

**GUTRIDE SAFIER LLP**

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*Class Counsel*

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

STEVEN MCARDLE, an individual, on  
behalf of himself, the general public and  
those similarly situated,

Plaintiff,

v.

AT&T MOBILITY LLC; NEW  
CINGULAR WIRELESS PCS LLC; NEW  
CINGULAR WIRELESS SERVICES,  
INC.,

Defendants.

Case No. 4:09-cv-01117-CW

DECLARATION OF SETH SAFIER IN  
SUPPORT OF PLAINTIFF'S  
SUPPLEMENTAL MEMORANDUM OF  
POINTS AND AUTHORITIES IN SUPPORT  
OF PLAINTIFF'S REQUEST FOR  
ATTORNEYS' FEES

Judge: Honorable Claudia Wilken

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1 I, Seth Safier, declare and state that:

2 1. I am an attorney licensed to practice law in the State of California and in this Court,  
3 and a partner in Gutride Safier LLP (“GSLLP” or “Firm”), counsel of record for Plaintiff and the  
4 certified class in the above captioned matter. I submit this declaration in support of Plaintiff’s  
5 Supplemental Memorandum of Points and Authorities in Support of Plaintiff’s Request for  
6 Attorneys’ Fees. Unless otherwise noted, I have personal knowledge of the facts set forth in this  
7 declaration.

8 2. My partner, Adam Gutride and I have extensively analyzed the international roaming  
9 billing data that was produced to Plaintiff in discovery and that was provided to the settlement  
10 administrator by AT&T. That analysis (and data) indicates that there are approximately 267,000  
11 Class Members. Approximately eighty-percent (80%) of Class Members incurred less than \$4 in  
12 international roaming charges for unanswered calls; less than four-percent (4%) incurred between  
13 \$4-4.99; eleven percent (11%) between \$5-9.99; less than six percent (6%) between \$10-\$50; and,  
14 finally, less than one percent (1%) incurred \$50.01+. The median class member was charged \$1.98;  
15 the mean was \$5.09; and the mode was \$0.79. The Day Pass (valued at \$10) accordingly represents  
16 double the average loss of current customer Class Members; provides a full recovery for more than  
17 ninety-five percent (95%) of current customer Class Members; and equates to more than a double  
18 recovery for approximately eighty-five percent (85%) of current customer Class Members.

19 3. Since submission of the settlement approval motion (Dkt.# 395), Class Counsel has  
20 performed an additional 67.3 hours work, including in connection with the oral argument on the  
21 preliminary approval motion; supervising the work of the Claims Administrator including multiple  
22 rounds of testing the settlement website; reviewing and responding to correspondence from Class  
23 Members; and researching, drafting and filing Plaintiff’s Supplemental Memorandum of Points and  
24 Authorities in Support of Plaintiff’s Request and this supporting Declaration.<sup>1</sup>

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27 <sup>1</sup> This time includes hours worked prior to submission of the settlement approval motion but input  
28 into GSLLP’s time keeping system after submission.

4. Throughout the duration of this litigation, GSLLP has maintained contemporaneous billing records for this case. Based on GSLLP's time records, GSLLP has spent approximately 7480 hours prosecuting this litigation through January 15, 2021. The updated total number of hours (and lodestar) is shown in the following table:

<b>Timekeeper</b>	<b>Hours</b>	<b>GSLLP Rate</b>	<b>Total</b>
Adam J. Gutride	1,915.3	\$1,050	\$2,011,065.00
Adriana Klompus	1.2	\$275	\$330.00
Anthony Patek	0.2	\$850	\$170.00
Ashley Garcia	49.1	\$275	\$13,502.50
Austin Ku	69.0	\$150	\$10,350.00
Chuck Martin	165.5	\$150	\$24,825.00
Jay Kuo	621.6	\$800	\$497,280.00
Kristen Simplicio	360.1	\$850	\$306,085.00
Marie McCrary	13.2	\$950	\$12,540.00
Matthew McCrary	255.3	\$925	\$236,152.50
Miranda Bane	23.2	\$300	\$6,960.00
Rajiv Thairani	20.6	\$625	\$12,875.00
Seth A. Safier	3,907.7	\$1,050	\$4,103,085.00
Stephen Raab	1.7	\$850	\$1,445.00
Tekesha Geel	69.3	\$750	\$51,975.00
Todd Kennedy	4.0	\$900	\$3,600.00
<b>TOTAL</b>	<b>7,477.0</b>		<b>\$7,292,240.00</b>

5. The above hourly rates shown for the attorneys and paralegals at GSLLP are the same as the regular rates charged in 2020 for their services in other litigation. Those rates have marginally increased in 2021, but GSLLP still employs its 2020 rates.

6. I have been involved in every step of this case from the inception to the final resolution. A very small number of the hours worked in this litigation are attributable to the Day Pass component of the settlement. The bulk of the fees incurred in this litigation were attributable to preventing the Defendants from enforcing the arbitration agreement. Indeed, AT&T flatly refused to finally resolve this litigation on a classwide basis, until the Supreme Court denied certiorari. Plaintiff succeeded in invalidating that agreement. Plaintiff also succeeded in leading Defendants to change their practices with regard to international roaming, by implementing VMCC, and to agree in settlement to improved disclosures. Finally, Plaintiff succeeded in obtaining cash benefits

1 averaging significantly more than the median loss for any Class Member who submits a simple  
2 claim form—a claim form that is simpler than would likely be required in a post-trial claim process  
3 for a smaller refund. In my view, the purported “coupon” provision of the settlement—the Day  
4 Pass—is just icing on the cake, for those who do not want to file a claim. Only a tiny fraction of the  
5 total hours worked (maybe two or three) were devoted to obtaining the Day Pass—far fewer than  
6 the approximately 1270 hours that are being written off by virtue of the fractional multiplier of .83.

7 I declare under penalty of perjury under the laws of the state of California that the foregoing  
8 is true of my own personal knowledge.

9 Executed at San Francisco, California, this 15th day of January, 2021.

10 /s/ Seth Safier/s/  
11 Seth Safier, Esq.

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