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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 EDUARDO G. ROY 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, 19<sup>th</sup> Floor  
Judge: Hon. James Donato  
Complaint Filed: February 7, 2014

**DECLARATION OF EDUARDO G. ROY**

I, Eduardo G. Roy, declare:

1. I am a partner at Prometheus Partners L.L.P. I am the lead-attorney for Plaintiff Daniel Norcia and the putative class Plaintiff seeks to certify in the above-referenced action. I am licensed to practice in the State of California and am admitted to the Bar of this Court. If sworn as a witness, I could competently testify to each and every fact set forth herein from my own personal knowledge.

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

**I. EXPERIENCE OF PROMETHEUS PARTNERS, LLP**

5. Martindale-Hubbell rates me as “AV Preeminent,” which is the highest rating available in the Martindale-Hubbell peer rating system. I am a Partner at Prometheus Partners. Prometheus Partners L.L.P. has a national practice with six attorneys and one paralegal/support staff in its California offices. Prometheus Partners L.L.P. 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.

6. Prometheus Partners L.L.P. focuses on complex civil litigation of Internet and e-commerce related issues, and I have litigated a variety of cutting-edge legal issues, including issues relating to online privacy, online consumer fraud, consumer class actions and employment class actions and collective actions. Prometheus Partners L.L.P. also has extensive experience litigating cases involving complex Civil RICO issues. Prometheus Partners L.L.P. has litigated numerous cases, on behalf of both plaintiffs and defendants, regarding consumer and employment class actions.

1           7.       **Eduardo G. Roy.** I am a founding partner of Prometheus Partners, LLP, which  
2 was founded in 2013. The focus of my practice since that time has been plaintiff-side consumer,  
3 employment and privacy claims.

4           8.       I received an undergraduate degree from Amherst College and attended law school  
5 at Vanderbilt University. I was admitted to the Bar of the State of California in 1990, and have  
6 practiced law continuously since that date.

7           9.       After graduating from law school, I initially worked in government service. I  
8 worked as a Deputy Attorney General for the State of California, an Assistant United States  
9 Attorney for the Northern District of California, and trial counsel for the United States Office of  
10 Independent Counsel.

11          10.      As trial counsel for the Independent Counsel of the United States, I convicted the  
12 senior vice president of an agricultural cooperative of giving gratuities to Mike Espy, the former  
13 Secretary of the United States Department of Agriculture. As an Assistant United States Attorney  
14 (AUSA) for the Northern District of California, I conducted numerous international and domestic  
15 investigations on behalf of the office of Inspector General, Secret Service, Federal Bureau of  
16 Investigations, the Drug Enforcement Administration and Customs.

17          11.      After leaving government service, I entered private practice and focused on  
18 litigation and defense of consumer and employment class actions. Immediately prior to founding  
19 Prometheus Partners, I worked as a Partner with DLA Piper US LLP for over seven years. Prior  
20 to that, I was a partner with Squire Sanders & Dempsey (now Squire Patton Boggs) where I was  
21 national co-chair of its White-Collar practice.

22          12.      **As lead counsel in complex litigation:** I have successfully handled multi--billion  
23 dollar exposure privacy litigation that resulted in the California State Legislators amending the  
24 Confidentiality Medical Information Act (CMIA), civil forfeiture matters in the gaming industry,  
25 consumer and employment class actions for financial institutions and insurance companies,  
26 product liability litigation for a Fortune 10 company, represented and advised the California  
27 Legislature on constitutional law questions and negotiated Indian Gaming Compacts with three  
28 different California Governors.

1           13.    **As lead counsel I have tried to verdict jury trials in the areas of:** trademark  
2 infringement, trade secret, international financial transactions, bank fraud, improper lobbying  
3 activities, and government contracts and securities fraud. I have also successfully argued  
4 numerous Ninth Circuit appeals.

5           14.    **As lead counsel in employment and labor matters:** I have successfully handled  
6 both class--action employment matters and single plaintiff discrimination matters. Specifically, I  
7 have handled wage and hour class actions, collective actions and ERISA class--actions. I have  
8 also negotiated on behalf of management regarding labor issues against the Hotel Employees and  
9 Restaurant Employees Union and I represent Union Side Trustees in pension trust issues.

10          15.    **As lead counsel in government investigations:** I have conducted internal  
11 investigations in response to government subpoenas on behalf of the company, defended  
12 individual senior corporate officials of Fortune 10 and 100 companies in response to government  
13 subpoenas and represented companies and/or individuals in FCPA, OFAC, Criminal Enforcement  
14 against Off--Label Promotion, Criminal Antitrust, Criminal Securities Fraud, Bankruptcy Fraud  
15 and Obstruction of Justice.

16          16.    While a partner with DLA Piper and Squire, I defended numerous class and  
17 collective actions under federal and state law on behalf of large corporate entities. I have  
18 negotiated and settled numerous class, collective and representative actions on behalf of corporate  
19 defendants, and I therefore have experience and insight regarding the factors defendants consider  
20 in settling large representative claims.

21          17.    In 2005 and 2007, the San Francisco Hispanic Chamber of Commerce, along with  
22 the San Francisco Business Times named me as one of the 25 most influential Hispanics in the  
23 Bay Area. I have been named a Northern California Super Lawyer on multiple occasions in Law  
24 & Politics and San Francisco magazines, and ranked as one of the 10 most influential African  
25 Americans in San Francisco by Cityflight magazine in 2006. I have an AV Preminent® rating by  
26 Martindale---Hubbell. I am a member of the Vanderbilt Law School Board of Advisors, and I  
27 have served on the Law 360 Privacy & Consumer Protection Editorial Advisory Board. I am a  
28 former faculty member for the National Institute for Trial Advocacy. My teaching experience

1 includes presenting courses in grand jury investigations at the U.S. Department of Justice Drug  
2 Enforcement Administration, complex litigation for the National Black Prosecutor's Association,  
3 trial advocacy at Stanford Law School, and appellate advocacy at Boalt Law School.

4 18. My standard billing rate for retained clients is \$1,000.00 per hour. In this matter,  
5 Prometheus Partners L.L.P. billed my time at \$1,000 per hour.

6 19. **Professor Suzanna Sherry**. A consultant to Prometheus Partners, Professor  
7 Sherry's work in the area of constitutional law has earned her national recognition as one of the  
8 most well-known scholars in the field. The author of more than 100 books and articles, she also  
9 writes extensively on federal courts and federal court procedures.

10 20. After graduating from law school, Professor Sherry was a clerk for the Honorable  
11 John C. Godbold of the United States Court of Appeals for the Fifth Circuit in Montgomery,  
12 Alabama, and then served as an associate with the law firm of Miller Cassidy Larroca & Lewin in  
13 Washington, D.C.

14 21. Professor Sherry joined the Vanderbilt faculty in 2000 as the inaugural holder of  
15 the Cal Turner Chair, having previously served on the faculty of the University of Minnesota Law  
16 School since 1982. She was named the Herman O. Loewenstein Professor of Law in 2006.

17 22. Professor Sherry's expertise is in Constitutional law & theory, federal courts & the  
18 federal judicial system, federalism, litigation & dispute resolution and the U.S. Supreme Court.

19 23. In this matter, Prometheus Partners L.L.P. billed Professor Sherry's time at  
20 \$800.00 per hour.

21 24. **Professor Robert Mikos**: Professor Mikos is a consultant with Prometheus  
22 Partners. Professor Mikos is one of the nation's leading experts on federalism and drug law. His  
23 most recent scholarship analyzes the struggle among federal, state, and local governments for  
24 control of marijuana law and policy, which includes a first-of-its-kind casebook, [\*Marijuana Law,  
25 Policy, and Authority\*](#) (Wolters Kluwer, 2017). In that vein, he has written, testified, and lectured  
26 on the states' constitutional authority to legalize marijuana, federal preemption of state marijuana  
27 regulations, the political and budgetary considerations that limit enforcement of the federal  
28 marijuana ban, federal law's influence on state regulation and taxation of the marijuana industry,

1 and the desirability of marijuana localism.

2 25. Professor Mikos has also written on the states' constitutional authority to withhold  
3 information from the federal government, the political safeguards of federalism, accuracy in  
4 criminal sanctions, the economics of private precautions against crime, and remedies in private  
5 law.

6 26. Professor Mikos earned his J.D. summa cum laude from the University of  
7 Michigan Law School, where he served as articles editor on the *Michigan Law Review* and won  
8 numerous awards, including the Henry M. Bates Memorial Scholarship. After graduation, he was  
9 a law clerk for Chief Judge Michael Boudin of the U.S. Court of Appeals for the First Circuit.  
10 Professor Mikos has taught at the University of California at Davis, where he was twice  
11 nominated for the school's Distinguished Teaching Award, as well as at Notre Dame and the  
12 University of Michigan. He teaches courses in Federalism, Constitutional Law, Marijuana Law  
13 and Policy, Federal Criminal Law, and Drug Law and Policy.

14 27. In this matter, Prometheus Partners L.L.P. billed Professor Mikos' time at \$800.00  
15 per hour.

16 28. **Daniel C. Quintero**. Daniel is a founding partner of Prometheus Partners, LLP,  
17 which was founded in 2013.

18 29. Daniel C. Quintero was named one of California's Top 20 General Counsel by the  
19 Daily Journal.

20 30. Daniel C. Quintero is a plasma engineer and he focuses on issues in the technology  
21 sector.

22 31. Daniel C. Quintero is a member of the State Bars of California. Daniel is a  
23 graduate of the University of San Francisco, and the University of California, Berkeley School of  
24 Law.

25 32. In this matter, Prometheus Partners L.L.P. billed Daniel's time at \$1,000 per hour,  
26 which is the standard rate the firm charges to clients in non-contingency matters for Daniel's  
27 time.

28 33. **Jill Dessalines**. Ms. Dessalines is Chief Litigation Strategist for Prometheus

1 Partners. Ms. Dessalines is a former Senior Vice President and Assistant General Counsel of  
2 McKesson Corporation.

3 34. Ms. Dessalines graduated from Howard University and Georgetown University  
4 Law Center.

5 35. Ms. Dessalines represented McKesson, a Fortune Eight (8) corporation for over 16  
6 years where she managed and successfully resolved multi-billion-dollar privacy, consumer, and  
7 pharma class action matters.

8 36. Ms. Dessalines managed class actions for McKesson in both state and federal  
9 courts and in states throughout the United States.

10 37. In this matter, Prometheus Partners L.L.P. billed Ms. Dessalines time at \$850.00  
11 per hour.

12 38. **Michael Mori**. Michael Mori was a Partner with Prometheus Partners from 2014  
13 to 2016 and of Counsel to the firm from June 2016 through 2018.

14 39. Prior to becoming a Partner at Prometheus Partners Mr. Mori was General Counsel  
15 at Epson Electronics America, Inc, and of Counsel at Paul Hastings.

16 40. Michael Mori graduated from the University of California at Los Angeles, Phi  
17 Beta Kappa, and Loyola Law School, Loyola Marymount University.

18 41. Mr. Mori is a member of the State Bars of California, New Jersey and New York.

19 42. In this matter, Prometheus Partners L.L.P. billed Mr. Mori's time at \$850.00 per  
20 hour.

21 **II. SETTLEMENT NEGOTIATIONS AND BENEFITS PROVIDED TO THE CLASS**  
22 **PURSUANT TO THE SETTLEMENT**

23 43. Attached hereto as **Exhibit 1** is a true and correct copy of the Class Action  
24 Settlement Agreement and Release and all exhibits thereto (the "Settlement Agreement") entered  
25 into between Plaintiff Daniel Norcia ("Plaintiff") and Samsung ("Samsung"). The Settlement  
26 Agreement was most recently filed with the Court on March 16, 2020 [Dkt. No. 169-1.] The  
27 Court preliminarily approved the settlement on July 22, 2020. [Dkt. No. 177.]

28 44. The settlement is the product of an extensive investigation, aggressive litigation

1 and arm's-length settlement negotiations and takes into account the significant risks specific to  
2 this case. The negotiations were conducted through numerous in-person meetings, telephone calls  
3 and other communications by and between the parties' respective counsel of record. On March  
4 26, 2018, the parties attended a twelve-hour private mediation session before the Honorable  
5 Richard A. Kramer (Ret.) of JAMS. The mediation was not successful. Thereafter, the parties  
6 attended three separate settlement conference sessions with Magistrate Judge Laurel Beeler on  
7 April 18, 2018, December 4, 2018, and February 8, 2019, and conducted several months and  
8 multiple phone calls of follow-up negotiations. Although the settlement conferences were not  
9 immediately successful; with the active assistance of Magistrate Judge Laurel Beeler, Plaintiff  
10 and Samsung accepted a detailed mediator's proposal by Magistrate Judge Beeler, with minor  
11 modifications proposed by Samsung which Plaintiff accepted and Judge Beeler endorsed, which  
12 is the basis of this Agreement ("Judge Beeler's Mediator's Proposal"). The terms of the  
13 Settlement Agreement and the forthcoming Motion for Attorneys' Fees were all taken directly  
14 from Judge Beeler's Mediator's Proposal

15 45. The settlement was negotiated by experienced counsel who understood the  
16 strengths and weaknesses of their clients' respective claims and defenses, who had a familiarity  
17 with the legal issues central to this litigation, and who understood the likelihood of success for the  
18 class at trial.

19 46. As set forth in detail in the Settlement Agreement, Samsung will create a  
20 settlement fund of \$2,800,000. Samsung has also agreed to an injunction that it discontinue the  
21 alleged benchmarking conduct for a period of three years for all smartphones sold in California  
22 which will also ensure that the phones California consumers purchase from Samsung are, in fact,  
23 performing in a manner consistent with independent benchmarking applications. Settlement class  
24 members who complete and submit a claim form will be able to receive a cash payment of up to  
25 \$10. The exact payment will be determined by the claims rate.

26 47. Attached hereto at **Exhibit 2** is the Declaration of Jonathan Arnold, Ph.D. in  
27 Support of the Motion for Preliminary Approval of Class Action Settlement ("Arnold  
28 Declaration") which was filed with the Administrative Motion to File Under Seal and Plaintiff's



1 Unopposed Motion for Preliminary Approval of Class Action Settlement. Mr. Arnold was  
2 engaged to measure the economic gains Samsung Electronics America, Inc. ("Samsung")  
3 obtained, as alleged, through its unfair benchmarking manipulation scheme. Specifically,  
4 Samsung has agreed to discontinue the alleged benchmarking conduct for a period of three years  
5 for all smartphones sold in California which will also ensure that the phones California  
6 consumers purchase from Samsung are, in fact, performing in a manner consistent with  
7 independent benchmarking applications. Mr. Arnold assigned a value of \$10,594,921 to the  
8 Injunctive Relief component of the Settlement.

9 48. This injunction is particularly valuable because no state or federal regulatory  
10 agency has prosecuted Samsung or its competitors for benchmarking manipulation and no state or  
11 federal court has issued a judgment declaring benchmarking manipulation illegal. In fact, it  
12 appears that benchmarking manipulation continues in the smart phone industry.<sup>1</sup> Furthermore,  
13 although this is a California class action, Samsung's agreement to discontinue benchmarking  
14 manipulation will have the likely effect of discontinuing benchmarking manipulation on a  
15 national basis which is especially valuable because many states do not have consumer protection  
16 statutes as robust as California's UCL. Specifically, Samsung sells its phones to third-party cell  
17 phone carriers in bulk and those cell phone carriers sell Samsung phones to their customers.  
18 Samsung does not dictate what phones are sold in what states by the third-party cell phone  
19 carriers. In other words, the practical effect of this injunction is that Plaintiff has achieved a  
20 national prohibition on benchmarking manipulation. Accordingly, the value of this injunction is  
21 almost certainly exponentially larger than the \$10,594,921 estimated by Mr. Arnold. Here, the  
22 requested fee is 10.44% of the total settlement value, far below the Ninth Circuit benchmark.

### 23 **III. CLASS COUNSEL'S INFORMED EVALUATION OF THE SETTLEMENT**

24 49. After initiating this action, Class Counsel have engaged in substantial discovery  
25 concerning the class's claims, which was sufficient to enable Class Counsel to evaluate the  
26 strength and value of the class's claims for purposes of settlement with Samsung. Such

27 \_\_\_\_\_  
28 <sup>1</sup> See <https://www.androidauthority.com/the-companies-we-busted-cheating-on-benchmarks-in-2018-936168/>

1 investigation included both inter-party discovery, third-party discovery. Further, the depositions  
2 were taken of Plaintiff and Samsung's 30(b)(6) witness in addition to the extensive written  
3 discovery and document. After extensively meeting and conferring about various discovery  
4 objections, Defendants produced thousands of documents, including internal emails, marketing  
5 data, and financial and sales data. In addition to formal discovery, Class Counsel also engaged in  
6 informal discovery and investigation, including the review of Plaintiffs' records, interview of  
7 witnesses and online factual research.

8 50. Based on my experience, both in obtaining class certification and litigating similar  
9 claims, the degree of investigation that was conducted was sufficient to expose and evaluate the  
10 strengths and weaknesses of the substantive merit of the class's claims, as well as the likelihood  
11 of obtaining and maintaining certification of such claims through trial.

12 51. Based on the investigation of Class Counsel, along with our research, motion  
13 practice, document review, discovery and analysis, my personal knowledge, and experience, I  
14 believe the settlement is in the best interests of the class and that the settlement is fair, reasonable,  
15 and adequate. While I believe that the claims asserted in this action against Samsung have merit  
16 and that the evidence developed to date supports the claims, I also recognize and acknowledge,  
17 based on my experience and the experience of my co-counsel, that the expense and length of time  
18 necessary to prosecute this case to judgment will exceed any additional benefit the class might  
19 receive. In reaching this conclusion, I have taken into account the uncertain outcome and the risk  
20 of any litigation, as well as the difficulties and delays inherent in this litigation in particular.

21 52. I believe, based on the benefits being made available to the class under the  
22 proposed settlement, and considering the risk and potential duration of further litigation, that the  
23 settlement confers substantial benefits on the class, and that it is therefore reasonable, fair, and  
24 adequate.

#### 25 **IV. RISKS ASSUMED BY CLASS COUNSEL**

26 53. From the beginning of this case, Prometheus Partners and The Cierny Firm  
27 undertook considerable risk that—despite our significant investment of time and money—we  
28 would never receive any payment from our prosecution of this action. Class Counsel knew that

1 Samsung would devote significant resources to this litigation, including by engaging aggressive  
2 and skilled attorneys who would provide a tenacious defense to this case. Class Counsel knew  
3 that prevailing and ultimately collecting on any judgment against Samsung was never certain,  
4 especially in light of the significant issues regarding the legal viability of Plaintiff's claims,  
5 whether Plaintiff would be able to obtain the necessary discovery and evidence to support those  
6 claims and whether Plaintiff would be able to successfully certify a class. Class Counsel accepted  
7 and proceeded with this litigation in the face of this uncertainty, agreeing to undertake this  
8 litigation on a wholly contingent basis and thereby initiating complex, expensive and lengthy  
9 litigation, with no guarantee of compensation for the significant amount of time, money and effort  
10 that Class Counsel was prepared to and did invest in the litigation of this case.

11 54. By pursuing this litigation and devoting the significant resources that this litigation  
12 required (including my personal investment of approximately 1,000 hours of attorney time to this  
13 litigation), Prometheus Partners necessarily had to forego developing and working on other cases  
14 available to our firm.

15 55. In short, prevailing and ultimately collecting on any judgment against Samsung  
16 was never certain and it required satisfying a number of difficult thresholds (from pleading and  
17 proof issues, to certification and establishing the extent of defendants' liability at trial).  
18 Accordingly, Class Counsel's contingency risk supports the requested fees.

## 19 **V. PETITION FOR FEES AND EXPENSES**

20 56. Class Counsel requests an award of attorneys' fees in the amount of  
21 \$1,398,861.24. This represents 10.44% of the Total Settlement Value and 49.97% of the  
22 \$2,800,00 common fund that Class Counsel was able to obtain for the Class.

23 57. Class Counsel negotiated attorneys' fees after the class benefits were negotiated,  
24 and they agreed to a fee that represents a fraction of the lodestar hours actually worked on the  
25 action. Class Counsel's total lodestar in this case is \$1,951,060 along with litigation expenses of  
26 \$101,138.76 were incurred by Class Counsel in the prosecution of this action. Class Counsel's  
27 total lodestar of \$1,951,060 is materially less than the previously estimated lodestar of \$2,050,000  
28 provided in Plaintiff's Motion for Preliminary Approval because Class Counsel was unable to

1 include the time entries of attorney John Hurley who stopped work on this matter in late-2018.

2 58. The chart below shows Class Counsel's accumulated lodestar allocable to this  
3 case:

<b>Firm</b>	<b>Hours</b>	<b>Total Lodestar</b>
Prometheus Partners LLP	1,414.60	\$1,382,310
The Cierny Firm	812.5	\$568,750
<b>Total</b>	<b>2,227.10</b>	<b>\$1,951,060</b>

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5  
6  
7  
8  
9  
10 59. The lodestar multiplier is calculated by (i) dividing the \$1,398,861.24 in requested  
11 fees by (ii) the number of hours counsel billed to the case multiplied by the counsel's standard  
12 hourly rate. The lodestar for the services performed by Class Counsel (including hours billed by  
13 The Cierny Firm) here is \$1,951,060. This represents a negative multiplier of 0.72.

14 60. In my experience, the number of hours logged by Class Counsel on this case is  
15 within the range of hours that reasonably would be expected under the circumstances based on the  
16 amount of investigation required relative to the issues presented in the action. Although the case  
17 was settled prior to certification, the investigative process was very hard fought, evidenced most  
18 convincingly by the extensive motion practice and the multi-month settlement negotiation  
19 between Plaintiff and Samsung.

20 61. To date, Prometheus Partners has devoted a total of 1,414.6 attorney hours to the  
21 prosecution of this action. At their reasonable and regular hourly rates this represents a lodestar of  
22 \$1,382,310, calculated as follows:

<b>Name</b>	<b>Rate</b>	<b>Hours</b>	<b>Total Lodestar</b>
Eduardo G. Roy	\$1,000/hour	982	\$982,000
Daniel Quintero	\$1,000/hour	222.6	\$222,600
Michael Mori	\$850/hour	119.9	\$101,915

Jill Dessalines	\$850/hour	74.3	\$63,155
Professor Suzanna Sherry	\$800/hour	8.4	\$6,720
Professor Robert Mikos	\$800/hour	7.4	\$5,920
<b>Total</b>		1,414.6	\$1,382,310

62. The total of 1,414.6 attorney hours to the prosecution of this action further breaks down into the following categories of work performed in the case:

<b>Category of Work Performed</b>	<b>Hours</b>	<b>Total Lodestar</b>
Pre-Filing Investigation	67.5	\$67,500
Complaint Drafting	2.8	\$2,800
Arbitration Issues/Trial	485.4	\$457,995
Motion to Dismiss	25.5	\$25,500
Motion for Judgment on Pleadings	62.3	\$59,140
CMC and Stipulations	0	\$0
Discovery	428.8	\$428,800
Motion for Class Certification	16.4	\$16,400
Settlement	325.9	\$324,175
<b>Total</b>	<b>1,414.60</b>	<b>\$1,382,310</b>

63. The above schedules were prepared from contemporaneous, daily time records that are inputted by the attorneys and professional staff members of my firm into a computerized billing system maintained by the firm. The practice of both myself and the attorneys and professional staff at my firm is to record time in tenth of an hour increments. Our firm believes 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.

64. Prometheus Partners' computerized billing system is not designed to ensure that all

1 time spent on a case is in fact recorded. As a result, the amount of time stated on our firm's time  
 2 records is conservative and necessarily understates the actual amount of time that Prometheus  
 3 Partners devoted to the prosecution of this case. Also, in recording my time, I did not record, and  
 4 we do not seek compensation for, many tasks and activities. For example, my records for work in  
 5 this case do not include many telephone conversations, meetings, and supervisory activities that I  
 6 undertook in the prosecution of this action but did not record.

7 65. The hourly billing rates used to calculate Prometheus Partners' lodestar are based  
 8 on the experience set forth in the paragraphs above of this declaration. Moreover, these rates have  
 9 been approved as reasonable by various courts within the Ninth Circuit.

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

Name	Position	Year of Admission
Eduardo G. Roy	Founding Partner	1990
Daniel Quintero	Founding Partner	1998
Michael Mori	Partner (former)	2012
Jill Dessalines	Of Counsel	1986

12  
 13  
 14  
 15  
 16  
 17  
 18  
 19 67. The \$1,000.00 per hour rates identified for Eduardo G. Roy and Daniel Quintero  
 20 are the actual billable rates charged to retained clients. Class Counsel Eduardo Roy and Alec  
 21 Cierny were previously attorneys at the San Francisco office of the law firm of DLA Piper, where  
 22 litigators who graduated in 1990, 1999, and 2010 respectively currently bill at hourly rates of in  
 23 excess of \$700 and \$1,000. Furthermore, it is almost certain the rates paid by the Defendant to its  
 24 firms in this case far exceed the rates requested for Class Counsel.

25 68. Prometheus Partners' hourly rates fall within the range approved as reasonable by  
 26 courts in similar class action cases.

27 69. Moreover, Prometheus Partners' hourly rates are commensurate with the market  
 28

1 rate for fees according to the Laffey Matrix, a court approved and adopted survey of attorney  
2 hourly rates. Attached hereto as **Exhibit 3** is the current version of the Laffey Matrix.

3 70. Before the final approval hearing, Class Counsel's efforts will also include,  
4 without limitation, Continued correspondence with Settlement Class Members and supervision of  
5 the work of the Claims Administrator; and Researching and drafting a reply memorandum and  
6 opposing objections, if any. Class Counsel anticipates that there will be another 50 - 75 hours  
7 before this settlement is entirely complete and an estimated 175-250 hours if this Court's  
8 judgment is appealed.

9 71. The practice of Prometheus Partners is not limited to contingent fee cases. Rather,  
10 the majority of Prometheus Partners' practice consists of representation of plaintiffs and  
11 defendants in business, financial, and commercial litigation matters which are handled on an  
12 hourly billable basis (with the client responsible for all attorneys' fees and costs). The rates which  
13 my firm charges for the time of its attorneys and professional staff are not dependent upon  
14 whether the case is billable or contingent. As a result, the above rates are necessarily market  
15 sensitive and market competitive for the level of services provided by Prometheus Partners.

16 72. In addition to professional time expended in the case, Prometheus Partners  
17 incurred \$100,846.41 in unreimbursed litigation expenses incurred during the prosecution of this  
18 lawsuit. The litigation expenses incurred by Prometheus Partners are summarized below:

Incurred Expense Item	Incurred Expense Cost
JAMS Mediation	\$7,573.00
Compass Lexicon	\$25,846.00
First Legal Relativity Platform for document management expenses to compile, search, and review Samsung's voluminous production of documents	\$49,409.80
Plaintiff Deposition Rental Car	\$267.93

1	Plaintiff Deposition Hotel	\$850.69
2	Plaintiff Deposition Flights	\$864.00
3	Deposition Hotel for 30b(6)	\$1,173.66
4	Deposition Flights for 30b(6)	\$924.28
5	Deposition Costs including Court Reporter	\$11,805.00
6	for 30b(6)	
7	Court Filing Fees	\$357.00
8	Travel Expenses for Attorneys to Appear at	\$1,775.05
9	Hearing	
10	<b>Total</b>	<b>\$100,846.41</b>
11		

12

13 73. The expenses incurred by my firm in connection with this litigation are reflected

14 on an expense by expense basis in the financial records of my firm maintained by my firm's

15 accounting system. These records are prepared from expense reports, check requests, and cash

16 receipts, and are maintained in the ordinary course of business by Prometheus Partners. The

17 expenses reflected above were reasonably and necessarily incurred in connection with this

18 litigation and were specifically reviewed and authorized by me or my partner Daniel Quintero.

19 74. The rates charged for all internal expenses incurred by my firm (e.g.,

20 photocopying) are the same irrespective of whether the case is billable or contingent. As a result,

21 the rates charged are necessarily market sensitive and market competitive since they are subject to

22 and controlled by what the market will bear.

23 75. Plaintiff Daniel Norcia contributed extensive time and effort to the litigation of

24 this class action. Mr. Norcia has litigated this case for over six years, during which he had regular

25 in person interviews, telephone conversations and email communications with Class Counsel,

26 provided Class Counsel with background information regarding his claims, assisted Class

27 Counsel in understanding his claims and in responding to discovery, searched for and produced

28 documents supporting his claims and the claims of the Class, he was deposed and testified at a



1 bench trial concerning Samsung's Motion to Compel Arbitration. Finally, Mr. Norcia attended  
2 each of the four mediation and settlement conference sessions telephonically despite recovering  
3 from serious surgery from a ski incident that shattered his leg. Over the last six years, Mr. Norcia  
4 estimates that she devoted in excess of one hundred hours assisting Class Counsel in this case.

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

7 Executed on this 24<sup>th</sup> day of August, 2020 in San Francisco, California.

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/s/ Eduardo G. Roy

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Eduardo G. Roy

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