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6 *Attorneys for the Plaintiffs*

7
8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN MATEO

9 AARON VAN FLEET, PAUL
10 OVBORG, and JAMES LONGFIELD,
individually and on behalf of all others
similarly situated,

11 Plaintiffs,

12 v.

13 TRION WORLDS, INC.,

14 Defendant.

NO. CIV 535304

**DECLARATION OF TOBY J.
MARSHALL IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL
OF CLASS ACTION
SETTLEMENT**

Complaint Filed:
September 8, 2015

CLASS ACTION

Assigned for All Purposes to:
Honorable Marie S. Weiner,
Department 2

DEPARTMENT: 2
DATE: October 18, 2019
TIME: 10 a.m.

1 I, Toby J. Marshall, declare as follows:

2 1. I am a member of Terrell Marshall Law Group PLLC (“TMLG”),
3 and co-counsel for Plaintiffs’ in this action.

4 2. Beth Terrell, a founding member of the TMLG, is currently the
5 President of the board of Public Justice. Ms. Terrell played no role in the
6 selection of Public Justice as a proposed *cy pres* recipient.

7 **TMLG’s Work on the Case**

8 3. To date, TMLG has spent at least 980 hours on this case, which
9 includes time spent obtaining written discovery from Trion and third parties,
10 analyzing Trion document production, briefing Plaintiffs’ motion to remand,
11 Trion’s motions to compel arbitration, and Trion’s demurrer, and negotiating the
12 settlement. Our lodestar calculated at reasonable rates exceeds \$319,687.50. My
13 firm has also incurred \$9,212.76 in litigation costs, including travel expenses,
14 printing, research costs, and postage. TMLG has not yet been compensated for
15 these attorneys’ fees and costs.

16 **TMLG’s Qualifications**

17 4. I am the lead attorney from TMLG in this case. I graduated from the
18 University of Washington School of Law in 2002 and concentrate my practice on
19 complex civil litigation. I have represented clients in a wide variety of class
20 actions, including wage and hour, product defect, civil rights, and consumer

1 protection cases. I have been actively involved in every aspect of numerous class
2 actions, including many employment cases. I was the chair of the Washington
3 State Bar Association's Labor & Employment Law Section, and I previously
4 served as the Section's treasurer for two years. I am currently a member of the
5 Washington Employment Lawyers Association and serve on the Association's
6 amicus and legislative committees. I have been named several times to the annual
7 *Super Lawyers* list in Washington Law & Politics.

8 5. Blythe Chandler is a member of TMLG. She graduated from the
9 University of Washington School of Law in 2010. Ms. Chandler concentrates her
10 practice in complex litigation, including consumer class actions. Prior to joining
11 TMLG, Ms. Chandler served as a law clerk to the Honorable Betty B. Fletcher,
12 Senior United States Circuit Judge for the Ninth Circuit Court of Appeals and to
13 the Honorable John C. Coughenour, Senior United States District Judge for the
14 Western District of Washington.

15 6. In addition to the instant litigation, TMLG is litigating or has
16 recently settled the following consumer protection class actions:

- 17 • *Jordan v. Nationstar Mortgage, LLC*—TMLG represented
18 a certified class of homeowners who were improperly
19 locked out of their homes by their mortgage lender. The
20 court granted summary judgment on liability on two of the
21 certified class's claims. The case settled on a class-wide
basis for \$17 million, and final approval was granted in
May 2019.

- 1 • *In re Monitronics International, Inc. Telephone Consumer*
2 *Protection Act Litigation*—Filed on behalf consumers who
3 received automated, prerecorded solicitation telephone
4 calls on their residential and business telephones without
5 their prior express consent within the meaning of the
6 Telephone Consumer Protection Act, 47 U.S.C. § 227 *et*
7 *seq.*, the Washington Automatic Dialing and Announcing
8 Device statute, RCW 80.36.400, and the Washington
9 Consumer Protection Act, RCW 19.86 *et seq.* I served as
10 co-lead counsel in the MDL. The case settled on a class-
11 wide basis for \$28 million, and final approval was granted
12 in June 2018.
- 13 • *Gold, et al. v. Lumber Liquidators, Inc.*—Filed in 2014 on
14 behalf of consumers who purchased defective flooring.
15 TMLG represents a certified nationwide class of consumers
16 as well as six certified sub-classes of consumers in the
17 states of California, Illinois, West Virginia, Minnesota,
18 Pennsylvania, and Florida. The case is pending in the
19 United States District Court for the Northern District of
20 California.
- 21 • *Solberg, et al v. Victim Services, Inc., et al*— Filed in 2014
on behalf of California consumers who received false,
misleading, and deceptive debt collection letters printed on
the letter head of county prosecuting attorneys. The case
has been certified as a class action and is pending in the
United States District Court for the Northern District of
California.
- *Dibb, et al. v. AllianceOne Receivables Management,*
Inc.—TMLG represents three certified classes of
Washington consumers who received unfair and deceptive
debt collection notices that included threats of criminal
prosecution. The case settled on a class-wide basis for
\$1,900,000 in March 2017, and final approval was granted
in July 2017.

- 1 • *Cavnar, et al. v. BounceBack, Inc.*—Filed in 2014 on
2 behalf of Washington consumers who received false,
3 misleading, and deceptive debt collection letters printed on
4 the letter head of county prosecuting attorneys. TMLG
5 worked to negotiate a class-wide settlement, and final
6 approval was granted in September 2016.
- 7 • *Soto v. American Honda Motor Corporation*—Filed in
8 2012 on behalf of owners and lessees of 2008-2010 Honda
9 Accord that consume motor oil at a much higher rate than
10 intended, due to a systemic design defect. The case settled
11 on a class-wide basis and final approval was granted in
12 March 2014.
- 13 • *Smith v. Legal Helpers Debt Resolution LLC*—Filed in
14 2011 on behalf of consumers who were charged excessive
15 fees for debt adjusting services in violation of Washington
16 law. Class settlements were approved by the Court in
17 December 2012 and December 2013.
- 18 • *Brown v. Consumer Law Associates LLC, et al.*—Filed in
19 2011 on behalf of consumers who were charged excessive
20 fees for debt adjusting services in violation of Washington
21 law. A class settlement was approved by the Court in 2013.
- *Bronzich, et al. v. Persels & Associates, LLC, et al.*—Filed
in 2010 on behalf of consumers who were charged
excessive fees for debt adjusting services in violation of
Washington law. A class settlement was approved by the
Court in 2013.
- *Abante Rooter and Plumbing, Inc., et al. v. Alarm.com
Incorporated, et al.*— TMLG represents two certified
classes of consumers who received solicitation telephone
calls on their cellular and residential telephones without
their prior express consent within the meaning of the
Telephone Consumer Protection Act, 47 U.S.C. § 227 *et*
seq. The case settled on a class-wide basis for \$28,000,000
in October 2018. Final approval was granted by the United
States District Court for the Northern District of California
in August 2019.

- *In re Capital One Telephone Consumer Protection Act Litigation*—Filed on behalf of consumers who received automated, prerecorded collection telephone calls on their cellular telephones without their prior express consent within the meaning of the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.* I served as court-appointed Interim Co-Lead Counsel; final approval of the \$75,455,098.74 settlement was granted in February 2015.

7. TMLG has also served as co-lead counsel in several employment class or collective actions, including but not limited to the following:

- *Kariuki v. Pacific Bells, LLC* — Terrell Marshall and its co-counsel represented a class of current and former employees of several Taco Bell franchises alleging violations that include failure to provide proper rest and meal breaks and altering employee time records, resulting in the failure to pay for all time worked. In December 2018, Terrell Marshall and its co-counsel reached a settlement of \$750,000. The King County Superior Court granted final approval in July 2019.
- *Rohde v. T-Mobile USA, Inc.* — Terrell Marshall and its co-counsel represented a class of current and former retail sales associates alleging T-Mobile failed to pay retail associates all of the commissions they earned in violation of Washington wage-and-hour law and T-Mobile’s written promises in the company’s commission plans. In December 2018, Terrell Marshall and its co-counsel reached a settlement of \$1.27 million. The King County Superior Court granted final approval in May 2019.
- *Mendis v. Schneider National Carriers, Inc.* — Filed in 2014, Terrell Marshall represented a certified class of more than 1,200 current and former employees who alleged wage and hour violations including failure to pay for overtime, failure to pay for rest breaks, failure to pay minimum wage, and other violations of Washington wage and hour laws. After several years of litigation, Terrell Marshall reached a class-wide

1 settlement of \$5.75 million. Final approval was granted by the
2 U.S. District Court for the Western District of Washington in
November 2018.

- 3 • *Barrientos Martinez v. Auvil Fruit Co.* — Terrell Marshall and
4 its co-counsel represented a certified class of migrant and
5 seasonal farm workers who alleged their employer failed to
6 pay for tasks performed outside the scope of piece-rate work,
7 failed to pay piece-rate workers for rest breaks, and failed to
8 keep accurate records of hours worked. In January 2018,
9 Terrell Marshall and its co-counsel reached a classwide
10 settlement of \$2.5 million, which we understood to be the
11 largest farm worker wage-and-hour class action settlement on
12 record in Washington. The U.S. District Court for the Eastern
13 District of Washington granted final approval in October
2018.
- 14 • *Helde v. Knight Transportation, Inc.* — Terrell Marshall
15 represented a certified class of current and former truck
16 drivers alleging violations of wage and hour laws in
17 Washington. After several years of vigorous litigation, Terrell
18 Marshall reached a class-wide settlement of \$1.45 million.
19 They also secured a separate award of more than \$1.2 million
20 in attorneys' fees and costs. The U.S. District Court for the
Western District of Washington granted final approval in
October 2017.
- 21 • *Tolliver, et al. v. Avvo, Inc.* — Terrell Marshall represented a
class of current and former sales employees who alleged they
were misclassified as overtime exempt. The case settled on a
class-wide basis for \$1.75 million, and final approval was
granted in September 2017.
- *McCracken v. Pacific Cargo Services, LLC, et al.* — Terrell
Marshall represented a certified class of truck drivers in
Washington and Oregon who alleged wage and hour
violations. After years of complex litigation in Washington
and Oregon Courts, Terrell Marshall reached a settlement of
\$475,000 on behalf of the class. King County Superior Court
granted final approval of the settlement in August 2017.

- 1 • *Spencer v. FedEx Ground Package System, Inc.* — Terrell
2 Marshall represented a certified class of current and former
3 delivery drivers who allege violations of state wage and hour
4 laws. The case settled on a class-wide basis for \$10,500,000,
5 and final approval was granted in December 2016.
- 6 • *Witschel v. IMCO General Construction, Inc.* — Filed in 2013
7 in Washington State Superior Court in and for Skagit County.
8 Terrell Marshall represented current and former hourly-paid
9 employees who alleged violations of Washington wage and
10 hour law regarding rest breaks. The case settled on a class-
11 wide basis for \$1.1 million. Final approval of the settlement
12 was granted in June 2016.
- 13 • *Paz v. Sakuma Brothers Farms, Inc.* — Terrell Marshall
14 represented a class of almost 1,000 migrant and seasonal berry
15 pickers who alleged violations of state wage and hour law and
16 the federal Agricultural Worker Protection Act. The primary
17 claims in the case settled for \$850,000 plus an agreement on
18 injunctive relief in May 2014; preliminary approval of the
19 settlement was granted by the Honorable Marsha J. Pechman
20 in the United States District Court for the Western District of
21 Washington in July 2014, and final approval was granted in
November 2014. Terrell Marshall successfully litigated
additional claims not covered by the 2014 settlement, which
resulted in a unanimous opinion by the Washington Supreme
Court in *Lopez Demetrio v. Sakuma Brothers Farms, Inc.*, 183
Wn.2d 649 (2015). Following the Washington Supreme Court
decision, the court approved a final settlement of all claims
and ordered payment of Plaintiffs’ attorneys’ fees and costs in
July 2016.
- *Dickerson v. Cable Communications, Inc., et al.* — Filed in
2012 on behalf of approximately 500 individuals alleging their
employer violated Oregon’s wage and hour laws. Defendants’
systematic scheme of wage and hour violations involved,
among other things, failure to pay non-managerial installation
technicians for all hours worked, including overtime. The case
settled on a class-wide basis, and approval was granted in
2013.

- 1 • *Khadera v. ABM Industries, Inc.* — Terrell Marshall
2 represented an opt-in FLSA class of 337 employees who
3 alleged violations of federal and state wage and hour law.
4 The case settled in March 2012, and final approval of the
5 settlement was granted on October 17, 2012 by the
6 Honorable Ricardo S. Martinez, in the United States
7 District Court for the Western District of Washington.
- 8 • *Simpson v. ABM Industries, Inc.* — Terrell Marshall
9 represented a CR 23 class of approximately 6,800
10 employees who alleged Washington State wage and hour
11 violations. The case settled in March 2012, and final
12 approval of the settlement was granted on September 2012
13 by the Honorable Teresa B. Doyle, in the Washington State
14 Superior Court in and for King County.
- 15 • *Barnett, et al. v. Wal-Mart Stores, Inc.* — Filed in 2001 on
16 behalf of Washington employees alleging wage and hour
17 violations by the country’s largest private employer. After
18 more than seven years of litigation, Terrell Marshall
19 obtained a settlement of \$35 million on behalf of a certified
20 class of approximately 88,000 employees. That settlement
21 was approved in July 2009.
- *McGinnity, et al. v. AutoNation, Inc., et al.* — Terrell
Marshall represented a certified class of more than 500
employees who were denied earned vacation benefits.
After nearly two years of litigation before an arbitrator, we
obtained an award of \$2.34 million on behalf of the class.
We successfully defended the award on appeal, and the
Washington Supreme Court denied defendants’ petition for
review. A judgment in excess of \$2,600,000 was satisfied
in September 2009.
- *Reese v. Dycom, Inc.* — Terrell Marshall attorneys
represented a class of over 1,700 current and former
employees in Washington and Oregon who alleged wage
and hour violations. Terrell Marshall obtained a \$1.4
million settlement on behalf of the Class. The settlement
received final approval on April 23, 2010.

- 1 • *Telecommunications Company Lawsuit II* — Attorneys of
2 Terrell Marshall represented a certified class of more than
3 2,400 current and former employees in Washington and
4 Oregon who alleged wage and hour violations. Attorneys
of Terrell Marshall obtained a \$3,000,000 settlement after
nearly four years of intense litigation, and the court granted
final approval of the settlement in March 2009.
- 5 • *Labor Services Company Lawsuit* — Terrell Marshall
6 represented a class of 1,390 employees who alleged wage
and hour violations. The case settled in 2009, and
7 Plaintiffs’ Motion for Final Approval of Class Action
Settlement was granted on April 23, 2010.
- 8 • *Martinez v. 24 Hr. Professional Janitorial Services, Inc.* —
9 Terrell Marshall represented a class of 175 employees who
alleged wage and hour violations. The case settled in 2009,
10 and the settlement was approved by the Honorable Paris
Kallas, in the Washington State Superior Court in and for
11 King County.

12 8. Additional information about class actions litigated by TMLG is
13 available on our website www.terrellmarshall.com.

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

16 Executed in Seattle, Washington this 27th day of September, 2019.

17
18 By: /s/ Toby J. Marshall
19 Toby J. Marshall, *Admitted Pro Hac Vice*

1 **PROOF OF SERVICE**

2 I am a citizen of the United States and am employed in King County,
3 Washington. I am over the age of eighteen (18) years and not a party to this
4 action; my business address is 936 North 34th Street, Suite 300, Seattle,
5 Washington, 98103-8869.

6 On September 27, 2019, I served the preceding document by placing a true
7 copy thereof enclosed in a sealed envelope and served in the manner and/or
8 manners described below to each of the parties herein and addressed as on the
9 attached list.

10
11 **BY MAIL:** I caused such envelope(s) to be deposited in the mail at my
12 business address, addressed to the addressee(s) designated. I am
13 readily familiar with Terrell Marshall Law Group PLLC’s practice for
14 collection and processing of correspondence and pleadings for mailing.
15 It is deposited with the United States Postal Service on that same day in
16 the ordinary course of business.

17 **BY HAND DELIVERY:** I caused such envelope(s) to be delivered by hand
18 to the addressee(s) designated.

19 **BY OVERNIGHT COURIER SERVICE:** I caused such envelope(s) to be
20 delivered via overnight courier service to the addressee(s) designated.

21 **BY FACSIMILE:** I caused said document to be transmitted to the telephone
number(s) of the addressee(s) designated.

BY ELECTRONIC MAIL: I caused said document to be transmitted to the
email addresses of the addressee(s) designated.

1 I declare under penalty of perjury under the laws of the State of
2 Washington that the foregoing is true and correct.

3 Executed at Seattle, Washington, on the 27th day of September, 2019.

4 By: /s/ Elizabeth A. Adams, CSB #290029
5 Elizabeth A. Adams, CSB #290029

PROOF OF SERVICE LIST

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