

EXHIBIT

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131 South Dearborn Street
Suite 2400
Chicago, Illinois 60603
(312) 460-5000
fax (312) 460-7000
www.seyfarth.com

Writer's direct phone
(312) 460-5913

Writer's e-mail
nfinkel@seyfarth.com

January 15, 2010

VIA ELECTRONIC MAIL and REGULAR MAIL

George S. Bellas
Clifford Law Offices P.C.
120 North LaSalle Street
Chicago, Illinois 60602

Re: *Breneisen et al v. Motorola, Inc.*
Case No. 02-C-50509 (N.D. Ill.; Magistrate Judge Mahoney)

Dear George:

We will be sending you a check in the amount of \$3,840.00 made payable to Anna Lineweaver Sweeney, the amount to which she would be entitled to receive for tuition reimbursement (\$1,920.00) if she were to prevail on her remaining claim(s), multiplied by two to cover any award of liquidated damages. You likely will receive the check next week.

In light of this payment, Ms. Lineweaver Sweeney's claim will be moot. Further, in light of the Court's ruling on the damages theory for James Breneisen, we believe that there are no damages he conceivably can recover in this case. Accordingly, the case is now moot as to the only two remaining plaintiffs. Please let us know if you believe there is any item of damages that we have not taken into account or have miscalculated. Otherwise, we see no basis upon which this matter would not be dismissed as moot.

To the extent that you believe Plaintiffs are entitled to recover attorneys' fees, we do not agree given the Supreme Court's rejection of the catalyst theory for purposes of determining an award of attorneys' fees. See *Buckhannon Board and Care Home, Inc. v. W. Va. Dept. of Health and Human Services*, 532 U.S. 598 (2001) (holding that an enforceable judgment or court-ordered consent is required to be deemed a prevailing party); *Bingham v. New Berlin School Dist.*, 550 F.3d 601 (7th Cir. 2008) (plaintiffs were not entitled to attorneys' fees where defendant voluntarily paid the full amount owed in damages which rendered the case moot).

In light of the enclosed payment and Magistrate Judge Mahoney's prior rulings on James Breneisen's damages theory, we intend to move for dismissal on the grounds of mootness. We understand that you likely will file a notice of appeal within 30 days of a dismissal order, and that

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you likely will challenge the Magistrate Judge Mahoney's rulings on James Breneisen's damages theory. Please contact us to discuss further if you would like.

Sincerely yours,

SEYFARTH SHAW LLP

A handwritten signature in black ink, appearing to read "Noah A." followed by a stylized last name.

Noah A. Finkel

Enclosure

cc: Joan E. Gale
Scott A. Carlson