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Ereikat and the Proposed Class*

8  
9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA

11 YOUNUS BAYAT and MOHAMMED  
12 EREIKAT, on behalf of themselves and all  
13 others similarly situated,

14 Plaintiffs,

15 v.

16 BANK OF THE WEST,

17 Defendant.  
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CASE NO. 13-CV-2376 (EMC)

**DECLARATION OF MATTHEW R.  
WILSON IN SUPPORT OF PLAINTIFFS'  
MOTION FOR ATTORNEYS' FEES AND  
FINAL APPROVAL OF CLASS ACTION  
SETTLEMENT**

1 I, MATTHEW R. WILSON, declare as follows:

2 I am a principal attorney with the AV-rated law firm Meyer Wilson Co., LPA (“Meyer  
3 Wilson”), counsel of record for Plaintiffs. I am a member in good standing of the bars of the  
4 States of California and Ohio. I respectfully submit this declaration in support of Plaintiffs’  
5 Motion for Attorneys’ Fees and Costs and Service Awards to the Named Plaintiffs, and in support  
6 of Final Approval of the Settlement. Except as otherwise noted, I have personal knowledge of the  
7 facts set forth in this declaration, and could testify competently to them if called upon to do so.

8 **Background and Experience**

9 1. Meyer Wilson is a plaintiffs’ law firm with its primary office in Columbus, Ohio.  
10 With co-counsel, Meyer Wilson handles cases across the county. In addition to its practice on  
11 behalf of individual and institutional investors in arbitrations before the Financial Industry  
12 Regulatory Authority (“FINRA”), Meyer Wilson has a robust complex litigation and class action  
13 practice involving consumer, employment, financial, and securities matters. Attached hereto as  
14 **Exhibit A** is a true and correct copy of Meyer Wilson’s current firm resume, showing a  
15 substantial portion of the firm’s experience in complex and class action litigation.

16 2. I graduated from Denison University, *magna cum laude*, in Philosophy in 1997,  
17 before graduating from the University of Virginia School of Law in 2000. I came to Meyer  
18 Wilson (then called Meyer & Associates Co., LPA) in 2006 as an associate and was promoted to  
19 named principal of the firm in 2012. Prior to coming to Meyer Wilson, I worked as an attorney at  
20 Jones Day in its Columbus office, where I defended class actions and litigated other complex civil  
21 cases. I have been the chair of the Class Action Committee of the Central Ohio Association for  
22 Justice for the past eight years. I was recognized this year and for the last several years as an  
23 Ohio Super Lawyer Rising Star. I am also a member of the Class Action Preservation Project  
24 with Public Justice. In addition to the California and Ohio state bars, I am also admitted to the  
25 Ninth and Sixth Circuit Courts of Appeals; to the Central, Eastern, Northern, and Southern  
26 Districts of California; the Northern and Southern Districts of Ohio; the Central and Northern  
27 Districts of Illinois; and the Eastern and Western Districts of Wisconsin. As set forth below, I  
28 have significant experience in litigating consumer class actions.

1           3.       I and others at the Meyer Wilson firm have been in the vanguard of the litigation  
2 of class action lawsuits under the Telephone Consumer Protection Act. Cases in which I have  
3 played a lead or active role include several large TCPA class settlements, as well as a number of  
4 other still-pending cases that involve some of the largest banking and financial institutions in the  
5 world:

- 6           a.       *Arthur, et al. v. Sallie Mae, Inc.*, No. C10-0198 JLR (W.D. Wash.)  
7                   (nationwide settlement achieving the then-largest monetary settlement in  
8                   the history of the TCPA: a \$24.15 million common fund; final approval  
9                   granted in 2012);
- 10          b.       *Steinfeld v. Discover Financial Services, et al.*, Case No. 3:12-cv-01118-  
11                   JSW (N.D. Cal.) (nationwide settlement of \$8.7 million common fund;  
12                   final approval granted in 2014);
- 13          c.       *Wannemacher v. Carrington Mortgage Services LLC*, Case No. 8:12-cv-  
14                   02016-FMO-AN (C.D. Cal.) (nationwide settlement of \$1.03 million  
15                   common fund; final approval granted in December 2014);
- 16          d.       *Rose v. Bank of America*, Case No. 5:11-cv-02390 (N.D. Cal.) (nationwide  
17                   settlement of \$32 million common fund; final approval granted in  
18                   September 2014, motion to reconsider fee award pending);
- 19          e.       *In Re: Capital One Telephone Consumer Protection Act Litigation*, MDL  
20                   No. 2416 (N.D. Ill.) (nationwide settlement of more than \$75.5 million  
21                   which, if approved, would be the largest TCPA settlement in history;  
22                   preliminary approval granted July 2014, final approval pending);
- 23          f.       *Mills v. HSBC Bank Nevada, N.A.*, Case No. 3:12-cv-04010-SI (N.D. Cal.)  
24                   (nationwide settlement of over \$39.9 million; preliminary approval granted  
25                   July 2014, final approval pending);
- 26          g.       *Brown v. Directv LLC, et al.*, Case No. 2:13-cv-01170-DMG-E (C.D. Cal.);
- 27          h.       *Ossola v. American Express Company*, Case No. 1:13-cv-08436 (N.D. Ill.);
- 28

- 1 i. *Balschmiter v. TD Auto Finance, LLC*, Case No. 2:13-cv-01186 (E.D.  
2 Wisc.);
- 3 j. *Ineman v. Kohl's Corp.*, Case No. 3:14-cv-00398 (W.D. Wisc.);
- 4 k. *Smith v. State Farm Mutual Auto. Ins. Co.*, Case No. 13-cv-02018 (N.D.  
5 Ill.).

6 4. Meyer Wilson's experience in these cases, and my experience in particular, has  
7 provided me with expertise in the legal, factual, management, settlement, notice, and  
8 administration issues that characterize these types of class actions.

9 5. Meyer Wilson and I also have significant experience in the litigation, trial and  
10 settlement of class actions involving complex economic injury and product defects, false  
11 advertising, and breaches of medical data privacy. Cases in which Meyer Wilson has served as  
12 Class Counsel in such actions and in which I played a lead or active role include:

- 13 a. *Yarger, et al. v. ING Bank FSB*, Case No. 1:11-cv-00154-LPS (D. Del.)  
14 (Co-Lead Class Counsel in nationwide case alleging misrepresentations  
15 related to marketing of mortgage note modifications; nationwide settlement  
16 of over \$20 million approved October 2014.)
- 17 b. *Struck, et al. v. PNC Bank, N.A.*, Case No.2:11-cv-982 (S.D. Ohio) (Co-  
18 Lead Class Counsel in class and collective action involving alleged  
19 misclassification of mortgage loan officers; nationwide settlement of \$7  
20 million approved May 2014.);
- 21 c. *Lazebnik v. Apple, Inc.*, Case No. 5:13-cv-04145-EJD (N.D. Cal.) (Co-  
22 Lead Class Counsel in nationwide class action alleging fraudulent  
23 marketing of a "season pass" of the television show *Breaking Bad* on  
24 Apple's iTunes service. In response to the lawsuit, Apple provided a full  
25 credit to the entire proposed class; settlement reached in October 2014.);
- 26 d. *Smith v. Regents of the University of California*, Case No. RG08-410004  
27 (Alameda County, California, Superior Court) (Co-Lead Counsel in  
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- 1 California statewide action alleging breaches of medical data privacy. The  
2 class was certified on July 9, 2009, and the case settled in late 2011);
- 3 e. *Mack v. hh gregg, Inc., et al.*, Case No. 1:08-cv-664 (S.D. Indiana) (Co-  
4 Lead Counsel in putative class action involving alleged incorrect  
5 installation of dryers. Nationwide class settlement was granted final court  
6 approval on March 18, 2011);
- 7 f. *Kaiser-Flores v. Lowe's Home Centers, Inc.*, Case No. 5:08-CV-00045  
8 (W.D. North Carolina) (Co-Lead Counsel in putative class action involving  
9 alleged incorrect installation of dryers. Nationwide class settlement,  
10 including cash relief for class members, was granted final court approval  
11 on December 15, 2010);
- 12 g. *Frankle v. Best Buy Stores, L.P.*, Case No. 08-5501 (D. Minnesota) (Co-  
13 Lead Counsel in putative class action involving alleged incorrect  
14 installation of dryers. Nationwide class settlement was granted final court  
15 approval on November 9, 2010);
- 16 h. *Sanbrook v. Office Depot, Inc.* Case No. 07CV096374 (N.D. Cal.) (Co-  
17 Lead Class Counsel in California statewide class action involving  
18 misleading service plan terms and other related issues. After the Court  
19 certified a litigation class, the case settled for cash relief for class members,  
20 and was granted final approval by the Court on November 23, 2010);
- 21 i. *Stout v. Jeld Wen, Inc.* Case No. 1:08-CV-652 (N.D. Ohio) (Lead Class  
22 Counsel in putative nationwide class action alleging defective windows.  
23 The court granted final approval to the nationwide settlement on August 8,  
24 2010);
- 25 j. *Fulford v. Logitech, Inc.*, Case No. 08-cv-02041 (N.D. Cal.) (Co-Lead  
26 Class Counsel in class action alleging deceptive advertising of a consumer  
27 product. The nationwide class action settlement was granted final Court  
28 approval on March 5, 2010.);

- 1 k. *Schweinfurth, et al. v. Motorola, Inc.* Case No. 1:05-CV-0024 (N.D. Ohio)  
2 (Co-Lead Class Counsel in nationwide class action alleging defective  
3 cellular phones, resulting in nationwide settlement with cash relief for class  
4 members, approved by the court on January 25, 2010);
- 5 l. *Steele v. Pergo, Inc.* Case No. CV07-1493 (D. Oregon) (Lead Class  
6 Counsel in class action alleging defective laminate flooring. The  
7 nationwide settlement was granted final court approval in July, 2009.);
- 8 m. *Jenkins v. Hyundai Motor Finance Co.*, Case No. 2:04-cv-00720 (S.D.  
9 Ohio) (Appointed Co-Lead Class Counsel in a class action alleging  
10 defective notices in connection with the repossession and subsequent  
11 disposition of vehicles. The case settled after the court certified a litigation  
12 class, and final approval was granted by the court in July, 2009.).

13 **Qualifications of Other Meyer Wilson Attorneys and Staff**

14 6. Other Meyer Wilson attorneys who have worked on this case include the  
15 following:

- 16 a. Michael J. Boyle, Jr. is an associate attorney at Meyer Wilson. Mr. Boyle  
17 graduated *cum laude* from the University of Pennsylvania School of Law in  
18 2008. Mr. Boyle clerked for the Honorable R. Guy Cole, Jr., of the United  
19 States Court of Appeals for the Sixth Circuit and worked for the  
20 international law firm Covington & Burling, LLP, prior to coming to work  
21 for Meyer Wilson in early 2013. Since coming to the firm, Mr. Boyle has  
22 worked primarily with me on our firm's TCPA class action cases. In 2014,  
23 Mr. Boyle was recognized as an Ohio Super Lawyer Rising Star. Mr.  
24 Boyle is admitted to and in good standing in the bars of California and  
25 Ohio, as well as the Ninth and Sixth Circuit Courts of Appeals, the  
26 Northern, Eastern, Central, and Southern Districts of California, the  
27 Southern District of Ohio, the Central District of Illinois, and the Eastern  
28 District of Wisconsin.

- 1           b.     Bridget Wasson was an associate attorney at Meyer Wilson who worked on  
2                     this case before she departed the firm in January, 2013. Ms. Wasson  
3                     graduated from Capital University Law School in 2008. She had worked  
4                     with me on our class action cases, including several TCPA class actions,  
5                     exclusively during her approximately three-year tenure at Meyer Wilson.
- 6           c.     Nathan Forb was a law clerk at Meyer Wilson. Mr. Forb graduated from  
7                     Capital Law School in 2014.

8     **III. Overview of Meyer Wilson's Efforts in this Action**

9           **Contingent Nature of the Action**

10          7.     Work on this matter required Meyer Wilson to spend time that could have been  
11                 spent on other matters. At various times during the litigation of this class action, this lawsuit has  
12                 consumed my time, along with the time of attorney Michael Boyle and law clerk Nathan Forb.

13          8.     Nearly all of the work that Meyer Wilson undertakes is on a contingency fee basis.  
14                 As such, Meyer Wilson shouldered the risk of expending costs and time in litigating this action  
15                 without any monetary gain in the event of an adverse judgment. If not devoted to litigating this  
16                 action, from which any compensation to Meyer Wilson is wholly contingent on a successful  
17                 outcome, the time that Meyer Wilson's attorneys and staff spent working on this case could and  
18                 would have been spent pursuing other potentially fee-generating matters.

19           **Meyer Wilson's Lodestar**

20          9.     Meyer Wilson has maintained contemporaneous time records since the  
21                 commencement of its initial investigation of this action. Through February 4, 2015, Meyer  
22                 Wilson has worked a total of 228.2 hours in this action, for a total lodestar of \$101,237.50.

23          10.    I did not include any time that Meyer Wilson attorneys spent working on  
24                 Plaintiffs' Motion for Award of Attorneys' Fees and Costs, or on this supporting declaration and  
25                 exhibits, within the lodestar reported above.

26          11.    Meyer Wilson's lodestar will grow as we continue to finalize the settlement  
27                 process and close the litigation. Specifically, we will spend time ensuring that the settlement is  
28

1 administered properly, address consumer inquiries, and assist with briefing on, and may attend  
2 the hearing for, final approval of the settlement.

3 **Meyer Wilson's Costs**

4 12. Meyer Wilson maintains books and records regarding costs expended on each case  
5 in the ordinary course of business, which books and records are prepared from expense vouchers  
6 and check and credit card records. I have reviewed the costs expended in this matter.

7 13. Meyer Wilson has incurred \$8,178.53 in expenses, which consists of contributions  
8 to the fees associated with a full-day mediation; travel costs associated with two trips I made to  
9 San Francisco (one in-person settlement discussion with defense counsel and one mediation  
10 session); and other assorted hard costs such as PACER fees and postage.

11 **Meyer Wilson Billing Rates**

12 14. All attorneys and staff at Meyer Wilson are instructed to maintain  
13 contemporaneous time records reflecting the time spent on this and other matters. Firm policy  
14 requires all staff to enter their time into an electronic timekeeping system on a daily basis.

15 15. The following table lists the Meyer Wilson attorneys and professional personnel  
16 and their current hourly rates. The hourly rate shown for any attorney or staff member who is no  
17 longer employed with Meyer Wilson reflects the last rate that applied at the time of their  
18 employment in that position. The hourly rates listed herein are modest, given national class  
19 counsel's typical rates in cases of this size and complexity:

Name and Position	Rate
Matthew R. Wilson Principal Attorney University of Virginia School of Law, 2000	\$475
Michael J. Boyle, Jr. Associate Attorney University of Pennsylvania School of Law, 2008	\$325
Bridget Wasson Former Associate Attorney Capital University School of Law, 2008	\$325
Nathan Forb Former Law Clerk Capital Law School, 2014	\$200



1           16. Meyer Wilson sets its rates for attorneys and staff members based on a variety of  
2 factors, including, among others: the experience, skill and sophistication required for the types of  
3 legal services typically performed; the rates customarily charged in similar matters; and the  
4 experience, reputation and ability of the attorneys and staff members. Meyer Wilson's rates have  
5 been specifically approved by federal courts throughout the country on multiple occasions. *See,*  
6 *e.g., Yarger, et al. v. ING Bank FSB*, Case No. 1:11-cv-00154-LPS (October 7, 2014, D. Del.)  
7 (approving class counsel's rates as a "reasonable reward"); *Steinfeld v. Discover Financial*  
8 *Services, et al.*, 3:12-cv-01118-JSW (N.D. Cal.) (March 31, 2014, N.D. Cal.) (White, J.)  
9 (approving 3.5 lodestar multiplier cross-check in common fund settlement and finding that  
10 "[c]lass counsel have submitted declarations that show the hourly rates that they have requested  
11 are reasonable ..."); *Fulford v. Logitech, Inc.*, Case No. 08-cv-02041 (N.D. Cal.) ("The Court  
12 further finds that Plaintiff's Counsels' hourly rates are reasonable for their skill and the work they  
13 performed.").

#### 14           **Overview of Work Performed**

15           17. *Initial Case Investigation.* Initial case investigation included the following:  
16 Conducting factual and legal research into the merits of the particular TCPA claims here;  
17 conducting research on the Defendant including whether Defendant had been investigated for any  
18 prior TCPA violations; discussing joint prosecution of the action; and drafting, revising, and  
19 filing the Complaint.

20           18. *Discovery.* Meyer Wilson reviewed documents and call data produced by Bank of  
21 the West; drafting confirmatory interrogatories; and drafting discovery meet and confer letters.

22           19. *Settlement Negotiations and Mediations.* Representative counsel participated in  
23 mediation before the Honorable Edward Infante (Ret.) of JAMS, on December 18, 2013, and in  
24 additional telephone mediation sessions as well. In connection with these settlement discussions  
25 and mediation, Meyer Wilson attorneys spent time doing the following tasks: (a) discussing  
26 settlement and mediation with Bank of the West's counsel; (b) discussing the Plaintiffs'  
27 mediation strategy with co-counsel; (d) assisting with the drafting of mediation briefs; (e)  
28 traveling to and attending the full-day mediation in San Francisco; (f) reviewing Bank of the

1 West's discovery and information produced in the context of settlement negotiations; and (g)  
2 conducting settlement-related research such as analyzing other TCPA class action settlements.  
3 The requested fee award was negotiated only after the parties reached agreed on all of the other  
4 Settlement terms.

5 20. *Drafting the Settlement and the Motion for Preliminary Approval Papers.* Meyer  
6 Wilson attorneys spent time negotiating the final settlement terms and negotiating, drafting, and  
7 revising the Memorandum of Understanding and the Settlement Agreement. Meyer Wilson  
8 attorneys assisted in drafting the Motion for Preliminary Approval, the supplemental briefs in  
9 support of preliminary approval, the declarations in support of preliminary approval, the proposed  
10 orders regarding preliminary approval, and all of the forms of class notice. Meyer Wilson  
11 attorneys were also actively involved in the dialogue the parties had with representatives of  
12 several state Attorneys General regarding the terms of the settlement, as well as in substantive  
13 amendments to the settlement agreement in response to their concerns.

14 21. *Overseeing Settlement Administration.* Meyer Wilson assisted in obtaining and  
15 evaluating bids from settlement administrators and, along with co-counsel, worked with the  
16 Settlement Administrator on various notice issues including, but not limited to, creating an  
17 adequate publication notice plan. Meyer Wilson also reviewed draft claim forms and notices that  
18 the Settlement Administrator prepared. Meyer Wilson attorneys also communicated with  
19 numerous class members who had questions about the settlement, and we will continue to do so.

20 **Careful Assignment of Work**

21 22. Although I was the main attorney at Meyer Wilson to work on this case, I assigned  
22 certain tasks to Mr. Boyle, Ms. Wasson, and Mr. Forb as were appropriate according to their  
23 complexity. The work I delegated was work that required sufficient knowledge of legal concepts  
24 that I would have had to perform, absent such assistance. I made every effort to litigate this  
25 efficiently.

26 23. The following chart details the time each of these attorneys and staff members  
27 worked on this case and their contribution to Meyer Wilson's total lodestar:  
28

Attorney	Total Hours	Billing Rate	Lodestar
Matthew Wilson	185.90	\$475.00	\$88,302.50
Michael Boyle	24.90	\$325.00	\$8,092.50
Bridget Wasson	10.90	\$325.00	\$3,542.50
Nathan Folb	6.50	\$200.00	\$1,300.00
	228.20		\$101,237.50

**Careful Review of Meyer Wilson's Lodestar and Deletion of Duplicative Work**

24. I have personally reviewed the time reported for all attorneys and other personnel listed in the schedules set forth above. I reduced or eliminated time reported where necessary to ensure that there was little or no unnecessary duplication of efforts. For example, I deleted time spent on routine, housekeeping matters. I can confidently assert that the lodestar and hours reported in this declaration are reasonable, particularly in light of our efforts and accomplishments in this litigation.

**Efforts to Avoid Duplication Among Co-Counsel**

25. I have worked frequently with the Lief Cabraser firm on TCPA class actions. That familiarity helped to allow us to divide tasks, ensure efficient case management, and prevent duplication of efforts. By assigning specific tasks among firms, we were able to avoid replicating work.

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct, and that this declaration was executed at Columbus, Ohio on February 4, 2015.

/s/Matthew R. Wilson  
Matthew R. Wilson