

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
COUNTY OF KING

ANTHONY DEIEN, on behalf of himself and all
others similarly situated,

Plaintiff,

vs.

SEATTLE CITY LIGHT,

Defendant.

NO. 19-2-21999-8 SEA

**DECLARATION OF BETH E. TERRELL IN
SUPPORT OF PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

I, Beth E. Terrell, declare as follows:

A. Background and experience.

1. I am a member of the law firm of Terrell Marshall Law Group PLLC (Terrell Marshall), counsel of record for Plaintiff in this matter. I am admitted to practice before this Court and am a member in good standing of the bars of the states of California and Washington. I respectfully submit this declaration in support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement. Except as otherwise noted, 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. Terrell Marshall is a law firm in Seattle, Washington, that focuses on complex civil and commercial litigation with an emphasis on consumer protection, product defect, civil

1 rights, and wage and hour cases. Terrell Marshall has been appointed lead or co-lead counsel
2 representing multi-state and nationwide classes in state and federal court in Washington and
3 throughout the United States. Since its founding in 2008, the attorneys at Terrell Marshall have
4 represented scores of classes, tried class actions in state and federal court, and obtained
5 hundreds of millions of dollars in monetary relief to workers, consumers, and other individuals.

6 3. I am a founding member of Terrell Marshall. With over twenty years of
7 experience, I concentrate my practice in complex litigation, including the prosecution of
8 consumer protection, defective product, and wage and hour class actions. I have served as co-
9 lead counsel on multi-state, multi-district, and nationwide class actions, resulting in hundreds
10 of millions of dollars in settlements for consumers and workers. I also represent individual
11 employees with wage and hour, workplace exposure, and discrimination claims. I have tried
12 and won cases in state and federal courts and argued before the Washington State Court of
13 Appeals and the Washington State Supreme Court as well as several federal circuit level courts.
14 I served as the President of the Public Justice Foundation Board of Directors from July 2019 to
15 July 2020, serve on the Equal Justice Works' Board of Counselors, and am Chair of both the
16 Northwest Consumer Law Center and the Washington Employment Lawyers Association. A
17 member of the State Bar of California and the Washington State Bar Association, I Co-Chair PLI's
18 Consumer Financial Services Institute, and frequently present on a wide variety of topics,
19 including class actions, consumer protection, legal ethics, gender equity, and electronic
20 discovery.

21 **B. Qualifications of Other TMLG Attorneys.**

22 4. Blythe H. Chandler joined Terrell Marshall in 2014 and became a member in
23 2018. Ms. Chandler practices complex litigation with a focus on prosecution of consumer class
24 actions. She has been appointed class counsel in cases challenging a wide range of unfair or
25 deceptive practices, including debt collection practices. In 2010, she received her J.D. from the
26 University of Washington School of Law with high honors, Order of the Coif. Ms. Chandler

1 served as Chief Articles Editor for the Washington Law Review. Before joining Terrell Marshall,
2 Ms. Chandler served as a law clerk to the Honorable Betty B. Fletcher, Senior United States
3 Circuit Judge for the Ninth Circuit Court of Appeals, and to the Honorable John C. Coughenour,
4 Senior United States District Judge for the Western District of Washington. Ms. Chandler also
5 served as a judicial extern to the Honorable Robert S. Lasnik, United States District Judge for the
6 Western District of Washington. Ms. Chandler co-authored chapters of the Consumer
7 Protection Deskbook published by the Washington State Association for Justice (WSAJ) and has
8 spoken on topics including use of experts and personal jurisdiction in class actions. Ms.
9 Chandler is a member of the Washington Employment Lawyers Association (WELA) Amicus
10 Committee and currently co-chairs WSAJ's Consumer Protection Section. She was named to the
11 2020 Rising Star List by Washington Super Lawyers.

12 5. Ari Brown has been of counsel at Terrell Marshall since 2019. He graduated
13 magna cum laude from the Seattle University School of Law in 1999 and has been practicing law
14 in Washington since 1999. Before joining Terrell Marshall, Mr. Brown was a partner at the law
15 firm of Hagens Berman Sobol Shapiro, a nationally recognized firm in Seattle. He concentrates
16 his practice on civil litigation in the area of consumer protection, especially pertaining to
17 banking practices.

18 6. Amanda M. Steiner became a member of Terrell Marshall in 2015. She practices
19 complex litigation, including the prosecution of consumer, defective product, wage and hour,
20 and civil rights class actions. Ms. Steiner received her J.D. from the UC Berkeley School of Law in
21 1997. Admitted in Washington, California, New York and Hawaii, she has authored briefs that
22 have resulted in numerous favorable decisions for plaintiffs in high-profile and complex
23 securities, antitrust, consumer and civil rights class action in federal and state courts
24 throughout the United States. Ms. Steiner was selected for inclusion in the annual Northern
25 California "Super Lawyers" list and was named to the Top 50 Women Lawyers of Northern
26 California. She is a Fellow of the American Bar Foundation.

1 7. Eden Nordby joined Terrell Marshall as an associate in 2021. Ms. Nordby
2 concentrates her practice on complex civil litigation, including consumer, defective product,
3 and wage and hour class actions. Ms. Nordby also litigates commercial and contract disputes
4 and matters involving trusts and estates. Ms. Nordby received her J.D. from the University of
5 Washington in 2021. During law school Ms. Nordby served as Executive Managing Editor of the
6 Washington Journal of Environmental Law and Policy. She received the WSBA Labor &
7 Employment Section 2019 Summer Grant for her public service work and commitment to labor
8 and employment issues. Ms. Nordby is trained as a mediator and has successfully mediated a
9 number of individual civil matters through the UW School of Law Mediation Clinic. Before
10 joining the firm as an attorney, Ms. Nordby was a senior paralegal at Terrell Marshall from the
11 time the firm opened in 2008 until starting law school in 2018.

12 **C. Qualifications of TMLG staff members.**

13 8. Jodi Nuss Schexnaydre is a senior paralegal at Terrell Marshall. She has worked
14 at the firm since 2018. Ms. Schexnaydre has more than 11 years of experience as a paralegal
15 and is qualified to perform substantive legal work based on her training and experience.

16 **D. Other cases litigated by Terrell Marshall.**

17 9. Examples of representative class actions that Terrell Marshall is litigating or has
18 litigated to successful completion include:

- 19 a. *Marical v. Boeing Employees' Credit Union*—Filed in 2019 on behalf of a
20 class of Washington account holders who alleged BECU violated the CPA
21 by improperly charging overdraft and NSF fees. King County Superior
22 Court granted final approval of a settlement that provided injunctive
23 relief and \$6 million on September 24, 2021.
- 24 b. *Solberg, et al. v. Victim Services, Inc., et al.*—Filed in 2014 on behalf of
25 California consumers who received false, misleading, and deceptive debt
26 collection letters printed on the letter head of county prosecuting
27 attorneys. The Northern District of California granted final approval of a
\$1.1 million settlement on August 23, 2021.

- 1 c. *Carrillo v. Wells Fargo Bank, N.A.*—Filed in 2018 on behalf of borrowers
2 who allege Wells Fargo charged them interest rates on residential loans
3 that were higher than the rates disclosed in the bank’s buydown
4 agreements and closing disclosures. The Eastern District of New York
5 granted final approval of a settlement of more than \$6.9 million on
6 August 19, 2021.
- 7 d. *Burnett v. Pagliacci Pizza, Inc.*—Filed in 2017 on behalf of pizza delivery
8 drivers who alleged violations of state wage and hour laws. The
9 Washington Supreme Court ruled that the drivers’ claims were not
10 subject to mandatory arbitration. *Burnett v. Pagliacci Pizza, Inc.*, 196
11 Wash.2d 38, 470 P.3d 486 (2020). The King County Superior Court
12 granted final approval of a \$3.785 million settlement on July 16, 2021.
- 13 e. *Gold, et al. v. Lumber Liquidators, Inc.*—Filed in 2014 on behalf of a class
14 of consumers who purchased defective flooring. The Northern District of
15 California granted final approval of the settlement, valued at up to \$30
16 million, on October 22, 2020.
- 17 f. *Long v. First Resolution Investment Corp.*—Filed in 2018 on behalf of
18 Washington consumers against whom a debt buyer and its collection
19 agency law firm obtained judgments when the debt buyer was not
20 licensed as a collection agency. The King County Superior Court granted
21 final approval of a settlement providing over \$20 million in debt relief
22 and \$600,000 on August 28, 2020.
- 23 g. *Miller v. P.S.C., Inc.*—Filed in 2017 on behalf of Washington consumers
24 who alleged P.S.C. filed lawsuits against them using unlawful debt
25 collection forms. The Western District of Washington granted final
26 approval of a settlement that provided injunctive relief and \$1.52 million
27 on January 10, 2020.
- h. *Jordan v. Nationstar Mortgage, LLC*—Filed in 2012 on behalf of
Washington homeowners who were improperly locked out of their
homes by their mortgage lender. The Eastern District of Washington
granted final approval of a \$17 million settlement on May 2, 2019.
- i. *Fuentes v. Benton County*—Filed in 2015 on behalf of persons who were
affected by Benton County’s practice of generating revenue by
incarcerating or threatening to incarcerate indigent persons who were
unable to afford the fines, fees, and costs imposed on them by Benton
County District Court. In November 2016, the Yakima County Superior
Court granted final approval of a class settlement that achieved sweeping
reforms in Benton County, including cessation of the challenged practices

and ensuring that individuals receive written notice and court hearings.

10. Additional information about class actions litigated by Terrell Marshall is available on our website www.terrellmarshall.com.

E. The prosecution of this action.

11. Terrell Marshall has advanced significant costs towards and invested numerous hours into the investigation and prosecution of this case. We will continue to commit the time and resources necessary to litigate the case and fairly and adequately represent and protect the interests of the proposed Class.

12. Plaintiff filed this lawsuit on August 21, 2019, alleging that when, in 2016, Seattle City Light (SCL) attempted to transition to digital meters and a new software system that would automate the receipt of meter reads directly from the digital meters, the new system did not read customers' meters as hoped and sometimes resulted in inaccurate readings. Plaintiff alleged that because SCL no longer had sufficient numbers of meter readers, SCL began estimating. The estimated bills were often inaccurate and, in attempting to correct what it considered to be prior underbilling, SCL issued bills for hundreds or thousands of dollars to residential customers. Plaintiff also alleged that "true-up" bills often charged higher current rates for electricity used in prior years at a time when lower rates were in effect, and often billed an incorrect number of kilowatt hours at more expensive "End Block" rates. Plaintiff asserted claims under the Washington Consumer Protection Act, under RCW 80.04 for alleged violations of WAC 480-100, for breach of contract for alleged violations of SMC 21.49, and for civil fines and forfeitures under SMC 21.49.

13. Plaintiff served discovery requests on SCL and obtained records from the City Auditor. SCL produced nearly 70,000 pages of documents. SCL also produced substantial discovery, including millions of billing data records, for purposes of mediation. SCL engaged an expert to conduct a complex analysis of bills involving estimated reads. Plaintiff also engaged experts to analyze SCL's billing and metering systems and billing records to evaluate Plaintiff's claims and damages.

1 14. SCL’s motion to dismiss and discovery to Plaintiff were pending when the
2 settlement was negotiated.

3 15. The parties mediated on November 5, 2020 and February 25, 2021, with the
4 assistance of Louis Peterson of Hillis Clark Martin & Peterson P.S., an experienced mediator of
5 consumer class action lawsuits. The parties agreed to the basic terms and then continued their
6 adversarial, arm’s-length negotiations until September 15, 2021, when they finalized the
7 Settlement Agreement.

8 16. Attached hereto as Exhibit 1 is a true and correct copy of the Settlement
9 Agreement and Release, executed by the parties on September 15, 2021.

10 17. Following a competitive bidding process, the parties selected P&N Class Action
11 Services as Settlement Administrator. P&N estimates settlement administration expenses of
12 \$168,509.

13 18. Plaintiff Anthony Deien expended considerable time and effort to assist Class
14 Counsel in the prosecution of this action. He assisted in the initial investigation and drafting of
15 the complaint and was prepared to respond to discovery requests.

16 19. Class Counsel believe this class action settlement is fair, reasonable, adequate,
17 and in the best interests of the Settlement Class as a whole.

18 I declare under penalty of perjury under the laws of the State of Washington that the
19 foregoing is true and correct.

20 Executed in Seattle, Washington this 29th day of September, 2021.

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22 By: /s/ Beth E. Terrell, WSBA #26759
 Beth E. Terrell, WSBA #26759
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