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11 Class Counsel

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13 **UNITED STATES DISTRICT COURT**  
14 **CENTRAL DISTRICT OF CALIFORNIA**

15 RYAN RODRIGUEZ, REENA B.  
16 FRAILICH, LOREDANA NESCI,  
17 JENNIFER BRAZEAL and LISA  
18 GINTZ, on behalf of themselves and all  
19 others similarly situated,

20 Plaintiffs,

21 vs.

22 WEST PUBLISHING CORPORATION,  
23 a Minnesota Corporation dba BAR/BRI,  
24 and KAPLAN, Inc., a Delaware  
25 Corporation.

26 Defendants.

27 **AND CONSOLIDATED ACTION**  
28

Case No. CV 05-3222 R(MCx)

**PLAINTIFFS' NOTICE OF  
MOTION AND MOTION FOR  
INCENTIVE AWARDS TO CLASS  
PLAINTIFFS AND  
MEMORANDUM OF POINTS AND  
AUTHORITIES**

**[DECLARATION OF SIDNEY K.  
KANAZAWA FILED  
HEREWITH]**

Date: June 18, 2007  
Time: 10:00 a.m.  
Place: Courtroom 8

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TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE THAT on June 18, 2007 at 10:00 a.m. before the Honorable Manuel J. Real, United States District Court Judge of the Central District of California, located at 312 N. Spring Street, Los Angeles, CA 90012, Plaintiffs Ryan Rodriguez, Reena B. Frailich, Loredana Nesci, Jennifer Brazeal, Lisa Gintz, Lorraine Rimson, and Kari Brewer (the "Class Plaintiffs" or "Plaintiffs") will and hereby do move that the Court issue an order and judgment:

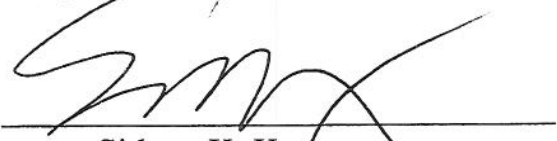
- (1) Awarding incentive awards in the amount of \$25,000 to Plaintiffs Reena B. Frailich, Jennifer Brazeal, Lorraine Rimson, and Kari Brewer; and
- (2) Awarding incentive awards in the amount of \$75,000 to Plaintiffs Loredana Nesci, Ryan Rodriguez, and Lisa Gintz.

This motion is based on this notice of motion and motion; the accompanying memorandum of points and authorities; the Declaration of Sidney K. Kanazawa; argument of counsel; any papers filed in reply; such oral and documentary evidence as may be presented at the hearing of this motion; and all papers and records on file in this matter.

DATE: May 7, 2007

Respectfully submitted,

**McGUIREWOODS LLP**



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Sidney K. Kanazawa

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 There are seven named Plaintiffs in this consolidated lawsuit. Class Counsel  
4 request that the Court approve an incentive award for each of them. These named  
5 Plaintiffs diligently and completely fulfilled their obligations as class  
6 representatives. All seven were deposed by defendants in this matter. One, Lisa  
7 Gintz, additionally attended a portion of the mediation session on November 29,  
8 2006 (Declaration of Sidney K. Kanazawa ("Decl.") ¶7). Plaintiffs request  
9 incentive awards payable from the Settlement Fund of \$25,000 each for Kari  
10 Brewer, Lorraine Rimson, Jennifer Brazeal, and Reena B. Frailich. (Decl. ¶ 8). In  
11 the Settlement Agreement, Defendants have agreed not to oppose requests of  
12 \$25,000 each for the named representatives. *See* Settlement Agreement at ¶ 53.  
13 Named Plaintiffs Lisa Gintz, Loredana Nesci, and Ryan Rodriguez seek \$75,000  
14 each, which is within this Court's discretion. (Decl. ¶9). *See In re Heritage Bond*  
15 *Litigation*, 2005 WL 1594403 (C.D.Cal. 2005) \*18 (differential amounts to named  
16 plaintiffs within Court's discretion).  
17

18 **II. LEGAL ANALYSIS**

19 **A. AN INCENTIVE AWARD FOR THE NAMED PLAINTIFFS IS**  
20 **APPROPRIATE**

21 Numerous courts have found it appropriate to specially reward named class  
22 plaintiffs for the benefits they have conferred on the class as a whole. The criteria  
23 courts may consider in determining whether to make an incentive award include:  
24 1) the risk to the class representative in commencing suit, both financial and  
25 otherwise; 2) the notoriety and personal difficulties encountered by the class  
26 representative; 3) the amount of time and effort spent by the class representative;  
27 4) the duration of the litigation and; 5) the personal benefit (or lack thereof)  
28

1 enjoyed by the class representative as a result of the litigation. *Van Vranken v.*  
2 *Atlantic Richfield Co.*, 901 F. Supp. 294, 300 (N.D. Cal. 1995) (approving award  
3 of \$50,000 to named plaintiff).

4 Each of these factors favors incentive awards here. The Class Plaintiffs are  
5 lawyers whose involvement in this class action will be noted by the entire legal  
6 community, because the majority of all associates in the country are members of  
7 the Class. Failure in this litigation could have exposed the Class Plaintiffs to  
8 ridicule from colleagues and future employers. None of the seven, however, ever  
9 stood to gain from this litigation beyond their relatively small claims, and  
10 undertook their obligations as a public service.

11 Furthermore, each of the named Plaintiffs participated in and contributed to  
12 this litigation in a substantial manner. The named Plaintiffs performed the  
13 following tasks of significant importance to prosecuting this class action:  
14

- 15 • Assisted with initial investigation regarding their claims;
  - 16 • Prepared for deposition;
  - 17 • Attended deposition;
  - 18 • Responded to written interrogatories
  - 19 • Responded to requests for production of documents
  - 20 • Actively participated in pre- and post-mediation discussions with  
21 counsel regarding settlement terms;
  - 22 • Actively followed the status of settlement negotiations;
  - 23 • Independently evaluated the terms of the settlement to reach a  
24 decision concerning settlement;
  - 25 • Circulated information regarding the class notice to other class  
26 members; and
  - 27 • Sought to represent a class of their fellow colleagues.
- 28

1 (Decl. ¶6).

2 This significant work is in line with those of other class representatives who  
3 have been granted awards similar to those being requested here. *See, e.g., Masters*  
4 *v. Wilhelmina Model Agency, Inc.*, 473 F.3d 423 (2d. Cir. 2007) (approving  
5 \$25,000 each to class representatives who were deposed, less for those who were  
6 not); *Glass v. UBS Financial Services, Inc.*, No. C-06-4068 MMC (Jan. 26, 2007)  
7 (approving \$25,000 awards).

8 Authorities from other courts over the past two decades also show that the  
9 amounts of the awards sought here are in line with those previously approved.  
10 *E.g., Brotherton v. Cleveland*, 141 F.Supp.2d 907, 913-14 (S.D. Ohio 2001)  
11 (\$50,000 to class representative who was "instrumental in bringing this lawsuit  
12 forward"); *Enterprise Energy Corp. v. Columbia Gas Trans. Corp.*, 137 F.R.D.  
13 240, 250 (S.D. Ohio 1991) (\$50,000 incentive awards to each of six named  
14 representatives); *In re Dun & Bradstreet Credit Services Customer Litig.*, 130  
15 F.R.D. 366, 373-74 (S.D. Ohio 1990) (two incentive awards of \$55,000 and three  
16 incentive awards of \$35,000); *In re Connecticut General Life Ins. Co.*, 1997 WL  
17 910387 (C.D. Cal. Feb. 13, 1997) (\$25,000 each for class members); *In re Revco*  
18 *Sec. Litig.*, 1992 WL 118800 at \*7 (N.D. Ohio, May 6, 1992) (\$200,000 incentive  
19 award).  
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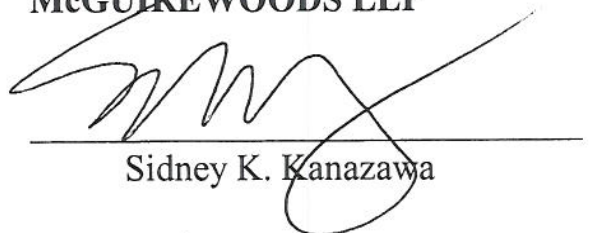
1 **III. CONCLUSION**

2 For all the foregoing reasons, this Court should grant the named Class  
3 Plaintiffs the incentive awards in the amounts requested.

4 DATE: May 7, 2007

Respectfully submitted,

5 **McGUIREWOODS LLP**

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