



1 WHEREAS, a putative class action captioned *Good Morning to You Productions*  
2 *Corp., et al. v. Warner/Chappell Music, Inc., et al.*, Case No. CV 13-04460-GHK  
3 (MRWx), relating to the copyright to the musical work entitled *Happy Birthday to You!*  
4 with the lyrics, “Happy Birthday to you, Happy Birthday to you, Happy Birthday dear  
5 \_\_\_\_\_, Happy Birthday to you!” (referred to as “the Song”), is pending before the Court,  
6 and

7 WHEREAS, Good Morning to You Productions Corp., Robert Siegel, Rupa Marya  
8 d/b/a Rupa & The April Fishes, and Majar Productions, LLC (collectively, the  
9 “Plaintiffs” or “Class Representatives”), individually and on behalf of the Settlement  
10 Class (defined below); Defendants Warner/Chappell Music, Inc., and Summy-Birchard  
11 Inc. (jointly, “Defendants” or “Warner/Chappell”); and Intervenors the Association for  
12 Childhood Education International and the Hill Foundation, Inc. (jointly, “Intervenors”)  
13 (Plaintiffs, Defendants and Intervenors, collectively, the “Parties”) have entered into a  
14 Settlement Agreement (“Settlement Agreement”), which, together with the exhibits  
15 attached thereto, sets forth the terms and conditions for a proposed settlement and  
16 dismissal of the Action with prejudice as to Defendants for the claims of the Settlement  
17 Class upon the terms and conditions set forth in the Settlement Agreement, and the Court  
18 having read and considered the Settlement Agreement and exhibits attached thereto;

19 This matter coming before the Court upon the agreement of the Parties and the  
20 motion of Plaintiffs seeking preliminary approval of the Settlement Agreement, good  
21 cause being shown, and the Court being fully advised in the premises,

22 IT IS HEREBY ORDERED, DECREED, AND ADJUDGED AS FOLLOWS:

23 1. Terms and phrases in this Order shall have the same meaning as ascribed to  
24 them in the Settlement Agreement.

25 **Settlement Class Certification for Settlement Purposes Only**

26 2. A class (the “Settlement Class”) is certified for settlement purposes only.

27 a. The Settlement Class is defined to mean:  
28

1 (a) all Persons who, at any time since September 3, 1949, directly paid Defendants,  
2 Intervenor, any of their predecessors-in-interest (or any of the Affiliates of any of the  
3 foregoing) for each such Person's use of the Song;

4 (b) all Persons who, at any time since September 3, 1949, directly paid HFA,  
5 Alfred or Faber as agents for Defendants or their predecessors-in-interest for each such  
6 Person's use of the Song; or

7 (c) the American Society of Composers, Authors and Publishers (ASCAP), foreign  
8 collecting societies (such as, for example, SACEM and GEMA), and any other Person  
9 who at any time since September 3, 1949 has issued blanket licenses covering the Song,  
10 but only for the amounts allocated to the Song by such Persons and directly paid to  
11 Defendants or their predecessors-in-interest (or either's Affiliates) pursuant to such  
12 blanket licenses; or

13 (d)(i) digital rights aggregation services (such as, for example, Music Reports,  
14 Inc.), (ii) foreign sub-publishers (such as, for example, EMI Music Publishing Ltd.), and  
15 (iii) Persons not enumerated in sub-paragraph (b), (c), or items (i)-(ii) of this  
16 sub-paragraph (d) who directly paid Defendants, Intervenor, any of their  
17 predecessors-in-interest (or any of the Affiliates of any of the foregoing) on behalf of  
18 other Persons for such other Persons' use of the Song at any time since September 3,  
19 1949, but only to the extent that the Persons listed in items (i)-(iii) of this sub-paragraph  
20 (d) directly paid Defendants, Intervenor, any of their predecessors-in-interest (or any of  
21 the Affiliates of any of the foregoing) amounts that were comprised of payments by or on  
22 behalf of other Persons for such other Persons' use of the Song.

23 In the case of payments referenced in sub-paragraphs (c) and (d), the Persons  
24 enumerated in sub-paragraphs (c) and (d) who made the direct payments to Defendants,  
25 Intervenor, any of their predecessors-in-interest (or any of the Affiliates of any of the  
26 foregoing) are part of the Settlement Class, whereas the Persons on whose behalf such  
27 Persons obtained the rights to use the Song (whether through a blanket license or  
28 otherwise) are *not* part of the Settlement Class.

1 For purposes of this definition, the term “directly paid” includes payments made by  
2 a Person’s accountant, attorney, business manager or similar agent acting for such Person  
3 solely in the capacity of remitting payment and not for the purpose of providing licensing  
4 services to other Persons. In the case of a direct payment by a Person’s accountant,  
5 attorney, business manager or similar agent as described in the preceding sentence, said  
6 Person on whose behalf the payment is made is the Person in the Settlement Class  
7 (subject to all other requirements of this definition), and that Person’s accountant,  
8 attorney, business manager or similar agent as described in the preceding sentence is not  
9 in the Settlement Class by virtue of that payment.

10 Excluded from the Settlement Class are the following: (I) Defendants, their  
11 Affiliates, and HFA, and their respective officers, directors and employees; (II)  
12 Intervenors, their subsidiaries, and Affiliates and their respective officers, directors,  
13 employees; and (III) Class Counsel, Defendants’ Counsel, and Intervenors’ Counsel. For  
14 the avoidance of doubt, Alfred and Faber are part of the Settlement Class under  
15 sub-paragraph (a) with respect to their own direct licenses of the Song from Defendants  
16 or their predecessors-in-interest (or either’s Affiliates), but only the sublicensees of  
17 Alfred and Faber are part of the Settlement Class under sub-paragraph (b).

18 b. The Settlement Class consists of thousands of persons or entities, there  
19 are questions of law or fact common to the Settlement Class, Plaintiffs’ claims are typical  
20 of those of the Settlement Class, and Plaintiffs will fairly and adequately protect the  
21 interests of the Settlement Class. Accordingly, the requirements for class certification  
22 under Fed. R. Civ. P. 23(a) are satisfied.

23 c. In addition, the questions of law or fact common to the Settlement Class  
24 predominate over any individual questions, and the class action mechanism is superior to  
25 other available methods for the fair and efficient adjudication of this controversy.  
26 Consequently, the Settlement Class satisfies the requirements of Fed. R. Civ. P. 23(b)(3).

1           3. The Court hereby appoints Plaintiffs Good Morning to You Productions Corp.,  
2 Robert Siegel, Rupa Marya d/b/a Rupa & The April Fishes, and Majar Productions, LLC  
3 as Class Representatives.

4           4. The Court hereby appoints Wolf Haldenstein Adler Freeman & Herz LLP  
5 (“Wolf Haldenstein”); Randall S. Newman PC; Hunt, Ortmann, Palffy, Nieves, Darling  
6 & Mah, Inc.; Donahue Fitzgerald, LLP; and Glancy Prongay & Murray, LLP as Class  
7 Counsel and Wolf Haldenstein as Lead Class Counsel.

8           **Preliminary Approval**

9           5. Plaintiffs have moved the Court for an order approving the settlement of the  
10 Action in accordance with the Settlement Agreement, which, together with the documents  
11 incorporated therein, sets forth the terms and conditions for a proposed settlement and  
12 dismissal of the Action with prejudice against Defendants, and the Court having read and  
13 considered the Settlement Agreement and having heard from the Parties and being fully  
14 advised in the premises, hereby finds and concludes as follows:

15           6. This Court has jurisdiction over the subject matter of this action and over all  
16 Parties to the Action, including all members of the Settlement Class.

17           7. Subject to the Final Approval Hearing, the Settlement Agreement falls within  
18 the range of possible approval as fair, reasonable, adequate, and in the best interests of  
19 the Settlement Class. The Settlement Agreement substantially fulfills the purposes and  
20 objectives of the class action, and provides beneficial relief to the Settlement Class. The  
21 Settlement Agreement: (a) is the result of serious, informed, noncollusive arm’s length  
22 negotiations involving experienced counsel familiar with the legal and factual issues of  
23 this case and made with the assistance of mediator David Rotman, Esq., of Gregorio,  
24 Haldeman & Rotman; (b) is sufficient to warrant notice of the Settlement Agreement and  
25 the Final Approval Hearing to the Settlement Class; (c) meets all applicable requirements  
26 of law, including Federal Rule of Civil Procedure 23, and the Class Action Fairness Act  
27 (“CAFA”), 28 U.S.C. § 1715; and (d) is not an admission of liability by Defendants or  
28 Intervenors.

1           **Notice and Administration**

2           8. Rust Consulting, Inc., is hereby appointed as Settlement Administrator and shall  
3 perform all the duties of the Settlement Administrator as set forth in the Settlement  
4 Agreement and this Order.

5           9. The Notice and Notice Plan as set forth in the Settlement Agreement are  
6 reasonably calculated to, under all circumstances, apprise the members of the Settlement  
7 Class of the pendency of this action, certification of the Settlement Class for settlement  
8 purposes only, the terms of the Settlement Agreement, and their right to object to the  
9 Settlement or to exclude themselves from the Settlement Class. The Notice and Notice  
10 Plan are consistent with the requirements of Rule 23 and due process, and constitute the  
11 best notice practicable under the circumstances.

12           10. The Court therefore approves the Notice and the Notice Plan, including the  
13 Mail Notice and Publication Notice attached as Exhibits 1 and 2, respectively, to this  
14 Order. The Court also approves the Claim Form, attached as Exhibit 3 to this Order, and  
15 claims administration procedures set forth in the Settlement Agreement. The Parties may,  
16 by agreement, revise the Mail Notice, Publication Notice, and/or Claim Form in ways that  
17 are not material, or in ways that are appropriate to update those documents for purposes  
18 of accuracy or formatting.

19           11. Pursuant to Section 5 of the Settlement Agreement, the Notice Plan shall be  
20 implemented as follows: Within five (5) days of the entry of this Order, Defendants shall  
21 provide the Settlement Class Member Address List to the Settlement Administrator.  
22 Within twenty-one (21) days of the entry of this Order, the Settlement Administrator shall  
23 mail the Mail Notice, substantially in the form of Exhibit 1 to this Order, and the Claim  
24 Form, substantially in the form attached to this Order as Exhibit 3, to each Settlement  
25 Class Member identified in the Settlement Class Member Address List.

26           12. Within five (5) days after mailing the Mail Notice, the Settlement  
27 Administrator shall cause the Publication Notice, substantially in the form attached to this  
28 Order as Exhibit 2, to appear once each in *The Hollywood Reporter* (in one-eighth page

1 size), the U.S. edition of *Variety* (in one-eighth page size), and *Billboard* (in one-eighth  
2 page size).

3 13. Within five (5) days after entry of this Order, the Settlement Administrator  
4 shall publish the Website Notice, substantially in the form attached to this Order as  
5 Exhibit 1, through the Settlement Website. The Settlement Website shall be developed,  
6 hosted, and maintained by the Settlement Administrator through the Final Settlement  
7 Date.

8 14. The Defendants shall have complied with the requirements of 28 U.S.C. §  
9 1715 and served notice of the proposed Settlement Agreement upon the appropriate  
10 government officials within (10) days after the Settlement Agreement was filed with the  
11 Court.

12 15. Settlement Class Members who wish to receive a payment under the  
13 Settlement Agreement must complete and submit a timely and valid Period One Claim  
14 Form and/or Period Two Claim Form. All Claims must be postmarked or received by the  
15 Settlement Administrator on or before the Claims Deadline, which is hereby set as sixty  
16 (60) days after the Notice Date.

17 **Exclusion**

18 16. Persons or entities who would otherwise be in the Settlement Class but who  
19 wish to exclude themselves from the Settlement Class for purposes of this Settlement  
20 may do so by submitting a request for exclusion to the Settlement Administrator on or  
21 before the Objection/Exclusion Deadline, which is hereby set as sixty (60) days after the  
22 Notice referred to in Paragraph 22 of this Order. The request for exclusion must comply  
23 with the exclusion procedures set forth in the Settlement Agreement and include the case  
24 number of the Action; such person or entity's name, address, email address (if  
25 applicable), phone number and signature (or the signature of an authorized representative  
26 of such person or entity); the date(s) of all direct payment(s) to Defendants or  
27 Defendants' predecessors-in-interest or either's Affiliates or HFA, Alfred or Faber for  
28 use of the Song, and the dollar amount(s) paid to Defendants or Defendants'

1 predecessors-in-interest or either's Affiliates or HFA, Alfred or Faber for use of the  
2 Song; and a statement that such person or entity wishes to be excluded from the  
3 Settlement Class for purposes of this Settlement. A request for exclusion may not request  
4 exclusion of more than one Settlement Class Member.

5 17. Any member of the Settlement Class who timely requests exclusion consistent  
6 with these procedures shall not: (i) be bound by the Final Order and Judgment; (ii) be  
7 entitled to relief under the Settlement Agreement; (iii) gain any rights by virtue of the  
8 Settlement Agreement; or (iv) be entitled to object to any aspect of the Settlement  
9 Agreement. However, members of the Settlement Class who fail to submit a valid and  
10 timely request for exclusion shall be bound by all terms of the Settlement Agreement and  
11 the Final Order and Judgment, regardless of whether they have otherwise requested  
12 exclusion from the Settlement Class.

### 13 **Objections**

14 18. Any member of the Settlement Class who has not filed a timely and valid  
15 request for exclusion may object to the granting of final approval to the Settlement  
16 Agreement. Settlement Class Members may object on their own, or may do so through  
17 separate counsel at their own expense.

18 19. Any Settlement Class Member who intends to object to this Settlement  
19 Agreement must present the objection in writing, which must be personally signed by the  
20 objector and include: (a) the objector's name, address, email address, and contact phone  
21 number; (b) an explanation of the basis upon which the objector claims to be a Settlement  
22 Class Member; (c) all grounds for the objection, including any supporting law or  
23 evidence, if any; (d) the name and contact information of any and all attorneys  
24 representing the objector in connection with the preparation or submission of the (the  
25 "Objecting Attorneys"); and (e) a statement indicating whether the objector intends to  
26 appear at the Final Approval Hearing (either personally or through counsel who files an  
27 appearance with the Court in accordance with the Court's Local Rules). An objector or  
28 the Objector's counsel shall not be permitted to speak at the Final Approval Hearing

1 unless notice of such intent (as described in (e) above) is either timely filed with or  
2 mailed to the Court.

3 20. All objections and any papers submitted in support of such objections must be  
4 submitted to the Court on or before the Objection/Exclusion Deadline either by mailing  
5 them to, or by filing them in person at, the United States District Court for the Central  
6 District of California, Western Division in Los Angeles, California, except that any  
7 objection made by a Settlement Class Member represented by counsel must be filed  
8 through the Court's Case Management/Electronic Case Filing (CM/ECF) system.

9 21. Any Settlement Class Member who fails to timely mail or file a written  
10 objection with the Court in accordance with the terms of this Settlement Agreement and  
11 as detailed in the Notice shall not be permitted to object to the Settlement at the Final  
12 Approval Hearing, and shall be foreclosed from seeking any review of the Settlement by  
13 appeal or other means and shall be deemed to have waived his, her or its objections and  
14 be forever barred from making any such objections in the Action or any other action or  
15 proceeding.

### 16 **Final Approval Hearing**

17 22. A Final Approval Hearing shall be held before this Court on June 27, 2016 at  
18 9:30 A.M. in Courtroom 650 of the United States District Court for the Central District of  
19 California, located at 255 East Temple Street, Los Angeles, CA 90012, to consider: (a)  
20 whether the proposed settlement of the Action on the terms and conditions provided for  
21 in the Settlement Agreement is fair, reasonable and adequate and should be given final  
22 approval by the Court; (b) whether a final judgment should be entered; (c) whether to  
23 award payment of attorneys' fees and expenses to Class Counsel and in what amount; (d)  
24 whether to award administration costs to the Settlement Administrator and in what  
25 amount; and (e) whether to award payment of incentive awards to the Class  
26 Representatives and in what amount. The Court may adjourn the Final Approval Hearing  
27 without further notice to Class Members. The Court also sets the following dates and  
28 deadlines:

1	Deadline for Dissemination of Notice by Settlement Administrator (21 days after Preliminary Approval entered by Court) (“Notice Date”)	March 28, 2016
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3		
4	Deadline for Class Counsel to File Settlement and Fee Brief for Final Approval	April 27, 2016
5		
6	Deadline for Defendants to Object to Class Counsel’s Fee and Expense Petition	May 27, 2016
7		
8	Deadline for Settlement Class Members to Submit Claims	May 27, 2016
9		
10	Deadline for Settlement Class Members to Object to Settlement or Opt Out of Settlement Class	May 27, 2016
11		
12	Deadline for Class Counsel to File Reply Brief in Further Support of Settlement and Fee Brief for Final Approval Hearing	June 13, 2016
13		
14	Deadline for Settlement Administrator to File Declaration re: Claims Administration	June 20, 2016
15		
16		
17	Final Approval Hearing	June 27, 2016 at 9:30 A.M.

18 **Further Matters**

19 23. In order to protect its jurisdiction to consider the fairness of the Settlement  
20 Agreement and to enter a Final Order and Judgment having binding effect on all  
21 Settlement Class Members, the Court hereby enjoins all members of the Settlement Class,  
22 and anyone who acts or purports to act on their behalf, from pursuing any of the Released  
23 Claims.

24 24. Settlement Class Members shall be bound by all determinations and judgments  
25 in the Action concerning the Action and/or Settlement Agreement, whether favorable or  
26 unfavorable.

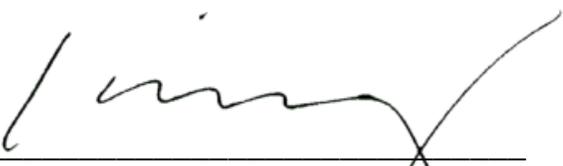
1           25. All discovery and pretrial proceedings and deadlines are stayed and suspended  
2 until further notice from the Court, except for such actions as are necessary to implement  
3 the Settlement Agreement and this Order.

4           26. In the event that the Settlement Agreement is terminated pursuant to the  
5 provisions of the Settlement Agreement, then (a) the Settlement Agreement, this  
6 Preliminary Approval Order, and the Final Order and Judgment (if applicable) (including  
7 but not limited to the certification of the Settlement Class, the appointment of Plaintiffs as  
8 Class Representatives, and the appointment of Class Counsel) shall be vacated and shall  
9 be null and void, shall have no further force and effect with respect to any Party in this  
10 Action, and shall not be used in this Action or in any other proceeding for any purpose;  
11 (b) this action will revert to the status that existed before the Settlement Agreement's  
12 execution date; (c)(i) no term or draft of the Settlement Agreement, (ii) nor any part of  
13 the Parties' settlement discussions, negotiations, or documentation (including any  
14 declaration or brief filed in support of the motion for preliminary approval or motion for  
15 final approval), (iii) nor any rulings regarding class certification for settlement purposes  
16 (including the Preliminary Approval Order and, if applicable, the Final Order and  
17 Judgment), will have any effect or be admissible into evidence for any purpose in the  
18 Action or any other proceeding.

19           27. The Court may, for good cause, extend any of the deadlines set forth in this  
20 Order without further notice to the Settlement Class Members. The Final Approval  
21 Hearing may, from time to time and without further notice to the Settlement Class  
22 Members, be continued by order of the Court.

23           **IT IS SO ORDERED.**

24  
25 DATED: 3/7/16

26  
27  
28   
\_\_\_\_\_  
GEORGE H. KING  
Chief United States District Judge