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19 [Additional Counsel Appear on Signature Page]

20 *Attorneys for Plaintiffs and the Proposed Class*

21 UNITED STATES DISTRICT COURT
22 FOR THE NORTHERN DISTRICT OF CALIFORNIA
23 OAKLAND DIVISION

24 ABANTE ROOTER AND PLUMBING,
25 INC., MARK HANKINS, and PHILIP J.
26 CHARVAT, individually and on behalf of all
27 others similarly situated,

Plaintiffs,

v.

ALARM.COM INCORPORATED, and
ALARM.COM HOLDINGS, INC.,

Defendants.

NO. 4:15-cv-06314-YGR

**DECLARATION OF EDWARD A.
BRODERICK IN SUPPORT OF
PLAINTIFFS' MOTION FOR
ATTORNEYS' FEES, COSTS, AND
SERVICE AWARDS**

JURY TRIAL DEMAND

Complaint Filed: December 30, 2015

Honorable Yvonne Gonzalez Rogers

DATE: August 13, 2019
TIME: 2:00 p.m.
LOCATION: Oakland Courthouse
Courtroom 1 - 4th Floor

1 I, Edward A. Broderick, declare as follows:

2 1. I make this declaration in support of Plaintiffs' Motion for Attorneys' Fees, Costs,
3 and Service Awards. Except as otherwise noted, I have personal knowledge of the facts set forth
4 in this declaration, and could testify competently to them if called upon to do so.

5 **My Work on the Case**

6 2. I was involved in every stage of representing Plaintiffs in this case, from pre-trial
7 investigation, analysis of Plaintiffs' potential claims, and review of documents and discovery
8 responses. I took depositions and defended depositions in this case in five states, defending the
9 depositions of Abante Rooter and Plumbing and Philip Charvat and taking the depositions of five
10 of defendants' witnesses. I was heavily involved in all motion practice in the case, including
11 successfully opposing transfer of the case to the *In Re Monitronics International, Inc. Telephone*
12 *Consumer Protection Act Litigation*, USDC, NDWV, 1:13-md-02493-JPB-MJA, moving for
13 class certification and amending the class definition, and successfully opposing defendants'
14 motion for summary judgment. I additionally participated in settlement negotiations and strategy,
15 and contributed on preparing the proposed settlement agreement and motion for preliminary
16 approval.

17 **Challenges Presented by the Litigation**

18 3. I understand the risks involved with prosecuting TCPA class actions. We have a
19 number of lawsuits that, after our investment on time, resources and money into a case have
20 resulted in no recovery. *See e.g. Naiman v. TranzVia LLC*, No. 17-cv-4813-PJH, 2017 U.S. Dist.
21 LEXIS 199131 (N.D. Cal. Dec. 4, 2017) (granting defendant's motion to dismiss in a TCPA
22 case); *Barrett v. ADT Corp.*, No. 2:15-cv-1348, 2016 U.S. Dist. LEXIS 28767 (S.D. Ohio Mar.
23 7, 2016) (denying plaintiff's motion for class certification in TCPA case); *Fitzhenry v. ADT*
24 *Corp.*, No. 14-80180-MIDDLEBROOKS/BRAN, 2014 U.S. Dist. LEXIS 166243 (S.D. Fla.
25 Nov. 3, 2014) (denying plaintiff's motion for class certification in TCPA case); *Brey Corp. v. LQ*
26 *Mgmt. LLC*, No. - JFM-11-718, 2014 U.S. Dist. LEXIS 11223 (D. Md. Jan. 29, 2014) (same);
27

1 *Elkins v. Medco Health Sols., Inc.*, No. 4:12CV2141 TIA, 2014 U.S. Dist. LEXIS 57633 (E.D.
2 Mo. Apr. 25, 2014) (granting a defendant's motion for summary judgment in a TCPA case).

3 **My Experience and Qualifications**

4 4. I have extensive experience in the prosecution of class actions on behalf of
5 consumers, particularly claims under the Telephone Consumer Protection Act, 47 U.S.C. §227.
6 ("TCPA"). As a result of my extensive experience litigating TCPA class claims, I am well-aware
7 of the significant time and resources needed to litigate such actions, and my firm possesses the
8 resources necessary to prosecute these actions successfully. My firm keeps contemporaneous
9 time records, and the rates for our attorneys and personnel are commensurate with my experience
10 and are commensurate with market rates in Boston for attorneys with similar levels of
11 experience. As discussed below, my hourly rate has been approved as reasonable by numerous
12 state and federal courts in approving settlements.

13 5. I am a 1993 graduate of Harvard Law School. Following graduation from law
14 school, I served as a law clerk to the Honorable Martin L.C. Feldman, United States District
15 Judge in the Eastern District of Louisiana.

16 6. Following my clerkship, from 1994 to December 1996, I was an associate in the
17 litigation department of Ropes & Gray in Boston, where I gained class action experience in the
18 defense of a securities class action, *Schaeffer v. Timberland*, in the United States District Court
19 in New Hampshire, and participated in many types of complex litigation.

20 7. From January 1997 to March 2000, I was an associate with Ellis & Rapacki, a
21 three-lawyer Boston firm focused on the representation of consumers in class actions.

22 8. In March 2000, I co-founded the firm of Shlansky & Broderick, LLP, focusing
23 my practice on complex litigation and the representation of consumers.

24 9. In 2003, I started my own law firm focusing exclusively on the litigation
25 consumer class actions.

26 10. A sampling of other class actions in which I have represented classes of
27 consumers and been appointed class counsel follows:

1 a. *In re General Electric Capital Corp. Bankruptcy Debtor Reaffirmation*
2 *Agreements Litigation*, (MDL Docket No. 1192) (N.D. Ill) (nationwide class action challenging
3 reaffirmation practices of General Electric Capital Corporation, settlement worth estimated
4 \$60,000,000.)

5 b. *Hurley v. Federated Department Stores, Inc., et al*, USDC D. Mass. Civil
6 Action No. 97-11479-NG (nationwide class action challenged bankruptcy reaffirmation practices
7 of Federated Department Stores and others; \$8,000,000 recovery for class.)

8 c. *Valerie Ciardi v. F. Hoffman LaRoche, et al*, Middlesex Superior Court
9 Civil Action No. 99-3244D, (class action pursuant to Massachusetts Consumer Protection Act,
10 M.G.L. c. 93A brought on behalf of Massachusetts consumers harmed by price-fixing conspiracy
11 by manufactures of vitamins; settled for \$19,600,000.)

12 d. *Shelah Feiss v. Mediaone Group, Inc, et al*, USDC N. District Georgia,
13 Civil Action No. 99-CV-1170, (multistate class action on behalf of consumers; estimated class
14 recovery of \$15,000,000--\$20,000,000.)

15 e. *Mey v. Herbalife International, Inc.*, Ohio County Circuit Court (West
16 Virginia), Civil Action No. 01-cv-263. \$7,000,000 TCPA class action settlement granted final
17 approval on February 5, 2008 following the grant of a contested class certification motion.

18 f. *Mulhern v. MacLeod d/b/a ABC Mortgage Company*, Norfolk Superior
19 Court (Massachusetts), Civil Action No. 05-01619-BLS. TCPA class settlement of \$475,000
20 following the grant of a contested class certification motion, granted final approval by the Court
21 on July 25, 2007.

22 g. *Evan Fray-Witzer, v. Metropolitan Antiques, LLC*, Suffolk Superior Court
23 (Massachusetts), Civil Action No. 02-5827-BLS. After the grant of a contested class certification
24 motion, a companion case went to the Massachusetts Supreme Judicial Court, which issued a
25 decision finding insurance coverage. *See Terra Nova Insurance v. Fray-Witzer et. al.*, 449 Mass.
26 206 (2007). There was then a TCPA class settlement of \$1,800,000 which was granted final
27 approval.

1 h. *Shonk Land Company, LLC v. SG Sales Company*, Circuit Court of
2 Kanawha County (West Virginia), Civil Action No. 07-C-1800 TCPA class settlement for
3 \$2,450,000, final approval granted in September of 2009.

4 i. *Mann & Company, P.C. v. C-Tech Industries, Inc.*, USDC, D. Mass., Civil
5 Action No. 1:08-CV-11312-RGS, TCPA class settlement of \$1,000,000, final approval granted
6 in January of 2010.

7 j. *Evan Fray Witzer v. Olde Stone Land Survey Company, Inc.*, Suffolk
8 Superior Court (Massachusetts), Civil Action No. 08-04165. TCPA class settlement \$1,300,000
9 granted final approval on February 3, 2011.

10 k. *Milford & Ford Associates, Inc. and D. Michael Collins vs. Cell-Tek,*
11 *LLC*, USDC, D. Mass., Civil Action No. 1:09-cv-11261-DPW. TCPA class settlement of
12 \$1,800,000, final approval granted August 17, 2011.

13 l. *Collins v. Locks & Keys of Woburn, Inc.*, Suffolk Superior Court
14 (Massachusetts), Civil Action No. 07-4207-BLS2, TCPA class settlement of \$2,000,000
15 following the granting of a contested class certification motion, granted final approval on
16 December 14, 2011.

17 m. *Brey Corp t/a Hobby Works v. Life Time Pavers, Inc.*, Circuit Court for
18 Montgomery County (Maryland), Civil Action No. 349410-V, TCPA class settlement of
19 \$1,575,000 granted final approval in March of 2012.

20 n. *Collins, et al v. ACS, Inc. et al*, USDC, D. Mass., Civil Action No. 10-CV-
21 11912, TCPA class settlement \$1,875,000 granted final approval on September 25, 2012.

22 o. *Desai and Charvat v. ADT Security Services, Inc.*, USDC, ND. Ill., Civil
23 Action No. 11-CV-1925, TCPA class settlement of \$15,000,000 granted final approval on June
24 21, 2013.

25 p. *Kensington Physical Therapy, Inc. v. Jackson Therapy Partners, LLC*,
26 USDC, D. MD, Civil Action No. 11-CV-02467, TCPA class settlement of \$4,500,000 granted
27 final approval on February 12, 2015.

1 q. *Jay Clogg Realty Group, Inc. v. Burger King Corporation*, USDC, D.
2 MD., Civil Action No. 13-cv-00662, TCPA class settlement of \$8,500,000 granted final approval
3 on April 15, 2015.

4 r. *Charvat v. AEP Energy, Inc.*, USDC, ND. Ill., 1:14-cv-03121, TCPA class
5 settlement of \$6,000,000 granted final approval on September 28, 2015.

6 s. *Mey v. Interstate National Dealer Services, Inc.*, USDC, ND. Ga., 1:14-
7 cv-01846-ELR, TCPA class settlement of \$4,200,000 granted final approval on June 8, 2016.

8 t. *Philip Charvat and Ken Johansen v. National Guardian Life Insurance*
9 *Company*, USDC, WD. Wi., 15-cv-43-JDP, TCPA class settlement for \$1,500,000 granted final
10 approval on August 4, 2016.

11 u. *Bull v. US Coachways, Inc.*, USDC, ND. Ill., 1:14-cv-05789, TCPA class
12 settlement finally approved on November 11, 2016 with an agreement for judgment in the
13 amount of \$49,932,375 and an assignment of rights against defendant's insurance carrier.

14 v. *Toney v. Quality Resources, Inc., Cheryl Mercuris and Sempris LLC, et*
15 *al.*, USDC, ND. Ill., 1:13-cv-00042, TCPA class settlement of \$2,150,000 was granted final
16 approval on December 1, 2016 with one of three defendants, and an assignment of rights against
17 defendant's insurance carrier. Second settlement on behalf of class against two remaining
18 defendants of \$3,300,000 granted on September 25, 2018.

19 w. *Smith v. State Farm Mut. Auto. Ins. Co. , et. al.*, USDC, ND. Ill., 1:13-cv-
20 02018, TCPA class settlement of \$7,000,000.00 granted final approval on December 8, 2016.

21 x. *Mey v. Frontier Communications Corporation*, USDC, D. Ct., 3:13-cv-
22 1191-MPS, a TCPA class settlement of \$11,000,000 granted final approval on June 2, 2017.

23 y. *Biringer v. First Family Insurance, Inc.*, USDC, ND. Fla., a TCPA class
24 settlement of \$2,900,000 granted final approval on April 24, 2017.

25 z. *Abramson v. Alpha Gas and Electric, LLC*, USDC, SD. NY., 7:15-cv-
26 05299-KMK, a TCPA class settlement of \$1,100,000 granted final approval on May 3, 2017.

1 aa. *Heidarpour v. Central Payment Co.*, USDC, MD. Ga., 16-cv-01215, a
2 TCPA class settlement of \$6,500,000 granted final approval on May 4, 2017.

3 bb. *Abante Rooter and Plumbing, Inc. v. New York Life Insurance Company*,
4 USDC, SD. NY., 1:16-cv-03588-BCM, a TCPA class settlement of \$3,250,000 granted final
5 approval on February 27, 2018.

6 cc. *Abramson v. CWS Apartment Home, LLC*, USDC, WD. Tex., 16-cv-
7 01215, a TCPA class settlement of \$368,000.00 granted final approval on May 19, 2017.

8 dd. *Thomas Krakauer v. Dish Network, L.L.C.*, USDC MDNC, Civil Action
9 No. 1:14-CV-333 on September 9, 2015. Following a contested class certification motion, this
10 case went to trial in January of 2017 returning a verdict of \$20,446,400. On May 22, 2017, this
11 amount was trebled by the Court after finding that Dish Network's violations were "willful or
12 knowing", for a revised damages award of \$61,339,200. (Dkt. No. 338).

13 ee. *Mey v. Got Warranty, Inc., et. al.*, USDC, NDWV., 5:15-cv-00101-JPB-
14 JES, a TCPA class settlement of \$650,000 granted final approval on July 26, 2017.

15 ff. *Mey v. Patriot Payment Group, LLC*, USDC, NDWV., 5:15-cv-00027-
16 JPB-JES, a TCPA class settlement of \$3,700,000 granted final approval on July 26, 2017.

17 gg. *Charvat and Wheeler v. Plymouth Rock Energy, LLC, et al*, USDC,
18 EDNY, 2:15-cv-04106-JMA-SIL, a TCPA class settlement of \$1,675,000 granted final approval
19 on July 31, 2018.

20 hh. *Mey v. Venture Data, LLC and Public Opinion Strategies*, USDC,
21 NDWV, 5:14-cv-123. Final approval of TCPA settlement granted on September 8, 2018.

22 ii. *In Re Monitronics International, Inc. Telephone Consumer Protection Act*
23 *Litigation*, USDC, NDWV, 1:13-md-02493-JPB-MJA, a TCPA class settlement of \$28,000,000
24 granted final approval on June 12, 2018.

25 11. My former partner, Anthony Paronich, also has extensive experience in the
26 prosecution of class actions on behalf of consumers, particularly claims under the Telephone
27 Consumer Protection Act, 47 U.S.C. §227. A 2010 graduate of Suffolk Law School, Mr.

1 Paronich has been admitted to practice before the Bar in Massachusetts, the Federal District
2 Court for the District of Massachusetts, the District of Colorado, the Eastern District of Michigan
3 and the Western District of Wisconsin. Mr. Paronich was involved in many of the cases
4 described above.

5 **Attorneys' Fees**

6 12. Class Counsel have received no payment for their fees and costs. Since beginning
7 work on this case in December of 2015, I worked with no guarantee of being compensated for its
8 time and efforts. Payment of my fees has always been contingent on successfully obtaining relief
9 for the Plaintiffs and class members. As a result, there was a substantial risk of non-payment,
10 particularly in light of the legal challenges involved in litigating this case. Work on this case has
11 necessarily been to the exclusion of work on other matters that likely would have generated fees.
12 I have also been denied use of the fees it earned over the course of this case.

13 13. I have reviewed my firm's billing records and reduced and eliminated time where
14 appropriate. I made reductions where time arguably could have been more efficiently spent.

15 14. I did not include any time spent preparing this motion in my lodestar. The lodestar
16 also does not include the work Class Counsel will do after completion of this motion, which will
17 include working with the settlement administrator, preparing the motion for final approval and
18 attending the hearing, and communicating with class members.

19 15. I spent 500.6 hours on this file, and Mr. Paronich spent 446.10 hours, for a total
20 lodestar at the hourly rates described below of \$551,165.

21 16. My billable rate, which has been approved by multiple courts, is \$700.00 an hour.
22 Mr. Paronich's rate was \$450 per hour. Mr. Paronich and I used these rates in calculating
23 lodestar for attorneys' fee purposes in several other nationwide class actions. *See e.g., Mey v.*
24 *Frontier Communications Corporation*, No. 3:13-cv-1191-MPS (D. Ct. June 9, 2017) (approving
25 a \$11,000,000 settlement and attorney fee of one-third that amount based on my hourly rate of
26 \$700 and \$450 for Mr. Paronich); *Heidarpour v. Central Payment Co.*, No. 16-cv-01215 (M.D.
27 Ga. May 4, 2017) (approving a \$6,500,000 settlement and attorney fee of one-third that amount

1 based on my hourly rate of \$700 for myself and \$450 for Mr. Paronich); *Mey v. Interstate*
2 *National Dealer Services, Inc.*, No. 14-01846 (N.D. Ga June 8, 2016) (approving \$4,200,000
3 settlement and attorney fee of one-third that amount based on my hourly rate of \$700 and \$450
4 for Mr. Paronich); *Jay Clogg Realty Group, Inc. v. Burger King Corporation*, No. 13-cv-00662
5 (D. Md. April 15, 2015) (approving \$8,500,000 settlement and attorney fee of one-third that
6 amount based on my hourly rate of \$700, plus \$425 for Mr. Paronich (who was then an
7 associate); *Kensington Physical Therapy, Inc. v. Jackson Therapy Partners, LLC*, No. 11-02467
8 (D. Md. Feb. 12, 2015) (approving settlement of \$4,500,000 and attorney fee of one-third that
9 amount based on my hourly rate of \$700 for myself, plus \$425 for Anthony Paronich, who was
10 an associate at the time).

11 **Costs**

12 17. My firm also has incurred \$78,383.75 in out of pocket expenses for deposition
13 transcripts, photocopies, travel, and mediator fees. These costs are included in the summary of
14 costs set forth in the Declaration of Beth E. Terrell.

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

17 Executed this 18th day of March, 2019, in Boston, Massachusetts.

18
19 /s/ Edward A. Broderick Admitted Pro Hac Vice
20 Edward A. Broderick, *Admitted Pro Hac Vice*
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26
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CERTIFICATE OF SERVICE

1
2 I, Beth E. Terrell, hereby certify that on March 18, 2019, I electronically filed the
3 foregoing with the Clerk of the Court using the CM/ECF system which will send notification of
4 such filing to the following:

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23 *Attorneys for Defendants Alarm.com Incorporated and Alarm.com Holdings, Inc.*

1 DATED this 18th day of March, 2019.

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