

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

JAMES COTTLE and FREDERICK  
SCHOENEMAN, on behalf of themselves  
and all others similarly situated,

Plaintiffs,

v.

PLAID INC., a Delaware corporation,

Defendant.

Case No.: 4:20-cv-03056-DMR

**DECLARATION OF CHRISTOPHER  
J. CORMIER IN SUPPORT OF  
STIPULATION TO CONSOLIDATE  
ACTIONS AND APPOINT INTERIM  
CO-LEAD CLASS COUNSEL**

LOGAN MITCHELL, on behalf of himself  
and all others similarly situated,

Plaintiffs,

v.

PLAID INC., a Delaware corporation,

Defendant.

Case No. 3:20-cv-04230-SK

RACHEL CURTIS, ALEXA GROSSMAN,  
MALLORY GROSSMAN, STEVEN  
HANNIGAN, ALEXIS MULLEN, JORDAN  
SACKS, and NICHOLAS YEOMELAKIS, on  
behalf of themselves and all others similarly  
situated,

Plaintiffs,

v.

PLAID INC., a Delaware corporation,

Defendant.

Case No. 4:20-cv-04344-DMR

1 CARRIE ANDERSON, BRIAN MCCRUDDEN,  
2 and JEFFREY SCHWEDOCK, on behalf of  
3 themselves and all others similarly situated,

4 Plaintiffs,

5 v.

6 PLAID INC., a Delaware corporation,

7 Defendant.

Case No: 3:20-cv-04480-JSC

8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 I, CHRISTOPHER J. CORMIER, hereby declare as follows:

2 1. I am a partner of the law firm of Burns Charest LLP (“BC”), co-counsel in *Cottle*  
3 *v. Plaid*, No. 3:20-cv-03056 (N.D. Cal.) (“*Cottle Action*”), and Proposed Interim Co-Lead  
4 Counsel in the above-captioned actions. I am a member in good standing of the Bars of  
5 Washington, D.C. and the State of Colorado, and am admitted *pro hac vice* before this Court. I  
6 have personal knowledge of the statements contained in this Declaration and, if called to testify, I  
7 could and would testify competently to them.

8 2. I submit this declaration in support of the Parties’ Stipulation to Consolidate  
9 Actions and Appoint Interim Co-Lead Class Counsel. BC is well-suited to serve as Co-Lead  
10 Counsel in this litigation, and has contributed significantly to the development and prosecution of  
11 this case.

12 **Federal Rule of Civil Procedure 23(g)**

13 3. This litigation involves four separately-filed putative class actions, filed by  
14 multiple law firms, against the same defendant alleging the same conduct. Each action raises  
15 substantively similar claims. Judicial efficiency, as well as the interests of the proposed class,  
16 counsel in favor of establishing leadership for the class before the litigation proceeds any further.  
17 When multiple related cases are pending, as they are here, “the selection and activity of class  
18 counsel are often critically important to the successful handling of the class action.” Fed. R. Civ.  
19 P. 23(g) Advisory Committee Notes.

20 4. Appointing BC as Interim Co-Lead Counsel comports with the Rule 23(g) factors  
21 that guide courts’ decision-making in appointing class counsel. These factors are:

- 22 i. the work counsel has done in identifying or investigating potential claims in the  
23 action;
- 24 ii. counsel’s experience in handling class actions, other complex litigation, and the  
25 types of claims asserted in the action;
- 26 iii. counsel’s knowledge of the applicable law; and
- 27 iv. the resources that counsel will commit to representing the class.
- 28

1 Fed. R. Civ. P 23(g)(1)(A).

2 **BC's Contributions to Development of This Litigation**

3 5. In addition to significant experience litigating various types of complex class  
4 actions in this District and elsewhere, discussed below, BC brings a wealth of background  
5 experience specific to this litigation that has guided the development of the factual allegations and  
6 claims in this case. In collaboration with co-counsel in the *Cottle* Action (Lief Cabraser  
7 Heimann & Bernstein, LLP and Herrera Purdy LLP), BC has conducted a thorough pre-filing  
8 investigation, which afforded counsel in the *Cottle* Action an understanding of Plaid's business  
9 practices and the issues before the Court.

10 6. Along with co-counsel, BC researched the history and evolution of Plaid's  
11 business, including its founding and growth within the financial technology ("fintech") industry.  
12 BC and co-counsel developed an understanding of Plaid's business model, the distinctions  
13 between its consumer-facing and industry-facing messaging, and some of the methods Plaid uses  
14 and previously used to collect data from consumers and deliver that data to its fintech customers.

15 7. That research also included an in-depth and detailed review of Plaid's messaging  
16 to consumers as it developed over time, as well as any relevant disclosures by consumer-facing  
17 third party apps—such as Venmo, Square, CashApp—in order to understand the scope of Plaid's  
18 deceptive messages conveyed to consumers, and to identify the limited information provided to  
19 consumers who use the relevant third party apps.

20 8. Further, BC and co-counsel engaged in a technical review into Plaid's conduct in  
21 the context of the features of the above-referenced relevant third-party apps and the impact of  
22 such conduct on consumer consent issues, consumer privacy, and financial privacy issues.

23 9. With the benefit of this factual backdrop, BC and co-counsel conducted legal  
24 research and analysis to determine and assert the appropriate claims on behalf of Plaintiffs and the  
25 putative Class.

26 10. BC is committed to providing the best possible representation for consumers in  
27 this action, and continues to work collaboratively with co-counsel in researching and reviewing  
28 Plaid's evolving disclosures to users of the relevant apps—which, while still inadequate, have

1 been amended by Plaid even since, and possibly due to, the commencement of the *Cottle*  
 2 Action—and public-facing statements regarding Plaid’s business practices and use of private  
 3 consumer data.

4 **Burns Charest LLP**

5 11. Burns Charest LLP has quickly gained a reputation as a leading class action and  
 6 complex litigation boutique. Founded by former Susman Godfrey LLP partners in 2015, the firm  
 7 now boasts a roster of nearly 30 talented lawyers experienced not only in successfully litigating  
 8 complicated cases on behalf of corporate and individual plaintiffs, but in taking them to trial and  
 9 winning. The firm is headquartered in Dallas, and has additional offices in New Orleans and  
 10 Washington, DC. Every year since its founding, numerous firm lawyers have been honored by  
 11 leading industry publications such as *Best Lawyers in America*, *Super Lawyers*, *Benchmark*  
 12 *Litigation*, and *Global Competition Review/Who’s Who Legal*.

13 12. Nine of BC’s lawyers have been named to the *Best Lawyers in America* 2020  
 14 listing, eight of its lawyers have been chosen as 2020 “Super Lawyers” or “Rising Stars” by  
 15 *Super Lawyers*, and two of its lawyers have been recognized among the world’s top 124 plaintiff  
 16 antitrust lawyers in *Global Competition Review’s Who’s Who Legal: Competition* (2020).

17 13. BC has been appointed to leadership positions in the following class actions:

- 18 a. *In re German Automotive Manufacturers Antitrust Litigation*, No. 17-MD-  
 19 2796 (N.D. Cal.) (lead class counsel representing proposed nationwide class of  
 20 direct purchasers of German luxury vehicles alleging conspiracy among  
 21 manufacturers to restrict innovation and artificially stabilize pricing);
- 22 b. *In re TikTok, Inc. Privacy Litigation*, No. 5:19-cv-07792-LHK (N.D. Cal.)  
 23 (executive committee member in class action alleging massive consumer privacy  
 24 violations by secretly taking biometrics, private videos, clipboard content, user  
 25 identifiers and device identifiers from approximately 140 million app users);
- 26 c. *Scola, et al. v. Facebook Inc., et al.*, No. 18-CIV-05135 (San Mateo Cnty.  
 27 Superior Court, Cal.) (secured \$52 million settlement, pending Court approval, as  
 28 co-lead counsel for class of content moderators working for Facebook vendors

alleging trauma from viewing disturbing posts without proper protections);

d. *In re EpiPen (Epinephrine Injection, USP) Marketing, Sales Practices and Antitrust Litig.*, No. 17-MD-2785 (D. Kan.) (co-lead counsel for certified nationwide class of consumers and third-party payors of EpiPens alleging defendants Mylan and Pfizer violated federal and state antitrust law and federal RICO law by conspiring to restrict competition and illegally raise prices for the widely-used EpiPen);

e. *In re Domestic Airlines Antitrust Litig.*, No. 15-MC-01404 (D.D.C.) (executive committee firm representing proposed nationwide class of individuals alleging major airlines colluded to restrict airline capacity and artificially raise prices; \$60 million in partial settlements obtained to date);

f. *In re West Texas Intermediate Crude Oil Commodities and Antitrust Litig.*, No. 11-CV-3600 (S.D.N.Y.) (co-lead class counsel responsible for \$16.5 million settlement);

g. *In re Anadarko Basin Oil and Gas Lease Antitrust Litig.*, No. CIV-16-0209-HE (W.D. Okla.) (obtained \$7 million settlement as co-lead counsel for class of landowners alleging defendant natural gas producers conspired to rig bids and fix prices for mineral leases);

h. *Kjessler, et al. v. Zappaaz, Inc., et al.*, No. 18-CV-00430 (S.D. Tex.) (obtained \$3.55 million settlement, pending Court approval, as lead class counsel on behalf of nationwide group of purchasers alleging suppliers of customized promotional products conspired to fix prices);

i. *In re Vehicle Carrier Servs. Antitrust Litig.*, No. 13-cv-3306-ES (D.N.J.) (co-lead counsel for class of automobile purchasers against the world's largest maritime vehicle shipping companies alleging price-fixing); and

j. *In re Cedar Shakes and Shingles Antitrust Litig.*, No. 2:19-CV-00288-MJP (W.D. Wash.) (co-lead counsel for class of purchasers of roofing and siding materials alleging manufacturers and trade association conspired to artificially

1 stabilize pricing).

2 14. In addition to the above-mentioned cases, BC has extensive experience  
3 representing plaintiffs in nationwide mass tort actions. For example, the firm serves on the  
4 Plaintiffs' Executive Committee in *In re Johnson & Johnson Talcum Powder Products*  
5 *Marketing, Sales Practices, and Products Liability Litigation*, No. 3:16-md-02738-FLW-LHG  
6 (D.N.J.), and it represents a group of hospitals in state courts against the leading manufacturers  
7 and distributors of opioids for their role in promulgating the nationwide opioid epidemic.

8 15. More information about BC's track record of success on behalf of plaintiffs in  
9 complex class and individual litigation can be found at the firm's website,  
10 [www.burnscharest.com](http://www.burnscharest.com).

11 **The BC Team in the Instant Litigation**

12 16. The cases above and BC's history successfully protecting consumer rights through  
13 class, mass and individual litigation all demonstrate that BC is well-qualified for the role of  
14 Interim Co-Lead Class Counsel in this action.

15 17. I, Christopher J. Cormier, along with my partner, Warren T. Burns, will serve as  
16 the primary representatives for BC in meetings of Co-Lead Counsel and the Plaintiffs' Steering  
17 Committee.

18 18. I am a 2002 *magna cum laude* graduate of The American University's Washington  
19 College of Law and a 1999 graduate of the University of Virginia (BA in Government). As a  
20 partner at BC since 2018, and before that at another nationally recognized plaintiffs class action  
21 firm since 2011, my practice has focused on antitrust, consumer, false claims, and general  
22 commercial litigation on behalf of plaintiffs in state and federal courts across the country. One  
23 leading industry publication reports that I am "lauded as 'an excellent competition plaintiff  
24 lawyer' who is regularly engaged in high-value antitrust proceedings before state and federal  
25 courts." I have been named one the globe's top plaintiffs' antitrust lawyers in the *Global*  
26 *Competition Review's Who's Who Legal: Competition* (2020), selected to the *Best Lawyers in*  
27 *America* (2020-2021), honored as a "Rising Star" in the field of Antitrust Litigation by *Super*  
28

1 *Lawyers* (2016-2017), and recognized by *Benchmark Plaintiff* as an “Antitrust Litigation Star”  
 2 (2013-2015).

3 19. I have gained extensive leadership and trial experience in major class actions  
 4 throughout my career. For example, in 2013, I served on the trial team, as part of my role as co-  
 5 lead counsel, for the plaintiff class in *In re Urethane Antitrust Litigation*, No. 04-MD-1616 (D.  
 6 Kan.), where I was instrumental in securing a \$1.06 billion judgment—believed to be the largest  
 7 ever in a federal price-fixing class action—against Dow Chemical after a month-long trial. I also  
 8 served as co-lead counsel for the plaintiff class in *In re Plasma-Derivative Protein Therapies*  
 9 *Antitrust Litigation*, No. 09-C-7666 (N.D. Ill.), where I obtained \$128 million in settlements in  
 10 2013, and in *In re Dental Supplies Antitrust Litigation*, No. 16-CV-0696 (E.D.N.Y.), where I  
 11 obtained \$80 million in settlements in 2019. I also was personally appointed co-lead counsel in  
 12 *In re Anadarko Basin Oil and Gas Lease Antitrust Litigation* (discussed above), where I played a  
 13 critical role in steering the case to a \$7 million settlement, with the average distribution per class  
 14 member exceeding \$2,000, in 2019.

15 20. In addition to my class action experience, I litigate whistleblower cases focused on  
 16 anticompetitive conduct in the pharmaceutical industry before courts in this District (*see U.S. ex*  
 17 *rel. Silbersher v. Allergan PLC, et al.*, No. 3:18-cv-03018-JS (N.D. Cal.), and *U.S. ex rel.*  
 18 *Silbersher v. Valeant Pharms. Int’l, Inc., et al.*, No. 3:18-cv-01496-JD (N.D. Cal.), as well as high-  
 19 value commercial litigation cases on behalf of institutional clients in the energy sector (*see, e.g.,*  
 20 *Liquidating Trustee for the Liquidating Trust of Nighthawk Royalties LLC and Affiliated Debtors*  
 21 *v. Sigma<sup>3</sup> Integrated Reservoir Solutions, et al.*, No. 2019CV032775 (Arapahoe Cnty. Dist. Ct.,  
 22 Colo.), and *GT Resources, LLC v. Black Hills Corp., et al.*, No. 2020CV30751 (Denver Cnty.  
 23 Dist. Ct., Colo)).

24 21. I am committed to working collaboratively and collegially with my colleagues in  
 25 this case. I have prior positive experience working with each of the firms proposed to be a part of  
 26 our leadership structure, whether in current or previous cases.

27 22. In addition to my personal experience and expertise, I will work with my partner,  
 28 Warren T. Burns, who will bring his own wealth of experience to bear here.

23. Warren T. Burns is a 2004 *summa cum laude* graduate of Tulane University School of Law, Editor in Chief of the *Tulane Law Review*, a law clerk to the Hon. Paul J. Kelly, Jr. of the U.S. Court of Appeals for the 10th Circuit, and a founder and co-managing partner of BC. He will provide strategic guidance in this matter in addition to playing an active role in litigation. Throughout the course of his career, Mr. Burns has successfully handled numerous large and complex class actions, antitrust cases, patent cases, and commercial cases. A selection of his experience in this District includes his position as lead counsel in *In re German Automotive Manufacturers Antitrust Litigation*, No. 17-MD-2796 (N.D. Cal.), and his role as co-counsel for the plaintiff relator in *U.S. ex rel. Silbersher v. Allergan PLC, et al.*, No. 3:18-cv-03018-JS (N.D. Cal.), and *U.S. ex rel. Silbersher v. Valeant Pharms. Int', Inc., et al.*, No. 3:18-cv-01496-JD (N.D. Cal.).

24. Mr. Burns is lead or co-lead counsel or an executive committee member in many of the cases referenced in paragraphs 13-14 above. In addition, he has served as co-lead class counsel in *In re Automotive Parts Antitrust Litigation*, No. 2:12-md-02311 (E.D. Mich.) (co-lead counsel who personally negotiated settlements exceeding \$100 million with foreign defendants while successfully organizing and managing this complex case); lead counsel in *Assured Guaranty Municipal Corp. v. Flagstar Bank, et al.*, No. 11-civ-2375-JSR (S.D.N.Y.) (represented bond insurer in first case to go to trial related to the residential mortgage backed securities market meltdown, resulting in a judgment of over \$100 million); co-lead class counsel in *In re Universal Service Fund Telephone Billing Practices Litig.*, No. 02-md-1468(D. Kan.) (prevailed at trial on breach of contract claim on behalf of AT&T's California landline customers, securing judgment of \$16 million); and lead trial counsel in multiple cases against Chesapeake Energy for breach of contract and underpayment of royalties relating to the oil and gas lease for the Dallas-Ft. Worth International Airport. This track record shows that Mr. Burn is a trial lawyer who successfully litigates and tries complex individual and class actions across subject matters. He stands ready to do so here.

25. In recognition of his accomplishments, Mr. Burns was named to the Top 100 National Trial Lawyers in 2015, 2016 and 2020, recognized by *Super Lawyers* from 2011-15 and

1 again in 2019-20, voted to the *International Who's Who of Competition Lawyers* every year since  
2 2014, and honored in the *Best Lawyers in America* in 2020-21. He was elected in 2016 to the  
3 American Law Institute, the leading independent organization in the United States producing  
4 scholarly work to clarify, modernize, and improve the law. And he is a Fellow of the American  
5 Bar Foundation, an honorary organization of attorneys, judges, law faculty, and legal scholars  
6 whose public and private careers have demonstrated outstanding dedication to the welfare of their  
7 communities and to the highest principles of the legal profession.

8 26. Mr. Burns is committed to working collaboratively and collegially with his  
9 colleagues in this matter and has a well-deserved reputation in the bar as a bridge-builder. He too  
10 has prior positive experience working with each of the firms proposed to be a part of our  
11 leadership structure, whether in current or previous cases.

12 **Plaintiffs' Steering Committee**

13 27. As Plaintiffs' Complaint demonstrates, this litigation will be a large undertaking  
14 and has thus far required ample investigation and attorney efforts. Plaid's unlawful collection and  
15 sale of consumer data dates back to 2013 and continues today, and involves potentially millions  
16 of users and a trove of data. *See, e.g., Cottle Complaint* at ¶¶ 41-45. As a result, this case will  
17 likely involve voluminous discovery, which—in order to ensure the security and privacy of the  
18 plaintiffs and the putative Class members—will require careful review and analysis.  
19 Furthermore, the complex technological aspects of this case will potentially involve multiple  
20 experts, including on topics such as mobile app coding, development, and design; cyber- and  
21 data-security; consumer understanding and associations with bank logos and their facsimiles;  
22 banking practices; and damage modeling. Proposed Co-Lead Counsel recognizes that tasks  
23 associated with these case needs may have to be performed simultaneously, and will require  
24 substantial input from attorneys with in-depth understanding of the facts and legal issues in this  
25 case. Additionally, Proposed Co-Lead Counsel believes that cooperation and collaboration  
26 between Plaintiffs' attorneys can afford Plaintiffs and the Class with the best opportunity to  
27 achieve a meaningful result in this litigation.

1           28.     Thus, in addition to Interim Co-Lead Counsel of Lieff Cabraser Heimann &  
2 Bernstein, LLP and Herrerra Purdy LLP, Plaintiffs and the class in this litigation will benefit from  
3 the assistance, experience, and expertise of counsel serving on the Plaintiffs' Steering Committee  
4 ("PSC"), which consists of Nussbaum Law Group, P.C.; Reinhardt, Wendorf, & Blanchfield;  
5 Robins Kaplan, LLP; and Spector Roseman & Kodroff, PC. Descriptions of these firms are found  
6 in the Declaration of Rachel Geman in Support of Stipulation to Consolidate Actions and Appoint  
7 Interim Co-Lead Class Counsel, and will not be repeated here in the interest of efficiency and  
8 brevity.

9           29.     Based on their vast experience and as evidenced by their past successes, it is my  
10 opinion that Proposed Co-Lead Counsel and the proposed PSC members understand the  
11 magnitude of personnel and financial resources this case will require and will continue to commit  
12 their resources to this case.

13           30.     Finally, Proposed Co-Lead Counsel will draw upon more junior attorneys and  
14 support staff for appropriate tasks so as to prosecute the case as efficiently as possible for the  
15 benefit of the Class. Similarly, when Proposed PSC members are called upon to assist in the  
16 litigation, Proposed Co-Lead Counsel will make sure that tasks are assigned to individuals based  
17 on their appropriate expertise and skill level, so as to minimize cost to the Class.

18  
19           I declare under penalty of perjury under the laws of the United States that the foregoing is  
20 true and correct. Executed this 17th day of July, 2020, in Washington, DC.

21  
22  
23 

24 \_\_\_\_\_  
25 Christopher J. Cormier  
26  
27  
28