IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

ASHLEY TURNER,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 3:21cv30 (DJN)
	)	
FABER & BRAND, LLC, *et al.*,	)	
	)	
Defendants.	)	

MEMORANDUM IN SUPPORT OF JOINT MOTION FOR CLASS CERTIFICATION AND PRELIMINARY APPROVAL OF CLASS SETTLEMENT

Introduction

The Parties seek certification of a class under Rule 23(b)(3) for settlement purposes only consisting of all Virginia residents who, between January 19, 2020 to January 19, 2021, received by U.S. Mail listing as Plaintiff Petersburg Hospital Company, LLC d/b/a Southside Regional Medical Center, represented by Faber & Brand, LLC, that asserted a matter was to be heard on a date certain, when no such hearing was set by the General District Court. The Parties have reached a settlement agreement which they believe is fair and just and adequately resolves Plaintiff's claims. A class action cannot be compromised or settled without the approval of the Court. Fed. R. Civ. P. 23(e). Prior to addressing the adequacy of a proposed settlement, the Court must determine whether the class, as agreed to by the parties, may be certified for purposes of the settlement. *Amchem Prod. v. Windsor*, 521 U.S. 591, 613 (1997).

Under Rule 23's flexible approach courts may conditionally or provisionally certify a class for purposes of settling the case. *In re General Motors Corp. Pick-Up Truck Fuel Tank Products Liability Litigation,* 55 F.3d 768, 793-794 (3d Cir. 1995) (collecting cases and authority). A court may grant conditional approval of a class action where the proposed class satisfies the four prerequisites of Rule 23(a) (numerosity, commonality, typicality and adequacy), as well as one of the three subsections of Rule 23(b). *See Amchem,* 521 U.S. at 613; *see also South Carolina National Bank v. Stone*, 749 F. Supp. 1419, 1428 (D.S.C. 1990).

If the Court determines that a settlement class should be certified, the Court must then follow a three-step process prior to granting final approval of a proposed settlement. *Levell v. Monsanto Research Corp.,* 191 F.R.D. 543, 547 (S.D. Ohio 2000). First, the Court must preliminarily approve the proposed settlement. *Id*. Second, members of the class must be given notice of the proposed settlement. *Id.* Third, the Court must hold a hearing, after which the Court decides whether the proposed settlement is fair, adequate, and reasonable to the class as a whole, and consistent with the public interest. *Id.* These three steps protect the class members' procedural due process rights and enable the Court to fulfill its role as the guardian for the class's interests. The decision to approve or reject a proposed settlement is committed to the Court's sound discretion. *City Partnership Company v. Atlantic Acquisition L.P.,* 100 F.3d 1041, 1043- 44 (1st Cir. 1996).

For the following reasons, the Parties request that the Court preliminarily certify a settlement class, preliminarily approve the terms of the settlement, and begin the three-step process for granting final approval.

I. Description of the Litigation and the Proposed Settlement

A. Legal Claims

Plaintiff Ashley Turner on behalf of herself and all others similarly situated, brought this action for damages and declaratory relief against Defendants Faber & Brand LLC and Jared L. Buchanan (collectively "Faber & Brand"), Jeremy Forrest, along with Petersburg Hospital Company, LLC, d/b/a Southside Regional Medical Center, and Professional Account Services, Inc. ("PASI"), asserting that these Defendants violated the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692 *et seq*. ("FDCPA"). Plaintiffs assert that these Defendants, through Faber & Brand, a Missouri law firm, for the purpose of collecting debts on behalf of their client, knowingly mailed, sent, or otherwise used or caused to be used writings simulating or intended to simulate legal process, in the form of a Virginia Supreme Court form DC-412, DC-414, DC-428 Warrant in Debt, and thereby purportedly commanded Virginia consumers to appear in Virginia General District Courts for claims of alleged unpaid medical debt. Plaintiff alleges that for some of these people, even when Defendants knew or should have known that these people had been sent Warrant in Debts for actions that were not going forward, Defendants took no steps to inform them the Warrant in Debts were of no effect.

Plaintiff asserts in her Amended Complaint two other claims against Petersburg Hospital Company, LLC, d/b/a Southside Regional Medical Center ("SRMC"). Plaintiff asserts that the hospital was negligent in handling its medical services account billing, and its selection and retention of PASI to perform medical billing and collection services for it, and that it violated the Virginia Consumer Protection Act, Va. Code § 59.1-196 *et seq*. ("VCPA"). Finally, this action was brought against all defendants for the alleged fraud of not informing Plaintiff, and others like her, that no action had actually been instituted.

B. Positions of the Parties

1. Plaintiff's position

As more fully set forth in the Amended Complaint, and her Opposition to the Motion to Dismiss, Plaintiff contends that all her claims are properly stated. Paragraph 15 of the Amended Complaint alleges that Faber & Brand uses its attorneys like Forrest "when it seeks to collect medical debts for SRMC." As stated in Paragraph 23, Exhibit A to the Amended Complaint, the Warrant in Debt, lists two individual lawyers, along with the Faber & Brand law firm, who represent the hospital – Jared Lee Buchanan and Jeremy Forrest. Jared Lee Buchanan's name is filled in on the signature line on the Warrant In Debt mailed to Plaintiff next to an /s/.

The Amended Complaint also explains how Faber and Brand was fully informed that many people had been summoned to Court that day by Warrants in Debt filed on behalf of SRMC. (Para. 36-44). The Amended Complaint further alleges that Defendants, which includes Mr. Forrest, knew that General District Court had rejected Warrants in Debt they had sent consumers, and they never took any steps to inform those consumers that no action had been instituted. (Para. 55-66).

A Warrant in Debt is the initial written statement of a party's claims in a civil action to which a defendant who contests the claim must appear and defend. *See e.g. Coady v. Strategic Resources, Inc.*, 258 Va. 12, 15, 515 S.E.2d 273, 274 (1999) (describing ordinary procedure for a General District Court case). The Warrant in Debt is authorized by Va. Code § 16.1-79, which provides that a civil action may be brought in a general district court on a warrant.

Plaintiff thus retained counsel to defend her against a lawsuit that had never been filed. Plaintiff's position is that all the above facts would be proven at trial. Furthermore, plaintiff contends that each of the claims would be established.

The FDCPA governs all manner of improper debt collection efforts by debt collectors. Leaving consumers with the false idea they have been sued offends overlapping subsections of the FDCPA found in Section 1692e. This section generally prohibits "false, deceptive, or misleading representations", and includes several particular, but not exclusive ways a debt collector can violate 1692e. With this approach, the FDCPA "enable[s] the courts, where appropriate, to proscribe other improper conduct which is not specifically addressed." 95th Cong., 1st Sess, S.Rep. No. 95–382, at 4, reprinted in 1977 U.S. Code Cong. & Ad. News 1695, 1698; *see also Avila v. Riexinger & Assocs., LLC*, 817 F.3d 72, 75 (2d Cir. 2016) (describing the FDCPA's prohibitions as "non-exhaustive"). *United States v. National Financial Services, Inc.*, 98 F.3d 131,135 (4th Cir. 1996) (§ 1692e provides a non-exhaustive list of prohibited types of conduct). Because the Act is remedial in nature, its terms must be construed in liberal fashion if the underlying Congressional purpose is to be effectuated. *See Vincent v. Money Store*, 736 F.3d 88, 98 (2d Cir. 2013).When a debt collector gives a consumer a false impression that a lawsuit has been commenced when it knows that one has not been commenced, the debt collector violates the FDCPA. A "message that is open to an inaccurate yet reasonable interpretation by the consumer . . . is . . . deceptive as a matter of law." *Creighton v. Emporia Credit Service, Inc.*, 981 F.Supp. 411, 416 (E.D. Va. 1997). Deception is tested under the standard of the "least sophisticated consumer" *See U.S. v. National Financial Services, Inc.*, 98 F.3d 131, 135-36 (4th Cir. 1996); *Turner v. Shenandoah Legal Group, et al.*, No. 3:06-cv-045, 2006 WL 1685698, * 2 (E.D. Va. June 12, 2006). A written communication is deceptive when it can be reasonably read to have two or more different meanings, one of which is inaccurate. *See Goodrow v. Friedman & MacFadyen, P.A.*, 788 F. Supp. 2d 464, 471 (E.D. Va. 2013). Thus, because the uncorrected Warrant in Debt

was reasonably susceptible to an inaccurate reading that Plaintiff had to appear in court on a date and time and certain, it was also deceptive within the meaning of the Act.

Because the FDCPA can be violated by failing to retract a communication once it is known to be false, Defendants' failure to correct the representations in the Warrant in Debt can establish a claim even though Defendants thought the Warrant in Debt would be going forward when it was sent. "First, it is important to note that parties can challenge acts as well as omissions under the FDCPA." *Laporte v. Midland Funding*, LLC, No. 5:19-cv-73, 2020 WL 2814184, *6 (W.D. Va. May 29, 2020). In the context of a debt collector who failed to withdraw a writ of garnishment after it knew the debt had been satisfied, the failure to withdraw that writ violated the FDCPA because "the writ's inception is connected to MRA's attempts to collect Laporte's debt. Taken together, the court finds the failure to retract the Writ of Garnishment within a reasonable time after Laporte's debt was satisfied — and certainly after Laporte called MRA to complain about it — can constitute an ongoing misrepresentation by MRA to Laporte's employer." *Id.* Similarly, the failure to notify Plaintiff that the Warrant in Debt was a nullity, constituted an ongoing misrepresentation by Defendants that asserts a valid FDCPA claim.

The allegations that Defendants informed Plaintiff she had been summoned to Court and took no steps to correct that misinformation thus assert a violation of 15 U.S.C. § 1692e in multiple ways. First, it violates 15 U.S.C. § 1692e(2)(A), because it falsely represents the legal status that the purported debt was being determined by the General District Court. Second, it violates 15 U.S.C. § 1692e(9), because as a written communication it falsely represents that it is part of a process going forward with authorization or approval of that court. It is also a violation of 15 U.S.C. § 1692e(13), because Defendants sent something that appeared to be proper legal process and did not correct that appearance when it turned out to be a nullity. Finally, this violated 15

U.S.C § 1692e(10), because not informing Plaintiff that the Warrant in Debt was a nullity was a deceptive means in an attempt to collect the alleged debt.

For the fraud claim against all Defendants, Plaintiff similarly contends it would be established. The Amended Complaint alleges that Defendants knowingly and intentionally did not inform Plaintiff or others that the Warrants in Debt had been rejected so that Plaintiff and others would rely on them and think they had been sued. (Para. 97). Under Virginia law fraud must be proven by clear and convincing evidence of "(1) a false representation, (2) of a material fact, (3) made intentionally and knowingly, (4) with intent to mislead, (5) reliance by the party misled, and (6) resulting damage to him." *Winn v. Aleda Constr. Co*., 227 Va. 304, 308, 315 S.E.2d 193, 195 (1984). Additionally, concealment "whether accomplished by word or conduct, may be the equivalent of a false representation, because concealment always involves deliberate nondisclosure designed to prevent another from learning the truth. A contracting party's willful nondisclosure of a material fact that he knows is unknown to the other party may evince an intent to practice actual fraud." *Van Deusen v. Snead*, 247 Va. 324, 328, 441 S.E.2d 207, 210 (1994) (quoting *Spence v. Griffin*, 236 Va. 21, 28, 372 S.E.2d 595, 598–599 (1988)).

For fraud by concealment, the Virginia Supreme Court has explained the duty to disclose material facts that are unknown to the plaintiff.

> Our decisions in *Spence* and in *Allen Realty Corp*. reaffirm the principle expounded earlier in *Clay v. Butler*, 132 Va. 464, 474, 112 S.E. 697, 700 (1922):
>
> > If a party conceals a fact that is material to the transaction, knowing that the other party is acting on the assumption that no such fact exists, the concealment is as much a fraud as if the existence of the fact were expressly denied, or the reverse of it expressly stated.
>
> Restatement (Second) of Contracts § 160 (1979) defines a rule in full accord with the rule we have applied: "Action intended or known to be likely to prevent another from learning a fact is equivalent to an assertion that the fact does not exist."

Van Deusen, 247 Va. at 328, 441 S.E.2d at 209 (1994)(also stating "an allegation of concealment by conduct is equivalent to an allegation of a verbal misrepresentation of a material fact"). "Concealment may occur by either words or conduct and it can rise to the level of fraud because it always involves deliberate nondisclosure designed to prevent another from learning the truth. Thus, Virginia courts have required either an allegation or evidence of a knowing and a deliberate decision not to disclose a material fact." *Cars Unlimited II, Inc. v. Nat'l Motor Co.,* 472 F. Supp. 2d 740, 748 (E.D. Va. 2007) (citation and quotations omitted) (citing both *Van Deusen* and *Norris v. Mitchell,* 255 Va. 235, 240–41, 495 S.E.2d 809, 812 (1998)); *see also Bank of Montreal v. Signet Bank,* 193 F.3d 818, 829 (4th Cir. 1999).

Similar to the FDCPA action, the fraud action is based on Defendants failure to correct the information in the Warrant in Debt after they knew, or should have known, that no court proceeding had actually been started. The same claim is the basis of the VCPA claim against SRMC. The negligence claim against SRMC is based on the repeated FDCPA claims that have been asserted against its debt collectors, and its decision to continue to use those debt collectors.

2. Defendants' position

The Defendants have denied all liability under all of the claims. The Faber & Brand Defendants assert that (1) the application for a Warrant in Debt that Mr. Buchanan mailed to Plaintiff did not falsely state that it had been issued by the Clerk and thus, it did not purport to summons Plaintiff to appear at the court, (2) Mr. Buchanan merely certified by his signature on the Warrant in Debt that he had mailed it to Plaintiff, as permitted by Virginia law, (3) the mailing of the Warrant in Debt to Plaintiff did not purport to be service of process by a sheriff or other authorized person, (4) Mr. Buchanan brought the action identified in the Warrant in Debt by mailing an identical copy of the application for Warrant in Debt that he had sent to Plaintiff to the Clerk with the appropriate filing fee, and (5) under Virginia law, the action was deemed brought at that time.

As set forth in Faber & Brand's Motion to Dismiss, Defendants contend that the mailing of the Warrant in Debt to Turner did not violate the FDCPA, because it did not misrepresent the status of the debt owed by Plaintiff nor did the mailed Warrant in Debt falsely represent that it had been issued by the Clerk for the Dinwiddie General District Court. The mailed Warrant in Debt also did not falsely represent that the Warrant in Debt was legal process and its mailing to Plaintiff, which is authorized by Virginia law, is not a deceptive means to collect a debt.

Defendants also contend that the FDCPA imposes no duty upon them to correct the statements in the Warrant in Debt because those statements were true when mailed. They further assert that they did not know the Warrants in Debt had actually been returned and that no such actions were ever to be implemented until the actual court hearing dates. Finally, Defendants assert that as to the class action claims, Plaintiff will not be able to prove standing of each of the class members, and thus assert this case if it goes forward could not result in a recovery for anyone except the named Plaintiff.

Defendants do not admit any wrongdoing or noncompliance with any federal, state, or local statute, public policy, tort law, contract law, common law, or of any other wrongdoing whatsoever.

C. Procedural History

After Plaintiff filed her Complaint, a Motion to Dismiss was filed by the Faber & Brand Defendants. Plaintiff then amended her Complaint, and the Faber & Brand defendants filed a Motion to Dismiss the Amended Complaint. The parties hired the service of a private mediator, a retired federal judge. Although the initial mediation session was not successful, the parties continued to negotiate and were able to reach agreement ona settlement through discussions over several months. Each side is thus well-versed in the relevant facts and the arguments for

and against liability, and both sides are confident that this settlement represents a reasonable resolution of this case.

D. Description of the Proposed Settlement

1. Settlement Class

Under the Settlement Agreement, the Parties agree to resolve the claims of the following Fed. R. Civ. P. 23(b)(3) class:

> All natural persons who were or are Virginia residents who received by U.S. Mail an application for a Warrant In Debt, Virginia Supreme Court form DC-412, DC-414, DC-428, in the form of Exhibit A attached to the Amended Complaint in the Class Action, listing as Plaintiff Petersburg Hospital Company, LLC d/b/a Southside Regional Medical Center, represented by Faber & Brand, LLC, that asserted a matter was to be heard on a date certain, when no hearing was set by the General District Court for the defendant named in the Warrant in Debt as a defendant, during the period January 19, 2020 to January 19, 2021.

Ex. 1 at § 2.1. At this time, the Parties estimate there are approximately 345 class members. The definition of terms from Exhibit 1 are used below to explain the settlement.

2. Settlement Consideration

Defendants agree to pay $115 per Class Member for an aggregate of $39,330 (342 members times $115) to settle the claims and demands of the Class Members as reflected in the Release. *Id.* at § 2.5. The total Settlement Fund amount the Defendants agree to pay is the aggregate sum of the $39,330 to the Class Members, a Service Award of $1,000 to the named Plaintiff, and, the Costs of Administration, as set forth in § 8.1. *Id.* at § 1.18, 2.6.

Additionally, Faber & Brand have agreed agrees to comply with the following new procedure for mailing of Warrants in Debt:

> Faber & Brand, LLC will obtain a court date from the Clerk of the General District Court in Virginia where it intends to file an action on behalf of client, and then mail to the Clerk with the appropriate filing fees a Warrant in Debt with the court date provided by the Clerk. Upon receipt of the file stamped Warrant in Debt back from the Court, or upon confirmation from the court

> that the Warrant in Debt has been accepted by the court, Faber & Brand will then prepare and mail the file stamped copy to the defendant and simultaneously file a Certificate of Service with the Court to reflect the mailing so that Faber and Brand may seek judgment at the court once service is perfected.

Id. at § 2.12. Faber & Brand will also pay the costs of the mediation. *Id.* at § 2.11. Finally, SRMC will dismiss the debt collection action it has filed against Plaintiff with prejudice, and Faber & Brand will pay her an additional $1,500.00. *Id.* at § 2.9, 2.10.

Checks from the Settlement Fund will go stale after 60 days. *Id*. at 4.3 The funds from any checks that remain uncashed will be disbursed to Central Virginia Legal Aid Society. *Id*. at 4.4.

3. Class Action Fairness Act Notice

Defendants will provide notice of the proposed settlement under the Class Action Fairness Act of 2005 ("CAFA"). 28 U.S.C. § 1715. The CAFA Notice will be sent to the appropriate federal and state offices pursuant to the deadlines of this Court's scheduling Order. *Id.* at 6.5.

4. Attorneys' Fees and Expenses and Plaintiff's Service Award

The Settlement Agreement permits Class Counsel to apply for attorneys' fees and costs, and Defendants will not object if the amount is no greater than $40,000.00. *Id*. at § 9.1. The fee and cost amount that is ultimately awarded by the Court will be paid by Faber & Brand. *Id*. at 9.2. Plaintiff can also apply for a $1,000 service award for serving as a class representative. *See* Declaration of Counsel at ¶ 9 (attached as Exhibit 2). The service award will also be paid out of the Settlement Fund. *Id*.

5. Class Release

In return for the settlement's benefits, Class Members will release all claims against these Defendants for any common law or statutory claims regarding the mailing of the Warrant in Debts for a court hearing that was not scheduled. Ex. 1 at § 3.1, 3.2. The release shall not be deemed a

waiver or release of any claim by the hospital related to medical services or expenses provided or incurred by the Hospital to any class member. *Id.* at 3.3.

6. Class Notice, Exclusion, and Objection Process

The Settlement Administrator will mail a Class Notice by U.S. Mail to each class member in the form of attached as Exhibit 2 to the Parties Conditional Settlement Agreement. *Id*. at § 4.1, 4.2. The Class Notice will be sent to the last known address that can be contemporaneously verified by the Class Administrator using commercially reasonable means. These current postal addresses shall be obtained by Faber & Brand, LLC from information kept in their files related to the respective Class Members. Additionally, the Settlement Administrator will establish and maintain a website to make pertinent information available to class members, including the operative Complaint, Automatic Class Notice, Claim Class Notice, Settlement Agreement, and Preliminary Approval Order.

Any class member who does not want to be part of the settlement can send a written exclusion request to the Settlement Administrator at the designated address. *Id*. at § 5.1. The class member's exclusion request must contain the class member's original signature, name, address, telephone number, and a specific statement that the class member wants to be excluded from the Settlement. *Id.* Class members cannot opt out as a group, on an aggregate basis, or as a class involving more than one class member, and any exclusion requests that do not meet the requirements in the Settlement Agreement are invalid. *Id.*

Any Settlement Class Member who has not previously validly opted-out in accordance with the terms above and who intends to object to the Settlement Agreement must file the objection in writing with the Clerk of Court and must concurrently serve the objection on counsel for the parties. *Id*. at § 6.1. The objection must include the nature of the objection and basis for the

objection, along with the Class Member's signature. *Id*. Class members may also filed objections to the Class Counsel's attorneys' fees. § 6.3.

II.

ARGUMENT

A. Elements of Certification for Settlement Class

Courts within this Circuit strongly favor resolving litigation before trial. *See, e.g.*, *S.C. Nat'l Bank v. Stone*, 749 F. Supp. 1419, 1423 (D.S.C. 1990) ("The voluntary resolution of litigation through settlement is strongly favored by the courts.") (citing *Williams v. First Nat'l Bank*, 216 U.S. 582 (1910)). Settlement spares the litigants the uncertainty, delay, and expense of a trial and appeals while simultaneously reducing the burden on judicial resources, especially in class cases. As the court in *Stone* observed:

> In the class action context in particular, there is an overriding public interest in favor of settlement. Settlement of the complex disputes often involved in class actions minimizes the litigation expenses of both parties and also reduces the strains such litigation imposes upon already scarce judicial resources.

749 F. Supp. at 1423 (quoting *Armstrong v. Bd. of Sch. Dirs.*, 616 F.2d 305, 313 (7th Cir. 1980)).

Rule 23 permits courts to preliminarily certify a class for settlement. *In re Gen. Motors Corp. Pick-Up Truck Fuel Tank Prods. Liability Litig.*, 55 F.3d 768, 793-94 (3d Cir. 1995) (collecting cases and authority). A court may preliminarily approve a class action when the proposed class settlement satisfies the four prerequisites of Rule 23(a) and one of the three subsections of Rule 23(b). *See Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 613 (1997). If these requirements are met, then the Court must follow a three-step process before granting final approval. *Levell v. Monsanto Research Corp*., 191 F.R.D. 543 (S.D. Ohio 2000); *see also In re Cathode Ray Tube (Crt) Antitrust Litig*., No. 3:07-cv-5944 JST, 2016 WL 721680 at *16 (N.D. Ca. Jan. 28, 2016); *In re Automotive Parts Antitrust Litig.*, No. 12-md-02311, 2017 WL 3499291

at *3 (E.D. Mich. July 10, 2017).

First, the Court must preliminarily approve the proposed settlement. *Levell*, 191 F.R.D. at 547. Second, class members must be notified of the proposed settlement. *Id.* Third, the court must hold a final fairness hearing to decide whether the proposed settlement is in the public's interest and fair, adequate, and reasonable to the class. *Id.* This protects the class members' procedural due process rights. *Id.* Approval of a class action settlement is committed to the "sound discretion of the district courts to appraise the reasonableness of particular class-action settlements on a case-by-case basis, in light of the relevant circumstances." *In re MicroStrategy, Inc. Sec. Litig.*, 148 F. Supp. 2d 654, 663 (E.D. Va. 2001). Additionally, "there is a strong initial presumption that the compromise is fair and reasonable." *Id.*

B. The Class Meets all Rule 23(a) requirements for purposes of settlement.[1]

Under Rule 23(a), a class action may be maintained if: (1) the class is so numerous that joinder of all members is impracticable; (2) there are questions of law or fact common to the class; (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class; and (4) the representative parties will fairly and adequately protect the interests of the class. Fed. R. Civ. P. 23(a). Here, each of these elements are satisfied.

1. *Numerosity*

Rule 23(a)(1) requires that the class be "so numerous that joinder of all members is impracticable." There is no set minimum number of potential class members that fulfills the numerosity requirement. *See Holsey v. Armour & Co.*, 743 F.2d 199, 217 (4th Cir. 1984).

[1] It is understood and agreed by the Parties that if the Settlement Agreement is not consummated pursuant to the terms set forth therein, the certification of the Settlement Class shall be void, and Defendants shall be deemed to have reserved its respective rights to oppose any and all class certification issues. Although Defendants agreed to settle this case, it does not agree with Plaintiff's statements regarding certification and would have vigorously opposed certification had the parties contested certification in a litigation context.

However, where the class numbers 25 or more, joinder is usually impracticable. *Cypress v. Newport News General & Nonsectarian Hosp. Ass'n*, 375 F.2d 648, 653 (4th Cir. 1967) (18 class members sufficient).

The numerosity requirement is easily met here. There are 342 members in the Class, including the named Plaintiff, which includes 335 individuals because seven individuals received mailings on two separate occasions. *See* Exhibit 3, Declaration of Jared L. Buchanan, Para. 8. Joinder of this many individuals is neither possible nor practical, so the first prong of the certification test has been met. *See Gunnells v. Healthplan Servs., Inc.*, 348 F.3d 417, 425 (4th Cir. 2003).

2. *Commonality*

Rule 23(a)(2) requires that the court find that "there are questions of law or fact common to the class." Fed. R. Civ. P. 23(a)(2). "Commonality is satisfied where there is one question of law or fact common to the class, and a class action will not be defeated solely because of some factual variances in individual grievances." *Jeffreys v. Commc'ns Workers of Am., AFLCIO*, 212 F.R.D. 320, 322 (E.D. Va. 2003). And the common issue must be such that "determination of its truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke." *Id*. The standard is a liberal one that cannot be defeated by the mere existence of some factual variances in individual grievances among class members. *Jeffreys*, 212 F.R.D. at 322; *Mitchell-Tracey v. United Gen. Title Ins. Co.*, 237 F.R.D. 551, 557 (D. Md. 2006) (finding that factual differences among class members will not necessarily preclude certification "if the class members share the same legal theory").

Here, Plaintiff argues that, by definition, class members share multiple questions of law and fact because all were mailed a Warrant in Debt for a court hearing that was never actually

scheduled. The Defendants' defenses for why this occurred are based on the same process. Therefore, Plaintiff posits that the theories of liability as to all class members arise from the same practices and present common questions of law and fact. *See* Fed. R. Civ. P. 23(a).

3. *Typicality*

In the typicality analysis, "[a] class representative must be part of the class and possess the same interest and suffer the same injury as the class members." *Lienhart v. Dryvit Sys., Inc.*, 255 F.3d 138, 146 (4th Cir. 2001). "Nevertheless, the class representatives and the class members need not have identical factual and legal claims in all respects. The proposed class satisfies the typicality requirement if the class representatives assert claims that fairly encompass those of the entire class, even if not identical." *Fisher v. Va. Elec. & Power Co.*, 217 F.R.D. 201, 212 (E.D. Va. 2003). "The typicality requirement mandates that Plaintiffs show (1) that their interests are squarely aligned with the interests of the class members and (2) that their claims arise from the same events and are premised on the same legal theories as the claims of the class members." *Jeffreys*, 212 F.R.D. at 322. Commonality and typicality tend to merge because both of them "serve as guideposts for determining whether under the particular circumstances maintenance of a class action is economical and whether the named plaintiff's claim and the class claims are so interrelated that the interests of the class members will be fairly and adequately protected in their absence." *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 349 n.5 (2011).

Plaintiff's claim is typical of the claims of each class member. Plaintiff and the class members each allege violations of the same FDCPA provisions and the same state laws. The alleged violations also arise from the same overarching conduct, and would have been avoided by the practice that Faber & Brand now is adopting. As discussed in the previous section, the same claims are advanced on behalf of the class members. Therefore, Plaintiff's claim rests on the same

legal and factual issues as those of the class members. That is the hallmark of typicality. *See Deiter*, 436 F.3d at 466 (citing Fed. R. Civ. P. 23(a)(3)).

4. *Adequacy of Representation*

"Finally, under Rule 23(a)(4), the class representatives must adequately represent the interests of the class members, and legal counsel must be competent to litigate for the interests of the class." *Jeffreys,* 212 F.R.D. at 323. "Basic due process requires that the named plaintiffs possess undivided loyalties to absent class members." *Fisher*, 217 F.R.D. at 212 (citing *Broussard v. Meineke Disc. Muffler Shops,* 155 F.3d 331, 338 (4th Cir. 1998)).

The adequacy of representation requirement is met here. Plaintiff received the Warrant in Debt, understood she was sued, and hired counsel to represent her in that lawsuit. She then hired counsel to pursue the claims set forth in this action. She understood and accepted the obligations of a class representative, has adequately represented the class's interests, and has retained experienced counsel who have handled numerous consumer-protection class actions. *See* Ex. 2, Counsel's Declaration at Para. 19 (discussing the participation of Plaintiff in the litigation).

Plaintiff's counsel is competent to litigate for the interests of the class as they have effectively handled numerous consumer-protection class actions. *See* Ex. 2 and Ex. 4, Counsel's Declaration (discussing Plaintiff's counsels' experience in this area.). Additionally, Defendants concur in this finding also.

In addition, Plaintiff has no antagonistic or conflicting interests with the class members. Plaintiff and the class members suffered the same harm and injuries as a result of the alleged violations by Defendants. The Plaintiff is a class member. Considering the identity of claims, there is no potential for conflicting interests in this action. The Plaintiff has also been very active in this litigation, including reviewing pleadings, and consulting with counsel regarding the mediation

and ultimate settlement documentation. Accordingly, the Class is adequately represented and meets Rule 23's requirements.

C. The Class satisfies Rule 23(b)(3) requirements.

The proposed Settlement contemplates a class certification permitting opt-outs under Rule 23(b)(3), which requires "that the questions of law or fact common to the members of the Class predominate over any questions affecting only individual members, and that a Class action is superior to other available methods for the fair and efficient adjudication of the controversy." Fed. R. Civ. P. 23(b)(3).

1. *Predominance*

To be certified under Rule 23(b)(3), the common issues of law or fact shared by the class members must "predominate" over individual issues. Rule 23(b)(3)'s predominance inquiry focuses on whether the proposed classes are "sufficiently cohesive to warrant adjudication by representation." *Gariety v. Grant Thornton, LLP*, 368 F.3d 356, 362 (4th Cir. 2004); *Lienhart v. Dryvit Sys., Inc.*, 255 F.3d 138, 142 (4th Cir. 2001). This criterion is normally satisfied when there is an essential, common factual link between all class members and the defendants for which the law provides a remedy. *Talbott*, 191 191 F.R.D. 99, 105 (W.D. Va. 2000) (citing *Halverson v. Convenient FoodMart, Inc.*, 69 F.R.D. 331 (N.D. Ill. 1974)). And predominance exists where the resolution of class members' individual claims depends on examining common conduct by a defendant. *Jeffreys*, 212 F.R.D. at 323 (finding predominance because class members' claims were based on same acts by defendant and the determinative "question in each individual controversy" was common).

Here, there were two overarching factual issues that predominate—the failure to correct the statements in the Warrants in Debt and the intentionality or willfulness of Defendants' conduct.

Then, the legal issues that flow from this conduct are the same for each claim. Plaintiff submits that certification of the class would easily "achieve economies of time, effort, and expense, and promote . . . uniformity of decision as to persons similarly situated, without sacrificing procedural fairness or bringing about other undesirable results." *Gunnells*, 348 F.3d at 424 (citing *Amchem*, 521 U.S. at 615)

Second, intentionality or willfulness is another weighty qualitative question. As the Fourth Circuit observed in *Stillmock*, "where, as here, the qualitatively overarching issue by far is the liability issue of the defendant's willfulness, and the purported class members were exposed to the same risk of harm every time the defendant violated the statute in the identical manner, the individual statutory damages issues are insufficient to defeat class certification under Rule 23(b)(3)." 385 Fed. App'x. at 273; *see also Butler v. Sears, Roebuck & Co.*, 727 F.3d 796, 801 (7th Cir. 2013).

In sum, the predominance requirement is satisfied here because the essential factual and legal issues regarding the class members' claims are common, and relate to alleged standardized procedures. *Talbott*, 191 F.R.D. at 105 ("Here, common questions predominate because of the standardized nature of [defendant's] conduct."). Nothing more is necessary.

2. *Superiority*

Finally, the Court must determine whether a class action is superior to other potential resolutions of the case. In assessing superiority, the Court should consider: (1) the interest in controlling individual prosecutions; (2) the existence of other related litigation; (3) the desirability of concentrating the litigation in one forum; and (4) manageability.[2] *Hewlett v. Premier Salons*

[2] A trial court may disregard management issues in certifying a settlement class, but the proposed class must still satisfy the other requirements of Rule 23. *Amchem*, 521 U.S. at 620. Therefore, this criterion is not material to the Court's analysis in this posture.

Int'l, Inc., 185 F.R.D. 211, 220 (D. Md. 1997); *accord Newsome v. Up To Date Laundry, Inc.*, 219 F.R.D. 356, 365 (D. Md. 2004).

Efficiency is the primary focus in determining whether a class action meets Rule 23(b)(3)'s superiority requirement. *Talbott*, 191 F.R.D. at 106. In examining efficiency, a court can consider the "inability of the poor or uninformed to enforce their rights, and the improbability that large numbers of class members would possess the initiative to litigate individually." *Haynes v. Logan Furniture Mart, Inc.*, 503 F.2d 1161, 1165 (7th Cir. 1974).

In *Jeffreys*, for instance, the court found that because "the facts and issues involved are identical for all class members, class members have little incentive and few resources to pursue litigation on their own, the class members are dispersed over several states, and there are few manageability concerns, the class action is the best method of resolving the matter." 212 F.R.D. at 323. The same is true here. Common issues predominate in the class, and individual class members may lack the resources to pursue individual claims or be aware that of the claims that they could bring against RPS.

A class resolution of this case is also superior because it eliminates the difficulties of managing separate, individual claims and allows individuals who may be unaware of their legal rights or unable to afford legal representation for an individual to vindicate their rights in this case. Moreover, and of significance in this case, Rule 23(b)(3) permits individual class members to opt-out and pursue their own actions separately if they believe they can recover more in an individual suit. Both predominance and superiority are therefore satisfied.

D. The Settlement is fair, reasonable, and adequate.

After the analysis of the Rule 23(a) and (b) elements, the Court must decide whether the proposed settlement is fair, reasonable, and adequate. Although pretrial settlement of class actions

is favored, "Rule 23(e) provides that a class action shall not be dismissed without the approval of the court." *In re Jiffy Lube Sec. Litig.*, 927 F.2d 155, 158 (4th Cir. 1991) (citations and internal quotations omitted). "To this end, 'the role of the Court reviewing the proposed settlement of a class action under Fed. R. Civ. P. 23(e) is to assure that the procedures followed meet the requirements of the Rule and . . . to examine the settlement for fairness and adequacy.'" *In re MicroStrategy*, 148 F. Supp. 2d at 663 (citations omitted).

After its 2018 amendment, Rule 23(e)(2) now provides that a court may only approve a class settlement after a hearing and finding that the proposed settlement is fair, reasonable, and adequate in light of the following factors:

> (A) the class representatives and class counsel have adequately represented the class;
> (B) the proposal was negotiated at arm's length;
> (C) the relief provided for the class is adequate, taking into account:
> (i) the costs, risks, and delay of trial and appeal;
> (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims;
> (iii) the terms of any proposed award of attorney's fees, including timing of payment; and
> (iv) any agreement required to be identified under Rule 23(e)(3); and
> (D) the proposal treats class members equitably relative to each other.

Fed. R. Civ. P. 23(e)(2). These revised approval standards are identical to the ones that courts in the Fourth Circuit have considered for years under the *Jiffy Lube* factors. *In re Jiffy Lube*, 927 F.2d 155. These safeguards ensure that "a proposed class has sufficient unity so that absent members can fairly be bound by decisions of class representatives." *Amchem*, 521 U.S. at 621; *see also In re Jiffy Lube*, 927 F.2d at 158 ("The primary concern addressed by Rule 23(e) is the protection of class members whose rights may not have been given adequate consideration during the settlement negotiations."). In this case, each set of factors weighs in favor of approving the Settlement.

1. *The Settlement is fair.*

When evaluating the fairness of a settlement, the Court must consider: "(1) the posture of the case at the time settlement was proposed, (2) the extent of discovery that had been conducted, (3) the circumstances surrounding the negotiations, and (4) the experience of counsel." *In re Jiffy Lube*, 927 F.2d at 159. The fairness inquiry ensures that "the settlement was reached as a result of good-faith bargaining at arm's length, without collusion." *Id*. These factors point persuasively to the conclusion that the settlement here is fair.

The proposed settlement was reached only after significant negotiations with the assistance of a retired federal judge. Furthermore, with the exchange of all documents as part of the Rule 26(a)(1) disclosures, significant facts were developed. The Settlement was achieved only after a second Motion to Dismiss was filed and fully briefed. As a result of these efforts, the Parties were able to assess the strength of their respective claims and defenses. There is a presumption that it is fair when a settlement is the result of genuine arms-length negotiations. *See*, *e.g.*, *City P'ship Co. v. Atlantic Acquisition Ltd. P'Ship*, 100 F.3d 1041, 1043 (1st Cir. 1996).

Most importantly, under the Settlement, class members will receive notice of what happened to them and that they can choose to receive $115.00 or opt out and pursue their own claims.

As Class Counsel, Mr. Pittman has been practicing in the field of consumer protection for more than 40 years and his co-counsel for almost 30 years. They believe this settlement is fair when contrasted against the risks associated with litigating this matter. *See S.C. Nat'l Bank v. Stone*, 139 F.R.D. 335, 339 (D.S.C. 1991) (concluding fairness met where "discovery was largely completed as to all issues and parties," settlement discussions "were, at times, supervised by a magistrate judge and were hard fought and always adversarial," and those negotiations "were conducted by able counsel" with substantial experience in the area of securities law). Courts

recognize that the opinion of experienced and informed counsel in favor of settlement should be afforded substantial consideration in determining whether a class settlement is fair and adequate. *See, e.g.*, *In re MicroStrategy*, 148 F. Supp. 2d at 665.

2. *The Settlement's terms are adequate and reasonable.*

In assessing the adequacy of the Settlement, the Court should consider: "(1) the relative strength of the plaintiffs' case on the merits, (2) the existence of any difficulties of proof or strong defenses the plaintiffs are likely to encounter if the case goes to trial, (3) the anticipated duration and expense of additional litigation, (4) the solvency of the defendants and the likelihood of recovery on a litigated judgment, and (5) the degree of opposition to the settlement." *In re Jiffy Lube*, 927 F.2d at 159. While it is too early to address the last factor, the other factors confirm that the proposed settlement is adequate, reasonable, and suitable for preliminary approval.

a. The relative strength of the Plaintiff's case and strong defenses.

As noted, Defendants dispute Plaintiff's claims regarding the intentionality of their conduct, and they dispute the claims for a class of people on those same issues and the issue of standing for the class members. While Plaintiff believes that she could successfully overcome both factual and the procedural arguments for the class, they are viable defenses that Defendants are poised to vigorously advance. A loss on certification would mean that Class Members would receive nothing. In addition, the expenses associated with continued litigation, the likelihood of appeals, the certainty of delay, and the ultimate uncertainty of recovery through continued litigation, the proposed settlement is fair, adequate, and an excellent result for the Class. That result is best viewed as giving the class the opportunity to make an informed choice: accept $115.00 or opt out after being told exactly what claims could be asserted on their behalf.

b. The anticipated duration and expense of additional litigation

Aside from the potential that either side will lose at trial or on appeal, the Parties anticipate incurring substantial additional costs in continuing this litigation. Given the need to document the standing of each member of the class, substantial work would need to be done in the case, including individually contacting each class member and determining whether they opened the mailing, read it, and what they did in response. Thus, the likelihood of substantial future costs favors approving the proposed Settlement. Even more importantly, the long delay threatened by continued litigation, interlocutory appeal, and terminal appeal would delay class members' receipt of the settlement benefits. Further, with the passage of time, the efficacy of direct notice would be undermined by Class Members' change of addresses.

c. *The solvency of the Defendant and the likelihood of recovery*

Although some of the Defendants are ongoing enterprises, SRMC has stopped conducting business as a hospital. As highly sophisticated companies, the corporate defendants could have made collection of any judgment extremely difficult. And even if successful at trial, there is also uncertainty on appeal. *See, e.g., Dreher v. Experian Info. Sols., Inc.*, 856 F.3d 337, 340 (4th Cir. 2017) (vacating a class judgment of approximately $12 million and dismissing the case); *Anixter v. Home–Stake Prod. Co.*, 77 F.3d 1215 (10th Cir. 1996) (overturning plaintiffs' verdict obtained after two decades of litigation); *Berkey Photo, Inc. v. Eastman Kodak Co.*, 603 F.2d 263 (2d Cir.1979) (reversing $87 million judgment after trial); *Hughes Tool Co. v. Trans World Airlines, Inc.*, 409 U.S. 363, 93 S.Ct. 647, 34 L.Ed.2d 577 (1973) (reversing $145 million judgment after years of appeals and on a theory that defendant had not raised, or argued).

In any event, even assuming the ability to pay a judgment, "that should not preclude final approval of the proposed Settlement." *Brown v. Transurban USA, Inc.*, 318 F.R.D. 560, 573 (E.D. Va. 2016) (citing *Henley v. FMC Corp*., 207 F.Supp.2d 489, 494 (S.D.W. Va. 2002) ("[That factor]

is largely beside the point given the other factors weighing in favor of a negotiated resolution."); *see also Decohen v. Abbasi, LLC*, 299 F.R.D. 469, 480 (D. Md. 2014) ("Although Capital One could likely afford to pay a much larger judgment, because the other factors favor adequacy, this factor may be given less weight.").

In light of the foregoing and when considering the other factors, this factor weighs in favor of approval of the Settlement.

E. The proposed notice and notice plan satisfy Rule 23.

Following preliminary approval, the class members must be notified of the settlement and their rights. Rule 23(e)(1) requires that: "The court must direct notice in a reasonable manner to all class members who would be bound by the proposal . . ." Rule 23(c)(2)(B) sets forth the contents of a notice to be sent to members of a Rule 23(b)(3) class:

> For any class certified under Rule 23(b)(3)—or upon ordering notice under Rule 23(e)(1) to a class proposed to be certified for purposes of settlement under Rule 23(b)(3)—the court must direct to class members the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort. The notice may be by one or more of the following: United States mail, electronic means, or other appropriate means. The notice must clearly and concisely state in plain, easily understood language:
>
> (i) the nature of the action;
> (ii) the definition of the class certified;
> (iii) the class claims, issues, or defenses;
> (iv) that a class member may enter an appearance through an attorney if the member so desires;
> (v) that the court will exclude from the class any member who requests exclusion;
> (vi) the time and manner for requesting exclusion; and
> (vii) the binding effect of a class judgment on members under Rule 23(c)(3).

The proposed class notices, which are attached to the Settlement Agreement, satisfies all of these requirements.

As detailed in the Settlement Agreement, the Settlement Administrator will administer the settlement and class notices. The Settlement Administrator will mail an appropriate class notice to

each class member. Before sending any mailed notices, the Settlement Administrator will check and update the class members' addresses. The Settlement Administrator will review any returned mail notices to see if it can be re-mailed to an updated address. Class Counsel have agreed to be responsible for answering questions or otherwise assisting class members who contact the telephone number provided by the Settlement Administrator. *Id.*

For these reasons, the proposed Notice and Notice Plan represent the "best notice that is practicable under the circumstances," and it therefore meets Rule 23's notice requirements. Consequently, the Court should approve the Notice and Notice Plan.

CONCLUSION

For the reasons discussed above, the Court should: (1) certify the Class under Fed. R. Civ. P. 23(b)(3), appoint the Named Plaintiff as the class representative, and appoint Plaintiff's counsel as Class Counsel; (2) preliminarily approve the Settlement Agreement as fair, adequate, and reasonable; (3) approve the Class Notice and find that the Notice Plan satisfies due process and Rule 23; (4) direct that Notice be sent to the Class; and (5) continue to follow this Court's Scheduling Order for a final hearing on class certification and settlement.

Respectfully submitted,

ASHLEY TURNER

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Certificate of Service

I hereby certify that on this 23rd day of August, 2021, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to all parties.

/s/
By: Dale W. Pittman, VSB#15673

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EXHIBIT 1

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

ASHLEY TURNER,	:	
Plaintiff,	:	
v.	:	**Civil No. 3:21cv30 (DJN)**
FABER & BRAND, LLC, *et al*.,,	:	
Defendant.	:	

CONDITIONAL SETTLEMENT AGREEMENT OF CLASS ACTION CLAIMS

This matter has been resolved by compromise, subject to Court approval of the terms and conditions of this Conditional Settlement Agreement ("Agreement" and "Settlement"), entered into as of August 3, 2021, by and among Plaintiff Ashley Turner ("Named Plaintiff"), on behalf of herself and a putative settlement class as defined below (the "Settlement Class") (the Settlement Class and the Named Plaintiff are collectively referred to as the "Plaintiffs"), on the one hand, and Defendants, Faber & Brand, LLC, Jared L. Buchanan, Jeremy Forrest, Petersburg Hospital Company, LLC d/b/a Southside Regional Medical Center and Professional Account Services, Inc., (collectively, "Defendants"), on the other. Plaintiffs and Defendants are collectively referred to as "Parties." The Parties intend this Agreement, once finally approved by the Court, to fully, finally, and forever resolve, discharge and settle the Released Claims (as defined below), subject to the terms and conditions of this Agreement.

I. SETTLEMENT TERMS.

The Parties, by counsel, and subject to the approval of the Court and subject to the other conditions of the Settlement Agreement, compromise and settle the claims that were asserted or could have been asserted in the Class Action lawsuit as follows:

1. Definitions -

1.1 "Class Action" means the case styled *Ashley Turner v. Faber & Brand, LLC, et al*., Case No. 3:21-cv-30 (DJN) pending in the United States District Court for the Eastern District of Virginia.

1.2 "Class Counsel" means Dale W. Pittman, of The Law Office of Dale W. Pittman, P.C., and Thomas D. Domonoske, of Consumer Litigations Associates, P.C.

1.3 "Class Administrator" shall be American Legal Claims Services, LLC, as approved by the Court.

1.4 "Class Member(s)" means any member of the Settlement Class set forth in § 2.1 below but does not include those individuals who timely opt-out of the settlement as set forth in § 5.1, as more fully described in § 4.2.

1.5 "Class Period" means January 19, 2020 to January 19, 2021.

1.6 "Defendants" means Faber & Brand, LLC, Jared L. Buchanan, Jeremy Forrest, Petersburg Hospital Company, LLC d/b/a Southside Regional Medical Center and Professional Account Services, Inc.

1.7 "Defense Counsel" means the lawyers representing the defendants as follows: Faber & Brand, LLC, Jared L. Buchanan and Jeremy Forrest (the "Faber & Brand Parties") are represented by Charles M. Sims and C. Quinn Adams of O'Hagan Meyer PLLC. Petersburg Hospital Company, LLC d/b/a Southside Regional Medical Center (the "Hospital") and

Professional Account Services, Inc. (the "Hospital Parties") are represented by Stephen Sherman and Shannon Miller of Maurice Wutscher LLP. Collectively, the lawyers for the Faber & Brand Parties and the Hospital Parties shall be "Defense Counsel."

1.8 "Opt-Out" means to timely request exclusion from the Settlement pursuant to Fed. Rule Civil Procedure Rule 23(c)(2)(B) and the procedure set forth in § 5.1.

1.9 "Effective Date" means the date on which the Judgment finally approving this Agreement becomes Final. The Effective Date shall be, if there are no timely objections to the Settlement, thirty (30) days after entry of the Court's order granting final approval of the settlement.

1.10 "Final" means the date which all appellate rights with respect to the Judgment have expired or have been exhausted in a manner to affirm the Judgment, and when no further appeals are possible, including review by the United States Supreme Court.

1.11 "Judgment" means a judgment and order dismissing the Class Action entered by the Court granting final approval of the Settlement and entering a judgment per the terms of this Agreement.

1.12 "Named Plaintiff" means Ashley Turner.

1.13 "Released Claims" means all claims, demands, rights, liabilities, and causes of action under federal or state law, whether based on common law or statutory (including the Fair Debt Collections Practices Act, 15 U.S.C. 1692 *et seq*., and the Virginia Consumer Protection Act, Va. Code § 59.1-196 *et seq*.,) whether class or individual in nature, known or unknown, concealed or hidden, arising out of or related to the mailing of a Warrant in Debt for a return date where the Court did not call the Class Member's case because it was not on the Docket. This release shall

not be deemed to be a release or waiver of any claim or defense pertaining to the underlying debt that forms the basis of the Warrant In Debt.

1.14 "Released Defendants" means the Defendants and where the Defendants are natural persons, their personal representatives, heirs, estates, agents, attorneys, and insurers, and where the Defendants are entities, their officers, managers, directors, employees, agents, members, shareholders, subsidiaries, affiliates, predecessors, successors, assigns, and insurers, and all their officers, managers, directors, employees, agents, members, shareholders, subsidiaries, affiliates, predecessors, successors, assigns and insurers.

1.15 "Scheduling Order" means the Court's Scheduling Order (For Approval of Class Action Settlement), entered on August 9, 2021 (ECF No. 46).

1.16 "Service Award" means the one-time payment to the Named Plaintiff for the time and resources each of them have put into representing the Class Members, as set forth in § 9.2.

1.17 "Settlement Class" has the meaning set forth in § 2.1.

1.18 "Settlement Funds" means the amount Defendants agree to pay: 1) the Class Members as set forth in § 2.5, and 2) the Service Award, as set forth in § 9.3, the Costs of Administration, as set forth in § 8.1.

1.19 "Settlement Hearing" means the hearing described in § 4.1.

1.20 "Settlement Notice" means the form of notice to be provided to the Settlement Class after preliminary approval of the Agreement and Class Certification by the Court, as described in § 4.2.

1.21 "Settling Parties" means the Named Plaintiff and Defendants.

1.22 "Termination Notice" shall have the meaning set forth in § 10.5.

2. **The Settlement**

2.1 To effectuate settlement only, the Settling Parties will jointly request that the Court certify a settlement class that will consist of all natural persons who were or are Virginia residents who received by U.S. Mail an application for Warrant In Debt, Virginia Supreme Court form DC-412, DC-414, DC-428, in the form of Exhibit A attached to the Amended Complaint in the Class Action, listing as Plaintiff Petersburg Hospital Company, LLC d/b/a Southside Regional Medical Center, represented by Faber & Brand, LLC, that asserted a matter was to be heard on a date certain, when no hearing was set by the General District Court for the defendant named in the Warrant in Debt as a defendant, during the period January 19, 2020 to January 19, 2021.

2.1.1 For purpose of settlement only, a Virginia resident will be deemed to have received an application for a Warrant in Debt if Faber & Brand's internal records reflect that it mailed the application to the Class Member on or after January 19, 2019 and the mailing was not returned to Faber & Brand as undelivered.

2.1.2 The Settlement Class will include each defendant named in the Warrant in Debt to whom the Warrant in Debt was mailed and received. Thus, if the application for Warrant in Debt included a husband and wife and the application for a Warrant in Debt was mailed to their joint address, then both defendants named in that Warrant in Debt would be included in the class.

2.2 The Parties believe that the Settlement Class consists of approximately 342 persons.

2.3 On the Effective Date, the Preliminary Settlement Class set forth in § 2.1 shall become permanently certified ("Settlement Class") unless the Judgment does not become Final.

2.4 In the event the Settlement is not preliminarily and finally approved and implemented, or the Judgment does not become Final, the Preliminary Settlement Classes are dissolved without prejudice regarding the appropriateness of class certification, and thereafter, the

issue of class certification will be decided *de novo*, such that Defendants are not precluded from challenging class certification and the Defendants' execution of the Agreement shall not be deemed an admission by Defendants as to the appropriateness of class certification.

2.5 Defendants agree to pay $115 per Class Member for an aggregate of $39,330 (342 persons times $115) to settle the claims and demands of the Class Members as reflected in the Release.

2.6 The Settlement Fund, to be satisfied by, or on behalf of, Faber & Brand, LLC, shall be disbursed as follows: a) to the Class Administrator, the reasonable costs of class notice and administration expense and taxes; b) to the Named Plaintiff a service award approved by the Court (requested to be $1000.00 to the Named Plaintiff); and c) $115 to each member of the Settlement Class.

2.7 Defendants shall deposit the Settlement Funds into an interest-bearing account with the financial institution designated by Class Counsel. Defendants shall complete the deposit of the Settlement Funds within thirty (30) days following entry of the Preliminary Approval Order.

2.8 Upon final approval of the Settlement at the final approval hearing, the Class Action will be dismissed with prejudice.

2.9 Within five (5) business days following the Effective Date, the Hospital shall cause its attorneys to dismiss the action filed against Named Plaintiff in the Dinwiddie General District, Case No. V21-49 (the "GD Court Action), with prejudice and shall close, and no longer seek to collect or sell the debt that is the subject of the GD Court Action.

2.10 Within five (5) business days following the Effective Date, Faber & Brand shall pay Named Plaintiff $1,500 by delivering to Class Counsel a check made payable to Ashley Turner.

2.11 Upon Preliminary Approval of the Agreement, Faber & Brand will pay the mediation costs invoiced by the McCammon Group. In the event that there is no Final Judgment approving this Agreement and the Class Action Settlement, then Named Plaintiff shall reimburse Faber & Brand her pro-rata portion (one third) of the McCammon Group invoice.

2.12 Upon execution of this Agreement, Faber & Brand agrees to comply with the following procedure for mailing of Warrants in Debt:

> Faber & Brand, LLC will obtain a court date from the Clerk of the General District Court in Virginia where it intends to file an action on behalf of client, and then mail to the Clerk with the appropriate filing fees a Warrant in Debt with the court date provided by the Clerk. Upon receipt of the file stamped Warrant in Debt back from the Court or upon confirmation from the court that the Warrant in Debt has been accepted by the court, Faber & Brand will then prepare and mail the file stamped copy to the defendant and simultaneously file a Certificate of Service with the Court to reflect the mailing so that Faber and Brand may seek judgment at the court once service is perfected.

3. **RELEASE**

3.1 Upon the Effective Date, each Settlement Class member who has not validly opted out of the proposed settlement, and each of their respective spouses, executors, representatives, heirs, successors, bankruptcy trustees, guardians, wards, agents, successors, assigns and all those who also claim by or through them or assert claims on their behalf shall be deemed to have and by operation of the Judgment shall have, fully, finally, and forever released, relinquished and discharged all Released Claims against the Released Defendants.

3.2 Upon the Effective Date, each Settlement Class Member who has not opted out of the proposed settlement shall be permanently enjoined and barred from filing, commencing, prosecuting, intervening (as class members or otherwise) or receiving any benefits from any lawsuit or arbitration proceeding arising out of or related to any of the Released Claims.

3.3 This Agreement and the Release in § 3 shall not be deemed a waiver or release of any claim by the Hospital for payments related to medical services or expenses provided or incurred by the Hospital to any Class Member, nor shall Final Judgment in this Action be deemed res judicata or collateral estoppel of any claim or demand made in any current action by the Hospital against the Class Members for payment of medical services provided by the Hospital to the Class Members. Likewise, this Agreement and the Release in § 3 shall not be deemed a release or waiver of any claim or defense any Class Member may have with respect to any claim by the Hospital for payment of medical services or expenses provided by the Hospital to a Class Member.

4. **Notice of Order and Settlement Hearing**

4.1 The Settling Parties shall jointly apply to the Court for Preliminary Approval of the Settlement. The Settling Parties anticipate filing a joint application for Preliminary Approval along with the filing of this Agreement. The Parties shall submit to the Court the Agreement, along with its Exhibits, and shall apply for entry of the Preliminary Approval Order, substantially in the form and content of Exhibit 1, requesting, *inter alia*; (a) preliminary approval of the Settlement; (b) preliminary certification of the preliminary Settlement Classes; (c) approval of the distribution of the Settlement Notices substantially in the form and content of Exhibit 2; and (d) a time and date for the Final Fairness Hearing for final approval of the Class Action Settlement. Should the Court reject or materially alter the Parties' agreed-upon Preliminary Approval Order or Settlement Notices, then the Parties will have the option to void the Settlement if the Parties are unable, after good-faith negotiations, to agree on a form of Preliminary Approval Order and Settlement Notices acceptable to the Court.

4.2 No later than later than fourteen (14) days after Preliminary Approval by the Court, Faber & Brand, LLC shall provide Class Counsel, in a mutually agreeable electronic format, a list

containing the names and last known addresses of the individuals that comprise the Settlement Class. Class Counsel shall then, through the Class Administrator, provide each member of the Preliminary Settlement Class a notice within thirty (30) days after preliminary approval in substantially similar form as the notice attached hereto as Exhibit 2, notifying the person of his or her right to participate in the settlement, or to object to or opt out of the settlement ("Class Notice"). All putative Class Members who do not opt out or object within sixty (60) days from the date they were sent the Class Notices shall be considered Class Members and shall be bound by the terms of the Settlement. The Class Notice will be sent to the last known address that can be contemporaneously verified by the Class Administrator using commercially reasonable means. These current postal addresses shall be obtained by Faber & Brand, LLC from information kept in their files related to the respective Class Members.

4.3 Members of the Settlement Class shall be informed that they are entitled to cash funds as part of the settlement. The Class Members do not need to submit a claim to receive payment. Within fifteen (15) days of the Effective Date, the Class Administrator shall mail checks to the Class Members who have not opted out of the Settlement at the last known address on file, which check shall become void 60 days after mailing.

4.4 All funds not disbursed because the checks were not cashed within the sixty (60) day period shall be be disbursed to Central Virginia Legal Aid Society.

4.5 The Class Member only acquires title to any Settlement Funds by cashing the check issued to that Class Member.

4.6 The Settlement Administrator shall make commercially reasonable efforts to update Class Member addresses and re-mail any checks returned as undeliverable.

5. **Procedure to Opt-Out of the Settlement.**

5.1 A Settlement Class Member may request to be excluded from the Settlement Class by sending written request for exclusion to the Class Administrator at the address provided in the Notice. The Settlement Class Member's Opt-Out request must contain the Class Member's original signature, current postal address, and a specific statement that the Class Member wants to be excluded from the Settlement Classes. Opt-Outs must be postmarked no later than the deadline set by the Court in the Preliminary Approval Order. Persons who purport to opt out of the Settlement Class as a group, or on an aggregate basis with other persons, or as a class of persons will not be valid. Each person must individually opt out of the Settlement. The Administrator shall provide Class Counsel and Defense Counsel with the complete list of all persons who have properly opted out of the Settlement together with copies of the opt out requests within seven (7) business days after the deadline for submission of request for exclusion from the Settlement.

6. **Procedure to Object to the Settlement**

6.1 Any Class Member who does not opt out but who instead wishes to object to the Settlement or any matters as described in the Notice, may do so by filing with the Court a notice of intention to object, which shall set forth the nature of the objection and basis for the objection, along with the Class Member's signature. Class Counsel and Defense Counsel shall be provided copies of any papers filed by the objecting Class Member.

6.2 Objections must be filed and served so that they are received no later than the deadline set by the Court in the Scheduling Order.

6.3 Objections to Class Counsel's attorneys' fees must be filed in accordance with the Court's Scheduling Order. The objection must indicate whether the Class Member and/or the Class Member's attorney intends to appear at the Final Fairness Hearing. Any attorney who intends to

appear at the Final Fairness Hearing must enter a written notice of Appearance of Counsel with the Clerk no later than the deadline set by the Court in the Preliminary Approval Order.

6.4 The Parties shall seek a final approval of the Class Settlement as set forth in the Court's Scheduling Order.

6.5 Defendants shall cause notice of the proposed settlement that meets the requirements of the Class Action Fairness Act of 2005 ("CAFA"), 28 U.S.C. § 175, to be served on the appropriate federal and state officials ("CAFA Notice") in accordance with the Court's Scheduling Order. Defendants shall file a Notice of Compliance with the court of providing the CAFA Notice as set forth in the Court's Scheduling Order.

7. **Final Fairness Hearing Judgment and Notice.**

7.1 The Final Fairness Hearing, as established in the Court's Scheduling Order, shall be for the Court to determine whether to grant final approval of the Settlement. The Final Fairness Hearing shall be held in accordance with the Court's Scheduling Order.

7.2 At least five (5) days before the Final Fairness Hearing, the Class Administrator will certify to the Court that it has fully complied with the Notice provisions set forth in § 4.2.

8. **Administration and Supervision of the Settlement Fund.**

8.1 Subject to Court approval, a Class Administrator will administer the Notice of the Settlement, the Claims process and shall control the Settlement Funds. The Class Administrator shall administer and oversee the mailing of the Court-approved notice and distribution of the Settlement Funds only with the mutual approval of Defendants Counsel and Class Counsel. Upon completing settlement administration services, the Class Administrator shall provide or cause to be provided to the Court a final report on its administration of the Settlement. Administration Costs shall be paid from the Settlement Funds. Class Counsel shall have and shall provide to

Defendants reasonable access to documents relating to compliance and administration of the Settlement Funds, with the right, but not the obligation, to review and audit the documents to determine compliance with the Agreement.

8.2 No person shall have any claim against Class Counsel, Defense Counsel, or the Class Administrator based on the monetary payments made substantially in accordance with this Agreement and Court orders.

9. **Class Counsel Fees, Reimbursement of Expenses, and Payment of Additional Costs.**

9.1 Class Counsel shall make an application to the Court for an award to be satisfied by, or on behalf of, Faber & Brand, LLC, for attorneys' fees, costs, and other expenses. Defendants do not oppose or object to this application to the extent that it does not exceed $40,000.00.

9.2 Within fifteen (15) days following the Effective Date, Faber & Brand shall pay Class Counsel any attorney's fees, costs, and other expenses approved by the Court.

9.3 Named Plaintiff shall apply to the Court to receive compensation for serving as class representative in the amount of $1000.00 (the "Service Award"), which shall be in addition to any other sums the Named Plaintiffs may receive as a Class Member. Defendants do not oppose or object to this application. This amount is payable from the Settlement Fund on the day that the Judgment becomes Final.

10. **Conditions of Settlement, Effect of Disapproval, Cancellation, or Termination**

10.1 Plaintiffs or Defendants, individually or collectively, at any of their sole discretion, shall each have the right to terminate the Agreement, including dissolution of the Preliminary Settlement Class, in the event that the Court's approval of this Agreement is made to depend upon a material change to the Agreement, including, without limitation, changes in the scope of the Release; changes to the amount of the Settlement Fund; the Court fails to grant preliminary or final

approval of the settlement; or the grant of final approval of the settlement is reversed by a court of appeals.

10.2 Each of the Defendants shall have the right in each of their sole discretion to terminate the settlement if any Federal or State agency objects to this Agreement or the Class Settlement, or otherwise opposes the Court's Final Approval of the settlement.

10.3 If any Party elects to terminate the Agreement, then the Agreement becomes void as to all Parties without further action.

10.4 The failure of the Court or any appellate court to approve in full the request by Class Counsel or Named Plaintiffs for attorneys' fees, Service Awards, costs, and other expenses shall not be grounds for the Named Plaintiffs, the Settlement Class, or Class Counsel to terminate the Settlement.

10.5 To be effective, the decision of any Party to terminate this Agreement under Section 10 must be communicated in writing by delivering written notice of the Party's election to terminate the Settlement ("Termination Notice") to all Parties within fifteen (15) days of a Terminating Event, however, the failure of the Court to enter Final Judgment approving this Agreement is a condition precedent to its enforcement, and therefore, in that event no notice of termination is required.

10.6 In the event that any Party provides Notice of Termination in compliance with § 10.5, then (i) this Agreement shall be void and of no further force and effect; (ii) the Parties shall be restored to the respective positions in the Class Action immediately before the execution of this Agreement and no Party shall be deemed to have waived any defense or claim or be estopped from raising any defense or claim; (iii) any portion of the Settlement Funds not used to fund notice and administration shall be returned to Defendants together with any interest earned, provided

however, that the funds may be used to send notices to putative class members informing them that the settlement has been terminated, if deemed necessary by the Court; (iv) this Agreement shall not be used in the Class Action or in any other proceeding for any purpose; and (v) any judgment or order entered by the Court in accordance with the terms of the Agreement shall be treated as vacated, *nunc pro tunc*. The provisions of this Section 10.6 are intended by the Parties to be a binding and enforceable agreement, effective upon execution of this Agreement, and shall survive termination and not be subject to any conditions precedent to enforcement.

10.7 Upon filing of the Agreement with the Court, the Parties will jointly seek an order staying the Class Action except for such proceedings as may be necessary either to implement the Agreement or to comply with or effectuate the terms of the Agreement.

11. **Final Judgment**

11.1 The Parties shall jointly seek the Court's entry of a Final Judgment that includes provisions;

a. Granting final approval of this Agreement, and directing its implementation pursuant to its terms and conditions;

b. Ruling upon Class Counsel's application for attorneys' fees, costs, and other expenses;

c. Discharging and releasing the Released Defendants from the Released Claims as provided in this Agreement;

d. Directing dismissal of the Class Action with prejudice;

e. Reserving to the Court continuing and exclusive jurisdiction over the Parties with respect to the Agreement and the Final Judgment.

12. **Miscellaneous Provisions**

12.1 The Parties agree to cooperate to the extent necessary to effectuate and implement all terms and conditions of this Agreement and to exercise their best efforts to accomplish the terms and conditions of the Agreement.

12.2 The Parties agree to make no statement either directly or indirectly to any media source, or on social media or website or public communications concerning the settlement; provided however, the Parties agree to provide a joint statement if the Parties determine that such a statement would assist in effectuating the terms of this Agreement.

12.3 Named Plaintiff represents and warrants that she has not assigned the Released Claims to any person.

12.4 The Parties will bear their own costs and attorneys' fees except as provided in § 8.1 relating to administration of the Settlement Fund and § 9 relating to Class Counsel Fees.

12.5 Defendants have agreed amongst themselves on the payment of the Settlement Fund and they agree not to seek contribution or indemnity from any other Party related to the payment of their portion of the Settlement Fund.

12.6 Virginia law shall govern this Agreement.

12.7 The Parties agree that the United States District Court for the Eastern District of Virginia, Richmond Division, shall have exclusive jurisdiction to resolve any dispute arising out or related to this Agreement, and the Parties waive the right to have jury determine any fact at issue, to the extent that the Party would be entitled to a jury for resolution of any dispute arising out of related to this Agreement.

12.8 This Agreement may be executed in counterparts. Each counterpart when executed shall be deemed to be an original and all such counterparts together shall constitute the same instrument.

13. Parties signatures:

ASHLEY TURNER

Ashley Turner

JARED L. BUCHANAN

_____

JEREMY FORREST

_____

FABER & BRAND, LLC

_____

By: _____

Its: _____

PETERSBURG HOSPITAL COMPANY,

d/b/a SOUTHSIDE REGIONAL MEDICAL CENTER

_____

By: _____

Its: _____

PROFESSIONAL ACCOUNT SERVICES, INC.

_____

By: _____

Its: _____

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13. Parties signatures:

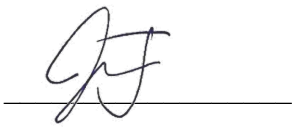
ASHLEY TURNER

_____

JARED L. BUCHANAN

_____

JEREMY FORREST



FABER & BRAND, LLC

_____

By: _____

Its: _____

PETERSBURG HOSPITAL COMPANY,

d/b/a SOUTHSIDE REGIONAL MEDICAL CENTER

_____

By: _____

Its: _____

PROFESSIONAL ACCOUNT SERVICES, INC.

_____

By: _____

Its: _____

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ASHLEY TURNER

_____

JARED L. BUCHANAN

_____

JEREMY FORREST

_____

FABER & BRAND, LLC

_____

By: _____

Its: _____

PETERSBURG HOSPITAL COMPANY,

d/b/a SOUTHSIDE REGIONAL MEDICAL CENTER

_____

By: _____

Its: _____

PROFESSIONAL ACCOUNT SERVICES, INC.

_____

By: Dennis Bennett / 8-23-21

Its: Senior Director of Operations

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

ASHLEY TURNER,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 3:21cv30 (DJN)
	)	
FABER & BRAND, LLC, *et al.*,	)	
	)	
Defendants.	)	

ORDER PRELIMINARILY APPROVING SETTLEMENT
AND DIRECTING NOTICE TO CLASS

The matter before the Court is a Joint Motion Seeking Preliminary Approval of a Proposed Compromise and Class Action Settlement. The Settlement Agreement has been filed with the Court as an Exhibit to the Memorandum to that Joint Motion, and the definitions and terms set forth in the Settlement Agreement are incorporated herein by reference. A Final Fairness Hearing will be held on December 20, 2021, at 11:00 a.m., after notice to the proposed Settlement Class Members, to confirm that the proposed Settlement is fair, reasonable, and adequate; and to determine whether a Final Approval Order should be entered in this matter.

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The Court has considered the proposed settlement of the claims by a class of consumers defined as follows (the "Settlement Class"):

> All natural persons who were or are Virginia residents who received by U.S. Mail an application for Warrant In Debt, Virginia Supreme Court form DC-412, DC-414, DC-428, in the form of Exhibit A attached to the Amended Complaint in the Class Action, listing as Plaintiff Petersburg Hospital Company, LLC d/b/a Southside Regional Medical Center, represented by Faber & Brand, LLC, that asserted a matter was to be heard on a date certain, when no hearing was set by the

General District Court for the defendant named in the Warrant in Debt as a defendant, during the period January 19, 2020 to January 19, 2021.

2. The Settlement Agreement entered between the parties appears, upon preliminary review, to be fair, reasonable, and adequate to the Settlement Class. Accordingly, for settlement purposes only, the proposed settlement is preliminarily approved, pending a Final Approval Hearing, as provided for herein.

3. The prerequisites to a class action under Fed. R. Civ. P. 23(a) have been preliminarily satisfied, for settlement purposes only, in that:

(a) the Settlement Class consists of approximately 342 members;

(b) the claims of the Named Plaintiff are typical of those of the other members of the Settlement Class;

(c) there are questions of fact and law that are common to all members of the Settlement Class; and

(d) the Named Plaintiff will fairly and adequately protect the interests of the Settlement Class and has retained Class Counsel experienced in consumer class action litigation who have and will continue to adequately represent the Settlement Class.

4. For settlement purposes only, the Court finds that this action is preliminarily maintainable as a class action under Fed. R. Civ. P. 23(b)(3) because: (1) a class action is a fair and efficient adjudication of this controversy; and (2) questions of fact and law common to the members of the Settlement Class predominate over any questions affecting only individual members.

5. If the Settlement Agreement is not finally approved, is not upheld on appeal, or is otherwise terminated for any reason before the Effective Date, then the Settlement Class shall be decertified; the Settlement Agreement and all negotiations, proceedings, and documents prepared,

and statements made in connection therewith, shall be without prejudice to any Party and shall not be deemed or construed to be an admission or confession by any Party of any fact, matter, or proposition of law; and all Parties shall stand in the same procedural position as if the Settlement Agreement had not been negotiated, made, or filed with the Court.

6. The Court appoints Ashley Turner as the class representative. The Court also appoints Dale W. Pittman, of The Law Office of Dale W. Pittman, P.C., and Thomas D. Domonoske, of Consumer Litigation Associates, P.C., as counsel for the Settlement Class ("Class Counsel").

7. The Court appoints American Legal Claims Services, LLC, as the Settlement Administrator.

8. The Court will hold a Final Approval Hearing pursuant to Fed. R. Civ. P. 23(e) on December 20, 2021, at the United States District Court, Eastern District of Virginia, at 701 E. Broad St., Richmond, VA 23219, at 11:00 a.m. for the following purposes:

(a) To determine whether the proposed settlement is fair, reasonable, and adequate and should be granted final approval by the Court;

(b) To determine whether a final judgment should be entered dismissing the claims of the Settlement Class with prejudice, as required by the Settlement Agreement;

(c) To consider the application of Class Counsel for an award of attorney's fees, costs, and expenses, and for a service award to the class representative; and

(d) To rule upon other such matters as the Court may deem appropriate.

9. (a) As is provided in the Settlement Agreement, Class Counsel and Defendant shall provide a Class List of the Settlement Class Members to the Settlement Administrator, who shall send the agreed upon Notice to the Settlement Class Members no later than 30 days after the

date of this Order. The Court also approves the parties' Notice, which is attached to the Settlement Agreement. To the extent the parties or Settlement Administrator determine that ministerial changes to the Notices are necessary before disseminating the Settlement Class Members, they may make such changes without further application to the Court.

(b) Not later than forty-five (45) days before the Final Approval Hearing, the Settlement Administrator will cause a declaration to be filed with the Court that the Notice described above was given as required herein.

10. The Court finds this manner of giving notice fully satisfies the requirements of Fed. R. Civ. P. 23 and due process, constitutes the best notice practicable under the circumstances, including its use of individual mailed notice to all members, and shall constitute due and sufficient notice to all persons entitled thereto.

11. If a Settlement Class Member chooses to opt-out of the class, such class member is required to submit a request for exclusion to the Settlement Administrator, post-marked on or before 60 days following the mailing of the Notice. The class member's exclusion request must contain the class member's original signature, name, address, telephone number, and a specific statement that the class member wants to be excluded from the Settlement. A Class Member who submits a valid request for exclusion using the procedure identified above shall be excluded from the class for any and all purposes. The Administrator shall provide Class Counsel and Defense Counsel with the complete list of all persons who have properly opted out of the Settlement together with copies of the opt out requests within seven (7) business days after the deadline for submission of requests for exclusion from the Settlement, and Class Counsel shall then file the same with this Court.

12. A Settlement Class Member who does not file a timely request for exclusion, or otherwise does not follow the procedure described in the Settlement Agreement, shall be bound by all subsequent proceedings, orders, and judgments in this action.

13. (a) Any Settlement Class Member who wishes to be heard orally at the Final Approval Hearing, and/or who wishes for any objection to be considered, must file a written notice of objection to be filed within ninety (90) days after Preliminary Approval. The notice of objection shall be sent by First Class United States Mail to the Court and Class Counsel and Defense Counsel.

(b) The objection must include the following: (1) the name of this lawsuit (*Ashley Turner v. Faber & Brand, LLC, et al Case No. 3:21cv30*); (2) the objector's full name, current address and telephone number; (3) the reasons for the objection to the settlement; and (4) the objector's signature. Any Class Member who fails to timely file and serve a written objection pursuant to the terms of this paragraph shall not be permitted to object to the approval of the settlement or the Settlement Agreement and shall be foreclosed from seeking any review of the settlement or the terms of the Settlement Agreement by appeal or other means.

14. Class Counsel shall be prepared to discuss with the Court all objections that have been timely filed.

15. All briefs, memoranda, petitions and affidavits to be filed in support in support of Class Counsel's application for fees, costs and expenses, shall be filed on or before seventy-six (76) days from the date of this Order.

16. Neither this Preliminary Approval Order, nor the Settlement Agreement, shall be construed or used as an admission or concession by or against the Defendant or any of the Released Parties of any fault, omission, liability, or wrongdoing, or the validity of any of the

Settlement Released Claims. This Preliminary Approval Order is not a finding of the validity or invalidity of any claims in this lawsuit or a determination of any wrongdoing by the Defendant or any of the Released Parties. The preliminary approval of the Settlement Agreement does not constitute any opinion, position, or determination of this Court, one way or the other, as to the merits of the claims and defenses of Plaintiff, the Settlement Class Members, or the Defendant.

17. Pending final determination of whether the Settlement should be approved, Plaintiff, all Settlement Class Members and any person or entity allegedly acting on behalf of Settlement Class Members, either directly, representatively or in any other capacity, are preliminary enjoined from commencing or prosecuting against the Defendants any action or proceeding in any court or tribunal asserting any of the Released Claims; provided, however, that this injunction shall not apply to individual claims of anyone who timely excludes themselves from the Settlement in a manner that complies with Paragraph 11 above. This injunction is necessary to protect and effectuate the Settlement, this Order, and this Court's flexibility and authority to effectuate the Settlement and to enter Judgment when appropriate and is ordered in aid of this Court's jurisdiction and to protect its judgments.

18. The Court retains exclusive jurisdiction over this action to consider all further matters arising out of or connected with the Settlement Agreement.

It is so ORDERED.

_____

HONORABLE DAVID J. NOVAK
UNITED STATES DISTRICT JUDGE

Richmond, Virginia
Dated: _____, 2021

EXHIBIT 2

UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF VIRGINIA

Ashley Turner v. Faber & Brand, LLC, et al Case No. 3:21cv30 (DJN)

Notice of Proposed Class Action Settlement

A Warrant in Debt was mailed by Faber & Brand, LLC to you regarding a debt to Petersburg Hospital. The settlement of a class action lawsuit may affect your rights. You choose whether to accept $115.00, object to the settlement, or opt out and pursue any claim individually.

A FEDERAL COURT ORDERED THIS NOTICE. IT IS NOT A SOLICITATION FROM A LAWYER.

1. Why did I get this Notice?

Faber & Brand, LLC's records show you are a Class Member in this case. You received this Notice of Proposed Class Action Settlement (Notice) because settlement of this case will affect you.

2. What is this Notice about?

This Notice describes a proposed settlement in this class action lawsuit. This Notice gives you information so you can decide whether to accept the Settlement, object to the Settlement, or opt out of the lawsuit. This Notice summarizes the lawsuit, your legal rights, and the benefits available to you. The Settlement is not final until approved by the Court.

3. What is a class action lawsuit?

In a class action, one or more persons, called "class representatives," sue on behalf of persons who have similar claims. These persons are called the "class." Each person who does not opt out of the lawsuit is called a "Class Member." The proposed class representative in this case is, Ashley Turner.

4. What is the lawsuit about?

On behalf of herself and the class, Ashley Turner filed this lawsuit against Faber & Brand, LLC, Jared L. Buchanan, Jeremy Forrest, (collectively "Faber & Brand") Petersburg Hospital Company, LLC, d/b/a Southside Regional Medical Center ("Petersburg Hospital") and Professional Account Services, Inc. ("PASI") alleging that they violated federal and state law. Turner alleges that Faber & Brand were hired by PASI to try to collect a debt allegedly owed to Petersburg Hospital, and that Faber & Brand mailed Warrants in Debt to Class Members that stated a date, time, and place of a court hearing. Turner alleges Faber & Brand did not notify the Class Members that the

Warrants in Debt had been returned by the court and therefore no lawsuit was actually started by the court, and no hearing actually scheduled. The lawsuit asserts claims for violation of the Fair Debt Collections Practices Act, violation of the Virginia Consumer Protection Act, negligence, and fraud.

5. How do I know if I am part of the settlement?

If this notice is addressed to you, you are a Class Member.

6. What does the settlement provide?

To settle this case, Defendants have agreed to pay $115.00 to each Class Member who does not opt out. If no class members opt out, this provides $39,330.00 for the class. Class members who do not opt out will be barred from raising any claims regarding the Warrants in Debt that were mailed to the Class Members.

Faber & Brand will agree to follow a new protocol of not sending the Warrant in Debt to Virginia residents until it has confirmed that the case is filed, such as by receipt of the file stamped copy back from the Court that confirms the hearing date, confirmation from the court website, telephone confirmation, or some other similar means.

For her service as class. Ashley Turner as the named plaintiff will ask the Court to approve payment of a service award of $2,500.00, and Petersburg Hospital will not seek to collect the medical bill it had claimed she owed.

Finally, as part of the settlement, Class Counsel will receive reasonable attorneys' fees and costs, as determined by the Court.

7. What happens if I do not opt out?

If you do not opt out and the Court approves the settlement, you will receive a check for $115. Any claims you have against any of the Defendants about the mailing of the Warrants in Debt will be considered fully satisfied. This means you cannot raise any legal claims against the Defendants regarding the mailing of a Warrant in Debt to you for a court hearing that did not occur. However, this settlement does not affect Petersburg Hospital's right to pursue a claim against you in court for any debt you may owe Petersburg Hospital, nor does it affect your claims or defenses, if any, with respect to the collection of that debt.

8. What happens if I opt out?

If you opt out, you will retain your rights to bring your own individual claims against the Defendants regarding the Warrant in Debt that was mailed to you for a court hearing that did not occur. You will not receive the $115.00

9. What are my legal rights and options?

You can:	
Do nothing……..	**You will get a check for $115.00 and any legal claims you may have against the defendants about this will be fully resolved.**
Opt out……..	**You will get no check and can still pursue your own lawsuit against Defendants about the legal claims in this case.**
Object……..	**You can write to the Court saying you do not like the settlement. You must tell the court why you object.**
Get a lawyer……	**You have the right to get your own lawyer to represent you if you want.**

10. How do I opt out from this settlement?

You must opt out within 60 days of the date of this notice.

To opt out from the class action, you must send a letter stating clearly you want to opt out of this case. You should send a letter to:

Turner v. Faber & Brand, LLC, *et al.* Administrator
P.O. Box 23369
Jacksonville, FL 32241

Include in your letter the name of this lawsuit (*Ashley Turner v. Faber & Brand, LLC, et al Case No. 3:21cv30*). Before you choose to opt out of the class action, you should consult a lawyer as to your rights. Please do not contact the Court about your decision. The claims administrator will inform the Court and the parties of your decision.

11. What if I think the settlement is unfair?

As a Class Member, you may object to the settlement if you think any part is unfair, unreasonable, and/or inadequate. If you want to object to the settlement, you must file an

objection with the Clerk of the Court by **December 13, 2021**. Federal Judge David J. Novak will hold an in-person hearing at 11:00 am on **December 20, 2021**, at the United States Courthouse, 701 East Broad Street, Richmond, VA 23219. He will decide if the settlement is fair, reasonable, and adequate.

To object, you must send a letter stating you object to the settlement in the *Turner* case. Be sure to include (1) the name of this lawsuit (*Ashley Turner v. Faber & Brand, LLC, et al Case No. 3:21cv30*); (2) your full name, current address and telephone number; (3) the reasons you object to the settlement; and (4) your signature. Mail or deliver the objection to these three different places so they get it no later than December 13, 2021. You must also file a statement with the Court listing the date you mailed or delivered your objection to Class Counsel and Defense Counsel.

COURT	**CLASS COUNSEL**	**DEFENSE COUNSEL**
Clerk of the Court	CLA	Charles M. Sims
United States District Court	763 J. Clyde Morris Blvd.,	O'Hagan Meyer, PPLC
701 East Broad Street	Suite 1-A	411 East Franklin Street, Suite 400
Richmond, VA 23219	Newport New, VA 23601	Richmond, VA 23219

You do not have to be present at the hearing to get your share of the settlement money. If you do nothing, you will receive your class share, if the Court approves the settlement.

12. How do I find out more?

If you want more information or don't understand this notice, you can contact Class Counsel as show below.

13. Who are the Class Counsel lawyers and how are they paid?

For purposes of the Settlement, the Court has appointed the following lawyers as Class Counsel:

Dale W. Pittman, VSB # 15673
THE LAW OFFICE OF DALE W. PITTMAN, P.C.
112-A West Tabb Street
Petersburg, VA 23803
(804) 861-6000

Thomas D. Domonoske, VSB # 35434
CONSUMER LITIGATION ASSOCIATES, P.C.
763 J. Clyde Morris Blvd., Suite 1-A
Newport News, Virginia 23601
(757) 930-3660

EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

ASHLEY TURNER,

Plaintiff,

v. **Case No. 3:21cv30 (DJN)**

FABER & BRAND, LLC, *et al.*,

Defendants.

DECLARATION OF DALE W. PITTMAN

Dale W. Pittman declares under penalty of perjury that the following statements are true:

1. My name is Dale W. Pittman. I am over the age of 18 and have personal knowledge of the facts set forth herein.

2. I am a member in good standing of the bars of the following courts:

Supreme Court of the United States
Washington, DC
February, 1997

Supreme Court of Virginia
Richmond, Virginia
June 8, 1976

U. S. Court of Appeals for the Fourth Circuit
Richmond, Virginia
September 2, 1980

U. S. District Court for the Western District of Virginia
Roanoke, Virginia

U. S. District Court for the Eastern District of Virginia
Richmond, Virginia
December 30, 1976

U. S. Bankruptcy Court for the Eastern District of Virginia
Richmond, Virginia

November, 1997.

3. I am a 1971 graduate of Hampden-Sydney College and a 1976 graduate of the T. C. Williams School of Law of the University of Richmond, Virginia. I am a member of the Virginia State Bar, the Virginia Trial Lawyers Association, the Virginia Bar Association, the National Association of Consumer Advocates, and the Petersburg Bar Association, of which I am a past President. I am a past member of the Council of the Virginia State Bar, the State Bar's governing body, having served five terms over the course of the past twenty-five years as the elected representative of the Eleventh Judicial Circuit. I am a member of the Board of Governors of the Virginia Trial Lawyers Association, and I chair the VTLA's Consumer Law Section. I serve on the Board of Directors of the Legal Services Corporation of Virginia, which provides funding for programs offering civil legal assistance to low-income Virginians. I served as President of the LSCV Board for five years.

4. From February 1, 1977 until September 13, 1996 I was employed by Southside Virginia Legal Services, in Petersburg, Virginia, as its General Counsel (Chief Executive Officer). My caseload at Southside Virginia Legal Services evolved over the years into a primarily consumer law practice.

5. From September 16, 1996 until the present I have maintained a private law practice with an office located in Petersburg. My work in private practice is limited almost exclusively to the representation of consumers, with particular emphasis on representing consumer debtors under the Fair Debt Collections Practices Act. I have a statewide consumer law practice, and have represented consumers from all regions of the Commonwealth and elsewhere.

6. I was a contributing editor to the consumer law sections of *Virginia Practice Manual*, a practice manual for Legal Aid lawyers and for private lawyers handling cases under the auspices of *pro bono* initiatives in Virginia.

7. Pleadings and discovery from many of my consumer law cases appear in the National Consumer Law Center's *Consumer Law Pleadings*, nationally distributed form books of consumer law pleadings, beginning in 1994. Pleadings and discovery from my cases appear in Books 1, 2, 5, 6, 7, 10, and 11.

8. I have given over eighty lectures to lawyers that qualified for continuing legal education credit.

9. I have made two presentations on consumer protection law and litigation to Virginia's General District Court judges at the Judicial Conference of Virginia for General District Court judges, one in 1987 on consumer protection laws generally and one in 2008 on arbitration in consumer financial services cases.

10. My consumer protection law continuing legal education lectures include the following:

Spotting Violations of the FDCPA Regulations: Communications	National Consumer Law Center Fair Debt Collections Conference	March 4, 2021
Consumer Protection Litigation and Bankruptcy: Intersections and Collisions, Fair Debt Collections Practices Act	Richmond Bar Association, Richmond	October 24, 2017
Class Actions and Multiple Claims: End Games Planning (co-presenter with Judge John A. Gibney, Jr., Orran L. Brown, Sr, W. James Young, and M. Peebles Harrison)	Hampden-Sydney Bar Association CLE Event Hampden-Sydney	October 20, 2017

Serious Illness, the Law, and Pro Bono Services, Part 3: Relief from Creditors	Legal Information Network Cancer, in conjunction with Virginia State Bar Access to Legal Services Committee	November 17, 2016
Representing the Pro Bono Client: Consumer Law Basics 2016	Practicing Law Institute, San Francisco	July 22, 2016
Fair Debt Collections Practices Act	Old Dominion Bar Association Winter Meeting, Williamsburg	January, 30, 2016
Fair Debt Collections Practices Act Overview	Virginia State Bar Young Lawyers Section Professional Development Conference	September 24, 2015
Consumer Law (FDCPA)	A Law Day Celebration Ft. Lee, Virginia	May 1, 2015
FDCPA: Ask the Experts	National Association of Consumer Advocates Fair Debt Collection Training Conference, Washington, DC	March 11, 2015
"It May Not Be a Payday Loan…."	Virginia Poverty Law Center 2014 Annual Statewide Legal Aid Conference, Portsmouth	October 23, 2014
Meeting the Legal Needs of Individuals Facing Serious Illness Through Pro Bono – Relief From Creditors	Virginia State Bar and the Legal Information Network for Cancer Webinar	April 23, 2014
Ethical Responsibilities of Class Counsel to Class Representatives, the Class and Objectors	Fair Debt Collection Practices Act Training	March 8, 2014

	Conference, San Antonio, Texas	
Fair Debt Collections Practices Act	Working With Military Clients, Military Law Section of the Virginia State Bar, Williamsburg, Virginia	October 18, 2013
How the Consumer Bar Views FDCPA Compliance by Collection Attorneys	National Association of Retail Collection Attorneys Fall Collection Conference, Washington, DC	October 17, 2013
Making the Bad Guys Pay	Virginia Poverty Law Center, Richmond	May 9, 2013
FDCPA: Ask the Experts	National Association of Consumer Advocates Fair Debt Collection Training Conference, Baltimore	March 8, 2013
FDCPA Update	JAG School, Charlottesville, VA	December 11, 2012
Fair Debt Collections Practices Act	VA CLE, Charlottesville, VA	September, 2012
FDCPA	ABA Standing Committee on Legal Assistance to Military Personnel, George Mason University Law School	March 15, 2012
Fair Debt Collections Practices Act	Ft. Lee Legal Assistance Division JAG Office CLE	May 5, 2011

Handling Fair Debt Collections Practices Act Cases	65th Legal Assistance Course, The Judge Advocate General's Legal Center and School, Charlottesville	November 16, 2009
Handling Fair Debt Collections Practices Act Cases	VPLC Statewide Legal Aid Conference, Williamsburg	November 5, 2009
Challenging Predatory Small Loans	National Consumer Law Center Consumer Rights Litigation Conference, Philadelphia	October 23, 2009
The Fair Debt Collections Practices Act: Update 2009	VA CLE Webinar	September, 2009
Handling Fair Debt Collections Practices Act Cases	2009 Mid-Atlantic Joint Services Consumer Law Symposium, Naval Legal Service Office Mid-Atlantic Legal Assistance Department, Norfolk	June 12, 2009
Handling Fair Debt Collections Practices Act Cases	64th Legal Assistance Course, The Judge Advocate General's Legal Center and School, Charlottesville	April 2, 2009
Defending Consumers in Medical Debt Collection Cases	National Consumer Law Center's Consumer Rights Litigation Conference in Portland, Oregon	October, 2008
Combating Consumer Issues Facing the Military, FDCPA Cases	Consumer Law Intensive for Military Personnel Advocates, National Consumer Law Center's	October, 2008

	Consumer Rights Litigation Conference in Portland, Oregon	
Issues in Arbitration Cases	Judicial Conference of Virginia for District Court Judges, Virginia Beach	August 13, 2008
A Perfect Storm – The Intersection of the FDCPA and the FCRA in Debt Collection Harassment Cases	Virginia CLE Solo and Small Firm Institute, Williamsburg	May 13, 2008
Defending Debt Collection Suits	National Consumer Rights Litigation Conference, Washington, D.C.	November 11, 2007
Emerging Issues in Debt Collection Abuse & False Credit Reporting	Virginia Trial Lawyers Association Solo & Small Firm Conference, Richmond	October 19, 2007
The Fair Debt Collections Practices Act (Including 2006 Amendments)	Virginia CLE	September 24, 2007
Fair Debt Collections Practices Act	Naval Legal Service Office Mid-Atlantic Joint Services Consumer Law Symposium, Norfolk	May 11, 2007
How to Win (or Not Lose) an Arbitration	National Consumer Rights Litigation Conference Miami, Florida	November 11, 2006
Consumer Debt Collection	59th Legal Assistance Course The Judge Advocate's School Charlottesville	November 2, 2006

Consumer Credit: Remedies You Should be Aware Of	Virginia Trial Lawyers Association Solo & Small Firm Conference, Williamsburg	October 20, 2006
Collection Law From Start to Finish (Presentation on the FDCPA)	National Business Institute Richmond	October 10, 2006
Overview of the Fair Debt Collections Practices Act	Framme Law Firm, Richmond	June 23, 2006
Fair Debt Collection Practices Act	Naval Justice School Newport, Rhode Island	May 22 , 2006
Fair Debt Collection Practices Act – Essential Tips for Both Debtors and Creditors	Virginia CLE - 4th Annual Advanced Consumer Bankruptcy, Richmond	April 28, 2006
Fair Debt Collection Practices Act	3rd Annual Naval Legal Service Office, Mid-Atlantic, Auto Fraud Symposium, Norfolk	April 12, 2006
What the Virginia Lawyer Must Know about Consumer Protection	Solo and Small Firm Conference – Virginia Trial Lawyers Association, Charlottesville	September 30, 2005
Points to Consider if You are Going to Arbitration	National Consumer Law Center's 13th Annual Consumer Rights Litigation Conference	November 7, 2004

Protecting Your Client's Consumer Rights – Fair Debt Collections Practices Act	Virginia CLE - Richmond and Tysons Corner	April 21 and 22, 2004
Fair Debt Collections Practices Act Training Conference – Practice Issues	National Consumer Law Center and National Association of Consumer Advocates, Kansas City	February 22, 2004
Fair Debt Collections Practices Act	Henrico County Bar Association and Virginia Creditor's Bar Association, Richmond	February 19, 2004
Using Experts in Automobile Sale Wreck Damage Cases	IVAN Diminished Value Conference, Chesapeake	January 31, 2004
Consumer Law: Everything You Need to Know to be an Expert in Handling the Latest in Consumer Cases	First Annual Solo and Small Firm Conference – Virginia Trial Lawyers Association, Charlottesville	October 10, 2003
Points To Consider If You Are Going To Arbitration	Virginia Women Attorney's Association, Southside Chapter, Petersburg	July 31, 2003
Fair Debt Collection Practices Act	Virginia CLE, First Advanced Consumer Bankruptcy Conference	May 2, 2003
Fair Debt Collection Practices Act Fair Credit Reporting Act	Naval Justice School Newport, Rhode Island	April 3, 2003
Overview of the Fair Debt Collections Practices Act	Framme Law Firm, Richmond	December 17 & 18, 2002
Arbitrating: Who's Afraid of the Big Bad Wolf?	National Consumer Law Center Consumer Rights	October 26, 2002

	Litigation Conference, Atlanta	
Mobile Home Litigation Issues	National Consumer Law Center Consumer Rights Litigation Conference, Atlanta	October 25, 2002
Settlement Agreements and Confidentiality Issues: Recent Cases in the News and the Problems News Attention Can Create	Virginia Trial Lawyers Association Fall Fiesta, Richmond	September 28, 2002
Practice Pointers Roundtable	Virginia Trial Lawyers Association Fall Fiesta, Richmond	September 27, 2002
Arbitration and Beyond: What to Do If You Are Forced Into Arbitration and What Happens After the Arbitral Award	Virginia Trial Lawyers Association Fall Fiesta, Richmond	September 27, 2002
Fair Debt Collection	ABA Standing Committee on Legal Assistance for Military Personnel Legal Assistance Symposium, Quantico	August 15, 2002
Practical Applications of Consumer Protection Laws for the General Practitioner – Part II	Virginia Women Attorneys Association, Southside Chapter, Petersburg	June 27, 2002
Practical Applications of Consumer Protection Laws for the General Practitioner – Part I	Virginia Women Attorneys Association, Southside Chapter, Petersburg	April 25, 2002
Federal Court-Fun & Easy	Annual Statewide Legal Aid Conference, Virginia Beach	November 1, 2001

FDCPA Compliance for the Virginia Practitioner	National Business Institute CLE for Virginia Lawyers, Richmond	October 11, 2001
Use of Magnuson-Moss Warranty Act in the Recovery of Attorney's Fees	Virginia Trial Lawyers Association Fiesta 3, Richmond	September 28, 2001
Credit Reporting Abuse	Petersburg Kiwanis Breakfast Club, Petersburg	September 18, 2001
A Consumer Lawyer's Perspective on Mobile Home Transactions	Virginia Manufactured Housing Association, Virginia Beach	August 8, 2001
Debt Collection Harassment, Credit Reporting Abuse, Home Solicitation Sales, Fraud.	Elder Law Day	May 11, 2001
Truth in Lending Act and Title Issues in Car Sales	VA Independent Automobile Dealers Association, District 1 Dinner Meeting, Virginia Beach, Virginia	April 11, 2001
What Do These Attorneys Know About The Used Car Business That You Don't?	VA Independent Automobile Dealers Association, District 2 Dinner Meeting, Richmond, Virginia	January 30, 2001
Mobile Home Litigation Issues	National Consumer Law Center Consumer Rights Conference	October 28, 2000
Update on the Fair Debt Collection Practices Act	Virginia CLE®	July 12 and 19, 2000

Consumer Privacy in the Electronic Age	The Bar Association of the City of Richmond	May 31, 2000
Consumer Law Update for Virginia Practitioners, Fair Debt Collection Practices Act.	Virginia CLE®	December 7 and 8, 1999
Recent Developments in Fair Debt Collection, With an Emphasis on the Fourth Circuit	Annual Statewide Legal Aid Conference	November 3, 1999
Recent Developments in Fair Debt Collection	The Bankruptcy Section of the Bar Association of the City of Richmond	October 26, 1999
Consumer Law Seminar	Office of the Staff Judge Advocate, Ft. Eustis, Virginia	August 27, 1999
Automobile Fraud and Financing Issues	Annual Statewide Legal Aid Conference	November 11, 1998
Consumer Law for Support Staff	Annual Statewide Legal Aid Conference	November 11, 1998
First Day in Practice (Topic: Consumer Law Practice)	Virginia State Bar	November 3, 1998
Complying with the Fair Debt Collection Practices Act in Virginia	National Business Institute CLE for Virginia Lawyers	September 9, 1998
Basic Overview of Several Consumer Protection Laws Available to Assist Victims of Consumer Fraud and Abuse	Charlottesville-Albemarle Bar Association Bankruptcy/Creditors' Rights Committee	February 10, 1998
Overview of Consumer Law for Support Staff	Annual Statewide Legal Aid Conference	November 6, 1997

The Fair Debt Collection Practices Act	Annual Statewide Legal Aid Conference	November 6, 1997
Recent Developments under the Fair Debt Collection Practices Act	Virginia Creditor's Bar Association	September 25, 1997
Fair Debt Collection Practices Act	10th Circuit Bar Association, Keysville, VA	April 23, 1997
Complying With the Fair Debt Collection Practices Act in Virginia	National Business Institute CLE for Virginia Lawyers	February 11, 1997
Handling Repossession Cases (gave segment on odometer law)	Virginia Legal Services Consumer Law Task Force	
State and Federal Consumer Protection Statutes Frequently Applicable to General District Court Cases	Judicial Conference of Virginia General District Court Judges	April 29, 1989
Everything Under the Sun You Ever Wanted to Know About Handling Home Improvement Cases	Elderly Law Task Force of Virginia Legal Services Programs	
Consumer Law for Non Consumer Lawyers	Virginia Legal Services Attorneys	
Handling Home Improvement Cases	Consumer Law Training for Virginia Legal Services Attorneys	

11. The Summer 2006 edition of *The Journal of the Virginia Trial Lawyers Association* included "Disputing Home Loan Servicing Abuse Through RESPA," an article that I prepared for that publication.

12. From 2001 through 2010, I prepared annual reports on Virginia law for the American Bar Association's *Survey of State Class Action Law*.

13. I was Section Chairman and Program Moderator for a Virginia Trial Lawyers Association Consumer Law Seminar entitled "Keeping the Big Boys Honest," that took place on April 25, 1997, and covered the Fair Debt Collections Practices Act, the Fair Credit Reporting Act, Consumer Class Actions, Motor Vehicle Litigation, and Recovering Attorney's Fees in Consumer Litigation. I was Program Chair for the Consumer Law portion of the VTLA's February Fiesta CLE that took place in Williamsburg in February, 2000. I was a presenter on Mobile Home Sales, and in a Consumer Law Practice Roundtable. I was Program Chair for the Consumer Law portion of the VTLA's Fall Fiesta that took place in Williamsburg on October 14 and 15, 2000, and was a presenter on Emerging Issues in Mobile Home Sales Fraud. I was Program Chair for the Consumer Law portion of the VTLA's Fiesta 3 that took place in Richmond on September 28 and 29, 2001, and was a presenter on "Use of the Magnuson-Moss Warranty Act to Recover Attorney's Fees." I was Program Chair for the Consumer Law portion of the VTLA's Fiesta 2002 that took place in Richmond on September 27 and 28, 2002, and was a presenter on "Settlement Agreements and Confidentiality Issues: Recent Cases in the News and the Problems News Attention Can Create," "Arbitration and Beyond: What to Do If You Are Forced Into Arbitration and What Happens After the Arbitral Award," and a roundtable participant in a "Practice Pointers Roundtable."

14. I was the 1996 recipient of the Virginia State Bar Legal Aid Award, given annually by the Virginia State Bar to recognize a Legal Aid attorney in Virginia who demonstrates innovation and creativity in advocacy and excellence in service to low-income clients. On November 9, 2007, I received the 2007 Consumer Attorney of the Year Award from the National Association of Consumer Advocates at its Annual Meeting in Washington, D.C. On October 21,

2010, I received the *Virginia Lawyers Weekly* "Leader in the Law 2010" award. On November 4, 2010, I received the Virginia Poverty Law Center's John Kent Shumate, Jr. Advocate of the Year Award, in recognition of my having made a significant impact in advocating for low-income Virginia residents. The Virginia Trial Lawyers Association recognized me as only the fifth recipient of its Oliver White Hill Courageous Advocate Award at the VTLA's 2014 annual convention, an award periodically presented to an advocate who has demonstrated courage and commitment to the ideals of justice in representing an individual or cause at considerable personal risk. I received the Dr. David E. Marion Award for Legal Excellence, presented by the Hampden-Sydney College Bar Association, on October 20, 2017. I was named to the Virginia Lawyers Hall of Fame for 2019 by Virginia Lawyers Media, being honored for my career accomplishments, contributions to the development of the law in Virginia, contributions to the Bar and to the Commonwealth at Large and efforts to improve the quality of justice in Virginia. I have been selected to Virginia Super Lawyers every year since 2011. I was recently inducted as a fellow of the Virginia Law Foundation, whose mission is to promote, through philanthropy, the rule of law, access to justice, and law-related education.

15. I have been involved in many consumer cases involving a range of consumer protection laws, with an emphasis on the Fair Debt Collection Practices Act. Fair Debt Collection Practices Act, Fair Credit Reporting Act and Equal Credit Opportunity Act cases that I have handled alone or co-counseled with others include *Withers v. Eveland*, 988 F. Supp. 942 (E.D. Va. 1997); *Creighton v. Emporia Credit Service, Inc.*, 981 F. Supp. 411 (E.D. Va. 1997); *Morgan v. Credit Adjustment Board*, 999 F. Supp. 803 (E.D. Va. 1998); *Talbott v. GC Services Limited Partnership*, 53 F. Supp. 2d 846 (W.D. Va. 1999); *Talbott v. GC Services Limited Partnership*, 191 F.R.D. 99 (W.D. Va. 2000); *Woodard v. Online Information Servs.*, 191 F.R.D. 502 (E.D.N.C.,

Jan. 19, 2000); *Pitchford v. Oakwood Mobile Homes*, 124 F. Supp.2d 958, 961 (W.D. Va. 2000); *Sydnor v. Conseco Financial Services Corp*., 252 F.3d 302, 305 (4th Circ. 2001); *Jones v. Robert Vest*, 2000 U.S. Dist. LEXIS 18413 (E.D. Va. 2000); *Kelly v. Jormandy*, 2005 U.S. Dist. Lexis 29901 (W.D. Va. 2005); *Lynch v. McGeorge Camping Center*, 2005 U.S. Dist. LEXIS 10201, *12 (E.D. Va. 2005); *Thornton v. Cappo Mgmt. V, Inc.*, 2005 U.S. Dist. LEXIS 10202, *6 (E.D. Va. 2005); *Gansauer v. Transworld Systems, Inc.*, Civil Action No. 7:00cv00931 (W.D. Va. 2007); *Croy v. E. Hall & Associates, P.L.L.C.*, 2007 U.S. Dist. LEXIS 14830 (W.D. Va. 2007); *Turner v. Shenandoah Legal Group, P.C.*, 2006 U.S. Dist. LEXIS 39341 (E.D. Va., June 12, 2006); *Karnette v. Wolpoff & Abramson L.L.C.*, 444 F. Supp. 2d 640 (E.D. Va. 2006); *Karnette v. Wolpoff & Abramson, L.L.P.*, 2007 U.S. Dist. LEXIS 20794 (E.D. Va. March 23, 2007); *Bicking v. Law Offices of Rubenstein and Cogan*, 783 F. Supp. 2d at 841v (E.D. Va. 2011); *James v. Encore Capital Corp.*, No. 3:11cv226 (E.D. Va.), *Goodrow v. Friedman & MacFadyen, P.A.*, 788 F. Supp. 2d 464 (E.D. Va. 2011); *Goodrow v. Friedman & MacFadyen, P.A.*, 2013 U.S. Dist. LEXIS 105395 (E.D. Va. July 26, 2013); *Kelly v. Nationstar*, 2013 U.S. Dist. Lexis 156515 (E.D. VA 2013); *Cross v. Prospect Mortgage, LLC*, 986 F. Supp. 2d 688 (E.D. Va. 2013); *Fariasantos v. Rosenberg & Associates, LLC*, 2014 WL 928206, 2014 U.S. Dist. Lexis 30898, (E.D. Va. 2014); *DeCapri v. Law Offices of Shapiro Brown & Alt, LLP*, 2014 U.S. Dist. Lexis 131979, 2014 WL 4699591 (E.D. Va. 2014); *Lengrand v. WellPoint*, No. 3:11-CV-333 (E.D. Va.); *Henderson v. Verifications, Incorporated*, Civil Action No. 3:11cv514 (ED Va.); and *Thomas v. Wittstadt Title & Escrow Company*, LLC, No. 3:12cv450 (E.D. Va.); *Soutter v. Equifax Information Services, LLC*, 307 F.R.D. 183 (E.D. Va. 2015); *Henderson v. Corelogic, Inc., et al.*, Civil Action No. 3:12cv97 (E.D. Va.); *Berry, et al. v. LexisNexis Risk & Information Analytics Group, Inc.*, Civil Action No. 3:11cv754 (E.D. Va.); *Henderson v. First Advantage Background Services Corp.*, Civil

Action No. 3:14cv221 (E.D. Va.); *Hayes v. Delbert Services Corp.*, et al, Civil Action No. 3:14cv258 (E.D. Va.); *Cornell v. Brock & Scott, PLLC*, Civil Action No. 3:14cv841 (E.D. Va.); *Reese v. Stern & Eisenberg Mid Atlantic, PC*, Civil Action No. 3:16cv496 (E.D. Va.); *Bralley v. Carey*, 2011 U.S. Dist. LEXIS 107015 (E.D. Va. 2011); *Bralley v. Carey*, 2011 U.S. Dist. LEXIS 142896 (E.D. Va. 2011); *Bralley v. Carey*, 2012 U.S. Dist LEXIS 15191 (E.D. Va. 2012); *Biber v. Pioneer Credit Recovery, Inc.*, 2018 U.S. Dist. LEXIS 62325 (E.D. Va. 2018); *Baker v. NRA*, Civil Action No. 3:19cv48 (W.D. Va.), and *Curtis v. Propel Property Tax Funding*, 915 F.3d 234 (2019). I was one of several lawyers representing plaintiff classes in a Multidistrict FDCPA class action, styled *In Re Dun & Bradstreet, Inc. Debt Collection Practices Litigation*, MDL #1198. The cases, originally transferred by the Judicial Panel on Multidistrict Litigation to the Western District of Virginia, Danville Division, for consolidated pretrial proceedings, were centralized before the Northern District of Illinois for purposes of finalizing settlement. Classes were certified in *Talbott, Woodard, Gansauer, Karnette, Bicking, Goodrow, Kelly, Fariasantos, DeCapri, Lengrand, Henderson v. Verifications, Incorporated, Thomas, Soutter, Henderson v. Corelogic, Inc., Berry, Henderson v. First Advantage Background Services Corp., Hayes, Cornell and Reese*.

16. I served as Special Master in a case styled *Silva v. Haynes Furniture Company, Inc.*, Civil Action No. 4:04cv082, (E.D. Va.), an ECOA/FCRA class action, having been appointed by Judge Kelley on January 27, 2006.

17. Less than a handful of Virginia attorneys are willing to accept consumer cases because of the special expertise required and the risk of nonpayment. This case is not only a consumer case requiring such special expertise at the risk of nonpayment, but it is more complex than most consumer actions I have seen in my years of legal practice.

18. I have extensive experience in consumer cases brought this Court, and in the Eastern District of Virginia. I routinely represent plaintiffs in cases brought in the Eastern District of Virginia under the FDCPA.

19. Ashley Turner, the named Plaintiff, agreed to represent the best interests of the class in this case, and has held true to that commitment at every step during the pendency of this case. Ms. Turner has participated through her attorneys, Mr. Domonoske and me, throughout this case.

20. Based on my work on this case, beginning when Ms. Turner first contacted my law office seeking assistance regarding the copy of the Warrant in Debt that she received by U.S. Mail, I believe that this settlement adequately, reasonably, and fairly settles this matter in a fashion that benefits the members of the class. Each class member is given a choice to either accept $115.00, object to the settlement, opt out of the settlement and pursue claims on their own.

21. I am mindful of the positions previously taken by Defendants in this case regarding the claimed impact of the Supreme Court's recent ruling in *Ramirez v. TransUnion*. Without repeating them here, I agree with the comments of Thomas D. Domonoske, my co-counsel, in Paragraph 16 of his declaration filed herewith with respect to the impact of that opinion on the demands put on both sides at this point in time of a fully litigated exploration of the issues presented in that case.

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

Signed this 23rd day of August, 2021.

__/s/ Dale W. Pittman_____
Dale W. Pittman

EXHIBIT 3

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

ASHLEY TURNER	:	
Plaintiff,	:	
v.	:	Civil No. 3:21cv30 (DJN)
FABER & BRAND, LLC, *et al.*,	:	
Defendant.	:	

DECLARATION OF JARED L. BUCHANAN

I, Jared L. Buchanan, being first duly sworn, state the following:

1. I am over the age of eighteen, of sound mind, and competent to testify to matters reflected in this affidavit.

2. I make this Declaration on the basis of my personal knowledge and my knowledge of the business and affairs of Faber & Brand, LLC ("Faber & Brand").

3. I am a partner of Faber & Brand and I am licensed to practice law in the Commonwealth of Virginia

4. I am familiar with and have reviewed Faber & Brand's electronic file system for Warrants in Debt mailed to Virginia residents in connection with the collection of amounts owed to Faber & Brand's client, Petersburg Hospital Company, LLC, LLC d/b/a Southside Regional Medical Center, (the "Hospital").

5. I understand that pursuant to a settlement agreement, conditioned on final approval by the Court, the parties have agreed to a settlement class consisting of:

> All natural persons who were or are Virginia residents who received by U.S. Mail an application for Warrant In Debt, Virginia Supreme Court form DC-412, DC-414, DC-428, in the form of Exhibit A attached to

the Amended Complaint in the Class Action, listing as Plaintiff Petersburg Hospital Company, LLC d/b/a Southside Regional Medical Center, represented by Faber & Brand, LLC, that asserted a matter was to be heard on a date certain, when no hearing was set by the General District Court for the defendant named in the Warrant in Debt as a defendant, during the period January 19, 2020 to January 19, 2021.

6. I have personally conducted a review of, and supervised others under my direction to conduct a review of, Faber & Brand's pertinent records to determine who meets the class definition in paragraph 6 above.

7. In so doing, I have also used the following conditions to guide my review:

i. For purpose of settlement only, a Virginia resident will be deemed to have received an application for a Warrant in Debt if Faber & Brand's internal records reflect that it mailed the application to the Class Member on or after January 19, 2019 and the mailing was not returned to Faber & Brand as undelivered.

ii. The Settlement Class will include each defendant named in the Warrant in Debt to whom the Warrant in Debt was mailed and received. Thus, if the application for Warrant in Debt included a husband and wife and the application for a Warrant in Debt was mailed to their joint address, then both defendants named in that Warrant in Debt would be included in the class.

8. Based upon the review described above, I have determined that the putative settlement class consists of 342 persons. Of those 342 persons, 226 Warrants in Debt were mailed to individuals, and 58 Warrants in Debt were mailed to married persons. In that latter instance, each person (husband and wife) was made a member of the putative class. I also found that there were also 7 instances where a class member had a Warrant in Debt mailed to them on two separate occasions but both times the Warrant in Debt was returned by the Clerk, one instance of the seven were married persons. Those persons were counted as class members twice. That is, if the Court approves the Settlement, those persons would receive two (2) $115 checks.

9. Exhibit 1 is a true and accurate record of the putative class for this class action settlement.

Further the Declarant sayeth not.

Dated: 8/23/2021

Jared L. Buchanan

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dcity	dst	dzip	# of Defendants
NORTH DINWIDDIE	VA	23803-8303	1
PETERSBURG	VA	23805	1
NORTH DINWIDDIE	VA	23805	2
NORTH DINWIDDIE	VA	23805	2
CARROLLTON	VA	23314	2
CARROLLTON	VA	23314	2
PETERSBURG	VA	23803-5929	1
PETERSBURG	VA	23803	1
MC KENNEY	VA	23872	1
Colonial Heights	VA	23834	1
N Chesterfld	VA	23237-1111	1
ETTRICK	VA	23803	1
SOUTH CHESTERFIELD	VA	23803	1
COLONIAL HEIGHTS	VA	23834	2
COLONIAL HEIGHTS	VA	23834	2
Stony Creek	VA	23882	1
NORTH DINWIDDIE	VA	23803	1
Prince George	VA	23875-3766	1
PETERSBURG	VA	23803	1
Petersburg	VA	23805	1
Petersburg	VA	23803-3772	1
Petersburg	VA	23805	1
PETERSBURG	VA	23805	1
PETERSBURG	VA	23803	1
PETERSBURG	VA	23803	2
PETERSBURG	VA	23803	2
DINWIDDIE	VA	23841	1
Hopewell	VA	23860-3129	2
Hopewell	VA	23860-3129	2
PETERSBURG	VA	23805	2
PETERSBURG	VA	23806	2
SUTHERLAND	VA	23885-8717	1
PETERSBURG	VA	23803	1
PETERSBURG	VA	23803	1
Petersburg	VA	23803	1
NORTH CHESTERFIELD	VA	23234	2
NORTH CHESTERFIELD	VA	23234	2
PETERSBURG	VA	23803-3513	1
MC KENNEY	VA	23872-3127	1
PETERSBURG	VA	23803	1
PETERSBURG	VA	23803	1
DINWIDDIE	VA	23841	1
DEWITT	VA	23840	1
DEWITT	VA	23840	2
DEWITT	VA	23840	2
DEWITT	VA	23840	2
DEWITT	VA	23840	2
DINWIDDIE	VA	23841	1
PRINCE GEORGE	VA	23875	2
PRINCE GEORGE	VA	23875	2
HOPEWELL	VA	23860	1

PETERSBURG	VA	23805	1
Petersburg	VA	23805	1
Petersburg	VA	23805	2
Petersburg	VA	23805	2
PETERSBURG	VA	23805	1
PETERSBURG	VA	23803	1
PETERSBURG	VA	23803	1
Atlanta	GA	30349	1
SOUTH CHESTERFIELD	VA	23834-5092	1
COLONIAL HEIGHTS	VA	23834	1
COLONIAL HEIGHTS	VA	23834-2210	1
SUTHERLAND	VA	23885	1
PETERSBURG	VA	23803	1
HENRICO	VA	23231	1
PETERSBURG	VA	23803	1
SUTHERLAND	VA	23885	1
RICHMOND	VA	23234	1
HOPEWELL	VA	23860	1
COLONIAL HEIGHTS	VA	23834	1
FRANKLIN	VA	23851	1
DISPUTANTA	VA	23842	1
PETERSBURG	VA	23803	1
PETERSBURG	VA	23805	1
CHURCH ROAD	VA	23833	1
MC KENNEY	VA	23872-2649	1
PETERSBURG	VA	23803	1
DISPUTANTA	VA	23842	1
Colonial Heights	VA	23834-2465	1
HOPEWELL	VA	23860	1
DEWITT	VA	23840	2
DEWITT	VA	23840	2
DEWITT	VA	23840	1
Kents Store	VA	23084	2
FORD	VA	23850	2
COLONIAL HEIGHTS	VA	23834	1
DINWIDDIE	VA	23841-3031	1
PETERSBURG	VA	23803	1
MC KENNEY	VA	23872	1
PETERSBURG	VA	23803-3761	1
Petersburg	VA	23803	2
FORD	VA	23850	2
CHESTERFIELD	VA	23834	2
CHESTERFIELD	VA	23834	2
COLONIAL HEIGHTS	VA	23834	1
PETERSBURG	VA	23805	2
PETERSBURG	VA	23805	2
NORTH DINWIDDIE	VA	23803	1
NORTH DINWIDDIE	VA	23803	1
NORTH DINWIDDIE	VA	23803	2
NORTH DINWIDDIE	VA	23803	2
PETERSBURG	VA	23803	2
PETERSBURG	VA	23803	2

PETERSBURG	VA	23805	1
HOPEWELL	VA	23860	1
CHESTERFIELD	VA	23832	1
DINWIDDIE	VA	23841	1
COLONIAL HEIGHTS	VA	23834	2
COLONIAL HEIGHTS	VA	23834	2
DINWIDDIE	VA	23841	1
CARSON	VA	23830	2
CARSON	VA	23830	2
NORTH DINWIDDIE	VA	23803	1
SPOTSYLVANIA	VA	22551	1
SPOTSYLVANIA	VA	22551	1
MC KENNEY	VA	23872	1
PETERSBURG	VA	23803	1
RICHMOND	VA	23231	1
NORTH DINWIDDIE	VA	23803	2
NORTH DINWIDDIE	VA	23803	2
PETERSBURG	VA	23803	1
PETERSBURG	VA	23803	1
Stuttgart	AR	72160	2
CHURCH ROAD	VA	350963	2
CHURCH ROAD	VA	23833	1
NORTH DINWIDDIE	VA	23803	1
DINWIDDIE	VA	23841	1
DINWIDDIE	VA	23841	1
SUTHERLAND	VA	23885	1
DINWIDDIE	VA	23841	2
DINWIDDIE	VA	23841	2
Richmond	VA	23224-5049	1
PETERSBURG	VA	23803	1
SUTHERLAND	VA	23885	1
PETERSBURG	VA	23803	2
PETERSBURG	VA	23803	2
SUTHERLAND	VA	23885	1
SUTHERLAND	VA	23885	1
MC KENNEY	VA	23872	1
CHURCH ROAD	VA	23833	1
PETERSBURG	VA	23803	1
MC KENNEY	VA	23872	1
COLONIAL HEIGHTS	VA	23834	2
COLONIAL HEIGHTS	VA	23834	2
COLONIAL HEIGHTS	VA	23834	2
COLONIAL HEIGHTS	VA	23834	2
DEWITT	VA	23840	1
CHURCH ROAD	VA	23833	2
CHURCH ROAD	VA	23833	2
N Dinwiddie	VA	23803-8381	1
DEWITT	VA	23840-2023	1
CHURCH ROAD	VA	23833	2
CHURCH ROAD	VA	23833	2
Richmond	VA	23227-1637	1
PETERSBURG	VA	23803-2004	1

COLONIAL HEIGHTS	VA	23834	1
PRINCE GEORGE	VA	23875	1
SOUTH CHESTERFIELD	VA	23803	1
FRANKLIN	VA	23851	1
COLONIAL HEIGHTS	VA	23834	1
MC KENNEY	VA	23872	1
DEWITT	VA	23840	1
DINWIDDIE	VA	23841	1
COLONIAL HEIGHTS	VA	23834	1
PRINCE GEORGE	VA	23875	1
CARSON	VA	23830	1
DISPUTANTA	VA	23842	2
DISPUTANTA	VA	23842	2
SUTHERLAND	VA	23885	1
DINWIDDIE	VA	23841	1
DISPUTANTA	VA	23842	1
DINWIDDIE	VA	23841	1
DINWIDDIE	VA	23841	1
COLONIAL HEIGHTS	VA	23834	1
COLONIAL HEIGHTS	VA	23834	1
Church Road	VA	23833	2
Church Road	VA	23833	2
PETERSBURG	VA	23805	1
COLONIAL HEIGHTS	VA	23834	2
COLONIAL HEIGHTS	VA	23834	2
DINWIDDIE	VA	23841	1
COLONIAL HEIGHTS	VA	23834	2
COLONIAL HEIGHTS	VA	23834	2
Disputanta	VA	23842	1
NORTH DINWIDDIE	VA	23803	1
COLONIAL HEIGHTS	VA	23834	1
Alexandria	VA	22309	1
COLONIAL HEIGHTS	VA	23834	2
COLONIAL HEIGHTS	VA	23834	2
COLONIAL HEIGHTS	VA	23834	2
COLONIAL HEIGHTS	VA	23834	2
HOPEWELL	VA	23860	1
SUTHERLAND	VA	23885	1
CHESTERFILED	VA	23834	1
COLONIAL HEIGHTS	VA	23834	1
CHURCH ROAD	VA	23833	1
FORD	VA	23850	1
FRANKLIN	VA	23851	1
SUTHERLAND	VA	23885	1
S CHESTERFIELD	VA	23834	2
S CHESTERFIELD	VA	23834	2
DINWIDDIE	VA	23841	1
DINWIDDIE	VA	23841	1
HOPEWELL	VA	23860	1
COLONIAL HEIGHTS	VA	23834	1
COLONIAL HEIGHTS	VA	23834	1
DINWIDDIE	VA	23841-2916	1

SOUTH CHESTERFIELD	VA	23834	1
SUTHERLAND	VA	23885	1
COLONIAL HEIGHTS	VA	23834	1
Colonial Heights	VA	23834	1
DINWIDDIE	VA	23841	2
DINWIDDIE	VA	23841	2
CHURCH ROAD	VA	23833	2
CHURCH ROAD	VA	23833	2
MC KENNEY	VA	23872-2869	1
COLONIAL HEIGHTS	VA	23834-1674	1
MC KENNEY	VA	23872	1
Dinwiddie	VA	23841	1
DEWITT	VA	23840	2
DEWITT	VA	23840	2
PETERSBURG	VA	23803	1
FORD	VA	23850	1
PETERSBURG	VA	23803	2
PETERSBURG	VA	23803	2
WILSONS	VA	23894	1
DEWITT	VA	23840	1
MC KENNEY	VA	23872	1
SOUTH CHESTERFIELD	VA	23834	1
FORD	VA	23850	1
FORD	VA	23850	2
FORD	VA	23850	2
SUTHERLAND	VA	23885	1
COLONIAL HEIGHTS	VA	23834	1
COLONIAL HEIGHTS	VA	23834	1
COLONIAL HEIGHTS	VA	23834	1
MCKENNEY	VA	23872	1
CHESTERFIELD	VA	23838	1
SUTHERLAND	VA	23885	2
SUTHERLAND	VA	23885	2
CHESTER	VA	23831	1
SOUTH CHESTERFIELD	VA	23834	2
SOUTH CHESTERFIELD	VA	23834	2
SUFFOLD	VA	23434	1
CHESTERFIELD	VA	23838	1
MC KENNEY	VA	23872	2
MC KENNEY	VA	23872	2
HOPEWELL	VA	23860	1
MC KENNEY	VA	23872	1
MC KENNEY	VA	23872	1
HOPEWELL	VA	23860	1
CARSON	VA	23830	1
HOPEWELL	VA	23860	1
HOPEWELL	VA	23860-8008	1
SOUTH CHESTERFIELD	VA	23834	1
Henrico	VA	23228	1
SOUTH CHESTERFIELD	VA	23834	2
SOUTH CHESTERFIELD	VA	23834	2
CHESTER	VA	23831	1

COLONIAL HEIGHTS	VA	23834	1
COLONIAL HEIGHTS	VA	23834	1
SOUTH CHESTERFIELD	VA	23803	1
COLONIAL HEIGHTS	VA	23834	1
COLONIAL HEIGHTS	VA	23834	1
SOUTH CHESTERFIELD	VA	23834	1
COLONIAL HEIGHTS	VA	23834	2
COLONIAL HEIGHTS	VA	23834	2
CHESTER	VA	23836	1
RICHMOND	VA	23237	1
Prince George	VA	23875-2982	1
COLONIAL HEIGHTS	VA	23834	1
HOPEWELL	VA	23860	1
FORD	VA	23850	1
SUFFOLK	VA	23435-3814	1
FORD	VA	23850	1
DINWIDDIE	VA	23841	1
COLONIAL HEIGHTS	VA	23834	1
HOPEWELL	VA	23860	1
COLONIAL HEIGHTS	VA	23834	1
COLONIAL HEIGHTS	VA	23834	1
MIDLOTHIAN	VA	23112	1
COLONIAL HEIGHTS	VA	23834	1
COLONIAL HEIGHTS	VA	23834	1
COLONIAL HEIGHTS	VA	23834	1
SOUTH CHESTERFIELD	VA	23834	1
ALBERTA	VA	23821	1
MC KENNEY	VA	23872	2
MC KENNEY	VA	23872	2
NORTH PRINCE GEORG	VA	23860	1
SUTHERLAND	VA	23885	1
COLONIAL HEIGHTS	VA	23834	2
COLONIAL HEIGHTS	VA	23834	2
CHESTER	VA	23831	1
CHESTER	VA	23831-8462	1
CHESTER	VA	23831	1
Petersburg	VA	23803	1
MCKENNEY	VA	23872	2
MCKENNEY	VA	23872	2
COLONIAL HEIGHTS	VA	23834	2
COLONIAL HEIGHTS	VA	23834	2
ALEXANDRIA	VA	22312	1
COLONIAL HEIGHTS	VA	23834	1
DINWIDDIE	VA	23841-2012	1
COLONIAL HEIGHTS	VA	23834	2
COLONIAL HEIGHTS	VA	23834	2
COLONIAL HEIGHTS	VA	23834	2
COLONIAL HEIGHTS	VA	23834	2
SOUTH CHESTERFIELD	VA	23834	1
COLONIAL HEIGHTS	VA	23834	2
COLONIAL HEIGHTS	VA	23834	2
S CHESTERFIELD	VA	23834	1

SOUTH CHESTERFIELD	VA	23834-5058	1
Stony Creek	VA	23882	1
HOPEWELL	VA	23860-6638	1
CHESTER	VA	23831	1
CHESTER	VA	23831	1
CHESTER	VA	23831	2
CHESTER	VA	23831	2
CHESTER	VA	23836	1
CHESTERFIELD	VA	23832	1
NORTH CHESTERFIELD	VA	23237	1
CHESTER	VA	23831	1
DISPUTANTA	VA	23842	2
DISPUTANTA	VA	23842	2
CHESTER	VA	23831	1
COLONIAL HEIGHTS	VA	23834	2
COLONIAL HEIGHTS	VA	23834	2
PETERSBURG	VA	23803	1
COLONIAL HEIGHTS	VA	23834	1
ASHLAND	VA	23005	1
DISPUTANTA	VA	23842	2
DISPUTANTA	VA	23842	2
HOPEWELL	VA	23860	1
HOPE	VA	23860	2
NORTH CHESTERFIELD	VA	23237	2
HENRICO	VA	23231	1
Moseley	VA	23120	2
NORTH CHESTERFIELD	VA	23237	2
PORTSMOUTH	VA	23707	1
PORTSMOUTH	VA	23707	1
RICHMOND	VA	23227-3102	1
RICHMOND	VA	23231	1

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DINWIDDIE GENERAL DISTRICT COURT
HOPEWELL GENERAL DISTRICT COURT
CHESTERFIELD GENERAL DISTRICT COURT
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PRINCE GEORGE GENERAL DISTRICT COURT
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HOPEWELL GENERAL DISTRICT COURT
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HENRICO GENERAL DISTRICT COURT
CHESTERFIELD GENERAL DISTRICT COURT
CHESTERFIELD GENERAL DISTRICT COURT
PORTSMOUTH GENERAL DISTRICT COURT
PORTSMOUTH GENERAL DISTRICT COURT
HENRICO GENERAL DISTRICT COURT
HENRICO GENERAL DISTRICT COURT

Plaintiff
PETERSBURG HOSPITAL COMPANY, LLC D/B/A SOUTHSIDE REGIONAL MEDICAL CENTER
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PETERSBURG HOSPITAL COMPANY, LLC D/B/A SOUTHSIDE REGIONAL MEDICAL CENTER
Petersburg Hospital Company, LLC d/b/a Southside Regional Medical Center
PETERSBURG HOSPITAL COMPANY, LLC D/B/A SOUTHSIDE REGIONAL MEDICAL CENTER
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EXHIBIT 4

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

ASHLEY TURNER,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 3:21cv30 (DJN)
	)	
FABER & BRAND, LLC, *et al.*,	)	
	)	
Defendants.	)	

DECLARATION OF THOMAS D. DOMONOSKE IN SUPPORT OF JOINT MOTION FOR CLASS CERTIFICATION AND PRELIMINARY APPROVAL OF CLASS SETTLEMENT

I, Thomas D. Domonoske, declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and based on my personal knowledge.

1. Attached is a biography of my professional experience and training.

2. I have been representing low-income consumers in consumer cases in Virginia since 1993, and actively practicing law in federal court since 1996, primarily in the Eastern and Western Districts of Virginia.

3. I have filed and pursued many different types of federal lawsuits, including both federal consumer statutes, 42 U.S.C. § 1983, actions with multiple plaintiffs, those with multiple defendants, and class actions.

4. I have conducted federal court trials, including both bench and jury trials, and have argued several cases before the Fourth Circuit Court of Appeals.

5. Regarding class actions, I was appointed class counsel in *Woodard v. Online Resources*, which included an opinion reported at 191 FRD 502, 508 (E.D.N.C. 2000), and I was

also appointed class counsel in *Karnette v. Wolpoff & Abramson*, which included a reported opinion at 444 F. Supp.2d 640 (E.D. Va. 2006). In both those cases I presented and argued significant motions on behalf of the respective classes.

6. I was appointed class counsel in *Lewis v. Charlottesville Redevelopment & Housing Authority, et al*., Case No.: 3:12-cv-00026-GEC, in the Western District of Virginia, which was settled in 2014 in a Section 1983 class action on behalf of public housing residents, and in similar action I was approved as class counsel in *Miles v. Richmond Redevelopment & Housing Authority,* Case No. 3:17-cv-00160-JAG, in the Richmond Division of the Eastern District of Virginia.

7. I was also appointed as class counsel in *Hayes et al. v. Delbert Services Corp., et al.*, Case No.: 3:14-cv-258- JAG, Richmond Division of the Eastern District of Virginia.

8. In 2001, I was trial counsel in a class action in the Southern District of Ohio, Western Division, *Muhlholland v. AutoManage, Inc*., Case No. C-1-99-547. Although I was not brought in to the try the case until after class certification had been granted and consequently was not appointed as class counsel, I was brought in as trial counsel to manage the several issues presented by the jury trial of a class action with multiple causes of action.

9. Although not counsel of record, as the named plaintiff in *Domonoske v. Bank of America*, reported at 705 F.Supp.2d 515 (W.D. Va. 2010) and 790 F.Supp.2d 466 (W.D. Va. 2011), I learned firsthand the many different issues raised in a large, national class action, the competing factors involved in class actions, the various dynamics presented by Rule 23, and the relationship between class counsel and the named plaintiff.

10. In a federal bankruptcy action, *In re Wingate* Case No.: 3:14-cv-258- JAG, Richmond Division of the Eastern District of Virginia Bankruptcy Court, which involved claims

under Rule 3001 and the Fair Debt Collections Practices Act, I was appointed as class counsel in a case that both eliminated claims and distributed money to a group of debtors.

11. I understand the duties of class counsel, the duties of class representatives, the procedural requirements of Rule 23, and the issues raised by a process by which a court adjudicates claims of persons not directly before the court.

12. I am regularly called by lawyers around the country to help problem solve various issues related to the federal rules, federal statutes, and class actions.

13. I regularly attend trainings on federal court litigation and complex litigation, including a two-day Class Action Symposium at George Washington University Law School, March 7 and 8, 2013. I have also presented trainings on class actions for the National Consumer Law Center.

14. As counsel in this case I have worked closely with co-counsel on all aspects of the litigation. My firm regularly conducts class actions of all types, including national class actions, and has sufficient resources for conducting all phases of this action. I will continue to devote the resources necessary for a successful conclusion of this case.

15. Based on my experience, the proposed settlement is fair and reasonable to the class. It was the product of many rounds of discussions with an outside mediator, the Honorable Barry R. Poretz, a retired federal judge. We also had the benefit of receiving all of Defendants' possible trial documents, exchanged as part of the Rule 26(a)(1) process.

16. From Plaintiff's perspective, the main reason the settlement is fair and reasonable is because of the risk of not being able to show standing for the class members under the principles expressed in the recent *Ramirez v. TransUnion* opinion from the United States Supreme Court. Although the ramifications of that opinion will be contested for many years,

Defendants would definitely seek to hold Plaintiff to the most stringent possible implementation of its standing principles. Given the facts of this case involve a mailing, Defendants will claim the concrete harm for standing will turn on whether each of the class members received the mailing. This could mean that going forward to trial for a class would require communicating with each member of the class and determining these facts in the form of admissible evidence. Thus, it is possible on these facts to achieve a very large verdict for Plaintiff on her individual claims, but ultimately not prove standing for a sufficient number of people as to certify a class.

17. In my professional view, based on the information that I know at this point and learned through my investigation of this matter, I believe the settlement fairly, reasonably, and adequately resolves this matter to the benefit of the Class Members. The settlement is fair and reasonable because it will provide each class member with a choice: accept $115.00, object to the settlement, or opt out and pursue their own rights and remedies.

Executed on August 23, 2021 in Harrisonburg, Virginia.

By: */s/ Thomas D. Domonoske*
Thomas D. Domonoske, (VSB No. 35434)
Consumer Litigation Associates, P.C.
Counsel for Plaintiff

THOMAS D. DOMONOSKE PROFESSIONAL BIOGRAPHY

Education

Mr. Domonoske graduated with cum laude honors from the Hastings College of Law, San Francisco, California, in May 1989, and completed its Public Interest Law Program. He received his Bachelor of Arts degree from Occidental College, Los Angeles California, in March 1985.

Bar Membership

Mr. Domonoske is a member in good standing of the bars of the following courts: the Supreme Court of Virginia; the Supreme Court of California; the Supreme Court of North Carolina; the United States Supreme Court; the United States District Court for the Northern District of California, for the Eastern District of Virginia, for the Western District of Virginia, for the Eastern District of North Carolina, and the Eastern District of Michigan; the United States Bankruptcy Court for both the Eastern and the Western Districts of Virginia; and the United States Court of Appeals for the Eleventh, Ninth, Eighth, Sixth and Fourth Circuits.

He is an active member of the Virginia State Bar, and an inactive member of the California State Bar and the North Carolina State Bar.

Professional Experience

After practicing law in California in 1990 and 1991, he moved to North Carolina and taught classes at the University of North Carolina Law School. Mr. Domonoske then practiced as a legal aid lawyer with the Virginia Legal Aid Society in its Farmville office from 1993 to 1996. From July 1996 through August 2000, he taught as a Senior Lecturing Fellow at Duke University School of Law. His primary duties were teaching legal analysis and writing, and presenting the Consumer Law Lecture each year in the Poverty Law Seminar.

While teaching at Duke Law School, he maintained a small consumer law practice in Virginia and reviewed consumer law cases for lawyers from around the country. Since August 2000, Mr. Domonoske has been back in the practice of law in Virginia. He works almost exclusively on consumer law cases involving laws regulating credit. From 1997 through 2009, his consumer law practice was through an Of Counsel relationship with the Law Office of Dale W. Pittman. From 2009 through 2016, he was Of Counsel to the Legal Aid Justice Center, and in July 2016 joined Consumer Litigation Associates.

Mr. Domonoske has been involved in hundreds of consumer law cases and has developed a specialized knowledge of sales practices, of the relationship between loan originators, finance companies, and investors, and of the specific requirements of the various state and federal statutes that regulate consumer lending and title transactions. He has argued and won appellate cases before the Supreme Courts of Virginia and Ohio, and the Fourth Circuit of the United States Court of Appeals.

From 2002 through 2008, Mr. Domonoske was a board member of the National Association of Consumer Advocates, a non-profit nationwide organization dedicated to enforcing and enhancing consumer rights. From 2007 through 2013, he also served on the Board of Directors of the Fairfield Center, a non-profit organization in Harrisonburg, Virginia, that provides mediation and conflict resolution services and trainings, and was President of that Board from 2011 through 2013. He also was elected to the Harrisonburg City School Board for a term that ended in 2016.

Publications

In 1998, Mr. Domonoske's article "Establishing Claims in Auto-Fraud Cases by Determining When the Dealer Signed Title to the Consumer" was published in Volume 4, Issue 4 of The Consumer Advocate by the National Association of Consumer Advocates.

In March 1999, Mr. Domonoske drafted new subsections for the Fourth Edition of the National Consumer Law Center's Truth in Lending Act Manual. The subsections he drafted focused on Truth in Lending violations in car sales, most particularly the industry practice of spot delivery. Since that time he has contributed to several of the National Consumer Law Center's other manuals, including Student Loan Law, Credit Discrimination, and Automobile Fraud.

The Virginia Trial Lawyers Association's The Journal, published his article on "The Processing Fee: How car dealers' efforts to pad the sale price can create liability" in its Winter 1999-2000 edition, Volume 12, Number 1.

In its January/February 2000 Issue of The Consumer Advocate, Volume 6, Issue 1, the National Association of Consumer Advocates published Mr. Domonoske's "A Catalogue of Deceptive Practices: Car Cases."

In Volume 6, Issue 2 of The Consumer Advocate, the National Association of Consumer Advocates published his article, "Diving into the Wreck of Deception," on early termination provisions in automobile leases in the March/April 2000 issue.

In 2001, as part of its Corporate Law and Practice Course Handbook Series, The Practising Law Institute, published his "New Issues in Consumer Credit Litigation: Truth in Lending Act Disclosures and *Polk v. Crown Auto* and the Problem of a Conditional Credit Sale of a Car" in its Consumer Financial Services Litigation 2001 two volume book.

The Virginia Trial Lawyers Association's The Journal, published its second article by Mr. Domonoske, "The Fair Credit Reporting Act's Role in Combating Identity Theft" in its Spring 2002 issue, Volume 14, Number 2.

In the September/October 2002 issue, Volume 8, No. 5, of The Consumer Advocate, the National Association of Consumer Advocates published its fourth article by him, "All in the Timing- Delayed Disclosures And the Dubious Art of Deception."

The Virginia Trial Lawyer Association's The Journal, Winter 2002/2003 issue, Volume 15, No. 1, published its third article, "An Arbitration Agreement: A presumption that the normal functions of the appellate process are simply unnecessary."

The April-May-June 2003 issue, Volume 9, No. 2, of The Consumer Advocate, the National Association of Consumer Advocates published its fifth article by him, "Keeping America's Economy Strong: Enforcing Consumer Protection Law As Congress Intended."

The October-November-December 2003 issue, Volume 9, No. 4, of The Consumer Advocate, of the National Association of Consumer Advocates included its sixth article by him, "The Financial Industry Fuels Revival of Trade School Scams."

In 2004, following extensive amendments to the Fair Credit Reporting Act by the 2003 Fair and Accurate Credit Transactions Act, Mr. Domonoske co-authored the revisions to the National Consumer Law Center's Supplement to its Fair Credit Reporting Manual, regarding the new notices required by those amendments.

The Virginia Trial Lawyer Association's The Journal, 2009 issue, Volume No. 3, published two articles by Mr. Domonoske, "When your client's claim falls under a pre-dispute mandatory binding arbitration clause" and "Due process: Why *Bates v. McQueen* applies to the Federal Arbitration Act."

In 2015, The Jewish Veteran,Volume 69, Number 2, published his short article "Four Important Federal Laws Protecting Consumers."

Significant Cases

Mr. Domonoske was appellate counsel in the Polk v. Crown Auto 221 F.3d 691 (4th Cir. 2000). Polk clarified the standard for the delivery of credit disclosures to consumers, and was adopted in a change to the Official Staff Commentary to Regulation Z of the Truth in Lending Act.

He was one of several amicus counsel in Riviere v. Banner Chevrolet, 184 F.3d 457 (5th Cir. 1999) decided by the Fifth Circuit Court of Appeals on rehearing. The rehearing reversed the Court's initial determination that a car dealer who used a retail installment contract was not a creditor under the Truth in Lending Act.

He was amicus counsel in Bragg v. Bill Heard 374 F.3d 106 (11th Cir. 2004); Bragg found a conditional credit contract is consummated when it is signed by the consumer, and TILA disclosures must be provided before that time.

As amicus counsel for the National Association of Consumer Advocates before the Ohio Supreme Court, he appeared and argued Whitaker v. M.T. Automotive, Inc., 11 Ohio St.3d 177 (2006). That case established that non-economic damages were recoverable as damages under the Ohio Consumer Sales Practices Act.

He was also amicus counsel for the National Association of Consumer Advocates in Wadley v. Experian Info. Solutions, Inc., No 05-2054 (4th Cir. July 17, 2007), and in that capacity presented oral argument before the Fourth Circuit. The Fourth Circuit reversed a decision regarding the Fair Credit Reporting Act that improperly applied the liability standard for a credit reporting agency.

In the area of arbitration, he has obtained many decisions, including the following: Sydnor v. Conseco Financial Services, Corp., 252 F.3d 302, 305 (4th Cir. 2001), Pitchford v. Oakwood Mobile Homes, 124 F. Supp.2d 958, 961 (W.D. Va. 2000), Lynch v. McGeorge Camping Center, 2005 U.S. Dist. LEXIS 10201, *12, (E.D. Va. 2005), Thornton v. Cappo Mgmt. V., Inc., 2005 US. Dist. Lexis 10202, *6 (E.D. Va. 2005), and Karnette v. Wolpoff Abramson, 444 F. Supp.2d 640 (E.D. Va. 2006). In each of these cases, the courts refused to enforce a binding mandatory arbitration agreement found in an adhesion contract. The Karnette case was the only class action certified against Wolpoff & Abramson, a national debt collection firm at that time, and held that firm liable under the FDCPA for its use of forms developed by the National Arbitration Forum.

In the area of bankruptcy, he helped prove that Midland, the largest debt buyer in the United States, had an institutional practice of filing proofs of claim that did not comply with the bankruptcy rules. The end result was a change in how that company filed proofs of claims, and the summary judgment opinion is found at In re Maddux v. Midland Credit Management, Inc., 567 B.R. 489 (Bankr. E.D. Va. 2016).

He was counsel in three cases brought by the debtors in bankruptcy against NC Financial Solutions of Utah, LLC, for systematic violations of the automatic stay. The three cases resulted in an award of $300,000.00 in punitive damages and a change in that company's collection practices. In re Charity et al v. NC Financial Solutions of Utah, LLC, d/b/a NetCredit, 2017 WL 3580173 (Bankr. E.D. Va. 2017).

In 2019, he obtained a favorable opinion from the Fourth Circuit Court of Appeals in Curtis v. Propel Property Tax Funding, 915 F.3d 234 (2019). In a class action for taxpayers in the City of Petersburg, the Fourth Circuit held that the defendant was obligated to provide Truth in Lending Act disclosures in transactions seemingly similar to ones where both the Fifth and the Second Circuit Court of Appeals found that no disclosures were required. In a case of first impression it also found that jurisdiction existed over an Electronic Funds Transfer Act claim for requiring ACH authorization even if no ACH ever was made.

Awards and Presentations

In November 2008, Mr. Domonoske was named the John Shumate Advocate of the Year by the Virginia Poverty Law Center.

In October 2013, he was recognized by Blue Ridge Legal Services for his outstanding pro-bono contributions to low-income residents, including recovering no fee in a predatory lending case

and instead requiring a creditor to set aside all the judgments it already obtained against other borrowers.

Since 1993, Mr. Domonoske has given over one-hundred and eighty trainings and presentations and almost all were on some aspect of consumer law. He is a regular presenter at the following annual events:

-Consumer Rights Litigation Conference, sponsored by National Consumer Law Center;

-specific topical conferences sponsored by the National Association of Consumer Advocates, including Fair Credit Reporting Act and Automobile Fraud; and

-Statewide Legal Aid Conferences, sponsored by the Virginia Poverty Law Center.

He has also spoken at the Judicial Conference of Virginia for District Court Judges, sponsored by the Virginia Supreme Court, the Fall Fiesta sponsored by the Virginia Trial Lawyers Association, the Teaching Consumer Law Conference at the University of Houston Law Center, the annual conference for the National Conference of Bankruptcy Judges, and at military bases in several states. He has given presentations at the request of entities as diverse as Federal Reserve Board, the Federal Trade Commission, the Access to Justice Foundation in Tennessee, the Virginia Manufactured Housing Association, and the Virginia Independent Automobile Dealers Association, the University of Maryland, the Judge Advocate General's School for the Department of the Air Force in Alabama, the Jewish American War Veterans, and the Practising Law Institute.