

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE**

RAFAEL SUAREZ, DAISY GONZALEZ,
and RICHARD BYRD, individually and on
behalf of all others similarly situated,

Plaintiffs,

vs.

NISSAN NORTH AMERICA, INC.,

Defendant.

) Case No.: 3:21-cv-00393

) **Hon. William L. Campbell, Jr.**

) **CLASS ACTION**

**DECLARATION OF JOHN SPRAGENS IN SUPPORT OF PLAINTIFFS' MOTION
FOR AWARD OF ATTORNEYS' FEES AND EXPENSES AND
PLAINTIFFS' INCENTIVE AWARDS**

I, John Spragens, declare as follows:

1. My name is John Spragens. I am the managing partner of the law firm Spragens Law PLC ("Spragens Law"), court-appointed additional Class Counsel in this matter.

2. I am admitted to practice before this Court and am a member in good standing of the bar of the state of Tennessee; the United States District Court for the Eastern District of Tennessee; the United States District Court for the Western District of Tennessee; the United States District Court for the Northern District of Illinois; and the United States District Court for the Eastern District of Texas. I have been admitted to practice *pro hac vice* in federal district courts across the United States.

3. I respectfully submit this declaration in support of Plaintiffs' Motion for Award of Attorneys' Fees and Expenses and Plaintiffs' Incentive Awards.

4. I make these statements based on personal knowledge and would so testify if called as a witness at trial.

Background and Experience

5. I am a licensed attorney and have practiced in the Middle District of Tennessee for the past nine years since my graduation from Vanderbilt Law School in May 2012. I was admitted to the Bar of the State of Tennessee in 2012.

6. After graduating from law school, I clerked for Judge Kevin Sharp of this Court. After completing my clerkship, I joined Bass, Berry, & Sims in the litigation department, where I represented the firm's clients in complex class action litigation, health care fraud cases, internal investigations, and other commercial litigation.

7. In 2014, I joined Lief Cabraser Heimann & Bernstein, LLP ("LCHB"), a national plaintiffs' class action firm, prosecuting federal jury trials against cigarette manufacturers in the *Engle* progeny litigation and, later, representing consumers and whistleblowers in federal litigation involving defective products, antitrust conspiracies, health care fraud, Telephone Consumer Protection Act ("TCPA") violations, racketeering violations, and other consumer frauds.

8. In 2019, I founded Spragens Law, where I have represented plaintiffs in consumer, securities, and antitrust class actions as well as individual personal injury, medical malpractice, employment discrimination, and whistleblower matters.

9. Since 2018, I have served as an adjunct faculty member at Vanderbilt Law School, where I, along with two colleagues, teach a course called The Practice of Aggregate Litigation. In it, students learn about class action and multidistrict litigation (MDL), with a particular focus on

the practical aspects of litigating class actions and MDLs as court-appointed counsel for a group of hundreds or thousands of plaintiffs.

10. I was named a “Top 40 Young Lawyer” by the American Bar Association in 2018 and have been recognized as a Mid-South “Rising Star” each year from 2016 to 2021. In 2020, I was a member of a team of attorneys that received an American Antitrust Association Antitrust Enforcement Award for “Outstanding Antitrust Litigation Achievement in Private Law Practice,” recognizing our \$120 million settlement for purchasers of certain prescription blood-thinners in *Hosp. Auth. of Metropolitan Gov’t of Nashville and Davidson Cty., Tenn., et al. v. Momenta Pharms., Inc., et al.*, No. 3:15-cv-1100 (M.D. Tenn.).

11. In April 2021, my firm was appointed Class Counsel, along with one other firm, in *Elrod, et al. v. No Tax 4 Nash, et al.*, No. 3:20-cv-00617, consolidated with No. 3:20-cv-00618 (M.D. Tenn. April 19, 2021) (Dkt. No. 48), a class action alleging violations of the Telephone Consumer Protection Act (“TCPA”).

12. In July 2021, my firm was appointed additional Class Counsel in this action.

Defective Product Class Actions

13. Since 2014, my practice has focused on a number of nationwide consumer protection and product defect class actions. Along with other attorneys and co-counsel, I have served as counsel in numerous class actions that benefited consumers who were wronged by alleged corporate misconduct.

14. Below is a representative sampling of product defect class actions I litigated that won significant relief for consumers, and in which I played a substantial role.

a. *In re Whirlpool Corporation Front-Loading Washer Products Liability Litigation*, MDL No. 2001 (N.D. Ohio) (MDL No. 2001) (nationwide settlement involving front-loading washers alleged to develop mold, odor, and biofilm).

b. *In re Sears Roebuck and Co. Front-Loading Washer Products Liability Litigation (CCU Claims)*, No. 06-cv-7023 (N.D. Ill.) (nationwide settlement involving front-loading washers alleged to include defective processors).

c. *In re LG Front Loading Washing Machine Class Action Litigation*, No. 08-51 (D. N.J.) (nationwide settlement involving front-loading washers alleged to develop mold, odor, and biofilm).

d. *Amin, et al. v. Mercedes-Benz USA, LLC, et al.*, No. 1:17-cv-01701 (N.D. Ga.) (nationwide settlement for owners of cars alleged to develop mold and odor in HVAC system).

e. *In re: Samsung Top-load Washing Machine Marketing, Sales Practices and Products Liability Litigation (MDL 2792)* (W.D. Okla.) (nationwide settlement involving top-loading washers alleged to explode violently during spin cycle).

f. *Allagas, et al. v. BP Solar, Inc., et al.*, No. 3:14-cv-00560-SI (N.D. Cal.) (nationwide settlement for owners of solar panels alleged to crack and pose risk of fire).

Consumer Protection Class Actions

15. I, along with other attorneys, have also served as class counsel in a series of groundbreaking nationwide class actions under the TCPA. The TCPA is a technologically focused statute. In my experience, successful TCPA class actions require attorneys to understand the mechanics of automatic telephone dialing systems and complex computer databases that store and organize call records. In addition, attorneys must closely track relevant orders, rulemakings, and

petitions from the Federal Communications Commission, as the FCC has been very active on TCPA issues. Below is representative list of TCPA cases I have litigated and in which I played a substantial role.

a. I, along with other attorneys and co-counsel, served as counsel in *Thomas v. Dun & Bradstreet Credibility Corp.*, No. 2:15-cv-03194-BRO-GJS (C.D. Cal.). On March 22, 2017, the court approved a \$10.5 million cash settlement for a class of small business owners who received telemarketing calls.

b. I, along with other attorneys and co-counsel, served as counsel in *Smith v. State Farm Mutual Auto. Ins. Co., et al.*, Case No. 1:13-cv-02018 (N.D. Ill.). On December 8, 2016, the court approved a \$7 million settlement.

c. I, along with other attorneys and co-counsel, served as counsel in *Karpilovsky v. All Web Leads, Inc.*, No. 17 C 1307, 2018 WL 3108884 (N.D. Ill. June 25, 2018) (certifying nationwide class). On April 9, 2019, the court preliminarily approved a \$6.5 million settlement.

d. I, along with other attorneys and co-counsel, served as counsel in *Rice-Redding v. Nationwide Mutual Automobile Ins. Co.*, Case No. 1:16-cv-03634 (N.D. Ga.). On March 21, 2019, the court preliminarily approved a \$5 million settlement.

e. I, along with other attorneys and co-counsel, served as counsel in *Pine v. A Place For Mom, Inc.*, Case No. Case 2:17-cv-01826-TSZ (W.D. Wash.). On January 11, 2021 (after I was no longer involved in the case), the court granted final approval of a \$6 million settlement.

16. I, along with other attorneys and co-counsel, served as counsel in *Kenney et al v. Centerstone of America, Inc. et al.*, No. 20-cv-1007 (M.D. Tenn.), a class action involving

allegations of a negligent failure to protect personal information and private health information that was released in a data breach. On August 9, 2021, the Court granted final approval of a \$1.5 million settlement and approved an award of costs and attorneys' fees totaling 27¹/₃% of the settlement cap.

Other Complex Litigation Experience

17. I have also served as counsel in other complex cases involving allegations of defective design, personal injury, antitrust injury, and fraud.

a. In the *Engle* progeny tobacco litigation, I represented addicted smokers and families of deceased smokers in hundreds of federal lawsuits and appeals involving Philip Morris USA, R.J. Reynolds Tobacco Co., and Lorillard Tobacco Co. I participated as trial counsel in several federal jury trials, winning noteworthy verdicts of over \$27 million and \$6 million, eventually resulting in a \$100 million settlement for the remaining federal *Engle* progeny plaintiffs.

b. In *Hosp. Auth. of Metropolitan Gov't of Nashville and Davidson Cty., Tenn., et al. v. Momenta Pharms., Inc., et al.*, No. 3:15-cv-1100 (M.D. Tenn.), I represented the Nashville General Hospital and other class members who purchased blood-thinners Lovenox® and enoxaparin at prices that were alleged to be artificially inflated by anticompetitive conduct. On May 29, 2020, Chief Judge Waverly D. Crenshaw of this Court granted final approval of a \$120 million settlement on behalf of a nationwide class of purchasers.

c. In *National Prescription Opiate Litigation (MDL 2804)*, I represented cities, counties, and other public and private entities in litigation against the manufacturers and distributors of prescription opioids that created a devastating addiction crisis in the United States. In my role as counsel at a firm in the leadership of the massive litigation, I successfully briefed

innovative claims for damages under the Racketeering Influenced and Corrupt Organizations (RICO) Act and common law theories including public nuisance and fraud.

Spragens Law’s Work on Behalf of the Proposed Class

18. I personally worked on this matter, as did my colleague Stacia Burns, a 2020 graduate of Belmont University Law School who was admitted to the Tennessee Bar in January 2021 (after the fall 2020 bar exam, and bar exam results, were delayed due to COVID-19). Our firm became involved in this matter after the extensive, months-long negotiations between lead Class Counsel and Nissan resulted in a proposed class settlement. Our attorneys participated in the drafting and filing of the Class Action Complaint, motions for *pro hac vice* admission, Motion for Preliminary Approval of Class Action Settlement, and other miscellaneous motions, and will continue to participate in the case for purposes of seeking final settlement approval and administering the class settlement, if approved by the Court.

19. Our firm currently charges rates ranging from \$275 to \$510 per hour for litigation attorneys, based on experience and the nature of the litigation. Though the majority of our work is performed on a contingency basis, my rate of \$510 per hour has been, and is being, paid by multiple hourly paying clients. It was also approved as a “reasonable” rate by Chief Judge Waverly D. Crenshaw of this Court on May 29, 2020. *See* Order Approving Plaintiffs’ Motion for Attorney Fees, Costs, and Class Representative Service Awards, *Hosp. Auth. of Metropolitan Gov’t of Nashville and Davidson Cty., Tenn. v. Momenta Pharmaceuticals, Inc., et al.*, No. 3:15-cv-01100 (M.D. Tenn. May 29, 2020) (Doc. No. 520). Ms. Burns’ rate is commensurate with other attorneys of her skill and experience who practice plaintiffs’ contingency and class action litigation.

20. Attorneys and paralegals at Spragens Law kept contemporaneous records of their time on this matter. Attached to this declaration as Exhibit A is a true and correct summary of the

hours, billing rate, and lodestar for each biller's work on this matter between May 11, 2021 and the present, exclusive of any work on the motion for attorneys' fees. During this period, the firm expended 20.2 hours on this matter, with work still continuing. Calculated at current rates, the lodestar invested by Spragens Law during this time period totals \$9,785.00. I personally audited these time records line-by-line to remove erroneous, duplicative, or otherwise non-compensable entries, and attest that the lodestar for which reimbursement is sought is reasonable and necessary. Additional billing detail can be provided if requested by the Court.

21. Spragens Law attorneys and paralegals also maintain contemporaneous records of costs the firm has undertaken on behalf of Plaintiffs and the Class in this matter. Those costs, which include the Complaint filing fee and *pro hac vice* admission fees for lead Class Counsel in this matter, total \$1,002.00, and were necessary to the prosecution of this action. A true and correct summary of those costs is attached to this declaration as Exhibit B.

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

Executed on September 16, 2021, in Nashville, Tennessee.


JOHN SPRAGENS

EXHIBIT A

Spragens Law PLC Lodestar Report

Matter: Suarez v. Nissan North America

Date range: 05/11/2021 to 09/16/2021

Attorney	Rate	Hours	Lodestar
John Spragens	\$510.00	18	\$9,180.00
Stacia Burns	\$275.00	2.2	\$605.00
TOTAL		20.2	\$9,785.00

EXHIBIT B

Spragens Law PLC Cost Report

Matter: Suarez v. Nissan North America

Date range: 05/11/2021 to 09/16/2021

TOTAL (COSTS) **\$1,002.00**