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13 *Signature Page]*

14 UNITED STATES DISTRICT COURT  
15 NORTHERN DISTRICT OF CALIFORNIA  
16 SAN FRANCISCO DIVISION

17 IN RE CARRIER IQ, INC. CONSUMER  
18 PRIVACY LITIGATION

No. 3:12-md-2330-EMC

19 DECLARATION OF J. PAUL GIGNAC  
20 IN SUPPORT OF PLAINTIFFS'  
21 REQUEST FOR ATTORNEYS' FEES,  
22 COSTS, EXPENSES, AND SERVICE  
23 AWARDS

21 This Document Relates to:  
22 ALL CASES

Date: July 28, 2016  
Time: 1:30 p.m.  
Place: Courtroom 5, 17th Floor  
Judge: Hon. Edward M. Chen

1 I, J. Paul Gignac, declare as follows:

2 1. I have personal knowledge of the matters stated in this declaration. If called to testify  
3 as a witness, I could and would testify truthfully and competently to the matters stated in this  
4 declaration.

5 2. I am a member of the Plaintiffs' Executive Committee that was appointed by the  
6 Court to assist court-appointed Lead Counsel in the prosecution of this case on behalf of the  
7 plaintiffs.

8 3. At the time of my appointment to the Plaintiffs' Executive Committee, I was a partner  
9 with the law firm of Arias Ozzello & Gignac, LLP ("AOG"). Until AOG's dissolution on April 30,  
10 2015, I was the partner at AOG who was in charge of overseeing and handling all telecom class  
11 actions in which AOG was involved – including this case. Since May 1, 2015, I have been Of  
12 Counsel to the law firm of Foley Bezek Behle & Curtis, LLP ("FBBC"), and I have continued to  
13 serve as a member of the Plaintiffs' Executive Committee.

14 4. I submit this declaration in support of the application that is being submitted on behalf  
15 of Plaintiffs for an award of attorneys' fees and reimbursement of costs and expenses incurred in  
16 connection with the litigation of Plaintiffs' claims in this action.

17 5. Attached hereto as Exhibit "1" is a document summarizing my present and past  
18 experience representing plaintiffs in class action litigation in both state and federal courts. Since  
19 2001, the majority of the class action matters that I have handled have related to claims arising out of  
20 wrongful practices in the field of telecommunications.

21 6. As demonstrated by the matters described in Exhibit "1", I have extensive experience  
22 in prosecuting class actions through settlement, trial and/or appeal and in handling consumer fraud  
23 and telecom class actions in particular. I have represented classes of plaintiffs in complex consumer  
24 fraud and telecom class actions throughout the United States, and I have held leadership positions in  
25 a number of cases.

26 7. As a member of the Plaintiffs' Executive Committee, I am familiar with the terms of  
27 the proposed settlement in this action. Based upon my knowledge of the strengths and weaknesses  
28 of the Plaintiffs' claims in this case as well as my extensive experience in prosecuting telecom class

1 actions on behalf of plaintiffs, I believe that the settlement in this action is fair, reasonable and in the  
2 best interests of the class members.

3 8. During the approximately four-year period of time marked by the commencement of  
4 the MDL proceedings in early 2012 and the submission of the settlement for this Court's preliminary  
5 approval in early 2016, I and the attorneys and professional staff formerly employed by AOG  
6 performed 224.3 hours of work in connection with this action.

7 9. Attached hereto as Exhibit "2" is a table categorizing the work performed and the  
8 hours attributable to each category of work performed by me and each of the attorneys and  
9 professional staff members at AOG who performed legal services in connection with this action and  
10 the corresponding historical rates that were charged for those legal services. Based upon the hourly  
11 rates charged, the value of the services performed by me and the attorneys and professional staff  
12 formerly employed by AOG is \$128,535.

13 10. The figures and amounts reflected on Exhibit "2" do not include: (a) any multiplier or  
14 other factor to account for the risks involved in the case or the wholly contingent nature of AOG's  
15 representation; (b) any adjustment for the complexity of the litigation, the level of the opposition  
16 encountered, the preclusion of other employment, or other factors that might justify a higher level of  
17 compensation for the work performed; and (c) any of the time that has been incurred in preparing  
18 this declaration or otherwise assisting Lead Counsel with any work that is required in connection  
19 with the motions related to final approval of the proposed settlement.

20 11. The figures and amounts reflected on Exhibit "2" are derived from time records that  
21 were inputted daily by the attorneys and professional staff of AOG into a computerized billing  
22 system maintained by AOG. These time records are voluminous and highly detailed, and are  
23 available for submission to the Court upon request. However, because many of the time records may  
24 reflect information that is protected from disclosure by the attorney-client privilege and/or the  
25 attorney work-product doctrine, it would be necessary for the time records to be redacted or  
26 submitted for *in camera* inspection by the Court only.

27 12. I was the partner at AOG who was responsible for overseeing AOG's work in  
28 connection with this action. I personally supervised the work that was done by the associate

1 attorneys and professional staff at AOG. I coordinated and delegated the work that was done by  
 2 AOG in order to ensure that it was accomplished timely and efficiently without duplication of effort.

3 13. Based upon my experience with other class action matters, I believe that the time  
 4 expended by me and AOG in connection with this action is reasonable in amount and was  
 5 necessarily incurred in connection with the prosecution of this action.

6 14. During the approximately four-year period of time marked by the commencement of  
 7 the MDL proceedings in early 2012 and the submission of the settlement for this Court's preliminary  
 8 approval in early 2016, AOG incurred a total of \$7900.27 in expenses in connection with this action.

9 These expenses are categorized as follows:

10	Court Fees/Filing Fees	\$350.00
11	Service of Process	\$142.50
12	Travel Expenses	\$1,490.15
13	Litigation Fund	\$5,000.00
	Copies/Postage	\$917.62

14 Total: \$7,900.27

15 All of these expenses have been advanced by AOG, all of these expenses were reasonably and  
 16 necessarily incurred in connection with the prosecution of this action, and none of these expenses has  
 17 been reimbursed.

18 15. The expenses incurred by AOG in connection with this action are reflected on an  
 19 expense by expense basis in the financial records of AOG maintained by AOG's accountants. These  
 20 records are prepared from expense reports, check requests and cash or credit card receipts, are  
 21 maintained in the ordinary course of business, and are available for submission upon request.

22 16. Based upon my experience with other class action matters, I believe that the expenses  
 23 incurred by AOG in connection with this action are reasonable in amount.  
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1 I declare under penalty of perjury under the laws of the United States that the foregoing is  
2 true and correct.

3 Executed this 11<sup>th</sup> day of May, 2016, at Santa Barbara, California.

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6 J. Paul Gignac

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# **EXHIBIT 1**

## SUMMARY OF BACKGROUND AND EXPERIENCE

J. Paul Gignac is a 1983 *cum laude* graduate of Dartmouth College, where he received a Bachelor of Arts degree in Government. Mr. Gignac received his Juris Doctorate degree from the UCLA School of Law in 1986, where he was a member of the Federal Communications Law Journal and served as a judicial extern to the Honorable A. Wallace Tashima, then a U.S. District Court Judge for the Central District of California and presently a Judge on the Ninth Circuit Court of Appeals. Mr. Gignac was admitted to the California State Bar in 1986.

Since 1990, Mr. Gignac has been actively involved in the representation of plaintiffs in class action actions in the fields of consumer fraud, product defects, telecommunications, employment, insurance, banking, securities, death care, and unfair competition. Since 1990, Mr. Gignac has served as court-appointed Lead Counsel, Liaison Counsel and/or Class Counsel in numerous cases in state courts throughout California, select state courts outside of California, and federal district courts throughout the country.

A representative sample of the class actions in which Mr. Gignac is personally involved at the present time includes: *Demmick, et al. v. Cellco Partnership*, U.S.D.C., District of New Jersey, Case No. 2:06-CV-2163 [court-appointed Class Counsel representing multiple certified nationwide and statewide classes of cellular telephone customers charged excessive rates for calls under their applicable calling plans]; *Wood v. Sunwest Bank*, Los Angeles Superior Court Case

No. BC479843 [court-appointed Class Counsel representing certified class of minority shareholders who were victims of an unfair “squeeze out” merger transaction]; and *In re Carrier IQ, Inc. Consumer Privacy Litigation*, U.S.D.C., Northern District of California, Case No. 3:12-md-02330-EMC [court-appointed member of Plaintiffs’ Executive Committee Class in MDL action representing plaintiffs on privacy invasion claims related to telecommunications data software].

For the past twenty-five years, Mr. Gignac has specialized in the prosecution of class actions primarily in the fields of consumer protection, telecommunications, death care and securities. Mr. Gignac’s past experience includes the successful representation of: (1) customers overcharged for telecommunications services in cases such as *Stern v. AT&T Mobility Corporation, et al.*, U.S.D.C., Central District of California, Case No. CV 05-8842 CAS (CTx), *Rolnik, et al. v. AT&T Wireless Services, Inc., et al.*, Case No. L-180-04 (New Jersey Superior Court: Essex Div.) and *Roark, et al. v. GTE California Inc., et al.*, Case No. 01035862 (Santa Barbara Superior Court); (2) consumers victimized by anti-competitive practices in cases such as *O’Connor, et al. v. Blue Cross of California, et al.*, Case No. BC 118896 (Los Angeles Superior Court) and *Smith v. Eastern Pacific Energy, Inc., et al.*, Case No. BC 193285 (Los Angeles Superior Court); (3) family members of decedents’ whose grave sites were desecrated in cases such as *In re Paradise Memorial Park Litigation*, Lead Case No. BC 130375 (Los Angeles Superior Court) and *In re Lincoln Memorial Park Litigation*, Case No. BC133643



(Los Angeles Superior Court); and (4) shareholders victimized by securities fraud in cases such as *Scott, et al. v. Snell, et al.*, Case No. 01AS07849 (Sacramento Superior Court), *In re American Medical International Shareholder Litigation*, Consolidated Case No. C 718957 (Los Angeles Superior Court), and *Bair and Booth v. Immunex Corporation et al.*, CV No. C 91-0050D (W.D. Wash.).

Mr. Gignac has authored various articles on consumer class action litigation, including: *The Supreme Court's Decision in Bell Atlantic Corporation v. Twombly: Why Bell Is Not the Death Knell for Class Actions in the United States* (*Juriste* – 2007-4); *Class Dismissed* (*California Law Business* – March 23, 1998); *Successful Prosecution of the Class Action Lawsuit* (*Trial Diplomacy Journal* – September/October 1997); *Avoiding Pre-Trial Pitfalls in Consumer Class Actions* (*Trial* – May 1995); and *Consumers Are Fighting Mad* (*The National Law Journal* – August 29, 1994).

Mr. Gignac is a member of numerous legal organizations including: the Federal Bar Association; the Consumer Attorneys of California; and the Santa Barbara County Bar Association. Mr. Gignac has spoken before attorneys and other professional groups on various issues related to class actions at conferences and seminars in both the United States and abroad. Mr. Gignac has been selected as a *Southern California Super Lawyer* for nine straight years from 2008 through 2016 – a selection that is limited to 5 percent of the lawyers in the State of

California. Mr. Gignac has served as one of the ten attorney members of the Local Rules Advisory Committee for the Central District of California since 2010.

Mr. Gignac is a member in good standing of the California State Bar and has never been the subject of any type of disciplinary proceeding. Mr. Gignac is AV Preeminent Rated by Martindale Hubbell – the highest possible rating in both legal ability and ethical standards.

Mr. Gignac is admitted to practice before the United States District Courts for the Central, Northern, Southern and Eastern Districts of California, as well as the Ninth Circuit Court of Appeals and the United States Supreme Court. In 2007, Mr. Gignac argued and prevailed in two cases before the 9<sup>th</sup> Circuit Court of Appeals that resulted in published opinions establishing new legal precedent on issues related to class certification and the enforcement of class action waiver provisions: *Lozano v. AT&T Wireless Services, Inc.*, 504 F.3d 718 (9<sup>th</sup> Cir. 2007) (pursuant to petition under Fed.R.Civ.P. 23(e)) and *Douglas v. Talk America Inc.*, 495 F.3d 1062 (9<sup>th</sup> Cir. 2007) (pursuant to petition for writ of mandate).

Further information regarding Mr. Gignac is available on line at the following website address: [www.foleybezek.com](http://www.foleybezek.com).

# **EXHIBIT 2**

Time Summary:

TIMEKEEPER	Task Code 1	Task Code 2	Task Code 3	Task Code 4	Task Code 5	Task Code 6	Task Code 7	Task Code 8	Task Code 9	Task Code 10	Total Hours	Rate	Total
J. PAUL GIGNAC (Partner)	3.8	81.3	10.9	11.0	24.7	11.5	0	0	1.6	19.2	164.0	\$695	\$113,980
HELEN KIM (Associate)	3.0	.8	8.5	0	0	0	0	0	0	0	12.3	\$350	\$4,305
MISCHA BARTEAU (Associate)	0	.4	0	5.8	0	17.8	0	0	0	0	24.0	\$300	\$7,200
JENNIFER HUNT (Paralegal)	0	13.0	0	0	0	0	0	0	0	0	13.0	\$150	\$1,950
CEILING SPALDING (Legal Administrator)	0	11.0	0	0	0	0	0	0	0	0	11.0	\$100	\$1,100
TOTAL HOURS (Attorneys)	6.8	82.5	19.4	16.8	24.7	29.3	0	0	1.6	19.2	200.3		-
TOTAL LODESTAR (Attorneys)	\$3,691	\$56,903	\$10,551	\$9,385	\$17,166	\$13,333	\$0	\$0	\$1,112	\$13,344	-		\$125,485
TOTAL HOURS (AOG)	6.8	106.5	19.4	16.8	24.7	29.3	0	0	1.6	19.2	224.3		-
TOTAL LODESTAR (AOG)	\$3,691	\$59,953	\$10,551	\$9,385	\$17,166	\$13,333	\$0	\$0	\$1,112	\$13,344	-		\$128,535

## TASK CODE KEY:

- 1 Preparation of Complaints
- 2 Case Management
- 3 Discovery
- 4 Investigation and Research
- 5 Motion to Compel Arbitration
- 6 Motion to Dismiss
- 7 Experts
- 8 Motion to Stay
- 9 Appeal
- 10 Settlement