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13 *Class Counsel*

14 **UNITED STATES DISTRICT COURT**  
15 **NORTHERN DISTRICT OF CALIFORNIA**  
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17 In re SONY PS3 "OTHER OS" LITIGATION

Case No. 4:10-CV-01811-YGR

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19 **DECLARATION OF KATHLEEN V.**  
20 **FISHER IN SUPPORT OF PLAINTIFF'S**  
21 **MOTION FOR AWARD OF ATTORNEYS'**  
**FEES, COSTS, AND INCENTIVE**  
**AWARDS**

22 Date: January 24, 2017

23 Time: 2:00 PM

24 Judge: Hon. Yvonne Gonzalez Rogers

Courtroom: 1, 4th Floor

1 I, Kathleen V. Fisher, declare as follows:

2 1. I am a partner with Calvo Fisher & Jacob LLP (“CF&J”) one of the appointed Class  
3 Counsels for Plaintiffs in this class action. I make this declaration in support of Plaintiffs’ Motion  
4 for Award of Attorneys’ Fees, Costs, and Incentive Awards. I have personal knowledge of the  
5 matters set forth herein and could testify thereto under oath if called as a witness.

6 2. I am admitted to practice law in California and before this Court, and a member in  
7 good standing of the State Bar of California. I have practiced for almost 40 years. I have extensive  
8 experience litigating complex class-action cases. Prior to joining CF&J, I was an associate and  
9 then a partner at Morrison & Foerster for almost 30 years. During that period, in addition to other  
10 management positions, I served as chair of Morrison’s global litigation practice.

11 3. My firm filed a consolidated class action complaint on behalf of named plaintiff  
12 Anthony Ventura on July 30 2010 and was appointed Co-Lead Counsel for the class with law  
13 firms Hausfeld LLP and Finkelstein Thompson LLP.

14 4. Until January 1, 2016, when my partner William (“Bill”) Hebert retired, he and our  
15 former partners James (“Jim”) A. Quadra and Rebecca (“Becca”) M. Coll, both of whom departed  
16 in 2012, and associates Kevin Moon, Jay Trickett and Genevieve Rapadas were extensively  
17 involved in representing and prosecuting claims against defendant SCEA. Following  
18 January 1, 2016, when Bill Hebert retired, I took over his responsibilities and continued to work  
19 with Co-Lead Counsel at Hausfeld LLP and Finkelstein LLP, primarily on settlement- related  
20 tasks. During the course of my firm’s representation, as reflected on Attachment 1, individual  
21 CF&J attorneys and legal assistants spent significant time investigating claims, researching,  
22 drafting pleadings, participating in extensive discovery, motions practice, reviewing document  
23 productions, taking and defending depositions, participating in court hearings and arguments, and  
24 participating in settlement negotiations for the benefit of the class.

25 5. In particular, Jim Quadra argued the first motion to dismiss under the Unfair  
26 Competition Law and the False Advertising Law claims. He also argued the second motion to  
27 dismiss. Becca Coll took the lead on negotiating the stipulated protective order and the protocol for  
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1 the imaging of the plaintiffs' PS3s. They also assisted in drafting the motion to compel discovery  
2 and finding a vendor for online storage and review of SCEA's document production.

3 6. Bill Hebert and CF&J associate Jay Trickett took the lead in preparing the appellate  
4 briefs arguments under California's Consumer Legal Remedies Act, the Unfair Competition Law  
5 and the False Advertising Law claims following dismissal of this case without leave to amend on  
6 December 8, 2011. Bill Hebert successfully argued the appeal from the dismissal before the Ninth  
7 Circuit in October 2013 that resulted in reversal of the dismissal of some of the claims in January  
8 2014. Bill Hebert also worked on defending named plaintiffs Anthony Ventura's and Jason  
9 Baker's depositions.

10 7. Attached hereto as **Attachment 1** is a chart of CF&J's billing summary of time  
11 spent during the course of its representation in this action. This and other attachments hereto were  
12 prepared under my direction and supervision and were based on contemporaneous time records  
13 submitted by each time keeper and maintained by CF&J.

14 8. The rates indicated on Attachment 1 are the rates that my firm normally charges and  
15 is paid by our other clients and are commensurate with rates charged for attorneys with similar  
16 experience in the San Francisco Bay Area. CF&J spent over 1,919.90 hours for a total of  
17 \$895,333.00. This amount does not include the approximately 55 hours of time I wrote off during  
18 my billing review, which amounts to over \$15,000.00.

19 9. Also submitted herewith as **Attachment 2** is a summary of the costs and expenses  
20 incurred by CF&J during the course of its representation in this action. These costs and expenses  
21 include court fees and associated expenses, deposition costs, travel expenses, courier costs,

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1 photocopy costs and other related expenses. The total amount of costs/expenses actually incurred  
2 is \$19,426.28.

3 I declare under penalty of perjury under the laws of the State of California that the  
4 foregoing is true and correct.

5 Executed this 30th day of November, 2016 at San Francisco, California.

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8 Kathleen V. Fisher

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# **ATTACHMENT 1**

**ATTACHMENT 1****Calvo Fisher & Jacob LLP**

<b>IN RE: SONY PS3 "OTHER OS" LITIGATION – FEES</b>				
<b>ATTORNEY / Non-Attorney</b>	<b>YEARS OF EXPERIENCE</b>	<b>HOURS</b>	<b>HOURLY RATE</b>	<b>LODESTAR</b>
Kathleen V. Fisher (Partner)	39	17.30	\$650	\$11,245.00
William N. Hebert (Partner)	27	353	\$650	\$229,450.00
James A. Quadra (Partner)	28	248.60	\$650	\$161,590.00
Rebecca M. Coll (Partner)	19	433.10	\$650	\$281,515.00
Kevin O. Moon (Associate)	9	218.20	\$300	\$65,460.00
Jay D. Trickett (Associate)	8	30.20	\$300	\$9,060.00
Genevieve P. Rapadas (Associate)	7	356.60	\$300	\$106,980.00
Joy A. Valdez (Former Paralegal)	9	71.80	\$100.00	\$7,180.00
Michele K. Ho (Paralegal)	14	81.80	\$100.00	\$8,180.00
Matthew Leon Guerrero (Paralegal)	2	65.30	\$150.00	\$9,795.00
Dominique S. Palacios (Paralegal)	18	15.30	\$150.00	\$2,295.00
Catherine W. Arnstein (Case Assistant.)	2	28.70	\$90.00	\$2,583.00
<b>TOTAL</b>		<b>1,919.90</b>		<b>\$895,333.00</b>

# **ATTACHMENT 2**

**ATTACHMENT 2****Calvo Fisher & Jacob LLP**

<b>IN RE: SONY PS3 "OTHER OS" LITIGATION – COSTS</b>	
<b>CATEGORY</b>	<b>Amount</b>
<b>COURT COSTS/FILING FEES</b>	\$693.00
<b>DEPOSITION COSTS</b>	\$3,369.85
<b>EXPERTS/CONSULTANTS</b>	\$6,225.00
<b>FEDERAL EXPRESS</b>	\$260.37
<b>HEARING TRANSCRIPTS</b>	\$41.20
<b>LEXIS/WESTLAW ONLINE RESEARCH</b>	\$3,280.58
<b>MESSENGER/DELIVERY</b>	\$179.98
<b>PHOTOCOPIES – IN HOUSE</b>	\$2,491.80
<b>POSTAGE</b>	\$8.29
<b>SERVICE OF PROCESS</b>	\$60.00
<b>TELEPHONE/CONFERENCE SERVICES</b>	\$55.19
<b>TRAVEL/LODGING/MEALS</b>	\$594.64
<b>MISCELLANEOUS/WEBSITE HOSTING</b>	\$2,166.38
<b>TOTAL</b>	<b>\$19,426.28</b>