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*Attorneys for Plaintiffs*  
*Mark Hinkle and Daniel Rossi*

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN DIEGO  
NORTH COUNTY DIVISION**

**MARK HINKLE and DANIEL ROSSI,  
Individually and On Behalf of All  
Others Similarly Situated,**

**Plaintiffs,**

**v.**

**SPORTS RESEARCH  
CORPORATION,**

**Defendant.**

**Case No.: 37-2020-00001422-CU-NP-NC**

**DECLARATION OF JASON A. IBEY IN  
SUPPORT OF PLAINTIFFS' MOTION  
FOR ATTORNEYS' FEES, COSTS, AND  
SERVICE AWARD**

**Judge:** Hon. Timothy M. Casserly  
**Courtroom:** N-31

**DECLARATION OF JASON A. IBEY**

**I, JASON A. IBEY, declare:**

1. I am one of the attorneys for plaintiffs Mark Hinkle and Daniel Rossi (the “Plaintiffs”) in the above-captioned action against defendant Sports Research Corporation (“Defendant”). I am over the age of 18 and am fully competent to make this declaration.
2. I was admitted to the State Bar of California in 2012 and have been a member in good standing ever since that time. I have litigated cases in both state and federal courts in California. I am admitted in every federal district in California. I am also admitted to the state bar of Utah, Massachusetts, and the Ninth Circuit Court of Appeals.
3. I have personal knowledge of the following facts and, if called upon as a witness, could and would competently testify thereto, except as to those matters which are explicitly set forth as based upon my information and belief and, as to such matters, I am informed and believe that they are true and correct.
4. I submit this declaration in support of Plaintiffs’ Motion for Attorneys’ Fees, Costs, and Service Award.
5. I have been appointed as one of Class Counsel in this action, and I am a partner at Kazerouni Law Group, APC.
6. This action was taken by Plaintiffs on a contingency fee basis.
7. As of February 2, 2021, the Settlement Administrator reports receiving 10,778 claims, only 1 request for exclusion and zero objections. The deadline to opt out or object is February 23, 2021.
8. On December 8, 2020, Amazon reported successfully sending notice of the proposed class action settlement to 94,902 email addresses of persons who purchased a Covered Product through Amazon during the settlement class period.
9. The Settlement Administrator reports having provided direct notice to approximately 11,843 individuals whose information was provided by Vitamin Shoppe.
10. As of approximately February 5, 2021, ILYM has reported incurring settlement administration expenses of \$45,954.15, which I understand includes expenses for class

notice.

### HOURS INCURRED AND COSTS

11. Since early 2018, through February 5, 2021, I have incurred approximately 119.8 hours in this action against Defendant, including before the action a filed while the parties participated in mediation. All hours were logged contemporaneously in the normal course of business. I have been involved in every major aspect of the case, including but not limited to conducting written discover (third party subpoenas and confirmatory discovery), attending the mediation, and motion practice.
12. More specifically, in this action I have spent 4.4 hours communicating with individuals other than counsel, including class members; 0.6 communicating with my clients; 10.1 hours communicating with co-counsel; 0.1 hours communicating with the Court; 6.9 hours communicating with opposing counsel; 2.5 hours on discovery; 32.9 hours on mediation (including travel for mediation from Utah to California) and settlement discussions; 64.1 hours on motion practice, including preparing the motion for preliminary approval of class action settlement, with a 50-state survey of relevant laws, and the present motion for attorney's fees, costs and service awards; 0.1 hours reviewing pleadings; 8.4 hours on miscellaneous tasks such as reviewing settlement administration status reports, booking travel, document review and research; and 2.7 hours on administrative tasks.<sup>1</sup>
13. I anticipate incurring at least 45 hours of additional time to prepare a motion for final approval of the class action settlement and through the fairness hearing, as well as overseeing distribution of settlement awards and addressing any contingent *cy pres* distribution, for a total of 177.8 hours.
14. Based on my extensive experience litigating consumer class actions as detailed below, I believe my proposed hourly rate of \$440 is fair and reasonable, in light of my extensive experience combined with my prior fee approval rates.

<sup>1</sup> If requested by the Court, I am willing to provide detailed billings records for review.

1 15. In May of 2019, I was approved for an hourly rate of \$405 in *Ronquillo-Griffin v.*  
2 *TransUnion Rental Screening Sols., Inc.*, No. 17cv129-JM (BLM), 2019 U.S. Dist.  
3 LEXIS 79021 (S.D. Cal. May 9, 2019). Before that, I was approved for an hourly rate of  
4 \$395 in *Ayala et al v. Triplepulse, Inc.*, BC655048, Los Angeles Superior Court (Nov.  
5 13, 2018), and prior to that for \$380 in *Kline v Dymatize Enterprises, LLC*, No. 3:15-cv-  
6 02348-AJB-RBB (S.D. Cal. April 6, 2017).

7 16. At the \$440 hourly rate and with the 154.8 hours incurred above, my loadstar for this  
8 action is \$78,232, after taking into considering the estimated additional hours likely to be  
9 incurred.

10 17. Based on my experience, as outline in more detail below, I believe an hourly rate of \$440  
11 is fair and reasonable for this class action litigation.

#### 12 EXPERIENCE

13 18. Prior to being admitted to practice law in California, I interned for the Honorable  
14 Deborah Sanchez of the Los Angeles Superior Court, at the Courthouse in Bellflower,  
15 California, for approximately two months.

16 19. I predominantly practice in the Central District of California and Southern District of  
17 California; however, I have litigated numerous cases in each of the district courts in  
18 California and in various state courts in California. I have also litigated cases in district  
19 courts outside of California on a *pro hac vice* basis.

20 20. I practice law almost exclusively in the area of consumer actions, with over 95% of my  
21 legal practice dedicated to consumer class actions. I have been involved in litigating  
22 several dozens of consumer class actions, obtaining class certification status in five  
23 contested cases.

24 21. On May 15, 2018, I was sworn into the Utah Bar, after having moved from California to  
25 Utah in mid-2017.

26 22. I have contributed significantly to seven appellate briefs before the Ninth Circuit Court of  
27 Appeals.  
28

23. I have participated in more than a dozen mediations involving putative class action cases, several of which have resulted in settlement on a class action basis.

24. I serve as, or have served as, one of class counsel in the following consumer cases:

- a. Serving as one of class counsel in data breach settlement in *Cotter v. Checkers Drive-In Restaurants, Inc.*, No. 8:19-cv-01386-VMC-CPT (M.D. Fla.) (pending final approval);
- b. Finally approved class action settlement in *Holt v. Foodstate, Inc.*, No. 1:17-cv-00637-LM (D. N.H. Jan. 16, 2020) (involving product false advertising claims);
- c. Appointed one of class counsel in the matter of *Holt v. Noble House & Resorts, Ltd.*, No. 17-cv-2246-MMA-BLM (S.D. Cal. Oct. 16, 2018) (involving alleged unlawful surcharges at certain restaurants);
- d. Finally approved as one of class counsel in the CIPA (Cal. Pen. Code § 632.7) class action in *Ronquillo-Griffin v. Telus Communs., Inc.*, 3:17-cv-00129-JM-BLM, (S.D. Cal. Nov. 1, 2018);
- e. Finally approved as one of class counsel in the TCPA class action in *Barrow v. JPMorgan Chase Bank, N.A.*, 1:16-cv-03577-AT (N.D. Ga. Nov. 5, 2018);
- f. Finally approved as one of class counsel in *Ayala v. TriplePulse Inc.*, 2018 Cal. Super. LEXIS 3242, \*4 (Los Angeles County Superior Court, Nov. 13, 2018), involving the alleged unlawful misrepresentations on a products label and in defendant's advertising;
- g. Finally approved as one of class counsel in the TCPA class action in *Fox v. Spectrum Club of Santa Barbara*, No. 16CV00050 (Superior Court of Santa Barbara, March 23, 2017).

25. On August 16, 2018, I presented oral argument in *Self-Forbes v. Advanced Call Center*, No. 17-15804 (9th Cir. 2018), and obtained a successful ruling for my client. *Self-Forbes v. Advanced Call Ctr. Techs., LLC*, 2018 U.S. App. LEXIS 30577, at \*1 (9th Cir. Oct. 29, 2018).

26. On October 20, 2017, I presented oral argument before the Ninth Circuit Court of Appeal in the matter of *Carter v. Rent-A-Center, Inc.*, No. 16-15835.

27. With regard to putative class action involving claims of false advertising of products, specifically, I have served as one of plaintiff's counsel in at least the following:

- a. *Kline et al., v. Post Holdings, Inc.*, No. 3:15-cv-02348-AJB-RBB (S.D. Cal.) (co-counsel in finally approval class action settlement involving non-functional slack-fill);
- b. *Kerzner v. Street King LLC*, No. BC549460 (Superior Court, Los Angeles);
- c. *Alaei v. H.J. Heinz Company, L.P.*, No. 3:15-cv-02961-MMA-DHB (S.D. Cal.);
- d. *Welk v. Nutriceutical Corp.*, No. 3:17-cv-00266-BEN-KSC (S.D. Cal.);
- e. *Palmer v. Whole Foods Market IP, L.P.*, No. BC690514 (Sup. Ct., Los Angeles).

28. I have contributed significantly to several other consumer putative class actions in which a favorable published decision was issued, including but not limited to the following cases:

- a. *Hill v. Quicken Loans, Inc.*, No. ED CV 19-0163 FMO (SPx), 2020 U.S. Dist. LEXIS 140980 (C.D. Cal. Aug. 5, 2020) (denying defendant's motion to dismiss and motion to compel arbitration of TCPA case);
- b. *Delisle v. Speedy Cash*, No. 3:18-CV-2042-GPC-RBB, 2019 U.S. Dist. LEXIS 96981 (S.D. Cal. June 10, 2019) (denying defendant's motion to compel arbitration of claims for allegedly charging excessive APR; remanded on appeal to consider intervening law, decision pending);
- c. *Rahmany v. T-Mobile USA Inc.*, 717 F.App'x 752 (9th Cir. 2018) (reversing order granting defendant's motion to compel arbitration);
- d. *Marks v. Crunch San Diego, LLC*, No. 14-56834, 2018 U.S. App. LEXIS 26883 (9th Cir. Sep. 20, 2018) (unanimous three-panel decision on the

- meaning of an automatic telephone dialing system under the Telephone Consumer Protection Act);
- e. *Meza v. Sirius XM Radio, Inc.*, No. 17-cv-2252-AJB-JMA, 2018 U.S. Dist. LEXIS 164601 (S.D.Cal. Sep. 25, 2018) (denying motion to dismiss, based in part of challenge to constitutionality of the Telephone Consumer Protection Act);
  - f. *Ahmed v. HSBC Bank USA, N.A.*, No. ED CV 15-2057 FMO (SPx), 2017 U.S. Dist. LEXIS 183910 (C.D.Cal. Nov. 6, 2017) (granting plaintiffs' motion to strike some of the affirmative defenses);
  - g. *Greenley v. Laborers' Int'l Union of N. Am.*, 271 F. Supp. 3d 1128 (D.Minn. 2017) (denying motion to dismiss on several grounds, including a challenge to the constitutionality of the Telephone Consumer Protection Act);
  - h. *Ronquillo-Griffin v. Telus Communs., Inc.*, No. 17cv129 JM (BLM), 2017 U.S. Dist. LEXIS 99577 (S.D. Cal. June 27, 2017) (denying motion to dismiss claims for violation of California's Invasion of Privacy Act);
  - i. *Kline v. Iovate Health Scis. U.S.A., Inc.*, No. 3:15-cv-02387, 2017 U.S. Dist. LEXIS 44837 (S.D. Cal. Mar. 24, 2017);
  - j. *Barrett v. Wesley Fin. Grp., LLC*, No. 3:13-cv-00554-LAB-KSC, 2016 U.S. Dist. LEXIS 16417 (S.D. Cal. Feb. 9, 2016);
  - k. *Sherman v. Yahoo! Inc.*, 150 F. Supp. 3d 1213 (S.D. Cal. 2015);
  - l. *Abdeljalil v. GE Capital Corp.*, 306 F.R.D. 303 (S.D. Cal. 2015);
  - m. *Knutson v. Sirius XM Radio Inc.*, 771 F.3d 559 (9th Cir. 2014);
  - n. *Couser v. Comenity Bank*, No. 12CV2484-MMA-BGS, 2014 U.S. Dist. LEXIS 189155 (S.D. Cal. Oct. 2, 2014);
  - o. *Fox v. Asset Acceptance, LLC*, No. 13cv0922 DMS (BGS), 2013 U.S. Dist. LEXIS 197836 (S.D. Cal. Oct. 29, 2013);
  - p. *Dake v. Receivables Performance Mgmt., LLC*, No. EDCV 12-01680 VAP (SPx), 2013 U.S. Dist. LEXIS 160341 (C.D. Cal. Apr. 16, 2013).



PUBLICATIONS

29. I wrote an article entitled, *Think twice before filing that Article III challenge*, which was published in the Daily Journal on November 1, 2016.
30. An article that I wrote on the Telephone Consumer Protection Act, entitled, *Those annoying robo calls and the changing standard of prior express consent*, was published in the March 2015 edition of Plaintiff magazine.
31. I wrote an article entitled *California's Invasion of Privacy Act* that was published in the May 2018 edition of Plaintiff magazine, concerning Cal. Pen. Code § 630, *et seq.*
32. Wrote an article entitled, *Pay your arbitration fees on time or lose the right to arbitrate*, that was published in the Daily Journal on October 25, 2019.

RECOGNITIONS

33. I was selected to Rising Stars in 2018, 2019, 2020 and 2021 by Super Lawyers, for consumer law.

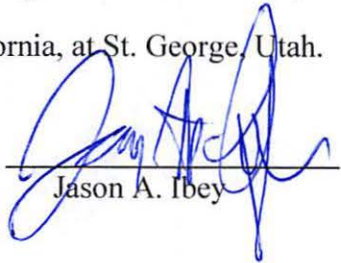
MEMBERSHIPS

34. I am a member of the following organizations:
- a. The National Association of Consumer Advocates;
  - b. Consumer Attorneys of California; and
  - c. The American Bar Association.

EXHIBITS

35. Attached hereto as **Exhibit 1** is a true and correct copy of excerpts the United State Consumer Law's Attorney Fee Survey Report for 2017-2018, with the table of contents omitted.

I declare under penalty of perjury that the foregoing is true and correct, executed on February 8, 2021, pursuant to the laws of the State of California, at St. George, Utah.

  
Jason A. Ibey



# EXHIBIT 1

# **UNITED STATES CONSUMER LAW**

## **ATTORNEY FEE SURVEY REPORT**

**2017-2018**



**Ronald L. Burdge, Esq.**

**United States Consumer Law  
Attorney Fee Survey Report 2017-2018**

Survey Conducted By  
and  
Survey Report Authored By

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## California

	This Survey
Average Number of Attorneys in Firm	2.73
Median Years in Practice	158.0
Average Concentration of Practice in Consumer Law	72.1
Primary Practice Area	Consumer Law
Secondary Practice Area	Bankruptcy
Average Number of Paralegals in Firm	1.21
Last Time Attorney Rate Changed (Average in Months)	16.92
Average Billable Paralegal Rate	143
Average Attorney Rate for All Attorneys	450
25% Median Attorney Rate for All Attorneys	350
Median Attorney Rate for All Attorneys	430
75% Median Attorney Rate for All Attorneys	513
95% Median Attorney Rate for All Attorneys	663
Median Metropolitan Attorney Rate	440
Median Non-Metropolitan Attorney Rate	450
Median Attorney Rate in Northern Area of State	450
Median Attorney Rate in Southern Area of State	425
Median Attorney Rate in Eastern Area of State	413
Median Attorney Rate in Western Area of State	475
Median Attorney Rate in Central Area of State	425

### Median Rates for Practice Areas

	25% Median	Median	95% Median
Attorneys Handling Bankruptcy Cases	338	413	631
Attorneys Handling Class Action Cases	350	488	700
Attorneys Handling Credit Rights Cases	325	412	663
Attorneys Handling Mortgage Cases	313	412	624
Attorneys Handling Vehicle Cases	338	450	663
Attorneys Handling TCPA Cases	350	425	725
Attorneys Handling Other Cases	263	350	600

### Experience Variable Table

Years Practicing Consumer Law	Average Attorney Hourly Rate
<1	225
1-3	286
3-5	291
6-10	307
11-15	406
16-20	422
21-25	507
26-30	514
31-35	505
36-40	370
41-44	400
45+	531

### Specialty Variable Table

Percentage of Consumer Law Practice	Average Attorney Hourly Rate
100	472
90	476
80	471
70	335
60	389
50	392

### Small Firm Size Variable Table

Years in Practice	Average Attorney Hourly Rate
<1	300
1-3	309
3-5	283
6-10	403
11-15	417
16-20	491
21-25	517
26-30	533
31-35	460
36-40	529
41-44	300
45+	531



Large Firm Size Variable Table

Years in Practice	Average Attorney Hourly Rate
<1	200
1-3	250
3-5	310
6-10	416
11-15	430
16-20	572
21-25	483
26-30	425
31-35	688
36-40	397
41-44	600
45+	691