

SAN LUIS OBISPO SUPERIOR COURT
BY: A. Mejia
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Attorneys for Plaintiff,
Rosa Moreno-Peralta

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN LUIS OBISPO – CIVIL COURT OPERATIONS –
UNLIMITED**

**ROSA MORENO-PERALTA,
INDIVIDUALLY AND ON
BEHALF OF ALL OTHERS
SIMILARLY SITUATED,**

Plaintiff,

v.

**TRS RECOVERY SERVICES,
INC.; AND, DOES 1-20,
INCLUSIVE,**

Defendant.

Case No.: 15CV-0481

**DECLARATION OF JOSHUA B.
SWIGART IN SUPPORT OF
PLAINTIFF ROSA MORENO-
PERALTA’S MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

DATE: October 12, 2017

TIME: 9:00 a.m.

DPT: 2

HON. BARRY T. LABARBERA

KAZEROUNI LAW GROUP, APC
1303 EAST GRAND AVENUE, SUITE 101
ARROYO GRANDE, CA 93420

DECLARATION OF JOSHUA B. SWIGART, ESQ.

I, JOSHUA B. SWIGART, declare:

1. I am one of the attorneys for the Plaintiff ROSA MORENO-PERALTA (“Moreno-Peralta”) in this action.
2. I submit this declaration in support of the Motion for Preliminary Approval of the Class Action Settlement in the action against Defendant TRS RECOVERY SERVICES, INC. (“TRS”).
3. I am licensed to practice law before all California Federal Courts; and, all California State Courts.
4. If called as a witness, I would competently testify to the matters herein from personal knowledge.
5. The declaration is based upon my personal knowledge, except where expressly noted otherwise.
6. I incorporate the explanation of this class action as discussed in the Declaration of Abbas Kazerounian herein.

CLASS COUNSEL’S EXPERIENCE

7. Kazerouni Law Group, APC; and, Hyde & Swigart seek to be confirmed as class counsel for purposes of this action and proceeding with the settlement.
8. My co-counsel, Abbas Kazerounian; and, Matthew M. Loker, have filed separate Declarations in support of their requests to be designated class counsel.
9. I am over the age of 18 and am fully competent to make this declaration.
10. I am an attorney admitted to practice in the State of California and am a partner at Hyde & Swigart (“H&S”), which has been retained to represent the plaintiff in the above-captioned matter. I am over the age of 18 and am fully competent to make this declaration. I was admitted to the State Bar of California in 2007 and have been a member in good standing ever since that time. I have litigated cases in both state and federal courts in California, Washington, Ohio, Nevada,

1 Colorado, Tennessee and Texas. I am also admitted in every federal district in
2 California and have handled federal litigation in the federal districts of California;
3 including being admitted to the 9th Circuit Court of Appeals.

4 11. I have been appointed class counsel in several class actions brought pursuant to
5 consumer protection statutes, including California Penal Code § 630, et seq.; and,
6 the Telephone Consumer Protection Act of 1991, 47 U.S.C. § 227 (TCPA). My
7 practice involves significant class action litigation and I am or have been counsel
8 in significant national class actions including, but not limited to, class actions
9 against Bank of America, Chase and Wells Fargo to mention a few.

10 12. I am the managing partner of Hyde & Swigart. I have been appointed lead counsel
11 in numerous federal class actions, resulting in millions of dollars of settlements
12 for my clients. I am currently lead or co-counsel for over 75 class action lawsuits
13 currently pending in federal courts across the country, and as a result have
14 paramount knowledge in this area of law.

15 13. As one of the main plaintiff litigators of consumer rights cases in the Central and
16 Southern District of California, I have been requested to and have made regular
17 presentations to community and legal organizations regarding debt collection
18 laws and consumer rights. These organizations include, but are not limited to, the
19 following:

- 20 a. California Western School of Law, 2005;
- 21 b. Canyon Springs High School, Moreno Valley, CA 2003-2008; Careers in
22 the legal field.
- 23 c. Guest speaker on national talk radio.
- 24 d. Regular host on 103.7 Free FM on the radio show Know The Law.
25 Appearances number more than ten shows;
- 26 e. Department of Defense; JAG Office, Naval Station San Diego (2006);

- 1 f. Department of Defense; JAG Office, Naval Station San Diego, (2008);
- 2 g. American Bar Association – Legal Assistance for Military Personnel,
- 3 Naval Station –North Island (2008);
- 4 h. National Consumer Law Center - E-Discovery issues - San Diego (2009);
- 5 i. National Association of Retail Collection Attorneys - Prosecuting
- 6 consumer cases -San Francisco (2009);
- 7 j. American Bar Association (2010);
- 8 k. Military Law Committee (MCRD) - Representing military service
- 9 members in consumer related issues - San Diego (2010).

10 14.I have also lectured at the American Bar Association’s National Convention as a
11 leading expert in TCPA litigation (2013 convention in San Francisco) and also
12 lectured on RPA at the American Bar Association’s National Webinar in
13 September 2013.

14 15.I am also a member of the following organizations:

- 15 a. National Association of Consumer Advocates;
- 16 b. Federal Bar Association;
- 17 c. The American Association for Justice;
- 18 d. Riverside County Bar Association;
- 19 e. San Bernardino County Bar Association; and,
- 20 f. Enright Inns of Court.

21 16.In addition, I have received extensive training in the area of consumer law. Such
22 trainings include:

- 23 a. National Consumer Law Conference; Oakland, CA – 2003;
- 24 b. National Consumer Law Conference; Kansas City, MO – 2004;
- 25 c. National Consumer Law Conference; Boston, MA – 2004;
- 26 d. Three-day FDCPA Mini-Conference; Minneapolis, MN – 2005;

- 1 e. Four-day National Association of Consumer Advocates Conference;
2 Minneapolis, MN – 2005;
- 3 f. Four-day National Consumer Law Center Conference; Nashville, TN –
4 2008;
- 5 g. Three-day National Consumer Law Center Conference; Portland, OR -
6 2008;
- 7 h. Speaker at a Three-day National Consumer Law Center Conference; San
8 Diego, CA - 2009.
- 9 i. Speaker ABA/JAG presentation to military service members and counsel;
10 MCRD, San Diego CA – 2010;
- 11 j. Speaker ABA teleconference; San Diego, CA – 2010.
- 12 k. Three-day National Consumer Law Center Conference; Seattle, WA -
13 2011;
- 14 l. Two-day FD CPA Mini-Conference; New Orleans; LA - 2012.
- 15 m. Three-day National Consumer Law Center Conference; Seattle, WA -
16 2012;
- 17 n. Speaker Strafford conference on class action developments – 2012; and,
- 18 o. Three-day National Association of Consumer Advocates Conference;
19 Baltimore, MD – 2013.

20 **HYDE & SWIGART SPECIALIZES IN CONSUMER RIGHTS CLASS ACTIONS**

- 21 17. I have extensive experience prosecuting class actions related to consumer issues.
22 My firm, Hyde & Swigart (“H&S”), in which I am a principal, has litigated over
23 1,000 individual based consumer cases and have litigated over 300 consumer
24 class actions.
- 25 18. Some of the cases more significant class actions that I have been involved in,
26 include but are not limited to:

- 1 a. *Franklin v. Wells Fargo Bank, N.A.*, 14-cv-2349 MMA (BGS) (S.D. Cal.)
2 (TCPA Class Action Settlement preliminarily approved on February 9,
3 2015 in the amount of \$13,859,103.80);
- 4 b. *Knell v. FIA Card Services, N.A.*, 12-cv-426 AJB (WVG) (S.D. Cal.)
5 (California class action settlement under Penal Code 632 et seq., for claims
6 of invasion of privacy. Settlement resulted in a common fund in the
7 amount of \$2,750,000; preliminarily approved on January 23, 2014;
- 8 c. *Zaw v. Nelnet, Inc.*, C 13-5788 RS (N.D. Cal.) (California class action
9 settlement under Penal Code 632 et seq., for claims of invasion of privacy.
10 Settlement resulted in a common fund in the amount of \$1,188,110.00;
11 finally approved on November 14, 2014;
- 12 d. *Lemieux v. EZ Lube, Inc.*, 12-cv-1791 BAS (JLB) (S.D. Cal.) (Class
13 settlement approved and Kaerouni Law Group, APC appointed as class
14 counsel);
- 15 e. *Sherman v. Kaiser Foundation Health Plan, Inc.*, 13-cv-981 JAH (JMA)
16 (S.D. Cal.) (TCPA Class settlement in the amount of \$5,250,000.00
17 preliminarily approved on December 4, 2014);
- 18 f. *Newman v. Americredit Financial Services, Inc.*, 11-cv-3041 DMS (BLM)
19 (S.D. Cal.) (TCPA Class settlement in the amount of \$8,500,000.00
20 preliminarily approved on November 26, 2014);
- 21 g. *Bellows v. NCO Financial Systems, Inc.*, 07-CV-01413 W (AJB) (S.D.
22 Cal)(One of the first class action settlements under the TCPA in the nation;
23 Hyde & Swigart served as co-lead counsel; final approval granted in 2009);
- 24 h. *Adams v. AllianceOne, Inc.*, 08-CV-0248 JAH (S.D. Cal) (Nationwide
25 TCPA class settlement providing class relief of \$40 per claiming class
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member resulting in over \$2,500,000 paid to claiming class members; final approval granted in 2013);

i. *Lemieux v. Global Credit & Collection Corp.*, 08-CV-1012 IEG (POR) (S.D. Cal.) (Co-lead counsel on a national TCPA class settlement providing class recovery in the amount of \$70 for each claiming class member; final approval granted in 2011);

j. *Gutierrez, et al. v. Barclays Group, et al.*, 10-CV-1012 DMS (BGS) (Common fund created in the amount of \$8,262,500 based on the receipt of unsolicited text messages; final approval granted 2012);

k. *Knutson, et al. v. Schwan's Home Service, Inc.*, 12-CV-00964-GPC-DHB (S.D. Cal.)(Heavily contested TCPA class action; Currently serving as co-lead counsel and obtaining class certification (Sept. 2013);

l. *Malta, et al. v. Wells Fargo Home Mortgage, et al.*, 10-CV-1290 IEG (BLM) (Served as co-lead counsel for a settlement class of borrowers in connection with residential or automotive loans and violations of the TCPA in attempts to collect on those accounts; obtained a common settlement fund in the amount of \$17,100,000; final approval granted in 2013);

m. *Conner v. JPMorgan Chase Bank, et al.*, 10-CV-1284 DMS (BGS) (S.D. Cal.) (Currently serving as co-lead counsel for the settlement class of borrowers in connection with residential loans and TCPA violations stemming from the collection of those accounts);

n. *In Re: Midland Credit Management, Inc., Telephone Consumer Protection Act Litigation*, 11-md-2286 MMA (MDD) (S.D. Cal.) (Counsel for a Plaintiff in the lead action, prior to the action being recategorized through

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- the multi-district litigation process; still actively involved in the MDL litigation and settlement process);
- o. *In Re: Portfolio Recovery Associates, LLC Telephone Consumer Protection Act Litigation*, 11-md-02295-JAH (BGS) (Counsel for a Plaintiff in the lead action, prior to the action being recategorized through the multi-district litigation process; still actively involved in the MDL litigation and settlement process);
 - p. *Arthur v. SLM Corporation*, 10-CV-00198 JLR (W.D. Wash.) (Nationwide settlement achieving the then-largest monetary settlement in the history of the TCPA: \$24.15; final approval granted in 2012)
 - q. *Lo v. Oxnard European Motors, LLC, et al.*, 11-CV-1009-JLS-MDD (S.D. Cal.) (Achieving one of the highest class member payouts in a TCPA action of \$1,331.25; final approval granted in 2012);
 - r. *Sarabri v. Weltman, Weinberg & Reis Co., L.P.A.*, 10-01777-AJB (NLS) (S.D. Cal.) (Approved as co-lead counsel and worked to obtain a national TCPA class settlement where claiming class members each received payment in the amount of \$70.00; final approval granted in 2013);
 - s. *Barani v. Wells Fargo Bank, N.A.*, 12-CV-02999-GPC (KSC) (S.D. Cal.) (Class action settlement under the TCPA for the sending of unauthorized text messages to non-account holders in connection to wire transfers; preliminarily approved);
 - t. *Mills v. HSBC Bank Nevada, N.A.*, Case No. 12-CV-04010-SI (N.D. Cal.);
 - u. *Martin v. Wells Fargo Bank, N.A.*, 12-CV-06030-SI (N.D. Cal.);
 - v. *Hoffman v. Bank of America*, 12-cv-539 JAH (DHB) (S.D. Cal.) (California class action settlement under Penal Code 632 et seq., for claims

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of invasion of privacy. Settlement resulted in a common fund in the amount of \$2,600,000; preliminarily approved on February 13, 2014;


w. *Couser v. Comenity Bank*, 12-cv-484 MMA (BGS) (S.D. Cal.) (California class action settlement under Penal Code 632 et seq., for claims of invasion of privacy. Settlement resulted in a common fund in the amount of \$8,400,000; preliminarily approved on October 2, 2014;

x. *Burkhammer v. Allied Interstate, LLC*, 15cv-567 (Sup. Ct. San Luis Obispo) (RFDCPA class action preliminarily approved on May 17, 2017); and,

y. *Caldera v. Am. Med. Collection Agency*, 2017 U.S. Dist. LEXIS 99239 (C.D. Cal. June 27, 2017) (Order certifying nationwide TCPA class action).

19. Therefore, my experience in litigating class actions and my years in practice are sufficient to justify my firm's appointment as class counsel in this case.

I declare under penalty of perjury under the laws of the United States and of the State of California that the foregoing is true and correct, and that this declaration was executed on August 14, 2017.

BY: 

JOSHUA B. SWIGART, ESQ.