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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF LOS ANGELES**

12 TERRY FABRICANT, individually and on
behalf of all others similarly situated,

13 Plaintiff,

14 vs.

15 TOP FLITE FINANCIAL, INC.; DOES 1
16 -100, and each of them,

17 Defendants.
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Case No. **20STCV13837**

**DECLARATION OF TERRY FABRICANT
IN SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

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1 **DECLARATION OF TERRY FABRICANT**

2 I, TERRY FABRICANT, declare as follows:

3 1. I am a named plaintiff in this action against Defendant TOP FLITE FINANCIAL, INC.
4 (“Defendant”) and am represented by the Law Offices of Todd M. Friedman, P.C..

5 2. Except as otherwise indicated, I have personal knowledge of all matters set forth in this
6 herein and, if called upon as a witness, could and would competently testify thereto if called upon to
7 do so as a witness.

8 3. I understand that, as a class representative, I have certain duties and responsibilities to
9 the class and believe that I have fairly represented the interests of all class members during the entire
10 course of this case.

11 4. On April 15, 2019 and April 18, 2019, I received calls my cellular telephone from
12 Defendant seeking to solicit its lending services. I learned after the fact that these calls were recorded,
13 because Defendant did not advise me that the calls were being recorded during the calls and thus did
14 not obtain my consent to record such calls. I was offended upon learning the calls were recorded, as I
15 consider my privacy an important right.

16 5. My counsel provided me with information regarding class actions, how they work, and
17 what my duties would be as a class representative. I agreed to serve as a class representative in this
18 case so that I could seek to recover damages on behalf of other individuals in California who, like me,
19 had their privacy invaded by Defendant’s call recording practices.

20 6. I have considered the interests of the Settlement Class just as I would consider my own
21 interests, have put the interests of the Settlement Class before my own interests by retaining
22 experienced counsel and carefully considering the impact that the Settlement in this case would have
23 on them, and understand that the Settlement in this case is subject to this Court’s approval to ensure
24 that it is in the best interest of the Settlement Class as a whole. I have no conflicts with the Class.

25 7. I have approximately 20-30 hours of my time in connection with this case to date. The
26 activities I have performed have included, but have not been limited to: obtaining legal counsel,
27 numerous telephone conversations with my attorneys, gathering documents for my attorneys,
28 reviewing documents with my attorneys and assisting them in developing the claims in this case,
assisting my attorneys in preparing for mediation, participating telephonically in a full day mediation
session, being actively involved in the settlement process to ensure a fair result for the Class as a
whole, and spending time carefully reviewing the Settlement, and other case related documents on my
own and with my attorneys to make sure that Settlement and the other work my attorneys performed
are in the best interests of the Settlement Class.

1 8. I also understand that my attorneys are submitting an application to this Court for an
2 Incentive Award to compensate me for my unique contributions to the success of this action in the
3 amount of \$5,000. I believe this amount is fair and reasonable compensation for my efforts in this case
4 and the risks I have taken in pursuing a fair recovery for the Class. The payment to me of the Incentive
5 Award of \$5,000 is appreciated for the additional attention and publicity this Action has brought and
6 will bring to me—an ironic outcome considering I brought this case in the interests of protecting my
7 and the Settlement Class’s privacy. There is now a public record - this publicly filed lawsuit - that I
8 served as a class representative in a class action lawsuit. My involvement in this case will be publicized
9 if this Court approves the Settlement. Further, before I filed this case, my counsel also advised me of
10 the possibility that, if the case was lost, I could have been ordered to pay Defendant’s costs, which
11 easily could have totaled tens of thousands of dollars by the end, if not even more.

12 9. Finally, I understand that the release of claims I have entered into by virtue of this
13 Settlement prevents me from bring any claims against Defendant in the future and that the release I
14 am entering into is much broader than that of the Class Members I represent.

15 I declare under the penalty of perjury of the laws of the State of California that the foregoing
16 is true and correct to the best of my knowledge.

17 Executed on September 13, 2022 at _____, California.

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21 TERRY FABRICANT
22 Declarant
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