

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

In re:

SONY BMG CD
TECHNOLOGIES LITIGATION

Case No. 1:05-cv-09575-NRB

**DECLARATION OF BARRY M. ALTMAN, ESQ. IN SUPPORT OF
PLAINTIFFS' CLASS COUNSELS' APPLICATION FOR ATTORNEYS' FEES
AND REIMBURSEMENT OF EXPENSES**

I Barry M. Altman, Esq. declare as follows:

1. I am an attorney in good standing, duly licensed and admitted to the bars of the United States Court of Appeals for the First Circuit, the United States District Court for the District of Massachusetts, and the Massachusetts Supreme Judicial Court.. I am associated with the law offices of ALTMAN & ALTMAN, counsel of record for Amanda M. Cruz of Tewksbury, Massachusetts. A true and correct copy of my resume is attached hereto as Exhibit "A" and incorporated by reference herein.

2. I submit this declaration in support of Plaintiffs' Class Counsels' application for attorneys' fees and reimbursement of expenses in the above-entitled matter. The testimony set forth in this declaration is based on first-hand knowledge, about which I would and could testify competently in open court if called upon to do so, and on contemporaneously-generated records kept in the ordinary course of business.

3. The total number of professional hours expended in the litigation by me is 82.1 hours. The total lodestar amount for time expended by me in the course of the litigation, based upon my current hourly rate of \$350.00, is \$28,735.00. The chart and

daily narrative attached hereto as Exhibit "B" were prepared by me and present both a summary and detailed description of the time I spent on the litigation. The time reflected in this declaration was time actually spent, in the exercise of reasonable judgment, by me, and includes a description of the litigation tasks performed. The time I spent was on matters that were essential to the litigation. I was careful not to expend unnecessary hours.

4. I expended a total of \$79.12 in unreimbursed expenses in connection with prosecution of the litigation on behalf of Ms. Cruz. The expenses incurred in this case are reflected in the books and records of the firm. These books and records are prepared from expense vouchers, check records, and other contemporaneously-recorded billing records and are an accurate record of expenses incurred in this litigation. The chart attached hereto as Exhibit "C," also prepared by me, details these expenses.

5. I have been practicing law since 1982 and am a graduate of Tufts University (B.A. 1979) and the University of Pennsylvania Law School (J.D. 1982). At the University of Pennsylvania Law School, I was a classmate of Alba Conte, co-author of the treatise Newberg on Class Actions. I was a law clerk to the Pennsylvania Superior Court, which is the intermediate appellate court in the Commonwealth of Pennsylvania.

6. I have been previously associated with the law firms of Prince, Lobel, Glovsky, & Tye and Riemer and Braunstein in Boston, Massachusetts.

7. Over the past twenty years, I have been involved in numerous complex cases, including class actions, in both federal and state courts. In addition, I have briefed

or argued matters before the Massachusetts Appeals Court, the Massachusetts Supreme Judicial Court, the United States Court of Appeals for the First Circuit and the United States Supreme Court. Class actions with which I have been involved as co-lead class counsel and/or class counsel include:

1. Herman v. The Home Depot U.S.A., Inc., Massachusetts Superior Court;
2. In re: Wal-Mart Item Pricing Consolidated Class Actions, Massachusetts Superior Court;
3. Sullivan v. Walgreen Eastern Co., Inc., Massachusetts Superior Court; and
4. Barry v. Circuit City Stores, Inc., Massachusetts Superior Court.

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

Executed this 28th day of March, 2006, at Wilmington, Massachusetts.



Barry M. Altman, Esq.

RESUME OF BARRY M. ALTMAN, ESQ.

Barry M. Altman, Esq. is associated with the law offices of ALTMAN & ALTMAN. He is a member of the bars of the United States Court of Appeals for the First Circuit, the United States District Court for the District of Massachusetts and the Massachusetts Supreme Judicial Court. Mr. Altman has been practicing law since 1982 and is a graduate of Tufts University (B.A. 1979) and the University of Pennsylvania Law School (J.D. 1982). He was a law clerk to the Pennsylvania Superior Court, which is the intermediate appellate court in the Commonwealth of Pennsylvania. Mr. Altman has been previously associated with the law firms of Prince, Lobel, Glovsky, & Tye and Riemer and Braunstein in Boston, Massachusetts. Over the past twenty years, Mr. Altman has been involved in numerous complex cases, including class actions, in both federal and state courts. In addition, he has briefed or argued matters before the Massachusetts Appeals Court, the Massachusetts Supreme Judicial Court, the United States Court of Appeals for the First Circuit and the United States Supreme Court. Class actions with which Mr. Altman has been involved as co-lead class counsel and/or class counsel include:

1. Herman v. The Home Depot U.S.A., Inc., Massachusetts Superior Court;
2. In re: Wal-Mart Item Pricing Consolidated Class Actions, Massachusetts Superior Court;
3. Sullivan v. Walgreen Eastern Co., Inc., Massachusetts Superior Court; and
4. Barry v. Circuit City Stores, Inc., Massachusetts Superior Court.

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SUMMARY OF ATTORNEYS FEES FOR ALTMAN & ALTMAN

<i>Billing Rate Per Hour</i>	<i>Hours</i>	<i>Total Fees (Lodestar)</i>	<i>Expenses</i>	<i>Total Fees & Expenses</i>
Barry M. Altman, Esq. \$350	82.1	\$28,735.00	\$79.12	\$28,814.12

11/11/05	Review <u>Boston Globe</u> and <u>Boston Herald</u> articles	0.2
11/12/05	Review <u>Boston Globe</u> and <u>Boston Herald</u> articles	0.2
11/14/05	Conf. with Jeanne Jones (mother of client); Consider strategy; Investigate information available on internet, including but not limited to Sony BMG website, BBC new articles, digitalmusicnews.com, eff.org, The Register, afterdawn.com, Mark Russinovich's Sysinternals Blog, redherring.com and news.com	8.5
11/15/05	Consider strategy; Investigate law re: spyware, trespass to personal property, 18 U.S.C. §1030 and defective products; Investigate information available on internet, including but not limited to eff.org, redherring.com, cdfreaks.com, Class Action Reporter, YahooNews and news.com; Investigate New York Attorney General Elliot Spitzer's lawsuit against and settlement with Intermix Media Inc.	9.0
11/16/05	Consider strategy; Review <u>Boston Globe</u> and <u>New York Times</u> articles; Prepare M.G.L. c. 93A demand letter; Investigate law re: M.G.L. c. 93A, warranty and consumer/defective product class actions, including but not limited to: <u>Tarpey v. Crescent Ridge Dairy, Inc.</u> 7 Mass. App. Ct. 380, 713 N.E. 2d 975 (1999); <u>Smilow v. Southwestern Bell Mobile Systems, Inc.</u> , 323 F. 3d 32 (1 st Cir. 2003); <u>Aspinall v. Philip Morris Companies, Inc.</u> , 442 Mass. 381, 813 N.E. 2d 476 (2004); <u>Sebago, Inc. v. Beazer East, Inc.</u> , 18 F. Supp. 2d 70 (D. Mass. 1998); <u>Weld v. Glaxo Wellcome, Inc.</u> , 434 Mass. 81, 746 N.E. 2d 522 (2001); <u>Maillet v. ATF-Davidson Co., Inc.</u> , 407 Mass. 185, 552 N.E. 2d 95 (1990); <u>Calimlim v. Foreign Car Center, Inc.</u> , 392 Mass. 228, 467 N.E. 2d 443 (1984); and <u>Burnham v. Mark IV Homes, Inc.</u> , 387 Mass. 575, 441 N.E. 2d 1027 (1982).	10.0
11/17/05	Consider strategy; Review <u>Boston Herald</u> and <u>Washington Post</u> articles; Prepare M.G.L. c. 93A demand letter; E-mails to Attorney Terrence Parker; Review e-mail from Att. Parker; Investigate law re: M.G.L. c. 93A, warranty and consumer/defective product class actions, including but not limited to: <u>Olson v. Energy North, Inc.</u> , 9 Mass. L. Rep. 494 (1999); <u>Payne v. The Goodyear Tier & Rubber Co.</u> , 216 F.R.D. 21 (D. Mass. 2003); <u>Holtzman v. General Motors Corporation,</u>	9.5

15 Mass. L. Rep. 15 (2002); Jetpac Group, LTD v. Bostek, Inc., 942 F. Supp. 716 (D. Mass. 1996); Jacobs v. Yamaha Motor Corp, U.S.A., 420 Mass. 323, 649 N.E. 2d 758 (1995); and Gordon v. Boden, 224 Ill. App. 3d 195, 586 N.E. 2d 461 (1991)

11/18/05	Consider strategy; Review file; Finalize and send M.G. L. c. 93A demand letter	3.0
11/22/05	Review <u>Boston Globe</u> article; Perform corporate search re: Sony BMG; Review file; Prepare and send follow-up M.G.L. c. 93A demand letter	3.5
11/23/05	Investigate information available on internet, including but not limited to blog.taragana.com , digitalconnectmag.com , sonysuit.com and eff.org ; Prepare complaint	6.0
11/29/05	Tel. conf. with Attorney Jeffrey Jacobson; Memo to file; Review e-mail from Att. Jacobson	0.5
11/30/05	Fax to Att. Jacobson	0.2
12/8/05	Review <u>Boston Globe</u> and <u>Boston Herald</u> articles	0.2
12/12/05	Investigate damage to client's computer	1.0
12/13/05	Investigate law re: M.G.L. 266, § 120F and M.G.L. 214, §1B, including but not limited to: <u>Weld v. Glaxo Wellcome, Inc.</u> , 434 Mass. 81, 746 N.E. 2d 522 (2001)	4.0
12/14/05	Review Return Receipt; Investigate eff.org , including but not limited to EFF Open Letter to Sony BMG, Sony BMG response, Eff Blog Posts and Press Releases	2.5
12/15/05	Review response to M.G.L. c. 93A demand letter; Fax to Att. Parker	0.4
12/16/05	Fax to Att. Jacobson; Review fax and e-mail from Att. Jacobson; E-mail to Att. Parker	0.6
12/21/05	Review law.com article by Fred von Lohmann of EFF	0.3

12/22/05	Review State of Texas original Petition; Review Google Alert; Review various complaints filed in California and New York; Review list of CDs containing XCP Content Protection Technology and Sunncomm Mediamax Version 5 Content Protection Software; Investigate Sony BMG website; Review <u>Boston Herald</u> article; Tel. conf. with Attorney Corynne McSherry;	7.0
12/23/05	Fax to Att. McSherry; Fax to Attorney Scott Kamber; Review Google Alert	0.6
12/29/05	Review various Google Alerts, statesman.com and Sunbelt website	1.0
12/30/05	Review various Google Alerts	0.5
12/31/05	Review <u>Boston Herald</u> article	0.2
1/3/06	Review Google Alert; Review Southern District Docket, Case Management Order Number 1 and Motion and Memorandum of Law In Support of Plaintiffs' Application for Preliminary Approval of Class Action Settlement with attachments	5.0
1/4/06	Review various Google Alerts; Review file; Letter to Attorneys Kamber and Daniel C. Girard with exhibits; Check Southern District Docket on Pacer; E-mail to Att. Parker	6.0
1/5/06	Check Southern District Docket on Pacer; Review e-mail from Att. Parker	0.5
1/9/06	Review law.com article re: Sony BMG settlement	0.2
1/16/06	Review businessweek.com article re: Sony BMG settlement	0.2
2/10/06	Fax to Atts. Kamber and Girard	0.3
2/14/06	Review letter from Attorney Marissa M. Grimes with Class Notice	1.0

Total Hours:	82.1
x \$350.00 per hour:	\$28,735.00
Out of Pocket Expenses:	\$ 79.12
TOTAL DUE:	\$28,814.12

Out of Pocket Expenses

Certified Mail	\$ 9.07
Photocopies	\$37.20
Postage	\$ 4.44
Pacer	\$14.00
Tel./Fax	\$14.41
Total:	\$79.12

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SUMMARY OF EXPENSES FOR ALTMAN & ALTMAN

<i>Computerized Legal Research</i>	<i>Court Costs & Filing Fees</i>	<i>Court Reporter & Transcripts</i>	<i>Photocopy</i>	<i>Postage, Messenger, & Express Mail</i>	<i>Telephone & Fax</i>	<i>Misc.</i>
\$14.00	M.G.L. c. 93A, §9 Demand Letters \$9.07	N/A	Copying \$37.20 Mailing Supplies N/A	Postage \$4.44 Messenger/ Expedited Delivery N/A	Faxes \$10.00 Phone \$4.41	N/A

FIRM TOTAL:

\$79.12