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13 **UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

14 ANDREW PARSONS, individually and on
15 behalf of all others similarly situated,

16 Plaintiff,

17 v.

18 KIMPTON HOTEL & RESTAURANT
19 GROUP, LLC

20 Defendant.

Case No. 3:16-cv-05387-VC

**DECLARATION OF MATT J.
MALONE IN SUPPORT OF MOTION
FOR FINAL APPROVAL AND FOR
ATTORNEYS' FEES, COSTS AND
EXPENSES**

21
22 I, Matt J. Malone, declare as follows:

23 1. I am a member in good standing of the State Bar of California and of this Court,
24 and I am currently a research attorney for the Superior Court of California, County of Contra
25 Costa. I was previously – and for the duration of this case – a non-equity partner of Ram,
26 Olson, Cereghino & Kopczynski and its successor, ROCK Law LLP, co-counsel for the
27 Plaintiff Class. I have personal knowledge of the facts in this declaration and if called upon to

1 testify as to these matters, I could and would competently do so.

2 2. I was admitted to the California Bar in 2002 after graduating from the
3 University of Southern California School of Law. Beginning in 2005, I practiced with
4 Berding & Weil, LLP, focusing on construction defect matters and product liability cases,
5 including class actions involving building products, as well as appellate litigation. I left as a
6 partner at the end of 2013. From January 4, 2014 through December 31, 2015, I was of
7 counsel to Ram, Olson, Cereghino, & Kopczynski, where I continued practicing in
8 construction defect, appellate, and class action matters. I became a partner on January 1,
9 2016 and held that position through the transition to ROCK Law LLP and until ROCK Law
10 LLP's dissolution in September, 2018, though I continued to assist in this matter into October,
11 2018, before starting my current employment. My class action experience includes litigation
12 at all levels from intake through appeal. I have been part of the lead counsel team in *Gold v*
13 *Lumber Liquidators*, N.D. Cal. (defective flooring); *King v National General Insurance Co.*,
14 N.D. Cal. (failure to offer statutory good driver discounts); and *Fox v Nissan North America*,
15 San Francisco County Superior Court (defective power valve screws). Recently, I
16 successfully briefed and argued *Durnford v. MusclePharm, Inc.*, 907 F.3d 595 (9th Cir. 2018),
17 which limited federal preemption of food labeling class actions, reversing a dismissal. A firm
18 resume, current as of September, 2018 (and therefore referencing the *MusclePharm* case as
19 pending) is attached as **Exhibit A**.

20 3. The settlement of this case is fair, reasonable and adequate, and provides
21 significant relief for the proposed class.

22 4. Our firm took this matter on an entirely contingent basis. We record our time
23 contemporaneously on a computerized Timeslips program. The number of hours for
24 timekeepers in our firm and the rates claimed, which are comparable to attorneys of similar
25 experience and expertise in the Bay Area, are set forth below. My experience and expertise
26 are described in paragraph 2 above. Other timekeepers included:

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- 1 • Michael F. Ram, whose experience is described in his own separate declaration.
2 Mr. Ram was a partner at Ram, Olson, Cereghino & Kopczynski, and the hours
3 he worked while at that firm are described in this declaration.
- 4 • Susan Brown, admitted to the California Bar in 2012 after practicing law in
5 Ontario, Canada for 3 years. Ms. Brown is a graduate of the University of
6 Toronto Law School and has focused on consumer class actions throughout her
7 career.

8 Both Mr. Ram and Ms. Brown left the ROCK-related firms and joined Robins Kaplan
9 in April, 2017. As such, I exclusively performed all work on this matter for the ROCK-related
10 firms, save: 1) 30.6 hours worked by Mr. Ram and 1.1 hours worked by Ms. Brown, both prior
11 to April, 2017; and 3) 36.1 hours total worked by our paralegal David Blum through the
12 duration of the case.

13 5. Our firm and our co-counsel have endeavored to avoid duplication and to staff
14 this case as efficiently as possible. As a result, I believe the firm's collective lodestar is
15 reasonable and reflects efficiency.

16 6. Rather than repeat discussions in other declarations describing the chronology of
17 events, I will set forth below the work done by our firm and the number of hours spent by each
18 timekeeper in our firm in connection with that work.

19 A. Drafting the Complaint, Opposing Motion to Dismiss, Settling the Pleadings,
20 and Case Management Conferences (September, 2016 through December,
21 2018): Our firm assisted in drafting and filing the initial complaint in
22 September, 2016; drafted prepared the amended complaint; and prepared
23 statements for case management conferences later in the litigation. Partner
24 Michael F. Ram spent 10.3 hours at \$800 per hour = \$8,240; I spent 11 hours
25 at \$650 per hour = \$7,150; Associate Susan Brown spent 1.1 hours at \$600 per
26 hour = \$660; paralegal David Blum spent 5.6 hours at \$185 = \$1,036. The
27 value of our firm's time was \$17,086.

1 B. Discovery (August, 2017 through March, 2018): The discovery efforts in this
2 case were considerable. Kimpton performed rolling document productions
3 over a period of several months in 2017 through early 2018. Depositions were
4 scheduled in this same period, so the document review tasks were divided to
5 increase efficiency. Along with Ms. Glassman of the Morgan & Morgan firm,
6 I led the document review and discovery preparatory activities. I initially
7 reviewed a set of documents to determine key words and other search terms.
8 Thereafter, Robins Kaplan engaged document review attorneys to assist in the
9 initial-level document review, a task I also still directly performed given the
10 brief period between receipt of documents and key percipient witness
11 depositions. I also performed second-level review of documents highlighted
12 by contract attorneys as potentially important, and generally conducted
13 supervisory quality control of the document reviewers' initial efforts. In
14 addition, I prepared deposition outlines, organized documents, and second-
15 chaired several percipient depositions. I was the primary point of contact for
16 our damages expert, interfacing regularly for purposes of evaluating the effect
17 of percipient witness testimony and documents and other information received
18 in discovery on claims of the putative class. The majority of Mr. Blum's
19 assistance on this case occurred in the discovery process as well, in scheduling
20 depositions, assisting in preparation of deposition outlines and review of
21 documents for depositions, and preparing subpoenas to third parties.

22 a. Document Review/Supervisory Review: In this category,
23 consisting solely of those document review efforts described
24 above, I spent 127.1 hours at \$650 per hour, for a total of \$82,615.

25 b. Depositions and Other Discovery: In this category, consisting of
26 the remaining discovery efforts described above, including
27 depositions and expert witness efforts, I spent 182.5 hours at \$650

1 per hour, for a total of \$118,625; David Blum spent 28 hours at
2 \$185 per hour for a total of \$5,180.

3 The total value of our firm's time in this category was \$206,420.

4 C. Motion Practice (December, 2016 – June, 2017; February, 2018): Our firm
5 reviewed Kimpton's motion to dismiss the amended complaint; did
6 considerable legal research; drafted, reviewed and revised the opposition to the
7 motion to dismiss the complaint; prepared for and attended the hearing on the
8 motion to dismiss; reviewed the Court's order on the motion to dismiss;
9 reviewed and analyzed Kimpton's motion for interlocutory review of the
10 motion to dismiss; and performed preparatory work for an anticipated motion
11 for summary judgment. Partner Michael F. Ram spent 20.3 hours at \$800 per
12 hour = \$16,240; I spent 34.6 hours at \$650 per hour = \$22,490. The total
13 value of our firm's time in this category was \$38,730.

14 D. Mediation and Preliminary Approval (February, 2018 through October, 2018):
15 This time includes preparation for and attendance at mediation on March 12,
16 2018, which resulted in a tentative settlement, including preparing a mediation
17 statement and analyzing defendant's mediation statement, and follow-up
18 concerning the settlement agreement and revisions thereto prior to execution
19 of a final agreement. Thereafter, the firm assisted in legal research and
20 preparation of the motion for preliminary approval and attending the hearing.
21 The firm also assisted in preparing a revised motion after further negotiations,
22 attending the second hearing, and further revising the motion following a
23 second rejection of preliminary approval. After the parties revised the
24 agreement, this Court granted preliminary approval on January 9, 2019. I
25 spent 52.1 hours at \$650 per hour = \$33,865 principally in connection with
26 this mediation and settlement activity; paralegal David Blum spent 2.5 hours
27 at \$185 per hour = \$462.50 during that time frame. The total value of our

1 firm's time in this category was \$34,327.50.

2 The grand total value of the firm's time into this matter is \$296,563.50.

3 7. The firm's total costs are \$14,055.61. These include \$11,433.73 in fees for
4 deposition transcripts; \$400 in filing fees related to the original complaint in 2016; \$1,057 in
5 service fees for third-party deposition subpoenas in January, 2018; \$242.83 in meals and travel
6 expenses related to several local depositions in 2017 and 2018 and related co-counsel
7 meetings; \$45 in messenger fees; \$29.05 in FedEx charges; and \$848 in in-house copying
8 expenses.

9 8. A summary of the work our firm did in the prosecution of this case, including
10 and in addition to that set forth above, included: developing case strategy; preparing the
11 complaint; successfully defending the motion to dismiss and amending the pleading on the
12 limited areas where required thereafter; evaluating the motion for leave to seek interlocutory
13 appeal; reviewing the entire set of rolling Kimpton document productions; analyzing and
14 responding to discovery and discovery objections; preparing for and deposing Kimpton
15 percipient witnesses; engaging with experts in preparation for class certification and trial;
16 responding to class member inquiries; monitoring new developments in class action that arose
17 during the case, most notably the grant of *en banc* review of the *In re Hyundai and Kia Fuel*
18 *Economy Litigation* case in the middle of preliminary approval motions, which altered this
19 Court's obligations to conduct multi-state inquiry of causes of action; and engaging in
20 settlement negotiations.

21 I declare under penalty of perjury that the foregoing is true and correct.

22 Executed on May 8, 2019, in Concord, California.

23
24 /s/ Matt J. Malone
25 Matt J. Malone
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