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Counsel for Defendant Intervenors

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

THE AUTHORS GUILD, INC., et al.,

Plaintiffs,

v.

HATHITRUST, et al.,

Defendants.

Case No. 11-cv-6351(HB)

DECLARATION OF DANIEL F.
GOLDSTEIN IN SUPPORT OF
DEFENDANT INTERVENORS' MOTION
FOR ATTORNEYS' FEES AND COSTS

I, Daniel F. Goldstein, make the following Declaration:

1. I am a partner at the law firm of Brown Goldstein & Levy, LLP. My firm, together with the Law Office of Robert J. Bernstein and Professor Peter Jaszi, of the American University, Washington College of Law, are the attorneys for the Defendant Intervenors in this matter. I submit this Declaration in support of Defendant Intervenors' motion for costs and attorneys' fees. Unless otherwise noted, I make this declaration based upon my own personal knowledge.

2. Throughout this case, counsel for the Defendant Intervenors efficiently represented their clients and sought to avoid unnecessary discovery costs where possible. Defendant Intervenors made only one document request, propounded only five interrogatories and noted only one deposition.

3. Attached hereto as Exhibit A are true and correct copies of the attorney biographies for the attorneys who represented the Defendant Intervenors, as printed from the Brown, Goldstein & Levy, Robert J. Bernstein and American University websites at my direction on October 28, 2012. (<http://www.browngold.com/team/>; <http://www.robert-bernsteinlaw.com/>; <http://www.wcl.american.edu/faculty/jaszi/>).

4. The current hourly rates charged for each attorney's time to the National Federation of the Blind are as follows:

ATTORNEY	BILLED RATE
Peter Jaszi	\$475.00
Robert J. Bernstein	\$500.00
Daniel F. Goldstein	\$475.00
Laura G. Abelson	\$250.00
Jessica P. Weber	\$250.00

The current rates charged for paralegals and law clerks are as follows:

Denise Altobelli	Paralegal	\$155.00
Kevin Docherty	Paralegal	\$140.00
Alan Dunklow	Law Clerk	\$140.00
Janet Henry	Paralegal	\$145.00
Angela Lima	Paralegal	\$140.00
Elyse Pillitteri	Law Clerk	\$140.00
Anna Reid	Paralegal	\$140.00
Barbara Thompkinson	Paralegal	\$155.00

As reflected in the attached billing records, each attorney discounted his or her rates and excluded time. In the case of Brown, Goldstein & Levy, the rate of all timekeepers was discounted a further 15% monthly.

5. These rates are well within the rates in the AIPLA survey attached to Mr. Petersen's declaration as Exh. B. (Docket 162 – Decl. of Joseph Petersen in Support of Defendants' Motion for Costs and Attorneys' Fees).

6. Attached hereto as Exhibit B are true and correct copies of invoices that are derived from contemporaneous time records. The invoices itemize fees and other related charges from October 3, 2011 through August 31, 2012. All fees and expenses were borne by one of the Defendant Intervenors, the National Federation of the Blind ("NFB").

7. The invoices upon which the Defendant Intervenors' base their request for attorneys' fees do not represent all of the work performed by the Defendant Intervenors' counsel in this case, as all of the counsel exercised discretion in several instances not to charge for certain

time worked on the case. Indeed, the amount of fees excluded from this fee application totals \$67,761.79.

8. We have redacted the invoices included in Exhibit B to preserve attorney-client confidential privileged information and attorney work product confidential privileged information. At the Court's request, we would be pleased to submit unredacted copies of our invoices for the Court's *in camera* inspection.

9. As discussed above, the Defendant Intervenors are only seeking a portion of the attorneys' fees incurred in defending against Plaintiffs' claims. The chart below summarizes the rates charged and hours billed for each of the attorneys, paralegals and law clerks for which Defendant Intervenors are seeking fees.

ATTORNEY	Effective Hourly Rate	Hours Billed	TOTAL
Peter Jaszi	\$434.73	251.8	\$109,443.75
Robert J. Bernstein	\$500.00	440.8	\$220,400.00
Daniel F. Goldstein	\$403.75	211.2	\$85,272.00
Laura Abelson	\$212.50	221.8	\$47,132.50
Jessica P. Weber	\$212.50	97.7	\$20,761.25
ATTORNEY TOTAL		1223.3	\$483,009.50
PARALEGALS/LAW CLERKS			
Denise Altobelli	\$131.75	87.5	\$11,528.13
Kevin Docherty	\$119.00	18.8	\$2,237.20
Alan Dunklow	\$119.00	3.7	\$440.30
Janet Henry	\$123.25	6.5	\$801.13
Angela Lima	\$119.00	11.3	\$1,344.70
Elyse Pillitteri	\$119.00	113.6	\$13,518.40

Anna Reid	\$119.00	8	\$952.00
Barbara Thompkinson	\$131.75	1.6	\$210.80
Paralegal/Law Clerk Total			\$31,032.65
TOTAL FEES			\$514,042.15

10. The Defendant Intervenors are only seeking costs as shown below and itemized in the invoices included in Exhibit B.

UPS OVERNIGHT DELIVERY	\$155.65
PACER	\$164.10
WESTLAW	\$390.92
CONFERENCE CALLS	\$1,715.42
TRAVEL	\$1,823.97
DISCOVERY	\$8,513.03
COURT COSTS	\$626.00
COPY/FAX/POSTAGE	\$612.26
TOTAL EXPENSES	\$14,001.35

I declare under penalty of perjury under the laws of the United States and the State of New York that the foregoing is true and correct.

DATED: October 31, 2012

Respectfully Submitted,

 /s/
Daniel F. Goldstein