

Andrew W. Heidarpour
AHeidarpour@HLFirm.com
1300 Pennsylvania Ave NW, 190-318
Washington, D.C. 20004
Telephone: (202) 234-2727

*One of the Attorneys for Plaintiff Sidney
Naiman and the Proposed Settlement Class*

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

SIDNEY NAIMAN, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

TOTAL MERCHANT SERVICES, INC.
and QUALITY MERCHANT
SERVICES, INC.,

Defendants.

No. 4:17-cv-03806-CW

**DECLARATION OF ANDREW W.
HEIDARPOUR IN SUPPORT OF
PLAINTIFF’S MOTION FOR ATTORNEYS’
FEES, REIMBURSEMENT OF COSTS AND
SERVICE AWARD**

Complaint Filed: July 5, 2017

DATE: April 2, 2019

TIME: 2:30 p.m.

LOCATION: 1301 Clay St., Oakland, CA 94612
Courtroom 6—2nd Floor

1 I, Andrew W. Heidarpour, declare under penalty of perjury:

2 1. I am an attorney duly licensed to practice law in the District of Columbia.

3 2. I am co-counsel of record to Plaintiff Sidney Naiman (“Plaintiff”) in this case.

4 3. I respectfully submit this declaration in support of Plaintiff’s Motion for
5 Attorneys’ Fees, Reimbursement of Costs and Service Award.

6 4. Except where otherwise stated or evident from context, the following facts are of
7 my personal knowledge. If called as a witness, I could and would testify competently as to their
8 truth.

9 5. I was involved in every stage of representing Plaintiff in this case, from pre-trial
10 investigation, analysis of Plaintiff’s claim, and review of documents. I worked on all motions
11 filed and opposed in the case. I was a primary point of contact on the case with Mr. Naiman, who
12 was extremely diligent in providing required information on the case and kept current on the
13 progress of the litigation. I participated in mediation in Tampa, Florida as well as follow-up
14 negotiations and helped prepare the settlement agreement and motion for preliminary approval.

15 **Risks of the Litigation**

16 6. I am familiar with the risks involved with prosecuting TCPA class actions. My
17 co-counsel and I have prosecuted cases that, after our investment of time and money, have
18 resulted in no recovery of costs or attorneys’ fees.

19 7. I have received no payment of attorneys’ fees in this case.

20 8. Since beginning work on this case in June of 2017, I have worked with no
21 guarantee of being compensated for my time and efforts. My recovery has always been
22 contingent on successfully obtaining relief for Plaintiff and class members. As a result, there was
23 a substantial risk of non-payment, particularly in light of the legal challenges involved in
24 litigating this case.

25 **Experience**

26 8. I have experience in the prosecution of class actions on behalf of consumers,
27 particularly claims under the Telephone Consumer Protection Act, 47 U.S.C. § 227.

1 9. I am a 2014 graduate of Arizona Summit Law. In 2016, I was admitted to the Bar
2 in Washington, D.C. Since then, I have also been admitted to practice before the United States
3 District and Bankruptcy Court for the District of Columbia. From time to time, I have appeared
4 in other Federal District Courts *pro hac vice*. I am in good standing in every court before which
5 I am admitted to practice.

6 10. A sampling of putative class actions in which I am currently representing
7 consumers under the Telephone Consumer Protection Act as co-counsel is below:

- 8
- 9 i. James Schaffer et al v. First Choice Payment Solutions G.P., United States
10 District Court for the Central District of California, Civil Action No. 8:18-cv-
01981-DOC-KES.
 - 11 ii. Rojas v. Gosmith, et al, United States District Court for the Northern District of
12 Indiana, Civil Action No. 2:17-cv-00281-JVB-JEM.
 - 13 iii. Fabricant v. The Money Source Inc., United States District Court for the Eastern
14 District of New York, Civil Action No. 2:18-cv-02449-JFB-AYS.
 - 15 iv. Jeffrey Katz Chiropractic, Inc. v Tivity Health Support, LLC, United States
16 District Court for the Northern District of California, Civil Action No. 3:18-cv-
05400-RS.
 - 17 v. Foote v. Lumico Life Insurance Company, United States District Court for the
18 Northern District of Georgia, Civil Action No. 1:18-cv-03719-LMM.

19 **Timekeeping**

20 11. I bill in 6-minute increments.

21 12. In this case, I recorded most of my time contemporaneously.

22 13. I collaborated with my co-counsel throughout the litigation and settlement of this
23 case. We worked efficiently and avoided redundant effort.

24 14. I did not bill for time spent on this declaration or the motion to which it is
25 attached.

26 15. I allocated no fraction of overhead and administrative time to this case.

27 **Hourly Rate**

28 16. My usual and customary rate is \$370 per hour.

1 17. To determine a reasonable hourly rate for this matter, I use the LSI-Updated
2 Laffey Matrix, which was developed for Washington, D.C. area courts. According to the LSI-
3 Updated Laffey Matrix, a reasonable hourly rate to charge based on my years of experience is
4 \$371 per hour.

5 18. In 2015, the D.C. Circuit agreed that the LSI-Updated Laffey Matrix was a
6 conservative estimate of actual costs in the area. *Salazar v. District of Columbia*, 809 F.3d 58, 65
7 (D.C. Cir. 2015).

8 **Lodestar**

9 19. I billed a total of 185.7 hours on this case. I would bill those hours to an hourly
10 client. I am sold out: I work on average over 40 hours per week and regularly turn down
11 apparently meritorious TCPA representations, including class cases.

12 20. My billings include an estimated eight hours of work to be spent in the future,
13 including working with the settlement administrator, preparing the motion for final approval, or
14 communicating with class members.

15 21. My lodestar for this case, inclusive of the estimated eight hours for future work, is
16 \$68,709.00.

17 **Costs**

18 22. To date, I have incurred \$1,073.55 in unreimbursed litigation costs in prosecuting
19 this case, including \$699.73 for hotels, \$36.04 for food and \$337.78 for travel. Excluded are a
20 variety of *de minimis* costs and allocable overhead.

21
22 I declare under penalty of perjury under the laws of the State of California and the United
23 States of America that the foregoing is true and correct.

24
25 RESPECTFULLY SUBMITTED AND DATED this 13th day of December, 2018.

26
27 By: /s/ Andrew W. Heidarpour
Andrew W. Heidarpour

*One of the Attorneys for Plaintiff Sidney
Naiman and the Proposed Settlement Class*

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