

1 Daniel A. Small (*pro hac vice*)
2 COHEN MILSTEIN SELLERS & TOLL PLLC
3 1100 New York Ave. NW, Suite 500
4 Washington, DC 20005
5 Telephone: (202) 408-4600
6 Email: dsmall@cohenmilstein.com

7 Steve W. Berman (*pro hac vice*)
8 HAGENS BERMAN SOBOL SHAPIRO LLP
9 1918 Eighth Avenue, Suite 3300
10 Seattle, WA 98101
11 Telephone: (206) 623-7292
12 Email: steve@hbsslaw.com

13 Marc M. Seltzer (54534)
14 SUSMAN GODFREY L.L.P.
15 1900 Avenue of the Stars, Suite 1400
16 Los Angeles, CA 90067-6029
17 Telephone: (310) 789-3100
18 Email: mseltzer@susmangodfrey.com

19 [Additional Counsel for Plaintiffs on Signature Page]

20 **UNITED STATES DISTRICT COURT**
21 **NORTHERN DISTRICT OF CALIFORNIA**
22 **SAN JOSE DIVISION**

23 IN RE ANIMATION WORKERS ANTITRUST
24 LITIGATION

Master Docket No. 14-CV-4062-LHK

25 THIS DOCUMENT RELATES TO:

ADMINISTRATIVE MOTION TO
DISTRIBUTE SETTLEMENT FUNDS

26 All Actions

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1 Plaintiffs respectfully submit this Motion to Distribute Settlement Funds. The claims
2 administrator is finalizing the calculation of distributions and taxes, the processing of checks, and
3 they expect to be able to start mailing checks within two weeks of the Court's order. This Motion
4 describes the steps the claims administrator has taken to follow the plan of allocation, identifies
5 an amount to withhold from distribution to serve as a reserve, and identifies an amount to
6 withhold from distribution to pay for the claims administrator's current and future estimated
7 expenses, net of a discount for the delay in payments to class members.
8

9 **I. THE CLAIMS ADMINISTRATOR FOLLOWED THE PLAN OF ALLOCATION**
10 **IN DETERMINING THE AWARDS TO CLASS MEMBERS**

11 The claims administrator, KCC, has followed the plan of allocation described in the
12 motion for final approval and then finally approved by the Court. As described in the motion for
13 final approval, "The Plan of Allocation provides each class member with a fractional share based
14 upon each class members' total compensation received during the conspiracy period. It is a
15 straightforward and fair method (used in the High-Tech case, and approved by this Court in the
16 Sony Pictures and Blue Sky settlements) to compensate class members based on an objective
17 measurement of their injuries." ECF No. 388. The Court found in its final approval order: "The
18 Plan of Allocation is fair, reasonable, and adequate. It will provide each Class member with a
19 fractional share based upon each Class members' total compensation received during the
20 conspiracy period." ECF No. 401.
21

22 The claims administrator determined the fractional share for each class member by
23 dividing (1) each class member's total compensation received during the conspiracy period by (2)
24 the overall compensation received by all class members during the conspiracy period. To do so,
25 KCC used both employment data from the Defendants concerning compensation for their
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1 employees that contained their names, addresses and other personal identification information¹
2 and anonymized data and calculations by Plaintiffs' economics experts concerning class
3 members' compensation that was derived from Defendants' data produced during discovery in
4 the litigation (and provided to KCC with permission of the Defendants). KCC used both sets of
5 data to assemble one overall dataset covering all class members.
6

7 The overall dataset was necessary to track the employment and compensation history of
8 each class member with each of the defendant companies across the entire conspiracy period. The
9 claims administrator had to be able to determine that a class member in one defendant's data is
10 the same class member in another defendant's data and then determine whether each position at
11 each defendant for that class member was a class-eligible position.
12

13 After that process, the claims administrator also had to match that class member to the
14 same class member within the dataset assembled by Plaintiffs' economics experts to be able to
15 access the experts' calculation of each class member's total compensation for the entire class
16 period. The data from Plaintiffs' experts only contained "hashed" Social Security Numbers while
17 the data provided directly to KCC from Defendants contained unhashed SSNs (and other personal
18 identification information). To accomplish this step, and as ordered by the Court (ECF No. 412),
19 Defendants' expert provided KCC with a list of hashed and unhashed SSNs that enabled KCC to
20 link individuals across the two datasets and facilitated the overall dataset.
21

22 The claims administrator then calculated the total compensation for each class member
23 with compensation from each of their class eligible positions during the conspiracy period with
24 the aid of calculations made by Plaintiffs' economics experts, including the calculations that dealt
25

26 ¹ Each of the four settling defendant groups produced to the Claims Administrator multiple data
27 files, mostly in their own unique and native formats, which had to be cleaned and normalized to
28 create the overall dataset described below. The Defendants' files differed by company. For
example, the Disney Defendants produced different data sets for each defendant in that group:
The Walt Disney Company, Pixar, Lucasfilm Ltd., LLC, and Two Pic MC LLC. The data files

1 with issues unique to individual class member's compensation history, such as compensation paid
2 in stock to certain class members and whether they received a bonus related to their work. The
3 calculations were done on a monthly basis, meaning that the compensation paid to a class
4 member for each month that they held a class eligible position was added into their total
5 compensation for the entire conspiracy period.
6

7 For a very small percentage of class members, the calculations of compensation made by
8 Plaintiffs' economics experts did not contain part of a class member's compensation history. This
9 was due to extremely minor discrepancies between (1) the data provided to Plaintiffs and used by
10 their economics experts in discovery, and (2) the data provided directly to KCC by Defendants.
11 When this occurred, in order to ensure consistency, accuracy and fairness across the class, KCC
12 used the Plaintiffs' expert data and calculated compensation for that limited period from a
13 previous or subsequent year where the employee held the same position, or in even more limited
14 circumstances, from another class member in that same position in that year or close to that year.
15

16 Once each class member's total compensation for the entire conspiracy period was
17 determined, the claims administrator calculated the fraction it represented of the overall
18 compensation for all class members and then multiplied that fraction by the net settlement fund to
19 be distributed to class member to arrive at the award to be distributed to each class member.
20

21 **II. RESERVE AMOUNT**

22 The claims administrator plans to withhold a reserve of \$150,000 from the distribution to
23 class members. This reserve fund would be available to cover incorrect distributions to class
24 members caused by a number of potential issues, including incorrect payroll data from
25 Defendants or a mistake made by KCC in processing the data for one or more of the nearly
26 11,000 class members. This approach is consistent with the reserve amount in *High Tech* where

27 _____
28 (... cont'd)

were also immense. The files produced by Lucasfilm alone contain 2,156,094 individual records.

1 KCC withheld \$250,000 in reserve. The \$150,000 reserve here reflects the smaller settlement
2 amount and takes into account the claims administrator's experience in how the reserve amount
3 was used in *High Tech*. Any funds remaining in the reserve account would be added to
4 unclaimed distributions and be subject to a further distribution and/or escheatment.

5 **III. CLAIMS ADMINISTRATOR EXPENSES**

6 Class counsel requests that the Court authorize that funds be set aside to pay the claims
7 administrators' current unpaid expenses and future estimated expenses through the life of the
8 case. Because class members will each receive a pro rata share of the total fund, these current
9 and estimated claims administration expenses must be set aside now before the initial
10 distributions are calculated and mailed to class members.

11 On November 11, 2016, the Court authorized \$95,495.09² to be paid to the claims
12 administrator when granting final approval of the Sony and Blue Sky settlements. *See* ECF No.
13 347 at 15. This amount covered both expenses incurred before that date and estimated expenses
14 through the initial distribution of the Sony and Blue Sky settlement proceeds. *See* ECF No. 336-3
15 (Oct. 12, 2016 Declaration of Kenneth Jue, ¶¶ 2-10).

16 While the motion for final approval of the Sony and Blue Sky settlements was pending,
17 the class settled with DreamWorks for \$50,000,000, and less than two months later, the class
18 settled with the Disney Defendants for \$100,000,000. To minimize expenses and therefore
19 maximize the amount of proceeds to distribute to the class, the class notice for the Disney and
20 DreamWorks settlements informed the class that the claims administrator would combine all
21 settlements and make a single distribution once final approval of the new settlements was granted.
22 No additional claims administration expenses related to the DreamWorks or Disney settlements
23 or the second notice were requested or awarded in connection with these two settlements.

24 Since the Court granted final approval of the Disney and DreamWorks settlements on
25 June 5, 2017, KCC has been processing and cleaning the data from all Defendants, calculating the
26 proper distributions to class members and preparing to handle the related tax reporting, among
27

28 ² \$95,495.09 is approximately 0.5% of the \$18,950,000 Sony and Blue Sky settlement amounts.

1 other tasks. Class counsel submitted two updates explaining that the process was taking longer
2 than expected due to the unforeseen issues in processing the data. (ECF Nos. 410, 416). To help
3 expedite the process, class counsel instructed its economic experts to assist with the data
4 processing, as described above.

5 In March and April 2018, class counsel received invoices from KCC for work performed
6 since the last payment to KCC and for estimated expenses to be incurred during and after the
7 initial distribution. Upon reviewing the invoices, class counsel initiated discussions with KCC to
8 reduce the invoiced amounts relating to KCC's time spent processing the data given the
9 unanticipated delay for class members. In the end, class counsel negotiated to eliminate 400
10 hours that KCC spent on data analysis and processing from the invoices, thereby saving the class
11 approximately \$40,000 in expenses. Class counsel also negotiated for KCC to pay the
12 approximately \$13,000 in expenses incurred in having Plaintiffs' economic experts assist with
13 data processing. In total, class counsel negotiated approximately \$53,000 in discounts from the
14 claims administrator.

15 With these discounts, class counsel believe that the amounts invoiced by KCC in March
16 and April 2018 are reasonable. The total claims administrator expenses in this case are much
17 lower (even after accounting for the difference in settlement size) than *High Tech*, further
18 demonstrating that the total expense figure is reasonable.³ In addition, the claims administrator
19 was able to take advantage of its experience in serving as the *High Tech* claims administrator,
20 which likely saved the class significant expenses.

21 Accordingly, class counsel now request that \$127,026 be set aside to pay KCC's current
22 invoices and future estimated expenses. This amount is in addition to the \$95,495.09 already
23 awarded by the Court in connection with the Sony and Blue Sky settlements. It would bring total
24 payments to KCC for all settlements to \$222,521.09, which is 0.13% of the \$168,950,000 total
25 settlement proceeds.⁴

26 _____
27 ³ Total claims administrator expenses in *High Tech* were over \$427,000. See April 23, 2018
28 Declaration of Kenneth Jue, ¶ 14.

⁴ The \$127,026 is approximately 0.08% of the \$150,000,000 Disney and DreamWorks settlements.

1 The additional requested amount includes the following:

- 2 • \$19,587.00 in costs and fees incurred through March 31, 2018, which represents
3 the total of \$59,587.00 in costs and fees less the \$40,000 discount related to data
4 work. Those costs and fees include costs for processing and disseminating the
5 second notice to class members for the Disney and DreamWorks settlements, and
6 fees for time spent resolving the data issues that class counsel described in the two
7 updates to the Court (ECF Nos. 410, 416). *See* April 23, 2018 Declaration of
8 Kenneth Jue, ¶¶ 7-11.
- 9 • \$104,590.50 in estimated costs and fees to complete the distribution and related
10 tax reporting in 2018 and 2019, including costs for website and call center hosting,
11 W-2 and 1099 tax forms, payroll setup, address searches, mailing checks, and re-
12 issuing checks. *See* April 23, 2018 Decl. of Kenneth Jue, ¶ 12.
- 13 • \$2,848.50 in sales tax.
- 14 • This amount does not include the costs of any further distributions and/or
15 escheatment from uncashed checks or unused reserve money, as contemplated by
16 the class notice. *See, e.g.*, Disney and DreamWorks Class Notice at p. 4 (“In the
17 event monies remain as residue in the Settlement Fund following all distribution
18 efforts approved by the Court and payment of any taxes, Plaintiffs will ask the
19 Court for an order disposing of all such funds, through additional distributions to
20 eligible Class members and/or escheat to the federal government.”). Those
21 expenses would be calculated once the size of any residual monies, including the
22 reserve, is determined and whether these funds should be subject to further
23 distribution or escheatment is decided. The expenses for that process would then
24 be deducted from the residual monies prior to a further distribution and/or
25 escheatment. Plaintiffs will move the Court for approval of this process and the
26 expenses.
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1 Accordingly, class counsel respectfully request that the Court authorize \$127,026 to be
2 deducted from the settlement funds to compensate the claims administrator. To the extent that
3 future claims administration expenses are lower than estimated, the excess funds will be
4 combined with any other funds not yet distributed to the class (e.g., uncashed checks and excess
5 reserve amounts) and be included in future distributions to the class and/or escheatment.

6 Dated: April 24, 2018

Respectfully submitted,

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8 COHEN MILSTEIN SELLERS & TOLL PLLC

9 By: /s/ Daniel A. Small
Daniel A. Small

10 Daniel A. Small (*pro hac vice*)
11 Brent W. Johnson (*pro hac vice*)
12 COHEN MILSTEIN SELLERS & TOLL PLLC
13 1100 New York Ave., NW, Suite 500
14 Washington, DC 20005
Telephone: (202) 408-4600
Fax: (202) 408-4699
Email: dsmall@cohenmilstein.com
bjohnson@cohenmilstein.com

15 *Attorneys for Plaintiff Robert A. Nitsch, Jr.*

16
17 SUSMAN GODFREY L.L.P

18 By /s/ Marc M. Seltzer
Marc M. Seltzer

19 Marc M. Seltzer (54534)
20 Steven G. Sklaver (237612)
21 SUSMAN GODFREY L.L.P.
1900 Avenue of the Stars, Suite 1400
Los Angeles, CA 90067-6029
22 Telephone: (310) 789-3100
Fax: (310) 789-3150
23 Email: mseltzer@susmangodfrey.com
ssklaver@susmangodfrey.com

24 Matthew R. Berry (*pro hac vice*)
25 John Schiltz (*pro hac vice*)
26 SUSMAN GODFREY L.L.P.
1201 3rd Avenue, Suite 3800
Seattle, WA 98101
27 Telephone: (206) 516-3880
Fax: (206) 516-3883
28 Email: mberry@susmangodfrey.com
jschiltz@susmangodfrey.com

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Attorneys for Plaintiff Georgia Cano

HAGENS BERMAN SOBOL SHAPIRO LLP

By /s/ Steve W. Berman
 Steve W. Berman

Steve W. Berman
HAGENS BERMAN SOBOL SHAPIRO LLP
1918 Eighth Avenue, Suite 3300
Seattle, WA 98101
Telephone: (206) 623-7292
Fax: (206) 623-0594
Email: steve@hbsslw.com

Jeff D. Friedman (173886)
Shana E. Scarlett (217895)
HAGENS BERMAN SOBOL SHAPIRO LLP
715 Hearst Avenue, Suite 202
Berkeley, CA 94710
Telephone: (510) 725-3000
Fax: (510) 725-3001
Email: jeff@hbsslw.com
 shanas@hbsslw.com

Attorneys for Plaintiff David Wentworth