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**Electronically FILED by  
Superior Court of California,  
County of Los Angeles  
8/23/2023 12:17 PM  
David W. Slayton,  
Executive Officer/Clerk of Court,  
By G. Carini, Deputy Clerk**

6 Attorneys for Plaintiff TERRY FABRICANT  
on behalf of himself and all others similarly situated,  
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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 COUNTY OF LOS ANGELES

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

Case No. 20STCV13837

12 Plaintiff,

CLASS ACTION

13  
14 vs.

**DECLARATION OF TERRY FABRICANT  
IN SUPPORT OF MOTION FOR  
ATTORNEY'S FEES, COSTS, AND  
INCENTIVE AWARD**

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

16 Defendants.  
17  
18  
19

Date: August 24, 2023  
Time: 10:00 a.m.  
Department: SS7

1 **DECLARATION OF TERRY FABRICANT**

2 I, Terry Fabricant, declare:

- 3 1. I am the named plaintiff in this action. I have personal knowledge of the following facts and,  
4 if called upon as a witness, could and would competently testify thereto, except as to those  
5 matters which are explicitly set forth as based upon my information and belief and, as to such  
6 matters, I am informed and believe they are true and correct.
- 7 2. I am writing this declaration in support of Plaintiff's Motion for Final Approval and Motion  
8 for Attorney's Fees, Costs and Incentive Award in the above-captioned action.
- 9 3. I understand that, as a class representative, I have certain duties and responsibilities to the class  
10 and believe that I have fairly represented the interests of all class members during the entire  
11 course of this case.
- 12 4. On April 15, 2019 and April 18, 2019, I received calls my cellular telephone from Defendant  
13 seeking to solicit its lending services. I learned after the fact that these calls were recorded,  
14 because Defendant did not advise me that the calls were being recorded during the calls and  
15 thus did not obtain my consent to record such calls. I was offended upon learning the calls  
16 were recorded, as I consider my privacy an important right.
- 17 5. My counsel provided me with information regarding class actions, how they work, and what  
18 my duties would be as a class representative. I agreed to serve as a class representative in this  
19 case so that I could seek to recover damages on behalf of other individuals in California who,  
20 like me, had their privacy invaded by Defendant's call recording practices.
- 21 6. I have considered the interests of the Settlement Class just as I would consider my own  
22 interests, have put the interests of the Settlement Class before my own interests by retaining  
23 experienced counsel and carefully considering the impact that the Settlement in this case would  
24 have on them, and understand that the Settlement in this case is subject to this Court's approval  
25 to ensure that it is in the best interest of the Settlement Class as a whole. I have no conflicts  
26 with the Class.
- 27 7. I have approximately 20-30 hours of my time in connection with this case to date. The activities  
28 I have performed have included, but have not been limited to: obtaining legal counsel,  
numerous telephone conversations with my attorneys, gathering documents for my attorneys,  
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

1 day mediation session, being actively involved in the settlement process to ensure a fair result  
2 for the Class as a whole, and spending time carefully reviewing the Settlement and other case  
3 related documents on my own and with my attorneys to make sure that Settlement and the  
4 other work my attorneys performed are in the best interests of the Settlement Class.

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

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

20 10. To my knowledge, I have no interest that is not in line with the class members. My goal in  
21 bringing this case was to ensure that Defendant was made aware of the requirements under  
22 the law, and that I could achieve a fair result for the Class Members who I believed were  
23 affected by the policies and practices that affected me. I believe that both of these goals have  
24 been achieved by this settlement, and I am proud to have been a part of it.  
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1 I respectfully request the Court approve the Motion for Final Approval and Motion for  
2 Attorneys' Fees, Costs and Incentive Award

3 I declare under penalty of perjury under the laws of California and the United States that the  
4 foregoing is true and correct, and that this declaration was executed on June <sup>22</sup> \_\_\_\_, 2023.

5  
6 *Terry Fabricant*

7 \_\_\_\_\_  
8 Terry Fabricant