The Honorable Michael Scott
Noted for Consideration: March 4, 2024 at 8:30 a.m.
With Oral Argument

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR KING COUNTY

COLUMBIA DEBT RECOVERY, LLC, a Washington limited liability company, Plaintiff/Counterclaim-Defendant, v. JORDAN PIERCE, an individual and DONTE GARDINER, an individual, Defendants/ Counterclaimants/ Third-Party Plaintiffs, and GUSTAVO CORTEZ, TOWANA PELTIER and DARIUS MOSELY, Third-Party Plaintiffs, v. COLUMBIA DEBT RECOVERY, LLC, a Washington limited liability company, Third-Party Defendant. and JORDAN PIERCE, DONTE GARDINER, THOMAS G. HELLER, MARY ASHLEY ANCHETA, RORY WALTON, BETHANY HANSON, MEGAN SHANHOLTZER, CRYSTAL PAWLOWSKI, and TALIA LUCKEN,	Case No.: 20-2-16403-8 SEA DECLARATION OF BENJAMIN J. STONE

LEWIS BRISBOIS BISGAARD & SMITH LLP
1111 Third Avenue, Suite 2700
Seattle, Washington 98101
206.436.2020

Third-Party Plaintiffs

v.

THRIVE COMMUNITIES MANAGEMENT, LLC, a Washington limited liability company, THRIVE COMMUNITIES, INC., a Washington corporation, BELKORP HOLDINGS, INC., a Washington corporation d/b/a THE EDEN,

Third-Party Counterclaim Defendants.

Benjamin J. Stone declares and states:

1. Columbia Debt Recovery ("CDR") has asked me to give an opinion on the reasonableness of the fees that counsel for Jordan Pierce, Donte Gardiner, Gustavo Cortez, Towana Peltier, and Darius Mosely request from the Court ("Counsel" unless otherwise stated).

2. The opinions I provide in this declaration are to a reasonable degree of certainty.

3. I attended Brooklyn Law School. While a student I received various awards and merit-based scholarships. I graduated from law school in 1995 and I was admitted to the New York State Bar in 1996. I was admitted to the Bar of the State of Washington in 2003. I remain a member in good standing of the Bar of each state. I am admitted to practice before the state and federal courts in New York State and Washington State. I am also admitted to practice before the Second Circuit Court of Appeals and the Ninth Circuit Court of Appeals. While I do not put too much stock in these types of accolades, I note that I have a "10" rating on Avvo and have been voted a "Super Lawyer" by my peers.

4. Since graduating law school in 1995, I have dedicated my practice exclusively to complex civil litigation. In my first job as an associate, I assisted the firm with complex, high net worth matrimonial cases. New York State allowed fee-shifting in these types of cases, so I spent much of my time poring through legal bills and preparing and responding to fee petitions. Indeed, one of the first hearings that I second chaired was a fee petition hearing.

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1111 Third Avenue, Suite 2700
Seattle, Washington 98101
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5. When I relocated in 2003 from New York City to Washington State, I was litigating insurance coverage cases, and was hired by a Seattle-based firm to litigate insurance coverage cases. Because Washington State law allows fee shifting to prevailing policyholders, part of my job responsibilities was analyzing and responding to fee requests and fee petitions. Thus, shortly after relocating, I became knowledgeable about the rates charged by Seattle-area attorneys and the customary amounts of time they spent on various aspects of litigation.

6. Within a few years of relocating to Washington State, I transitioned my practice in employment-defense work and consumer protection litigation. For several years, I litigated FDCPA actions. I no longer handle that type of work and now dedicate my practice to employment-defense work and to wage and hour class action cases. I have handled hundreds of these cases. Under state and federal law, fees incurred by successful employees are paid by employers in discrimination and wage and hour cases. So, I continue to handle fee requests and fee petitions by law firms regularly.

NATURE OF THE LITIGATION

7. Counsel submit a fee request of $300,000. Counsel provide reasons for the amount of fees sought. I analyzed the billing records submitted by Counsel, and the pleadings filed by Counsel in this case, in order reach an opinion concerning these statements by Counsel.

8. The first thing I noticed was Counsels' statement that "This litigation has been extremely hard fought over more than four years." Defendants/Counterclaim-Plaintiffs/Third-Party Plaintiffs' Motion for Attorneys' Fees, Costs, and Service Awards ("Motion") at 1. In my opinion, based on my analysis of the relevant records, this case was not "extremely hard fought." To me, "extremely hard fought" has a particular meaning. Litigation is litigation, after all. It is a contest between adversaries and even the most collegial of litigations consist of some disagreement and conflict. Almost all cases have at least one or more disagreements over the scope and breadth of discovery sought by one party, for example. Even in cases that are not contentious, motions to compel are filed because the attorneys simply cannot agree on the scope of all discovery sought by one party against another. So, when Counsel state that this case was

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1111 Third Avenue, Suite 2700
Seattle, Washington 98101
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"extremely hard fought" I look for evidence that the litigation was extraordinarily contentious and difficult. This takes the form of multiple motions to compel discovery and for protective orders (accompanied by motions for attorneys' fees and sanctions), a substantial number of letters and emails containing disputes between the parties, the lawyers being unable to agree on deadlines, numerous lengthy depositions, and the production of thousands of pages of documents – including mostly electronic documents consisting of thousands of emails and texts that are highly time-intensive to analyze. In this case, with the exception of a single motion to compel, I found none of this evidence indicating that this was "an extremely hard fought case." And it appears the single motion to compel was routine. There were only three depositions in this case, and Counsel only took one of them. And while Counsel disclose that hundreds of pages of documents were produced in this case, I can find almost no time dedicated by Counsel to analyzing those documents. In my review of the time records, I noticed one attorney, Terrell Marshall partner Blythe Chandler, billed .5 for "document review" on March 5 and 29, 2021, and again on June 9, 2021, and a second senior-level attorney, Sam Leonard, billed 1 hour and .4 respectively, for analyzing CDR's responses to discovery.

9. Counsel also state that litigation was ongoing for four years. My analysis of the billing records indicates that the litigation lasted from May 2020 to September 2023, which is less than four years. And as is common in any litigation, there were many months in which there was little to no litigation activity, including the following months:

a. December 2020 – only four entries that totaled less than one hour.

b. January 2021 – four entries totaling one hour.

c. February 2021 – one entry for .2 for "case management."

d. July 2021 – six entries totaling 1.6 hours.

e. January 2022 – four entries totaling 1.6 hours – with the bulk of that time – 1.2 hours – consisting of administrative time (meaning time that should not have been billed because it's overhead, rather than legal in nature) by support staff to create binders of working copies of motion papers for the Court.

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1111 Third Avenue, Suite 2700
Seattle, Washington 98101
206.436.2020

f. March 2022 – seven entries totaling 4.1 hours consisting entirely of reviewing a transcript and for the attorneys to speak to one another about strategy. This also includes two entries by attorney Paul Arons – "Conference call with co-counsel re: responding to trial court's denial of motion for class certification" – that seem duplicative. It appears there should be six entries totaling 3.1 hours.

g. July 2022 – no entries.

h. August 2022 – four entries totaling 2.2 hours.

i. September 2022 – no entries.

j. December 2022 – total time billed was 1.95 hours.

10. Thus, this case was actively litigated for 2.5 years, rather than 4 years. In my experience, there is nothing extraordinary about a case lasting that length of time.

NUMBER OF LAW FIRMS

11. Three different law firms served as Counsel in this case. Understanding the issues in the case and, considering the experience of and rates charged by the law firms, this was unreasonable and unnecessary.

12. The declarations submitted by Counsel support the conclusion that the number of law firms involved in this case was unreasonable and unnecessary. Attorney Sam Leonard states his primary focus was representing Donte Gardiner and Jordan Pierce and handling the class-action aspects of the case. Declaration of Sam Leonard in Support of Plaintiffs' Motion for Attorneys' Fees, Costs and Service Awards, "Leonard Decl.," ¶ 2. He charges $495 an hour, which is a high, if not unreasonable, hourly rate for an attorney with 10 years of experience. In my experience, in the Seattle area, a $495 rate should be reserved for the most experience of counsel. (For example, I have 28 years of experience and have never charged a rate greater than $450.). Mr. Leonard justifies the rate by stating that he has "significant consumer protection litigation experience" and has "helped over 200 individuals in individual consumer protection actions or debt defense actions." Leonard Decl., ¶ 8. Mr. Leonard also states that he has "significant experience litigating consumer class actions" and that "The class actions I have

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1111 Third Avenue, Suite 2700
Seattle, Washington 98101
206.436.2020

acted as counsel on have provided relief to tens of thousands of Washingtonians and resulted in injunctive relief and payments to class members that are valued at over 24 million dollars." *Id.* ¶ 9. Mr. Leonard says his hourly rate is reasonable "based on my extensive experience, skill, and sophistication …." *Id.*¶ 10. Considering this experience, and the hourly rate Mr. Leonard is charging, Mr. Leonard was competent to handle this case on his own. I also see no other reasonable reason for adding two additional law firms to the litigation. In another case, it could be that Mr. Leonard, a solo practitioner, needs support because he is being overwhelmed by opposing counsel with motions, discovery, deposition notices, subpoenas, and other litigation activity. There is no evidence that this occurred here. To the contrary, the relationships among the attorneys seemed cordial and the volume of litigation per month was manageable by a single attorney who, as Mr. Leonard claims, has "extensive experience, skill, and sophistication."

13. The law firm of Terrell Marshall Law Group PLLC was another law firm serving as Counsel in this case. Eight different lawyers from that law firm worked on this case. Nine different paralegals or administrative assistants also worked on the case. Given this level of dedication of personnel to this case, it was unreasonable and unnecessary for Mr. Leonard to continue to litigate this case. Mr. Leonard's experience with consumer protection cases and class action lawsuits was no longer necessary. The Terrell Marshall firm represents that it has the expertise to handle this case, stating that its focus is "on complex civil and commercial litigation with an emphasis on consumer protection, product defect, civil rights, and wage and hour cases … the attorneys at Terrell Marshall have represented scores of classes, tried class actions in state and federal court, and obtained hundreds of millions of dollars in monetary relief to workers, consumers, and other individuals." Declaration of Blythe H. Chandler in Support of Defendant/Counterclaim-Plaintiffs/Third-Party Plaintiffs' Motion for Attorneys' Fees, Costs, and Service Awards ("Blythe Decl.") ¶ 2.

14. The third law firm to serve as Counsel in this case was the Law Firm of Paul Arons. Given the number of other attorneys working on the case, Mr. Arons' service as Counsel seems unnecessary and unreasonable. There is nothing in the fee petition submitted by Counsel

LEWIS BRISBOIS BISGAARD & SMITH LLP
1111 Third Avenue, Suite 2700
Seattle, Washington 98101
206.436.2020

explaining the reasons Mr. Arons' work was necessary when the clients were already represented by nine other experienced attorneys from two other firms that specialized in consumer protection and class action litigation. And Mr. Arons' time entries indicate that he performed the sort of second chair responsibilities that were not necessary or reasonable – certainly not at the hour rate of $550 per hour. Mr. Arons bills a significant amount of his time conferring with his co-counsel concerning strategy for the case and reviewing and editing the work of other attorneys. As just one of many examples, he bills time for editing a motion to vacate a default judgment that senior-level attorney Sam Leonard already spent tens of hours drafting and revising. He also performs the type of research, review, and drafting work typically reserved for more junior level attorneys who bill at lower rates. He bills for drafting counterclaims and discovery requests, for reviewing discovery, and for preparing discovery responses. He performs none of the first-chair responsibilities one would expect from an attorney with 40 years of experience billing at $550 per hour would charge. Also, some of his entries do not make sense and seem duplicative. On March 17, 2021, he billed twice for "Review CDR discovery to plaintiffs and begin researching response." On March 2, 2022, Mr. Arons billed twice for "Conference call with co-counsel re: responding to trial court's denial of motion for class certification."

15. Mr. Arons' law firm states that they removed from his billings "time for minor tasks, such as telephone calls, scheduling, or reviewing short emails where a response is not required." Declaration of Sharon Grace ¶ 7. Yet Mr. Arons billed .1 32 times, which is a significant number of six-minute billing increments given that his firm says it removed those entries from the billings. He also billed .2 29 separate times – mostly for the types of minor tasks, most notably, for speaking with co-counsel – that, undoubtedly, are the type of activities for which his firm states he did not bill.

16. Mr. Arons' involvement in the case is particularly unreasonable given the amount of fees his firm is seeking in the case, $63,479, which is 21 percent of the entire fee award sought by counsel.

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1111 Third Avenue, Suite 2700
Seattle, Washington 98101
206.436.2020

17. Arons' firm also states that Mr. Arons applied reductions to his time, but those reductions are insignificant. The firm only reduced 33 of 196 entries and then only reduced them in part, resulting in only an 8.5 percent reduction in fees from $69,410 to $63,479.

NUMBER OF ATTORNEYS ASSIGNED TO VARIOUS TASKS

18. Given the number of attorneys involved in the case, 10 in total, the number of attorneys assigned to and working on various elements of the case is unreasonable and unnecessary. Here are some examples:

a. At the outset of the case in July and August 2020, senior-level attorney Sam Leonard, billing $495 per hour, spent 28.5 hours preparing the motion to vacate the default judgment. A second senior-level attorney, Paul Arons, billing $550 per hour, spent an additional 8.5 hours editing the motion. Putting aside the number of hours dedicated to this task – which is addressed more below – it is unreasonable and unnecessary for two senior-level attorneys to work on this relatively straightforward motion that was filed in King County District Court.

b. On January 29, 2021, two senior-level attorneys billing $495 per hour – Sam Leonard and Blythe Chandler – billed .4 for a discovery conference with opposing counsel. There is no indication in the time entries why two senior-level attorneys – each billing just under $500 per hour – were necessary for this conference. Only one attorney was reasonable or necessary for this conference.

c. Counsel noted the deposition of a CR 30(b)(6) witness for CDR. According to the billings, a senior-level attorney, Blythe Chandler, who billed at $495 per hour, planned to conduct the deposition. To that end, Ms. Chandler billed 5.9 hours, $2,920.50, to prepare for that deposition. Although that is not an unreasonable amount of time to prepare for a 30(b)(6) deposition, two other attorneys billed time for preparing Ms. Chandler for her deposition. On September 6, 2021, Mr. Arons billed .2 to "Review CDR deposition outline and email comments to co-counsel" and Mr. Leonard billed 1.6 hours, $792, for "Editing and drafting CDR Dep Questions." This additional input from two more senior-level attorneys is unreasonable and unnecessary.

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1111 Third Avenue, Suite 2700
Seattle, Washington 98101
206.436.2020

d. Terrell Marshall partner Blythe Chandler conducted the deposition of the CR 30(b)(6) witness of CDR on September 8, 2021, billing a total of 7.8 hours for it on that day. Inexplicably, three other attorneys also billed time for observing Ms. Chandler conduct the deposition. Senior attorney Sam Leonard billed 5.5 hours at $495 per hour for "CDR Dep." Attorney Sarah Smith billed at $325 for 3 hours for "observing" the deposition. And attorney Paul Arons billed one hour to "follow" the deposition. Only one senior-level attorney was reasonable and necessary for this task.

e. Four partner-level attorneys, Blythe Chandler, Amanda Steiner, Paul Arons, and Sam Leonard, billed at rates ranging from $495 to $550 for working on the motion for class certification from October 12, 2021, until October 15, 2021. Given that each attorney has significant experience in class action litigation, it is unreasonable and unnecessary to have four of them working on the type of motion that they have, undoubtedly, worked on countless times before. It is reasonable to have one attorney draft the motion and, perhaps, a second, to give the motion a relatively quick and high-level readthrough with input on changes. Anything more than that is unreasonable and unnecessary.

f. Four attorneys – including two attorneys, Sarah Smith and Elizabeth Adams, who did not bill for work on the initial class certification motion – billed time for preparing the reply in further support of the motion for class certification from November 12, 2021, to December 3, 2021. This reply – which was limited to responding to the arguments by CDR in opposing class certification – warranted the work of one junior level attorney and one senior level attorney.

g. Terrell Marshall partner Beth Terrell billed a total of 10 hours at $550 per hour on February 2, 21, 22, 23, 24, and 25, 2022, to prepare for oral argument on Counsels' class certification motion. According to billing records, Ms. Terrell did not prepare the motion papers related to these motions – that was done by four other senior-level attorneys. Indeed, one of those attorneys, Ann Steiner, billed another .4 hours on February 22 for "class certification hearing prep," apparently to help Ms. Terrell prepare for the motion. Ms. Terrell's lack of

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1111 Third Avenue, Suite 2700
Seattle, Washington 98101
206.436.2020

involvement in the briefing process undoubtedly required preparation time that would not have been necessary had one of the other senior-level attorneys argued the motion. And given their experience, one of them, rather than Ms. Terrell, should have conducted the oral argument.

h. In addition, another senior-level attorney, Sam Leonard, billed 2 hours of time at $495 per hour to observe the oral argument on February 25, 2022. Billing for his time to watch the hearing was unreasonable and unnecessary.

i. Counsel prepared a motion seeking discretionary review of the Court's denial of their motion for class certification. In April 2022, five different attorneys – Amanda Steiner, Sarah Smith, Blythe Chandler, Sam Leonard, and Paul Arons – billed time to prepare this motion. In my opinion, at most, two attorneys were reasonable and necessary to complete this task. Three different attorneys worked on the reply in further support of the motion for discretionary review. This, too, was unreasonable and unnecessary. No more than two attorneys were reasonable and necessary for this task.

j. On the motion prepared by counsel to compel CDR to provide further discovery responses – a simple, straightforward motion – two senior level attorneys – Paul Arons and Blythe Chandler – and one junior-level attorney, Jazmine Rezaie, billed time. Only one senior-level attorney was reasonable or necessary. Between March 29, 2023, and March 31, 2023, three different senior-level attorneys – Paul Arons, Sam Leonard, and Blythe Chandler – drafted or edited the reply. The reply is a relatively brief document, given King County Superior Court Local Rules concerning word count, so having three senior-level attorneys work on the brief is not reasonable or necessary. The addition of Sam Leonard seems inappropriate also because he was not involved in drafting the initial motion and, so, would have to incur fees getting up to speed on the issues when there were three other attorneys who already knew the facts and the law.

k. Three senior-level attorneys, Blythe Chandler, Sam Leonard, and Paul Arons prepared the response to the motion by CDR to strike the class action allegations. In my

LEWIS BRISBOIS BISGAARD & SMITH LLP
1111 Third Avenue, Suite 2700
Seattle, Washington 98101
206.436.2020

opinion, only one senior-level attorney was necessary to perform the drafting, with perhaps a second senior-level attorney performing a quick high-level review.

UNREASONABLE AND UNNECESSARY COMMUNICATIONS AMONG ATTORNEYS

19. A problem that inevitably occurs when there are 10 different attorneys working on a case is that they must communicate with one another continually to provide one another with updates on the case and to address allocation of resources to this case. In this case, the amount of billing by these attorneys in communicating with one another totaled 92.9 hours and resulted in billings totaling $46,831.00 – a significant amount of billing that is unreasonable and unnecessary given the unnecessary number of attorneys litigating this case.

VAGUE ENTRIES

20. A difficulty I confronted in assessing the reasonableness of the fees was vague entries. For example:

i. In July and August 2020, Mr. Leonard repeatedly billed for "preparing motion to vacate," "MTV and research," "MTV," "Motion to Vacate," "MTV and Gardiner Declaration," "MTV and Gardiner and Pierce Declarations," and, "Declaration of Leonard, Proposed Order, Motion for Order." Presumably, these entries relate to Mr. Leonard's work on vacating the default judgment entered against his clients. But the vagueness of his entries makes it difficult to assess whether the time he spent was reasonable or necessary.

ii. On August 31, 2021, Sam Leonard billed 1.5 hours, $742.50, for "Dep prep." That same day Mr. Leonard billed another 1.6 hours for "Gardiner Deposition Prep." These entries are vague and Mr. Leonard's billings do not explain why he spent 1.5 hours on "Dep prep" and, then, 1.6 hours on "Gardiner Deposition Prep." If Mr. Leonard was preparing to prepare Mr. Gardiner in his first billing, he does not explain this in his billings.

iii. On September 1, 2021, Mr. Leonard spent .8 hours on "Legal Research Joint Defense Privilege." He does not explain whether the research he is performing is joint defense privileged or whether he is researching the joint defense privilege, nor does provide the reason the research he conducted was reasonable and necessary to the case.

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1111 Third Avenue, Suite 2700
Seattle, Washington 98101
206.436.2020

iv. On November 21, 2022, Sam Leonard billed twice for "Calls regarding settlement offer and next steps." Mr. Leonard does not identify to whom the calls are made or what, in terms of "next steps," was addressed.

v. On March 22, 2021, Sam Leonard billed for "Review Thrive Discovery Responses." Mr. Leonard does not explain in his billing why this work was reasonable or necessary, particularly given the statements by counsel that they are not seeking fees for claims against landlords. Mr. Leonard bills another .1 for "Reviewing Thrive discovery responses and emailing with PA" without explaining the relevance of that work to claims against CDR.

vi. On October 11, 2021, Sam Leonard billed 1.3 hours for "reviewing transcript of Gardiner Dep." Mr. Leonard defended the deposition of Mr. Gardiner and was undoubtedly familiar with his testimony. Mr. Leonard does not explain the reason it was necessary for him to review the transcript of the Gardiner deposition and it is not apparent from the billings that there was a reason for doing so.

vii. On October 12, 2021, partner Amy Steiner billed 4.9 hours for "Worked on class certification motion, strategy conferences" without explaining how much time was spent on each task.

viii. On March 28, 2023, partner Sam Leonard billed .5 to "Cert Motion Strategy and Discovery CDR and Thrive." It is impossible to determine what tasks were performed.

INCONSISTENT BILLINGS FOR THE SAME TASK

21. I also noticed at least one of multiple attorneys attending the same event, but billing different times, for example, this entry:

a. On June 2, 2021, senior lawyer Blythe Chandler billed .5 for a "telephone conference with co-counsel." That same day biller Paul Arons billed .9 for "Phone call with Blythe Chandler and Sam Leonard." Bill Sam Leonard bills 1 hour for "Call with co-counsel."

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1111 Third Avenue, Suite 2700
Seattle, Washington 98101
206.436.2020

THE AMOUNT OF TIME BILLED

22. In analyzing the amount of time billed by the attorneys in this case, the number of hours billed to the various tasks was unnecessary and unreasonable. There were only a limited number of significant events in this case over 31 months, such as the two motions for class certification, Counsel's motion for discretionary review, three depositions, and five different amendments to the claims Counsel asserted in this case.

23. Senior-level attorney Sam Leonard billed 27.8 hours drafting the motion to vacate the default judgment, totaling $13,761. In addition, Mr. Arons billed 8.5 hours reviewing and revising the motion to vacate, billing another, $4,675. This total number of hours worked, 36.3, is unreasonable and unnecessary. In my opinion, for a senior-level attorney like Mr. Leonard, who is billing $495 per hour for his time, to draft a relatively straightforward motion to vacate a default judgment should take no more than 8 to 10 hours, with a cost no greater than $5,000.

24. Mr. Leonard and Mr. Arons billed a total of 16.4 hours, $4,389, to draft a reply to the motion to vacate the district court's judgment in favor of CDR. This, too, is unreasonable and unnecessary. In my opinion, no more than five hours should have been spent on this task, with a cost no greater than $2,500.

25. Counsel amended their claims five times. This on its face, seems unreasonable. One, perhaps two, amendments is customary. In my opinion, it is reasonable to bill no more than 10 hours, or $5,000, to prepare amended pleadings and relatively repetitive motions to allow the amendments. It was difficult for me to isolate the billings for the motions to amend the complaint because I found these entries to be vague, but Counsel billed more than 30 hours to amending the complaint and preparing the motions to allow the amendments, and they billed well in excess of $12,000.

26. Counsel spent 29.1 hours, billing a total of $14,685.50, to draft the first motion for class certification in October 2021. Counsel spent 39.18 hours drafting the reply, billing a total of $14,700. In my opinion, this is an unreasonable and unnecessary amount of time. Counsel are experienced and sophisticated class-action litigators, as evidenced by their

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1111 Third Avenue, Suite 2700
Seattle, Washington 98101
206.436.2020

declarations and high hourly rates they charge for their time. Given their experience and the rates they charge, it is reasonable to assume it would take no more than 10 hours, or $5,000 to draft the motion for class certification and no more than another 5 hours, or $2,500 to draft the reply.

27. As noted, Terrell Marshall partner Beth Terrell spent 10 hours preparing for oral argument of the motion for class certification. This is an unreasonable amount of time to spend preparing for the oral argument. The hearing should have been handled by one of the four senior-level attorneys who worked on the briefing. Such an attorney, with his or her experience in class action work along with his or her involvement in class-certification briefing, should have billed no more than 2 to 3 hours preparing for oral argument.

28. Counsel filed a motion for discretionary review with the Court of Appeals. Counsel spent 21.4 hours and billed $11,035.00 for the motion. Counsel spent 13.7 hours and billed $7,435.00 for the reply in further support of the motion for discretionary review. In my opinion, none of this time is reasonable. The standard for obtaining discretionary review of an order denying a motion for class certification is intended to be, and is, daunting. The "finality" rule in Washington is generally well-known among attorneys – and should be well-known to Counsel in this case. The motion was denied – which should not have been a surprise to Counsel. It was not reasonable for Counsel to believe that they could convince the Court of Appeals to take discretionary review of the order denying class certification.

29. Ms. Chandler billed 5.9 hours, $2,920.50, to prepare for the 30(b)(6) deposition of CDR. While this is reasonable, two other attorneys also billed time for preparing Ms. Chandler for her deposition. On September 6, 2021, Mr. Arons billed .2 to "Review CDR deposition outline and email comments to co-counsel" and Mr. Leonard billed 1.6 hours, $792, for "Editing and drafting CDR Dep Questions." The additional input from these two other attorneys is unreasonable and unnecessary.

30. Attorney Blythe Chandler conducted the deposition of the CR 30(b)(6) witness of Columbia Debt Recovery on September 8, 2021, billing a total of 7.8 hours for it on that day.

LEWIS BRISBOIS BISGAARD & SMITH LLP
1111 Third Avenue, Suite 2700
Seattle, Washington 98101
206.436.2020

That time is recoverable. But three other attorneys billed to observe the deposition. Attorney Sam Leonard billed 5.5 hours at $495 per hour for "CDR Dep." Attorney Sarah Smith billed at $325 for 3 hours for "observing" the deposition. And attorney Paul Arons billed one hour to "follow" the deposition. None of these hours is reasonable or necessary.

31. Counsel spent 65.9 hours, billing a total of $31,434.50, for drafting the response to the motions by other parties to strike the class-action allegations. Sixty hours is an exorbitant amount of time to write one or more responses to a motion to strike the class action allegations. Given the issues in the case, and the experience of the attorneys addressing them, in my opinion, preparing this draft should have taken no more than 24 hours, or $12,000.

CONCLUSION

32. The billings submitted by Counsel in this case are unreasonable and unnecessary for different reasons, the most problematic of which was the number of attorneys who billed time to this case. Ten attorneys – most of whom are billing close to or above $500 per hour – is an unreasonable and unnecessary number of attorneys to work on this case. No more than two senior attorneys and two junior attorneys was reasonable and necessary. In addition, the amount of time spent by Counsel on various tasks in this case was unreasonable and unnecessary. In most instances, there were two to three times the number of attorneys working on a project than were reasonable or necessary, and those attorneys billed 50 to 75 percent more than they should have billed.

LEWIS BRISBOIS BISGAARD & SMITH LLP
1111 Third Avenue, Suite 2700
Seattle, Washington 98101
206.436.2020

Sworn under penalty of perjury of the laws of the State of Washington in Seattle.

DATED January 22, 2024.

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: *s/ Benjamin J. Stone*

Benjamin J. Stone, WSBA #33436
1111 Third Avenue, Suite 2700
Seattle, Washington 98101
(206) 436-2020 / (206)436-2030 Fax
Benjamin.Stone@lewisbrisbois.com

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court and sent a copy to the following via the method indicated:

Jeffrey I. Hasson HASSON LAW, LLC 9385 SW Locust Street Tigard, Oregon 97223 Email: hasson@hassonlawllc.com	☐ Via Messenger ☐ Via Federal Express ☐ Via U.S. Mail ☒ Via Electronic Mail or E-service application
Beth E. Terrell Blythe H. Chandler 936 North 34th Street, Suite 300 Seattle, Washington 98103-8869 Email: bterrell@terrellmarshall.com Email: bchandler@terrellmarshall.com	☐ Via Messenger ☐ Via Federal Express ☐ Via U.S. Mail ☒ Via Electronic Mail or E-service application
Samuel R. Leonard LEONARD LAW 9030 35th Ave SW, Suite 100 Seattle, Washington 98126 Email: sam@seattledebtdefense.com	☐ Via Messenger ☐ Via Federal Express ☐ Via U.S. Mail ☒ Via Electronic Mail or E-service application
Paul Arons LAW OFFICE OF PAUL ARONS 175 Gretchen Way Friday Harbor, Washington 98250 Email: lopa@rockisland.com	☐ Via Messenger ☐ Via Federal Express ☐ Via U.S. Mail ☒ Via Electronic Mail or E-service application
Kenneth W. Hart Scott R. Weaver CARNEY BADLEY SPELLMAN, P.S. 701 Fifth Avenue, Suite 3600 Seattle, WA 98104-7010 Email: hart@carneylaw.com Email: weaver@carneylaw.com	☐ Via Messenger ☐ Via Federal Express ☐ Via U.S. Mail ☒ Via Electronic Mail or E-service application
William H. Walsh Karl Neumann COZEN O'CONNOR 999 Third Avenue, Suite 1900 Seattle, WA 98104 Email: wwalsh@cozen.com Email: kneumann@cozen.com	☐ Via Messenger ☐ Via Federal Express ☐ Via U.S. Mail ☒ Via Electronic Mail or E-service application

LEWIS BRISBOIS BISGAARD & SMITH LLP
1111 Third Avenue, Suite 2700
Seattle, Washington 98101
206.436.2020

Dated this 22nd day of January, 2024.

s/ Brad Fisher
Brad Fisher, WSBA #19895

LEWIS BRISBOIS BISGAARD & SMITH LLP
1111 Third Avenue, Suite 2700
Seattle, Washington 98101
206.436.2020