

1 RACHELE R. BYRD (190634)
byrd@whafh.com
2 BRITTANY N. DEJONG (258766)
dejong@whafh.com
3 **WOLF HALDENSTEIN ADLER**
4 **FREEMAN & HERZ LLP**
750 B Street, Suite 1820
5 San Diego, CA 92101
Telephone: (619) 239-4599
6 Facsimile: (619) 234-4599

7 BENJAMIN F. JOHNS (*pro hac vice*)
bfj@chimicles.com
8 BEENA M. MCDONALD (*pro hac vice*)
bmm@chimicles.com
9 **CHIMICLES SCHWARTZ KRINER**
10 **& DONALDSON-SMITH LLP**
One Haverford Centre
11 361 West Lancaster Avenue
Haverford, PA 19041
12 Telephone: (610) 642-8500
Facsimile: (610) 649-3633

TINA WOLFSON (174806)
twolfson@ahdootwolfson.com
AHDOOT & WOLFSON, PC
2600 West Olive Ave., Suite 500
Burbank, CA 91505
Telephone: (310) 474-9111
Facsimile: (310) 474-8585

13 *Counsel for Plaintiffs*

14 [Additional counsel listed on signature page]

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **FOR THE COUNTY OF LOS ANGELES**

18 KYNDAL CHRISTOFFERSON, NATALIE)
19 GERACE, AND ERIN RATELLE, individually)
and on behalf of all others similarly situated,)

20 Plaintiffs,)

21 v.)

22 CREATION ENTERTAINMENT, INC.,)
23)

24 Defendant.)

Case No. 19STCV11000

**PLAINTIFFS' NOTICE OF MOTION
AND MOTION FOR AN AWARD OF
ATTORNEYS' FEES,
REIMBURSEMENT OF EXPENSES, AND
REPRESENTATIVE PLAINTIFFS'
AWARD; MEMORANDUM OF POINTS
AND AUTHORITIES**

DATE: June 24, 2021
TIME: 9:00 a.m.
JUDGE: Hon. Elihu M. Berle
DEPT.: 6

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that on June 24, 2021 at 9:00 a.m., or as soon thereafter as the
3 matter may be heard, in Department 6 of the Superior Court of California, County of Los Angeles,
4 located at 312 North Spring Street, Los Angeles, California 90012, Plaintiffs Kyndal Christofferson,
5 Natalie Gerace, and Erin Ratelle (collectively, "Plaintiffs") will move and do hereby move this Court
6 for an Order awarding: (a) Class Counsel attorneys' fees in the amount of \$313,500, which represents
7 33% of the Settlement Fund; (b) reimbursement of litigation expenses in the amount of \$19,871.08;
8 and (c) Representative Plaintiffs' Award of \$2,500 for each of the three Representative Plaintiffs. This
9 motion is made on the grounds that the requested fees, expenses and awards are reasonable and in
10 accordance with California law.

11 This motion is based upon this Notice; the accompanying Memorandum of Points and
12 Authorities; the Joint Declaration of Class Counsel; the Declarations of Rachele R. Byrd, Benjamin
13 F. Johns, and Tina Wolfson; the Declaration of Julie N. Green on Behalf of CPT Group, Inc.; the
14 Declarations of Plaintiffs Kyndal Christofferson, Natalie Gerace, and Erin Ratelle; the First Amended
15 Settlement Agreement and Release ("Settlement") with exhibits, previously filed with the Court on
16 January 15, 2021; the [Proposed] Final Approval Order and Judgment; all papers filed in support of
17 Plaintiffs' Motion for Final Approval; the argument of counsel; all papers and records on file in this
18 matter; and such other matters as the Court may consider.

19 DATED: May 7, 2021

20 By: 
RACHELE R. BYRD

21 RACHELE R. BYRD
22 byrd@whafh.com
23 BRITTANY N. DEJONG
24 dejong@whafh.com
25 **WOLF HALDENSTEIN ADLER**
26 **FREEMAN & HERZ LLP**
27 750 B Street, Suite 1820
28 San Diego, CA 92101
Telephone: 619/239-4599
Facsimile: 619/234-4599

TINA WOLFSON
twolfson@ahdootwolfson.com
AHDOOT & WOLFSON, PC
2600 West Olive Ave., Suite 500
Burbank, CA 91505

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Telephone: (310) 474-9111
Facsimile: (310) 474-8585

BENJAMIN F. JOHNS
bfj@chimicles.com
BEENA M. MCDONALD
bmm@chimicles.com
**CHIMICLES SCHWARTZ KRINER
& DONALDSON-SMITH LLP**
One Haverford Centre
361 West Lancaster Avenue
Haverford, PA 19041
Telephone: (610) 642-8500
Facsimile: (610) 649-3633

*Attorneys for Plaintiffs Kyndal Christofferson,
Natalie Gerace, and Erin Ratelle*

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 This action arises out of Creation Entertainment, Inc.’s (“Creation”) alleged failure to
4 implement or maintain adequate data security measures to protect customers’ personal information.
5 Specifically, Plaintiffs allege that sensitive financial and personal non-public information, including
6 but not limited to customer (a) names; (b) addresses; (c) email addresses; and (d) payment card
7 information (including, *inter alia*, card numbers, expiration dates, and security codes (“CVV
8 numbers”)) (collectively, “Personal Information”) was accessed and captured from Creation’s systems
9 by unauthorized users during a period of time that ended on or around October 2018 (the “Security
10 Incident”).

11 The Settlement is an outstanding resolution of this high-risk, complex litigation and provides
12 substantial monetary benefit to Settlement Class Members. Through Class Counsel’s efforts, a
13 Settlement Fund of \$950,000 has been created which shall pay for: (1) all payments to Settlement
14 Class Members who submit valid claims; (2) costs of Claims Administration; (3) the Attorneys’ Fees
15 and Expenses Award, if any; and (4) the Representative Plaintiffs’ Award, if any. *See* Joint
16 Declaration of Counsel for Plaintiffs in Support of Unopposed Motion for an Order Preliminarily
17 Approving Class Action Settlement, Directing Notice and Setting Final Approval Hearing, filed
18 January 15, 2021 (“Preliminary Approval Decl.”), Ex. 1, ¶ 2.1. Class Members may receive either:
19 (i) a Basic Settlement Payment of \$200 regardless of whether they experienced any fraudulent or
20 unauthorized charges on their credit or debit cards used to make purchases from Creation and
21 regardless of whether they experienced any identity theft as a result of the Security Incident; or (ii) an
22 Extraordinary Reimbursement Settlement Payment of up to \$10,000.00 for unreimbursed charges
23 related to the Security Incident and time spent and expenses incurred dealing with unreimbursed
24 charges. *Id.*, ¶¶ 2.2.1, 2.2.2.

25 Additionally, Creation has implemented enhanced data security measures, valued at
26 \$119,337.87, designed to prevent another, similar security incident from occurring in the future. Joint
27 Declaration of Class Counsel in Support of Plaintiffs’ Motion for Final Approval of Class Action
28 Settlement and Motion for an Award of Attorneys’ Fees, Reimbursement of Expenses and

1 Representative Plaintiffs’ Award (“Joint Declaration” or “Joint Decl.”), ¶ 28. These commitments will
2 ensure the adequacy of Creation’s data security practices, and will provide ongoing protection for any
3 Settlement Class Members’ information remaining on Creation’s data systems, as well as providing
4 protection for consumers in the future.

5 For their efforts in achieving these results, Class Counsel seeks an award of 33% of the
6 Settlement Fund, or \$313,500, and reimbursement of their reasonable and necessary expenses totaling
7 \$19,871.08. Additionally, Class Counsel also seek a service award of \$2,500 to each Representative
8 Plaintiff for their contributions. As discussed below, the fee requested is reasonable when considered
9 under the applicable standards, and is well within the normal range of awards made in contingent-fee
10 class actions in California. Under a lodestar calculation, the requested award of fees represents a
11 negative multiplier of .51 applying Class Counsel’s customary hourly rates. Furthermore, the
12 requested service award for each Representative Plaintiff is reasonable, as well as standard, for this
13 type of action, and should be approved.

14 The Notice informed Class Members that Class Counsel intended to apply for a fee of up to
15 33% of the Settlement Fund (or \$313,500), case related expenses not to exceed \$20,000 and a \$2,500
16 service award for each Representative Plaintiff. Objections are due on May 24, 2021. As of the date
17 of this filing, neither the Claims Administrator nor Class Counsel has received any objections to any
18 aspect of the Settlement, including the request for attorneys’ fees, reimbursement of expenses or
19 service awards for the Representative Plaintiffs. *See* Declaration of Julie N. Green on Behalf of CPT
20 Group, Inc. Regarding Compliance With the Court Approved Notice Program (“Green Decl.”).

21 **II. SUMMARY OF THE LITIGATION**

22 Class Counsel respectfully refer the Court to the Joint Declaration, filed concurrently
23 herewith. The Joint Declaration provides a detailed description of the factual and procedural history
24 of the litigation, the claims asserted, the settlement negotiations, Class Counsel’s experience and work
25 performed, and the numerous risks and uncertainties presented in this litigation.

26 **III. LEGAL ARGUMENT**

27 There are two generally accepted methods for determining an award of attorneys’ fees under
28 California law: the percentage-of-the-recovery method and the lodestar-multiplier method. Typically,

1 the percentage method is selected when a settlement, like the one here, results in a common fund. In
2 either case, courts will typically refer to the other method as a cross-check to ensure that the fee award
3 is fair. *Roos v. Honeywell Int’l, Inc.*, 241 Cal. App. 4th 1472, 1493 (2015). “The trial court is the best
4 judge of the value of professional services rendered in its court, and while its judgment is subject to
5 our review, [the Court of Appeal] will not disturb that determination unless . . . convinced that it is
6 clearly wrong.” *Id.* at 1482 (internal quotations omitted). Class Counsel’s request for \$313,500 for
7 attorneys’ fees is appropriate under either the lodestar or percentage-of-the-recovery method.

8 **A. The Requested Fees Are Reasonable Under the Percentage of the Common**
9 **Fund Method Approved by the California Supreme Court in 2016**

10 The common fund doctrine is generally held applicable “where plaintiffs’ efforts have
11 effected the creation or preservation of an identifiable fund of money out of which the fees will be
12 paid.” *Jordan v. Dep’t of Motor Vehicles*, 100 Cal. App. 4th 431, 446-47 (2002) (citing *Serrano v.*
13 *Priest*, 20 Cal. 3d 25, 37-38 (1977)). Here, the Settlement resulted in creation of an identifiable
14 \$950,000 fund from which valid claims from Settlement Class Members, notice and administration
15 costs, attorneys’ fees and expenses and any incentive award will be paid. In 2016, the California
16 Supreme Court held that an award of attorneys’ fees may be based *solely* on a percentage of the
17 common fund created. *See Laffitte v. Robert Half Int’l Inc.*, 1 Cal. 5th 480, 503 (2016) (“when class
18 action litigation establishes a monetary fund for the benefit of class members, and the trial court in
19 its equitable powers awards class counsel a fee out of that fund, the court may determine the amount
20 of a reasonable fee by choosing an appropriate percentage of the fund created.”). As the Supreme
21 Court held in *Laffitte*, the advantages of the percentage method—including the relative ease of
22 calculation, alignment of incentives between counsel and the class, an approximation of market
23 conditions in a contingency case, and the encouragement it provides counsel to seek the greatest
24 recovery and avoid unnecessarily prolonging the litigation—make the percentage method a “valuable
25 tool.” *Laffitte*, 1 Cal. 5th at 503.

26 The percentage of the fund method is particularly appropriate in contingency litigation, as it
27 “provides a credible measure of the market value of the legal services provided” (which almost
28 always involves percentage fee agreements). *Lealao v. Beneficial Cal., Inc.*, 82 Cal. App. 4th 19, 49
(2000). It encourages the successful attorney to accept the contingency risk and delay in payment,

1 the importance of which California decisions have repeatedly emphasized. *See, e.g., Ketchum v.*
2 *Moses*, 24 Cal. 4th 1122, 1136 (2001) (“lawyers generally will not provide legal representation on a
3 contingent basis unless they receive a premium for taking that risk”) (internal quotations and citation
4 omitted); *Lealao*, 82 Cal. App. 4th at 47 (“attorneys providing the essential enforcement services
5 must be provided incentives roughly comparable to those negotiated in the private . . . legal
6 marketplace, as it will otherwise be economic for defendants to increase injurious behavior”);
7 *Melendres v. City of Los Angeles*, 45 Cal. App. 3d 267, 273 (1975) (“There must always be a flavor
8 of generosity in the awards . . . in order that an appetite for efforts may be stimulated.”).

9 Finally, the percentage method conserves scarce judicial resources. Unlike a lodestar analysis,
10 which can require hours of time-consuming review of attorney records, the percentage method is a
11 vastly simpler and more efficient method of calculating a fee. *Laffitte*, 1 Cal. 5th at 503 (“recognized
12 advantages of the percentage method . . . includ[e] relative ease of calculation”). As the court stated
13 in *California Indirect Purchaser X-Ray Film Antitrust Litig.*, Case No. 960886, 1998 WL 1031494,
14 (Alameda Super. Ct. Oct. 22, 1998) at *9, “California law does not require that this Court impose on
15 itself and Class Counsel the time-consuming effort of examining the details of the services provided
16 in order to award Class Counsel attorneys’ fees.”

17 Class Counsel’s request of 33% of the Settlement Fund falls squarely within the parameters of
18 percentage fees awarded in other class action litigation. “Empirical studies show that, regardless
19 whether the percentage method or the lodestar method is used, fee awards in class actions average
20 around one-third of the recovery.” *In re Consumer Privacy Cases*, 175 Cal. App. 4th 545, 557 n.13
21 (2009) (quoting *Chavez v. Netflix, Inc.*, 162 Cal. App. 4th 43, 66 n.11 (2008)); *Laffitte*, 1 Cal. 5th at
22 506 (affirming fee award of one-third of the settlement fund); *California Indirect Purchaser*, 1998
23 WL 1031494, at *9 (collecting cases awarding between 30 and 45%); *Bonilla v. Regis Corp.*, No. 30-
24 2009-00329724, 2010 WL 6509279 (Orange Cty. Super. Ct. Nov. 23, 2010) (granting attorneys’ fees
25 of 33.33%); *In re Avalanche Biotechnologies, Inc. Shareholder Litig.*, No. CIV536488, Judgment and
26 Order Granting Final Approval of Class Action Settlement, slip op. at 7 (San Mateo Cty. Super. Ct.
27 Jan. 19, 2018) (awarding Plaintiffs’ Counsel \$4.29 million, or 33% of the settlement fund) (attached
28 hereto as Appendix A) *Hayden v. Worldwide Energy & Manufacturing USA, Inc.*, No. Civ. 518333,

1 Final Order and Judgment, slip op. at 4 (San Mateo Cty. Super. Ct. May 13, 2015) (awarding Plaintiffs’
2 Counsel 33% of the settlement fund) (attached hereto as Appendix B). Accordingly, an award of 33%
3 of the Settlement Fund is reasonable.

4 The fee requested also bodes well in comparison to the probable terms of a contingent fee
5 contract negotiated in private litigation, which is typically in the range of 33%-40%. *See In re*
6 *Consumer Privacy Cases*, 175 Cal. App. 4th at 557 (a common fund fee award should be “within the
7 range of fees freely negotiated in the legal marketplace in comparable litigation”); *Fernandez v.*
8 *Victoria Secret Stores, LLC*, No. 06-cv-4149-MMM-SH, 2008 U.S. Dist. LEXIS 123546 at *54 n.59
9 (C.D. Cal. July 21, 2008) (citing study showing that in some jurisdictions, standard contingency fee
10 rates are 33% if the case settles before trial, 40% if a trial commences, and 50% if trial is completed).

11 **B. The Lodestar Method Confirms the Reasonableness of Class Counsel’s Request**

12 The lodestar-multiplier method calculates the fee by multiplying the number of hours
13 expended by counsel by an hourly rate and then increasing or decreasing that amount by applying a
14 positive or negative multiplier. *Laffitte*, 1 Cal. 5th at 489. While it may be used as a cross-check on
15 the percentage of recovery method, it “does not override the trial court’s primary determination of
16 the fee as percentage of the common fund and thus does not impose an absolute maximum or
17 minimum on the potential fee award.” *Id.* at 505.

18 Class Counsel’s combined lodestar, based upon the current usual and customary hourly billing
19 rate of each firm, of \$617,971 as of April 30, 2021, confirms that the requested fee is reasonable.
20 Joint Decl. at ¶ 48. The requested fee in fact represents a negative multiplier of .51 on Class Counsel’s
21 lodestar. *Id.* at ¶ 45.

22 **1. Class Counsel’s Rates Are Reasonable**

23 In calculating a lodestar, the Court should first examine the prevailing hourly rate for similar
24 work in the pertinent geographic region. *Chodos v. Borman*, 227 Cal. App. 4th 76, 93 (2014) (value
25 of attorney services is variously defined as the “hourly amount to which attorneys of like skill in the
26 area would typically be entitled”) (citing *Serrano v. Unruh*, 32 Cal. 3d 621, 640 n.31 (1982)); *PLCM*
27 *Grp., Inc. v. Drexler*, 22 Cal. 4th 1084, 1094-95 (2000) (using prevailing hourly rate in community
28 for comparable legal services even though party used in-house counsel).

1 Class Counsel are highly-regarded members of the bar with national practices and have
2 successfully brought to bear in this case their extensive experience in class actions and complex
3 litigation. Declaration of Rachele R. Byrd in Support of Plaintiffs’ Motion for an Award of
4 Attorneys’ Fees, Reimbursement of Expenses and Representative Plaintiffs’ Award (“Byrd Decl.”),
5 ¶ 5; Declaration of Benjamin F. Johns in Support of Plaintiffs Motion for an Award of Attorneys’
6 Fees, Reimbursement of Expenses and Representative Plaintiffs’ Award (“Johns Decl.”), ¶ 5;
7 Declaration of Tina Wolfson in Support of Plaintiffs Motion for an Award of Attorneys’ Fees,
8 Reimbursement of Expenses and Representative Plaintiffs’ Award (“Wolfson Decl.”), ¶ 5. Their
9 customary rates used to calculate the lodestar here are squarely in line with prevailing rates in this
10 jurisdiction for attorneys of comparable skill, experience, and reputation, have been approved by
11 other courts in California and across the country, and have been reviewed and deemed reasonable by
12 this Court. Byrd Decl., ¶ 10; Johns Decl., ¶ 10; Wolfson Decl., ¶ 10.

13 **2. Class Counsel’s Lodestar Is Reasonable**

14 As explained in detail above and in the declarations of Rachele R. Byrd, Benjamin F. Johns,
15 and Tina Wolfson, Class Counsel expended significant time litigating this case and achieving the
16 Settlement for the Class. These declarations describe how Class Counsel and their staffs devoted a
17 total of 1190.20 hours to this litigation and have incurred a combined lodestar through April 30, 2021,
18 of approximately \$617,971. Byrd Decl., ¶ 12; Johns Decl., ¶ 12; Wolfson Decl., ¶ 12. All three firms
19 maintained detailed contemporaneous time records, and the hours expended were reasonable and
20 necessary. *Concepcion v. Amscan Holdings, Inc.*, 223 Cal. App. 4th 1309, 1324 (2014) (“It is not
21 necessary to provide detailed billing timesheets to support an award of attorney fees under the lodestar
22 method Declarations of counsel setting forth the reasonable hourly rate, the number of hours
23 worked and the tasks performed are sufficient.”) (citing *Wershba v. Apple Computer*, 91 Cal. App.
24 4th 224, 254-55 (2001)).¹ These amounts do not include the additional time that Class Counsel will
25 continue to spend going forward in obtaining final approval of the Settlement, supervising claims
26 administration, or working on any appeal. Class Counsel is not requesting that a multiplier be applied

27
28 ¹ If the Court deems it necessary, Class Counsel will make their contemporaneous billing records available, for *in camera* review, upon request. Byrd Decl., ¶ 12; Johns Decl., ¶ 12; Wolfson Decl., ¶ 12.

1 to its lodestar, and in fact are requesting an amount that results in a negative multiplier. Byrd Decl.,
2 ¶ 2; Johns Decl., ¶ 2; Wolfson Decl., ¶ 2. Class Counsel’s “lodestar reflects the general local hourly
3 rate for a fee-bearing case; it does not include any compensation for contingent risk, extraordinary
4 skill, or any other factors a trial court may consider...” *Ketchum*, 24 Cal. 4th at 1138.² With a
5 lodestar of \$617,971, the requested fee amount would result in a negative multiplier of .51. Byrd
6 Decl., ¶ 2; Johns Decl., ¶ 2; Wolfson Decl., ¶ 2.

7 3. Class Counsel’s Expenses Are Reasonable

8 Class Counsel request reimbursement for reasonable expenses incurred in litigating this
9 matter totaling \$19,871.08. These costs were necessary to the investigation, prosecution, and
10 settlement of this action. Byrd Decl., ¶ 3; Johns Decl., ¶ 3; Wolfson Decl., ¶ 3. The majority of these
11 costs are professional fees paid by Class Counsel to the mediator, travel expenses and filing fees.
12 Byrd Decl., ¶ 14; Johns Decl., ¶ 13; Wolfson Decl., ¶ 13. These, as well as the other categories of
13 costs incurred by Class Counsel, are the common types of costs regularly billed to paying clients and
14 recoverable in cases where statutory cost-shifting provisions are available, as they are here. *Id.*

15 C. The Requested Service Awards to Plaintiffs Are Reasonable

16 Service awards are “fairly typical” in class action cases, “are discretionary, and are intended
17 to compensate class representatives for work done on behalf of the class, to make up for financial or
18 reputational risk undertaken in bringing the action, and, sometimes, to recognize their willingness to
19 act as a private attorney general.” *See In re Cellphone Termination Fee Cases*, 186 Cal. App. 4th
20 1380, 1393-94 (2010) (citing *Rodriquez v. West Publ’g Corp.*, 563 F.3d 948, 958 (9th Cir. 2009)).

21 Class Counsel respectfully request \$2,500 service awards to each Class Representative. Such
22 amounts are commonplace, even in cases resolved in much shorter periods of time and providing less

23
24 ² To “approximate market-level compensation for such services, which typically includes a
25 premium for the risk of nonpayment or delay in payment of attorney fees” (*id.*), courts employ fee
26 enhancements, adjusting the fee “based on consideration of factors specific to the case,” *PLCM Grp.*,
27 *Inc.*, 22 Cal. 4th at 1095. Those factors include: (1) the results achieved on behalf of the Class; (2)
28 the novelty and difficulty of the questions involved and the skill displayed in presenting them; (3) the
response of the Class to the settlement, including a lack of objections to the settlement terms, and
particularly to the fee award; (4) counsel’s experience, reputation, and ability; (5) counsel’s
preclusion from other work; and (6) the contingent nature of the fee award. *See Ketchum*, 24 Cal. 4th
at 1132; *Laffitte*, 1 Cal. 5th at 489; *Cundiff v. Verizon Cal., Inc.*, 167 Cal. App. 4th 718, 724 n.3
(2008); *Consumer Privacy Cases*, 175 Cal. App. 4th at 556. All of these factors would weigh in favor
of enhancement here.

1 remarkable results. *See, e.g., Blacksher v. United States Sec. Assocs. Inc.*, No. BC348103, 2008 Cal.
2 Super. LEXIS 1464, at *10-11 (L.A. Cty. Super. Ct. Mar. 7, 2008) (incentive award of \$10,000 was
3 reasonable for assisting in two years of litigation). To date, no Settlement Class Member has objected
4 to the requested service awards. Green Decl. at ¶ 20.

5 The service awards are also well justified. The Class Representatives here invested significant
6 time and effort in order to vindicate the rights of consumers who were affected by the data breach by
7 supervising counsel, reviewing pleadings, and responding to discovery. Joint Decl., Ex. A, ¶ 5; *id.*,
8 Ex. B, ¶ 5; *id.*, Ex. C, ¶ 5.

9 **IV. CONCLUSION**

10 For the foregoing reasons, Plaintiffs respectfully request the Court grant their motion in its
11 entirety.

12 DATED: May 7, 2021

By:



RACHELE R. BYRD

RACHELE R. BYRD
byrd@whafh.com
BRITTANY N. DEJONG
dejong@whafh.com
**WOLF HALDENSTEIN ADLER
FREEMAN & HERZ LLP**
750 B Street, Suite 1820
San Diego, CA 92101
Telephone: 619/239-4599
Facsimile: 619/234-4599

TINA WOLFSON
twolfson@ahdootwolfson.com
AHDOOT & WOLFSON, PC
2600 West Olive Ave., Suite 500
Burbank, CA 91505
Telephone: (310) 474-9111
Facsimile: (310) 474-8585

BENJAMIN F. JOHNS
bfj@chimicles.com
BEENA M. MCDONALD
bmm@chimicles.com
**CHIMICLES SCHWARTZ KRINER
& DONALDSON-SMITH LLP**
One Haverford Centre
361 West Lancaster Avenue
Haverford, PA 19041
Telephone: (610) 642-8500

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Facsimile: (610) 649-3633

*Attorneys for Plaintiffs Kyndal Christofferson,
Natalie Gerace, and Erin Ratelle*

27201

APPENDIX A

11/19
5-2

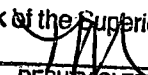
1 ROBBINS GELLER RUDMAN
& DOWD LLP
2 SHAWN A. WILLIAMS (213113)
One Montgomery Street, Suite 1800
3 San Francisco, CA 94104
Telephone: 415/288-4545
4 415/288-4534 (fax)

5 JAMES I. JACONETTE (179565)
SUSANNAH R. CONN (205085)
6 655 West Broadway, Suite 1900
San Diego, CA 92101
7 Telephone: 619/231-1058
619/231-7423 (fax)

8 Lead Counsel for Plaintiffs

FILED
SAN MATEO COUNTY

JAN 19 2018

Clerk of the Superior Court
By 
DEPUTY CLERK

RECEIVED
JAN 12 2018
CLERK - THE SUPERIOR COURT
SAN MATEO COUNTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN MATEO

In re AVALANCHE BIOTECHNOLOGIES,)
INC. SHAREHOLDER LITIGATION)

Lead Case No. CIV536488

CLASS ACTION

This Document Relates To:)

ALL ACTIONS.)

JUDGMENT AND ORDER GRANTING
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT

Assigned for All Purposes to the
Honorable Marie S. Weiner
Dept. 2
Date Action Filed: 12/07/15

CIV536488
JUD
Judgment
939053



File By Fax

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 WHEREAS, the Court is advised that the Parties,¹ through their counsel, have agreed, subject to
2 Court approval following notice to the Class and a hearing, to determine if the settlement upon the
3 terms and conditions set forth in the Stipulation and Agreement of Settlement dated August 3, 2017 (the
4 “Stipulation” or “Settlement”), which was filed with the Court, is fair, reasonable and adequate to the
5 Class; and

6 WHEREAS, on September 7, 2017, the Court entered its Order Preliminarily Approving
7 Settlement and Providing for Notice, which preliminarily approved the Settlement, and approved the
8 form and manner of notice to the Class of the Settlement, and said notice has been made, and the
9 fairness hearing having been held; and

10 NOW, THEREFORE, based upon the Stipulation and all of the filings, records and proceedings
11 herein, and it appearing to the Court upon examination that the Settlement set forth in the Stipulation is
12 fair, reasonable and adequate, and upon a Settlement Fairness Hearing having been held after notice to
13 the Class of the Settlement to determine if the Settlement is fair, reasonable, and adequate and whether
14 the Final Judgment should be entered in this Action;

15 **THE COURT HEREBY FINDS AND CONCLUDES THAT:**

16 A. The provisions of the Stipulation, including definitions of the terms used therein, are
17 hereby incorporated by reference as though fully set forth herein.

18 B. This Court has jurisdiction of the subject matter of this Action and over all of the Parties
19 and all Class Members.

20 C. With respect to the Class, the Court finds that:

21 (i) The Class Members are so numerous that their joinder in the Action is
22 impracticable. There were more than nine million shares of Avalanche common stock offered through
23 the IPO and the SPO. The Class is, therefore, sufficiently numerous to render joinder impracticable.

24
25

26 ¹ As used herein, the term “Parties” means Plaintiffs Beaver County Employees Retirement Fund,
27 Arpan Bachhawat, and Srikanth Koneru, and Defendants Avalanche Biotechnologies, Inc., Thomas W.
28 Chalberg, Jr., Linda C. Bain, Mark S. Blumenkranz, John P. McLaughlin, Steven D. Schwartz, Paul D.
Wachter, Jefferies LLC, Cowen and Company, LLC, Piper Jaffray & Co., and William Blair &
Company, L.L.C.

1 (ii) There are questions of law and fact common to the Class. Those questions
2 include (a) whether the Defendants violated the Securities Act of 1933, whether the Registration
3 Statements for the IPO and SPO contained misstatements or omissions, whether any misstatements or
4 omissions were material, and whether any misstatements or omissions caused harm to the Class
5 Members; and (b) whether the Issuer Defendants violated the Securities Exchange Act of 1934, whether
6 the statements made during the Class Period were materially false or misleading, whether the Issuer
7 Defendants acted with scienter, and whether the Issuer Defendants' alleged fraud caused harm to the
8 Class Members.

9 (iii) The claims of the Plaintiffs are typical of the claims of the Class Members.
10 Plaintiffs claim to have purchased Avalanche common stock during the Class Period and/or pursuant or
11 traceable to the same Registration Statements as the Class Members. Consequently, Plaintiffs claim
12 that they and the other Class Members sustained damages as a result of the same misconduct by
13 Defendants.

14 (iv) Plaintiffs and Plaintiffs' Counsel have fairly and adequately represented and
15 protected the interests of the Class Members. Plaintiffs have no interests in conflict with absent Class
16 Members. The Court is satisfied that Plaintiffs' Counsel are qualified, experienced, and have
17 represented the Class to the best of their abilities.

18 (v) The questions of law or fact common to the Class Members predominate over
19 any questions affecting only individual members.

20 (vi) A class action is the superior means of resolving the Action.

21 D. The form, content, and method of dissemination of notice given to the Class was
22 adequate and reasonable and constituted the best notice practicable under the circumstances, including
23 individual notice to all Class Members who could be identified through reasonable effort.

24 E. Notice, as given, complied with the requirements of California law, satisfied the
25 requirements of due process, and constituted due and sufficient notice of the matters set forth herein.

26 F. The Settlement set forth in the Stipulation in the amount of \$13,000,000 is fair,
27 reasonable, and adequate.

28

1 (i) The Settlement was negotiated at arm's length by Plaintiffs on behalf of the Class
2 and by Defendants, all of whom were represented by highly experienced and skilled counsel. The case
3 settled only after: (a) a mediation conducted by an experienced mediator who was thoroughly familiar
4 with this Action and the Federal Court Action; (b) the exchange among the State Court Plaintiff and the
5 Issuer Defendants of detailed mediation statements prior to the mediation which highlighted the factual
6 and legal issues in dispute; (c) follow-up negotiations between the Parties to this Action and the Federal
7 Court Action with the assistance of the mediator; (d) Plaintiffs' Counsel's extensive investigation,
8 which included, among other things, a review of Avalanche's press releases, U.S. Securities and
9 Exchange Commission filings, analyst reports, media reports, and other publicly disclosed reports and
10 information about the Defendants; (e) the drafting and submission of detailed complaints; and (f) the
11 review and analysis of non-public documents produced by Defendants. Accordingly, both the Plaintiffs
12 and Defendants were well-positioned to evaluate the settlement value of this Action and the Federal
13 Court Action. The Stipulation has been entered into in good faith and is not collusive.

14 (ii) If the Settlement had not been achieved, both Plaintiffs and Defendants faced the
15 expense, risk, and uncertainty of extended litigation. The Court takes no position on the merits of either
16 Plaintiffs' or Defendants' arguments, but notes these arguments as evidence in support of the
17 reasonableness of the Settlement.

18 G. Plaintiffs and Plaintiffs' Counsel have fairly and adequately represented the interest of
19 the Class Members in connection with the Settlement.

20 H. Plaintiffs, all Class Members, and Defendants are hereby bound by the terms of the
21 Settlement set forth in the Stipulation.

22 **IT IS HEREBY ORDERED THAT:**

23 1. The Class, defined in the Stipulation is finally certified as:

24 All Persons that purchased or otherwise acquired Avalanche common stock between
25 July 30, 2014 and June 15, 2015 (inclusive), including those Persons that purchased or
26 otherwise acquired the Company's common stock pursuant or traceable to the
27 Company's Registration Statement and Prospectus for the Company's IPO and those
28 Persons that purchased or otherwise acquired the Company's common stock pursuant or
traceable to the Company's Registration Statement and Prospectus for the Company's
SPO. Excluded from the Class are: the Defendants; any officers or directors of
Avalanche or the Underwriter Defendants during or after the Class Period; any
corporation, trust or other entity in which any Defendant has a controlling interest; and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

the members of the immediate families of the Individual Defendants, and the Individual Defendants' successors, heirs, assigns and legal representatives.

2. The Settlement on the terms set forth in the Stipulation is finally approved as fair, reasonable, and adequate. The Settlement shall be consummated in accordance with the terms and provisions of the Stipulation. The Parties are to bear their own costs, except as otherwise provided in the Stipulation.

3. All Released Parties as defined in the Stipulation are released in accordance with, and as defined in, the Stipulation.

4. Upon the Effective Date, Plaintiffs and each Class Member shall be deemed to have, and by operation of this Final Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Settled Claims against the Released Parties, whether or not such Class Member executes and delivers a Proof of Claim and Release.

5. Upon the Effective Date, each of the Released Parties shall be deemed to have, and by operation of this Final Judgment shall have, fully, finally, and forever released Plaintiffs, Plaintiffs' Counsel, and each and all of the Class Members from all Settled Defendants' Claims.

6. All Class Members who have not made their objections to the Settlement in the manner provided in the Notice of Proposed Settlement of Class Action ("Notice") are deemed to have waived any objections by appeal, collateral attack, or otherwise.

7. All Class Members who have failed to properly submit requests for exclusion (requests to opt out) from the Class are bound by the terms and conditions of the Stipulation and this Final Judgment.

8. The requests for exclusion by the persons or entities identified in Exhibit A to this Final Judgment are accepted by the Court.

9. All other provisions of the Stipulation are incorporated into this Final Judgment as if fully rewritten herein.

10. Plaintiffs and all Class Members are hereby barred and enjoined from instituting, commencing, maintaining, or prosecuting in any court or tribunal any of the Settled Claims against any of the Released Parties.

1 11. Neither the Stipulation nor the Settlement, nor any act performed or document executed
2 pursuant to or in furtherance of the Stipulation or the Settlement:

3 (a) shall not be offered or received against Defendants as evidence of a presumption,
4 concession, or admission with respect to any liability, negligence, fault, or wrongdoing, or in any way
5 referred to for any other reason as against Defendants, in any other civil, criminal, or administrative
6 action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of
7 the Stipulation; however, Defendants may refer to it to effectuate the liability protection granted them
8 hereunder;

9 (b) shall not be construed as or received in evidence as an admission, concession, or
10 presumption against Plaintiffs or any of the Class Members that any of their claims are without merit, or
11 that any defenses asserted by Defendants have any merit, or that damages recoverable in this Action, the
12 Federal Court Action, or any subsequent operative complaint filed in this Action or the Federal Court
13 Action would not have exceeded the Settlement Fund; and

14 (c) Notwithstanding the foregoing, Defendants, Plaintiffs, Class Members, and/or the
15 Released Parties may file the Stipulation and/or the Final Judgment in any action that may be brought
16 against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral
17 estoppel, release, good faith settlement, judgment bar or reduction or any other theory of claim
18 preclusion or issue preclusion or similar defense or counterclaim.

19 12. The Court hereby finds and concludes that the Action was brought, prosecuted and/or
20 defended in good faith, with a reasonable basis.

21 13. Pursuant to and in full compliance with California law, this Court hereby finds and
22 concludes that due and adequate notice was directed to all Persons and entities who are Class Members
23 advising them of the Plan of Allocation and of their right to object thereto, and a full and fair
24 opportunity was accorded to all Persons and entities who are Class Members to be heard with respect to
25 the Plan of Allocation.

26 14. The Court hereby finds and concludes that the formula for the calculation of the claims
27 of Authorized Claimants, which is set forth in the Notice sent to Class Members, provides a fair and
28 reasonable basis upon which to allocate the proceeds of the Net Settlement Fund established by the

1 Stipulation among Class Members, with due consideration having been given to administrative
2 convenience and necessity.

3 15. The Court hereby awards Plaintiffs' Counsel attorneys' fees of \$4,290,000, plus Lead
4 Counsel's expenses in the amount of ~~\$155,000.81~~ **\$152,502.81**, and Federal Court Counsel's expenses in the amount
5 of \$92,652.63, together with the interest earned thereon for the same time period and at the same rate as
6 that earned on the Settlement Fund until paid. The Court finds that the amount of fees awarded is
7 appropriate and that the amount of fees awarded is fair and reasonable given the contingent nature of
8 the case and the substantial risks of non-recovery, the time and effort involved, and the result obtained
9 for the Class.

10 16. The awarded attorneys' fees and expenses and interest earned thereon shall immediately
11 be paid to Lead Counsel from the Settlement Fund subject to the terms, conditions, and obligations of
12 the Stipulation, which terms, conditions, and obligations are incorporated herein.

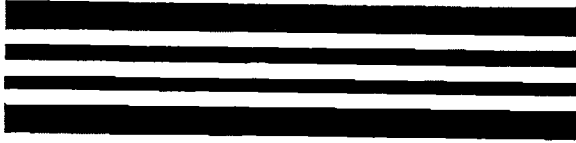
13 17. Time and expenses are awarded to Plaintiffs Beaver County Employees Retirement
14 Fund, Arpan Bachhawat and Srikanth Koneru in the amounts of \$2,500, \$2,500 and \$1,500,
15 respectively. Such payment is appropriate considering their active participation as Plaintiffs in this
16 Action and the Federal Court Action, as attested to by the declarations submitted to the Court. Such
17 payment is to be made from the Settlement Fund.

18 18. In the event that the Stipulation is terminated in accordance with its terms: (i) this Final
19 Judgment shall be rendered null and void and shall be vacated *nunc pro tunc*; and (ii) this Action shall
20 proceed as provided in the Stipulation.

21
22
23
24
25
26
27
28

EXHIBIT A

AVI-EXCL00001 *AVI-EXCL00001*



RECEIVED

NOV 20

CLAIMS CENTER

mg

Exclusion Cover Page

Case Name: In re Avalanche Biotechnologies, INC.

Case Code: AVI

Exclusion Deadline: November 27, 2017 (Postmark Date)

Name of Person Filing Exclusion: Douglas Lawley

November 15, 2017

Avalanche Securities Litigation Settlement
Claims Administrator
c/o Gilardi & Co LLC
EXCLUSIONS
3301 Kerner Blvd.
San Rafael, CA 94901

Douglas Lawley

Ph # [REDACTED]

TO Whom it May Concern:

I would like to be EXCLUDED from the Class in the following action: In re Avalanche Biotechnologies, Inc. Shareholder litigation, Lead Case No. CIV536488.

Common Stock purchased or acquired from July 30, 2014 to June 15, 2015 as follows:

October 17, 2014	100 Avalanche Biotechnologies Inc COM STP PET	\$30.20US
December 5, 2014	100 Avalanche Biotechnologies Inc COM STP PET	\$38.55US
May 27, 2015	50 Avalanche Biotechnologies Inc COM STP PET	\$39.20US

Consider this as full proof of my EXCLUSION request.

Sincerely,



Douglas Lawley

Signed this 15th Day of November, 2017 [REDACTED]

5252



Bookkeeping & Tax Preparation

CANADA 120



171152045

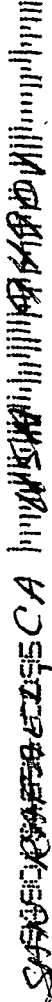
3926 T2E

RECEIVED **GE**

NOV 20 2017

CLAIMS CENTER

AVANCE SECURITIES LITIGATION SETTLEMENT
 CLAIMS ADMINISTRATOR
 C/O CHARLIS & CO. LLC
 EXCLUSION
 3301 KEENE BLVD.
 SAUSALITO, CA 94965



AVI-EXCL80001 *AVI-EXCL80001*



RECEIVED **GE**

DEC 28 2017

CLAIMS CENTER

mg

Exclusion Cover Page

Case Name: In re Avalanche Biotechnologies, INC.

Case Code: AVI

Exclusion Deadline: November 27, 2017 (Postmark Date)

Name of Person Filing Exclusion: Marcia Knox

Marcia Knox



December 26, 2017

Avalanche Securities Litigation Settlement

Claims Administrator

c/o Gilardi and Co, LLC

EXCLUSIONS

33012 Kerner Blvd.

San Rafael, CA 94901

Dear Claims Administrator or Whom it may Concern,

I, Marcia Knox, want to be excluded from the Class in the following action:

In re: Avalanche Biotechnologies, Inc., Shareholder Litiagation, Lead Case No. CIV536488.

Name: Marcia Knox

Address: [Redacted]

Phone: [Redacted]

AAVL Avalanche Biotech Purchased 500 shares in three lots on 8/25/2014, Lot 1 100 shares for 2,969.59, 100 2,968.79, 300 for 8,909.37 for a total of 14,847.75 (these numbers include a commission of approximately 8.95 for the purchase).

and sold 500 shares on 08/29/2014 for 14,591.23 (these numbers include a commission of approximately 8.95 for the purchase) for a loss of 256.52

Please call me if there is any other information you need that I may be able to provide, given more time.

Sincerely,

A handwritten signature in black ink, appearing to read 'Marcia Knox', with a long horizontal flourish extending to the right.

Marcia Knox



RENO NV 894

26 DEC 2017 PM 2 L

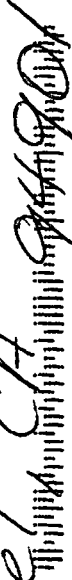
Kraig Knudsen
[Redacted]

RECEIVED GE

DEC 28 2017

CLAIMS CENTER

Avalanche Securities Litigation
Claims Administrator Settlement
EXCLUSIONS
33012 Kerner Blvd.
San Rafael, CA
9490139999



CERTIFICATE OF SERVICE

I, the undersigned, declare:

1. That declarant is and was, at all times herein mentioned, a citizen of the United States and a resident of the County of San Diego, over the age of 18 years, and not a party to or interested party in the within action; that declarant's business address is 655 West Broadway, Suite 1900, San Diego, California 92101.

2. That on January 12, 2018, declarant served the **JUDGMENT AND ORDER GRANTING FINAL APPROVAL OF CLASS ACTION SETTLEMENT** by depositing a true copy thereof in a United States mailbox at San Diego, California in a sealed envelope with postage thereon fully prepaid and addressed to the parties listed below:

Counsel for Plaintiff Beaver County Employees Retirement Fund:

Robbins Geller Rudman & Dowd LLP

James I. Jaconette..... jamesj@rgrdlaw.com

Susannah R. Conn..... sconn@rgrdlaw.com

655 West Broadway, Suite 1900

San Diego, CA 92101

Telephone: 619/231-1058

619/231-7423 (fax)

Robbins Geller Rudman & Dowd LLP

Shawn A. Williams shawnw@rgrdlaw.com

One Montgomery Street, Suite 1800

San Francisco, CA 94104

Telephone: 415/288-4545

415/288-4534 (fax)

Counsel for Defendants Avalanche Biotechnologies, Inc.; John P. McLaughlin; Steven D. Schwartz, Paul D. Wachter; Mark S. Blumenkranz; Linda C. Bain; and Thomas W. Chalberg, Jr.:

*Munger, Tolles & Olson LLP

Robert L. Dell Angelo..... robert.dellangelo@mto.com

350 South Grand Avenue, 50th Floor

Los Angeles, CA 90071-3426

Telephone: 213/683-9100

213/687-3702 (fax)

*Munger, Tolles & Olson LLP

David H. Fry david.fry@mto.com

Adam I. Kaplan adam.kaplan@mto.com

560 Mission Street, 27th Floor

San Francisco, CA 94105

Telephone: 415/512-4016

415/644-6916 (fax)

Counsel for Defendants Jefferies LLC; Cowen and Company, LLC; Piper Jaffray & Co.; William Blair & Company, L.L.C.:

*Morgan, Lewis & Bockius LLP

Charlene S. Shimada charlene.shimada@morganlewis.com

Lucy Wang lucy.wang@morganlewis.com

One Market, Spear Street Tower

San Francisco, CA 94105


Telephone: 415/442-1000

Facsimile: 415/442-1001

*Denotes service via e-mail and U.S. mail.

3. That there is a regular communication by mail between the place of mailing and the places so addressed.

I declare under penalty of perjury that the foregoing is true and correct. Executed on January 12, 2018, at San Diego, California.



JACLYN STARK

APPENDIX B

MAY 13 2015

Clerk of the Superior Court
By 
DEPUTY CLERK

**SUPERIOR COURT OF CALIFORNIA
SAN MATEO COUNTY**

MATTHEW HAYDEN, INDIVIDUALLY
AND ON BEHALF OF ALL OTHERS
SIMILARLY SITUATED,

Plaintiff,

vs.

JIMMY WANG, MINDY WANG, JEFFREY
WATSON, WORLDWIDE ENERGY &
MANUFACTURING, INC , LADENBURG
THALMANN & CO , INC , JENNIFER
MALIAR, MICHAEL STEINGREBE, JEHU
HAND, LAUREN BYRNE, AND GERALD
DECICCIO,

Defendants

Case No · Civ 518333

**ASSIGNED FOR ALL PURPOSES
TO DEPARTMENT 2**

**[PROPOSED] FINAL ORDER AND
JUDGMENT**

This matter came before the Court for hearing pursuant to the Order of this Court, taking place April 10, 2015, on the application of the Parties for approval of the settlement set forth in the Amended Stipulation and Agreement of Compromise, Settlement, and Release dated November 20, 2014 (the "Settlement Agreement"). Due and adequate Notice having been given to the Class as required in said Order, and the court having considered all papers filed and proceedings had herein and otherwise being fully informed in the premises and good cause appearing therefore, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that

1 This Judgment incorporates by reference the definitions in the Settlement Agreement, and all terms herein shall have the same meaning as set forth in the Settlement Agreement

2. This Court has jurisdiction over the subject matter of the Class Action and over all Parties to the Class Action, including all Class Members The Court finds that the prerequisites for a class action under California Code of Civil Procedure Section 382 have been satisfied and that certification of a Class for settlement purposes is proper and in the best interests of the Class Members The Court hereby certifies the Class for Settlement purposes

1 3. The Court finds that, as evidenced by the affidavit of Strategic Claim Services,
2 Notice by first class mail has been provided to each Class Member at their last known address

3 4 The Notice of Settlement of Class Action given to the Class was the best notice
4 practicable under the circumstances, including the individual notice to all Class Members who
5 could be identified through reasonable effort. Said Notice provided the best notice practicable
6 under the circumstances to all persons entitled to such Notice, and said Notice fully satisfied the
7 requirements of § 382 of the California Code of Civil Procedure, California Rules of Court, Rule
8 3.766, and the requirements of due process. A full opportunity has been offered to the Class
9 Members to object to the proposed Settlement and to participate in the hearing thereon. Thus, it is
10 hereby determined that all members of the Class are bound by this Final Order and Judgment except
11 those individual plaintiffs excluded from the Class, whose identities are set forth on Exhibit A
12 hereto

13 5 Upon entry of this Judgment, the Class shall be deemed certified and the Class
14 Members shall conclusively be deemed to have, and by operation of this Judgment shall have,
15 released and forever discharged the Released Parties from all Settled Claims. Only those exclusions
16 from the Class that were made in accordance with the instructions in the Notice of Proposed
17 Settlement shall be deemed valid exclusions from the Class.

18 6. The Court hereby finds that the proposed Plan of Allocation is a fair and reasonable
19 method to allocate the settlement proceeds among members of the Class.

20 7. The Court hereby finds this Settlement was negotiated in good faith as contemplated
21 by Code of Civil Procedure section 877.6 and other applicable law. All claims for contribution or
22 equitable indemnity against any of the Settling Defendants by WEMU or any other potential joint
23 tortfeasor are hereby barred, terminated, and extinguished. Any damages recoverable by the
24 Releasing Persons against any other parties in the Litigation shall be and are hereby reduced to the
25 extent provided by applicable law.

26 8. Upon entry of this Judgment, the Proposed Class Representatives and the Class
27 Members shall conclusively be deemed to have, and by operation of this Judgment shall have,
28

1 released, forever discharged, expressly waived, and disclaimed in favor of the Released Parties any
2 right, claim or entitlement to receive any compensation or funds derived from or otherwise
3 participate in any recovery or award against the Released Parties, brought by any person or entity
4 not a party to the Settlement Agreement, asserting against the Released Parties in any forum any
5 claim or cause of action arising out of or related to any acts, facts, transactions, occurrences,
6 representations, or omissions set forth, alleged, embraced, or otherwise referred to in this action

7 9. Upon entry of this Judgment, any claims for contribution or other cross claims or
8 counterclaims between or among the Parties and the Released Parties shall be barred, except claims
9 for indemnification that any Settling Defendant may have against WEMU.

10 10 Without in any way affecting the finality of this Final Judgment, this Court reserves
11 exclusive and continuing jurisdiction over the Plaintiffs, the Settled Claims, all of the Class
12 Members, and the Settling Defendants for the limited purpose of: (1) implementing the settlement;
13 and (2) enforcing and administering the Settlement Agreement and this Judgment.

14 11. This Court hereby approves the settlement set forth in the Settlement Agreement and
15 finds that said settlement is, in all respects, fair, reasonable, and adequate to the Class, and the
16 Parties are hereby directed to perform its terms Class Representatives and the Settling Defendants
17 are directed to consummate the Settlement in accordance with the terms and provisions the
18 Settlement Agreement

19 12. The claims in the Class Action are hereby settled and finally resolved with prejudice
20 This settlement is a full and final adjudication and shall be without costs to any party, except as may
21 be set forth in the Settlement Agreement. Proposed Class Representatives and each of the Class
22 Members, at the Effective Time, shall be deemed to have, and by operation of the Judgment shall
23 have, fully, finally, and forever released, relinquished, and discharged all Settled Claims against the
24 Released Parties; *provided, however*, that the Release of Settling Defendants shall not include the
25 right to, or any Claim or action brought to, enforce the Settlement Agreement or any Claim for
26 breach of the Settlement Agreement.

27 13 At the Effective Time, all Class Members are hereby forever barred and enjoined
28

1 from prosecuting the Settled Claims against the Released Parties.

2 14. The Released Parties are hereby deemed to have, and by operation of this Judgment
3 shall have, fully, finally, and forever released, relinquished, and discharged Plaintiffs and each
4 Class Members and Class Counsel from all claims, based upon or arising out of the institution,
5 prosecution, or resolution of the Class Action; *provided, however*, that the Release of Plaintiffs shall
6 not include the right to, or any Claim or action brought to, enforce the Settlement Agreement or any
7 Claim for breach of the Settlement Agreement

8 15. Neither the Settlement Agreement, nor any act performed or document executed
9 pursuant to or in furtherance of the Settlement Agreement: (i) is or may be deemed to be or may be
10 used as an admission of, or evidence of, the validity or lack thereof of any Settled Claim, or of any
11 wrongdoing or liability of the Settling Defendants or Proposed Class Representatives, or (ii) is or
12 may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of
13 any of the Settling Defendants or any Released Parties or Proposed Class Representatives, including
14 in any civil, criminal, or administrative proceeding in any court, administrative agency, or other
15 tribunal. Settling Defendants or any other of the Released Parties or Proposed Class
16 Representatives may file the Settlement Agreement and/or this Judgment in any action that may be
17 brought against them in order to support a defense or counterclaim based on principles of *res*
18 *judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any theory
19 of claim preclusion or issue preclusion or similar defense or counterclaim.

20 16. The finality of this Final Order and Judgment shall not be affected, in any manner,
21 by rulings that the Court may make on Class Counsel's application for an award of attorneys' fees
22 and reimbursement of expenses and/or for awards to Class Representatives.

23 17. The Court hereby awards Plaintiffs' Counsel attorneys' fees of \$538,333 payable in
24 accordance with ¶47 of the Settlement Agreement and together with the interest earned thereon for
25 the same period and at the same rate as that earned on the Settlement Fund until paid, plus expenses
26 in the amount of \$20,224.13. The Court finds that the amount of fees awarded is fair and reasonable
27 given the contingent nature of the case and the substantial risks of non-recovery, the time and effort
28

1 involved, and the result obtained for the Class. The Court awards incentive awards of \$5,000 each
2 to Matthew Hayden, Pentwater Equity Opportunities Master Fund, and PWCM Master Fund Ltd.

3 18. Final judgment shall be entered herein under the terms of the Settlement Agreement
4 for the amount of \$1,615,000 (together with all interest earned thereon, the "Gross Settlement
5 Fund"). Attorneys' fees and expenses, in the amounts set out in paragraph 17, above, along with
6 settlement administration fees of \$12,000, shall be paid out of the Gross Settlement Fund

7 19 The time for Class Members to submit completed Proofs of Claim pursuant to
8 Paragraph 11 of the Court's Order Preliminarily Approving Settlement and Providing for Notice is
9 extended to June 9, 2015. Class Members who do not submit valid Proofs of Claim or cure deficient
10 Proofs of Claim by June 9, 2015 shall be forever barred from receiving Settlement proceeds

11 20 The hearing on Plaintiffs' anticipated motion for distribution shall be held on July 7,
12 2015, at 9:00 a.m.

13 21 The Court reserves exclusive and continuing jurisdiction pursuant to California Code
14 of Civil Procedure Section 664.6 over the Class Action, the Class Representatives, the Class, and
15 the Settling Defendants for the purpose of

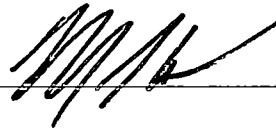
16 (a) supervising the implementation, enforcement, construction, and interpretation of the
17 Settlement Agreement, the Preliminary Approval Order, the Plan of Allocation, and the Final
18 Order and Judgment,

19 (b) hearing and determining any application by Class Counsel for an award of
20 attorneys' fees, costs, expenses, and incentive payments to the Class Representatives; and

21 (c) supervising the distribution of the Settlement Fund

22
23 IT IS SO ORDERED.

24
25 DATED. 5/12/15 _____



SERVICE LIST
Hayden v. Wang, Class Action CIV 518333
as of October 22, 2014

Attorneys for Plaintiffs:

LAURENCE ROSEN
THE ROSEN LAW FIRM PA
355 South Grand Avenue, Suite 2450\
Los Angeles, CA 90071
(213) 785-2610

Attorneys for Defendants:

ROBERT ANELLO
JUDITH MOGUL
MORVILLO ABRAMOMITZ GRAND
IASON & ANELLO PC
565 Fifth Avenue
New York City, NY 10017
(212) 880-9478

DAVID BROWNSTEIN
FARMER BROWNSTEIN JAEGER LLP
235 Pine Street, Suite 1300
San Francisco, CA 94104

MARK FICKES
CANNATA CHING & O'TOOLE LLP
100 Pine Street, Suite 350
San Francisco, CA 94111

BAHRAM SEYEDIN-NOOR
ALTO LITIGATION PC
Four Embarcadero Center, Suite 1400
San Francisco, CA 94111
(415) 868-5602

CARLA MINCKLEY
BIRGE & MINCKLEY OPC
9055 East Mineral Circle, Suite 110
Centennial, CO 80112-3457
(303) 860-7022

EDWARD ZUSMAN
MARKUN ZUSMAN FRENIERE COMPTON LLP
465 California Street, Suite 500
San Francisco, CA 94104