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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

WILLIAM LOFTUS, SIDNEY NAIMAN, and
LOUIS NAIMAN, individually and on behalf of
all others similarly situated,

Case No. 3:19-cv-01608-RS

Hon. Richard Seeborg

Plaintiffs,

v.

SUNRUN INC., and MEDIA MIX 365, LLC, and
DOES 1-10,

Defendants.

**Declaration of Andrew W. Heidarpour in Support of Plaintiffs’ Unopposed Motion for
Preliminary Approval of Class Action Settlement**

I, Andrew W. Heidarpour, declare under penalty of perjury:

1. I am the founder of Heidarpour Law Firm, PLLC, co-counsel of record for Plaintiff in this matter. I am admitted to practice before this Court *pro hac vice* and am a member in good standing of the bar in the District of Columbia. I respectfully submit this declaration in support of Plaintiff’s Unopposed Motion for Preliminary Approval of Class Action Settlement. I have personal knowledge of the facts set forth in this declaration and could testify competently to them if called upon to do so.

2. I have experience in the prosecution of class actions on behalf of consumers, particularly claims under the Telephone Consumer Protection Act, 47 U.S.C. § 227 (“TCPA”).

3. I am a 2014 graduate of Arizona Summit Law. In 2016, I was admitted to the Bar in Washington D.C. Since then, I have also been admitted to practice before the United States District and Bankruptcy Court for the District of Columbia. From time to time, I have appeared in other Federal District Courts *pro hac vice*. I am in good standing in every court to which I am admitted to practice.

1 4. I was appointed as Settlement Class Counsel in *Naiman v. Total Merchant Services,*
2 *Inc., et al*, NDCA, Civil Action No. 4:17-cv-03806-CW, an action brought under the TCPA which
3 settled for \$7,500,000.
4

5 5. I was involved in every stage of representing Plaintiffs in this case, from pre-trial
6 investigation, analysis of Plaintiffs’ potential claims, and review of documents and discovery
7 responses and settlement negotiations.

8 6. Plaintiffs participated in a mediation session before the Honorable Wayne Andersen
9 (Ret.) and then a second full day mediation session with Honorable Morton Denlow (Ret.) both of
10 whom are nationally-recognized mediators with particular expertise in resolving TCPA class actions.
11 This Agreement was reached following the second mediation session.
12

13 7. Plaintiffs believe they have a strong case for liability. However, as is set forth in
14 Plaintiff’s Motion for Preliminary Approval, the case faced significant legal hurdles on both whether
15 the system used by Defendant to make the calls qualified as an “automatic telephone dialing system”
16 (“ATDS”) and whether California Penal Code § 632.7 (“CIPA”) applied to Defendant’s recording of
17 calls.
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19 8. Defendant has always denied liability and continues to do so. Defendant maintains
20 that it has substantial factual and legal defenses to all claims and class allegations in the Litigation.
21 Defendant specifically denies that an automated dialer was used to call Plaintiffs or class members
22 without their prior express written consent; that they violated the TCPA; that they recorded calls
23 without disclosure in violation of CIPA and that Plaintiff and class members are entitled to any
24 relief. Defendant further contends that the allegations contained in the First Amended Complaint are
25 not amenable to class certification.
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1 9. Based on my experience in prosecuting class actions under the TCPA, I believe this
2 settlement represents an excellent result for the Settlement Classes and merits preliminary approval
3 by the Court.
4

5 PURSUANT TO 28 U.S.C. § 1746, I DECLARE SIGNED UNDER PENALTY OF PERJURY
6 OF THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT
EXECUTED THIS THIS 5th day of AUGUST, 2020.

7 /s/ Andrew W. Heidarpour
8 Andrew W. Heidarpour
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