

1 John A. Yanchunis, Esq. (*Pro Hac Vice*)
2 JYanchunis@forthepeople.com
3 Marisa K. Glassman, Esq. (*Pro Hac Vice*)
4 MGlassman@forthepeople.com
5 MORGAN & MORGAN COMPLEX
6 LITIGATION GROUP
7 201 N. Franklin St., 7th Floor
8 Tampa, FL 33602
9 Telephone (813)223-5505
10 Fax (813)222-4793

11 *Attorneys for Plaintiff and Proposed Class*

12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**

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

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

17 Plaintiff,

18 v.

DECLARATION OF JOHN A. YANCHUNIS

19 KIMPTON HOTEL & RESTAURANT
20 GROUP, LLC

21 Defendant.

22 I, John A. Yanchunis, pursuant to 28 U.S.C. § 1746, declare as follows:

23 1. I have been licensed to practice law in the state of Florida since 1981.

24 2. I lead the Class Action Department of Morgan & Morgan. Morgan & Morgan is
25 among the largest, if not the largest, exclusively Plaintiff’s law firms in the United States,
26 employing over 400 lawyers and 2,000 support staff, who serve consumers in over 50 offices
27 in Alabama, Arkansas, Georgia, Florida, Mississippi, Kentucky, Tennessee, Massachusetts,
28 Pennsylvania and New York.

3. While Morgan & Morgan’s Complex Litigation Group draws its expertise from
fifteen attorneys supported by skilled paralegals, retired FBI agents who work in the

1 department as investigators, and state-of-the-art technology, the Group benefits from the vast
2 experience, commitment, and resources of the entire firm. In particular, one of the Group’s
3 investigator was the agent in charge of the FBI’s investigation of ENRON and who retired
4 from senior management with the Bureau—leads the investigative team of the Group. These
5 investigators, who have investigated cyber-crime during their respective careers in the FBI,
6 are unique assets available to the prosecution efforts of the firm and will play an important
7 role in the factual investigation of this case.
8

9 4. My practice—which began after completing a two-year clerkship with United
10 States District Judge Carl O. Bue, Jr., Southern District of Texas—has concentrated on
11 complex litigation and spans over 36 years, including consumer class actions for more than
12 two-thirds of that time.
13

14 5. I have represented consumers in numerous privacy rights and data-breach cases,
15 beginning with *In re DoubleClick Inc. Privacy Litigation*, No. 00-cv-0641-NRB (S.D.N.Y.), a
16 seminal and formative privacy class action that settled in 2002 and involved DoubleClick’s
17 use of cookies to track the private activities of internet users. I also served as co-lead counsel
18 in the successful prosecution and settlement of perhaps the two the largest class action cases
19 in the United States: *Fresco v. Automotive Directions, Inc.*, No. 03-61063-JEM (S.D. Fla.),
20 and *Fresco v. R.L. Polk*, No. 07-cv-60695-JEM (S.D. Fla.). These cases involved the
21 advocacy for and protection of the important privacy rights of a class comprising over 225
22 million individuals throughout the United States and its territories. My role as co-lead counsel
23 in these cases is particularly noteworthy because they targeted the world’s largest data and
24 information brokers, including Experian, R.L. Polk, Acxiom, and Reed Elsevier (which owns
25
26
27
28

DECLARATION OF JOHN A. YANCHUNIS

1 Lexis/Nexis), which were defended by the largest law firms in the country. These cases
2 successfully protected the privacy rights of consumers.

3 6. I also served as co-lead counsel in the successful resolution of the following
4 privacy, non-data-breach class actions: *Davis v. Bank of America*, No. 05-cv-80806 (S.D.
5 Fla.) (\$10 million common fund), *Kehoe v. Fidelity Federal Bank and Trust*, No. 03-cv-80593
6 (S.D. Fla.) (\$50 million common fund), and *Pino v. Warranty Acceptance Corporation*, No.
7 05-cv-61576 (S.D. Fla.).

8
9 7. I have achieved noteworthy results in the settlement of a series of data breach
10 cases. For example, I served as co-lead counsel in the MDL case *In re The Home Depot, Inc.*
11 *Customer Data Security Data Breach Litigation*, No. 1:14-md-02583-TWT (N.D. Ga.)
12 (consumer class cases) which was settled for \$ 19.5 million, and lead counsel or co lead
13 counsel in the following data-breach class cases: *Burrows v. Purchasing Power, LLC*, No.
14 1:12-cv-22800 (S.D. Fla.); *Elyzabeth Ramirez v. ChenMed, LLC*, No. 14-12319-CA-04 (Fla.
15 11th Cir. Ct.); *Carsten v. University of Miami*, No. 1:14-cv-20497-KMW (S.D. Fla.); *John*
16 *Doe v. Tampa General Hospital*, No. 14-CA-012657 (Fla. 13th Cir. Ct). The settlement of
17 these cases provided substantial monetary and injunctive relief to class members.
18
19

20 8. I am lead counsel in the largest data breach case ever filed involving an
21 estimated 2.9 billion users around the globe. *In re: Yahoo! Inc. Customer Data Security*
22 *Breach Litigation*, No. 16-MD-02752-LHK (N.D. Cal.). I was appointed and presently serve
23 on the presently serve on the Plaintiffs' Steering Committee in *In Re Equifax, Inc. Customer*
24 *Data Security Breach Litigation*, 1:17-md-2800 (N.D. Georgia).

25
26 9. I currently serve on the Executive Committee overseeing the consumer class,
27 the financial institution class, and the shareholder derivative litigation pending in *In re Target*
28

1 *Corporation Customer Data Security Breach Litigation*, MDL No. 2522 (D. Minn.). As a
2 member of the Overall Executive Committee, I also served on the Executive Committee of
3 the consumer class case and assisted in its prosecution and the negotiation of a class
4 settlement. The settlement in the Target consumer litigation, which received final court
5 approval in 2015, which was just upheld on appeal by the 8th Circuit Court of Appeals,
6 provides a \$10 million non-reversionary fund for distribution to consumers and important
7 equitable relief to protect consumers' privacy rights.
8

9 10. My hourly rate has increased over time based on my experience and my
10 accomplishments in my practice. The rate of \$950 per hour which I charge for my time is
11 commensurate with hourly rates charged by my contemporaries around the country, including
12 those rates charged by lawyers with my level of experience who practice in the area of class
13 litigation across the nation, and has been approved by judges in prior litigation. See *Bobbie*
14 *Pacheco Dyer and Patricia Stallworth v. Wells Fargo Bank, N.A.*, No. C13-2858 (N.D. Cal.);
15 *Daniel Finerman and Donna Devino v. Marriott Ownership Resorts, Inc. et al.*, No. 3:14-cv-
16 1154-J-32MCR (M.D. Fla.).
17
18

19 11. Prior to submitting the motion for attorneys' fees, costs and expenses, I
20 compared and confirmed our hourly rate with lawyers at other law firms whose practice is
21 focused on class litigation. Moreover, as I have been retained as an expert on attorneys' fees
22 in other class cases and as part of my legal education, I routinely survey hourly rates charged
23 by lawyers around the country in published surveys, and review continuously as part of my
24 continuing education opinions rendered by courts on attorneys' fee requests. Again, based
25 upon my research, our rates are within the range of lawyers with our level of experience.
26
27
28

1 After reaching agreement on benefits to Settlement Class Members, the parties separately
2 negotiated Plaintiff's counsel's claims for attorney fees, costs and expenses.

3 12. As the Court bifurcated the issues of liability and class certification, with liability
4 first, and coupled with the technical complexities inherent in a data breach case, significant
5 time was spent in factual discovery, including the review of some 100,000 pages of document
6 production, assisted by Plaintiff's expert. Aside from the filing of a class certification
7 motion, the deposition of experts and any *Daubert* challenges, the case was close to being
8 ready for trial at the time of settlement.
9

10 13. My firm's lodestar of over 1,248 hours as of May 7, 2019, amounts to
11 \$892,907.40. Additional time will be spent to prepare for and attend the fairness hearing,
12 defend any appeals taken from the final judgment approving settlement, and ensure that the
13 distribution of settlement proceeds to class members is done in a timely manner in accordance
14 with the terms of the settlement. I assert that the attorneys' fees sought in the motion for
15 attorneys' fee is reasonable and seeks fair and reasonable compensation for undertaking this
16 case on a contingency basis, and for obtaining the relief for Plaintiffs and the class. As set
17 forth in the Settlement Agreement, the attorneys' fees, costs and expenses sought in this
18 motion will not reduce the benefits payable to the class.
19
20

21 14. The chart below reflects the amount of time spent by me and members of my
22 firm in the prosecution of this case:
23

| Name | Title | Hourly | Time Spent | Total Billed |
|--------------------|--------------|---------------|-------------------|---------------------|
| John A. Yanchunis | Partner | \$950 | 347.32 | \$331,094.00 |
| Jean S. Martin | Attorney | \$864 | 5.3 | \$4,579.20 |
| Patrick A. Barthle | Attorney | \$450 | 2.7 | \$1,215.00 |
| Marisa Glassman | Attorney | \$636 | 863.2 | \$548,995.20 |
| Emily Lockwood | Paralegal | \$196 | 11.8 | \$2,312.80 |
| Lourdes Pajak | Paralegal | \$196 | 6.2 | \$1,215.20 |

DECLARATION OF JOHN A. YANCHUNIS

| | | | | |
|------------------|--------------|-------|----------------|---------------------|
| Jennifer Cabezas | Paralegal | \$196 | 1 | \$196.00 |
| David Reign | Investigator | \$300 | 11.0 | \$3,300.00 |
| Total | | | 1248.52 | \$892,907.40 |

15. A breakdown of my firm's costs and expenses are reflected below.

| Description | Subtotals | Totals Per Category |
|--|-------------|---------------------|
| Court Fees | | \$1,315.00 |
| Filing Fee | \$400.00 | |
| Pro Hac Vice Fees | \$915.00 | |
| Professional Services | | \$84,491.81 |
| Tampa Legal Copies | \$1,293.63 | |
| Investigative Services of Tampa, Process Server | \$645.00 | |
| Wagner & Wagner Investigations, Investigators | \$200.00 | |
| Focal Point Data Risk Advisors | \$4,250.00 | |
| Futurion Digital, Inc., Expert | \$10,350.00 | |
| JAMS, Inc., Mediator | \$5,450.00 | |
| BNA | \$264.31 | |
| PACER | \$200.30 | |
| Veritext, Court Reporter | \$36,476.07 | |
| Sylint Group, Inc., Expert | \$25,362.50 | |
| Copies & Printing | | \$1,090.75 |
| Color Printing / Copies | \$377.75 | |
| Black and White Printing / Copies | \$713.00 | |
| Shipping, Long Distance & Printing | | \$394.19 |
| FedEx | \$296.15 | |
| Long Distance | \$20.00 | |
| Postage | \$78.04 | |
| Travel Expenses | | \$22,991.97 |
| John Yanchunis attendance at Case Management Conference held December 20, 2016 | \$1,759.50 | |
| John Yanchunis attendance at hearing on Motion to Dismiss held March 30, 2017 | \$1,755.68 | |
| John Yanchunis attendance at Case Management Conference held April 18, 2017 | \$1,114.90 | |
| John Yanchunis attendance at Order to | \$2,230.40 | |

DECLARATION OF JOHN A. YANCHUNIS

| | | |
|----|--|---------------------|
| 1 | Show Cause hearing held November 21, 2017 | |
| 2 | John Yanchunis attendance at | |
| 3 | Depositions of deponents O'Grady, | \$4,200.86 |
| 4 | Breunsbach, Ezell, and Bezai held December 11 – 15, 2018 | |
| 5 | John Yanchunis attendance at | \$1,444.40 |
| 6 | Mediation held March 12, 2018 | |
| 7 | John Yanchunis attendance at | \$1,575.03 |
| 8 | preliminary approval hearing held July 12, 2018 | |
| 9 | John Yanchunis attendance at renewed | \$304.63 |
| 10 | preliminary approval hearing held September 6, 2018 | |
| 11 | Marisa Glassman attendance at Order to | \$1,865.61 |
| 12 | Show Cause hearing held November 21, 2017 | |
| 13 | Marisa Glassman attendance at | \$3,282.17 |
| 14 | Depositions of deponents O'Grady, | |
| 15 | Breunsbach, Ezell, and Bezai held December 11 – 15, 2017 | |
| 16 | Marisa Glassman attendance at | \$1,532.16 |
| 17 | Deposition of IHG held December 19, 2017 | |
| 18 | Marisa Glassman attendance at | \$1,926.63 |
| 19 | Mediation held March 12, 2018 | |
| 20 | | Total |
| 21 | | \$110,283.70 |

16. Additional costs and expenses will be incurred before our work is done in this case, as is true of the additional services which we will provide to the class.

17. From the commencement of this case through today, the individuals who filed this case and serve as class representatives have at all times been in control of this litigation. These individuals reviewed and approved of the amended complaint filed in this case, kept up with the ongoing developments of the case, were subject to the time consuming demands of discovery and also were involved in and approved the settlement terms reached in this case. The subject of service awards was not raised nor negotiated until after the parties had reached a settlement of the underlying claims, and the class representatives' consent and agreement to

DECLARATION OF JOHN A. YANCHUNIS

1 the terms of the settlement was not nor is it in any way conditioned on the class
2 representatives' receipt of a service award. I support and request the reasonable serve award
3 sought for each of the class representatives.
4

5 18. I declare under penalty of perjury under the laws of the United States of America
6 that the foregoing is true and correct. Executed May 8, 2019 in Tampa, Florida.

7
8 By: John A. Yanchunis
9 John A. Yanchunis
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28