

**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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**SUPPLEMENTAL DECLARATION OF JOSEPH I. MARCHESE IN
SUPPORT OF PLAINTIFF’S MOTION FOR ATTORNEYS’ FEES, COSTS,
EXPENSES, AND SERVICE AWARD**

I, Joseph I. Marchese, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am a partner at Bursor & Fisher, P.A., counsel of record for Plaintiff in this action. I am an attorney at law licensed to practice in the State of New York, and I am a member of the bar of this Court. I have personal knowledge of the facts set forth in this declaration and, if called as a witness, I could and would testify competently thereto.

2. I make this supplemental declaration in support of Plaintiff’s Motion for Attorneys’ Fees, Costs, Expenses, And Service Award (the “Fee Petition”).

See ECF No. 23.

3. On April 16, 2020, Plaintiff filed the Fee Petition.

4. To date, there has been no objection or opposition to the Fee Petition.

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

6. First, on April 21, 2020, Defendant filed a Motion To File A Third Party Complaint. *See* ECF No. 25.

7. 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* ECF No. 26.

8. On May 18, 2020, the Court denied Defendant's Motion To File A Third Party Complaint. *See* ECF No. 28.

9. 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.

10. 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.¹

11. 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.

12. Attached hereto as **Exhibit A** is a summary of the time since April 14, 2020, billed by my firm for the prosecution of this case and the lodestar calculation utilizing our current normal billing rates. The summary was prepared from contemporaneous daily time records regularly prepared and maintained by me and the other timekeepers pursuant to firm policy and have been maintained in the computerized records of my firm. In creating the summary, I personally reviewed all of my firm's time entries associated with this case and used billing judgment to ensure that duplicative and unnecessary time was excluded and that only time reasonably devoted to the litigation was included.

13. At the time of the Fee Petition, my firm had expended 347.3 hours in this case. My firm's lodestar fee in this case, at that time, based on current billing

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* ECF No. 18.

rates, was \$215,744.50.

14. As shown in Exhibit A, since April 14, 2020, my firm has expended an additional 81.1 hours in this case. My firm's lodestar fee for this time, based on current billing rates, is \$41,365. Thus, my firm has now expended 428.4 hours in this case, for a total lodestar fee of \$257,109.50.

15. In addition to the time enumerated above, I anticipate that Class Counsel will devote substantially more time, effort, and resources to this litigation, as we prepare Plaintiff's Final Approval Motion and participate in the Final Fairness Hearing.

16. Moreover, at the time of the Fee Petition, my firm had expended \$16,266.74 in out-of-pocket costs in connection with the prosecution of this case.

17. Since April 14, 2020, my firm has expended 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. Thus, my firm has now expended \$17,274.74 in out-of-pocket costs in connection with the prosecution of this case.

I declare under penalty of perjury that the above and foregoing is true and accurate.

Executed this 10th day of July 2020 at New York, New York.

 /s/ Joseph I. Marchese
Joseph I. Marchese

EXHIBIT A

Playboy Lodestar 4/14/20 thru 6/30/20

ATTY	HOURS	RATE	TOTAL
JIM	7.5	\$ 850.00	\$6,375.00
PLF	60	\$ 525.00	\$31,500.00
RSR	1.6	\$ 300.00	\$480.00
EMW	0.2	\$ 300.00	\$60.00
AEL	11.8	\$ 250.00	\$2,950.00
	<u>81.1</u>		<u>\$41,365.00</u>
		Expenses:	\$1,008.00
		Total:	\$42,373.00