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 12 **UNITED STATES DISTRICT COURT**
 13 **CENTRAL DISTRICT OF CALIFORNIA -**
 14 **WESTERN DIVISION**
 15

16 GOOD MORNING TO YOU) Lead Case No. CV 13-04460-GHK (MRWx)
 17 PRODUCTIONS CORP., *et al.*,)
 18 Plaintiffs,) **JOINT STATUS REPORT PURSUANT**
 19) **TO DECEMBER 8, 2015 ORDER (DKT.**
 20 v.) **290)**
 21)
 22 WARNER/CHAPPELL MUSIC,)
 23 INC., *et al.*)
 24 Defendants.)
 25) Room: 650
 26) Judge: Hon. George H. King,
) Chief Judge
)

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1 Pursuant to the Court’s December 9, 2015 Order, Plaintiffs, Defendants and
2 Intervenors (collectively, “Parties”) submit this Joint Status Report “setting forth
3 the Parties’ proposed steps, and timing of those steps, to effectuate the settlement.”
4 Dkt. 290. As set forth herein, the Parties respectfully request a stay of all
5 proceedings pending these steps to effectuate the settlement. The Parties therefore
6 briefly summarize the history and current status of the litigation, including
7 reference to prior stays.

8 **Prior Stay During Phase One of Litigation**

9 The Court’s October 16, 2013 Order re: Defendants’ Motion to Dismiss the
10 then-operative complaint (Dkt. 52) granted in part and denied in part Defendants’
11 motion. *See* Dkt. 71. The October 16, 2013 Order bifurcated Claim One from all
12 other claims through Summary Judgment as Phase One and stayed all other claims
13 “including discovery specific to such claims,” deferring those matters to a second
14 phase of the litigation. Dkt. 71 at 3. On September 22, 2015, the Court issued its
15 Memorandum and Order deciding the Parties’ summary judgment motions (Dkt.
16 244) (“Summary Judgment Order”), which granted in part Plaintiffs’ motion for
17 summary judgment and denied Defendants’ cross-motion for summary
18 judgment. *See* Dkt. 244.

19 **Current Status of the Litigation**

20 Defendants moved for reconsideration and, alternatively, sought permission
21 for an interlocutory appeal from the Summary Judgment Order. Dkt. 247. At the
22 October 19, 2015, Status Conference, the Court denied Defendants’ request for a
23 stay of providing substantive discovery responses and documents pending the
24 Court’s resolution of their motion for reconsideration. Dkt. 248. Defendants’
25 motion for reconsideration was fully briefed. The Court took that motion under
26 submission on November 12, 2015. Dkt. 274. At the October 19, 2015 Status
27 Conference, the Court lifted the stay as to the remaining six claims, class
28 certification, and the statute of limitations. Dkt. 248. The Court scheduled a bench

1 trial for December 15, 2015, to complete Phase One (Claim One) of the litigation.
2 *Id.* The Court also set deadlines for Phase Two, including the dates for filing of
3 Plaintiffs' class certification motion (January 18, 2016), expert designations
4 (March 1, 2016), and a discovery cut-off of April 19, 2016. *Id.* The Court
5 scheduled a bench trial with respect to liability issues for the remaining claims for
6 May 31, 2016. *Id.*

7 At the October 19, 2015 Status Conference (Dkt. 248), the Court directed
8 Plaintiffs to file their motion for leave to amend the operative Complaint by
9 November 16, 2015. Dkt. 248. Plaintiffs did so on October 29, 2015. Plaintiffs
10 and Defendants stipulated that, if the Court granted Plaintiffs' motion for leave to
11 amend, the parties would agree to an expedited briefing schedule. The Court
12 approved that stipulation with modifications on November 2, 2015. *See* Dkts. 258,
13 260, 262.

14 On December 7, 2015, the Court granted Plaintiffs' motion for leave to
15 amend. The Court directed Plaintiffs to file their Fifth Amended Complaint within
16 ten (10) days. In addition, the Court ordered that Defendants respond to the Fifth
17 Amended Complaint within thirty (30) days of Plaintiffs' filing of that amended
18 complaint, thereby overriding the expedited briefing schedule to which Plaintiffs
19 and Defendants had stipulated in Dkts. 260 and 262. *See* Dkt. 289. Plaintiffs filed
20 the Fifth Amended Complaint on December 9, 2015. Dkt. 291. Accordingly,
21 Defendants' response to the Fifth Amended Complaint currently is due January 8,
22 2015.

23 On November 9, 2015, the Association for Childhood Education
24 International ("ACEI") and The Hill Foundation, Inc. ("Foundation") (collectively,
25 "Intervenors"), moved for leave to intervene, which was unopposed. The Court
26 granted the motion to intervene on December 7, 2015. *See* Dkts. 266 & 288.

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1 **Settlement Mediation**

2 At the October 19, 2015 Status Conference, the Court directed the parties to
3 confer regarding a procedure for mediation. Plaintiffs, Defendants, and the
4 Intervenors (collectively, the “Parties”) agreed to participate in a confidential
5 mediation with David Rotman, Esq. On November 13, 2015, the Parties reported
6 their agreement to participate in a private mediation to the Court. Dkt. 276.

7 On December 1, 2015, counsel for all Parties participated in an all-day
8 mediation with Mr. Rotman. On December 7, 2014, Mr. Rotman made a
9 confidential mediator’s proposal to settle the class action. On December 8, 2015,
10 the Parties accepted the mediator’s proposal.

11 The Parties immediately contacted the Court and requested that the Court
12 relieve them of their filing obligation and vacate the December 15, 2015, trial date.
13 The Court granted the Parties’ request, relieved them from their immediate filing
14 obligations, vacated the December 15 trial date, and directed the Parties to file this
15 Status Report. Dkt. 290.

16 **Proposed Steps and Timing of Settlement**

17 The Parties are in the process of drafting, discussing and completing a
18 Settlement Agreement. The Parties will work to complete that process through the
19 coming holidays, and will execute the Settlement Agreement by January 15, 2016.

20 On or before January 29, 2016, Plaintiffs will notice and file a motion for
21 preliminary approval of the proposed class action settlement. Plaintiffs’ motion
22 will request that the Court enter a Preliminary Order approving the proposed class
23 action settlement following a hearing set under the Local Rules or at such other
24 date and time as the Court may set. Plaintiffs’ filing will include the fully executed
25 Settlement Agreement, a proposed plan and schedule for notice to the class, and a
26 proposed final approval hearing date. Consistent with experience in prior cases,
27 counsel for the Parties anticipate that the time from Plaintiffs’ filing of the motion
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1 for preliminary approval of the proposed class action settlement to the proposed
2 final approval hearing date will be approximately six months.

3 **Parties Request a Stay of all Proceedings**

4 In the interim, the Parties have stopped all litigation activity to concentrate
5 their efforts on the class action settlement process. As of this date, however, the
6 Court has not stayed proceedings in the case. Certain dates established by prior
7 Orders are approaching. For example, Defendants' date for responding to
8 Plaintiffs' Fifth Amended Consolidated Complaint (Dkt. 291) is January 8, 2016
9 (30 days after Plaintiffs' filing of the Fifth Amended Consolidated Complaint, per
10 the schedule set forth in the Court's December 7, 2015 Order, Dkt. 289).
11 Similarly, Plaintiffs' deadline for filing their motion for class certification currently
12 is January 18, 2016, per the Court's October 19, 2015 Order, Dkt. 248.

13 Accordingly, the Parties respectfully request that the Court enter an Order
14 staying all proceedings in this action through and including January 29, 2016.
15 Provided that Plaintiffs have filed their motion for preliminary approval of class
16 action settlement on or before January 29, 2016, the Parties respectfully request
17 that the Court continue the stay of proceedings pending final approval or denial of
18 the proposed settlement or such other date as the Court may order.

19 Respectfully submitted,

20 Dated: December 18, 2015

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21 By: /s/ Betsy C. Manifold

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