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12 *Additional Counsel Listed On Signature Page.*

13 **UNITED STATES DISTRICT COURT**
14 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

15 KATHLEEN SMITH and MATTHEW
16 DOWNING, on behalf of themselves and all
17 others similarly situated,

18 Plaintiff,

19 v.

20 KEURIG GREEN MOUNTAIN, INC.,

21 Defendant.

Case No. 4:18-cv-06690-HSG

**DECLARATION OF MATTHEW
DOWNING IN SUPPORT OF
PLAINTIFFS' MOTION FOR
AWARD OF ATTORNEYS' FEES
AND INCENTIVE AWARDS**

Date: December 8, 2022

Time: 2:00 p.m.

Location: Courtroom 2, 4th Floor

Judge: Hon. Haywood S. Gilliam, Jr.

1 I, Matthew Downing, declare as follows:

2 1. I am a Plaintiff and proposed class representative in this action. I am also a
3 plaintiff in *Downing v. Keurig Green Mountain, Inc.*, No. 20-cv-11673 (D. Mass.) (the “*Downing*
4 *action*”). I have personal knowledge of the matters outlined in this declaration and, if called as a
5 witness, I could and would testify competently to them.

6 2. I reside in Marlborough, Massachusetts.

7 3. I understand that Keurig Green Mountain, Inc. (“Defendant”) manufactures plastic
8 single-serve coffee pods that Defendant labeled as recyclable (the “Challenged Products”). I
9 purchased the Challenged Products in Massachusetts in 2017. When I made those purchases, I
10 relied on the recycling claims on the Product’s packaging. At the time of my purchases, I believed
11 that the language and graphics on the Challenged Products’ labels meant that the Challenged
12 Products would be collected, separated, and recovered from the general waste stream for reuse or
13 use in manufacturing new items.

14 4. I later learned, contrary to the labeling on the Challenged Products, that the
15 Challenged Products are not recyclable in many communities. Had I known then that the
16 Challenged Products would not be recycled in many communities, I would have purchased other
17 reusable, compostable, or recyclable coffee products.

18 5. When I retained Shapiro Haber & Urmy LLP in 2020 to file the *Downing* action,
19 and when I agreed to be added as a plaintiff in this action, I understood I would represent not only
20 myself but also a proposed national class of consumers like myself. I take this responsibility
21 seriously and have committed myself to the vigorous prosecution of this action on behalf of
22 consumers like me.

23 6. I have performed various tasks to oversee my attorneys’ work and protect absent
24 class members’ rights. Among other things, my participation in this lawsuit has included:

- 25
- 26 • retaining my attorneys;
 - 27 • providing them the information necessary to draft the original complaint in which I
28 was a plaintiff—the complaint filed in federal court in Massachusetts—as well as the
Second Amended Complaint in this action, including information on the Challenged

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- Products I purchased and the reasons I purchased the Challenged Products;
- reviewing the draft complaint in the *Downing* action and the Second Amended Complaint in this action;
 - monitoring the *Downing* action and this action, including routine communications with my attorneys, as well as reviewing documents and correspondence they sent me;
 - conferring with my attorneys about the settlement of the *Downing* action and this action;
 - reviewing and approving the term sheet and settlement agreement;
 - providing my attorneys with information necessary to successfully oppose Defendant’s motion to dismiss the *Downing* action;
 - understanding and agreeing to each of the responsibilities of a named plaintiff and putative class representative.

7. I have not received any compensation whatsoever for my time and efforts on behalf of absent class members.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and understanding.

Executed on September 16, 2022, in Marlborough, Massachusetts.

/s/ Matthew Downing
Matthew Downing