

1 Daniel C. Girard (SBN 114826)
Jordan Elias (SBN 228731)
2 Elizabeth A. Kramer (SBN 293129)
3 **GIRARD GIBBS LLP**
601 California Street, Suite 1400
4 San Francisco, CA 94108
Telephone: (415) 981-4800
5 *dcg@girardgibbs.com*
6 *je@girardgibbs.com*
eak@girardgibbs.com

7
8 *Counsel for Plaintiffs*

9 [Additional Counsel Listed on Signature Page]

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11 **UNITED STATES DISTRICT COURT**
FOR THE DISTRICT OF NORTHERN CALIFORNIA
12 **SAN JOSE DIVISION**

13
14 IN RE HP PRINTER FIRMWARE UPDATE
15 LITIGATION

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

**DECLARATION OF JAMES ANDREWS IN
SUPPORT OF MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT**

DECLARATION OF JAMES ANDREWS

I, James Andrews, do declare as follows:

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

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

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

4. I brought this case to address what I felt were unfair practices by HP, relating to firmware updates it made to my printer and the printers of others, which prevented consumers from using third party ink cartridges in their HP printers. HP did not disclose this to me before I purchased my Officejet 4500 printer, and I did not authorize HP to update my printer to deactivate it from being compatible with third party ink cartridges. I felt that HP's actions were unfair because they caused myself and others to have to purchase more expensive HP-brand ink in order to use our printers. I wouldn't have purchased an HP printer had I known HP was going to take such action.

1 5. After my printer failed to function as a result of the HP firmware
2 update, I was forced to go to FedEx and print materials at 13 cents per page instead
3 of being able to do it at home, which caused economic hardship and wasted my time.

4 6. I had previously used third party ink cartridges for a much cheaper price
5 than HP brand ink cartridges. I believed that I would be able to do so when I
6 purchased the printer. I don't think what HP did was right. I had a reliable printer
7 that worked fine with third party ink, which was much cheaper, and then one day it
8 began to fail because of an update HP made to my product without my permission
9 or telling me they were going to do so.

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

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

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

1 10. I understand that by settling this case, the Parties were able to avoid
2 costly and time consuming additional litigation and trial.

3 11. To my knowledge, I have no interest that is not in line with the class
4 members.

5 12. I am asking the Honorable Court to approve an Incentive Award for
6 myself of \$5,000. Additionally, I would estimate that I spent approximately twenty
7 to twenty five hours working with my attorneys on this matter, which included initial
8 consultations and providing information to my attorneys, reviewing and approving
9 several class action complaints for accuracy, discussions with my attorneys about
10 the status of the case, including discovery and motions, participation in settlement
11 discussions and preparing for and attending a full day of deposition, reviewing the
12 settlement agreement and approval papers, and preparing declarations in this matter
13 in support of class certification and approval of this settlement.
14

15 13. I respectfully request the Court approve the Motion for Final Approval,
16 the Motion for Attorneys' Fees, and Incentive Award.

17 I declare under penalty of perjury under the laws of California and the United
18 States that the foregoing is true and correct, and that this declaration was executed
19 on February 3, 2019.

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22 James Andrews

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ADDITIONAL COUNSEL

Todd M. Friedman (SBN 216752)
Adrian R. Bacon (SBN 280332)

LAW OFFICES OF TODD M. FRIEDMAN, P.C.

21550 Oxnard St., Suite 780
Woodland Hills, California 91367
Telephone: (877) 206-4741
Facsimile: (866) 633-0228
tfriedman@toddfllaw.com
abacon@toddfllaw.com

Joseph R. Saveri (SBN 130064)
Nicomedes S. Herrera (SBN 275332)
Kyla J. Gibboney (SBN 301441)

JOSEPH SAVERI LAW FIRM, INC.

555 Montgomery Street, Suite 1210
San Francisco, California 94111
Telephone: (415) 500-6800
Facsimile: (415) 395-9940
jsaveri@saverilawfirm.com
nherrera@saverilawfirm.com
kgibboney@saverilawfirm.com

Daniel R. Karon

KARON LLC

700 W. St. Clair Avenue, Ste. 200
Cleveland, Ohio 44113
Telephone: (216) 622-1851
Facsimile: (216) 241-8175
dkaron@karonllc.com

Taylor Bartlett (*pro hac vice*)

HENINGER GARRISON DAVIS, LLC

2224 1st Avenue North
Birmingham, Alabama 35203
Telephone: (205) 326-3336
Facsimile: (205) 380-8085
taylor@hgdlawfirm.com

Counsel for Plaintiffs