

1 Steve W. Berman (*pro hac vice*)
2 steve@hbsslw.com
3 **HAGENS BERMAN SOBOL SHAPIRO**
4 **LLP**
5 1301 Second Ave., Suite 2000
6 Seattle, WA 98101
7 Telephone: (206) 623-7292

8
9 Eamon P. Kelly (*pro hac vice*)
10 ekelly@sperling-law.com
11 **SPERLING & SLATER P.C.**
12 55 W. Monroe, Suite 3200
13 Chicago, IL 60603
14 Telephone: 312-641-3200

15
16 *Co-Lead Counsel for the Proposed Class in In re*
17 *Google Play Developer Antitrust Litigation and*
18 *Attorneys for Pure Sweat Basketball, Inc.*

Melinda Coolidge (*pro hac vice*)
mcoolidge@hausfeld.com
HAUSFELD LLP
888 16th Street N.W., Suite 300
Washington, DC 20006
Telephone: (202) 540-7200

Co-Lead Counsel for the Proposed Class in In re
Google Play Developer Antitrust Litigation
and Attorneys for Peekya App Services, Inc.
and Scalisco LLC d/b/a Rescue Pets

11 **UNITED STATES DISTRICT COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**
13 **SAN FRANCISCO DIVISION**

14 **IN RE GOOGLE PLAY DEVELOPER**
15 **ANTITRUST LITIGATION**

Case No. 3:20-cv-05792-JD

DECLARATION OF FRANÇOIS
EINWAECHTER IN SUPPORT OF
DEVELOPER PLAINTIFFS' MOTION
FOR ATTORNEYS' FEES,
REIMBURSEMENT OF EXPENSES, AND
SERVICE AWARDS

1 I, FRANÇOIS EINWAECHTER, declare as follows:

2 1. I am an individual over the age of 18 and I make this declaration based on personal,
3 firsthand knowledge, and if called and sworn as a witness, I could and would testify competently
4 thereto.

5 2. I am the Director of Peekya App Services, Inc. ("Peekya"), a class representative in
6 the above-captioned matter (the "Class Action").

7 3. I submit this declaration in support of the Developer Class Plaintiffs' motion for
8 attorneys' fees, reimbursement of expenses, and service awards and in support of final approval
9 of the proposed Class Action Settlement with Google.

10 4. For over two years and a half years, I have diligently performed my duty to assist
11 counsel in prosecuting this case, and I have actively participated in this case and devoted
12 significant time and effort to this case.

13 5. Prior to agreeing to be the second named Plaintiff in a lawsuit against Google, I
14 engaged in significant investigation and had multiple calls with my attorneys regarding factual
15 investigation into the potential claims at issue in this case. I estimate that I spent 30-40 hours of
16 time on pre-filing investigation, including calls with my attorneys, to ensure that the claims
17 raised in the complaint were as factually-complete as possible.

18 6. I did not undertake my responsibilities and role as a class representative in this
19 litigation lightly. I work actively to promote the Peekya app, which is only available for Android
20 devices through the Google Play Store. Prior to agreeing to file this case as a class representative,
21 I weighed concerns that Google would take steps to make it more difficult to promote and
22 distribute the Peekya app on the Google Play Store or that being named as a plaintiff in this
23 litigation might make it more difficult to partner with other businesses. Because the Google Play
24 Store has historically been the largest app store for Android apps, Google has significant control



1 over how Peekya and other Android apps are distributed, and Google's actions can have
2 immediate impacts on app developers that distribute their apps through the Google Play Store.
3 After discussions with my legal counsel, I determined that the value of proceeding with this case
4 outweighed the risk. To my knowledge, Peekya has not been subject to any retaliatory action by
5 Google related to this litigation. However, the additional and justifiable burden of my concerns
6 regarding retaliation is a significant and non-quantifiable stressor that I had to bear when
7 deciding to file these claims with Peekya named as a class representative and throughout the
8 duration of this litigation, particularly because I re-launched the Peekya app with a new build on
9 the Google Play Store during the pendency of the litigation.

10 7. Throughout this litigation, I have consistently worked to remain well-informed of the
11 status of the case by communicating with my attorneys, including reviewing extensive
12 correspondence from my counsel and key case documents such as drafts of the original
13 Complaint and subsequent amended consolidated class action complaints as well as the terms of
14 the settlement agreement.

15 8. I immediately undertook my records retention obligations as a class representative by
16 diligently retaining paper and electronic documents, records and information that could be
17 relevant to the litigation since the inception of this case, and I have provided these to my
18 attorneys at their request and at the request of Google.

19 9. I have also assisted in responding to discovery, including responding to 31
20 interrogatories and 71 requests for production of documents, many of which sought sensitive and
21 detailed information about Peekya's financial information, business strategy, and
22 communications with users. I reviewed the discovery requests from defendants, discussed those
23 requests with my counsel, assisted in drafting, reviewing, and correcting draft responses, and
24 executed final responses. I also had numerous calls with my attorneys to collect responsive



1 documents and provide those to my attorneys for review and production to Google. I found this
2 process to be very time intensive, and it was challenging to undertake my responsibilities as a
3 class representative on top of my family commitments and work obligations. However, I
4 understood the importance of this litigation and took my role as a class representative very
5 seriously, and always made the necessary time to fulfill my responsibilities, even after the birth
6 of my second child in April 2022.

7 10. In total, I estimate that I have spent about 53-66 hours performing all of the above-
8 described duties on behalf of the class over the past two and a half years.

9 11. I willingly agreed to participate in this case with no guarantee of personal benefit or
10 benefit to Peekya, and my attorneys have not made any promises regarding compensation for my
11 service. I believe that the significant time, effort, and information I have provided on behalf of
12 Peekya contributed meaningfully to the proposed settlement agreement between Google and the
13 proposed Settlement Class (the "Agreement").

14 12. I have reviewed the terms of the Agreement, have discussed those terms with my
15 attorneys, and am aware of and fully approve all terms of the Agreement, as it affects Peekya and
16 the members of the Class.

17 13. I understand that the Agreement includes monetary relief provided through a
18 \$90,000,000.00 cash Settlement Fund

19 14. I also understand that the Agreement includes non-monetary relief such as Google's
20 commitment to maintain a service fee rate of no greater than fifteen percent (15%) for the first \$1
21 million in developer revenue each year through May 2025, Google developing an "Indie Apps
22 Corner" on the homepage of the Google Play Store, Google continuing to allow developers to use
23 contact information obtained in-app (with user consent) to communicate with users out-of-app,
24 including to promote alternatives to Google Play's billing system, and Google publishing an



1 annual transparency report, and that Google has acknowledged that this pending Class Action
2 was a motivating factor in its March 16, 2021 announcement that it would reduce its service fee
3 rate from 30% to 15% for the first \$1,000,000 in developer revenue.

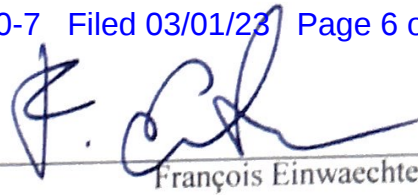
4 15. I believe that the non-monetary relief is of significant value to Peekya and members
5 of the class. Google's commitment to maintaining a reduced service fee of 15% on the first \$1
6 million in developer revenue through May 2025 is an exceptional result that establishes a
7 predictable and sustained 50% decrease in the service fees paid to Google for each sale of an app
8 or in-app product and directly benefits app developers like Peekya, which has never earned more
9 than \$1 million in a year. I believe, and understand that Google has acknowledged, that this
10 pending Class Action was a motivating factor in this significant reduction of Google's service fee
11 rates, and I am proud to be serving as a class representative.

12 16. Google's commitment to creating an "Indie Apps Corner" on the U.S. homepage of
13 the Google Play Store to feature apps from smaller independent app developers is also notable
14 for start-ups like Peekya, which is seeking to showcase its unique and desirable features to users
15 browsing apps within the Google Play Store. The opportunity to have smaller apps showcased
16 will help users find and learn about apps from smaller developers that may be overlooked
17 without this opportunity to be spotlighted. This will promote the ability of independent app
18 developers to innovate and compete with larger, more established developers, and, I believe, will
19 improve the available offerings of Android apps for users.

20 17. Overall, the proposed settlement achieves significant monetary and structural relief
21 for Peekya and for all members of the Settlement Class.

22 18. I declare under penalty of perjury under the laws of the United States of America that
23 the foregoing is true and correct. Executed on this 28 day of February, 2023, at Sarasota, Florida.





François Einwaechter

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24