

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

<p>MARK KOKOSZKI, individually and on behalf of all others similarly situated,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>PLAYBOY ENTERPRISES, INC., a Delaware corporation,</p> <p style="text-align: center;">Defendant.</p>	<p>Case No. 2:19-cv-10302-BAF-RSW</p> <p>Hon. Bernard A. Friedman</p> <p>Mag. Judge R. Steven Whalen</p>
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**SUPPLEMENT TO PLAINTIFF'S MOTION FOR
ATTORNEYS' FEES, COSTS, EXPENSES, AND SERVICE AWARD**

Dated: July 10, 2020

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Class Counsel

On April 16, 2020, Plaintiff filed his Motion For Attorneys' Fees, Costs, Expenses, And Service Award (the "Fee Petition"). *See* ECF No. 23. In the Fee Petition, Class Counsel requested an award of attorneys' fees, costs, and expenses of \$1,347,500, or 35% of the \$3,850,000 common fund created for the benefit of the class. *Id.* To date, there has been no objection or opposition to the Fee Petition. *See* Supplemental Declaration of Joseph I. Marchese In Support Of Plaintiff's Motion For Attorneys' Fees, Costs, Expenses, and Service Award ("Suppl. Marchese Decl.") ¶ 4.

Since filing the Fee Petition, Class Counsel has devoted substantially more time, effort, and resources into guiding the Class Settlement through final approval. Suppl. Marchese Decl. ¶¶ 5-17.

First, on April 21, 2020, Defendant filed a Motion To File A Third Party Complaint. *See* Suppl. Marchese Decl. ¶ 6 (citing ECF No. 25). In order to protect the Settlement Class's interest in quickly securing a final judgment and disbursing the Settlement Fund, Class Counsel prepared a thorough opposition to Defendant's motion. *See* Suppl. Marchese Decl. ¶ 7 (citing ECF No. 26). On May 18, 2020, the Court denied Defendant's motion. *See* Suppl. Marchese Decl. ¶ 8 (citing ECF No. 28).

Second, on May 13, 2020, Class Counsel learned for the first time that Defendant's vendor originally provided a class list to the Settlement

Administrators that was incomplete and that there were likely thousands of additional Settlement Class Members who needed to receive notice of the proposed Settlement. *See* Suppl. Marchese Decl. ¶ 9. Over the coming weeks, Class Counsel worked with Defendant's Counsel and the Settlement Administrator to obtain the correct class list and disseminate notice to the additional Settlement Class Members. *See id.* ¶ 10.¹ On May 28, 2020, the Court granted the Parties' joint motion to extend the settlement deadlines in order to disseminate notice to the additional Settlement Class Members (ECF No. 32), and since that time, Class Counsel has worked with the Settlement Administrator to disseminate the supplemental notice, and has fielded calls from Settlement Class Members to assist them with inquiries regarding the Settlement. *See id.* ¶ 11.

All told, Class Counsel has devoted an additional 148.9 hours to procuring this exceptional benefit for the Settlement Class since filing the Fee Petition, for an additional lodestar of \$85,435. *See id.* ¶ 14; Ex. A; *see also* Supplemental Declaration of Frank S. Hedin In Support Of Plaintiff's Motion For Attorneys' Fees, Costs, Expenses, and Service Award ¶ 5; Ex. A. This additional lodestar results in a total lodestar to date of \$475,834.50, meaning the fee award now represents a multiplier of 2.78, rather than the 3.39 requested multiplier in the Fee

¹ Under the Settlement, Class Members are expected to receive approximately \$110 each, which is consistent with Class Counsel's estimate at preliminary approval. *See* Suppl. Marchese Decl. ¶ 10 n.1 (citing ECF No. 18).

Petition. Both of which are well within the typical range in this Circuit of two to five. *See Connectivity Sys. Inc. v. Nat'l City Bank*, 2011 WL 292008, at *13 (S.D. Ohio Jan. 26, 2011). And the requested multiplier will continue to decrease between now and the Final Fairness Hearing, as Class Counsel prepares Plaintiff's Final Approval Motion and participates in the Final Fairness Hearing. *See* Suppl. Marchese Decl. ¶ 15.²

In sum, although Class Counsel has devoted substantially more time, effort, and resources to the litigation of this case since filing the Fee Petition, they are not increasing their requested fee award, thereby making the requested fee award even more reasonable. The Court should not hesitate in granting the Fee Petition at the August 19, 2020 Final Fairness Hearing.

Dated: July 10, 2020

Respectfully submitted,

MARK KOKOSZKI,

By: /s Joseph I. Marchese
One of Plaintiff's Attorneys

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² Moreover, Class Counsel incurred an additional \$1,008 in costs and expenses, associated with consulting the mediator, The Honorable Gerald E. Rosen (Ret.) of JAMS Detroit regarding the issues detailed above. *See* Suppl. Marchese Decl. ¶ 17.

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CERTIFICATE OF SERVICE

I, Joseph I. Marchese, an attorney, hereby certify that on July 10, 2020, I served the above and foregoing *Supplement to Plaintiff's Motion for Attorneys' Fees, Costs, Expenses, And Service Award* on all counsel of record by filing it electronically with the Clerk of the Court using the CM/ECF filing system.

/s Joseph I. Marchese

Joseph I. Marchese