

# **EXHIBIT 2**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA**

NEIL KRAN, individually and on behalf of  
all others similarly situated,

*Plaintiff,*

v.

HEARST COMMUNICATIONS, INC., a  
Delaware corporation, A MARKETING  
RESOURCE, LLC, a Minnesota limited  
liability company,

*Defendants.*

Case No. 0:15-cv-02058-MJD-BRT

**DECLARATION OF EVE-LYNN J. RAPP IN  
SUPPORT OF PLAINTIFF'S MOTION FOR  
FINAL APPROVAL OF CLASS ACTION SETTLEMENT**

Pursuant to 28 U.S.C. § 1746, I hereby declare and state as follows:

1. I am an attorney admitted to practice in the State of Illinois and admitted to practice *pro hac vice* in the United States District Court for the District of Minnesota in accordance with Local Rule 83.5(d). I am entering this Declaration in support of Plaintiff Neil Kran's Motion for Final Approval of Class Action Settlement. This Declaration is based upon my personal knowledge, except where expressly noted otherwise. If called upon to testify to the matters stated herein, I could and would competently do so.

2. I am a Partner at the law firm of Edelson PC, which has been retained to represent the named Plaintiff in this matter, Neil Kran ("Kran" or "Plaintiff"), and act as proposed Class Counsel on behalf of the Settlement Class.

***The Litigation and Settlement History***

3. Plaintiff Kran filed the instant action on April 20, 2015 in the United States District Court for the District of Minnesota, alleging that Defendants Hearst Communications, Inc. (“Hearst”) and A Marketing Resources, LLC (“AMR,” and collectively “Defendants”) violated the Telephone Consumer Protection Act, 47 U.S.C. § 227 (“TCPA”) by placing phone calls to individuals listed on the National Do-Not-Call Registry (the “DNC Registry”).

4. Shortly after Defendants answered, and at the beginning of the discovery process, the Parties also started discussing the potential resolution of this matter.

5. In that regard, Defendants agreed to produce discovery to Class Counsel regarding the number of calls made, the number of unique telephone numbers dialed, how the calls were placed, and further information regarding the relationship between Defendants. The Parties further agreed that they would participate in a mediation with The Honorable Judge Edward A. Infante (ret.) of JAMS in San Francisco.

6. In preparation for that mediation, Class Counsel reviewed the information provided by Defendants, which showed that Hearst retained AMR to make the calls at issue and provided it with the telephone numbers to dial in order to effectuate the telemarketing campaign, ultimately in order to boost sales of the *San Francisco Chronicle*. The information also demonstrated that the telemarketing campaign resulted in Defendants placing more than 48,000 calls to the 4,162-person Settlement Class who had their telephone numbers listed on the DNC Registry.

7. The mediation with Judge Infante occurred on December 14, 2015, and although the Parties made progress towards closing the gap between them, they were unable to reach a negotiated compromise at that time. As a result, as the mediation was about to conclude, the Parties agreed to allow Judge Infante to make a mediator's proposal.

8. While both Parties ultimately accepted Judge Infante's proposal (after several weeks of additional evaluation), the negotiations did not end there. Rather, even after the Parties' accepted, it took several more weeks of negotiations—and the further assistance of Judge Infante—to finalize the details of the Settlement.

***Relief Provided by the Proposed Settlement***

9. The Settlement creates a \$2.1 million non-reversionary Settlement Fund, from which all Settlement Class Member claims will be paid. While the exact *pro rata* recovery available to claiming Settlement Class Members has not yet been finally determined, based on the number of claims submitted to date, Class Counsel estimates that each claimant will recover approximately \$500.

10. It is Class Counsel's position that the Settlement Class Member's reaction to the Settlement favors final approval.

11. Most tellingly, while the objection and exclusion deadline have now passed, not a single Class Member has submitted a written objection or request to opt-out. Additionally, Class Counsel's office has spoken to numerous Class Members about the Settlement, none of whom have indicated a desire to object or exclude themselves from the Settlement either.

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I declare under penalty of perjury that the foregoing is true and correct.

Executed this 29th day of September at Denver, Colorado.

/s/ Eve-Lynn J. Rapp\_\_\_\_\_