

THE HONORABLE BARBARA J. ROTHSTEIN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

COOPER MOORE and ANDREW
GILLETTE, on their own behalf and on
behalf of all others similarly situated,

Plaintiffs,

v.

ROBINHOOD FINANCIAL LLC, a
Delaware limited liability company,

Defendant.

Case No. 2:21-cv-01571-BJR

**DECLARATION OF BETH E.
TERRELL IN SUPPORT OF
PLAINTIFFS' UNOPPOSED
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT AND CONDITIONAL
CLASS CERTIFICATION**

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 plaintiffs 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 Washington and California. I respectfully submit this declaration in support of Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement and Conditional Class Certification. 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 rights, and wage and hour cases. Terrell Marshall has been appointed lead or co-lead counsel

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1 representing multi-state and nationwide classes in state and federal court in Washington and
2 throughout the United States. Since its founding in 2008, the attorneys at Terrell Marshall have
3 represented scores of classes, tried class actions in state and federal court, and obtained hundreds
4 of millions of dollars in monetary relief to workers, consumers, and other individuals.

5 3. Most recently in December 2023, after a nearly six-week trial, Terrell Marshall
6 obtained a jury verdict of over \$16 million in a race discrimination lawsuit brought by five
7 current and former University of Washington Police Department officers.

8 4. Terrell Marshall has been litigating cases involving unlawful telemarketing
9 practices like this one for well over ten years. The following are examples of class actions
10 brought under state and federal telemarketing laws that Terrell Marshall has litigated to
11 completion:

12 *Abante Rooter & Plumbing, Inc., et al. v. Alarm.com Inc., et al.*—Filed in 2015 on
13 behalf of consumers who received solicitation calls on their cellular and
14 residential telephones without their prior express consent. The Northern District
15 of California granted final approval of the \$28 million settlement on August 15,
16 2019.

17 *Borecki v. Raymours Furniture Co., Inc.*—Filed in 2017 on behalf of consumers
18 who received spam text messages on their cellular telephones without their prior
19 express consent. The Southern District of New York granted final approval of the
20 \$4.25 million settlement on September 10, 2019.

21 *Snyder v. Ocwen Loan Servicing, LLC*—Filed in 2014 on behalf of consumers
22 who received automated collection calls on their cellular telephones without their
23 prior express consent. The Northern District of Illinois granted final approval of
24 the \$21.5 million settlement on May 14, 2019.

25 *Melito, et al. v. American Eagle Outfitters, Inc., et al.*—Filed in 2014 on behalf of
26 consumers who received spam text messages on their cellular telephones without
27 their prior express consent. The Southern District of New York granted final
approval to the \$14.5 million settlement on September 11, 2017, which the
Second Circuit affirmed on April 30, 2019.

Abante Rooter & Plumbing, Inc. v. Pivotal Payments Inc.— Filed in 2016 on
behalf of consumers that received automated solicitation telephone calls to their
cell phones without their prior express consent. The Northern District of

1 California granted final approval of the \$9 million settlement on October 15,
2018.

2 *Charvat v. Plymouth Rock Energy*—Filed in 2015 on behalf of consumers who
3 received automated solicitation telephone calls on their cellular and residential
4 telephones without their prior express consent within the meaning of the
5 Telephone Consumer Protection Act, 47 U.S.C. § 227 et seq. and/or to telephone
6 numbers registered on the National-Do-Not-Call Registry. The case settled on a
class-wide basis in 2016, and final approval was granted in the United States
District Court for the Eastern District of New York on July 31, 2018.

7 *In re Monitronics International, Inc. Telephone Consumer Protection Act*
8 *Litigation*—Filed in 2011 on behalf consumers who received automated,
9 prerecorded solicitation calls on their residential and telephones without their
10 prior express consent. Terrell Marshall served as co-lead counsel in the
multidistrict litigation. The Northern District of West Virginia granted final
approval of the \$28 million settlement on June 12, 2018.

11 *Booth v. Appstack, Inc.*—Filed in 2013 on behalf of small businesses that received
12 prerecorded calls using an automatic dialing system on cellular telephone lines
13 without their prior consent. The court certified the class, denied a motion to
14 decertify, denied the defendants' motion for summary judgment and granted
partial summary judgment for the class. The case settled on the eve of trial and the
court granted final approval of the \$975,000 settlement in 2017.

15 *Joseph v. TrueBlue Inc.*—Filed on behalf of consumers who received spam text
16 messages on their cellular telephones without their prior express consent within
17 the meaning of the Telephone Consumer Protection Act, 47 U.S.C. § 227 et seq.
The case settled on a class-wide basis in 2016 for \$5,000,000, and final approval
was granted in March 2017.

18 *Ashack v. Caliber Home Loans*—Filed in 2015 on behalf of consumers who
19 received automated, prerecorded collection telephone calls on their cellular
20 telephones without their prior express consent within the meaning of the
21 Telephone Consumer Protection Act, 47 U.S.C. § 227 et seq. TMLG negotiated a
nationwide settlement in 2016 for \$2,895,000, and final approval was granted in
June 2017.

22 *Davenport v. Discover Financial Services*—Filed on behalf of consumers who
23 received automated solicitation telephone calls on their cellular telephones
24 without their prior express consent within the meaning of the Telephone
Consumer Protection Act, 47 U.S.C. § 227 et seq. The case settled on a class-wide
basis for \$5,000,000 in 2016, and final approval was granted in December 2017.

25 *Bee, Denning, Inc., et al. v. Capital Alliance Group*—TMLG represented two
26 certified classes of consumers who received junk faxes and automated,
27 prerecorded solicitation telephone calls on their cellular telephones without their

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1 prior express consent within the meaning of the Telephone Consumer Protection
2 Act, 47 U.S.C. § 227 et seq. The case settled on a class-wide basis in 2016, and
3 final approval was granted in November 2016.

4 *Lushe v. Verengo, Inc.*—Filed on behalf of consumers who received automated,
5 prerecorded solicitation telephone calls on their cellular and residential telephones
6 without their prior express consent, within the meaning of the Telephone
7 Consumer Protection Act, 47 U.S.C. § 227 et seq. The case settled on a class-wide
8 basis in 2015 for \$2,365,000, and final approval was granted in May 2016.

9 *Rinky Dink v. World Business Lenders, LLC*—Filed on behalf of consumers who
10 received automated, prerecorded solicitation telephone calls on their cellular
11 telephones and Washington landlines without their prior express consent within
12 the meaning of the Telephone Consumer Protection Act, 47 U.S.C. § 227 et seq.,
13 the Washington Automatic Dialing and Announcing Device statute, RCW
14 80.36.400, and the Washington Consumer Protection Act, RCW 19.86 et seq.
15 The case settled on a class-wide basis in 2015 for \$1,000,000, and final approval
16 was granted in May 2016.

17 *Rinky Dink v. Electronic Merchant Systems, Inc.*—Filed on behalf of consumers
18 who received automated, prerecorded solicitation telephone calls on their cellular
19 telephones and Washington landlines without their prior express consent within
20 the meaning of the Telephone Consumer Protection Act, 47 U.S.C. § 227 et seq.,
21 the Washington Automatic Dialing and Announcing Device statute, RCW
22 80.36.400, and the Washington Consumer Protection Act, RCW 19.86 et seq.
23 The case settled on a class-wide basis in 2015 for \$1,250,000, and final approval
24 was granted in April 2016.

25 *Gehrich v. Chase Bank USA*—Filed on behalf of consumers who received
26 automated, prerecorded collection telephone calls on their cellular telephones
27 without their prior express consent within the meaning of the Telephone
Consumer Protection Act, 47 U.S.C. § 227 et seq. TMLG negotiated a
\$34,000,000 nationwide settlement; final approval was granted in March 2016.

Taylor v. Universal Auto Group I—Filed on behalf of consumers who received
automated, prerecorded solicitation telephone calls on their cellular telephones
without their prior express consent within the meaning of the Telephone
Consumer Protection Act, 47 U.S.C. § 227 et seq. The case settled on a class-wide
basis and final approval was granted in February 2016.

Ott v. Mortgage Investors Corporation—Filed on behalf of consumers who
received automated solicitation telephone calls on their cellular and residential
telephones without their prior express consent within the meaning of the
Telephone Consumer Protection Act, 47 U.S.C. § 227 et seq. TMLG negotiated a
\$7,483,600 class-wide settlement and final approval was granted in January 2016.

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1 *In re Capital One Telephone Consumer Protection Act Litigation*—Filed in 2012
2 on behalf of consumers who received automated, prerecorded collection calls on
3 their cellular telephones without their prior express consent. Terrell Marshall
4 served as co-lead counsel in the multidistrict litigation. The Northern District of
5 Illinois granted final approval of the \$75 million settlement on February 23, 2015.

6 *Wilkins v. HSBC Bank Nevada, N.A.*—Filed on behalf of individuals who alleged
7 that HSBC made prerecorded calls using an automatic dialing system. The case
8 settled on a class-wide basis in 2014 for \$39,975,000, and final approval was
9 granted in March 2015.

10 *Chesbro v. Best Buy Stores, L.P.*—Filed on behalf of consumers who received
11 automated, prerecorded solicitation telephone calls on their residential telephones
12 without their prior express consent within the meaning of the Telephone
13 Consumer Protection Act, 47 U.S.C. § 227 et seq. TMLG negotiated a \$4.5
14 million settlement, which was granted final approval in September 2014.

15 *Rose v. Bank of America Corp.*—Filed on behalf of consumers who received
16 automated, prerecorded collection telephone calls on their cellular telephones
17 without their prior express consent within the meaning of the Telephone
18 Consumer Protection Act, 47 U.S.C. § 227 et seq. TMLG negotiated a nationwide
19 settlement of \$32,083,905, which was granted final approval in August 2014.

20 *Steinfeld v. Discover Financial Services*—Filed on behalf of consumers who
21 received automated, prerecorded collection telephone calls on their cellular
22 telephones without their prior express consent within the meaning of the
23 Telephone Consumer Protection Act, 47 U.S.C. § 227 et seq. TMLG negotiated
24 an \$8.7 million settlement, which was granted final approval in March 2014.

25 *Hanley v. Fifth Third Bank*—Filed on behalf of consumers who received
26 automated, prerecorded collection telephone calls on their cellular telephones
27 without their prior express consent within the meaning of the Telephone
Consumer Protection Act, 47 U.S.C. § 227 et seq. TMLG negotiated a \$4.5
million settlement, which was granted final approval in December 2013.

Arthur v. Sallie Mae, Inc.—Filed on behalf of consumers who received
automated, prerecorded collection telephone calls on their cellular telephones
without their prior express consent within the meaning of the Telephone
Consumer Protection Act, 47 U.S.C. § 227 et seq. TMLG negotiated a \$24.15
million nationwide settlement, and final approval was granted in 2012.

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

6. My partner Jennifer Rust Murray and I are the primary attorneys at Terrell
Marshall who have worked on this case.

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

15 8. Ms. Murray is a founding member of Terrell Marshall who practices complex
16 litigation, including the prosecution of consumer and wage and hour class and collective actions.
17 In 2005, Ms. Murray received her J.D. from the University of Washington School of Law where
18 she was a member of the Washington Law Review. Ms. Murray's law review article entitled
19 "Proving Cause in Fact under Washington's Consumer Protection Act: The Case for a
20 Rebuttable Presumption of Reliance" won the Carkeek prize for best submission by a student
21 author. Before law school, Ms. Murray earned a Ph.D. in Philosophy from Emory University.
22 Ms. Murray has been an active member of the Washington State Bar Association since her
23 admission to the bar in 2005. She was admitted to the Oregon State Bar in 2010. Ms. Murray
24 currently is vice-president of the board of Washington's Unemployment Law Project. She
25 regularly presents at legal conferences on consumer issues, including consumer issues relating to
26 telemarketing and class actions.

27 DECLARATION OF BETH E. TERRELL IN SUPPORT OF
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1 **B. The prosecution of this action.**

2 9. Together with co-counsel Berger Montague, our firm represents Cooper Moore
3 and Andrew Gillette, who brought this action on behalf of a proposed class of similarly-situated
4 individuals who all received “refer-a-friend” text messages from Robinhood. Plaintiffs allege
5 that Robinhood substantially assisted its users to send these advertising text messages to
6 Washington residents in violation of the Washington Commercial Electronic Mail Act, RCW
7 19.190, et seq. (“CEMA”) and the Washington Consumer Protection Act, RCW 19.86, et seq.
8 (“CPA”).

9 10. My firm has been involved in this action from its commencement, working with
10 co-counsel to defeat Robinhood’s motion to dismiss, obtain the discovery Plaintiffs needed to
11 certify a class, work with an expert in large databases and telecommunications to design a
12 methodology for identifying class members from Robinhood’s electronic data, defend Plaintiffs’
13 depositions, devise a mediation strategy, and finalize a settlement agreement.

14 11. Terrell Marshall has received no payment for our fees and costs. Plaintiffs’
15 counsel will file a motion with the Court requesting an award of up to 25% of the settlement
16 fund, or approximately \$2,250,000. Plaintiff’s counsel will request reimbursement of
17 approximately \$151,000 in out-of-pocket expenses.

18 12. Terrell Marshall has advanced significant out-of-pocket expenses necessary to
19 prosecute this matter. These costs include expert fees, mediation costs, and travel expenses.

20 13. Terrell Marshall also has dedicated hundreds of attorney-and-paralegal-hours to
21 this matter. When Plaintiffs file their motion for attorneys’ fees and costs, Plaintiffs’ counsel will
22 provide the Court with their detailed contemporaneous time records, hourly rates, and lodestar.
23 Plaintiffs’ counsel also will provide the Court with detailed information on their out-of-pocket
24 costs.

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1 14. My firm will continue to commit the time and resources necessary to litigate the
2 case and fairly and adequately represent and protect the interests of the proposed Settlement
3 Class.

4 15. I am proud of the settlement Plaintiffs have reached with Robinhood and fully
5 support it. Securing a \$9 million settlement now with certainty of payment not only provides
6 significant relief to Settlement Class Members who submit claims, but it also exacts a significant
7 payment from Robinhood.

8 I declare under penalty of perjury under the laws of the State of Washington and the
9 United States of America that the foregoing is true and correct.

10 EXECUTED this 8th day of February, 2024 at Seattle, Washington.

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By: /s/ Beth E. Terrell
Beth E. Terrell

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