

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

DANIEL CARSTAIRS, *on behalf of himself
and all others similarly situated,*

Plaintiff,

v.

UNIVERSITY OF ROCHESTER,

Defendant.

Case No. 6:20-cv-06690-CJS

**PLAINTIFF'S MOTION FOR AN AWARD OF ATTORNEYS' FEES AND
REIMBURSEMENT OF EXPENSES AND
FOR A SERVICE AWARD FOR PLAINTIFF**

Named Plaintiff Daniel Carstairs hereby moves the Court for an award of attorneys' fees and reimbursement of expenses and a Service Award. In support whereof, he submits the contemporaneously filed Memorandum of Law and the Declarations of James A. Francis and Yvette Golan.

Dated: September 29, 2025

Respectfully submitted,

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on behalf of himself and the Settlement Class,

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Named Plaintiff Daniel Carstairs, by and through Class Counsel, respectfully moves this Honorable Court for an award of attorneys' fees and reimbursement of expenses to Class Counsel and for a service award pursuant to the Court's Order preliminarily approving the parties' class action settlement and directing notice to members of the Settlement Class. ECF 87 at 7. Plaintiff submits this request now, 15 days before the deadline for objections, so Settlement Class Members have the opportunity to review the request and object if they choose to do so.

I. INTRODUCTION

As set forth in the motion for preliminary approval, ECF 86, Named Plaintiff alleged that he and other similarly situated students registered for in-person courses at Defendant University of Rochester (Rochester) and paid tuition and various fees in exchange for Rochester's promise to provide the unique benefits of an in-person, on-campus educational experience. Carstairs alleged that Rochester breached an implied contract with him (or was, in the alternative, unjustly enriched) when it transitioned from in-person classes to remote learning in response to the COVID-19 pandemic, beginning in the spring 2020 semester and continuing through the summer 2020 and fall 2020 semesters. Further, he alleges that Rochester's shift to remote education gave rise to claims of breach of implied contract and unjust enrichment.

Carstairs and Rochester reached an agreement to settle his and Settlement Class Members' claims, as set forth in the Settlement Agreement, ECF 86-1, which this Court preliminarily approved on June 24, 2025 and directed notice thereof to Settlement Class Members. ECF 87. Now, pursuant to the Settlement Agreement and the Court's Order, Plaintiff moves for an award of attorneys' fees, reimbursement of expenses, and a service award. *See* ECF 86-1 at 5.3 *see also* ECF 87 at 7 (fee application due 45 days prior to Final Approval Hearing).

For the following reasons, Named Plaintiff Carstairs respectfully requests that the Court award Class Counsel one-third (1/3) of the Settlement Fund as their reasonable attorneys' fees and

reimbursement for their reasonable litigation expenses, which is well-supported by the Second Circuit precedent and similar college-Covid settlements, its peer group cases. Plaintiff further requests that the Court approve a Service Award for him of \$5,000.

II. HISTORY OF THE LITIGATION

The settlement of this matter on behalf of the Settlement Class results from significant motion practice, discovery, litigation, and lengthy arms-length settlement negotiations, which are summarized below.

A. Pleadings and Early Motion Practice

This matter was filed on September 10, 2020 by the Named Plaintiff on behalf of himself and other students who paid (directly or indirectly) tuition and fees to Rochester for in-person services and education not provided when Rochester closed its campus during the COVID-19 pandemic. *See* ECF 1.

Rochester filed a motion to dismiss the Complaint on December 4, 2020. ECF 10. Pursuant to a stipulation, ECF 11, Named Plaintiff filed an Amended Complaint on January 8, 2021. ECF 12. On February 5, 2021, Rochester filed a motion to dismiss the Amended Complaint, which the parties fully briefed. ECFs 15, 19, 24. While the motion was pending, the parties submitted a number of notices of supplemental authority concerning other COVID-19 college campus closure matters (college-Covid cases in suit across the country. *See* ECFs 26, 27, 29, 30, 31, 32, 33, 38, 41, 43, 45.

On May 25, 2023, the Court denied Rochester's motion to dismiss the Amended Complaint, ECF 46, and Rochester filed its Answers to the Amended Complaint on June 26, 2023. ECF 48.

B. Discovery

The parties then began conducting written discovery. *See* ECFs 50, 51, 52, 53, 62. Rochester responded to interrogatories and produced almost eight thousand pages of documents in response to Named Plaintiff's discovery, and Class Counsel worked together to analyze these as well as thousands of additional pages of market studies and reports in assessing proof of class-wide damages. Class Counsel also prepared for the deposition and the production of documents from Plaintiff, Daniel Carstairs.

C. Mediation and Finalizing the Settlement

As discovery continued, the parties were referred to mediation, *see* ECF 53, and on March 21, 2024, the parties participated in a day-long mediation with the Hon. Diane Welsh (Ret.) of JAMS, and agreed in principle to settle all claims on a classwide basis.

Since then, the parties continued to meet and confer over discovery necessary to finalize their settlement. Notably, because some students continued to receive in-person education after Rochester's COVID-related transition to remote instruction and some students enrolled in courses that were to be provided online even before the pandemic, this process included multiple, incredibly time-consuming queries of Rochester's enrollment and payment data and related productions over several months, that required multiple extensions from this Court, for which the parties are very grateful. These complex datasets required several months to compile and produce despite the parties' best efforts to streamline the scope of data needed. Ultimately, Rochester produced the agreed-upon data on December 23, 2024. Following unexpected health-related delays and unexpected matters requiring the University's attention during the past several months, the parties finalized the Settlement in May of 2025.

III. RELIEF FOR THE SETTLEMENT CLASS

The relief provided in the settlement is detailed in Plaintiff's Motion for Order Preliminarily Approving Class Settlement and Directing Notice, ECF 86, and set out in full in the Settlement Agreement, ECF 86-1. The settlement's highlights include:

- The creation of a non-reversionary 3,500,000.00 Settlement Fund, *id.* at 4.2
- Automatic cash payments from the Net Settlement Fund for 9,982 Settlement Class Members based on the amounts each paid Defendant during the Affected Semesters,¹ *id.* at 4.2.1
- Payment of class notice and administration expenses, *id.* 5.1
- Payment of reasonable attorney's fees, *id.* 5.3
- Payment of a Service Award to Named Plaintiff, *id.* 5.3
- A second, pro rata distribution of funds to Settlement Class Members who claim their initial distribution, *id.* 5.3.1 and
- A *cy pres* distribution to the Student Emergency Fund, to assist other Rochester students, *id.* 5.3.1.

IV. ARGUMENT

Federal Rule of Civil Procedure 23(h) provides that, in a certified class action, the court may award reasonable attorneys' fees and nontaxable costs that are authorized by law or by the parties' agreement. The court's authority to reimburse the representative parties . . . stems from

¹ If the Court grants the instant motion and awards Class Counsel their requested attorneys' fees and costs, a Service Award, and notice and administration expenses, and every Class Member cashes his or her check or claims his or her settlement distribution electronically, Class Counsel estimates that the average amount that each Class member will receive will be approximately 226.24, with Settlement Class Members that paid higher amounts in tuition and fees receiving a proportionately higher amount than those who paid less. As set forth, *infra*, IV.A, n.3, these amounts fall squarely within the range of this case's peer group settlements.

the fact that the class-action device is a creature of equity and the allowance of attorney-related costs is considered part of the historic equity power of the federal courts. 7B Charles Alan Wright, Arthur R. Miller, Mary Kay Kane, *Federal Practice and Procedure* 1 803, at 325 (3d ed. 2005).

In the Second Circuit, there are two typical methods of calculating attorneys' fees in class actions, the percentage of recovery method and the lodestar method. *See Goldberger v. Nte rated Resources Inc.*, 209 F.3d 43, 47 (2d Cir. 2000). Courts in this Circuit have moved toward awarding Class Counsel a percentage of recovery of a common fund established through a class settlement, because this method directly aligns the interests of the class and its counsel and provides a powerful incentive for the efficient prosecution and early resolution of litigation. *Wal Mart Stores Inc. v. Isaacs, S.A. Inc.*, 396 F.3d 96, 121 (2d Cir. 2005) (quoting *In re Lloyd's Am. Inst. Fund Litig.*, 2002 WL 31663577, at *25 (S.D.N.Y. Nov. 26, 2002)). As the leading class action treatise explains:

The common fund fee award, as a contingent fee award, should often (if not always) be higher than counsel's lodestar itself. This is true because the fee reflects both the provision of legal services and the loan to the class of the attorney's resources and services, at the risk of recovering nothing. . . . Given the higher risk of not getting paid, and the loan of the attorney's resources and services to the class, there must be some higher reward when a payday arrives.

5 *Goldberger on Class Actions* 15:73 (5th ed.).

Regardless of the method used, courts continue to look to the Goldberger factors to determine the reasonableness of a common fund fee. These include (1) the time and labor expended by counsel (2) the magnitude and complexities of the litigation (3) the risk of the litigation (4) the quality of representation (5) the requested fee in relation to the settlement and (6) public policy considerations. *Goldberger*, 209 F.3d at 50 (citation omitted).

In light of the work expended in this complex class action and the excellent results obtained, Class Counsel's fee request of 1,146,747.04, or 32.8% of the 3.5 million common fund, is reasonable under Second Circuit authorities as confirmed by a lodestar cross-check.

A. The Requested Fee Is Reasonable as a Percentage of the Settlement Fund

The Settlement Agreement provides that Class Counsel may make an application to this Court for an award of attorneys' fees and litigation costs in an amount of up to one-third (1/3) of the Settlement Fund. ECF 86-1 at 5.3. That amounts to 1,166,666.67, which is well within the range of what courts within the Second Circuit have approved for counsel fees in Rule 23(b)(3) settlement fund cases.² Moreover, courts frequently award class counsel one-third of the settlement fund created in cases like this one that involve claims arising from COVID-19 campus shutdowns.³

² See, e.g., *napp v. ad er echs. nc.* No. 12-CV-6637-CJS-MWP, 2015 WL 3745303, at *6 (W.D.N.Y. June 15, 2015) (a one-third award is typical in class action settlements in the Second Circuit) (quoting *uippone v. S oldin s C*, No. 09-cv-01029-CM, 2011 WL 5148650, at *8 (S.D.N.Y. Oct. 28, 2011)) *Spicer v. ier Si ty C*, No. 08-cv-10240-PAE, 2012 WL 4364503, at *4 (S.D.N.Y. Sept. 14, 2012) (Class Counsel's request for one-third of the settlement fund is also consistent with the trend in this Circuit.) *n re loyd Am. rust Fund iti .*, 96 Civ. 1262 (RWS), 2002 WL 31663577, at *26 (S.D.N.Y. Nov. 26, 2002) (noting scores of common fund cases where fees . . . were awarded in the range of 33-1/3% of the settlement fund.) *Fleisher*, 2015 WL 10847814, at *16 n.11 (collecting cases where courts granted fee awards of approximately 30-33.3% of the total value of the settlement) *n re ayment Card nterchan e Fee Merch. isc. Antitrust iti .*, 991 F. Supp. 2d 437, 445 (E.D.N.Y. 2014) (It is very common to see 33% contingency fees in cases with funds of less than 10 million .).

³ See, e.g., *incheloe v. niv. of Chica o*, No. 1:20-cv-3015 (N.D. Ill.) (4,950,000 settlement fund for 19,818 students) *Shaffer v. eor e ashin ton niv.*, No. 1:20-cv-1145 (D.D.C.) (5,500,000.00 settlement fund for over 19,875 students) *Smith v. niv. of ennsylvania*, No. 2:20-cv-2086-TJS (E.D. Pa.) (2,875,016.51 settlement fund for 24,500 students) *orter v. merson Colle e*, No. 1:20-cv-11897-RM (D. Mass.) (2,060,000 settlement fund for 4,262 students) *feifer v. oyola niv. of Chica o*, No. 1:20-cv-3116 (N.D. Ill.) (1,375,000 settlement fund for 14,496 students) *Choi v. ro n niv.*, No. 1:20-cv-00191-JJM-LDA (D.R.I.) (1,500,000 settlement fund for 9,646 students) *noro s i v. niv. of e aven*, No. 3:20-cv-1589 (D. Conn.) (2,285,600 settlement fund for 6,144 students) *Staubus v. niv. of Minnesota*, Court File No. 27-cv-20-8546 (4th Jud. Dist., Hennepin Cnty., Minn.) (3,250,000 settlement fund for 54,000 students) *occhio v. ut ers, he State niv. of e Jersey*, No. MID-L-003039-20 (N.J. Super. Ct.) (5,000,000 settlement fund for approximately 64,000 students) *Smith et al. v. he niv. of ennsylvania*, No. 2:20-cv-02086 (E.D. PA.) (4,500,000 settlement fund for more than 24,000 students) *Martin v. inden ood niv.*, No. 4:20-cv-01128-RLW, ECF 48 (E.D. Mo.) (1,650,000 settlement fund for 5,800 students awarding attorneys' fees of 1/3 of fund) *Amario v. he niv. of ampa*, No. 7:20-cv-03744-CS (S.D.N.Y.) (3,400,000 settlement fund for 9,000 students) *Met ner v. uinnipiac niversity*, 3:20-cv-00784- AD (D. Conn.) (2,500,000 settlement fund for 9,000 students) *Fittipaldi v.*

Because no portion of the settlement fund shall revert to Defendants under any circumstance and the full amount will be distributed for the benefit of class members, calculation of the percentage based on the entire fund is appropriate here. *Caitflo v. C. v. Sprin Comm ns Co.*, 2013 WL 3243114, at *2 (D. Conn. June 26, 2013). A 32.4 % fee of the common fund in this matter is supported by each of the *oldber er* factors.

1. *he time and labor e pended by counsel*

As detailed above and in the attached declarations of counsel and supporting exhibits, Plaintiff's counsel have expended substantial effort to prosecute this case over the four-year duration of this litigation. Counsel's contemporaneous time records reflect over 1,000 hours of attorney and paralegal time to investigate the claims, draft the pleadings, brief early motion practice, conduct extensive and detailed discovery regarding both the merits of the claims and testing Defendant's assertions regarding class member identification, extended settlement discussions, memoriali ing the settlement, extensive analysis of Defendant's registration and payments data, and seeking settlement approval. Francis Decl. at 11-12 Golan Decl. at 5-7.

2. *he ma nitude and comple ities of the liti ation*

This action resulted in significant relief for Settlement Class Members, namely the creation of a \$3,500,000 Settlement Fund to compensate students affected by the COVID-19 campus closures.

Monmouth niversity, No. 3:20-cv-05526-MAS-RLS, ECF 80 (D.N.J.) (\$1,300,000 settlement fund for 4,200 students, awarding 1/3 of fund as attorneys' fees) *spe o v. Cornell niversity*, Case No. 3:20-cv-00467-MAD-MIL (N.D.N.Y.) (\$3,000,000 settlement fund for 24,000 students) *ri ht v. S. e ampshire niv.*, No. 1:20-cv-00609-LM, ECF 37 (D.N.H. Aug. 22, 2021) (final approval of \$1.25MM common fund and awarding attorneys' fees of 1/3 of fund) *osado v. arry niv. nc.*, No. 1:20-cv-21813-JEM, ECF 84 (S.D. Fla. Aug. 7, 2021) (final approval of \$2.4MM common fund and awarding 1/3 of fund as attorneys' fees).

Class Counsel arrived at this resolution only after defeating a series of complex and novel legal arguments asserted by the Defendant, including the educational malpractice bar, the determination of the market value of a hypothetical online program, and the applicability and effect of contractual defenses such as impossibility or illegality. Additionally, counsel reviewed thousands of pages of documents produced in discovery, enabling the assessment of the relative strengths and weaknesses of their claims and defenses. This led to the identification of appropriate terms for relief to the class and an accompanying settlement structure. This factor favors approval of the fee request here.

3. *The risk of the litigation*

This case was undertaken and pursued on a contingent basis and represented a significant financial risk for Plaintiff's counsel. As Judge Posner of the Seventh Circuit Court of Appeals has observed:

A contingent fee must be *higher* than the fee for the same legal services as they are performed. The contingent fee compensates the lawyer not only for the legal services he renders, but also for the loan of those services. The implicit interest rate on such a loan is higher because the risk of default (the loss of the case, which cancels the debt of the client to the lawyer) is much higher than that of a conventional loan.

Posner, *Economic Analysis of Law*, 534, 567 (4th ed. 1992) (emphasis added). Risk of nonpayment is a relevant consideration in determining the reasonableness of a fee award. *See In re F.A. Elec. & Telecom. Holdings Ltd. Sec. Litig.*, 2010 WL 4537550, at *27 (S.D.N.Y. Nov. 8, 2020) (Courts in the Second Circuit have recognized that the risk associated with a case undertaken on a contingent fee basis is an important factor in determining an appropriate fee award.).

If this matter had proceeded in litigation, Plaintiff and his counsel would have borne considerable additional risks. In addition to the familiar uncertainty associated with contested class certification and the possibility of an interlocutory appeal pursuant to FED. R. CIV. P. 23(f),

dispositive motions, and potential appeals, not to mention trial, at the time of filing the Complaint, there was no precedent regarding recovery of tuition and fees for in-person college education during a pandemic. There is even less certainty today, as courts have differed widely as to the legal and factual merit of similar cases. This factor favors approval of the requested fee.

4. *the quality of representation*

As set forth in the declarations of counsel and supporting material, including the biography of Francis Mailman Soumilas, P.C. (hereafter, FMS), Plaintiff's counsel has decades of experience in prosecuting consumer class actions, including in the highly specialized area of claims arising from the COVID-19 pandemic. Francis Decl. at 4-10 Golan Decl. at 8. Federal courts have repeatedly noted the high quality of FMS's litigation product in the class action, and its commitment to the classes it serves. *See* *roo s v. rans nion C*, 743 F. Supp. 3d 622, 644 (E.D. Pa. 2024) (FMS highly qualified, experienced, and capable) *Mc ntyre v. eal a e nc.*, No. 18-cv-03934, 2023 WL 2643201 (E.D. Pa. Mar. 24, 2023) (noting that FMS has significant experience in litigating class actions and demonstrated particular skill and efficiency in representing class) *Flores v. press Services nc.*, No. 14-cv-3298, 2017 WL 1177098, at *3 (E.D. Pa. March 30, 2017) (FMS has extensive experience in consumer class action litigation) *arel v. an of America*, 255 F.R.D. 393, 398-99 (E.D. Pa. 2009) (FMS ha(s) done an excellent job in representing the class in the instant litigation.) *elly v. usiness nformation roup*, 15-cv-6668, 2019 WL 414915 (E.D. Pa. 2019) (finding FMS qualified and experienced attorneys . . . who have substantial experience in class action . . . and who are qualified to conduct the litigation.). Likewise, Yvette Golan is a Washington, D.C. class action attorney with more than 20 years of experience with complex litigation and consumer protection class actions. *See* Golan Decl. at 9-13. Class Counsel's decades of experience led directly to the excellent result here.

5. *the requested fee in relation to the settlement*

Compensation of 1,146,747.04 in attorney's fees represents 32.8% of the Settlement Fund, which will provide refunds to Settlement Class Members commensurate to the amounts each paid in tuition and fees for the Affected Semesters. ECF 86-1 at 4.2.1. In light of the substantial value created by counsel's work in this case, the requested fee is reasonable.

6. *public policy considerations.*

Public policy favors this award because it will continue to encourage attorneys to take on this type of consumer class action on a contingency basis and to further encourage enforcement of consumer protection laws. *See e.g., Allmar v. Cohen Slamowitz*, 378 F. Supp. 3d 222, 235 (W.D.N.Y. 2019) (discussing public policy benefits of approving settlements of remedial consumer protection actions) *See also* *amp v. t s u e nc.*, 2014 WL 7272960, at *2 (N.D.N.Y. Dec. 18, 2014) (Public policy militates in favor of the fee in light of the role that consumer protection class actions play in regulating the marketplace.).

In sum, each of the *oldber er* factors supports the reasonableness of Class Counsel's requested fee as a percentage of the Settlement Fund.

B. A Lodestar Cross-Check Results in a Multiplier Between 1.48 and 2.0, Which Confirms That the Requested Fee Is Reasonable

Consistent with *oldber er*, courts applying the percentage of the fund method may also conduct a cross-check by calculating counsel's lodestar (multiplying hours reasonably expended against a reasonable hourly rate) and applying an appropriate multiplier based on the *oldber er* factors. As described in counsel's declarations, Class Counsel's combined lodestar here is 776,363.50 at counsel's home-market rates and 574,279.00 at local, Rochester-market rates. This reflects over 1,040 hours of attorney and paralegal time. *See* Francis Decl. at 17 Golan Decl. at 12. Regardless of whether the Court considers hourly rates set with reference to class

counsel's home legal markets of Philadelphia and Washington D.C. or the local Rochester legal market, a lodestar cross-check results in a multiplier of between 1.48 and 2.0,⁴ which confirms the reasonableness of the fee requested here because courts routinely award fees where the percentage of recovery method leads to a lodestar multiplier as high as between 3 and 4.5. *See Al Mart Stores* 396 F.3d at 123 (*ec man v. ey an .A.*, 293 F.R.D. 467, 481-82 (S.D.N.Y. 2013) (collecting cases) *o a v. Fed round ac a e Sys. nc.*, 2014 WL 3778211, at *7 (D. Conn. July 31, 2014) (collecting cases that have approved awards with a lodestar multiplier of up to eight times the lodestar).⁵

1. *ours e pended*

The attorneys, paralegals, and staff at Francis Mailman Soumilas, P.C. (FMS) and The Golan Firm PLLC (Golan Firm) who worked on this case all keep detailed time records in the regular course of business of tasks completed, the date the work was completed, and specifying the nature of the work. Francis Decl. at 17 Golan Decl. at 11-12. In support of this motion,

⁴ At home-market hourly rates, Class Counsel's total lodestar is \$776,363.50, and at local market rates, Class Counsel's total lodestar is \$574,279.00. Dividing the requested fee of \$1,146,747.04 (one-third of the settlement fund less \$19,919.63 in litigation expenses) by these amounts results in multipliers of 1.48 and 2.0, respectively.

⁵ Class Counsel's requested multiplier also aligns with comparable figures approved as cross checks in federal courts throughout the country. *See, e. ., n re Cardinal ealth nc. Sec. iti .*, 528 F. Supp. 2d 752, 768 (S.D. Ohio 2007) (finding that requested fee amount with a lodestar multiplier of 7.89 was not unreasonable g iven the outstanding settlement in this case and the noticeable skill of counsel) *n re Char er Commc n nc. Sec. iti .*, No. MDL 1506, 4:02-cv-1186-CAS, 2005 WL 4045741, at *18 (E.D. Mo. June 20, 2005) (approving lodestar multiplier of 5.61) *n re cel ner y nc. Sec. erivative SA iti .*, 364 F. Supp. 2d 980, 989 (D. Minn. 2005) (approving a multiplier of 4.7 in a case that only involved document review, and was resolved with no depositions after two days of mediation) *n re ite Aid Corp. Sec. iti .* 362 F. Supp. 2d 587, 589 (E.D. Pa. 2005) (awarding lodestar multiplier of 6.96 even though the parties engaged mostly in informal discovery and took no depositions) *Maley v. el lob. echs. Corp.*, 186 F. Supp. 2d 358, 362 (S.D.N.Y. 2002) (describing multiplier of 4.65 as modest in a case in which plaintiffs conducted no depositions, only interviews, and confirmatory discovery consisted of tens of thousands of pages of documents) *n re AS A Mar et Ma ers Antitrust iti .*, 187 F.R.D. 465, 489 (S.D.N.Y. 1998) (awarding 3.97 multiplier, that multipliers between 3 and 4.5 were common) *n re orldCom nc. Sec. iti .*, 388 F. Supp. 2d 319, 353 (S.D.N.Y. 2005) (awarding multiplier of 4).

Plaintiff's counsel submits a detailed breakdown of the nature of work performed in this case, the attorney performing the work, the amount of time spent, and the hourly rate charged. *Id.*

This submission provides the necessary degree of specificity required in order to evaluate a fee petition. *See Ensley v. C. Erhart*, 461 U.S. 424, 437, n.12 (1983) (noting that counsel are not required to record in great detail how each minute of his time was expended, but should identify the general subject matter of his time expenditures.). The declarations of counsel submitted herewith also sets forth the basis for the division of labor among the attorneys and paralegals in an efficient manner. Francis Decl. at 11 Golan Decl. at 11. There was no time for which compensation is now requested in this case that was excessive, redundant, or otherwise unnecessary. *Ensley*, 461 U.S. at 433. All the time submitted was reasonably necessary to achieve the successful outcome for the Settlement Class.

2. *Counsel's hourly rates*

Within the Second Circuit, courts apply a presumption that a reasonable hourly rate should be evaluated with reference to rates charged in the district in which the reviewing court sits. *Simmons v. Mayor of City of Transit Auth.*, 575 F.3d 170, 174 (2d Cir. 2009). However, litigants may show that the typical hourly rates of out-of-district counsel should be applied by demonstrating that selection of those counsel would likely (not just possibly) produce a substantially better net result. *Id.* at 175. This analysis looks to experience-based, objective factors including counsel's special expertise in litigating the particular type of case, if the case is of such nature as to benefit from special expertise and also whether there were in-district counsel possessing appropriate expertise. *Id.* at 176. Class Counsel have provided information about their hourly rates from their home legal markets of Philadelphia (FMS) and Washington, D.C. (The Golan Firm).

In support of the Francis Declaration and hourly rates charged, Class Counsel has

submitted the April 1, 2025 expert report of Abraham C. Reich, Esquire, analyzing the standard hourly rates charged by FMS, and finding that the rates charged are at or below the appropriate rates for attorneys with comparable experience within the Philadelphia, Pennsylvania and Rochester, New York legal markets. *See* Francis Decl. at 18-19 and Ex. B thereto (Reich report).⁶ FMS's hourly rates as set by Fox Rothschild, LLP attorneys have been approved by courts across the country in recent years. *See McIntyre v. Deal & Co. Inc.*, 2023 WL 2643201, at *3 n.5 (E.D. Pa. Mar. 23, 2023) (approving fee petition based upon same Fox Rothschild report and with reference to counsel's overwhelming experience in consumer litigation and class actions) *Peracopian v. Arace Inc.*, No. 18-cv-06726-HSG, 2020 WL 7260054, at *7-8 (N.D. Cal. Dec. 10, 2020) (approving firm's hourly rates) *Elly v. Business Info. Corp. Inc.*, No. 2:15-cv-06668-DS, ECF 157 (E.D. Pa. Feb. 1, 2019) (order approving fee award including hourly rates) *Anderson v. Corelogic Atlanta Roundtable C*, No. 3:12-cv-97, 2018 WL 1558556, at *5 (E.D. Va. Mar. 22, 2018) (Novak, J.) (approving hourly rates based upon report by same expert) *Atel v. Transnion C* No. 14-cv-00522-LB, 2018 WL 1258194, at *7 (N.D. Cal. Mar. 11, 2018) (same) *Carter v. Shalhoub Management Company Inc.*, No. 15-cv-1531 (ECF 69) (C.D. Cal. Mar. 15, 2017) (granting firm's fee petition in full in FCRA class action settlement, including 33% of fund) *erry v. Schulman*, 807 F.3d 600, 617 (4th Cir. 2015) (affirming fee award and approving hourly rates) *Flores v. Press Services Inc.* No. 2:14-cv-03298-HB, 2017 WL 1177098, at *4 (E.D. Pa. Mar. 29, 2017) *Sto es v. Deal & Co. Inc.* C.A. No. 15-1520 (ECF 65) (E.D. Pa. Feb. 6, 2018) (approving requested hourly rates).

The hourly rates of The Golan Firm are set with reference to the Laffey Matrix, which

⁶ Mr. Reich has practiced law for over 30 years, and as Co-Chair and Partner of his firm, he has had direct involvement in setting and establishing the hourly rates charged by the partners and associates of Fox Rothschild, LLP in that and other legal markets.

courts have relied upon concerning the market rate of attorneys' fees for complex civil litigation for decades. *See* Golan Decl. at 13.

C. Class Counsel's Expenses Are Reasonable and Should Be Reimbursed

The efforts of Plaintiff's counsel have resulted in substantial common benefits to the class. In doing so, counsel incurred total out-of-pocket expenses of 19,919.63, the vast majority of which was for mediation fees. *See* Francis Decl. at 21 Golan Decl. at 14. These costs are eminently reasonable in light of the nature of the action and the tasks that needed to be performed. *See n re ndep. ner y oldin s C Sec. iti .*, 302 F. Supp. 2d 180, 183 n.3 (S.D.N.Y. 2003) (award to class counsel may include reasonable out-of-pocket expenses necessary to the representation of the class). As such, they should be reimbursed.

D. The Court Should Award Named Plaintiff Daniel Carstairs a Service Award

The Settlement Agreement also provides that Class Counsel may make an application to this Court for a service award to Named Plaintiff Carstairs of five thousand dollars (5,000.00) in recognition of his efforts in service to the Class. ECF 86-1 at 5.3. On behalf of Named Plaintiff Daniel Carstairs, Class Counsel also seek this Court's approval of a 5,000.00 Service Award in recognition of his willingness to undertake the risks of this litigation and shoulder the burden of such litigation. In this case, there would be no benefit to Class members if Mr. Carstairs had not stepped forward. He devoted significant time and energy to the litigation, including by reviewing documents, assisting with compiling responses to written discovery requests, preparing for and sitting for his deposition, and consulting with counsel as necessary. He has totally fulfilled his obligations as a class representative.

Service awards are common in class action cases and are important to compensate plaintiffs for the time and effort expended in assisting the prosecution of the litigation, the risks incurred by becoming and continuing as a litigant, and any other burdens sustained by the

plaintiff.’ *sposito v. ations ecovery Ctr. nc.* 2021 WL 2109077, at *8 (D. Conn. May 25, 2021) (quoting *Casta na v. Madison S uare arden . .*, 2011 WL 2208614, at *8 (S.D.N.Y. June 7, 2011)).

Courts in this Circuit have approved service awards of up to 100,000 each and courts routinely approve settlements containing service awards of 10,000 or more per class representative. *See Massiah v. Metro lus ealth lan nc.*, 2012 WL 5874655, at *8 (E.D.N.Y. Nov. 20, 2012) (collecting cases in the Second Circuit approving service awards ranging from 5,000 to 30,000) *o a* , 2014 WL 3778211, at *5 (same) *orres v. ristede s peratin Corp.*, 2010 WL 5507892, at *7 (S.D.N.Y. Dec .21, 2010) (finding service awards of 15,000 to each named plaintiff reasonable).

Class Counsel therefore re uest that the Court approve a 5,000 Service Award for Mr. Carstairs as set forth in the Settlement Agreement.

V. CONCLUSION

Plaintiff’s re uest for attorneys’ fees and reimbursement of expenses is entirely reasonable, and a Service Award for Mr. Carstairs is also appropriate. For all the foregoing reasons, Plaintiff re uests that the Court award Class Counsel their reasonable attorneys’ fees of 1,146,747.04 and reimbursement of 19,919.63 in litigation expenses for a total of 1,166,666.67.

Dated: September 29, 2025

Respectfully submitted,

DANIEL CARSTAIRS,
on behalf of himself and the Settlement Class,

By: /s/James A. Francis
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Attorneys for Named Plaintiff and the
Settlement Class

*admitted *pro hac vice*

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

DANIEL CARSTAIRS, *on behalf of himself and
all others similarly situated,*

Plaintiff,

v.

UNIVERSITY OF ROCHESTER,

Defendant.

Case No. 6:20-cv-06690-CJS

**DECLARATION OF JAMES A. FRANCIS IN SUPPORT OF PLAINTIFF'S MOTION
FOR AN AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES
AND FOR A SERVICE AWARD FOR NAMED PLAINTIFF**

I, James A. Francis, declare as follows:

1. I am a shareholder and attorney at Francis Mailman Soumilas, P.C. (FMS) and one of the attorneys representing the Plaintiff in the above-captioned matter.

2. This declaration describes the history and experience of FMS and the work undertaken by the firm in connection with this litigation. It also summarizes the work done by each attorney and paralegal who was involved in the litigation as well as the firm's costs and expenses.

3. Along with the attorneys working on this case, I oversaw staffing the case with appropriate support staff and supervised their work. Consistent with the firm's usual practice, tasks and assignments were apportioned to avoid the expenditure of duplicative time and redundant staffing. Time expended that has been considered duplicative or redundant has been eliminated. Time expended in preparing this application for fees and reimbursement of expenses has been included in this request.

FIRM HISTORY AND EXPERIENCE

4. FMS was founded in 1998 as Francis Mailman, P.C., and has concentrated its practice in consumer protection litigation ever since. One of the firm's practice areas is consumer class actions, and the firm has been recognized many times by federal courts all over the country for the high caliber of its litigation work, and its commitment to the classes it represents. *See* *Prosser v. Trans Union*, 743 F. Supp. 3d 622, 644 (E.D. Pa. 2024) (FMS highly qualified, experienced, and capable); *McIntyre v. Deal & Co.*, No. 18-cv-03934, 2023 WL 2643201 (E.D. Pa. Mar. 24, 2023) (noting that FMS has significant experience in litigating class actions and demonstrated particular skill and efficiency in representing class); *Flores v. Press Services Inc.*, No. 14-cv-3298, 2017 WL 1177098, at *3 (E.D. Pa. March 30, 2017) (FMS has extensive experience in consumer class action litigation); *Peracopian v. Sentry Inc.*, C.A. 18-3001 (D. Md. Nov. 23, 2020) (firm many, many times in the past has been found to be not just qualified or competent, but extremely well-qualified and competent to represent consumer classes in many, many other jurisdictions, not only this particular jurisdiction); *Flores v. Press Services Inc.*, C.A. No. 14-3298, 2017 WL 1177098, at *3 (E.D. Pa. Mar. 30, 2017) (firm has extensive experience in consumer class action litigation); *Elly v. Business Information Group*, 15-cv-6668, 2019 WL 414915 (E.D. Pa. 2019) (finding FMS qualified and experienced attorneys . . . who have substantial experience in class action . . . and who are qualified to conduct the litigation.); *Arell v. Bank of America*, 255 F.R.D. 393, 398-99 (E.D. Pa. 2009) (finding firm competent, experienced and well-qualified to prosecute class actions and noting that class counsel have done an excellent job in representing the class in the instant litigation.).

5. A biography of FMS is attached hereto as **E** **A**.

6. FMS is in the small minority of class action firms that has actual experience in trying consumer class actions and appellate experience with class litigation before the United States Supreme Court. We have brought several actions to trial and obtained several noteworthy verdicts and settlements. *See Samuel Assett v. Kia Motors America Inc.*, 34 A.3d 1 (Pa. 2011) (\$5.6 million verdict for class of Pennsylvania car purchasers, plus award of attorney's fees, which the Pennsylvania Supreme Court upheld) *Little v. Kia Motors America Inc.*, 2003 WL 25568765 (N.J. Super. L. 2003) (approximately \$6 million verdict for a class of New Jersey consumers) *Chaeian v. Wifan Information Services Inc.*, 275 F.R.D. 201 (E.D. Pa. 2011) (favorable FCRA disclosure claim class settlement following opening statements to the jury) *Amire v. Ransnion Inc.*, 951 F.3d 1008 (9th Cir. 2020) (\$60 million jury verdict in FCRA case) (reversed for a portion of class members who lacked Article III standing, *Ransnion Inc. v. Amire*, 141 S.Ct. 2190 (2021)).

7. FMS and I have been certified to serve as class counsel (and or is currently serving) on over 80 occasions by courts throughout the country, including some of the largest FCRA class settlements in this area of litigation. *See generally* Exhibit A.

8. Recent instances in which FMS has been appointed to serve as class counsel include *Rauer v. Amne Worldwide Inc. et al* No. 2:22-cv-07760-MEMF-JC (C.D. Cal.) at ECF 126 (Jan. 14, 2025 Order) *Roos v. Ransnion LLC*, 743 F. Supp. 3d 622 (E.D. Pa. 2024) *Samson v. United Healthcare Servs. Inc.*, 2023 WL 6793973, at *8 (W.D. Wash. Oct. 13, 2023) *Martine v. Avantus, LLC*, 343 F.R.D. 254, 266 (D. Conn. 2023) *Early v. Milliman Inc.*, No. 2:20-cv-01473-JCC (W.D. Wash.) at ECF 126 (Apr. 29, 2022 order granting class certification) *An v. Credit Bureau Connection*, 2022 WL 658105, at *5 (E.D. Cal. Mar. 4, 2022) *Mcntyre v. Ealae Inc.*, 336 F.R.D. 422, 436 (E.D. Pa. 2020) *Orman v. Ransnion Inc.*, 479 F. Supp.

3d 98, 137 (E.D. Pa. 2020) *Sto es v. eal a e nc.*, C.A. No. 15-1520, ECF 63 (E.D. Pa. Feb. 6, 2018) *Flores v. press Services nc.*, 2017 WL 1177098 (E.D. Pa. March 29, 2017) *Miller v. rans nion C*, 2017 WL 412641 (M.D. Pa. Jan. 18, 2017) *arson v. rans nion C*, 2016 WL 4367253 (N.D. Ca. Aug. 11, 2016) *Ma allon v. obert alf nternational nc.*, 2015 WL 8778398 (D. Or. Nov. 10, 2015) *amire v. rans nion C*, 2014 WL 3734525 (N.D. Cal. July 24, 2014) *Sapp v. perian nfo. Solutions nc.*, 2013 WL 2130956 (E.D. Pa. May 15, 2013) *a oc ue v. S ecovery Services nc.*, 285 F.R.D. 139 (D. Me. 2012) *iddiens v. First Advanta e S Screenin Solutions nc.*, No. 2:12-cv-2624, ECF 55 (E.D. Pa. Jan. 20, 2015) *Serrano v. Sterlin estin Systems nc.*, 711 F. Supp. 2d 402, 412 (E.D. Pa. 2010) *Summerfield v. uifa nfo. Services C*, 264 F.R.D. 133 (D.N.J. 2009) *Cha e ian v. uifa nfo. Services C*, 256 F.R.D. 492 (E.D. Pa. 2009).

9. I am a member in good standing of the Bar of the Commonwealth of Pennsylvania, and admitted to practice in the following additional jurisdictions:

- a. New Jersey state court
- b. United States Courts of Appeal for the First, Second, Third, Fourth, Sixth, Seventh, Ninth and Eleventh Circuits
- c. United States District Courts for the Eastern District of Pennsylvania, Middle District of Pennsylvania, District of New Jersey, Eastern District of Michigan, Northern District of Oklahoma and
- d. United States Supreme Court.

10. I have been practicing consumer litigation, with an emphasis on Fair Credit Reporting litigation and consumer class actions, for the past 25 years. I have been recognized by my peers for my advocacy and work throughout my career, including being ranked as a Top 100

Superlawyer for Pennsylvania and Philadelphia on many occasions including just recently in 2025, being profiled in Law360's *Itans of the laintiff's ar* in 2014, being awarded the Equal Justice Award by Community Legal Services of Philadelphia in 2014 and being inducted into the American College of Consumer Financial Services Lawyers in 2023.

THE INSTANT LITIGATION

11. Together with The Golan Firm, FMS acted as lead class counsel in this matter, which was filed on September 10, 2020. I personally handled or was directly involved in virtually all attorney aspects of this litigation, along with my partners John Soumilas, Lauren Brennan and other FMS attorneys, principally Jordan M. Sartell. We were also assisted in select respects by FMS paralegals. The tasks FMS performed in this litigation were substantial and are summarized below:

- a. Pre-suit investigation of the claims and defenses in this matter and venue considerations
- b. Conferring with Plaintiff Carstairs, who provided detailed information about the facts of his case and relevant documents, and assisted with other aspects of this litigation, the mediation sessions, and the settlement drafting process
- c. Drafting the class action Complaint
- d. Drafting the Amended Complaint in response to Defendant's first motion to dismiss
- e. Drafting briefing in opposition to Defendant's renewed motion to dismiss the Amended Complaint, including numerous notices of supplemental authority
- f. Reviewing Defendant's Answer

g. Drafting, editing, and revising the joint report of the parties' FED. R. CIV. P. 26(f) conference and Joint Case Management Statement filed March 25, 2021 and meeting and conferring with Defendant's counsel regarding same

h. Drafting extensive disclosures and discovery requests, including drafting and editing Plaintiff's discovery requests, and responses to Defendant's discovery requests

i. Reviewing and indexing almost eight thousand pages of documents produced in this matter

j. Reviewing data and documents concerning class members, and meeting and conferring with counsel for Defendant regarding discovery and data exchange

k. Drafting deposition notices

l. Participating in settlement discussions, including an all-day, in-person mediation session with experienced mediator Hon. Diane Welsh (Ret.), and participating in months of follow-up conferences with counsel for Defendant concerning the production of enrollment and payment data required to determine class member awards

m. Drafting, editing, and revising the settlement agreement and attachments including the notice and claim form

n. Conferring with counsel for Defendant regarding same, notice and settlement administration, and the settlement website.

o. Drafting, preparing and filing Plaintiff's motion for preliminary approval, motion for class certification and motion to direct notice to the class

p. Taking a leadership role with class administration preparing the instant motion for attorney's fees and a service award and the anticipated motion for final approval and fairness hearing.

12. Based upon my experience as class counsel in other class action settlements, including settlements of a similar size and structure, I expect that the attorneys and paralegals of FMS will expend additional time going forward in order to bring this settlement to a successful conclusion. I expect tasks going forward to include:

- a. Responding to inquiries from settlement class members concerning the notices and their rights to opt out, object, or submit a claim
- b. Supervising the work of the settlement administrator including reviewing and approving invoices
- c. Preparing any necessary supplemental submissions regarding the number of exclusion requests and objections in advance of the final approval hearing
- d. Preparation for and attendance at the final approval hearing
- e. Supervision of the distribution of payments after final approval including further class member inquiries.

13. Following consultation with the Settlement Administrator in this matter as set forth above, I understand that notice to the Settlement Class was sent on August 11, 2025, and that the Settlement Administrator has prepared a complete report concerning the notice program and any objections, requests for exclusion, and claims received as of September 25, 2025. This report will be filed with the Court.

14. I have further consulted with the Settlement Administrator which confirmed that as of the date of this filing, it has not received any objections to the Settlement Agreement or requests for exclusion.

FMS'S TIME INVESTED IN THIS LITIGATION

15. Along with me, the FMS attorneys who contributed to this litigation are John Soumilas, Lauren W Brennan, and Jordan M. Sartell. We also seek billable time for the experienced paralegals who assisted us on this case.

16. Time expended that has been considered duplicative or redundant has been eliminated from this summary. Consistent with our firm's usual practice, tasks and assignments were apportioned to avoid the expenditure of duplicative time and redundant staffing.

17. A summary of the time expended by my firm in this matter, by activity categories maintained within our firm's billing software and by timekeeper, is set forth in the table below. The figures are based on entries generated from the time records regularly prepared and maintained by my firm within our firm's billing software as well as prospective time I expect that FMS will reasonably incur to bring this settlement to its successful conclusion. *See* 12, above.

Activity Category	James Francis	John Soumilas	Lauren Brennan	Jordan Sartell	Paralegal	Total
Pre-suit Investigation	15.2	12.6	0.0	0.0	8.1	35.9
Pleadings and Service	21.5	13.7	0.0	0.0	0.4	35.6
Disclosures R. 16 Conf.	14.2	0.7	5.1	4.2	3.2	27.4
Written Discovery	57.5	0.8	2.5	1.7	3.5	66.0
Depositions	0.5	0.7	0.0	2.0	2.4	5.6
Motion Practice	106.4	7.0	5.3	27.9	115.3	261.9
Settlement and Mediation	66.8	12.4	14.6	61.5	2.1	157.4
Class Notice Admin.	26.4	0.1	0.0	33.0	0.0	59.5

Hours

FMS'S HOURLY RATES

18. The hourly rates charged by the attorneys and paralegals at my firm are not self-determined but have been independently set for many years based upon the opinions of outside counsel at the law firm of Fox Rothschild, LLP. Our rates are based upon the expert opinion of Abraham C. Reich of Fox Rothschild, LLP, which is attached as **E** **B**. The Reich report has also been adopted to various markets where my firm has offices and or practices along with local counsel or co-counsel. As supported by the Reich report, FMS' rates for its home legal market of Philadelphia and the local legal market of Rochester, are as follows:

Timekeeper	Philadelphia Rate	Rochester Rate
James A. Francis	880 hr	720 hr
John Soumilas	770 hr	690 hr
Lauren Brennan	470 hr	400 hr
Jordan Sartell	445 hr	380 hr
Paralegals	345 hr	275 hr

19. The total lodestar for FMS professionals in this matter, based upon the hours expended and expected to be expended at the hourly rates set forth above, is as follows:

Timekeeper	Hours	Lodestar (Philadelphia Rates)	Lodestar (Rochester Rates)
James Francis	308.5	271,480.00	222,120.00
John Soumilas	48	36,960.00	33,120.00
Lauren Brennan	27.5	12,925.00	11,000.00
Jordan Sartell	130.3	57,983.50	49,514.00
Paralegals	135	46,575.00	37,125.00

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20. The lodestar figure above does not include out-of-pocket expenses.

EXPENSES COSTS

21. My firm has incurred a total of 10,199.63 in unreimbursed expenses in connection with the prosecution of this litigation, 9,520.00 of which represents FMS's portion of the fees for the parties' mediation with Judge Welsh (Ret.) of JAMS. These expenses would typically be billed to paying clients.

22. The expenses incurred in this action are reflected in the records of my firm. These records are prepared from expense vouchers, check records, software, and other source materials and are an accurate record of the expenses.

CONCLUSION

23. In summary, the total attorney time devoted and expected to be devoted going forward by FMS in this litigation amounts to 425,923.50 at Philadelphia market rates and 352,879.00 at Rochester market rates in fees and 10,199.63 in costs and expenses.

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

Executed on September 29, 2025

/s/James A. Francis
James A. Francis

Exhibit A



FRANCIS MAILMAN SOUMILAS, P.C. (FMS) is a law firm that concentrates in consumer protection litigation. While principally based in center-city Philadelphia, the firm also maintains offices in New York, Chicago, and San Francisco. FMS represents consumers in both individual and class actions. Founded in 1998 as Francis & Mailman, P.C., the firm's goal is to provide exceptional advocacy to consumers subjected to unfair business, industry, and trade practices.

FMS is one of the nation's preeminent consumer protection litigation firms. The firm has obtained numerous ground-breaking legal decisions, record jury verdicts and large consumer settlements. In 2017, FMS obtained a record \$60 million dollar class action verdict for a case tried under the Fair Credit Reporting Act. The case ultimately went to the United States Supreme Court, which resulted in a 5-4 remand decision that has become a landmark case in civil litigation concerning the issue of constitutional standing. The firm has been certified to serve as class counsel in over 70 consumer class actions nationwide.

Due to its litigation proficiency, expertise and the high caliber of its work-product, FMS has been repeatedly recognized and commended by federal courts throughout the country over many years. *Barel v. Bank of America*, 255 F.R.D. 393, 398-99 (E.D. Pa. 2009) (finding firm "competent, experienced and well-qualified to prosecute class actions" and noting that class counsel "have done an excellent job in representing the class in the instant litigation."); *Martinez v. Avantus, LLC*, 343 F.R.D. 254 2023 WL 112807, *9 (D. Conn. Jan. 5, 2023)(firm "has substantial experience in class action litigation, including FCRA class actions....[and] demonstrated proficiency at all stages of suit"); *Ramirez v. Trans Union, LLC*, 2022 WL 17722395 (N.D. Cal. Dec. 15, 2022)("Courts have consistently recognized Francis Mailman Soumilas 'for its expertise in FCRA litigation and the high caliber of its work for the classes it represents.'"); *Der Hacopian v. SentryLink*, C.A. 18-3001 (D. Md., Nov. 23, 2020)(firm "many, many times in the past has been found to be not just qualified or competent, but extremely well-qualified and competent to represent consumer classes in many, many other jurisdictions, not only this particular jurisdiction"); *Flores v. Express Services, Inc.*, C.A. No.14-3298, 2017 WL 1177098, at *3 (E.D. Pa. March 30, 2017) (firm "has extensive experience in consumer class action litigation); *White v. Equifax Info. Solutions*, No. 05-01070, 2014 WL 1716154, at *13, 19, 22 (C.D. Cal. May 1, 2014), *aff'd sub nom. Radcliffe v. Equifax Info. Sol'ns., Inc.*, 818 F.3d 537, 548 (9th Cir. 2016) (appointing firm and its team as interim class counsel over objections from a competing national law firm (Boies Schiller) because firm's team's "credentials and experience [we]re significantly stronger in class action and FCRA litigation."); *Patel v. Trans Union, LLC*, 308 F.R.D. 292, 307 (N.D. Cal. 2015) (FMS "have represented consumer classes in many cases in many districts . . . [and] have shown their proficiency in this case[.]"); *Kelly v. Business Information Group*, C.A. 15-6668, 2019 WL 414915 (E.D. Pa. 2019) (firm "qualified and experienced attorneys" . . . Francis & Mailman, P.C., of Philadelphia...who have substantial experience in class action and FCRA consumer litigation and who are qualified to conduct the litigation."); *Larson v. Trans Union, LLC*, C.A. 12-cv-05726, 2015 WL 3945052, at *12 (N.D. Cal. June 26, 2015) (appointing firm as class counsel on contested motion).

JAMES A. FRANCIS

JIM FRANCIS co-founded FMS in 1998 with the goal of creating a law firm dedicated exclusively to consumer rights litigation. Since then, he and the firm have consistently achieved ground-breaking results and cutting-edge legal rulings. He was trial and appellate counsel in *Ramirez v. Trans Union, LLC*, a case that obtained a record \$60 million dollar verdict for a case brought under the Fair Credit Reporting Act. In 2009, Jim argued the seminal FCRA case of *Cortez v. Trans Union, LLC* before the Third Circuit Court of Appeals. He has been appointed to serve as class counsel by federal courts all over the country in over 70 cases.

In 2004, Jim was the youngest lawyer to be ranked a Top 100 Super Lawyer in Pennsylvania in *Philadelphia Magazine* and *Pennsylvania Super Lawyers* magazine. He has been ranked a Top 100 Superlawyer for Pennsylvania and Philadelphia many times since, including in 2024. In 2014, Jim was selected as one of a small group of national plaintiffs' lawyers to be profiled in Law 360's *Titans of the Plaintiff's Bar* series. In the same year, he was awarded the *Equal Justice Award* by Community Legal Services of Philadelphia.

In 2023, Jim was elected as a Fellow of the American College of Consumer Financial Services Lawyers.

Jim regularly lectures for continuing legal education programs, law schools and community groups throughout the country, and has been a regular speaker for the National Association of Consumer Advocates (NACA) and National Consumer Law Center (NCLC) for over 20 years. He has appeared on various news programs including the *Today Show* and *PBS NewsHour* to discuss consumer-related issues. He was featured in *The Philadelphia Inquirer's* biographical "Question & Answer" segment in February of 2009.

Prior to forming FMS and after graduating from law school, Jim was an associate with Kolsby, Gordon, Robin, Shore & Rothweiler in Philadelphia.

EDUCATION

Temple University Beasley School of Law, J.D. 1995, President-Student Bar Association, 1995 Wapner, Newman & Wigrizer, P.C. award for excellence in civil trial advocacy; award for outstanding Oral Advocacy;

Muhlenberg College, B.A., *cum laude*, 1992

ADMISSIONS

- Pennsylvania and New Jersey state courts
- United States Courts of Appeal for the First, Second, Third, Fourth, Sixth, Seventh, Ninth and Eleventh Circuits
- United States District Courts for the Eastern District of Pennsylvania, Middle District of Pennsylvania, District of New Jersey, Eastern District of Michigan, Northern District of Oklahoma, Central District of Illinois

- United States Supreme Court

HONORS/AWARD/DISTINCTIONS

- Top 100 Superlawyer for Pennsylvania-2004, 2005, 2007, 2008, 2012, 2014, 2015, 2021, 2022, 2023, 2024
- Top 100 Superlawyer for Philadelphia-2006, 2007, 2008, 2011, 2012, 2014, 2015, 2016, 2018, 2019, 2021, 2022, 2023, 2024
- Law 360's *Titan of the Plaintiff's Bar*-2014
- *Equal Justice Award* by Community Legal Services of Philadelphia-2014
- Elected as a Fellow into the American College of Consumer Financial Services—April 29th, 2023
- Selected as a Member of the Nation's Top One Percent by The National Association of Distinguished Counsel

NOTABLE CASES

- *Teran v. Navient Solutions, LLC et al.*, __ B.R. __, 2023 WL 2721904 (Bankr. N.D. Cal. Mar. 30, 2023)/*Woodard v. Navient Solutions, LLC et al.*, 8:23-cv-301 (D. Neb., Jan. 9, 2024, DOC. 38). Appointed Class Counsel to represent national injunctive relief class for student loan bankruptcy violations; later settled for \$82 million in class-wide relief.
- *Ramirez v. Trans Union, LLC*, 951 F.3d 1008 (9th Cir. 2020), 141 S.Ct. 2190 (2021); 2022 WL 17740302 (N.D. Cal. Dec. 22, 2022); . Served as trial and appellate counsel in record \$60 million jury verdict for a case brought under the Fair Credit Reporting Act; argued appeal against former Solicitor General of the United States affirming verdict (with remittitur), upon certiorari, remanded by US Supreme; later settled for \$9 million
- *In re TransUnion Rental Screening Sols., Inc., Fair Credit Reporting Act Litig.*, 437 F. Supp. 3d 1377, 1378 (U.S. Jud. Pan. Mult. Lit. 2020). Served as Co-Lead counsel in national consumer class action settlement in excess of \$11M to compensate victims of inaccurate data on tenant screening reports.
- *Robinson v. National Student Clearinghouse*, No. 1-19-cv-10749, 2020 WL 4873728 (D. Mass. July 8, 2020) *aff'd* 14 F.4th 56 (1st Cir. 2021). In first challenging the defendant as a consumer reporting agency, obtained \$2 million dollar settlement for consumers who were overcharged for college verifications and brought company into FCRA compliance.
- *Patel v. Trans Union, LLC*, 2018 WL 1258194 (N.D. Cal. March 11, 2018). Served as lead Class Counsel in case which obtained an \$8 million dollar settlement for class of consumers who were falsely being reported as terrorists.
- *Freckleton v. Target Corporation*, C.A. No. 14—CV-00807 (D. Md. Dec. 12, 2017). Served as Co-Lead Class Counsel in securing \$8.3 million dollar class action settlement on behalf of nationwide class of Target job applicants.
- *Thomas v. Equifax Info. Services, LLC*, No. 18-cv-684 (E.D. Va.). National Class Counsel in FCRA class action, alleging violations by credit bureau for misreporting public records,

providing nationwide resolution of class action claims asserted across multiple jurisdictions, including injunctive relief, and an uncapped mediation program for millions of consumers.

- *Clark v. Experian Info. Sols., Inc.*, No. 16-cv-32 (E.D. Va.). National Class Counsel in FCRA class action, alleging violations by credit bureau for misreporting public records, providing a nationwide resolution of class action claims asserted by 32 plaintiffs in 16 jurisdictions, including injunctive relief and an uncapped mediation program, for millions of consumers.
- *Clark/Anderson v. Trans Union, LLC*, No. 15-cv-391 & No. 16-cv-558 (E.D. Va.). National Class Counsel in FCRA consolidated class action, alleging violations by credit bureau for misreporting public records, providing groundbreaking injunctive relief, and an opportunity to recover monetary relief, for millions of consumers.
- *In Re: TRS Recovery Services, Inc. and Telecheck Services, Inc.*, Fair Debt Collection Practices Act (FDCPA Litigation)- Served as Class Counsel in a national FDCPA class action and obtained a 3.4-million-dollar settlement against one of the nation's largest check history consumer reporting agencies.
- *Berry v. LexisNexis Risk & Info. Analytics Group, Inc.*, No. 3:11-cv-754, 2014 WL 4403524, at *11 (E.D. Va. Sept. 5, 2014) -- Appointed class counsel in national FCRA class action that obtained a \$13.5-million-dollar settlement against Lexis/Nexis, one of the largest information providers in the world, along with a groundbreaking injunctive relief settlement on behalf of 200 million Americans in which LexisNexis agreed to bring its Accurint product into FCRA compliance.
- *Thomas v. BackgroundChecks.com*, C.A. No. 13-029 (E.D. Va. Aug. 11, 2015) –Appointed class counsel in an FCRA national class action which obtained \$18 million against another of the largest background screening companies in the world, and also obtained significant injunctive and remedial relief.
- *Henderson v. Axiom Risk Mitigation, Inc.*, C.A. No. 12-589 (E.D. Va., Aug. 7, 2015)- Appointed class counsel in a national FCRA class action which obtained a \$20.8 million settlement against one of the largest data sellers and background screening companies in the world.
- *Ryals et al. v. Hireright Solutions, Inc.*, C.A. No. 3:09cv625 (E.D. Va. Dec. 22, 2011) – \$28.3 million national settlement achieved for class of consumers subjected to employment background checks in case brought under Fair Credit Reporting Act (FCRA); believed to be the third largest FCRA settlement in history.
- *Cortez v. Trans Union, LLC*, 617 F.3d 688 (3d. Cir. 2010) – argued precedential case of first impression before the U.S. Court of Appeals for the Third Circuit which outlines the liability, causation and damages standards for FCRA cases against credit reporting agencies; \$800,000 jury verdict against Trans Union in fair credit reporting case (remitted to \$150,000).
- *Little v. Kia Motors America, Inc.*, 2003 WL 25568765 (N.J. Super. L. 2003) – \$6 million (approximate) verdict for class of New Jersey car purchasers.
- *Samuel-Bassett v. Kia Motors America, Inc.*, __ A.3d __, 2011 WL 60559098 (Pa. 2011), C.P. Phila. County, January Term, 2001, No. 2199 – \$5.6 million verdict for class of Pennsylvania car purchasers, plus award of attorney's fees.

- *Serrano v. Sterling Testing Systems, Inc.*, __ F. Supp. 2d __, 2008 WL 2223007 (E.D. Pa. May 30, 2008) – federal court finding as a matter of first impression what defines a record of arrest under the FCRA.
- *Ziegenfuse v. Apex Asset Management, LLC*, 239 F.R.D. 400 (E.D. Pa. 2006) – obtained court decision holding that offers of judgment under Rule 68 of the Federal Rules of Civil Procedure cannot be used in class actions.
- *Stoner v. CBA Information Services*, 352 F. Supp. 2d 549 (E.D. Pa. 2005) – obtained \$772,500 settlement for class of consumers who disputed errors in their credit reports.
- *Richburg v. Palisades Collection, LLC*, 247 F.R.D. 457 (E.D. Pa. 2008); federal court ruled that actions to collect delinquent credit card debt in Pennsylvania subject to 4 year statute of limitations (not 6 as the defendant collection agency had argued).
- *Perry v. FleetBoston Financial Corp.*, 2004 WL 1508518 (E.D. Pa. 2004) – defeated motion to compel arbitration in class action brought under Fair Credit Reporting Act.
- *Crane v. Trans Union, LLC*, 282 F. Supp. 2d 311 (E.D. Pa. 2003) – federal court held that credit reporting agencies that merely parrot information from credit furnishers and fail to forward dispute documentation face claims for punitive damages under the Fair Credit Reporting Act; violation of the Fair Credit Reporting Act presents a violation of Pennsylvania’s Consumer Protection Law).
- *Lawrence v. Trans Union, LLC*, 296 F. Supp. 2d 582 (E.D. Pa. 2003) (same).
- *Wisneski v. Nationwide Collections, Inc.*, 227 F.R.D. 259 (E.D. Pa. 2004) – obtained class certification in Fair Debt Collection Practices action in which a Pennsylvania federal court held for the first time that statutory net worth limitation is not limited to balance sheet net worth, and includes equity, capital stock and goodwill.
- *Evantash v. G.E. Capital Mortgage Services, Inc.*, 2003 WL 22844198 (E.D. Pa. 2003) – federal court held that technical accuracy defense was not available to defendants under the Fair Credit Reporting Act.
- *Sheffer v. Experian Information Solutions, Inc.*, 2003 WL 21710573 (E.D. Pa. 2003) – federal court held that Fair Credit Reporting Act permits as recoverable damage emotional distress in trying to correct errors in a consumer’s credit file, even where no pecuniary or out-of-pocket losses.
- *Sheffer v. Experian Information Solutions Inc.*, 249 F. Supp. 2d 560 (E.D. Pa. 2003) – federal court held that FCRA provides a private right of action against furnishers of information.
- *Sullivan v. Equifax, Inc. et al.*, 2002 U.S. Dist. LEXIS 7884 (E.D. Pa. 2002) – federal court held that reporting a debt to a credit reporting agency is a communication covered by the Fair Debt Collection Practices Act.
- *Wenrich v. Cole*, 2000 U.S. Dist. LEXIS 18687 (E.D. Pa. 2000) – federal court held that FDCPA provides protection for all persons, not just consumers.
- *Jaramillo v. Experian Information Solutions, Inc.*, 155 F. Supp. 2d 356 (E.D. Pa. 2001) – federal court held that single publication rule does not apply to actions brought for violation of the Fair Credit Reporting Act.

CLASS COUNSEL CERTIFICATIONS

Brauer v. ExamOne World Wide Inc. et al, No. 2:22-cv-07760-MEMF-JC (C.D. Cal.) at ECF 126 (Jan. 14, 2015 Order)

Hines v. Equifax Information Services, LLC, 2024 WL 4132333 (E.D.N.Y. Sept. 10, 2024)

Hasson v. Comcast Cable Communications LLC, C.A. No. 23-cv-05039 (E.D. Pa. 2023) (appointed and currently serving as Co-Liason Counsel)

Brooks Trans Union LLC, __ F.Supp.3d __, 2024 WL 3625142 (E.D. Pa., Aug 1, 2024)

Woodard v. Navient Solutions, LLC et al., No. 8:23-cv-00301-RFR (D. Neb. 2024)

Samson v. United Healthcare Services Inc., 2:19-cv-00175, 2023 WL 6793973 (W.D. Wa. Oct. 13, 2023)

Botts v. The Johns Hopkins University, No. 1:20-cv-01335-JRR, ECF 96 (D. Md. April 20, 2023)

Teran v. Navient Solutions, LLC et al., No. 20-03075-DM, 2023 WL 2721904 (Bankr. N.D. Cal. Mar. 30, 2023)

Martinez v. Avantus, LLC, No. 3:20-CV-1772 (JCH), 2023 WL 112807 (D. Conn. Jan. 5, 2023)

Stewart et al v. LexisNexis Risk Data Retrieval Services, LLC et al., No. 3:20-cv-00903-JAG (E.D. Va. July 27, 2022)

Healy v. Milliman, Inc., No. 2:20-cv-01473-JCC (W.D. Wash. 2022);

Rivera v. Equifax Information Services, LLC, 341 F.R.D. 328 (N.D. Ga. 2022)

Kang v. Credit Bureau Connection, Inc., No. 18-01359, 2022 WL 658105 (E.D. Cal. Mar. 4, 2022)

Watson v. Checkr, Inc., No. 3:19-cv-03396-EMC (N.D. Cal. 2021)

Deaton v. Trans Union, LLC, No. 2:20-cv-01380-AB (E.D. Pa. 2021)

Sanders v. Makespace Labs, Inc., No: 1:18-cv-10016 (S.D.N.Y. Mar. 29, 2021)

Der-Hacopian v. Darktrace, Inc., No: 18-cv-06726-HSG (N.D. Cal. Dec. 10, 2020)

Der-Hacopian v. Sentrylink, LLC, No. 8:18-cv-03001-PWG (N.D. Cal. Nov. 23, 2020)

McIntyre v. RealPage, Inc., No: 2:18-cv-03934, WL 5017612 (E.D. Pa. Aug. 25, 2020)

Norman v. Trans Union, LLC, No: 18-5225, 2020 WL 4735538 (E.D. Pa. Aug. 14, 2020)

In re TransUnion Rental Screening Sols., Inc., Fair Credit Reporting Act Litig., 437 F. Supp. 3d 1377, 1378 (U.S. Jud. Pan. Mult. Lit. 2020).

Robinson v. National Student Clearinghouse, No. 1-19-cv-10749, 2020 WL 4873728 (D. Mass. July 8, 2020) *aff'd* 14 F.4th 56 (1st Cir. 2021)

Leo v. Appfolio, Inc., No.3:17-cv-05771-RJB (W.D. Wash. 2019)

Thomas v. Equifax Info. Services, LLC, No. 18-cv-684 (E.D. Va. 2020)

Clark v. Experian Info. Sols., Inc., No. 16-cv-32 (E.D. Va. 2019)

Clark/Anderson v. Trans Union, LLC, No. 15-cv-391 & No. 16-cv-558 (E.D. Va. 2018)

Gibbons v. Weltman, Weinberg & Reis Co., LPA, 2018 WL 5720749 (E.D. Pa. Oct. 31, 2018)
Kelly v. Business Information Group, C.A. 15-6668, 2019 WL 414915 (E.D. Pa. 2019)
Freckleton v. Target Corporation, C.A. No. 14—CV-00807 (D. Md. Dec. 12, 2017).
Ridenour v. Multi-Color Corporation, C.A. No. 2:15-cv-00041, (E.D. Va., Jan. 13, 2017)
Flores v. Express Personnel, C.A. No. 14-cv-03298, (E.D. Pa. Oct. 21, 2016)
Larson v. Trans Union, LLC, C.A. No. 12-cv-05726, (N.D. CA, Aug. 11, 2016)
Miller v. Trans Union, LLC, C.A. No. 12-cv-1715, (M.D. PA, Dec. 26, 2016)
Henderson v. Trans Union, LLC, C.A. No. 14-cv-00679, E.D. Va., May 3, 2016)
Pawlowski v. United Tranzactions, LLC, C.A. no. 15-cv-2330, (E.D. PA, April 18, 2016)
Rodriguez v. Calvin Klein, Inc., C.A. 1:15-cv-02590 (S.D. N.Y. 2015)
Giddiens v. Infinity Staffing, C.A. No. 13-cv-07115, (E.D. Pa., Jan. 12, 2016)
Giddiens v. First Advantage, C.A. No. 14-cv-5105, (E.D. Pa., July 11, 2015)
Jones v. Halstead Management Corporation, C.A. No. 14-cv-03125 (S.D. N.Y., May 5, 2016)
Berry v. LexisNexis Risk & Info. Analytics Group, Inc., No. 3:11-cv-754, 2014 WL 4403524 (E.D. Va. Sept. 5, 2014)
Thomas v. BackgroundChecks.com, C.A. No. 13-029 2015 WL 11004870 (E.D. Va. Aug. 5, 2015)
Henderson v. Acxiom Risk Mitigation, Inc., C.A. No. 12-589 (E.D. Va., Aug. 7, 2015)
Magallon v. Robert Half International, Inc. WL 8778398 (D. Or. Nov. 10, 2015)
Carter v. McDonald's Restaurants, 15-01531-MWF (March 15, 2015)
Patel v. Trans Union, LLC, 308 F.R.D. 292 (N.D. Cal. 2014)
Goode v. First Advantage LNS Screening Sols., Inc., No. 11-cv-02950 (E.D. Pa. Dec. 29, 2014)
Blandina v. Midland Funding, LLC, 2014 WL 7338744 (E.D. Pa. Dec. 23, 2014)
King v. General Information Services, Inc., C.A. No. 11-06850 (E.D. Pa. Nov. 4, 2014)
Robinson v. General Information Services, Inc., C.A. No. 11-07782 (E.D. Pa. Nov. 4, 2014)
Ramirez v. Trans Union, LLC, 2014 WL 3734525 (N.D. Cal. July 24, 2014)
White v. Experian Information Solutions, 993 F. Supp. 2d 1154, 1172 (C.D. Ca. 2014)
Sapp v. Experian Information Solutions, Inc., 2:10-04312 (E.D. Pa. Jan. 29, 2013)
LaRocque v. TRS Recovery Services, Inc., 2012 WL 291191 (D. Me. July 17, 2012)
Ryals et al. v. Hireright Solutions, Inc., C.A. No. 3:09-625 (E.D. Va. July 7, 2011)
Serrano v. Sterling Testing Systems, Inc., 711 F. Supp. 2d 402 (E.D. Pa. 2010)
Summerfield v. Equifax Information Services, LCC, 264 F.R.D. 133 (D. N.J. 2009)
Chakejian v. Equifax Information Services, LLC, 256 F.R.D. 492 (E.D. Pa. 2009)
Jones v. Midland Funding, LLC, C.A. No. 3:08-802 (RNC) (D. Conn. October 13, 2009)
Barel v. Bank of America, 255 F.R.D. 393 (E.D. Pa. 2009)
Mann v. Verizon, C.A. No. 06-5370 (E.D. Pa. Sept. 26, 2008)
Smith v. Grayling Corp., 2008 WL 3861286, C.A. No. 07-1905 (E.D. Pa. 2008)

Strausser v. ACB Receivables Management, Inc., 2008 WL 859224 (E.D. Pa. March 28, 2008)
Nienaber v. Citibank (South Dakota), N.A., 2007 WL 2003761 (D.S.D. July 5, 2007)
Jordan v. Commonwealth Financial Systems, Inc., 237 F.R.D. 132, (E.D. Pa. 2006)
Marino v. UDR, 2006 WL 1687026, C.A. No. 05-2268 (E.D. Pa. June 14, 2006)
Seawell v. Universal Fidelity Corp, 235 F.R.D. 64 (E.D. Pa. 2006)
Perry v. FleetBoston Financial Corp., 229 F.R.D.105 (E.D. Pa. 2005)
Beck v. Maximus, Inc., 2005 WL 589749 (E.D. Pa. 2005)
Beck v. Maximus, 457 F. 3d 291, 2006 WL 2193603 (3d Cir. Aug. 4, 2006)
Stoner v. CBA Information Services, 352 F. Supp. 2d 549 (E.D. Pa. 2005)
Bittner v. Trans Union, LLC, C.A. No. 04-2562 (E.D. Pa. January 4, 2005)
Wisneski v. Nationwide Collections, Inc., 227 F.R.D. 259 (E.D. Pa. 2004)
Petrolito v. Arrow Financial Services, LLC, 221 F.R.D. 303 (D. Conn. 2004)
Orloff v. Syndicated Office Systems, Inc., 2004 WL 870691 (E.D. Pa 2004)
Bonett v. Education Debt Services, Inc., 2003 WL 21658267 (E.D. Pa. 2003)
Gaumer v. The Bon-Ton Stores, C.A. No. 02-8611 (E.D. Pa. Dec. 30, 2003)
Street v. Portfolio Recovery Associates, C.A. No. 01-3684 (E.D. Pa. July 30, 2003)
Samuel-Bassett v. Kia Motors America, Inc., 212 F.R.D. 271 (E.D. Pa. 2000)
Oslan v. Law Offices of Mitchell N. Kay, 232 F. Supp. 2d 436 (E.D. Pa. 2002)
Oslan v. Collection Bureau of Hudson Valley, 206 F.R.D. 109 (E.D. Pa. 2002)
Saunders v. Berks Credit & Collections, 2002 WL 1497374 (E.D. Pa. 2002)
Schilling v. Let's Talk Cellular and Wireless, 2002 U.S. Dist. LEXIS 3352 (E.D. Pa. 2002)
Fry v. Hayt, Hayt and Landau, 198 F.R.D. 461 (E.D. Pa. 2000)
Smith v. First Union Mortgage Corporation, 1999 WL 509967 (E.D. Pa. 1999)
Miller v. Inovision, December Term, 1999, No. 3504 (C.P. Phila. County).

LECTURES/PRESENTATIONS BY INVITATION

Speaker, *Rule 23(c)(5) Subclasses: Certification, Due Process, Adequate Representation, and Settlement*, Strafford Webinars, February 23, 2023

Speaker, *Data Protection at the Federal Level*, Nevada Bar Association, January 17, 2023

Speaker, *27th Annual Consumer Financial Services Institute*, Practising Law Institute, *Debt Collection and Credit Reporting Update*, December 7, 2022, San Francisco, CA

Speaker, *Tenant Screening Litigation: FCRA and Civil Rights Claims*, National Consumer Law Center, Consumer Rights Litigation Conference, November 10, 2022, Seattle, WA

Speaker “Lightning Round-Ascertainability”, Consumer Class Action Symposium, National Consumer Law Center, November 13, 2022, Seattle, WA

Speaker, *27th Annual Consumer Financial Services Institute*, Practising Law Institute, *Debt Collection and Credit Reporting Update*, September 20, 2022, Chicago, IL

Speaker, *Representing the Pro Bono Client: Consumer Law Basics*, Practising Law Institute, August 12, 2022

Speaker, *Perrin Conferences Class Action Litigation Virtual Conference*, April 26, 2022

Speaker, Introduction to Standing in Federal FDCPA Litigation, 2022 Fair Debt Conference, National Consumer Law Center, April 25th, 2022, Orlando, FL

Speaker, *27th Annual Consumer Financial Services Institute- Debt Collection and Credit Reporting Update*, Practising Law Institute, March 18, 2022, New York, NY

Speaker, *Consumer Finance Class Actions: FDCPA, FCRA & TCPA Webinar*, Strafford, September 16, 2020

Faculty, *Introduction to the Fair Credit Reporting Act, Representing the Pro Bono Client: Consumer Law Basics 2020*, Practising Law Institute, August 14, 2020, San Francisco, CA

Faculty, *Representing the Pro Bono Client: Consumer Law Basics 2019*, Practising Law Institute;

Faculty, *Consumer Financial Services & Banking Law Update*, Pennsylvania Bar Institute, October 29, 2019;

Faculty, *Consumer Finance Class Actions*, The Canadian Institute, July 24, 2019;

Faculty, *Representing the Pro Bono Client: Consumer Law Basics 2019*, Practising Law Institute;

Speaker, *Fair Credit Reporting Act Conference*, National Association of Consumer Advocates, Long Beach, CA, May 1–4, 2019;

Faculty, Judicial Scrutiny of Class Action Settlements: New Standards and Ensuring Timely Release of Attorneys' Fees, Strafford Webinars and Publications, Tuesday, October 9, 2018;

Speaker, *Fair Credit Reporting Act Conference*, National Association of Consumer Advocates, Baltimore, MD, April 22-29, 2017;

Faculty, 21st Annual Consumer Financial Services Litigation Institute (CLE-accredited), "Fair Credit Reporting and Debt Collection Litigation", March and April 2016, NYC and Chicago;

Speaker, The Conference on Consumer Finance Law, Annual Consumer Financial Services Conference, Loyola University School of Law, Chicago, Illinois, September 16, 2016;

Speaker, "New Frontiers: FCRA Litigation Against Lesser Known CRAs", Consumer Rights Litigation Conference, National Consumer Law Center, Anaheim, California, October 2016;

Faculty, "Pursuing and Defending FDCPA, FCRA and TCPA Claims", Consumer Finance Class Actions, Strafford Publications, June 2, 2016;

Speaker, "Stump the Champs", Consumer Rights Litigation Conference, National Consumer Law Center, San Antonio, Texas, October 2015;

Speaker, *Fair Credit Reporting Act Conference*, National Association of Consumer Advocates, Las Vegas, NV May 1–3, 2015;

Co-Chair and Speaker, NACA 2013 FCRA Conference, National Association of Consumer Advocates, May 29 – June 1, 2013;

Presenter, *Beyond E-Oscar: Litigating "Non-Credit" FCRA Cases*, Webinar, National Association of Consumer Advocates, February 27, 2013;

Faculty, *FDCPA Class Actions: Latest Litigation Developments*, Strafford Webinars and Publications, November 8, 2012;

Speaker, Consumer Finance Class Actions: *FCRA and FACTA: Leveraging New Developments in Certification, Damages and Preemption*, Strafford Webinars and Publications, March 21, 2012;

Speaker, *FCRA Developments*, Consumer Rights Litigation Conference, National Consumer Law Center, Seattle, Washington, October 2012;

Speaker, *11th Consumer Class Action Symposium*, National Consumer Law Center, Chicago, Illinois, November 6, 2011;

Speaker, *Tenant, Employment and Chexsystems Reports*, Consumer Rights Litigation Conference, National Consumer Law Center, Chicago, Illinois, November 3 – 6, 2011;

Speaker, *Specialty Consumer Reports and the FCRA*, FCRA Conference on Consumer Credit, National Association of Consumer Advocates, Memphis, Tennessee, May 20 – 22, 2011;

Panelist, *Taking on the Challenges Facing Workers with Criminal Records: Advancing the Legal and Policy Advocacy Agenda*, National Employment Law Project, Washington, D.C., April 5, 2011;

Faculty, 16th Annual Consumer Financial Services Litigation Institute (CLE-accredited), *Collection Issues Including The TCPA & Hot Topics*, Practicing Law Institute, New York, NY and Chicago, IL, March 2011;

Speaker, *ABCs of Fair Credit Reporting, Tips on FCRA Depositions, Evolution of Credit Reporting Industries*, Consumer Rights Litigation Conference, National Consumer Law Center, Boston, Massachusetts, November 11 – 14, 2010;

Faculty, Banking and Consumer Financial Services Law Update, *Litigation and Arbitration Update*, Pennsylvania Bar Institute, April 14, 2010;

Faculty, *Deposit-Side Litigation Developments & Credit Card Developments*, 14th Annual Consumer Financial Services Litigation Institute, New York, NY and Chicago, IL, March and April 2009;

Faculty, 13th Annual Consumer Financial Services Litigation Institute (CLE-accredited), Practicing Law Institute, New York, NY and Chicago, IL, January 2008, March 2008;

Speaker, *Fair Credit Reporting Act Conference*, National Association of Consumer Advocates, Chicago, IL May 8 – 10, 2009;

Faculty, 12th Annual Consumer Financial Services Litigation Institute (CLE-accredited), Practicing Law Institute, New York, NY, March 2007;

Faculty, *Fair Credit Reporting Litigation*, Consumer Protection Law (CLE-accredited), Pennsylvania Bar Institute, Philadelphia, PA and Mechanicsburg, PA, December 2004, March 2007;

Speaker, *Litigating Accuracy Issues with Furnishers of Credit Data*, National Association of Consumer Advocates, New Orleans, LA, June 2 – 5, 2005;

Speaker, Philadelphia Housing Expo, Homeownership Counseling Association of the Delaware Valley, 2005 and 2006;

Speaker, *Understanding Credit Scoring*, Consumer Rights Litigation Conference, National Consumer Law Center, Boston, MA, November 7, 2004;

Speaker, *Litigating Accuracy Issues With Credit Reporting Agencies*, National Association of Consumer Advocates, Chicago, Ill., May 14 – 16, 2004;

Speaker, *Protecting Privacy, Ensuring Accuracy*, National Association of Consumer Advocates, Albuquerque, NM, June 1, 2002;

Faculty/Speaker, *Credit Reporting and Debt Collection Litigation*, Municipal Court Judicial Conference (CLE), Pennsylvania, PA, May 6, 1999;

Speaker, The People's Law School, Philadelphia Bar Association, Philadelphia, PA, October 2004;

Guest Lecturer, Consumer Protection Law, Temple Law School, 2003 – 2012;

Guest Lecturer, Consumer Protection Law, Widener Law School, 2004 – 2009.

PUBLICATIONS

Fourth Circuit Rules Consumers Can Bring FDCPA Claims on Mortgage Liens After Bankruptcy, The Legal Intelligencer (June, 2025)

CFPB's Last Big Swing Under Biden Takes on Data Brokers, The Legal Intelligencer (February, 2025)

California Implements New Law Banning Medical Debt from Credit Reports, The Legal Intelligencer (November 2024)

CFPB Proposes Ban on Medical Debt Credit Reporting, The Legal Intelligence, (July, 2024)

Supreme Court Upholds Consumers Right to Sue Federal Agencies Under the FCRA, The Legal Intelligencer (March, 2024)

U.S. Supreme Court Hears Oral Argument Regarding Federal Governments Liability for FCRA Violations, The Legal Intelligencer (January, 2024)

Recent Circuit Decisions Tackle Fraud Investigations and Accuracy Standard Under the FCRA. The Legal Intelligencer (September, 2023)

Recent CFPB Reports Confirm Widespread Problems with Tenant Background Checks, The Legal Intelligencer (January, 2023)

CFPB's Recent Interpretive Rule Encourages States to Enact Fair Credit Reporting Laws, The Legal Intelligencer (October, 2022)

CFPB Reminds Agencies That Name Only Matching Procedures Violate the FCRA, The Legal Intelligencer (February, 2022)

The FCRA: A Double-Edged Sword for Consumer Data Sellers,
GP SOLO Magazine, American Bar Association, Volume 29, Number 6,
November/December 2012

Credit Rating Damage: Compensable, Yet Overlooked Damage in Tort Cases,
The Verdict, Philadelphia Trial Lawyers Association, Volume 2008-2009, Issue 6 (2009).

APPOINTMENTS, POSITIONS & MEMBERSHIPS

- Editorial Board of the Consumer Financial Services Law Report
- Philadelphia Bar Association's Lawyer Referral and Information Service Committee (chair or co-chair for 3 years)
- Philadelphia Bar Association's Federal Court's Committee.
- Arbitrator for the Court of Common Pleas of Philadelphia County
- Court of Common Pleas of Philadelphia County, Judge Pro Tem panel.

PERSONAL

Born: June 17, 1970, Philadelphia, Pennsylvania
Family: Two Children, Shayna and Noah

MARK D. MAILMAN

MARK D. MAILMAN, is the managing partner of FMS and one of the firm's founders. He is a tenacious and passionate consumer litigator who has for more than 27 years helped secure over \$350 million dollars in verdicts and settlements on behalf of more than 10,000 victimized consumers across the nation. Mark concentrates his practice primarily in federal courts, in the areas of Fair Debt Collection, Fair Credit Reporting, False Employment/Background Checks, Identity Theft, Unwanted Auto Calls and Texts, and Consumer Class Actions.

In October 2018, Mark was awarded the 2018 Consumer Attorney of the Year award from the National Association of Consumer Advocates (NACA). NACA is a nationwide organization of more than 1,500 consumer attorneys and advocates who represent the victims of abusive and fraudulent business practices. He has been consistently voted and named one of Pennsylvania's Super Lawyers by Law and Politics published by Philadelphia Magazine and Pennsylvania Super Lawyer Magazine from 2004 to the Present. Mark has repeatedly lectured before judges, lawyers and various professional organizations on the topics of Fair Debt Collection and Fair Credit Reporting litigation and has also appeared on various news programs to discuss trending consumer issues

Mark is a graduate of Muhlenberg College (B.A. magna cum laude, 1991), where he was also inducted into Phi Beta Kappa. He received his law degree from the Temple University School of Law (J.D., 1995). While at Temple Law School, he achieved the highest grade in his Trial Advocacy clinic.

Mark is admitted to practice before the United States for the Eastern District of Pennsylvania, Middle District of Pennsylvania, Eastern District of Arkansas, District of North Dakota, and District of New Jersey as well as the state courts of Pennsylvania and New Jersey. He has also successfully litigated cases across the country on a pro hac basis. Mark has been certified to serve as class counsel by state and federal courts in both contested and settlement class actions.

CLASS COUNSEL CERTIFICATIONS

Martinez v. Avantus, LLC, No. 3:20-CV-1772 (JCH), 2023 WL 112807 (D. Conn. Jan. 5, 2023)
Stewart et al v. LexisNexis Risk Data Retrieval Services, LLC et al., No. 3:20-cv-00903-JAG (E.D. Va. July 27, 2022)
Healy v. Milliman, Inc., No. 2:20-cv-01473-JCC (W.D. Wash. 2022)
Kang v. Credit Bureau Connection, Inc., No. 18-01359, 2022 WL 658105 (E.D. Cal. Mar. 4, 2022)
Watson v. Checkr, Inc., No. 3:19-cv-03396-EMC (N.D. Cal. 2021)
Deaton v. Trans Union, LLC, No. 2:20-cv-01380-AB (E.D. Pa. 2021)
Sanders v. Makespace Labs, Inc., No. 1:18-cv-10016 (S.D.N.Y. Mar. 29, 2021)
Der-Hacopian v. Darktrace, Inc., No. 18-cv-06726-HSG (N.D. Cal. Dec. 10, 2020)
Der-Hacopian v. Sentrylink, LLC, No. 8:18-cv-03001-PWG (N.D. Cal. Nov. 23, 2020)
McIntyre v. RealPage, Inc., No. 2:18-cv-03934, WL 5017612 (E.D. Pa. Aug. 25, 2020)
Norman v. Trans Union, LLC, No. 18-5225, 2020 WL 4735538 (E.D. Pa. Aug. 14, 2020)
Robinson v. National Student Clearinghouse, No. 1-19-cv-10749, 2020 WL 4873728 (D. Mass. July 8, 2020) *aff'd* 14 F.4th 56 (1st Cir. 2021)
Leo v. Appfolio, Inc., No.3:17-cv-05771-RJB (W.D. Wash. 2019)
Thomas v. Equifax Info. Services, LLC, No. 18-cv-684 (E.D. Va. 2020)
Clark v. Experian Info. Sols., Inc., No. 16-cv-32 (E.D. Va. 2019)
Clark/Anderson v. Trans Union, LLC, No. 15-cv-391 & No. 16-cv-558 (E.D. Va. 2018)
Gibbons v. Weltman, Weinberg & Reis Co., LPA, 2018 WL 5720749 (E.D. Pa. Oct. 31, 2018)
Kelly v. Business Information Group, C.A. 15-6668, 2019 WL 414915 (E.D. Pa. 2019)
Ridenour v. Multi-Color Corporation, C.A. No. 2:15-cv-00041, (E.D. Va., Jan. 13, 2017)
Flores v. Express Personnel, C.A. No. 14-cv-03298, (E.D. Pa. Oct. 21, 2016)
Larson v. Trans Union, LLC, C.A. No. 12-cv-05726, (N.D. CA, Aug. 11, 2016)
Miller v. Trans Union, LLC, C.A. No. 12-cv-1715, (M.D. PA, Dec. 26, 2016)
Henderson v. Trans Union, LLC, C.A. No. 14-cv-00679, E.D. Va., May 3, 2016)
Pawlowski v. United Tranzactions, LLC, C.A. no. 15-cv-2330, (E.D. PA, April 18, 2016)
Rodriguez v. Calvin Klein, Inc., C.A. 1:15-cv-02590 (S.D. N.Y. 2015)
Giddiens v. Infinity Staffing, C.A. No. 13-cv-07115, (E.D. Pa., Jan. 12, 2016)
Giddiens v. First Advantage, C.A. No. 14-cv-5105, (E.D. Pa., July 11, 2015)

Jones v. Halstead Management Corporation, C.A. No. 14-cv-03125 (S.D. N.Y., May 5, 2016)

Berry v. LexisNexis Risk & Info. Analytics Group, Inc., No. 3:11-cv-754, 2014 WL 4403524 (E.D. Va. Sept. 5, 2014)

Thomas v. BackgroundChecks.com, C.A. No. 13-029 2015 WL 11004870 (E.D. Va. Aug. 5, 2015)

Henderson v. Acxiom Risk Mitigation, Inc., C.A. No. 12-589 (E.D. Va., Aug. 7, 2015)

Magallon v. Robert Half International, Inc. WL 8778398 (D. Or. Nov. 10, 2015)

Carter v. McDonald's Restaurants, 15-01531-MWF (March 15, 2015)

Patel v. Trans Union, LLC, 308 F.R.D. 292 (N.D. Cal. 2014)

Goode v. First Advantage LNS Screening Sols., Inc., No. 11-cv-02950 (E.D. Pa. Dec. 29, 2014)

Blandina v. Midland Funding, LLC, 2014 WL 7338744 (E.D. Pa. Dec. 23, 2014)

King v. General Information Services, Inc., C.A. No. 11-06850 (E.D. Pa. Nov. 4, 2014)

Robinson v. General Information Services, Inc., C.A. No. 11-07782 (E.D. Pa. Nov. 4, 2014)

Ramirez v. Trans Union, LLC, 2014 WL 3734525 (N.D. Cal. July 24, 2014)

White v. Experian Information Solutions, 993 F. Supp. 2d 1154, 1172 (C.D. Ca. 2014)

Sapp v. Experian Information Solutions, Inc., 2:10-04312 (E.D. Pa. Jan. 29, 2013)

LaRocque v. TRS Recovery Services, Inc., 2012 WL 291191 (D. Me. July 17, 2012)

Ryals et al. v. Hireright Solutions, Inc., C.A. No. 3:09-625 (E.D. Va. July 7, 2011)

Serrano v. Sterling Testing Systems, Inc., 711 F. Supp. 2d 402 (E.D. Pa. 2010)

Summerfield v. Equifax Info. Services, LCC, 2009 WL 3234191 (D. N.J. Sept. 30, 2009)

Chakejian v. Equifax Info. Services, LLC, 256 F.R.D. 492, 2009 WL 764656 (E.D. Pa. 2009)

Barel v. Bank of America, __F.R.D.__, 2009 WL 122805 (E.D. Pa. 2009)

Mann v. Verizon, C.A. No. 06-5370 (E.D. Pa. Sept. 26, 2008)

Smith v. Grayling Corp., 2008 WL 3861286, C.A. No. 07-1905 (E.D. Pa. 2008)

Strausser v. ACB Receivables Management, Inc., 2008 WL 859224 (E.D. Pa., March 28, 2008)

Nienaber v. Citibank (South Dakota), N.A., 2007 WL 2003761 (D.S.D., July 5, 2007)

Jordan v. Commonwealth Financial Sys., Inc., 237 F.R.D. 132, 2006 WL 2294855 (E.D. Pa. 2006)

Seawell v. Universal Fidelity Corp., 235 F.R.D. 64 (E.D. Pa. 2006)

Perry v. FleetBoston Financial Corp., 299 F.R.D. 105, 2005 WL 1527694 (E.D. Pa. 2005)

Beck v. Maximus, Inc., 2005 WL 589749 (E.D. Pa. 2005); *vacated on other grounds*, *Beck v. Maximus*, 457 F. 3d 291, 2006 WL 2193603 (3d. Cir. Aug. 4, 2006)

Stoner v. CBA Information Services, 352 F. Supp. 2d 549 (E.D. Pa. 2005)

Bittner v. Trans Union, LLC, C.A. No. 04-2562 (E.D. Pa. January 4, 2005)

Wisneski v. Nationwide Collections, Inc., 227 F.R.D. 259 (E.D. Pa. 2004)

Petrolito v. Arrow Financial Services, LLC, 221 F.R.D. 303 (D. Conn. 2004)

Orloff v. Syndicated Office Systems, Inc., 2004 WL 870691 (E.D. Pa. 2004)

Bonett v. Education Debt Services, Inc., 2003 WL 21658267 (E.D. Pa. 2003)

Gaumer v. The Bon-Ton Stores, C.A. No. 02-8611 (E.D. Pa. Dec. 30, 2003)

Street v. Portfolio Recovery Associates, C.A. No. 01-3684 (E.D. Pa. July 30, 2003)

Samuel-Bassett v. Kia Motors America, Inc., 212 F.R.D. 271 (E.D. Pa. 2000), *vacated on other grounds*

Oslan v. Law Offices of Mitchell N. Kay, 232 F. Supp. 2d 436 (E.D. Pa. 2002)

Oslan v. Collection Bureau of Hudson Valley, 206 F.R.D. 109 (E.D. Pa. 2002)

Saunders v. Berks Credit & Collections, 2002 WL 1497374 (E.D. Pa. 2002)

Schilling v. Let's Talk Cellular and Wireless, 2002 U.S. Dist. LEXIS 3352 (E.D. Pa. 2002)

Fry v. Hayt, Hayt and Landau, 198 F.R.D. 461 (E.D. Pa. 2000)

Smith v. First Union Mortgage Corporation, 1999 WL 509967 (E.D. Pa. 1999)

Miller v. Inovision, C.P. Phila. County, December Term, 1999, No. 3504

NOTABLE CASES

- *Schwartz v. Aracor Search & Abstract, Inc.*, 2014 WL 4493662 (E.D. Pa. Sept. 11, 2014) (upholding compensatory and punitive damages judgment against title company that misappropriated certain funds at real estate closing)
- *Ferguson v. Wells Fargo Bank, NA*, 538 Fed. Appx. 782 (9th Cir. 2013) (reversing summary judgment for bank that failed to properly remove bankruptcy notation)
- *King v. General Info. Servs., Inc.*, 903 F. Supp. 2d 303 (E.D. Pa. 2012) (first court to uphold constitutionality of FCRA's obsolescence provision)
- *Seamans v. Temple University*, Civil No. 11-6774 (E.D. Pa., Oct. 28, 2011) — precedential case of first impression before U.S. Court of Appeals for the Third Circuit addressing duties of furnishers and interplay between the FCRA and HCA.
- *Adams v. LexisNexis Risk & Info. Analytics Group, Inc.*, 2010 WL 1931135 (D.N.J. May 12, 2010) (first court to find that consumers may sue under FRCA over information in specialty Accurant report used by debt collectors)
- *Dixon-Rollins v. Trans Union, LLC*, Civil No. 09-646 (E.D. Pa., April 10, 2010) — \$530,000 jury verdict against a credit reporting agency that falsely reported an old landlord collection claim for rent (remitted to \$300,000)
- *Shames-Yeakel v. Citizens Financial Bank*, 677 F. Supp. 2d 994 (N.D. Ill. 2009) (first court to rule that consumer may proceed to jury trial on claim that bank breached its duty to sufficiently secure its online banking system).
- *Cortez v. Trans Union, LLC*, Civil No. 05-5684 (E.D. Pa., April 26, 2007) — \$800,000 jury verdict against Trans Union in fair credit reporting case (remitted to \$150,000)

- *Samuel-Bassett v. Kia Motors America, Inc.*, C.P. Phila. County, January Term, 2001, No. 2199—5.6 million dollar verdict for class of Pennsylvania car purchasers
- *Little v. Kia Motors America, Inc.*, 2003 WL 25568765 (N.J.Super.L. 2003)—6 million dollar (approximate) verdict for class of New Jersey car purchasers, damages later decertified
- *Serrano v. Sterling Testing Systems, Inc.*, —F.Supp.2d—, 2008 WL 2223007 (E.D. Pa. May 30, 2008)—federal court finding as a matter of first impression what defines a record of arrest under the FCRA
- *Stoner v. CBA Information Services*, 352 F. Supp. 2d 549 (E.D. Pa. 2005)—obtained \$772,500 settlement for class of consumers who disputed errors in their credit reports
- *Perry v. FleetBoston Financial Corp.*, 2004 WL 1508518 (E.D. Pa. 2004)—defeated motion to compel arbitration in class action brought under Fair Credit Reporting Act
- *Crane v. Trans Union, LLC*, 282 F. Supp. 2d 311 (E.D. Pa. 2003)—federal court held that credit reporting agencies that merely parrot information from credit furnishers and fail to forward dispute documentation face claims for punitive damages under the Fair Credit Reporting Act; violation of the Fair Credit Reporting Act presents a violation of Pennsylvania’s Consumer Protection Law); *Lawrence v. Trans Union, LLC*, 296 F. Supp. 2d 582 (E.D. Pa. 2003)—same
- *Wisneski v. Nationwide Collections, Inc.*, 227 F.R.D. 259 (E.D. Pa. 2004)—in fair debt class action, Pennsylvania federal court held for the first time that statutory net worth limitation is not limited to balance sheet net worth, and includes equity, capital stock and goodwill
- *Evantash v. G.E. Capital Mortgage Services, Inc.*, 2003 WL 22844198 (E.D. Pa. 2003)—in fair credit reporting case, court held that technical accuracy is not a defense
- *Sheffer v. Experian Information Solutions, Inc.*, 2003 WL 21710573 (E.D. Pa. 2003)—federal court held that Fair Credit Reporting Act permits as recoverable damage emotional distress in trying to correct errors in a consumer’s credit file, even where no pecuniary or out-of-pocket losses
- *Sheffer v. Experian Information Solutions Inc.*, 249 F. Supp. 2d 560 (E.D. Pa. 2003)—federal court held that FCRA provides a private right of action against furnishers of information
- *Sullivan v. Equifax, Inc. et al.*, 2002 U.S. Dist. LEXIS 7884 (E.D. Pa. 2002)—federal court held that reporting a debt to a credit reporting agency is a communication covered by the Fair Debt Collection Practices Act
- *Wenrich v. Cole*, 2000 U.S. Dist. LEXIS 18687 (E.D. Pa. 2000)—federal court held that FDCPA provides protection for all persons, not just consumers
- *Jaramillo v. Experian Information Solutions, Inc.*, 155 F. Supp. 2d 356 (E.D. Pa. 2001); 2001 U.S. Dist. LEXIS 10221 (E.D. Pa. 2001)—federal court held that single publication rule does not apply to actions brought for violation of the Fair Credit Reporting Act

PRESENTATIONS/LECTURES BY INVITATION

Speaker, *Spring Training 2023 (FCRA)*, National Association of Consumer Advocates, New Orleans, LA, May 3-5, 2023

Speaker, *Spring Training 2022 (FCRA)*, National Association of Consumer Advocates, Phoenix, AZ, May 11-14, 2022

Speaker, *Consumer Rights Litigation Conference*, National Consumer Law Center's Office Hours with the FCRA Stars, December 6-17, 2021

Speaker, *Spring Training 2020 (FCRA)*, National Association of Consumer Advocates, Online Webinars, May 1-June 30, 2020

Speaker, *Fair Credit Reporting Act Conference*, National Association of Consumer Advocates, Long Beach, CA, May 1-4, 2019

Speaker, *Fair Credit Reporting Act Conference*, National Association of Consumer Advocates, Baltimore, MD, April 22-29, 2017

Speaker, *Fair Credit Reporting Act Conference*, National Association of Consumer Advocates, Las Vegas, NV, May 1-3, 2015

Speaker, *Fair Debt Collection Experienced Training Conference*, National Association of Consumer Advocates, Baltimore, MD, March 7-8, 2013

Speaker, *Fair Debt Collection Experienced Training Conference*, National Association of Consumer Advocates, New Orleans, LA, February 23-24, 2012

Speaker, *Negotiating 101*, National Association of Consumer Advocates, Memphis, TN, May 20-22, 2011

Speaker, *Fair Credit Reporting Act Conference*, National Association of Consumer Advocates, Chicago, IL, May 8-10, 2009

Speaker, *Fair Debt Collection Experienced Training Conference*, National Association of Consumer Advocates, Nashville, TN, March 27-29, 2008

Speaker, *Litigation Trends: "Getting to Know the Other Team"*, 11th Annual DBA International World Championship of Debt Buying, Las Vegas, NV, February 5-7, 2008

Speaker, *Protecting Vulnerable Consumers and Promoting Marketplace Justice*, Consumer Rights Litigation Conference, National Consumer Law Center, Miami, FL, November 10-13, 2006

Speaker, *FCRA: Playing to Win*, National Association of Consumer Advocates, Las Vegas, NV, May 5-7, 2006

Speaker, *Litigating Accuracy Issues With Furnishers of Credit Data*, National Association of Consumer Advocates, New Orleans, LA, June 2-5, 2005

Speaker, *Understanding Credit Scoring*, Consumer Rights Litigation Conference, National Consumer Law Center, Boston, MA, November 7, 2004

Speaker, *Litigating Accuracy Issues With Credit Reporting Agencies*, National Association of Consumer Advocates, Chicago, Ill., May 14-16, 2004

Speaker, *FCRA/Building On Our Success*, National Association of Consumer Advocates, Orlando, FL, March 7-9, 2003

Speaker, *Protecting Privacy, Ensuring Accuracy*, National Association of Consumer Advocates, Albuquerque, NM, June 1, 2002

Faculty/Speaker, *Credit Reporting and Debt Collection Litigation*, Municipal Court Judicial Conference (CLE), Pennsylvania, PA, May 6, 1999

PUBLICATIONS *Second Circuit Holds Investigations Can Be Reasonable Under The FCRA Even When Their Conclusions Could Be Wrong, The Legal Intelligencer, (July 2025)*

Fourth Circuit Rules on the Duty to Investigate Legal Disputes Under the FCRA, The Legal Intelligencer (April, 2025)

CFPB Clarifies Employers' Obligations When Using Background Dossiers and Algorithmic Scores in Employment Decisions, The Legal Intelligencer (January, 2025)

Sixth Circuit: Consumer's FCRA Complaint Regarding Inaccurate Spousal Support Obligation Passes Muster, The Legal Intelligencer (October, 2024)

PA High Court Holds Consumers Can Receive Both Punitive and Statutory Treble Damages Under the CPL, The Legal Intelligencer (June, 2024)

CFPB Issues New Guidance Regarding Inaccurate Background Check Reports and Credit File Sharing Practices, The Legal Intelligencer (April, 2024)

CFPB Details Student Loan Servicers' Struggles in Wake of Borrowers Resuming Payments, The Legal Intelligencer, (February, 2024)

Third Circ. Clarifies Furnishers' Duties Under the FCRA to Probe Indirect Disputes, 268 The Legal Intelligencer, 5, 8 (2023)

CFPB Explores AI's Impact on Consumers' Relationships With Financial Institutions, 268 The Legal Intelligencer, 5, 8 (2023)

CFPB Reminds Consumer Reporting Agencies to Toss 'Junk Data' in the Trash, 266 The Legal Intelligencer, 5, 8 (2022)

Your Clients' Consumer Rights Legal Issues May Be Hiding in Plain Sight, 264 The Legal Intelligencer, 7-8 (2021)

COMMITTEE APPOINTMENTS AND POSITIONS

Mark regularly lectures for continuing legal education programs, law schools and community groups throughout the country, and has been a regular speaker for the National Association of Consumer Advocates (NACA) and National Consumer Law Center (NCLC) for over 20 years. He is a certified arbitration panelist with the Federal Arbitration Panel and serves on the Editorial Board of the Consumer Financial Services Law Report. Additionally, Mark is a member of the Pennsylvania Trial Lawyers Association, Philadelphia Trial Lawyers Association, Philadelphia

Bar Association, and National Association of Consumer Advocates, and regularly serves on the Philadelphia Bar Association's Federal Courts Committee.

JOHN SOUMILAS

JOHN SOUMILAS is a partner of the firm. His primary office is located in Philadelphia. A seasoned litigator, John has represented thousands of consumers in individual cases and class actions, with career settlements and verdicts valued at more than \$180M. He currently represents persons defamed and otherwise harmed by credit reporting, employment background and tenant screening errors, victims of identity theft, students and student loan borrowers, individuals harassed and deceived by collectors and other businesses, as well as consumers who are subjected to unwelcome invasions of their privacy, overcharging, and other deceptive trade practices.

John has been repeatedly recognized by Philadelphia Magazine as a "SuperLawyer," a recognition received by only 5% of attorneys in Pennsylvania. He has been nationally recognized for his work in protecting consumer rights under the federal Fair Credit Reporting Act (FCRA). Throughout his career, John has obtained some of the highest consumer jury verdicts, including the highest known FCRA verdicts in Pennsylvania, California, and Michigan, and had been appointed by federal judges as class counsel in some of the largest FCRA class cases and settlements.

John lives in Philadelphia with his wife and has four adult children. John is a 1994 *cum laude* graduate of Rutgers University, where he was inducted into Phi Beta Kappa. He also holds a master's degree in American history from Stony Brook University, obtained in 1996. John received his law degree *cum laude* from the Temple University Beasley School of Law in 1999, where he was a member of the Temple Law Review. He began his legal career by clerking for Justice Russell M. Nigro of the Supreme Court of Pennsylvania.

ADMISSIONS

John has been admitted to practice before the United States Supreme Court, United States Courts of Appeals for the First, Second, Third, Fourth, Sixth, Seventh, Ninth and Eleventh Circuits, the United States District Courts for the District of Colorado, Eastern District of Michigan, Eastern District of Pennsylvania, and the District of New Jersey, as well as the state courts of Pennsylvania and New Jersey. He has also successfully litigated cases on a *pro hac vice* basis throughout the country.

RECENT WORK

John is known for his ability to tackle a wide array of novel and complex legal problems. A sampling of his work in recent years is set forth below:

False Terrorist Alerts on Credit Reports

- *Martinez v. Avantus, LLC*, 343 F.R.D. 254 (D. Conn. 2023) (certified class of mortgage applicants in case involving the reporting of inaccurate OFAC "terrorist" alerts appearing on the credit reports of innocent American consumers); later settled for \$6.7M; *Kang v. Credit Bureau Connection, Inc.*, No. 18-01359, 2022 WL 658105 (E.D. Cal. Mar. 4, 2022) (certified

class of car buyers in case involving the reporting of inaccurate OFAC alerts) (also appointed class counsel and represented classes of similar consumers for false OFAC alert claims in *Patel v. Trans Union, LLC*, 308 F.R.D. 292 (N.D. Cal. 2015); later settled for \$8M; and *Ramirez v. Trans Union, LLC*, 301 F.R.D. 408 (N.D. Cal. 2014); *see also Ramirez v. Trans Union LLC*, 951 F.3d 1008 (9th Cir. 2020) (upholding certification of entire class, but reversed for portion of class that lacked Article III standing per *Trans Union LLC v. Ramirez*, 141 S. Ct. 2190 (2021); later settled for over \$9M.

Unlawful College Charges and Student Loan Collections

- *Teran v. Navient Sols. (In re Teran)*, No. 10-31718, 2022 Bankr. LEXIS 381 (Bankr. N.D. Cal. Feb. 15, 2022) (summary judgment ruling siding with class of student debtors who had collection efforts taken against them even though certain of their student loans were discharged in their bankruptcies); later certified and settled as part of nationwide \$28M damages and \$54M debt forgiveness deal, *Woodard v. Navient Sols.*, No. 8:23-cv-301, 2024 WL 94468 (D. Neb. Jan. 9, 2024);
- *Botts v. Johns Hopkins Univ.*, No. 20-1335, 2021 WL 1561520 (D. Md. Apr. 21, 2021) (leading decision in litigation against universities for class of undergraduate and graduate students claiming overcharging during the Covid-19 pandemic, upholding breach of contract and unjust enrichment claims) later settled for over \$10M;
- *Seamans v. Temple University*, 744 F.3d 853 (3d Cir. 2014) (reversing summary judgment for credit furnisher concerning improperly reported old student loan debt, and setting standard for certain delinquent student debt that cannot be reported to the credit agencies after seven-and-a-half years).

Credit Reporting Errors and Problems

- *Norman v. Trans Union, LLC*, 669 F. Supp. 3d 351 (E.D. Pa. 2023) (finding that credit reporting agency must reinvestigate consumers' disputes of contested "hard inquiries" (credit applications) and refusing agency's request to de-certify class); *Norman v. Trans Union, LLC*, 479 F.Supp.3d 98 (E.D. Pa. Aug. 14, 2020) (first court to certify class action for credit report agency's failure to investigate hundreds of thousands of consumer disputes of certain inquiries disputed as unauthorized); followed by *Rivera v. Equifax Info. Servs., LLC*, 341 F.R.D. 328 (N.D. Ga. 2022) (certifying even larger class of over 300,000 consumers for same claim);
- *Adams v. LexisNexis Risk & Info. Analytics Group, Inc.*, No. 08-4708, 2010 WL 1931135 (D.N.J. May 12, 2010) (first court to find that consumers may sue under FRCA over personal information in specialty Accurant credit report used by debt collectors and others) (leading to *Berry v. LexisNexis Risk & Info. Analytics Group, Inc.*, No. 11-754, 2014 WL 4403524 (E.D. Va. Sept. 5, 2014) and resulting in \$13.5M class action settlements with LexisNexis);
- *Ferguson v. Wells Fargo Bank, NA*, 538 Fed. Appx. 782 (9th Cir. 2013) (reversing summary judgment for bank that failed to remove bankruptcy notation from consumer's credit report).

Tenant and Employment Screening Violations

- *In re TransUnion Rental Screening Sols., Inc., Fair Credit Reporting Act Litig.*, 437 F. Supp. 3d 1377, 1378 (U.S. Jud. Pan. Mult. Lit. 2020) (later settled in 2023 for over \$11M to compensate victims of inaccurate data on tenant screening reports);

- *McIntyre v. RealPage, Inc.*, 336 F.R.D. 422 (E.D. Pa. Aug. 25, 2020) (certifying claim on behalf of tenant applicants for improper reporting of stale eviction records against them in largest tenant screening class to date); later settled for over \$6.3M;
- *Kelly v. Business Information Group*, No. 15-6668, 2019 WL 414915 (E.D. Pa. Feb. 1, 2019) (as part of approval of over \$3.1M class settlement requiring employment background screener to provide important “same time” notice to job candidates of any adverse information being included in their background reports);
- *Leo v. AppFolio, Inc.*, No. 17-5771, 2018 WL 623647 (W.D. Wash. Jan. 30, 2018) (upholding class action claims against start-up tenant screening company); later settled for \$4.5M;
- *Flores v. Express Personnel*, No. 14-03298, 2017 WL 1177098 (E.D. Pa. Mar. 30, 2017) (certifying settlement class regarding improper background screening practices by a job placement agency); later settled for over \$6M;
- *Magallon v. Robert Half International, Inc.*, 311 F.R.D. 626 (D. Or. Nov. 10, 2015) (one of few cases certifying a 5-year FCRA class on contest for failure to timely disclose adverse temp-placement decisions against job placement agency).

NOTEWORTHY CASES

Throughout his career, John has litigated some of the most groundbreaking consumer rights cases including several cases involving issues of first impression. The following is a list of cases involving complex and novel issues that John had litigated through the years:

- *Teran v. Navient Sols. (In re Teran)*, 649 B.R. 794 (Bankr. N.D. Cal. March 30, 2023) (certifying circuit-wide damages class and also nationwide injunctive class of student loan borrowers of non-Title IV loans subjected to unlawful post-bankruptcy collection efforts);
- *Clark v. Trans Union, LLC*, No. 15-391, 2017 WL 814252 (E.D. Va. Mar. 1, 2017) (certifying one of first misreported public records FCRA classes);
- *Schwartz v. Aracor Search & Abstract, Inc.*, No. 13-870, 2014 WL 4493662 (E.D. Pa. Sept. 11, 2014) (upholding compensatory and punitive damages judgment against title company that misappropriated certain funds at real estate closing);
- *King v. General Info. Servs., Inc.*, 903 F. Supp. 2d 303 (E.D. Pa. 2012) (first court to uphold constitutionality of FCRA’s obsolescence provision for old or outdated background history);
- *Howley v. Experian Info. Solutions, Inc.*, 813 F. Supp. 2d 629 (D.N.J. 2011) (first court to find that consumer may sue agency that improperly disclosed information to an identity thief);
- *Cortez v. Trans Union, LLC*, 617 F.3d 688 (3d Cir. 2010) (upholding first ever court finding that false terrorist/OFAC alerts are subject to the FCRA, also upholding punitive damages of case tried by same counsel before a jury at the district court level, *Cortez v. Trans Union, LLC*, No. 05-5684 (E.D. Pa. Apr. 26, 2007));
- *Chakejian v. Equifax Info. Servs., LLC*, 256 F.R.D. 492 (E.D. Pa. 2009) (first certified class action under FCRA section 1681i regarding consumer disputes);

- *Shames-Yeakel v. Citizens Financial Bank*, 677 F. Supp. 2d 994 (N.D. Ill. 2009) (first court to rule that consumer may proceed to jury trial on claim that bank breached its duty to sufficiently secure its online banking system).

LECTURES / PUBLICATIONS

John is also a regular lecturer on consumer matters, including for the National Business Institute, National Consumer Law Center, Practicing Law Institute, National Association of Consumer Advocates, and other organizations. John has been interviewed and quoted concerning many legal issues affecting consumers by a wide range of media outlets, from the Wall Street Journal and Forbes Magazine to Consumer Reports and Free Speech Radio. He has authored several popular and scholarly articles, including *Third Circuit Refuses to Allow Litigant to Sidestep Its Chosen Arbitration Body's Rules* (The Legal Intelligencer Feb. 2, 2024); *CFPB Tries to Nip New Wave of Unlawful Medical Debt Collection in the Bud* (The Legal Intelligencer Apr. 1, 2022), *Predatory Lending, the FCRA and the FDCPA* (NBI 2009), and *How Can I Combat Identity Theft* (Philadelphia Magazine, Dec. 2008).

LAUREN KW BRENNAN

LAUREN KW BRENNAN is a partner of the firm. Lauren is a zealous consumer advocate and skilled litigator who has spent her entire career seeking to vindicate the rights of consumers. She concentrates her practice on class action litigation on behalf of consumers harmed by credit reporting errors, inaccurate employment background screening, abusive debt collection practices, and other unfair and fraudulent trade practices. Lauren lives in West Philadelphia with her husband and two children.

EDUCATION

Temple University Beasley School of Law J.D. *cum laude*, 2013; Beasley Scholar, Temple Political & Civil Rights Law Review

Swarthmore College, B.A. 2008

ADMISSIONS

Lauren has been admitted to practice before the United States Supreme Court, the United States Courts of Appeals for the Second, Third, Seventh, Ninth, and Eleventh Circuits, the United States District Court for the Eastern District of Pennsylvania and the United States District Court for the District of New Jersey, as well as in state courts in Pennsylvania and New Jersey. She has also successfully litigated cases after being admitted *pro hac vice* in federal district courts around the country.

NOTABLE CASES

- *Hernandez v. MicroBilt Corporation*, 88 F.4th 215 (3d Cir. 2023) (upholding denial of CRA's motion to compel arbitration of claims regarding misreporting of terrorist watch list information, confirming that claims return to court where AAA declined to administer dispute).

- *Kelly v. RealPage, Inc.*, 47 F.4th 202 (3d Cir. 2022) (after granting Plaintiff's Rule 23(f) petition for permission to appeal, holding that consumers had Article III standing for claim that tenant screening company failed to disclose sources of information, that consumers are not required to use term "file" in order to trigger disclosure obligations, and that class is ascertainable under Rule 23 even where individual review of objective records is required).
- *Healy v. Milliman, Inc.*, No. 2:20-cv-01473-JCC (W.D. Wash. 2022) at ECF 126 (Apr. 29, 2022 order certifying FCRA accuracy claims of over 300,000 consumers who were the subject of inaccurate reports regarding medical and prescription history)
- *Ramirez v. Trans Union, LLC*, 951 F.3d 1008 (9th Cir. 2020), 141 S.Ct. 2190 (2021); 2022 WL 17740302 (N.D. Cal. Dec. 22, 2022). Member of plaintiff's trial team in record \$60 million jury verdict for a case brought under the Fair Credit Reporting Act; central contributor to post-trial briefing and appellate proceedings including at the U.S. Court of Appeals for the Ninth Circuit and in the U.S. Supreme Court; later settled for \$9 million

CLASS COUNSEL CERTIFICATIONS

Martinez v. Avantus, LLC, No. 3:20-CV-1772 (JCH), 2023 WL 112807 (D. Conn. Jan. 5, 2023)

Healy v. Milliman, Inc., No. 2:20-cv-01473-JCC (W.D. Wash. 2022)

Watson v. Checkr, Inc., No. 3:19-cv-03396-EMC (N.D. Cal. 2021)

Deaton v. Trans Union, LLC, No. 2:20-cv-01380-AB (E.D. Pa. 2021)

Sanders v. Makespace Labs, Inc., No. 1:18-cv-10016 (S.D.N.Y. 2021)

McIntyre v. RealPage, Inc., d/b/a On-Site, No. 2:18-cv-03934-CFK (E.D. Pa. 2020)

Norman v. Trans Union, LLC, No. 18-5225, 2020 WL 4735538 (E.D. Pa. Aug. 14, 2020)

Der-Hacopian v. DarkTrace, Inc., No. 4:18-cv-06726-HSG (N.D. Cal. 2020)

Der-Hacopian v. SentryLink, No. 8:18-cv-03001-PWG (D. Md.)

Taylor v. GfK Custom Research, Inc., No. 1:16-cv-09968-ER (S.D.N.Y. 2019)

Leo v. AppFolio, Inc., No.3:17-cv-05771-RJB (W.D. Wash. 2019)

Clark/Anderson v. Trans Union, LLC, No. 15-cv-391 & No. 16-cv-558 (E.D. Va. 2018)

Kelly v. Business Information Group, C.A. 15-6668, 2019 WL 414915 (E.D. Pa. 2019)

Flores v. Express Personnel, C.A. No. 14-cv-03298, (E.D. Pa. Oct. 21, 2016)

Larson v. Trans Union, LLC, C.A. No. 12-cv-05726, (N.D. CA, Aug. 11, 2016)

Miller v. Trans Union, LLC, C.A. No. 12-cv-1715, (M.D. Pa. Dec. 26, 2016)

Henderson v. Trans Union, LLC, C.A. No. 14-cv-00679 (E.D. Va. May 3, 2016)

Pawlowski v. United Tranzactions, LLC, C.A. no. 15-cv-2330, (E.D. Pa. April 18, 2016)

Rodriguez v. Calvin Klein, Inc., C.A. 1:15-cv-02590 (S.D.N.Y. 2015)

Giddiens v. Infinity Staffing, C.A. No. 13-cv-07115, (E.D. Pa. Jan. 12, 2016)
Giddiens v. First Advantage, C.A. No. 14-cv-5105, (E.D. Pa. July 11, 2015)
Magallon v. Robert Half International, Inc., 2015 WL 8778398 (D. Or. Nov. 10, 2015)
Patel v. Trans Union, LLC, 308 F.R.D. 292 (N.D. Cal. 2014)
Blandina v. Midland Funding, LLC, 2014 WL 7338744 (E.D. Pa. Dec. 23, 2014)
Robinson v. General Information Services, Inc., No. 11-07782 (E.D. Pa. Nov. 4, 2014)
Ramirez v. Trans Union, LLC, 2014 WL 3734525 (N.D. Cal. July 24, 2014)

LECTURES/PUBLICATIONS

Speaker, *Consumer Financial Services Fundamentals 2024*, Practicing Law Institute, New York City, “The Credit Reporting Ecosystem: Major Players and Overview of the Key Laws That Apply,” March 15, 2024.

Speaker, *Consumer Law Basics Webinar Series*, Social Law Library & National Consumer Law Center, “FCRA Basics,” Webinar, March 5, 2024.

Speaker, *Consumer Rights Litigation Conference*, National Consumer Law Center, Chicago, IL “ABCs of FCRA,” October 26, 2023.

Co-author, “FCRA Remedies When Criminal Records Lead to Rental Denials” National Consumer Law Center, September 21, 2023.

Speaker, *Spring Training Class Action Workshop*, National Association of Consumer Advocates, New Orleans, LA “Class Action Trials,” May 3, 2023.

Co-Chair, *Spring Training - Case Valuation and Damages Track*, National Association of Consumer Advocates, Phoenix, AZ May 11-14, 2022.

Facilitator, *Spring Training*, National Association of Consumer Advocates, Online Webinar, “FCRA Background Screening Networking Session” April 29, 2021.

Speaker, *Consumer Rights Litigation Conference*, National Consumer Law Center, Online Webinar “FCRA Mini-Intensive, Specialty CRAs Part 2: Tenant Screening” November 12, 2020.

Planning Committee, *Spring Training – FCRA Track*, National Association of Consumer Advocates, Online Webinar, April 30-May 2, 2020.

Speaker, *FCRA Conference*, National Association of Consumer Advocates, Long Beach, CA “Trial Updates,” May 4, 2019.

DAVID A. SEARLES

DAVID A. SEARLES, of counsel to the firm, is admitted to practice before the Supreme Court of the United States, the United States Courts of Appeals for the Third, Fourth and Sixth

Circuits, and the United States District Courts for the District of Maryland, the District of Colorado, the Northern District of Oklahoma, and Eastern and Middle Districts of Pennsylvania, as well as the state courts of Pennsylvania. He is a graduate of the American University School of Law, Washington, D.C., where he served on law review.

Following graduation from law school, Mr. Searles was an attorney for Community Legal Services of Philadelphia, where he specialized in consumer and bankruptcy law. In 1990, he successfully argued the first consumer reorganization bankruptcy case considered by the U.S. Supreme Court, *Pennsylvania v. Davenport*, 495 U.S. 552 (1990), and has served as lead counsel and presented arguments in numerous consumer law cases before the United States Court of Appeals for the Third Circuit. From 1992 through 1997, Mr. Searles was associated with the Philadelphia law firm of Drinker Biddle & Reath LLP, where his practice focused on Chapter 11 bankruptcy and creditors' rights. Thereafter, he was a member of Donovan Searles, LLC until 2011, specializing in consumer class action litigation.

In 2005, Mr. Searles was awarded the Equal Justice Award at the Community Legal Services Breakfast of Champions for his role in directing funding for legal assistance for low-income residents of Philadelphia. Mr. Searles has served as the Pennsylvania contributor to SURVEY OF STATE CLASS ACTION LAW (ABA Section of Litigation – 2010), and as a contributing author of PENNSYLVANIA CONSUMER LAW (2010). He has taught advanced bankruptcy law at the Rutgers University School of Law – Camden, business law at Widener University and bankruptcy law at Pierce Junior College, Philadelphia. He is a past co-chairperson of the Education Committee of the Eastern District of Pennsylvania Bankruptcy Conference. Mr. Searles has been named a Pennsylvania Super Lawyer for many years.

CLASS ACTIONS

Lucas v. Accutrace, Inc., No. 18-9059 (S.D.N.Y. June 29, 2020);

Kelly v. Business Information Group, 2019 WL 414915 (E.D. Pa. 2019);

Gibbons v. Weltman, Weinberg & Reis Co., LPA, 2018 WL 5720749 (E.D. Pa. Oct. 31, 2018);

Patel v. Trans Union, LLC, 2018 WL 1258194 (N.D. Ca. March 11, 2018);

Carter v. Shalhoub Management Company, Inc., 2017 WL 5634300 (C.D. Ca. March 15, 2017);

Flores v. Express Services, Inc., 2017 WL 1177098 (E.D. Pa. March 30, 2017);

Miller v. Trans Union, LLC, 2017 WL 412641 (M.D. Pa. Jan. 18, 2017);

Larson v. Trans Union, LLC, No. 12-5726 (N.D. Ca. June 26, 2015);

Blandina v. Midland Funding, LLC, 2014 WL 7338744 (E.D. Pa. Dec. 23, 2014);

King v. General Information Services, Inc., C.A. No. 2:11-cv-06850 (E.D. Pa. Nov. 4, 2014);

Robinson v. General Information Services, Inc., C.A. No. 2:11-cv-07782 (E.D. Pa. Nov. 4, 2014);

Jones v. Midland Funding, LLC, 2013 WL 12286081 (D. Conn. Dec. 3, 2013);

Sapp v. Experian Information Solutions, Inc., 2:10-cv-04312 (E.D. Pa. Jan. 29, 2013);

Reibstein v. Rite Aid Corporation, 2011 WL 192512 (E.D. Pa. Jan. 18, 2011);

McCall v. Drive Financial, January Term 2006, No. 0005 (C.P. Phila. July 20, 2010);
Serrano v. Sterling Testing Systems, Inc., 711 F.Supp.2d 402 (E.D. Pa. 2010);
Summerfield v. Equifax Information Services, LLC, 264 F.R.D. 133 (D.N.J. 2009);
Chakejian v. Equifax Information Services, LLC, 256 F.R.D. 492 (E.D. Pa. 2009);
Barel v. Bank of America, 255 F.R.D. 393 (E.D. Pa. 2009);
Markocki v. Old Republic National Title Ins. Co., 254 F.R.D. 242 (E.D. Pa. 2008);
Strausser v. ACB Receivables Management, Inc., 2008 WL 859224 (E.D. Pa. Mar. 28, 2008);
Allen v. Holiday Universal, Inc., 249 F.R.D. 166 (E.D. Pa. 2008);
Cohen v. Chicago Title Insurance Company, 242 F.R.D. 295 (E.D. Pa. 2007);
Jordan v. Commonwealth Financial Systems, Inc., 237 F.R.D. 132 (E.D. Pa. 2006);
Braun v. Wal-Mart Stores, Inc., 2005 WL 3623389 (C.P. Phila. Dec. 27, 2005);
Perry v. FleetBoston Financial Corp., 229 F.R.D. 105 (E.D. Pa. 2005);
Beck v. Maximus, Inc., 2005 WL 589749 (E.D. Pa. March 11, 2005);
Stoner v. CBA Information Services, 352 F.Supp.2d 549 (E.D. Pa. 2005);
Orloff v. Syndicated Office Systems, Inc., 2004 WL 870691 (E.D. Pa. April 22, 2004);
Petrolito v. Arrow Financial Services, LLC, 221 F.R.D. 303 (D. Conn. 2004);
Piper v. Portnoff Law Associates, Ltd., 216 F.R.D. 325 (E.D. Pa. 2003);
Bonett v. Education Debt Services, Inc., 2003 WL 21658267 (E.D. Pa. 2003).

GEOFFREY H. BASKERVILLE

GEOFFREY H. BASKERVILLE is a 1982 graduate of Gettysburg College and a 1992 graduate of the Dickinson School of Law. During law school, Geoffrey published an article entitled *Human Gene Therapy: Application, Ethics and Regulation* in the Dickinson Law Review, Vol. 96, No. 4.

Since graduating from law school, Geoffrey has worked for both plaintiff and defense litigation firms practicing in the areas of medical malpractice, architect's and engineer's malpractice, the Federal Employer's Liability Act, and trucking litigation. In 2007, Geoffrey joined Francis Mailman Soumilas P.C. and began to practice in the area of consumer protection litigation, including fair credit reporting and fair debt collection.

Since that time, Geoffrey has concentrated his practice on representing consumers in cases under the Fair Credit Reporting Act, the Fair Debt Collection Practices Act, the Telephone Consumer Protection Act and other consumer statutes. He has represented clients in cases against background screening companies, credit reporting agencies, banks, credit card companies and other financial institutions. Geoffrey is admitted to practice before the United States Court of Appeals for the Ninth Circuit, the United States District Courts for the Eastern and Middle Districts of Pennsylvania, the District of New Jersey, the Eastern District of Michigan, the District of

Colorado, the Western District of Texas, the Central District of Illinois, and the District of New Mexico, as well as the state courts of Pennsylvania and New Jersey.

Geoffrey is an avid amateur photographer.

JORDAN M. SARTELL

JORDAN M. SARTELL joined the class action practice of Francis Mailman Soumilas, P.C. in 2017 and litigates on behalf of consumers harmed by unlawful credit reporting, tenant screening, background checks, debt collection, and other deceptive and unfair business practices.

Jordan received his law degree *summa cum laude* from the DePaul University College of Law in 2012, where he was a member of the DePaul Law Review. Jordan began his legal career protecting vulnerable senior citizens from financial exploitation with Prairie State Legal Services. Jordan is admitted in Illinois and practices in federal district and appellate courts throughout the United States.

Jordan lives in suburban Chicagoland with his wife and two children. Jordan served on the Editorial Board of the DuPage County Bar Association's legal journal, *The Brief*, from 2014 to 2023, including as its Editor in Chief from 2021 to 2022 and Associate Editor from 2020 to 2021. Jordan is also a member of the National Association of Consumer Advocates and regularly provides pro bono advice and counsel on a variety of consumer issues.

CLASS COUNSEL CERTIFICATIONS

Carstairs v. University of Rochester, No. 6:20-cv-06690-CJS, ECF 87 (W.D.N.Y. June 24, 2025)

Mansaray v. TD Bank, N.A., No. 2:22-cv-05039-AB, ECF 96 (E.D. Pa. April 28, 2025)

Hines v. Equifax Information Services, LLC, 2024 WL 4132333 (E.D.N.Y. Sept. 10, 2024)

Botts v. The Johns Hopkins University, No. 1:20-cv-01335-JRR, ECF 96 (D. Md. April 20, 2023)

Teran v. Navient Solutions, LLC et al., No. 20-03075-DM,
2023 WL 2721904 (Bankr. N.D. Cal. Mar. 30, 2023)

Stewart v. LexisNexis Risk Data Retrieval Serv's, LLC,
No. 3:20-cv-00903-JAG (E.D. Va. July 27, 2022)

Rivera v. Equifax Info. Servs., LLC, 341 F.R.D. 328 (N.D. Ga. 2022)

Kang v. Credit Bureau Connection, Inc., No. 1:18-CV-01359-AWI-SKO,
2022 WL 658105 (E.D. Cal. Mar. 4, 2022)

McIntyre v. RealPage, Inc., d/b/a On-Site, 336 F.R.D. 422 (E.D. Pa. 2020)

Norman v. Trans Union, LLC, 479 F. Supp. 3d 98 (E.D. Pa. 2020)

Wills v. Starbucks Corporation, No. 1:16-cv-3654-CAP-CMS, ECF 59 (N.D. Ga. July 16, 2020)

Robinson v. National Student Clearinghouse, No. 1:19-CV-10749,
2020 WL 4873728 (D. Mass. July 8, 2020), *aff'd* 14 F.4th 56 (1st Cir. 2021)

Shekar v. Accurate Background, Inc., No. 17-CV-0585,
2020 WL 2563437 (E.D. Wis. May 14, 2020)

LECTURES/PUBLICATIONS

Speaker, *Best Practices in Class Discovery*, National Consumer Law Center/National Association of Consumer Advocates 2025 Spring Training, Long Beach, CA May 3, 2025

Speaker, *So You Certified Your Class: Now What?*, National Consumer Law Center/National Association of Consumer Advocates 2025 Spring Training, Long Beach, CA May 3, 2025

JOSEPH GENTILCORE

JOSEPH GENTILCORE is a passionate advocate for every one of his clients, and truly believes in the work that he does. Joseph focuses his practice on Fair Credit Reporting Act cases and other consumer protection matters under both state and federal law. He currently represents consumers in cases against credit card companies, banks, debt collectors, mortgage servicers and background check companies. Joseph has dedicated the majority of his career to representing individuals who have been wronged by large financial entities, and along the way has helped thousands of consumers obtain compensation from the corporations that have harmed them. As a result of Joseph's specialties, he has given lectures on various topics, including background checks, credit reporting inaccuracies, and mortgage fraud.

Joseph graduated Ursinus College, and Temple University School of Law.

Joseph has been lead counsel in over 300 individual federal consumer protection cases, and appointed class counsel in consumer protection matters. Every year since 2013, Joseph has been named a Super Lawyer or Rising Star by Pennsylvania Super Lawyers. Joseph is licensed to practice in Pennsylvania and New Jersey, and is admitted in numerous federal courts throughout the country.

SIOBHÁN MCGREAL

SIOBHÁN MCGREAL joined Francis Mailman Soumilas, P.C. in 2021, and concentrates her advocacy on behalf of consumers harmed by credit reporting errors, inaccurate background screening reports for employment and housing applications, and other abusive and unfair trade practices. Siobhán has dedicated the majority of her career to helping those who have had difficulty having their voices heard within the legal system.

Prior to joining FMS, Siobhán was a Deputy City Solicitor in the Child Welfare Unit of the City of Philadelphia Law Department, where she litigated thousands of hearings of child abuse, child neglect, applications for orders of protective custody, permanent legal custodianship, and terminations of parental rights. She started her law career as an attorney for the Administration of Children's Services in Brooklyn, NY, before moving to Southern California and working in private practice for several years. Siobhán earned her B.A. from the University of Pennsylvania and her J.D. from New York Law School after teaching English in Thailand for a short time. She has been admitted to practice in the state courts of Pennsylvania, California, and New York, as well as before the United States District Court for the Eastern District of Pennsylvania.

WILLIAM COOPER

WILLIAM COOPER joined Francis Mailman Soumilas, P.C. right after law school so he could dedicate his career to fighting for consumers who have been harmed by unfair business practices. At FMS, Will represents consumers against a variety of corporations, including background check companies, credit bureaus, banks, and credit card companies.

Will has been an advocate for underdogs since he first entered the legal world. Before coming to FMS, he worked for a non-profit housing law project where he protected low-income tenants in disputes with their landlords. Following that, he was a part of the legal services plan offered to members of a union for municipal employees, before joining a firm representing victims of catastrophic personal injuries and medical malpractice.

Will obtained his B.S. from Northeastern University and his J.D. from Brooklyn Law School, where he was an editor for the Brooklyn Journal of International Law and a member of the legal honor society Phi Delta Phi. He is admitted to practice in Pennsylvania state court as well as before the United States District Court for the Eastern District of Pennsylvania.

ERIKA HEATH

ERIKA HEATH joined Francis Mailman Soumilas, P.C. in 2020, and focuses her San Francisco practice on individual and class action litigation for consumers harmed by erroneous credit reports, inaccurate employee background checks, unlawful debt collection practices, and other unfair trade practices.

Erika is a 2002 graduate of Southern Methodist University, where she majored in business. She worked in finance in both Texas and Germany before earning her J.D. from Northeastern University School of Law in 2009. After graduating, Erika got her start as an attorney at Atlanta Legal Aid Society, where she focused on protecting low-income consumers from abusive business practices.

Both during her time as a legal aid attorney and after, Erika has participated in a number of high-profile cases. She served as lead counsel on the case of *Strickland v. Alexander*, which ultimately led to a federal court declaring Georgia's garnishment process to be unconstitutional and enjoining most consumer garnishments in the state. As a result of her work on the *Strickland*

case, Erika received numerous awards, including the 2015 Consumer Achievement of the Year award from the National Association of Consumer Advocates (NACA). In the summer of 2017, she served as co-counsel in the trial of *Bowerman v. Field Asset Services, Inc.* (N.D. Cal.), which led to a jury verdict of more than \$2 million for 11 employees who were misclassified as independent contractors. She is currently a lecturer at University of California, Berkeley (BerkeleyLaw), where she teaches a course on the Fair Credit Reporting Act.

Erika moved with her family to the San Francisco Bay Area in 2015. She is licensed to practice in California, Georgia, and New York. She is an active member of the National Association of Consumer Advocates.

KEVIN MALLON

KEVIN MALLON joined Francis Mailman Soumilas, P.C. as Of Counsel in 2020. Mr. Mallon is also the owner of Mallon Consumer Law Group, PLLC, a New York City based consumer protection law firm focused on representing consumers harmed by credit reporting agencies, debt collectors, identity theft and consumer fraud.

Mr. Mallon has obtained relief for thousands of consumers harmed by unlawful corporate conduct since becoming an attorney in 1999. He represents consumers in both individual cases and class actions. He has successfully obtained jury verdicts on behalf of consumers as well as successfully representing consumers on appeal. Mr. Mallon is recognized as a national expert in credit reporting cases and has spoken numerous times at credit reporting conferences.

Mr. Mallon received his undergraduate degree from the C.W. Post campus of Long Island University, magna cum laude, in 1995. He attended the Santa Clara University School of Law on a full Dean's scholarship, and graduated summa cum laude in 1999. He is licensed to practice in all New York State Courts as well as the Southern District of New York and Eastern District of New York federal courts.

THE FIRM'S STAFF

The firm employs a highly qualified staff of paralegals, legal assistants, and secretaries to advance its objectives.

Exhibit B



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ABRAHAM C. REICH
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Email: areich@foxrothschild.com

April 1, 2025

James A. Francis, Esquire
Francis, Mailman, Soumilas, P.C.
1600 Market Street
Suite 2510
Philadelphia, PA 19103

Re: Billing Rates For New Jersey

Dear Mr. Francis:

1. INTRODUCTION

For the last several years, I have provided you with my expert opinion with regard to the range of reasonable hourly billing rates for the lawyers at Francis Mailman Soumilas, P.C. (“Francis Mailman Soumilas” or “the Firm”) in various jurisdictions, including Philadelphia, PA, San Francisco, CA, Rochester, NY, and Seattle, WA. For jurisdictions outside of Philadelphia, I have consulted with my Fox Rothschild partners who are located in and/or practice in those locations. You have now asked me to opine on the range of reasonable hourly billing rates in New Jersey. Consistent with past practice, I have consulted with a Fox Rothschild partner in our Morristown, NJ office to confirm the accuracy of the following opinion.

2. QUALIFICATIONS

I am a partner at the law firm of Fox Rothschild LLP (“Fox Rothschild”). I have been at Fox Rothschild since 1974 as a member of its Litigation Department. From 2005 through 2017, I served as Co-Chair of Fox Rothschild and now hold the title of Chair Emeritus. For five years prior to becoming Co-Chair, I was the Managing Partner of the Philadelphia office. I have been a member of the management group at Fox Rothschild since 1985. I was the founding member of Fox Rothschild’s Professional Responsibility Committee (in 1988) and served as Chair of the Committee for eight years.



James A. Francis, Esquire
April 1, 2025
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As part of the management of Fox Rothschild over the past forty years, I have participated in the review and analysis of the hourly rates that we charge for our lawyers. This review is completed at least once a year and involves a review and analysis of the markets in which we participate to ensure that we set competitive rates and that the rates we charge are consistent with the Rules of Professional Conduct (or its predecessor, the Code of Professional Responsibility).

The process of setting hourly billable rates encompasses a number of steps. Initially, Fox Rothschild obtains public data of national, regional and local law firms' hourly billing rates. In addition, management often speaks with consultants with expertise in this area to ensure that our rates are within the range of our competitors in the market. The management team, which comprises leaders from each of our offices, discusses the hourly billing rates in each of our markets.¹ We try to establish rates that are fair and competitive.

I have had an active litigation practice for more than fifty years. The majority of my practice involves commercial litigation matters, in which I represent plaintiffs and defendants. I have also been active for many years representing lawyers and law firms in a myriad of issues involving professional responsibility and legal ethics, including the defense of legal malpractice claims. I have also been involved in dealing with fee disputes between and among lawyers and their clients. In 1998, I was selected to be a Fellow of the American College of Trial Lawyers.

In Fox Rothschild's litigation practice, we have handled matters in the area of consumer law. Our firm has represented large financial institutions, which have been sued for violations of the Fair Credit Reporting Act ("FCRA"), the Consumer Credit Protection Act ("CCPA") and the Fair Debt Collection Protections Act ("FDCPA"). We have defended some of the parties sued by clients of Francis Mailman Soumilas.

For over forty years, I have been active in the area of legal ethics and the interpretation and application of the Pennsylvania Rules of Professional Conduct (and its predecessor, the Code of Professional Responsibility). For many years, I have been a member of the Philadelphia Bar Association's Professional Responsibility Committee and Professional Guidance Committee. In 1983 and 1984, I served as Chair of the Professional Responsibility Committee. In 1987 and 1988, I served as Chair of the Professional Guidance Committee. I have also served as a member of a Hearing Committee for the Disciplinary Board of the Supreme Court of Pennsylvania for six years.

¹ Fox Rothschild currently has thirty offices in distinct marketplaces throughout the country, including Philadelphia, New York, Chicago, Denver, Seattle, and San Francisco. Fox Rothschild has three offices in New Jersey: Morristown, Princeton, and Atlantic City.



James A. Francis, Esquire
April 1, 2025
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For a portion of that time, I chaired the Hearing Committee. From approximately 1988 to 1995, I have also served as one of two appointed lawyers (non-judicial) liaisons to the Judicial Ethics Committee of the Pennsylvania Conference of State Trial Judges.

I have, for many years, served on the Legal Ethics and Professional Responsibility Committee of the Pennsylvania Bar Association. For the past twenty years, I have taught legal ethics and professional responsibility at the University of Pennsylvania Carey Law School.

In 1995, I served as Chancellor of the Philadelphia Bar Association. I have been a member of the House of Delegates of the American Bar Association and the Pennsylvania Bar Association for over twenty-five years. I participated in the debates surrounding the enactment of the Model Rules of Professional Conduct and many of the Amendments.

I have spoken and written on issues of trial practice and legal ethics over many years in many different forums. I have counseled hundreds of lawyers on issues of legal ethics and professional responsibility.

3. DOCUMENTS REVIEWED

I have reviewed the following documents as part of my analysis:

1. Francis Mailman Soumilas Firm Biography.
2. Francis Mailman Soumilas Attorney Biographies.
3. Francis Mailman Soumilas current hourly rates.
4. 50th Annual Survey of Law Firm Economics (2022 Edition).
5. Valeo Reports: Annual Partner Billing Rates for New Jersey.
6. Thomson Reuters Financial Insights: hourly rates for New Jersey attorneys employed by AmLaw 200 firms.
7. Fox Rothschild LLP current rate schedule for its New Jersey lawyers.



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4. **DISCUSSION**

A. The Firm's Accomplishments

Francis Mailman Soumilas ("FMS") is one of the leading law firms representing clients in consumer-related litigation in both individual and class action suits. When the Firm was founded in 1998, few firms were actively litigating cases under the CCPA. In addition, Francis Mailman Soumilas was one of the first firms to have a significant legal practice concentrating in federal fair credit reporting, fair debt collection and consumer class actions. Over the past twenty-six years, Francis Mailman Soumilas has become a well-known and highly regarded firm in the area of consumer protection litigation.

FMS has obtained record-breaking jury verdicts and settlements in cases brought under the Fair Credit Reporting Act (FCRA). It has been certified to serve as class counsel in more than 70 consumer class actions nationwide and has obtained groundbreaking legal rulings at both the trial and appellate court levels on behalf of its clients. The firm has further served as counsel in some of the largest class action settlements in consumer protection litigation history. The following examples illustrate the groundbreaking work of FMS in the area of consumer law.

In *Ramirez v. Trans Union*, C.A. No. 12-cv-000632-JSC (N.D. Cal.), the Firm tried a class action case against Trans Union (one of the country's "big three" credit reporting agencies) and obtained a \$60 million verdict on behalf of a class of 8,000 people who were mislabeled as Office of Foreign Assets Control (OFAC) criminals by Trans Union on credit reports in a claim brought under the FCRA. *Ramirez* is a record FCRA verdict, a rare class verdict, and was one of the top verdicts for 2017. Thereafter, Francis Mailman Soumilas argued the appeal against the former Solicitor General of the United States and the Ninth Circuit affirmed the trial court verdict (with remittitur): 951 F.3d 1008 (9th Cir. 2020). The United States Supreme Court granted certiorari in 2020, and in March of 2021, issued a 5-4 decision reversing the trial court's decision in part on the basis of its finding only a portion of the certified class had Article III jurisdiction. 141 S.Ct. 2190 (2021). The Firm achieved a \$9 million dollar settlement, which was approved by the United States District Court for the Northern District of California. 2022 WL 17740302 (N.D. Cal. Dec. 22, 2022).

In *Robinson v. National Student Clearinghouse*, No. 1-19-cv-107490, 2020 WL 4873728 (D. Mass. July 8, 2020) *aff'd* 14 F.4th 56 (1st Cir. 2021), the Firm successfully obtained a \$2 million settlement for consumers who were overcharged for college verifications. This case was notable for the Firm's decision to challenge the defendant as a consumer reporting agency and ultimately bring the defendant into compliance with the FCRA.



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In *Patel v. Trans Union, LLC*, 2018 WL 1258194 (N.D. Cal. March 11, 2018), the Firm served as lead Class Counsel and obtained an \$8 million settlement for a class of consumers who were falsely being reported as terrorists.

In *Thomas v. Equifax Info. Services, LLC*, No. 18-cv-684 (E.D. Va.), Francis Mailman Soumilas served as National Class Counsel in an FCRA class action alleging violations by a credit bureau for misreporting public records. The Firm provided a nationwide resolution of class action claims that were asserted across multiple jurisdictions (including injunctive relief) and an uncapped mediation program for millions of consumers. The Firm also served as National Class Counsel and obtained similar relief for millions of consumers with similar claims in *Clark v. Experian Info. Sols., Inc.*, No. 16-cv-32 (E.D. Va.) and *Clark/Anderson v. Trans Union, LLC*, NO. 15-cv-391 and No. 16-cv-558 (E.D. Va.).

In *Beach v. American Heritage Federal Credit Union*, C.A. No. 15-5942 (E.D. Pa. July 26, 2017), the Firm obtained a settlement exceeding \$1 million against American Heritage Federal Credit Union (“AHFCU”) for AHFCU having generated a cash advance from consumers’ accounts to pay fees, interest, charges or attorney fees. The court in *Beach* noted the Firm’s experience in consumer class actions and found that “[t]he settlement agreement in this matter resulted from Class Counsel’s vigorous advocacy and contested, protracted settlement negotiations.”

In *Flores v. Express Services, Inc., et al.*, C.A. No. 14-3298 (E.D. Pa. March 30, 2017), the Firm brought an action against Express Services, Inc. and Express Personnel – Philadelphia for violations of the FCRA and obtained a \$5.75 million settlement on behalf of the class. The court found that the skill and efficiency of the Firm was apparent, having “achieved a significantly favorable result on behalf of plaintiffs at the expense of the inherent risk that accompanies undertaking a contingency fee action,” and also noted that Francis Mailman Soumilas has extensive experience in consumer class action litigation.

In *White v. Experian Info. Solutions*, C.A. No. 05-01070, 2014 WL 1716154 (C.D. Cal. May 1, 2014), the court found Francis Mailman Soumilas “FCRA specialists” and appointed the Firm and its team as interim class counsel over objections from competing groups (including Boise Schiller) because the Francis, Mailman, Soumilas team’s “credentials and experience [we]re significantly stronger in class action and FCRA litigation”; affirmed sub nom *Radcliffe v. Experian Information Solutions, Inc.*, 818 F.3d 537 (9th Cir. 2016).

In *Henderson v. Axiom Risk Mitigation, Inc.*, C.A. No. 12-589 (E.D. Va. Aug. 7, 2015), Francis Mailman Soumilas was appointed class counsel in a national FCRA class action and obtained a



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\$20.8 million settlement against one of the largest data sellers and background screening companies in the world.

In *Thomas v. BackgroundChecks.com*, C.A. No. 13-029 (E.D. Va. Aug. 11, 2015), Francis Mailman Soumilas was appointed class counsel in an FCRA national class action and obtained \$18 million against another one of the largest background screening companies in the world, in addition to significant injunctive and remedial relief.

Additionally, Francis Mailman Soumilas has been certified as class counsel in federal and state courts throughout the country in over 70 matters. The Firm has been certified as class counsel in the following matters²:

- *Teran v. Navigant Solutions, LLC et al.*, ___ B.R. ___, 2023 WL 2721904 (Bankr. N.D. Cal. Mar. 30, 2023) (appointed class counsel to represent national injunctive relief class).
- *Stewart et al. v. LexisNexis Risk Data Retrieval Services, LLC et al.*, No 3:20-cv-00903-JAG (E.D. Va. July 27, 2022);
- *Kang v. Credit Bureau Connection*, No. 18-1359, 2022 WL 658105 (E.D. Cal. Mar 4, 2022)
- *Rivera v. Equifax Info. Services, LLC*, 341 F.R.D. 328 (N.D. Ga. 2022)
- *Healy v. Milliman, Inc.*, No. 2:20-cv-01473-JCC (W.D. Wash. 2022)
- *Watson v. Checkr, Inc.*, No. 3:19-cv-03396-EMC (N.D. Cal. 2021)
- *Deaton v. Trans Union, LLC*, No. 2:20-cv-01380-AB (E.D. Pa. 2021)
- *Sanders v. Makespace Labs, Inc.*, No: 1:18-cv-10016 (S.D.N.Y. Mar. 29, 2021)
- *Der-Hacopian v. Darktrace, Inc.*, No: 18-cv-06726-HSG (N.D. Cal. Dec. 10, 2020)
- *Der-Hacopian v. Sentrylink, LLC*, No. 8:18-cv-03001-PWG (N.D. Cal. Nov. 23, 2020)
- *McIntyre v. RealPage, Inc.*, No: 2:18-cv-03934, WL 5017612 (E.D. Pa. Aug. 25, 2020)

² This is only a partial list of the matters where FMS has been certified as class counsel.



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- *Norman v. Trans Union, LLC*, No: 18-5225, 2020 WL 4735538 (E.D. Pa. Aug. 14, 2020)
- *Thomas v. Equifax Info. Services, LLC*, NO. 18-cv-684 (E.D. Va. 2020)

In addition to obtaining substantial and favorable verdicts, the Firm has also made significant contributions to public policy. The Firm set legal precedent and clarified legal issues, including: (i) the proper standard for the investigation of a consumer dispute by credit reporting agencies and furnishers of information; (ii) the standard for proving willfulness under the FCRA; (iii) the accuracy standard for credit reports; (iv) the types of information permitted to be included in credit reports; (iv) the types of cognizable actual damages available in an FCRA action; (v) the consumer's burden of proof in an FCRA action; and, (vi) proper jury charges. Francis Mailman Soumilas has also been counsel to some of the largest FCRA settlements in history, such as *Acxiom* (\$20.8 million), *Ramirez* (\$9 million), *Hireright*, (\$29 million) and *White/Hernandez* (\$45 million).

Through Francis Mailman Soumilas' jury verdicts and class settlements, the Firm has established the "market value" for class and individual cases under the FCRA and the FDCPA. I have been informed that there were few to no reported plaintiff FCRA verdicts prior to the Firm's victories. Moreover, Francis, Mailman, Soumilas has helped establish the standards for obtaining class certification in FCRA and FDCPA cases. *See, e.g., Cortez*.

The attorneys at Francis Mailman Soumilas are very active and well known in the legal community. They regularly share their expertise at local and national conferences. By way of example, attorneys from the Firm made the following presentations: Speaker: *Spring Training, 2023 (FCRA) National Association of Consumer Advocates*, May 3-5, 2023, New Orleans, LA; Speaker: *Rule 23(c)(5) Subclasses: Certification, Due Process, Adequate Representation, and Settlement*, Stafford Webinars, February 23, 2023; Speaker: *Data Protection at the Federal Level*, Nevada Bar Association, January 17, 2023; Speaker: *27th Annual Consumer Financial Services Institute*, Practising Law Institute, *Debt Collection and Credit Reporting Update*, December 7, 2022, San Francisco, CA; Speaker: *Tenant Screening Litigation: FCRA and Civil Rights Claims*, National Consumer Law Center, Consumer Rights Litigation Conference, November 10, 2022, Seattle WA; Speaker: "Lightning-Round Ascertainability", Consumer Class Action Symposium, National Consumer Law Center, November 13, 2022, Seattle, WA.

Attorneys from the Firm also served on the faculty for the *Perrin Conferences Class Action Litigation Virtual Conference*, April 26, 2022; as a Panel Member for the *27th Annual Consumer Financial Services Institute- Debt Collection and Credit Reporting Update* on September 20, 2022 in Chicago and March 18, 2022 in New York, NY; as a speaker for *Consumer Finance Class*



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Actions: FDCPA, FCRA & TCPA Webinar on September 16, 2020, and at Representing the Pro Bono Client: Consumer Law Basics in 2020 and 2019, presented by the Practicing Law Institute. Firm members also served on the faculty for Consumer Financial Services & Banking Law Update, presented by the Pennsylvania Bar Institute on October 29, 2019 and Consumer Finance Class Actions, presented by The Canadian Institute on July 24, 2019.

Members of the Firm also spoke at the Fair Credit Reporting Act Conference, National Association of Consumer Advocates, in Long Beach, CA in May 2019 and Baltimore, MD in April 2017. They also served on the faculty for the 21st Annual Consumer Financial Services Litigation Institute (which was CLE accredited) on "Fair Credit Reporting and Debt Collection Litigation," which took place in March and April 2016 in New York City and Chicago.

One of the founding partners, James A. Francis, has been repeatedly named to the Top 100 Pennsylvania Super Lawyers, as well as the Top 100 Philadelphia Super Lawyers, including as recently as 2023 and 2024. Mr. Francis was elected as a Fellow of the American College of Consumer Financial Services Lawyers in 2023 and was also selected as a member of the Nation's Top One Percent by the National Association of Distinguished Counsel in 2024. Mr. Francis was also featured on LAW360 in October 2014 as one of a small handful of American plaintiff's lawyers to be selected from a national pool and featured as part of the "Titans of the Plaintiff's Bar" series. See <https://www.law360.com/articles/583536/titan-of-the-plaintiffs-bar-jim-francis>. Mr. Francis has been appointed to serve as class counsel by federal courts throughout the country in more than 70 cases.

Mark Mailman, also a founding partner and currently the managing partner of the Firm, was awarded the 2018 Consumer Attorney of the Year award from the National Association of Consumer Advocates (NACA). Mr. Mailman has repeatedly been voted and named one of Pennsylvania's Super Lawyers by Law and Politics published by Philadelphia Magazine and Pennsylvania Super Lawyer Magazine from 2004- present. He has also appeared on various news programs to discuss trending consumer issues and recently published an article in *The Legal Intelligencer*, a prominent Philadelphia legal publication, entitled "Your clients' consumer rights legal issues may be hiding in plain sight". Mark regularly lectures for continuing legal education programs, law schools and community groups throughout the country, and has been a regular speaker for the National Association of Consumer Advocates (NACA) and National Consumer Law Center (NCLC) for more than 20 years.

John Soumilas, another partner of the firm, was lead class counsel and lead trial counsel in the record breaking \$60 million class action jury verdict, the largest verdict in history for a case brought under the FCRA. Mr. Soumilas has been nationally recognized for his work in protecting consumer rights under the FCRA and, throughout his career, has obtained some of the highest consumer jury verdicts, including the highest known FCRA verdicts in Pennsylvania, California, and Michigan. Mr. Soumilas



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has also been appointed by federal judges as class counsel in some of the largest FCRA class cases and settlements. Mr. Soumilas' has career settlements and verdicts valued at more than \$180 million.

B. Methodology for Determining Rates

There are two complementary approaches for determining reasonable hourly rates.

The **first approach** is to consider the rates for comparably skilled practitioners in the relevant market. To that end, I have reviewed the hourly billing rates of lawyers in New Jersey and comparable local areas.

One source I considered was data collected by Thomson Reuters Financial Insights that identified hourly rates for attorneys in New Jersey employed by AmLaw 200 firms. That report showed New Jersey associate rates between \$475 - \$668; equity partner rates between \$705 - \$1083; and non-equity partner rates between \$657 - \$1,106, all depending upon number of years of experience.

The hourly rates of New Jersey lawyers using data collected by Valeo Partners was also a source I consulted. Specifically, I considered a three-year average of rates (2023-2025) for New Jersey attorneys with various law firm titles. For more experienced lawyers (i.e., Equity Partner, Partner, Senior Counsel and Of Counsel), the range of average rates was between \$854 - \$1074. For lower or mid-level attorneys (i.e., Associate, Attorney, Counsel or Shareholder), the range of average rates was between \$450 - \$887. For entry level attorneys or those with a limited role (i.e., Staff Attorney, Document Review Attorney, or Project Attorney), the range of average rates was between \$218 - \$526.

I have also reviewed the current hourly rates set by my firm for its New Jersey lawyers and I have consulted with a colleague in my firm's Morristown office who has served in management capacities and has experience in setting hourly rates in that jurisdiction. As I stated above, the process of setting hourly rates for my firm begins with obtaining public data, speaking with knowledgeable consultants, and discussions with the management team.

A **second approach** to determine a reasonable hourly rate would look at the relevant factors set forth in Rule 1.5(a) of the Rules of Professional Conduct.

While the Pennsylvania Rules of Professional Conduct do not specifically address the reasonableness of a specific hourly rate, they do address the considerations for assessing "the



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propriety of a fee” in Rule 1.5. In my opinion, some of those considerations can provide a useful analytical checklist when trying to determine a reasonable hourly rate.

The factors set forth in Rule 1.5(a) are:

1. Whether the fee is fixed or contingent;
2. The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal services properly;
3. The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
4. The fee customarily charged in the locality for similar legal services;
5. The amount involved and results obtained;
6. The time limitations imposed by the client or by the circumstances;
7. The nature and length of the professional relationship with the client; and
8. The experience, reputation, and ability of the lawyer or lawyers performing the services.³

Factor Number 4 [“The fee customarily charged in the locality for similar legal services”] has already been addressed. This is a comparative review of rates charged by other lawyers in the market.

Factor Number 1 [“whether the fee is contingent or fixed”] suggests that higher rates may be justified when fees are contingent. Francis Mailman Soumilas handles its cases on a contingent fee basis. As a result, the Firm bears all the risk of the cost of litigation until resolution. In some instances, the Firm may not receive payment of its fees for several years. Further, most of the defendants are large companies with substantial financial resources and lawyers equipped to defend the actions. Many of the lawsuits address novel areas of law. In order to obtain favorable outcomes, the attorneys at Francis Mailman Soumilas spend numerous hours conducting research, conducting discovery, and crafting innovative legal arguments to overcome attempts to have their

³ New Jersey Rule of Professional Conduct 1.5(a) enumerates the same factors for determining the reasonableness of a fee.



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clients' cases dismissed before trial. The Firm's investment of time and resources prevent it from litigating numerous matters at the same time.

Factor Number 2 ["The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal services properly"] also supports the notion that a higher rate would be justified for lawyers at Francis Mailman Soumilas who have distinguished themselves in their area of expertise. Finally, Factor Number 8 ["The expertise, reputation, and ability of the lawyer or lawyers performing the services"] likewise provides another reason to justify increasing rates recommended for the lawyers at Francis, Mailman, Soumilas.

The table below displays Francis Mailman Soumilas' current hourly billing rates in jurisdictions outside of New Jersey and dates of admission to the Bar. I have been advised that in federal court hearings, the judges who have been presented with the rates I and the colleagues of my firm have supported have found them to be reasonable. *See, e.g., Chakejian v. Equifax Information Services, LLC*, 275 F.R.D. 201 (E.D. Pa. 2011), *Sapp v. Experian Information Solutions, Inc.*, 2013 WL 2130956 (E.D. Pa. May 15, 2013); *Gibbons v. Weltman, Weinberg & Reis Co., LPA*, C.A. No-17-0151-JHS (E.D. Pa., Jan. 26, 2022) ("And I've also read the Report of Abe Reich, Esquire, that confirms the reasonableness of the billing rates and fees charged in this case.")

Attorney/Paralegal	Range of Hourly Billing Rates (Philadelphia)	Range of Hourly Billing Rates (New York)	Range of Hourly Billing Rates (Chicago)	Range of Hourly Billing Rates (San Francisco)	Range of Hourly Billing Rates (Rochester, NY)
James A. Francis (1995)	\$840 - \$880	\$1100 - \$1140	\$945-\$985	\$910-\$950	\$680-\$720
Mark D. Mailman (1995)	\$840 - \$880	\$1100 - \$1140	\$945-\$985	\$910-\$950	\$680-\$720
David A. Searles (1975)	\$855 - \$895	\$1190 - \$1230	\$1025- \$1065	\$940-\$980	\$690-\$730
Geoffrey H. Baskerville (1992)	\$690 - \$730	\$960- \$1000	\$825-\$865	\$755-\$795	\$545-\$585
John Soumilas (1999)	\$730 - \$770	\$1025- \$1065	\$875-\$915	\$805-\$845	\$650-\$690
Lauren KW Brennan (2013)	\$430 - \$470	\$605-\$645	\$500-\$540	\$460-\$500	\$360-\$400



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Attorney/Paralegal	Range of Hourly Billing Rates (Philadelphia)	Range of Hourly Billing Rates (New York)	Range of Hourly Billing Rates (Chicago)	Range of Hourly Billing Rates (San Francisco)	Range of Hourly Billing Rates (Rochester, NY)
Jordan Sartell (2012)	\$405 - \$445	\$590-\$630	\$480-\$520	\$445-\$485	\$340-\$380
Joseph Gentilcore (2011)	\$420 - \$460	\$600-\$640	\$505-\$545	\$465-\$505	\$345-\$385
Erika Heath (2009)	\$450 - \$490	\$625-\$665	\$550-\$590	\$515-\$545	\$370-\$410
Kevin Mallon (2000)	\$720 - \$760	\$1015- \$1055	\$865-\$905	\$790-\$830	\$640-\$680
Siobhan McGreal (2008)	\$450 - \$490	\$625- \$665	\$550-\$590	\$515-\$545	\$370-\$410
Experienced paralegal	\$345	\$345	\$345	\$345	\$275
Inexperienced paralegal	\$295	\$295	\$295	\$295	\$235

C. CONCLUSION

In accordance with the foregoing analysis and based upon my review of the prevailing market hourly billing rates, it is my opinion, within a reasonable degree of professional certainty, that the following represents a range of reasonable hourly billing rates for Francis Mailman Soumilas in the New Jersey market, and within the considerations outlined in the Rules of Professional Conduct. Moreover, my colleague in New Jersey has reviewed this report and concurs with the rates outlined below. The level of hourly billing rates within the range will depend on the complexity of the matter, the duration of the dispute and the result obtained.

Attorney/Paralegal	Range of Hourly Billing Rates (New Jersey)
James A. Francis (1995)	\$860 - \$900
Mark D. Mailman (1995)	\$860 - \$900
David A. Searles (1975)	\$875 - \$915



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Attorney/Paralegal	Range of Hourly Billing Rates (New Jersey)
Geoffrey H. Baskerville (1992)	\$710 - \$750
John Soumilas (1999)	\$750 - \$790
Lauren KW Brennan (2013)	\$500 - \$540
Jordan Sartell (2012)	\$445 - \$485
Joseph Gentilcore (2011)	\$460 - \$500
Erika Heath (2009)	\$490 - \$530
Kevin Mallon (2000)	\$740 - \$780
Siobhan McGreal (2008)	\$490 - \$530
Experienced paralegal	\$365
Inexperienced paralegal	\$315

D. SUPPLEMENTAL INFORMATION

Attached as Exhibit A is a copy of my curriculum vitae. It contains is a list of all publications that I have authored in the past ten years. I have not testified as an expert at trial in the past four years. In the past four years, I testified at a deposition as an expert witness in a confidential dispute involving a lawyer who became disabled. The matter was unrelated to an analysis of hourly rates. My current hourly rate is \$1,275.00. I have been assisted in preparing this opinion by my partner, Beth Weisser, whose hourly rate is \$775.00. We spent approximately \$5,000.00 in preparing this opinion.

If I am provided with additional information, I reserve the right to supplement or amend my opinion.

Very truly yours,

Abraham C. Reich

ACR:cah

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

DANIEL CARSTAIRS, on behalf of himself
and all others similarly situated,

Plaintiff,

v.

UNIVERSITY OF ROCHESTER,

Defendant.

6:20-cv-06690-CJS-MJP

**DECLARATION OF YVETTE GOLAN IN SUPPORT OF PLAINTIFF'S MOTION
FOR ATTORNEY'S FEES COSTS AND A SERVICE AWARD**

I, YVETTE GOLAN, declare pursuant under penalty of perjury that the foregoing is true and correct:

1. I am an attorney duly licensed to practice before all of the courts of the District of Columbia, Texas, Illinois, New York, as well as several federal district courts and federal appellate courts. I have been admitted in the Western District of New York *pro hac vice* for this action. I have been practicing law for over twenty years. The following statements are based on my personal knowledge. If called to testify as a witness, I could and would competently testify thereto.

2. I am one of the counsel of record for Plaintiff in this matter and have personal knowledge of the facts and circumstances of this case. My experience and background was previously summarized to this Court in my declaration in support of Plaintiff's Motion for Preliminary Approval (Dkt. 86-3), which remains true and correct.

THE PRESENT LITIGATION

3. In 2020, my firm began investigating the University of Rochester's policy of retaining full tuition and fees from students despite its move to remote education. Over the course of our investigation, I spoke to University of Rochester students about their post-pandemic experience with remote education at University of Rochester, and their expectations when they first enrolled at University of Rochester. On average, each conversation lasted about an hour. I also spoke to over 100 students from other universities who similarly canceled in-person education and moved to remote-only education, discussing both their post-pandemic experience with remote education and their expectations when they enrolled at the schools. Here too, on average, each conversation lasted about an hour.

4. On behalf of other students who paid (directly or indirectly) tuition and fees to University of Rochester for in-person services and education not provided, we filed the present suit in the Western District of New York on September 10, 2020 (Doc. 1).

5. I personally handled or was directly involved in virtually all stages of the present litigation, from pleadings, discovery, and settlement stages. I was also greatly assisted by my staff.

6. Among other things, I personally performed key tasks that enabled this action to proceed beyond the pleading stage, including leading the pre-suit investigation of the claims and likely defenses, and taking a lead role in drafting the complaints (Dkts. 1), Plaintiff's opposition to the motion to dismiss (Dkt. 19). I also took the lead in briefing Plaintiff's mediation statement and requesting and reviewing discovery produced.

7. I also took an active role in the settlement discussions, including drafting the mediation statement and attending the mediation conference with the Hon. Diane Welsh (Ret.) of JAMS, which was held on March 21, 2024, participating in later settlement discussions, and revising the settlement agreement and class notices.

8. I have a long and excellent working relationship with Francis Mailman Soumilas, P.C. (“FMS”), and I have co-counseled with them since 2012. Through our long-term working relationship, we have developed procedures to ensure excellent legal representation while avoiding duplication of efforts. Our work together in other COVID-19 college tuition and fee litigation further assisted in our efforts in doing the same in this suit. FMS and I also worked as co-counsel in *In re Univ. S.D. Tuition Covid Refund Litig.*, No. 20-cv-1946-LAB-WVG (S.D. Cal. filed Apr. 28, 2021); *Jones v. Tulane Univ.*, No. 2:20-cv-02505 (E.D. La., filed Dec. 21, 2020); *Grant v. Chapman Univ.*, No. 30-2020-01146699-Cu-BC-CXC (Cal. Super. Ct., filed July 7, 2020); *Polley v. Northwestern Univ.*, No. 1:20-cv-04798 (HDL) (N.D. Ill., filed Oct. 15, 2021); *Rodrigues v. Boston College*, No. 1:20-cv-11662-RWZ (D. Mass., filed Dec. 15, 2020); *Schmidhauser v. Tufts Univ.*, No. 1:20-cv-11940-RWZ (D. Mass., filed May 03, 2021); and *Michel v. Yale University*, No. 3:20-cv-01080 (D. Conn., filed July 29, 2020).

9. My co-counsel and I have committed all necessary resources required to zealously prosecute this action and adequately represent the class – including substantial time and significant financial investment, giving each stage of litigation the care and attention it requires.

TIME INVESTED IN THIS LITIGATION

10. Since this case's inception, the named Plaintiff, my co-counsel, and I have proceeded with the knowledge that any compensation for the attorneys' work would be in the form of an award of attorneys' fees. For example, even if Plaintiff recovered 100% of his tuition and fee payments, his recovery is far too low to justify hiring an attorney to pursue litigation of this complexity, whether on an hourly rate or in a contingency fee arrangement.

11. I and my staff create contemporaneous records of time worked and activities performed in all our litigation matters, including this one.¹ Each time record is kept by the minute. I personally delegate the more time-consuming discovery review, legal and factual research, and paralegal services to my staff, allowing me to focus my time on the tasks and issues requiring experienced class counsel.

12. According to these records, I have spent over 280 hours in litigating this action. My research clerks have likewise spent over 120 hours in researching this action and performing administrative and paralegal duties.

HOURLY RATES

13. In the District of Columbia, where my office is located, the market rate of attorneys' fees for complex civil litigation is determined by the Laffey Matrix, which is based on the number

¹ Because these records contain work product and disclose the contents of confidential attorney-client communications, they are not submitted here. Should the Court nonetheless wish to review these records, they can be exported and made available for an *in camera* review.

of years in practice, adjusted for inflation. *See DL v. D.C.*, 924 F.3d 585, 587 (D.C. Cir. 2019) (“For decades, courts in this circuit have relied on some version of what is known as the Laffey matrix.”); *Covington v. D.C.*, 57 F.3d 1101, 1109 (D.C. Cir. 1995). Under this matrix, the market rate for an attorney with my level of experience is (over 20 years) is \$1,141, and the market rate for a law clerk is \$258. This rate is in line with the rates approved by other trial courts in similar class action litigation, especially in a metropolitan area like Washington D.C.

LITIGATION EXPENSES

14. My firm also seeks the approval of \$9,720.00 in actual and reasonable litigation costs I advanced in this litigation. This amount includes costs to travel for the in-person mediation (by train) and the my firm’s portion of the costs of mediation.

15. These costs would normally be reimbursed by fee-paying clients as they are both reasonable and necessary for the effective litigation in this matter.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: September 29, 2025

/s/ Yvette Golan
Yvette Golan, Esq.
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