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8 Attorneys for Plaintiff
9 DANIEL NORCIA

10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**

13 DANIEL NORCIA, on his own behalf
14 and on behalf of all others similarly
situated,

15 Plaintiffs,

16 vs.

17 SAMSUNG TELECOMMUNICATIONS
18 AMERICA, LLC, a New York
Corporation, and SAMSUNG
19 ELECTRONICS AMERICA, INC., a
New Jersey Corporation,

20 Defendants.

CASE NO. 3:14-cv-582-JD

**DECLARATION OF ALEC CIERNY IN
SUPPORT OF PLAINTIFF'S
MOTION FOR AWARD OF ATTORNEYS'
FEES AND REIMBURSEMENT OF
EXPENSES, AND PLAINTIFF INCENTIVE
AWARD**

Date: January 28, 2021
Time: 10:00 a.m.
Dept.: Courtroom 11, 19th Floor
Judge: Hon. James Donato
Complaint Filed: February 7, 2014

DECLARATION OF ALEC CIERNY

I, Alec Cierny, declare:

1. I am an attorney of record in the above-referenced action and one of the attorneys of records for Plaintiff.

2. I submit this declaration in support of Plaintiff’s Motion for Award of Attorneys’ Fees, Reimbursement of Expenses, and Plaintiff Incentive Award.

3. I actively participated in the litigation of this action, I have personal knowledge of the matters described below, and I am competent to testify thereto.

4. I am the founder of The Cierny Firm which opened in 2017.

5. Prometheus Partners, LLP and The Cierny Firm have been appointed Class Counsel in this action. [D.E. No. 177 (“Preliminary Approval Order”).]

6. I am a 2010 graduate of University of California - Berkeley School of Law, and a 2004 graduate of Tulane University. I was admitted to the Bar of the State of California in January 2011, and have practiced law continuously since that date.

7. From 2011-2017, I practiced as an associate at DLA Piper LLP (US) in its Commercial Litigation Group in San Francisco. While practicing at DLA Piper, I defended a number of large corporate entities in class actions under federal and state law, including the following class actions:

- *Minkler et al. v. Apple, Northern District of California*, Northern District of California, Case No. 5:13-cv-05332-EJD;
- *Marsh et al. v. Zaazoom Solutions, LLC et al.*, Northern District of California, Case No. 3:11-cv-05226-WHO;
- *Lizarraga, et al. v. CBC Restaurant Corp.*, Case No. G043743, 4th Appellate District, California (2011);
- *In re Sony PS3 Other OS Litigation*, Northern District of California, Case No. C-10-1811 RS (EMC);
- *Kelly v. BP West Coast Products, LLC*, Eastern District of California, Case No. 2:14-cv-01507-KJM-CKD; and

- *DeBolt v. Tesoro West Coast Company, LLC, et al.*, Central District of California, Case No. 2:15-cv-02904.

I have negotiated and settled numerous class actions on behalf of defendants, and I therefore have experience and insight regarding the factors defendants consider in settling large representative claims.

8. I am an accomplished trial and complex litigation attorney. I have been rated a Super Lawyer – Rising Start for six straight years (2015-2020), which is a recognition reserved for less than 2.5% of all attorneys. The Cierny Firm has the technological capabilities to—and has invested in complex litigation software tools that allow it to—litigate cases of large size and scope, including complex class actions.

9. In this matter, The Cierny Firm billed my time at \$700 per hour, which is consistent with attorneys of my level of experience in this District.

10. To date, The Cierny Firm has devoted a total of 812.50 hours of attorney time to the prosecution of this action. At their reasonable and regular hourly rates this represents a lodestar of \$568,750, calculated as follows:

Name	Rate	Hours	Total Lodestar
Alec Cierny	\$700/hour	812.5	\$568,750
Total	--	812.5	\$568,750

11. The total of 812.50 hours of attorney time to the prosecution of this action further breaks down into the following categories of work performed in the case:

Category of Work Performed	Hours	Total Lodestar
Pre-Filing Investigation	0	\$0
Complaint Drafting	0	\$0
Arbitration Issues/Trial	0	\$0
Motion to Dismiss	0	\$0

Motion for Judgment on Pleadings	18.5	\$12,950
CMC and Stipulations	0.5	\$350
Discovery	425.6	\$297,920
Motion for Class Certification	87	\$60,900
Settlement	280.9	\$196,630
Total	812.5	\$568,750

12. The above schedules were prepared from contemporaneous, daily time records that were inputted on a daily basis by me into a computerized billing system maintained by the firm. My practice is to record time in tenth of an hour increments, and to do so as contemporaneously as practicable. I believe that this method of recording time is more accurate than recording time by quarter hour increments, which tends to inflate the amount of time billed for short telephone conferences and other short tasks.

13. The Cierny Firm's computerized billing system is not designed to ensure that all time spent on a case is in fact recorded. As a result, the amount of time stated on The Cierny Firm's time records is conservative and necessarily understates the actual amount of time that The Cierny Firm devoted to the prosecution of this case.

14. The hourly billing rates used to calculate The Cierny Firm lodestar are based on the experience set forth in paragraphs 1 through 8 of this declaration. Moreover, these rates have been approved as reasonable by various courts within the Ninth Circuit.

15. The above hourly rates are the reasonable and regular rates that are commensurate with the experience and expertise of each attorney, as described below:

Name	Position	Year of Admission
Alec Cierny	Founding Owner	January 2011

16. Moreover, The Cierny Firm's hourly rates are commensurate with the market rate for fees according to the Laffey Matrix, a court approved and adopted survey of attorney hourly rates which is attached as Exhibit 3 to the Declaration of Eduardo Roy In Support of Plaintiff's

1 Motion for Award of Attorneys' Fees, Reimbursement of Expenses, and Plaintiff Incentive
2 Award.

3 17. In addition to professional time expended in the case, The Cierny Firm incurred
4 \$292.35 in unreimbursed litigation expenses incurred during the prosecution of this lawsuit. The
5 litigation expenses incurred by The Cierny Firm are summarized below:

Incurred Expense Item	Incurred Expense Cost
Pacer Docket Retrieval Fees	\$44.60
Pacer Docket Retrieval Fees	\$17.50
Pacer Docket Retrieval Fees	\$2.20
Pacer Docket Retrieval Fees	\$6.30
FedEx Fee for Production	\$31.95
Pacer Docket Retrieval Fees	\$19.80
Pacer Docket Retrieval Fees	\$36.60
Pacer Docket Retrieval Fees	\$124.50
Pacer Docket Retrieval Fees	\$0.10
Pacer Docket Retrieval Fees	\$6.70
Pacer Docket Retrieval Fees	\$2.10
Total	\$292.35

18. The expenses incurred by my firm in connection with this litigation are reflected
21 on an expense by expense basis in the financial records of my firm maintained by my firm's
22 accounting system. These records are prepared from expense reports, check requests, and cash
23 receipts, and are maintained in the ordinary course of business by The Cierny Firm. The expenses
24 reflected above were reasonably and necessarily incurred in connection with this litigation and
25 were specifically reviewed and authorized by me.

26 I declare under penalty of perjury under the laws of the United States of America that the
27 foregoing is true and correct to the best of my knowledge.

