapped mediation program for millions of consumers. The Firm also served as National Class Counsel and obtained similar relief for millions of consumers with similar claims in *Clark v. Experian Info. Sols., Inc.*, No. 16-cv-32 (E.D. Va.) and *Clark/Anderson v. Trans Union, LLC*, NO. 15-cv-391 and No. 16-cv-558 (E.D. Va.).

In *Beach v. American Heritage Federal Credit Union*, C.A. No. 15-5942 (E.D. Pa. July 26, 2017), the Firm obtained a settlement exceeding \$1 million against American Heritage Federal Credit Union (“AHFCU”) for AHFCU having generated a cash advance from consumers’ accounts to pay fees, interest, charges or attorney fees. The court in *Beach* noted the Firm’s experience in consumer class actions and found that “[t]he settlement agreement in this matter resulted from Class Counsel’s vigorous advocacy and contested, protracted settlement negotiations.”

In *Flores v. Express Services, Inc., et al.*, C.A. No. 14-3298 (E.D. Pa. March 30, 2017), the Firm brought an action against Express Services, Inc. and Express Personnel – Philadelphia for violations of the FCRA and obtained a \$5.75 million settlement on behalf of the class. The court found that the skill and efficiency of the Firm was apparent, having “achieved a significantly favorable result on behalf of plaintiffs at the expense of the inherent risk that accompanies undertaking a contingency fee action,” and also noted that Francis Mailman Soumilas has extensive experience in consumer class action litigation.

In *White v. Experian Info. Solutions*, C.A. No. 05-01070, 2014 WL 1716154 (C.D. Cal. May 1, 2014), the court found Francis Mailman Soumilas “FCRA specialists” and appointed the Firm and its team as interim class counsel over objections from competing groups (including Boise Schiller) because the Francis, Mailman, Soumilas team’s “credentials and experience [we]re significantly stronger in class action and FCRA litigation”; affirmed sub nom *Radcliffe v. Experian Information Solutions, Inc.*, 818 F.3d 537 (9th Cir. 2016).

In *Henderson v. Axiom Risk Mitigation, Inc.*, C.A. No. 12-589 (E.D. Va. Aug. 7, 2015), Francis Mailman Soumilas was appointed class counsel in a national FCRA class action and obtained a \$20.8 million settlement against one of the largest data sellers and background screening companies in the world.



Fox Rothschild LLP
ATTORNEYS AT LAW

James A. Francis, Esquire
October 18, 2022
Page 6

Finally, in *Thomas v. BackgroundChecks.com*, C.A. No. 13-029 (E.D. Va. Aug. 11, 2015), Francis Mailman Soumilas was appointed class counsel in an FCRA national class action and obtained \$18 million against another one of the largest background screening companies in the world, in addition to significant injunctive and remedial relief.

Additionally, Francis Mailman Soumilas has been certified as class counsel in federal and state courts throughout the country in over 70 matters. Since my last opinion, the Firm has been certified as class counsel in the following matters²:

- *Stewart et al. v. LexisNexis Risk Data Retrieval Services, LLC et al.*, No 3:20-cv-00903-JAG (E.D. Va. July 27, 2022);
- *Kang v. Credit Bureau Connection*, No. 18-1359, 2022 WL 658105 (E.D. Cal. Mar 4, 2022)
- *Rivera v. Equifax Info. Services, LLC*, 341 F.R.D. 328 (N.D. Ga. 2022)
- *Healy v. Milliman, Inc.*, No. 2:20-cv-01473-JCC (W.D. Wash. 2022)
- *Watson v. Checkr, Inc.*, No. 3:19-cv-03396-EMC (N.D. Cal. 2021)
- *Deaton v. Trans Union, LLC*, No. 2:20-cv-01380-AB (E.D. Pa. 2021)
- *Sanders v. Makespace Labs, Inc.*, No: 1:18-cv-10016 (S.D.N.Y. Mar. 29, 2021)
- *Der-Hacopian v. Darktrace, Inc.*, No: 18-cv-06726-HSG (N.D. Cal. Dec. 10, 2020)
- *Der-Hacopian v. Sentrylink, LLC*, No. 8:18-cv-03001-PWG (N.D. Cal. Nov. 23, 2020)
- *McIntyre v. RealPage, Inc.*, No: 2:18-cv-03934, WL 5017612 (E.D. Pa. Aug. 25, 2020)
- *Norman v. Trans Union, LLC*, No: 18-5225, 2020 WL 4735538 (E.D. Pa. Aug. 14, 2020)
- *Thomas v. Equifax Info. Services, LLC*, NO. 18-cv-684 (E.D. Va. 2020)

In addition to obtaining substantial and favorable verdicts, the Firm has also made significant contributions to public policy. The Firm set legal precedent and clarified legal issues, including:

² This is only a partial list of the matters where FMS has been certified as class counsel.



Fox Rothschild ^{LLP}
ATTORNEYS AT LAW

James A. Francis, Esquire
October 18, 2022
Page 7

(i) the proper standard for the investigation of a consumer dispute by credit reporting agencies and furnishers of information; (ii) the standard for proving willfulness under the FCRA; (iii) the accuracy standard for credit reports; (iv) the types of information permitted to be included in credit reports; (v) the types of cognizable actual damages available in an FCRA action; (vi) the consumer's burden of proof in an FCRA action; and, (vii) proper jury charges. Francis Mailman Soumilas has also been counsel to some of the largest FCRA settlements in history, such as *Acxiom* (\$20.8 million), *Ramirez* (\$9 million), *Hireright*, (\$29 million) and *White/Hernandez* (\$45 million).

Through Francis Mailman Soumilas' jury verdicts and class settlements, the Firm has established the "market value" for class and individual cases under the FCRA and the FDCPA. I have been informed that there were few to no reported plaintiff FCRA verdicts prior to the Firm's victories. Moreover, Francis, Mailman, Soumilas has helped establish the standards for obtaining class certification in FCRA and FDCPA cases. *See, e.g., Cortez.*

The attorneys at Francis Mailman Soumilas are very active and well known in the legal community. They regularly share their expertise at local and national conferences. By way of example, attorneys from the Firm served on the faculty for the *Perrin Conferences Class Action Litigation Virtual Conference*, April 26, 2022; as a Panel Member for the *27th Annual Consumer Financial Services Institute- Debt Collection and Credit Reporting Update* on September 20, 2022 in Chicago and March 18, 2022 in New York, NY; as a speaker for *Consumer Finance Class Actions: FDCPA, FCRA & TCPA* Webinar on September 16, 2020, and at *Representing the Pro Bono Client: Consumer Law Basics* in 2020 and 2019, presented by the Practising Law Institute. Firm members also served on the faculty for *Consumer Financial Services & Banking Law Update*, presented by the Pennsylvania Bar Institute on October 29, 2019 and *Consumer Finance Class Actions*, presented by The Canadian Institute on July 24, 2019.

Members of the Firm also spoke at the Fair Credit Reporting Act Conference, National Association of Consumer Advocates, in Long Beach, CA in May 2019 and Baltimore, MD in April 2017. They also served on the faculty for the 21st Annual Consumer Financial Services Litigation Institute (which was CLE accredited) on "Fair Credit Reporting and Debt Collection Litigation," which took place in March and April 2016 in New York City and Chicago. They also presented at the 2014, 2015, and 2016 Consumer Rights Litigation Conference, National Consumer Law Center.

One of the founding partners, James A. Francis, has been repeatedly named to the Top 100 Pennsylvania Super Lawyers, as well as the Top 100 Philadelphia Super Lawyers. Mr. Francis was also featured on LAW360 in October 2014 as one of a small handful of American plaintiff's lawyers to be selected from a national pool and featured as part of the "Titans of the Plaintiff's Bar" series. *See <https://www.law360.com/articles/583536/titan-of-the-plaintiffs-bar-jim-francis>*. Mr. Francis has been appointed to serve as class counsel by federal courts throughout the country in more than 70 cases.



Fox Rothschild ^{LLP}
ATTORNEYS AT LAW

James A. Francis, Esquire
October 18, 2022
Page 8

Mark Mailman, also a founding partner, was awarded the 2018 Consumer Attorney of the Year award from the National Association of Consumer Advocates (NACA). Mr. Mailman has repeatedly been voted and named one of Pennsylvania's Super Lawyers by Law and Politics published by Philadelphia Magazine and Pennsylvania Super Lawyer Magazine from 2004- present. He has also appeared on various news programs to discuss trending consumer issues and recently published an article in *The Legal Intelligencer*, a prominent Philadelphia legal publication, entitled "Your clients' consumer rights legal issues may be hiding in plain sight".

John Soumilas was lead class counsel and lead trial counsel in the record breaking \$60 million class action jury verdict, the largest verdict in history for a case brought under the FCRA. Mr. Soumilas has been nationally recognized for his work in protecting consumer rights under the FCRA and, throughout his career, has obtained some of the highest consumer jury verdicts, including the highest known FCRA verdicts in Pennsylvania, California, and Michigan. Mr. Soumilas has also been appointed by federal judges as class counsel in some of the largest FCRA class cases and settlements.

B. Methodology for Determining Rates

There are two complementary approaches for determining reasonable hourly rates.

The **first approach** is to consider the rates for comparably skilled practitioners in the relevant market. To that end, I have reviewed the hourly billing rates of lawyers in Philadelphia, New York, Chicago, San Francisco and comparable local areas.

The hourly rates of lawyers listed in the Updated Laffey Matrix was a source I consulted.³ For the period of June 2021 through May 2022, the hourly billing rates identified were: (i) \$919 for an attorney with twenty or more years of experience; (ii) \$764 for an attorney with eleven to nineteen years of experience; (iii) \$676 for an attorney with eight to ten years of experience; (iv) \$468 for an attorney with four to seven years of experience; (v) \$381 for an attorney with one to three years of experience; and (vi) \$208 for a paralegal or law clerk. These numbers reflect an increase of approximately 9% from the 2017 rates.

I have also reviewed the current hourly rates set by my firm for its Philadelphia, New York, Chicago, and San Francisco lawyers and I have consulted with colleagues in my firm's New York, Chicago, and San Francisco offices who have served in management capacities and have experience in setting hourly rates in those jurisdictions. As I stated above, the process of setting

³ The Laffey Matrix is reflective of market rates in the Baltimore/Washington area. See www.laffeymatrix.com. In my experience, the rates in the Baltimore/Washington area are comparable to the Philadelphia Market and lower than the New York or Chicago markets.



Fox Rothschild LLP
ATTORNEYS AT LAW

James A. Francis, Esquire
October 18, 2022
Page 9

hourly rates for my firm begins with obtaining public data, speaking with knowledgeable consultants, and discussions with the management team. I also considered the fact that the Consumer Price Index increased by 7.9% from February 2021 – February 2022 and then increased 8.5% from July 2021 – July 2022.

A **second approach** to determine a reasonable hourly rate would look at the relevant factors set forth in Rule 1.5(a) of the Rules of Professional Conduct.

While the Pennsylvania Rules of Professional Conduct do not specifically address the reasonableness of a specific hourly rate, they do address the considerations for assessing “the propriety of a fee” in Rule 1.5. In my opinion, some of those considerations can provide a useful analytical checklist when trying to determine a reasonable hourly rate.

The factors set forth in Rule 1.5(a) are:

1. Whether the fee is fixed or contingent;
2. The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal services properly;
3. The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
4. The fee customarily charged in the locality for similar legal services;
5. The amount involved and results obtained;
6. The time limitations imposed by the client or by the circumstances;
7. The nature and length of the professional relationship with the client; and
8. The experience, reputation, and ability of the lawyer or lawyers performing the services.

Factor Number 4 [“The fee customarily charged in the locality for similar legal services”] has already been addressed. This is a comparative review of rates charged by other lawyers in the market.

Factor Number 1 [“whether the fee is contingent or fixed”] suggests that higher rates may be justified when fees are contingent. Francis Mailman Soumilas handles its cases on a contingent fee basis. As a result, the Firm bears all the risk of the cost of litigation until resolution. In some



Fox Rothschild LLP
ATTORNEYS AT LAW

James A. Francis, Esquire
October 18, 2022
Page 10

instances, the Firm may not receive payment of its fees for several years. Further, most of the defendants are large companies with substantial financial resources and lawyers equipped to defend the actions. Many of the lawsuits address novel areas of law. In order to obtain favorable outcomes, the attorneys at Francis Mailman Soumilas spend numerous hours conducting research, conducting discovery, and crafting innovative legal arguments to overcome attempts to have their clients' cases dismissed before trial. The Firm's investment of time and resources prevent it from litigating numerous matters at the same time.

Factor Number 2 ["The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal services properly"] also supports the notion that a higher rate would be justified for lawyers at Francis Mailman Soumilas who have distinguished themselves in their area of expertise. Finally, Factor Number 8 ["The expertise, reputation, and ability of the lawyer or lawyers performing the services"] likewise provides another reason to justify increasing rates recommended for the lawyers at Francis, Mailman, Soumilas.

The table below displays Francis Mailman Soumilas' current hourly billing rates in each jurisdiction and dates of admission to the Bar. I have been advised that in federal court hearings, the judges who have been presented with the rates I and the colleagues of my firm have supported have found them to be reasonable. *See, e.g., Chakejian v. Equifax Information Services, LLC*, 275 F.R.D. 201 (E.D. Pa. 2011), *Sapp v. Experian Information Solutions, Inc.*, 2013 WL 2130956 (E.D. Pa. May 15, 2013); *Gibbons v. Weltman, Weinberg & Reis Co., LPA*, C.A. No-17-0151-JHS (E.D. Pa., Jan. 26, 2022) ("And I've also read the Report of Abe Reich, Esquire, that confirms the reasonableness of the billing rates and fees charged in this case.")

Attorney/Paralegal	Philadelphia Hourly Billing Rate	New York Hourly Billing Rate	Date of Admission
James A. Francis	\$665	\$831.25	1995
Mark D. Mailman	\$665	\$831.25	1995
David A. Searles	\$800	\$1000	1975
Geoffrey H. Baskerville	\$575	\$718.75	1992
John Soumilas	\$635	\$793.75	1999
Lauren KW Brennan	\$255	\$318.75	2013
Jordan M. Sartell	\$255	\$318.75	2012
Joseph Gentilcore	\$305	\$381.25	2011
Siobhan McGreal	\$305	\$381.25	2008
Experienced paralegal	\$180		
Inexperienced paralegal	\$150		



Fox Rothschild LLP
ATTORNEYS AT LAW

James A. Francis, Esquire
October 18, 2022
Page 11

In consideration of the attorneys' years of experience, successful verdicts and recognition in the legal community, the level of current hourly billing rates is, in my opinion, below the market. An increase in the Firm's hourly billing rates is justified. The Firm has not raised its hourly billing rates since my last report of August 19, 2020. The additional experience and years practiced by the Firm's attorneys, the increase in legal fees and the dramatic increase in the Consumer Price Index during this time period justify a reasonable increase for Francis Mailman Soumilas.

V. CONCLUSION

In accordance with the foregoing analysis, and based upon my review of the prevailing market hourly billing rates, it is my opinion, within a reasonable degree of professional certainty, that the following range of hourly billing rates at Francis Mailman Soumilas is consistent with the hourly billing rates charged in the Philadelphia, New York, Chicago and San Francisco markets, and within the considerations outlined in the Rules of Professional Conduct. Moreover, my colleagues in each of those markets have reviewed this report and concur with the rates outlined below. The level of hourly billing rates within the range will depend on the complexity of the matter, the duration of the dispute and the result obtained.

Attorney/Paralegal	Range of Hourly Billing Rates (Philadelphia)	Range of Hourly Billing Rates (New York)	Range of Hourly Billing Rates (Chicago)	Range of Hourly Billing Rates (San Francisco)
James A. Francis	\$785 - \$825	\$1045 - \$1085	\$900 - \$945	\$865 - \$905
Mark D. Mailman	\$785 - \$825	\$1045 - \$1085	\$900 - \$945	\$865 - \$905
David A. Searles	\$815 - \$855	\$1135 - \$1175	\$975 - \$1015	\$895 - \$935
Geoffrey H. Baskerville	\$655 - \$695	\$915 - \$955	\$785 - \$825	\$720 - \$760
John Soumilas	\$695 - \$735	\$975 - \$1015	\$835 - \$875	\$765 - \$805
Lauren KW Brennan	\$385 - \$425	\$565 - \$605	\$460 - \$500	\$425 - \$465
Jordan Sartell	\$385 - \$425	\$565 - \$605	\$460 - \$500	\$425 - \$465
Joseph Gentilcore	\$400 - \$445	\$575 - \$615	\$480 - \$520	\$440 - \$480
Erika Heath	\$425 - \$465	\$595 - \$635	\$520 - \$560	\$490 - \$530
Kevin Mallon	\$685 - \$725	\$965 - \$1005	\$825 - \$865	\$755 - \$795
Siobhan McGreal	\$425 - \$465	\$595 - \$635	\$520 - \$560	\$490 - \$530
Experienced paralegal	\$305	\$305	\$305	\$305
Inexperienced paralegal	\$265	\$265	\$265	\$265



Fox Rothschild LLP
ATTORNEYS AT LAW

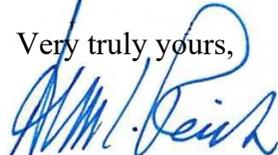
James A. Francis, Esquire
October 18, 2022
Page 12

VI. SUPPLEMENTAL INFORMATION

Attached as Exhibit A is a copy of my curriculum vitae. It contains a list of all publications that I have authored in the past ten years. I have not testified as an expert at trial in the past four years. In the past four years, I testified at a deposition as an expert witness in a confidential dispute involving a lawyer who became disabled. The matter was unrelated to an analysis of hourly rates. My current hourly rate is \$995. I have been assisted in preparing this opinion by my partner, Beth Weisser, whose hourly rate is \$625.00. We spent approximately \$6,000.00 in preparing this opinion.

If I am provided with additional information, I reserve the right to supplement or amend my opinion.

Very truly yours,



Abraham C. Reich

ACR:cah

ABRAHAM C. REICH

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PROFESSIONAL ASSOCIATION

FOX ROTHSCHILD LLP

- Chair Emeritus, Fox Rothschild LLP (April 2017 to Present)
- Co-Chairman, Fox Rothschild LLP (April 2005 to March, 2017)
- Partner, Litigation Department
- Former Managing Partner, Philadelphia Office (2000- April 2005)
- Professional Responsibility Committee (1998-2008),
(Founding Member and Former Chair)

Abe has been with the firm since 1974. His area of practice involves all aspects of business litigation and counseling, including representation of lawyers and law firms in defense of legal malpractice claims and other disputes. Abe has taught professional responsibility at University of Pennsylvania Carey School of Law since 2007. He also provides expert testimony in connection with legal ethics and professional responsibility and business litigation matters.

EDUCATION

The Beasley School of Law at Temple University, J.D. 1974, Editor, Law Review

University of Connecticut, B.A., magna cum laude; 1971,
Elected to Phi Beta Kappa and Phi Kappa Phi

ADMISSIONS

- Pennsylvania
- United States Supreme Court
- United States Courts of Appeal for the Third, Fourth, Seventh and Eighth Circuits

PROFESSIONAL ASSOCIATIONS

- Fellow, American College of Trial Lawyers
- American Bar Association, House of Delegates (1995-2015; 2018-2020)
- American Bar Foundation
- American Association for Justice (formerly American Trial Lawyers Association)
- Association of Professional Responsibility Lawyers
- Pennsylvania Bar Association, House of Delegates; First Statewide Bench Bar Conference, Chair, 1986; Legal Ethics and Professional Responsibility Committee; Co-Chair, Task Force to Revise the Code of Judicial Conduct, 2012- 2013
- Pennsylvania Association for Justice (Formerly Pennsylvania Trial Lawyers Association) Board of Governors, 1985-1990; Commercial Litigation Committee, Former Co-Chair
- The Beasley School of Law at Temple University, Board of Overseers

PHILADELPHIA BAR ASSOCIATION ACTIVITY

- Chancellor, 1995
- Board of Governors, 1987-1999; Chair, 1989
- Commission on Judicial Selection and Retention, 1986-1989, 1993-1994; Vice-Chair, 1989; Chair, Investigative Division, 1988-1989
- Professional Guidance Committee; Chair, 1987-1988
- Professional Responsibility Committee; Chair, 1983-1984
- Annual Conference Committee (Bench Bar Conference), Vice-Chair, 1984; Chair, 1985
- Trustee, Philadelphia Bar Foundation, 1993-1996
- Trustee, Philadelphia Bar Education Center, 1993-1999
- Trustee, International Human Rights Fund, 1993-1995
- Federal Courts Committee
- State Civil Judicial Procedures Committee
- Editorial Board, the Philadelphia Lawyer, 1975-1987 (Former Publication of Business Law Section)
- Counsel to Philadelphia Bar Association in Restifo v. Philadelphia Bar Association, 1991-1994

OTHER ORGANIZATIONAL ACTIVITY

- Lecturer in Law, University of Pennsylvania Carey School of Law, “Ethics and Advocacy – From the Boardroom to the Courtroom”; Spring Semesters 2007-2022
- The Continuing Legal Education Board of the Supreme Court Of Pennsylvania, Board Member 2005 – 2010; Chair, 2011
- The Disciplinary Board of the Supreme Court of Pennsylvania, Former Hearing Committee Member and Chair, 1985-1991
- Pennsylvania Committee of State Trial Judges, Lawyer Liaison, Judicial Ethics Committee, 1988-1995
- Campaign for Qualified Judges, Former Trustee
- Pennsylvania Law Journal-Reporter, Former Member of Corporate Law Advisory Board
- The Legal Intelligencer, Former Editorial Board Member, 1992
- Lawyers Club of Philadelphia, Former Member of Board of Directors
- United States Court of Appeals for the Third Circuit, Task Force on Equal Treatment in the Courts, 1996
- Lawyer’s Advisory Committee, United States Court of Appeals for the Third Circuit, Chair, 1998
- Jenkins Law Library, Board Member and President (1995-2015)
- Pennsylvanians for Modern Courts, Advisory Board Member
- Brandeis Law Society Foundation, Director

PUBLICATIONS

- Contributing Author, *Successful Partnering Between Inside and Outside Counsel – Ethics*, Chapter 31 (Thomson Reuters 2009-2020)
- Contributing Author, *Pennsylvania Ethics Handbook*, Pennsylvania Bar Institute, 2008, 2011, 2014, 2017
- Co-Author, *Attorney Self-Governance, Federal Oversight Clash in Dodd-Frank Act*, The Legal Intelligencer, November 15, 2010
- Co-Author: *The Lawyer’s Duty of Disclosure: Ethics and Sarbanes-Oxley – The New Conundrum for Patent Lawyers*, Akron Intell. Prop. 43-63, 2007
- “*The IP Lawyer’s Duty of Disclosure Under Sarbanes-Oxley*,” The Legal Intelligencer – May 8, 2006
- Co-Author: *When Competition Crosses The Line, Mid-Atlantic Executive Legal Advisor*, Winter 2005
- Co-Author: *What Do You Do When Confronted With Client Fraud, Business Law Today*, Vol. 12, Number 1, September/October 2002
- Co-Author: *Screening Mechanisms: A Broader Application? Balancing Economic Realities and Ethical Obligations*, Vol. 72, Temple Law Review 1023, 2000
- *Lawyer Controlled MDPs: Critical to the Future Economic Vitality Of Our Profession*, American Bar Association Section of Environment Energy and Resources, Ethics Committee Newsletter, Vol. 1 No. 1, November 2000
- Co-Author: *The Private Securities Litigation Reform Act of 1995; An Overview, The Barrister*, Vol. XXVII, No. 2, Fall, 1996
- Co-Editor: *Commercial Litigation Case Notes, Pennsylvania Trial Lawyers Association*, 1985-1995
- Co-Author: *Time Out – A Time for Reflection on Statutes of Limitation in Federal Securities Laws and RICO Claims, The Barrister*, Vol. XVIII, No. 1, Spring 1987
- Co-Author: *Getting Even, Litigation*, Vol. 13, No. 2, Winter, 1987
- Book Review, *Newberg on Class Actions, (Second), The Barrister*, Vol. XVI No. 4, Winter 1985/1986
- Co-Author: *Mandamus Used as Pretrial Appeal, Pennsylvania Law Journal Reporter*, Vol. VI, No. 10, March 1983
- Co-Author: *Derivative Action Requirements Eased, Pennsylvania Law Journal Reporter*, Vol. V., No. 46, December 1982
- Co-Author: *Non-Parties May Recover Discovery Costs, Pennsylvania Law Journal Reporter*, Vol. V, No. 39, October 1982
- *Action in Restraint of Trade: What Constitutes Conspiracy?, Pennsylvania Law Journal Reporter*, Vol. IV, No. 15, April 1981
- *A Shot in the Arm for Dissenting Shareholders, The Philadelphia Lawyer*, Vol. 17, No. 2, March 1980

- *The New Judicial Code as Part of Pennsylvania's Consolidated Statutes, The Philadelphia Lawyer*, Vol. 16, No. 2, June 1979
- *Equal Fault Revisited; The Philadelphia Lawyer*, Vol. 14, No 4, December 1977
- Co-Author: *Individual Issues in Securities Class Actions, The Philadelphia Lawyer*, Vol. 13, No. 3, October 1976
- *United States v. Byrum: The Troubled Application of Section 2036, Vol. 46, Temple Law Quarterly* 498, 1973

LECTURES

- **American Association for Justice** (Formerly American Trial Lawyers Association): Commercial Litigation, 1986
- **American Bar Association**: Section of Business Law, *Client Fraud: To Disclose or Not to Disclose*, October 2002 (National Teleconference)
- **American Conference Institute Forum On Reduced Legal Costs**, The Ethics of Alternative Fee Arrangements and Cost Reduction Strategies, 2009
- **American Intellectual Property Law Association**: *Advanced Computer & Electronic Patent Practice Seminar, The Lawyers Duty of Disclosure – Ethics and Sarbanes-Oxley – The New Conundrum for Patent Attorneys*, Boston, June 2006
- **Berks County Bar Association**: Legal Ethics, 1993
- **Delaware Valley Corporate Counsel Association**: Legal Ethics, 1987
- **Dickinson Law School**: Intellectual Property Forum, Trade Secrets, 1983 and 1985
- **DuPont Chemical CLE Series**, Ethics and the Federal Circuit, September 2007
- **Federal Bar Association**: Federal Class Actions, 1986
- **Frankford's Rotary Club**: Legal Ethics, 1987
- **Intellectual Property Owners Association**: Annual Meeting "Sarbanes-Oxley and the Duty of Disclosure for IP Lawyers", Seattle, September 2005
- **Lorman Seminars, Ethics Seminars**, 2013, 2014, 2015, 2016, 2017, 2019, 2020
- **Minnesota Institute of Legal Education**: Securities/Commercial Litigation, 1986;
- **Antitrust/Unfair Competition**, 1987; Securities/Commercial Litigation, 1989
- **Montgomery County Trial Lawyers Association**: Legal Ethics/Fee Disputes, 1991

- **Pennsylvania Association for Justice** (Formerly Pennsylvania Trial Lawyers Association)
 - Broker/Dealer Litigation, 1984;
 - Commercial Litigation Update, 1986-1989;
 - Antitrust/Health Care, 1989;
 - Legal Ethics/Professional Responsibility, 1992/1993 (Multiple Seminars);
 - Winning with Expert Testimony, April 2002;
 - “What’s It Worth” Seminar (Ethics Component), November 2002; March 2010
- **Pennsylvania Bar Association: Young Lawyers Section**, The Transition from Associate to Partner, 1986
- **Pennsylvania Bar Institute**
 - Directors and Officers Insurance, 1987;
 - Legal Ethics/Professional Responsibility, 1988;
 - Legal Ethics/Professional Responsibility – Bucknell University, 1992;
 - Legal Ethics/Professional Responsibility, 1993;
 - Alternative Dispute Resolution, 1994;
 - Legal Ethics/Professional Responsibility, 1997;
 - Alternative Dispute Resolution, 1997;
 - Recent Developments in Federal Practice/Federal Evidence, 1998;
 - The Ethics of Law Firm Governance, 2000;
 - Intellectual Property Issues for Business Lawyers, April 2002;
 - Accounting Litigation After Enron, WorldCom. (Ethics Component), November 2002;
 - Attorney Fees, June 2003;
 - My First Federal Court Trial, October 2004;
 - Tortious Interference in Business/Professional Relationships, August 2005;
 - Ethical Considerations in Litigating Employment Discrimination Cases, December 2005;
 - Best Practices in Pretrial Litigation in Federal Courts, 2012, 2013, 2014; 2015, 2016;
 - Annual Labor Law Update (Ethics Component) 2014;
 - Ethics And The Labor Lawyer, November 2016;
 - Plenary CLE Ethics Program, Business Law Institute, October 2019

- **Philadelphia Bar Association**
 - Bench Bar Conference, Commercial Litigation, 1979
 - Commercial Litigation, 1982
 - Professional Responsibility, 1983
 - Federal Bench Bar Conference, 2015
 - Client Confidentiality/Duty of Disclosure, 1985
 - Professional Responsibility Committee, May 2004; September 2004 (New Rules of Professional Conduct)
 - Federal Bench Bar Conference “The Rocket Docket”, 2005
- **Philadelphia Bar Education Center**
 - Legal Ethics/Solicitation, October 1992;
 - Legal Ethics/Pro Bono Representation, November 1992; November 1993
 - “Client Conflicts: Charting Safe Courses After Maritrans”, April 1993;
 - Legal Ethics: “Attorney/Accountant Ethical Clashes in the 90’s: How to Bridge the Gap”, January 1994;
 - Ethics of Pro Bono, 1992, 1994, 1996
- **Philadelphia Business Journal**, Roundtable: The Future of Law Firms (May 22-28, 2009)
- **Pennsylvania Law Journal-Reporter**: Antitrust Law Seminar, 1981 – Course Planner
- **Philadelphia Trial Lawyers Association**
 - Commercial Litigation, 1985
 - Legal Ethics/Fee Disputes, 1991
 - Legal Ethics/Trial Practice, 1997
 - Legal Ethics and Attorney Malpractice, 2016
- **Philadelphia Intellectual Property Law Association**
 - Legal Ethics and Professional Responsibility for the Intellectual Property Lawyer, 1996;
 - ADR in IP Cases, 2005;
 - IP Lawyers and the Duty of Disclosure under the Sarbanes-Oxley Act, May 2006;
 - Ethics, May 2010
- **Smithsonian Institution/American Association of Museums**: Legal Ethics: Who is the Client? – The Museum Board, Officers, Employee, or the “Public” - 2007
- **Temple University School of Law**: Legal Ethics, 1995; Rome Program, Visiting Professor, International Civil Litigation, June 2004; Legal Ethics and Social Media 2013; 2014

- **Third Circuit Judicial Conference:** Litigating Federal Civil Cases in the 21st Century: Changes and Challenges (Course Planner) 1997; Ethics in a Digital Age (Panelist), 2011
- **Thomson Reuters:** *Conflicts and Ethical Duties to Clients and the Public: Are They Reconcilable?*, Speaker, June 25, 2013
- **University of Akron School of Law,** Eighth Annual Richard C. Sughrue Symposium: The New Conundrum for Patent Lawyers: Sarbanes-Oxley, March 2006
- **University of Pennsylvania School of Law:** Social Media and Ethics, 2012
- **Villanova University School of Law:** Professional Responsibility, 1983

AWARDS

- Named as one of the Leading Litigation Attorneys in Pennsylvania, Chambers USA (2008 through 2018)
- Philadelphia Magazine Super Lawyers, “The Top Ten”, 2006; 2011-2016 “The Top 100”, 2006-2017
- Most Admired CEO Award by *Philadelphia Business Journal*, 2014
- Brandeis Society Community Achievement Award (Ben Levy), 2014
- Pennsylvania Bar Association, Award for Service as Co-Chair of Task Force on Code of Judicial Conduct, 2014
- Learned Hand Award, American Jewish Committee, 2012
- Temple University, Founder’s Day Award, 2009
- Wachovia Fidelity Award, 2007
- Fund for Religious Liberty Award, American Jewish Congress, 1997
- Outstanding Leadership Award by Pennsylvania Legal Services, 1996
- IOLTA Leadership Award, 1993
- Equal Justice Award by Community Legal Services, 1991

PERSONAL

Born: April 17, 1949, Waterbury, Connecticut

Married: Sherri Engelman Reich

Children: Two sons, Spencer and Alexander; Daughters-in-Law, Elena Steiger Reich (lawyer); Lea Michele Sarfati
Three grandchildren, Gabriella, Levi and Ever

Exhibit C

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

ELENA BOTTS, on behalf of herself and all
others similarly situated,

Plaintiff,

v.

JOHNS HOPKINS UNIVERSITY,

Defendant.

Civil Action No. 1:20-cv-01335-JRR

**DECLARATION OF COURTNEY L. WEINER IN SUPPORT OF PLAINTIFF'S
MOTION FOR A SERVICE AWARE TO PLAINTIFF AND FOR AN AWARD OF
ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES TO CLASS COUNSEL**

I, Courtney L. Weiner, declare that the following is true and correct to the best of my personal knowledge:

INTRODUCTION

1. I am the owner of the Law Office of Courtney Weiner PLLC ("LOCW") and one of the attorneys representing Plaintiff Elena Botts in the above-captioned matter. I submit this declaration in support of class counsel's application for an award of attorneys' fees in connection with services rendered in this matter, as well as the reimbursement of costs and expenses incurred by my firm in connection with this litigation against Defendant The Johns Hopkins University.
2. This declaration describes the history and experience of LOCW and the work undertaken by the firm in connection with this litigation.

FIRM HISTORY AND EXPERIENCE

3. I am an attorney licensed to practice law in the States of Maryland, New York, Virginia, and Pennsylvania (inactive) and the District of Columbia. I am also admitted to practice before the United States Supreme Court, the United States Court of Appeals for the District of Columbia, Third, Fourth, and Seventh Circuits, and the United States District Courts for the District of Maryland, Southern and Eastern District of New York, Eastern District of Virginia, Eastern District of Pennsylvania, and the District of Columbia.
4. I received my J.D. from Columbia Law School in 2006 and was first admitted to the bar in New York on March 26, 2007.
5. I have been practicing consumer law exclusively since 2015 and opened the Law Office of Courtney Weiner PLLC as a solo practitioner with that exclusive focus on January 1, 2016.
6. My biography is attached hereto as **Sub-Exhibit A**.
7. I have successfully litigated numerous consumer cases in this Court. *See, e.g., Smith v. Oliveri & Assocs., LLC*, Civil Action No. GLR-20-2598, 2022 U.S. Dist. LEXIS 34474 (D. Md. Feb. 28, 2022); *Ellis v. Palisades Acquisition XVI LLC*, No. JKB-18-03931, 2019 U.S. Dist. LEXIS 124787 (D. Md. July 26, 2019); *Ellis v. Palisades Acquisition XVI LLC*, No. JKB-18-03931, 2019 U.S. Dist. LEXIS 124787 (D. Md. July 26, 2019); *Long v. Pendrick Capital Partners II, LLC*, 374 F. Supp. 3d 515 (D. Md. 2019); *Meaney v. Nationstar Mortg.*, Civil Action No. TDC-16-2959, 2018 U.S. Dist. LEXIS 28364 (D. Md. Feb. 21, 2018).
8. Prior to 2015, I worked at several large and boutique litigation firms, as well as the U.S. Department of Justice, and litigated numerous complex civil cases on behalf of plaintiffs

and defendants, many of which focused on securities fraud issues relating to the 2008 financial crisis.

THE BOTTS LITIGATION

9. I served as local counsel on this matter and participated in numerous aspects of the litigation process. The tasks I performed are summarized below:
- a. Pre-suit investigation of the claims and defenses in this matter;
 - b. Drafting a well-pleaded class action complaint and the amended version thereof;
 - c. Preparing for and participating in the Parties' all-day mediation, including drafting a memorandum for Mediator David Geronemus;
 - d. Drafting Plaintiff's response in opposition to Defendant's Motion to Dismiss, as well as notices of supplemental authority;
 - e. Engaging in extensive discovery, including review of documents and other information sources and researching potential expert witnesses;
 - f. Advising on matters of local practice.
10. The time spent on this matter is summarized as follows:

File administration	1.7
Pre-suit Investigation	.4
Pleadings and Service	8.2
Motions Practice	21
Discovery	24.2

Settlement Negotiations and Mediation Preparation	22.6
Total Hours	78.1
Hourly Rate	\$435 through March 26, 2022 \$450 after March 26, 2022
Total Fees	\$34,639.50

LOCW'S HOURLY RATES

11. My hourly rate has been approved by the District of Columbia Superior Court, with that court's opinion attached hereto as **Sub-Exhibit B**.
12. My hourly rate reflects a balance between the rates set forth in Appendix B of the Local Rules and the significantly higher Laffey Matrix fees that would apply to attorneys in the District of Columbia, where LOCW's office is located.
13. On March 26, 2022, my rate increased from \$435 per hour to \$450 per hour, reflecting the fifteenth anniversary of my admission to the bar.

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

Dated: February 28, 2023

/s/ Courtney L. Weiner
Courtney L. Weiner (#19463)
1629 K St., NW, Suite 300
Washington, DC 20006
Telephone: (202) 827-9980
cw@courtneyweinerlaw.com

SUB-EXHIBIT A

Biography of Courtney Weiner

Courtney Weiner is an experienced and successful litigator on behalf of consumers. She has honed her litigation skills in a variety of settings, ranging from the U.S. Attorney's Office for the Eastern District of Virginia to some of the top litigation firms in the country. She has spent significant time in court arguing and trying cases. Courtney regularly represents consumers against large companies in cases involving the Fair Credit Reporting Act, fraudulent foreclosure and mortgage servicing abuses, and the Fair Debt Collection Practices Act, including multiple summary judgment victories and a successful Seventh Circuit *en banc* petition. She also specializes in assisting borrowers with navigating student loan issues.

Courtney has advised the Assistant Attorney General for Antitrust on issues affecting consumers around the country during her time at the U.S. Department of Justice and has sued big banks for the type of mortgage fraud that led to the financial crisis. Her years in private practice as a defense lawyer for corporate clients have given her valuable insights now that she is suing major companies on behalf of consumers.

Courtney was named a Super Lawyers Rising Star or a Super Lawyer in 2015, 2017 to the present. While maintaining her active practice, she has taken a leadership role in the legal community. Courtney is the founding Vice-Chair of Tzedek DC, a legal services organization for those in debt, and founded the DC Bar Litigation Section's Consumer Finance Committee. She has also served as a member of the American Bar Association House of Delegates, a Commissioner on the American Bar Association Commission on Domestic and Sexual Violence, a member of the American Bar Association's Committee on Legal Assistance for Military Personnel, and Secretary and Board Member of the DC Bar and the DC Bar Pro Bono Center. Courtney is a member of the National Association of Consumer Advocates.

Courtney graduated from Columbia Law School and Princeton University and is a native of Washington, D.C.

SUB-EXHIBIT B

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

VAMÉ KONÉ

:
:
:
:
:

v.

Case No. 2021 CA 001746 B

METRO MOTOR COLLISION, INC.

ORDER

The Court grants in part plaintiff Vamé Koné’s motion for attorney fees and awards attorney fees and costs totaling \$10,229.07.

The Court previously ruled that Mr. Koné is entitled to attorney fees under the D.C. Consumer Protection Procedures Act (“DCCA”). Mr. Koné timely filed his motion on December 9. Defendant Metro Motor Collision, Inc., which is in default, did not file any opposition within the time allowed by Rule 12-I(e). Rule 12-I(e) allows the Court to treat unopposed motions as conceded, and the Court exercises its discretion to do so. For a substantive motion like this motion for attorney fees, “[t]he general principle ... is that [a conceded motion provision] may properly be utilized only where the movant has established a prima facie entitlement to relief.” *See District of Columbia v. Davis*, 811 A.2d 800, 804 (D.C. 2002); *National Voter Contact, Inc. v. Versace*, 511 A.2d 393, 397 (D.C. 1986).

Mr. Koné has established a prima facie case that his attorney reasonably spent 23.1 hours working on this case. “The essential goal in shifting fees (to either party) is to do rough justice, not to achieve auditing perfection” and “the determination of fees should not result in a second major litigation.” *Fox v. Vice*, 563 U.S. 826, 829 (2011) (cleaned up). Accordingly, “the trial court is not required to perform an in-depth analysis of the billing records.” *Lively v. Flexible Packaging Ass’n*, 930 A.2d 984, 993 (D.C. 2007). “A review for ‘reasonableness’ is not *carte blanche* for micromanaging the practice of lawyers the court ... has no reason to believe are

padding their hours.” *Tenants of 710 Jefferson St. v. D.C. Rental Housing Commission*, 123 A.3d 170, 191 (D.C. 2015). Applying these principles, the Court finds that the hours are reasonable. Mr. Koné also establishes that he reasonably incurred costs of \$180.57.

The Court exercises its discretion to apply an hourly rate of \$435, which is the rate stated in his motion for a default judgment and that is permitted by the local rules of the District Court for the District of Maryland, rather than the hourly rate of \$764, which is the *Laffey* Matrix rate requested in the pending motion for attorney fees. It is not appropriate to use the *Laffey* Matrix here because this case is not comparable to complex federal litigation in which it applies. The *Laffey* Matrix was developed as the benchmark for lawyers engaged in “complex federal litigation.” *Eley v. District of Columbia*, 793 F.3d 97, 100 (D.C. Cir. 2015). As a result, “the *Laffey* Matrix and subsequent revisions to this matrix apply only to complex federal litigation” – or complex litigation in the District of Columbia courts. *See Reed v. District of Columbia*, 843 F.3d 517, 521 (D.C. Cir. 2016). Like federal courts, District of Columbia courts may consider whether the litigation is sufficiently complex to justify use of this matrix. *See Salazar v. District of Columbia*, 809 F.3d 58, 64 (D.C. Cir. 2015); *Prunty v. Vivendi*, 195 F. Supp. 3d 107, 115 (D.D.C. 2016). Some CPPA cases may warrant use of the *Laffey* Matrix, but this is a straightforward case with respect to both liability and damages and in which the defendant defaulted in the early stages. The judicially approved rate that Mr. Koné’s lawyer would have been allowed to charge if this case had been filed in the District of Maryland, which includes part of the metropolitan Washington area in which she practices, is more in line with the rates that lawyers charge in comparable cases in the District of Columbia courts.

The Court recognizes that the Court of Appeals “has held that the rates set in the *Laffey* matrix are ‘presumptively reasonable’” and “that ‘[d]eviations from the *Laffey* Matrix’s

presumptively reasonable measure should not be lightly undertaken and need to be substantially supported.” *Illinois Farmers Ins. Co. v. Hagenberg*, 167 A.3d 1218, 1236 (D.C. 2017) (quoting and citing *Tenants of 710 Jefferson St.*, 123 A.3d at 184). Not only is the *Laffey* Matrix “a very good place to start” but “in most cases will be the best place to end lest litigation over attorney’s fees overshadow the underlying case.” *See Tenants of 710 Jefferson St.*, 123 A.3d at 184. These statements by the Court of Appeals “should not be understood as saying that the *Laffey* Matrix must be applied in every case,” but the presumption that the *Laffey* Matrix rates are reasonable generally may be overcome only if a party “presents very specific and reliable evidence establishing” the reasonableness of a different rate. *See id.* at 184-85.

The Court interprets these statements in context. *Tenants of 710 Jefferson St.* involved complex litigation that resulted in a published opinion by the Court of Appeals, *see Loney v. D.C. Rental Housing Commission*, 11 A.3d 753 (D.C. 2010), and it was in that context that the Court of Appeals adopted a presumption that the *Laffey* Matrix rates are reasonable. *Tenants of 710 Jefferson St.* emphasized that “the relevant market was not ‘rent control’ litigation but appellate advocacy and issues of attorney’s fees.” *See* 123 A.2d at 185; *see also id.* at 183. Likewise, *Illinois Farmers Ins. Co.*, 167 A.3d at 1225-36, involved relatively complicated issues concerning interpretation of an anti-stacking clause in the three insurance policies, the collateral estoppel effect of an Illinois appellate decision, and the plaintiffs’ eligibility and entitlement to attorney fees – issues justifying a relatively lengthy published opinion. The Court does not interpret *Tenants of 710 Jefferson St.* and *Illinois Farmers Ins. Co.* to create an almost irrebuttable presumption that *Laffey* Matrix rates are reasonable no matter how simple or straightforward the case. These cases leave the Court with discretion to apply lower rates in

simpler cases like this one. *See Illinois Farmers Ins. Co.*, 167 A.3d at 1236-37 (finding no “abuse of discretion in the trial court’s decision to apply the *Laffey*-matrix rate”).

The Court therefore awards attorney fees of \$10,048.50, which equals 23.1 hours times \$435/hour. The Court is entering a new judgment in the total amount of \$42,596.62, which equals \$10,048.50 of attorney fee, plus \$180.57 of costs, plus \$32,367.55, which is the amount of the original judgment dated November 12, 2021.

For these reasons, the Court orders that:

1. Mr. Koné’s motion is granted in part and denied in part.
2. Mr. Koné is awarded reasonable attorney fees and costs totaling \$10,229.07.
3. Judgment will be entered in favor of Mr. Koné and against Metro Motor

Collision, Inc. in the amount of \$42,596.62 plus interest at the statutory rate.



Anthony C. Epstein
Judge

Date: January 6, 2022

Copies to counsel for plaintiff via CaseFileXpress

Copy by regular mail to:

Metro Motor Collision, Inc.
1225 W Street NE
Washington, DC 20018
Defendant

Exhibit D

Francis Mailman Soumilas, P.C.				
Expenses in <i>Botts v. Johns Hopkins</i>				
	Date	Vendor	Memo/Description	Amount
Meals	10/04/2022		related to strategy session and mediation	227.08
Subtotal				\$227.08
Mediation	05/04/2022	JAMS, Inc.	mediation with David Geronemus Esq.	13,500.00
	01/10/2023	JAMS, Inc.	refund	-2,900.00
Subtotal				\$10,600.00
Filing Fees	06/19/2020 through 12/14/2021	USDC Maryland	see docket #3,4,39, 69	400.00
Subtotal				\$400.00
Outside Copying	11/19/2020	Reliable	courtesy copies to the court re: opposition of motion to dismiss	48.90
Subtotal				48.90
eDiscovery Services	02/14/2022	Lexbe, Inc.	monthly eDiscovery hosting charges	58.72
	04/11/2022	Lexbe, Inc.	monthly eDiscovery hosting charges	266.37
	05/06/2022	Lexbe, Inc.	monthly eDiscovery hosting charges	234.49
	06/06/2022	Lexbe, Inc.	monthly eDiscovery hosting charges	234.49
	06/09/2022	Lexbe, Inc.	monthly eDiscovery hosting charges	228.15
	07/12/2022	Lexbe, Inc.	monthly eDiscovery hosting charges	224.92
	08/10/2022	Lexbe, Inc.	monthly eDiscovery hosting charges	220.22
	09/09/2022	Lexbe, Inc.	monthly eDiscovery hosting charges	224.58
Subtotal				\$1,691.94
Cabs	06/18/2021	Uber	transportation in connection with prep for court hearings	5.61
	06/18/2021	Uber	transportation in connection with prep for court hearings	29.81
	06/18/2021	Uber	transportation in connection with prep for court hearings	22.05
	06/18/2021	Uber	transportation in connection with prep for court hearings	3.70
	06/18/2021	Uber	transportation in connection with prep for court hearings	34.06
	06/19/2021	Uber	transportation in connection with prep for court hearings	36.09
Subtotal				131.32
Grand Total for Expenses				\$13,099.24



Elena Botts v. Johns Hopkins University
February 23, 2023

NOTICE	
EMAILED CLASS ACTION NOTICE	
Initial Notices Emailed:	8,602
Undeliverable Emails:	175

FOLLOW UP CLASS ACTION NOTICE	
Follow Up Class Action Notice Mailed:	175
Undeliverable Mailed:	NA

		Inception to 02/23/23
Undeliverable Notice Packets:		NA
Undeliverable without Forwarding Address Information:		NA
Remained to Forwarding Address:		NA

COMMUNICATION		
SETTLEMENT WEBSITE		
		Inception to 02/23/23
Unique Visitors:		3,628
Page Views:		15,360

SETTLEMENT EMAIL		
		Inception to 02/23/23
Emails Received:		249

SETTLEMENT TOLL-FREE NUMBER		
		Inception to 02/23/23
Incoming Calls:		36

SUBMISSIONS	
Payment Election Forms	
Total Online Payment Elections:	1589
Selected Check:	239
Selected PayPal:	1350

OBJECTIONS	
Total Objections:	0

OPT-OUTS	
Total Valid, Timely Opt-Outs:	1
Total Invalid Opt-Outs:	2

DISTRIBUTION	
Total Class Members Paid:	N/A

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

ELENA BOTTS, *on behalf of herself and all
others similarly situated,*

Plaintiff,

v.

THE JOHNS HOPKINS UNIVERSITY,

Defendant.

Civil Action No. 1:20-cv-01335-JRR

**[PROPOSED] ORDER GRANTING MOTION FOR AN AWARD OF ATTORNEYS'
FEES AND LITIGATION COSTS AND FOR A SERVICE AWARD**

Following a hearing held on April 17, 2023 considering Plaintiff and Class Representative Elena Botts's unopposed Motion for an Award of Attorneys' Fees and Litigation Costs and for a Service Award to Plaintiff, it is therefore HEREBY ORDERED:

1. Class Representative Botts's Service Award of \$12,500 is approved;
2. Class Counsel's request for attorneys' fees for their representation of the Settlement Class and litigation costs, totaling \$2,200,000.00 is approved; and
3. Defendant shall pay the above sums in accordance with the terms of the parties' Settlement Agreement.

Dated: _____

BY THE COURT:

HON. JULIE REBECCA RUBIN
United States District Judge