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11  
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13  
14 UNITED STATES DISTRICT COURT  
15 NORTHERN DISTRICT OF CALIFORNIA

16  
17 IN RE HP PRINTER FIRMWARE UPDATE  
LITIGATION

Case No. 5:16-cv-05820-EJD-SVK

**DECLARATION OF CHRISTOPHER  
WARE**

1 I, Christopher Ware, do declare as follows:

2 1. I am one of the named plaintiffs in this action. I have personal knowledge of the following  
3 facts and, if called upon as a witness, could and would competently testify thereto, except as to those  
4 matters which are explicitly set forth as based upon my information and belief and, as to such matters, I  
5 am informed and believe they are true and correct.

6 2. My attorneys informed me at the beginning of this litigation of the responsibilities of a  
7 class representative. I understand these responsibilities and am willing and prepared to put the interest  
8 of the class members before my own. Throughout this case, I believe that I served as an adequate class  
9 representative. I worked with my attorneys throughout the case, assisting in both formal and informal  
10 discovery that was requested of me, and assisting in drafting the complaint. I also regularly discussed  
11 the case with my attorneys when they had questions, and also participated in settlement negotiations for  
12 the class, by speaking with my attorneys about the status of settlement discussions.

13 3. I also participated in a full day of deposition, which I prepared for over several hours, in  
14 part with my attorneys.

15 4. I brought this case to address what I felt were unfair practices by HP, relating to firmware  
16 updates it made to my printer and the printers of others, which prevented consumers from using third  
17 party ink cartridges in their HP printers. HP did not disclose this to me before I purchased my 8600  
18 Officejet Pro printer, and I did not authorize HP to update my printer to deactivate it from being  
19 compatible with third party ink cartridges. I felt that HP's actions were unfair because they caused  
20 myself and others to have to purchase more expensive HP-brand ink in order to use our printers. I  
21 wouldn't have purchased an HP printer had I known HP was going to take such action.

22 5. I purchased my printer in 2012 from Amazon.com. The printer came with starter ink  
23 cartridges, but once those ran out, I began buying third party ink for use in my printer.

24 6. I first learned about the HP firmware updates at issue in this case in September 2016. I  
25 tried to scan a document using my printer and encountered an error message, which indicated there was  
26 a problem with my printer or its ink system. I turned my printer off and back on and tried again and it  
27 still would not work. I tried replacing the ink with non-HP brand ink cartridges and it would not work  
28 still.

1           7.       I learned of a patch offered by HP to fix this issue and downloaded it but was unable to  
2 download it. I actually thought maybe my printer was broken, so I went to Staples and bought a new one,  
3 along with some HP brand ink cartridges. At that point, I was able to scan and print again. I learned that  
4 the problem was that HP had installed a firmware update on my printer without my knowledge or  
5 permission, which prevented my printer from functioning with non-HP brand ink. This was very  
6 upsetting to me because I felt like it was my right as a consumer to be able to choose what type of ink I  
7 used in my own printer.

8           8.       I felt that as a consumer, it was important for me to stand up for others and do something  
9 about this. That is why I decided to file the case. I am very pleased with the settlement that we were able  
10 to achieve for the Class. It puts money back in the pockets of consumers who were affected by the same  
11 issues that affected me, and it also puts measures in place to prevent HP from doing the same thing  
12 again in the future.

13           9.       For my role in the case, I am seeking an incentive award of \$5,000.

14           10.      I have agreed to a class settlement in this case with Defendant. I have reviewed the  
15 Complaint, the Settlement Agreement, and other related materials, and have discussed their contents  
16 with my attorneys. I believe that the settlement achieved is an outstanding result for the Class, and is  
17 fair and reasonable, considering the potential risks of going forward with litigation, especially in light of  
18 some of the defenses that Defendant has raised. In determining that this Settlement is fair and  
19 reasonable, my attorneys advised me that about the substantial risks of not having class certification  
20 approved. In light of the serious risks of going forward with this case, the chance that we did not win on  
21 class certification, the likelihood of appeals, the potential for lengthy delay, and the ultimate uncertainty  
22 of recovery through litigation of the claims, I believe the settlement is fair and reasonable and represents  
23 an outstanding result for Class Members.

24           11.      I understand that by settling this case, the Parties were able to avoid costly and time  
25 consuming additional litigation and trial.  
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1           12. To my knowledge, I have no interest that is not in line with the class members.

2           13. I am asking the Honorable Court to approve an Incentive Award for myself of  
3 \$5,000. Additionally, I would estimate that I spent approximately 24 hours working with  
4 my attorneys on this matter, which included initial consultations and providing information to  
5 my attorneys, reviewing and approving several class action complaints for accuracy,  
6 discussions with my attorneys about the status of the case, including discovery and motions,  
7 participation in settlement discussions and preparing for and attending a full day of deposition,  
8 reviewing the settlement agreement and approval papers, and preparing declarations in this  
9 matter in support of class certification and approval of this settlement.

10           14. I respectfully request the Court approve the Motion for Final Approval, the  
11 Motion for Attorneys' Fees, and Incentive Award.

12           I declare under penalty of perjury under the laws of California and the United States  
13 that the foregoing is true and correct, and that this declaration was executed on February 1,  
14 2019.

15  
16 By: \_\_\_\_\_



Christopher Ware