

Declaration of Micah S. Adkins in Support of
Representative Plaintiffs' Motion and Support
Memorandum of Law for Approval of Attorneys' Fees,
Costs and Expenses, and Service

Exhibit B to Plaintiffs' Unopposed Motion for an Award of Attorneys'
Fees, Costs and Expenses, and Service Awards to Class Representatives

CHANCERY COURT FOR THE STATE OF TENNESSEE
TWENTIETH JUDICIAL DISTRICT, DAVIDSON COUNTY

WILLIAM BOYKIN AND SALLY,
ROBBINS, on behalf of themselves and
all others similarly situated,

DOCKET NO.: 20-0615-BC

Plaintiffs,

v.

TENNESSEE ORTHOPAEDIC
ALLIANCE, P.A.,

Defendant.

**DECLARATION OF MICAH S. ADKINS SUBMITTED IN SUPPORT OF PLAINTIFFS'
MOTION AND SUPPORTING MEMORANDUM OF LAW FOR APPROVAL OF
ATTORNEYS' FEES, COSTS AND EXPENSES, AND SERVICE AWARDS**

I, Micah S. Adkins, declare as follows:

1. I am an attorney with the firm of The Adkins Firm, P.C. I submit this Declaration in support of my firm's application for an award of attorneys' fees in connection with services rendered in this case, as well as the reimbursement of expenses incurred by my firm in connection with this litigation, and in support of the class representatives' service award.

2. My firm acted as Class Counsel in this action. I personally handled or was directly involved in many aspects of this litigation. To date, the tasks my firm performed can be summarized as follows:

- a. Attended multiple hearings;
- b. Case management, including the review of all pleadings and docket deadlines;
- c. Correspondence to and from co-counsel, opposing counsel, Plaintiff's expert and the court;¹

¹ The undersigned received and reviewed over 600 emails during the pendency of this matter.

- d. Discovery, including, written discovery to Defendant; received and reviewed almost six hundred pages of documents produced by Defendant;
- e. Legal drafting, including, but not limited to, the original complaint, discovery, motion practice and class papers;
- f. Legal research concerning preliminary class certification and final approval, other similar certified class actions, reasonableness of Plaintiffs' fee petition and Plaintiffs' incentive awards;
- g. Review material, including orders, and status reports; and,
- h. Settlement negotiations, including participation in mediation in Miami, Florida with Rodney Max, which resulted in the Settlement Agreement.

3. The Summary of Time Expended and Expenses is attached hereto as Exhibit 1 and includes a detailed and specific summary indicating the amount of time spent by each attorney and non-attorney in my firm who was involved in this litigation, and the lodestar fee calculation based on my firm's current geographic billing rates. The Summary of Time Expended and Expenses was prepared by summarizing detailed time record entries which were kept contemporaneous to the time expended and maintained by my firm. Time expended in preparing this application for fees and reimbursement of expenses has been included in this request.

4. The hourly rates charged by my firm are the same as the regular current rates charged to clients who retain the firm in connection with non-class matters. My current hourly rate is \$475.00 per hour for cases pending in the Nashville, Tennessee area. This is the rate I charge clients for representation in litigation matters under federal consumer protection statutes in this geographic area.

5. I graduated from the University of Texas, at Dallas, *cum laude*, in 2000. In 2005, I earned my juris doctorate from Samford University, Cumberland School of Law.

6. I am a member of the Alabama, Tennessee and Texas Bars. I am admitted to practice in all U.S. District Courts in Alabama, Arkansas, Colorado, Tennessee and Texas. I am also admitted to practice in the Eastern District of Michigan and the Fifth, Sixth, Ninth and Eleventh Court of Appeals. I have been admitted on motion in numerous U.S. District Courts across the U.S., including California, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Mississippi, New Jersey, New York, Ohio, Oregon, Pennsylvania, Virginia and the District of Columbia.

7. My consumer protection practice is almost exclusively in federal court, and I have prosecuted no less than two hundred such actions across the United States. I also regularly represent consumers in class cases. I have represented the named plaintiffs and class representatives in numerous complex litigation and class action matters across the United States.

8. I am regularly invited to speak on federal consumer protection issues by professional organizations. I have presented lectures on consumer rights and identity theft to the Alabama Bar Association, Alliance for Legal Services, Association for Certified Fraud Examiners, Birmingham Bar Association, Community Legal Services of Mid-Florida, Dallas Bar Association, Houston Bar Association, Huntsville/Madison County Bar Association, Montgomery County Bar Association, Florida Bar Association, Jacksonville Area Legal Aid Society, Legal Aid Society of San Diego, City of Orlando's Mayor's Summit, National Association for Consumer Advocates, Tennessee Bankers' Association and the Williamson County Bar Association.

9. My consumer practice has been recognized by my peers. I have been named one of Alabama's Top Attorneys from 2012 to 2019. My consumer practice has also been recognized by Super Lawyers. I have been named a Rising Star for years 2014-2017, and as a Mid-South Super

Lawyer for 2019 and again in 2020. In May 2019, the California Lawyers Association awarded me the Wiley W. Manuel Certificate for offering *pro bono* legal services related to my expertise on the federal Fair Credit Reporting Act to low-income individuals and not-for-profit organizations.

10. Attorney Brian M. Dixon is a staff attorney employed by The Adkins Firm. He graduated from the University of New Orleans with his Bachelor of Arts in 2014. He earned his juris doctorate from State University of New York at Buffalo Law School in 2018, where he served as a Civil Procedure Fellow and was published in the Georgetown Entertainment and Media Alliance Law Review. Mr. Dixon was admitted to the New York Bar in January 2019, the Colorado Bar in December 2019, and he recently passed the Florida Bar Exam. He has worked on various civil litigation matters during the past two years, including legal drafting, discovery, document review and motion practice. He has also performed legal research and writing tasks in complex ERISA and tax compliance matters. During the pendency of the litigation of this matter, I supervised and worked closely with Mr. Dixon, and his hourly rate is \$175.00 per hour.

11. Paralegal Whitney Matthews is a former certified paralegal employed by The Adkins Firm. Mrs. Matthews earned her Bachelors in English Writing and Literature from Belmont University in 2016. She earned her paralegal certification from Liberty School of Law in 2019. Mrs. Matthews expended non-attorney time in this matter. During the pendency of the litigation of this matter, I supervised and worked closely with Mrs. Matthews, and her hourly rate in this matter is \$100 per hour.

12. Law Clerk Kayla Redmon is a law clerk employed by The Adkins Firm. Ms. Redmon earned her Bachelor of Arts in International Business from Maryville College in 2016. Ms. Redmon is currently a 2-L law student at The Nashville School of Law. During the pendency of

the prosecution of this matter, Ms. Redmon performed legal research tasks in connection with class certification of the above-named matter. I supervised and worked closely with Ms. Redmon, and her hourly rate is \$50 per hour for this case.

13. The attorney and non-attorney rates charged by my firm are reasonable and within the range of the appropriate market rates charged by attorneys and non-attorneys with comparable experience levels, practice concentration and background. The hourly rates petitioned for in this litigation is consistent with rates which have been approved by other courts. *Young v. Catherines*, No. 13-cv-03288-CMR (E.D. Pa. Nov. 5, 2014)(approving fee petition in full and awarding hourly rate of \$325, plus a 2.4 multiplier); *Fuller v. Avis/Budget Rental Car*, No. 2:15-cv-03856-KM-MAH (D. N.J. Dec. 15, 2017)(approving fee petition in full and awarding hourly rate of \$375, plus a 2.59 multiplier); *Clark v. Trans Union, LLC*, Case No. 2:15-cv-3:15-cv-00391-MHL (E.D. Va.) and *Anderson v. Trans Union, LLC*, Case No. 3:16-cv-00558-MHL (E.D. Va.)(approving fee petition in full and awarding hourly rate of \$450); *Clark v. Experian Information Solutions, Inc.* No. 3:16-cv-00032-MHL (E.D. Va.); *Brown v. Experian Information Solutions, Inc.*, No. 3:16-cv-00670-MHL (E.D. Va.)(approving fee petition in full and awarding hourly rate of \$450); *Thomas v. Equifax Information Services, LLC*, No. 3:18-cv-00684-MHL (E.D. Va., Sept. 13, 2019)(approving fee petition in full and awarding hourly rate of \$475 for Adkins, \$375 for associate, \$150 for paralegal and \$75 for law clerk); *Swaney v. Regions Bank*, 2:13-CV-00544-RDP, 2020 WL 3064945, *7-8 (N.D. Ala. June 9, 2020)(approving fee petition for \$791 for senior level partner and \$548 for an eight-year lawyer); *Cleveland v. J.H. Portfolio Recovery*, Case No. 2:19-cv-00286-B (S.D. Ala. Nov. 24, 2019)(Magistrate's Report and Recommendation recommending approval of Plaintiff's fee petition in full and awarding hourly rate of \$275 for Adkins, \$225 for associate attorney with less than ten years of experience and \$75 for paralegal).

14. My litigation efforts and experience have received judicial acknowledgement and praise throughout the years. Examples of such recent recognition include:

From United States District Judge Hannah Lauck in *Brown v. Experian Information Solutions*, Case No. 3:16-cv-670-MHL and *Clark v. Experian Information Solutions*, Case No. 3:16-cv-32-MHL (E.D. VA, Feb. 5, 2019):

The mediation process is, I think, the result of the lawyers here being able to do the mediation process. So as I talk about what fees and fairness of the settlement, I will probably mention more than once that I don't think that any lesser level of expertise could put this mediation process and arbitration process into effect and actually effectuate it, because it requires the level of experience that all attorneys have here, the level of involvement in this case, and in all cases, and detailed knowledge of the consumer protection laws overall.

(Doc. 151, pp. 22-23).

As to whether or not their representation under 23(e)(2)(A) is appropriate, clearly this is a group of among the most highly experienced attorneys nationally in consumer class action litigation and FCRA in particular. Certainly[,] based on the filings and my own experience, I know that many courts have recognized this.

(Doc. 151, p. 27).

From United States District Judge Hannah Lauck, in *Thomas v. Equifax Information Services*, Case No. 3:18-cv-00684-MHL (E.D. VA, Sept. 13, 2019):

As to whether there was adequate representation by class counsel, again, I don't want anybody's head to get too big, but this group is among the most highly experienced attorneys nationally in consumer class action litigation, and FCRA litigation in particular. I have recognized that more than once in these series of cases versus TransUnion and Experian and Equifax with respect to these civil judgments and tax liens cases.

The type of change in industry practice and the creative means through which this is effectuated really can only be done through the caliber of attorneys who are willing to say the kinds of things that each side does about the other. I do believe that the best outcomes are those that are most hard fought, and that certainly has been the case here. It's a difficult set of lots of details, and the ADR process that has been developed through counsel not only benefits the plaintiffs and consumers, it benefits Equifax as far as centralizing any kind of conduct going forward and doing so in an efficient manner.

(Doc. 56, pp. 25-26).

15. From United States Magistrate Judge Sonja F. Bivens, “[t]he record clearly reflects that Adkins is a highly experienced and qualified attorney in the field of consumer protection law.” *Cleveland, supra*.

16. Moreover, with respect to the standing of counsel in this case, attached hereto as Exhibit 2 is a brief biography of my firm and my curriculum *vitae*.

17. I have reviewed the time and expense records submitted in this case, and I have eliminated time or expenses that I felt were duplicative. I certify to this court that all of the time records are accurate and maintained a separate record of time with a complete and accurate accounting of all time devoted to this particular action (to the nearest 1/10 of an hour), recorded contemporaneously with the time expended, for each attorney. Further, I certify that services performed by any person not a member of the bar, a separate time record has been maintained for each such individual.

18. Lastly, I certify: all of the time records submitted in support of the undersigned’s fee petition are accurate; such records were prepared contemporaneously with the performance of the work for which the fees are claimed; and counsel reviewed and verified all attorney and non-attorney time records no less frequently than once per month.

The lodestar of the firm for work already performed with respect to this case is as follows:

	Hourly Rate	Hours	Fees
Micah S. Adkins, Attorney	\$ 475	75.55	\$ 35,886.25
Brian Dixon, Attorney	\$ 175	5.75	\$ 1,006.25
Paralegal	\$ 100	3.5	\$ 350.00
Law Clerk	\$ 50	3.15	\$ 162.50
Total Hours and Fees		87.95	\$ 37,405.00

19. My firm's lodestar figures are based upon the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately, and such charges are not duplicated in my firm's billing rates.

20. As detailed in Exhibit 1, my firm has incurred a total of \$ 1,067.70 in unreimbursed expenses in connection with the prosecution of the above-styled matter.

21. The expenses incurred in this action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, receipts, check records and other source materials and are an accurate recordation of the expenses.

22. The named class representatives, William Boykin and Sally Robbins ("Class Representatives"), agreed to serve as Class Representatives in this lawsuit with full knowledge of the duties and responsibilities of an individual serving in this role. The Class Representatives took active roles in this case, including responding to requests for information and documents in support of Plaintiffs' claims. The Class Representatives also understand their role as a class representative and each were responsive to Class Counsel during the contested litigation.

23. I have reviewed the Settlement Agreement, and in my professional opinion, it is fair adequate and reasonable.

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

Signed this 2nd day of December, 2020.

Respectfully submitted,

/s/ Micah S. Adkins

Micah S. Adkins

TBR No. 036451

THE ADKINS FIRM, P.C.

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Franklin, TN 37064

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Exhibit 1

Summary of Time Expended and Expenses

	Hourly Rate	Hours	Fees
Micah S. Adkins, Attorney	\$ 475	75.55	\$ 35,886.25
Brian Dixon, Attorney	\$ 175	5.75	\$ 1,006.25
Paralegal	\$ 100	3.5	\$ 350.00
Law Clerk	\$ 50	3.15	\$ 162.50
Total Hours and Fees		87.95	\$ 37,405.00

Expenses

Category	COST
Filing Fees	\$ 371.71
Print/Copy/Postage	\$ 15.20
Legal Research Fees (Pacer and Westlaw)	\$ 421.04
Process Server	\$ 259.75
Total Costs & Expenses	\$ 1,067.70

EXHIBIT 2

THE ADKINS FIRM

PROTECTING  CONSUMERS

NASHVILLE • BIRMINGHAM • DALLAS • HOUSTON

The Adkins Firm, P.C. was founded in 2014 by Micah S. Adkins. The Adkins Firm represents consumers in federal court under various consumer protection statutes. The Adkins Firm maintains offices in Birmingham, Alabama, Dallas, Texas, Houston, Texas and Nashville, Tennessee and is active in the legal community. We have represented consumers in over one-hundred and fifty individual actions in federal court across the United States.

Mr. Adkins earned his Bachelor of Science degree from the University of Texas, at Dallas, with honors (*cum laude*), in 2000. He earned his juris doctorate from the Cumberland School of Law, at Samford University, in 2005. Mr. Adkins was honored by his classmates as the Peer Scholarship Recipient and served as an Associate Justice on the Honor Court.

Mr. Adkins is admitted to the Alabama, Tennessee and Texas Bars. He is also admitted to the United States Court of Appeals for the Fifth, Sixth, Ninth and Eleventh Circuits and to all federal district courts in Alabama, Arkansas, Colorado, Tennessee and Texas. He is also a member of the Eastern District of Michigan. Mr. Adkins has been admitted by motion in various district courts, including California, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Mississippi, New Jersey, New York, Ohio, Oregon, Pennsylvania, Virginia and the District of Columbia.

Mr. Adkins has represented the named class representatives in the following certified class actions: *Thomason v. Surin of Thailand*, N.D. Ala., Case No. 07-B-1710-S; *Kanakis v. Surin 280, LLC*, N.D. Ala. Case No. 07-B-17-11; *Iradji v. Surin West, Inc.*, N.D. Ala. Case No. 07-B-1712-S; *Countrywide Financial Corp. Customer Data Security Breach Litigation*, MDL No. 1998; *TJX Companies Retail Security Breach*, MDL No. 1838; *Department of Veterans (VA) Affairs Data Theft Litigation*, MDL No. 1796; *Young v. Charming Shoppes, Inc., et al.*, E.D. Pa. Case No. 2-13-cv-03288-CMR; *Almanzar, et al v. Select Portfolio Servicing, Inc., et al.*, S.D. Fla. Case No. 1:14-cv-22586-FAM; *Fuller v. Avis/Budget Rental Car*, Case No. 2:15-cv-03856-KM-MAH (D. N.J. Dec. 15, 2017); *Clark v. Trans Union, LLC*, Case No. 2:15-cv-3:15-cv-00391-MHL (E.D. Va.); *Anderson v. Trans Union, LLC*, Case No. 3:16-cv-00558-MHL (E.D. Va.); *Clark v. Experian Information Solutions, Inc.* No. 3:16-cv-00032-MHL (E.D. Va.), *Brown v. Experian Information Solutions, Inc.*, No. 3:16-cv-00670-MHL (E.D. Va.); *Thomas v. Equifax Information Services, LLC*, No. 3:18-cv-00684-MHL (E.D. Va., Sept. 13, 2019); *Swaney v. Regions Bank*, 2:13-CV-00544-RDP, 2020 WL 3064945 (N.D. Ala. June 9, 2020). Mr. Adkins currently represents the named class representatives in several nationwide putative consumer class actions.

Mr. Adkins' consumer advocacy has been recognized by the members of the Bar, including the Birmingham Bar Association where he was named as a Top Consumer Lawyer in 2012, 2013, 2014 and 2016. Super Lawyers also recognized him as a Mid-South Rising Star 2014 – 2017 and as a Super Lawyer in 2019 and 2020. He is regularly invited to lecture on federal consumer protection issues by the: Alabama Bar Association; Birmingham Bar Association; Dallas Bar Association; Florida Bar Association; Houston Bar Association; Huntsville/Madison County Bar Association; Montgomery Bar Association; Williamson County Bar Association; National Association of Consumer Advocates; and, The Tennessee Bankers Association.

Mr. Adkins is a member of the Alabama Association for Justice; Birmingham Bar Association, Collin County Bar Association; Dallas Bar Association; Federal Bar Association; Houston Bar Association; National Association of Consumer Advocates; and the Tennessee Trial Lawyers Association.

Attorney Brian M. Dixon is a staff attorney employed by The Adkins Firm. He graduated from the University of New Orleans with his Bachelor of Arts in 2014. He earned his juris doctorate from State University of New York at Buffalo Law School in 2018, where he served as a Civil Procedure Fellow and was published in the Georgetown Entertainment and Media Alliance Law Review. Mr. Dixon was admitted to the New York Bar in January 2019, the Colorado Bar in December 2019, and he recently passed the Florida Bar Exam. He has worked on various civil litigation matters during the past two years, including legal drafting, discovery, document review and motion practice. He has also performed legal research and writing tasks in complex ERISA and tax compliance matters. Mr. Dixon assists Mr. Adkins in case management, legal research and writing assignments.

Attorney Richard "Andrew" Lane, III, is a staff attorney employed by The Adkins Firm. He graduated from the University of Alabama with his Bachelors of Arts in English with a minor in Political Science in 2015. He earned his juris doctorate from The University of Mississippi School of Law in 2018. He was admitted to the Texas Bar and the Southern District of Texas in 2019. Mr. Lane represented medical professionals and hospitals in medical malpractice lawsuits. He assists Mr. Adkins in case management, legal research and writing assignments.

Law Clerk Kayla Redmon is a law clerk employed by The Adkins Firm. Ms. Redmon earned her Bachelor of Arts in International Business from Maryville College in 2016. Ms. Redmon is currently a 2-L law student at The Nashville School of Law. She performs legal research and writing tasks for the firm and serves as Mr. Adkins' case manager.