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Attorneys for Plaintiff,  
Peter MacKinnon, Jr.

SUPERIOR COURT OF CALIFORNIA  
SANTA CLARA COUNTY

PETER MACKINNON, JR., an individual, on  
behalf of himself, the general public and those  
similarly situated

Plaintiff,

v.

IMVU, INC.,

Defendant.

Case No. 111 CV 193767

**CLASS ACTION**

DECLARATION OF PETER  
MACKINNON JR. IN SUPPORT OF  
APPLICATION FOR ATTORNEYS' FEES,  
COSTS AND INCENTIVE AWARDS

Date: February 19, 2016  
Time: 9:00 a.m.  
Department: 1

Honorable Judge Peter H. Kirwan

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I, Peter MacKinnon, Jr., declare and state that:

1. I am Plaintiff in this action.

2. I make this Declaration in support of my application for an incentive award.

3. I first contacted counsel to discuss my claims against IMVU in February of 2011. I then negotiated a retainer agreement with Gutride Safier LLP to represent me as an individual and proposed class representative. Since that time—i.e., for the last almost five years—I have remained actively involved in this case.

4. I have reviewed thousands of pages of draft and final documents and have had conversations with my counsel (by telephone, electronic mail and in person) about many of them.

These include:

- a. The amended, second amended and third amended class action complaints.
- b. Defendant’s motions for judgment on the pleadings and its demurrers, my oppositions to those motions, and the Court’s orders.
- c. My appeal, Defendant’s opposition, my reply, and the Court’s opinion on the appeal.
- d. Numerous case management statements.
- e. The parties’ mediation statements.
- f. The settlement documentation (including class notices, proposed orders, and other exhibits)
- g. Documents and information produced by Defendant.

5. I traveled to San Francisco from my home in Midvale, Utah, to be deposed in this case. Prior to the deposition, I met with counsel in person to prepare for it. I subsequently reviewed and corrected the deposition transcript.

6. I again traveled to San Francisco from my home in Midvale, Utah, to prepare for and attend mediation.

7. I will make yet another trip to San Francisco from my home in Midvale, Utah, to attend the final approval hearing.

1           8.       In addition to all of the above, I continually monitored the actions by IMVU and  
2 other users of the IMVU Application, to keep my counsel informed about changes in the operation  
3 of the IMVU system and user comments. I also have monitored the IMVU forums for postings  
4 about the issues in this litigation and for complaints about other misconduct by IMVU that could  
5 support my allegations about IMVU's legal violations.

6           9.       Once the settlement notices were issued, I closely monitored IMVU's compliance  
7 with (1) its obligations to post and send various forms of notice to IMVU members an (2) its  
8 obligations to remove the playback restrictions on affected audio files. I also monitored the IMVU  
9 forums for comments about the settlement by other users and corresponded about the settlement  
10 with IMVU users.

11          10.       During the past nearly five years, I have drafted and/or received nearly 1000 emails  
12 and text messages between myself and my attorneys in this litigation.

13          11.       I have additionally had dozens of telephone calls with my attorneys regarding this  
14 litigation.

15          12.       Further, I have had hundreds, if not thousands, of communications with other IMVU  
16 users about issues relating to this case.

17          13.       In total, I have expended substantially more than 150 hours on the tasks listed above.

18          14.       I have understood throughout this litigation that I was at risk of paying Defendant's  
19 costs in this case if I lost.

20          15.       Finally, I understand that, unlike other class members, I am broadly releasing all of  
21 my claims against IMVU, Inc.

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1 I declare under penalty of perjury under the laws of the State of California that the foregoing  
2 is true of my own personal knowledge. Executed at Midvale, Utah, this 12th of January, 2016.

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