

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

THE RICK NELSON COMPANY, LLC,

Plaintiff,

v.

SONY MUSIC ENTERTAINMENT,

Defendant.

Case No.: 1:18-cv-08791-LLS

**DECLARATION OF NEVILLE L. JOHNSON IN SUPPORT OF MOTION FOR
ATTORNEYS' FEES, COSTS, AND SERVICE PAYMENT**

I, Neville L. Johnson, declare:

1. I am a partner in the law firm of Johnson & Johnson LLP (“J&J”), one of the attorneys of record for Plaintiff The Rick Nelson Company, LLC (“Plaintiff”) and proposed class representative in the above-captioned class action lawsuit.

2. I submit this declaration in support of Plaintiff’s Motion for Attorneys’ Fees, Costs, and Service Payment (“Motion”). I am personally familiar with the facts set forth in this declaration. If called as a witness I could and would competently testify to the matters stated herein.

3. J&J was extensively involved in all aspects of this class action lawsuit since its inception and the work performed was reasonable and necessary. My firm’s work included pre-litigation research and investigation, participating in strategy meetings, drafting and reviewing the Complaint, reviewing and analyzing information provided by Sony relating to the action, researching and drafting legal memoranda to advance settlement negotiations, preparing for and attending two full-day mediations, drafting the mediation brief, participating in extended arm’s-length negotiations and many dozens of conferences related to settlement, consulting with financial and industry experts to better inform the parties’ settlement framework, finalizing the terms of the Settlement Agreement, obtaining preliminary Court approval of the Settlement, and ensuring proper dissemination of the notice plan to Class Members. In order to effectively prepare the case for settlement, attorneys at J&J spent countless hours researching virtually every relevant aspect of New York law pertaining to contract formation and interpretation, course of performance, course of dealing, statute of frauds issues, rescission, frustration of purpose, failure of consideration, implied covenants, creation of additional terms, and the myriad ways the foregoing intersects with the class action vehicle. J&J had voluminous internal discussions regarding the foregoing law as applied to the facts of this case, yielding numerous detailed written legal analyses (much of which was ultimately shared with Sony as part of the parties’ settlement back-and-forth). J&J also consulted with numerous music industry figures to gain a more sophisticated understanding of the facts of the case beyond what Sony could or would

provide to class counsel, which resulted in the settlement framework shifting multiple times to account for new information and J&J's evolving understanding of the relevant law. Thus, even though this matter was not formally litigated before the Court beyond a complaint, J&J can confidently represent that the work performed by its attorneys in furtherance of settlement was equivalent to some of the most intensely and thoroughly litigated cases in the firm's history.

4. J&J will continue to serve as co-lead class counsel on behalf of the Class for the duration of the case including completion of the settlement claims and distribution process, obtaining final approval of the settlement, and all other work that is necessary for the settlement to become final. It is respectfully submitted that this work has and will continue to contribute to the beneficial result reached for the Class herein.

5. This action was settled only after Plaintiff and Sony engaged in substantial exchanges of information and extended arm's-length negotiations. Plaintiff entered into the Settlement only after conducting a thorough investigation into the factual and legal issues raised in this case and intensive settlement negotiations with Sony.

6. The attorneys of J&J have been involved in litigating, trying, and settling dozens of entertainment and consumer class action cases.

7. Attached hereto as **Exhibit A** is a true and correct copy of the firm resume for J&J, which reflects the experience and accomplishments of the firm and the attorneys working on this case. This firm resume reflects that the attorneys in this case have successfully adjudicated some of the largest and most important class action lawsuits in the United States.

8. As more fully set forth in **Exhibit A**, some of the significant entertainment and consumer class action cases in which J&J attorneys have served as class counsel or had prominent roles include the following:

a. *Fears v. Wilhelmina, et. al.*, Case No. 02-CV-4911 (S.D.N.Y.). My firm pioneered a class action lawsuit against the major New York model agencies (including Ford Models, Elite, Wilhelmina) on behalf of thousands of New York models for conspiring to fix

model commissions and other terms in violation of the Sherman Antitrust Act. The matter resulted in an approximate \$25 million recovery for the models, including substantial reforms in the manner in which model agencies can operate. Published Decisions: *Fears v. Wilhelmina Model Agency, Inc.*, 2005 WL 1325297 (S.D.N.Y. Jun 06, 2005); *Fears v. Wilhelmina Model Agency, Inc.*, 2004 WL 594396, 2004-1 Trade Cases P 74,351 (S.D.N.Y. 2004); *Fears v. Wilhelmina Modeling Agency, Inc.*, 61 Fed. R. Evid. Serv. 1451 (S.D.N.Y. 2003). We were co-lead counsel in the case.

b. *Ory. v. Columbia House Music Club*, U.S. District Court for the Central District of California, Case No. CV02-2342SJO. My firm was co-lead counsel in a class action lawsuit for copyright infringement against record clubs, Columbia House and BMG Direct, as a result of their 30 year practice of paying composers of musical compositions only 75% of the publishing royalties they are statutorily entitled. The matter was successful (despite that a nearly identical action was dismissed by the courts 10 years earlier), resulting in a \$6.5 million settlement for composers as well as industry reforms preventing this conduct in the future.

c. *Webb v. Directors Guild of America, Inc.*, Los Angeles Superior Court Case No. BC352621. Johnson & Johnson LLP attorneys were class counsel in a class action for breach of contract and conversion which caused unpaid royalties to be paid out to all the members of the guild. The case was certified as a class action and settled for over \$5 million dollars.

d. *Osmond v. Screen Actors Guild, Inc.*, Los Angeles Superior Court Case No. BC377780. Johnson & Johnson LLP attorneys were lead counsel in a class action for money had and received and conversion was certified and settled for tens of millions of dollars in unpaid royalties to be paid to the members of the guild.

e. *Richert v. Writers Guild of America West, Inc.*, Los Angeles Superior Court Case No. BC352621. Johnson & Johnson LLP attorneys were lead counsel in a class action for money had and received and conversion, which was certified in 2010. The case settled for one hundred million dollars in unpaid foreign royalties to all members of the guild.

f. *In Re: Warner Music Group Corp. Digital Download Litigation*, Case No. CV 12-0559. Johnson & Johnson LLP attorneys were class counsel in a class action on behalf of recording artists and producers who alleged that they have been systematically underpaid royalties by the record companies. The *Warner* case settled for \$13 million and received final approval.

g. *Colin Higgins Productions v. Universal City Studios LLC*, Los Angeles Superior Court Case No. BC499180. Johnson & Johnson LLP attorneys were court-appointed class counsel in a similar class action brought against another major film studio, where the plaintiffs alleged on behalf of themselves and other profit participants that the studio failed to pay all of the money owed to them in connection with home video revenues. The case settled for \$13 million and received final approval.

h. *Colin Higgins Productions, LTD. v. Paramount Pictures Corporation*, Los Angeles Superior Court Case No. BC499179. Johnson & Johnson LLP attorneys were court-appointed class counsel in a similar class action brought against another major film studio, where the plaintiffs alleged on behalf of themselves and other profit participants that the studio failed to pay all of the money owed to them in connection with home video revenues. The case settled and received final approval.

9. J&J, along with other Class Counsel, has been working diligently on this case for over two years on a pure contingency basis with no guarantee of recovery.

10. As of October 27, 2020, J&J spent a total of 647 hours working on this case and incurred a combined lodestar of \$475,702.50 based on its hourly rates. Below is a schedule indicating the amount of time J&J spent in connection with this litigation, and its lodestar calculation based on its current billing rates:

Attorney	Hours Spent	Hourly Rate	Amount Billed
Arun Dayalan	25.9	\$625	\$16,187.50
Daniel B. Lifschitz	226.1	\$525	\$118,702.50
Douglas L. Johnson	194.5	\$725	\$141,012.50
Neville L. Johnson	198.5	\$1,000	\$198,500.00
Ronald P. Funnell	2	\$650	\$1,300.00
		TOTAL:	\$475,702.50

The schedule was prepared from contemporaneous, daily time records regularly prepared and maintained by my firm, which are available at the request of the Court.

11. The attorneys of J&J billed this case at their usual and customary hourly billing rates, which have been approved by other courts presiding over similar complex class action lawsuits, and which are commensurate with the prevailing market rates in this District for attorneys of comparable experience and skill handling complex litigation.

12. My firm's lodestar figures are based upon the firm's billing rates, which do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.

13. J&J will spend additional time responding to Class Member communications and objections (if any), continuing to supervise the claims process, and preparing for and attending the Fairness Hearing on May 25, 2021.

14. In addition to the contingent nature of its fees, J&J and other Class Counsel have advanced all out-of-pocket expenses, including mediation costs. As of October 27, 2020, J&J has incurred a total of \$9,401.29 in unreimbursed out-of-pocket expenses in connection with the prosecution of this litigation, which were advanced with no promise of repayment. Below is a

schedule of expenses incurred by J&J:

Photocopies: \$223.00
Filing Fees: \$717.89
Parking Expenses: \$80.40
Messenger Fees: \$55.00
Litigation Fund Contributions: \$8,325.00

15. The expenses J&J incurred in this action are reflected on the books and records of J&J. These books and records are prepared from expense vouchers, check records, and other source materials and represent an accurate recordation of the expenses incurred. These expenses were reasonable and necessary to achieve the successful result reached in this case.

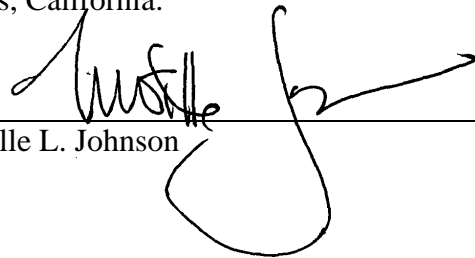
16. Throughout the course of this litigation, Matthew Nelson and Gunnar Nelson, partners of The Rick Nelson Company, LLC, have spent a significant amount of time and effort on case-related activities. These case-related activities include, but are not limited to: (1) searching for documents related to this lawsuit; (2) reviewing and approving court-filings, including the operative Class Action Complaint and the Stipulation and Agreement of Settlement; (3) staying informed and communicating with Class Counsel regarding the status and progress of this lawsuit; (4) traveling from out of state and physically attending mediation in this case as was demanded by Sony; and (5) engaging in numerous conversations about a potential resolution after the first in-person mediation took place and after the second mediation session.

17. Matthew Nelson and Gunnar Nelson's involvement in this litigation, on behalf of Plaintiff, also put them at risk of having their names and the name of The Rick Nelson Company, LLC, being disclosed in the media, and a potentially negative impact on their business relationship with Sony and other entities in the entertainment industry.

18. Based on their involvement, it is submitted that the requested service payment of \$25,000 is reasonable and appropriate so as to compensate The Rick Nelson Company for serving as a name Plaintiff, and the risk it took on the case.

I declare under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct.

Executed on October 29, 2020 at Beverly Hills, California.



Neville L. Johnson

EXHIBIT “A”

JOHNSON & JOHNSON LLP

Johnson & Johnson LLP, based in Beverly Hills, California, is a litigation firm that specializes in complex litigation with a particular emphasis on entertainment, right of publicity, privacy, defamation, consumer issues, and class actions.

Neville L. Johnson graduated Phi Beta Kappa from the University of California, Berkeley (1971). He received his law degree from Southwestern Law School (1975), graduating near the top of his class. He has been a music attorney his entire career,^a with clients including Yoko Ono and the Estate of John Lennon, the Estate of Buddy Holly, the Beach Boys, Fleetwood Mac, Mitch Ryder and the Detroit Wheels, the Motown songwriting team Holland-Dozier-Holland, hit songwriter Kenny Nolan, Spencer Davis, and many other recording artists, music publishers, record companies, and personal managers. He has tried over 28 civil jury trials and over 70 civil trials and arbitrations without a jury. He is a member of the invitation-only American Board of Trial Advocates, and is on the Board of Governors of the Consumer Attorneys of Los Angeles (CAALA), the Board of Directors of the national organization Public Justice, and was on the Board of the Beverly Hills Bar Association 2013-2015 and is for 2020-2022 (BHBA). Johnson is a long-time member of the invitation-only Los Angeles Copyright Society, and on the Board of The California Society of Entertainment Lawyers.

He was nominated for Trial Lawyer of the Year in 2005 by CAALA. He was Co-Chair of the Entertainment Law Section of the Beverly Hills Bar Association from 2009 to 2011. He has been on the Planning Committee of the USC Entertainment Law Institute since 2011. He has appeared in courts in Arizona, Colorado, Florida, Georgia, Hawaii, Louisiana, Nevada, New York, New Jersey, New York, Oregon, Tennessee, New Mexico, Ohio, Pennsylvania, and Texas.

Mr. Johnson has represented many well-known celebrities and entertainment concerns in a wide variety of contract, tort and IP disputes. He and his firm have been lead counsel in many class actions, including pioneering the use of class actions against studios and record labels for improperly accounting to artists regarding royalties and profit participation, obtaining multiple eight-figure settlements therefrom. Mr. Johnson has Represented many individuals in profit participation claims, including Sylvester Stallone, Jack Klugman, Richard Dreyfuss, and Mike Connors.

^a Except for 10 months in 1977-78 when he was a Public Defender in Los Angeles County and handled over 100 matters, including two murder trials and one attempted murder trial.

Mr. Johnson has been designated a “SuperLawyer” (top 5% as voted by colleagues) numerous times and has been chosen to vet and approve nominations. In 2020 SuperLawyer named him one of the top 100 lawyers in Southern California. He has been designated one of the Hollywood 100 “Power Lawyers” by the *Hollywood Reporter* every year since 2008, usually one of four litigators typically on the plaintiffs’ side. In 2020, he was moved to a new permanent category, “Legal Legend.” In 2020 he was Alumnus of the Year by the Biederman Entertainment Law Institute at Southwestern Law School. In 2013 and 2019, *Variety* named him among the top lawyers in entertainment. The *Daily Journal* has twice named him one of the top 50 lawyers in entertainment. He is a Fellow of the American Bar Foundation (invitation only, top 2% in the United States).

Mr. Johnson recently obtained a \$9.6 million jury verdict after a seven week jury trial for claim of violation of the right of publicity in *Hansen v. The Coca Cola Company*, the largest verdict for a right of publicity case in the history of the United States. The trial court also awarded \$7.35 million in attorneys’ fees.

Mr. Johnson also recently obtained a published California Court of Appeal opinion representing fitness celebrity Richard Simmons in right of privacy claims against a magazine and private eye for placing a GPS tracker on a car. *Simmons v. Bauer Media Grp. USA, LLC*, 50 Cal. App. 5th 1037, 263 Cal. Rptr. 3d 903 (2020).

Mr. Johnson also recently obtained a published certification order in a federal class action against Bill Graham Archives, LLC, Norton, LLC; and William Sagan for copyright infringement, including the first ever class certification for claims under the Copyright Act’s anti-bootlegging provision, 17 U.S.C. § 1101. *Kihn v. Bill Graham Archives, LLC*, 445 F. Supp. 3d 234 (N.D. Cal. 2020).

Mr. Johnson was lead trial and appellate counsel in the precedent-setting case of *Sanders v. American Broadcasting Companies, Inc.*, 20 Cal. 4th 907 (1999), which established the right of privacy in the workplace and is studied in the leading case book on torts and the two casebooks on entertainment law. *Editor and Publisher* magazine wrote that he “is one of the most dangerous media plaintiff lawyers in the United States.”

Privacy Torts, the leading treatise on privacy law by Professor David Elder, contains the following dedication: *To Neville L. Johnson...who has led the charge, often successfully (and always creatively and with great passion) in exposing some of the worst outrages of media newsgathering. Neville ranks with Brandeis and Warren as the great defenders of privacy. All America is in his debt.*

A law review article about his career is Richard and Calvert, “Suing the Media, Supporting the First Amendment: the Paradox of Neville Johnson and the Battle for

Privacy,” 67 *Albany Law Review* 1097 (2004). On June 23, 2015, the *Los Angeles Times* did a major profile (front page, Business Section) on his career, “Contract Sport, 'Go-to' L.A. Lawyer Says Hollywood Studios Are Shortchanging His Clients,” noting that Johnson & Johnson is one of the few firms successfully taking on the entertainment establishment on a regular basis. The cover story of the July 2016, issue of *Attorney at Law* magazine was about Neville Johnson.

His published cases include: *Parsons v. Tickner*, 31 Cal.App.4th 1513 (1995) (establishing fiduciary duties in an entertainment context); *Gerbosi v. Gaims, Weil, West & Epstein LLP*, 193 Cal.App.4th 435 (2011) (upholding denial of SLAPP motion and affirming sanctions against lawyers accused of unethical conduct in connection with notorious wiretapper Anthony Pellicano); *Kihn v. Bill Graham Archives, LLC*, 445 F. Supp. 3d 234 (N.D. Cal. 2020). (certifying first ever class action under 17 U.S.C. § 1101(a) for anti-bootlegging violations, as well as for copyright infringement); *Simmons v. Bauer Media Grp. USA, LLC*, 50 Cal. App. 5th 1037, 263 Cal. Rptr. 3d 903 (2020) (upholding denial of anti-SLAPP motion brought by a media defendant that hired a private detective who illegally planted a GPS tracker on Richard Simmons’ vehicle).

He is a frequent lecturer and has written extensively on entertainment, copyright and media and other legal topics, including in London, England (Entertainment attorneys based in the UK, London Branch of Entertainment Section of BHBA), Cannes, France (MIDEM, the international music convention), New York (ABA Forum on Communications Section, and Entertainment Law Section and New York Bar Assn.: Entertainment Law Section), Nashville (ABA Entertainment Law Section), Miami, Arizona State University, Stanford University, U.C. Berkeley, Loyola Law School, Southwestern Law School, USC Entertainment Law Institute annual forum as well as the undergraduate school, California Western Law School, California State University, Northridge, Stanford University, and many times to the Entertainment Section of the BHBA as a panelist or moderator), and the Intellectual Property Section of Los Angeles County Bar Assn., and Berklee College of Music (Boston).

Publications: Johnson & Johnson, *Hollywood Docket: Recent Interesting Cases*, 31, No. 2, *New York State Bar Assn, Entertainment, Arts and Sports Law Journal* 25 (2020); Johnson, Johnson, Smolla and Tweed, “Defamation and Invasion of Privacy in the Internet Age,” 25 *Southwestern Journal of International Law* 9 (2019) Johnson & Johnson, “My Big Mouth,” *Los Angeles Daily Journal* (March 29, 2019); Johnson & Johnson, “Entertainment Contracts with Minors in New York and California,” 30 *New York State Bar Assn, Entertainment, Arts and Sports Law Journal* 75 (2019) (We write a quarterly column for the New York entertainment bar); Johnson & Johnson, “A New Way to Revive a Corporation?,” *Los Angeles Daily Journal* (October 18, 2016); Johnson & Johnson, “Hollywood Docket: One Sided World,” 27 *New York State Bar Assn,*

Entertainment, Arts and Sports Law Journal 32 (2016); Johnson & Elder, “Maybe America Needs More Peter Thiels,” *Los Angeles Daily Journal* (August 8, 2016); “We’ve Lost Control,” *Los Angeles Daily Journal* (June 16, 2016); “Talent Agency Act Survives Suit, Clarity Remains Elusive,” *Los Angeles Daily Journal* (May 10, 2013); “The Man Who Seduced Hollywood,” 36 *Los Angeles Lawyer* 41 (September 2013); “Remedies for Web Defamation,” *California Lawyer* 36 (May 2013); “To Find Employment as a Lawyer, You Must Market Yourself,” 36 *Los Angeles Lawyer* 12 (June 2013); “Ten Rules for Success in the Practice of Law,” 31 *Los Angeles Lawyer* 12 (June 2008); Chapter, Johnson and Aradi, “Defamatory Tweeting and Other Name and Likeness Violations” in Building Your Artist’s Brand as a Business, *International Association of Entertainment Lawyers* (2012) (includes a discussion of right of publicity); Chapter, Johnson and Fowler, “Litigation: How to Draft Defensively Without Killing the Deal” in Licensing of Music from BC to AD (Before the Change/After Digital), *International Association of Entertainment Lawyers* (2014); Elder, Johnson & Rishwain, “Establishing Constitutional Malice for Defamation and Privacy/False Light Claims When Hidden Cameras and Deception Are Used by the Newsgatherer,” 22 *Loyola of Los Angeles Entertainment Law Review* 327 (2002); “New Developments in California Privacy and Defamation Law,” 23 *California Litigation* 21 (2010); Johnson & Johnson, “What Happened to Unjust Enrichment in California? The Deterioration of Equity in the California Courts,” 44 *Loyola of Los Angeles Law Review* 277 (2010); Johnson & Walsh, “The Danger of “Anti-Libel Tourism” Litigation in the United States,” 32 *Los Angeles Lawyer* 44 (December 2009); Johnson, “Privacy and the First Amendment,” *California Litigation* (2006); co-author “Caught in the Act,” *Los Angeles Lawyer* (1998) (an analysis of trends in the right of privacy); Johnson & Lang, 1979, The Personal Manager in the California Entertainment Industry, 52 *Southern California Law Review* 375 (1979)(a definitive article on the regulation of talent agents, personal managers, and the interplay of entertainment unions and guilds in that nexus). He co-authored chapters on music publishing and personal managers in *The Musician's Business & Legal Guide* (2017 5th edition), and wrote the authorized and best-selling biography, *The John Wooden Pyramid of Success* (Second Edition 2004).

Since 2012, Neville and Douglas Johnson have taught Entertainment and Media Litigation as Adjunct Professors at Southwestern School of Law. From 2011-2014, he was one of the panelists teaching the Los Angeles County Bar Association new admittees course on class actions; and since 2011 he has moderated the panel on ethical issues for the annual Year in Review for the Entertainment Section of the Beverly Hills Bar Association.

Douglas L. Johnson received his Bachelor of Arts in Political Science from the University of Southern California in 1996 (Dean's List 1993-1996). Mr. Johnson received his Juris Doctorate from McGeorge School of Law in 2000 (Dean's List 1999-2000). Mr. Johnson received the top grade in Insurance Law and received a certificate in Trial Advocacy. Mr. Johnson specializes in entertainment, business, and class action litigation. Mr. Johnson has handled numerous high-profile and wide-reaching litigation, including music and movie royalty disputes, rights of privacy, defamation, partnership disputes, breach of contract, and class actions.

Mr. Johnson was named a Super Lawyer "Rising Star" in the area of intellectual property litigation for seven consecutive years (2005-2013), representing the top 2.5% of attorneys in Southern California for lawyers 40 years old and younger. Since 2016, he has been consistently named a "Super Lawyer" (2016-2020) in the area of intellectual property litigation, representing the top 5% of attorneys in the field as voted by colleagues.

Mr. Johnson specializes in right of publicity cases and represents celebrities, models, and professional athletes. Mr. Johnson regularly speaks on writes articles in this area. In 2016, Mr. Johnson tried a right of publicity case for an actor and obtained a seven-figure jury award. Mr. Johnson has handled over forty right of publicity cases.

Many of Mr. Johnson's clients are producers, actors, directors, production companies, music artists, and independent record labels. He is well-known for his successes in theft of idea cases for TV and reality shows and continues to litigate TV, movies, and music royalty cases. He represented Glen Larson Productions, Inc. (creator of Magnum PI, Knight Rider, Fall Guy, Battlestar Galactica) in a large-scale profit participation dispute against Universal. Mr. Johnson represented Ed. Weinberger in a profit participation dispute over TV show "Amen." Mr. Johnson also handled Mr. Dreyfuss' back-end royalty disputes on Goodbye Girl, What About Bob? Close Encounters of The Third Kind, and The Competition. Some of his prominent matters include the following:

1. Represented Jack Klugman (Quincy, Odd Couple) in a profit participation dispute against Universal.
2. Handled net profit disputes for both the creator and star of the TV show Mannix.
3. Represented Ted Kotcheff in his profit-participation dispute on the film Weekend at Bernie's and the Estate of Charles Bronson on participation disputes on several movies.
4. Litigated a theft of idea claim against A&E and Steven Seagal over the TV show Lawman.

5. Served as a lead attorney and chief strategist in the case of *Hansen v. The Coca Cola Company*, which yielded a \$9.6 million jury verdict after a seven-week trial for claim of violation of the right of publicity, the largest verdict for a right of publicity case in the history of the United States. The trial court also awarded \$7.35 million in attorneys' fees.
6. Prepared and delivered oral argument before the California Court of Appeal representing fitness celebrity Richard Simmons in right of privacy claims against a magazine and private eye for placing a GPS tracker on a car, leading to a published decision upholding his client's victory at the trial court level.
7. Represented Sylvester Stallone in litigation against Warner Brothers over profit participation on the movie *Demolition Man* and is involved in audits on the *Rocky* films and *The Expendables*.
8. Defended blues icon B.B. King in a claim seeking declaratory relief about the right to make a movie involving his life, resulting in the plaintiff dismissing his claim.
9. Served as co-counsel for several years in three class actions against record industry companies over digital download royalties concerning underpayments to artists (*Temptations/Motels/Ronee Blakely*). The cases dealt head-on with unresolved points of law as to classification of digital downloads, and the rights of artists to receive royalties in the face of changing technology.
10. Co-counsel in class actions against the five major Hollywood studios alleging endemic underpayment on home video and new digital media for pre-1982 movies for writers, producers, actors, and directors. In those cases, Mr. Johnson handled the settlement with Universal for \$25 million, the settlement with Fox for \$12.6 million, and the settlements with Sony and Paramount.
11. Litigated several high-profile libel actions against large media companies, recently settling one for mid-seven figures.
12. With his partner, Neville L. Johnson, settled three class actions against the Directors Guild of America, Writers Guild of America, and Screen Actors Guild of America for tens of millions of dollars of unpaid foreign levies.
13. Has served as outside general counsel for Worldstarhiphop, a popular online music and pop culture website, where he deals daily with cutting-edge copyright, right of

privacy, and right of publicity issues. Mr. Johnson has handled numerous copyright infringement lawsuits in Federal Court for Worldstar.

14. Co-chaired trial, obtaining a seven-figure jury verdict on behalf of music artist against music distributor in Oregon U.S District Court.

15. Obtained a seven-figure arbitration award in business partnership dispute.

Mr. Johnson is an adjunct professor at Southwestern Law School and teaches a class with his partner Neville Johnson titled Entertainment and Media Litigation.

Published Cases:

- *Gerbosi v. Gaims, Weil, West & Epstein, LLP*, 193 Cal. App. 4th 435 (2011)
- *Walker v. Geico General Ins. Co.*, 558 F.3d 1025 (9th Cir. 2009)
- *Kihn v. Bill Graham Archives, LLC*, 445 F. Supp. 3d 234 (N.D. Cal. 2020)
- *Simmons v. Bauer Media Grp. USA, LLC*, 50 Cal. App. 5th 1037 (2020).

Mr. Johnson has been lead counsel in the following class actions: *Webster v. Allstate Insurance Company*; *Walker v. Geico*; *Bouchard v. Optometrix*; *Miller v. City of Los Angeles, et al.*; *Russo v. City of Beverly Hills*; *Weber v. Bank of America*; *Galavis v. LA Models*; *Armuth v. Linton*; *Gerash v. Verizon Communications*; *Susan Dukow v. Sony Pictures Entertainment*; *Buck v. MGM*; *Higgins v. Paramount*; *Rick Nelson v. Sony Music*; *Williams v. Warner Music*.

Ronald P. Funnell is a senior associate at Johnson & Johnson LLP. He received his Bachelor of Arts in History from the University of Tennessee, where he graduated summa cum laude and was a member of Phi Beta Kappa. Mr. Funnell received his law degree from Loyola Law School, graduating near the top of his class and serving on the Loyola Law Review. During law school, Mr. Funnell also served as a law clerk for both the U.S. Securities & Exchange Commission's Division of Enforcement and an appellate boutique firm. Mr. Funnell received the highest grade in both Federal Taxation and Securities Law.

At Johnson & Johnson, Mr. Funnell specializes in entertainment and business disputes, profit participation disputes, and class action litigation as well as appellate matters in the California Court of Appeal, California Supreme Court and the Ninth Circuit. Most recently, Mr. Funnell represented Richard Simmons, prevailing on an anti-SLAPP motion and subsequent appeal filed by a celebrity gossip tabloid. Mr. Funnell has handled numerous cases involving rights of privacy, right of publicity, defamation, breach of contract, breach of fiduciary duty, theft of idea, and complex business disputes. Mr. Funnell is admitted to practice in California State courts, all California United States District Courts, and the Ninth Circuit. Mr. Funnell was named a Super Lawyers "Rising Star" for the years 2006-2007.

Mr. Funnell was previously an associate at Robie & Matthai, practicing in the areas of insurance coverage and defense, professional malpractice, business litigation, and class actions. Prior to entering private practice, Mr. Funnell was the research attorney for Justice Victoria Chaney in the Los Angeles Superior Court Complex Litigation Program.

Daniel Lifschitz is an associate at Johnson & Johnson LLP, where he focuses on entertainment, intellectual property, and business litigation matters. Mr. Lifschitz has litigated numerous high-profile and industry-leading entertainment law cases on behalf of clients ranging from Quincy Jones to George R.R. Martin, and his work has contributed to landmark rulings and settlements on intellectual property issues ranging from pre-1972 sound recordings (*Flo & Eddie vs. Sirius XM*, *Flo & Eddie v. Pandora*), federal anti-bootlegging protections (*Kihn v. Bill Graham Archives*), mechanical licenses for digital music streaming (*Ferrick v. Spotify*), and the application of laches to copyright claims (*Petrella v. MGM*). He has also helped clients obtain significant favorable decisions on matters including implied license defenses (*Fontana v. Harra*), anti-SLAPP protections (*Simmons v. Bauer Media*), and commercial foreclosure sales (*Meruelo v. East West Bank*). He has been repeatedly named a Rising Star by Super Lawyers, a distinction only granted to 2.5% of qualifying attorneys, and is regularly sought out by clients and fellow practitioners alike for his extensive knowledge of copyright law in particular.

Mr. Lifschitz received his B.A. in English and Political Science from Washington & Jefferson College and his J.D. from Loyola Law School in Los Angeles. While at Loyola, he served as an editor on the school's International and Comparative Law Review, where his published article on the Anti-Counterfeiting Trade Agreement served as the basis for a joint symposium with the school's Entertainment Law Review, attracting distinguished scholars from around the country to participate. He graduated with honors from Loyola's Entertainment Law Concentration, earning the top grade in his 56-student Copyright Law course, as well as receiving the 2012 Paul Miller Scholarship from the Los Angeles Copyright Society. Prior to joining Johnson & Johnson in 2018, Mr. Lifschitz worked with four separate plaintiff-oriented entertainment litigation firms and served as in-house counsel at a major music rights administration service whose clients included Amazon, Microsoft, Apple, Pandora, SiriusXM, Soundcloud, Tidal, Spotify, iHeartMedia, PlayNetwork, Deezer, Slacker, Hoopla, and Musical.ly (now TikTok).

Mr. Lifschitz teaches entertainment law at UCLA Extension and has written numerous articles on legal issues about entertainment litigation for a variety of publications, include the Los Angeles Daily Journal, Los Angeles Lawyer, the New York State Bar Association, the Los Angeles County Bar Association's Entertainment Law and Intellectual Property Section, the Computer & Internet Lawyer, and USC Entertainment Law Spotlight. He has also participated in the lobbying efforts of the California Conference of Bar Associations, helping to shepherd multiple proposed amendments to California's anti-SLAPP law through to passage by the full Conference.

Arun Dayalan was Senior Counsel at Johnson & Johnson, where he focused on entertainment litigation, complex civil litigation, class actions, partnership disputes, and intellectual property matters.

Arun graduated from the University of California at Berkeley in 1997 with a degree in political science and from Loyola Law School in 2001. He is a member of the State Bar of California and is admitted to practice in all courts in California including the Ninth Circuit Court of Appeals. Arun has been practicing civil litigation for over seventeen years specializing in business litigation, entertainment litigation, complex civil litigation, unfair competition, maritime law, transportation law, personal injury, employment law, commercial law and public entity defense. Throughout his career, Arun has consistently achieved excellent results for all of his clients at the pre-litigation, litigation, trial and appellate levels. Arun has participated in or conducted hundreds of trials, arbitrations, depositions, court appearances and mediations in litigation actions throughout California. Arun is dedicated to aggressively pursuing and attaining the maximum value of every client's case.

In the last 12 years the firm has brought litigation or settled it before filing in near fifty matters for violation of the right of publicity. To our knowledge, we are one of two firms in Southern California that have the largest right of publicity cases representing plaintiffs.

We have litigated many net profit cases in the film and television industry for writers, producers, actors (including Sylvester Stallone) and directors. In 2014, the firm had a trial victory in successful defense of copyright infringement and theft of idea claim, *Goodness Films LLC v. Weinberger* (USDC - Central).

We are general counsel to WorldstarHipHop, the largest urban website in the world, handling all litigation and transactional matters, and deal with right of publicity issues for that entity on a near daily basis.

We were counsel for the plaintiff involving large claims of money not paid to a producer of music for Fox Sports. *Davis v. Fox Entertainment Group, Inc.* (LASC). We represented the largest multichannel network in Europe and successfully settled litigation. *Jukin Media v. Zoomin.TV* (USDC - Central). We successfully represented parties in major litigation over television themes, including Andy Griffith Show, *Hagen Publishing, In. v. CBS Television Distribution* (USDC Central).

We settled a class action for the wrongful taping of phone calls. *Mount v. Wells Fargo* (LASC). The firm represented plaintiffs in over ten cases involving Anthony Pellicano, who corrupted the legal system by illegal wiretapping and other sordid practices. After ten years of litigation, we resolved the last of these cases. The cases include *Miller v. City of Los Angeles, et al.*, Los Angeles Superior Court Case No. BC356529 (class action alleging invasion of privacy based on illegal running of citizens' private records; *Russo v. City of Beverly Hills, et al.*, Los Angeles Superior Court Case No. BC356541. Recently settled class action alleging invasion of privacy based on illegal running of citizens' private records.

We represent a major television, recording and touring teen star. We represent many legacy talents, such as Mitch Ryder, the Estates of Rick Nelson, Buddy Holly, Del Shannon, and Burns and Allen. We are litigation counsel working with other transactional law firms. We do daily counseling on entertainment and media matters.

We also handle invasion of privacy cases, such as *Simmons v. Bauer Media Group*, Court of Appeal, 2d Civil No. B296220 (LASC Case No. BC708736), in which defendants recently unsuccessfully appealed a SLAPP denial in an invasion of privacy case brought by our client, celebrity Richard Simmons.

We have been counsel in many class actions, many of which are entertainment related. Just some of our work includes the following class actions, which are delineated to show we often take on giant entities who fight back, and we are nonetheless successful in resolving them.

Class Actions:

Bedran v. American Express Travel Related Services, Inc., Los Angeles Superior Court Case No. BC241979. We brought a class action against American Express that exposed a systematic error that caused card members to unnecessarily forfeit up to 1 Billion of the Membership Rewards Program (MRP) points. The matter settled for the return to card members nationwide of a minimum of 450 million and up to 1 Billion MRP points, as well as the correction of the systematic error causing the problem. We were sole counsel.

Fears v. Wilhelmina, Case No. 02-CV-4911 (S.D.N.Y.). We pioneered a class action lawsuit against the major New York model agencies (including Ford Models, Elite, Wilhelmina) on behalf of thousands of New York models for conspiring to fix model commissions and other terms in violation of the Sherman Antitrust Act. The matter resulted in an approximate \$25 million recovery for the models, including substantial reforms in the manner in which model agencies can operate. Published Decisions: *Fears v. Wilhelmina Model Agency, Inc.*, 2005 WL 1325297 (S.D.N.Y. Jun 06, 2005); *Fears v. Wilhelmina Model Agency, Inc.*, 2004 WL 594396, 2004-1 Trade Cases P 74,351 (S.D.N.Y. 2004); *Fears v. Wilhelmina Modeling Agency, Inc.*, 61 Fed. R. Evid. Serv. 1451 (S.D.N.Y. 2003). We were co-lead counsel in the case with David Boies and Boies Schiller & Flexner LLP.

Gustafson v. Chase Manhattan Bank USA, N.A., Los Angeles Superior Court Case No. BC319892. We brought a class action that challenged Chase's improper imposition of over the limit fees in connection with cardholders' transfer of previous loan balances to certain of Chase's credit card products. The case settled and was approved by the Court, resulting in a fund of approximately \$300,000 for a nationwide class. We were sole counsel.

Ory. v. Columbia House Music Club, U.S. District Court for the Central District of California, Case No. CV02-2342SJO. We brought a class action lawsuit for copyright infringement against record clubs, Columbia House and BMG Direct, as a result of their 30 year practice of paying composers of musical compositions only 75% of the publishing royalties they are statutorily entitled. The matter was successful (despite that a nearly identical action was dismissed by the courts 10 years earlier), resulting in a \$6.5 million settlement for composers as well as industry reforms preventing this conduct in the future. We were co-lead counsel in the case.

Richert v. Writers Guild of America West, Inc., Los Angeles Superior Court Case No. BC339972. Class action certified in 2010. The case settled for one hundred million dollars in unpaid foreign royalties to all members of the guild. We were lead counsel.

Webb v. Directors Guild of America, Inc., Los Angeles Superior Court Case No. BC352621. Class action certified and settled which will cause over \$5 million dollars of unpaid royalties to be paid out to all the members of the guild. We were sole counsel.

Osmond v. Screen Actors Guild, Inc., Los Angeles Superior Court Case No. BC377780. Class action certified and settled for tens of millions of dollars in unpaid royalties to be paid to the members of the guild. We were lead counsel in the case.

To date, we have been responsible for over \$400 Million being paid to writers, actors and directors as a result of the foregoing three class actions.

Greenberg v. E-Trade Financial Corporation, Los Angeles Superior Court Case No. BC360152. Class action alleging invasion of privacy based on company's illegal recording of customers' calls. The case was certified and settled for seven million dollars. We were lead co-counsel.

Galavis v. LA Models, Los Angeles Superior Court Case No. BC382372. Class action alleging breach of contract and unfair business practices for improperly calculating fees owed to the models and charging impermissible costs. We were sole counsel.

Bouchard v. Optometrix, Los Angeles Superior Court Case No. BC416146. Class action alleging invasion of privacy based on hidden cameras in the exam rooms. The case was certified in 2011. This case was settled, and the court granted final approval. We were sole counsel.

Armuth v. Linton, U.S. District Court for the Central District of California, Case No. CV 11-0220-AHM-(Ex). Consumer class action in based on false advertising of beauty products. This case was recently settled in 2012, and the court granted final approval. We were sole counsel.

Gerash v. Verizon Communications, Los Angeles Superior Court Case No. BC459508. Class action alleging violations for unfair business practices in violation of various California statutes, including without limitation *Cal. Civ. Code* §§1722, 1750 et seq., and *Cal. Bus. & Prof.* §17200 et seq. We were sole counsel.

In Re: Warner Music Group Corp. Digital Download Litigation., Case No. CV 12-0559; *Otis Williams v. UMG Records*, Case No. CV 12-1289; *Martha Davis v. EMI Group Limited*, Case No. CV 12-01602 (all in U.S. District Court for the Northern District of California). Class actions on behalf of recording artists and producers who allege that they have been systematically underpaid royalties by the record companies. The *Warner* case recently settled for thirteen million and received final approval. The *UMG* case settled for nearly twelve million. We were co-lead counsel.

Susan Dukow v. Sony Pictures Entertainment, LASC Case No. BC566884. Class action for Sony's failure to prevent the data breach that exposed more than 47,000 of the company's current and former employees' personal data, including Social Security numbers, salaries, and medical information. A group of hackers called Guardians of Peace took over Sony's network after its release of North Korean-themed comedy, *The Interview*. The claims against Sony are for violation of privacy rights, negligence, Cal. Civ. Code § 1798.80, and Cal. Civ. Code §56. Our firm was on the executive committee, and the case settled.

Friedman v. Guthy-Renker LLC and WEN by Chaz Dean, Inc., U.S. District Court for the Central District of California, Case No. 14-cv-06009. Class action for false advertising and personal injury claims relating to shampoo sold by the defendants. The case recently settled for \$26 million. We were co-counsel.

Colin Higgins Productions, Ltd. v. Universal City Studios, LLC, Los Angeles Superior Court Case No. BC49918; *Colin Higgins Productions, Ltd. v. Paramount Pictures Corporation*, Case No. BC4991790; *Stanley Donen Films, Inc. v. Twentieth Century Fox Film Corporation*, Case No. BC499181; *Larry E. Martindale v. Sony Pictures Entertainment, Inc.*, Case No. BC499182 (all in Los Angeles Superior Court). Class actions for breach of contract and conversion alleging that defendant short changed profit participants by accounting for only a fraction of home video earnings. Each case settled at various amounts over \$25 million each. We were co-lead counsel on each case and the court granted final approval of each of the settlements.

Time for Three, LLC v. EntertainmentOne Group, LLC, et al., Case No. 1:17-cv-00329 (GBD) (United States District Court for the Southern District of New York): Class action for nonpayment of royalties due to performers from streaming on digital satellite radio providers. Case recently settled

Williams v. Warner Music Group Corp., Case No. 2:18-cv-09691-RGK-PJW (USDC, Central District): Class action for nonpayment of royalties due to performers from streaming on digital platforms outside of the United States.

Kihn v. Bill Graham Archives, LLC, Case No. 4:17-cv-05343-YGR (United States District Court for the Northern District of California): Class action for violation of the Copyright Act by a website offering recordings of live musical performances. Class certification recently granted.