

COMMONWEALTH OF MASSACHUSETTS
County of Worcester
The Superior Court

Philip Landry, <i>on behalf of himself and all others similarly situated,</i>	:	
	:	
Plaintiff,	:	Civil Docket #: 1885CV01452
v.	:	
	:	
Transworld Systems, Inc.,	:	
	:	
Defendant.	:	

NOTICE OF FILING

Pursuant to Superior Court Rule 9A, Plaintiff Philip Landry hereby gives notice to all parties in the above matter that on May 12, 2023, the papers listed in the accompanying List of Documents were served on the Worcester Superior Court and counsel for all parties.

Dated: May 12, 2023

Respectfully submitted:

/s/ Stephen Taylor
Sergei Lemberg (BBO# 650671)
Stephen Taylor (*phv*)
Lemberg Law, LLC
43 Danbury Road
Wilton, CT 06897
Tel: (203) 653-2250
Fax: (203) 653-3424

CERTIFICATE OF SERVICE

I hereby certify that on May 12, 2023, I served a true and accurate copy to counsel of record.

/s/ Stephen Taylor
Stephen Taylor

COMMONWEALTH OF MASSACHUSETTS
County of Worcester
The Superior Court

Philip Landry, <i>on behalf of himself and all others similarly situated,</i>	:	
	:	
Plaintiff,	:	Civil Docket #: 1885CV01452
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v.	:	
	:	
Transworld Systems, Inc.,	:	
	:	
Defendant.	:	
	:	

LIST OF DOCUMENTS

Pursuant to Superior Court Rule 9A, the following documents are hereby submitted for filing by the Plaintiff.

1. Notice of Filing;
2. Rule 9A Certification of Non-Opposition;
3. Plaintiff's Unopposed Motion for Final Approval of Class Action Settlement;
4. Plaintiff's Memorandum of Law in Support;
5. The Declaration of Vanessa Santacruz; and
6. The Declaration of Stephen Taylor.

Dated: May 12, 2023

Respectfully submitted:

/s/ Stephen Taylor
Sergei Lemberg (BBO# 650671)
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Stephen Taylor

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County of Worcester
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Philip Landry, <i>on behalf of himself and all</i>	:	
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Plaintiff,	:	Civil Docket #: 1885CV01452
	:	
v.	:	
	:	
Transworld Systems, Inc.,	:	
	:	
Defendant.	:	

UNOPPOSED MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT

Plaintiff Philip Landry hereby moves for entry of an Order granting final approval of the Class Action Settlement Agreement between Plaintiff and Defendant Transworld Systems, Inc.

In support, Plaintiff submits the accompanying Memorandum of Law in Support of Motion to Final Approval of the Parties' Class Action Settlement, the Declaration of Stephen F. Taylor and the Declaration from the Settlement Administrator.

For the reasons set forth in the accompanying memorandum, Plaintiff respectfully requests that the Court enter the Final Approval Order attached as Exhibit A to this motion.

Dated: May 12, 2023

Respectfully submitted:

/s/ Stephen Taylor
Sergei Lemberg (BBO#650671)
Stephen Taylor (PHV)
Lemberg Law, LLC
43 Danbury Road
Wilton, CT 06897
Tel: (203) 653-2250
Fax: (203) 653-3424

CERTIFICATE OF SERVICE

I hereby certify that on May 12, 2023, I served a true and accurate copy to all counsel of record.

/s/ Stephen Taylor _____
Stephen Taylor

Exhibit A

COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPARTMENT

WORCESTER, ss.

Philip Landry, <i>on behalf of himself and all</i>)	
<i>others similarly situated,</i>)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 1885CV01452
)	
Transworld Systems, Inc.)	
)	
)	
Defendant.)	

[PROPOSED] FINAL APPROVAL ORDER

WHEREAS, on January 19, 2023, a Preliminary Approval Order was entered by the Court preliminarily approving the proposed Settlement pursuant to the terms of the Class Action Settlement Agreement between Plaintiff Philip Landry and Defendant Transworld Systems, Inc. (“TSI”) and directing that notice be given to the Settlement Class;

WHEREAS, pursuant to the notice requirements set forth in the Settlement Agreement and in the Preliminary Approval Order, the Settlement Class was notified of the terms of the proposed Settlement, of the right of members of the Settlement Class to be heard at a Final Approval Hearing to determine, inter alia: (1) whether the terms and conditions of the Settlement Agreement are fair, reasonable and adequate for the release of the claims contemplated by the Settlement Agreement; and (2) whether judgment should be entered dismissing this Action with prejudice;

WHEREAS, declaration of compliance with the provisions of the Settlement Agreement and Preliminary Approval Order relating to notice was filed with the Court as prescribed in the Preliminary Approval Order. Class Members were therefore notified of their right to appear at the

Final Approval Hearing in support of or in opposition to the proposed Settlement, the award of Attorney's Fees and Costs to Class Counsel, and the payment of an Incentive Award.

NOW, THEREFORE, the Court having heard the arguments of Class Counsel and counsel for TSI, having reviewed all of the submissions presented with respect to the proposed Settlement, having determined that the Settlement is fair, adequate and reasonable, having considered the Attorney's Fees and Cost application made by Class Counsel and the application for Incentive Awards to the Settlement Class Representative, and having reviewed the materials in support thereof, and good cause appearing:

THIS COURT FINDS AND ORDERS AS FOLLOWS:

1. The capitalized terms used in this Final Approval Order shall have the same meaning as defined in the Settlement Agreement except as may otherwise be indicated.

2. The Court has jurisdiction over the subject matter of this Action and over all claims raised therein and all Parties thereto, including the Settlement Class.

3. The Court hereby approves the Settlement, including the plans for implementation and distribution of the settlement relief, and finds that the Settlement is, in all respects, fair, reasonable and adequate to the Class Members in light of the complexity, expense and duration of litigation and the risks involved in establishing liability and damages, and in maintaining the class action through trial and appeal. The settlement as set forth in the Settlement Agreement was arrived at as a result of arms-length negotiations conducted in good faith by counsel for the parties and is supported by the Class Representative. Furthermore, the relief provided under the Settlement Agreement constitutes fair value given in exchange for the releases of claims against the Released Parties. In approving the Settlement, the Court has also considered the submissions and arguments of the parties.

4. The Parties shall effectuate the Settlement Agreement in accordance with its terms. The Settlement Agreement and every term and provision thereof shall be deemed incorporated herein as if explicitly set forth and shall have the full force of an Order of this Court.

5. The Court hereby deems valid the 52 claim forms from Class Members identified at paragraph 8 of the administrator's declaration which lacked a signature but which were otherwise valid and from Class members.

6. The Settlement Class, which will be bound by this Final Approval Order and Judgment hereon, shall include all members of the Settlement.

7. In this order, "Class Period" means the period from September 21, 2014, through the date of the Preliminary Approval Order.

8. For purposes of the Settlement and this Final Approval Order, the Court hereby certifies the following Settlement Class:

All persons residing in the Commonwealth of Massachusetts to whom, between March 1, 2017, and September 21, 2018, Transworld made in excess of two telephone calls regarding a debt within a seven-day period to their residence, cellular telephone, or other provided telephone number as reflected on the Class List.

The Court readopts and incorporates herein by reference its preliminary conclusions as to the satisfaction of Rule 23 set forth in the Preliminary Approval Order and notes again that because this certification of the Class is in connection with the Settlement rather than litigation, the Court need not address any issues of manageability that may be presented by certification of the class proposed in the Settlement.

9. For purposes of Settlement only, Plaintiff is certified as representative of the Settlement Class and Class Counsel is appointed counsel to the Settlement Class. The Court concludes that Class Counsel and the Class Representative have fairly and adequately represented the Settlement Class with respect to the Settlement.

10. Notwithstanding the certification of the foregoing Settlement Class and appointment of the Class Representative for purposes of effecting the Settlement, if this Order is reversed on appeal or the Settlement is terminated or is not consummated for any reason, the foregoing certification of the Settlement Class and appointment of the Class Representative shall be void and of no further effect, and the parties to the proposed Settlement shall be returned to the

status each occupied before entry of this Order without prejudice to any legal argument that any of the parties to the Settlement might have asserted but for the Settlement.

11. The Court finds that the plan for Notice, set forth in Article IV, section 3 of the Settlement Agreement and effectuated pursuant to the Preliminary Approval Order, was the best notice practicable under the circumstances, was reasonably calculated to provide and did provide due and sufficient notice to the Settlement Class of the pendency of the Action, certification of the Settlement Class for settlement purposes only, the existence and terms of the Settlement Agreement, and of their right to object and to appear at the Final Approval Hearing, and satisfied the requirements of the Massachusetts Rules of Civil Procedure, the United States Constitution, and other applicable law.

12. The Settlement Agreement is, in all respects, fair, reasonable and adequate, is in the best interests of the Settlement Class, and is therefore approved.

13. All persons who have not made their objections to the Settlement in the manner provided in the Settlement Agreement are deemed to have waived any objections by appeal, collateral attack, or otherwise.

14. Within the time period set forth in Article III, Section 4, of the Settlement Agreement, the cash distributions provided for in the Settlement Agreement shall be paid to the various Settlement Class members submitting Valid Claim Forms, pursuant to the terms and conditions of the Settlement Agreement.

15. Upon the Effective Date, members of the Settlement Class, by operation of this Final Approval Order, have fully, finally and forever released, relinquished and discharged the Released Parties from the Released Claims as specified in the Release set forth in Article V of the Settlement Agreement.

16. Plaintiff and each Settlement Class Member are hereby permanently barred and enjoined from filing, commencing, prosecuting, maintaining, intervening in, participating in, conducting or continuing, either directly or in any other capacity, any action or proceeding in any court, agency, arbitration, tribunal or jurisdiction, asserting any claims released pursuant to the

Settlement Agreement, or seeking an award of fees and costs of any kind or nature whatsoever and pursuant to any authority or theory whatsoever, relating to or arising from the Action and/or as a result of or in addition to those provided by the Settlement Agreement. In addition, Plaintiff and each Settlement Class Member are hereby enjoined from asserting as a defense, including as a setoff or for any other purpose, any argument that if raised as an independent claim would be a Released Claim.

17. The terms of the Settlement Agreement, this Final Approval Order and the Judgment to be entered hereon shall have maximum res judicata, collateral estoppel, and all other preclusive effect in any and all claims for relief, causes of action, suits, petitions, demands in law or equity, or any allegations of liability, damages, debts, contracts, agreements, obligations, promises, attorney's fees, costs, interest or expenses which were or could have been asserted in the Action or are in any way related to the calls at issue in the Action.

18. The Final Approval Order, the Judgment to be entered hereon, the Settlement Agreement, the Settlement which it reflects and all acts, statements, documents or proceedings relating to the Settlement are not, and shall not be construed as, used as, or be deemed to be evidence of, an admission by or against TSI of any fault, wrongdoing, or liability on the part of TSI or of the validity or certifiability for litigation of any claims that have been, or could have been, asserted in the Action. This Order, the Settlement or any such communications shall not be offered or received in evidence in any action or proceeding, or be used in any way as an admission or concession or evidence of any liability or wrongdoing of any nature or that Plaintiff, any Settlement Class Member, or any other person has suffered any damage; *provided, however*, that the Settlement, this Order and the Judgment to be entered hereon may be filed in any action by TSI or Settlement Class Members seeking to enforce the Settlement or the Judgment by injunctive or other relief, or to assert defenses including, but not limited to, res judicata, collateral estoppel, release, good faith settlement, or any theory of claim preclusion or issue preclusion or similar defense or counterclaim. The Settlement's terms shall be forever binding on, and shall have res judicata and preclusive effect in, all pending and future lawsuits or other proceedings as to

Released Claims and other prohibitions set forth in this Order that are maintained by, or on behalf of, the Settlement Class Members or any other person subject to the provisions of this Order.

19. The above-captioned Action is hereby dismissed in its entirety with prejudice. Without affecting the finality of this Final Order in any way, the Court reserves jurisdiction over all matters relating to the interpretation, administration, implementation, effectuation and enforcement of this Order and the Settlement.

Let judgment be entered accordingly.

DATED: _____, 2023 By: _____

**COMMONWEALTH OF MASSACHUSETTS
County of Worcester
The Superior Court**

Philip Landry, <i>on behalf of himself and all others similarly situated,</i>	:	
	:	
Plaintiff,	:	
	:	
v.	:	
	:	Civil Docket #: 1885CV01452
Transworld Systems, Inc.,	:	
	:	
Defendant.	:	
	:	

**MEMORANDUM OF LAW IN SUPPORT OF UNOPPOSED MOTION FOR FINAL
APPROVAL OF THE PARTIES' CLASS ACTION SETTLEMENT**

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Plaintiff Philip Landry (“Plaintiff”) respectfully submits this Memorandum of Law in Support of his Unopposed Motion for Final Approval of the Parties’ Class Action Settlement.

Pursuant to the Preliminary Approval Order, notice was sent to the Settlement Class detailing the terms of the Settlement Agreement and inviting members to submit claims.¹ The response from the class has been very positive. There have been 2,993 claims submitted by Settlement Class which the Parties ask the Court to approve and no objections. If the settlement is approved with these claims, each claiming member will recover approximately \$305.84 as their *pro rata* share of the Settlement Fund. (Santacruz Decl. ¶¶ 3-9).²

This is an outstanding result for claims under Mass. Gen. Laws ch. 93A, § 2, and 940 CMR § 7.04(1)(f) (2012) (the “Debt Collection Regulation”), and merits final approval because:

- This is an excellent settlement to the Class, providing substantial benefits to the Class, particularly in light of the available damages and the risks of further litigation;
- Not a penny of the \$1,563,720.00 fund will revert to the Transworld Systems, Inc. (“Transworld” or “TSI”); all funds will go to the claimants, to cover fees or costs, or *cy pres* to the Massachusetts IOLTA Committee pursuant to Mass. R. Civ. P. 23(e)(2) “to support activities and programs that promote access to the civil justice system for low-income residents of the Commonwealth of Massachusetts”; and
- The settlement was agreed to only after substantial discovery, motion practice, and a mediation before a neutral.

¹ The notice and claims process is detailed in the May 13, 2023, Declaration of Vanessa Santacruz (“Santacruz Decl.”) from KCC Class Actions Services, LLC (“KCC”) attached as Exhibit A.

² The response represents a 7.7% claims rate (2,993 claims/38,700 class members). The \$305.84 per claimant recovery figure is calculated as follows:

Gross fund:	\$1,563,720.00
Awards & Admin:	\$648,316.19 (\$546,007.71 (fees and expenses) + \$10,000.00 (incentive award) + \$92,308.48(estimate of administrative costs))
Net fund:	\$915,403.81 (Gross fund minus Awards & Admin costs)
Claimant Recovery:	\$305.84 (Net fund/2,993 claims)

As set forth herein, Plaintiff respectfully requests the Court (1) approve the Class Action Settlement Agreement (the “Settlement Agreement”) as fair and reasonable; and (2) enter the final approval order in the form submitted as Exhibit A to the Motion for Final Approval of the Parties’ Class Action Settlement Agreement.

BACKGROUND

I. The Regulation and M.G.L. ch. 93A

M.G.L. ch. 93A, the Massachusetts Consumer Protection Law, prohibits “[u]nfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce.” M.G.L. ch. 93A, § 2(a).

In 2012, the Attorney General of Massachusetts invoked her power to implement rules and regulations interpreting M.G.L. ch. 93A, § 2(a) to provide ““It shall constitute an unfair or deceptive act or practice for a creditor to contact a debtor . . . [by] [i]nitiating a communication with any debtor via telephone, either in person or via text messaging or recorded audio message, in excess of two such communications in each seven-day period to either the debtor’s residence, cellular telephone, or other telephone number provided by the debtor as his or her personal telephone number”” *Armata v. Target Corp.*, 480 Mass. 14, 17-18 (2018) (quoting 940 C.M.R. 7.04(1)(f)) (emphasis in original). M.G.L. ch. 93A, § 9(1) provides that any person “who has been injured by another person’s use or employment of any method, act or practice declared to be unlawful by section two or any rule or regulation issued thereunder . . . may bring an action in the superior court . . . whether by way of original complaint, counterclaim, cross-claim or third party action, for damages and such equitable relief, including an injunction, as the court deems to be necessary and proper.”

Section 9(2) provides that such persons may bring claims as a class action. M.G.L. ch. 93A, § 9(2).

Section 9(3) provides that “if the court finds for the petitioner, recovery shall be in the amount of actual damages or twenty-five dollars, whichever is greater; or up to three but not less than two times such amount if the court finds that the use or employment of the act or practice was a willful or knowing violation of said section two” M.G.L. ch. 93A, § 9(3).

II. This Litigation

On or about September 26, 2018, Plaintiff filed his Class Action Complaint in Worcester Superior Court.

On or about January 15, 2019, Transworld filed its motion to compel arbitration arguing that Plaintiff was bound by an agreement with Enterprise Car Rental (the original creditor) which required Plaintiff to arbitrate his claims against Transworld and prohibited class representation. Plaintiff opposed the motion and on February 22, 2019, the Honorable William Ritter denied the motion to compel arbitration. On March 19, 2019, Transworld appealed the decision. On September 9, 2019, the SJC took the case *sua sponte* from the appellate division and this matter was stayed pending the outcome of that appeal.

Following briefing and oral arguments, on July 28, 2020, the SJC denied the appeal and affirmed the Superior Court’s denial of the motion to compel arbitration. *Landry*, 485 Mass. 334.

Prior to acceptance of the case by the SJC in September 2019, Plaintiff had served written interrogatories and requests for the production of documents and filed his motion to compel further responses to the same on June 25, 2019. Therein, Plaintiff sought information and documents related to his individual and class claims.

After resolution of the appeal, motion practice and discovery resumed. Over oppositions, Defendant moved for summary judgment and Plaintiff renewed his motion to compel discovery responses. On November 18, 2020, the Honorable William Ritter denied summary judgment without prejudice and granted Plaintiff’s motion to compel discovery. Thereafter, Defendant produced

discovery and ultimately produced class data. Further, Plaintiff was deposed, the Defendant's corporate representative was deposed, Defendant's non-representative corporate employees were deposed and Plaintiff subpoenaed Enterprise Rent-A-Car for deposition. In addition, on October 25, 2021, Plaintiff filed his motion to compel further evidence and testimony concerning an assurance of discontinuance with the Massachusetts Attorney General's office.

Before resolution of that final motion, the Parties agreed to privately mediate their dispute and sought a stay of proceedings for that purpose. The Parties conducted two mediations, on May 26, 2022 and on September 16, 2022, before the Honorable Stephen Neel (Ret.). Declaration of Stephen Taylor ¶ 9. The Parties provided Judge Neel with detailed mediation briefs addressing all aspects of this case: claims in chief, defenses, class certification and the defenses or objections thereto, damages, and settlement. *Id.* The mediation was adversarial and conducted at arm's-length and resulted in agreement to a settlement. *Id.*

On January 19, 2023, the Court granted preliminary approval to the Parties' agreement.

III. Notice Process

I. Notice

On February 2, 2023, KCC received the class list from Transworld. (Santacruz Decl. ¶ 2). On February 3, 2023, KCC mailed the Postcard Notice and Claim Form to approximately 38,700 class members. *Id.* ¶ 3.

Under the direction of the Parties, KCC established the settlement website, www.landrytsi.com, to provide potential Settlement Class Members with access to the Website Notice and other settlement-related documents, as well as the ability to submit a claim form online. (Santacruz Decl. ¶ 6). Under the direction of the Parties, KCC also established a toll-free telephone number at which persons could get information regarding the settlement. *Id.* ¶ 7.

Further, following mailing of the Notice, KCC provided the Parties weekly updates regarding claims and/or correspondence received. Pursuant to directions provided by the Parties, on April 7, 2023, KCC sent a Reminder Notice (the “Reminder Notice”) to be printed and mailed 37,890 Class Members who had not yet submitted a claim. *Id.* ¶ 4.

II. Claims and Objections

There were 2,941 timely, complete, valid and signed claim forms. *Id.* ¶ 8.

In addition, there were 52 claim forms which were submitted after the April 21, 2023, deadline but which were otherwise complete, valid and signed. Plaintiff respectfully requests that the Court excuse the late submission as in the best interest of Settlement Class Members and accept these 52 claim forms as valid.

In addition, there were 52 additional claim forms which lacked a signature but were otherwise complete, timely and KCC matched the persons submitting the claims to persons on the class list. *Id.* As the administrator has matched these claims to persons on the Class List, Plaintiff requests that the Court accept these 52 claim forms as valid for a total valid claim number of 2,993.³

There were no objections received by KCC at any time. *Id.* ¶ 9.

IV. Terms of the Settlement

1. Benefits to the Class

The Settlement Class preliminarily approved is:

All persons residing in the Commonwealth of Massachusetts to whom, between March 1, 2017, and September 21, 2018, Transworld made in excess of two telephone calls regarding a debt within a seven-day period to their residence, cellular telephone, or other provided telephone number as reflected on the Class List

³ Plaintiff notes for the Court that KCC advises the Parties that its review of claim submissions is ongoing and that these figures are subject to change. Plaintiff will update the Court of any changes in these figures prior to the Final Approval Hearing.

(Preliminary Approval Order ¶ 5).

Under the terms of the Settlement Agreement, each Class Member can claim an equal share of a \$1,563,720.00, non-reversionary, Settlement Fund. *See Settlement Agreement*, Art III(1)(a)&(d). Settlement Class Members who timely submit a valid claim form will receive an equal pro-rata distribution from the Settlement Fund, after the Fee Award to Class Counsel, the Incentive Award to Plaintiff, and Settlement Administration Costs are deducted from the Settlement Fund. *Id.*

As detailed above, there are 2,993 confirmed claims from class members who, if the settlement is approved, will each receive \$305.84.

If money remains in the Settlement Fund from un-cashed benefit checks, the Settlement Administrator shall, if doing so would be administratively feasible, make a second distribution of the settlement fund to those who did cash their first. *Id.* Art III (1)(f).

Any funds remaining in the fund should be directed to the to the Massachusetts IOLTA Committee pursuant to Mass. R. Civ. P. 23(e)(2) as detailed below.

2. Releases

In exchange for the benefits of the Settlement, Plaintiff has agreed to dismiss this Action with prejudice as to himself and all Settlement Class Members. As provided in the Settlement Agreement, Plaintiff and all members of the Settlement Class shall release Defendant and the Released Parties (*Settlement Agreement* Art V(1)) from all claims “arising out of the calls by TSI in excess of two in a seven-day period to Settlement Class Members regarding a debt between March 1, 2017, and September 21, 2018” (*Settlement Agreement*, Art V(1)(c)).

POINT I
THE SETTLEMENT AGREEMENT
SHOULD BE GRANTED FINAL APPROVAL

I. STANDARD FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENTS

A class action may not be “settled or compromised without the approval of the court.” M.G.L. ch. 93A, § 9(2); *accord* Mass. R. Civ. P. 23(c). A court may not grant approval unless it finds that a class action settlement is “fair, reasonable and adequate.” *Sniffin v. Prudential Ins. Co. of America*, 395 Mass. 415, 421 (1985) (quoting *Armstrong v. Board of School Directors of Milwaukee*, 616 F.2d 305, 313 (7th Cir. 1980)); *accord*, *Voss v. Rolland*, 592 F.3d 242, 251 (1st Cir. 2010).

Public policy favors the settlement of class actions. *See Hill v. State St. Corp.*, No. 09-12146, 2015 WL 127728, at *6 (D. Mass. Jan. 8, 2015) (determination of whether settlement is fair, reasonable and adequate should be conducted “within the context of the public policy favoring settlement”). Final approval of any proposed class settlement ultimately requires the Court to balance “the advantages and disadvantages of the proposed settlement as against the consequences of going to trial or other possible but perhaps unattainable variations on the proffered settlement.” *Nat’l Ass’n of Chain Drug Stores v. New England Carpenters Health Benefits Fund*, 582 F.3d 30, 44 (1st Cir. 2009).

Neither Chapter 93A nor Rule 23(c) list the considerations the Court must evaluate in the “fair, reasonable and adequate” inquiry. However, courts often consider the so-called *Grinnell* factors. *See Bezdek v. Vibram USA Inc.*, 79 F. Supp. 3d 324, 343-44 (D. Mass. 2015) (applying factors set forth in *Detroit v. Grinnell Corp.*, 495 F.2d 448, 463 (2d Cir. 1974); *New Eng. Carpenters Health Benefits Fund v. First DataBank, Inc.*, 602 F.Supp.2d 277, 281 (D. Mass. 2009); *In re Relafen Antitrust Litig.*, 231 F.R.D. 52, 72 (D. Mass. 2005); *In re Lupron Mktg. & Sales Practices Litig.*, 228 F.R.D. 75, 93–94 (D. Mass. 2005). These factors include: “(1) the complexity, expense, and likely duration of the litigation; (2) the reaction of the class to the settlement; (3) the stage of the proceedings

and the amount of discovery completed; (4) the risks of establishing liability; (5) the risks of establishing damages; (6) the risks of maintaining the class action through the trial; (7) the ability of the defendants to withstand a greater judgment; (8) the range of reasonableness of the settlement fund in light of the best possible recovery; (9) the range of reasonableness of the settlement fund to a possible recovery in light of all the attendant risks of litigation.” *Grinnell*, 495 F.2d at 463.

II. THE SETTLEMENT AGREEMENT IS FAIR, REASONABLE AND ADEQUATE PURSUANT TO THE GRINNELL FACTORS

a. The Complexity, Expense, and Likely Duration of the Litigation Favor Approval

This factor weighs in favor of approval. This case involves the allegedly unlawful collection practices of Transworld, a sophisticated entity. The claims and defenses, and the certification question, are complex, and expensive and time-consuming to resolve.

This case involves M.G.L. ch. 93A, the Massachusetts Consumer Protection Law, which prohibits “[u]nfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce.” M.G.L. c. 93A, § 2(a). Deceptive acts or practices include conduct in contravention of the Massachusetts Debt Collection Regulations. Those regulations were amended in 2012 to make it “an unfair or deceptive act or practice for a creditor to contact a debtor . . . [by] [i]nitiating a communication with any debtor via telephone, either in person or via text messaging or recorded audio message, in excess of two such communications in each seven-day period to either the debtor's residence, cellular telephone, or other telephone number provided by the debtor as his or her personal telephone number” *Armata v. Target Corp.*, 480 Mass. 14, 17-18 (2018) (quoting 940 C.M.R. 7.04(1)(f)) (emphasis in original).

The regulation defines “communication” as “conveying information directly or indirectly to any person through any medium. . . .” 940 C.M.R. § 7.03. A creditor is liable under M.G.L. c. 93A, § 2 and 940 C.M.R. 7.04(1)(f) if it initiates more than two calls within a seven-day period to a debtor

so long as the creditor is either able to reach the debtor or able to leave a voicemail message, regardless of whether the creditor actually does so. *See Armata*, 480 Mass. at 25; *see also Harrington v. Wells Fargo Bank, N.A.*, 2019 WL 3818299, at *3 (D. Mass. Aug. 14, 2019); *Alper v. Select Portfolio Servicing, Inc.*, 2019 WL 3281129, at *4 (D. Mass. July 19, 2019).

Class Counsels' investigation and discovery showed Transworld was attempting to collect debt from Plaintiff and others and at times called more than two times within a seven-day period to collect payment. Moreover, Class Counsel believes that the evidence supported certification of a class under the Chapter 93A: the size of the class is in the thousands; there are questions of law and fact common to all members of the class (including whether the practice of calling Massachusetts consumers more than twice within a seven-day period regarding delinquent debt violates 940 C.M.R. 7.04(1)(f) and M.G.L. c. 93A, § 2, and the validity of Transworld' defenses); Plaintiff is typical of the class as Transworld placed more than two calls in a seven-day period to Plaintiff and the class regarding debts and Plaintiff and the class were damaged in the same way based on this alleged uniform conduct; and Plaintiff and his counsel were adequate representatives.

However, Transworld hotly disputed Plaintiff's claims and the sufficiency of class adjudication. For example, in January 2019, Transworld moved to compel arbitration arguing Plaintiff was bound by an agreement with Enterprise Car Rental (the original creditor) which required Plaintiff to arbitrate his claims with Transworld as Enterprise's agent. Plaintiff opposed the motion, arguing that Transworld, a non-signatory to the arbitration agreement, could not enforce the clause nor could it use any contractual doctrines to enforce the arbitration clause as a successor party. The motion to compel arbitration was subsequently denied and Transworld appealed. On September 9, 2019, the SJC took the appeal *sua sponte* from the appellate division and, after hearing complete and

voluminous briefing from both sides, denied the appeal and upheld the Superior Court’s order denying the motion. *Landry v. Transworld Sys. Inc.*, 485 Mass. 334, 149 N.E.3d 781 (2020).⁴

Defendant also moved for summary judgment on the grounds that it was not a “creditor” as the term is defined under the Debt Collection Regulations, 940 C.M.R. 7.03⁵, and, therefore, the regulation’s restrictions on the volume of creditor phone calls did not apply to Transworld. Plaintiff opposed the motion, argued that Transworld fell well within the definition of a creditor because it was the creditor’s agent (an argument Transworld had made repeatedly when moving to compel arbitration), and otherwise argued that the question was premature as discovery was needed on the issue. The Court denied the motion for summary judgment but did so without prejudice to Transworld raising the issue again at later phases of the case.

Further, Transworld opposed class certification on several grounds in discovery, through conferrals and at the mediation. Specifically, Transworld argued that individualized inquiries into the calls to class members would defeat commonality and that typicality and adequacy could not be met because Plaintiff purportedly did not have a viable claim.

Plaintiff does not believe any of these arguments would defeat class certification, or that whether the existence of purposed individual issues would predominate over common issues is even relevant to the analysis under Chapter 93A, but here too Transworld’s positions establish that the case

⁴ The *Landry* decision is itself an important decision. It has been cited in numerous courts around the country and in Massachusetts evaluating whether non-signatories can compel a signatory to arbitrate arbitration and the interplay between state principles of contract law with the Federal Arbitration Act. *See, e.g., AtriCure, Inc. v. Meng*, 12 F.4th 516, 533 (6th Cir. 2021) (“nothing would prevent the Ohio Supreme Court from jettisoning this federal doctrine as a matter of state law by neutrally following the traditional agency approach—as other state courts have noted”) (*citing Landry*); *Miller v. Life Care Centers of Am., Inc.*, 2020 WY 155, ¶ 15, 478 P.3d 164, 169 (Sup. Ct. Wyo. 2020) (the strong federal policy in favor of arbitration “applies to determining the scope, not the existence, of a valid arbitration agreement.”) (*citing Landry*).

⁵ 940 C.M.R. 7.03 defines “creditor” as “any person and his or her agents, servants, employees, or attorneys engaged in collecting a debt owed or alleged to be owed to him or her by a debtor.”

was complex and involved many discrete factual and legal issues which potentially could have doomed Plaintiff's claim, in addition to complicated issues concerning the interpretation of Defendant's business records and how damages can be calculated under Chapter 93A.

The above disputes need not be resolved (or resolved on a final appeal) in light of the settlement. However, the complexity and breadth of the above issues, and the time and expense the litigation and appeals would expend, supports approval of the settlement.

b. The Reaction of the Class to the Settlement Favors Approval

The reaction to the settlement has been overwhelmingly positive. There have been 2,993 claims from 38,700 class members, equaling a participation rate of over 7%, and no objections. *Forcellati v. Hyland's, Inc.*, 2014 WL 1410264, at *6 (C.D. Cal. Apr. 9, 2014) (“[T]he prevailing rule of thumb with respect to consumer class actions is [a claims rate of] 3-5 percent.”); *In re Relafen Antitrust Litig.*, 231 F.R.D. 52, 72 (D. Mass. 2005) (reaction to settlement was positive with 5,489 claims (out of class in the millions), and 10 objections); *In re Lupron Mktg. & Sales Practices Litig.*, 228 F.R.D. 75, 96 (D. Mass. 2005) (reaction to settlement was positive with 10,614 consumer claims (out of class in the tens or hundreds of thousands) and 10 objectors).

This strong participation with no objections demonstrates that the class reacted favorable to the settlement.

c. The Stage of the Proceedings and the Amount of Discovery Completed Favors Approval

This case settled at an appropriate time after development of the issues and discovery.

As detailed above, there was extensive motion practice with motions for summary judgment, motions to compel discovery and Defendant's motion to compel arbitration the denial of which was upheld by the SJC. Through all this, the legal issues were fully developed.

Further, discovery was advanced. Plaintiff took corporate and individual depositions, subpoenaed third parties for testimony including Enterprise-Rent-A-Car, and Plaintiff sat for a deposition himself. Plaintiff also reviewed the extensive document production by Transworld including the class data where Plaintiff consulted with a data expert in analyzing the same. Finally, Plaintiff discovered the Assurance of Discontinuance between Transworld and the Massachusetts Attorney General's office and moved to compel documents and testimony regarding the same. That motion was *sub judice* at the time of settlement.

Thus, the stage of the proceedings and the amount of discovery completed favors approval.

d. The Risks of Establishing Liability

"[A] significant element of risk adheres to any litigation taken to binary adjudication." *Lupron*, 228 F.R.D. at 97. Although Plaintiff believes his arguments in support of liability to be strong, Defendant disputed Plaintiff's claims and believed it would prevail on summary judgment, trial and class certification. Further, Transworld is represented by very able counsel, and can and has put forth a vigorous defense. There is, therefore, great risk that the issues on liability and certification will not go in Plaintiff's favor in this Court or on any appeal. Thus, the risks of establishing liability favor approval of the settlement.

e. The Risks of Establishing Damages and the Ability of the Defendant to Withstand a Greater Judgment

Transworld's ability to pay is a neutral factor here. Its ability to pay was not a factor in settlement discussions or in determining the settlement amount.

There is risk in establishing damages. Damages for violations of Chapter 93A are twenty-five dollars or actual damages, whichever is greater, with the prospect of trebling the same for willful or knowing violations. M.G.L. ch. 93A, § 9(3). Whether Plaintiff could recover the \$25 statutory penalty for each separate violation of the Debt Collection Regulation (*i.e.* for each instance Transworld called

in excess of two times in a seven day period), as opposed to \$25 dollars per action, is an issue. No court has firmly held either way in the context of the Debt Collection Regulation. However, Courts addressing other claims under Chapter 93A demonstrate the hurdles Plaintiff could face in recovering multiple statutory damages under Chapter 93A. *See Aspinall v. Philip Morris Companies, Inc.*, 2013 WL 7863290, at *8-10 (Mass. Super. Feb. 7, 2013). Further, establishing actual damages on a class or individual basis entails risks both on the merits (how much would this Court or a jury award for actual damages for receipt of too many telephone calls?) and to class certification. To be clear, Plaintiff believes these risks could be dealt with, but Transworld disagrees, and the risks are real and weigh in favor of approval.

f. The Risks of Maintaining the Class Action through Trial Favor Approval

As noted, Plaintiff faced risks on class certification. Although this Court certified a class for settlement purposes, “[t]he requirements for class certification are more readily satisfied in the settlement context than when a class has been proposed for the actual conduct of the litigation.” *White v. Nat’l Football League*, 822 F. Supp. 1389, 1402 (D. Minn. 1993) (citations omitted); *see also Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 620, 117 S. Ct. 2231 (1997) (“Confronted with a request for settlement-only class certification, a district court need not inquire whether the case, if tried, would present intractable management problems . . . for the proposal is that there be no trial.”); *Sullivan v. DB Investments, Inc.*, 667 F.3d 273, 303 (3d Cir. 2011) (*en banc*). Thus, there is no guarantee that a class would have been certified for litigation purposes in this case.

If the Court had rejected certification, there would have been no relief for any class member except the named Plaintiff if he prevailed, regardless of the merits of underlying class claims. Because of this risk, this factor also favors approval of the Settlement.

g. The Range of Reasonableness of the Settlement in Light of the Best Possible Recovery and of all the Attendant Risks of Litigation

The final two factors weigh strongly in favor of approval.

The 2,993 class members Settlement Class Members will each recover approximately \$305.84 as their *pro rata* share of the net Settlement Fund. This is a very good result for violations of Chapter 93A and the Debt Collection Regulation.

Comparison to class action settlements under the Telephone Consumer Protection Act (“TCPA”), the federal statute that prohibits certain robocalls, is instructive. Compared to Chapter 93A, with its minimum award of \$25 which may be limited to just that amount no matter the number of violations, damages under the TCPA are *at least* \$500 per each and every violation of the that act. 47 U.S.C. § 227(c)(5)(B). However, TCPA class settlements worth far less than the settlement here are frequently approved as fair, reasonable, and adequate. *See, e.g., In re Capital One Tel. Consumer Prot. Act Litig.*, 80 F. Supp. 3d 781, 789 (N.D. Ill. 2015) (per claimant recovery of \$34.60 with a participation rate of 7.8%); *In Gehrich v. Chase Bank USA, N.A.*, 2016 WL 806549 (N.D. Ill. Mar. 2, 2016) (per claimant recovery of \$52.50 with participation rate of 1.08%); *Ott v. Mortgage Inv’rs Corp. of Ohio, Inc.*, 2016 WL 54678, (D. Or. Jan. 5, 2016) (per claimant recovery of \$140.86 with participation rate of .08%); *Rose v. Bank of Am. Corp.*, 2014 WL 4273358 (N.D. Cal. Aug. 29, 2014) (\$20.00 to \$40.00 per class member with 3% claims rate). In comparison, the settlement value here is very high and is more than reasonable in light of the best possible recovery and of all the attendant risks of litigation.

For all the foregoing reasons, Plaintiff respectfully requests that the Court grant final approval to the Settlement Agreement.

POINT II
THE COURT SHOULD APPROVE THE MASSACHUSETTS IOLTA COMMITTEE AS
RECIPIENT FOR ANY RESIDUAL FUNDS

Mass. R. Civ. P. 23(e)(2) provides that, as part of “any order, judgment or approved compromise in a class action . . . that establishes a process for identifying and compensating members of the class may provide for the disbursement of residual funds. In matters where the claims process has been exhausted and residual funds remain, the residual funds shall be disbursed to one or more nonprofit organizations or foundations [. . .] or to the Massachusetts IOLTA Committee to support activities and programs that promote access to the civil justice system for low income residents of the Commonwealth of Massachusetts.”

The expectation in this case is that any *cy pres* distribution of residual funds will be *de minimis*. The entire net settlement fund will be dispersed to claiming Settlement Class Members in the first instance. To the extent Settlement Checks are not cashed, the Settlement Administrator will make a second distribution of unclaimed funds to those that *did* cash their check. Only where the second distribution is not administratively feasible or if amounts remain in the fund after a second distribution, will the residual of the fund go to the *cy pres* recipient. Given the face value of the settlement checks will be substantial, it is not expected that many class members will forgo their claimed share. Nevertheless, it is reasonable to assume that some amount may remain. Rule 23(e) provides for dispersal to the IOLTA committee and the Parties request the Court approve such dispersal.

CONCLUSION

For the reasons set forth above, the Plaintiff respectfully request that the Court enter the proposed Final Approval Order.

Dated: May 12, 2023

LEMBERG LAW, LLC

/s/ Stephen Taylor

Sergei Lemberg (BBO#650671)

Stephen Taylor (*PHV*)

Lemberg Law, LLC

43 Danbury Road

Wilton, CT 06897

Tel: (203) 653-2250

Attorneys for Plaintiff

1 COMMONWEALTH OF MASSACHUSETTS
2 SUPERIOR COURT DEPARTMENT

3 Philip Landry, on behalf of himself and all
4 others similarly situated,

5 Plaintiff,

6 vs.

7 Transworld Systems, Inc,

8 Defendant.
9

Case No. 1885CV01452

CLASS ACTION

**DECLARATION OF VANESSA
SANTACRUZ RE: NOTICE
PROCEDURES**

10 I, Vanessa Santacruz, declare and state as follows:

11 1. I am a Case Coordinator with KCC Class Action Services, LLC (“KCC”), located
12 at 222 Pacific Coast Highway, El Segundo, CA 90245. Pursuant to the Order Granting Preliminary
13 Approval, Appointing Class Representative and Counsel (the “Preliminary Approval Order”) dated
14 January 19, 2023, the Court appointed KCC as the Claims Administrator in connection with the
15 proposed Settlement of the above-captioned Action.¹ I have personal knowledge of the matters
16 stated herein and, if called upon, could and would testify thereto.

17 **CLASS LIST**

18 2. On February 2, 2023, KCC received from Sessions, Israel & Shartle, LLC a list of
19 39,093 persons identified as the Class List. The Class List included names, addresses, phone
20 numbers and account number. KCC formatted the list for mailing purposes, removed 393 duplicate
21 records, and processed the names and addresses through the National Change of Address Database
22 (“NCOA”) to update any addresses on file with the United States Postal Service (“USPS”). A total
23 of 5,118 addresses were found and updated via NCOA. KCC updated its proprietary database with
24 the Class List.
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28 ¹ All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Settlement Agreement dated November 22, 2022 and/or the Preliminary Approval Order.

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MAILING OF THE NOTICE PACKET

3. On February 21,2023, KCC caused the Postcard Notice (collectively, the “Notice”) to be printed and mailed to the 38,700 unique names and mailing addresses in the Class List. A true and correct copy of the Notice is attached hereto as Exhibit A.

4. Following mailing of the Notice, KCC provided the Parties weekly updates regarding claims and/or correspondence received. Pursuant to directions provided by the Parties, on April 7, 2023, KCC sent a Reminder Notice (the “Reminder Notice”) to be printed and mailed to 37,890 Class Members who had not yet submitted a claim. A true and correct copy of the Reminder Notice is attached hereto as Exhibit B.

5. Since mailing the Notices to the Class Members according to the mailing addresses from the Class List that had been run through the National Change of Address Database, KCC has received 7,268 Notices returned by the USPS with undeliverable addresses. Of these, the USPS provided forwarding addresses for 12 class members to which the notice was promptly remailed. Through credit bureau and/or other public source databases, KCC performed address searches for other undeliverable Notices and was able to find updated addresses for 56 Class Members to which the notice was promptly remailed.

SETTLEMENT WEBSITE

6. On or about February 21, 2023, KCC established the Settlement Website, www.landrytsi.com, dedicated to this matter to provide information to the Class Members and to answer frequently asked questions. The website URL was set forth in the Notice and Reminder Notice. Visitors of the website can download copies of the Long Form Notice, and other case-related documents. Visitors could also submit claims online.

TOLL-FREE TELEPHONE NUMBER

7. On or before February 21, 2023, KCC established a toll-free telephone number dedicated to providing automated information about the Settlement, important deadlines, the Settlement Class Member’s rights, and instructions on how they can request a copy of the Notice. As of May 5, 2023, KCC has received a total of 342 calls.

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CLAIM FORMS

8. The deadline for Class Members to either mail claims or file claims online was April 21, 2023. To date, KCC has received:

- 2,941 complete, valid and timely claim forms;
- 52 claim forms which lacked a signature but which were otherwise timely and the persons submitting the claims have been matched to Class Members on the class list; and
- 191 invalid claim forms which were either denied as incomplete, duplicates or KCC determined were fraudulent.

These numbers are subject to change as KCC continues our review of claims as the deficiency cure deadline has not yet passed. Any updated figures will be immediately provided to counsel for the Parties.

OBJECTIONS TO THE SETTLEMENT

9. The postmark deadline for Class Members to object to the settlement was April 21, 2023. As of the date of this declaration, KCC has received no objections to the settlement.

ADMINISTRATION COSTS

10. KCC has incurred \$63,338.18 in costs through the end of April 2023. KCC estimates its total cost of administration will be \$92,308.48. This amount includes costs to date as well as through the completion of this matter.

11. KCC’s estimated fees and charges are based on certain information provided to KCC by the parties as well as significant assumptions. Accordingly, the estimate is not intended to limit KCC’s actual fees and charges, which may be less or more than estimated due to the scope of actual services or changes to the underlying facts or assumptions.

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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on May 12, 2023, at El Segundo, CA

Vanessa Santacruz

Vanessa Santacruz

EXHIBIT A

EXHIBIT B

Landry v. Transworld Systems
Settlement Administrator
P.O. Box 6175
Novato, CA 94948-6175

April 21, 2023
Deadline Approaching.
File your Claim
www.LandryTSI.com.

«3of9 barcode »

«BARCODE»

Postal Service: Please do not mark barcode

Claim Number: <<Claim Number>>

TDL «Claim Number»

«FIRST1» «LAST1»

«ADDRESS LINE 1» «ADDRESS LINE 2»

«CITY», «STATE»«PROVINCE» «POSTALCODE»

«COUNTRY»

TDL

Dear Settlement Class Member:

On February 21, 2023, you were mailed a notice regarding a class action settlement reached with Transworld Systems, Inc. (“Transworld” or “TSI”) about the way it violated the law by placing in excess of two telephone calls in a seven-day period to Massachusetts consumers to collect a debt.

To receive money from the settlement, you must file a Claim Form by **April 21, 2023**. Claim Forms may be submitted online at www.LandryTSI.com using the Claim Number located on the front of this postcard.

www.LandryTSI.com

Email: admin@LandryTSI.com

Toll-Free: (833) 632-0022

Philip Landry v. Transworld Systems, Inc., 1885CV01452 (Sup. Ct. Wor. Cnty.)
THIS CARD PROVIDES LIMITED INFORMATION ABOUT THE SETTLEMENT
VISIT WWW.LANDRYTSI.COM FOR MORE INFORMATION

In the lawsuit, the Plaintiff alleges that TSI violated the Massachusetts Consumer Protection Act, M.G.L. c. 93A § 2, et seq. (“MCPA”), and the Massachusetts Debt Collection Regulations, 940 CMR § 7.00, et seq. (“MDCR”), by placing in excess of two calls regarding a debt within a seven-day period to Plaintiff and other Massachusetts consumers. Transworld denies any wrongdoing, denies that it violated the MCPA, the MDCR or any other law. The Parties have agreed to settle the lawsuit to avoid the cost, delay, and uncertainty of further litigation. You can read Plaintiff’s Amended Complaint, the Settlement Agreement, other case documents, and submit a Claim Form at www.LandryTSI.com.

Who’s Included in the Settlement Class? All persons residing in the Commonwealth of Massachusetts to whom, between March 1, 2017 and September 21, 2018, Transworld made in excess of two telephone calls regarding a debt within a seven-day period to their residence, cellular telephone, or other provided telephone number as reflected on the Class List.

What Can You Get? Class Members who submit a valid and timely Claim Form are entitled to one share from the Settlement Fund. The final cash payment will depend on the total number of valid and timely claims filed by all Class Members. Each claiming Class Member will be entitled to an equal share of the Settlement Fund (\$1,563,720), after deductions from the fund for administrative costs, attorneys’ fees and expenses, and any incentive award to the Class Representative. The final cash payment will depend on the total number of valid and timely claims filed by all Class Members and the fees, costs and incentive awards approved by the Court. The Settlement is explained in detail in the Full Notice and in the Settlement Agreement available at www.LandryTSI.com.

How to Get Money? To qualify for payment, you must submit a valid Claim Form to Landry v. Transworld Systems Settlement Administrator, P.O. Box 6175, Novato, CA 94948-6175 or submit an Online Claim Form by April 21, 2023.

Your Other Rights. You may object to the Settlement by April 21, 2023. The Full Notice, located at the website listed below, explains how to object to the Settlement. The Court will hold a hearing in this case on May 30, 2023 at 2:00 p.m., to consider whether to approve the Settlement, Plan of Allocation, a request for an incentive award of up to \$10,000 for the named Plaintiff and a request by the lawyers representing all Class Members for fees of up to 33% of the Settlement Fund and for reimbursement of expenses for litigating the case. You may attend the hearing and ask to be heard by the Court, but you do not have to. If you do not take any action, you will be legally bound by the Settlement and any orders or Judgments entered in the Action, and will fully, finally, and forever give up any rights to prosecute Released Claims.

For more information or a Claim Form, call (833) 632-0022 or visit www.LandryTSI.com.

Do not contact the Court, Defendant or its counsel with questions.



Postage
Required
Post Office will
not deliver
without proper
postage.

LANDRY V TRANSWORLD SYSTEMS
SETTLEMENT ADMINISTRATOR
PO BOX 6175
NOVATO CA 94948-6175



COMMONWEALTH OF MASSACHUSETTS
County of Worcester
The Superior Court

Philip Landry, <i>on behalf of himself and all</i>	:	
<i>others similarly situated,</i>	:	
	:	
Plaintiff,	:	
	:	
v.	:	
	:	Civil Docket #: 1885CV01452
Transworld Systems, Inc.,	:	
	:	
Defendant.	:	

**DECLARATION OF STEPHEN TAYLOR IN SUPPORT OF MOTION FOR
FINAL APPROVAL**

I, Stephen Taylor, under penalty of perjury under the laws of the United States of America, affirm and state as follows:

1. I am an attorney with Lemberg Law, LLC, of Wilton, Connecticut and counsel for the Plaintiff in the above-captioned matter. I appear in this matter *pro hac vice*. Unless otherwise stated, I have personal knowledge of the following facts, and if called and sworn as a witness, could and would competently testify thereto.

2. I graduated from Boston College in 2003, from Tulane University School of Law in 2007, I am a former judicial clerk and joined Lemberg Law in 2009.

3. In addition to being licensed to practice law in the states of Connecticut and New York, I am admitted to the following Federal District Courts: the Southern, Eastern, Western and Northern Districts of New York; the Southern, Eastern, and Northern Districts of Texas; the District of Colorado; the Central and Northern Districts of Illinois; the Eastern District of Michigan and the District of Connecticut. I am a member in good standing in both Connecticut and New York and appear in this matter *pro hac vice*.

4. I have extensive experience in consumer rights litigation including matters brought under the Telephone Consumer Protection Act (“TCPA”), the Fair Debt Collection Practices Act (“FDCPA”) the Magnuson Moss Warranty Act, the Truth in Lending Act, and a variety of state consumer protection statutes including Massachusetts General Law 93A.

5. I have extensive experience in class action litigation and have been certified as class counsel in numerous cases. *See, e.g., Horton v. Navient Solutions, Inc.*, 17-1855-BLS2 (Mass. Sup.) (settlement of Ch. 93A and 940 Code Mass. Regs. § 7.06 action on class-wide basis for \$4.5MM); *Lavigne v. First Community Bancshares, Inc., et al.*, 2018 WL 2694457, at *5 (D.N.M. June 5, 2018) (certifying TCPA class action and appointing undersigned as class counsel); *Munday v. Navy Federal Credit Union*, ECF No. 60, 15-cv-01629 (C.D. Cal., July 14, 2017) (final approval of class settlement of \$2.75MM in TCPA action); *Brown v. Rita’s Water Ice Franchise Co. LLC*, No. CV 15-3509, 2017 WL 1021025, at *1 (E.D. Pa. Mar. 16, 2017) (final approval of class settlement of \$3MM common fund in TCPA action); *Vinas v. Credit Bureau of Napa County Inc.*, Dkt. No. 112, 14-cv-3270 (D. Md. February 22, 2017) (order granting final approval of FDCPA class action settlement); *Duchene v. Westlake Servs., LLC*, No. 2:13-CV-01577-MRH, 2016 WL 6916734 (W.D. Pa. July 14, 2016) (final approval of class settlement of \$10MM in TCPA action); *Oberther v. Midland Credit Management*, Doc. No. 90, 14-cv-30014 (D. Ma. July 13, 2016) (order granting final approval of FDCPA class action settlement); *Butto v. Collecto, Inc.*, 290 F.R.D. 372 (E.D.N.Y. 2013) (certifying FDCPA class action); *Seekamp v. It’s Huge, Inc.*, 2012 WL 860364 (N.D.N.Y. Mar. 13, 2012) (certifying auto fraud class action); *Zimmerman v. Portfolio Recovery Assoc., LLC*, 276 F.R.D. 174 (S.D.N.Y. 2011) (certifying FDCPA class action).

6. My firm has litigated this case on behalf the Plaintiff and the proposed class since he contacted my firm in the summer of 2018.

7. We have conducted an extensive investigation into the practices and policies of the

Defendant.

8. This includes obtaining discovery, written and through deposition, from Transworld and third parties. In addition, the Parties have briefed substantive issues in the case through both of Defendant's motions for summary judgment, the motion to compel arbitration and discovery motions.

9. On May 26 and September 16, 2022, we participated in an all-day mediation sessions before the Honorable Stephen Neel (Ret.). The Parties provided Judge Neel with detailed mediation briefs addressing all aspects of this case: claims in chief, defenses, class certification and the defenses or objections thereto, damages, and settlement. The mediation was adversarial and conducted at arm's-length and resulted in agreement to a settlement.

I declare under penalty of perjury that the above is true and correct.

Dated: May 12, 2023

/s/ Stephen Taylor

Stephen Taylor