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Honorable Thomas S. Zilly

U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

SARAH CONNOLLY, individually and on  
behalf of all others similarly situated,  
  
Plaintiff,  
  
v.  
  
UMPQUA BANK,  
  
Defendant.

NO. 2:15-CV-00517-TSZ

**DECLARATION OF ELIZABETH  
RYAN IN SUPPORT OF  
PLAINTIFF'S MOTION FOR FINAL  
APPROVAL OF CLASS ACTION  
SETTLEMENT AND FOR  
CERTIFICATION OF SETTLEMENT  
CLASS**

**Note on Motion Calendar:  
February 15, 2019**

1  
2 I, Elizabeth Ryan, declare as follows:

3 1. I am one of the counsel for the Plaintiff in this case. I submit this declaration in  
4 support of Plaintiff's Motion for Final Approval of Revised Class Action Settlement and for  
5 Certification of Settlement Class.

6 2. The facts contained in this declaration are within my personal knowledge, and I  
7 could testify to those facts if called to do so under oath.

8 3. I have been admitted to practice before the Massachusetts Supreme Judicial  
9 Court since 1987, the District Court for the District of Massachusetts since 1996, and the First  
10 Circuit Court of Appeals since 1997.

11 4. I am a graduate of Catholic University Law School (J.D., 1985) and the College  
12 of the Holy Cross (B.A., 1981).

13 5. I have been in private practice since 1995, and virtually all of my practice has  
14 involved litigation on behalf of consumers, representing individuals and classes injured by  
15 predatory lending, abusive debt collection and other unfair and deceptive business practices.

16 6. I am a member of the National Association of Consumer Advocates and a  
17 former Consumer Law Fellow, National Consumer Law Center (1993). I am a contributing  
18 author of *Repossession & Foreclosures* (National Consumer Law Center, 4th ed.), and of  
19 *Consumer Credit Law Manual* (National Consumer Law Center and Matthew Bender).

20 7. I have been a panelist on consumer law trainings conducted by the National  
21 Consumer Law Center, Massachusetts Continuing Legal Education, the Boston Bar  
22 Association, and the Florida State Bar. I co-wrote several amicus curiae briefs submitted by the  
23 National Association of Consumer Advocates ("NACA"), in cases including *Botelho v.*  
24 *Citicorp*, CA No. 96-12279-EFH, *Beach v. Great Western Bank*, United States Supreme Court,  
25 No. 97-5310.

26 8. Until December 2011, I was a partner in the firm Roddy Klein & Ryan, which  
27

1 primarily represented consumers in class actions. I am currently a partner in the firm Bailey &  
2 Glasser LLP, and have continued to practice in the area of consumer class actions.

3 9. In the past sixteen years, in conjunction with my law partners, I have obtained  
4 more than eight hundred million dollars in restitution and debt forgiveness for consumers by  
5 successfully asserting state and federal consumer credit law claims on their behalf. A partial  
6 listing of cases in which I and my firm (including my former firm, RKR) have been appointed  
7 class counsel includes the following:

8 *Tadepalli v. Uber Technologies, Inc.*, Case 3:15-cv-04348 (N.D. Cal.) (100% refunds  
9 made in class action settlement for California Uber riders charged approximately \$2.2 million  
10 in “airport fee tolls” which Uber did not pay to California airports);

11 *Curry v. Fairbanks Capital Corp.*, 03-10875-DPW (D. Mass.) (\$55 million settlement  
12 of nationwide class action based on predatory loan servicing practices);

13 *In re Household Lending Litig.*, Case No. C 02-1240 CW (N.D. Cal.) (\$122 million  
14 settlement of nationwide class action based on predatory mortgage lending practices);

15 *North Shore Auto Financing, Inc., DBA CNAC v. Block*, Case No. CV-01-42793  
16 (Cuyahoga County, Ohio) (summary judgment obtained on behalf of two certified classes of  
17 consumer car loan borrowers: for 100% refunds of usurious amounts charged by auto lender  
18 and voiding of entire amount owed by consumers for lender’s violation of retail installment  
19 sales act, approximate value of \$5.5 million);

20 *In re Ameriquist Mortgage Co. Mortgage Lending Practices Litig.*, CA No. 05-07097,  
21 MDL 1715 (N.D. Ill.) (\$22 million class action settlement in favor of nationwide class of  
22 Ameriquist mortgage borrowers alleging predatory lending practices);

23 *Griffin v. American Gen. Fin.*, Case CV 09 685562 (Cuyahoga County, Ohio) (class  
24 action settlement for Ohio borrowers regarding refunds of unearned credit insurance  
25 premiums);

26 *Conley v. Sears, Roebuck & Co.*, CA No. 97-11149-PBS (D. Mass.) and *Brioso v.*  
27 *Sears, Roebuck & Co.*, 97-1222-CJK (Bankr. Mass.) [MDL No. 1185] (100% refunds to class  
members in settlement in favor of nationwide class of bankruptcy debtors, \$165 million in cash  
provided);

*Mazola v. The May Dep’t Stores Co.*, Civil No. 97-10872-NG (D. Mass.) (100%  
refunds to class members class action settlement in favor of nationwide class of bankruptcy  
debtors, \$17 million in cash provided);

1 *Fisher v. Gen. Electric Capital Corp.*, No. 97 C 3065 (N.D. Ill.) [MDL No. 1192]  
2 (100% refunds to class members class action settlement in favor of nationwide class of  
3 bankruptcy debtors, \$30 million in cash provided);

4 *Spence v. Cavalry Portfolio Services, LLC*, C.A. No. 1:14-cv-12655-PBS (D. Mass.)  
5 (class action settlement for interest charged on purchased credit card debt);

6 *Glover v. Bank of America, N.A.*, C.A. No. 13-40042-TSH (D. Mass.) (class action  
7 settlement for Massachusetts borrowers regarding late fees);

8 *Wieland v. Bring Care Home, Inc.*, C.A. No. ESCV2013-01380 (Essex County, Mass.)  
9 (class action settlement for failure to pay all hours worked);

10 *Powers v. Santander Consumer USA, Inc.*, Case No. 4:12-cv-11932-TSH (D. Mass.)  
11 (class action settlement on behalf of Massachusetts auto loan borrowers);

12 *Ross v. Citifinancial Auto Ltd.*, Case No. 12-1173-TJC (M.D. Fla.) (class action  
13 settlement in favor of state-wide class of borrowers denied consumer rights disclosures);

14 *Thomas v. Home Credit Corp., Inc.*, 11-CVS-1116 (Vance County, N.C.) (class action  
15 settlement in favor of state-wide class of borrowers denied consumer rights disclosures);

16 *Hall v. Capital One Auto Fin., Inc.*, Case No. 08-1181 (N.D. Ohio) (\$37 million state-  
17 wide settlement on behalf of Ohio consumers deprived of rights under retail installment sales  
18 act);

19 *Brailsford v. Jackson Hewitt*, Case No. C 06-00700 CW (N.D. Cal.) (state-wide class  
20 action settlement on behalf of California purchasers of tax refund anticipation loans,  
21 coordinated with a complementary settlement obtained by the California Attorney General,  
22 encompassing broader claims concerning Jackson Hewitt's business practices);

23 *Mitchell v. Prestige Fin. Services*, CV2010-090395 (Maricopa County, Ariz.) (class  
24 action settlement in favor of state-wide class of borrowers denied consumer rights disclosures  
25 under Arizona UCC);

26 *Aponte v. Empresas Berrios*, C.A. No. 06-01865-ADC (D. P.R.) (class action settlement  
27 in favor of consumers subject to debt collection tactics prohibited by federal Fair Debt  
Collection Practices Act);

*Sanders v. NCO*, C.A. No. 06-11059-NMG (D. Mass.) (class action settlement in favor  
of consumers contacted by debt collector in violation of state and federal law);

*Jackson v. SAFCo*, Case No. 06-04561 (Broward County Ct., Fla.) (class action  
settlement in favor of state-wide class of borrowers whose cars were illegally repossessed);

*Grace v. Affiliated Fin.*, Case No. 05-017194 (Broward County Ct., Fla.) (class action  
settlement in favor of state-wide class of borrowers whose cars were illegally repossessed);

1 *Cummins v. H & R Block, Inc.*, Case No. 03-C-134 (Kanawha County Ct., W. Va.)  
(nationwide class action settlement on behalf of purchasers of tax refund anticipation loans);

2 *Stein, Stafford v. Schering-Plough Corp.*, Case No. 01-11923-MLW (D. Mass.) (\$56  
3 million paid to settle civil portion of qui tam claims that Schering-Plough marketed drugs off-  
label for uses that had not been approved by the Food & Drug Administration);

4 *United States ex rel. Constance Conrad v. Eon Labs, Inc.*, C.A. No. 02-11738-NG (D.  
5 Mass) (\$3.48 million qui tam settlement resolving claims that Eon misrepresented the Medicaid  
6 eligibility of its oral nitroglycerin products);

7 *Clague v. FirstMerit Bank*, Case No. 03 CVF 27720 (Cuyahoga County, Ohio) (\$18  
8 million settlement on behalf of state-wide class of car owners subject to flawed repossession  
practices).

9 *Claudio v. Lance Acceptance Corp.*, Case No. 04 CVF 137406 (Lorain County, Ohio)  
(settlement on behalf of state-wide class of car owners subject to flawed repossession  
10 practices);

11 *Sanborn v. Nicholas Fin., Inc.*, Case No. 04 CVI 6969 (Cleveland Municipal Ct., Ohio)  
(settlement on behalf of state-wide class of car owners subject to flawed repossession  
12 practices);

13 *Lowe v. Ford Motor Credit*, Case No. 99 CVF 15806 (Cuyahoga County, Ohio) (\$22  
14 million class action settlement on behalf of state-wide class of borrowers whose cars were  
illegally repossessed);

15 *Cooley v. F.N.B. Corp.*, Case No. 10010 of 2003, C.A. (Lawrence County, Penn.)  
(certified class of consumers deprived of post-default rights, settlement for state-wide class);

16 *Malacky v. Huntington Nat'l Bank*, Case No. CV 03 491420 (Cuyahoga County Ct.,  
17 Ohio) (class action settlement in favor of state-wide class of borrowers whose cars were  
illegally repossessed);

18 *United States ex rel. Constance Conrad v. Forest Pharmaceuticals, Inc.*, C.A. No. 02-  
19 11738-NG (D. Mass.) (\$24.5 million paid to settle civil portion of qui tam claims that Forest  
20 sold unapproved thyroid drug);

21 *United States ex rel. Constance Conrad v. Schwarz Pharma Inc.*, C.A. No. 02-11738-  
22 NG (D. Mass.) (\$22 million settlement resolving qui tam allegations that Schwarz and others  
23 submitted false quarterly reports to the government related to a pair of drugs);

24 *Mendez v. Island Fin. Corp.*, 03-1075-JAF (D. P.R.) (settlement of class action alleging  
25 violations of the Truth in Lending Act);

26 *Kent v. Western Massachusetts Electric Co.*, HAMPCV 2001-00232 (Mass. Super. Ct.)  
(settlement of consumer claims related to utility overcharge based on misclassification of  
27 billing rate);

1 *Dwyer v. NSTAR, Inc.*, No. SUCV2001-01817 (Mass. Super. Ct.) (settlement of  
consumer claims related to utility overcharge based on misclassification of billing rate);

2 *Brown v. Gibraltar Savings Bank*, No. L-710-99 (Superior Court of New Jersey, Law  
3 Division, Cumberland County) and *Carrasco v. Parkway Mortgage and Fidelity Security Life*  
4 *Ins. Co.*, No. No. L-00-4815-99, Superior Court of New Jersey, Law Division, Camden County  
(consolidated class action settlement in favor of statewide class of credit insurance purchasers  
5 refunding unearned premiums);

6 *Lewis v. Nat'l Grid [USA], Inc.*, Civil Action No. 01-0232 (Hampshire Super. Court,  
Mass.) (class action settlement in favor of regional class of utility customers);

7 *Torres v. Associates Fin. Services*, CN 03:2003 cv 01135 (D. P.R.) (class action  
8 settlement in favor of statewide class of Puerto Rico homeowners who received truth in lending  
disclosures which understated the cost of the loan);

9 *Heist v. Chase Manhattan Bank*, C-02-2380 (Frederick County Ct., Md.) (class action  
10 settlement in favor of statewide class of Chase borrowers assessed challenged inspection fees);

11 *Horowitz v. Boch Motor, Inc.*, Civ. No. 01-659 (Norfolk Super. Ct., Mass.) (settlement  
12 on behalf of statewide class of consumer car buyers for violations of law prohibiting certain  
practices in sale of ancillary theft deterrent products);

13 *Patton v. JB Robinson Jewelers, Inc.*, CA No. 97-C-4151 (N.D. Ill.) and *York v.*  
14 *Weisfields Jewelers, Inc.*, CA No. 98-C-5227 (N.D. Ill.) (class action settlement in favor of  
15 nationwide class of financed jewelry purchasers);

16 *Migut v. Tandy Corp.*, No. 97-C-4800 (N.D. Ill.) (class action settlement in favor of  
17 nationwide class of bankruptcy debtors);

18 *Donlevy v. First Commercial Mortgage Co., Inc.*, CA No. No. 96-11401-GAO (D.  
Mass.) (class action settlement in favor of nationwide class of consumer mortgage borrowers);

19 *Coppola v. Wendover Funding, Inc.*, CA No. 96-11458-PBS (D. Mass.) (class action  
20 settlement in favor of nationwide class of consumer mortgage borrowers);

21 *McKay v. ContiMortgage Corp.*, CA No. 96-10717-EFH (D. Mass.) (class action  
settlement in favor of nationwide class of consumer mortgage borrowers);

22 *Mogavero v. Matrix Fin. Services, Corp.*, CA No. 96-11149-GAO (D. Mass.) and  
23 [consolidated] *Limper v. Matrix Fin. Services, Corp.*, 96-CVH-022 (C.P., Ottawa County Ct.,  
Ohio) (class action settlement in favor of national class of consumer mortgage borrowers);

24 *Davis v. GE Capital Mortgage Services, Inc.*, Civil No. 95-2043 (D. N.J.) (class action  
25 settlement in favor of national class of consumer mortgage borrowers);

26 *Dunmire v. Domestic Loan and Investment Bank, et al.*, CA No. 95-12617-JLT, (D.  
27 Mass.) (class action settlement in favor of regional class of consumer mortgage borrowers);

1 *Dwyer v. Barco Auto Leasing Corp., Barron Chevrolet, Inc., and Bernardi, Inc.*, CA  
2 No. 95 - 10888-WGY (D. Mass.) (class action settlement as to the defendants Barron and  
Bernardi in favor of statewide class of consumer lessees of motor vehicles);

3 *Black v. Mitsubishi Motors Credit of America, Inc.*, Civil Action No. 94C-3055, (N.D.  
4 Ill.) (class action settlement in favor of national class of consumer lessees of Mitsubishi motor  
vehicles);

5 *Roach v. Colonial Nat'l Bank and Advanta Mortgage Corp., USA*, No. 93-3542  
6 (Suffolk Super. Ct., Mass.) (class action settlement in favor of statewide class of consumer  
mortgage borrowers);

7 *Coley v. Guarantee Trust Life Ins. Co.*, No. 99-006680 (Cir. Ct. of Cook County Ill.,  
8 Chancery Div.) (class certified in favor of statewide class of credit insurance purchasers  
refunding unearned premiums);

9 *Hodo v. Fin. Enterprises Corp.*, No. 93-2861 (Suffolk Super. Ct., Mass.) (multi-plaintiff  
10 settlement in favor of elderly eastern Massachusetts consumer mortgage borrowers.

11  
12 10. Class Counsel believe that the Settlement Agreement between the parties is fair  
13 and reasonable and in the best interests of the Settlement Class. Counsel's reasons for this  
14 belief are set forth in the Motion for Final Approval.

15 11. Class Counsel conducted a sufficient investigation, and the litigation was  
16 sufficiently advanced, to allow counsel to evaluate the merits of the case, and the value of  
17 potential recovery. Counsel engaged in the formal and informal exchange of documents and  
18 data regarding Ms. Connolly and the putative class, including a large volume of documents in  
19 March and April 2017 relating to the disclosure forms used by the Defendant and background  
20 checks performed on job applicants and employees. The litigation has been pending for more  
21 than three years.

22 12. The parties also briefed motions to stay, a motion to amend, multiple motions to  
23 dismiss on issues including the *Spokeo* standing issue and the standard for alleging willfulness,  
24 and engaged in oral argument. Plaintiff filed an early motion for class certification.

25 13. After the mediation, Umpqua disclosed that some class members signed  
26 agreements which it claimed required them to arbitrate their claims. These agreements raised  
27 multiple legal issues regarding their scope and timing.

1           14. Plaintiff entered into settlement negotiations with substantial information about  
2 the nature and extent of the challenged practice, and the merits of the legal claims and factual  
3 allegations. The parties engaged in a substantive and productive discussion regarding the  
4 disclosure forms during a full day of mediation on July 10, 2017 with Mediator Teresa  
5 Wakeen, a highly respected mediator with over 25 years of experience.

6           15. The parties prepared memoranda in advance of the in-person session and the  
7 negotiations were productive, including discussions about the merits of Plaintiff's legal claims,  
8 and the disclosure forms used by Umpqua. Plaintiff and Plaintiff's counsel were confident in  
9 the strength of their case, including the likelihood of certifying the class and succeeding on the  
10 merits, but understood the risks in any such litigation.

11           16. Although no agreement was reached the day of mediation, the parties continued  
12 settlement negotiations and ongoing discovery since that time. The parties reached an  
13 agreement in principle in December 2017 and continued negotiating for the next several  
14 months concerning the final terms of the settlement currently before the Court.

15           17. Following the mediation, the parties continued to engage in informal class  
16 discovery regarding the disclosure forms and purported arbitration agreements.

17           18. Umpqua's records reflect that there are approximately 4,302 Settlement Class  
18 Members.

19           19. The settlement agreement provides monetary benefits directly to the Settlement  
20 Class, benefits that may not be available in the event of continued litigation, and without the  
21 need for a claim form for identified Settlement Class Members. Plaintiff estimates that each  
22 Settlement Class Member will receive approximately \$40 - \$47.

23           20. Potential class members who were not identified from Defendant's records were  
24 allowed to file claims forms. The parties in the process of reviewing the claims and will file a  
25 supplemental report with the Court as to these claims.

26           21. Nicholas F. Ortiz, of the Law Office of Nicholas F. Ortiz, P.C., is co-counsel for  
27



1 the Plaintiff in this case. Attorney Ortiz graduated from Boston University School of Law with  
2 a J.D. degree in 2001 and from Vanderbilt University with a B.A. degree in 1996. Attorney  
3 Ortiz was admitted to practice before the Supreme Judicial Court of Massachusetts in  
4 December 2002, and the District Court for the District of Massachusetts since 2003. Attorney  
5 Ortiz has been in private practice for approximately 15 years, during which time his practice  
6 has focused entirely on wage and hour, consumer law, and bankruptcy.

7 22. Attorney Ortiz has served as plaintiff's counsel in several certified class actions  
8 including *Julks v. Atlantic Funding Group*, Case 1:06-cv-11704-LTS (D. Mass. 2006); *Wieland*  
9 *v. Bring Care Home, Inc.*, No. ESCV2013-01380, 2015 WL 5751843 (Mass. Sup. Ct. 2015);  
10 *Miller v. Pier 1 Imports (U.S.), Inc.*, No. 1:13-cv-12595-GAO (D. Mass. 2015); *Teixeira v.*  
11 *Daggett-Crandall-Newcomb Home, Inc.*, C.A. No. 1573 CV 00264 (Mass. Sup. Ct. 2016);  
12 *DeVito v. Longwood Security Services*, C.A. No. 13-1724 (Mass. Sup. Ct. 2015); *Vigna v.*  
13 *Minuteman Volkswagen, Inc.*, C.A. No. MICV2013-05520-H (Mass. Sup. Ct. 2016); *Cole v.*  
14 *Trinity EMS, Inc.*, C.A. No. 1781CV02005 (Mass. Sup. Ct. 2017); *Santos v. River Works Credit*  
15 *Union*, C.A. No. 16-0155-BLS1 (Mass. Sup. Ct. 2017); *Coroa v. First Citizens' Federal Credit*  
16 *Union*, C.A. No. 1673CV00558 (Mass. Sup. Ct. 2017); *Chambers v. RDI Logistics, Inc., et. al.*,  
17 C.A. No. 13-00912-A (Mass. Sup. Ct. 2017); *Escorbor v. Helping Hands Company, Inc., et.*  
18 *al.*, C.A. No. 15-02053D (Mass. Sup. Ct. 2017); *Garcia, et. al. v. Right At Home, Inc., et. al.*,  
19 C.A. No. 15-00808-BLS2 (Mass. Sup. Ct. 2017).

20  
21 Signed under the penalties of perjury this 24<sup>th</sup> day of January 2019.

22 By: /s/ Elizabeth Ryan  
23 Elizabeth Ryan