

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

<p>DAVID DATE, JR.,</p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>SONY ELECTRONICS, INC. and ABC APPLIANCE, INC. d/b/a/ ABC WAREHOUSE,</p> <p style="text-align: right;">Defendants.</p>	<p>Case No. 2:07-cv-15474-PDB-RSW</p> <p>Hon. Paul D. Borman</p> <p>Date: March 17, 2008 Time: 11:00 a.m.</p>
<p>Nancy Sher Cohen Ronald A. Valenzuela HELLER EHRMAN LLP 333 South Hope Street, 39th Floor Los Angeles, CA 90071-3043 (213) 689-0200</p> <p>Attorneys for Sony Electronics Inc. and ABC Appliance, Inc.</p> <p>Richard Zuckerman HONIGMAN MILLER SCHWARTZ AND COHEN LLP 2290 First National Building Detroit, Michigan 48226 (313) 465-7618</p> <p>Attorneys for Sony Electronics Inc.</p>	<p>Lance A. Raphael THE CONSUMER ADVOCACY CENTER, P.C. 180 West Washington Street, Suite 700 Chicago, IL 60602 (312) 782-5808</p> <p>Alan Mansfield John Hanson ROSNER & MANSFIELD, LLP 10085 Carroll Canyon Road, First Floor San Diego, CA 92131 (858) 348-1005</p> <p>Dani K. Liblang LIBLANG & ASSOCIATES, P.C. 260 East Brown Street, Ste. 320 Birmingham, MI 48009</p> <p>Attorneys for David Date, Jr.</p>

**CERTIFICATION OF LANCE A. RAPHAEL PURSUANT TO
28 U.S.C. § 1746**

Under penalties of perjury as provided by 28 U.S.C. § 1746, I, Lance A. Raphael, state as follows:

1. I am a member in good standing of the bars of the following courts:

- Supreme Court of Illinois, Admitted: November 4, 1993;
- U.S. District Court for the Northern District of Illinois, Admitted: December 16, 1993;
- U.S. Court of Appeals, Second Circuit, Admitted: January 17, 2002;
- U.S. Court of Appeals, Seventh Circuit, Admitted: December 23, 2003;
- U.S. District Court for the Northern District of Indiana, Admitted: June 8, 2005;
- U.S. District Court for the Central District of Illinois, Admitted: March 28, 2007; and
- U.S. District Court for the Eastern District of Wisconsin, Admitted: December 12, 2007.

2. I have also been admitted *pro hac vice* to, among others, the following courts:

- The U.S. District Court for the District of Minnesota, St. Paul, Minnesota;
- The Harris County State Court, Houston, Texas;
- The Hennipan County State Court, Albany, California;
- The U.S. District Court for the Eastern District of New York;
- The U.S. District Court for the Southern District of New York;

- The Superior Court of the State of Connecticut, J.D. of Stamford, Connecticut; and
- The U.S. District Court for the Southern District of Florida.

Background

3. I am a 1993 graduate of the John Marshall School of Law. From 1993 until March 1996, I was employed by Teller, Levit, and Silvertrust in Chicago. From April 1996 until November 1998, I was employed by Horwitz, Horwitz & Associates. In January of 1999, I founded the Consumer Advocacy Center, P.C. and I currently focus my practice on the representation of consumers in consumer rights litigation and class actions.

4. I am a member of the National Association of Consumer Advocates, a legal association devoted to the protection of consumers. I have authored the article, “Teaching an Old Law a New Trick: Repossessing Software Through Disablement,” The Commercial Law Journal, Summer 1992, (advocating that the repossession of software may invariably lead to an illegal taking of personal property such as the work product of the user). I have lectured on the topic of “Proceeding in the American Arbitration Association and Issues on Class Actions” at the National Association of Consumer Advocates conference, which qualified for continuing legal education credit. I have also lectured on consumer rights topics to members of the public through the program “Law at the Library” sponsored by the Chicago Bar Association. In early May 2004, Consumer Action and its MoneyWi\$e financial literacy partner Capital One held a financial training

in Chicago, IL designed to teach local community groups how to talk to their clients about money and financial management, where Rolando Berrelez of the Federal Trade Commission spoke on theft of identity issues and I spoke on consumer rights.

5. In 1998, I participated in and fulfilled the requirements to accept referrals on consumer fraud related cases from various state governmental agencies through a program sponsored by the Chicago Bar Association called "Law Day," previously held at the State of Illinois Center on a monthly basis.

6. I was appointed as a speaker at the November 2004 national conference on consumer rights hosted by the National Consumer Law Center; the National Consumer Law Center (NCLC) is the nation's consumer law expert, helping consumers, their advocates, and public policy makers use powerful and complex consumer laws on behalf of low-income and vulnerable Americans seeking economic justice. Topics upon which I speak include: auto fraud practice tips from the experts, junk fax and telemarketing litigation, and arbitrating consumer cases.

7. I was appointed as a speaker by Lorman Education Services, a national continuing legal education seminar service, to speak at a continuing legal education seminar in 2003, 2004 and 2007 entitled "Foreclosure and Repossession in Illinois" to provide the consumer perspective.

Litigation Experience

8. While I have been and am currently involved in a number of class action cases; to date 1) I have never been found to be an inadequate class counsel, 2) been criticized by a court with regard to the prosecution or settlement of a class action, and 3) I have never settled a class action case where any formal objection was filed.

9. The number of consumer rights and class action cases in which I have been involved over the years are too numerous to list but some of those cases include:

- *Minard v. Salberg*, 06 CV 00114 RL PRC, the U.S. District Court for the Northern District of Indiana, Hammond Division; *Gonzalez, et al. v. Diversified Medical Records Services*, 04 CH 17127, the Circuit Court of Cook County, Illinois, Chancery Division; *Aidara v. Bank One*, 05 CH 10845, the Circuit Court of Cook County, Illinois, Chancery Division; *Hagan v. Advance Loans, Inc., et al.*, 04 C 4559, the U.S. District Court for the Northern District of Illinois, Eastern Division; *Falconer v. Asset Acceptance, et al.*, the U.S. District Court for the Northern District of Illinois, Eastern Division; *Machiela v. Trizec Holdings, Inc.*, 05 C 3562, the U.S. District Court for the Northern District of Illinois, Eastern Division; *Weniger v. Arrow Financial Services*, 03 C 6213, the U.S. District Court for the Northern District of Illinois, Eastern Division; *Richman v. Carol Wright Gifts, et al.*, Index No. 26824/2002, the Supreme Court of the State of New York, County of Queens; *Ramirez, Sanchez v. Packey Webb Ford*, 03 CH 06243, the Circuit Court of Cook County, Chancery Division; *Bracken v. Harris & Zide, et al.*, C02 05146, the U.S. District Court for the Northern District of California; *United States of America v. Fairbanks Capital Corporation and Alana L. Curry and others similarly situated v. Fairbanks Capital Corporation* 03-12219-DPW and 03-10895-DPW, before the Honorable Judge Douglas P. Woodlock of the United States District Court for the District of Massachusetts, consolidated matter with the Federal Trade Commission; *Mahler v. The Law Offices of Lawrence Friedman*, 03 C 9108, the Northern District of Illinois; *Issac v. Carmax*, 03 C 5271, the Northern District of Illinois; *McCabe v. Crawford*, 01 C 8194,

the Northern District of Illinois; *Hamid v. Blatt Hasenmiller, Leibsker & Moore, Unifund CCR Partners and Unifund Corp.*, 00 C 4511, state-wide class action under the Fair Debt Collection Practices Act for collection of time-barred debt, the Northern District of Illinois; *Miller v. Berks Credit & Collection, Inc.*, Index No. 02-CV-3633, a New York class action under the Fair Debt Collection Practices Act, U.S. District Court, Eastern District of New York; *Trang v. HSBC Mortgage Corporation, USA*, Index No. 20810/01, a New York class action regarding the imposition of fax fees for consumer closing papers, Supreme Court of the State of New York; *Bass v. Arrow Financial Services*, No. 01 C 8595 a statewide class action under the Fair Debt Collection Practices Act, the Northern District of Illinois; *Chylak v. Bank One*, No. 01 C 7774, a statewide class action under the Consumer Leasing Act, the Northern District of Illinois; *Bleich v. Nationsbank Auto Leasing, Inc.*, No. 99-0761, the U. S. District Court for the Eastern District of New York; *Allen v. Homemakers*, 97M1113951, (Truth in Lending Act class action; class certified, settled, Illinois State Court, Cook County); *Ambalu v. Zwicker and Associates*, 98-CV-5945 (RLM) (Fair Debt Collection Practices Act, "FDCPA;" state-wide class action); *Bauer v. Reidler*, 97 L 36, N (Consumer Fraud Act class action; national class certified through settlement, Illinois State Court, Cook County); *Carter v. Unilever Hand Lotion*, 00 L 41 (national class action, settled); *Cohen, Stueckrad, Perper and Sanders v. Blockbuster Entertainment, Inc.*, 99 CH 02561, 99 CH 08984, Judge Biebel, (certified a merits class of 42 million nationally; held to be adequate class counsel); *Denihan v. Northwest Collectors*, 99 C 1649 (FDCPA, settled); *Gelis v. Freedman*, 99 C 6275 (FDCPA, settled); *Louis Gorchoff v. E.R. Solutions, Inc.*, C00-2168-Z (Fair Debt Collection Practices Act, State-wide class action certified through motion, later settled on a class basis); *Kirk v. Compaq Computer Corporation*, 97 C 5839 (National class action for deceptive service fees; federal RICO claims dismissed and remanded to state court of Harris County Texas); *McCoy v. Lincoln Harbor Village*, 96 C 5200 (Federal Fair Labor Standards Act and Illinois Wage Payment and Collection Act; U.S. District Court for the Northern District of Illinois); *Michaels v. U.S. Robotics/3Com*, 97 CH 14417, 97 CV 769903 (National Consumer Fraud class action, Illinois State Court, Cook County and California State Court); *Milburn v. Jel Sert Corporation*, 98 C 0639 (Race discrimination class action, U.S. District Court for the Northern District of Illinois); *Puzis v. Duralube*, 99 0172523 S (Unfair and deceptive business practices act claim, national class action, settled for approximately \$4,000,000.00 in value to the class, \$950,000.00 in attorney's fees); *Stowe, Smith & Lovejoy v. PayDay Loan of Illinois, Inc.*, 99 CH 11461 (Truth in Lending Act,

Consumer Installment Loan Act, Illinois Interest Act, Consumer Fraud; state-wide class action, settled); *Sutton v. Viking Oldsmobile*, CV 98-900 JMR/FLN (Minnesota state class action, Truth in Lending Act yield spread premium violation); *Wermer v. Momax Builders*, 98 CH 05336, (Consumer Fraud Act, Truth in Lending Act class action, Illinois State Court, Cook County); *Zempel v. American Family Publishers, Dick Clark and Ed McMahon*, 98 4000 (Consumer fraud, national class action, state-wide class in fourth judicial district of Minnesota; class certified; settled).

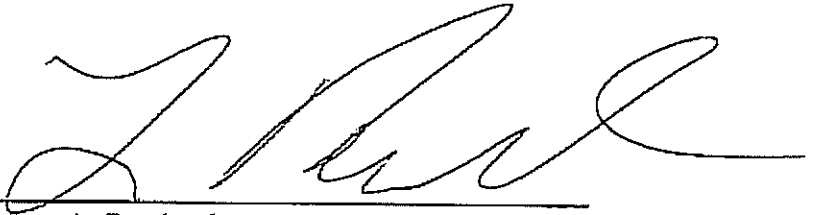
Experience In This Litigation

10. I and the members of my firm were first contacted by the Plaintiff David Date, Jr. in September of 2006. I, as well as the members of my firm, conducted an extensive investigation into the claims of my client and the issues pertaining to the Defendants' sale of televisions. Thus, for the last 18 months, I and the members of my firm have been litigating this matter in California and now in Michigan. I, as well the members of my firm, have conducted research on the issues in this case both legal and factual. I as well the members of my firm have retained and consulted with experts in the electronics and television manufacturing community. I, as well the members of my firm, have been engaged in extensive settlement negotiations with Sony Electronic and ABC Warehouse's counsel, Heller Ehrman LLP, since September of 2007. For the past 5-6 months, I and members of my firm have been reviewing information provided by Defendants through their counsel and later directly from Sony Electronics personnel, which we have painstakingly evaluated. For the past 5 to 6 months, I and members of my firm have, in conjunction with reviewing the information provided by Defendants and evaluating the legal arguments made by their counsel, spent considerable efforts to

negotiate a settlement of the above captioned case for the benefit of the members of the class.

Pursuant to 28 U.S.C. § 1746, I, Lance A. Raphael, do hereby certify under penalties of perjury, that the above statements are true and correct to the extent that they reflect my personal knowledge and otherwise are based upon my information and belief.

Executed this 10th day of March, 2008.



Lance A. Raphael

CERTIFICATE OF SERVICE

I, Debora Biggers, declare as follows:

I am employed with the law firm of Heller Ehrman LLP, whose address is 333 South Hope Street, 39th Floor, Los Angeles, CA 90071-3043. I am readily familiar with the business practices of this office for collection and processing of correspondence for mailing with the United States Postal Service; I am over the age of eighteen years and not a party to this action.

I hereby certify that on March 12, 2008, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of each filing to the following: **Dani K. Liblang, Douglas C. Salzenstein and Richard E. Zuckerman** and I hereby certify that I have mailed by United States Postal Service the pages to the following non-ECF participants:

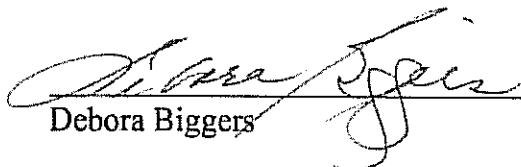
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I declare that I am employed in the office of a member of the bar of this Court at whose direction this service was made.

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

Executed at Los Angeles, California on March 12, 2008.


Debora Biggers

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