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13 Attorneys for Plaintiffs

14
15 **UNITED STATES DISTRICT COURT**
16 **NORTHERN DISTRICT OF CALIFORNIA**

17 JOHN S. WHITE,
18 on behalf of himself and those
similarly situated,

19 Plaintiff,

20 v.

21 E-LOAN, INC., and
DOES 1 through 10, inclusive,

22 Defendants.
23 _____

) CASE NO. C O5-02080SI

) **DECLARATION OF DOUGLAS**
BOWDOIN IN SUPPORT OF
PLAINTIFF JOHN S. WHITE'S
MOTION FOR AWARD OF
ATTORNEYS' FEES AND COSTS

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DECLARATION OF DOUGLAS BOWDOIN

I, Douglas Bowdoin, hereby declare as follows:

INTRODUCTION

1. I am a sole practitioner practicing as Douglas Bowdoin, P.A.
2. I submit this declaration in support of Plaintiff John S. White's Motion for Award of Attorneys' Fees and Costs in this action. The original application for award of fees and costs has been filed separately.
3. The amount of attorneys' fees and costs sought in Plaintiff John S. White's Motion for Award of Attorneys' Fees and Costs is \$750,000.
4. The parties reached a complete settlement agreement regarding the benefits to be provided to the class in the settlement prior to negotiating attorneys' fees. Only after the parties reached agreement on the benefit to be provided to the class, the parties negotiated and agreed upon the award of \$750,000 for attorneys' fees and costs to be awarded to John S. White's counsel.
5. This Court preliminarily approved the Settlement Agreement on December 5, 2006. Pursuant to the Settlement Agreement, Class Counsel have made a written application for the award of attorneys' fees and costs.
6. I am a member in good standing of the Florida Bar, and have been so since 1980. I have been admitted to the federal courts for the Middle District and for the Northern District of Florida, and I have been admitted pro hac vice in this action.
7. My qualifications are attached hereto as Exhibit A.

LODESTAR AND COSTS

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8. I kept contemporaneous records of all time spent in the investigation, litigation, and settlement of this matter. These records show that as of January 30, 2007, I spent a total of 645.0 hours in this case.
9. It is anticipated that in order to complete this matter through final approval of the settlement, and the administration of the class settlement, an additional 75 attorney hours will be spent by me. If any appeals are taken by anyone from the Final Approval Order, these hours will increase substantially.
10. My regular hourly fee for all work performed as an attorney in matters in which I am not either paid in full in advance or paid in full within 30 days after invoicing the client is \$500 per hour.
11. My total lodestar to date in this matter is \$322,500.
12. Costs incurred by me in the investigation and litigation of this matter, as documented in my files, have totaled \$8,859.00 to date.
13. Co-counsel Craig Bourne has submitted lodestar information to undersigned counsel stating that as of January 30, 2007, he has spent 81.5 hours at a rate of \$400, for a lodestar of \$32,600.
14. Co-counsel W. Roderick Bowdoin has submitted lodestar information to undersigned counsel stating that as of January 30, 2007, he has spent 21 hours at a rate of \$500 for a lodestar of \$10,500.
15. Co-counsel Steve Fahlgren has submitted lodestar information to undersigned counsel stating that as of January 30, 2007, he has spent 6 hours at a rate of \$400 for a lodestar of \$2,400.

HISTORY OF WORK ON THE CASE

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16. I began the investigation of the facts and law in this case in January 2005. I worked with co-counsel Craig Bourne, Steve Fahlgren, Terry Smiljanich, and Kathleen Knight. I have worked with these counsel in other actions involving the Fair Credit Reporting Act.
 17. My investigation included interviews with John S. White, who ultimately became the plaintiff representative in this class action, extensive research in the Fair Credit Reporting Act, its history, its legislative history, and the case law on such legislation. I engaged in extensive research on E-Loan itself and the practices of the industry related to prescreening and making offers of credit to consumers.
 18. Based upon the investigations and research of myself and my co-counsel, we concluded that an action against E-Loan for violations of the Fair Credit Reporting Act would be appropriate. I then drafted the complaint, discussed the same with John S. White, and circulated the same to co-counsel.
 19. Arrangements were made with attorney Gail Killefer to act as our local counsel in the Northern District of California.
 20. After the complaint was approved by John S. White and by all co-counsel, Gail Killefer filed the complaint in May 2005.
 21. In 2005, I participated in the preparation of the written discovery subsequently served on E-Loan. Throughout the litigation, I reviewed and analyzed the discovery responses provided by and the document productions from E-Loan, assisted in preparation for the depositions of E-Loan's officers, and assisted in the depositions of E-Loan's officers.

1 22. I worked with John S. White to respond to all of E-Loan's discovery
2 requests served on Plaintiff. I prepared, circulated to co-counsel, and
3 ultimately served John S. White's responses to E-Loan's discovery
4 requests.

5 23. I have traveled to California to attend scheduling conferences, the
6 deposition of E-Loan's officers, a hearing on E-Loan's motions to
7 bifurcate discovery, and to attend the mediation with E-Loan.

8 24. Throughout this litigation, I and my co-counsel have been engaged in
9 extensive discussions with Defendant over the scope of discovery,
10 obtaining additional discovery, Defendant's continuing desire and
11 ultimate motions to bifurcate in order to delay all discovery on the
12 element of willfulness, scheduling, and numerous other matters.

13 After this Court entered an order permitting this case to go forward as
14 a class action, I assisted co-counsel in preparing to provide notice to
15 the class. Just prior to the mailing of the class notice, counsel for
16 Plaintiff and counsel for Defendant agreed to engage in mediation
17 with the intent of obtaining a potential settlement.

18 25. In October and November 2006, the undersigned participated in the
19 mediation at which the parties reached a settlement regarding the
20 benefits to be provided to the class. After that settlement was
21 reached, co-counsel and I engaged in lengthy negotiations over
22 several weeks with defense counsel regarding the payment of
23 attorneys' fees to Plaintiff's counsel. Ultimately, the parties agreed
24 that defense counsel would not object to any application by Plaintiff's
25 counsel for costs and fees not to exceed \$750,000.
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1 26. Thereafter, I drafted and worked with co-counsel on a settlement
2 agreement and related documents needed for settlement. The
3 documentation of the settlement required extensive exchange of
4 correspondence, e-mails, and telephone conferences with defense
5 counsel over disagreements on the wording of the various documents,
6 including the settlement agreement, the notice to the settlement class,
7 and the claim form.

8 27. On December 5, 2006, this Court entered an order preliminarily
9 approving the settlement and ordering class notices to be mailed.

10 28. This Court has scheduled a final fairness hearing for March 2, 2007.

11 29. Beginning in January 2007, I began receiving telephone calls from
12 members of the class who had received the class notice. I have
13 explained the nature of the lawsuit and the nature of the settlement to
14 each of these persons, and I have answered all of the questions they
15 have posed to me regarding the lawsuit and the settlement.

16 30. I estimate that further work necessary to complete the settlement
17 process, confer with class members, review and respond to any
18 objections to the settlement, and attend and participate in this Court's
19 hearing on final approval will add another 75 hours to the total
20 lodestar in this matter at a rate of \$500 per hour, for a total additional
21 lodestar of \$37,500. This is only an estimate. If any appeals from the
22 final judgment are filed, this lodestar figure may increase
23 substantially.

24 31. I declare under penalty of perjury under the laws of the United States of
25 America that the foregoing is true and accurate.
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1 Executed at Orlando, Florida this 2nd day of February, 2007.

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3 **DOUGLAS BOWDOIN, P.A.**

4
5 By: 

6 **Douglas Bowdoin**
7 (Appearance Pro Hac Vice)

8 **GAIL KILLEFER, ESQ.**

9 **JAMES, HOYER, NEWCOMER &**
10 **SMILJANICH, P.A.**

Jill H. Bowman

11 **DARBY, PEELE, BOWDOIN & PAYNE**

12 W. Roderick Bowdoin
13 P. O. Drawer 1707
14 Lake City, FL 32056
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Facsimile: 386/755-4569

15 **LAW OFFICES OF J. CRAIG BOURNE**

16 J. Craig Bourne
17 1520 East Livingston Street
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Facsimile: 407/894-4735

18 **HOGAN & FAHLGREN, P.A.**

19 Steven M. Fahlgren
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Orlando, FL 32812
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Facsimile: 407/852-9088
22 Email: sfahlgren@hoganandfahlgren.com

23 Attorneys for Plaintiff
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FIRM PROFILE OF DOUGLAS BOWDOIN, P.A.

The practice of Douglas Bowdoin, P.A., and its sole shareholder, Douglas Bowdoin, includes representing consumers in class actions, representing consumers in actions against insurance companies, and representing businesses and individuals in commercial litigation. The firm and its sole shareholder are AV rated by Martindale-Hubbell. Douglas Bowdoin has his accounting and law degrees from the University of Florida and a Master of Laws from Boston University and is a Florida Certified Public Accountant (retired). Douglas Bowdoin practiced as a tax lawyer from 1980 through 1986, as a mergers and acquisitions lawyer from 1987 through 1990, and as a litigation lawyer from 1991 to the present. Litigation experience includes numerous actions pursued on behalf of consumers against insurance companies and consumer class actions. When pursuing national class actions, the firm associates with other lawyers and firms, including James, Hoyer, Newcomer & Smiljanich, P.A.; Darby, Peele, Bowdoin & Payne; and J. Craig Bourne.

Class Actions

Douglas Bowdoin served as *lead counsel* in the following class actions:

Picaut v. Premier Cruise Lines, Case No. 96-06932-CA-FN, Eighteenth Judicial Circuit in and for Brevard County, Florida, in which a national class was certified; and

Hudson, et al. v. Cape Canaveral Cruise Line, Inc., Case No. 97-4188-CAT, Eighteenth Judicial Circuit in and for Brevard County, Florida.

Douglas Bowdoin has served as *co-lead counsel* in the following class actions:

Collins v. IndyMac Bank, F.S.B., et al., Case No. SACV06-100-DOC-ANx, United States District Court for the Central District of California;

Daniels v. Millennia Mortgage Corporation, Case No. 8:05-cv-00769-DOC-RNB, United States District Court for the Central District of California;

Free v. Secured Funding Corporation, Case No. 8:05-cv-00767-CJC-MLG, United States District Court for the Central District of California;

Parthiban v. GMAC Mortgage Corporation, Case No. SACV05-768-DOC (MLGx), United States District Court for the Central District of California;

Pearson v. Novastar Home Mortgage, Inc., Case No. 05-cv-1377-JVP-DLD, United States District Court for the Middle District of Louisiana;

Putkowski v. Irwin Home Equity Corporation, et al., Case No. C-05-03289-PJH, United States District Court for the Northern District of California;

Quarterman v. Ameriquest Capital Corporation, et al., Case No. CV05-1426-CAS (Rcx), United States District Court for the Central District of California;

Sanford v. FlexPoint Funding Corporation, Case No. SACV05-1230 CJC(MLGx), United States District Court for the Central District of California;

Torres v. People's Choice Home Loan, Inc., Case No. SACV05-1231 CJC(RNBx), United States District Court for the Central District of California;

Webb v. Aames Investment Corporation, et al., Case No. 2:05-cv-05140-GPS-SS, United States District Court for the Central District of California;

White v. E-Loan, Inc., Case No. C 05-02080 MEJ, United States District Court for the Northern District of California; and

Yeagley v. Wells Fargo & Company, et al., Case No. C-05-3403-CRB, United States District Court for the Northern District of California.

Douglas Bowdoin has served as co-counsel in numerous class actions, including:

Boden, et al. v. Publix Super Markets, Inc., Case Number 00-489-CA, Third Judicial Circuit in and for Columbia County, Florida;

Barber, et al. v. Ameriquest Capital Corporation, et al., Case Number 04-492-CA, Third Judicial Circuit in and for Columbia County, Florida;

Consolidated class actions against Costa Cruise Lines, N.V., Kloster Cruise Lines, Carnival Cruise Lines, Eleventh Judicial Circuit in and for Dade County, Florida;

Smith, et al. v. The Progressive Corporation, et al., Case Number 1:00-CV-210-MMP, United States District Court for the Northern District of Florida, Gainesville Division;

Brantley, et al. v. Republic Mortgage Insurance Company, Civil Action No. 2 04 0805 23, United States District Court for the District of South Carolina, Charleston Division;

Broessel v. Triad Guaranty Insurance Corp., Case No. 1:04CV-4-M, United States District Court for the Western District of Kentucky, Bowling Green Division;

Glatt, et al. v. The PMI Group, Inc., et al., Case No. 2:03-cv-326-FtM-29SPC, United States District Court for the Middle District of Florida, Ft. Myers Division;

Portis, et al. v. G. E. Mortgage Insurance Corporation, Case No. 04C300, United States District Court for the Northern District of Illinois, Eastern Division;

Price v. United Guaranty Residential Insurance Company, Case No. 3-03 CV2643R, United States District Court for the Northern District of Texas;

Whitfield v. Radian Guaranty, Inc., Case No. 04-111, United States District Court for the Eastern District of Pennsylvania;

Clark v. Farmers Group, Inc., Case No. A 02-CA-427-JN, United States District Court for the Western District of Texas, Austin Division; and

Hal Bloomberg Trust, et al. v. Gencor Industries, Inc., et al., Case No. 99-106-Civ-Orl-19B, United States District Court for the Middle District of Florida, Orlando Division;

Consumer Actions

Douglas Bowdoin has experience in litigation on behalf of consumers against insurance companies based upon allegations of fraudulent sales practices in cases which are not class actions. Those cases include:

Healey v. The Prudential Insurance Company of America, et al., Case No. CI95-4566, Ninth Judicial Circuit in and for Orange County, Florida;

White v. The Prudential Insurance Company of America, et al., Case No. 96-0535-CA-11-A, Eighteenth Judicial Circuit in and for Seminole County, Florida;

Rudolph v. The Prudential Insurance Company of America, et al., Case No. 97-1243-CA-16-L, Eighteenth Judicial Circuit in and for Seminole County, Florida;

Bishop, et al. v. The Prudential Insurance Company of America, et al., Case No. 97-456-CA01, Fifth Judicial Circuit in and for Lake County, Florida;

Govatos v. USLIFE Corporation, et al., Case No. CI99-8266, Ninth Judicial Circuit in and for Orange County, Florida;

O'Sullivan v. USLIFE Corporation, et al., Case No. CIO 00-658, Ninth Judicial Circuit in and for Orange County, Florida;

Reeves v. General American Life Insurance Company, Case No. 012-8773, 22nd Judicial Circuit in the City of St. Louis, State of Missouri;

Crotty v. General American Life Insurance Company, Case No. 012-8772, 22nd Judicial Circuit in the City of St. Louis, State of Missouri; and

EXHIBIT A

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Consolidated class actions against Costa Cruise Lines, N.V., Kloster Cruise Lines, Carnival Cruise Lines, Eleventh Judicial Circuit in and for Dade County, Florida;

Smith, et al. v. The Progressive Corporation, et al., Case Number 1:00-CV-210-MMP, United States District Court for the Northern District of Florida, Gainesville Division;

Craft, et al. v. Sprint Corporation, et al., Case No. 4:02-cv-183-RH/WCS, United States District Court for the Northern District of Florida, Tallahassee Division;

Hughes v. Alltel Corporation, et al., Case No. 4-03-CV-127-SPM, United States District Court for the Northern District of Florida, Tallahassee Division;

Rainwater, et al. v. BellSouth Corporation, et al., Case No. 3:02-cv-349-RV, United States District Court for the Northern District of Florida, Pensacola Division;

Brantley, et al. v. Republic Mortgage Insurance Company, Civil Action No. 2 04 0805 23, United States District Court for the District of South Carolina, Charleston Division;

Broessel v. Triad Guaranty Insurance Corp., Case No. 1:04CV-4-M, United States District Court for the Western District of Kentucky, Bowling Green Division;

Glatt, et al. v. The PMI Group, Inc., et al., Case No. 2:03-cv-326-FtM-29SPC, United States District Court for the Middle District of Florida, Ft. Myers Division;

Portis, et al. v. G. E. Mortgage Insurance Corporation, Case No. 04C300, United States District Court for the Northern District of Illinois, Eastern Division;

Preston v. Mortgage Guaranty Insurance Corporation of Milwaukee, Case No. 5:03-cv-111-Oc-10GRJ, United States District Court for the Middle District of Florida, Ocala Division;

Price v. United Guaranty Residential Insurance Company, Case No. 3-03 CV2643R, United States District Court for the Northern District of Texas;

Whitfield v. Radian Guaranty, Inc., Case No. 04-111, United States District Court for the Eastern District of Pennsylvania;

Rhymes, et al. v. MCI Worldcom Communications, Inc., Case No. 8:02-cv-927-T-26MAP, United States District Court for the Middle District of Florida, Tampa Division;

Clark v. Farmers Group, Inc., Case No. A 02-CA-427-JN, United States District Court for the Western District of Texas, Austin Division; and

Hal Bloomberg Trust, et al. v. Gencor Industries, Inc., et al., Case No. 99-106-Civ-Orl-19B, United States District Court for the Middle District of Florida, Orlando Division;

Burggraff v. Ameriquest Capital Corporation, et al., Case No. 2:04-cv-9715 MMM (Mc), United States District Court for the Central District of California

Quarterman v. Ameriquest Capital Corporation, et al., Case No. 2:05-cv-1426 MMM (Mc), United States District Court for the Central District of California

Webb v. Aames Investment Corporation, et al., Case No. 2:05-cv-05140-GPS-SS, United States District Court for the Central District of California

Free v. Secured Funding Corporation, et al., Case No. 8:05-cv-00767-CJC-MLG, United States District Court for the Central District of California,

Daniels v. Millennia Mortgage Corporation, Case No. 8:05-cv-00769-DOC-RNB, United States District Court for the Central District of California

Parthiban v. GMAC Mortgage Corporation, Case No. 8:05-cv-00768-DOC-MLG, United States District Court for the Central District of California

Sanford v. FlexPoint Funding Corporation, Case No. 8:05-cv-01230-CJC-MLG, United States District Court for the Central District of California

Torres v. People's Choice Home Loan, Inc., Case No. 8:05-cv-01231-CJC-RNB, United States District Court for the Central District of California

Sanford v. Aegis Lending Corporation, Case No. 3:05-cv-01361-FJP-CN, United States District Court for the Middle District of Louisiana

Pearson v. Novastar Home Mortgage, Inc., Case No. 3:05-cv-01377-JVP-DLD, United States District Court for the Central District of Louisiana

White v. E-Loan, Inc., et al., Case No. 3:05-cv-02080 SI, United States District Court for the Northern District of California

Putkowski v. Irwin Home Equity Corporation, et al., Case No. 3:05-cv-03289-PJH, United States District Court for the Northern District of California

Yeagley v. Wells Fargo & Company, et al., Case No. 3:05-cv-3403-CRB, United States District Court for the Northern District of California

Monroe v. American International Group, Inc., et al., Case No. 04-61621-CIV-DIMITROULEAS/TORRES, United States District Court for the Southern District of Florida

Hogan v. PMI Mortgage Insurance Co., Case No. 3:05-cv-3851 PJH, United States District Court for the Northern District of California

Consumer Actions

Douglas Bowdoin has experience in litigation on behalf of consumers against insurance companies based upon allegations of fraudulent sales practices in cases which are not class actions. Those cases include:

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Rudolph v. The Prudential Insurance Company of America, et al., Case No. 97-1243-CA-16-L, Eighteenth Judicial Circuit in and for Seminole County, Florida;

Bishop, et al. v. The Prudential Insurance Company of America, et al., Case No. 97-456-CA01, Fifth Judicial Circuit in and for Lake County, Florida;

Govatos v. USLIFE Corporation, et al., Case No. CI99-8266, Ninth Judicial Circuit in and for Orange County, Florida;

O'Sullivan v. USLIFE Corporation, et al., Case No. CIO 00-658, Ninth Judicial Circuit in and for Orange County, Florida;

Reeves v. General American Life Insurance Company, Case No. 012-8773, 22nd Judicial Circuit in the City of St. Louis, State of Missouri;

Crotty v. General American Life Insurance Company, Case No. 012-8772, 22nd Judicial Circuit in the City of St. Louis, State of Missouri; and

Brantley, et al. v. Guardian Insurance Company of America, Case No. CI099-5109, Ninth Judicial Circuit in and for Orange County, Florida.