

1 Barbara A. Rohr (SBN 273353)  
2 Benjamin Heikali (SBN 307466)  
3 **FARUQI & FARUQI, LLP**  
4 10866 Wilshire Boulevard, Suite 1470  
5 Los Angeles, CA 90024  
6 Telephone: (424) 256-2884  
7 Facsimile: (424) 256-2885  
8 E-mail: brohr@faruqilaw.com  
9 bheikali@faruqilaw.com

10 *Attorneys for Plaintiff Mastane Shalika*

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
SAN BERNARDINO DISTRICT

APR 06 2017

BY Jessica Garcez  
JESSICA GARCEZ, DEPUTY

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 COUNTY OF SAN BERNARDINO

13 MASTANE SHALIKAR, individually, and on  
14 behalf of all others similarly situated,

15 Plaintiff,

16 vs.

17 SKEETER SNACKS, LLC

18 Defendant.

Case No. CIVDS1702247

**CLASS ACTION**

**DECLARATION OF TIFFANEY  
JANOWICZ IN SUPPORT OF JOINT  
MOTION FOR PRELIMINARY  
APPROVAL OF CLASS ACTION  
SETTLEMENT**

Date: May 24, 2017  
Time: 8:30am  
Dept.: S26  
Judge: Hon. David Cohn

Action Filed: February 8, 2017

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**DECLARATION OF TIFFANEY JANOWICZ IN SUPPORT OF MOTION FOR  
PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

1 I, Tiffany Janowicz, hereby declare as follows:

2 1. I am a Senior Vice President of Rust Consulting, Inc. (“Rust”). I submit this  
3 declaration in connection with the above-captioned matter at the request of Counsel. I make this  
4 declaration based upon my own personal knowledge, the information generally available to me at  
5 Rust, information communicated to me by other Rust and Kinsella Media employees and, if  
6 called as a witness in this action, I would be able to competently testify as to the facts set forth  
7 herein. Attached as Exhibit A is my C.V., which outlines my experience and qualifications.

8 2. With nearly 30 years of class action settlement administration experience, Rust is  
9 among the industry’s leaders. Rust has administered more than 5,200 class action settlements,  
10 judgments, and similar administrative programs, 2,000 of which were in the past five years  
11 alone. Rust employs a permanent staff of more than 200. A C.V. outlining Rust’s services and  
12 experience is attached as Exhibit B.

13 3. Rust handles the claims administration process for class actions of all sizes and  
14 types, including consumer, antitrust, securities, insurance, healthcare, labor and employment,  
15 property, finance, telecom, and products liability class actions. In the past, Rust has handled  
16 claims administration in, among many other matters, the \$1.1 billion settlement in *Microsoft I-V*  
17 *Cases*, J.C.C.P. No. 4106 (Cal. Super. Ct. San Francisco County); the \$65 million settlement in  
18 *In re Lawn Mower Engine Horsepower Marketing and Sales Practices Litig.*, No. 2:08-md-1999,  
19 MDL No. 1999 (E.D. Wisc.); the \$316 million direct purchasers settlement in *In re TFT-LCD*  
20 *(Flat Panel) Antitrust Litigation*, MDL No. 1827 (N.D. Cal.); the \$166 million settlement in *In re*  
21 *Electronic Books Antitrust Litigation*, No. 11-md-2293 (S.D.N.Y.); and the \$125 million  
22 settlement in *In re Pharmaceutical Industry Average Wholesale Price Litigation (All Class*  
23 *Actions Relating to Track Two Defendants)*, No. 01-CV-12257-PBS, MDL No. 1456. Rust has  
24 considerable experience in providing class action notice and administration for all class types  
25 and sizes.

26 4. In many cases, notice is provided to class members through published notice like  
27 that proposed here. The short and long form notices were drafted by counsel and reviewed by

1 me and my staff. It is my opinion that both notices were written and designed to satisfy the  
2 requirements of Federal Rule of Civil Procedure 23 and are typical of notices in class action  
3 cases like this.

4 5. Rust worked with all Counsel to develop the following plan to disseminate the  
5 short and long form notices of class action settlement to the potential Settlement Class Members  
6 in this action:

7 (a) publishing a summary notice in *USAToday*;

8 (b) building and maintaining a case-specific website; and

9 (c) establishing and maintaining a toll-free helpline where interactive voice response  
10 telephone support would be available to assist potential members of the Class.

11 6. Rust will publish a short-form notice approved by the Court to present the key  
12 facts and details of the settlement and administration plan to Settlement Class Members in a  
13 transparent, easily understood format. The publication will run for one day in the national edition  
14 of *USA Today* with a circulation of 975,139, and will be published at least 45 calendar days  
15 before the Objection and Opt-Out Deadline set by the Court.

16 7. Both the short and long form notices will contain the URL for a case-specific  
17 website that Rust will establish and maintain. This case-specific, neutral, informational, notice  
18 website will provide potential Settlement Class Members access and links to the short and long  
19 form notices and other key documents from the case. The website will also contain important  
20 dates, answers to commonly asked questions concerning the case and contact information.

21 8. Both the short and long form notices will also contain a toll-free telephone  
22 number that Rust will establish and maintain (the “helpline”). The helpline will utilize  
23 interactive voice response and live operators to provide callers with pertinent information from  
24 the short and long form notice plus answers to commonly asked questions in English. The toll-  
25 free number would also be referenced on the case-specific website.

26 9. Rust will also receive and process all written correspondence and requests for  
27 exclusion from potential Settlement Class Members. As part of this process, Rust will establish

1 a P.O. Box to receive administrative mail, claim forms and requests for exclusion. This P.O.  
2 Box will also be used as the return address for all mail. All requests for exclusion received by  
3 Rust would be processed and reported to Counsel.

4 10. Rust estimates that the costs of notice and administration will be approximately  
5 \$50,000.

6 11. At the conclusion of the notification program outlined herein, Rust will prepare a  
7 declaration that summarizes the work Rust has performed and relevant statistics related to this  
8 notice process.

9 I declare under penalty of perjury under the laws of the State of California that the  
10 foregoing is true and correct.

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DATED: April 4, 2017

By: *Tiffany A Janowicz*  
Tiffany Janowicz

# Exhibit A



Senior Vice President

Tiffany A. Janowicz, Esq.

625 Marquette Avenue, Suite 900  
Minneapolis, MN 55402

D: 303.495.5501 M: 612.770.8805

E: [tjanowicz@rustconsulting.com](mailto:tjanowicz@rustconsulting.com)

## Education & Certifications

- **J.D.** William Mitchell College of Law, 1995 (St. Paul, MN)
- **B.S. Marketing Education** University of Minnesota, 1990 (Minneapolis, MN)

Tiffany Janowicz leads Rust's consumer as well as insurance and healthcare practice areas, with a depth of experience in antitrust and product liability matters. She also provides guidance to a team of project management professionals who handle projects in the same practice areas.

Janowicz began her career as a consultant at Rust in 1996 and was promoted to senior vice president in 2003. In her current role, Janowicz specializes in customer relations and strategic consultation on claims administration programs. Rust's clients benefit from her expertise in developing and executing strategies designed to achieve their settlement administration goals.

Janowicz has overseen all aspects of hundreds of settlements, including many of the firm's largest claims-processing matters. Examples include Microsoft's antitrust settlements for the states of California, Iowa, Minnesota, New York and Wisconsin, as well as the multi-district litigation claiming that companies fixed the price of Dynamic Random Access Memory (DRAM) in the United States. Janowicz has also lead many of Rust's insurance-related settlements and a number of credit life settlements.

Following are some additional details of cases that Rust has administered under the leadership of Janowicz.

- ***In re: Target Corporation Customer Data Security Breach Litigation, MDL No. 14-2522 (D. Minn.)***. Plaintiffs claimed that Target did not adequately protect their payment card data and personal information and that Target delayed in providing notice of a widespread data breach. Rust's direct notice program consisted of 12 million mailed notices and 71 million email notices.

- ***In re Dynamic Random Memory (DRAM) Antitrust Litigation, MDL No. 1486 (N.D. Cal.)***. The lawsuits combined into this multi-district litigation claimed that the Defendant companies fixed the price of DRAM in the United States, causing individuals and businesses to pay more for DRAM and DRAM-containing devices. The combined direct and indirect settlements totaled \$310 million.
- ***Maksimovic v. Sony of Canada Ltd., Ontario Superior Court of Justice, No. CV-11 425487-00CP***. This Canadian settlement resolved allegations that Sony failed to adequately safeguard the computer systems used to provide the Sony PlayStation Network, the Qriocity service, and the Sony Online Entertainment services, which were attacked by criminal intruders in April 2011. Rust managed the translation of all materials into French and provided all documentation and communication in both English and French. Rust also established a Canadian P.O. box for the matter and drop-shipped the mail to our processing center in Minnesota.
- ***In re Nutella Marketing and Sales Practices Litigation, No. 3:11-cv-01086-FLW-DEA (D.N.J.)***. Plaintiffs claimed that Defendant Ferrero U.S.A., Inc. made representations through its marketing and advertising of Nutella® brand hazelnut spread, improperly suggesting that Nutella is healthier than it actually is. Rust placed notice of the settlement in magazines and banner ads on popular websites; the settlement website received over 1 million visits and over a quarter million consumers filed claims.
- ***In re Online DVD Rental Antitrust Litig., MDL No. 2029 (N.D. Cal.)***. Rust sent over 34 million email notices to potential class members in this project. Rust has processed more than 1.1 million claims for gift cards or cash benefit in this ongoing project. Rust also created a settlement website which has to-date received over 2.2 million site visits.
- ***Microsoft I-V Cases, J.C.C.P. No. 4106, (Cal. Super. Ct. S.F. County)***. Janowicz was responsible for the design and management of the direct mail notice program that involved the mailing of 18 million notice-and-claim form packages and deployment of 7 million email notices to a class consisting of consumers who purchased at retail selected Microsoft software for use in California. During the first years of the multi-year program, Janowicz was actively involved in the daily project activities and second in project responsibility only to the company president. Janowicz was and continues to be responsible for overseeing project management, claims and voucher processing, benefits and cy pres distribution, and call center activities.
- ***The Authors Guild, Inc. v. Google, Inc., No. 05-cv-8135 (S.D.N.Y.)***. Janowicz led and continues to lead her team in the administration services provided this settlement involving rights-holders around the world. Janowicz oversaw the translations of the claim forms and supporting materials and well as the provision of telephone support in more than 30 languages. For this ongoing project, Rust's CSRs assist rights-holders in claiming their books and inserts, responding to questions related to the complex settlement and providing technical support throughout the online claims process.
- ***Thompson v. Metropolitan Life, No. 00-CIV-5071 (W.D. Pa.)***. Janowicz was second in project responsibility only to the company president in overseeing Rust's provision of services for this settlement, which included an estimated 25 million policies. Rust mailed more than 550,000 customized and 104,000 generic notices to potential class members. In this race-based underwriting insurance settlement, Rust received 220,000 claim forms, forwarded them on a rolling basis to the company for their research into class membership, and followed up on the company's direction by mailing 80,000 "cure" letters and more than 270,000 response letters to claimants. Rust's call centers answered calls generated by both the



mailed notice and an extensive media campaign. During the national TV noticing campaign, there were 500 call center operators in two sites.

- **McNeil v. American General Life & Accident, No. 3:99-1157 (D. Tenn.).** Janowicz was second in project responsibility only to the company president in the management of Rust's claims administration services for a settlement covering 9 million class members. Rust mailed over 3 million notices within approximately two weeks. Rust also arranged for an ad campaign to help reach class members for whom the company did not have current addresses. Rust received 600,000 calls on this project, and printed and mailed more than 440,000 payments.
- **Naef v. Masonite Corp., No. CV 944033 (Ala. Cir. Ct. Mobile County).** Project involved receiving and processing according to pre-determined criteria (including proof of property ownership, proof of product ownership, and proof of damage) more than 400,000 claims, eventually distributing more than \$800 million to more than 260,000 claimants whose claims were validated. Janowicz co-directed the initial design of the claims intake process of this 10-year claims program, and managed claims review and contact center operations.

## Thought Leadership

- Co-Author, "**Estimating Claims – What Every Attorney Should Know**," What We've Noticed, Feb. 2015
- Co-Author, "**Increasing Judicial Attention to Claims-Filing Rates**," What We've Noticed, Oct. 2014
- Co-Author, "**The Case for Simplified Notice and Claims**," What We've Noticed, July 2014
- Co-Author, "**Tracking Ted...**," What We've Noticed, April 2014
- Panelist, "**Crafting Class Settlement Notice Programs: Due Process, Reach, Claims Rates, and More – Minimizing Court Scrutiny and Overcoming Objector Challenges**," Strafford CLE Webinar, Feb. 2014
- Co-Author, "**Efficient, Cost-Effective Notification and Administration in Antitrust Class Actions**," Class Action Perspectives, 2013
- Co-Author, "**Recent Court Decisions Indicate Greater Scrutiny of Class Notice Programs**," What We've Noticed, Dec. 2013
- Panelist, "**Mechanics, Logistics & Statistics: How to Settle a Class Action Lawsuit**," FDCC Section Presentations for CLE 2013 Winter Program, March 2013
- Panelist, "**Emerging Trends in Class Action Notice**," CLE International 6th Annual Conference Class Actions: Hot Topics, Winning Strategies and More, June 2010
- Speaker, "**Class Action Notice and Claims Administration: Trends and Innovation**," Women Antitrust Plaintiffs' Attorneys Networking Event, Aug. 2009
- Author, "**Anticipating Claims Filing Rates in Class Action Settlements**," Class Action Perspectives, Nov. 2008

## Bar Admissions

- Licensed to practice law in Minnesota



# Exhibit B

## Qualifications Summary

This document outlines Rust Consulting's qualifications to serve as the administrator for class action, mass tort, and regulatory settlements, as well as to perform other similar, complex and time-sensitive matters. It includes summary information categorized as follows:

- Firm Overview
- Practice Area Organization
- Personnel
- Services
- Representative Case Experience
- Data and System Security

### Firm Overview

Rust Consulting, Inc., a SourceHOV company, is a consulting and administration firm that ranks among the industry leaders in the class action field. Rust provides public and private sector clients a full complement of services required to administer legal settlements and other complex or time-sensitive programs. These services include consulting; project management; data management; notification; contact centers and websites; claims processing; and fund management, distribution, and tax reporting.

Rust grew out of the Rust Consulting Group, which was founded in 1976 by Ron Rust as a litigation support firm that pioneered the use of computer technology in litigation support. In 1988, the Group administered its first class action settlement; in 1995, Rust Consulting, Inc. was established as a separate operating entity to focus on legal settlement administration. Since then, Rust has administered more than 5,700 settlements and projects.

Headquartered in Minneapolis, Rust also has offices in Faribault, Minn., Los Angeles, and San Francisco. Our subsidiary Kinsella Media maintains a Washington, D.C., location.

### Practice Area Organization

Rust administers programs spanning diverse subject matter. The depth and breadth of our legal settlement administration experience spans all practice areas, with teams focused on antitrust, consumer, finance, insurance and healthcare, labor and employment, product liability, and securities matters. We work with governmental agencies at all levels – federal, state, and local – on matters often involving private and sensitive data. Our services also lend themselves to our clients' non-settlement needs, including data breach responses, recalls, and remediation programs.

Our leadership and certain operations and client services personnel focus on specific practice areas relevant to our clients, deepening their subject matter expertise and directly relevant experience.

## Personnel

Our permanent staff of approximately 200 includes professionals with backgrounds and disciplines including project management, information technology, finance, law, and operations. This cross-functional, innovative team includes experts in their respective disciplines, such as CPAs, Ph.D.s, attorneys, and PMPs.

Rust's team includes some of the most experienced practitioners in the industry, with much of that experience Rust-specific. Our executive leadership team averages over 18 years of Rust experience, our senior vice presidents average over 12 years, and our functional directors average over 16 years.

## Services

The Rust team provides high quality administrative services for matters of any size and scope. Specific approaches may vary depending upon the requirements of each individual matter; however, the below services are typical of our engagements.

### Preliminary Consulting

Rust consults with clients prior to settlement to help anticipate otherwise identified issues that may arise in the management of complex data sets, providing notice, processing claims, and distributing funds, leading to delays and additional costs.

### Project Management

Our project management personnel prepare plans of notice and administration, create or customize project tracking tools and reports, and oversee the creation of project-specific databases designed to house and capture appropriate information for use in claims administration. Throughout the administration process, project management personnel coordinate all activities between the parties, vendors, and internal Rust departments to ensure work is completed accurately and according to any service level agreements, internal standards, settlement documents, etc. We provide regular and on-demand reports and statistics to the appropriate parties and raise potential issues requiring their attention, as necessary. Upon completion of each major phase of administration, or as required, we prepare declarations or affidavits attesting to the scope and results of our work.

### Data Management

The secure and efficient handling of data underlies all aspects of claims administration; Rust creates and customizes data management processes, databases, applications to meet the unique needs of each settlement or project. Tasks associated with data management throughout administration may include:

- Intaking original client data.
- Normalizing data for cross-platform usability, such as meeting mailing or other outreach requirements.
- Consolidating and deduplicating data from multiple sources.
- Extracting data for standard or customized trace services.



- Extracting data for mailing or other outreach.
- Calculating awards.

## Notification

Rust disseminates hundreds of millions of notices annually by mail and email. We also work with our subsidiary Kinsella Media, the leading provider of notice to unidentified audiences and the only firm in the nation with two qualified, court-recognized notice experts, to develop and implement notice plans.

With respect to legal settlements, these notice programs notify class members or other affected individuals of their legal rights and options. With respect to data breach responses, recalls, or remediation, these programs inform affected individuals about the situations and any options those affected individuals may have.

Among our notification-related services are:

- Designing notice programs (through Kinsella Media).
- Drafting plain language materials (through Kinsella Media).
- Designing and proofreading notice materials.
- Locating unidentified individuals and updated addresses.
- Printing and mailing.
- Processing and forwarding undeliverable mail.
- Opining about notice program adequacy (through Kinsella Media).

## Contact Centers

Rust supports the programs we administer through an assortment of contact center services including call centers, websites, and email support up to 24/7 and for class members and other affected individuals worldwide.

Our call center services include inbound and outbound calls in our own domestic, in-house call centers. These call centers are located in our two Minnesota locations, typically contain approximately 800 workstations, and are readily expandable to meet the needs of specific programs. In 2013, our call centers supported several large programs by simultaneously staffing well over 1,000 customer service representatives (CSRs).

To provide high levels of service on complex matters to class members and our clients' customers, Rust maintains a robust, permanent core group of call center employees, comprising managerial, supervisory, and customer service resources. We engage additional call center staff on a project basis as required. All CSRs—permanent or temporary—undergo background checks and training on Rust's policies and technology, customer service fundamentals, and project-specific information. Typical engagements include English- and Spanish-speaking CSRs, while we provide support in additional languages, as required. In one case, Rust CSRs took live inbound calls in 10 languages.

In lieu of or in conjunction with live customer service, Rust builds and maintains automated Interactive Voice Response (IVR) systems. These systems provide 24/7 service to toll-free numbers and include menus of prerecorded options such as program overviews, frequently asked questions and answers, and options for



requesting forms or filing claims. Rust's IVR systems regularly support English- and Spanish-language speakers and can be programmed to support other languages, as required. In one case, Rust managed IVR support including translations of information pre-recorded by native speakers in 67 languages.

## Claims Processing

Rust develops or executes claims processing or adjudication programs as required by the diverse terms of our engagements. We use several proprietary software applications and tested, streamlined processes to provide the most appropriate solutions for each engagement's needs, whether for paper or online claims. Our systems automate the claims administration process:

- Receipt.
- Link to class member database record.
- Data capture.
- Review of supporting documentation.
- Initial adjudication.
- Deficiency processing.
- Final adjudication.
- Rejection letters.
- Reporting/affidavits.

To meet the needs of each engagement, our systems can be configured to give clients or authorized parties secure online access to claimant data and reporting, or to class members to facilitate online claims filing.

## Fund Management, Distribution, and Tax Reporting

Rust annually distributes billions of dollars associated with settlements and similar programs.

- Quality assurance - Positive pay
- Various fraud detection/prevention measures

### Tax reporting

- Simultaneously manages more than 500 distribution and interest-bearing accounts containing billions of dollars.
- Tax identification numbers (federal and state).
- Qualified Settlement Fund (QSF) determination.
- Claimant award taxability and reporting.
- W-9 review.
- Quarterly 1120-SF tax deposits.
- Annual 1120-SF tax returns (600+ annually).
- IRS & State 1099 & 1042-S reporting and transmission.
- Backup withholding deposits and 945 annual reporting.
- Employment payroll taxes: 941, 940, SUTA, SIT, and local income taxes.



## Representative Case Experience

Having administered more than 5,700 projects, a complete listing of our experience is voluminous. However, the below tables demonstrate the scope of our experience and capacity.

*Note: All numbers are rounded*

Notices	Case
83 million	Confidential consumer settlement
31 million	<i>In re Lawnmower Engine Horsepower Marketing and Sales Practices Litigation</i> , No. 2:08-md-01999 (E.D. Wis.).
24 million	<i>Microsoft I-V Cases</i> , J.C.C.P. No. 4106 (Cal. Super. Ct. San Francisco County).
15.7 million	<i>Blessing v. Sirius XM Radio</i> , No. 09-cv-10035 (S.D.N.Y.).
14 million	<i>In re Groupon Marketing and Sales Practices Litigation</i> , 3:11-md-02238, MDL No. 2238 (S.D. Cal.).

Distributed	Case
\$3.6 billion	Independent Foreclosure Review
\$1.5 billion	National Mortgage Settlement
\$800 million	<i>Naef v. Masonite Corp.</i> , No. CV 944033 (Ala. Cir. Ct. Mobile County).
\$800 million	<i>Microsoft I-V Cases</i> , J.C.C.P. No. 4106 (Cal. Super. Ct. San Francisco County).
\$762 million	<i>In re American International Group, Inc. Securities Litigation</i> , No. 04 Civ. 8141 (S.D.N.Y.). (PwC, Company, Starr, and Gen Re Settlements)

Claims	Case
3.5 million	<i>In re Compact Disc Minimum Advertised Price Antitrust Litigation</i> , MDL No. 1361 (D. Me.).
3.2 million	<i>In re American International Group, Inc. Securities Litigation</i> , No. 04-cv-8141 (S.D.N.Y.) (Company, PwC, Starr, and Gen Re settlements).
3 million	Abbott Infant Formula Settlements
2.8 million	<i>Fogel v. Farmers Group, Inc.</i> , No. BC300142 (Cal. Super. Ct. Los Angeles County).
1.2 million	National Mortgage Settlement

Calls	Case
3.6 million	Independent Foreclosure Review
1.5 million	<i>Dyson v. Flagstar Corp.</i> , No. DKC93-1503 (D. Md.).
1.4 million	National Mortgage Settlement
1.3 million	Abbott Infant Formula Settlements
1 million	<i>Naef v. Masonite Corp.</i> , No. CV 94-4033 (Ala. Cir. Ct. Mobile County).



## Data and System Security

The secure handling of data, systems, and applications is of utmost importance to Rust and its clients. As such, Rust actively mitigates potential threats by adhering to a complex set of best practices, including documented and audited processes and a business continuity plan to ensure uninterrupted, secure service. As part of this “unified compliance posture,” Rust:

- Has received system Certification & Accreditation under the Federal Information Security Management Act (“FISMA”) for two federal agencies. The framework for FISMA compliance is driven by the National Institute of Standards and Technology (“NIST”), which provides a unified security framework spanning three major security control classes (technical, operational, and management) and 18 control areas with more than 250 security controls.
- Complies with and adheres to Safe Harbor Principles, which cover notice and choice, disclosures and transfers, data security, data integrity, access to and removal of personal information, and enforcement and dispute resolution.
- Undergoes an annual SSAE16 SOC 2 Type II Report audit of our data and system security controls and protocols.
- Complies with applicable laws, such as the Gramm-Leach-Bliley Act (GLBA), also known as the Financial Modernization Act of 1999, which controls how financial institutions deal with individuals’ private information.
- Has implemented controls to prevent unauthorized access or disclosure, maintain data accuracy, and ensure the appropriate use and confidentiality of information, either for its own purposes or on behalf of our clients.
- Has put in place appropriate physical, electronic, and managerial procedures to safeguard and secure the information we process.
- Processes personal information only in ways compatible with the purpose for which it was collected or subsequently authorized to do.

