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9 For Plaintiff Alana Schwartz
and other persons similarly situated

10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**
12

13 **ALANA SCHWARTZ**, individually
and on behalf of other persons similarly
14 situated,

15 Plaintiff,

16 vs.

17 **DESTINATION MATERNITY**
CORPORATION and DOES 1-20,

18 Defendants.
19

Case No.: 14-CV-01477-GHK-FFM

**DECLARATION OF JAMES T.
RYAN IN SUPPORT OF
PLAINTIFF'S MOTION FOR
FINAL APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: December 7, 2015
Time: 9:30 a.m.
Courtroom: 650
Before the Honorable George H. King

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DECLARATION OF JAMES T. RYAN

I, James T. Ryan, declare as follows:

1. I am an attorney licensed to practice law in the State of California and before this Honorable Court. I am counsel of record for Plaintiff Alana Schwartz (“Plaintiff”) in this case. The matters stated herein are based on my personal knowledge and, if called upon to testify as a witness, I could and would competently testify to the accuracy and truth of such matters.

2. I submit this declaration in support of Plaintiff’s Motion for Final Approval of Class Action Settlement.

3. I have been practicing civil litigation since December 2000 with significant experience in litigating claims for individual plaintiffs in state and federal courts in California and in litigating several class actions in state and federal courts in California. My experience in those cases helped inform Plaintiff’s litigation strategy and approach to settlement negotiations with Defendant Destination Maternity Corporation (“Defendant”).

4. Prior to reaching the proposed settlement, the parties exchanged significant amounts of information. First, prior to filing the lawsuit, my co-counsel and I conducted an investigation into Defendant’s practice of collecting Personal Identification Information (“PII”). We also hired an investigator to conduct an investigation into Defendant’s practice of collecting PII while the litigation was pending. Second, the parties engaged in informal settlement discussions in May and June 2014, which included the informal exchange of documents and exchange of information by telephone regarding Defendant’s policies and practices of collecting PII. Third, through Defendant’s answer, Defendant provided its defenses and factual assertions to Plaintiff’s allegations. Fourth, Defendant provided its Initial Disclosures in September 2014. Fifth, Defendant provided responses to interrogatories and documents requests, as well as documents, in November 2014. Sixth, Defendant confidentially provided additional information

1 in connection with the mediation, including class list information. Based on the
2 factual investigation and the analysis of the case law regarding Song-Beverly Act
3 violations, I believe that counsel for both parties were well prepared to negotiate
4 and enter into the proposed settlement.

5 5. Thereafter, the parties agreed to private early mediation before the
6 Hon. Edward Infante (Ret.), which took place on December 10, 2014. Plaintiff and
7 her counsel were present at the mediation.

8 6. After extensive arms-length negotiations through a full day of
9 mediation and several follow-up calls with Judge Infante, the parties were able to
10 come to a mutually agreeable resolution to this dispute. The parties engaged at all
11 times in hard-fought, arm's-length negotiations that spanned many hours. The
12 negotiations resulted in a Settlement Agreement that was not the product of fraud,
13 overreaching, or collusion by the negotiating parties. Class Counsel (myself and
14 Kenneth A. Goldman) was satisfied with the terms of the Settlement Agreement
15 only after conducting extensive negotiations and a thorough investigation into the
16 factual and legal issues raised in this case. The parties negotiated and agreed upon
17 the terms of the settlement for the Class before discussing class counsel's fees and
18 costs and the incentive award.

19 7. Class Counsel has significant combined experience in class action and
20 civil litigation, and this experience and expertise helped inform the settlement
21 negotiations in this case. I believe it was the skill and reputation of Class Counsel
22 that facilitated an early settlement dialogue with counsel for Defendant. This
23 dialogue served as the catalyst for the multiple settlement discussions that resulted
24 in the Settlement Agreement.

25 8. I believe the Settlement Agreement is fair, reasonable, and adequate
26 and represents an exceptional result for the Class. The settlement provides
27 substantial past and prospective relief to Class Members.
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1 9. With respect to past relief, every member of the Class who does not
2 opt-out will automatically receive a \$25.00 transferable certificate that shall be
3 valid for a credit to be used on a single, in-store purchase of full-price merchandise
4 at any Destination Maternity California standalone retail store, which Defendant
5 owns and operates, i.e., Destination Maternity, A Pea in the Pod, and Motherhood
6 Maternity, with no minimum or maximum purchase amount (the “Certificate”).
7 The Certificate shall expire ten (10) months after issuance. In addition, every
8 Class Member will be provided with the opportunity to be removed from the
9 mailing lists maintained by Defendant by way of a link to a website maintained by
10 the claims administrator.

11 10. With respect to prospective relief, Defendant agrees to injunctive
12 relief, which takes several forms. First, Defendant agrees to comply with Civil
13 Code section 1747.08 so long as it remains in effect. Second, Defendant agrees to
14 amend in-store signage in its California retail locations regarding its Perks
15 Program, which includes placing prominent signs in stores that informs customers
16 that they are not required to provide their personal identification information in
17 order to process their credit card purchases. Third, Defendant agrees to provide its
18 California employees who process in-store credit card purchase transactions with
19 additional training regarding the requirements of California Civil Code section
20 1747.08, including regular reminders and training manuals that will include
21 instructions that Destination employees cannot request PII from customers in a
22 manner where the customer may reasonably perceive the provision of PII as a
23 condition for the use of a credit card in a purchase transaction.

24 11. Class Counsel continued to work diligently on this case even after the
25 parties executed the Settlement Agreement. Further, I am identified as Class
26 Counsel in the Notices and will continue to help monitor the notice process and
27 answer any Class Member inquiries regarding the settlement after the date I
28 execute this Declaration.

