

GDR's Experience

10. GDR's attorneys have extensive experience litigating consumer protection class actions, including class actions under the Telephone Consumer Protection Act ("TCPA") like this one.

11. As court-appointed class counsel in TCPA class actions, GDR has helped to recover more than \$120 million for class members over the past eight years, including in the following cases:

- *Jackson v. Discover Fin. Servs. Inc.*, No. 1:21-vb-04529 (N.D. Ill.);
- *Lucas v. Synchrony Bank*, No. 4:21-cv-00070-PPS (N.D. Ind.) (Simon, J.);
- *Wesley v. Snap Fin. LLC*, No. 2:20-cv-00148-RJS-JCB (D. Utah);
- *Miles v. Medcredit, Inc.*, No. 4:20-cv-1186-JAR (E.D. Mo.);
- *Davis v. Mindshare Ventures LLC et al.*, No. 4:19-cv-1961 (S.D. Tex.);
- *Bonoan v. Adobe, Inc.*, No. 3:19-cv-01068-RS (N.D. Cal.);
- *Neal v. Wal-Mart Stores, Inc. and Synchrony Bank*, No. 3:17-cv-00022 (W.D.N.C.);
- *Jewell v. HSN, Inc.*, No. 3:19-cv-00247-jdp (W.D. Wis.);
- *Knapper v. Cox Commc'ns, Inc.*, No. 2:17-cv-00913-SPL (D. Ariz.);
- *Sheean v. Convergent Outsourcing, Inc.*, No. 2:18-cv-11532-GCS-RSW (E.D. Mich.);
- *Williams v. Bluestem Brands, Inc.*, No. 8:17-cv-01971-T-27AAS (M.D. Fla.);
- *Martinez, et al., v. Medcredit, Inc.*, No. 4:16-cv-01138 ERW (E.D. Mo.);
- *Johnson v. NPAS Solutions, LLC*, No. 9:17-cv-80393 (S.D. Fla.);
- *Luster v. Wells Fargo Dealer Servs., Inc.*, No. 1:15-cv-01058-TWT (N.D. Ga.);
- *Prather v. Wells Fargo Bank, N.A.*, No. 1:15-cv-04231-SCJ (N.D. Ga.);
- *Johnson v. Navient Solutions, Inc., f/k/a Sallie Mae, Inc.*, No. 1:15-cv-0716-LJM (S.D. Ind.);

- *Toure and Heard v. Navient Solutions, Inc., f/k/a Sallie Mae, Inc.*, No. 1:17-cv-00071-LJM-TAB (S.D. Ind.);
- *James v. JPMorgan Chase Bank, N.A.*, No. 8:15-cv-2424-T-23JSS (M.D. Fla.);
- *Schwyhart v. AmSher Collection Servs., Inc.*, No. 2:15-cv-1175-JEO (N.D. Ala.);
- *Cross v. Wells Fargo Bank, N.A.*, No. 2:15-cv-01270-RWS (N.D. Ga.);
- *Markos v. Wells Fargo Bank, N.A.*, No. 15-1156 (N.D. Ga.);
- *Prater v. Medicredit, Inc.*, No. 14-00159 (E.D. Mo.);
- *Jones v. I.Q. Data Int'l, Inc.*, No. 1:14-cv-00130-PJK-GBW (D.N.M.); and
- *Ritchie v. Van Ru Credit Corp.*, No. 2:12-CV-01714-PHX-SM (D. Ariz.).

12. In addition, GDR has been appointed class counsel in dozens of class actions brought under consumer protection statutes other than the TCPA, including:

- *Taylor v. TimePayment Corp.*, No. 3:18-cv-00378-MHL-DJN (E.D. Va.);
- *Danger v. Nextep Funding, LLC*, No. 0:18-cv-00567-SRN-LIB (D. Minn.);
- *Spencer v. #1 A LifeSafer of Ariz. LLC*, No. 18-02225-PHX-BSB (D. Ariz.);
- *Dickens v. GC Servs. Ltd. P'Ship*, No. 8:16-cv-00803-JSM-TGW (M.D. Fla.);
- *Kagno v. Bush Ross, P.A.*, No. 8:17-cv-1468-T-26AEP (M.D. Fla.);
- *Johnston v. Kass Shuler, P.A.*, No. 8:16-cv-03390-SDM-AEP (M.D. Fla.);
- *Jallo v. Resurgent Capital Servs., L.P.*, No. 4:14-cv-00449 (E.D. Tex.);
- *Macy v. GC Servs. Ltd. P'ship*, No. 3:15-cv-00819-DJH-CHL (W.D. Ky.);
- *Rhodes v. Nat'l Collection Sys., Inc.*, No. 15-cv-02049-REB-KMT (D. Colo.);
- *McCurdy v. Prof'l Credit Servs.*, No. 6:15-cv-01498-AA (D. Or.);
- *Schuchardt v. Law Office of Rory W. Clark*, No. 3:15-cv-01329-JSC (N.D. Cal.);
- *Globus v. Pioneer Credit Recovery, Inc.*, No. 15-CV-152V (W.D.N.Y.);
- *Roundtree v. Bush Ross, P.A.*, No. 8:14-cv-00357-JDW-AEP (M.D. Fla.); and

- *Gonzalez v. Germaine Law Office PLC*, No. 2:15-cv-01427 (D. Ariz.).

13. Multiple district courts have commented on GDR's useful knowledge and experience in connection with class action litigation.

14. For instance, in preliminarily approving the class action settlement in *Chapman v. Bowman, Heintz, Boscia & Vician, P.C*, Judge Jon E. DeGuilio of this Court wrote:

No doubt Michael L. Greenwald of Greenwald Davidson Radbil PLLC has put extensive work into reviewing and investigating the potential claims in this case, and he and his firm have experience in handling class action litigation. Additionally, Mr. Greenwald has demonstrated his knowledge of the FDCPA and he has so far committed the resources necessary to representing the class and administrating the proposed settlement. The Court believes that Mr. Greenwald will fairly and adequately represent the interests of the class; and therefore, in compliance with Rule 23(g)(1), it is ORDERED that Michael Greenwald of Greenwald Davidson Radbil PLLC is appointed Class Counsel.

No. 2:15-cv-120 JD, 2015 WL 9478548, at *6 (N.D. Ind. Dec. 29, 2016).

15. As well, in *Ritchie*, Judge Stephen P. McNamee of the District of Arizona stated upon granting final approval to the TCPA settlement at issue:

I want to thank all of you. It's been a pleasure. I hope that you will come back and see us at some time in the future. And if you don't, I have a lot of cases I would like to assign you, because you've been immensely helpful both to your clients and to the Court. And that's important. So I want to thank you all very much.

No. CIV-12-1714 (D. Ariz. July 21, 2014).

16. In *Schwychart*, Judge John E. Ott, Chief Magistrate Judge of the Northern District of Alabama, stated upon granting final approval to a TCPA settlement for which he appointed GDR as class counsel:

I cannot reiterate enough how impressed I am with both your handling of the case, both in the Court's presence as well as on the phone conferences, as well as in the written materials submitted. . . . I am very satisfied and I am very pleased with what I have seen in this case. As a judge, I don't get to say that every time, so that is quite a compliment to you all, and thank you for that.

No. 2:15-cv-1175-JEO (N.D. Ala. Mar. 15, 2017).

17. Judge Carlton W. Reeves of the Southern District of Mississippi described GDR as follows:

More important, frankly, is the skill with which plaintiff’s counsel litigated this matter. On that point there is no disagreement. Defense counsel concedes that her opponent—a specialist in the field who has been class counsel in dozens of these matters across the country—“is to be commended for his work” for the class, “was professional at all times” ..., and used his “excellent negotiation skills” to achieve a settlement fund greater than that required by the law.

The undersigned concurs ... Counsel’s level of experience in handling cases brought under the FDCPA, other consumer protection statutes, and class actions generally cannot be overstated.

McWilliams v. Advanced Recovery Sys., Inc., No. 3:15-CV-70-CWR-LRA, 2017 WL 2625118, at *3 (S.D. Miss. June 16, 2017).

18. As well, Judge Steven D. Merryday of the Middle District of Florida wrote in appointing GDR class counsel in *James* that “Michael L. Greenwald, James L. Davidson, and Aaron D. Radbil of Greenwald Davidson Radbil PLLC, each . . . has significant experience litigating TCPA class actions.” 2016 WL 6908118, at *1.

19. In *Bellum v. Law Offices of Frederic I. Weinberg & Assocs., P.C.*, Judge C. Darnell Jones II of the Eastern District of Pennsylvania took care to point out that GDR was appointed as class counsel “precisely because of their expertise and ability to represent the class in this matter.” 2016 WL 4766079, at *5 (E.D. Pa. Sept. 13, 2016).

20. Similarly, in *Cooper v. InvestiNet, LLC*, Chief Judge Tanya Walton Pratt of the Southern District of Indiana recently wrote:

GDR is an experienced firm that has successfully litigated many complex consumer class actions, including under the FDCPA. Because of its experience, GDR has been appointed class counsel in many class actions throughout the country, including in this district. GDR employed that

experience here in negotiating a favorable result that avoids protracted litigation, trial, and appeals.

No. 1:21-cv-01562-TWP-DML, 2022 WL 1125394 (S.D. Ind. April 14, 2022)

21. And in certifying a nationwide class action under the TCPA, Judge Roslyn O. Silver of the District of Arizona wrote last year:

Moreover, the quality of Plaintiff's filings to this point, as well as the declarations submitted by the proposed class counsel, Michael Greenwald (Doc. 120-6) . . . persuade the Court that Head, Greenwald, and Wilson will continue to vigorously prosecute this action on behalf of the class.

* * *

Significantly, class counsel have provided a list of well over a dozen class actions Greenwald, Wilson, and their respective firms have each litigated, including several under the TCPA. (Doc. 120-6 at 5-6; Doc. 120-7 at 2-7). These showings demonstrate counsel's experience in handling class actions, complex litigation, and the types of claims asserted in this action. *See* Fed. R. Civ. P. 23(g)(1)(A)(ii).

Head v. Citibank, N.A., 340 F.R.D. 145, 152 (D. Ariz. 2022).

22. Additional information about GDR is available at www.gdrlawfirm.com.

Michael L. Greenwald

23. Prior to forming GDR in 2012, I spent six years as a litigator at Robbins Geller Rudman & Dowd LLP—one of the nation's largest plaintiff's class action firms.

24. My practice at Robbins Geller focused on complex class actions, including securities and consumer protection litigation.

25. While at Robbins Geller, I served on the litigation teams responsible for the successful prosecution of numerous class actions, including: *In re Evergreen Ultra Short Opportunities Fund Sec. Litig.* (D. Mass.); *In re Red Hat, Inc. Sec. Litig.* (E.D.N.C.); *City of Ann Arbor Emps.' Ret. Sys. v. Sonoco Prods. Co., et al.* (D.S.C.); *Norfolk Cnty. Ret. Sys., et al. v.*

Ustian (N.D. Ill.); *Romero v. U.S. Unwired, Inc.* (E.D. La.); *Lefkoe v. Jos. A. Bank Clothiers, Inc.* (D. Md.); and *In re Odimo, Inc. Sec. Litig.* (Fla.).

26. I started my career as an attorney in the Fort Lauderdale, Florida office of Holland & Knight LLP.

27. Other GDR attorneys also contributed to the successful prosecution of this case, including partners Aaron D. Radbil, James L. Davidson, and Jesse S. Johnson.

Aaron D. Radbil

28. Mr. Radbil graduated from the University of Arizona in 2002 and from the University of Miami School of Law in 2006.

29. Mr. Radbil has extensive experience litigating consumer protection class actions, including those under the TCPA.

30. In addition to his experience litigating consumer protection class actions, Mr. Radbil has briefed, argued, and prevailed on a variety of issues of significant consumer interest before federal courts of appeals, including, for instance:

- *Dickens v. GC Servs. Ltd. P'ship*, 706 F. App'x 529 (11th Cir. 2017);
- *Hernandez v. Williams, Zinman & Parham PC*, 829 F.3d 1068 (9th Cir. 2016);
- *Lea v. Buy Direct, L.L.C.*, 755 F.3d 250 (5th Cir. 2014);
- *Payne v. Progressive Fin. Servs., Inc.*, 748 F.3d 605 (5th Cir. 2014);
- *Stout v. FreeScore, LLC*, 743 F.3d 680 (9th Cir. 2014);
- *Yunker v. Allianceone Receivables Mgmt., Inc.*, 701 F.3d 369 (11th Cir. 2012);
- *Guajardo v. GC Servs., LP*, 498 F. App'x 349 (5th Cir. 2012);
- *Sorensen v. Credit Int'l Corp.*, 475 F. App'x 244 (9th Cir. 2012);
- *Ponce v. BCA Fin. Serv., Inc.*, 467 F. App'x 806 (11th Cir. 2012);

- *Talley v. U.S. Dep't of Agric.*, 595 F.3d 754 (7th Cir. 2010), *reh'g en banc granted, opinion vacated* (June 10, 2010), *on rehearing en banc* (September 24, 2010), *decision affirmed*, No. 09-2123, 2010 WL 5887796 (7th Cir. Oct. 1, 2010); and
- *Oppenheim v. I.C. Sys., Inc.*, 627 F.3d 833 (11th Cir. 2010).

James L. Davidson

31. Mr. Davidson graduated from the University of Florida in 2000 and the University of Florida Fredric G. Levin College of Law in 2003.

32. He has been appointed class counsel in a host of consumer protection class actions.

33. Prior to forming GDR, Mr. Davidson spent five years as a litigator at Robbins Geller, where he focused on complex class actions, including securities and consumer protection litigation.

Jesse S. Johnson

34. Mr. Johnson earned his Bachelor of Science degree in Business Administration from the University of Florida, where he graduated magna cum laude in 2005.

35. He earned his Juris Doctor degree with honors from the University of Florida Fredric G. Levin College of Law in 2009, along with his Master of Arts in Business Administration from the University of Florida Hough Graduate School of Business the same year.

36. While an attorney at GDR, Mr. Johnson has been appointed class counsel in more than a dozen consumer protection class actions.

37. Mr. Johnson started his legal career as an associate at Robbins Geller, where he served on the litigation teams responsible for the successful prosecution of numerous class actions, including: *Sterling Heights Gen. Emps.' Ret. Sys. v. Hospira, Inc.*, No. 1:11-cv-08332 (N.D. Ill.); *Eshe Fund v. Fifth Third Bancorp*, No. 1:08-cv-00421 (S.D. Ohio); *City of St. Clair Shores Gen. Emps.' Ret. Sys. v. Lender Processing Servs., Inc.*, No. 3:10-cv-01073 (M.D. Fla.); and *In re*

Synovus Fin. Corp., No. 1:09-cv-01811 (N.D. Ga.).

GDR Expended Significant Time and Resources Prosecuting this Action

38. Mr. Fralish filed his class action complaint on March 7, 2022, asserting claims under the TCPA. ECF No. 1.

39. On May 9, 2022, Ceteris Portfolio Services, LLC (“Defendant”) filed its answer and affirmative defenses. ECF No. 10.

40. Defendant asserted four affirmative defenses, including “bona fide error” and a statute of limitations defense.

41. On June 2, 2022, the parties filed the Report of Parties’ Planning Meeting. ECF No. 13.

42. On June 3, 2022, Mr. Fralish served his initial written discovery requests, including requests for production of documents, interrogatories, and requests for admission.

43. On June 10, 2022, Mr. Fralish served his initial disclosures.

44. The parties conducted multiple meet-and-confer conferences regarding Defendant’s responses and objections to Mr. Fralish’s initial written discovery requests.

45. Ultimately, on October 10, 2022, Mr. Fralish moved to compel the production of documents and answers to interrogatories. ECF No. 21.

46. On October 20, 2022, Mr. Fralish served a notice of deposition pursuant to Rule 30(b)(6).

47. On October 26, 2022, the parties negotiated the terms of an agreed protective order. ECF No. 24-1.

48. On November 14, 2022, Mr. Fralish filed his reply in support of his motion to compel. ECF No. 31.

49. During the pendency of Mr. Fralish's motion to compel, the parties continued their substantial meet and confer efforts.

50. As a result of these efforts, Mr. Fralish was able to learn the number of potential class members and the possible damages available to those class members.

51. The parties agreed to attend private mediation on January 9, 2023 with Hon. Diane M. Welsh (Ret.) of JAMS.

52. In advance of mediation, the parties submitted detailed mediation statements to Judge Welsh, outlining their positions on the strengths and weaknesses of the claims and defenses.

53. As a result of mediation with Judge Welsh and weeks of follow-up negotiations, the parties ultimately reached an agreement to settle this matter for the benefit of the Settlement Class.

54. The parties filed their notice of class action settlement on February 27, 2023. ECF No. 39.

55. The parties engaged in multiple meet-and-confer conferences to negotiate details of their binding term sheet and Class Action Settlement Agreement.

56. During this process, the parties exchanged multiple drafts, including drafts of the notices to be provided to potential Settlement Class Members.

57. GDR negotiated with class action notice and administration companies to obtain the best, most cost-effective proposal for class notice.

58. Mr. Fralish filed his motion for preliminary approval of the parties' class action settlement on April 12, 2023. ECF No. 43.

59. On May 19, 2023, this Court preliminarily approved the settlement. ECF No. 45.

60. Since this Court preliminarily approved the settlement, GDR has worked diligently

with the class administrator to oversee the notice and claims process.

The Settlement

61. The settlement requires Defendant to create a non-reversionary common fund of \$761,850.00.

62. Each Settlement Class Member who submits a valid, timely claim will receive a *pro rata* share of the common fund after deducting expenses.

63. The parties reached their agreement to settle this matter with the assistance and supervision of Judge Welsh.

64. A true and correct copy of the parties' settlement agreement and its exhibits were previously filed with this Court. *See* ECF No. 44-1.

65. This Court will hold a final fairness hearing on September 15, 2023 to make its final determination concerning the fairness, reasonableness, and adequacy of the parties' settlement.

Attorneys' Fees

66. The requested attorneys' fee of 36% of the net common fund (calculated after deducting notice and administration costs, litigation costs and expenses, and the proposed service award to Mr. Fralish) is both fair and reasonable, and in line with awards in similar class actions.

67. The request for attorneys' fees amounts to 32.8% of the total settlement fund.

68. The case has been pending for more than one year and, during that time, GDR has devoted significant time and resources to this case, including: (a) conducting an investigation into the underlying facts regarding Mr. Fralish's claims and class members' claims; (b) preparing a class action complaint; (c) researching the law pertinent to class members' claims and Defendant's defenses; (d) negotiating a protective order; (e) preparing and serving written discovery requests;

(f) reviewing Defendant's responses and objections to written discovery requests and related documents produced by Defendant; (g) preparing for the corporate representative deposition of Defendant pursuant to Rule 30(b)(6); (h) engaging in extensive meet-and-confer efforts regarding Defendant's discovery responses and document production; (i) preparing a comprehensive motion to compel and reply in support of that motion; (j) preparing for and attending mediation with Judge Welsh, including preparing a detailed mediation statement; (k) preparing and negotiating the parties' class action settlement agreement, along with the proposed class notices and claim forms; (l) negotiating with class administration companies to secure the best notice plan practicable; (m) researching and preparing Mr. Fralish's motion for preliminary approval of the class action settlement, and counsel's declaration in support; (n) closely monitoring evolving TCPA case law and its potential impacts on this case; (o) closely monitoring decisions from the FCC and their potential impacts on this case, including rulemaking regarding ringless voice messages; (p) conferring with the class administrator to oversee the notice, claims, and administration process; (q) repeatedly conferring with Mr. Fralish throughout this case; and (r) responding to inquiries from the office of the Connecticut Attorney General regarding the settlement.

69. Significant additional work remains in this case, including responding to class member inquiries, overseeing the notice and claims process, preparing Mr. Fralish's motion for final approval of the class action settlement, responding to class member objections, if any, preparing for and attending the final fairness hearing, and, if approved, overseeing the process of providing settlement payments to participating settlement class members.

70. In short, GDR spent a considerable amount of time and devoted significant resources to effectively litigate this case in the best interests of class members, and then guide this case through the settlement approval process.

71. In light of the excellent results achieved in this case, together with counsel's considerable efforts in achieving those results, the novelty and difficulty of the legal questions involved, that GDR litigated this matter on a contingent basis, the experience, reputation, and ability of GDR, and the public service provided by way of GDR's and Mr. Fralish's role as private attorneys general with respect to the TCPA, I firmly believe the attorneys' fee requested as a percentage of the common fund is fair and reasonable.

72. Additionally, the requested attorneys' fees were not negotiated as part of the settlement, and Defendant is free to oppose the attorneys' fees sought by GDR.

Service Award

73. Mr. Fralish has been a model class representative.

74. Mr. Fralish remained actively involved in this case throughout the proceedings, including regularly conferring with his counsel and making himself available to consult on all strategic case decisions.

75. While Mr. Fralish did not sit for a deposition, he was prepared to do so.

76. Mr. Fralish was also actively involved in settlement efforts, including attending mediation.

77. Without Mr. Fralish's considerable efforts and dedication to this case, the class settlement would not have been possible.

78. Given this, and considering the time and effort Mr. Fralish devoted to this case as well as the results achieved for the Settlement Class, I firmly believe a service award in the amount of \$5,000 is fair and reasonable.

Reimbursement of Litigation Costs and Expenses

79. GDR separately requests the reimbursement of costs and litigation expenses

reasonably incurred in connection with the prosecution of this action.

80. Such expenses are reflected in the books and records maintained by undersigned counsel, which are an accurate recording of the expenses incurred.

81. To date, GDR has incurred reimbursable costs and litigation expenses in the total amount of \$7,253.94.

82. These expenses include the filing fee for the complaint (\$402), service of process (\$74), mediation fees and related costs for mediation with Judge Welsh (\$5,836.19), PACER research fees (\$4.10), and costs associated with travel for the final fairness hearing, including airfare from South Florida and hotel charges (\$937.65).

83. As well, GDR incurred additional reimbursable expenses, such as for Westlaw legal research. Those expenses are not separately itemized, and GDR does not seek separate reimbursement for them.

84. For the reasons set forth above and in the accompanying motion and memorandum of law, I respectfully request that this Court grant Mr. Fralish's motion for an award of attorneys' fees, costs, litigation expenses, and a service award.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed on June 27, 2023

By: s/Michael L. Greenwald
Michael L. Greenwald