

United States District Court
Northern District of California

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

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ROBERT A. NITSCH, et al.,
Plaintiffs,
v.
DREAMWORKS ANIMATION SKG INC.,
et al.,
Defendants.

Case No. 14-CV-04062-LHK

**ORDER TO DISTRIBUTE FUNDS;
DENYING REQUEST FOR
ADDITIONAL EXPENSE AWARD**

Re: Dkt. No. 417

On June 5, 2017, the Court granted Plaintiffs’ motion for final approval of class action settlement. ECF No. 401. On April 24, 2018, Plaintiffs filed a motion to distribute settlement funds. ECF No. 417. The motion also requested an additional \$127,026 to pay the claims administrator, KCC. *Id.* This is in addition to the \$95,495 the Court previously authorized when granting final approval of the Sony and Blue Sky settlements. ECF No. 347 at 15.

The motion proposes withholding a reserve of \$150,000 from the award to cover the new claims administration costs and any further claims administration costs that may arise. *Id.* at 5. The Court entered final judgment in this case on June 5, 2017. ECF No. 403. In the final judgment, the Court stated that “each side [will] bear its own costs and attorney’s fees except as provided by the Settlement and the Court’s orders.” *Id.* Plaintiffs have given no notice of the

United States District Court
Northern District of California

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

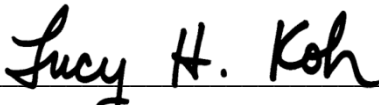
requested extra expenses to the class, and the class has not had an opportunity to object to this request, which will result in a diminution of the recovery for class members. Additionally, Plaintiffs have cited no authority allowing the Court to grant expenses without notice to the class after the entry of final judgment. Indeed, it is for precisely these reasons that the Court previously Plaintiffs’ last request for supplemental expenses. ECF No. 407.

The Court notes too that its award of attorney’s fees rested in part on the fact that class counsel did “not seek any additional funds for the settlement administrator because the Court granted the settlement administrator \$95,495.09 in costs in connection with the Sony and Blue Sky settlements for all of the settlement administrator’s actual and projected costs.” ECF No. 402 at 23. Having relied on the \$95,495.09 estimate to secure an award of attorney’s fees, class counsel may not now seek to inflate that sum to cover additional settlement expenses.

For these reasons, Plaintiffs’ motion for additional expenses is DENIED. The Court hereby orders the claims administrator to proceed with distribution of the settlement funds.

IT IS SO ORDERED.

Dated: May 16, 2018



LUCY H. KOH
United States District Judge