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12 Attorneys for Patrick Venieris and the
13 Proposed Class

14 **IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA**
15 **IN AND FOR THE COUNTY OF MARICOPA**

16 Patrick Venieris, individually and on) Case No.: CV2019-053176
17 behalf of all others similarly situated,)
18) **CLASS ACTION**
Plaintiff,)
19) **DECLARATION OF MICHAEL C.**
20 vs.) **MCKAY IN SUPPORT OF**
) **UNOPPOSED MOTION FOR**
21 PVH Retail Stores, LLC, an Arizona) **PRELIMINARY APPROVAL OF**
22 Limited Liability Company, d/b/a Tommy) **PROPOSED SETTLEMENT &**
Hilfiger Company Store and/or Tommy) **PROVISIONAL CLASS**
23 Hilfiger,) **CERTIFICATION**
)
24 Defendant.) The Hon. Theodore Campagnolo
)
25)
26)
27)

1 I, Michael C. McKay, declare as follows:

2 1. I am an attorney duly licensed to practice law in the State of Arizona. I am a
3 member in good standing of the State Bar of Arizona.

4 2. I founded McKay Law in 2018. Prior to founding McKay Law, I was a
5 partner in law firm with offices in San Francisco, Los Angeles, Scottsdale, Houston,
6 Charlotte, and San Juan (Puerto Rico). While at my former law firm, I focused my practice
7 on representing individuals in class action lawsuits. I have acted as class counsel on more
8 than fifty class actions. I have represented plaintiffs at United States District Courts across
9 the country, state trial courts, the Arizona Court of Appeals, the Arizona Supreme Court,
10 and the Ninth Circuit Court of Appeals. I have helped to recover over \$700 million for my
11 clients in the past 15 years.

12 3. I have an extensive background in consumer rights class actions. The
13 following are representative consumer rights class actions in which I was counsel of
14 record: *In re Conseco Life Ins. Co. Cost of Ins. Litig.*, (cost of insurance class action, \$400
15 million settlement) (2008); *In re: Ins. Brokerage Antitrust Litig.*, (cost of insurance class
16 action, \$121 million settlement) (2009); “Senior Annuity” cases, (class actions against
17 insurance companies for deceptive annuity sales practices, class settlements in the
18 aggregate value between \$552 million and \$1.2 billion) (2010); “Kitec” cases, (consumer
19 protection class actions against plumbing fitting manufacturer and home builders,
20 settlements in the aggregate valued between \$125 million and \$160 million) (2012);
21 *Theirot v. Celtic Ins.*, (cost of insurance class action, class settlement valued at \$1 million)
22 (2013); “Automobile financing and repossession” cases, (consumer protection class
23 actions in Arizona, Idaho, and North Carolina against automobile finance companies for
24 over charging for credit insurance and unlawful repossession practices, settlements valued
25 in the aggregate at \$22 million) (2015); “Uber airport fees” cases, (consumer protection
26 class actions against Uber for charging riders airport fees for pick up or drop off service at
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1 airports when in fact no such fees were charged by airports, settlement valued at
2 approximately \$2 million) (2016).

3 4. The settlement in this case was reached after exhaustive arm's length
4 negotiations between experienced counsel on both sides.

5 5. Prior to commencing this action, I along with my co-counsel, spent many
6 hours investigating Patrick Venieris' ("Named Plaintiff") potential claims against PVH
7 Retail Stores, LLC ("Defendant"). With co-counsel, I conducted a factual and legal
8 investigation that included gathering information about Defendant's pricing practices in its
9 Arizona Tommy Hilfiger outlet stores and the impact of pricing practices on Named
10 Plaintiff and other Arizona consumers.

11 6. Named Plaintiff assisted in the investigations. He also obtained information
12 relating to Defendant's pricing practices in various locations of Arizona Tommy Hilfiger
13 outlet stores to confirm that the pricing practices at issue were systematic and applied to
14 all of the merchandise sold in Defendant's Arizona Tommy Hilfiger outlet stores.

15 7. I met with third-party consultants to develop and support the damage claims
16 alleged by Named Plaintiff. This information was essential for Named Plaintiff and his
17 counsel's ability to understand the nature of the pricing practices at issue, legal claims,
18 potential defenses, and available remedies.

19 8. On August 30, 2018, Named Plaintiff filed a class action complaint against
20 Defendant in the Superior Court for the State of Arizona, Maricopa County. Defendant
21 removed the case to federal court under The Class Action Fairness Act. After Defendant
22 filed its Answer, the parties exchanged limited discovery. Thereafter, the parties explored
23 the potential of settling the putative class members' claims, over a period of approximately
24 90 days, during several telephonic conferences. The parties eventually discussed
25 settlement constructs and negotiated settlement terms, including, *inter alia*, an agreement
26 to return the case to Arizona Superior Court, where it was originally filed and retaining the
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1 original August 30, 2018 filing date for class period purposes, resulting in the settlement
2 now before the Court.

3 9. Named Plaintiff was integral to this case. He provided assistance that enabled
4 Class Counsel to successfully prosecute the Action and reach the Settlement, including:
5 (1) submitting to interviews with Class Counsel; (2) locating and forwarding relevant
6 documents and information; (3) responding to discovery; (4) participating in conferences
7 with Class Counsel; and (5) participating in numerous subsequent discussions concerning
8 the settlement.

9 10. The parties negotiated and reached agreement regarding attorneys' fees and
10 expenses only after reaching agreement on all other material terms of the settlement.

11 11. I considered the risks and delays potentially caused by the legal and factual
12 defenses asserted by Defendant. I also considered the fact that this case raises novel issues
13 and issues that have an unpredictable and potentially divisive impact on a jury. There also
14 the possibility of appeals and a significantly delayed resolution no matter who prevailed at
15 trial.

16 12. I am of the opinion that the proposed settlement is fair, reasonable, adequate,
17 and is in the best interest of the class in light of all known facts and circumstances.

18 I declare under the penalty of perjury and the laws of the State of Arizona that the
19 foregoing is true and correct and that this declaration was executed on the 9th day of May,
20 2019, in Scottsdale, Arizona.

21
22 /s/ Michael C. McKay
23 Michael C. McKay

24 Attorney for Named Plaintiff and the
25 Proposed Class
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