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

MICHAEL BATEMAN, individually
and on behalf of all others similarly
situated,

Plaintiffs

v.

AMERICAN MULTI-CINEMA, INC.;
and DOES 1-10,

Defendants.

) Case No. CV 07-00171 JHN-AJWx

) **CLASS ACTION**

) **[proposed] ORDER GRANTING
MOTION FOR AWARD OF
ATTORNEY'S FEES, COSTS AND
ENHANCEMENT PAYMENT**

) Date: August 1, 2011
) Time: 10:00 a.m.
) Ctrm: 790 (Roybal)

On August 1, 2011, a hearing was held on the motion of plaintiff Michael Bateman (“Plaintiff”) for an award of attorney’s fees, costs and class representative enhancement payment in connection with Plaintiff’s motion for final approval of the class action settlement (“Settlement”) reached with defendant American Multi-Cinema, Inc. ("AMC"). By separate order, the Court has granted final approval of the Settlement. After reviewing the written submissions of the parties, and after hearing arguments of counsel, the Court also grants Plaintiff’s motion for fees, costs and an enhancement payment and finds and orders as follows:

1 1. Plaintiff is hereby awarded an enhancement payment in the amount of
2 \$7,500. The enhancement payment to Plaintiff is reasonable in light of the service
3 performed by Plaintiff on behalf of the Class, the risks undertaken by Plaintiff in
4 bringing the lawsuit, and the results obtained by Plaintiff, and neither AMC nor any
5 absent class member has any objection to Plaintiff being awarded an enhancement
6 payment in this amount.

7 2. With respect to Plaintiff's request for an award of attorney's fees and
8 costs, the Court makes the following findings of fact and conclusions of law:

9 a) Findings of Fact

10 1) Plaintiff's counsel skillfully obtained after years of protracted litigation a
11 settlement of vigorously contested claims for willful violation of the Fair and Accurate
12 Credit Transaction Act after the Court twice denied Plaintiff's motion for class
13 certification and Plaintiff obtained a precedent setting ruling from the Ninth Circuit
14 reversing the Court's erroneous denial of certification.

15 2) Plaintiff's counsel pursued this action on a contingent fee basis at
16 significant risk of obtaining no recompense.

17 3) The efforts of Plaintiff's counsel resulted in substantial recovery for
18 members of the Class. AMC will distribute 282,314 voucher packets worth \$23 each
19 to approximately 900 class members who submitted claims and thousands of other
20 class members and/or consumers.

21 4) Plaintiff's counsel incurred litigation costs in the amount of \$19,675.60.

22 5) The amount of attorney's fees requested by Plaintiff's counsel
23 (\$1,380,000) is less than 25% of the value of the common fund in this case, which is
24 the benchmark rate set by the Ninth Circuit in common fund cases. The value of the
25 common fund in this case is \$6,493,222 (282,314 x \$23).

26 6) No reason warrants a downward adjustment of the 25% benchmark for
27 attorney's fees in this case. To the contrary, although the amount of attorney's fees
28 sought by Plaintiff does not exceed 25% of the value of the common fund, the fact
29 that Plaintiff's counsel obtained an extremely favorable settlement compared to other

1 FACTA settlements, as well as a precedent setting decision from the Ninth Circuit
2 regarding the superiority requirement for class actions under Rule 23, militates in
3 favor of awarding Plaintiff's counsel fees in an amount greater than 25% of the value
4 of the common fund.

5 7) Plaintiff provided notice of its motion for fees and costs by posting, in
6 accordance with the Settlement, Plaintiff's motion papers on the website of Plaintiff's
7 counsel 35 days prior to the hearing on Plaintiff's motion.

8 8) No absent class member filed any objection to awarding Plaintiff's
9 counsel the full amount of attorney's fees and costs requested.

10 b) Conclusions of Law

11 1) The provision in the Settlement requiring AMC to pay Plaintiff's counsel
12 attorney's fees and costs in amounts determined as reasonable by the Court is fair and
13 reasonable under Rule 23(e)(3) of the Federal Rules of Civil Procedure;

14 2) Plaintiff gave notice of its motion for an award of fees and costs to absent
15 class members in a reasonable manner in accordance with Rule 23(h) of the Federal
16 Rules of Civil Procedure; and

17 3) Awards to Plaintiff's counsel of \$1,380,000 in attorney's fees and
18 \$19,675.65. in costs are reasonable under Rule 23(h) of the Federal Rules of Civil
19 Procedure and the Court hereby awards those amounts to Spiro Moss LLP.

20 **IT IS SO ORDERED**

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22 Dated: _____

United States District Judge

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