

1 WHATLEY KALLAS LLP  
2 Alan M. Mansfield (SBN 125998)  
3 amansfield@whatleykallas.com  
4 1 Sansome Street, 35<sup>th</sup> Fl., PMB # 131  
5 San Francisco, CA 94104  
6 Tel: (415) 860-2503  
7 Fax: (888) 331-9633

8 BURSOR & FISHER, P.A.  
9 L. Timothy Fisher (SBN 191626)  
10 ltfisher@bursor.com  
11 Neal J. Deckant (admitted *pro hac vice*)  
12 ndeckant@bursor.com  
13 1990 North California Boulevard, Suite 940  
14 Walnut Creek, CA 94596  
15 Tel: (925) 300-4455  
16 Fax: (925) 407-2700

17 *Class Counsel*

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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

**IN RE NVIDIA GTX 970 GRAPHICS CHIP  
LITIGATION**

**CASE NO.: 15-cv-00760-PJH**

**THIS DOCUMENT RELATES TO:  
ALL ACTIONS**

**DECLARATION OF KYLE ELLIS  
IN SUPPORT OF PLAINTIFFS'  
MOTION FOR AN AWARD OF  
ATTORNEYS' FEES, COSTS AND  
EXPENSES, AND INCENTIVE  
AWARDS FOR THE CLASS  
REPRESENTATIVES**

Date: December 7, 2016  
Time: 9:00 a.m.  
Courtroom 3 – 3rd Floor

Judge: Honorable Phyllis J. Hamilton

**DECLARATION OF KYLE ELLIS**

I, Kyle Ellis, declare as follows:

1. I am a citizen of Oklahoma. I am a Class Representative in the lawsuit entitled *In re NVIDIA GTX 970 Graphics Chip Litigation*, Case No. 15-cv-00760, filed in the U.S. District Court for the Northern District of California. I make this Declaration in support of Plaintiffs' motion for the Court to award attorneys' fees, costs, and expenses to Class Counsel, and award incentive awards to the Class Representatives. The statements made in this Declaration are based on my personal knowledge and, if called as a witness, I could and would testify thereto.

2. In or about October 2014, I purchased a PNY GTX 970 graphics card. At the time of my purchase, I was not aware that the following representations were false and misleading: (i) that the GTX 970 purportedly operates with a full 4 GB of video RAM, (ii) that the GTX 970 purportedly has 64 render output processors, and (iii) that the GTX 970 purportedly has an L2 cache capacity of 2 MB. Had I known that these representations were false and misleading, I would not have paid for the GTX 970 at the price I did.

3. I assisted with my lawyers' investigation by describing the events surrounding my purchase of the GTX 970. Specifically, I described where I purchased my GTX 970, when I purchased it, why I purchased it, how I purchased it (e.g., online versus retail, cash versus credit) and what representations I reviewed and relied upon when making my purchase. I also provided my attorneys with relevant documentation for their review.

4. I also discussed my use of the GTX 970 with my attorneys. Specifically, I described my personal experiences with my GTX 970, such as how it performed at various games and computing tasks. I also described any issues that I had encountered with my GTX 970.

5. Based on these discussions, my attorneys prepared a Class Action Complaint. I carefully reviewed the Complaint for accuracy and approved it before it was filed.

6. During the course of this litigation, I kept in regular contact with my lawyers. Specifically, I conferred with them regularly by phone and e-mail to discuss the status of the case. We also discussed case strategy, motions that were currently pending, and the prospects of

1 settlement. Furthermore, when appropriate, I informed my attorneys of additional facts for their  
2 research and consideration.

3 7. My lawyers have kept me informed in regards to their efforts to resolve this matter.  
4 I discussed the Settlement Agreement with them and gave my approval prior to signing it.

5 8. Had this case not settled, I was willing and prepared to take part in discovery. I  
6 informed my lawyers that I was available to produce documents and take part in a deposition. I  
7 was also prepared to testify at trial, if necessary.

8 9. Based on the interactions and my relationship with my attorneys, I believe they have  
9 fairly and adequately represented me and the Class and will continue to do so.

10 10. Throughout this litigation, I understood that, as a Class Representative, I have an  
11 obligation to protect the interests of other Class Members and not act just for my own personal  
12 benefit. I do not believe that I have any conflicts with other Class Members. I have done my best  
13 to protect the interests of other Class Members and will continue to fairly and adequately represent  
14 the Class to the best of my ability.

15 11. I estimate that I spent a total of 15 hours working with my lawyers on this case.

16 The above statements are of my own personal knowledge, and I make such statements  
17 under penalty of perjury under the laws of California and the United States of America. Executed  
18 on this 21st day of October, 2016.

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Kyle Ellis