

THE HONORABLE BRIAN MCDONALD  
Hearing Date: Friday, November 19, 2021  
Hearing Time: 9:00 am  
With Oral Argument

SUPERIOR COURT FOR THE STATE OF WASHINGTON  
FOR KING COUNTY

MIKE AALAND, individually and on behalf of  
those similarly situated,

Plaintiff,

v.

CONTRACTORS.COM LLC, a California Limited  
Liability Company, and ONE PLANET OPS INC.,  
a Delaware Corporation,

Defendants.

NO. 19-2-24212-4 SEA

**DECLARATION OF JASON A.  
RITTEREISER IN SUPPORT OF  
MOTION FOR FINAL APPROVAL  
OF CLASS ACTION SETTLEMENT**

I, Jason A. Rittereiser, declare as follows:

1. I am an attorney licensed to practice law in the State of Washington and a managing partner in the law firm of HKM Employment Attorneys LLP. I serve as Class Counsel for Named Plaintiff Mike Aaland and the putative class in the above-captioned matter. If called to testify as to the matters set forth herein, I could and would do so competently.

2. I graduated from the University of Washington in 2006 and DePaul University College of Law in 2010. Prior to joining HKM, I worked as a Deputy Prosecuting Attorney for the King County Prosecuting Attorney's Office. I have been recognized by Washington Super Lawyers as a "Rising Star" (2017-2021) and was recognized as the Outstanding Young Lawyer of the Year by the King County Bar Association (2017).

3. I have extensive experience in individual plaintiff and class action matters, including litigating class actions on behalf of plaintiffs in various areas of the law. For instance, I have litigated several consumer protection act cases, including cases involving unsolicited commercial text messages, like this one. These have included: *Agne et al. v. Papa John's Int'l et al*, Federal District

1 Court for the Western District of Washington, Case No. 2:10-cv-01139; *Ferencz et al. v. Universal*  
2 *Men's Clinic*, King County Superior Court No. 13-2-15314-9; *Gragg et al v. Orange Cab et al.*,  
3 Federal District Court for the Western District of Washington, Case No. 2:12-cv-00576-RSL; and  
4 *Wright et al. v. Lyft, Inc.*, Federal District Court for the Washington District of Washington, Case No.  
5 2:14-cv-421-BJR.

6 4. As plaintiffs' counsel in *Wright v. Lyft, Inc.*, 189 Wn.2d 718, 732, 406 P.3d 1149  
7 (2017), the case that clarified the very law surrounding the Washington's Consumer Protection Act as  
8 applied to text message cases, our legal team is uniquely well-versed in not only the Supreme Court's  
9 ruling, but also the ruling's significant implications for Washington consumers and the protections to  
10 which it has afforded them. To my knowledge, *Wright v. Lyft* remains the sentinel case in Washington  
11 regarding unsolicited commercial text messaging.

12 5. Additionally, I have represented or currently represent plaintiffs in several  
13 employment class actions. These include: *Steeb v. Overlake Hospital*, King County Superior  
14 Court Case No. 15-2-16399-0; *Stevenson et al. v. Pactera Technologies, Inc.*, King County  
15 Superior Court Case No. 16-2-3148-0; *Town et al. v. Cascade Hospitality, LLC*, King County  
16 Superior Court Case No. 14-2-28148-0; *Anderson et al. v. Reed Hein*, Federal District Court for  
17 the Western District of Washington Case No. 2:16-cv-00785-RSL; *McKiernan et al. v. Act Fast,*  
18 *et al.*, King County Superior Court Case No. 16-2-03389-0; *Carson vs AMD Kashi Inc., et al.*,  
19 King County Superior Court Case No. 17-2-29644-9 KNT; *Gonzalez v. Providence*, King  
20 County Superior Court Case No. 19-2-27751-3 SEA; *Reese v. NPSG Global LLC*, Federal District  
21 Court for the District of Nevada Case No. 2:19-CV-00209-JCM-NJK (*pro hac vice*); *Bosch v.*  
22 *PeaceHealth*, Clark County Superior Court Case No. 20-2-00924-06; *Benelli and Dewitt*  
23 *v. PeaceHealth*, Federal District Court for the District of Oregon, Case No. 6:21-cv-00825-AA; *Bennett*  
24 *v. Providence*, King County Superior Court Case No. 21-2-13058-1 SEA; and *McGann v. Ladybug*  
25 *Espresso*, King County Superior Court Case No. 19-2-31531-8 SEA.

26 6. During this case, my legal team and I reviewed nearly 4,000 pages of Defendants'  
27 records in discovery and prepared to take depositions. Before taking depositions, however, we

1 temporarily paused our litigation efforts to see if resolution was possible. On May 12, 2020, the  
2 Parties participated in a good-faith, arms-length, full-day mediation with John B. Bates, Jr. of  
3 JAMS but were unable to resolve their dispute. After the failed mediation, we resumed discovery  
4 efforts. Eventually, defense counsel and I began discussing the possibility of resolution which  
5 ultimately resulted in a settlement agreement a year after the failed mediation.

6 7. In evaluating the potential for resolution, we considered the risks inherent to  
7 litigation and the defenses available to Defendants, including Defendants' potential defense that  
8 they obtained consent to send the text messages at issue in this case. We also had concerns about  
9 Defendants' potential defense about whether the consent was obtained through a third party, and  
10 whether any evidence of that consent was discoverable given that records may not have been  
11 retained by Defendants or the third parties. At the certification stage, Defendants would have  
12 likely argued that class certification was not appropriate because determination of consent would  
13 require a showing of individualized, rather than classwide, proof. While I, of course, disagree  
14 with Defendants' arguments and believe class certification would be appropriate, I am aware of  
15 the possibility that a court might accept Defendants' arguments and deny any motion for class  
16 certification or deny liability. If the class was certified, it is a near certainty that Defendants  
17 would move to decertify. Furthermore, even if we were able to prove liability, the amount of any  
18 award issued was not certain, in particular with liquidated damages.

19 8. In agreeing to this Settlement, our firm recognized the significant risks associated  
20 with proving liability and obtaining a judgment against Defendants. While Plaintiff believed his  
21 claims are meritorious and valid, they are not without challenges, particularly with continued  
22 discovery. For example, several of the key witnesses Defendants disclosed are in the Philippines  
23 which would provide challenging in terms of having jurisdiction to conduct their depositions. My  
24 legal team recognized that proving Defendants intentionally violated the statute would have been  
25 difficult, thus potentially limiting each class member's damages by two thirds. Additionally,  
26 proving that Class Members physically were in Washington when they received the text message  
27 would have been exceedingly difficult. Furthermore, and especially in light of the ongoing

1 pandemic, there were risks that Defendants would not be able to pay for a judgment at the  
2 conclusion of protracted and hard-fought litigation.

3 9. Resolution in this matter involved a thoughtful structuring of the settlement to  
4 convey both monetary and invaluable benefits to as many Class Members as possible. Given the  
5 nature of the claims, that defendants sent unauthorized text messages to cellular telephone  
6 numbers within Washington state, the identity of class members beyond their cellular telephone  
7 numbers was not readily identifiable. This fact required an opt-in settlement structure to first  
8 verify the identity of individuals associated with cellular telephone numbers that received text  
9 messages from defendant while within the State of Washington and to enable the settlement  
10 administrator to properly procure settlement funds to named individual class members. Thus, the  
11 parties created a simple Claim Form system to ensure that the person damaged (*i.e.*, the person  
12 who received the text message) would be the actual beneficiary of the settlement sum.

13 10. Because the only contact information the parties had for the potential class  
14 members was a phone number—in some cases years old—JND and the parties exerted  
15 extraordinary effort to locate the greatest number of addresses possible. For example, because we  
16 wanted to ensure that the greatest number of class members benefited from the settlement,  
17 defense counsel and I requested that JND perform manual searches of the 840 phone numbers for  
18 whom no contact information had been found via traditional methods.

19 11. As a result of this resolution, Class Members who have opted in for the cash  
20 payment will recover the maximum amount they could have *ever* recovered had they filed an  
21 individual case—including full payment of treble damages. Specifically, the cash payment to  
22 each Class Member who has submitted a valid Claim Form will be \$1,500. Additionally, we  
23 wanted to ensure that even those who failed to submit a Claim Form would still be able to  
24 participate in the recovery and grow their individual businesses in immeasurable ways. This  
25 settlement accomplishes this goal because all Class Members, regardless of whether they  
26 submitted a Claim Form, still have an entire year to access an additional \$300 worth of benefits  
27 by claiming their six free leads (each valued at \$50).

1           12.     An additional aspect of the parties' settlement was to select a Cy Pres recipient to  
2 benefit from any funds remaining after paying the Class Members the maximum possible sums.  
3 Given the parties' mutual respect for small businesses, especially in this difficult and challenging  
4 season, the parties stipulated to the Downtown Seattle Association as the beneficiary. Based on  
5 my calculations (after deducting individual class payments, attorneys' fees and costs,  
6 administration fees and costs, and the class representative award), I believe the Cy Pres recipient  
7 will receive a minimum of \$187,644.57.

8           13.     In this case, Class Members have achieved an excellent result because our legal  
9 team, including our experienced co-counsel at Stutheit Kalin, committed ourselves fully to this  
10 case and provided outstanding legal representation, with absolutely no guarantee of success.  
11 Class Members obtained justice and will receive a substantial payment for having received a text  
12 message from Defendant. For our services in this matter, and for the extraordinary result  
13 obtained for the class, we are requesting attorneys' fees and litigation costs in the amounts of  
14 \$458,700.00 and \$5,790.43, respectively. The attorneys' fees request represents 30 percent of the  
15 Total Settlement Value, and the \$5,790.43 figure represents the actual out-of-pocket litigation  
16 costs paid by our firm to date (for mediation, legal research, couriers, and other reasonable  
17 litigation expenses). Attached hereto as **Exhibit A** is a true and correct copy of these costs. These  
18 reasonable expenses were advanced by my office with no assurance of outcome, and were  
19 necessary to secure resolution in this case. Defendants have no objection to these sums.

20           14.     Plaintiff Mike Aaland's requested service award of \$5,000 is fair and reasonable  
21 given his services benefited a class of 1,796 individuals in obtaining a substantial recovery that  
22 they can use to benefit their respective small businesses. Without Plaintiff Aaland's service and  
23 commitment to the Class Members, the class-wide relief would not have been possible. He  
24 initiated and maintained this lawsuit with no assurances of outcome as well as actively  
25 participated in the case, including assisting my legal team in investigating the claims, advancing  
26 discovery efforts, and participating in mediation. Defendants likewise have no objection to this  
27 sum.

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

DATED this 5th day of November, 2021.

*/s/ Jason A. Rittereiser*  
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Jason Rittereiser, WSBA No. 43628  
**HKM EMPLOYMENT ATTORNEYS LLP**

*Attorney for Plaintiff Mike Aaland*

1 **CERTIFICATE OF SERVICE**

2 I, Klarisse Leonor, certify under penalty of perjury under the laws of the State of  
3 Washington that I have caused service of a true and correct copy of the foregoing document, to  
4 be effected on the following named counsel in the manner identified below:

5 Paul Karlsgodt, WSBA No. 40311  
6 James R. Morrison, WSBA No. 43043  
7 **Baker & Hostetler LLP** [ ] Via Email  
8 999 Third Avenue, Suite 3600 [ ] Via Messenger  
9 Seattle, WA 98104 [ ] Via U.S. Mail, First Class  
10 Phone: 206-332-1380 [X] Via King County E-Service  
11 Fax: 206-624-7317  
12 E-Mail: pkarlsgodt@bakerlaw.com  
13 jmorrison@bakerlaw.com  
14 rmann@bakerlaw.com  
15 jhickman@bakerlaw.com

16 *Attorneys for Defendant Contractors.com LLC*

17 DATED this 5th day of November, 2021, at Seattle, Washington.

18 /s/ Klarisse Leonor  
19 Klarisse Leonor, Paralegal  
20 **HKM EMPLOYMENT ATTORNEYS LLP**

# EXHIBIT A



**HKM Employment Attorneys LLP**  
**Unbilled Charges**  
All Dates

	<b>Date</b>	<b>Transaction Type</b>	<b>Vendor</b>	<b>Memo/Description</b>	<b>Amount</b>
<b>Aaland, Michael</b>	09/16/2019	Billable Expense Charge	King County Dja Efilin	2019/09/16, Filing Fees and Court Costs, King County Dja Efilin, Reasons: "Filing fee - Complaint for Damages"	242.49
	10/04/2019	Billable Expense Charge	ABC Legal	Invoice No. 5904931/5947546	289.50
	04/15/2020	Billable Expense Charge	Pst*Jams Adr	Klarisse Mae Leonor, (Aaland, Michael) Mediation Services at Pst*Jams Adr, Mediation fee deposit	4,549.94
	05/06/2020	Billable Expense Charge	Westlaw	Legal Research	2.83
	05/07/2020	Billable Expense Charge	Westlaw	Legal Research	11.32
	05/12/2020	Billable Expense Charge	Westlaw	Legal Research	2.83
	05/17/2020	Billable Expense Charge	FedEx	Postage for Michael Aaland	31.26
	06/08/2020	Billable Expense Charge	King County Dja E Filing	Leah Douglas, (Aaland, Michael) Filing Fees and Court Costs at King County Dja E Filing, Jury demand filing fee	252.49
	12/18/2020	Billable Expense Charge	King County Dja E Filing	Klarisse Mae Leonor, (Aaland, Michael) Filing Fees and Court Costs at King County Dja E Filing, Working copies - stipulated motion to continue trial date	22.49
	02/16/2021	Billable Expense Charge	Westlaw	Legal Research	152.72
	02/26/2021	Billable Expense Charge	Westlaw	Legal Research	66.20
	03/01/2021	Billable Expense Charge	Westlaw	Legal Research	39.06
	03/02/2021	Billable Expense Charge	Westlaw	Legal Research	33.14
	05/19/2021	Billable Expense Charge	Westlaw	Legal Research	29.18
	07/02/2021	Billable Expense Charge	King County Dja E Filing	Klarisse Mae Leonor, (Aaland, Michael) Filing Fees and Court Costs at King County Dja E Filing, Working copies for motion filing	32.49
	07/16/2021	Billable Expense Charge	King County Dja E Filing	Taylor Saastad, (Aaland, Michael) Filing Fees and Court Costs at King County Dja E Filing, Working Copies filed in KCSC	32.49
<b>Total for Aaland, Michael</b>					<b>\$ 5,790.43</b>
<b>TOTAL</b>					<b>\$ 5,790.43</b>

Tuesday, Oct 26, 2021 01:07:45 PM GMT-7