

EXHIBIT B:
Declaration of Brittany Clark, Esq.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Michael Shutler,

Plaintiff,

v.

CASE NO. 2:23-cv-14337-KMM-RMM

Citizens Disability LLC,

Defendant.

_____ /

DECLARATION OF BRITTANY CLARK, ESQ.

I, Brittany Clark, declare as follows:

1. I am over the age of 18 and make this declaration on my personal knowledge. I am an attorney licensed to practice law in South Carolina and the District of Columbia, the U.S. District Court for the District of South Carolina, the U.S. Court of Appeals for the Fourth Circuit, the U.S. Court of Appeals for the Eleventh Circuit, and the U.S. Court of Appeals for the Sixth Circuit.

2. I am a class action attorney with the law firm The HQ Firm, P.C. f/k/a LawHQ, P.C. (“LawHQ”). LawHQ was appointed as Class Counsel in the above-captioned case in the Court’s Order preliminarily approving the Settlement. [See ECF No. 126]. I am an attorney of record in the above-captioned case, admitted *pro hac vice*, for Plaintiff Michael Shutler and have served as Class Counsel.

3. This Declaration is based upon my personal knowledge and made in support of the Parties’ Joint Motion for Final Approval of Class Action Settlement and Joint Motion for Attorneys’ Fees and Costs. If called as a witness to this matter, I could truthfully and competently

testify as to all matters stated herein. I have acted as lead attorney in this matter and am familiar with the facts and law involved.

I. THE SETTLEMENT IS AN EXCEPTIONAL RESULT AND SATISFIES THE CRITERIA FOR FINAL APPROVAL.

4. The Settlement reached in this action provides for a common Settlement Fund of \$320,000.00, with no *cy pres* and no reversionary provision. Settlement Class Members will likely receive between \$400-500 per claim, which is above most TCPA recoveries and meets or nearly meets the maximum statutory damages available for a violation.

5. In addition to these monetary benefits, this litigation and the Settlement have resulted in substantial non-monetary benefits, namely a review of Defendant's policies and procedures and a provision ensuring compliance with the prerecorded call provision of the TCPA. [See ECF No. 121-1 ¶¶ 6, 13].

6. When measured against all relevant standards for approval of class action settlements, Class Counsel believes that the results achieved in this case are excellent and the Settlement is in the best interests of the Settlement Class.

7. The Settlement was reached in principle on or around November 14, 2024 and was the result of numerous discussions, meetings, and arm's length negotiations with counsel for Citizens after nearly a year of rigorous litigation and motion practice.

8. Counsel for the Parties continued negotiating and finalizing the terms of the Settlement Agreement. The Settlement Agreement is the result of arm's length negotiation and not the product of any collusion.

9. The Settlement was reached only after Class Counsel conducted an extensive factual investigation into Defendant's alleged misconduct and after thorough researching the law pertinent to the Class's claims and Defendant's defenses. In addition to Class Counsel's thorough

review and investigative efforts, Class Counsel performed additional tasks in prosecuting these claims including, but not limited to:

10. The Settlement negotiations were further informed through the mediation process. This, coupled with the Parties' exchange of information, the approaching trial and class notice process following class certification, and prior litigation and experience, allowed Class Counsel to adequately assess the strengths and weaknesses of Plaintiff's case and balance the settlement against the risks of further litigation.

11. Defendant was represented by the law firm of Troutman Amin, LLP. During the course of the litigation, Defendant's counsel vigorously defended its clients' position and demonstrated its commitment to litigate this action to its conclusion. Against such a formidable opposition, Class Counsel achieved an outstanding result for the Settlement Class, further evidencing the quality of Class Counsel's work.

12. The Settlement enjoys the overwhelming support of the Settlement Class. To date, no Settlement Class Member has objected to the Settlement. No Settlement Class Member has opted out of the Settlement. *See* Epiq Decl. ¶ 22.

13. Further, the notice program approved by the Court in the preliminary approval Order has now been fully implemented. *Id.* ¶ 10. According to the notice administrator, Epiq, the notice reached an estimated 94.4% of Settlement Class Members. *Id.* ¶¶ 6, 9. This is on the very high end of the range established by the Federal Judicial Center. *See* Judge's Class Action and Notice and Claims Process Checklist and Plain Language Guide (2010), *available at* <https://www.fjc.gov/sites/default/files/2012/NotCheck.pdf> (stating a notice reach of between 70%-95% is reasonable). Thus, the notice program satisfies the requirements of Federal Rule of Civil

Procedure 23(c) and Due Process, and constitutes the best notice practicable under the circumstances.

14. Based on the foregoing, Class Counsel believe that the Settlement represents an excellent result for the Class Members and is appropriate for final approval.

II. CLASS COUNSEL'S FEE REQUEST IS REASONABLE AND SHOULD BE APPROVED.

15. In accord with the terms of the Settlement Agreement, Class Counsel has sought an award of attorneys' fees of 30% of the common Settlement Fund, or \$96,000. Class Counsel also seeks reimbursement for \$5,000 in out-of-pocket unreimbursed costs.

16. Class Counsel's fee request is supported by the substantial relief it obtained for the Settlement Class. Specifically, the Settlement provides for an all cash fund of \$320,000 with no reversion to Defendant and no *cy pres*. Additionally, the Settlement obtains significant non-monetary benefits, namely review of Defendant's policies and procedures and a provision expressly requiring that prior express consent be provided before it makes prerecorded calls to ensure compliance with the TCPA. [*See* ECF 121-1].

17. The Settlement provides eligible Settlement Class Members with a *pro rata* distribution of the common Settlement Fund, estimated to yield individual payments of approximately \$450-500 (on the conservative end). Those payments would be at or near the statutory maximum damages available for such a TCPA violation.

18. Class Counsel's fee request is further supported by the time and resources it expended in prosecuting this case, the complexity of the case and novel issues presented, the skill and expertise needed to advance Plaintiff's claims, and the risk undertaken in prosecuting this case.

19. To date, Class Counsel has spent more than 1,280 hours on this case.

20. Class Counsel anticipates additional hours will certainly be required for this matter, particularly in finalizing the Settlement, attending and preparation for the final hearing, and interacting with the notice administrator to facilitate payments.

21. To date, Class Counsel has incurred more than \$17,000 in unreimbursed out-of-pocket costs over the course of this litigation.

22. These costs arose from mediation fees, depositions and court reporter fees, filing and *pro hac vice* fees, legal research fees, postage/overnight delivery, telephone conferencing, travel, and other customary litigation expenses.

23. All of the costs expended by Class Counsel were reasonably incurred in furtherance of the investigation, prosecution, and Settlement of the above-captioned case. These costs are of the type regularly reimbursed by courts. *See Briggins v. Elwood TRI, Inc.*, 3 F. Supp. 3d 1277, 1297 (N.D. Ala. 2014) (finding fees including “filing fees, witness fees, court reporter fees, and other miscellaneous expenses” were “reasonable and necessary, and should be approved.”).

24. My background and the background of my firm and other Class Counsel is set forth as an exhibit to Plaintiff’s Class Certification Motion. [ECF No. 59-10]. As a brief overview, I received a Bachelor of Science degree from the University of Florida and a Juris Doctorate degree from the University of South Carolina. I served as law clerk to the Honorable Dennis W. Shedd of the U.S. Court of Appeals for the Fourth Circuit for two years and to the Honorable Terry L. Wooten, former Chief Judge of the U.S. District Court for the District of South Carolina. I have been practicing for more than twelve years and has served as counsel or Class Counsel in a variety of other complex consumer litigation cases, including numerous TCPA cases such as *Elliot v. Humana*, No. 3:22-cv-00329 (W.D. Ky.) (certifying class and appointing class counsel) and *Champion v. Sendwell*, No. 1:24-cv-01143 (D.D.C.) (same).

25. LawHQ's duties in this litigation have included factual and legal investigation into Plaintiff's and the Class's claims, overseeing case development and assignment of work and tasks among Class Counsel, formulating, researching, and implementing effective litigation strategy, drafting, reviewing, and revising case documents (including but not limited to Plaintiff's complaint and opposition to multiple motions of Defendant, discovery requests and responses, stipulations, and Court filings), damages analyses, preparing for and engaging in in-person depositions, settlement negotiations, and mediation, including drafting, reviewing, and editing briefs, negotiating the settlement and settlement papers, drafting, reviewing, and revising Class Counsel's motions in support of preliminary and final approval of the Settlement and for an award of attorneys' fees and costs, motion and reply in support of class certification, drafting and revising pre-trial filings and stipulations and trial and notice schedules, and working with the notice administrator to ensure a successful and smooth implementation of the notice program. In performing these and other tasks, LawHQ has expended more than 1,280 hours.

26. The more than 1,280 hours expended by Class Counsel throughout the course of this litigation was necessary to sufficiently address the needs of this case, to ensure that the claims of Plaintiff and the Settlement Class Members were prosecuted, to move the litigation forward in an expeditious manner, and to achieve the favorable result that was ultimately achieved. Moreover, to avoid duplication of efforts, tasks were assigned to a lean team of attorneys and every reasonable effort was made to avoid any repetition of work. As such, the hours spent by Class Counsel are reasonable.

27. Class Counsel's requested percentage of 30% of the common Settlement Fund is in line with Eleventh Circuit and Florida District Court precedent. *See, e.g., In re Home Depot Inc.*, 931 F.3d 1065, 1076 (11th Cir. 2019).

28. Class Counsel's request for an award of litigation expenses of \$5,000 is also reasonable. These costs represent customary litigation expenses and were reasonably incurred in furtherance of the investigation, prosecution, and settlement of the above-captioned case. Class Counsel has expended more than \$17,000 in such expenses but only seeks reimbursement for \$5,000. As such, the expenses sought are reasonable and should be approved. *See Dowdell v. City of Apopka*, 698 F.2d 1181, 1191-92 (11th Cir. 1983).

Pursuant to 28 U.S.C. § 1746, I, Brittany Clark, do solemnly declare and affirm under penalties of perjury that the foregoing Declaration is true and correct to the best of my knowledge, information, and belief.

Executed on May 20, 2025

Brittany Nicole Clark
Brittany Clark