

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS

ROBERT MURRAY, On Behalf of Himself and All Others Similarly Situated,)	No. 4:18-cv-00202-JM
)	
)	<u>CLASS ACTION</u>
Plaintiff,)	
)	DECLARATION OF MICHAEL S. ETKIN
vs.)	FILED ON BEHALF OF LOWENSTEIN
)	SANDLER LLP IN SUPPORT OF
EARTHLINK HOLDINGS CORP., et al.)	APPLICATION FOR AWARD OF
)	ATTORNEYS' FEES AND EXPENSES
Defendants.)	

I, Michael S. Etkin, declare as follows:

1. I am a member of the firm of Lowenstein Sandler LLP (“LS”). I am submitting this declaration in support of the application for an award of attorneys’ fees and expenses/charges in connection with services rendered in the above-entitled action (the “Litigation”).

2. LS is bankruptcy counsel for Lead Plaintiff and the proposed class.

3. The information in this declaration regarding LS’s time and expenses is taken from time and expense reports and supporting documentation prepared and/or maintained by LS in the ordinary course of business. I am the partner who oversaw and/or conducted the day-to-day activities of LS in the Litigation, and I reviewed these reports (and backup documentation where necessary or appropriate) in connection with the preparation of this declaration. The purpose of this review was to confirm both the accuracy of the entries as well as the necessity for, and reasonableness of, the time and expenses committed to the Litigation. Based on this review, I believe that the time reflected in the LS’s lodestar calculation and the expenses for which payment is sought herein are reasonable and were necessary for the effective and efficient prosecution and resolution of the Litigation.

4. The number of hours spent on the Litigation by LS is 391.20. A breakdown of the lodestar is provided in Exhibit A. The lodestar amount for attorney/paraprofessional time based on LS's current rates is \$442,893.50. The hourly rates shown in Exhibit A are consistent with hourly rates submitted by LS as bankruptcy counsel in other securities class action litigation. LS's rates are set based on periodic analysis of rates charged by firms performing comparable work in significant Chapter 11 cases on behalf of lead plaintiffs in securities litigation. For personnel who are no longer employed by LS, the "current rate" used for the lodestar calculation is based upon the rate for that person in his or her final year of employment with LS.

5. LS does not seek an award for expenses and charges in connection with the prosecution of the Litigation since these expenses were paid by Lead Counsel pursuant to the terms of LS's engagement.

6. The identification and background of LS and its partners, me and Andrew Behlmann, who were involved in the representation of Lead Plaintiff and the class and in connection with the Windstream Chapter 11 cases is attached hereto as Exhibit B.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 12th day of December, 2024, at Roseland, New Jersey.



MICHAEL S. ETKIN

EXHIBIT A

EXHIBIT A*Robert Murray v. Earthlink Holdings Corp., et al.*, No. 4:18-cv-00202-JM

Lowenstein Sandler LLP

March 24, 2019 through September 6, 2024

<i>NAME</i>		<i>HOURS</i>	<i>RATE</i>	<i>LODESTAR</i>
Etkin, Michael S.	P	90.8	\$1,475.00	\$133,930.00
Behlmann, Andrew D.	P	231.9	\$1,085.00	\$251,611.50
Cargill, Scott	OC	25.7	\$1,090.00	\$28,013.00
Lawler, Elizabeth	PL	18.1	\$345.00	\$6,244.50
Restel, Colleen	C	24.7	\$935.00	\$23,094.50
<i>TOTAL</i>		391.2		\$442,893.50

Legend

P = **PARTNER**
C = **COUNSEL**
OC = **OF COUNSEL**
PL = **PARALEGAL**

EXHIBIT B

EXHIBIT B

BANKRUPTCY & RESTRUCTURING DEPARTMENT

Lowenstein's bankruptcy lawyers are in demand by business leaders, credit managers, financial advisors, institutional investors and restructuring professionals seeking a resourceful, aggressive, well-connected law firm. We understand how to reach a negotiated resolution yet have a strong track record at trial. We represent debtors, creditors' committees, individual and institutional stakeholders, and trustees in Chapter 11 proceedings throughout the United States.

A reorganization may be the most practical and promising strategy for a troubled company. We advise on prepackaged and prenegotiated plans, which implement quick restructurings that might otherwise take years to complete. We also counsel debtors, creditors, and financial institutions in nonjudicial debt restructurings or workouts involving public and privately held companies.

In some instances, a business is not in distress but wishes to retire debt at a discount, restructure operations, or recapitalize. As a bankruptcy law firm, our attorneys work with companies seeking creative techniques to achieve specific business goals to deal with these issues.

A company's fiscal difficulty affects various other parties, such as those who have provided loans, supplied goods and services, or invested capital. We represent official and unofficial creditors' committees and equity committees in diverse Chapter 11 and other insolvency matters. We collaborate with commercial and investment banks, savings institutions, mutual funds, pension funds, and other financial firms in their management of troubled credit, or claims against companies in distress. Our attorneys also advise clients who are interested in buying assets from Chapter 11 debtors. We structure and secure bankruptcy court approval of debtor-in-possession financing, represent lenders in exploring and establishing these and other financing opportunities and represent asset purchasers.

When appropriate, we consult with the firm's corporate and tax groups to structure transactions that minimize future complications and liability, and to avoid the domino effect that one bad deal can have on a company's overall well-being. We also advise on the significant bankruptcy aspects of various transactions, including commercial finance transactions, as well as on mergers, acquisitions, and divestitures of solvent, insolvent, and other highly leveraged companies. Our bankruptcy attorneys are involved in large and complex commercial, industrial, and residential real estate insolvencies, and they assist companies in emerging from bankruptcy with controlled environmental liabilities.

We also prosecute and defend all types of litigation related to bankruptcy proceedings. We are noted for representing the interests of shareholders, investors, and consumers in class action and other litigation against corporate defendants that are in bankruptcy.

Whether defrauded institutional investors, individual investors, state, local, and union employee pension and benefit funds, investment managers, or consumers in some of the largest and most significant Chapter 11 cases, we understand the nuances and pitfalls facing such claimants in a bankruptcy context. Such representation helps protect a class of creditors that generally receives little or no recovery in Chapter 11 reorganizations or liquidations throughout the country including the most active jurisdictions.

**Michael S. Etkin**

Partner, Bankruptcy & Restructuring Department

E-mail: metkin@lowenstein.com**T:** 973.597.2312

A senior bankruptcy practitioner and seasoned commercial litigator, Michael Etkin ("Mickey") has extensive experience in complex business reorganizations, investor litigation in a bankruptcy context, and high-stakes Chapter 11 issues. Clients value Mickey's keen understanding and insight into key issues impacting both debtors and creditors, as well as his commercial vision, creativity, and deep experience. Mickey has been recognized in *Chambers USA: America's Leading Lawyers for Business* in the area of Bankruptcy/Restructuring since 2013 and in *The Best Lawyers in America* since 2007 for his work in Bankruptcy and Creditor Debtor Rights / Insolvency and Reorganization Law and Litigation – Bankruptcy.

A key member of the firm's successful bankruptcy and complex business litigation practices, Mickey represents debtors, trustees, creditors, and investors in many noteworthy bankruptcies and bankruptcy-related litigation. He currently represents institutional investors in many significant complex Chapter 11 and Chapter 15 proceedings, such as SVB Financial Group, Genesis Global Holdco, FirstEnergy Corp., View, Inc., BlockFi, SmileDirectClub, Lordstown Motors, Celsius Network, Pacific Gas & Electric, Windstream, and McDermott International, among others. He represents important consumer interests in bankruptcy cases involving issues of privacy, product liability, and lending practices.

In addition, Mickey represents major energy companies in connection with bankruptcy proceedings involving their customers and counterparties. He frequently speaks before financial institutions, bar association groups, and credit associations on issues relating to the energy industry, including the rights of counterparties to derivatives and other energy-related contracts in a bankruptcy context. He chairs the Bankruptcy and Creditors' Rights Group of the International Energy Credit Association.

Mickey also routinely speaks at programs on the rights of securities fraud claimants and class action plaintiffs in a Chapter 11 context, and on the interplay between bankruptcy law and product liability litigation.

Education

- St. John's University School of Law (J.D. 1978), with honors
- Boston University (B.S. 1975), cum laude



Affiliations

- International Energy Credit Association
- New Jersey Turnaround Management Association (TMA)
- Federal Bar Council

Admissions

- New York
- New Jersey

**Andrew Behlmann**

Partner, Bankruptcy & Restructuring Department

E-mail: abehlmann@lowenstein.com**T:** 973.597.2332

Andrew Behlmann leverages his background in corporate finance and management to approach restructuring problems, both in and out of court, from a practical, results-oriented perspective. With a focus on building consensus among multiple parties that have competing priorities, Andrew is equally at home both in and out of the courtroom, and he has a track record of turning financial distress into positive business outcomes. Clients value his counsel in complex Chapter 11 cases, where he represents debtors, creditors' committees, purchasers, and investors.

Andrew writes and speaks frequently about bankruptcy matters and financial issues. Before becoming a lawyer, he worked in senior financial management at a midsize, privately held company.

Education

- Seton Hall University School of Law (J.D. 2009), magna cum laude; Order of the Coif
- University of Missouri-Saint Louis (B.S. 2005), Business Administration-Finance and Accounting; Beta Gamma Sigma

Affiliations

- *New Jersey Law Journal*
 - Member, Young Lawyer Advisory Board

Admissions

- New Jersey
- U.S. Court of Appeals for the First Circuit
- U.S. Court of Appeals for the Third Circuit
- U.S. District Court for the Southern District of Texas