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3 **HAUSFELD LLP**

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7 *Class Counsel*

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**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

In re SONY PS3 "OTHER OS" LITIGATION

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

**DECLARATION OF JAMES J. PIZZIRUSSO**  
**IN SUPPORT OF PLAINTIFFS' MOTION**  
**FOR AWARD OF ATTORNEYS' FEES,**  
**COSTS, AND INCENTIVE AWARDS**

Date: May 29, 2018

Time: 2:00 PM

Judge: Hon. Yvonne Gonzalez Rogers

Courtroom: 1, 4th Floor

1 I, James J. Pizzirusso, declare as follows:

2 1. I am a partner with Hausfeld LLP (“Hausfeld”) one of the Court-appointed Interim  
3 Lead Counsel for Plaintiffs in this class action. I make this declaration in support of Plaintiffs’  
4 Motion for Award of Attorneys’ Fees, Costs, and Incentive Awards. I have personal knowledge of  
5 the matters set forth herein and could testify thereto under oath if called as a witness.

6 2. I am admitted to practice law in the District of Columbia and Virginia and a  
7 member in good standing of both of those bars. I am also admitted *Pro Hac Vice* before this  
8 Court. I have been practicing law for over 16 years.

9 3. As a partner with Hausfeld and head of its Consumer Protection practice group, I  
10 have extensive experience litigating complex class-action cases on behalf of Plaintiffs. Prior to  
11 joining Hausfeld as one of its founding partners in 2008, I was an associate at our predecessor law  
12 firm (Cohen, Milstein, Hausfeld & Toll), where I also worked on class actions. Hausfeld LLP has  
13 offices in Washington, DC; New York, NY; Philadelphia, PA; San Francisco, CA; Boston, MA;  
14 and internationally in London, Brussels, Berlin, Dusseldorf, Paris. I am located in our Washington  
15 office; my San Francisco office also worked on this case given that the case is pending there.

16 4. In May 2010, Mr. Jonathan Huber retained my firm (along with Pearson, Simon,  
17 Warshaw, LLP) to file a complaint on his behalf which we filed on May 21, 2010 (*Huber v. Sony*  
18 *Computer Entertainment America, LLC*, Case No. CV 10-2213 (N.D. Cal.)).

19 5. While other attorneys also assisted, I generally assigned one associate to work on  
20 the matter with me (Spencer Jenkins and, after he left the firm, Stephanie Berger, who also left).  
21 For most of the case, I was the only attorney assigned to oversee it. One of my San Francisco  
22 partners, Arthur Bailey, Jr., also provided some assistance and took one deposition. Two of my  
23 other San Francisco partners, Christopher Lebsock and Michael Lehmann, assisted in the case and  
24 with the most recent mediation.

25 6. During the course of my firm’s representation, Hausfeld spent a significant amount  
26 of time investigating Mr. Huber’s claims, drafting and editing pleadings, participating in discovery  
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1 and court hearings, appearing in front of the appeals court, and participating in settlement  
2 negotiations for the benefit of the class.

3 7. In particular, in addition to assisting on other tasks such as reviewing and editing  
4 briefs submitted to Court, Hausfeld took the lead responsibility (with assistance from other firms)  
5 in handling the following tasks:

- 6 • Researching, briefing, and arguing the express and implied warranty and Magnuson  
7 Moss claims in both the Motions to Dismiss and appellate briefing;
- 8 • Drafting the First Amended Consolidated Class Action Complaint and researching  
9 specifically the claims regarding SCEA's representations about the continued  
10 availability of the Other OS feature and the life span of the PS3;
- 11 • Locating, researching, coordinating and working with technology consultants to  
12 assist in the preparation of the Complaint;
- 13 • Locating, researching, coordinating and hiring survey experts to assess classwide  
14 harm and damages and draft a report regarding the same in support of Plaintiffs'  
15 anticipated Motion for Class Certification;
- 16 • Researching, briefing, and arguing issues related to SCEA's responsibility for  
17 producing documents in the possession of its Japanese parent;
- 18 • Researching, briefing, and arguing issues related to SCEA's attempts to take the  
19 depositions of dismissed class representatives;
- 20 • Drafting letters and meeting and conferring with SCEA regarding numerous  
21 discovery protocols and disputes;
- 22 • Reviewing, coding, and analyzing SCEA's documents and preparing a "hot"  
23 documents memorandum for deposition teams;
- 24 • Preparing for and defending the deposition of Jonathan Huber and coordinating the  
25 production of his documents, imaging of his PS3, and answers to interrogatories;
- 26 • Preparing for and taking the deposition of Dominic Mallinson;
- 27 • Preparing for and taking the deposition of Patrick Seybold; and

- Finalizing the Settlement term sheet, final Settlement Agreement, and details thereto in both the original and amended Settlement Agreements.

8. Attached hereto as **Attachment 1** is a chart of Hausfeld’s billing summary of time spent during the course of its representation in this action from inception to February 1, 2018. This and other attachments hereto were prepared under my direction and supervision.

9. The rates indicated on Attachment 1 are the rates that my firm normally charges its other clients and are commensurate with rates charged for attorneys with similar experience in the San Francisco Bay Area (where we have an office), as well as Washington, DC (where I primarily practice). Hausfeld spent over 1,951 hours for a total lodestar of \$1,275,585.00 (not including the additional time we have spent and will spend finalizing the settlement and related materials). This is an additional 290 hours over the lodestar we submitted in our previous fee petition in November, 2016.

10. Numerous federal courts, including those in this District, have reviewed and approved Hausfeld’s and similar firms’ hourly rates. For example, in *In O’Bannon v. NCAA*, No. C 09-3329 CW, Judge Wilkin approved Hausfeld’s rates in awarding fees, costs and expenses after the plaintiffs partially prevailed during a bench trial. *See* Dkt. 477 (March 31, 2016). In *In re TFT-LCD (Flat Panel) Antitrust Litigation*, MDL 1827 (N.D. Cal.), Judge Illston evaluated and approved a fee petition from more than 100 law firms with hourly attorney rates ranging from \$350 to \$1000. *In re TFT-LCD (Flat Panel) Antitrust Litig.*, M 07-1827 SI, 2013 WL 1365900, at \*1, \*9 (N.D. Cal. Apr. 3, 2013); *see also* LCD, Dkt. 6662 (petition), 7127 (report and recommendation of special master). Hausfeld’s rates are in line with (or lower than) the rates approved in *LCD* (and Hausfeld’s rates were submitted and approved in a separate decision by Judge Illston involving direct purchasers).

11. Hausfeld LLP is Interim Co-Lead Counsel in *In re Processed Egg Products Antitrust Litigation*, MDL No. 2002, 2012 WL 5467530 (E.D. Pa. Nov. 9, 2012). There, the court granted the direct purchaser plaintiffs’ request for attorney fees in its entirety, conducting a “lodestar cross-check” to confirm that percentage fee was appropriate. *Id.* at 6. In performing its

1 analysis, the court determined that Hausfeld LLP's hourly rates were reasonable given the  
2 efficiency of the litigation; the division of labor among partners, associates, and staff; and "the  
3 complexity of this litigation and the corresponding appropriate need for and use of heavy  
4 involvement by experienced attorneys." *Id.* Ultimately, the court approved billing rates ranging  
5 from \$470 to \$950 for Hausfeld LLP partners and rates ranging from \$200 to \$340 for Hausfeld  
6 LLP associates.

7 12. In *In re Vitamin C Antitrust Litigation*, the court approved plaintiffs' fees and costs  
8 application, identifying as reasonable the hourly rates of co-lead Hausfeld. *In re Vitamin C*  
9 *Antitrust Litig.*, No. 06-MD-1738 BMC JO, 2013 WL 6858853, at \*1-4 (E.D.N.Y. Dec. 30, 2013).  
10 Those approved hourly rates ranged from "a low of \$375 per hour for junior associates to \$980 per  
11 hour for senior partners." *Id.* at \*1. The court noted further that "[t]he rates charged by plaintiffs'  
12 counsel are thoroughly reasonable based not only on the market, but on the uniqueness of the case  
13 and the high quality of their work. Significantly lower rates would be unreasonable." *Id.* at \*4.

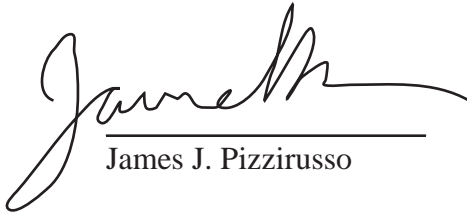
14 13. Other cases in which courts have approved fees after determining Hausfeld LLP's  
15 standard hourly rates to be reasonable include *In re Air Cargo Shipping Services Antitrust*  
16 *Litigation*, No.06-md-1775 (E.D.N.Y.); *In re Municipal Derivatives Antitrust Litigation*, No. 08-  
17 2516 (S.D.N.Y.); *In re TFT-LCD (Flat Panel) Antitrust Litigation*, MDL 1827 (N.D. Cal.); *In re*  
18 *Flat Glass Antitrust Litigation II*, MDL No. 1942 (W.D. Pa.); *In re Ethylene Propylene Diene*  
19 *Monomer (EPDM) Antitrust Litigation*, No. 03-md-1542 (D. Conn.); and *In re Endosurgical*  
20 *Products Direct Purchaser Antitrust Litigation*, No. 05-cv-08809 (C.D. Cal.).

21 14. Also submitted herewith as **Attachment 2** is a summary of the costs and expenses  
22 incurred by Hausfeld during the course of its representation in this action from inception to  
23 February 1, 2018. These costs and expenses include court fees and associated expenses, deposition  
24 costs, travel expenses, courier costs, photocopy costs and other related expenses. The total amount  
25 of costs/expenses incurred is \$58,592.73.

26 I declare under penalty of perjury under the laws of the United States on this 6th day of  
27 May, 2018 in Washington, DC that the foregoing is true and correct.

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James J. Pizzirusso

# Exhibit 1

IN RE: SONY PS3 "OTHER OS" LITIGATION  
TIME REPORT

Firm Name: HAUSFELD LLP

Reporting Period: Inception to February 1, 2018

(P) Partner

## Categories:

- |  |   |
|--|---|
| (1) Investigations, Factual Research       | (6) Litigation Strategy, Analysis and Case Management |
| (2) Discovery                              | (7) Class Certification                               |
| (3) Pleadings, Briefs and Pretrial Motions | (8) Trial Preparation and Trial                       |
| (4) Court Appearances and Preparation      | (9) Communications with Clients                       |
| (5) Settlements                            | (10) Experts  |

(A) Associate  
(LC) Law Clerk  
(PL) Paralegal  
(L) Librarian  
(CT) Contract Attorney  
(OC) Of Counsel

ATTORNEY OR PARALEGAL	1	2	3	4	5	6	7	8	9	10	HOURS	HOURLY RATE	CURRENT LODESTAR
Bailey, Jr., Arthur N. (P)	0.20		86.20	3.00	8.70	2.60	1.60				102.30	\$790.00	\$80,817.00
Butterfield, William P. (P)			3.30			0.10					3.40	\$920.00	\$3,128.00
Jones, Megan E. (P)						0.80					0.80	\$790.00	\$632.00
Lebock, Christopher L. (P)	1.00				5.70	3.70	8.50				18.90	\$850.00	\$16,065.00
Lehmann, Michael P. (P)	4.00		20.50		1.00		20.00				45.50	\$1,100.00	\$50,050.00
Lewis, Richard S. (P)					4.00						4.00	\$1,100.00	\$4,400.00
Pizzirusso, Jamie J. (P)	34.40	36.70	208.40	26.40	616.20	161.90	129.80		8.50	4.00	1226.30	\$770.00	\$944,251.00
Ratner, Brian A. (P)					0.50						0.50	\$830.00	\$415.00
Sweeney, Bonny (P)						1.50					1.50	\$1,100.00	\$1,650.00
Berger, Stephanie (A)		4.70	63.30	10.60	8.20	63.80				1.30	151.90	\$350.00	\$53,165.00
Giddings, Nathaniel (A)					0.80						0.80	\$500.00	\$400.00
Jenkins, Spencer H. (A)			5.50		72.50	12.10					90.10	\$325.00	\$29,282.50
Pava, Mindy (A)						0.30					0.30	\$390.00	\$117.00
Elder, Candice (PL)					0.50	6.80					7.30	\$320.00	\$2,336.00
Lucas, Brian (PL)	7.50				2.50						10.00	\$255.00	\$2,550.00
Mitchell, James (PL)						0.80					0.80	\$280.00	\$224.00
Patel, Krishna (PL)						18.00					18.00	\$280.00	\$5,040.00
Robinson, Elliot (PL)		3.70				4.20					7.90	\$270.00	\$2,133.00
Ryan, Kathryn (PL)						52.50	0.20				52.70	\$270.00	\$14,229.00
Sandberg, Amanda (PL)					5.00	2.00					7.00	\$275.00	\$1,925.00
Sittler, Edward (PL)						0.30					0.30	\$280.00	\$84.00
Stubbs, Kristina (PL)						0.40					0.40	\$280.00	\$112.00
													\$0.00
<b>Attorney Totals</b>	<b>47.10</b>	<b>45.10</b>	<b>387.20</b>	<b>40.00</b>	<b>725.60</b>	<b>331.80</b>	<b>160.10</b>	<b>0.00</b>	<b>8.50</b>	<b>5.30</b>	<b>1,750.70</b>		<b>\$1,213,005.50</b>
Jowers, Joshua (LC)	59.30					0.40				104.90	164.60	\$325.00	\$53,495.00
Menon, Deepa (LC)	5.20					14.50					19.70	\$250.00	\$4,925.00
Zhan, Jan (LC)						16.00					16.00	\$260.00	\$4,160.00
													\$0.00
<b>Non-Attorney Totals</b>	<b>64.50</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>30.90</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>104.90</b>	<b>200.30</b>		<b>\$62,580.00</b>
<b>TOTALS:</b>	<b>111.60</b>	<b>45.10</b>	<b>387.20</b>	<b>40.00</b>	<b>725.60</b>	<b>362.70</b>	<b>160.10</b>	<b>0.00</b>	<b>8.50</b>	<b>110.20</b>	<b>1,951.00</b>		<b>\$1,275,585.50</b>



# Exhibit 2

Firm Name: HAUSFELD LLP

MONTH: As of February 1, 2018

**IN RE: SONY PS3 "OTHER OS" LITIGATION  
MONTHLY COSTS REPORT**

<b>CATEGORY</b>	<b>DESCRIPTION (If necessary)</b>	<b>PRIOR COSTS</b>	<b>CURRENT COSTS</b>	<b>CUMULATIVE COSTS</b>
Litigation Assessment		\$15,000.00		\$15,000.00
Court Costs		\$210.00		\$210.00
Deposition Costs				
Experts/consultants				
Federal Express		\$350.53		\$350.53
Hearing Transcripts		\$82.48		\$82.48
Investigation				
Lexis/Westlaw		\$8,316.54		\$8,316.54
Messenger/delivery				
Photocopies - in House		\$937.26		\$937.26
Photocopies - Outside				
Postage		\$7.57		\$7.57
Service of Process				
Special Supplies				
Telephone/telecopier		\$1,083.85		\$1,083.85
Travel		\$32,585.73		\$32,585.73
Miscellaneous		\$18.77		\$18.77
<b>TOTAL</b>		<b>\$58,592.73</b>	<b>\$0.00</b>	<b>\$58,592.73</b>