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Counsel for Plaintiffs and the Class

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA

JACKIE FITZHENRY-RUSSELL and
GEGHAM MARGARYAN, as individuals,
on behalf of themselves, the general public
and those similarly situated,

Plaintiffs,

v.

KEURIG DR. PEPPER, INC and DR
PEPPER/SEVEN UP, INC.,

Defendants.

Case Nos. 5:17-cv-00564-NC (lead); 5:17-cv-04435-NC (consolidated)

**DECLARATION OF ADAM J. GUTRIDE
IN SUPPORT OF PLAINTIFFS' REPLY IN
SUPPORT OF MOTION FOR APPROVAL
OF CLASS ACTION SETTLEMENT**

Date: April 10, 2019

Time: 2:00 p.m.

Courtroom: 5

Judge: Honorable Nathanael Cousins

1 I, Adam Gutride, 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 Plaintiffs and the
4 certified class in the above captioned matter. I submit this declaration in support of Plaintiffs’
5 Motion for Approval of Class Settlement. Unless otherwise noted, I have personal knowledge of the
6 facts set forth in this declaration and could and would testify competently to them if called upon to
7 do so. I discuss, in the following order, (a) additional efforts undertaken to notify the Class and (b)
8 updated lodestar and expenses incurred by Class Counsel.

9 **A. Additional Efforts to Notify Class**

10 2. I have worked diligently to ensure that notice is delivered to class members and to
11 ensure that the maximum possible number of claims are filed. I reviewed, tested, and requested
12 changes to several initial versions of the settlement website and IVR script, including improving the
13 clarity and operation of the claim form and debugging certain aspects of the claim processing.
14 During the notice period, I had more than a dozen phone calls and an in-person meeting with the
15 claim administrator to discuss improvements to the notice program and the claim process, to
16 increase the claim rate. Among other things, I demanded changes to the banner ads to improve the
17 click-through rate and demanded that additional notice be provided after completion of the initial
18 notice period. I also carefully monitored weekly reports about notice and claims. I provided the
19 claim administrator with all known contact information for 175 potential class members, both in
20 California and elsewhere, who had contacted my firm during the pendency of the litigation, so that
21 notice could be sent directly to those persons. Members of my firm also responded to inquiries from
22 class members about the settlement. Further, GSLLP posted about the Settlement on its Facebook
23 page and, at its own expense, paid to boost the post to a larger audience.

24 **B. Updated Lodestar and Expenses for Plaintiffs’ Counsel**

25 3. My prior declaration included time billed through December 31, 2018. Our updated
26 totals are below. These include the work done: (1) drafting the settlement agreement and exhibits;
27 (2) drafting the motion to approve the settlement and supporting declarations, and appearing a the
28

1 preliminary approval hearing; and (3) implementing the settlement, including the work with the
 2 claim administrator and class members described above; and (4) drafting the reply in support of
 3 final approval and amended final approval order. However, because GSSLP timekeepers are not
 4 required to finalize their time entries until end of the month, there are likely additional hours not yet
 5 in the system for the current month of March 2019. The hourly rates shown for the attorneys and
 6 paralegals at GSSLP are the same as the regular rates charged in 2018 for their services in other
 7 litigation. The Laffey computations were done using the same methodology as described in my
 8 prior declaration:

9	10	11	12	13	14	15	16
Timekeeper	Hours	GSSLP 2018 Rate	Total Based on GSSLP 2018 Rate	2018- 2019 Laffey Rate	Laffey Rate with 8.6% Bay Area Multiplier	Adjusted Laffey Total	
12	Adam J. Gutride	1004.2	\$975	\$979,095.00	\$894	\$970.88	\$974,957.70
13	Seth A. Safier	518.3	\$950	\$492,385.00	\$894	\$970.88	\$503,207.10
14	Marie McCrary	1163	\$850	\$988,550.00	\$742	\$805.81	\$937,157.03
15	Todd Kennedy	24.5	\$850	\$20,825.00	\$742	\$805.81	\$19,742.35
16	Kristen Simplicio	133.2	\$800	\$106,560.00	\$742	\$805.81	\$107,333.89
17	Anthony Patek	10.5	\$800	\$8,400.00	\$742	\$805.81	\$8,461.01
18	Kate Manka	41.8	\$800	\$33,440.00	\$894	\$970.88	\$40,582.78
19	Matt McCrary	1432.6	\$775	\$1,110,265.00	\$658	\$714.59	\$1,023,721.63
20	Rajiv Thairani	417.4	\$550	\$229,570.00	\$455	\$494.13	\$206,249.86
21	Jessica Kagansky	106.3	\$500	\$53,150.00	\$371	\$402.91	\$42,829.33
22	Ashley Garcia	369.5	\$260	\$96,070.00	\$202	\$219.37	\$81,057.22
23	Jennifer Gardner	19.8	\$250	\$4,950.00	\$202	\$219.37	\$4,343.53

TOTAL	5091.6	\$4,123,260.00	\$3,949,643.43
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4. Expenses are accounted for and billed separately and are not duplicated in my professional billing rate, as stated in my prior declaration. An updated account of GSLLP's expenses and a breakdown of all additional expenses not included in my prior declaration is attached hereto as **Exhibit A**. To summarize, the total updated expenses are as follows:

Expense Category	Amount
Arbitrators/Mediators (E121)	\$ 7,776.65
Court Fees (E112)	\$ 1,145.00
Delivery Services & Messengers (E107)	\$ 2,816.50
Deposition Transcripts (E115)	\$ 43,082.15
Experts (E119)	\$ 256,122.59
Litigation Support Vendors (E118)	\$ 7,150.54
Local Travel (E109) ¹	\$ 1,624.36
Local Counsel (E122)	\$ 2,485.00
Meals (E111)	\$ 3,447.38
Online Research (E106)	\$ 963.99
Other (E124) ²	\$ 63,863.03
Out-of-Town Travel (E110)	\$ 20,182.82
Outside Printing (E102)	\$ 4,950.59
Postage (E108)	\$ 47.92
Subpoena Fees (E113)	\$ 80.00
TOTAL	\$ 415,738.52

¹ Includes taxis, and parking, tolls, and mileage for automobiles owned by GSLLP timekeepers.

² This category includes expenses for the purchases of products to test, mock trial jury research, and the class certification notice and administration.

5. Based on the facts above and those set forth in the previously filed declarations of my co-counsel, the total lodestars and expenses incurred by Plaintiffs' counsel is as follows:

Firm	Lodestar	Adjusted Laffey Lodestar	Expenses
GSLLP	\$4,123,260.00	\$3,949,643.43	\$415,738.52
The Margaryan Law Firm	\$114,370.00	\$128,950.10	\$4,780.07
Durie Tangri LLP	\$163,990.50	\$183,180.25	\$2,523.54
DeBenedictis & DeBenedictis LLP	\$83,022.50	\$92,751.20	\$1,837.56
TOTAL	\$4,484,643.00	\$4,354,524.98	\$424,879.69

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

Executed at Berkeley, California, this 27th day of March, 2019.

/s/ Adam J. Gutride
 Adam J. Gutride, Esq.

Exhibit A

Gutridge Saffler, LLP

Profit & Loss by Class

		All Transactions					
		Canada Dry Book	unpaid or unbooked	total costs	Jan 2019 Filing	Mar 2019 Supp Costs	
Ordinary Income/Expense							
Expense							
	Arbitrators/Mediators (E121)	7,776.65			5375.00	2401.65	7776.65
	Court Fees (E112)	1,145.00			1145.00		
	Delivery Svcs & Msgs (E107)	2,816.50			2491.50	325.00	2816.50
	Deposition Transcripts (E115)	41,386.20	1695.95	43082.15	40941.15	2141.00	43082.15
	Experts (E119)	256,122.59			255235.59	887.00	256122.59
	Litigation Sup Vendors (E118)	7,150.54			5088.93	2061.61	7150.54
	Local Counsel (E122)	2,485.00			2485.00		
	Meals (E111)						
	Local Business Meals	538.59					
	Travel Business Meals	2,908.79					
	Total Meals (E111)	3,447.38			2387.58	1059.80	3447.38
	Online Research (E106)	803.19	160.80	963.99	534.63	429.36	963.99
	Other (E124)	28,581.63	35281.40	63863.03	59017.17	4845.86	63863.03
	Outside Printing (E102)	4,950.59			4950.59		
	Postage (E108)	47.92			16.52	31.40	47.92
	Subpoena Fees (E113)	80.00			80.00		
	Travel						
	Local Travel (E109)	1,624.36			1176.36	448.00	1624.36
	Out-of-Town Travel (E110)	20,182.82			18,054.02	2128.80	20182.82
	Total Travel	21,807.18					
	Total Expense	378,600.37	37138.15	415738.52	398979.04	16759.48	415738.52
	Net Ordinary Income	-378,600.37					
		-378,600.37					

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Canada Dry Ginger Ale Expenses

	CDGA	Date Paid		
Arbitrators/Mediators (E121)	2,401.65			
		01/07/2019 JAMS		2,387.93
		02/08/2019 JAMS		13.72
				2,401.65
Delivery Svcs & Msgs (E107)	325.00			
		12/04/2018 S&R Services	11/30/18 - Pretrial Conf Stmt, M	90.00
		12/06/2018 S&R Services	Jt Stip to Further Amend PT Pr	90.00
		12/10/2018 Lone Star Legal LLC	11/29/18 - Document Filing US	75.00
		01/09/2019 S&R Services	Class Action Agmt, Chamber's	70.00
				325.00
Deposition Transcripts (E115)	2,141.00			
			5/30/18 - Cancellation fee for Dana Krueger	-242.00
		08/20/2018 Veritext Corp	Esquire Hottenstein Transcript	1,386.75
		08/23/2018 Hector Aldana	Depo of Leslie Norris	475.00
		08/29/2018 Hector Aldana	Depo of Istamar Simonson	475.00
		01/16/2019 Joan Marie Columbini	1/1/19 - FTR Proceedings befo	46.25
				2,141.00
Experts (E119)	887.00			
		01/08/2019 Economics and Technology CDGA		337.00
		01/08/2019 Rubin Anders Scientific, Inc	12/15/18 - Randy Culp review c	350.00
		02/04/2019 Economics and Technology	trial flight cancellation penalty	200.00
				887.00
Litigation Sup Vendors (E118)	2,061.61			
		01/02/2019 CS Disco		447.22
		02/02/2019 CS Disco		454.22
		3/2/19 CS Disco		1,160.17
				2,061.61
Local Travel (E109)	448.00			
		10/17/2018 Block Parking Lot	A. Gutride, Hearing on Motion i	10.00
		12/05/2018 Block Parking Lot	S. Safer	20.00
		12/05/2018 Block Parking Lot	A. Gutride, Pretrial Conference	20.00
		12/13/2018 S. Safer	Parking	10.00
		12/31/2018 A. Gutride	2018 Mileage	327.00
		01/04/2019 ABM Valley Title Lot	A. Gutride - Mock Trial	25.00
		01/09/2019 Block Parking Lot	S. Safer	18.00
		01/09/2019 Block Parking Lot	A. Gutride, Preliminary Approv	18.00
				448.00
Meals (E111)	1,059.80			
		08/23/2018 MIXT 100, San Francisco	A. Gutride - Norris Deposition	15.82
		08/25/2018 Homage, San Francisco	A. Gutride, meeting with Daraly	34.16
		10/15/2018 MIXT 100, San Francisco	A. Gutride, Ugone Deposition	12.41
		10/23/2018 Ben & Jerry's	Matt McCrary - MTD Hearing B	7.80
		10/24/2018 Buffalo/Niagara Airport	Matt McCrary - MTD Hearing B	3.10
		10/24/2018 Subway Buffalo, NY	Matt McCrary - MTD Hearing ir	11.96
		12/12/2018 Panda - Main Terminal	Marie McCrary - travel for mocl	11.50
		12/12/2018 Starbucks	Marie McCrary - travel for mocl	5.89
		12/12/2018 CNN News	Matt McCrary, Mock Trial	7.64
		12/12/2018 KFC Pizza Hut Denver	Matt McCrary - mock trial	9.39
		12/13/2018 Starbucks	Marie McCrary - mock trial	6.28
		12/13/2018 Smashburger Term B SJC	Marie McCrary - mock trial	22.24
		12/13/2018 Caffe Frascati	Marie McCrary - mock trial	10.78
		12/13/2018 Panera Bread	Meals for mock trial	820.21
		12/13/2018 Subway	Matt McCrary - mock trial	14.70

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Canada Dry Ginger Ale Expenses

		12/13/2018 Subway	Matt McCrary - mock trial	2.17
		12/13/2018 Denver Airport Enterprise	Matt McCrary - mock trial	2.03
		12/13/2018 Caffè Frascati, San Jose	Matt McCrary - mock trial	17.81
		12/14/2018 grubhubhawaiiianp	Marie McCrary - mock trial	26.31
		01/10/2019 Culinary Corner	A. Gutride - Preliminary Approv	17.60
				1,059.80
Online Research (E106)	429.36			
		11/12/2018 Pacer Service Center	A. Gutride	2.50
		01/14/2019 Pacer Service Center	S. Safer	19.46
		01/07/2019 Pacer Service Center	R. Thairani	160.80
		01/21/2019 Pacer Service Center	Marie McCrary	230.00
		02/08/2019 Pacer Service Center	A. Gutride	10.60
		02/08/2019 Pacer Service Center	K. Semplicio	6.00
				429.36
Other (E124)	4,845.86			
		09/30/2016 Facebook	Advertising Case Investigation	46.48
		10/31/2016 Facebook	Advertising Case Investigation	84.27
		05/09/2018 Facebook	Advertising Case Investigation	2.54
		05/09/2018 Facebook	Advertising Case Investigation	153.06
		05/14/2018 Facebook	Advertising Case Investigation	91.45
		05/14/2018 Facebook	Advertising Case Investigation	1.47
		05/15/2018 Facebook	Advertising Case Investigation	15.81
		05/15/2018 Facebook	Advertising Case Investigation	0.26
		11/15/2018 Safeway	A. Gutride - Trial Exhibits	102.94
		12/13/2018 Safeway	Matt McCrary - Snacks for Moc	32.18
		01/10/2019 Bonora Bountree, Inc.	Mock Trial	4,315.40
				4,845.86
Out-of-Town Travel (E110)	2,128.80			
		08/29/2018 SWA Inflight	A. Gutride	8.00
		10/02/2018 Southwest Airlines	A. Gutride, Ugone Deposition	633.96
		10/15/2018 Hotels.com	Matt McCrary - MTD Hearing B	222.97
		10/15/2018 JetBlue	Matt and Marie McCrary - MTD	376.38
		10/15/2018 American Airlines	Marie McCrary - MTD Hearing	206.80
		10/15/2018 American Airlines	Matt McCrary - MTD Hearing ir	206.80
		10/29/2018 DIA Parking Operations	Matt McCrary - MTD Hearing ir	162.00
		11/13/2018 SWA Inflight WIFI	A. Gutride	8.00
		11/30/2018 SWA Inflight WIFI	A. Gutride	8.00
		12/01/2018 SWA Inflight	A. Gutride	8.00
		12/01/2018 SWA Inflight WIFI	A. Gutride	8.00
		12/11/2018 Convention Center Inn San	Matt McCrary - mock trial	204.06
		12/13/2018 Uber	Marie McCrary - Mock Trial	17.83
		12/14/2018 DIA Parking Operations	Matt McCrary - mock trial	50.00
		01/02/2019 SWA Inflight WIFI	A. Gutride	8.00
				2,128.80
Outside Printing (E102)	4,442.33			
		2/19/18 Fedex Office	Matt McCrary - Deposition Exh	195.81
		2/21/18 Fedex Office	Marie McCrary - documents for	21.52
		2/21/18 Fedex Office	Marie McCrary - documents for	71.83
		2/21/18 Fedex Office	Marie McCrary - documents for	4.36
		2/21/18 Fedex Office	Marie McCrary - documents for	0.41
		2/21/18 Fedex Office	Marie McCrary - documents for	3.24
		2/21/18 Fedex Office	Matt McCrary - Deposition Exh	82.19
		2/22/18 uniguest	Marie McCrary - documents for	35.97
		2/22/18 Fedex Office	Marie McCrary - documents for	326.09
		2/23/18 UPS Store	Matt McCrary - Deposition Exh	33.52
		2/23/18 uniguest	Matt McCrary - Deposition Exh	0.29
		2/23/18 UPS Store	Matt McCrary - Deposition Exh	11.70
			Document Filing USDC, San	
		4/16/18 Lone Star Legal LLC	Jose	662.51
			Document Filing USDC, San	
		4/16/18 Lone Star Legal LLC	Jose	102.23

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Canada Dry Ginger Ale Expenses

	5/23/18	Fedex Office	A. Gutride, Copies for Ugone C	34.64
	5/23/18	Fedex Office	A. Gutride, Copies for Ugone C	138.14
	5/23/18	Fedex Office	A. Gutride, Copies for Ugone C	1.74
	5/23/18	Fedex Office	A. Gutride, Copies for Ugone C	35.94
	5/24/18	Fedex Office	A. Gutride, Copies for Ugone C	3.24
	5/24/18	Fedex Office	A. Gutride, Copies for Ugone C	40.11
	5/24/18	Fedex Office	A. Gutride, Copies for Ugone C	26.47
	5/29/18	Fedex Office	Marie McCrary - Depo of Kruec	23.48
	5/30/18	Fedex Office	Marie McCrary - Depo of Berfu	54.84
			Document Filing USDC, San	
	6/8/18	Lone Star Legal LLC	Jose	92.00
			Document Filing USDC, San	
	6/12/18	Lone Star Legal LLC	Jose	36.11
	8/7/18	Fedex Office	K. Semplicio	30.77
	8/22/18	Discovery Document Solutions, Inc.		857.62
	8/27/18	Fedex Office	Matt McCrary - Exhibits for Sirr	292.23
	8/28/18	Fedex Office	Matt McCrary - Simonson Depo	8.67
	9/28/18	Lone Star Legal LLC	Document Filing, USDC, San J	406.56
	10/10/18	Fedex Office	Marie McCrary - Befurt Depo	34.39
			Document Filing USDC, San	
	12/10/18	Lone Star Legal LLC	Jose	745.50
			Reimbursement for Mocht Trial	
	12/12/18	R. Thairani	Printing Costs	28.21
				4,442.33
Postage (E108)	31.40			
		12/27/2018 USPS	S. Safier	6.70
		01/03/2019 USPS	A. Safier	24.70
				31.40
Subpoena Fees (E113)	80.00			
	6/15/18	S&R Services	Inv #16605, Deposition Subpor	40.00
	6/15/18	S&R Services	Inv #16640, Svc on Interpublic	40.00
				80.00

 21,281.81