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Deena Fischer, and Elena Weinberger,
14 individually, and on behalf of a class of
similarly situated individuals

15 UNITED STATES DISTRICT COURT
16 FOR THE NORTHERN DISTRICT OF CALIFORNIA
17 SAN JOSE DIVISION

18 Case No. 5:18-cv-06868-NC

19 _____)
NICK KING, JR., DEENA FISCHER, and)
20 ELENA WEINBERGER, Individually and on)
Behalf of All Others Similarly Situated,)
21 Plaintiffs,)

**DECLARATION OF RICHARD DUBOIS
IN SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF CLASS
SETTLEMENT**

22)
23 v.)

24 BUMBLE TRADING, INC., and BUMBLE)
HOLDING LTD.,)
25 Defendants)
26)
27)

1 I, Richard Dubois, declare as follows:

2 1. I have personal knowledge of the facts in this Declaration and, if called as a
3 witness, I could and would competently testify to these facts.

4 2. I am Executive Director of the National Consumer Law Center (“NCLC”). As
5 Executive Director of NCLC, I am responsible for priority setting, project assignments, and
6 quality of work at the organization, and direct all research, policy, and advocacy projects, as well
7 as Center policy-making, hiring, fundraising, and budgetary planning. I have been with NCLC
8 since 1997, having previously served as Deputy Director, as Director of Development and Project
9 Planning, and as an attorney focusing on foreclosure prevention and sustainable homeownership
10 issues. I have also been a co-author or contributing author of a number of NCLC publications,
11 including NCLC’s treatise *Consumer Warranty Law*.

12 3. NCLC is a 501(c)(3) nonprofit organization dedicated to consumer protection and
13 the promotion of fairness and justice in the marketplace. NCLC was founded in 1969 with
14 funding from the federal Office of Economic Opportunity as a national support center for legal
15 services organizations. Today, NCLC is a fully independent organization governed by a volunteer
16 national board of directors, including attorneys and clients from low-income communities, which
17 continues to prioritize providing training, support and case assistance to legal aid and pro bono
18 attorneys representing low-income clients.

19 4. For more than five decades, NCLC has been a leading source of legal and public
20 policy expertise on consumer issues for lawyers, federal and state policymakers, consumer
21 advocates, journalists, and front-line providers of community services. With a goal of protecting
22 consumers from, and redressing injuries caused by inaccurate, false and misleading statements or
23 omissions by businesses, NCLC has trained and advised tens of thousands of advocates on
24 consumer legal issues, appeared in cases throughout the nation, worked with state and federal
25 commissions and legislatures, written investigative reports, and published leading legal practice
26 manuals and consumer guides. Specific examples of the ways in which NCLC’s consumer law
27 expertise is used to support consumer attorneys and directly benefit consumers include the
28 following:

1 5. **Conferences and Trainings:** Every year, NCLC trains thousands of attorneys and
2 other advocates through workshops, conference presentations, and webinars. These 2-4 day, in
3 depth trainings benefit consumers nationally by ensuring that practitioners and advocates
4 understand the current state of consumer law and accurately apply existing legal frameworks.
5 NCLC hosts three annual conferences, including the nation's largest annual consumer law
6 conference, the [Consumer Rights Litigation Conference](#) (CRLC). Sessions are led by the nation's
7 most successful consumer litigators where questions are asked and answered, ideas on best
8 practice are shared, and powerful consumer law remedies and attorney fee recovery methods are
9 learned. Built within the CRLC, following the main conference, is the Class Action Symposium
10 where attorneys learn about cutting-edge issues that confront class action practitioners. The
11 Symposium attracts 125-150 practitioners each year. Featured presenters at the Consumer Class
12 Action Symposium recently have included Deans Robert Klonoff and Erwin Chemerinsky; Judges
13 Richard Posner and William Young; State Attorney Generals Skip Humphrey and John Kroger;
14 Professors Richard Daynard, Linda Mullinix, Rick Marcus, Brian Fitzpatrick, and Victoria Sahani;

15 6. **Legal Treatises and Consumer Law Publications:** NCLC publishes a
16 comprehensive 21-volume set of legal [treatises](#), widely cited in judicial opinions by courts,
17 including the United States Supreme Court. The American Bar Journal review of NCLC's treatises
18 described the series as "a monumental undertaking comparable to but more practical than the
19 Restatement of Laws." NCLC also produces books and other educational materials intended for
20 consumers themselves, and for our large network of lay advocates and service providers. Written
21 in clear and direct language, and updated regularly in its digital format, these materials give
22 practical advice on consumer rights.

23 7. Specifically, the [Unfair and Deceptive Acts and Practices](#) treatise provides solid
24 understanding on how an unfair and deceptive acts and practices (UDAP) statute usually provides
25 attorney fees and enhanced damages for a wide array of deceptive or abusive practices. For over
26 30 years, NCLC's UDAP manual has been the definitive treatise in this area for use in all 50 states.
27 It addresses issues related to: consumer refunds and cancellation rights, automatic renewal
28 provisions, unfair, illegal and unenforceable consumer contract terms, insurance products sales or

1 claims practices; predatory lending, loan brokers, and mortgage abuse; credit card abuses;
2 application to national banks; automobile sales, financing, leasing; manufactured homes and
3 parks; service contracts and auto repair; landlord-tenant, insurance, utilities; failure to disclose;
4 unfairness standards; liability of third parties for UDAP violations; scope of each state's UDAP
5 statute; and preconditions to litigation under each state's UDAP statute.

6 8. NCLC also publishes the Consumer Class Actions manual, a practical litigation
7 guide and how-to manual for handling a class action, even for small law offices, written by
8 experienced consumer class action litigators. It covers case selection and class definitions; forum
9 selection; class certification; class notice; and claims administration and distribution of benefits,
10 among many other topics. It is a comprehensive and highly praised resource designed to give step-
11 by-step advice on every major aspect of handling a consumer class case.

12 9. **Legal and Policy Analysis:** NCLC's legal and policy experts analyze regulatory
13 proposals; provide expert witness services; and research and write extensive Reports, Policy
14 Briefs, and formal regulatory comments on a wide range of consumer law matters, including on
15 (but not limited to) issues associated with the Truth in Lending Act (TILA), the Fair Credit
16 Reporting Act (FCRA), the Equal Credit Opportunity Act (ECOA), the Fair Debt Collection
17 Practices Act (FDCPA), the Telephone Consumer Protection Act (TCPA), the Fair and Accurate
18 Credit Transactions Act (FACTA), the Military Lending Act (MLA), and more.

19 10. **Public Education:** NCLC also responds to requests from journalists for
20 information and disseminates our research on important consumer issues. We are consulted for
21 background information and quoted regularly by *The New York Times*, *The Wall Street Journal*,
22 *USA Today*, *The Los Angeles Times*, *The Washington Post*, National Public Radio, and other
23 major news organizations. We work with the media to alert consumers to potentially misleading
24 business practices, and to provide tips on practical steps that the public can take to obtain relief
25 from (or not be harmed by) improper business conduct.

26 11. I understand that if NCLC receives a *cy pres* award in this action, the parties
27 request that any funds from the California settlement class be designated to benefit consumers in
28

1 California only and any funds from the nationwide settlement class be designated to benefit
2 consumers nationwide.

3 12. NCLC can and will commit to use the funds in the following manner. The
4 nationally designated funds will be used for education and training, including scholarships to
5 NCLC conferences and trainings, and to better inform consumers and advocate on their behalf,
6 with respect to consumers' refund and cancellation rights in contracts and other unfair and
7 deceptive practices relating to Internet sales. The California fund will be used for education and
8 training, including scholarships to NCLC conferences and trainings and to better inform
9 consumers and advocate on their behalf, with respect to negative option and automatic renewal
10 contracts, unwanted or recurring charges to credit cards, bank accounts, and third-party
11 payment systems.

12 13. NCLC approves of the approach adopted by the American Law Institute in § 3.07
13 of its Principles of the Law of Aggregate Litigation regarding the criteria a court should apply to
14 determining whether a proposed *cy pres* distribution is appropriate. NCLC also adheres to, and
15 supports, Guideline 7, *Cy Pres Awards*, of the National Association of Consumer Advocates
16 Standards and Guidelines for Litigating and Settling Consumer Class Actions (3rd Ed. 2014). The
17 procedures set forth in these rules have been endorsed by federal courts as the best way to insure
18 that (1) there is a maximum distribution to class members; (2) the designation of the remaining
19 funds will be allocated for uses that are most likely to further the interests of absent class
20 members; and (3) the selection process is not tainted by self-interest.

21 14. NCLC has long been considered by courts to be a worthy recipient of *cy pres*
22 awards. Since 1997, NCLC has been approved by courts to receive over 500 *cy pres* and class
23 action settlement awards, all of which have been used to promote consumer protections and equal
24 access to justice for consumers in need of effective legal representation. NCLC is a national
25 organization and is therefore well tailored for cases that involve national harm. In support of this
26 belief, in a final court order filed February 22, 2016 in *Brandewie v. Wal-Mart*, Case No. 1:14-cv-
27 965 (N.D. Ohio) it was noted that the court “carefully scrutinized the proposed list of recipients
28 and rejected all proposed recipients but one” – NCLC. The judge wrote in a court order filed

1 December 16, 2015 (Doc. 82 in same case) awarding NCLC residual funds from the case “will
2 further the interest of absent Class Settlement Members”.

3 15. I declare under penalty of perjury under the laws of the United States of America
4 that the foregoing is true and correct.

5 Executed this 18th day of June 2020, at Boston, Mass.

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8 Richard Dubois

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