

# EXHIBIT 4

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**DAVID KARDONICK, JOHN DAVID,  
and MICHAEL CLEMINS, individually  
and on behalf of all others similarly  
situated,**

**Plaintiffs,**

**v.**

**JPMORGAN CHASE & CO. and  
CHASE BANK USA, N.A.**

**Defendants.**

**C. A. No. 1-10-cv-23235-WMH**

**DECLARATION OF BRIAN KU IN SUPPORT OF JOINT APPLICATION FOR  
ATTORNEYS' FEES AND REIMBURSEMENT OF EXPESNES FILED ON BEHALF  
OF KU & MUSSMAN, P.A.**

I, Brian Ku, declare as follows:

1. I am a partner with the law firm of Ku & Mussman, P.A. I submit this declaration in support of my firm's application for an award of attorneys' fees and in connection with services rendered in this case, as well as the reimbursement of expenses incurred by my firm in connection with this litigation.

2. My firm performed the following tasks, among others, during the litigation: client intake communication, investigated the facts underlying the litigation, researched applicable Florida law, drafted pleadings, reviewed and revised pleadings, attended hearings, and participated in various conferences with co-counsel regarding all aspects of the case.

3. The schedule attached hereto as Exhibit A is a detailed summary indicating the amount of time spent by each attorney and paralegal of my firm who was involved in this

litigation, and the lodestar calculation based on my firm's current billing rates. For attorneys and paralegals who are no longer employed by my firm, the lodestar calculation is based upon the billing rates for such attorneys and paralegals in his or her final year of employment by my firm. The schedule was prepared from contemporaneous time records regularly prepared and maintained by my firm, which are available at the request of the Court. Time expended in preparing this application for fees and reimbursement of expenses has not been included in this request.

4. The hourly rates for the attorneys and paralegals in my firm included in Exhibit A are the same as the regular current rates charged for non-contingent matters and/or which have been accepted in other litigation.

5. The total number of hours expended on this litigation by my firm is 115 hours. The total lodestar for my firm is \$40,875.00. *See* Exhibit A.


6. My firm's lodestar figures are based upon the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firms' billing rates.

7. As detailed in Exhibit B, my firm has incurred a total of \$427.00 in unreimbursed expenses in connection with the prosecution of this litigation.

8. The expenses incurred in this action are reflected in the books and records of my firm. These books and records are prepared from expense vouchers, check records and other source materials and are an accurate record of the expenses incurred.

9. With respect to the standing of my firm, attached hereto as Exhibit C is a brief biography of my firm and attorneys in my firm who were principally involved in this litigation.

Dated: July 21, 2011



Brian Ku

**EXHIBIT A**  
**Lodestar Summary**

**KU & MUSSMAN, P.A.**

<b>Timekeeper</b>	<b>Hours</b>	<b>Rate</b>	<b>Lodestar</b>
(A) Brian Ku	101.10	\$ 375.00	\$37,912.50
(A) Louis Mussman	4.90	\$ 375.00	\$1,837.50
(PL) Reyna Sarmiento	9.00	\$ 125.00	\$1,125.00
<b>TOTAL</b>	<b>115.00</b>		<b>\$40,875.00</b>

**Timekeeper Status**

(P) = Partner

(A) = Attorney

(LC) = Law Clerk

(PL) = Paralegal

**EXHIBIT B**

**Ku & Mussman, P.A.**

**EXPENSE SUMMARY**

<b>Expense</b>	<b>Total</b>
Class Notice/Press Release	\$0.00
Mediation	\$0.00
Deposition/Transcripts	\$0.00
Filing Fee/court Fees	\$0.00
Expert/Consult/Investigation	\$0.00
Process Server	\$0.00
Travel/Food/Misc.	\$427.00
Telephone/Facsimile	\$0.00
In-house photocopying/printing	\$0.00
Postage/Overnight/Courier	\$0.00
Legal Research	\$0.00
<b>TOTAL</b>	<b>\$427.00</b>

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## **KU & MUSSMAN, P.A.**

12550 Biscayne Boulevard Suite 406

Miami, Florida 33181

Tel: (305) 891-1322

Fax: (305)891-4512

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### **FIRM BIOGRAPHY**

Ku & Mussman, P.A. is a multi-faceted firm which concentrates in federal litigation on behalf of individuals, consumers, and small businesses. Since its 2004 founding, K&M quickly developed a national civil rights practice, promoting access to public facilities for our disabled clients. Our client base has since expanded to include consumers, insurance policyholders, and individuals requiring access to their residences. The firm litigates cases throughout the country, including both federal and state courts, and prides itself in providing personal and professional service.

### **REPRESENTATIVE CASES BY AREA OF PRACTICE**

#### **Consumer Protection**

Ku & Mussman, P.A. represents clients, both as individuals and as representatives of a class, in uncovering and stopping unfair trade practices. Whether the problem is a poor product, misleading advertising, or using fine print to take advantage of consumers, legal remedies exist to address these and other situations.

In *In re: Budeprion XL Sales and Marketing Litigation*, MDL No. 2107 (E.D. Pa.), K&M serves as co-chair of the fact discovery committee in a multi-district class action representing purchasers alleging fraud and misrepresentation against manufacturers of a generic form of Wellbutrin XL. (Pending)

In *Triplett v. Discover Bank*, MDL No. 2217 (N.D. Ill.), K&M serves as class co-counsel in a multi-district class action representing a national class of consumers against Discover Bank alleging breach of contract and unfair trade practices in the marketing of credit card "Payment Protection." (Pending)

In *Kardonick v. Citigroup, Inc.*, No. 10-23023 (S.D. Fla.), K&M serves as class co-counsel in a class action representing Florida consumers against Citibank alleging breach of contract and unfair trade practices in the marketing and administration of credit card "Payment Aid." (Pending)

#### **Disability Access & Housing**

Ku & Mussman, P.A. is committed to enforcing the Americans with Disabilities Act (ADA), the Rehabilitation Act, and the Fair Housing Act (FHA) on behalf of our clients. We have brought

hundreds of suits across the country against entities both large and small, including retail stores, municipalities, universities, libraries, sports stadiums, theaters, hotels, and restaurants.

In *Brown v. Nassau County*, Case No.: 07-cv-04811 (JFB)(ETB), K&M successfully prosecuted an action under the ADA and Rehabilitation Acts against the County requiring it to update and repair the Nassau Coliseum to greatly increase access for the disabled. During the action, K&M successfully secured partial summary judgment against the County then entered into a Consent Decree which was approved by the Court.

In *Brown v. Showboat Atlantic City Propco, LLC et al.*, Case No.08-CV-05145 (NLH)(JS), which remains pending, K&M filed an action seeking declaratory and injunctive relief due to barriers to access at the Defendants' casino. Recently, K&M successfully obtained partial summary judgment against the Defendants.

In *Walden v. Hampton Parks and Recreation*, Case No. 4:10-cv-00127-RAJ -FBS, K&M successfully prosecuted an ADA and Rehabilitation Act action against the City requiring it to update and repair the Hampton Coliseum and greatly increase access for the disabled. The parties eventually entered into a court approved Consent Order which will greatly increase disabled access at the property.

In *Smith et al v. Lowry Park Zoological Society of Tampa, Inc., et al*, Case No.:8:07-cv-00333-JDW-TBM, K&M brought suit under the ADA and Rehabilitation Acts to increase disabled access at the Zoo. During the action, K&M successfully secured partial summary judgment against the Defendants then entered into a global settlement agreement greatly increasing disabled access at the property.



**BRIAN KU, ESQ.**  
**12550 Biscayne Boulevard, Suite 406, Miami, Florida 33181**  
**Phone: (305) 891-1322; Fax: (305) 891-4512; Brian@kumussman.com**

**LEGAL EXPERIENCE**

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**KU & MUSSMAN, P.A.**

Shareholder

Miami, FL  
September 2004 – Present

- Co-founder of firm
- Handled all aspects of federal litigation across the country representing individuals, families, and small businesses
- Prepared and developed national ADA class action regarding discriminatory access to facilities
- Handled client contact and develop new client relations
- Participated in class actions involving consumer protection including serving as co-chair on fact discovery committee in pending multi-district action
- Argued successfully several summary judgment motions and other litigation matters in courtrooms around the country
- Negotiated hundreds of settlements in complex legal matters ranging from ADA, FHA, Rehabilitation Act, Personal Injury, and Consumer Protection cases

**GILBRIDE, HELLER & BROWN, P.A.**

Associate

Miami, FL  
March 2003-September 2004

- Researched legal issues and draft memoranda in major tax shelter case
- Participated in all aspects of civil litigation involving multimillion dollar real estate venture
- Handled or organized discovery in major accounting malpractice suit involving millions of dollars
- Attended settlement conferences, mediations, and hearings in commercial civil litigation cases

**ALLAN KANNER & ASSOCIATES (PLC)**

Contract Attorney

New Orleans, LA  
September 2002 – January 2003

- Participated in preparing case for New Jersey Attorney General against Spill Act violators
- Drafted briefs for all stages of trial and appellate practice
- Participated in extensive document review in nationwide class action cases
- Prepared memoranda analyzing research and case law on unique forms of recovery

**LICENSES**

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- 11<sup>th</sup> Circuit Court of Appeals 2011
- The District of Columbia Bar 2011
- U.S. District Court, Connecticut 2007
- U.S. District Court, Southern District of Florida 2004
- U.S. District Court, Middle District of Florida 2004
- The Florida Bar 2002

**EDUCATION**

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**UNIVERSITY OF MIAMI, SCHOOL OF LAW**

*Juris Doctorate; Cum Laude*

Miami, FL  
May 2002

- Vice Chair of Law School Social Committee, International Moot Court Board
- Entertainment and Sports Law Society
- Spain Study Abroad Program - Summer 2000

**COLLEGE OF WILLIAM AND MARY, COLLEGE OF ARTS & SCIENCES**

*Bachelor of Arts in Government*

Williamsburg, VA  
May 1998

- Varsity Golf Team, Habitat For Humanity, Intramural Tennis
- Candidate for Student Body President

**LOUIS I. MUSSMAN, ESQ.**  
**12550 Biscayne Blvd., Ste. 406, Miami FL 33181**  
**Phone: (305) 891-1322; Fax: (305) 891-4512; louis@kumussman.com**

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**EXPERIENCE:**

**KU & MUSSMAN, P.A.**

Miami, FL  
2004 - present

Shareholder,

- Co-founder of firm.
- Implemented successful litigation and business model.
- Handled daily contact with current and potential clients and analysis of potential cases in the fields of ADA, FHA, Rehabilitation Act, Personal Injury, Consumer Protection, Estate Planning, contracts and many other areas of law.
- Prosecuted numerous complex class action matters in the fields of Consumer Protection and ADA law.
- Handled all aspects of firm wide litigation including motions, pleadings and discovery.
- Prepared successful pleadings and motions on various legal issues.
- Attended on-site inspections for ADA and Rehabilitation Act compliance at all stages of litigation.
- Prepared hundreds of successful settlement agreements and demand letters to resolve complex matters.

**FISCHMAN, HARVEY & DUTTON, P.A.**

Miami, FL  
2003 - 2004

Associate,

- Directed all aspects of massive ADA health care class action litigation encompassing over 1300 individual properties, including communication with clients and experts.
- Defended over 100 on-sight ADA inspections and conducted ADA barrier negotiations.
- Counseled local administrators regarding ADA barriers, settlement terms and inspection procedures for healthcare (ADA) class action litigation.
- Prepared successful pleadings, motions, and memoranda of law regarding employment law, ADA class action, contract disputes and complex commercial litigation defense.

**PROFESSIONAL LICENSES:**

- The Florida Bar - member, 2002
- U.S. District Court, Southern, Middle and Northern Districts of Florida
- U.S. District Court, District of Connecticut
- U.S. District Court, Northern District of Texas

**EDUCATION:**

**UNIVERSITY OF MIAMI SCHOOL OF LAW**

Coral Gables, FL

Juris Doctor, May 2002 – *magna cum laude*

- *University of Miami Inter - American Law Review* - Associate Editor (2001-2002)
- *Dean's List*, Spring 2001 GPA - 4.00; Fall 2001 GPA – 3.714; Spring 2002 GPA – 4.00
- *Dean's Cert. of Achievement*, Trusts & Estates I (Fall 2000); Antitrust (Spring 2001)

**WASHINGTON UNIVERSITY**

St. Louis, MO

Bachelor of Science in Business Administration May 1998

- Major: Finance
- Class Rank: top 16%; Cumulative GPA: 3.61/4.00
- GPA in Major (Finance): 3.94/4.00
- Awarded Dean's List numerous times
- Completed London Semester Program with the London School of Economics