

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

TAWANNA ROBERTS, on behalf of herself and
all others similarly situated,

Plaintiff,

- against -

CAPITAL ONE, N.A.,

Defendant.

CASE No. 1:16-cv-04841-LGS

**DECLARATION OF HASSAN A. ZAVAREEI IN SUPPORT OF PLAINTIFF'S
APPLICATION FOR ATTORNEYS' FEES AND COSTS**

I, Hassan A. Zavareei, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am the founder and Managing Partner of Tycko & Zavareei LLP ("TZ"), a 16-attorney firm based in Washington, D.C. with additional offices in Oakland, CA and Los Angeles, CA.

2. I have been a member good standing of The California Bar since 1996, The District of Columbia Bar since 1997, The Maryland Bar since 2002, and have been licensed in federal courts around the country since 1997. I am admitted to practice *pro hac vice* in this Court for this Action. Over the past 18 years, I have practiced full time primarily in the areas of consumer class actions and commercial litigation. I have been appointed as Lead Class Counsel or Class Counsel in numerous class actions, including nearly 30 actions against banks related to the improper assessment of overdraft fees. I have recovered hundreds of millions of dollars for those I have had the pleasure to represent. I actively participated in this Action, including negotiation of the Settlement Agreement, and am fully familiar with the proceedings being resolved. I am competent to testify to the facts set forth below, and if called as a witness and placed under oath, I would testify to those facts.

3. I submit this declaration in support of Class Counsel's application for attorneys' fees and reimbursement of costs as requested in the Unopposed Motion for Final Approval of Class Action

Settlement, Application for Attorneys' Fees and Costs, and Service Award. This declaration substantiates the professional time reasonably incurred and necessary and reasonable expenses incurred by attorneys at my firm in this matter. Given my role in this litigation, I have personal knowledge of the legal services rendered by the attorneys requesting fees and expenses. This declaration summarizes the work performed by my firm in this litigation that led to an outstanding result for the Settlement Class.

4. TZ has extensive experience litigating nationwide and state consumer class actions. Although the firm handles a variety of consumer class actions, we focus a significant amount of our resources pursuing financial institutions that assess their customers unlawful fees. The firm has been appointed class counsel in dozens of overdraft fee cases throughout the country and has tried several to verdict. The firm is well positioned to understand the risks of this action and why settlement at this stage of the litigation was the best option for the putative class. Based upon our experience as one of the leading overdraft fee litigation firms for nearly a decade, we are confident that in light of the risks inherent to litigation and defeating Capital One's various defenses to class certification and the merits, the settlement obtained here is an excellent result.

5. TZ has devoted the time and resources of its attorneys and staff to ensure the vigorous prosecution of the claims brought on behalf of the class in this litigation, as detailed in the Fee and Expense Application. Our firm resume, including biographical information for Andrea Gold, Anna Haac, Hassan Zavareei, Katherine Aizpuru, and Matthew Lanahan, is attached as ***Exhibit A***.

6. Andrea Gold ("AG") is a partner in the firm and was admitted to practice in Illinois in 2004, the District of Columbia in 2007, and Maryland in 2013. She is licensed in several federal courts around the country and has been appointed class counsel in numerous class actions.

7. Andrew Silver ("AS") is a former associate in the firm and was admitted to practice in Massachusetts in 2012 and the District of Columbia in 2013

8. Anna Haac ("AH") is a partner in the firm and was admitted to practice in Maryland in 2006 and the District of Columbia in 2008. She has been appointed class counsel in numerous class actions.

9. Jeffrey Kaliel (“JK”) is a former partner in the firm and was admitted to practice in California in 2005 and the District of Columbia in 2008

10. Katherine Aizpuru (“KA”) is an associate in the firm and was admitted to practice in Massachusetts in 2014, New York in 2015, and the District of Columbia in 2016.

11. Matthew Lanahan (“ML”) is an associate in the firm and was admitted to practice in Virginia in 2014 and the District of Columbia in 2016.

12. Nathan LaPorte (“NL”) is a former paralegal in the firm.

13. Nicole Porzenheim (“NP”) is a paralegal in the firm and has been working at TZ since 2019.

14. The current hourly rates for the attorneys and paralegals who worked on this case are as follows:

- a. Andrea Gold – \$759
- b. Andrew Silver – \$672
- c. Anna Haac – \$759
- d. Hassan Zavareei – \$914
- e. Jeffrey Kaliel – \$759
- f. Katherine Aizpuru – \$465
- g. Matthew Lanahan – \$465
- h. Nathan LaPorte - \$206
- i. Nicole Porzenheim – \$206

15. These rates are customarily charged by class action attorneys and paralegals practicing in the Southern District of New York with similar experience working on complex matters and are regularly approved therein.

16. I have organized the time spent by TZ's attorneys and paralegal into categories which describe the services which we rendered in this Action.

	<u>Task</u>	<u>AG</u>	<u>AS</u>	<u>AH</u>	<u>HZ</u>	<u>JK</u>	<u>KA</u>	<u>ML</u>	<u>NL</u>	<u>NP</u>
1	Pre-suit investigation, Factual Development, Client Meetings and Correspondence		2.7			3.0	0.6		3.1	
2	Legal Research		16.9	17.6		5.0	1.2	7.9	0.1	
3	Strategy / Case Analysis / Class Counsel Conferences	3.9	13.5	11.2	4.9	13.0	0.5	4.3	16.2	0.7
4	Complaint		31.9		6.6	2.3				
5	Motion to Dismiss		36.3		10.1	56.7				
6	Appeal	6.2	20.5		16.0	3.3	1.4			
7	Discovery, Document Review, Depositions		20.2	0.3		7.5			4.0	
8	Motions for Summary Judgment			23.8			1.5	11.9		
9	Motion for Class Certification		2.8	5.1						
10	Work with Experts									
11	Settlement Discussions, Mediation Statements, Mediation, and Post-Mediation Settlement Negotiations, Settlement Agreement Drafting	14.9			2.1				0.9	
12	Motion for Preliminary Approval			6.7	1.8					0.7
13	Work with Settlement and Notice Administrator									
14	Class Member Inquiries									
15	Motion for Final Approval			0.1 past 3.0 future	15.0 future					4.0 past
16	Post-Final Approval Work (estimated)			10.0	25.0					
	Totals	25.0	144.8	75.1	81.5	90.8	5.2	24.1	24.3	5.4

17. The total hours billed by the attorneys at TZ for this case are **476.20**. Applying the above hourly rates, the total lodestar is **\$336,432.40**.

18. This lodestar includes estimated time that will be spent from the date of this declaration forward, which I expect will include tasks related to responding to objections, if any; attending to class member inquiries; preparing for and attending the Final Approval Hearing; working with the Settlement Administrator; ensuring proper distribution of funds to class members; and any post-final approval motions.

19. Class Counsel will submit detailed time records for each attorney should the Court so require.

20. Additionally, I have organized the necessary expenses that our firm has incurred for the prosecution of this case. The firm is not seeking reimbursement for internal overhead expenses that are ordinarily reimbursed to Class Counsel in class actions and all travel has been billed at one-half of the actual cost. Cost receipts will be submitted to the Court should it likewise so require.

Category	Expenses
Mediator's Services	\$ 4,484.66
Court Fees	\$ 962.00
Court Reporter Fees	\$ 151.62
Litigation Support Vendors	\$ 2,079.29
Travel (billed at 50%)	\$ 2,865.67 (cut from \$ 5,730.73)
Mailing and Postage	\$ 10.38
Total	\$10,553.62

I declare under penalty of perjury that the foregoing is true and correct. Executed this 8th day of September 2020, in Washington, DC.

/s/ Hassan A. Zavareei
Hassan A. Zavareei

EXHIBIT A



Firm Resume

Jonathan Tycko and Hassan Zavareei founded Tycko & Zavareei LLP in 2002 when they left a large national firm to form a private public interest law firm. Since then, a wide range of clients have trusted the firm with their most difficult problems. Those clients include individuals fighting for their rights, tenants' associations battling to preserve decent and affordable housing, consumers seeking redress for unfair business practices, whistleblowers exposing fraud and corruption, and non-profit entities and businesses facing difficult litigation.

The firm's practice focuses on complex litigation, with a particular emphasis on consumer and other types of class actions, and *qui tam* and False Claims Act litigation. In its class action practice, the firm represent consumers who have been victims of corporate wrongdoing. The firm's attorneys bring a unique perspective to such litigation because many of them trained at major national defense firms where they obtained experience representing corporate defendants in such cases. This unique perspective enables the firm to anticipate and successfully counter the strategies commonly employed by corporate counsel defending class action litigation. Tycko & Zavareei's attorneys have successfully obtained class certification, been appointed class counsel, and obtained approval of class action settlements with common funds totaling over \$500 million.

Tycko & Zavareei's sixteen attorneys graduated from some of the nation's finest law schools, including Yale Law School, Harvard Law School, Columbia Law School, and the University of Michigan Law School. They have served in prestigious clerkships for federal and state trial and appellate judges and have worked for low-income clients through competitive public interest fellowships. The firm's diversity makes it a leader amongst its peers, and the firm actively and successfully recruits attorneys who are women, people of color, and LGBTQ. To support its mission of litigating in the public interest, Tycko & Zavareei offers a unique public interest fellowship for recent law graduates. Tycko & Zavareei's attorneys practice in state and federal courts across the nation.



Hassan A. Zavareei

Partner

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Mr. Zavareei has devoted the last eighteen years to recovering hundreds of millions of dollars on behalf of consumers and workers. He has served in leadership roles in dozens of class action cases and has been appointed Class Counsel on behalf of numerous litigation and settlement classes. An accomplished and experienced attorney, Mr. Zavareei has litigated in state and federal courts across the nation in a wide range of practice areas; tried several cases to verdict; and successfully argued numerous appeals, including in the D.C. Circuit, the Fourth Circuit, and the Fifth Circuit.

After graduating from UC Berkeley School of Law, Mr. Zavareei joined the Washington, D.C. office of Gibson, Dunn & Crutcher LLP. There, he managed the defense of a nationwide class action brought against a major insurance carrier, along with other complex civil matters. In 2002, Mr. Zavareei founded Tycko & Zavareei LLP with his partner Jonathan Tycko.

Mr. Zavareei has served as lead counsel or co-counsel in dozens of class actions involving deceptive business practices, defective products, and/or privacy. He has been appointed to leadership roles in multiple cases. As Lead Counsel in an MDL against a financial services company that provided predatory debit cards to college students, Mr. Zavareei spearheaded a fifteen-million-dollar recovery for class members. He is currently serving as Co-Lead Counsel in consolidated proceedings against Fifth Third Bank, and on the Plaintiffs' Executive Committee in MDL litigation against TD Bank. As Co-Lead Counsel in *Farrell v. Bank of America*, a case challenging Bank of America's punitive overdraft fees, Mr. Zavareei secured a class settlement valued at \$66.6 million in cash and debt relief, together with injunctive relief forcing the bank to change a practice that will save millions of low-income consumers approximately \$1.2 billion in overdraft fees. In his Order granting final approval, Judge Lorenz of the U.S. District Court for the Southern District of California described the outcome as a "remarkable" accomplishment achieved through "tenacity and great skill."



Education

UC Berkeley School of Law, 1995
Order of the Coif

Duke University, 1990
cum laude

Bar Admissions

California
District of Columbia
Maryland
Supreme Court of the United States

Memberships

Public Justice, Board Member
American Association for Justice

Awards

Washington Lawyers Committee,
Outstanding Achievement Award
Super Lawyer
Lawdragon 500

Presentations & Publications

Witness Before the Subcommittee on
the Constitution and Civil Justice,
115th Congress

Witness Before the Civil Rules
Advisory Committee, 2018, 2019

Editor, Duke Law School Center for
Judicial Studies, Guidance on New
Rule 23 Class Action Settlement
Provisions

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Andrea R. Gold

Partner

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Andrea Gold has spent her legal career advocating for consumers, employees, and whistleblowers. Ms. Gold has litigated numerous complex cases, including through trial. Her extensive litigation experience benefits the firm's clients in both national class action cases as well as in qui tam whistleblower litigation.

She has served as trial counsel in two lengthy jury trials.

In her class action practice, Ms. Gold has successfully defended dispositive motions, navigated complex discovery, worked closely with leading experts, and obtained contested class certification. Her class action cases have involved, amongst other things, unlawful bank fees, product defects, violations of the Telephone Consumer Protection Act, and deceptive advertising and sales practices.

Ms. Gold also has significant civil rights experience. She has represented individuals and groups of employees in employment litigation, obtaining substantial recoveries for employees who have faced discrimination, harassment, and other wrongful conduct. In addition, Ms. Gold has appellate experience in both state and federal court.

Prior to joining Tycko & Zavareei, Ms. Gold was a Skadden fellow. The Skadden Fellowship Foundation was created by Skadden, Arps, Slate, Meagher & Flom LLP, one of the nation's top law firms, to support the work of new attorneys at public interest organizations around the country.

Ms. Gold earned her law degree from the University of Michigan Law School, where she was an associate editor of the Journal of Law Reform, co-President of the Law Students for Reproductive Choice, and a student attorney at the Family Law Project clinical program. Ms. Gold graduated with high distinction from the University of Michigan Ross School of Business in 2001, concentrating her studies in Finance and Marketing.



Education

University of Michigan Law School, 2004
University of Michigan, Ross School of Business, 2001

Bar Admissions

District of Columbia
Illinois
Maryland

Memberships

American Association for Justice
National Associate of Consumer Advocates
National Employment Lawyers Association
Taxpayers Against Fraud

Awards

National Trial Lawyers, Top 100 Civil Plaintiff Lawyers, 2020
Super Lawyers, Rising Star
Skadden Fellow, Skadden Arps Slate Meagher & Flom LLP, 2004-2006



Anna Haac

Partner

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ahaac@tzlegal.com



Anna C. Haac is a Partner in Tycko & Zavareei's Washington, D.C. office. She focuses her practice on consumer protection class actions and whistleblower litigation. Her prior experience at Covington & Burling LLP, one of the nation's most prestigious defense-side law firms, gives her a unique advantage when representing plaintiffs against large companies in complex cases. Since arriving at Tycko & Zavareei, Ms. Haac has represented consumers in a wide range of practice areas, including product liability, false labeling, deceptive and unfair trade practices, and predatory financial practices. Her whistleblower practice involves claims for fraud on federal and state governments across an equally broad spectrum of industries, including health care fraud, customs fraud, and government contracting fraud.

Ms. Haac has helped secure multimillion-dollar relief on behalf of the classes and whistleblowers she represents. Ms. Haac also serves as the D.C. Co-Chair of the National Association of Consumer Advocates and as Co-Chair of the Antitrust and Consumer Law Section Steering Committee of the D.C. Bar.

Ms. Haac earned her law degree cum laude from the University of Michigan Law School in 2006 and went on to clerk for the Honorable Catherine C. Blake of the United States District Court for the District of Maryland. Prior to law school, Ms. Haac graduated with a B.A. in political science with highest distinction from the Honors Program at the University of North Carolina at Chapel Hill.

Ms. Haac is a member of the District of Columbia and Maryland state bars. She is also admitted to the United States Court of Appeals for the Second, Third, and Fourth Circuits and the United States District Courts for the District of Columbia, District of Maryland, and the Eastern District of Michigan, among others.

News & Press Mentions

Peter Hall, "Victaulic Ordered to Pay \$1.1 Million to Attorneys in Customs Lawsuit," *The Morning Call* (Sep. 11, 2019)

Education

University of Michigan Law School,
2006, *cum laude*
University of North Carolina at
Chapel Hill, *highest honors*

Bar Admissions

District of Columbia
Maryland

Memberships

Antitrust & Consumer Protection
Section of District of Columbia
Bar, Co-Chair
National Association of Consumer
Advocates, District of Columbia
Co-Chair

Awards

Super Lawyers, Rising Star, 2015

Presentations & Publications

Discussion Leader, "Practical Ideas about Properly Framing the Issues and Educating the Court and Public in Filings Responding to Increasing Attacks on Class Action Settlements and Fees," Invitation-Only Cambridge Forum on Plaintiffs' Class Action Litigation

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Whistleblower Lawyers See a Growth Area: Customs Fraud – Risk Compliance Journal (January 29, 2018)

“Court Unseals Documents and Grants Class Certification in Case against General Electric Company Alleging Dangerous Potential of Microwave Glass Doors to Spontaneously Shatter and Explode,” PR Newswire (March 16, 2017)

Moussako, Abraham, “Classes Certified In GE Shatter-Prone Microwave Suit,” Law360 (March 10, 2017)

Moyer, Justin Wm., “Lawsuit alleges JPMorgan Chase bilks D.C. jurors with high debit card fees,” The Washington Post (Feb. 10, 2017)

“U.S. Court of Appeals for the Third Circuit Issues Landmark Decision Holding that Failing to Properly Mark Imports with their Foreign Country of Origin Can Give Rise to False Claims Act Liability,” National Law Review (Oct. 6, 2016)

Katy Stetch & Valerie Bauerlein, “Christian Laettner Reaches Deal to Repay Investors,” Wall Street Journal (Sept. 20, 2016)

Blythe, Anne, “Former Duke player Laettner reaches deal with creditors to avoid bankruptcy,” The News & Observer (Sep. 20, 2016)

Center for Health Law & Policy Innovation, “In Face of Class Action Lawsuit, Delaware Medicaid Removes Unlawful Restrictions to the Cure for the Hepatitis C Virus,” Health Law & Policy, News Blog (June 8, 2016)

(October 2020)

Speaker, “Anatomy of a Class Action,” National Association of Consumer Advocates (TBD)

Panelist, “Government-Initiated (c)(2)(A) Dismissals of Qui Tam Complaints,” American Bar Association False Claims Act Conference (February 2020)

Panelist, “Rule 23(f) & Interlocutory Class Action Appeals,” National Consumer Law Center Class Action Symposium (November 2019)

Panelist, “Emerging Practice Areas,” Taxpayers Against Fraud Education Fund Conference (October 2019)

Moderator, “Current Landscape of Consumer Protection Enforcement at the Federal, State, and Individual Levels,” D.C. Bar Antitrust and Consumer Law Institute (September 2019)

Panelist, “False Claims Act 101,” Taxpayers Against Fraud Education Fund Conference (October 2018)

Speaker, “Nuts & Bolts of False Claims Act Practice,” American Bar Association Public Contract Law Fall Conference (Nov. 2018)

Panelist, “Developments in Reverse False Claims Liability,” Taxpayers Against Fraud Education Fund Conference (Nov. 2017)



Katherine M. Aizpuru

Associate

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Katherine M. Aizpuru is a fearless advocate for consumers and whistleblowers, pursuing high-stakes litigation in state and federal courts across the country. Ms. Aizpuru has represented classes of consumers against mortgage loan servicers that take advantage of elderly borrowers and homeowners in financial distress; financial institutions that assess improper and illegal fees against their customers; tech companies that violate user privacy; companies that sell defective products; and other corporations that use unfair and deceptive conduct to take advantage of the public. Ms. Aizpuru has also represented whistleblowers exposing fraudulent practices in the healthcare industry. She is committed to fierce advocacy on behalf of her clients and the public.

Prior to joining Tycko & Zavareei in 2017, Ms. Aizpuru clerked for the Honorable Theodore D. Chuang on the United States District Court for the District of Maryland and the Honorable Catharine F. Easterly on the District of Columbia Court of Appeals. She practiced law in the litigation group of a large international law firm, where she was recognized for her pro bono work.

Ms. Aizpuru graduated cum laude from Harvard Law School in 2014. While in law school, Ms. Aizpuru held positions on the Executive Board of the Harvard Journal of Law & Gender and the Board of Law Students for Reproductive Justice. Ms. Aizpuru earned her Bachelor of Arts with High Honors from Swarthmore College in 2010, with a major in Political Science and minor in Chinese Language & Literature. She is a member of Phi Beta Kappa.



Education

Harvard Law School, 2014,
cum laude

Swarthmore College, 2010,
high honors

Bar Admissions

District of Columbia
Massachusetts
New York

Memberships

American Association for Justice
Public Justice
Taxpayers Against Fraud

Awards

Super Lawyer, Rising Star 2020



Matthew W. Lanahan

Associate

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Matthew W. Lanahan graduated cum laude from the University of Michigan Law School in 2014. While in law school, Mr. Lanahan was a contributing editor of the Michigan Law Review. Mr. Lanahan graduated summa cum laude, honors baccalaureate from Virginia Polytechnic Institute and State University with a BA in English and minors in History and Pop Culture. Mr. Lanahan is a member of Phi Beta Kappa.

Mr. Lanahan joined Tycko & Zavareei in 2019. Prior to joining Tycko & Zavareei, Mr. Lanahan practiced law in the Washington, D.C. office of a large international law firm. During his time at that large international law firm, Mr. Lanahan's practice included work on large class actions, products liability matters, securities enforcement, false claims act matters, and complex commercial litigations. Mr. Lanahan also maintained a pro bono practice focused on large civil rights matters and landlord-tenant cases.

During law school, Mr. Lanahan participated in the federal appellate litigation clinic. Mr. Lanahan also interned for the Federal Defender's office in Detroit. Mr. Lanahan is a member of the District of Columbia and Virginia state bars.



Education

Michigan Law School, 2014 *cum laude*
Virginia Polytechnic Institute and State University, 2007 *summa cum laude*

Bar Admissions

District of Columbia
Virginia

Memberships

American Association for Justice
Public Justice