IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

ASHLY ALEXANDER, CEDRIC BISHOP, AMY THOMAS-LAWSON, WILLIAM GREEN, BRENDA BOLEY, MIGUEL PADILLA, and VICTORIA DAWKINS, on behalf of themselves individually and similarly situated persons,

Plaintiffs,

v. Case No. 1:20-cv-02369-RDB

CARRINGTON MORTGAGE SERVICES, LLC,

Defendants.

DECLARATION OF JAMES L. KAUFFMAN

- I, James L. Kauffman, declare:
- 1. I am a partner at Bailey & Glasser LLP, and I am admitted to practice before this Court, *pro hac vice*, as counsel of record for Plaintiffs and the Settlement Class in this case. I have personal knowledge of all the facts set forth in this Declaration unless otherwise stated, and I am competent to testify to these facts if called on to do so.

BAILEY & GLASSER LLP

- 2. Bailey & Glasser LLP was founded in 1999 and has an established reputation for successfully prosecuting and defending multimillion dollar cases, including complex class actions. With seventeen offices across the country from Boston, MA to Oakland, CA, our lawyers routinely handle high-stake litigation and other lawyers call upon our firm routinely because of our unique blend of resources and trial experience.
- 3. Bailey & Glasser LLP has years of experience litigating class actions, including consumer financial protection, ERISA, and securities cases. Our attorneys have obtained millions

of dollars in restitution and debt forgiveness for consumers by successfully asserting state and federal consumer credit law claims on their behalf. A partial listing of those cases includes the following:

- *Krakauer v. Dish Network, L.L.C.*, Case No. 1:14-cv-00333 (M.D. N.C.) (\$20.5 million jury verdict in a class action trial against Dish Network, alleging Dish was liable for more than 51,000 telemarketing calls placed by a defunct DISH dealer to persons whose telephone numbers were on the National Do Not Call Registry).
- Tadepalli v. Uber Technologies, Inc., Case 3:15-cv-04348 (N.D. Cal.) (100% refunds made in class action settlement for California Uber riders charged approximately \$2.2 million in "airport fee tolls" which Uber did not pay to California airports).
- Wieland v. Bring Care Home, Inc., C.A. No. ESCV2013-01380 (Essex County, Mass.) (class action settlement for failure to pay for all hours worked).
- Thomas v. Home Credit Corp., Inc., 11-CVS-1116 (Vance County, N.C.) (class action settlement in favor of state-wide class of borrowers denied consumer rights disclosures).
- *Desai v. Charvat*, Civil Action No. 1:11-cv-1925 (N.D. Ill.) (\$15 million Telephone Consumer Protection Act class settlement).
- Roberts v. Walgreen Co., et al., Civil Action No. 12-C-337 (Circuit Court of Mercer County, West Virginia) (wage payment class settlement).
- Glover v. Bank of America, N.A., C.A. No. 13-40042-TSH (D. Mass.) (class action settlement for Massachusetts borrowers regarding late fees).
- Powers v. Santander Consumer USA, Inc., Civil Action No. 12-cv-11932-TSH (D. Mass.) (consumer class action resulting in the establishment of a \$750,000 settlement fund and \$20 million in debt relief).
- *Pirillo v. PNC Mortgage Corp.*, Civil Action No. 11-C-751 (Circuit Court of Monongalia County, West Virginia) (consumer class action settlement).
- Ross v. CitiFinancial Auto Ltd., Case No. 12-1173-TJC (M.D. Fla.) (class action settlement in favor of state-wide class of borrowers denied consumer rights disclosures).
- *Morris v. Merck Sharp & Dahme Corp.*, Civil Action No. 3:11-cv-00882 (S.D. W. Va.) (wage payment class action settlement totaling \$750,000).
- Hall v. Capital One Auto Fin., Inc., Case No. 08-1181 (N.D. Ohio) (\$37 million settlement on behalf of state-wide class of car owners sent allegedly flawed

repossession notices).

- Hardwick v. Rent-A-Center, Inc., Civil Action No. 3:06-0901 (S.D. W. Va.) (class action settlement worth more than \$5 million, alleging violations of state Consumer Goods Rental Protection Act).
- *Triplett v. NationStar Mortgage, LLC,* Civil Action No. 3:11-cv-238 (S.D. W. Va.) (loan servicing case settled for \$1.5 million).
- Shonk v. SG Sales Co., Case No. 07-C-1800 (Circuit Court of Kanawha County, West Virginia) (\$2.4 million nationwide settlement of class action brought under the Telephone Consumer Protection Act).
- Lowe v. Ford Motor Credit, Case No. 99 CVF 15806 (Cuyahoga County, Ohio) (\$22 million settlement on behalf of state-wide class of car owners subject to flawed repossession practices).
- Muhammad v. National City Mortgage, Inc., Case No. 2:07-cv-00423 (S.D. W. Va.) (\$700,000 settlement of West Virginia loan servicing class action alleging National City Bank charged late loan-payment fees in violation of state law).
- *Brailsford v. Jackson Hewitt*, Case No. C 06-00700 CW (N.D. Cal.) (class action against Jackson Hewitt, Inc. for class of California consumers who purchased the tax preparer's refund anticipation loan product, settled for \$672,000).
- Dunlap v. Wells Fargo Financial West Virginia, Inc., Case No. 04-C-101 (Lincoln County, W. Va.) (predatory lending class action for over 100 West Virginia mortgage borrowers, settled for just over \$9 million, including more than \$4.9 million write down in mortgage balances, \$4.15 million in cash, and credit repair).
- Cummins v. H & R Block, Inc., Case No. 03-C-134 (Kanawha County, W. Va.) (in a case litigated for five years in numerous venues including the West Virginia trial and appellate courts, the federal district courts in West Virginia and Illinois, and the United States Supreme Court, firm lawyers served as lead counsel in winning a \$62.5 million multistate class action settlement against H&R Block for claims relating to the application of West Virginia's credit-services organizations statute to H&R Block's refund anticipation loan product.).
- *Malacky v. Huntington Nat'l Bank*, Case No. CV 03 491420 (Cuyahoga County, Ohio) (\$15 million settlement in favor of state-wide class of car owners sent flawed repossession notices).
- Anderson v. Provident Bank, Civil Action No. 04-C-199 (Circuit Court of Mercer County, West Virginia) (predatory mortgage lending class action settled for \$8.1 million on behalf of 140 class members).
- Mey v. Herbalife Int'l, Inc., Civil Action No. 01-C-263 (Circuit Court of Ohio

- County, West Virginia) (\$7 million nationwide class action settlement alleging violations of the federal Telephone Consumer Protection Act).
- Cooley v. F.N.B. Corp., Case No. 10010 of 2003, C.A. (Lawrence County, Penn.) (\$14 million settlement on behalf of state-wide class of car owners allegedly deprived of post-repossession disclosures).
- *Dillon v. Chase*, Civil Action No. 03-C-164-W (Circuit Court of Hancock County, West Virginia) (\$3.3 million consumer class action settlement).
- *In re Household Lending Litig.*, Case No. C 02-1240 CW (N.D. Cal.) (\$172 million settlement on behalf of nationwide class of home mortgage borrowers injured by predatory mortgage lending practices).
- Curry v. Fairbanks Capital Corporation, Case No. 03-10875-DPW (D. Mass.) (\$55 million settlement on behalf of nationwide class of borrowers subject to predatory loan servicing practices).
- Deem v. Ames True Temper, Inc., Civil Action No. 6:10-cv-01339 (S.D. W. Va.) (\$405,000 class action settlement in an ERISA action).

EXPERIENCE

- 4. I am licensed and in good standing to practice law in the State of Florida, State of Arkansas, and the District of Columbia. I have been a member of the Arkansas Bar since 2003 after I obtained my J.D. from the University of Florida Levin College of Law in December 2002. For more than 18 years, I have served as class and appellate counsel in a wide variety of cases including deceptive trade practices, securities fraud, ERISA, and consumer protection. I am a member of Public Justice, the Florida Bar Association, the Arkansas Bar Association, and the American Association of Justice (AAJ).
- 5. I was appointed as lead class counsel in one of the first filed class action lawsuits in the country to challenge Pay-to-Pay fees, *Montesi v. Seterus, Inc.*, Case No. 50-2015-CA-010910-XXXX-MB (Fla. Cir. Ct. Palm Beach Cty.). *Montesi* was heavily litigated and resulted in class certification over the defendant's opposition. It resulted in a \$1.75 million class settlement for Florida borrowers, which represented 35% of the amount collected by Seterus

during the class period.

- 6. I represented consumers challenging Pay-to-Pay fees in over a dozen class action cases. My firm, Bailey Glasser LLP is among a handful of law firms litigating cases involving Pay-to-Pay Fees across the country and has been at the forefront of that litigation.
- 7. I was appointed as class counsel by the district courts in other class actions involving Pay-to-Pay Fees, which obtained settlement that is either pending or approved: *Torliatt v. Ocwen Loan Servicing, LLC et. al,* No. 3:19-cv-04303-WHO (N.D. Cal.) (pending), *Wilson v. Santander Consumer USA, Inc.*, No. 4:20-cv-00152-KGB (E.D. Ark.)(pending), *Langston v. Gateway Mortgage Group, LLC,* No. 5:20-xc-01902-VAP (pending); *Caldwell v. Freedom Mortgage Corp.*, No. 3:19-cv-02193-N (N.D. Tex.) (approved); *Elbert v. Roundpoint Mortgage Servicing, Corp.*, No. 3:20-cv-00250-MMC (N.D. Cal.) (approved); *Fernandez v. Rushmore Loan Servicing,* Case No. 8:21-cv-00621-DOC (C.D. Cal.) (approved); *Lembeck v. Arvest Central Mortgage Co.*, No. 3:20-cv-03277-VC (N.D. Cal.) (approved); *Phillips v. Caliber Home Loans*, No. 0:19-cv-02711 (D. Minn.) (approved); *Pierce v. Statebridge Co.*, No.1:20-cv-117 (M.D.N.C.) (approved); and *Silveira v. M&T Bank*, No. 2:19-cv-06958-ODW (C.D. Cal.) (approved). In every one of these settlements, the Defendant had either stopped charging Pay-to-Pay fees to its customers or agreed to stop charging these fees as part of the settlement.
- 8. I am currently representing proposed class representatives in several other class action cases in courts across the country challenging the legality of the collection of Pay-to-Pay Fees from residential borrowers. *See McFadden v. Nationstar Mortgage Co. d/b/a Mr. Cooper*, No. 1:20-cv-00166-EGS (D.D.C.); *Desimone v. Select Portfolio Servicing*, Inc., No. 1:20-cv-03837-PKC (E.D. N.Y.); *Williams v. PHH Mortgage Corp.*, No. 20-cv-04018 (S.D. Tex.); and *Williams v. Lakeview Loan Servicing, LLC et al.*, Case No 4:20cv-01900 (S.D. Tex.).

9. A firm resume for Bailey Glasser is attached as Exhibit A.

ATTORNEYS' FEES AND COSTS

- 10. Bailey & Glasser LLP ("BG") attorneys and paralegals started working on this case in 2019, when the original complaint was filed in this Court, *Thomas-Lawson v. Carrington Mortgage Services, LLC, Case No. 1:19-cv-03567-DLB (D. Md.). Thomas-Lawson* was transferred to the District Court for the Central District of California on August 13, 2020. Prior to filing the original complaint, BG worked with Tycko & Zavareei ("TZ") to investigate the facts and legal claims asserted in the action as well as another case based on the same conduct as *Thomas-Lawson* filed in Florida, *Dawkins v. Carrington Mortg. Servs. LLC*, 1:20-CV-60998-RAR (S.D. Fla.). BG also worked with both TZ and the Consumer Law Center ("CLC") in the representation of plaintiffs in a third action that is pending before this Court, *Alexander v. Carrington Mortg. Servs., LLC*, 1-20-CV-02369-RDB (D. Md.). Attorneys and paralegals from BG, TZ on and CLC are referred herein as "Class Counsel."
- 11. Class Counsel undertook its representation in all three matters (*Thomas-Lawson*, *Dawkins*, and *Alexander* on a contingent basis under an agreement with the Plaintiffs that Class Counsel would seek a percentage-based recovery. Class Counsel has not received any compensation for their work to this point.
- 12. Class Counsel worked closely together with each other on all three matters. On all cases, our firms endeavored to divide work based on which firm's attorneys had the most experience in a given area. In addition, tasks were assigned, and the labor divided so as to avoid duplication of work.
- 13. Class Counsel's efforts to date include, without limitation: pre-filing investigation; drafting and filing the complaints; drafting oppositions to Defendant's motion to

dismiss and/or stay actions; meeting-and-conferring with Defendant's counsel regarding various case management matters; drafting appellate briefs for appeals to the Fourth Circuit and Ninth Circuit; preparing for argument before both the Fourth Circuit and Ninth Circuit; monitoring the briefing and arguments in a related case against Carrington in the Eleventh Circuit; drafting a comprehensive mediation statement, participating in an all-day mediation; negotiating and drafting the Settlement Agreement along with corresponding documents, including claim forms, summary notice, and long-form notice; filing the motion for preliminary approval and supporting documents, including a proposed preliminary approval order and a proposed final judgment; supervising the work of the Claims Administrator; responding to the inquiries of class members; and preparing this motion and the motion for final approval and supporting documentation.

- 14. Settlement Discovery included extensive data relevant to the size of the class and the aggregate amount of Pay-to-Pay Fees paid to Defendant by class members during the relevant period. Prior to settlement negotiations, I spent considerable time over several weeks reviewing the nuances of the data provided with Defendant's counsel. These pre-mediation discussions occurred by phone as well as over Zoom videoconference and allowed the parties to focus their negotiations on an agreed scope and amount in controversy during the mediation.
- 15. The negotiation process in this matter was informed by the numerous settlements that my co-counsel and I reached with mortgage servicing defendants in other Pay-to-Pay Fee cases. Class Counsel and counsel for Defendant were each well informed about the settlements that were reached in the other cases mentioned above where I have acted as class counsel. At the same time, each side vigorously advanced their respective claims and defenses.
- 16. With the assistance of an experienced mediator, Jeffrey Kichaven, the parties mediated for over 14 hours on April 20 and April 21, 2022. The parties were committed to the

mediation process and their counsel continued the hard-fought negotiations well into the middle of the night, until a term sheet was signed at approximately 2:30 a.m. eastern time on April 21, 2022. The Settlement was only reached after intense litigation and protracted negotiations conducted by informed, experienced counsel on both sides who were thoroughly familiar with the factual and legal issues.

- 17. Each member of the Settlement Class who does not opt out will receive their pro rata share of the \$18,181,898.65 Settlement Fund, as well as the benefit of having free payment options that will save them money for at least three years after the settlement is finally approved. Based on the last four years that Carrington collected Pay-to-Pay fees from class members, I estimate that the injunctive relief of providing these payment options without a fee will save the Settlement Class an additional \$26,000,000.00, making the total monetary relief \$44,181,898.65 for the Settlement Class Members.
- 18. Class Counsel's work in this case led to an excellent result for the Settlement Class. In my opinion, the time expended, and expenses incurred in prosecuting this action were reasonable and necessary for the diligent litigation and fair resolution of this matter. The work Class Counsel performed and the results they achieved in this litigation reflect their skill and experience in this field and in complex class litigation.
- 19. In addition, Class Counsel's efforts will also include: continued correspondence with Settlement Class Members and supervision of the work of the Claims Administrator; preparing for and attending the hearing on the motion for final approval; attending to miscellaneous case management responsibilities, including any status reports that this Court may order; and supervising any post-approval distribution of the settlement.

- 20. Should the Court require, BG will provide its time records, which were kept contemporaneously and reviewed for duplicative or erroneous entries.
- 21. Bailey Glasser LLP incurred \$1,885.68 in unreimbursed case-related expenses.

 These expenses do not include any expenses for legal research, copying, or postage, which were costs incurred by BG but are not sought to be reimbursed. An itemized list of Bailey & Glasser LLP's expenses is as follows:

Expense	Amount
Appellate Brief Binding and	
Delivery Services	\$828.00
County Public Records –	
Delivery of Deeds of Trusts	
& Assignments of Mortgages	\$732.68
Filing Fees	\$325.00
TOTAL	\$1,885.68

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

Executed this 27th day of September 2022 in Washington D.C.

/s/ James L. Kauffman
James L. Kauffman

FIRM RESUME

Bailey & Glasser brings a trial-focused litigation approach to its wideranging and successful class action and mass torts practice. The firm has the resources, experience and expertise to go toe-to-toe with some of the wealthiest corporations in the world. We litigate class action cases involving predatory mortgage lending, illegal loan servicing, antitrust violations, breaches of warranty, employee rights, mismanaged pension funds, ERISA, and a host of other consumer and employee matters.

The firm concentrates its litigation practice in the areas of complex commercial mass torts and class action litigation. The firm currently represents among others the States of Florida, Montana, Ohio, Oklahoma, and West Virginia, individual consumers, and retirement plan investors throughout the United States. The firm has substantial experience in successfully prosecuting multi-million dollar cases, including complex class actions and mass torts.

Our lawyers are equally comfortable and adept in the role of plaintiff or defendant. We bring a trial-focused approach to litigation to vigorously protect the interests of clients. We represent government and businesses, as well as individual plaintiffs and defendants, and lawyers throughout the country call upon the firm to access our unique blend of resources and trial experience.

The firm concentrates its practice in the areas of complex commercial and class action litigation, with a particular emphasis in energy and finance. We currently represent individual and classes of consumers, and a variety of corporate entities throughout the United States. The firm has substantial experience in successfully prosecuting and defending multimillion-dollar cases, including complex class actions.

BAILEY GLASSER'S REPRESENTATIVE CASES

Loan Servicing and Lending Class Action Representation:

- Montesi v. Seterus, Inc., Case No. 50-2015-CA-010910-XXXX-MB (Fla. Cir. Ct. Palm Beach Cty.) (final approval of class settlement of Florida borrowers who paid Pay-to-Pay fees for \$1.75 million).
- In re Household Lending Litig., Case No. C 02-1240 CW (N.D. Cal.) (\$172 million settlement on behalf of nationwide class of home mortgage borrowers injured by predatory mortgage lending practices).
- Bacardi v. Select Portfolio Servicing, Inc., Case No. 1:16-cv-23381-RNS (class counsel for settlement of case involving loan servicer's improper reinstatement quotes, resulting in \$380,000 recovery for borrowers). Blake v. Seterus, Inc., Case No. 16-cv-21225-JLK (S.D. Fla. (2018 class action settlement of case involving loan servicer's improper reinstatement quotes, resulting in \$527,000 recovery for borrowers).
- Paneque v. Bank of America, N.A., Case No. 1:16-cv-21212-DPG (S.D. Fla.) (2018 class action settlement of case involving challenge to reinstatement quotes, resulting in \$625,000 recovery for borrowers).
- Shore v. JP Morgan Chase Bank, N.A., et al., Case No. 16-cv-60125-JIC (S.D. Fla.) (\$400,000 recovery for borrowers as a result of reinstatement quotes).
- Pirillo v. PNC Mortgage Corp., Civil Action No. 11-C-751 (Circuit Court of Monongalia County, West Virginia) (consumer class action settlement).
- Triplett v. NationStar Mortgage, LLC, Civil Action No. 3:11-cv-238 (S.D. W. Va.) (loan servicing case settled for \$1.5 million).
- Muhammad v. National City Mortgage, Inc., Case No. 2:07-cv-00423 (S.D. W. Va.) (\$700,000 settlement of West Virginia loan servicing class action alleging National City Bank charged late loan-payment fees in violation of state law).
- Dunlap v. Wells Fargo Financial West Virginia, Inc., Case No. 04-C-101 (Lincoln County, W. Va.) (predatory lending class action for over 100 West Virginia mortgage borrowers, settled for just over \$9 million, including more than \$4.9 million write down in mortgage balances, \$4.15 million in cash, and credit repair).
- Anderson v. Provident Bank, Civil Action No. 04-C-199 (Circuit Court of Mercer County, West Virginia) (predatory mortgage lending class action settled for \$8.1 million on behalf of 140 class members).
- Curry v. Fairbanks Capital Corporation, Case No. 03-10875-DPW (D. Mass.) (\$55 million settlement on behalf of nationwide class of borrowers subject to predatory loan servicing practices).

Other Class Action Representation:

- Jessop v. Bankers Trust Company, et al., Case No. 2:14-cv-00916 (D. Utah) (\$19.8 million settlement recovery in 2017 on behalf of employee stock ownership plan participants for ERISA claims).
- Krakauer v. Dish Network, L.L.C., Case No. 1:14-cv-00333 (M.D. N.C.) (\$20.5 million jury verdict in a class action trial against Dish Network, alleging Dish was liable for more than 51,000 telemarketing calls placed by a defunct DISH dealer to persons whose telephone numbers were on the National Do Not Call Registry).
- Cummins v. H & R Block, Inc., Case No. 03-C-134 (Kanawha County, W. Va.) (in a case litigated for five years in venues ranging from the West Virginia trial and appellate courts, to federal district courts in West Virginia and Illinois, to the United States Supreme Court, firm lawyers served as lead counsel in winning a \$62.5 million multistate class action settlement against H&R Block. The case involved first-impression claims relating to the application of West Virginia's credit-services organization statute to Block's refund anticipation loan product. Other firms across the country litigated cases against Block alleging similar claims, without success, for more than ten years. West Virginia's share of the settlement was \$32.5 million).
- Tadepalli v. Uber Technologies, Inc., Case 3:15-cv-04348 (N.D. Cal.) (100% refunds made in class action settlement for California Uber riders charged approximately \$2.2 million in "airport fee tolls" which Uber did not pay to California airports).
- Navelski v. International Paper Company, Case No. Case No. 3:14-cv-445 MCR/CJK (N.D. Fla.) (certified class on behalf of homeowners of 317 homes in a neighborhood alleged to be flooded by Defendant's dam breaking).
- Wieland v. Bring Care Home, Inc., C.A. No. ESCV2013-01380 (Essex County, Mass.) (class action settlement for failure to pay all hours worked).
- Thomas v. Home Credit Corp., Inc., 11-CVS-1116 (Vance County, N.C.) (class action settlement in favor of state-wide class of borrowers denied consumer rights disclosures).
- Desai v. Charvat, Civil Action No. 1:11-cv-1925 (N.D. Ill.) (\$15 million TCPA class settlement).
- Roberts v. Walgreen Co., et al., Civil Action No. 12-C-337 (Circuit Court of Mercer County, West Virginia) (wage payment class settlement).
- Glover v. Bank of America, N.A., C.A. No. 13-40042-TSH (D. Mass.) (class action settlement for Massachusetts borrowers regarding late fees).
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Other Class Action Representation (cont.):

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- Morris v. Merck Sharp & Dahme Corp., Civil Action No. 3:11-cv-00882 (S.D. W. Va.) (wage payment class action settlement totaling \$750,000).
- Hall v. Capital One Auto Fin., Inc., Case No. 08-1181 (N.D. Ohio) (\$37 million settlement on behalf of state-wide class of car owners sent allegedly flawed repossession notices).
- Brailsford v. Jackson Hewitt, Inc., Case No. 06-00700 (N.D. Cal.) (\$672,000 settlement on behalf of class of California consumers).
- Hardwick v. Rent-A-Center, Inc., Civil Action No. 3:06-0901 (S.D. W. Va.) (class action settlement worth more than \$5 million, alleging violations of state Consumer Goods Rental Protection Act).
- Shonk v. SG Sales Co., Case No. 07-C-1800 (Circuit Court of Kanawha County, West Virginia) (\$2.4 million nationwide settlement of class action brought under the Telephone Consumer Protection Act).
- Lowe v. Ford Motor Credit, Case No. 99 CVF 15806 (Cuyahoga County, Ohio) (\$22 million settlement on behalf of state-wide class of car owners subject to flawed repossession practices).
- Brailsford v. Jackson Hewitt, Case No. C 06-00700 CW (N.D. Cal.) (class action against Jackson Hewitt, Inc. for class of California consumers who purchased the tax preparer's refund anticipation loan product, settled for \$672,000).
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- Mey v. Herbalife Int'l, Inc., Civil Action No. 01-C-263 (Circuit Court of Ohio County, West Virginia) (\$7 million nationwide class action settlement alleging violations of the federal Telephone Consumer Protection Act).
- Cooley v. F.N.B. Corp., Case No. 10010 of 2003, C.A. (Lawrence County, Penn.) (\$14 million settlement on behalf of state-wide class of car owners allegedly deprived of post-repossession disclosures).
- Dillon v. Chase, Civil Action No. 03-C-164-W (Circuit Court of Hancock County, West Virginia) (\$3.3 million consumer class action settlement).
- Deem v. Ames True Temper, Inc., Civil Action No. 6:10-cv-01339 (S.D. W. Va.) (\$405,000 class action settlement in an ERISA action).



Partner James L. Kauffman

Washington, DC 1055 Thomas Jefferson Street NW Suite 540 Washington, DC 20007 T: 202.463.2105 F: 202.463.2103 jkauffman@baileyglasser.com

James L. Kauffman concentrates his practice on complex business litigation and class actions specifically in the areas of consumer protection, business litigation, and securities. James has represented consumers, investors, state attorneys general, municipalities, and whistleblowers in a wide variety of disputes in both court and arbitration forums across the country.

Notably, James represented shareholders in one of the largest securities litigation matters in history, *In re Initial Public Offerings Security Litigation* (21 MC 92) (SDNY), a case that involved 309 tech-bubble IPOs and 55 investment brokerage defendants and recovered \$586 million.

James regularly speaks at business tort seminars across the country and also on nationally syndicated radio and television shows. He covers topics such as financial industry regulation, consumer fraud, ERISA, and whistleblower protection.

He is also actively involved in the community and provides pro bono legal services to Laugh for Sight, a non-profit organization that raises money for eye disease research through comedy benefits in Los Angeles and New York City.

Government Service / Previous Employment

Financial Advisor, Morgan Stanley (1999)

Practice Areas

Arbitration & Dispute Resolution
Business & Finance
Class Actions
Commercial Litigation
Consumer Litigation
ERISA, Employee Benefits & Trust Litigation

Education

J.D., University of Florida Fredric G. Levin College of Law, 2002, *cum laude* B.S.B.A., University of Florida, 1998

Admissions

District of Columbia

Florida

Arkansas

US Court of Appeals for the Ninth Circuit

US Court of Appeals for the Eleventh Circuit

US District Court, Northern District of Florida

US District Court, Southern District of Florida

US District Court, Middle District of Florida

US District Court, Eastern District of Arkansas

US District Court, Western District of Arkansas

US District Court, Eastern District of Michigan

Representative Matters

- Obtained \$19.8 million recovery of employees' retirement benefits from trustee and individual officers of a closely held private company.
- Represented a borrower challenging estimated attorney's fees tacked onto his mortgage loan in *Prescott v. Seterus*, a case that involved two separate appeals to the US Court of Appeals for the Eleventh Circuit; work resulted in two significant appellate opinions that strengthened nationwide consumer debt collection law and led to industry-wide reform, and this precedent paved the way for several recoveries for borrowers from their banks or loan servicers where James served as class counsel.
- Obtained \$586 million recovery for shareholders against 309 IPO companies and 55 investment banks in one of the largest securities fraud litigations in history.
- Obtained \$20 million recovery for shareholders against semiconductor supplier company in connection with the backdating of employee stock option grants.
- Represented shareholders against certain officers and directors who participated in a massive Medicare fraud. Resulted in significant corporate reforms and removal of CEO, CFO and General Counsel.



Partner Jonathan R. Marshall

Charleston, WV 209 Capitol Street Charleston, WV 25301 T: 304.340.2295 F: 304.342.1110 jmarshall@baileyglasser.com

Jonathan R. Marshall focuses his practice on solving complex problems for individuals, other lawyers, and business owners. His approach to sophisticated legal work involves a team centered orientation where creative and experienced lawyers, subject matter experts, and technology leaders are leveraged to create practical and valuable solutions for clients.

In keeping with this philosophy, Jonathan has led federal and state mass tort and class action litigations in a dozen states. He has tried multiple mass and class actions to verdict.

Through a mixture of jury verdicts, settlements, and creative solutions, he has helped his clients avoid liability and provided hundreds of millions of dollars to his clients.

Jonathan leads the firm's Consumer Litigation Group, which focuses on numerous areas of consumer law including debt collection, predatory lending, TCPA, and wage-and-hour class actions.

Jonathan is a Director of the Center for Consumer Law and Education at West Virginia University College of Law, where he also teaches.

He is also a founder and co-chairman of the Consumer Law Division of the West Virginia Association for Justice and a frequent speaker at seminars on consumer law issues.

Awards & Accolades

2017 Member of the Year Award Recipient, West Virginia Association of Justice 2016 Consumer Advocate of the Year Award Recipient, West Virginia Association of Justice

Practice Areas

Appellate Advocacy
Arbitration & Dispute Resolution
Banking & Financial Services

Class Actions
Commercial Litigation
Consumer Litigation
Electronically Stored Information (ESI)
Energy - Oil & Gas
Labor & Employment
MDL Panels
Sexual Abuse & Harassment

Telephone Consumer Protection Act (TCPA)

Education

J.D., West Virginia University College of Law, 2007, Order of the Coif B.A., West Virginia University, 2003, *summa cum laude*, Phi Beta Kappa, Outstanding Senior

Admissions

West Virginia

Illinois

US Supreme Court

US Court of Appeals for the Fourth Circuit

US District Court, Northern District of West Virginia

US District Court, Southern District of West Virginia

US District Court, Northern District of Illinois

US District Court, District of Colorado

US District Court, Northern District of Florida

US Bankruptcy Court, Northern District of West Virginia

US Bankruptcy Court, Southern District of West Virginia

Representative Matters

- Served as class counsel in approved class settlements totaling more than \$100 million, in dozens of state and federal cases; successfully litigated cases involving a range of consumer issues including predatory lending, debt collection, loan origination, and TCPA claims.
- Exemplar recent contested cases include: Dijkstra v. Carenbauer (N.D. W. Va.) (court awarded class more than \$2.6 million after granting affirmative summary judgment in mortgage loan case alleging violations of the West Virginia Consumer Credit and Protection Act; settled on appeal).

BAILEY GLASSER **W**

- Alig v. Quicken (N.D. W. Va.) (court certified class and awarded each class member \$3,500 for defendant's practice of sending appraisers estimated home values; presently on appeal).
- Exemplar loan servicing cases settled in last two years include: Henry v. Ocwen (class action settlement for \$1.975 million in case alleging debt collection violations under West Virginia Consumer Credit and Protection Act); Perez v. Figi's (S.D. W. Va.) (same; \$1.7 million settlement); Snuffer v. Liberty University, (Circuit Court of Raleigh County, W. Va.) (same; more than \$1.947 million settlement); Cox v. BB&T Co. (S.D. W. Va.) (same; \$861,355 settlement).
- Additional high-stakes class settlements include: Dunlap v. Wells Fargo (Circuit Court of Lincoln County, West Virginia) (consumer class action resulting in \$9 million cash settlement, plus millions of dollars in debt relief, interest rate reductions and credit repair provided as part of the settlement); In re Monitronics (N.D. W. Va.) (\$28 million TCPA class action settlement).
- Led more than 45 certified wage and hour class actions.
- Negotiated confidential resolutions to more than 50 high-stakes contractual disputes among business owners over a three-month period.
- Tried a West Virginia flood case to a verdict of over \$1 million, and on appeal changed the
 measure of damages for real property law that had been West Virginia law for over three
 decades, a victory for successful West Virginia landowners.

Community and Professional Activities

Director, Center for Consumer Law and Education, West Virginia University College of Law Co-Chair and Founding Member, West Virginia Association for Justice Consumer Law Division Co-Chair Education Committee, National Association of Consumer Advocates

President of the Board of Directors, West Virginia Land Trust



Partner **Elizabeth Ryan**

Massachusetts 176 Federal Street, 5th Floor Boston, MA 02110 T: 617.439.6730 F: 617.951.3954 eryan@baileyglasser.com

Elizabeth Ryan concentrates her practice on class actions, representing consumers challenging unfair lending practices and violations of state and federal consumer protection statutes, as well as employees challenging violations of wage and hour laws. Elizabeth also represents whistleblowers in False Claims Act cases involving fraud against the government.

Throughout her career, she has focused on protecting the rights of those victimized by unfair business and employment practices.

Elizabeth also serves as the Diversity Partner for the firm.

Clerkships

Law Clerk, Hon. Nan R. Huhn, DC Superior Court, 1986

Practice Areas

Consumer Litigation
Labor & Employment
Telephone Consumer Protection Act (TCPA)

Education

J.D., The Catholic University of America Columbus School of Law, 1985 B.A., College of the Holy Cross, 1981

Admissions

Massachusetts
US Court of Appeals for the First Circuit
US Court of Appeals for the Fourth Circuit

US District Court, District of Massachusetts

Representative Matters

- Represented a class of borrowers challenging repossession notices in *Williams v. American Honda*, a case that involved appeals to the US Court of Appeals for the First Circuit and the Massachusetts Supreme Judicial Court; resulted in a reported decision confirming that lenders must give borrowers accurate information about their potential deficiency liability.
- Represented multiple classes of home health care workers who were not paid for their required travel time to go to patients' homes, resulting in settlements that returned hundreds of thousands of dollars in unpaid wages.
- Represented a class of purchasers of a generic vitamin supplement who alleged the supplement's label falsely claimed it was effective in slowing the progression of age-related macular degeneration, resulting in nationwide settlement.

Community and Professional Activities

National Association of Consumer Advocates Women's Bar Association Volunteer Lawyers Project Public Justice



Partner Patricia Mulvoy Kipnis

New Jersey 923 Haddonfield Road Suite 300 Cherry Hill, NJ 08002 T: 856.324.8219 F: 304.342.1110 pkipnis@baileyglasser.com

Trish Kipnis concentrates her practice on consumer class actions, complex litigation, and appellate advocacy. As an experienced litigator, she pursues consumer claims on behalf of state and national classes. Trish regularly handles cases stemming from a full range of deceptive, unfair, and fraudulent business practices.

Trish particularly enjoys the research, innovation, and writing components of her legal practice: from developing and alleging claims, persuading the courts and adversaries of the merits of those claims, and achieving results for her clients in the courtroom or at the negotiating table. She has served on class counsel teams for dozens of certified class actions and helped successfully resolve many of these matters.

Awards & Accolades

2017 Distinguished Advocate Award, Support Center for Child Advocates

Clerkships

Law Clerk, Hon. Anita B. Brody, US District Court for the Eastern District of Pennsylvania (2003 - 2004)

Government Service / Previous Employment

Adjunct Professor of Legal Analysis, Writing and Research, Rutgers School of Law – Camden (2011 - 2012)

Judicial Intern, Hon. Edmund V. Ludwig, US District Court for the Eastern District of Pennsylvania (2001)

Practice Areas

Appellate Advocacy
Arbitration & Dispute Resolution

Commercial Litigation
Consumer Litigation
Medical Device & Drugs
Telephone Consumer Protection Act (TCPA)

Education

J.D., University of Pennsylvania Law School, 2003, Moot Court Board Chairperson; Editor, *Journal of International Economic Law*; Legal Writing Instructor

M.S.I., University of Michigan School of Information, 1999

B.A., Swarthmore College, 1997, Honors

Admissions

New Jersey

West Virginia

Pennsylvania

US Supreme Court

US Court of Appeals for the Fourth Circuit

US District Court, District of New Jersey

US District Court, Western District of Pennsylvania

US District Court, Eastern District of Pennsylvania

US District Court, Southern District of West Virginia

US District Court, Northern District of West Virginia

Representative Matters

- Court awarded class more than \$2.6 million after granting affirmative summary judgment in mortgage loan case alleging violations of the West Virginia Consumer Credit and Protection Act (*Dijkstra v. Carenbauer* (N.D. W. Va.))
- Court certified class and awarded each class member \$3,500 for defendant's practice of sending appraisers estimated home values; presently on appeal (*Alig v. Quicken* (N.D. W. Va))
- Obtained class action settlement for \$1.975 million in case alleging debt collection violations under West Virginia Consumer Credit and Protection Act (*Henry v. Ocwen* (S.D. W. Va.))
- Obtained reversal of summary judgment before Florida's District Court of Appeal, arguing novel issue of qualified civil immunity in wrongful death case (*Martinez v. Taurus Int'l Mfg.*, 251 So.3d 328 (Fla. DCA 3d 2018))

• Obtained reversal in the US Court of Appeals for the Eleventh Circuit when the court found that that under § 1681i(a) of the Fair Credit Reporting Act, a consumer may recover actual damages even if the defendant credit reporting agency did not publish the consumer's false credit information to a third party (*Collins v. Experian*)

Community and Professional Activities

Lecturer in Law, University of Pennsylvania Law School Volunteer on behalf of abused and neglected children referred to the Support Center for Child Advocates in Philadelphia



Of Counsel Victor S. Woods

Charleston, WV 209 Capitol Street Charleston, WV 25301 T: 304.340.7876 F: 304.342.1110 vwoods@baileyglasser.com

Victor Woods maintains a diverse practice concentrating in the areas of catastrophic personal injury, products liability, insurance bad faith, consumer protection, and class action litigation.

A native of Charleston, Vic worked as an Assistant Attorney General for the State of West Virginia, where among other things he served as co-lead counsel in West Virginia's landmark tobacco litigation.

After serving as a law clerk to the Honorable Warren R. McGraw, Justice of the Supreme Court of Appeals of West Virginia, Vic has fought hard over the past two decades representing the rights of individuals who have been injured through the fault of others and those who have suffered economic harm as a result of irresponsible corporate conduct.

Clerkships

Law Clerk, Hon. Warren R. McGraw, Justice, Supreme Court of Appeals of West Virginia (1999 - 2002)

Government Service / Previous Employment

Assistant Attorney General for the State of West Virginia (1995 - 1999)

Practice Areas

Appellate Advocacy
Catastrophic Personal Injury
Consumer Litigation
MDL Panels
Product Liability

Education

J.D., West Virginia University College of Law, 1995, Order of the Coif

B.A., University of Chicago, 1985

Admissions

West Virginia
US Court of Appeals for the Fourth Circuit
US District Court, Northern District of West Virginia
US District Court, Southern District of West Virginia

Representative Matters

- Successfully represented individuals who were severely injured as a result of a carbon monoxide leak at a hotel.
- Served as class co-counsel in *Nationwide Mutual Insurance Company v. O'Dell*, a class action lawsuit against Nationwide Mutual Insurance Company, which resulted in a \$75 million settlement for Nationwide's West Virginia policyholders.
- Successfully represented families of miners lost in the tragic Sago Mine Disaster.
- Obtained a successful jury verdict after a six-week mass-litigation trial for hundreds of Mingo County, West Virginia residents whose groundwater supplies were destroyed as a result of underground coal mining.
- Served as co-lead counsel in West Virginia's tobacco litigation, which resulted in an estimated \$1.8 billion settlement that contributes tens of millions of dollars to the state's budget every year.

Community and Professional Activities

American Association for Justice
West Virginia Association for Justice
Assistant Scout Master and Troop Executive Committee Secretary, Boy Scouts of America