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4 Terry Smiljanich (Florida Bar No. 145359)

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(appearance pro hac vice)

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10 (appearance pro hac vice)

DOUGLAS BOWDOIN, P.A.

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Orlando, FL 32801

12 Telephone: (407) 422-0025

Facsimile: (407) 843-2448

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

) **SUPPLEMENTAL**
) **DECLARATION OF TERRY**
) **SMILJANICH IN SUPPORT OF**
) **PLAINTIFF JOHN S. WHITE'S**
) **MOTION FOR AWARD OF**
) **ATTORNEYS' FEES AND COSTS**

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1 **SUPPLEMENTAL DECLARATION OF TERRY SMILJANICH**

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3 I, Terry Smiljanich, hereby declare as follows:

4 INTRODUCTION

- 5 1. I am an attorney with the law firm of James, Hoyer, Newcomer &
6 Smiljanich, P.A.
- 7 2. I submit this supplemental declaration in support of Plaintiff John S.
8 White's Motion for Award of Attorneys' Fees and Costs in the above
9 captioned matter. The original application for award of fees and costs
10 was filed on January 24, 2007.
- 11 3. The amount of attorneys' fees and costs sought in Plaintiff John S.
12 White's Motion for Award of Attorneys' Fees and Costs is \$750,000.
- 13 4. The award of \$750,000 for attorneys' fees and costs was agreed upon by
14 the parties in the Settlement Agreement in the above captioned case,
15 which was preliminarily approved by this Court on December 5, 2006.
- 16 5. Pursuant to paragraph 2.25 of the Settlement Agreement in this case,
17 Class Counsel may make written application for the award of attorneys'
18 fees and costs prior to the Court's final approval hearing on March 2,
19 2007.
- 20 6. I am a member in good standing of the Florida Bar, and have been so
21 since 1972. I have been admitted to all federal courts in the State of
22 Florida, to several Circuit Courts of Appeal, and have been admitted pro
23 hac vice in the above matter.
- 24 7. My qualifications and that of my law firm James Hoyer, Newcomer &
25 Smiljanich, P.A. (Hereinafter "Firm") are attached hereto as Exhibit A
26 to this Declaration.

LODESTAR AND COSTS

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8. The Firm has kept contemporaneous and accurate records of all time spent in the investigation and litigation of this matter. These records show that as of the date of January 30, 2007, the Firm has spent a total of 765.6 hours in this case.
9. It is anticipated that in order to complete this matter through final approval of the settlement, and administration of the class settlement, an additional 100 attorney hours will be spent by the Firm. If any appeals are taken by anyone from the Order of Final Approval, those hours will increase substantially.
10. My regular hourly fee for all work performed as an attorney is \$550 per hour. The time of partners Kathleen Knight and Jill Bowman is charged by the Firm at \$500 per our. Associates Tamra Givens and others working on this case are charged at the rate of \$350 per hour. Investigators at the Firm are charged at the rate of \$200 per hour. As managing partner for this matter, I have supervised all of the work performed by the Firm.
11. The total lodestar for the Firm to date in this matter is \$351,823.
12. Costs incurred by the Firm in the investigation and litigation of this matter, as documented in our files, have totaled \$20,766.27 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.

1 15. Co-counsel Steve Fahlgren has submitted lodestar information to
2 undersigned counsel stating that as of January 30, 2007, he has spent 6
3 hours at a rate of \$400 for a lodestar of \$2,400.

4 16. Co-counsel Douglas Bowdoin has submitted lodestar information to
5 undersigned counsel stating that as of January 30, 2007, he has spent 645
6 hours at a rate of \$500 for a lodestar of \$322,500, and has incurred
7 expenses of \$8,859.00.

8 17. Local counsel Gail Killifer has submitted lodestar information to
9 undersigned counsel stating that as of January 25, 2007, she has spent 58
10 hours at a rate of \$450 for a lodestar of \$26,100.

11 HISTORY OF WORK ON THE CASE

12 18. The Firm began the investigation of this case in February, 2005, based
13 on communications with co-counsel Douglas Bowdoin and Craig
14 Bourne, with whom I have worked in connection with several other
15 matters involving the Fair Credit Reporting Act.

16 19. This investigation consisted of reviewing information from a client of
17 co-counsel who had received a solicitation mailer from Defendant E-
18 Loan, reviewing information about E-Loan and its mailing practices,
19 and researching the applicable law regarding target marketing and
20 firm offers of credit under the Fair Credit Reporting Act.

21 20. Based upon the results of these investigations, it was concluded that
22 viable causes of action existed against E-Loan for violations of the
23 Act, and a complaint was drafted by co-counsel, and reviewed and
24 supplemented by the Firm.

25 21. The Firm has been involved in all aspects of the drafting of pleadings,
26 preparation of discovery such as interrogatories, requests to produce
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1 and requests for admissions. The Firm has coordinated this effort with
2 co-counsel and with Gail Killifer, local counsel in San Francisco who
3 has assisted in these matters.

4 22. The Firm has conferred with co-counsel and with local counsel
5 throughout the litigation of this matter, including correspondence,
6 telephone conferences and meetings. The Firm has also engaged in
7 numerous telephone conferences and other communications with
8 opposing counsel throughout the litigation.

9 23. The Firm has participated in pre-mediation telephone conferences
10 with opposing counsel, local counsel and a mediator, and prepared for
11 and attended a mediation conference in California at which the parties
12 were able to reach a settlement of the case.

13 24. The Firm has extensively researched the applicable case law and
14 legislative history throughout the investigation and prosecution of this
15 case.

16 25. Members of the Firm have traveled to San Francisco and participated
17 in case management conferences and hearings, including a hearing on
18 a motion for partial judgment on the pleadings and a hearing on a
19 contested motion for class certification. Local counsel has assisted in
20 these matters and has attended several such hearings.

21 26. The Firm has reviewed discovery responses and documents produced
22 by defendant and has otherwise prepared for a trial of this case.

23 27. Co-counsel have conferred throughout the case with the plaintiff John
24 White, and undersigned counsel traveled with Mr. White to San
25 Francisco for his deposition. Other members of the Firm have traveled
26 to California for the taking of corporate depositions of the defendant.

1 28. Only after negotiations were concluded with regard to a settlement of
2 the claims of the class, the Firm negotiated the amount of fees and
3 costs to be paid by defendant. These negotiations involved much give
4 and take by both sides, and resulted in the agreement that defendant
5 would not oppose a request that fees and costs be awarded in the total
6 amount of \$750,000 for all plaintiffs' counsel.

7 29. The Firm assisted in the drafting of settlement documents, including
8 the class notice, the settlement brochure, and other matters.

9 30. The Firm has coordinated the handling of communications from
10 members of the class who have sought legal counsel in connection
11 with the settlement and claims process, and it is expected that this
12 effort will continue up to and following the hearing on final approval
13 of the settlement.

14 31. It is estimated by undersigned counsel that the further work necessary
15 to complete the settlement process, confer with class members,
16 prepare a motion for final approval, review and respond to any
17 objections to the settlement, attend and argue the motion for final
18 approval, and assist class members during the claims process, will add
19 another 100 hours to the lodestar in this matter at an average rate of
20 \$350, for a total additional lodestar of \$35,000. This is only an
21 estimate, and if any appeals from the final judgment are filed, this
22 lodestar figure will increase dramatically.

23 32. I declare under penalty of perjury under the laws of the United States of
24 America that the foregoing is true and accurate.

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26 Executed at Tampa, Florida this 2nd day of February, 2007.

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By: s Terry A. Smiljanich
Terry A. Smiljanich
(Appearance Pro Hac Vice)

GAIL KILLEFER, ESQ.

**JAMES, HOYER, NEWCOMER &
SMILJANICH, P.A.**
Jill H. Bowman

DOUGLAS BOWDOIN, P.A.
Douglas Bowdoin

DARBY, PEELE, BOWDOIN & PAYNE
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Orlando, FL 32812
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Attorneys for Plaintiff

PROOF OF SERVICE

I, Dobrila Stephens, declare as follows:

I am a resident of the State of Florida, over the age of eighteen years, and not a party to the within action. My business address is James, Hoyer, Newcomer & Smiljanich, P.A., 4830 W. Kennedy Blvd., Suite 550, Tampa, Florida 33609.

On February 2, 2007, at Tampa, Florida, I served the following document(s) listed below as follows:

SUPPLEMENTAL DECLARATION OF TERRY SMILJANICH IN SUPPORT OF PLAINTIFF JOHN S. WHITE’S MOTION FOR AWARD OF ATTORNEYS’ FEES AND COSTS

- BY ELECTRONIC MAIL: I transmitted by electronic mail a true and correct copy of the above referenced documents to the persons shown below.
- BY OVERNIGHT MAIL: I sent a true and correct copy of the document(s) for delivery to the persons shown on the attached list.
- BY U.S. MAIL: I placed a true and correct copy of the document(s) in a sealed envelope with first class postage fully prepaid in the United States Mail at Tampa, Hillsborough County, Florida, addressed as shown on the attached list.
- XX** BY ELECTRONIC FILING using the court’s CM/ECF System: I transmitted by electronic filing a true and correct copy of the above referenced documents to the persons shown on the listed below.

Lee H. Rubin
Rena Chng
Mayer, Brown, Rowe & Maw LLP
Two Palo Alto Square, Suite 300
Palo Alto, CA 94306

Victoria R. Collado
Melissa J. Pastrana
Mayer, Brown, Rowe & Maw
71 South Wacker Drive
Chicago, IL 60606

Executed on February 2, 2007 at Tampa, Florida.

/s/ Dobrila Stephens
Dobrila Stephens

EXHIBIT A

JAMES, HOYER, NEWCOMER & SMILJANICH, P.A.
ATTORNEYS AT LAW

Jill H. Bowman
Christopher C. Casper
Jonathan B. Cohen
Christa L. Collins
Mark S. Fistos
Tamra Carsten Givens
Amy K. Guinan
David T. Henniger (of counsel)
Judy S. Hoyer
W. Christian Hoyer
Bill James (Ret.)
Nicole C. Mayer
J. Andrew Meyer
John R. Newcomer, Jr.
Jesse L. Ray

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Elaine Scudieri Stromgren
Terry A. Smiljanich
John A. Yanchunis

Investigators:
Barbara Madden
Frank Martelli
Allen H. McCreight
Michael D. Mihok
Rob North
Jim Ross
Lenny Savino
Alfred W. Scudieri

FIRM BIOGRAPHY

James, Hoyer, Newcomer, & Smiljanich P.A., was formed in January 1993. Since its inception the firm has been actively engaged in complex, consumer-related litigation on behalf of defrauded consumers. Notably, beginning in 1993, the firm successfully litigated the class action suit of *Horton et al. v. Metropolitan Life Insurance Company*, Case No. 93-1849-CIV-T-23A, in the United States District Court for the Middle District of Florida. This was the first class action lawsuit brought against a life insurance company for deceptive market conduct in the sale of life insurance. Since then, the firm has been involved in more than forty additional class action lawsuits involving similar conduct.

The firm has been involved as lead or co-counsel in more than eighty class action law suits on a nationwide basis. In each of these suits, the firm has represented a class of plaintiffs who alleged a fraudulent scheme conducted against consumers. This has included deceptive sales practices, discriminatory pricing, product liability, and deceptive banking and credit card practices. The firm has represented many relators in *qui tam* actions for frauds against the government. In addition, the firm has represented many individuals who have been victimized by fraudulent conduct of corporations.

Our lawyers and staff are experienced in complex litigation involving insurance coverage, class actions, mass torts, civil rights and products liability. Many of our lawyers began their careers as prosecutors, law enforcement officers or FBI agents. Our firm employs veterans of the civil and criminal divisions of the United States Department of Justice as well as a former Assistant Director of the FBI. We are also supported by a staff of eight investigators. Our investigators have decades of experience involving complex cases and have investigated matters throughout the world.

Our firm has been involved in the settlement of cases with a combined value of more than \$2 billion. This unique range of expertise has resulted in a nationwide practice. Biographies of the firm's attorneys and investigators are set out below.

PARTNERS

BILL JAMES (Retired), born St. Louis, Missouri, October 16, 1932; admitted to bar, 1957, Missouri; 1958, U.S. District Court, Eastern District of Missouri; 1966, Florida; 1969, U.S. District Court, Middle District of Florida; 1970, U.S. Court of Appeals, Fifth Circuit. *Education*: Amherst College; Kansas State College; Washington University (A.B., 1955; J.D., 1957). Commissioner, Justice Administrative Commission, 1985-1992. Secretary, Treasurer, Florida Prosecuting Attorneys Association, 1988. Committee Member, Florida Standard Jury Instructions in Criminal Cases, 1985-1993. Assistant U.S. Attorney, Eastern District of Missouri, 1960-1961. Chief Assistant U.S. Attorney, Tampa Division, Middle District of Florida, 1970-1978. Trial Attorney, Organized Crime Section, U.S. Department of Justice, 1978-1984. State Attorney, 13th Judicial Circuit, Tampa, Florida, 1985-1993. *Member*: Hillsborough County Bar Association; The Florida Bar; The Missouri Bar; Ferguson-White Inn of Court.

W. CHRISTIAN HOYER, born Metuchen, New Jersey, April 4, 1945; admitted to bar, 1973, Florida and U.S. District Court, Middle District of Florida; 1975, U.S. Supreme Court. *Education*: Rider College (B.S. Economics, 1970); University of Florida (J.D., with honors, 1973). Trustee Scholar, Rider College. Recipient Milam Case Comment Award, University of Florida. Executive Editor, University of Florida Law Review, 1972-1973. Law Clerk, U.S. District Judge Ben Krentzman, 1973-1975. Author, "Corps of Engineers Dredge and Fill Jurisdiction Under Siege," 26 U. Fla. L. Rev. 19 (1973). Assistant U.S. Attorney, Tampa, Florida 1975-1980. Trial Attorney, U.S. Justice Department Strike Force on Organized Crime, 1980-1984. Chief Assistant State Attorney, Tampa, 1985-1992. Chairman, Hillsborough County Justice Committee, 1988-1992. Chairman, Hillsborough County Justice Information Steering Committee, 1987-1992. Member, Judicial Nominating Commission, 13th Judicial Circuit, 1986-1990. *Member*: Hillsborough County Bar Association (Vice Chairman, Trial Lawyers Section, 1990-1991); The Florida Bar (Member, Grievance Committee, 1985-1990).

JUDY SCHROPP HOYER, born Havre de Grace, Maryland, November 6, 1949; admitted to bar, 1976, Florida; 1977, U.S. District Court, Middle District of Florida; 1980 U.S. Supreme Court. *Education*: Mary Washington College; George Mason University (B.A., cum laude, 1973); Stetson University (J.D., 1976). Executive Editor, Law Review, 1975-1976. Who's Who. Recipient, Florida Bar Achievement Award. Governor, Fifth Circuit, American Bar Association Law Student Division. Author, "Cross Examination & Impeachment," Criminal Trial Practice in Florida, The Florida Bar C.L.E. (2nd Ed. 1991); Labor Law Review Note, The Florida Bar Journal, 1975. Assistant State Attorney, 1976-1977 and 1985-1993. Assistant U.S. Attorney, 1977-1985. Special Counsel to the Florida Legislature on Sexual Harassment Hearings, 1991. *Member*: Hillsborough County Bar Association, Trial Lawyers Section, 1991 to present, Chairman, 1997-1998; Trial By Jury (Chairman, 1991-1995); Hillsborough Association for Women Lawyers; Ferguson-White American Inns of Court (Master, 1987 to present; Counsel to the Inn 1991-1998; President-Elect 1998-1999; President 1999-2000; Master Emeritus 2001).

JOHN R. NEWCOMER, JR., born Clearwater, Florida, June 24, 1947; admitted to bar, 1972, Florida; 1973, U.S. District Court, Middle District of Florida; 1981, U.S. Court of Appeals, Eleventh Circuit; and 1977, U.S. Court of Appeals, Fifth Circuit. *Education*: University of Florida (B.S.B.A., 1969); Florida State University (J.D., with honors, 1972); Legal Advocacy Program, University of South Florida (1974-1976); Florida Academy of Trial Lawyers 1979-1992 (Presidents Club 1992); American Arbitration Association, Panel of Uninsured Motorist Claims (1986-1992); Associate-Yado, Keel & Nelson, P.A. (1972-1978); Partner-Yado, Keel, Nelson, Casper, Bergmann & Newcomer, P.A. (1978-1993); Partner-James, Hoyer & Newcomer, P.A. (1993 to present); *Member*: Hillsborough County Bar Association (Member, Elder Law Section, 1992-1993); The Florida Bar (Member, Grievance Committee, 1997); Arbitration Panel, U.S. District Court, Middle District of Florida (1985 to present); National Academy of Elder Law Lawyers.

TERRY A. SMILJANICH, born Tampa, Florida, March 1, 1947; admitted to bar, 1972, Florida and U.S. District Court, Middle District of Florida; 1981, U.S. District Court, Southern District of Florida and U.S. Court of Appeals, 11th Circuit. *Education*: University of Florida (B.A., 1969; J.D., 1972). Phi Beta Kappa; Phi Kappa Phi; Phi Alpha Delta. Executive Editor, University of Florida Law Review, 1971-1972. Law Clerk, Hon. Ben Krentzman, U.S. District Court, Middle District of Florida. 1972-1974. Assistant United States Attorney, 1974-1977. Associate Senate Counsel, Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition (Iran/Contra), United States Senate, 1987. *Member*: The Florida Bar. [Capt. U.S. Army Reserve, 1972-1981]. (Board Certified Civil Trial Lawyer, Florida Bar Board of Legal Specialization and Education).

JOHN A. YANCHUNIS, born Columbus, Ohio, 1955; admitted to bar, 1980, Texas; 1981, Florida; U.S. District Court, Southern District of Texas; U.S. District Court, Middle District of Florida; U.S. Court of Appeals, Fifth, Seventh, Ninth and Eleventh Circuits; and United States Supreme Court, 2000. *Education*: University of Florida (B.A., 1976); South Texas College of Law (J.D., magna cum laude, 1980). Florida Blue Key, Omicron Delta Kappa, Phi Alpha Delta. Member, Order of the Lytae. Technical Editor and Associate Editor-in-Chief, South Texas Law Journal. Law Clerk to Judge Carl O. Bue, Jr., U.S. District Court, Southern District of Texas, 1980-1982. *Member*: St. Petersburg (Member, Executive Committee, 1996 to 1998; 2003 to 2005) and Federal Bar Associations; The Florida Bar (Member: Board of Governors of The Florida Bar, 1999 to 2003; member of the Board of Governors of Young Lawyers Division of The Florida Bar, 1988-1992; Public Relations Committee, 1989-1990; Continuing Legal Education Committee, 1991-1992; Standing Committee on Unlicensed Practice of Law, Member, 1990, Vice Chairperson, 1994-1995, Chairperson, 1995-1997, Unlicensed Practice of Law Committee, 6A Circuit, Member, 1985, Chairperson, 1986-1995; Unlicensed Practice of Law Committee, 6B Circuit, Chairperson, 1995; Chairperson, 1995; Professionalism Committee, 1991-1993; Simplified Forms, 1997 to-1998, Vice Chairperson 1998-1999; Ethics Committee, 1997-1999; The Florida Bar Foundation Committee (Member of the Board of Directors, 2003 to 2006); The Florida Board of Bar Examiners Member, 1997 to 2002); The Florida Bar's Multijurisdictional Practice of Law Commission, Chair 2002 to 2005; State Bar of Texas, Pro Bono College, 2005.

CHRISTA L. COLLINS, born Mt. Gilead, Ohio, November 6, 1958; admitted to bar, 1983,

Florida; 1984 U.S. District Court, Middle District of Florida; 1985, U.S. Court of Appeals, and Eleventh Circuit. *Education*: Malone College (B.A., magna cum laude, 1979); Stetson University (J.D. cum laude, 1983). Phi Alpha Delta. Member, 1981-1982 and Associate Editor, 1982-1983, Stetson Law Review. Co-Author: "The Impact of Attorneys Attitudes Toward Pro Bono Public Efforts on Behalf of the Mentally Disabled," 12 Stetson Law Review 395, 1983. Teaching Assistant, Legal Research and Writing, Stetson University College of Law, 1982-1983. *Member*: St. Petersburg Bar Association; The Florida Bar; Pinellas County Trial Lawyers Association.

CHRISTOPHER C. CASPER, born Tampa, Florida, August 27, 1968. *Education*: Awarded Bachelor of Arts degree in English from Georgetown University, 1990. Juris Doctor degree with honors, University of Florida College of Law, December 1994. Interned for Rosemary Barkett, Chief Justice of the Florida Supreme Court, summer 1993. Admitted to the Florida Bar, United States District Court for the Middle District of Florida, and United States Court of Appeals for the Eleventh Circuit, 1995. *Member*: Hillsborough County Bar Association, Trial Lawyers Section Board of Directors 1996-2004, Chairman 2004-2005. Federal Bar Association, Tampa Bay Chapter, Board 1999-2004, Membership Chair 1999-2000, Civil Co-Chair 2000-2004. Association of Trial Lawyers of America 2002-2004. Federalist Society 1998-2004.

MARK S. FISTOS, born St. Petersburg, Florida, August 27, 1960; admitted to bar, 1991, Florida. U.S. District Courts: Middle and Northern Districts of Florida. *Education*: Florida State University (B.A., Magna Cum Laude, Phi Beta Kappa, Phi Kappa Phi, French 1985). Inaugural Recipient, Ada Belle Winthrop-King Scholarship (L'Institut catholique, Paris, France, 1985-1986). Florida State University (M.A./J.D., Joint Degree in Law and International Affairs, 1991). Assistant Attorney General, Economic Crimes Litigation Unit, Office of the Florida Attorney General, 1991-2001. Economic Crimes Division, Employee of the Year, 1999. Author, "Per Se Violations of the Florida Deceptive and Unfair Trade Practice Act," Florida Bar CLE Manual, June 2001. "State Enforcement of the Florida Deceptive and Unfair Trade Practices Act," Florida Bar CLE Manual, January 2000. Co-Author, "State Enforcement of the Florida Deceptive and Unfair Trade Practices Act," Florida Bar CLE Manual, September 1993, "Per Se Violations of the Florida Deceptive and Unfair Trade Practices Act," Florida Bar Journal, 76 Fla. Bar J. 62. *Member*: Consumer Protection Law Committee, The Florida Bar.

JILL H. BOWMAN, born St. Petersburg, Florida, January 18, 1970; admitted to Bar 1995, Florida; U.S. District Court, Middle District of Florida, 1996; U.S. District Court, Northern District of Florida, 2001; U.S. District Court, Southern District of Florida, 2001; Federal Circuit Court of Appeals, 1997; Eleventh Circuit Court of Appeals, 1997. *Education*: University of Central Florida (B.A., summa cum laude, 1992); Stetson University College of Law (J.D., magna cum laude, 1995); *Member*: St. Petersburg Bar Association, 1996; appointed by the Florida Supreme Court to serve as a Member of the Florida Bar UPL Committee for the Sixth Judicial Circuit, 1999; appointed as a Member of the Florida Bar Ethics Committee, 2003.

J. ANDREW MEYER, born Deland, Florida, January 6, 1970; admitted to bar, 1995, Florida and U.S. District Court for the Middle District of Florida; 1996, New Jersey; 2000, U.S.

District Courts for the Northern and Southern District of Florida; 2001, U.S. Court of Appeals, 11th Circuit. *Education:* University of Florida (B.A., *high honors*, 1991; J.D., 1995). Phi Beta Kappa. *Experience:* Associate, Law firm of Earle and Earle. 1995-1998. Office of the Attorney General, State of Florida, Criminal Appeals Bureau. 1998. Second District Court of Appeal, Senior Staff Attorney. 1998. Law Clerk, Hon. Chris W. Altenbernd, Second District Court of Appeal. 1998-2000. Associate and Partner, Carlton Fields, P.A. 2000-2004. *Member:* American Bar Association, The Florida Bar (Chair, UPL Committee for the Sixth Judicial Circuit). *Awards:* Community Law Program's Newcomer Award, 1998; Carlton Fields' William Reece Smith, Jr. Pro Bono Award, 2001.

ASSOCIATES

JONATHAN B. COHEN, born Albany, New York, October 9, 1973; admitted to bar, 2006, Florida. *Education*: Indiana University at Bloomington (B.A. in Journalism with concentration in Fine Arts, 1996); Stetson University College of Law (J.D., 2005); Received highest grade in Consumer Protection (2004); Intern for State Attorney's Office (Economic Crimes Unit), Thirteenth Judicial Circuit, Hillsborough County (2004); Intern for Hon. David A. Demers, Sixth Judicial Circuit Court of Florida (2004); Research Assistant for Professor Mark D. Bauer (2004-2005). *Member*: The Florida Bar.

TAMRA CARSTEN GIVENS, born Miami, Florida, July 13, 1978; admitted to bar, 2003, Florida. *Education*: University of Florida (B.S., Psychology, with honors, 2000; J.D., cum laude, 2003). *Member*: U.S. District Court, Middle District of Florida, 2003; U.S. District Court, Southern District of Florida, 2006; United States Court of Appeals, Eleventh Circuit, 2003; United States Court of Appeals, Third Circuit, 2006; United States Court of Appeals, Ninth Circuit, 2006; Florida Law Review, 2001-2003. *Author*: "Constitutional Law: Narrowing the Scope of the Fourth Amendment," 54 Fla. L. Rev. 567 (2002). Intern for Justice Harry Lee Anstead, Florida Supreme Court, 2002.

AMY K. GUINAN, born Traverse City, Michigan, August 26, 1972; admitted to bar, 1998, Florida. *Education*: Loyola University at New Orleans (B.A. in Music and Communications, cum laude, 1994); Florida State University (J.D., 1997); member of Phi Alpha Delta Law Fraternity. Legislative research specialist and staff attorney for the Florida House of Representatives, Committee on Health Care Services, 1997-1999; Director of Public Policy and Advocacy for the Florida Development Disabilities Council, Inc., 1999-2001; Legislative Counsel and lobbyist for the Academy of Florida Trial Lawyers, 2001-2002. *Member*: U.S. District Court, Middle District of Florida; Academy of Florida Trial Lawyers, AFTL Board of Directors (2005-2007), AFTL Women's Caucus Chair (2006-2007), the Tallahassee Bar Association and The Florida Bar.

NICOLE C. MAYER, born South Weymouth, Massachusetts, February 26, 1979; admitted to bar, 2005, Florida. *Education*: University of Florida (B.S., Advertising, with honors, 2002); Stetson University College of Law (J.D., 2004); Marketing Editor, *Stetson Law Review*; Member of Phi Delta Phi, Phi Theta Kappa, and Golden Key National Honor Societies; Intern for Hon. Elizabeth A. Kovachevich, United States District Court for the Middle District of Florida, Tampa Division (2004); Associate, Sponsler, Bennett, Jacobs & Cristal, P.A. (2005-2006).

JESSE LEE RAY, born Pittsburgh, Pennsylvania, December 3, 1975; admitted to the bar, 2004, Florida. *Education*: Montgomery County Community College (1996); University of Maryland, College Park (B.A., Criminal Justice, Magna Cum Laude, 2000); Georgetown Law (J.D. 2004). Co-author "Spoliation of Evidence: An Overview and Practical Suggestions", *The Construction Lawyer*, Vol. 24, Num. 1, p.31 (Winter, 2004); Corporal, U.S. Marine Corps, Reserves (1994-2000). *Member*: The Florida Bar.

ELAINE SCUDIERI STROMGREN, born San Juan, Puerto Rico, April 29, 1974; admitted to bar, 2000, Florida. *Education*: University of Florida (B.S., Zoology, with high honors, 1996; J.D., with high honors, 2000). Phi Beta Kappa; Phi Alpha Delta. Recipient Book Award, Criminal Law. *Member*: Prosecution Clinic, Eighth Judicial Circuit, Florida, 2000. Law Clerk, Hon. Maurice V. Guinta, Eighth Judicial Circuit Judge, 1999.

OF COUNSEL

DAVID T. HENNIGER, born Cuyahoga Falls, Ohio, December 12, 1936; admitted to the Florida Bar, 1965; U.S. Supreme Court, 1971; Court of Appeals, Eleventh Circuit, 1981. *Education*: St. Petersburg Junior College (A.A. 1957); Florida Southern College, Salutatorian (B.S. summa cum laude, 1959); Stetson University College of Law, Valedictorian (J.D., cum laude, 1965). Selected to Who's Who in American Law in 1989, Who's Who in the Southeast, 1990 and Who's Who in America, 46th Edition. Biography, Men of Achievement, International Biographical, Cambridge, England, Fifteenth Edition. International Man of the Year 1992/1993, International Biographical Center, Cambridge, England. Authored "When Does The Statute of Limitations Run," Florida Bar Journal, December 1972; Chapter 13, "Best Evidence Rules, Evidence in Florida," Florida Bar Continuing Legal Education, 1971; Chapter 8, "Best Evidence Rule, Evidence in Florida, 2nd Edition," Florida Bar Continuing Legal Education, 3rd Edition, Evidence in Florida, Chapter Author: "Selected Commercial Torts," Basic Commercial Litigation, 1989, Florida Bar Continuing Legal Education. Board Certified Trial Lawyer, certified by The Florida Bar Board of Certification (1983-1993) and the National Board of Trial Advocacy (Emeritus 1993). *Member*: The Florida Bar, St. Petersburg and American Bar Associations.

INVESTIGATORS

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ALLEN H. McCREIGHT, born Meridian, Mississippi, November 8, 1939; admitted to bar, 1964, Mississippi; 1964, U.S. District Court, Northern District of Mississippi; 1972 U.S. Supreme Court; member Mississippi State Bar (inactive) and American Bar Association since 1964. *Education*: University of Mississippi (B.B.A., 1961; LLB 1964). Previous employment: Federal Bureau of Investigation, May 1964 to February 1995. Began career as Special Agent and advanced through various supervisory and executive management positions, including Assistant Director,

which is one of top 18 executive positions in the FBI. Retired in 1995 after serving six years as Special Agent in Charge of FBI Tampa, which covers all of Central Florida. Attended Federal Executive Institute, Charlottesville, VA; graduate of FBI Senior Executive Program and National Executive Institute (involves select FBI executives and top executives from law enforcement agencies throughout the nation and internationally).

MICHAEL D. MIHOK, born Dennison, Ohio, December 5, 1944. U.S. Air Force, 1962-1966. *Education*: Old Dominion University, Norfolk, Virginia (B.A. 1971). Former Special Agent of the Federal Bureau of Investigation (1971-2002). Expertise in White Collar Crime fraud investigations.

ROBERT NORTH, born New York, New York, November 12, 1950. *Education*: University of Bridgeport, Bridgeport, Connecticut (B.A. Broadcast Journalism, 1978). *Experience*: Formally a television journalist; WDHO-TV, Toledo, Ohio, 1978; government and political reporter for WKRC-TV, Cincinnati, Ohio, 1979; investigative reporter, WFLA-TV, Tampa, Florida, 1983; assistant news director, WJTV-TV, Jackson, Mississippi.

JAMES ROSS, born Beverly, Massachusetts, March 26, 1953. *Education*: Northeastern University, Boston Massachusetts, (B.A. 1976). Certified Fraud Examiner (CFE) credential earned 1999. *Experience*: Seven years in the Economic Crimes Division for Florida Attorney General Bob Butterworth, investigating cases against banks, insurance companies, publishing and funeral homes; eight years with The Tampa Tribune Capitol Bureau investigating government corruption, politics and organized crime. Early career includes investigative reporting assignments in Massachusetts, New Hampshire and Maine and an assistant editor position with a statewide business magazine. Investigative interests also includes integrating computer databases and other technological tools into individual investigations.

LENNY SAVINO, born Queens, New York, November 12, 1951. *Education*: St. John's University (B.A. History, 1973; M.A. with honors, American History, 1977). Columbia University Graduate School of Journalism (M.S. with honors, print journalism, 1996). *Experience*: Nassau County (N.Y.) Police Department, 1973-1997, retired as a Detective Lieutenant; Tampa Tribune, Cops & Courts Team Leader & Projects Reporter, 2002-2006; Knight Ridder Washington Bureau, National Correspondent covering the Justice Department, 2000-2002; Orlando Sentinel, Cops & Courts Reporter 1997-2000.

ALFRED W. SCUDIERI, born New York City, New York, December 29, 1946. *Education*: City University of New York, 1968; Defense Department Language Institute, (Spanish) 1970; Former Special Agent of the Federal Bureau of Investigation (1964-1995); Supervisor of White Collar Crime/Fraud Unit in the Tampa office of the F.B.I. specializing in Bank Fraud, Securities Fraud, Governmental Fraud, Civil Rights and Political Corruption Investigations. Federal Law Enforcement Officer of the Year (1992); ABC-TV "World News Tonight" Investigative Unit (1995-1996).

Class Actions in which James, Hoyer, Newcomer, and Smiljanich, P.A.
Has Been Either Lead or Co-counsel:

Lifsey v. Ross, Civil Action No. 97-1832-CIV-T-23C, United States District Court, Middle District of Florida.

Glenn A. Hawkins and Nedra J. Hawkins, On Behalf of Themselves and Others Similarly Situated vs. Aid Association for Lutherans, Civil Action No: 2:00CV1327, United States District Court, Eastern District of Wisconsin.

Keith Snell and Teresa M. Snell, On Behalf of Themselves and All Others, Similarly Situated, vs Allianz Life Insurance Company of North America, North American Life and Casualty Company and Fidelity Union Life Insurance Company, Case No. 97-2784-RLE - Class Action, United States District Court, District of Minnesota.

Suzette Moody, etc., vs. American General Life & Accident Insurance Company, et al., Case No. 97-1525, In the Court of Common Pleas, Lucas County, Ohio.

Harry J. Manners, Jr., et al. vs. American General Life Insurance Company and AGC Life Insurance Company, Case No. 3-98-0266, United States District Court, Middle District of Tennessee, Nashville Division.

Dale Bachman, Individually and On Behalf of a Class of Persons Similarly Situated, vs. Equitable Life Assurance Society of the United States, Civil Action No. 96-1225-CIV-T-24B, United States District Court, Middle District of Florida, Tampa Division.

Brenda G. Elkins and Jerry Bedenbaugh, Individually and On Behalf of a Class of Persons Similarly Situated, vs. Equitable Life Insurance Company of Iowa, Equitable of Iowa Companies, and Equitable American Insurance Company, Civil Action No. 96-296-CIV-T-17B, United States District Court, Middle District of Florida, Tampa Division.

Ruby M. Dunn, Phillip A. Sollami, Jr., Paula D. Wise, Eric D. Hagen, and Edward M. Abrams, Individually and on Behalf of All Others Similarly Situated, vs. The Franklin Life Insurance Company, Case No. 97-L-250, State of Illinois, In the Circuit Court of the Third Judicial Circuit, Madison County.

Dale L. Baker, Sr. and Patricia A. Baker, Sheila D. Magofna, Howard G. Humberger, Patick W. Berteau and April L. Berteau, James A. Volkaman and Rebecca J. Volkman, on Behalf of Themselves and All Others Similarly Situated, vs. The Franklin Life Insurance Company, Case No: 98-119-CIV-T-26B, United States District Court, Middle District of Florida, Tampa Division.

In re: General American Life Insurance Company Sales Practices Litigation, MDL Docket No. 4:97MDL 1179 CDP, United States District Court, Eastern District of Missouri.

*In re **Great Southern Life Insurance Company Sales Practices Litigation***, Ginsberg Action: 3:98-CV-1249-X, McGraw Action: 3:98-CV-1617-X, Mann Action: 3:98-CV-1618-X, Massey Action: 3:98-CV-1619-X, In the United States District Court For the Northern District of Texas, Dallas Division.

*Lesa Benacquisto vs. **IDS Life Insurance Company***, File Number DC CT 96-018477, State of Minnesota, County of Hennepin, District Court, Fourth Judicial District.

*George W. Snyder and Gail L. Wolcott v. **Jackson National Life Insurance Company**, and Robert Goldstein*, Case No. 00-1008, Division H, In the Circuit Court in and for Hillsborough County, Florida, Civil Division.

*Richard Duhaime, James W. Yoder, Donna M. Yoder, Theodore A. Peck, John Sullivan and Clarissa Sullivan, On Behalf of Themselves and All Others Similarly Situated, vs. **John Hancock Mutual Life Insurance Company**, John Hancock Variable Life Insurance Company, and John Hancock Distributors, Inc.*, Case No: 96-10706-RGS, United States District Court, District of Massachusetts.

*Robert Dean Ulmer, Michael B. Lunsford, Donald L. Yingling, vs. **Life Insurance Company of North America (LINA), Connecticut General Corporation (CGC) and CIGNA Corporation (CIGNA)***, Case No. 8:00-CIV-665-T-24(E), United States District Court, Middle District of Florida, Tampa Division.

*Peggy Greenberg and Pamela Rossmann, Individually and on Behalf of All Others Similarly Situated vs. **The Life Insurance Company of Virginia***, Case No. C-1-97-416, United States District Court, Southern District of Ohio, Western Division.

*Irwin Applebaum as Trustee for the Irwin Applebaum Revocable Trust, Selma Sadie Applebaum, Maryann Casey, Barbara Garing, Raymond Garing, Bettye J. O'Neal, and Harley Stuhr, On Behalf of Themselves and All Others Similarly Situated, vs. **LifeUSA Insurance Company and Allianz Life Insurance Company of North America***, Civ. No. 8:00-CV-1045-T-17E, Class Action, United States District Court, Middle District of Florida, Tampa Division.

*Richard H. Blanke vs. **Lincoln National Corporation, Security Connecticut Life Insurance Company, Lincoln National Life Insurance Company and Wayne W. Wolfe***, Civil Jury Case No: 0512048, 24th Judicial District Court for the Parish of Jefferson, State of Louisiana.

In re: Lutheran Brotherhood Variable Insurance Products Co. Sales Practices Litigation, Case No: 99-MD-1309 (PAM/JGL) United States District Court, District of Minnesota.

*Horton et al. v. **Metropolitan Life Insurance Company***, Case No. 93-1849-CIV-T-23A , in the United States District Court for the Middle District of Florida.

In Re Metropolitan Life Insurance Company Sales Practices Litigation, C.A. No: 96-0795, C.A.96-0038, C.A. 95-1426, C.A. 96-0436, C.A.96-0051, In the United States District Court, For the Western District of Pennsylvania.

Paul A. Goshen, On Behalf of Himself and All Others Similarly Situated, vs. The Mutual Life Insurance Company of New York and MONY Life Insurance Company of America, Index No. 95-600466, Supreme Court of the State of New York, County of New York.

In re New England Mutual Life Insurance Company Sales Practices Litigation, D. MASS. C.A. NO. 1:96-11534-REK, United States District Court For the District of Massachusetts.

Annie Hirsh, Issac L. Hayes, and Sammie L. Epps, on Behalf of Themselves and All Others Similarly Situated, vs. Physicians Mutual Insurance Company, and Physicians Life Insurance Company, Case No: 2:00-CV-39PG, In the United States District Court, Southern District of Mississippi, Hattiesburg Division.

Jerry D. Grove, Leo Willick and Sidney Gilbert, on Behalf of Themselves and All Others Similarly Situated, vs. Principal Mutual Life Insurance Company, Case No: 4-97-CV-90224, Class Action, In the United States District Court, For the Southern District of Iowa, Central Division.

Eloise Bomber, On Behalf of Herself and All Others Similarly Situated vs. Reliastar Life Insurance Company, Case No. 8:01-CV-907-T-27MSS, United States District Court, Middle District of Florida, Tampa Division.

Randy W. Lee, Sandra F. Lee, Elba Kolster and Meyer Silverstein on Behalf of Themselves and All Others Similarly Situated, vs. USLIFE Corporation, the Old Line Life Insurance Company of America, All American Life Insurance Company and The United States Life Insurance Company in the City of New York, Case No: 1:97CV-55-M, United States District Court, Western District of Kentucky.

James Stock, et al. vs. United Liberty Life Ins. Co., Case No. CV00-06-117, In The Common Pleas Court, Butler County, Ohio.

Thomas E. Rector, Fred Caroque and Antoinette M. Caroque On Behalf of Themselves and All Others Similarly Situated, vs. The Western and Southern Life Insurance Company, and Western-Southern Life Assurance Company, Case No. 98-667-CIV-T-26B, Class Action, United States District Court Middle District of Florida, Tampa Division.

Joseph F. Kreidler, et al., vs. Western-Southern Life Assurance Co., Case No. 95-CV-157, Court of Common Pleas, Erie County, Ohio.

Scott Swope, et al. v. The Thompson Corporation and West Group, Case No. 19-C5-02-8564; First Judicial District Court, Dakota County, Minnesota.

Alberta E. Richardson, et al. vs. Carson Products Company and Johnson Products Co., Inc., Case

No. 00-01713, Circuit Court of the Thirteenth Judicial Circuit, Hillsborough County, Florida.

Leola McNeil, et al. vs. American General Life & Accident Insurance Company, et al., Case No. 3-99-1157, United States District Court, Middle District of Tennessee.

James Williams, et al. vs. United Insurance Company of America, et al., Case No. 01-920, Circuit Court of Jefferson County, Alabama, Bessemer Division.

Glenda Carnegie, et al. vs. Mutual Savings Life Insurance Company, Case No. CV-99-S-3292-NE, United States District Court, Northern District of Alabama, Northeastern Division.

In re: Industrial Life Insurance Litigation, MDL 1371 (Rosebud Montgomery, et al. vs. Life Insurance Company of Georgia Industrial Life Insurance Litigation, Case No. 1:99-CV-252 MMP, United States District Court, Northern District of Florida, Gainesville Division).

In re: Riscorp Securities Litigation, Case No. 96-2374-CIV-T-23A, Middle District of Florida.

Andrew Taworski v. The American Franklin Life Insurance Company, American General Equity Services Corporation, f/k/a Franklin Financial Services Corporation, Case No. 2002L0195, Seventh Judicial Circuit, Sangamon County, State of Illinois.

Manuel Fernandez v. American Express Company and American Express Publishing Corporation, Case No. 01-0026381, Thirteenth Judicial Circuit, Hillsborough County, State of Florida.

Sharon Hicks v. Oxmoor House, Inc., Case No. CV034-752, Circuit Court of Jefferson County, Alabama.

In re: Sulzer Hip Prosthesis and Knee Prosthesis Liability Litigation, (Kathi R. Levitov v. Sulzer Orthopedics, Inc. and Sulzer Medica, Ltd.) Case No. 1:01-CV-9000, MDL Docket No. 1404, United States District Court, Northern District of Ohio, Eastern Division.

In re: Baycol Products Litigation, Case No. 01-2386, MDL No. 1431, United States District Court, District of Minnesota.

Melissa Dukes and Thomas J. Dolan v. Hewlett-Packard Company, Case No. CV-2002-270, Circuit Court of Phillips County, Arkansas.

In re Allstate Insurance Company Under Writing and Rating Practices Litigation, Case Number MDL Docket No. 3:02-md-1457, United States District Court for the Middle District of Tennessee, Nashville Division.

Marissa Craft, Brigitte Thompson v. Sprint Corporation, Case No. 4:02-cv-183-RH, United States District Court, Northern District of Florida, Tallahassee Division.

Scott P. Swope v. The Thomson Corporation and West Group, Case No. 19-C5-02-8564, State of Minnesota District Court, County of Dakota, First Judicial District.