IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MATTHEW HENNIE, on behalf of himself and others similarly situated,	:	Civil Action File No. 1:18-cv-2045-WMR
Plaintiff,	:	
v.	:	
ICOT HEARING SYSTEMS, LLC D/B/A LISTENCLEAR and ICOT HOLDINGS, LLC,	:	
Defendants.	:	

_____/

MEMORANDUM IN SUPPORT OF PLAINTIFFôS MOTION FOR ATTORNEYSô FEES, COSTS, AND INCENTIVE AWARDS[1]

I. Introduction

Plaintiff, Matthew Hennie (ñPlaintiffò), individually and on behalf of the class of persons he represents (the ñSettlement Classò) petitioned this Court without opposition to approve a class action settlement of this matter (the ñSettlementò).[2] The Settlement includes the establishment of a $1,200,000

[1] Attached are the following Declarations of Counsel. Exhibit 1, Matthew McCue; Exhibit 2, Edward Broderick; Exhibit 3, Anthony Paronich and Exhibit 4, Steven H. Koval.

[2] Defendants do not oppose this Motion insofar as it supports the proposed settlement. Defendants do not concede or admit Plaintiffôs assertions.

Settlement Fund to be distributed *pro rata* to Settlement Class Members who file a valid claim after payment of notice and administration costs (if approved), Plaintiffôs Counsel fees and costs (if approved), and an incentive award to the Plaintiff (if approved).[3] The class is limited to the owners or users of 332,588 unique phone numbers (ñSettlement Class Membersò). There is no reverter in the Settlement Fund.

The Settlement was reached by counsel with a keen understanding of the merits of the claim and extensive experience in actions brought under the Telephone Consumer Protection Act (ñTCPAò), 47 U.S.C. Ä227. The parties participated in mediation with a highly skilled and experienced mediator, and provided detailed mediation statements. The relief provided meets the applicable standards of fairness when taking into consideration the nature of Plaintiffôs claims and the risks inherent in class litigation.

Class Counsel now petition the Court to approve their request for a combined award of attorneysô fees of $400,000 ï equal to 1/3 of the common fund, to reimburse Class Counsel for litigation expenses in the amount of $19,250, and to approve an incentive award to Matthew Hennie in the amount of $5,000. Class

[3] All capitalized terms not defined herein have the meanings set forth in the PartiesôClass Action Settlement Agreement (ñSettlementò or ñAgreementò).

Counselôs requests are reasonable, justified, and in line with or lower than awards that courts have approved in similar TCPA class actions.

II. Argument

A. This Court should approve Class Counselôs request for an award of attorneysô fees.

The Supreme Court ñhas recognized consistently that a litigant or a lawyer who recovers a common fund for the benefit of persons other than himself or his client is entitled to a reasonable attorneyôs fee from the fund as a whole.ò *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980). The Eleventh Circuit agrees: ñAttorneys in a class action in which a common fund is created are entitled to compensation for their services from the common fund, but the amount is subject to court approval.ò *Camden I Condo. Assôn, Inc. v. Dunkle*, 946 F.2d 768, 771 (11th Cir. 1991) (citing Fed. R. Civ. P. 23(e)). ñ[I]n this circuit, attorneysô fees awarded from a common fund shall be based upon a reasonable percentage of the fund established for the benefit of the class.ò *Id*. (rejecting the use of lodestar analysis for determination of fees in common fund cases); *see also Columbus Drywall & Insulation, Inc. v. Masco Corp.*, No. 1:04-CV-3066-JEC, 2008 WL 11234103, at *2 (N.D. Ga. Mar. 4, 2008) (ñSince 1991, the Eleventh Circuit has required district courts in this circuit to follow the ópercentage of the fundô approach to awarding fees in class action cases.ò).

ñ[T]here is [, however,] no hard and fast rule mandating a certain percentage of a common fund which may reasonably be awarded as a fee[.]ò *Id*. Rather, ñthe amount of any fee must be determined upon the facts of each case.ò *Id*. Against this backdrop, ñ[t]o avoid depleting the funds available for distribution to the class, an upper limit of 50% of the fund may be stated as a general rule, although even larger percentages have been awarded.ò *Wreyford v. Citizens for Transp. Mobility, Inc.*, No. 1:12-CV-2524-JFK, 2014 WL 11860700, at *1 (N.D. Ga. Oct. 16, 2014).

Here, Class Counsel request an award of 1/3 of the Common Fund plus their reimbursement of reasonable legal expenses, and submit the request is fair and reasonable and should be approved.[4]

B. The *Johnson* factors support Class Counselôs request for an award of attorneysô fees.

While ñfactors which will impact upon the appropriate percentage to be awarded as a fee in any particular case will undoubtedly vary,ò *Camden I Condo.*

[4] Class Counsel request that this Court determine an aggregate attorneysô fee award and provide co-lead Class Counsel with the authority to allocate the award among Class Counsel. *Accord Craft v. North Seattle Cmty. College Found.*, No. 07-cv-132, Dkt. No. 135 (M.D. Ga. Sept. 2, 2010) (ñAt the appropriate time, Class Counsel, in its discretion but subject to any agreements with counsel for the Class, shall allocate and distribute this award of Attorneysô Fees among counsel for the Class.ò); *In re Domestic Air Transp. Antitrust Litig.*, 148 F.R.D. 297, 357 (N.D. Ga. 1993) (ñIdeally, allocation is a private matter to be handled among Class Counsel.ò). All Class Counsel agree to this arrangement.

Assôn, Inc., 946 F.2 at 775, ñthe *Johnson* factors continue to be appropriately used in evaluating, setting, and reviewing percentage fee awards in common fund cases.ò *Id*. at 775; *see also Columbus Drywall & Insulation, Inc.*, 2008 WL 11234103, at *2 (ñIn deciding what percentage of the fund to award, the court may consider the twelve factors in *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974)).

The *Johnson* factors are: the amount involved and the results obtained; the time and labor required; the novelty and difficulty of the questions; the skill requisite to perform the legal service properly; the preclusion of other employment by the attorney due to acceptance of the case; the customary fee; whether the fee is fixed or contingent; time limitations imposed by the client or the circumstances; the experience, reputation, and ability of the attorneys; the undesirability of the case; the nature and length of the professional relationship with the client; and awards in similar cases. *Johnson*, 488 F.2d at 717-19.

It is critical to understand that the *Johnson* factors were developed in the statutory fee context, and ñthe inherent differences between statutory fee and common fund cases could justify a trial judgeôs decision to assign different relative weights to those factors in the two types of cases.ò *Brown v. Phillips Petroleum Co.*, 838 F.2d 451, 456 (10th Cir. 1988). Moreover, ñ[r]arely are all of

the *Johnson* factors applicable; this is particularly so in a common fund situation.ò *Uselton v. Commercial Lovelace Motor Freight, Inc.*, 9 F.3d 849, 854 (10th Cir. 1993).[5]

Although this particular litigation was filed on May 9, 2018 (DE 1), the efforts of Class Counsel to hold Defendants ICOT Hearing Systems, LLC d/b/a ListenClear and ICOT Holdings, LLC (collectively referred to hereafter as ñICOTò) to account for its telemarketing practices actually began in December of 2017, when the same legal team filed *Charvat v. ListenClear*, 4:17-cv-00245 (S.D.Ga. December 14, 2017). That case was ultimately dismissed because the call records as to Mr. Charvat were located overseas and could not be recovered. During the course of that litigation, however, Class Counsel became aware of a telemarketing vendor used by ICOT to call other consumers, including Mr. Hennie. Furthermore, Class Counsel engaged in discovery in *Charvat* to explore the potential vicarious liability of ICOT for the relationship it had with its telemarketing vendors. While the *Charvat* litigation was dismissed, the *Hennie* litigation was then filed that ultimately led to the proposed settlement. Accordingly, Class Counsel have been working on TCPA litigation involving ICOT since prior to December of 2017.

[5] The Tenth Circuit also applies the *Johnson* factors.

1. Class Counsel obtained an excellent result.

ñThe most important element in determining the appropriate fee to be awarded Class Counsel out of a common fund is the result obtained for the class through the efforts of such counsel.ò *In re Domestic Air Transp. Antitrust Litig.*, 148 F.R.D. at 351; *see also Mashburn*, 684 F. Supp. at 693 (same); *Pinto v. Princess Cruise Lines, Ltd.*, 513 F. Supp. 2d 1334, 1342 (S.D. Fla. 2007) (ñThe result achieved is a major factor to consider in making a fee award.ò).

Here, against many significant legal hurdles, Class Counsel obtained an excellent result for the class. The proposed settlement provides substantial monetary relief to the members of the class. Most importantly, every single dime of the Settlement Fund will be paid out to the class and its counsel (and to the settlement administrator); none of it will revert to ICOT.

This settlement provides real monetary relief to class members, despite the fact that this is a purely statutory damages case involving no allegations of pecuniary harmð damages that courts have deemed too small to incentivize individual actions. *See, e.g.*, *Palm Beach Golf Center-Boca, Inc. v. Sarris*, 311 F.R.D. 688, 699 (S.D. Fla. 2015) (noting that the small potential recovery in individual TCPA actions reduced the likelihood that class members will bring suit). This means that because

of the settlement, thousands of class members are entitled to relief they otherwise would never have pursued on their own.

2. <u>The time and labor required to resolve this matter were significant.</u>

In a common fund case, ñthe amount involved . . . and the results obtained may be given greater weight when, as in this case, the trial judge determines that the recovery was highly contingent and that the efforts of counsel were instrumental in realizing recovery on behalf of the class.ò *Brown*, 838 F.2d at 456. In other words, the ñótime and labor involvedô factor need not be evaluated using the lodestar formulation when, in the judgment of the trial court, a reasonable fee is derived by giving greater weight to other factors, the basis of which is clearly reflected in the record.ò *Id*.

3. <u>The questions underlying this matter were both difficult and novel.</u>

This matter involved difficult legal questions. For example, ICOT was expected to argue that the class was unascertainable and thus uncertifiable as a class. Whether and when a TCPA class can be certified despite ascertainability challenges is an open question, in particular because this Circuit has not yet weighed in following divergent approaches to TCPA ascertainability. *See, e.g.*, *Chapman v. First Index, Inc*., No. 09 C 5555, 2014 WL 840565, at *2 (N.D. Ill. Mar. 4, 2014)

(citing cases), *affôd in part*, 796 F.3d 783 (7th Cir. 2015) (ñCourts are split on whether the issue of individualized consent renders a TCPA class uncertifiable on predominance and ascertainability grounds, with the outcome depending on the specific facts of each case.ò).

As an even more fundamental issue, ICOT would argue that they were not vicariously liable for the actions of Prospects DM, the telemarketer who sent the calls at an issue, and a company that they filed a Third-Party Complaint against for breaching their agreement. The risk is particularly high as Circuit Courts of Appeals have affirmed summary dismissal of two TCPA cases recently, finding that the defendants could not be held vicariously liable for telemarketing calls made by third parties. *Jones v. Royal Admin. Servs. Inc.*, 887 F.3d 443 (9th Cir. 2018); *Kristensen v. Credit Payment Servs.*, 879 F.3d 1010 (9th Cir. 2018).

Along the same lines, ICOT was expected to argue that it had significant consent defenses as to many members of the class. The litigation of those issues would involve complex analysis of the records maintained by lead generation entities removed from ICOT. ICOT was also expected to contend that ambiguities regarding the nature of the call records would have made it difficult or impossible for the Court to resolve the claims of all class members in a single proceeding. In short, many of the issues underlying this matter involve unsettled legal questions,

which are at the forefront of class action and consumer protection law, especially with respect to the TCPA.

4. Class Counsel relied on particular skill and experience in performing the legal services required.

ñ[T]he prosecution and management of a complex national class action requires unique legal skills and abilities.ò *Columbus Drywall & Insulation, Inc.*, 2012 WL 12540344, at *4 (internal citation omitted). Class Counsel relied on their particular skill in litigating and negotiating a settlement in this matter. Class Counsel, collectively, have been involved in many TCPA litigations involving telemarketing calls that have resulted in large settlements, recovering more than $100 million for consumers in such cases. *See* Declarations of Counsel.

5. A customary fee in a TCPA common fund case exceeds the award Class Counsel seek here.

Class Counselôs request for an award of attorneysô fees of 1/3 of the Settlement Fund is well within the range of fee awards affirmed by the Eleventh Circuit and approved by district courts within it, especially in cases involving a common fund of this size. *See, e.g.*, *Waters v. Intôl Precious Metals Corp.*, 190 F.3d 1291, 1292-98 (11th Cir. 1999) (affirming award of 33-1/3% of a $40 million settlement fund); *In re: Terazosin Hydrochloride Antitrust Litig.*, 99ï 1317ï MDLï Seitz (S.D. Fla. April 19, 2005) (awarding fees of 33-1/3 % of settlement of over

$30 million); *In re: Managed Care Litig. v. Aetna*, MDL No. 1334, 2003 WL 22850070 (S.D. Fla. Oct. 24, 2003) (awarding fees and costs of 35.5% of settlement of $100 million); *Gutter v. E.I. Dupont De Nemours & Co.*, 95ï 2152ï Civï Gold (S.D. Fla. May 30, 2003) (awarding fees of 33 1/3 % of settlement of $77.5 million).

Importantly, this analysis does not differ when limited to TCPA class actions. *See, e.g.*, *Soto v. The Gallup Org.*, No. 13-cv-61747, Dkt. No. 95 (S.D. Fla. Nov. 24, 2015) (awarding a fee of 33-1/3%, inclusive of costs); *Guarisma v. ADCAHB Med. Coverages, Inc.*, No. 13-cv-21016, Dkt. No. 95 (S.D. Fla. June 24, 2015) (awarding a fee of 33-1/3%, plus costs).[6] In this district, the undersigned Class Counsel were granted 33.3 % fee awards and expenses in both *Mey v. Interstate National Dealer*

[6] *See also, e.g.*, *Prater v. Medicredit, Inc.*, No. 4:14-CV-00159-ERW, 2015 WL 8331602, at *3 (E.D. Mo. Dec. 7, 2015) (awarding 33-1/3%, plus costs); *Allen v. JPMorgan Chase Bank, N.A.*, 13-cv-8285, Dkt. No. 93 (N.D. Ill. Oct. 21, 2015) (awarding 33%, inclusive of costs); *Hageman v. AT&T Mobility LLC, et al.*, 1:13-cv-50, Dkt. No. 68 (D. Mont. Feb. 11, 2015) (awarding 33%, inclusive of costs); *Vendervort v. Balboa Capital Corp.*, 8 F. Supp. 3d 1200, 1210 (C.D. Cal. 2014) (awarding 33%); *Martin v. Dun & Bradstreet, Inc. et al*, No. 1:12-cv-00215, Dkt. No. 63 (N.D. Ill. Jan. 16, 2014) (awarding more than 33-1/3%); *Cummings v Sallie Mae*, 1:12-cv-9984, Dkt. No. 91 (N.D. Ill. May 30, 2014) (awarding 33%, inclusive of costs); *Hanley v. Fifth Third Bank*, 1:12-cv-01612, Dkt. No. 86 (N.D. Ill. Dec. 23, 2013) (awarding 33%, inclusive of costs); *Desai v. ADT Sec. Servs., Inc.*, 1:11-cv-1925, Dkt. No. 243 (N.D. Ill. June 21, 2013) (awarding 33%, inclusive of costs); *Locklear Elec., Inc. v. Norma L. Lay*, No. 3:09-cv-00531, Dkt. No. 67 (S.D. Ill. Sept. 8, 2010) (awarding 33-1/3%, plus costs); *CE Design Ltd. v. Cyôs Crab House N., Inc.*, 1:07-cv-5456, Dkt. No. 424 (N.D. Ill. Oct. 21, 2011) (awarding 33%, plus costs); *Holtzman v. CCH*, 1:07-cv-7033, Dkt. No. 33 (N.D. Ill. Sept. 30, 2009) (awarding 33%, inclusive of costs).

Services, Inc., et al., Civil Action File No. 1:14-cv-01846-ELR, Final Approval Order of June 7, 2016 ($4,200,000 settlement); and *Abante Rooter and Plumbing, Inc. v. Birch Communications, Inc.*, Civil Action File No. 1:15-cv-03562-AT, Final Approval Order of December 14, 2017 ($12,000,000 settlement). Class Counselôs request, therefore, comports with customary fee awards in similar cases.

6. <u>Class Counsel litigated this matter on a contingent basis.</u>

ñNumerous cases recognize that the attorneyôs contingent fee risk is an important factor in determining the fee award.ò *Columbus Drywall & Insulation, Inc.*, 2008 WL 11234103, at *3 (quoting *Ressler v. Jacobson*, 149 F.R.D. 651, 656 (M.D. Fla. 1992)). This is, in part, because even in ordinary cases, ñuncertain is the outcome,ò *id.*, and the corresponding risk taken by counsel in connection with contingent fee arrangementsð no assurance of paymentð warrants a higher percentage of the fund. *Id*; *see also Behrens v. Wometco Enters, Inc.*, 118 F.R.D. 534, 548 (S.D. Fla. 1988), *affôd*, 899 F.2d 21 (11th Cir. 1990) (ñA contingency fee arrangement often justifies an increase in the award of attorneyôs fees.ò).

That the attorneysô fee arrangement in this case was contingent ñweighs in favor of the requested attorneysô fees award, because ó[s]uch a large investment of money [and time] place[s] incredible burdens upon . . . law practices and should be appropriately considered.ôò *In re Thornburg Mortg., Inc. Sec. Litig.*, 912 F. Supp. 2d

1178, 1256 (D.N.M. 2012); *accord Been v. O.K. Indus., Inc.,* No. CIVï 02ï 285ï RAW, 2011 WL 4478766, at *9 (E.D. Okla. Aug. 16, 2011) (ñCourts agree that a larger fee is appropriate in contingent matters where payment depends on the attorneyôs success.ò).

7. Additional factors support Class Counselôs request for an award of attorneysô fees.

ñAttorneys who undertake the risk to vindicate legal rights that may otherwise go unredressed function as óprivate attorneys general.ôò *Allapattah Servs., Inc. v. Exxon Corp.*, 454 F. Supp. 2d 1185, 1217 (S.D. Fla. 2006) . This is particularly important here, where, as previously noted, *see supra*, Argument, Section I.A.1, damages awards under the TCPAð a statute that does not include a fee-shifting provisionð are often too small to incentivize individual actions. Under such circumstances, ñcourts treat successfully fulfilling [the private attorney general role] as a . . . factor when awarding Class Counsel attorneysô fees.ò *Id*. (citing *Ressler v. Jacobson*, 149 F.R.D. 651, 657 (M.D. Fla. 1992) (noting that when Class Counsel act as private attorneys general, ñpublic policy favors the granting of counsel fees sufficient to reward counsel for bringing these actions and to encourage them to bring additional such actions.ò)).

To promote that public policy, Class Counsel were required to risk a significant amount of their professional time, as well as their out-of-pocket costs and

expenses. ñUnless that risk is compensated with a commensurate reward, few firms, no matter how large or well financed, will have any incentive to represent the small stake holders in class actions against corporate America, no matter how worthy the cause or wrongful the defendantôs conduct.ò *Allapattah Servs., Inc.*, 454 F. Supp. 2d at 1217.

With this is mind, and considering the unique circumstances of this matter ð the lack of incentive for aggrieved consumers to bring individual suits, that ICOT was well represented by competent counsel ð Class Counselôs request for attorneysô fees is well-supported.

8. <u>This Court should approve Plaintiffôs request for incentive awards to the Plaintiff.</u>

ñIncentive awards are fairly typical in class action cases.ò *Rodriguez v. W. Publôg Corp.*, 563 F.3d 948, 958 (9th Cir. 2009); *see also Hadix v. Johnson*, 322 F.3d 895, 897 (6th Cir. 2003) (explaining that ñ[i]ncentive awards are typically awards to class representatives for their often extensive involvement with a lawsuit,ò and noting that ñ[n]umerous courts have authorized incentive awardsò); *Ingram v. The Coca-Cola Co.*, 200 F.R.D. 685, 694 (N.D. Ga. 2001) (ñ[Courts] routinely approve incentive awards to compensate named plaintiffs for the services they provided and the risks they incurred during the course of the class action litigation.ò); *Allapattah Servs.*, 454 F. Supp. 2d at 1218 (ñIncentive awards are not uncommon in

class litigation where, as here, a common fund has been created for the benefit of the class.ò). These awards ñserve an important function in promoting class action settlements.ò *Sheppard v. Cons. Edison Co. of N.Y., Inc*., No. 94-CV-0403(JG), 2002 U.S. Dist. LEXIS 16314, at *16 (E.D.N.Y. Aug. 1, 2002).

ñIn deciding whether such an award is warranted, relevant factors include the actions the plaintiff has taken to protect the interests of the class, the degree to which the class has benefitted from those actions, and the amount of time and effort the plaintiff expended in pursuing the litigation.ò *Cook v. Niedert*, 142 F.3d 1004, 1016 (7th Cir. 1998); *accord UFCW Local 880ð Retail Food Empôrs Joint Pension Fund v. Newmont Mining Corp.*, 352 F. Appôx 232 (10th Cir. 2009) (ña class representative may be entitled to an award for personal risk incurred or additional effort and expertise provided for the benefit of the classò); *Rodriguez*, 563 F.3d at 958 (noting that incentive awards are ñintended to compensate class representatives for work done on behalf of the class, to make up for financial or reputational risk undertaken in bringing the action, and, sometimes, to recognize their willingness to act as a private attorney generalò).

Here, Mr. Hennie chose to litigate this case not on behalf of himself solely, but on behalf of all other Settlement Class Members. Without his activism and advocacy, and willingness to persevere through litigation, there would be no recover

for the class. Throughout this litigation, Mr. Hennie communicated with counsel, met repeatedly with counsel, responded to discovery, participated in all phases of the case, and was involved in approving all major decisions of Class Counsel. Mr. Hennieôs request for an incentive award of $5,000 is well within line, and in fact below, incentive awards that the Court has approved in comparable TCPA matters. *See, e.g.*, *Jones v. I.Q. Data Intôl, Inc.*, No. 1:14-CV-00130-PJK, 2015 WL 5704016, at *2 (D.N.M. Sept. 23, 2015) ($20,000 incentive award from a $1 million common fund); *Ritchie v. Van Ru Credit Corp.*, No. CV-12-1714-PHX-SMM, 2014 WL 956131, at *5 (D. Ariz. Mar. 12, 2014) ($12,000 incentive award from a $2.3 million common fund); *Craftwood Lumber Co. v. Interline Brands, Inc.*, No. 11-CV-4462, 2015 WL 1399367, at *6 (N.D. Ill. Mar. 23, 2015) (collecting cases and approving a $25,000 service award to TCPA class representative); *Martin v. Dun & Bradstreet, Inc.*, No. 1:12ï cvï 215, 2014 WL 9913504, at *3 (N.D. Ill. Jan. 16, 2014) (approving a $20,000 service award to a TCPA class representative).

This Court, therefore, should approve the request for an incentive award to Mr. Hennie in the amount of $5,000.

9. This Court should approve Class Counselôs request for reimbursement of costs and expenses

ñThere is no doubt that an attorney who has created a common fund for the benefit of the class is entitled to reimbursement of . . . reasonable litigation expenses

from that fund.ò *In re Rent-Way Sec. Litig.*, 305 F. Supp. 2d 491, 519 (W.D. Pa. 2003). Here, Class Counsel incurred reasonable costs and expenses in connection with this matter, including travel expenses, mediation costs, filing and *pro hac vice* fees, and similar necessary expenses of the type routinely charged to paying clients. *See In re Immune Response Sec. Litig.*, 497 F. Supp. 2d 1166, 1177-78 (S.D. Cal. 2007) (noting reimbursable expenses to include filing fees, travel costs, notice costs, experts, consultants, and investigators; and mediation feesò). The expenses incurred by counsel in this matter, as detailed in their individual declarations, total $22,468.00. This total also does not include the expenses counsel will incur attending the final approval hearing in this matter. Class Counsel, however, only seek approval for $19,250 in expenses and will waive reimbursement of the expenses in excess thereof. This Court, therefore, should approve Class Counselôs request for reimbursement of costs and expenses in the amount of $19,250.

Conclusion

Class Counsel respectfully request that this Court grant the request for an award attorneysôfees of $400,000, litigation expenses in the amount of $19,250, and an incentive award for the Plaintiff in the amount of $5,000.

Respectfully submitted for Plaintiff,

Dated: July 9, 2019

By: s/*Steven H. Koval*

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CERTIFICATE OF RULE 7.1 COMPLIANCE

I hereby certify that on July 9, 2019, pursuant to L.R. 7.1D of the Northern District of Georgia, I hereby certify that this document was prepared in Times New Roman font, 14 point, pursuant to L.R. 5.1(C).

/s/ Steven H. Koval
Steven H. Koval

CERTIFICATE OF SERVICE

I hereby certify that on July 9, 2019, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will automatically send notification of such filing to all attorneys of record.

/s/ Steven H. Koval
Steven H. Koval