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12 Attorneys for Plaintiff,  
13 Michael Reid

14 **UNITED STATES DISTRICT COURT**  
15 **FOR THE DISTRICT OF ARIZONA**

16 Michael Reid, *on behalf of himself and all*  
17 *others similarly situated,*

18 Plaintiff,

19 vs.

21 I.C. System, Inc.,

22 Defendant.

Case No.: 2:12-cv-02661-ROS

**DECLARATION OF SERGEI  
LEMBERG IN SUPPORT OF IN  
SUPPORT OF MOTION FOR  
ATTORNEYS' FEES AND EXPENSES**

**[HON. ROSLYN O SILVER]**

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1 I, Sergei Lemberg, under penalty of perjury under the laws of the United States  
2 of America, affirm and state as follows:

3 1. I am the principal of Lemberg Law, LLC. I am a consumer rights  
4 attorney experienced in prosecuting actions under various federal and state consumer  
5 protection statutes. I have personal knowledge as to all matters set forth in this  
6 Declaration and could testify to the same if called to do so.

7 2. I graduated from Brandeis University in 1997 and from the University Of  
8 Pennsylvania School Of Law in 2001. I am a member in good standing of the bars of  
9 Massachusetts, Connecticut, Georgia, New York and Pennsylvania. I am also  
10 admitted to practice before the First, Second, Third, Fourth, Fifth, Seventh, Ninth and  
11 Eleventh Circuit Courts of Appeal. I am admitted to practice before the following  
12 Federal courts: the District of Massachusetts, Eastern and Western Districts of  
13 Arkansas; the District of Connecticut; the Northern and Middle Districts of Georgia;  
14 the Northern, Central and Southern Districts of Illinois; the District of Maryland; the  
15 Eastern and Western Districts of Michigan; the Eastern District of Missouri; the  
16 District of Nebraska; the Northern, Southern, Eastern and Western Districts of New  
17 York; the Northern District of Ohio; the Northern, Eastern and Western Districts of  
18 Oklahoma; the Western District of Texas and the Eastern, Middle and Western  
19 Districts of Pennsylvania.

20 3. My firm's decisions on consumer right's matters include but are not  
21 limited to: *Pollard v. Law Office of Mandy L. Spaulding*, 766 F.3d 98 (1st Cir. 2014);  
22 *Scott v. Westlake Servs. LLC*, 2014 WL 250251 (7th Cir. Jan. 23, 2014); *Evon v. Law*  
23 *Offices of Sidney Mickell*, 688 F.3d 1015 (9th Cir. 2012); *LaVigne v. First Cmty.*  
24 *Bancshares, Inc.*, No. 1:15-CV-00934-WJ-LF, 2016 WL 6305992 (D.N.M. Oct. 19,  
25 2016); *Butto v. Collecto, Inc*, 290 F.R.D. 372, 395-396 (E.D.N.Y. 2013); *Cerrato v.*  
26 *Solomon & Solomon*, 909 F.Supp.2d 139 (D. Conn. 2012); *Zimmerman v. Portfolio*  
27 *Recovery Assoc., LLC*, 276 F.R.D. 174 (S.D.N.Y. 2011); *Davis v. Diversified*  
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1 *Consultants, Inc.*, 2014 WL 2944864 (D. Mass. June 27, 2014); *Hudak v. The Berkley*  
2 *Grp., Inc.*, 2014 WL 354666 (D. Conn. Jan. 23, 2014); *Zimmerman v. Portfolio*  
3 *Recovery Assocs., LLC*, 2013 WL 6508813 (S.D.N.Y. Dec. 12, 2013); *Seekamp v. It's*  
4 *Huge, Inc.*, 2012 WL 860364 (N.D.N.Y. Mar. 13, 2012).

5 4. I have been certified as class counsel, in both contested proceedings and  
6 in settlement, in the following matters: *In Re: Convergent Telephone Consumer*  
7 *Protection Act Litigation*, No. 268, 3:13-md-02478 (D. Conn. Nov. 10, 2016) (final  
8 approval of class settlement consisting of \$5.5 million common fund and injunctive  
9 relief in a TCPA multi-district litigation); *Duchene vs. Westlake Services, LLC*, Doc.  
10 No. 140, 13-cv-01577 (W.D. Pa. July 14, 2016) (TCPA class action); *Oberther v.*  
11 *Midland Credit Management*, Doc. No. 90, 14-cv-30014 (D. Mass. July 13, 2016)  
12 (FDCPA class action); *Zimmerman*, 276 F.R.D. 174 (FDCPA class action); *Seekamp*,  
13 2012 WL 860364 (automobile fraud class action); *Evon*, 688 F.3d 1015 (FDCPA class  
14 action); *Butto*, 290 F.R.D. 372 (FDCPA class action); *Douma v. Law Offices of*  
15 *Mitchell N. Kay P.C.*, 09-cv-9957 (S.D.N.Y.) (FDCPA class action); *Walters v.*  
16 *Collection Tech., Inc.*, 10-cv-02514 (S.D.N.Y.) (FDCPA class action); *see also*  
17 *Brown, et al. v. Rita's Water Ice Franchise Company LLC*, 15-cv-3509 (E.D. Pa.)  
18 (TCPA class action settlement); *Munday v. Navy Federal Credit Union*, 15-cv-1629  
19 (C.D. Cal.) (TCPA class action settlement). In the bankruptcy of Connecticut-based  
20 Chemtura Corporation, my firm successfully represented a class of almost 1,000  
21 former Chemtura employees, preserving their medical benefits under ERISA, worth  
22 over \$25 million, as part of the company's reorganization plan. *In re Chemtura*,  
23 *Bankr.*, S.D.N.Y. 09-11233.

24 5. I have been interviewed and asked to contribute on multiple occasions by  
25 the media regarding various matters that I worked on, such as the Boston Herald,  
26 NorthJersey.com, Newsweek, The Leader Herald, PatriotLedger.com, Law360, Texas  
27 Lawyer, ABC News, Chanel 7 in Boston, McClatchy, AOL Autos, Connecticut Law  
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1 Tribune, Philly.com, the Los Angeles Times, Consumer Reports.org, Syracuse.com,  
2 Daily News, Harford Advocate.com and the Boston Herald.

3 6. I have co-authored the definitive compilation of form complaints in  
4 Connecticut, Connecticut Civil Complaints for Business Litigation, contributing form  
5 complaints for the Lemon Law and Auto Fraud sections.

6 7. I am also the former Chair of the Consumer Law Section of the  
7 Connecticut Bar Association. I held that position from 2014 to 2015. I have been a  
8 guest speaker at the Professional Association for Customer Engagement conference in  
9 2014 and the National Debt Collection Forum in 2016. In both instances I spoke  
10 about best practices that should be or are adopted in the debt collection profession  
11 from the perspective of a consumer advocate.

12 **OVERVIEW OF EFFORTS ON BEHALF OF PLAINTIFF AND THE CLASS**

13 8. My firm has litigated this case on behalf of Mr. Reid and the class since  
14 November 2012. Mr. Reid contacted my office after he had received automated calls,  
15 which he was unable to stop, from Defendant I.C. Systems, Inc. concerning a debt he  
16 did not owe.

17 9. Over the past five years we have vigorously litigated this case first as  
18 sole counsel in this matter and then with our co-counsel our co-counsel Kazerouni  
19 Law Group, APC, and Hyde & Swigart.

20 10. My firms billing sheets are attached hereto as Exhibit A. To provide the  
21 Court with an overview of the work done by Lemberg Law in this case, I divide my  
22 firm's work into specific phases or tasks that track the progress of the case. Thus, my  
23 firm:

- 24 (1) Investigated the facts and law relating to Mr. Reid's claims.  
25 (2) Drafted the Class Complaint asserting claims on behalf of Mr.  
26 Reid;

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- (3) Met and conferred with Defendants’ counsel at the start of the case pursuant to Rule 26(f), and assisted in preparing a Rule 26(f) Report to the Court;
- (4) Engaged in our own exhaustive investigation into Defendant’s business practices;
- (5) Negotiated a protective order relating to the use of the confidential documents and information produced by Defendant;
- (6) Engaged in extensive written discovery into Defendant’s business practices;
- (7) Took four depositions of Defendant’s employees including a post-settlement confirmatory deposition;
- (8) Engaged in extensive discovery motion practice;
- (9) Participated in myriad meet and confers with Defendant regarding discovery issues;
- (10) Participated in the mediation sessions;
- (11) Reviewed and approved a comprehensive settlement agreement;
- (12) Reviewed and approved the motions for preliminary approval of the Settlement;
- (13) Answer inquiries from settlement class members; and
- (14) Communicated with Mr. Reid throughout the litigation.

**CLASS COUNSEL’S LODESTAR**

11. My firm’s lodestar in this matter is \$162,225.00 representing approximately 370 hours expended by five firm attorneys and paralegal staff. The following attorneys contributed time towards this case and seek compensation at the following rates.

<b><u>Professional</u></b>	<b><u>Rate</u></b>	<b><u>Hours</u></b>	<b><u>Lodestar</u></b>
Sergei Lemberg	\$550	119.75	\$65,862.5

1	Stephen Taylor	\$450	175	\$78,750
2	Trinette Kent	\$400	4.2	\$1,680
3	Jennifer Defrancisco	\$300	16.3	\$4,890
4	Alex Hornat	\$300	24.1	\$7,230
5	Paralegal	\$125	30.5	\$3,812.5
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7		<b>Total:</b>	<b>369.85</b>	<b>\$162,225.00</b>
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9 12. My billing rate in this matter is \$550 per hour which is a similar rate to  
10 what I have been awarded in other class action matters and a reasonable rate given my  
11 experience and expertise in consumer rights class action litigation. *See, e.g., Munday*  
12 *v. Navy Federal Credit Union*, Doc. No. 60 pg. 16, 15-cv-1629 (C.D. Cal.) (approving  
13 rate of \$500 per hour in TCPA class action settlement); *Oberther v. Midland Credit*  
14 *Management*, 14-cv-30014 (D. Mass.) (Entry #83 at 6 requesting fees of \$500 per  
15 hour; Entry #90 at ¶ 7(b) approving fee request); *Duchene vs. Westlake Services, LLC*,  
16 13-cv-01577 (W.D. Pa.) (Entry # 113-1 at ¶ 13 requesting fees of \$500 per hour;  
17 Entry #140 at ¶ 18 approving fee request; Entry #142 at Tr.47:16-19 (rates charged by  
18 class counsel (which are the same rates charged here) were “not by any measure off  
19 the charts.”).

20 13. Mr. Taylor is a Senior Attorney at Lemberg Law, LLC. He is a 2007  
21 graduate of Tulane University School of Law and a 2003 graduate of Boston College.  
22 I am a former Judicial Clerk and worked for the Connecticut firm the Law Office of  
23 Norman Pattis before joining Lemberg Law in 2009. Mr. Taylor has extensive  
24 experience in consumer rights litigation including matters brought under the  
25 Telephone Consumer Protection Act (“TCPA”), the Fair Debt Collection Practices  
26 Act (“FDCPA”) the Magnuson Moss Federal Act, the Truth in Lending Act, and a  
27 variety of state consumer protection statutes. He has been approved as class counsel  
28 in multiple class action matters. *See, e.g., Munday v. Navy Federal Credit Union*, 15-

1 cv-1629 (C.D. Cal.) (TCPA class action settlement); *Vinas v. Credit Bureau of Napa*  
2 *County Inc.*, Dkt. No. 101, 14-cv-3270 (D. Md. Oct. 5, 2016) (order granting  
3 preliminary approval of FDCPA class action settlement of \$237,500 for class of  
4 67,758); *Duchene vs. Westlake Services, LLC*, Doc. No. 140, 13-cv-01577 (W.D. Pa.  
5 July 14, 2016) (order granting final approval of TCPA class action with \$10MM  
6 common fund); *Oberther v. Midland Credit Management*, Doc. No. 90, 14-cv-30014  
7 (D. Mass. July 13, 2016) (order granting final approval of FDCPA class action  
8 settlement of \$100,000 to approximately 8,000 consumers); *Brown, et al. v. Rita's*  
9 *Water Ice Franchise Company LLC*, Doc. No. 44, 15-cv-3509 (E.D. Pa. March 24,  
10 2016) (preliminary approval as class counsel in TCPA class action settlement with  
11 \$3MM common fund); *Evon v. Law Offices of Sidney Mickell*, 2012 WL 3104620  
12 (9th Cir. August 1, 2012) (FDCPA class action); *Butto v. Collecto, Inc.*, 290 F.R.D.  
13 372 (E.D.N.Y. 2013) (FDCPA class action); *Seekamp v. It's Huge, Inc.*, 2012 WL  
14 860364 (N.D.N.Y. Mar. 13, 2012 (auto fraud class action); *Zimmerman v. Portfolio*  
15 *Recovery Assoc., LLC*, 276 F.R.D. 174 (S.D.N.Y. 2011) (FDCPA class action).

16 14. Mr. Taylor's rate of \$450 has been approved in other class action matters  
17 and a reasonable rate given his experience and expertise in consumer rights class  
18 action litigation. *See, e.g., Munday v. Navy Federal Credit Union*, Doc. No. 60 pg. 16,  
19 15-cv-1629 (C.D. Cal.) (approving rate of \$450 per hour in TCPA class action  
20 settlement); *See, e.g. Oberther v. Midland Credit Management*, 14-cv-30014 (D.  
21 Mass.) (Entry #83 at 6 requesting fees of \$450 per hour; Entry #90 at ¶ 7(b) approving  
22 fee request); *Duchene vs. Westlake Services, LLC*, 13-cv-01577 (W.D. Pa.) (Entry #  
23 113-1 at ¶ 13 requesting fees of \$450 per hour; Entry #140 at ¶ 18 approving fee  
24 request; Entry #142 at Tr.47:16-19 (rates charged by class counsel were "not by any  
25 measure off the charts.")).  
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1           15. Further, we are seeking compensation for three firm attorneys in addition  
2 to myself and Mr. Taylor. They are Trinette Kent (\$400 per hour), Alex Hornat (\$300  
3 per hour) and Jennifer Defrancisco (\$300 per hour).

4           16. Ms. Kent is an associate with the firm. She has fourteen (14) years of  
5 experience having graduated from Loyola Law School in 2002. Ms. Kent is licensed  
6 to practice in the states of California and Arizona and devotes the majority of her  
7 practice to representing consumers in consumer rights cases under the FDCPA and  
8 TCPA.

9           17. Mr. Hornat is a former associate with the firm. Mr. Hornat received his  
10 J.D. from the University of Connecticut School of Law in 2013 and is admitted to  
11 practice in Connecticut, New York and Massachusetts. Mr. Hornat is also admitted to  
12 practice before the District of Connecticut, Southern District of New York, and  
13 District of Massachusetts.

14           18. Ms. Defrancisco is an associate with the firm. She received her J.D.  
15 from Brooklyn Law School in 2010 and is admitted to practice in Connecticut and  
16 New York. Ms. Defrancisco is also admitted to practice before the Northern, Southern  
17 and Eastern Districts of Texas, the District of Connecticut, the District of Nebraska,  
18 the District of North Dakota, the Northern, Southern and Western Districts of New  
19 York, and the District of Colorado. Ms. Defrancisco's practice focuses on FDCPA  
20 and TCPA litigation.

21           19. The billing rates submitted here are reasonable. The billing rates charged  
22 (between \$500 and \$300 for attorneys and \$125 for paralegal staff) are within the  
23 range of rates charged by attorneys with similar qualifications in class action  
24 litigation. *See e.g. Chambers v. Whirlpool Corp.*, 2016 WL 5922456, at \*14 (C.D.  
25 Cal. Oct. 11, 2016) ("In Los Angeles, hourly rates between \$485 and \$750 are  
26 common."); *Counts v. Meriwether*, 2016 WL 1165888, \*3-4 (C.D. Cal. 2016) (hourly  
27 rates of \$701.25, \$552.50, and \$446.25 per hour "reasonable and consistent with the  
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1 prevailing rates in the Central District”; “consistent with the Court’s own knowledge  
2 and experience, \$165.75/hour is a reasonable billing rate for paralegals in Los  
3 Angeles”); *Rodriguez v. Cty. of L.A.*, 96 F. Supp. 3d 1012, 1023 (C.D. Cal. 2014)  
4 (approving rates from \$500 to \$975); *Barnes Grp. v. Does*, 2014 WL 580896, at \*1  
5 (D. Conn. Feb. 12, 2014) (finding reasonable hourly rates in Connecticut as between  
6 \$500 for partners and \$375 for associates). These or similar rates have also been  
7 approved in litigation in this district. *Haeger v. Goodyear Tire & Rubber Co.*, 2013  
8 WL 11311786, at \*2 (D. Ariz. June 26, 2013) (approving rates up to \$500 for counsel  
9 and paralegal staff at \$165); *Reed v. Purcell*, 2011 WL 5128142, at \*3 (D. Ariz. Oct.  
10 31, 2011) (approving rates between \$210 and \$450 for counsel and \$100 to \$127 for  
11 clerical staff).

### 12 EXPENSES

13 20. Lemberg Law has incurred substantial costs due to court costs, court  
14 reporter and deposition transcript costs, travel and mediation.

15 21. As reflected in the expense report attached hereto as Exhibit B, the total  
16 costs incurred to date are \$11,513.83.

17 22. All of these costs and expenses are reflected in the books and records of  
18 the firm, and are supported by invoices, receipts, expense vouchers, check records, or  
19 other documentation.

20 23. In my professional opinion, and based on my experience prosecuting the  
21 action and overseeing the conduct of the litigation, all of these expenses were  
22 reasonable and necessarily incurred in connection with the action.

23 I declare under penalty of perjury that the above is true and correct.  
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25 Dated: January 19, 2018

26 /s/ Sergei Lemberg  
27 Sergei Lemberg  
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