

# EXHIBIT A

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
WEST PALM BEACH DIVISION  
CASE NO.: 9:17-cv-80393-ROSENBERG/HOPKINS

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	:
CHARLES T. JOHNSON, on behalf of himself :	:
and others similarly situated,	:
	:
Plaintiff,	:
	:
vs.	:
	:
NPAS SOLUTIONS, LLC,	:
	:
Defendant.	:
_____	x

**DECLARATION OF MICHAEL L. GREENWALD IN SUPPORT OF MOTION FOR ATTORNEYS’ FEES, COSTS, EXPENSES, AND AN INCENTIVE AWARD**

Pursuant to 28 U.S.C. § 1746, I declare as follows:

1. My name is Michael L. Greenwald.
2. I am over twenty-one years of age, I am fully competent to make the statements included in this declaration, and I have personal knowledge of the statements included in this declaration.
3. I am a partner at Greenwald Davidson Radbil PLLC (“GDR”), counsel for Charles T. Johnson and the Class in this matter.
4. GDR, which focuses on consumer protection class action litigation, maintains offices in Boca Raton and Austin.
5. I am admitted to practice before this Court.
6. I submit this declaration in support of Class Counsel’s motion for attorneys’ fees, costs, expenses, and an incentive award.
7. GDR handled this case on a contingency basis.

8. GDR has not received any payment for its services to date, nor has it been reimbursed for the litigation expenses it has advanced.

9. This declaration includes a profile of my firm, its attorneys, and an outline of work performed leading up to, and throughout, this matter.

### **GDR**

10. In addition to this matter, my firm has been appointed as class counsel in a number of class actions under the Telephone Consumer Protection Act (“TCPA”), including:

- *Martinez, et al., v. Mediacredit, Inc.*, No. 4:16-cv-01138 ERW (E.D. Mo.);
- *Luster v. Wells Fargo Dealer Servs., Inc.*, No. 1:15-cv-01058-TWT (N.D. Ga.);
- *Prather v. Wells Fargo Bank, N.A.*, No. 1:15-cv-04231-SCJ (N.D. Ga.);
- *Johnson v. Navient Solutions, Inc., f/k/a Sallie Mae, Inc.*, No. 1:15-cv-0716-LJM (S.D. Ind.);
- *Toure and Heard v. Navient Solutions, Inc., f/k/a Sallie Mae, Inc.*, No. 1:17-cv-00071-LJM-TAB (S.D. Ind.);
- *James v. JPMorgan Chase Bank, N.A.*, No. 8:15-cv-2424-T-23JSS (M.D. Fla.);
- *Schwyhart v. AmSher Collection Servs., Inc.*, No. 2:15-cv-1175-JEO (N.D. Ala.);
- *Cross v. Wells Fargo Bank, N.A.*, No. 2:15-cv-01270-RWS (N.D. Ga.);
- *Markos v. Wells Fargo Bank, N.A.*, No. 15-1156 (N.D. Ga.);
- *Prater v. Mediacredit, Inc.*, No. 14-00159 (E.D. Mo.);
- *Jones v. I.Q. Data Int’l, Inc.*, No. 1:14-cv-00130-PJK-GBW (D.N.M.); and
- *Ritchie v. Van Ru Credit Corp.*, No. 2:12-CV-01714-PHX-SM (D. Ariz.).

11. GDR also has been appointed as class counsel in more than two dozen class actions brought under consumer protection statutes other than the TCPA in the past three years, including:

- *Kagno v. Bush Ross, P.A.*, No. 8:17-cv-1468-T-26AEP, 2017 WL 6026494 (M.D. Fla. Dec. 4, 2017);

- *Johnston v. Kass Shuler, P.A.*, No. 8:16-cv-03390-SDM-AEP, 2017 WL 1231070 (M.D. Fla. Mar. 29, 2017);
- *Jallo v. Resurgent Capital Servs., L.P.*, No. 4:14-cv-00449, 2017 WL 914291 (E.D. Tex. Mar. 7, 2017);
- *Macy v. GC Servs. Ltd. P’ship*, No. 3:15-cv-00819-DJH-CHL, 2017 WL 489420 (W.D. Ky. Feb. 6, 2017);
- *Rhodes v. Nat’l Collection Sys., Inc.*, 317 F.R.D. 579 (D. Colo. 2016);
- *McCurdy v. Prof’l Credit Servs.*, No. 6:15-cv-01498-AA, 2016 WL 5853721 (D. Or. Oct. 3, 2016);
- *Schuchardt v. Law Office of Rory W. Clark*, 314 F.R.D. 673 (N.D. Cal. 2016);
- *Globus v. Pioneer Credit Recovery, Inc.*, No. 15-CV-152V, 2016 WL 4069285 (W.D.N.Y. July 27, 2016);
- *McWilliams v. Advanced Recovery Sys., Inc.*, 310 F.R.D. 337 (S.D. Miss. 2015);
- *Rhodes v. Olson Assocs., P.C., d/b/a Olson Shaner*, 83 F. Supp. 3d 1096 (D. Colo. 2015);
- *Roundtree v. Bush Ross, P.A.*, 304 F.R.D 644 (M.D. Fla. 2015);
- *Donnelly v. EquityExperts.org, LLC*, No. 13-10017, 2015 WL 249522 (E.D. Mich. Jan. 14, 2015); and
- *Sharf v. Fin. Asset Resolution, LLC*, 295 F.R.D. 664 (S.D. Fla. 2014).

12. Multiple district courts have commented on GDR’s useful knowledge and experience in connection with class action litigation.

13. For example, the Middle District of Florida “appoint[ed]— . . . as class counsel Michael L. Greenwald, James L. Davidson, and Aaron D. Radbil of Greenwald Davidson Radbil PLLC, each of whom has significant experience litigating TCPA class actions.” *James v. JPMorgan Chase Bank, N.A.*, No. 8:15-cv-2424-T-23JSS, 2016 WL 6908118, at \*1 (M.D. Fla. Nov. 22, 2016).

14. In *Schwychart v. AmSher Collection Services, Inc.*, Judge John E. Ott, Chief

Magistrate Judge of the Northern District of Alabama, stated upon granting final approval to a TCPA settlement for which he appointed GDR as class counsel:

I cannot reiterate enough how impressed I am with both your handling of the case, both in the Court's presence as well as on the phone conferences, as well as in the written materials submitted. . . . I am very satisfied and I am very pleased with what I have seen in this case. As a judge, I don't get to say that every time, so that is quite a compliment to you all, and thank you for that.

No. 2:15-cv-1175-JEO (N.D. Ala. Mar. 15, 2017).

15. In *Ritchie v. Van Ru Credit Corp.*, Judge Stephen McNamee, Senior U.S. District Court Judge for the District of Arizona, stated upon granting final approval to the TCPA class settlement at issue:

I want to thank all of you. It's been a pleasure. I hope that you will come back and see us at some time in the future. And if you don't, I have a lot of cases I would like to assign you, because you've been immensely helpful both to your clients and to the Court. And that's important. So I want to thank you all very much.

Case No. CIV-12-1714 (D. Ariz. July 21, 2014).

16. Last year, Judge Carlton W. Reeves of the Southern District of Mississippi described GDR as follows:

More important, frankly, is the skill with which plaintiff's counsel litigated this matter. On that point there is no disagreement. Defense counsel concedes that her opponent—a specialist in the field who has been class counsel in dozens of these matters across the country—'is to be commended for his work' for the class, 'was professional at all times' ..., and used his 'excellent negotiation skills' to achieve a settlement fund greater than that required by the law.

The undersigned concurs ... Counsel's level of experience in handling cases brought under the FDCPA, other consumer protection statutes, and class actions generally cannot be overstated.

*McWilliams v. Advanced Recovery Sys., Inc.*, No. 3:15-CV-70-CWR-LRA, 2017 WL 2625118, at \*3 (S.D. Miss. June 16, 2017).

17. Similarly, in *Roundtree v. Bush Ross, P.A.*, Judge Whittemore wrote in certifying

three separate classes under the Fair Debt Collection Practices Act and appointing GDR class counsel: “Greenwald [Davidson Radbil PLLC] has been appointed as class counsel in a number of actions and thus provides great experience in representing plaintiffs in consumer class actions.” 304 F.R.D at 661.

18. And in *Bellum v. Law Offices of Frederic I. Weinberg & Assocs., P.C.*, Judge C. Darnell Jones II of the Eastern District of Pennsylvania took care to point out GDR was appointed as class counsel “precisely because of their expertise and ability to represent the class in this matter.” No. 15-2460, 2016 WL 4766079, at \*5 (E.D. Pa. Sept. 13, 2016).

19. Additional information about GDR is available on the firm’s website, [www.gdrllawfirm.com](http://www.gdrllawfirm.com).

**Michael L. Greenwald**

20. I graduated from the University of Virginia in 2001 and Duke University School of Law in 2004.

21. I have been appointed class counsel in more than a dozen consumer protection class actions in the past three years. See <http://www.gdrllawfirm.com/michael-greenwald> (last visited March 30, 2018).

22. Prior to forming GDR, I spent six years as a litigator at Robbins Geller Rudman & Dowd LLP—the nation’s largest plaintiff’s class action firm—where I focused on complex class actions, including securities and consumer protection litigation.

23. While at Robbins Geller, I served on the litigation teams responsible for the successful prosecution of numerous class actions, including: *In re Evergreen Ultra Short Opportunities Fund Sec. Litig.* (D. Mass.); *In re Red Hat, Inc. Sec. Litig.* (E.D.N.C.); *City of Ann Arbor Employees’ Retirement Sys. v. Sonoco Products Co., et al.* (D.S.C.); *Norfolk County*

*Retirement Sys., et. al. v. Ustian* (N.D. Ill.); *Romero v. U.S. Unwired, Inc.* (E.D. La.); *Lefkoe v. Jos. A. Bank Clothiers, Inc.* (D. Md.); and *In re Odimo, Inc. Sec. Litig.* (Fla.).

24. I started my career as an attorney at Holland & Knight LLP.

**Aaron D. Radbil**

25. Aaron D. Radbil graduated from the University of Arizona in 2002 and from the University of Miami School of Law in 2006.

26. Mr. Radbil has extensive experience litigating consumer protection class actions, including those under the TCPA. *See* <http://www.gdrlawfirm.com/Aaron-Radbil> (last visited March 30, 2018).

27. Mr. Radbil is admitted to practice before this Court.

28. In addition to his experience litigating consumer protection class actions, Mr. Radbil has briefed, argued, and prevailed on a variety of issues of significant consumer interest before federal and state courts of appeals. *See, e.g., Dickens v. GC Services Ltd. P'ship.*, --- Fed. Appx. ---, 2017 WL 3616345 (11th Cir. Aug. 23, 2017); *Hernandez v. Williams, Zinman & Parham PC*, 829 F.3d 1068 (9th Cir. 2016); *Lea v. Buy Direct, L.L.C.*, 755 F.3d 250 (5th Cir. 2014); *Payne v. Progressive Fin. Servs., Inc.*, 748 F.3d 605 (5th Cir. 2014); *Stout v. FreeScore, LLC*, 743 F.3d 680 (9th Cir. 2014); *Yunker v. Allianceone Receivables Mgmt., Inc.*, 701 F.3d 369 (11th Cir. 2012); *Guajardo v. GC Servs., LP*, No. 11-20269, 2012 WL 5419505 (5th Cir. Nov. 7, 2012); *Sorensen v. Credit Int'l Corp.*, 475 F. App'x 244 (9th Cir. 2012); *Ponce v. BCA Fin. Serv., Inc.*, 467 F. App'x 806 (11th Cir. 2012); *Mady v. DaimlerChrysler Corp.*, 59 So. 3d 1129 (Fla. 2011); *Talley v. U.S. Dep't of Agric.*, 595 F. 3d 754 (7th Cir. 2010), *reh'g en banc granted, opinion vacated* (June 10, 2010), *on rehearing en banc* (September 24, 2010), *decision affirmed*, No. 09-2123, 2010 WL 5887796 (7th Cir. Oct. 1, 2010); *Oppenheim v. I.C. Sys., Inc.*, 627 F. 3d 833 (11th

Cir. 2010).

**James L. Davidson**

29. James L. Davidson graduated from the University of Florida in 2000 and the University of Florida Fredric G. Levin College of Law in 2003.

30. Mr. Davidson is admitted to practice before this Court.

31. He has been appointed class counsel in a host of consumer protection class actions. See <http://www.gdrllawfirm.com/James-Davidson> (last visited March 30, 2018).

32. Prior to forming GDR, Mr. Davidson spent five years as a litigator at Robbins Geller, where he focused on complex class actions, including securities and consumer protection litigation.

33. While at Robbins Geller, Mr. Davidson served on the litigation teams responsible for the successful prosecution of numerous class actions, including: *Local 731 I.B. of T. Excavators and Pavers Pension Trust Fund et al. v. Swanson et al.*; *In re Pet Food Products Liability Litigation*; *In re Mannatech, Inc. Sec. Litig.*; *In re Webloyalty, Inc. Mktg. and Sales Practices Litig.*; and *In re Navisite Migration Litig.*

**Jesse S. Johnson**

34. Jesse S. Johnson earned his Bachelor of Science degree in Business Administration from the University of Florida, where he graduated magna cum laude in 2005.

35. He earned his Juris Doctor degree with honors from the University of Florida Fredric G. Levin College of Law in 2009, along with his Master of Arts in Business Administration from the University of Florida Hough Graduate School of Business the same year.

36. Mr. Johnson is admitted to practice before this Court.

37. While an attorney at GDR, Mr. Johnson has been appointed as class counsel in



more than a dozen consumer protection class actions. See <http://www.gdrlawfirm.com/Jesse-Johnson> (last visited March 30, 2018).

38. Mr. Johnson started his legal career as an associate at Robbins Geller, where he served on the litigation teams responsible for the successful prosecution of numerous class actions, including: *Sterling Heights Gen. Emps. ' Ret. Sys. v. Hospira, Inc. et al.*, No. 1:11-cv-08332 (N.D. Ill.); *Eshe Fund v. Fifth Third Bancorp*, No. 1:08-cv-00421 (S.D. Ohio); *City of St. Clair Shores Gen. Emps. ' Ret. Sys. v. Lender Processing Servs., Inc.*, No. 3:10-cv-01073 (M.D. Fla.); and *In re Synovus Fin. Corp.*, No. 1:09-cv-01811 (N.D. Ga.).

#### **Alexander D. Kruzyk**

39. Alexander D. Kruzyk earned his Bachelor of Management and Organizational Studies from the University of Western Ontario in 2011 and earned his Juris Doctor degree with honors from the University of Florida Fredric G. Levin College of Law in 2014.

40. Mr. Kruzyk is admitted to practice before this Court.

41. Prior to joining GDR in 2017, Mr. Kruzyk was an associate with Robbins Geller, where he assisted with several complex class actions. See <http://www.gdrlawfirm.com/Alexander-Kruzyk> (last visited March 30, 2018).

#### **Procedural History**

42. Mr. Johnson filed his class action complaint on March 28, 2017. ECF No. 1.

43. On May 2, 2017, NPAS Solutions filed a motion to dismiss and to strike Mr. Johnson's class action allegations. ECF No. 13.

44. On May 5, 2017, the parties submitted their Joint Scheduling Report. ECF No. 14.

45. On May 11, 2017, Mr. Johnson filed an amended class action complaint, through which he sought redress under the TCPA for himself and others similarly situated. ECF No. 15.

46. On May 12, 2017, Mr. Johnson served his initial written discovery requests, to which NPAS Solutions responded on June 29, 2017.

47. The parties served their initial disclosures on May 18, 2017.

48. The Court issued its Scheduling Order on May 23, 2017. ECF No. 18.

49. On May 25, 2017, NPAS Solutions moved to strike the class allegations in Mr. Johnson's amended complaint. ECF No. 19.

50. This Court denied NPAS Solutions' motion to strike on May 30, 2017. ECF No. 20.

51. On June 12, 2017, the parties jointly notified the Court that they had selected the Honorable Diane M. Welsh (Ret.) of JAMS to serve as mediator. ECF No. 23.

52. On June 13, 2017, NPAS Solutions filed its answer, defenses, and affirmative defenses to Mr. Johnson's amended class action complaint, through which it asserted seven defenses and affirmative defenses. ECF No. 24.

53. On August 25, 2017, Mr. Johnson served the report of his expert witness, Anya Verkhovskaya, which detailed how she can identify the names and addresses of potential class members based on the cellular telephone numbers in NPAS Solutions' records.

54. To facilitate discovery, the parties moved for the entry of a protective order, ECF No. 25, which this Court granted with amendments. ECF No. 30.

55. On September 6, 2017, Mr. Johnson served his responses and objections to NPAS Solutions' written discovery requests.

56. On September 15, 2017, counsel for the parties attended mediation in Philadelphia before Judge Welsh in a TCPA matter involving two debt collection companies with the same

ultimate corporate parent as NPAS Solutions.<sup>1</sup>

57. On October 3, 2017, NPAS Solutions served discovery requests seeking documents related to Mr. Johnson's expert witness.

58. After multiple written settlement demands, counteroffers, and discussions, the parties reached the settlement at bar.

### **The Settlement**

59. The settlement defines a class under Rule 23(b)(3) comprised of: "All persons in the United States who (a) received calls from NPAS Solutions, LLC between March 28, 2013 and the date of preliminary approval that (b) were directed to a phone number assigned to a cellular telephone service, (c) for which NPAS Solutions' records contain a "WN" designation, and (d) were placed using an automatic telephone dialing system."

60. The settlement requires NPAS Solutions, LLC to create a non-reversionary common fund of \$1.432 million, from which all participating class members will receive an equal share after deducting the costs of notice and claims administration, attorneys' fees, costs, and expenses as awarded by the Court, and an incentive award to Mr. Johnson, not to exceed \$6,000 and subject to Court approval.

61. No settlement funds will revert to NPAS Solutions.

62. The parties reached this settlement after written discovery regarding NPAS Solutions' calling practices and procedures, and the identification of potential class members.

63. In addition, Mr. Johnson responded to discovery requests and provided an expert

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<sup>1</sup> The mediation concerned *Martinez v. Mediacredit, Inc.* and *Hornberger v. Mediacredit, Inc.*, pending in the Eastern District of Missouri, No. 4:16-CV-01138-ERW, and *Verma v. Memorial Healthcare Group, Inc.*, No. 3:16-CV-00427-HLA-JRK (M.D. Fla.), which has since been transferred to the Eastern District of Missouri.

report regarding the ability to identify class members based on NPAS Solutions' call records.

64. The parties reached their agreement to settle this matter as a result of arm's-length negotiations that were significantly aided by a mediation in similar TCPA matters involving two debt collection companies with the same ultimate corporate parent as NPAS Solutions.

65. That mediation, which both I and counsel for NPAS Solutions attended, took place on September 15, 2017 before Judge Welsh<sup>2</sup> in Philadelphia.

66. Based upon the claims received, participating members of the Class are expected to receive approximately \$79.33 each.

#### **Attorneys' Fees**

67. The requested attorneys' fees of 30 percent of the settlement fund are both fair and reasonable, and in line with awards in similar class actions.

68. This class action has been pending since March 2017, and over the past 13 months Class Counsel have devoted significant time and resources to this case, including: (a) conducting an investigation into the underlying facts regarding Plaintiff's claims and the class members' claims; (b) preparing a class action complaint; (c) researching the law pertinent to class members' claims and NPAS Solutions' defenses; (d) preparing an amended class action complaint; (e) preparing and serving initial written discovery requests, negotiating NPAS Solutions' discovery responses and production of documents, and gathering documents and information relevant to NPAS Solutions' discovery requests to Plaintiff; (f) researching issues related to class certification,

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<sup>2</sup> "Over the past 23 years, as a JAMS neutral and a United States Magistrate Judge, [Judge Welsh] has successfully resolved over 5000 matters, covering virtually every type of complex dispute. Specifically, Judge Welsh has extraordinary skill in resolving high-stakes multi-party commercial disputes, employment matters, catastrophic personal injury cases, class actions, mass torts and multi-district litigations (MDL's). She was recognized as a 2016 "ADR Champion" by the National Law Journal." <https://www.jamsadr.com/welsh/> (last visited Apr. 2, 2018).

including strategies for how to best satisfy the requirements of Rule 23; (g) engaging an expert witness and working with Plaintiff's expert on her report; (h) negotiating the parameters of the class action settlement; (i) preparing of the parties' class action settlement agreement, along with the proposed class notice and claim form; (j) preparing Plaintiff's motion for preliminary approval of the class action settlement; (k) preparing Plaintiff's motion for final approval of the class action settlement; (l) preparing Plaintiff's motion for approval of an award of attorneys' fees, reimbursement of expenses, and an incentive award; (m) preparing the instant declaration; (n) conferring with the class administrator to oversee the notice, claims, and administration process, including negotiating a hard cap on notice and administration costs; (o) repeatedly conferring with Plaintiff throughout this case; and (p) conferring with class members to answer questions about the settlement process.

69. In short, GDR worked effectively to litigate this case in the best interests of class members, and then guide this case through both preliminary and final approval.

70. Given the excellent result achieved in this case, the time and labor required to litigate this matter, the novelty and difficulty of the questions involved, the skill requisite to perform the legal services performed, the preclusion of other employment due to acceptance of the case, the customary fee for TCPA class actions in this jurisdiction, that GDR litigated this matter on a contingent basis, the experience, reputation, and ability of GDR, and the undesirability of this matter to many firms, among other factors, I firmly believe the settlement is fair, reasonable, and adequate, and that the attorneys' fees requested as a percentage of the settlement fund are fair and reasonable.

71. In addition, the requested attorneys' fees were not negotiated as part of the settlement, and NPAS Solutions was free to oppose the attorneys' fees sought by Class Counsel.

72. No Class Member excluded himself or herself from the settlement.

73. One Class Member objected to the settlement.

#### **Incentive Award**

74. Mr. Johnson has been a model class representative.

75. Mr. Johnson has been actively involved in this case throughout the proceedings, including regularly conferring with his counsel and responding to NPAS Solutions' written discovery requests.

76. Without Mr. Johnson's efforts and dedication to this case, the class settlement would not have been possible.

77. Given this, and considering the time and effort Mr. Johnson devoted to this case, I firmly believe the incentive award requested in the amount of \$6,000 is fair and reasonable.

#### **Reimbursement of Litigation Expenses**

78. Class counsel separately request the reimbursement of costs and expenses reasonably incurred in connection with the prosecution of this action.

79. Such expenses are reflected in the books and records maintained by undersigned counsel, which are an accurate recording of the expenses incurred.

80. To date, Class Counsel has incurred reimbursable litigation costs and expenses in the total amount of \$3,475.52.

81. These expenses include the filing fee for the complaint (\$400), service of process (\$45), expert witness fees (\$2,017.20), and travel-related costs (total of \$82.07).

82. As well, class counsel has incurred additional reimbursable expenses, such as for photocopies, long distance telephone calls, and computerized legal research. Those expenses are not separately itemized herein, and class counsel do not seek separate reimbursement for them.

83. For the reasons set forth herein and in the accompanying motions, I respectfully submit that: (i) the settlement is fair, reasonable, and adequate and should be approved; and (ii) this Court should grant class counsel's motion for an award of attorneys' fees, reimbursement of costs and expenses, and an incentive award.

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

Executed on April 6, 2018

/s/ Michael L. Greenwald  
Michael L. Greenwald