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13 *Counsel for Plaintiffs*

14
15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **FOR THE COUNTY OF LOS ANGELES**

17
18 KYNDAL CHRISTOFFERSON, NATALIE)
GERACE, AND ERIN RATELLE,)
19 individually and on behalf of all others)
20 similarly situated,)
21 Plaintiffs,)
22 v.)
23 CREATION ENTERTAINMENT, INC.,)
24 Defendant.)
25

Case No. 19STCV11000
DECLARATION OF BENJAMIN F. JOHNS IN SUPPORT OF PLAINTIFFS' MOTION FOR AN AWARD OF ATTORNEYS' FEES, REIMBURSEMENT OF EXPENSES AND REPRESENTATIVE PLAINTIFFS' AWARD
DATE: June 24, 2021
TIME: 9:00 a.m.
JUDGE: Hon. Elihu M. Berle
DEPT.: 6

1 I, Benjamin F. Johns, declare as follows:

2 1. I am a partner in the law firm of Chimicles Schwartz Kriner & Donaldson-Smith LLP
3 (“Chimicles”) and am one of the attorneys of record for Plaintiffs along with my co-counsel from
4 Wolf Haldenstein Adler Freeman & Herz LLP (“Wolf Haldenstein”) and Ahdoot & Wolfson, PC
5 (“Ahdoot & Wolfson”) (collectively, “Class Counsel”).¹ I submit this declaration in support of
6 Plaintiffs’ Motion for Final Approval of Class Action Settlement and Motion for an Award of
7 Attorneys’ Fees, Reimbursement of Expenses, and Representative Plaintiffs’ Award. I make this
8 declaration based on his own personal knowledge, and if called to do so, could and would testify to
9 the matters contained herein.

10 **I. ATTORNEYS’ FEES AND EXPENSES**

11 2. The Settlement Agreement provides that Class Counsel will apply for attorneys’ fees
12 and expenses not to exceed 33% of the Settlement Fund, plus reimbursement of out-of-pocket
13 expenses up to \$20,000. Class Counsel request an award of attorneys’ fees in the amount of \$313,500,
14 plus reimbursement of their actual out-of-pocket costs in the amount of \$19,871.08. The requested
15 fee award represents a negative multiplier of 0.51, and Class Counsel’s request is reasonable under
16 either the percentage-of-the-recovery or lodestar method.

17 3. For the past two years, Class Counsel have devoted substantial attorney time and out-
18 of-pocket expense to develop and prosecute this litigation to a successful conclusion against a
19 Defendant represented by experienced defense counsel. This litigation was undertaken by Class
20 Counsel on a wholly contingent basis. From the outset, Class Counsel understood that they were
21 embarking on an intensive, complex and expensive litigation with no guarantee of ever being
22 compensated for the substantial investment of time and money the case required. In undertaking the
23 responsibility, Class Counsel were obligated to assure that sufficient attorney resources were
24 dedicated to the prosecution of this litigation and that funds were available to compensate staff and
25 pay for out-of-pocket expenses. There are numerous cases where plaintiffs’ counsel in contingent
26 cases such as this, after the investment of thousands of hours, received no compensation. It is only
27 because defendants and their counsel know that the leading members of the plaintiffs’ class action

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¹ Unless otherwise noted, capitalized terms have the meaning ascribed to them in the First Amended Settlement Agreement and Release dated January 15, 2021 (the “Settlement”).

1 bar are actually prepared to, and will, force a resolution on the merits and go to trial that meaningful
2 settlements in actions such as this can occur.

3 4. When Class Counsel undertook to act for the Plaintiffs in this matter, we were aware
4 that the only way we would be compensated was to achieve a successful result. The benefits conferred
5 on Plaintiffs and the Class by this Settlement are particularly noteworthy in that, despite the existence
6 of the substantial risks presented here, the Class Members obtained via the Settlement a substantial
7 monetary benefit.

8 5. I have significant and extensive litigation experience, having been involved in class
9 action litigation since I joined Chimicles in 2005.

10 6. The work done by my firm in this case includes, among other things: initial factual
11 investigation; conducting legal research regarding Plaintiffs' potential claims; drafting pleadings;
12 drafting and responding to discovery; client communications for the purposes of, among other things,
13 review of relevant facts and status of matter and strategy; corresponding with counsel for Defendant;
14 attending key court hearings; attending the settlement mediation; preparing the Settlement Agreement
15 and Release, First Amended Settlement Agreement and Release, and the Settlement-related briefs
16 and supporting documents; and working with the Claims Administrator to finalize and disseminate
17 notice;

18 7. My firm's lodestar, based upon our current usual and customary hourly billing rate, is
19 \$207,277.50 as of April 30, 2021. My firm kept detailed records regarding the amount of time its
20 attorneys and paralegals spent on this litigation, and the lodestar calculation is based on my firm's
21 current billing rates. The information was prepared from contemporaneous, daily time records
22 regularly prepared and maintained by my firm.

23 8. The lodestar amount is broken down by attorney, position, billing rate, and task in
24 the table below. Before compiling the information below, I reviewed my firm's billing entries and
25 expense information, and eliminated any expense or time entry that, based upon our billing
26 judgment, could be viewed as potentially unnecessary or redundant.

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28

(P=Partner; C=Senior Counsel; A=Associate; IC=Independent Contractor; P=Paralegal; LC=Law Clerk; IT= Info. Tech.)

NAME	STATUS	HOURLY RATE	CUMULATIVE HOURS	CUMULATIVE LODESTAR
Benjamin F. Johns	P	700.00	86.80	\$60,760.00
Beena M. McDonald	C	525.00	201.90	\$105,997.50
Samantha E. Holbrook	A	525.00	34.70	\$18,217.50
Alex M. Kashurba	A	450.00	2.00	\$900.00
David W. Birch	IT	300.00	4.20	\$1,260.00
Justin P. Boyer	P	275.00	26.80	\$7,370.00
Corneliu P. Mastraghin	P	250.00	0.40	\$100.00
Melody Z. Forrester	IC	250.00	50.60	\$12,650.00
Carlyne A. Wagner	LC	225.00	0.10	\$22.50
TOTALS			407.50	\$207,277.50

9. In my judgment, and based on my years of experience in class action litigation, the number of hours expended, and the services performed by my firm, were reasonable and necessary for my firm's representation of Plaintiffs and the Class.

10. I have general familiarity with the range of hourly rates typically charged by plaintiffs' class action counsel in the geographical area where my firm practices and throughout the United States, both on a current basis and historically. From that basis, I am able to conclude that the rates charged by my firm are within the range of market rates charged by attorneys and professional staff of equivalent experience, skill and expertise for legal services furnished in complex contingency class action litigation such as this.

11. I believe that the skill and experience of the attorneys involved in this litigation justify the rates charged. See Chimicles' firm resume, Ex. 3 to the joint declaration of Class Counsel in support of the preliminary approval motion, filed January 15, 2021. The rates reflect the risk undertaken due to contingency representation of the Plaintiffs given that the firm bore the risk of no payment at all for its services during this litigation. Our rates have been approved by other courts as reasonable for contingency representations similar to that here, including in cases that we have worked on with Wolf Haldenstein. *See, e.g., McWilliams v. City of Long Beach*, No. BC361469, slip op. at 35-40 (L.A. Cty. Super. Ct. Oct. 30, 2018) (order approving fees and costs); *Granados v. County of Los Angeles*, No. BC361470, slip op. at 36-37 (L.A. Cty. Super. Ct. Oct. 30, 2018) (order

1 approving fees and costs); *Ardon v. City of Los Angeles*, No. BC363959, slip. op. at 20 (L.A. Cty.
2 Super Ct. Oct. 26, 2016) (order approving fees and costs).

3 12. My firm expended a significant amount of time litigating this case and securing the
4 Settlement for the Class. I took meaningful steps to ensure the efficiency of our work and to avoid
5 duplication of efforts. If the Court deems it necessary, I will make our contemporaneous billing
6 records available, for *in camera review*, upon request. These amounts do not include the additional
7 time that my firm has spent and will have to spend going forward in obtaining final approval of the
8 Settlement, supervising the claims administrative process, and additional work on any appeal if
9 necessary.

10 13. Class Counsel also request reimbursement for reasonable expenses incurred in
11 litigating this matter totaling \$19,871.08. My firm's costs and expenses are also broken down in the
12 chart below. The costs and expenses were reasonable and necessary for prosecuting this case, were
13 advanced by Class Counsel on behalf of Plaintiffs and the Settlement Class, and have not been
14 reimbursed. The time described above does not include charges for expense items. Expense items
15 are billed separately, and such charges are not duplicated in my firm's billing rates.

16 Mediation Fees	\$1,498.75
17 Professional/Consultant	\$813.60
18 Travel/Food/Lodging	\$794.65
19 Filing Fees	\$551.25
20 Photocopies/Internal	\$306.00
21 Computer Research	\$168.21
22 Courier Mail	\$90.39
23 Telephone/Facsimile	\$30.00
24 Deposition Transcripts	\$15.00
25 Postage	\$8.25
TOTAL	\$4,276.10

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

15. To date, no Settlement Class Member has objected to the requested attorneys' fees,
reimbursement of expenses, or the Representative Plaintiffs' Award. The objection and opt-out

1 deadlines are not until May 24, 2021. Plaintiffs will address any objections to the Settlement and
2 report the total opt-outs in their supplemental brief due on June 10, 2021.

3 16. Class Counsel have a fee sharing agreement and have obtained each of the Plaintiffs'
4 informed, written acknowledgement and consent to the agreement.

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6 I declare under penalty of perjury under the laws of the State of California that the foregoing
7 is true and correct. Executed this 7th day of May, 2021, at Haverford, Pennsylvania.

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BENJAMIN F. JOHNS