

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA**

Ben Hawkins, <i>on behalf of himself</i>	:	
<i>and all others similarly situated,</i>	:	Case No. 1:19-cv-01186
	:	
Plaintiff,	:	
v.	:	Hon. Judge Leonie M. Brinkema
	:	
Navy Federal Credit Union,	:	
	:	
Defendant.	:	
_____	:	

**DECLARATION OF JEFFREY S. GOLDENBERG IN SUPPORT OF
PLAINTIFF’S UNOPPOSED MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION SETTLEMENT**

I, Jeffrey S. Goldenberg, Esq., hereby declare under penalty of perjury and pursuant to 28 U.S.C. 1746, as follows:

1. I am a partner and founder in the law firm Goldenberg Schneider, LPA, and I am one of the Class Counsel in this litigation. I make this Declaration of my own personal knowledge, and if called to do so, I could testify competently to the matters stated herein.

2. I graduated Phi Beta Kappa from Indiana University, Bloomington, Indiana in 1988 (B.A. Biology) and received my law degree from Indiana University in 1994. I also received a master’s degree in environmental science from Indiana University in 1994.

3. I am admitted to the practice of law in the State of Ohio (1994), the United States Court of Appeals for the Sixth Circuit, Second Circuit, and Ninth Circuit, the United States District Court for the Southern and Northern Districts of Ohio, and the Northern District of Illinois. I also have been admitted pro hac vice to various federal district courts throughout the United States. I am a member in good standing of the Ohio Bar and have never been the subject of any disciplinary proceeding.

4. I have served as lead or co-lead counsel on numerous nationwide class actions and have substantial experience litigating class actions and complex civil litigation, including TCPA class action litigation. Attached hereto as Exhibit 1 is my firm and attorney profile describing my professional background and qualifications to serve as Class Counsel.

5. I am one of the attorneys representing Plaintiff Hawkins and the Class in this litigation.

6. Plaintiff Hawkins' attorneys have vigorously prosecuted this action on a contingency basis, obtained critical discovery necessary to litigate and negotiate an informed settlement, and have the means and readiness to continue to advocate for the Class' best interests, as necessary.

7. Plaintiff's counsel firmly believes that the terms of the Settlement are fair, adequate, and reasonable and are in the best interest of the Class, because they avoid the risks, uncertainties, and loss of time and resources involved in continued litigation and because this Settlement provides substantial financial benefits to the Class.

8. The parties arrived at the Settlement Agreement following a mediation overseen by the experienced and respected mediator Honorable Morton Denlow (ret.) of JAMS in Chicago.

9. With the assistance of the independent mediator, the parties agreed on the benefits to the Class before negotiating the attorneys' fees and expense reimbursement and the payment of a Service Award to the named Plaintiff. No ancillary agreements exist outside the terms of the Settlement Agreement which has been provided to the Court.

10. Throughout this litigation, Class Counsel prosecuted this action with the best interests of the Class in mind, and there is nothing in the record to suggest any conflicts of

interest between Plaintiff, Class Counsel, or the Class members. Moreover, Plaintiff and Class Counsel are committed to continuing to prosecute this action vigorously, as necessary.

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

Executed on March 11, 2020.

/s/ Jeffrey S. Goldenberg
JEFFREY S. GOLDENBERG, ESQ.

Exhibit 1



Goldenberg Schneider, LPA

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GOLDENBERG SCHNEIDER, L.P.A. was founded in 1996 and focuses on prosecuting actions primarily on behalf of plaintiffs in complex civil litigation and class actions. The subject matter of the Firm's past and current representations is broad, ranging from consumer protection actions to privacy protection actions to employment and labor cases that include ERISA, FLSA, and discrimination, to actions for antitrust, defective products, and long term care insurance. The firm's attorneys are experienced in every level of the state and federal judicial systems in Ohio and the country, including specialized courts.

The Firm has demonstrated its capability to successfully represent governmental entities, corporations, and individuals in the most complex of litigation. Founding partner Jeff Goldenberg served as special counsel to the Ohio Attorney General in prosecuting Ohio's Medicaid recoupment action against the tobacco industry and has served as lead or co-lead counsel on numerous nationwide class actions. The tobacco Medicaid recoupment litigation settled in 1999, resulting in a recovery to the State of Ohio of more than \$9.86 billion. Setting aside the substantial, if not immeasurable non-economic components of the settlement, which curb youth smoking and addiction, the settlement's financial proceeds are a multiple of twelve times larger than the prior largest Ohio-based settlement.

Class actions in which one or more of the Firm's attorneys currently serves or served as class counsel include the following:

- *In Re: Veterans' Administration Data Theft Litigation* – Goldenberg Schneider served as co-lead counsel for a nationwide class of approximately 20 million veterans and current members of the military who were impacted by the August 2006 theft of personal data. Multiple actions were consolidated by the Panel on Multidistrict Litigation and sent to the Federal District Court in the District of Columbia. This action was successfully resolved with a \$20,000,000 settlement.
- *Estep v. J. Kenneth Blackwell, Ohio Secretary of State* – Goldenberg Schneider served as co-lead counsel on this class action against former Ohio Secretary of State, Ken

Blackwell, based upon a violation of privacy rights when personal information was unlawfully disclosed in public records accessible through the Secretary's website. The settlement required the Secretary of State to dramatically improve the protection of social security numbers.

- *In re: Google Inc. Street View Electronic Communications Litigation* - In 2010, Goldenberg Schneider and co-counsel filed the first nationwide class action lawsuit against Google for violating the Federal Wiretap Act. The complaint alleges that Google routinely used Google Street View vehicles equipped with special hardware and software "snoopers" and "sniffers" to illegally intercept and record wireless electronic communications. In 2011, the Court denied Google's motion to dismiss the federal wiretapping claim, ruling that plaintiffs stated a viable claim and that none of the statutory exemptions apply to Google's actions. Google appealed to the Ninth Circuit which affirmed the denial. The litigation is on-going.
- *City of Cincinnati Pension Litigation* – Goldenberg Schneider and its co-counsel, with the assistance of U.S. District Court Judge Michael Barrett, successfully resolved a series of cases relating to the City of Cincinnati Retirement System, known as the CRS. Judge Barrett granted final approval of the historic and landmark Settlement Agreement on October 5, 2015. The settlement comprehensively reforms the CRS, establishes a consistent level of City funding, and reinstates several key provisions that were eliminated in 2011 changes for employees who were vested in the plan at that time. The settlement benefits for the Current Employees Class members, for whom Goldenberg Schneider was approved as Class Counsel, are valued at approximately \$50 million.
- *In Re: Ford Motor Co. Spark Plug and 3-Valve Engine Products Liability Litigation* – Goldenberg Schneider served as co-lead counsel for a national class comprised of approximately 4 million Ford vehicle owners who purchased or leased vehicles containing a 5.4 liter 3-valve engine equipped with defective spark plugs and related engine defects. On January 26, 2016, after Plaintiffs had defeated Ford's motion for summary judgment, Judge Benita Pearson of the Northern District of Ohio granted final approval of a nationwide settlement that will provide reimbursement to class members for expenses related to spark plug replacement.

- *Bower v. MetLife* – Goldenberg Schneider served as co-lead class counsel on behalf of a nationwide class of beneficiaries of the Federal Employees Group Life Insurance (FEGLI) Policy, the world’s largest group life insurance program. Following the Court’s Order certifying the nationwide Class, the case was settled in 2012 for \$11,500,000.
- *In Re: OSB Antitrust Litigation* – Goldenberg Schneider served on the trial team in a case that alleged illegal collusion and cooperation among the oriented strand board industry. The case was resolved through a series of settlements that collectively exceeded \$120,000,000.
- *Parker v. Berkeley Premium Nutraceuticals* – Goldenberg Schneider served as co-lead counsel and certified three nationwide classes in a consumer fraud class action on behalf of purchasers of herbal supplements for false and unproven claims and deceptive credit card practices. This case was successfully resolved with a settlement valued in the millions of dollars. Moreover, class members retained all rights to recover a portion of the nearly \$30 million that the U.S. Attorney General seized in a civil forfeiture action. Goldenberg Schneider then recovered an additional \$24,000,000 for the victims by prosecuting a successful Petition for Remission through the forfeiture proceedings.
- *Cates v. Cooper Tire & Rubber Company/ Johnson v. Cooper Tire & Rubber Company* – Goldenberg Schneider served as co-lead counsel for a class of more than a thousand Cooper Tire retirees who claimed that they were entitled to lifetime health care benefits. Goldenberg Schneider secured a judgment on the pleadings, certified the class, and ultimately resolved the case through a settlement valued at over \$50,000,000.
- *In Re: Consolidated Mortgage Satisfaction Cases* – Goldenberg Schneider served as lead counsel on behalf of Ohio homeowners against some of the largest national and Ohio banking and lending institutions for their failure to timely record mortgage loan payoffs. The Firm was able to consolidate all twenty actions before one trial judge and successfully upheld all the class certifications before the Ohio Supreme Court. These cases were resolved through multiple settlements valued at millions of dollars.
- *In re: Verizon Wireless Data Charges Litigation* – Goldenberg Schneider filed the first nationwide class action challenging Verizon Wireless’ improper \$1.99 data usage charges to certain pay-as-you-go customers. Goldenberg Schneider, as a member of the Plaintiffs

Advisory Committee, played an active role in this litigation which resulted in benefits to the Class in excess of \$50,000,000 in refunds and reimbursement payments.

- *Daffin v. Ford Motor Company* – Goldenberg Schneider and its co-counsel successfully certified an Ohio statewide class on behalf of all Ohio purchasers or lessors of 1999 and 2000 model year Mercury Villager Minivans. The Sixth Circuit upheld the class certification, and the case was resolved through a settlement. The Sixth Circuit decision was one of the first to recognize diminished value as a viable damage model.
- *Meyer v. Nissan North America* – Goldenberg Schneider served as co-lead counsel on behalf of thousands of Nissan Quest minivan owners throughout the United States. The suit alleged that the Quest minivan developed dangerous levels of carbon deposits in the accelerator system causing the gas pedal to stick, resulting in a roadway safety hazard including documented accidents and injuries. The case was resolved by a nationwide settlement that included the application of the vehicle warranty to remedy the problem as well as a refund of prior repair costs.
- *Continental Casualty Long Term Care Insurance Litigation* (“Pavlov Settlement”) - Goldenberg Schneider served as Lead Class Counsel in this litigation on behalf of certain CNA long term care policyholders nationwide whose claims for stays at certain facilities were wrongly denied based upon a non-existent 24/7 on-site nursing requirement. The Federal District Court in the Northern District of Ohio granted final approval to a nationwide class action settlement negotiated by Goldenberg Schneider that provided damages to those whose claims were improperly denied and expanded the types of facilities now covered by these policies. The settlement value exceeded \$25 million.
- *Carnevale FLSA Class Action* – Goldenberg Schneider served as co-lead counsel on behalf of employees working for a large industrial company that alleged violations of federal and state labor laws through the systematic misclassification of managers and other employees as salaried professionals. This case successfully resolved with a common fund settlement in excess of \$5 million.
- *Vicki Linneman, et al., v. Vita-Mix Corporation* - Goldenberg Schneider serves as Class Counsel in this recently settled nationwide class action alleging that certain Vita-Mix blenders deposit tiny shards of polytetrafluoroethylene (PTFE), a Teflon-like substance, into foods during use. Under the Settlement, class members can choose between (1) a

free replacement blade assembly that does not fleck or (2) a gift card valued at \$70.00. About 5 million class members are eligible for these benefits, and the settlement is valued in the hundreds of millions of dollars.

- *Ulyana Lynevykh v. Mercedes-Benz USA, LLC* – Goldenberg Schneider serves on the Executive Committee in this lawsuit against Mercedes and Bosch alleging that Defendants knowingly programmed Mercedes’ Clean Diesel BlueTEC vehicles to emit illegal and dangerous levels of nitrogen oxide (NOx) in virtually all real world driving conditions, and equipped the vehicles with a “defeat device.” In a sweeping decision dated February 1, 2019, Chief Judge Jose L. Linares of the U.S. District Court for the District of New Jersey largely denied motions to dismiss filed by Mercedes and Bosch, permitting the core class-action claims (including consumer fraud and RICO) to proceed.
- *Shin v. Plantronics, Inc.* – Goldenberg Schneider serves as putative Lead Class Counsel in this nationwide class action on behalf of more than 1.2 million consumers who purchased defective Plantronics BackBeat FIT wireless headphones. Following oral argument on Defendant’s motion to dismiss this spring, Goldenberg Schneider and Co-Counsel successfully resolved the litigation on a nationwide class basis through mediation. The court recently granted final approval of the settlement in January 2020.
- *Lesley Conti and Tom Conti v. American Honda Motor Co., Inc.*, - Goldenberg Schneider recently filed a nationwide class action alleging that Honda knowingly sold its 2018-2019 Honda Odyssey and 2019 Honda Pilot vehicles with defective infotainment systems. The infotainment systems in these vehicles behave erratically, malfunctioning, freezing, and creating a safety hazard and distraction. The defect can cause safety-related systems (including backup camera functions) to fail. The court recently denied in large part Defendant’s motion to dismiss and the litigation is on-going.

JEFFREY S. GOLDENBERG

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LEGAL EXPERIENCE

PARTNER, GOLDENBERG SCHNEIDER, L.P.A. (1998-present) - Civil trial and appellate practice in state and federal courts. Areas of practice include: class actions, consumer protection, product defect, long-term care insurance litigation, TCPA litigation, state attorney general cost recoupment including tobacco and pharmaceutical average wholesale price litigation, employment litigation including wage and hour (FLSA), toxic torts, lead poisoning, antitrust, environmental, personal privacy protection, securities, personal injury, and commercial disputes.

ATTORNEY, DINSMORE & SHOHL (1994-1998) - General litigation practice with an emphasis on environmental litigation and compliance.

Bar Admissions/Licenses

State of Ohio (admitted since 1994)

United States Court of Appeals for the Second Circuit

United States Court of Appeals for the Sixth Circuit

United States Court of Appeals for the Ninth Circuit

United States District Court for the Southern District of Ohio

United States District Court for the Northern District of Ohio

United States District Court for the Northern District of Illinois

Activities/Memberships

Ohio Association for Justice

American Association for Justice (formerly Association of Trial Lawyers of America)

American Bar Association

Ohio State Bar Association

Cincinnati Bar Association

The Cincinnati Academy of Leadership for Lawyers

Board of Directors, University of Cincinnati Hillel Jewish Student Center

Volunteer Attorney for the Ohio Foreclosure Mediation Project

Supreme Court of Ohio Lawyer to Lawyer Mentoring Program

Pro Seniors Legal Volunteer

EDUCATION

Indiana University School of Law, Bloomington, Indiana, J.D. 1994

Indiana University School of Public and Environmental Affairs, M.S.E.S. 1994

Indiana University, B.A. Biology, 1988

JEFFREY S. GOLDENBERG
PARTNER, GOLDENBERG SCHNEIDER, LPA
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Mr. Goldenberg's practice includes class action and complex civil litigation with an emphasis on consumer protection. His practice areas include insurance coverage (including long-term care insurance), consumer fraud, product liability and defects, overtime and wage and hour, personal privacy and data breach, antitrust, securities, personal injury, toxic torts, and commercial disputes.

Mr. Goldenberg served as lead and/or co-counsel in numerous multi-million dollar complex civil cases throughout the United States, including Continental Casualty Long Term Care Insurance Litigation, City of Cincinnati Pension Litigation, Ford Spark Plug Litigation, Enzyte Consumer Fraud Litigation, GEAE FLSA Litigation, Veterans Data Theft Litigation, Styrene Railway Car Litigation, Ford and Nissan Auto Defect litigation, Clayton Home Sales Tax Litigation, Metlife FEGLI Litigation, Mercedes Diesel Emissions Fraud Litigation, MetLife Reduced Pay at 65 Litigation, Honda Odyssey and Pilot Infotainment Defect Litigation, Vitamix Blender Litigation, and Oriented Strand Board Antitrust Litigation. Jeff also served as Special Counsel representing the State of Ohio against the Tobacco industry and was part of the litigation team that achieved an unprecedented \$9.86 billion settlement for Ohio taxpayers. He also served as lead counsel with John Murdock on the In re Consolidated Mortgage Satisfaction Cases involving twenty separate class actions. That litigation resulted in a significant Ohio Supreme Court decision defining key aspects of Ohio class action law.

Mr. Goldenberg earned three degrees from Indiana University: a Bachelor of Arts in Biology in 1988 (Phi Beta Kappa); a Masters of Science in Environmental Science in 1994; and his Juris Doctor in 1994. Jeff has practiced in all levels of Ohio trial and appellate courts as well as other courts across the nation, and is admitted to practice in the State of Ohio and the United States District Court for the Southern and Northern Districts of Ohio, the Northern District of Illinois, and the United States Second, Sixth & Ninth Circuit Courts of Appeal. Jeff is a member of the American Association for Justice, the Ohio State Bar Association, and the Cincinnati Bar Association.