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6 *Interim Lead Counsel for Plaintiffs*
 and the [Proposed] Class

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 8 **UNITED STATES DISTRICT COURT**
 9 **CENTRAL DISTRICT OF CALIFORNIA -**
 10 **WESTERN DIVISION**

11 GOOD MORNING TO YOU 12 PRODUCTIONS CORP., <i>et al.</i> , 13 Plaintiffs, 14 v. 15 WARNER/CHAPPELL MUSIC, INC., <i>et al.</i> , 16 Defendants. 17	}	Lead Case No. CV 13-04460-GHK (MRWx) DECLARATION OF JAMES CHRESSANTHIS IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF PROPOSED CLASS ACTION SETTLEMENT Date: March 14, 2016 Time: 9:30 a.m. Room: 650 Judge: Hon. George H. King, Chief Judge
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21 I, James Chressanthis, hereby state to the best of my personal knowledge and
 22 belief:

- 23 1. I am the managing member of Majar Productions, LLC (“Majar”). I am
 24 a resident of California and, through Majar, a Plaintiff in the above-entitled action.
- 25 2. I am an individual over the age of 18. I have personal knowledge of the
 26 following facts set forth below and if called to testify, I could and would testify
 27 competently to them. I submit this declaration in connection with the Motion for
 28 Preliminary Approval and the provision of the proposed settlement awarding Majar

1 incentive compensation in the amount of \$10,000.

2 3. On or about October 29, 2009, Majar paid Defendant Warner/Chappell
3 Music, Inc. (“Warner”) the sum of \$5,000 for a synchronization license to use *Happy*
4 *Birthday to You*.

5 4. In 2008-2009, Majar produced a documentary film titled *No Subtitles*
6 *Necessary: Laszlo & Vilmos* (the “Film”). In one of the scenes in the Film, the
7 subjects sang the familiar lyrics of *Happy Birthday to You* (the “Song”).

8 5. During production of the Film, I learned from the music clearance
9 supervisor working on the Film that Warner claimed exclusive copyright ownership
10 to *Happy Birthday to You*, including for purposes of issuing synchronization licenses,
11 and that if we wished to include the Song in the Film, a license would have to be
12 procured and a fee be paid to Warner.

13 6. Relying upon the information provided by the music clearance
14 supervisor, I believed that Warner owned the *Happy Birthday* copyright, and that
15 Majar would have to purchase a synchronization license from Warner if we decided
16 to use the Song in the movie. Indeed, Warner held itself out as the exclusive owner of
17 the copyright in the Song. Accordingly, Majar proceeded to obtain a license for the
18 Song from Warner.

19 7. Upon making the final determination to include use of the Song in the
20 Film, on or about October 29, 2009, Majar paid Warner the sum of \$5000 for a
21 synchronization license to use the Song in the Film.

22 8. Because Warner claimed to own the copyright for *Happy Birthday*,
23 Majar faced a statutory penalty of up to \$150,000 under the Copyright Act if it used
24 the Song without permission and Warner, in fact, owned the copyright as it claimed.

25 9. I read in the press about this action shortly after the first complaint was
26 filed on June 13, 2013. Before then, Majar, the music clearance supervisor it hired,
27 and I did not know that Warner’s copyright claim for *Happy Birthday* had been
28 disputed by anyone or was in doubt.

1 10. Shortly thereafter, I discussed the case with attorneys Kara Wolke and
2 Marc Godino and shared my own experience in licensing the song. Based on the
3 extensive research that had been done into the case, and the wrongs I felt Warner had
4 committed, I decided to become one of the plaintiffs in the litigation. I authorized Ms.
5 Wolke and Mr. Godino to draft a complaint on Majar's behalf, which I reviewed in
6 detail and authorized to be filed on my behalf in this Court on or about July 17, 2013.

7 11. Before I agreed to have Majar serve as a named Plaintiff, Ms. Wolke and
8 Mr. Godino explained to me what was involved in serving as a class representative.
9 Since agreeing on to serve as a class representative, I have diligently fulfilled my
10 obligations, communicated frequently with my lawyers, and I was instrumental in
11 achieving the relief obtained for the proposed Settlement Class.

12 12. After Majar's complaint was filed, and so that the action could be
13 litigated most efficiently, all four plaintiffs agreed to consolidate their cases in this
14 Court. I reviewed the Second Amended Complaint and authorized it to be filed on
15 my behalf on September 4, 2013. I also reviewed and authorized all three subsequent
16 consolidated complaints.

17 13. I have spent many hours of my time on this litigation to date. Among
18 other things: (i) I provided relevant documents and other information to my counsel
19 when requested by them; (ii) I diligently researched my rights; (iii) I have spoken and
20 corresponded many times with Ms. Wolke and/or Mr. Godino, by telephone and e-
21 mail, during the two and one-half years this action has been pending; (iv) I have
22 reviewed the many pleadings, briefs, exhibits, and declarations filed by the Plaintiffs
23 in the action, both in draft before they were filed and after they were filed; (v) I
24 reviewed the substance of the proposed settlement with Ms. Wolke during the
25 settlement process; and (iv) I have overseen the settlement process together with Ms.
26 Wolke.

27 14. I am thoroughly familiar with the work performed by Ms. Wolke and
28 Mr. Godino and their firm, as well as by the other Plaintiffs' counsel in prosecuting

1 the action, and I have worked closely with my attorneys in prosecuting the action to
2 achieve two primary objectives: a declaration that *Happy Birthday* is in the public
3 domain and an award of damages for past royalty payments for the Song. The
4 settlement achieves both of these primary objectives: a judicial determination that
5 *Happy Birthday* is in the public domain to prevent future harm to members of the
6 Settlement Class (and the rest of the world) and a substantial settlement payment to
7 compensate members of the Settlement Class for their past injuries.

8 15. I am not aware of any conflicts that would prevent Majar from serving as
9 a representative of the Settlement Class in this matter. I do not have any personal or
10 business relationships with Plaintiffs' counsel (other than retaining them to represent
11 it in this case).

12 **Typicality of Claims**

13 16. Majar's experience of having to pay a fee to Warner to use *Happy*
14 *Birthday* or risk substantial liability copyright infringement damages and penalties is
15 just like the experiences of many others who also were compelled to pay a fee to
16 Warner (or their predecessors) to use the Song since 1949. The Court has ruled that
17 Warner and their predecessors never owned a copyright to the Happy Birthday lyrics,
18 and their copyright to the melody ended by 1949. Therefore, Majar and all others
19 who paid Warner to use the Song since 1949 basically paid them for nothing. Since
20 Warner and their predecessors never a copyright to the Song, they had nothing to
21 license to Majar or to anyone else who paid a fee to them.

22 17. I decided to become involved in this case to accomplish two goals: *first*,
23 to have a court declare that the Song is in the public domain, and *second*, to recover
24 damages for Majar and all others who were forced to pay Warner to use the Song. I
25 believe that Majar and everyone else who paid Warner to use the Song share the
26 exact same interests in achieving those goals.

27 18. To my knowledge, Majar shares the same claims and interests as all
28 other members of the Settlement Class who paid fees to Warner to use the Song since

1 1949. Therefore, Majar's claims are substantially similar to those of other members
2 of the Settlement Class because, by claiming to own a copyright they did not own,
3 Warner collected fees they did not deserve from all of them.

4 **Involvement In the Litigation & Adequacy as Class Representative**

5 19. I have participated actively from the inception of this litigation through
6 settlement discussions. I have had regular telephone and e-mail communications with
7 my attorneys during the course of this matter, I have reviewed all the pleadings and
8 other filings in the case, I have kept informed of all developments in the litigation,
9 and I reviewed and approved the proposed settlement.

10 20. I made myself available to discuss developments in the case as part of
11 my duty as the class representative. Also, I worked with my counsel to prepare this
12 declaration in support of class certification and preliminary and final approval of the
13 settlement.

14 21. On behalf of Majar, I have provided documents and information to my
15 counsel as requested to assist them in prosecuting the action on Majar's behalf and on
16 behalf of the class.

17 22. I have devoted significant time and attention to this case.

18 23. I have fairly represented the absent class and herein request that the
19 Court approve this settlement and confirm Majar as a representative of the Settlement
20 Class. I have maintained the best interests of the Settlement Class while performing
21 my class representative duties. I am not aware of any conflicts of interest that prevent
22 Majar from being confirmed as a class representative in this action.

23 24. I understand that as part of the settlement of this action, Majar and the
24 other members of the Settlement Class are required to give Defendants and certain
25 others a full and complete release of all claims, known and unknown. I understand
26 that this means that we will be giving up any claims I may have against the Warner. I
27 have agreed to this term as I believe this was in the best interests of the Settlement
28 Class in order to achieve this settlement.

1 25. I believe that the Settlement obtained on behalf of the Settlement Class
2 is excellent because it achieves both primary objectives despite the considerable
3 issues and risks that remain with continuing the litigation, including the risk that the
4 Song might not be declared to be in the public domain and the risk that the Settlement
5 Class might not achieve as much in damages if this case were litigated to its
6 conclusion. I strongly support the settlement in this matter. Throughout this case, I
7 have always kept the best interests of Class in mind over my own. Majar had no
8 claim that was incompatible to the interests of other Class members.

9 26. As discussed above, I actively participated in the litigation of this action
10 on behalf of myself and the class. As a class representative, I participated in all stages
11 of the litigation, from the decision to file my complaint to the decision to settle the
12 claims. I have spent at least 30 hours in performing my duties in this case.

13 27. In addition to time I spent participating in the prosecution of this case, I
14 took a risk by coming forward and filing this class action. I am a filmmaker and
15 director active in the entertainment business, and I expect to need synchronization
16 licenses from Warner and other copyright owners in the future. I understood that my
17 role as a plaintiff in this case could negatively impact my efforts to negotiate
18 synchronization licenses in the future. Nonetheless, I believed strongly in the merits
19 of this claim and the importance of the issues raised in the litigation.

20 28. By serving as a plaintiff in this case through Majar, I undertook duties
21 and obligations that other class members did not take. As a result of my stepping
22 forward, several thousand class members will receive substantial settlement payments
23 and benefits. I believe that \$10,000 is a fair amount for my service to the class.

24 29. To my knowledge, no class member has expressed any disagreement to
25 the terms of the settlement.

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I declare under penalty of perjury under the laws of the United States of America that the above is true and correct and was executed in Brooklyn, New York on this 31st day of January 2016.


James Chressanthis
Manager, Majar Productions, LLC