

Exhibit A

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DANIEL SCHUCHARDT and MICHELLE
MUGGLI, *on behalf of themselves and*
others similarly situated,

Plaintiffs,

vs.

LAW OFFICE OF RORY W. CLARK, A
PROFESSIONAL LAW CORPORATION,

Defendant.

Case No.: 3:15-cv-01329-JSC

**DECLARATION OF AARON D.
RADBIL IN SUPPORT OF
PLAINTIFFS' UNOPPOSED
MOTION FOR AN AWARD OF
ATTORNEYS' FEES AND
REIMBURSEMENT OF EXPENSES**

I, Aaron D. Radbil, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. My name is Aaron D. Radbil.

2. I am over twenty-one years of age, and am fully competent to make the statements contained in this Declaration. I have personal knowledge of the matters stated herein and, if called upon, I could and would competently testify thereto.

3. I am a partner at the law firm of Greenwald Davidson Radbil PLLC, counsel for Daniel Schuchardt, Michelle Muggli, and the proposed class in the above-entitled action. I have extensive experience litigating individual cases and class actions filed under federal and state consumer protection statutes, including class actions brought under the Fair Debt Collection Practices Act ("FDCPA").

4. My firm handled this case on a contingency basis and advanced all litigation costs and expenses. My firm has not received any payment to date for our work on behalf of Mr. Schuchardt, Ms. Muggli, and the class.

Class Counsel

5. I graduated from the University of Arizona in 2002 and from the University of

1 Miami School of Law in 2006.

2 6. I have extensive experience litigating consumer protection class actions, including
3 class actions brought under the Fair Debt Collection Practices Act (“FDCPA”).

4 7. I have briefed and argued issues of significant consumer interest before state and
5 federal courts of appeals spanning the nation. My notable appellate decisions include:
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- 7 • *Lea v. Buy Direct, L.L.C.*, 755 F.3d 250 (5th Cir. 2014);
- 8 • *Payne v. Progressive Fin. Servs., Inc.*, 748 F.3d 605 (5th Cir. 2014);
- 9 • *Stout v. FreeScore, LLC*, 743 F.3d 680 (9th Cir. 2014);
- 10 • *Yunker v. Allianceone Receivables Mgmt., Inc.*, 701 F.3d 369 (11th Cir. 2012);
- 11 • *Guajardo v. GC Services, LP*, No. 11-20269, 2012 WL 5419505 (5th Cir. Nov. 7, 2012);
- 12 • *Sorensen v. Credit Int’l Corp.*, 475 F. App’x 244 (9th Cir. 2012);
- 13 • *Ponce v. BCA Fin. Serv., Inc.*, 467 F. App’x 806, 809 (11th Cir. 2012);
- 14 • *Mady v. DaimlerChrysler Corp.*, 59 So. 3d 1129 (Fla. 2011);
- 15 • *Talley v. U.S. Dep’t. of Agric.*, 595 F. 3d 754 (7th Cir. 2010), *reh’g en banc granted*,
16 *opinion vacated* (June 10, 2010), *on rehearing en banc* (September 24, 2010),
17 *decision affirmed*, No. 09-2123, 2010 WL 5887796 (7th Cir. Oct. 1, 2010);
- 18 • *Oppenheim v. I.C. Sys., Inc.*, 627 F. 3d 833 (11th Cir. 2010);
- 19 • *Cano v. Hyundai Motor Am., Inc.*, 8 So. 3d 408 (Fla. 4th DCA 2009); and
- 20 • *Jones v. Nissan N. Am., Inc.*, 385 Ill. App. 3d 740 (2d Dist. 2008).

21 8. My firm has been appointed class counsel in numerous class actions throughout the
22 country, including those brought under the FDCPA. *See, e.g., Chamberlin v. Mullooly, Jeffrey,*
23 *Rooney & Flynn, LLP*, No. 15-02361, ECF No. 36 (D.N.J. Feb. 9, 2016); *Whitford v. Weber &*
24 *Olcese, P.L.C.*, No. 15-400, 2016 WL 122393 (W.D. Mich. Jan. 11, 2016); *Garza v. Mitchell*
25 *Rubenstein & Assocs., P.C.*, No. 15-1572, 2015 WL 9594286 (D. Md. Dec. 28, 2015); *Prater v.*
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1 *Medicredit, Inc.*, No. 14-00159, 2015 WL 8331602 (E.D. Mo. Dec. 7, 2015); *Baldwin v. Glasser*
 2 *& Glasser, P.L.C.*, No. 3:15-cv-00490-HEH, 2015 WL 77669207, at *1 (E.D. Va. Dec. 1, 2015);
 3 *McWilliams v. Advanced Recovery Sys., Inc.*, 310 F.R.D. 337, 341 (S.D. Miss. 2015); *Oaks v.*
 4 *Parker L. Moss, P.C.*, No. 3:15-CV-00196-CAN, 2015 WL 5737595, at *1 (N.D. Ind. Sept. 29,
 5 2015); *Jones v. I.Q. Data Int'l, Inc.*, No. 1:14-cv-00130-PJK-GBW, 2015 WL 5704016, at *2
 6 (D.N.M. Sept. 23, 2015); *Lambeth v. Advantage Fin. Servs., LLC*, No. 1:15-cv-33-BLW, 2015 WL
 7 4624008 (D. Idaho Aug. 3, 2015); *Rhodes v. Olson Assocs., P.C. d/b/a Olson Shaner*, 83 F. Supp.
 8 3d 1096, 1115 (D. Colo. 2015); *Roundtree v. Bush Ross, P.A.*, 304 F.R.D 644, 661 (M.D. Fla.
 9 2015); *Gonzalez v. Dynamic Recovery Solutions, LLC*, Nos. 14-24502, 14-20933, 2015 WL
 10 738329, at *2 (S.D. Fla. Feb. 23, 2015); *Esposito v. Deatrick & Spies, P.S.C.*, No. 13-1416, 2015
 11 WL 390392, at *2 (N.D.N.Y. Jan. 28, 2015); *Green v. Dressman Benzinger Lavelle, PSC*, No. 14-
 12 00142, 2015 WL 223764, at *2 (S.D. Ohio Jan. 16, 2015); *Donnelly v. EquityExperts.org, LLC*,
 13 No. 13-10017, 2015 WL 249522, at *2 (E.D. Mich. Jan. 14, 2015); *Ritchie v. Van Ru Credit Corp.*,
 14 No. 12-01714, 2014 WL 3955268, at *2 (D. Ariz. Aug. 13, 2014); *Hunter v. Nicholas Fin. Corp.*,
 15 No. 0:13-cv-61126-DMM, Doc. 32 (S.D. Fla. Apr. 28, 2014); *White, et al. v. Scott E. Alexander*,
 16 No. 3:12-cv-06050-RBL (W.D. Wash. Feb. 28, 2014); *Sharf v. Fin. Asset Resolution, LLC*, 295
 17 F.R.D. 664, 671 (S.D. Fla. 2014).

21 9. Multiple district courts have commented on my firm's knowledge and experience.
 22 For example, in *Donnelly v. EquityExperts.org, LLC*, Judge Terrence G. Berg stated upon
 23 approving a class action settlement and appointing my firm as class counsel:

24 [W]e see a fair number of FDCPA cases that are not necessarily at this level
 25 of sophistication or seriousness but I think that the—both sides appear to
 26 have really approached this with a positive attitude in trying to reach a
 27 settlement that from what I can see, appears to be the right thing to do in a
 reasonable and appropriate way.

28 No. 13-10017 (E.D. Mich. Jan. 14, 2015). And as one district court recently stated, Plaintiffs'

attorneys are “experienced and competent in class action litigation. [Plaintiffs’] attorneys—Greenwald Davidson Radbil PLLC—have been appointed as class counsel in more than a dozen consumer protection class actions in the past two years.” *McWilliams*, 310 F.R.D. at 340; *see also Roundtree*, 304 F.R.D. at 661 (“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.”).

The Settlement

10. The settlement resolves the claims on behalf of the class of California consumers preliminarily certified by the Court. ECF. No. 50.

11. The settlement requires the Law Office of Rory W. Clark, A Professional Law Corporation (“Defendant”) to create a settlement fund of \$13,610.00. Each of the 917 participating class members will receive at least \$14.84.¹ To the extent any settlement checks go uncashed after the class administrator takes all reasonable steps to forward checks to any forwarding addresses, such funds will be redistributed to Bay Area Legal Aid as a *cy pres* recipient. No settlement funds will revert back to Defendant.

12. Additionally, Defendant agreed to pay—separate and apart from the settlement fund—an award of attorneys’ fees and expenses to class counsel in an amount to be determined by the Court. Defendant also will pay the costs of settlement administration and notice, separate from the monies paid to class members.

¹ At the time the parties entered into their settlement agreement, they believed there to be 1,361 class members. However, Defendant has since determined that there were actually 1,361 *accounts* for which an allegedly violative letter was mailed to a total of only 930 *persons*. In other words, the class numbers only 930 because some members had multiple accounts with Defendant and therefore received multiple letters. However, the settlement fund will still be distributed on a pro-rata basis. Given that, thus far, 13 members of the class excluded themselves from the settlement, each of the 917 participating class members is now entitled to approximately \$14.84. This payout figure is subject to (relatively minor) adjustment in the event more class members exclude themselves between the filing of this declaration and the deadline for such exclusions (April 18, 2016).

Attorneys' Fees

13. The requested attorneys' fees and expenses are fair and reasonable. Indeed, this case has been pending since March 2015. Since that time, class counsel has devoted significant time and resources to this case, including: (a) conducting an investigation into the underlying facts regarding Mr. Schuchardt's and Ms. Muggli's claims; (b) preparing a class action complaint; (c) researching the law pertinent to class members' claims and Defendant's defenses; (d) fully briefing cross-motions for summary judgment and preparing for oral argument on the same; (e) conducting an analysis of Defendant's net worth; (f) negotiating the parameters of the settlement; (g) preparing the parties' class action settlement agreement and the proposed notice to the class; (h) conferring repeatedly with Mr. Schuchardt, Ms. Muggli, and defense counsel; (i) preparing Plaintiffs' unopposed motion for preliminary approval of the class action settlement, along with the accompanying proposed order and subsequent statement of recent decisions supporting the same; (j) preparing for and participating in the hearing on Plaintiffs' unopposed motion for preliminary approval; (k) preparing Plaintiffs' motion for final approval of the class action settlement; (l) preparing class counsel's motion for an award of attorneys' fees and reimbursement of expenses; (m) preparing the instant declaration in support of the fee and expense award; (n) conferring with the class administrator regarding notice; and (o) conferring with class members to answer questions about the settlement and claims process.

14. Based on the quality of class counsel's work, the reasonable hours we expended, the agreed-upon nature of the fee and expense request, and the benefit obtained for Plaintiffs and class members in light of the risks, the requested fee and expense award is reasonable and should be approved.

15. In short, my firm worked extremely efficiently to develop this case, obtain a favorable settlement for Plaintiffs and the class, and shepherd this case through preliminary and

1 final approval, while limiting the attorneys' fees and expenses incurred.

2 16. As of the date of this Declaration, Greenwald Davidson Radbil PLLC attorneys
3 have spent a total of 210.9 hours litigating this case. I, as the lead attorney on this case, have spent
4 a total of 38.6 hours. Three of the firm's other attorneys, Michael L. Greenwald, James L.
5 Davidson, and Jesse S. Johnson, spent a total of 172.3 hours. More specifically, Mr. Greenwald
6 has spent 8.5 hours, Mr. Davidson has spent 11.1 hours, and Mr. Johnson has spent 152.7 hours.

7 17. While Mr. Johnson spent much time actively litigating this matter by my side, the
8 hours spent by Mr. Greenwald and Mr. Davidson largely entail reviewing and revising pleadings
9 and engaging in litigation and settlement strategy.
10

11 18. The time included herein is evidenced by my firm's electronically stored time
12 records entered contemporaneously with the respective task to which they relate, each of which
13 accurately reflects the work performed.
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15 19. I, along with Mr. Greenwald and Mr. Davidson, bill at a rate of \$400 per hour—a
16 rate specifically approved in an FDCPA class action my firm handled last year. *See Gonzalez*,
17 2015 WL 738329, at *4 ("Defendant shall pay Class Counsel [Greenwald Davidson Radbil PLLC]
18 \$65,000.00 for attorneys' fees and expenses, which is based in part upon Class Counsel's
19 reasonable hourly rate of \$400 per hour."). Mr. Johnson bills at a rate of \$350 per hour.
20

21 20. In addition, I conservatively estimate that this case will require an additional 30
22 hours of my time to complete. That time will be spent preparing for, traveling to, and attending the
23 final approval hearing set for April 28, 2016, preparing any necessary reply papers in support of
24 final approval or the fee and expense request, finalizing the settlement, conferring with class
25 members and the class administrator, and any other related matters necessary to conclude this case.
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27 21. Multiplying the hours incurred by each attorney by their hourly rates, and including
28 the additional estimated time necessary to conclude this matter, yields a total estimated lodestar of

1 \$88,725.

2 22. I respectfully submit that the requested fee and expense award of \$52,500.00—
3 unopposed by Defendant—is eminently reasonable for a certified class action, particularly one
4 where class members will receive meaningful cash benefits and where the lawsuit succeeded in
5 changing Defendant’s business practices. Further supporting its reasonableness, this request
6 represents a 40% *discount* on the anticipated lodestar in this litigation.
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8 **Litigation Expenses**

9 23. Subsumed within class counsel’s fee and expense request is the reimbursement of
10 the expenses reasonably incurred in connection with the prosecution of this case. These expenses
11 are reflected in the books and records maintained by undersigned counsel and are an accurate
12 recording of the expenses incurred. In total, class counsel incurred reimbursable expenses in the
13 amount of \$763.80, as of today’s date.
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15 24. These expenses include the filing fee for the complaint (\$400), the application fee
16 for my admission *pro hac vice* (\$305), and other expenses totaling \$58.80.

17 25. Class counsel may also incur additional expenses associated with travel to San
18 Francisco, including airport parking in Austin, transportation to and from the San Francisco airport
19 to downtown, and meals. Class counsel conservatively estimates that these additional expenses, if
20 necessary, would total approximately \$600, which would result in total expenses of approximately
21 \$1,363.80.
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23 26. Class counsel has incurred additional reimbursable expenses, such as for
24 photocopies, long distance telephone calls, and computerized legal research. Those expenses are
25 not separately itemized herein, and are subsumed within the unopposed \$52,500.00 fee and
26 expense request.
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28 27. For the reasons set forth herein and in the accompanying motion, I respectfully

1 submit that: (i) the settlement is fair, reasonable, and adequate and should be approved; and (ii)
2 Plaintiffs' unopposed motion for an award of attorneys' fees and reimbursement of expenses
3 should be granted.
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5 I declare under penalty of perjury that the foregoing is true and correct.
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7 Executed on March 21, 2016.
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9 By: /s/ Aaron D. Radbil
10 Aaron D. Radbil
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