

**Electronically Filed
by Superior Court of CA,
County of Santa Clara,
on 2/7/2022 3:43 PM
Reviewed By: R. Walker
Case #18CV329690
Envelope: 8234886**

ROBBINS GELLER RUDMAN
& DOWD LLP
ELLEN GUSIKOFF STEWART (144892)
JAMES I. JACONETTE (179565)
655 West Broadway, Suite 1900
San Diego, CA 92101
Telephone: 619/231-1058
619/231-7423 (fax)
elleng@rgrdlaw.com
jamesj@rgrdlaw.com

BOTTINI & BOTTINI, INC.
FRANCIS A. BOTTINI, JR. (175783)
YURY A. KOLESNIKOV (271173)
7817 Ivanhoe Avenue, Suite 102
La Jolla, CA 92037
Telephone: 858/914-2001
858/914-2002 (fax)
fbottini@bottinilaw.com
ykolesnikov@bottinilaw.com

Class Counsel

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SANTA CLARA

MATT WOLTER, Individually and on
Behalf of All Others Similarly Situated,

Plaintiff,

vs.

SHUBHAM MAHESHWARI, et al.,

Defendants.

) Lead Case No. 18CV329690
) (Consolidated with No. 18CV332463 and
) No. 18CV332644)

) CLASS ACTION

) DECLARATION OF ELLEN GUSIKOFF
) STEWART IN SUPPORT OF PLAINTIFFS'
) COUNSEL'S MOTION FOR AN AWARD OF
) ATTORNEYS' FEES AND EXPENSES AND
) AWARDS TO CLASS REPRESENTATIVES
) PURSUANT TO 15 U.S.C. §77z-1(a)(4)

DATE: April 21, 2022
TIME: 1:30 p.m.
DEPT: 1
JUDGE: Sunil R. Kulkarni
Date Action Filed: June 8, 2018

DECLARATION OF ELLEN GUSIKOFF STEWART IN SUPPORT OF PLAINTIFFS' COUNSEL'S MOTION FOR
AN AWARD OF ATTORNEYS' FEES AND EXPENSES AND AWARDS TO CLASS REPRESENTATIVES
PURSUANT TO 15 U.S.C. §77z-1(a)(4)

1 I, ELLEN GUSIKOFF STEWART, declare as follows:

2 1. I am an attorney at law, licensed to practice in the State of California. I am a partner at
3 the law firm of Robbins Geller Rudman & Dowd LLP, which is class counsel in this action. I submit
4 this declaration in support of Plaintiffs' Counsel's motion for an award of attorneys' fees and expenses
5 and awards to Class Representatives.

6 2. Attached are true and correct copies of the following exhibits:

7
8 Exhibit A: Laarni T. Bulan & Laura E. Simmons, *Securities Class Action Settlements – 2020 Review and Analysis* (Cornerstone Research 2021);

9 Exhibit B: *Snap Inc. Securities Cases*, No. JCCP 4960, slip op. (Los Angeles Super. Ct. Apr.
10 14, 2021);

11 Exhibit C: *Beaver Cnty. Empls. Ret. Fund v. Cyan, Inc.*, No. CGC-14-538355, slip op. (San
12 Francisco Super. Ct. Aug. 8, 2019);

13 Exhibit D: *In re Avalanche Biotechnologies, Inc. S'holder Litig.*, No. CIV536488, slip op.
(San Mateo Super. Ct. Jan. 19, 2018);

14 Exhibit E: *In re Menlo Therapeutics Inc. Sec. Litig.*, No. 18CIV06049, slip op. (San Mateo
15 Super Ct. Aug. 14, 2020);

16 Exhibit F: *In re Sunrun Inc. S'holder Litig.*, No. CIV538215, slip op. (San Mateo Super. Ct.
17 Dec. 14, 2018);

18 Exhibit G: *Brooks v. Capitol Valley Elec. Inc.*, No. CIV 536903, slip op. (San Mateo Super.
19 Ct. Mar. 7, 2017);

20 Exhibit H: *W. Palm Beach Police Pension Fund v. CardioNet, Inc.*, No. 37-2010-00086836-
21 CU-SL-CTL, slip op. (San Diego Super. Ct. June 28, 2012);

22 Exhibit I: *Lezin v. Minimed, Inc.*, No. BC251832, slip op. (Los Angeles Super. Ct. Aug.
23 10, 2004);

24 Exhibit J: *Lou v. Zenith*, No. BC015017, slip op. (Los Angeles Super Ct. Sept. 17, 1993);

25 Exhibit K: *Goldman v. FarWest Fin. Corp.*, No. C-754698, slip op. (Los Angeles Super. Ct.
26 Nov. 30, 1993);

27 Exhibit L: *In re McAfee, Inc. S'holder Litig.*, No. 1:10-cv-180413, slip op. (Santa Clara
28 Super. Ct. Oct. 17, 2019);

Exhibit M: *In re Ooma, Inc. S'holder Litig.*, No. CIV536959, slip op. (San Mateo Super. Ct.
Oct. 18, 2019); and

Exhibit N: *Chicago Laborers Pension Fund v. Alibaba Grp. Holding Ltd.*, No. CIV535692,
slip op. (San Mateo Super. Ct. May 17, 2019).

1 I declare under penalty of perjury under the laws of the State of California that the foregoing is
2 true and correct to the best of my knowledge. Executed this 7th day of February, 2022, at San Diego,
3 California.

4 

5
6 ELLEN GUSIKOFF STEWART

EXHIBIT A

CORNERSTONE RESEARCH

Economic and Financial Consulting and Expert Testimony

Securities Class Action Settlements

2020 Review and Analysis

Table of Contents

Highlights	1
Author Commentary	2
Total Settlement Dollars	3
Settlement Size	4
Damages Estimates	5
Rule 10b-5 Claims: “Simplified Tiered Damages”	5
‘33 Act Claims: “Simplified Statutory Damages”	7
Analysis of Settlement Characteristics	9
GAAP Violations	9
Derivative Actions	10
Corresponding SEC Actions	11
Institutional Investors	12
Time to Settlement and Case Complexity	13
Case Stage at the Time of Settlement	14
Cornerstone Research’s Settlement Prediction Analysis	15
Research Sample	16
Data Sources	16
Endnotes	17
Appendices	18
About the Authors	23

The views expressed in this report are solely those of the authors, who are responsible for the content, and do not necessarily represent the views of Cornerstone Research.

Table of Figures and Appendices

Figure 1: Post–Reform Act Settlement Statistics	1
Figure 2: Total Settlement Dollars	3
Figure 3: Distribution of Settlements	4
Figure 4: Median and Average “Simplified Tiered Damages” in Rule 10b-5 Cases	5
Figure 5: Median Settlements as a Percentage of “Simplified Tiered Damages” by Damages Ranges in Rule 10b-5 Cases	6
Figure 6: Settlements by Nature of Claims	7
Figure 7: Median Settlements as a Percentage of “Simplified Statutory Damages” by Damages Ranges in ‘33 Act Claim Cases	8
Figure 8: Median Settlements as a Percentage of “Simplified Tiered Damages” and GAAP Allegations	9
Figure 9: Frequency of Derivative Actions	10
Figure 10: Frequency of SEC Actions	11
Figure 11: Median Settlement Amounts and Public Pension Plans	12
Figure 12: Median Settlement by Duration from Filing Date to Settlement Hearing Date	13
Figure 13: Median Settlement Dollars and Resolution Stage at Time of Settlement	14
Appendix 1: Initial Announcements of Settlements by Month	18
Appendix 2: Distribution of Post–Reform Act Settlements	18
Appendix 3: Settlement Percentiles	19
Appendix 4: Select Industry Sectors	19
Appendix 5: Settlements by Federal Circuit Court	20
Appendix 6: Mega Settlements	20
Appendix 7: Median and Average Settlements as a Percentage of “Simplified Tiered Damages”	21
Appendix 8: Median and Average Maximum Dollar Loss (MDL)	21
Appendix 9: Median and Average Disclosure Dollar Loss (DDL)	22
Appendix 10: Median Docket Entries by “Simplified Tiered Damages” Range	22

Analyses in this report are based on 1,925 securities class actions filed after passage of the Private Securities Litigation Reform Act of 1995 (Reform Act) and settled from 1996 through year-end 2020. See page 16 for a detailed description of the research sample. For purposes of this report and related research, a settlement refers to a negotiated agreement between the parties to a securities class action that is publicly announced to potential class members by means of a settlement notice.

Highlights

The median total settlement amount dipped from a historic high in 2019, but remained 19% above the 2011–2019 median. And, continuing a trend observed in 2019, the size of issuer defendant firms (measured by median total assets) for 2020 settled cases increased 34% over the prior year.

- There were 77 settlements totaling \$4.2 billion in 2020. (page 3)
- The median settlement in 2020 of \$10.1 million fell 13% from 2019 (adjusted for inflation) but was still 19% higher than the prior nine-year median. (page 4)
- While the average settlement doubled from \$27.8 million in 2019 to \$54.5 million in 2020 (due to a few very large settlements), it was only 15% higher than the prior nine-year average. (page 4)
- There were six mega settlements (settlements equal to or greater than \$100 million) in 2020, ranging from \$149 million to \$1.2 billion. (page 3)
- For cases with Rule 10b-5 claims, the median settlement as a percentage of “simplified tiered damages” was 5.3% in 2020, slightly higher than prior years. (page 6)
- Median “simplified statutory damages” for cases involving only Section 11 and/or Section 12(a)(2) claims (‘33 Act claim cases) in 2020 was 32% lower than in 2019. (page 7)
- The proportion of settled cases alleging Generally Accepted Accounting Principles (GAAP) violations in 2020 was 42%, among the lowest of all post–Reform Act years. (page 9)
- Of settled cases in 2020, 55% involved an accompanying derivative action, the second-highest rate over the last 10 years.¹ (page 10)
- The average time from filing to settlement approval for 2020 settlements was 3.3 years. (page 13)

Figure 1: Post–Reform Act Settlement Statistics
(Dollars in millions)

	1996–2019	2019	2020
Number of Settlements	1,848	74	77
Total Amount	\$107,296.4	\$2,055.1	\$4,199.8
Minimum	\$0.2	\$0.5	\$0.3
Median	\$9.0	\$11.6	\$10.1
Average	\$58.1	\$27.8	\$54.5
Maximum	\$9,285.7	\$394.4	\$1,210.0

Note: Settlement dollars are adjusted for inflation; 2020 dollar equivalent figures are used.

Author Commentary

2020 Findings

Despite the unprecedented economic disruption caused by the COVID-19 pandemic in 2020, settlements in securities class actions generally continued at a pace typical of recent years. The exception was a substantial drop in the number of settlements that were announced during the month of April, but this was followed by a sharp rebound in May (see Appendix 1).²

Additionally, as described below, in several respects settlement amounts and characteristics returned to patterns more consistent with historical trends than the results observed for 2019.

In particular, the median settlement amount in 2019 was at a historically high level, driven primarily by a reduction in the number of small settlements. The reduced level of small settlements reversed in 2020, with over 30% of cases settling for amounts less than \$5 million.

In addition, public pension plan involvement as lead plaintiffs rebounded from the all-time low in 2019 to 40% of all settled cases in 2020—in line with earlier years in the last decade. Among the larger cases in 2020 (cases with “simplified tiered damages” greater than \$250 million), nearly 60% had a public pension plan as lead plaintiff.

Our research also examines the number of docket entries as a proxy for the time and effort by plaintiff counsel and/or case complexity. For 2019 settled cases, average docket entries were the highest in the last 10 years. However, in 2020, this also reversed to levels consistent with prior years.

On the other hand, continuing a trend noted in our 2019 report, the size of issuer defendant firms (measured by median total assets) for 2020 settled cases increased by 34% over 2019 and more than 125% over the prior nine years. As observed in last year’s report, the population of public firms has been declining, and those companies that remain are larger.³

In several respects, after an unusual year in 2019, settlements in 2020 represented a return to levels prevalent in prior years. However, one prominent trend continuing from 2019 is an increase in the size of issuer defendant firms.

*Dr. Laarni T. Bulan
Principal, Cornerstone Research*

Any disruption in settlement rates as a result of the COVID-19 pandemic appears to have been temporary, with the overall number of settlements for 2020 in line with recent years. It will likely be at least a couple of years before we learn whether COVID-19-related allegations have had an impact on other settlement trends.

*Dr. Laura E. Simmons
Senior Advisor, Cornerstone Research*

Looking Ahead

On average, cases take just over three years to reach settlement. Thus, trends in case filings during the last few years are relevant to anticipating developments in settlements in upcoming years.

As discussed in *Securities Class Action Filings—2020 Year in Review*, overall, both the number and size of case filings alleging Rule 10b-5 and/or Section 11 claims were elevated in 2018–2020 compared to earlier years. Thus, we anticipate relatively high levels of settlements in upcoming years in terms of the count and dollar amounts, absent an increase in dismissal rates or developments that might affect settlement size.

In recent years, several trends in nontraditional case allegations have been observed in case filings, including allegations related to cybersecurity, cryptocurrency, and special purpose acquisition companies (SPACs). A small number of these cases have reached settlement to date but a large portion remains active. Accordingly, we expect that cases involving these issues will reach the settlement stage in future years. In addition, the emergence of cases with COVID-19-related allegations in 2020 may also affect settlement trends.

Further, as discussed in this report, the proportion of settled cases involving accompanying Securities and Exchange Commission (SEC) actions declined in 2020. However, this decline may not continue given recent findings of an increase in filings of SEC actions alleging issuer reporting and disclosure issues. (See *SEC Enforcement Activity: Public Companies and Subsidiaries—Fiscal Year 2020 Update*, Cornerstone Research.)

—Laarni T. Bulan and Laura E. Simmons

Total Settlement Dollars

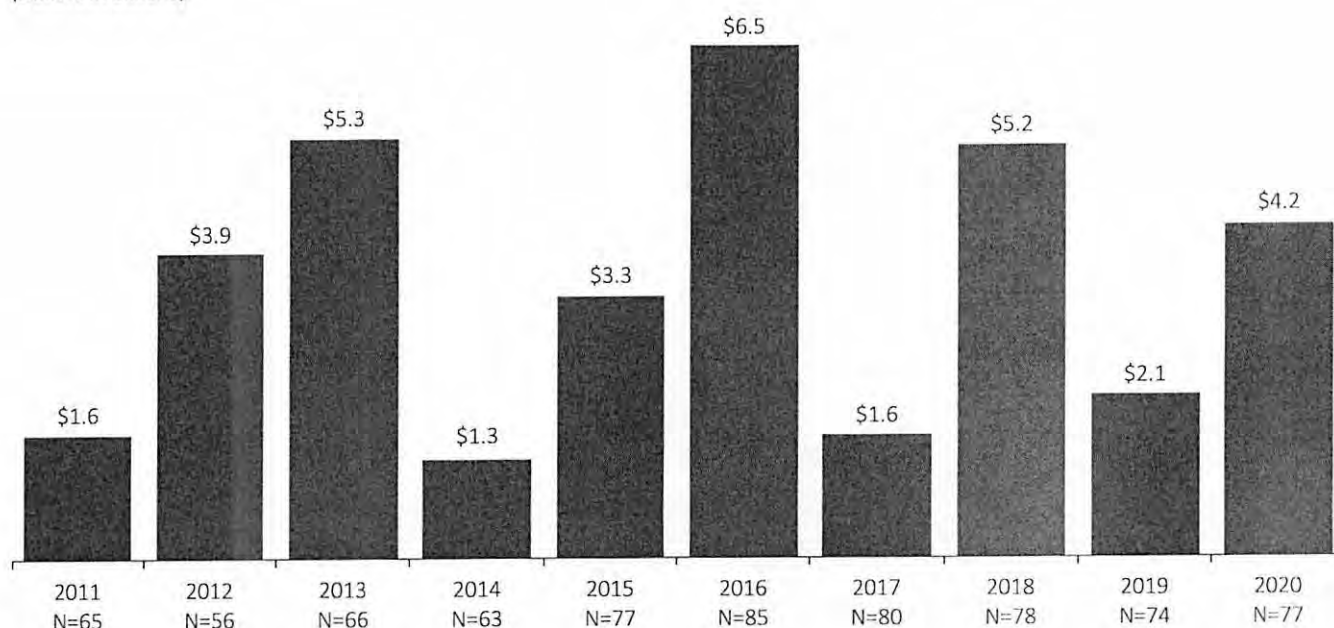
- The total value of settlements approved by courts in 2020 doubled from 2019 due to the presence of a few very large settlements. However, excluding settlements over \$1 billion, total settlement dollars declined 4% in 2020 over 2019 (adjusted for inflation).
- There were six mega settlements (equal to or greater than \$100 million) in 2020, with settlements ranging from \$149 million to \$1.2 billion. *(See Appendix 6 for additional information on mega settlements.)*

75% of total settlement dollars in 2020 came from mega settlements.

- The number of settlements approved in 2020 (77 cases) represented a modest increase from the prior nine-year average (72 cases).

Figure 2: Total Settlement Dollars
2011–2020

(Dollars in billions)



Note: Settlement dollars are adjusted for inflation; 2020 dollar equivalent figures are used. N refers to the number of cases.

Settlement Size

As discussed above, the median settlement amount declined from 2019. Generally, the median is more stable from year to year than the average, since the average can be affected by the presence of even a small number of large settlements.

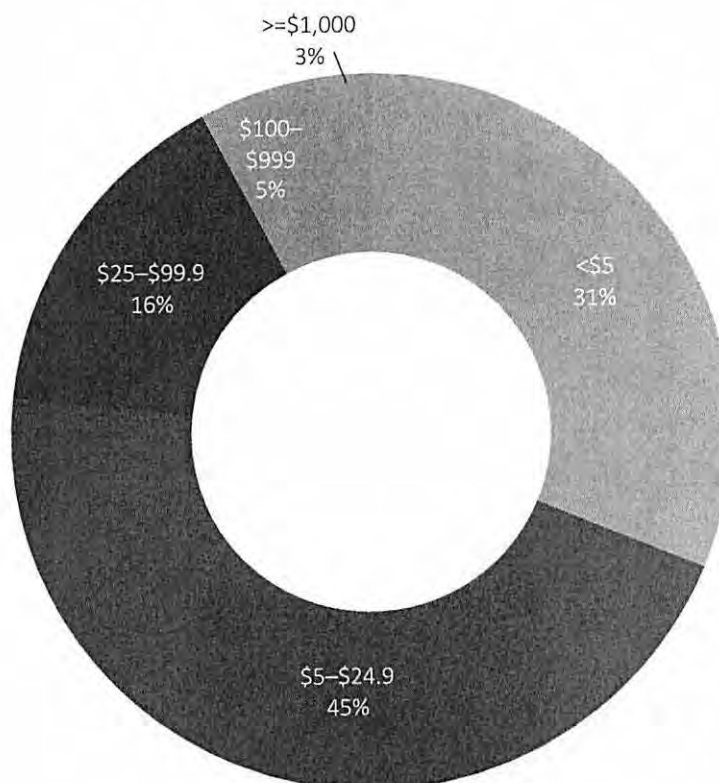
- The median settlement amount in 2020 of \$10.1 million represented a 13% decline over the historically high level observed in 2019 (adjusted for inflation), but was still elevated compared to prior years.
- The number of small settlements (less than \$5 million) also increased in 2020 to 24 cases (from 16 cases in 2019). (See Appendix 2 for additional information on distribution of settlements.)

- While the average settlement doubled from \$27.8 million in 2019 to \$54.5 million in 2020 (due to a few very large settlements), it was only 15% higher than the prior nine-year average. (See Appendix 3 for an analysis of settlements by percentiles.)
- If settlements exceeding \$1 billion are excluded, average settlement dollars in 2020 were actually 15% lower than the prior nine-year average.

.....
The proportion of cases that settled for between \$5 million and \$25 million returned to pre-2019 levels.
.....

Figure 3: Distribution of Settlements
2020

(Dollars in millions)



Damages Estimates

Rule 10b-5 Claims: “Simplified Tiered Damages”

“Simplified tiered damages” uses simplifying assumptions to estimate per-share damages and trading behavior. It provides a measure of potential shareholder losses that allows for consistency across a large volume of cases, thus enabling the identification and analysis of potential trends.⁴

Cornerstone Research’s prediction model finds this measure to be the most important factor in predicting settlement amounts.⁵ However, this measure is not intended to represent actual economic losses borne by shareholders. Determining any such losses for a given case requires more in-depth economic analysis.

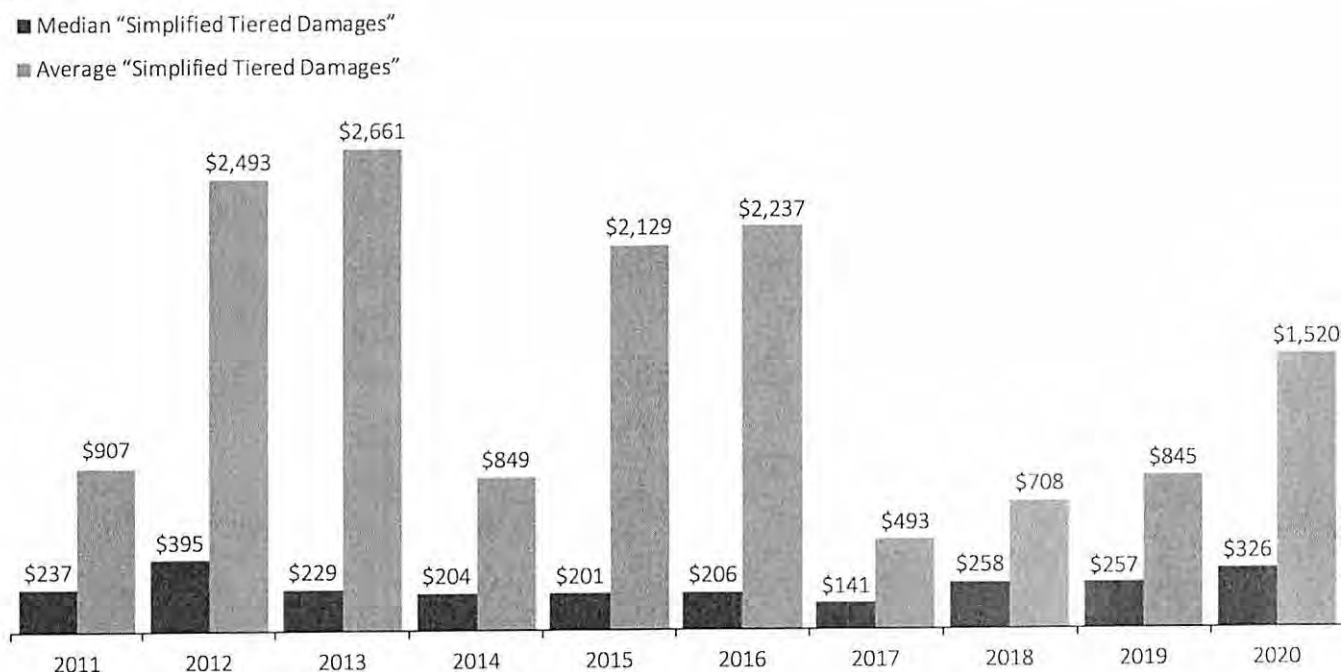
- Average “simplified tiered damages” increased for the third year in a row. (See Appendix 7 for additional information on the median and average settlements as a percentage of “simplified tiered damages.”)

Median “simplified tiered damages” was the second highest in the last decade.

- Median values provide the midpoint in a series of observations and are less affected than averages by outlier data. The increase in median “simplified tiered damages” in 2020 indicates a higher number of larger cases relative to 2019 (e.g., cases with “simplified tiered damages” exceeding \$250 million).
- Larger “simplified tiered damages” are typically associated with larger issuer defendants (measured by total assets or market capitalization of the issuer). Median total assets of issuer defendants in 2020 increased 34% from 2019 and more than 125% from the median for the prior nine years (2011–2019).

Figure 4: Median and Average “Simplified Tiered Damages” in Rule 10b-5 Cases 2011–2020

(Dollars in millions)



Note: “Simplified tiered damages” are adjusted for inflation based on class period end dates. Damages are estimated for cases alleging a claim under Rule 10b-5 (whether alone or in addition to other claims).

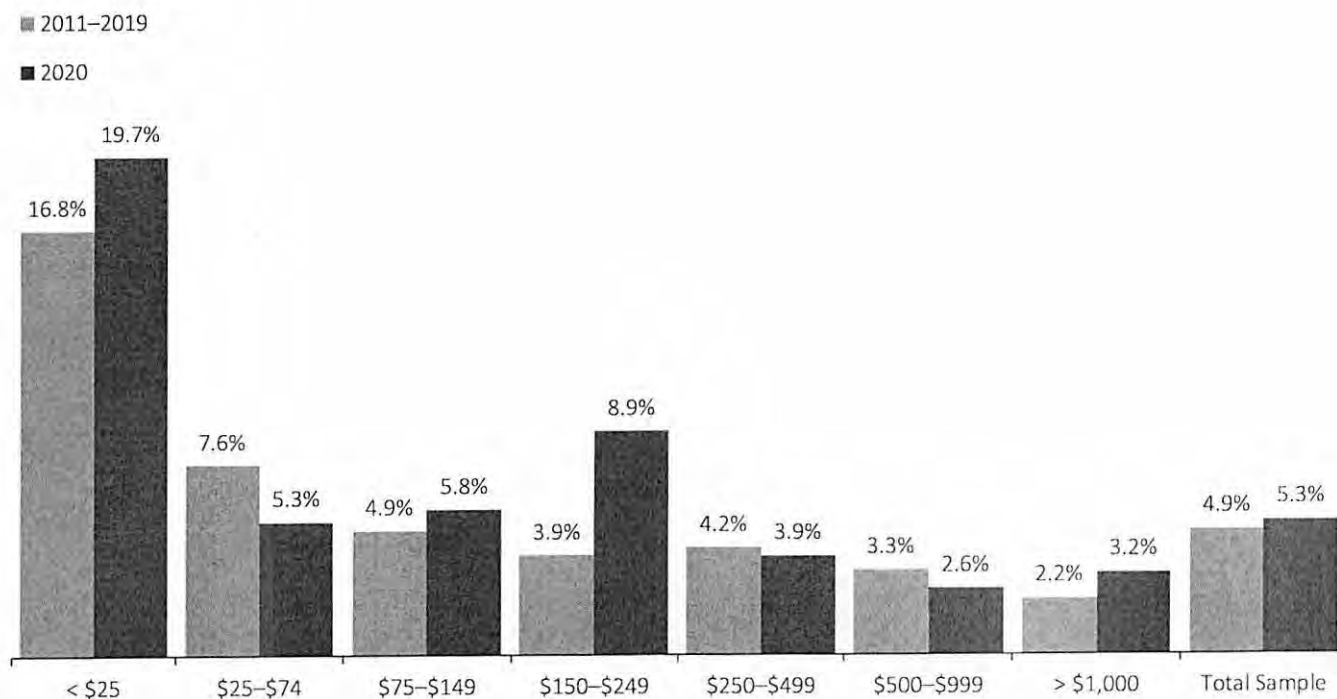
- Larger cases, as measured by “simplified tiered damages,” typically settle for a smaller percentage of damages.
- Smaller cases (less than \$25 million in “simplified tiered damages”) typically settle more quickly. In 2020, these cases settled within 3.4 years on average, compared to 4 years for cases with “simplified tiered damages” greater than \$500 million.
- Smaller cases are less likely to be associated with factors such as institutional lead plaintiffs, related actions by the SEC, or criminal charges. *(See Analysis of Settlement Characteristics for a detailed discussion of these factors.)*

The median settlement as a percentage of “simplified tiered damages” increased 10% over 2019.

- The unusually high median settlement as a percentage of “simplified tiered damages” (8.9%) observed among 2020 settlements with “simplified tiered damages” between \$150 million and \$250 million may, at least in part, reflect an increased level of public pension plans acting as lead plaintiffs for this group of cases.

Figure 5: Median Settlements as a Percentage of “Simplified Tiered Damages” by Damages Ranges in Rule 10b-5 Cases 2011–2020

(Dollars in millions)



Note: Damages are estimated for cases alleging a claim under Rule 10b-5 (whether alone or in addition to other claims).

'33 Act Claims: "Simplified Statutory Damages"

For '33 Act claim cases—those involving only Section 11 and/or Section 12(a)(2) claims—shareholder losses are estimated using a model in which the statutory loss is the difference between the statutory purchase price and the statutory sales price, referred to here as "simplified statutory damages."⁶ Only the offered shares are assumed to be eligible for damages.

"Simplified statutory damages" are typically smaller than "simplified tiered damages," reflecting differences in the methodologies used to estimate alleged damages per share, as well as differences in the shares eligible to be damaged (i.e., only offered shares are included).

Median "simplified statutory damages" for '33 Act claim cases in 2020 was 32% lower than in 2019.

- Cases with only '33 Act claims tend to settle for smaller median amounts than cases that include Rule 10b-5 claims.
- For 2020 settlements, the median length of time from filing to settlement hearing date for '33 Act claim cases was more than 26% shorter than the duration for '33 Act claim cases settled during 2016–2019.

Figure 6: Settlements by Nature of Claims
2011–2020

(Dollars in millions)

	Number of Settlements	Median Settlement	Median "Simplified Statutory Damages"	Median Settlement as a Percentage of "Simplified Statutory Damages"
Section 11 and/or Section 12(a)(2) Only	77	\$8.0	\$120.3	7.4%

	Number of Settlements	Median Settlement	Median "Simplified Tiered Damages"	Median Settlement as a Percentage of "Simplified Tiered Damages"
Both Rule 10b-5 and Section 11 and/or Section 12(a)(2)	109	\$15.3	\$394.9	5.4%
Rule 10b-5 Only	525	\$8.1	\$209.5	4.6%

Note: Settlement dollars and damages are adjusted for inflation; 2020 dollar equivalent figures are used.

- Median settlements as a percentage of “simplified statutory damages” in 2020 was 31% lower than the value in 2019.

88% of cases with only '33 Act claims involved an underwriter as a codefendant.

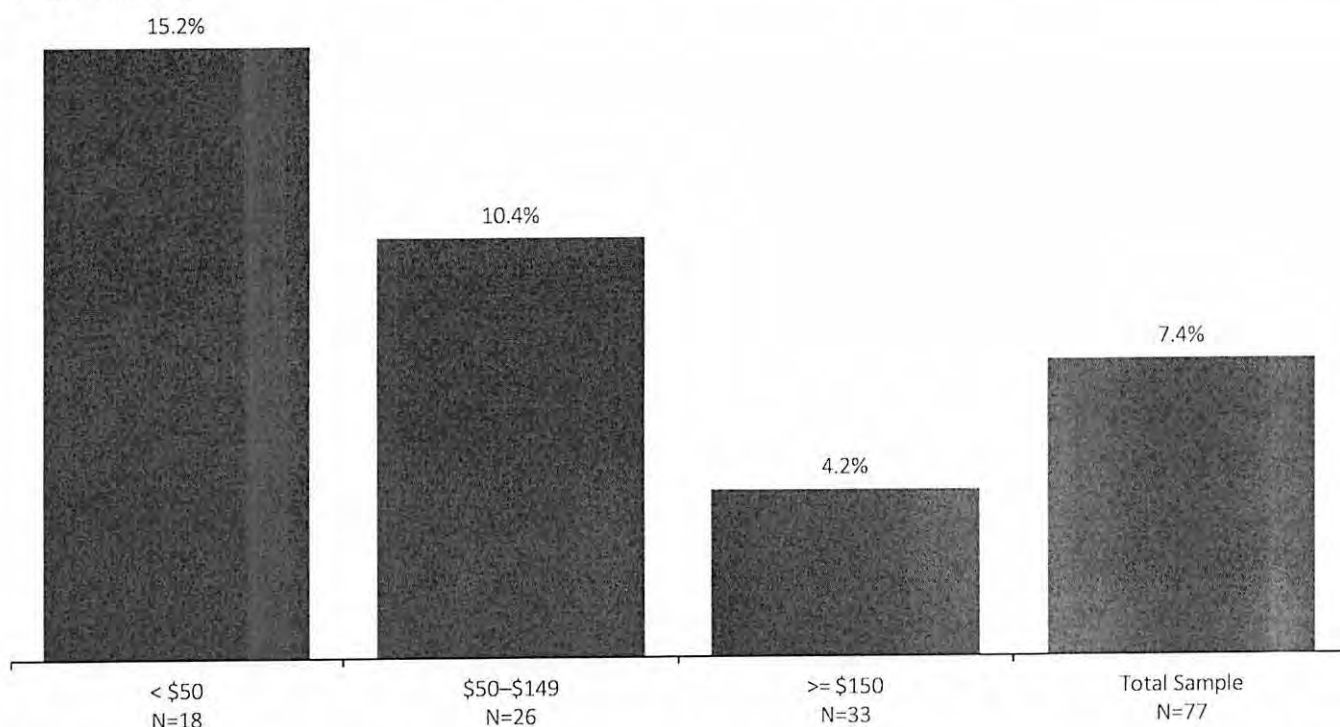
- Nearly 85% of the '33 Act claim cases settled from 2011 through 2020 involved an initial public offering (IPO).
- Among those cases with identifiable contributions, D&O liability insurance provided, on average, more than 90% of the total settlement fund for '33 Act claim cases from 2011 to 2020.⁷

The March 2018 U.S. Supreme Court decision in *Cyan Inc. v. Beaver County Employees Retirement Fund* held that '33 Act claim securities class actions can be brought in state court. While '33 Act claim cases had often been brought in state courts before *Cyan*, filing rates in state courts increased substantially following this ruling.⁸

- By year-end 2020, only six post-*Cyan* filed '33 Act claim cases had settled. Among these post-*Cyan* filed cases, four were filed in state court.
- Following the *Cyan* decision, the number of settlements with allegations in both state and federal court increased. Typically in these parallel suits, state court cases will involve '33 Act claims and the federal case will involve Rule 10b-5 claims. However, in some instances, the federal case will involve '33 Act claims as well.

Figure 7: Median Settlements as a Percentage of “Simplified Statutory Damages” by Damages Ranges in '33 Act Claim Cases 2011–2020

(Dollars in millions)



Jurisdictions of Settlements of '33 Act Claim Cases

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
State Court	0	1	1	0	2	4	5	4	5	5
Federal Court	15	3	7	2	3	6	3	4	5	2

Note: N refers to the number of cases. Table does not include parallel suits.

Analysis of Settlement Characteristics

GAAP Violations

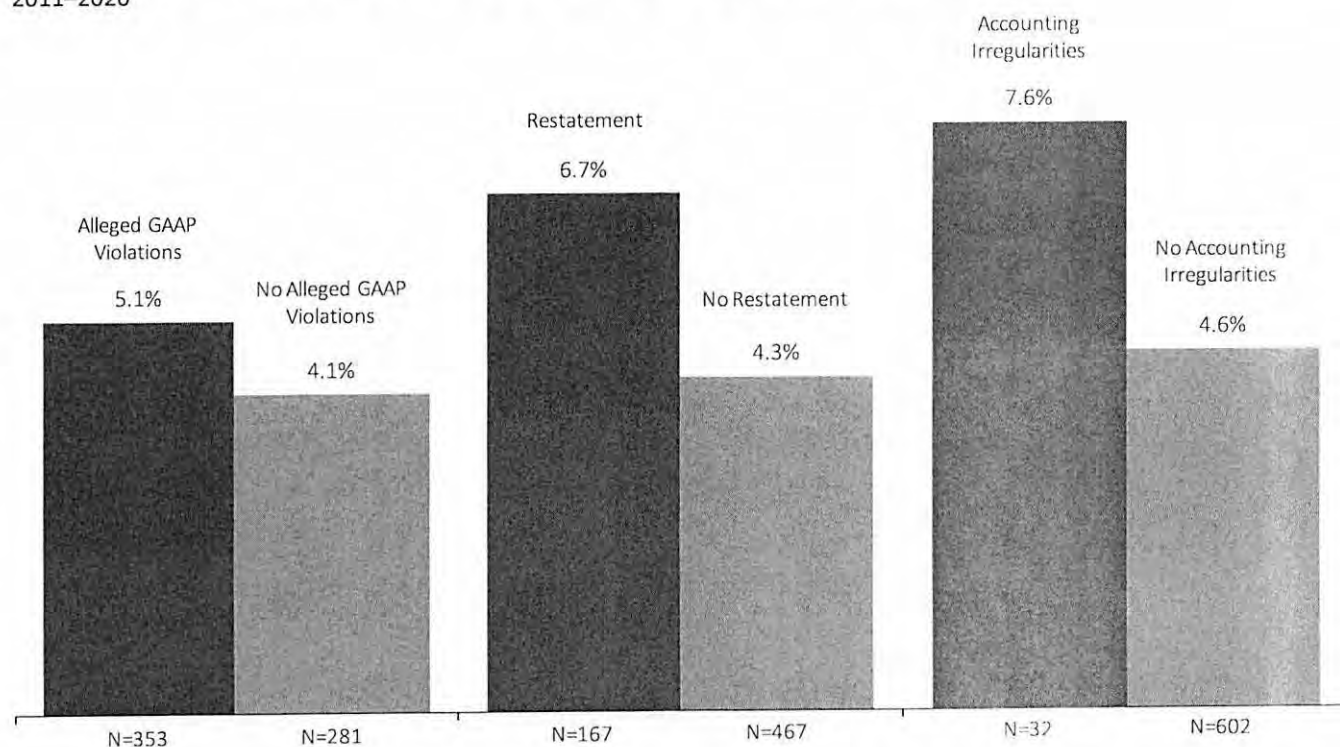
This analysis examines allegations of Generally Accepted Accounting Principles (GAAP) violations in settlements of securities class actions involving Rule 10b-5 claims.⁹ For further details regarding settlements of accounting cases, see Cornerstone Research’s annual report on *Accounting Class Action Filings and Settlements*.¹⁰

- For settlements over the last 10 years, median settlements as a percentage of “simplified tiered damages” for cases involving financial statement restatements have been higher than for non-restatement cases. However, only 14.5% of cases settled in 2020 had allegations regarding restatements, a 48% decline from the prior nine-year median.
- From 2011 to 2020, median “simplified tiered damages” for cases involving GAAP allegations were 13% lower than for cases absent such allegations.

- From 2016 to 2020, among cases settled with GAAP allegations, on average, 13% involved a named auditor codefendant compared with an average of 19% from 2011 to 2015.
- The frequency of reported accounting irregularities shrunk to just over 2.9% among 2020 settlements following a high of 9.4% in 2019.
- In 2020, the median class period length was more than two years for cases with GAAP allegations. For cases without GAAP allegations, the median class period length was just over one year.

The proportion of settled cases alleging GAAP violations in 2020 was 42%, among the lowest of all post-Reform Act years.

Figure 8: Median Settlements as a Percentage of “Simplified Tiered Damages” and GAAP Allegations 2011–2020



Note: N refers to the number of cases.

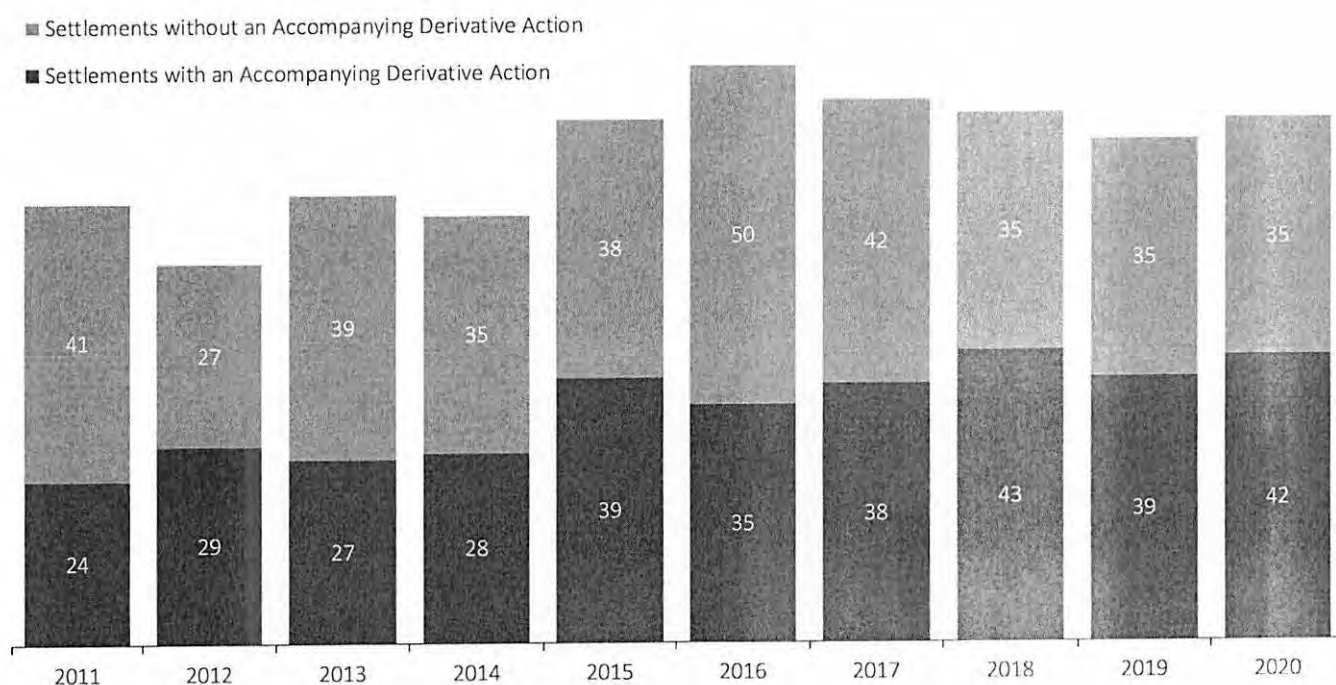
Derivative Actions

- Settled cases involving an accompanying derivative action are typically associated with both larger cases (measured by “simplified tiered damages”) and larger settlement amounts.
- For the 42 case settlements in 2020 with an accompanying derivative action, the median settlement was \$15.3 million compared to \$8.5 million for cases without a derivative action.
- Both median total assets and median “simplified tiered damages” in cases with an accompanying derivative action were more than double the median in 2019.

In 2020, 55% of settled cases involved an accompanying derivative action, the second-highest rate over the last 10 years.

- Parallel derivative suits related to class action settlements have been filed most frequently in California, Delaware, and New York. Among 2020 settlements, parallel derivative actions filed in California declined steeply (down 66% from 2019 settlements). However, 40% of settled cases with parallel derivative actions had actions filed in Delaware, the highest proportion in the past decade.

Figure 9: Frequency of Derivative Actions
2011–2020



Corresponding SEC Actions

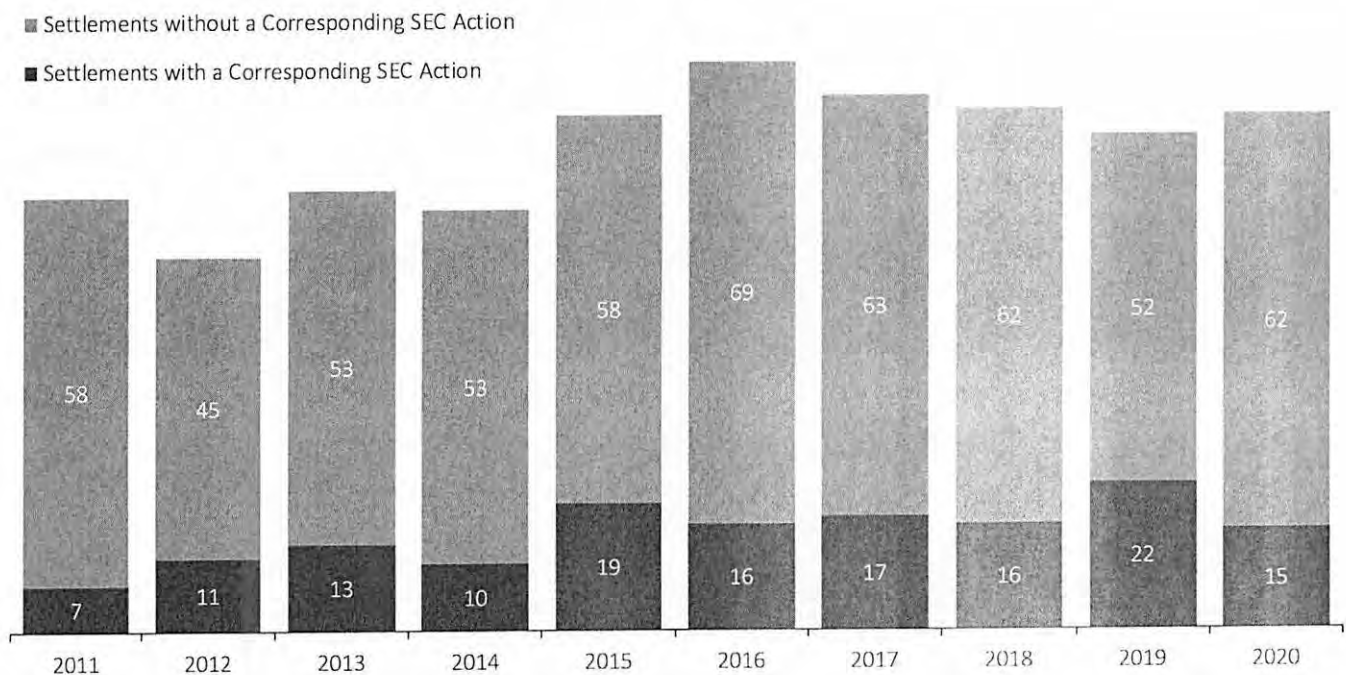
- Cases with an SEC action related to the allegations are typically associated with significantly higher settlement amounts.¹¹
- From 2011 to 2020, median settlement amounts (adjusted for inflation) for cases that involved a corresponding SEC action were 11% higher than for cases without such an action.

For cases settled during 2016–2020, 36% of cases with a corresponding SEC action involved a distressed issuer defendant, that is, an issuer that had either declared bankruptcy or was delisted from a major U.S. exchange prior to settlement.

In 2020, the rate of settled cases involving a corresponding SEC action fell 32% from the prior year.

- Settled cases with corresponding SEC actions have involved GAAP allegations less frequently in recent years. From 2011 to 2015, 85% of these cases involved GAAP allegations, compared to 70% from 2016 to 2020.
- Cases involving corresponding SEC actions may also include related criminal charges in connection with the allegations covered by the underlying class action. From 2016 to 2020, 35% of settled cases with an SEC action had related criminal charges.¹²

Figure 10: Frequency of SEC Actions
2011–2020



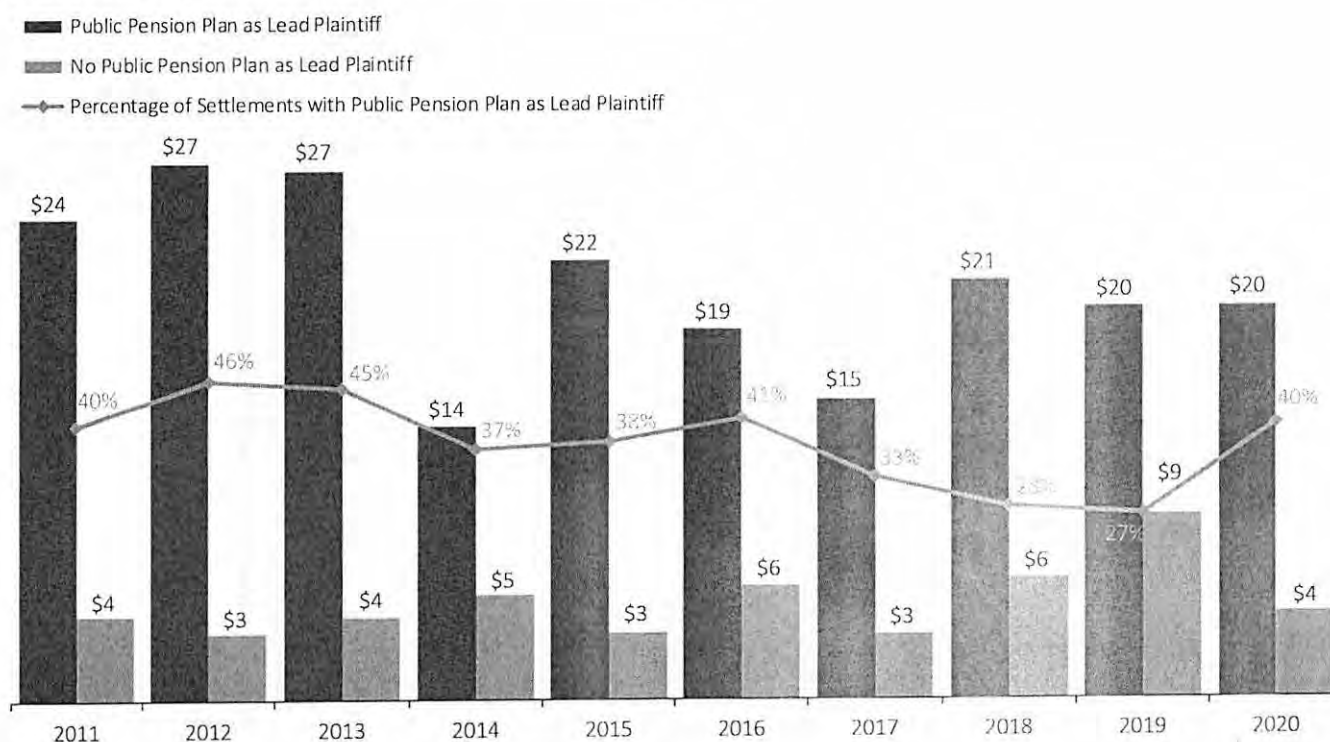
Institutional Investors

- Despite the variation in the frequency of institutional investors acting as lead or co-lead plaintiffs in any given settlement year, institutional investors, including public pension plans, are consistently involved in larger cases, that is, cases with higher “simplified tiered damages” and higher total assets.
- Median “simplified tiered damages” for cases involving an institutional investor as a lead plaintiff in 2020 were nearly seven-and-a-half times higher than for cases without institutional investor involvement in a lead role.
- Median total assets of defendant firms for 2020 case settlements in which an institutional investor was a lead or co-lead plaintiff were more than 15 times the total assets for cases without an institutional investor acting as a lead plaintiff.
- Among 2020 settled cases that had an institutional investor as a lead plaintiff, 60% had a parallel derivative action, 22% had a corresponding SEC action, and 16% involved a criminal charge.
- In 2020, the median market capitalization decline during the alleged class period in cases with a public pension as a lead plaintiff was \$1.7 billion compared to \$419.6 million for cases without a public pension leading the class.
- The vast majority of cases taking more than five years to resolve (measured as the duration from filing date to settlement hearing date) involved a public pension as a lead plaintiff.

The frequency of public pension plans as lead plaintiff rebounded to levels observed earlier in the last decade.

Figure 11: Median Settlement Amounts and Public Pension Plans 2011–2020

(Dollars in millions)



Note: Settlement dollars are adjusted for inflation; 2020 dollar equivalent figures are used.

Time to Settlement and Case Complexity

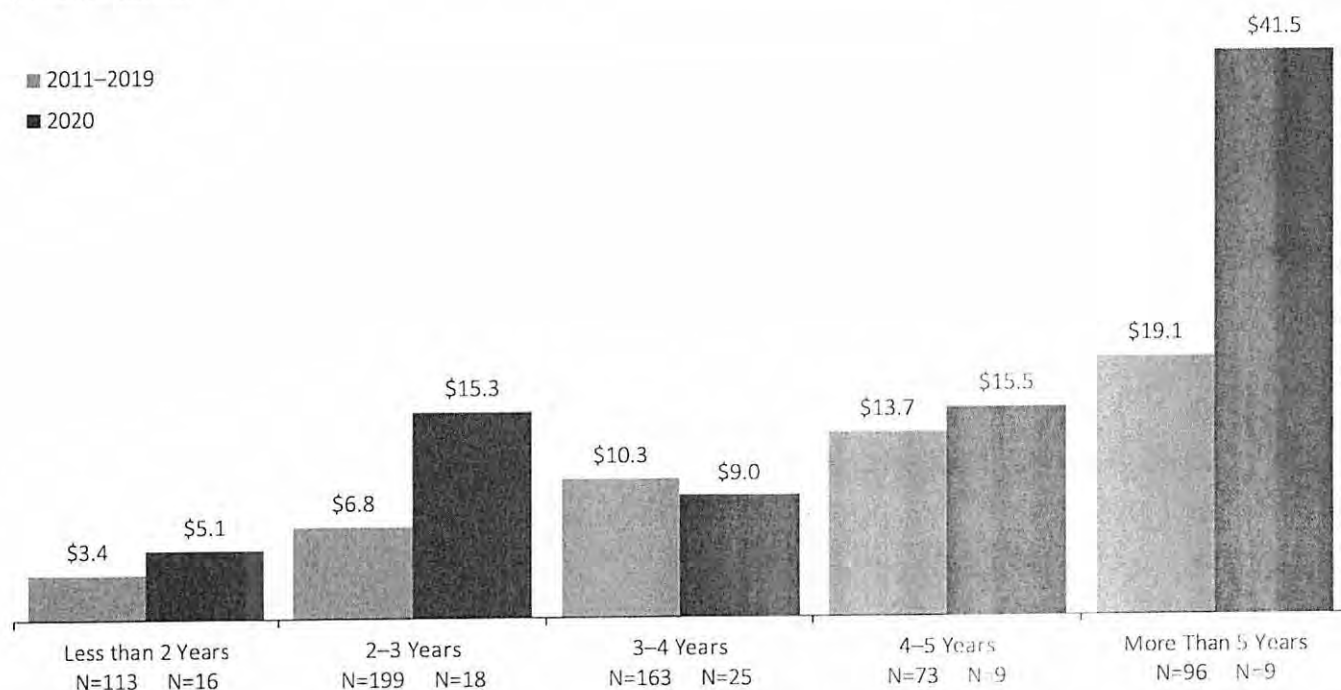
- The average time from filing to settlement in 2020 was 3.3 years, a small decrease relative to the prior nine-year average.
- Of cases in 2020 that took more than five years to settle, the median assets of the defendant firms (\$7.7 billion) as well as median “simplified tiered damages” (\$909 million) were substantially higher than in previous years.
- In 2020, 21% of cases settled within two years of the filing date. Of these 16 cases, nine settled before a ruling on motion to dismiss.

Cases that settled for more than \$100 million in 2020 took an average of 4.6 years from filing to settlement.

- The number of docket entries at the time of the settlement may reflect case complexity. This factor has also been used in prior research as a proxy for attorney effort.¹³ The average number of docket entries declined 19% in 2020 compared to 2019. Among cases that settled for more than \$100 million, however, the average number of docket entries jumped 64%.

Figure 12: Median Settlement by Duration from Filing Date to Settlement Hearing Date 2011–2020

(Dollars in millions)



Note: Settlement dollars are adjusted for inflation; 2020 dollar equivalent figures are used. N refers to the number of cases.

Case Stage at the Time of Settlement

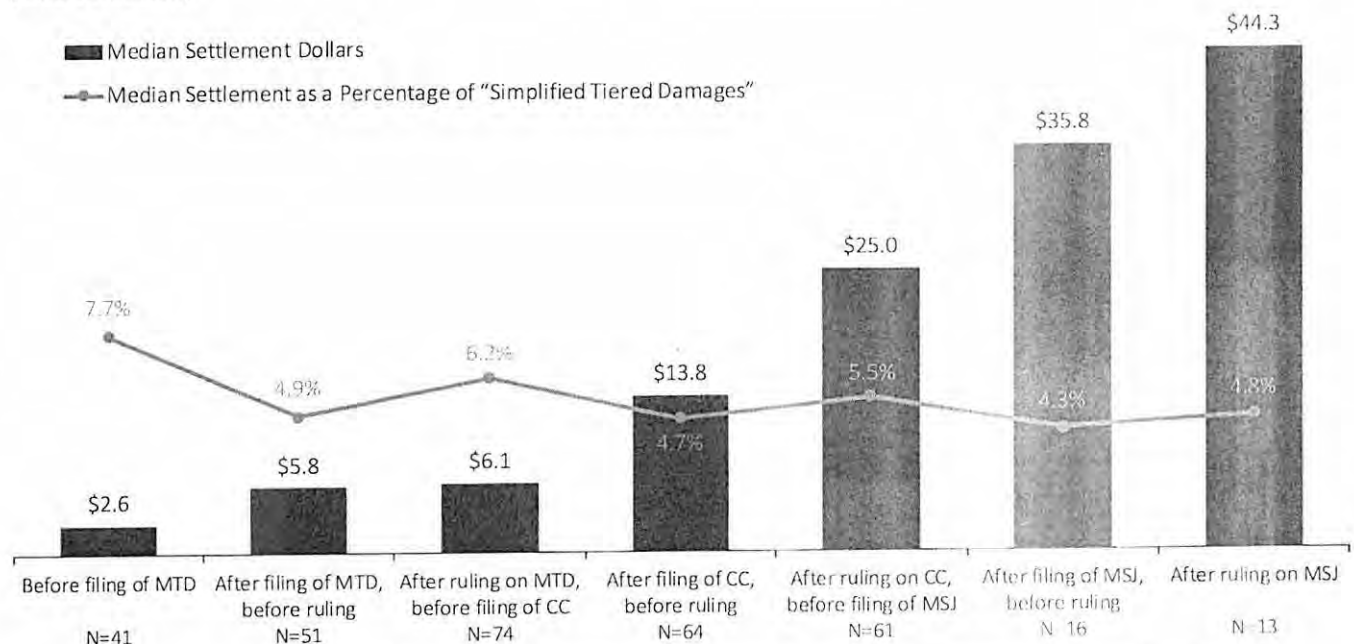
In collaboration with Stanford Securities Litigation Analytics (SSLA),¹⁴ this report analyzes settlements in relation to the stage in the litigation process at the time of settlement.

- In 2020, 57% of cases were resolved before progressing to the stage of filing a motion for class certification.
- The proportion of cases settling sometime after a ruling on a motion for class certification was 21% in 2020 compared to 28% in the prior four years.
- In 2020, median “simplified tiered damages” was more than six times larger for cases settled following a filing for a motion for class certification than for cases that resolved prior to such a motion being filed.
- Median “simplified tiered damages” for 2020 cases that settled after the filing of a motion for summary judgment (MSJ) was more than four times the median for cases that settled before a MSJ filing.
- Cases settling further along in the litigation process are more likely to have additional characteristics frequently associated with more complex matters. Of those that settled after a MSJ filing, 71% of 2016–2020 cases had an institutional investor lead plaintiff and nearly 24% were associated with criminal charges.

The average time to reach a ruling on a motion for class certification among 2020 settlements was 2.8 years

Figure 13: Median Settlement Dollars and Resolution Stage at Time of Settlement 2016–2020

(Dollars in millions)



Note: Settlement dollars are adjusted for inflation; 2020 dollar equivalent figures are used. MTD refers to “motion to dismiss,” CC refers to “class certification,” and MSJ refers to “motion for summary judgment.” This analysis is limited to cases alleging Rule 10b-5 claims.

Cornerstone Research's Settlement Prediction Analysis

This research applies regression analysis to examine the relationships between settlement outcomes and certain security case characteristics. Regression analysis is employed to better understand and predict the total settlement amount, given the characteristics of a particular securities case. Regression analysis can also be applied to estimate the probabilities associated with reaching alternative settlement levels. It is also helpful in exploring hypothetical scenarios, including how the presence or absence of particular factors affects predicted settlement amounts.

Determinants of Settlement Outcomes

Based on the research sample of post-Reform Act cases that settled through December 2020, the factors that were important determinants of settlement amounts included the following:

- "Simplified tiered damages"
- Maximum Dollar Loss (MDL)—market capitalization change from its peak to post-disclosure value
- Most recently reported total assets of the issuer defendant firm
- Number of entries on the lead case docket
- The year in which the settlement occurred
- Whether there were accounting allegations related to the alleged class period
- Whether a ruling on motion for class certification had occurred
- Whether there was a corresponding SEC action against the issuer, other defendants, or related parties
- Whether there were criminal charges against the issuer, other defendants, or related parties with similar allegations to those included in the underlying class action complaint
- Whether a third party, specifically an outside auditor or underwriter, was named as a codefendant

- Whether Section 11 and/or Section 12(a) claims were alleged in addition to Rule 10b-5 claims
- Whether the issuer defendant was distressed
- Whether a public pension was a lead plaintiff
- Whether the plaintiffs alleged that securities other than common stock were damaged

Regression analyses show that settlements were higher when "simplified tiered damages," MDL, issuer defendant asset size, the number of docket entries was larger, whether a ruling on a motion for class certification had occurred, or when Section 11 and/or Section 12(a) claims were alleged in addition to Rule 10b-5 claims.

Settlements were also higher in cases involving accounting allegations, a corresponding SEC action, criminal charges, a public pension involved as lead plaintiff, a third party such as an outside auditor or underwriter named as a codefendant, or securities other than common stock that were alleged to be damaged.

Settlements were lower if the settlement occurred in 2012 or later, or if the issuer was distressed.

More than 70% of the variation in settlement amounts can be explained by the factors discussed above.

Research Sample

- The database used in this report contains cases alleging fraudulent inflation in the price of a corporation's common stock (i.e., excluding cases with alleged classes of only bondholders, preferred stockholders, etc., and excluding cases alleging fraudulent depression in price and mergers and acquisitions cases).
- The sample is limited to cases alleging Rule 10b-5, Section 11, and/or Section 12(a)(2) claims brought by purchasers of a corporation's common stock. These criteria are imposed to ensure data availability and to provide a relatively homogeneous set of cases in terms of the nature of the allegations.
- The current sample includes 1,925 securities class actions filed after passage of the Reform Act (1995) and settled from 1996 through 2020. These settlements are identified based on a review of case activity collected by Securities Class Action Services LLC (SCAS).¹⁵
- The designated settlement year, for purposes of this report, corresponds to the year in which the hearing to approve the settlement was held.¹⁶ Cases involving multiple settlements are reflected in the year of the most recent partial settlement, provided certain conditions are met.¹⁷

Data Sources

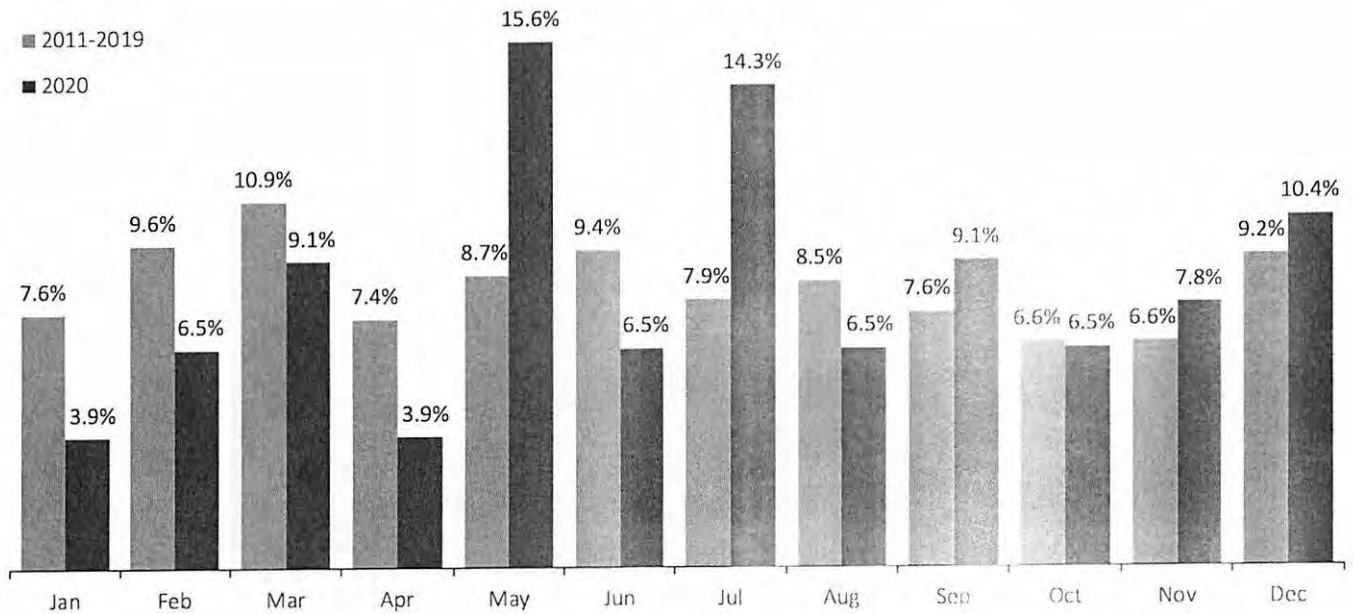
In addition to SCAS, data sources include Dow Jones Factiva, Bloomberg, the Center for Research in Security Prices (CRSP) at University of Chicago Booth School of Business, Standard & Poor's Compustat, Refinitiv Eikon, court filings and dockets, SEC registrant filings, SEC litigation releases and administrative proceedings, LexisNexis, Stanford Securities Litigation Analytics (SSLA), Securities Class Action Clearinghouse (SCAC), and public press.

Endnotes

- ¹ Derivative settlements are the subject of our ongoing research, which will be reported on separately in the future.
- ² The year designation for purposes of this research on securities class action settlements is based on the settlement hearing date (with some modifications as described in endnote 17). However, for purposes of this analysis of monthly settlement rates, the preliminary settlement announcement date (the “tentative settlement date”) was used.
- ³ *Securities Class Action Settlements—2019 Review and Analysis*, Cornerstone Research (2020). See also “Chasing Right Stocks to Buy Is Critical with Fewer Choices but Big Winners,” *Investor’s Business Daily*, November 27, 2020.
- ⁴ The “simplified tiered damages” approach used for purposes of this settlement research does not examine the mix of information associated with the specific dates listed in the plan of allocation, but simply applies the stock price movements on those dates to an estimate of the “true value” of the stock during the alleged class period (or “value line”). This proxy for damages utilizes an estimate of the number of shares damaged based on reported trading volume and the number of shares outstanding. Specifically, reported trading volume is adjusted using volume reduction assumptions based on the exchange on which the issuer defendant’s common stock is listed. No adjustments are made to the underlying float for institutional holdings, insider trades, or short-selling activity during the alleged class period. Because of these and other simplifying assumptions, the damages measures used in settlement outcome modeling may be overstated relative to damages estimates developed in conjunction with case-specific economic analysis.
- ⁵ Laarni T. Bulan, Ellen M. Ryan, and Laura E. Simmons, *Estimating Damages in Settlement Outcome Modeling*, Cornerstone Research (2017).
- ⁶ The statutory purchase price is the lesser of the security offering price or the security purchase price. Prior to the first complaint filing date, the statutory sales price is the price at which the security was sold. After the first complaint filing date, the statutory sales price is the greater of the security sales price or the security price on the first complaint filing date. Similar to “simplified tiered damages,” the estimation of “simplified statutory damages” makes no adjustments to the underlying float for institutional holdings, insider trades, or short-selling activity. Shares subject to a lock-up period are not added to the float for purposes of this calculation.
- ⁷ Based on data for cases where the amount contributed by the D&O liability insurer was verified in settlement materials and/or the issuer defendant’s SEC filings—approximately 83% of all ‘33 Act cases. Data supplemented with additional observations from the SSLA.
- ⁸ This increase reversed in 2020. As noted in *Securities Class Action Filings—2020 Year in Review*, Cornerstone Research (2021), this reversal was likely a result of the March 2020 Delaware Supreme Court decision in *Salzberg v. Sciabacucchi* regarding the validity and enforceability of federal forum-selection provisions in corporate charters.
- ⁹ The three categories of accounting issues analyzed in Figure 8 of this report are: (1) GAAP violations; (2) restatements—cases involving a restatement (or announcement of a restatement) of financial statements; and (3) accounting irregularities—cases in which the defendant has reported the occurrence of accounting irregularities (intentional misstatements or omissions) in its financial statements.
- ¹⁰ *Accounting Class Action Filings and Settlements—2020 Review and Analysis*, Cornerstone Research (2021), forthcoming in spring 2021.
- ¹¹ As noted previously, it could be that the merits in such cases are stronger, or simply that the presence of a corresponding SEC action provides plaintiffs with increased leverage when negotiating a settlement. For purposes of this research, an SEC action is evidenced by the presence of a litigation release or an administrative proceeding posted on www.sec.gov involving the issuer defendant or other named defendants with allegations similar to those in the underlying class action complaint.
- ¹² Identification of a criminal charge and/or criminal indictment based on review of SEC filings and public press. For purposes of this research, criminal charges and/or indictments are collectively referred to as “criminal charges.”
- ¹³ Docket entries reflect the number of entries on the court docket for events in the litigation and have been used in prior research as a proxy for the amount of plaintiff attorney effort involved in resolving securities cases. See Laura Simmons, “The Importance of Merit-Based Factors in the Resolution of 10b-5 Litigation,” University of North Carolina at Chapel Hill Doctoral Dissertation, 1996; Michael A. Perino, “Institutional Activism through Litigation: An Empirical Analysis of Public Pension Fund Participation in Securities Class Actions,” St. John’s Legal Studies Research Paper No. 06-0055, 2006.
- ¹⁴ Stanford Securities Litigation Analytics (SSLA) tracks and collects data on private, shareholder securities litigation and public enforcements brought by the SEC and the U.S. Department of Justice. The SSLA dataset includes all traditional class actions, SEC actions, and DOJ criminal actions filed since 2000. Available on a subscription basis at <https://sla.law.stanford.edu/>.
- ¹⁵ Available on a subscription basis. For further details see <https://www.issgovernance.com/securities-class-action-services/>.
- ¹⁶ Movements of partial settlements between years can cause differences in amounts reported for prior years from those presented in earlier reports.
- ¹⁷ This categorization is based on the timing of the settlement hearing date. If a new partial settlement equals or exceeds 50% of the then-current settlement fund amount, the entirety of the settlement amount is re-categorized to reflect the settlement hearing date of the most recent partial settlement. If a subsequent partial settlement is less than 50% of the then-current total, the partial settlement is added to the total settlement amount and the settlement hearing date is left unchanged.

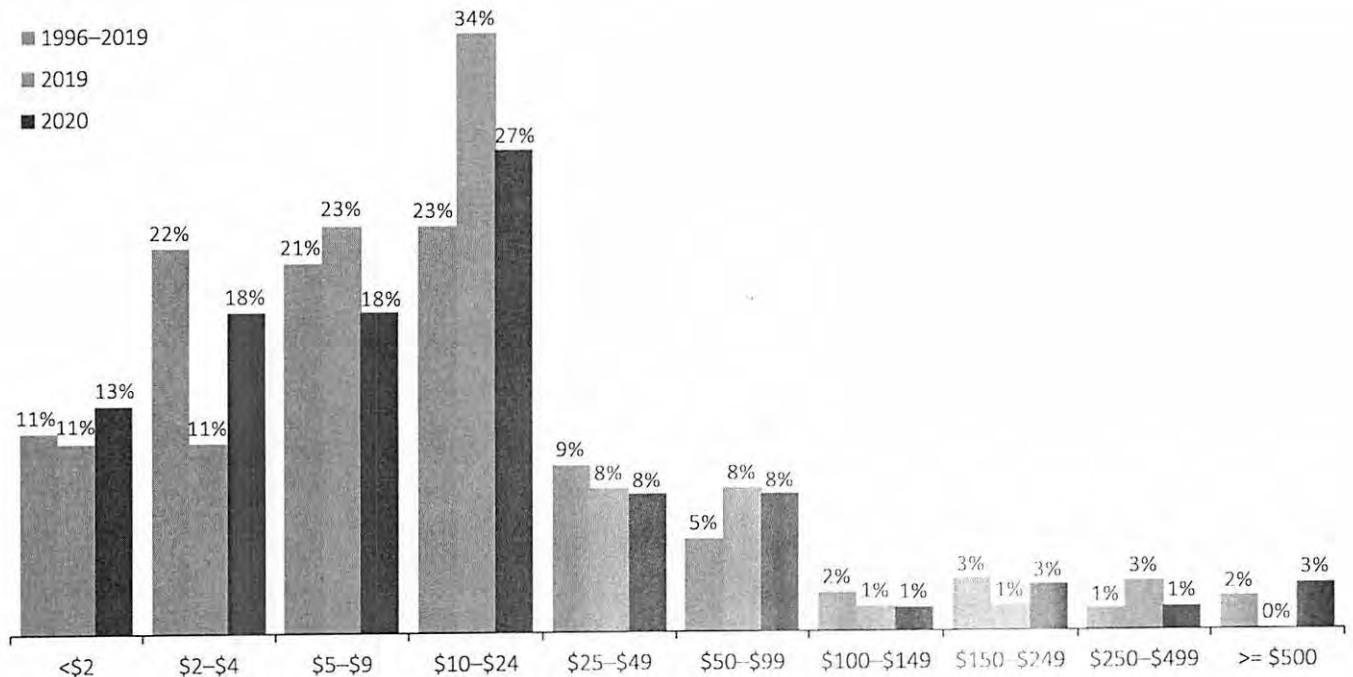
Appendices

Appendix 1: Initial Announcements of Settlements by Month



Appendix 2: Distribution of Post-Reform Act Settlements

(Dollars in millions)



Note: Settlement dollars are adjusted for inflation; 2020 dollar equivalent figures are used.

Appendix 3: Settlement Percentiles

(Dollars in millions)

	Average	10th	25th	Median	75th	90th
2011	\$24.1	\$2.1	\$3.1	\$6.6	\$20.7	\$74.6
2012	\$69.0	\$1.4	\$3.0	\$10.6	\$40.0	\$129.6
2013	\$80.3	\$2.1	\$3.3	\$7.2	\$24.6	\$91.7
2014	\$19.9	\$1.8	\$3.1	\$6.6	\$14.4	\$54.7
2015	\$43.0	\$1.4	\$2.3	\$7.1	\$17.7	\$102.6
2016	\$76.1	\$2.0	\$4.5	\$9.2	\$35.6	\$157.4
2017	\$19.5	\$1.6	\$2.7	\$5.5	\$16.1	\$37.4
2018	\$66.9	\$1.6	\$3.7	\$11.6	\$25.5	\$53.7
2019	\$27.8	\$1.5	\$5.7	\$11.6	\$20.2	\$50.6
2020	\$54.5	\$1.4	\$3.3	\$10.1	\$20.0	\$53.2

Note: Settlement dollars are adjusted for inflation; 2020 dollar equivalent figures are used.

Appendix 4: Select Industry Sectors

2011–2020

(Dollars in millions)

Industry	Number of Settlements	Median Settlement	Median "Simplified Tiered Damages"	Median Settlement as a Percentage of "Simplified Tiered Damages"
Financial	102	\$17.2	\$421.9	4.8%
Technology	101	\$8.3	\$210.0	4.9%
Pharmaceuticals	98	\$6.7	\$215.9	3.7%
Retail	37	\$10.0	\$243.3	4.1%
Telecommunications	24	\$8.6	\$274.1	4.3%
Healthcare	14	\$12.5	\$140.2	6.1%

Note: Settlement dollars and "simplified tiered damages" are adjusted for inflation; 2020 dollar equivalent figures are used. "Simplified tiered damages" are calculated only for cases involving Rule 10b-5 claims.

Appendix 5: Settlements by Federal Circuit Court

2011–2020

(Dollars in millions)

Circuit	Number of Settlements	Median Settlement	Median Settlement as a Percentage of "Simplified Tiered Damages"
First	22	\$10.3	3.5%
Second	181	\$9.4	4.7%
Third	56	\$7.7	5.2%
Fourth	25	\$16.9	4.0%
Fifth	34	\$9.4	4.3%
Sixth	26	\$12.7	6.9%
Seventh	40	\$12.0	4.0%
Eighth	13	\$10.0	6.1%
Ninth	178	\$7.3	4.8%
Tenth	15	\$6.4	5.6%
Eleventh	37	\$12.8	5.1%
DC	4	\$23.7	2.1%

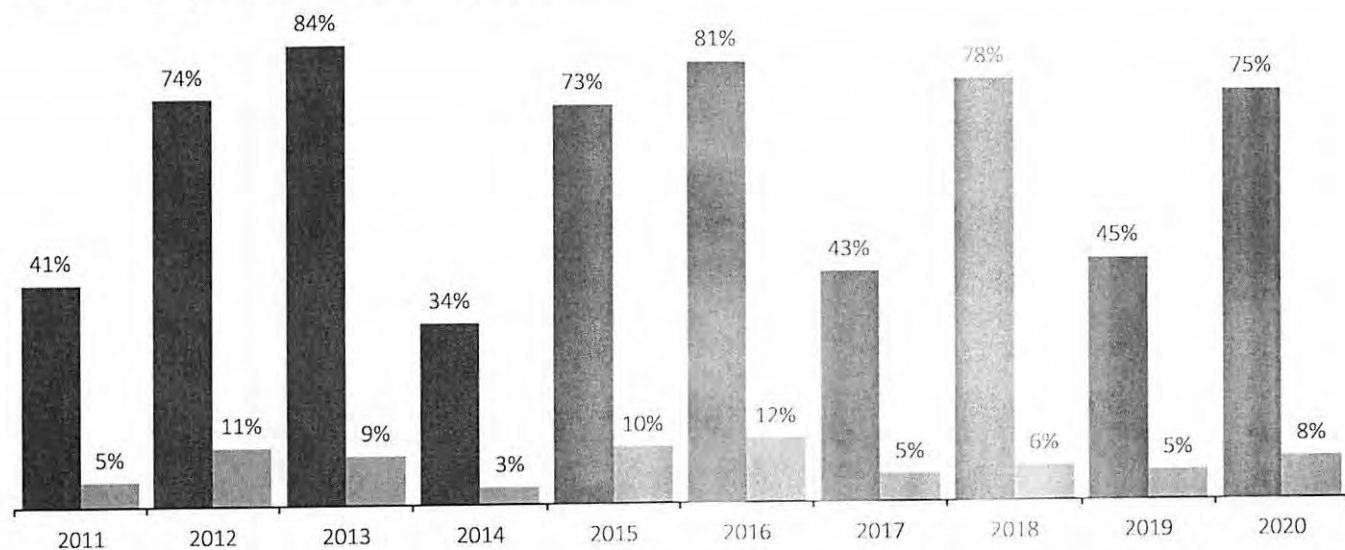
Note: Settlement dollars are adjusted for inflation; 2020 dollar equivalent figures are used. Settlements as a percentage of "simplified tiered damages" are calculated only for cases alleging Rule 10b-5 claims.

Appendix 6: Mega Settlements

2011–2020

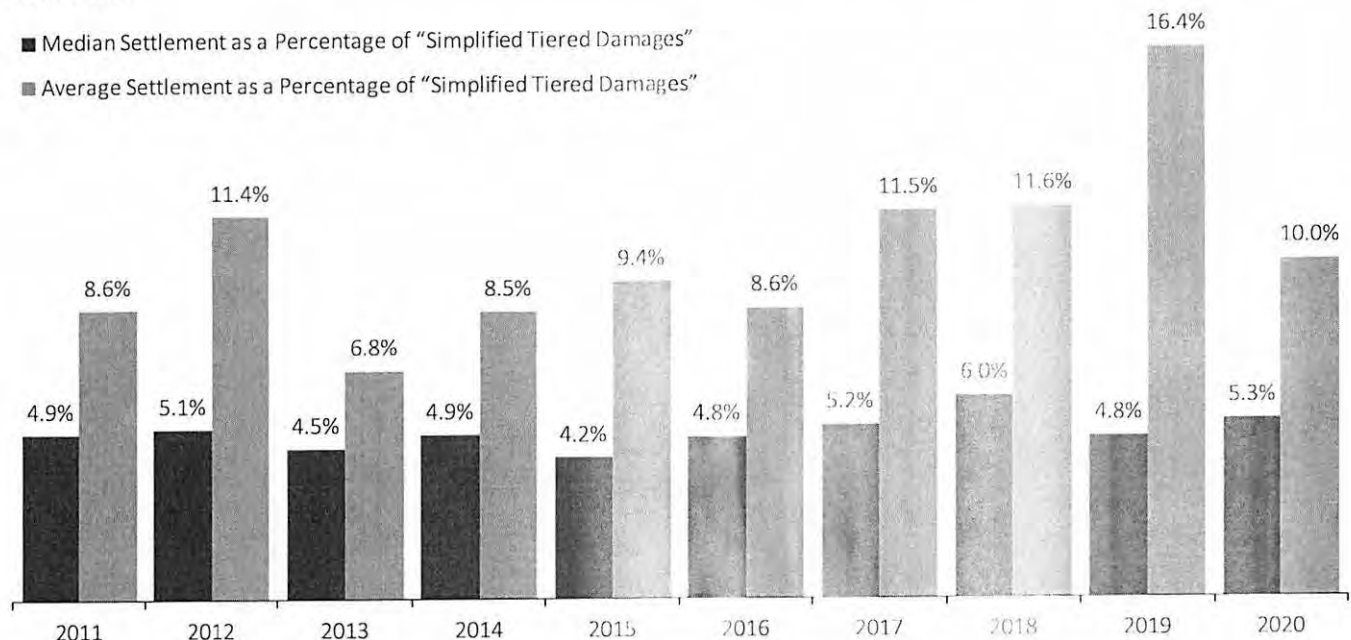
■ Total Mega Settlement Dollars as a Percentage of All Settlement Dollars

■ Number of Mega Settlements as a Percentage of All Settlements



Note: Mega settlements are defined as total settlement funds equal to or greater than \$100 million. Settlement dollars are adjusted for inflation; 2020 dollar equivalent figures are used.

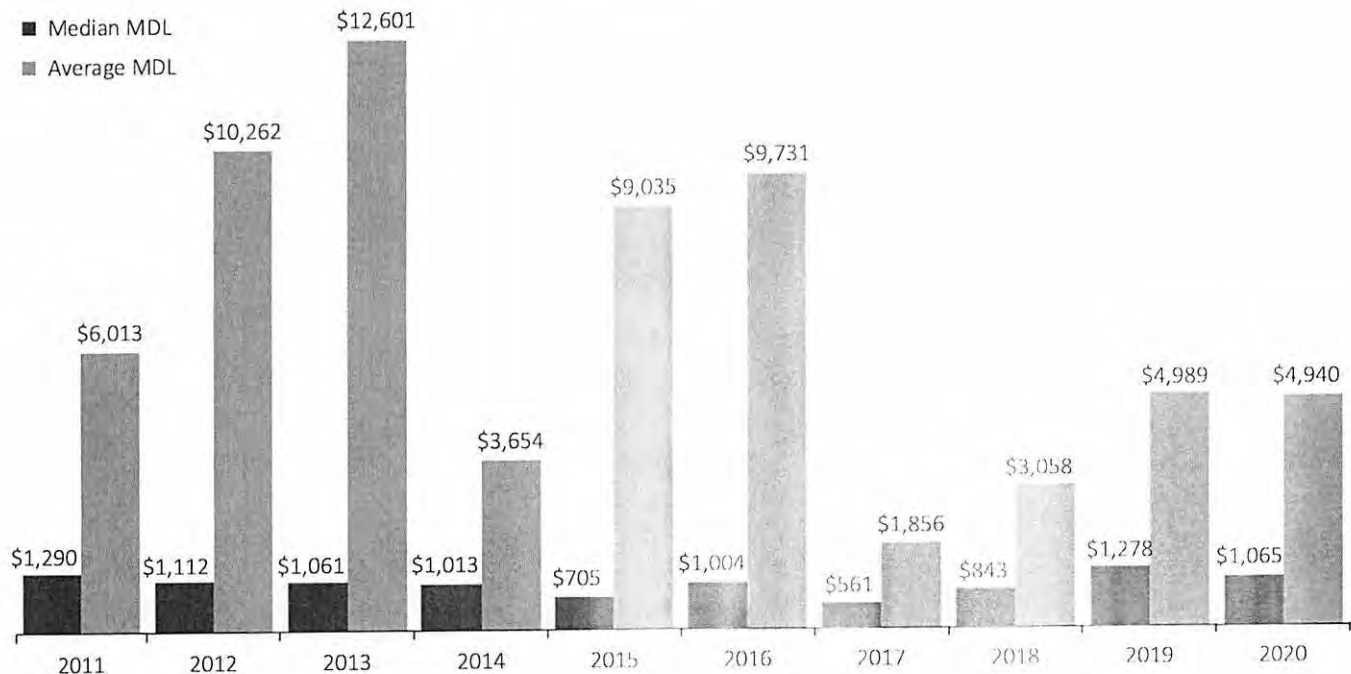
Appendix 7: Median and Average Settlements as a Percentage of "Simplified Tiered Damages" 2011–2020



Note: "Simplified tiered damages" are calculated only for cases alleging Rule 10b-5 claims.

Appendix 8: Median and Average Maximum Dollar Loss (MDL) 2011–2020

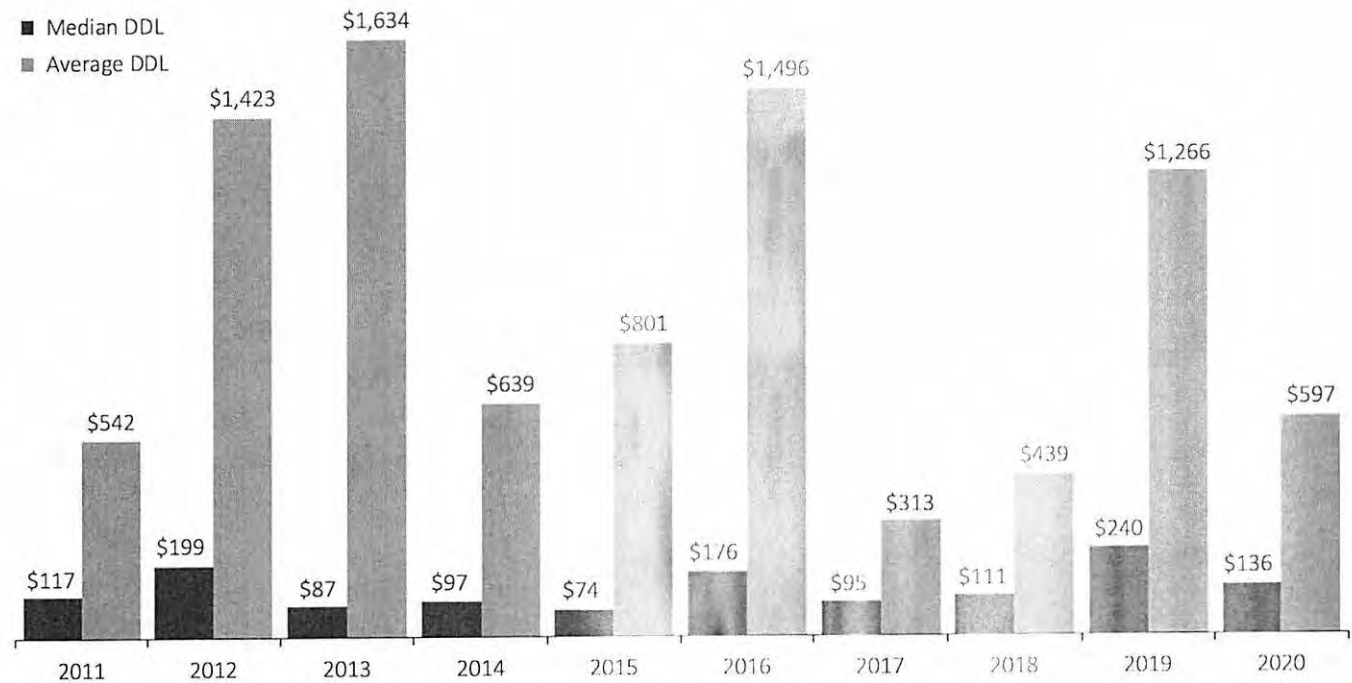
(Dollars in millions)



Note: MDL is adjusted for inflation based on class period end dates. MDL is the dollar value change in the defendant firm's market capitalization from the trading day with the highest market capitalization during the class period to the trading day immediately following the end of the class period.

Appendix 9: Median and Average Disclosure Dollar Loss (DDL) 2011–2020

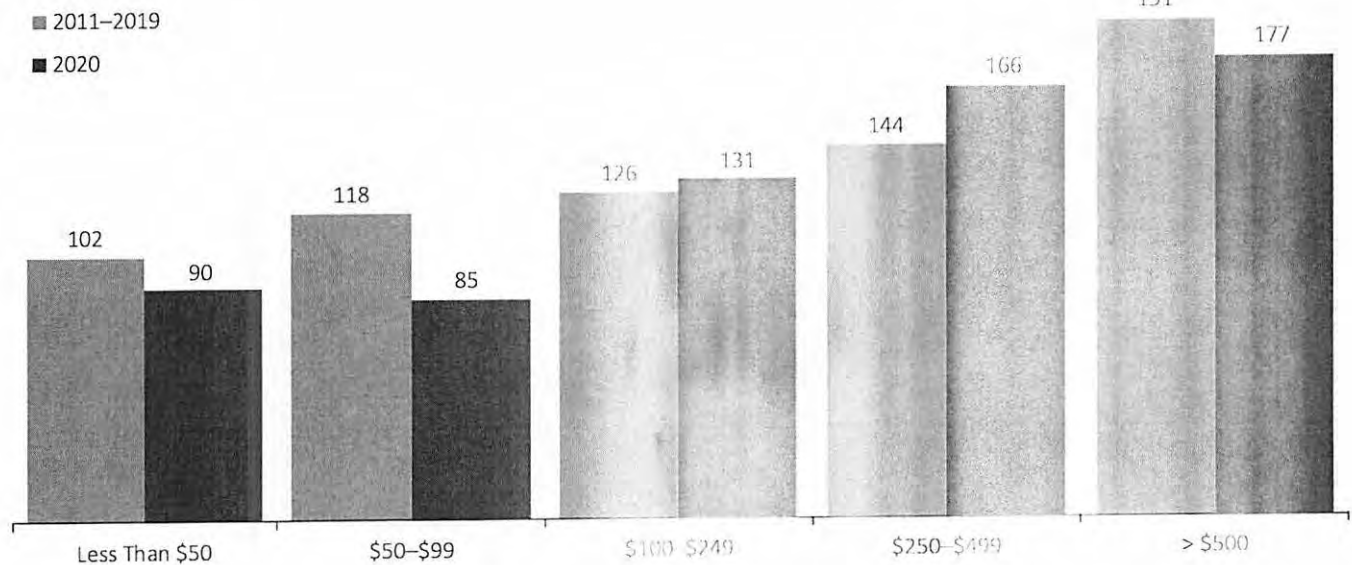
(Dollars in millions)



Note: DDL is adjusted for inflation based on class period end dates. DDL is the dollar value change in the defendant firm's market capitalization between the trading day immediately preceding the end of the class period and the trading day immediately following the end of the class period. This analysis excludes cases alleging '33 Act claims only.

Appendix 10: Median Docket Entries by "Simplified Tiered Damages" Range 2011–2020

(Dollars in millions)



Note: "Simplified tiered damages" are calculated only for cases alleging Rule 10b-5 claims.

About the Authors

Laarni T. Bulan

Ph.D., Columbia University; M.Phil., Columbia University; B.S., University of the Philippines

Laarni Bulan is a principal in Cornerstone Research's Boston office, where she specializes in finance. Her work has focused on securities damages, loss causation, and class certification issues, insider trading, merger and firm valuation, risk management, and corporate finance issues. She has also consulted on cases related to market manipulation and trading behavior, financial institutions and the credit crisis, derivatives, foreign exchange, and securities clearing and settlement.

Dr. Bulan has published several academic articles in peer reviewed journals. Her research covers topics in dividend policy, capital structure, executive compensation, corporate governance, and real options. Prior to joining Cornerstone Research, Dr. Bulan had a joint appointment at Brandeis University as an assistant professor of finance in its International Business School and in the economics department.

Laura E. Simmons

Ph.D., University of North Carolina at Chapel Hill; M.B.A., University of Houston; B.B.A., University of Texas at Austin

Laura Simmons is a senior advisor with Cornerstone Research. She is a certified public accountant and has more than 25 years of experience in accounting practice and economic and financial consulting. Dr. Simmons has focused on damage and liability issues in securities and ERISA litigation, as well as on accounting issues arising in a variety of complex commercial litigation matters. She has served as a testifying expert in litigation involving accounting analyses, securities case damages, ERISA matters, and research on securities lawsuits.

Dr. Simmons's research on pre- and post-Reform Act securities litigation settlements has been published in a number of reports and is frequently cited in the public press and legal journals. She has spoken at various conferences and appeared as a guest on CNBC addressing the topic of securities case settlements. She has also published in academic journals, including research focusing on the intersection of accounting and litigation. Dr. Simmons was previously an accounting faculty member at the Mason School of Business at the College of William & Mary. From 1986 to 1991, she was an accountant with Price Waterhouse.

The authors gratefully acknowledge the research efforts and significant contributions of their colleagues at Cornerstone Research in the writing and preparation of this annual update.

Many publications quote, cite, or reproduce data, charts, or tables from Cornerstone Research reports. The authors request that you reference Cornerstone Research in any reprint, quotation, or citation of the charts, tables, or data reported in this study.

Please direct any questions and requests for additional information to the settlement database administrator at settlementdatabase@cornerstone.com.

Boston

617.927.3000

Chicago

312.345.7300

London

+44.20.3655.0900

Los Angeles

213.553.2500

New York

212.605.5000

San Francisco

415.229.8100

Silicon Valley

650.853.1660

Washington

202.912.8900

www.cornerstone.com



EXHIBIT B

COPY

**CONFORMED COPY
ORIGINAL FILED**
Superior Court of California
County of Los Angeles

APR 14 2021

**Shari R. Carter, Executive Officer/Clerk
By Marisela Fregoso, Deputy**

ROBBINS GELLER RUDMAN
& DOWD LLP
THEODORE J. PINTAR (131372)
JAMES I. JACONETTE (179565)
655 West Broadway, Suite 1900
San Diego, CA 92101
Telephone: 619/231-1058
619/231-7423 (fax)
tedp@rgrdlaw.com
jamesj@rgrdlaw.com

BOTTINI & BOTTINI, INC.
FRANCIS A. BOTTINI, JR. (175783)
ALBERT Y. CHANG (296065)
YURY A. KOLESNIKOV (271173)
7817 Ivanhoe Avenue, Suite 102
La Jolla, CA 92037
Telephone: 858/914-2001
858/914-2002 (fax)
fbottini@bottinilaw.com
achang@bottinilaw.com
ykolesnikov@bottinilaw.com

BLOCK & LEVITON LLP
JEFFREY C. BLOCK (*Pro Hac Vice*)
JOEL A. FLEMING (281264)
JACOB A. WALKER (271217)
260 Franklin Street, Suite 1860
Boston, MA 02110
Telephone: 617/398-5600
617/507-6020 (fax)
jeff@blockesq.com
joel@blockesq.com
jake@blockesq.com

*Attorneys for Plaintiffs Chenghsin D. Hsieh
and Wei C. Hsieh*

Attorneys for Plaintiff Joseph Iuso

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

Coordination Proceeding
Special Title Rule (3.550)

SNAP INC. SECURITIES CASES

This Document Relates To:

ALL ACTIONS.

) Case No. JCCP 4960

) ~~PROPOSED~~ FINAL ORDER APPROVING
) CLASS ACTION SETTLEMENT

) JUDGE: Honorable Elihu M. Berle

) DATE: March 26, 2021

) TIME: 9:00 a.m.

) DEPT: 6

) Coordinated Actions:

Hsieh, et al. v. Snap Inc., et al., No. BC669394,
CA Super. Ct., Cty. of Los Angeles

Iuso v. Snap Inc., et al., No. 17CIV03710,
CA Super. Ct., Cty. of San Mateo

[PROPOSED] FINAL ORDER APPROVING CLASS ACTION SETTLEMENT

1 WHEREAS, the Court is advised that the Parties,¹ through their counsel, have agreed, subject to
2 Court approval following notice to the Settlement Class and hearing, to settle the Action upon the terms
3 and conditions set forth in the Amended Stipulation of Settlement, dated October 13, 2020 (the
4 “Stipulation”), which was filed with the Court; and

5 WHEREAS, on November 13, 2020, the Court entered its Order Preliminarily Approving
6 Settlement and Providing for Notice, which preliminarily approved the Settlement, and approved the
7 form and manner of notice to the Settlement Class of the Settlement, and said notice has been made, and
8 the fairness hearing having been held; and

9 NOW, THEREFORE, based on the Stipulation and all of the filings, records and proceedings
10 herein, and it appearing to the Court upon examination that the Settlement set forth in the Stipulation is
11 fair, reasonable and adequate, and upon a Final Approval Hearing having been held after notice to the
12 Settlement Class of the Settlement to determine if the Settlement is fair, reasonable, and adequate;

13 **THE COURT HEREBY FINDS AND CONCLUDES THAT:**

14 A. The provisions of the Stipulation, including definitions of the terms used therein, are
15 hereby incorporated by reference as though fully set forth herein.

16 B. The Parties have consented to the Court’s jurisdiction for purposes of this Settlement,
17 and the Court has jurisdiction of the subject matter of this Action and over all members of the
18 Settlement Class.

19 C. With respect to the Settlement Class, and solely for the purposes of this Settlement, the
20 Court finds that:

21 (i) The Parties have agreed for purposes of this Settlement only that the members of
22 the Settlement Class are so numerous that their joinder in the Action is impracticable;

23
24
25 ¹ As used herein, the term “Parties” means Plaintiffs Joseph Iuso, Chenghsin D. Hsieh and Wei C.
26 Hsieh (“Plaintiffs”), and Defendants Snap Inc. (“Snap” or the “Company”), Evan Spiegel, Robert
27 Murphy, Andrew Vollero, Imran Khan, Joanna Coles, A.G. Lafley, Mitchell Lasky, Michael Lynton,
28 Morgan Meresman, Scott D. Miller, and Christopher Young (collectively, the “Snap Defendants”), and
Morgan Stanley & Co. LLC, Goldman Sachs & Co. LLC, J.P. Morgan Securities LLC, Deutsche Bank
Securities Inc., Barclays Capital Inc., Credit Suisse Securities (USA) LLC, and Allen & Company LLC
(collectively, the “Underwriter Defendants” and with the Snap Defendants, the “Defendants”).

1 (ii) The Parties have agreed for purposes of this Settlement only that the Settlement
2 Class is ascertainable because members of the Settlement Class share common characteristics that are
3 sufficient for persons to determine whether they are members of the Settlement Class;

4 (iii) There are questions of law and fact common to the Settlement Class. Those
5 questions include whether the Defendants violated the Securities Act of 1933, whether the Registration
6 Statement contained misstatements or omissions, whether any misstatements or omissions were
7 material, and whether any misstatements or omissions caused harm to the members of the Settlement
8 Class;

9 (iv) The claims of the Plaintiffs are typical of the claims of the Settlement Class
10 Members. Plaintiffs claim to have purchased or otherwise acquired the common stock pursuant or
11 traceable to the same Registration Statement as the members of the Settlement Class. Consequently,
12 Plaintiffs claim that they and the other members of the Settlement Class sustained damages as a result
13 of the same purported conduct by Defendants;

14 (v) Plaintiffs and Plaintiffs' Counsel have fairly and adequately represented and
15 protected the interests of the Settlement Class Members. Plaintiffs have no interests in conflict with
16 absent members of the Settlement Class. The Court is satisfied that Plaintiffs' Counsel are qualified,
17 experienced, and have represented the Settlement Class to the best of their abilities;

18 (vi) The questions of law or fact common to the members of the Settlement Class
19 predominate over any questions affecting only individual members; and

20 (vii) A class action is the superior means of settling the Action.

21 D. The form, content, and method of dissemination of notice given to the Settlement Class
22 was adequate and reasonable and constituted the best notice practicable under the circumstances,
23 including individual notice to all Settlement Class Members who could be identified through reasonable
24 effort.

25 E. Notice, as given, complied with the requirements of California law, satisfied the
26 requirements of due process and constituted due and sufficient notice of the matters set forth herein.

27 F. The Settlement set forth in the Stipulation is fair, reasonable, and adequate.
28

1 (i) The Settlement was vigorously negotiated at arm's length by Plaintiffs on behalf
2 of the Settlement Class and by Defendants, all of whom were represented by highly experienced and
3 skilled counsel. The case settled only after: (a) a mediation conducted by an experienced mediator who
4 was thoroughly familiar with this litigation; and (b) the exchange of detailed mediation statements prior
5 to the mediation which highlighted the factual and legal issues in dispute. Accordingly, both the
6 Plaintiffs and Defendants were well-positioned to evaluate the Settlement value of this Action. The
7 Stipulation has been entered into in good faith and is not collusive.

8 (ii) If the Settlement had not been achieved, the Settlement Class faced the expense,
9 risk, and uncertainty of extended litigation.

10 G. Plaintiffs, all Settlement Class Members, and Defendants are hereby bound by the terms
11 of the Settlement set forth in the Stipulation.

12 **IT IS HEREBY ORDERED THAT:**

13 1. The Settlement Class is defined in the Stipulation as: "all Persons and entities who
14 purchased or otherwise acquired Snap common stock between March 2, 2017 and July 29, 2017,
15 inclusive, and were damaged thereby.² Excluded from the Settlement Class are Defendants, members
16 of families of Defendants and their legal representatives, heirs, successors and assigns, and any entity in
17 which Defendants have or had a controlling interest."³ Also excluded from the Settlement Class is any
18 Person who validly requested exclusion pursuant to the requirements set forth in the Notice, identified
19 in Exhibit A to the Final Judgment.

20 2. The Settlement on the terms set forth in the Stipulation is finally approved as fair,
21 reasonable and adequate. The Settlement shall be consummated in accordance with the terms and
22 provisions of the Stipulation. The Action and all of the claims asserted against Defendants in the
23 Action by Plaintiffs and the other Settlement Class Members are hereby dismissed with prejudice as to
24 all Defendants. The Parties are to bear their own costs, except as otherwise provided in the Stipulation.

25
26 ² Included within the Settlement Class are all Persons and entities who purchased shares of Snap
Common Stock pursuant or traceable to Snap's Initial Public Offering on or about March 2, 2017 and/or
on the open market.

27
28 ³ "Controlling interest" is defined as having a majority ownership interest or ownership of the
majority of voting stock of the entity.

1 3. All Released Defendants' Parties and Released Plaintiffs' Parties, as defined in the
2 Stipulation, are released in accordance with, and as defined in, the Stipulation.

3 4. As provided in the Stipulation, upon the Effective Date, Plaintiffs and each Settlement
4 Class Member shall be deemed to have, and by operation of this Final Order Approving Class Action
5 Settlement ("Final Order") shall have, fully, finally, and forever released, relinquished, and discharged
6 all Plaintiffs' Released Claims against the Released Defendants' Parties, whether or not such Settlement
7 Class Member executes and delivers a Proof of Claim and Release.

8 5. As provided in the Stipulation, upon the Effective Date, each of the Released
9 Defendants' Parties shall be deemed to have, and by operation of this Final Order shall have, fully,
10 finally, and forever released Plaintiffs, Plaintiffs' Counsel and each and all of the Settlement Class
11 Members from all Defendants' Released Claims.

12 6. All Settlement Class Members who have not made their objections to the Settlement in
13 the manner provided in the Notice are deemed to have waived any objections by appeal, collateral
14 attack, or otherwise.

15 7. The requests for exclusion by the following persons are accepted by the Court:

16 C. Pang

17 A. Marrero

18 J. Sato

19 C. Cheng

20 C. Moser

21 T. Iasinski

22 N. Clements

23 All Settlement Class Members who have not properly submitted requests for exclusion (requests to opt
24 out) from the Settlement Class are bound by the terms and conditions of the Stipulation and the Final
25 Judgment.

26 8. Neither the Stipulation nor the Settlement, nor any act performed or document executed
27 pursuant to or in furtherance of the Stipulation or the Settlement: (a) is or may be deemed to be, or may
28 be used as, a presumption, concession, or admission of, or evidence of, the validity of any Plaintiffs'

1 Released Claim or of any wrongdoing or liability of the Defendants and the Released Defendants'
2 Parties; or (b) is or may be deemed to be, or may be used as a presumption, concession, or admission of,
3 or evidence of, any fault or omission of any of the Defendants and the Released Defendants' Parties in
4 any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal; or
5 (c) is or may be deemed to be an admission or evidence that any claims asserted by Plaintiffs were not
6 valid in any civil, criminal or administrative proceeding. Defendants and the Released Defendants'
7 Parties may file the Stipulation and/or this Final Order in any action that may be brought against them
8 in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel,
9 release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or
10 issue preclusion or similar defense or counterclaim.

11 9. Pursuant to and in full compliance with California law, this Court hereby finds and
12 concludes that due and adequate notice was directed to all Persons and entities who are Settlement Class
13 Members advising them of the Plan of Allocation and of their right to object thereto, and a full and fair
14 opportunity was accorded to all Persons and entities who are Settlement Class Members to be heard
15 with respect to the Plan of Allocation.

16 10. The Court hereby finds and concludes that the formula for the calculation of the claims
17 of Authorized Claimants, which is set forth in the Notice of Pendency and Proposed Settlement of Class
18 Action (the "Notice") previously submitted to the Court and available on the Settlement website,
19 www.SnapSecuritiesLitigation.com, provides a fair and reasonable basis upon which to allocate the
20 proceeds of the Net Settlement Fund established by the Stipulation among Settlement Class Members,
21 with due consideration having been given to administrative convenience and necessity.

22 11. The Court hereby awards Plaintiffs' Counsel attorneys' fees of one-third of the
23 Settlement Amount, or \$10,937,500, plus expenses in the amount of \$243,511.08, together with the
24 interest earned thereon for the same time period and at the same rate as that earned on the Settlement
25 Fund until paid. The Court finds that the amount of fees awarded is appropriate and that the amount of
26 fees awarded is fair and reasonable given the contingent nature of the case and the substantial risks of
27 non-recovery, the time and effort involved, and the result obtained for the Settlement Class.

1 12. The awarded attorneys' fees and expenses and interest earned thereon shall immediately
2 be paid to Plaintiffs' Counsel from the Settlement Fund subject to the terms, conditions, and obligations
3 of the Stipulation, which terms, conditions and obligations are incorporated herein.

4 13. The Court hereby awards \$5,000 each to Plaintiff Joseph Iuso, Plaintiff Chenghsin D.
5 Hsieh and Plaintiff Wei C. Hsieh pursuant to 15 U.S.C. §77z-1(a)(4) in connection with their
6 representation of the Settlement Class.

7 14. The final amount of Notice and Administration Costs shall not exceed \$400,000.

8 15. The Court hereby issues an order to show cause ("OSC") with regard to Plaintiffs'
9 Counsel's compliance with this Final Order Approving Class Action Settlement and the terms of the
10 Settlement and the distribution of the Settlement funds. Pursuant thereto, Plaintiffs' Counsel shall file a
11 report on November 18, 2021, setting forth its compliance with the terms of the Final Order Approving
12 Class Action Settlement and the Settlement, together with a declaration from the Claims Administrator,
13 JND Legal Administration, attesting to the distribution of the Net Settlement Fund to all Authorized
14 Claimants. The Court sets a hearing on this OSC for December 2, 2021, at 8:30 a.m.

15 IT IS SO ORDERED.

ELIHU M. BERLE

16 DATED: _____

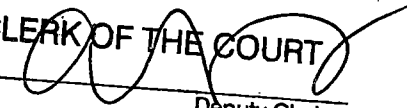
4-14-21

17 THE HONORABLE ELIHU M. BERLE
18 JUDGE OF THE SUPERIOR COURT
19
20
21
22
23
24
25
26
27
28

EXHIBIT C

FILED
San Francisco County Superior Court

AUG 08 2019

CLERK OF THE COURT
BY: 
Deputy Clerk

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO
DEPARTMENT 304

BEAVER COUNTY EMPLOYEES
RETIREMENT FUND, ET AL.,

Plaintiffs,

v.

CYAN, INC., et al.,

Defendants.

Case No. CGC-14-538355

ORDER GRANTING FINAL APPROVAL
OF CLASS ACTION SETTLEMENT,
APPROVING THE PLAN OF
ALLOCATION, ATTORNEYS' FEES, AND
COSTS

1 Plaintiffs have moved for an order granting final approval of a class action settlement, the
2 plan of allocation, attorneys' fees, and costs. This Court initially held a hearing on the motions on
3 June 5, 2019. No objector appeared at the hearing.

4 Following the initial June 5, 2019 hearing on the motion, this Court issued an order
5 continuing the motion to July 11, 2019, and requiring supplemental briefing. On July 3, 2019,
6 Plaintiffs' counsel submitted said supplemental briefing. In advance of the July 11, 2019 hearing,
7 the Court provided the parties with a tentative ruling. On July 10, 2019, the parties submitted on the
8 tentative ruling, and the Court vacated the July 11, 2019 hearing. The Court then issued an order on
9 July 10, 2019 requiring further additional briefing, and continuing the hearing to August 2, 2019.
10 On July 25, 2019, Plaintiff s' counsel submitted the requested additional briefing. Prior to the
11 August 2, 2019 hearing, the Court provided a tentative ruling, and Plaintiffs' counsel provided
12 supplemental materials on August 1, 2019. On August 2, 2019, the Court held a further hearing,
13 and issued a subsequent order granting the motions.

14 On the basis of the Settlement Agreement submitted to the Court as the parties' Amended
15 Stipulation of Settlement dated December 6, 2018 (the "Stipulation"), and all the filings related to the
16 motion for preliminary and final approval, and the arguments of counsel,

17 **IT IS ORDERED THAT:**

18 1. All terms or phrases used in this Order shall have the same meaning as in the
19 Stipulation.

20 2. The Court has jurisdiction over the subject matter of this litigation, Plaintiffs, the
21 Class Members, and Defendants.

22 3. The Notice approved by this Court was distributed to the Class Members in
23 compliance with this Court's Order Granting Preliminary Approval of Class Action Settlement,
24 dated January 2, 2019. The Notice provided to the Class Members met the requirements of due
25 process and constituted the best notice practicable in the circumstances. Based on evidence and
26 other material submitted in conjunction with the final approval hearing, notice to the class was fair,
27 adequate, and reasonable.

1 4. The Court finds that the Plan of Allocation is fair, reasonable, and adequate. The
2 Plan of Allocation provides monetary recovery in some form, on a pro rata basis, to all Class
3 Members who file a timely, valid claim. The Court hereby orders that the Class Members' claims
4 will be processed according to Paragraphs 6.1-7.12 of the Stipulation. (See also Preliminary
5 Approval of Class Action Settlement, Ex. 4 [Timeline of Events].) The Plan of Allocation is
6 approved.

7 5. No Class Members objected to the Stipulation.

8 6. 13 members of the Class validly requested exclusion from the Stipulation. Those
9 who have requested exclusion are not members of the Class certified below, shall be named in the
10 Judgment as having opted out, shall receive no funds under this Order, and are not bound by the
11 Judgment.

12 7. The reaction of the Class Members to the Stipulation supports the conclusion that the
13 Stipulation is fair, reasonable, and adequate.

14 8. By Order entered May 19, 2015, the Court certified a class as to Class
15 Representatives' claims brought pursuant to the Securities Act of 1933 on behalf of:

16 All persons who purchased or otherwise acquired Cyan common stock from
17 May 9, 2013 to November 4, 2013, except for purchases or acquisitions of non-
18 registered shares in a private transaction. The following persons are excluded from the
19 Class: the Defendants and their respective successors and assigns; past and current
20 officers and directors of Cyan and the Underwriter Defendants; members of the
immediate families of the Individual Defendants; the legal representatives, heirs,
successors or assigns of the Individual Defendants; any entity in which any of the above
excluded persons have or had a majority ownership interest; and any person who validly
requested exclusion from the Class.

21 9. By Order entered May 19, 2015, the Court certified plaintiffs Beaver County
22 Employees Retirement Fund, Retirement Board of Allegheny County, and Delaware County
23 Employees Retirement System as Class Representatives.

24 10. By Order entered May 19, 2015, the Court designated Robbins Geller Rudman &
25 Dow to act as Class Counsel.

26 11. The settlement of the above-captioned action, as set forth in the Stipulation, is
27 approved. The terms of the Stipulation are fair, reasonable, and adequate. Plaintiffs have satisfied

1 the requirements for final approval of this class action settlement. The parties are directed to
2 effectuate the Stipulation according to its terms and this Order.

3 12. Upon the Effective Date as defined in the Stipulation, Plaintiffs and the Class
4 Members release all Settled Claims against the Released Parties. The Released Claims are defined
5 in the Stipulation at Paragraphs 2.1-2.2.

6 13. The only Class Members entitled to payment pursuant to this Order are those Class
7 Members who submitted timely and valid claims.

8 14. Payments to Class Counsel in the amount of \$ 5,000,000 for attorneys' fees, together
9 with the interest earned on that amount for the same time period and at the same rate as that earned
10 on the Settlement Fund, are approved. Payments to Class Counsel in the amount of \$854,771.78 for
11 costs, plus interest on such expenses at the same rate and for the same time period as earned by the
12 Settlement Fund, are also approved.

13 15. Specifically, the attorneys' fees requested are reasonable from the perspective of the
14 percentage-of-recovery method based on the following factors: (1) the results obtained by counsel
15 in this case; (2) the significant risks and complex issues involved in this case, which required a high
16 level of skill and a high quality of work to overcome; (3) the fees' contingency upon success, which
17 meant counsel risked time and effort and advanced costs with no guarantee of compensation; (4) the
18 range of awards made in similar cases; and (5) the notice and opportunity to object available to
19 Class Members and the absence of any compelling objections. As such, the Court finds that the
20 requested fee award comports with the applicable law and is justified by the circumstances of this
21 case. The Court also finds that placing overmuch weight on the lodestar is not in this case
22 appropriate, as it is in the interest of the courts and the parties to encourage early settlement without
23 the felt need to bill a large number of hours in order to justify a lodestar amount. Rather, it is
24 appropriate to place significant weight on the percentage-of-recovery method in order to encourage
25 early settlement, and to encourage suits which result in benefits to the class which would not
26 otherwise have been obtained.

1 Administrator.¹ (See *id.*) While the Court understands that additional Claim Administrator fees
2 may be incurred *after* the motion for distribution, if necessary, the Court will address the Claims
3 Administrator's future expenses incurred *after* the motion for distribution at the corresponding
4 motion for distribution hearing. Class Counsel may by stipulation and proposed order advance the
5 March 5, 2020 hearing if an earlier resolution of the motion is appropriate. If an earlier hearing date
6 is necessary, Class Counsel shall contact the clerk for the Complex Litigation Department 304 to
7 ascertain an available date and time for the hearing.

8 22. Notice of final judgment shall be provided to the Class Members by posting this
9 Order and the final judgment on the administrator's website for a period of not less than 60 days
10 from the date the judgment is entered.

11 23. Pursuant to the Stipulation, C.C.P. § 664.6, and C.R.C. 3.769(h), the Court retains
12 jurisdiction over Plaintiffs, all Class Members, and Defendant) for the purposes of supervising the
13 implementation, enforcement, construction, administration, and interpretation of the Stipulation and
14 this Order.

15 24. Except as otherwise provided in the Stipulation and this Order and the Judgment, the
16 parties shall bear their own attorneys' fees, costs, and expenses incurred by them in connection with
17 this action.

18 25. After the Judgment is executed, this Order and the Judgment will be posted on the
19 case-specific website at www.CyanSecuritiesLitigation.com.

20
21 IT IS SO ORDERED.

22 Dated: *August 8, 2019*



Anne-Christine Massullo
Judge of The Superior Court

23
24
25
26 ¹ At the hearing, Class Counsel represented that the distribution motion may be made before the end of
27 2019.

EXHIBIT D

**ENDORSED FILED
SAN MATEO COUNTY**

JAN 19 2018

Clerk of the Superior Court
By TERRI MARAGOULAS
DEPUTY CLERK

1 ROBBINS GELLER RUDMAN
& DOWD LLP
2 SHAWN A. WILLIAMS (213113)
One Montgomery Street, Suite 1800
3 San Francisco, CA 94104
Telephone: 415/288-4545
4 415/288-4534 (fax)
- and -

5 JAMES I. JACONETTE (179565)
SUSANNAH R. CONN (205085)
6 655 West Broadway, Suite 1900
San Diego, CA 92101
7 Telephone: 619/231-1058
619/231-7423 (fax)

RECEIVED
JAN 12 2018
CLERK OF THE SUPERIOR COURT
SAN MATEO COUNTY

8 Lead Counsel for Plaintiffs

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF SAN MATEO

11 In re AVALANCHE BIOTECHNOLOGIES,)
12 INC. SHAREHOLDER LITIGATION)

Lead Case No. CIV536488

13) CLASS ACTION

14 This Document Relates To:

) JUDGMENT AND ORDER GRANTING
) FINAL APPROVAL OF CLASS ACTION
) SETTLEMENT

15 ALL ACTIONS.

16 Assigned for All Purposes to the
17 Honorable Marie S. Weiner
18 Dept. 2
19 Date Action Filed: 12/07/15

20
21
22
23
24
25
26
27
28
JUDGMENT AND ORDER GRANTING FINAL APPROVAL OF CLASS ACTION SETTLEMENT

File By Fax

1 WHEREAS, the Court is advised that the Parties,¹ through their counsel, have agreed, subject to
2 Court approval following notice to the Class and a hearing, to determine if the settlement upon the
3 terms and conditions set forth in the Stipulation and Agreement of Settlement dated August 3, 2017 (the
4 “Stipulation” or “Settlement”), which was filed with the Court, is fair, reasonable and adequate to the
5 Class; and

6 WHEREAS, on September 7, 2017, the Court entered its Order Preliminarily Approving
7 Settlement and Providing for Notice, which preliminarily approved the Settlement, and approved the
8 form and manner of notice to the Class of the Settlement, and said notice has been made, and the
9 fairness hearing having been held; and

10 NOW, THEREFORE, based upon the Stipulation and all of the filings, records and proceedings
11 herein, and it appearing to the Court upon examination that the Settlement set forth in the Stipulation is
12 fair, reasonable and adequate, and upon a Settlement Fairness Hearing having been held after notice to
13 the Class of the Settlement to determine if the Settlement is fair, reasonable, and adequate and whether
14 the Final Judgment should be entered in this Action;

15 **THE COURT HEREBY FINDS AND CONCLUDES THAT:**

16 A. The provisions of the Stipulation, including definitions of the terms used therein, are
17 hereby incorporated by reference as though fully set forth herein.

18 B. This Court has jurisdiction of the subject matter of this Action and over all of the Parties
19 and all Class Members.

20 C. With respect to the Class, the Court finds that:

21 (i) The Class Members are so numerous that their joinder in the Action is
22 impracticable. There were more than nine million shares of Avalanche common stock offered through
23 the IPO and the SPO. The Class is, therefore, sufficiently numerous to render joinder impracticable.
24

25
26 ¹ As used herein, the term “Parties” means Plaintiffs Beaver County Employees Retirement Fund,
27 Arpan Bachhawat, and Srikanth Koneru, and Defendants Avalanche Biotechnologies, Inc., Thomas W.
28 Chalberg, Jr., Linda C. Bain, Mark S. Blumenkranz, John P. McLaughlin, Steven D. Schwartz, Paul D.
Wachter, Jefferies LLC, Cowen and Company, LLC, Piper Jaffray & Co., and William Blair &
Company, L.L.C.

1 (ii) There are questions of law and fact common to the Class. Those questions
2 include (a) whether the Defendants violated the Securities Act of 1933, whether the Registration
3 Statements for the IPO and SPO contained misstatements or omissions, whether any misstatements or
4 omissions were material, and whether any misstatements or omissions caused harm to the Class
5 Members; and (b) whether the Issuer Defendants violated the Securities Exchange Act of 1934, whether
6 the statements made during the Class Period were materially false or misleading, whether the Issuer
7 Defendants acted with scienter, and whether the Issuer Defendants' alleged fraud caused harm to the
8 Class Members.

9 (iii) The claims of the Plaintiffs are typical of the claims of the Class Members.
10 Plaintiffs claim to have purchased Avalanche common stock during the Class Period and/or pursuant or
11 traceable to the same Registration Statements as the Class Members. Consequently, Plaintiffs claim
12 that they and the other Class Members sustained damages as a result of the same misconduct by
13 Defendants.

14 (iv) Plaintiffs and Plaintiffs' Counsel have fairly and adequately represented and
15 protected the interests of the Class Members. Plaintiffs have no interests in conflict with absent Class
16 Members. The Court is satisfied that Plaintiffs' Counsel are qualified, experienced, and have
17 represented the Class to the best of their abilities.

18 (v) The questions of law or fact common to the Class Members predominate over
19 any questions affecting only individual members.

20 (vi) A class action is the superior means of resolving the Action.

21 D. The form, content, and method of dissemination of notice given to the Class was
22 adequate and reasonable and constituted the best notice practicable under the circumstances, including
23 individual notice to all Class Members who could be identified through reasonable effort.

24 E. Notice, as given, complied with the requirements of California law, satisfied the
25 requirements of due process, and constituted due and sufficient notice of the matters set forth herein.

26 F. The Settlement set forth in the Stipulation in the amount of \$13,000,000 is fair,
27 reasonable, and adequate.

28

1 (i) The Settlement was negotiated at arm's length by Plaintiffs on behalf of the Class
2 and by Defendants, all of whom were represented by highly experienced and skilled counsel. The case
3 settled only after: (a) a mediation conducted by an experienced mediator who was thoroughly familiar
4 with this Action and the Federal Court Action; (b) the exchange among the State Court Plaintiff and the
5 Issuer Defendants of detailed mediation statements prior to the mediation which highlighted the factual
6 and legal issues in dispute; (c) follow-up negotiations between the Parties to this Action and the Federal
7 Court Action with the assistance of the mediator; (d) Plaintiffs' Counsel's extensive investigation,
8 which included, among other things, a review of Avalanche's press releases, U.S. Securities and
9 Exchange Commission filings, analyst reports, media reports, and other publicly disclosed reports and
10 information about the Defendants; (e) the drafting and submission of detailed complaints; and (f) the
11 review and analysis of non-public documents produced by Defendants. Accordingly, both the Plaintiffs
12 and Defendants were well-positioned to evaluate the settlement value of this Action and the Federal
13 Court Action. The Stipulation has been entered into in good faith and is not collusive.

14 (ii) If the Settlement had not been achieved, both Plaintiffs and Defendants faced the
15 expense, risk, and uncertainty of extended litigation. The Court takes no position on the merits of either
16 Plaintiffs' or Defendants' arguments, but notes these arguments as evidence in support of the
17 reasonableness of the Settlement.

18 G. Plaintiffs and Plaintiffs' Counsel have fairly and adequately represented the interest of
19 the Class Members in connection with the Settlement.

20 H. Plaintiffs, all Class Members, and Defendants are hereby bound by the terms of the
21 Settlement set forth in the Stipulation.

22 **IT IS HEREBY ORDERED THAT:**

23 1. The Class, defined in the Stipulation is finally certified as:

24 All Persons that purchased or otherwise acquired Avalanche common stock between
25 July 30, 2014 and June 15, 2015 (inclusive), including those Persons that purchased or
26 otherwise acquired the Company's common stock pursuant or traceable to the
27 Company's Registration Statement and Prospectus for the Company's IPO and those
28 Persons that purchased or otherwise acquired the Company's common stock pursuant or
traceable to the Company's Registration Statement and Prospectus for the Company's
SPO. Excluded from the Class are: the Defendants; any officers or directors of
Avalanche or the Underwriter Defendants during or after the Class Period; any
corporation, trust or other entity in which any Defendant has a controlling interest; and

1 the members of the immediate families of the Individual Defendants, and the Individual
2 Defendants' successors, heirs, assigns and legal representatives.

3 2. The Settlement on the terms set forth in the Stipulation is finally approved as fair,
4 reasonable, and adequate. The Settlement shall be consummated in accordance with the terms and
5 provisions of the Stipulation. The Parties are to bear their own costs, except as otherwise provided in
6 the Stipulation.

7 3. All Released Parties as defined in the Stipulation are released in accordance with, and as
8 defined in, the Stipulation.

9 4. Upon the Effective Date, Plaintiffs and each Class Member shall be deemed to have, and
10 by operation of this Final Judgment shall have, fully, finally, and forever released, relinquished, and
11 discharged all Settled Claims against the Released Parties, whether or not such Class Member executes
12 and delivers a Proof of Claim and Release.

13 5. Upon the Effective Date, each of the Released Parties shall be deemed to have, and by
14 operation of this Final Judgment shall have, fully, finally, and forever released Plaintiffs, Plaintiffs'
15 Counsel, and each and all of the Class Members from all Settled Defendants' Claims.

16 6. All Class Members who have not made their objections to the Settlement in the manner
17 provided in the Notice of Proposed Settlement of Class Action ("Notice") are deemed to have waived
18 any objections by appeal, collateral attack, or otherwise.

19 7. All Class Members who have failed to properly submit requests for exclusion (requests
20 to opt out) from the Class are bound by the terms and conditions of the Stipulation and this Final
21 Judgment.

22 8. The requests for exclusion by the persons or entities identified in Exhibit A to this Final
23 Judgment are accepted by the Court.

24 9. All other provisions of the Stipulation are incorporated into this Final Judgment as if
25 fully rewritten herein.

26 10. Plaintiffs and all Class Members are hereby barred and enjoined from instituting,
27 commencing, maintaining, or prosecuting in any court or tribunal any of the Settled Claims against any
28 of the Released Parties.

1 11. Neither the Stipulation nor the Settlement, nor any act performed or document executed
2 pursuant to or in furtherance of the Stipulation or the Settlement:

3 (a) shall not be offered or received against Defendants as evidence of a presumption,
4 concession, or admission with respect to any liability, negligence, fault, or wrongdoing, or in any way
5 referred to for any other reason as against Defendants, in any other civil, criminal, or administrative
6 action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of
7 the Stipulation; however, Defendants may refer to it to effectuate the liability protection granted them
8 hereunder;

9 (b) shall not be construed as or received in evidence as an admission, concession, or
10 presumption against Plaintiffs or any of the Class Members that any of their claims are without merit, or
11 that any defenses asserted by Defendants have any merit, or that damages recoverable in this Action, the
12 Federal Court Action, or any subsequent operative complaint filed in this Action or the Federal Court
13 Action would not have exceeded the Settlement Fund; and

14 (c) Notwithstanding the foregoing, Defendants, Plaintiffs, Class Members, and/or the
15 Released Parties may file the Stipulation and/or the Final Judgment in any action that may be brought
16 against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral
17 estoppel, release, good faith settlement, judgment bar or reduction or any other theory of claim
18 preclusion or issue preclusion or similar defense or counterclaim.

19 12. The Court hereby finds and concludes that the Action was brought, prosecuted and/or
20 defended in good faith, with a reasonable basis.

21 13. Pursuant to and in full compliance with California law, this Court hereby finds and
22 concludes that due and adequate notice was directed to all Persons and entities who are Class Members
23 advising them of the Plan of Allocation and of their right to object thereto, and a full and fair
24 opportunity was accorded to all Persons and entities who are Class Members to be heard with respect to
25 the Plan of Allocation.

26 14. The Court hereby finds and concludes that the formula for the calculation of the claims
27 of Authorized Claimants, which is set forth in the Notice sent to Class Members, provides a fair and
28 reasonable basis upon which to allocate the proceeds of the Net Settlement Fund established by the

1 Stipulation among Class Members, with due consideration having been given to administrative
2 convenience and necessity.

3 15. The Court hereby awards Plaintiffs' Counsel attorneys' fees of \$4,290,000, plus Lead
4 Counsel's expenses in the amount of ~~\$155,002.81~~ ^{\$132,502.81}, and Federal Court Counsel's expenses in the amount
5 of \$92,652.63, together with the interest earned thereon for the same time period and at the same rate as
6 that earned on the Settlement Fund until paid. The Court finds that the amount of fees awarded is
7 appropriate and that the amount of fees awarded is fair and reasonable given the contingent nature of
8 the case and the substantial risks of non-recovery, the time and effort involved, and the result obtained
9 for the Class.

10 16. The awarded attorneys' fees and expenses and interest earned thereon shall immediately
11 be paid to Lead Counsel from the Settlement Fund subject to the terms, conditions, and obligations of
12 the Stipulation, which terms, conditions, and obligations are incorporated herein.

13 17. Time and expenses are awarded to Plaintiffs Beaver County Employees Retirement
14 Fund, Arpan Bachhawat and Srikanth Koneru in the amounts of \$2,500, \$2,500 and \$1,500,
15 respectively. Such payment is appropriate considering their active participation as Plaintiffs in this
16 Action and the Federal Court Action, as attested to by the declarations submitted to the Court. Such
17 payment is to be made from the Settlement Fund.

18 18. In the event that the Stipulation is terminated in accordance with its terms: (i) this Final
19 Judgment shall be rendered null and void and shall be vacated *nunc pro tunc*; and (ii) this Action shall
20 proceed as provided in the Stipulation.

1 19. Without affecting the finality of this Final Judgment in any way, this Court retains
2 continuing jurisdiction over: (a) implementation of this Settlement and any award or distribution of the
3 Settlement Fund, including interest earned thereon; (b) disposition of the Settlement Fund; (c) hearing
4 and determining applications for attorneys' fees, interest, and expenses in the Action; and (d) all parties
5 hereto for the purpose of construing, enforcing, and administering the Stipulation.

6 IT IS SO ORDERED.

7
8 DATED: 1/19/18



9 HONORABLE MARIE S. WEINER
10 JUDGE OF THE SUPERIOR COURT
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT E

1 ROBBINS GELLER RUDMAN
& DOWD LLP
2 JAMES I. JACONETTE (179565)
655 West Broadway, Suite 1900
3 San Diego, CA 92101
Telephone: 619/231-1058
4 619/231-7423 (fax)

FILED
SAN MATEO COUNTY

AUG 14 2020

Clerk of the Superior Court

By

DEPUTY CLERK

5 Lead Counsel for Plaintiffs and the Putative Class

6
7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN MATEO

10 In re MENLO THERAPEUTICS INC.
SECURITIES LITIGATION

) Lead Case No. 18CIV06049

) CLASS ACTION

11
12 This Document Relates To:

) Assigned for All Purposes to Dept. 16

13 ALL ACTIONS.

) JUDGMENT AND ORDER GRANTING
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT

14
15 Judge: Honorable Richard H. DuBois

16 Dept: 16

17 Date Action Filed: 11/08/18
18
19
20
21
22
23
24
25
26
27
28

1 WHEREAS, the Court is advised that the Parties,¹ through their counsel, have agreed, subject to
2 Court approval following notice to the Class and a hearing, to settle this Action upon the terms and
3 conditions set forth in the Stipulation of Settlement dated March 26, 2020 (the "Stipulation"); and

4 WHEREAS, on April 24, 2020, the Court entered its Order Preliminarily Approving Settlement
5 and Providing for Notice, which preliminarily approved the Settlement, and approved the form and
6 manner of notice to the Class of the Settlement, and said notice has been made, and the fairness hearing
7 having been held; and

8 NOW, THEREFORE, based upon the Stipulation and all of the filings, records, and proceedings
9 herein, and it appearing to the Court upon examination that the Settlement set forth in the Stipulation is
10 fair, reasonable, and adequate, and upon a Settlement Fairness Hearing having been held after notice to
11 the Class of the Settlement to determine if the Settlement is fair, reasonable, and adequate and whether
12 the Judgment should be entered in this Action;

13 **THE COURT HEREBY FINDS AND CONCLUDES THAT:**

14 A. The provisions of the Stipulation, including definitions of the terms used therein, are
15 hereby incorporated by reference as though fully set forth herein.

16 B. This Court has jurisdiction of the subject matter of this Action and over all of the Parties
17 and all Class Members for purposes of the Settlement.

18 C. The form, content, and method of dissemination of notice given to the Class was
19 adequate and reasonable and constituted the best notice practicable under the circumstances, including
20 individual notice to all Class Members who could be identified through reasonable effort.

21 D. Notice, as given, complied with the requirements of California law, satisfied the
22 requirements of due process, and constituted due and sufficient notice of the matters set forth herein.

23 E. The Settlement, as set forth in the Stipulation, is fair, reasonable, and adequate.
24

25 ¹ As used herein, the term "Parties" means Plaintiffs Pavel Silvestrov and Hugh McKay ("Plaintiffs"),
26 on behalf of themselves and the Class (as defined below), and Defendants Menlo Therapeutics Inc.
27 ("Menlo" or the "Company"), Steven Basta, Kristine Ball, Paul Berns, Albert Cha, Ted Ebel, David
28 McGirr, Aaron Royston, and Scott Whitcup (the "Individual Defendants" and with Menlo, the "Menlo
Defendants"), and Jefferies LLC, Piper Sandler & Co. (formerly known as Piper Jaffray & Co.),
Guggenheim Securities, LLC, and JMP Securities LLC (the "Underwriter Defendants") (all,
collectively, "Defendants").

1 (i) The Settlement was negotiated at arm's length by Plaintiffs on behalf of the Class
2 and by Defendants, all of whom were represented by highly experienced and skilled counsel. The case
3 settled only after, among other things: (a) a mediation conducted by an experienced mediator who was
4 familiar with this Action; (b) the exchange between the Plaintiffs and the Menlo Defendants of detailed
5 mediation statements prior to the mediation which highlighted the factual and legal issues in dispute;
6 (c) follow-up negotiations between the Plaintiffs and the Menlo Defendants with the assistance of the
7 mediator; (d) Plaintiffs' Counsel's extensive investigation, which included, among other things, a
8 review of Menlo's press releases, U.S. Securities and Exchange Commission filings, analyst reports,
9 media reports, and other publicly disclosed reports and information about the Defendants; (e) the
10 drafting and submission of detailed complaints; (f) motion practice; and (g) the review and analysis of
11 over 2,100,000 pages of non-public documents produced by the Menlo Defendants. Accordingly, both
12 the Plaintiffs and Defendants were well-positioned to evaluate the settlement value of this Action. The
13 Stipulation has been entered into in good faith and is not collusive.

14 (ii) If the Settlement had not been achieved, both Plaintiffs and Defendants faced the
15 expense, risk, and uncertainty of extended litigation. The Court takes no position on the merits of either
16 Plaintiffs' or Defendants' arguments, but notes these arguments as evidence in support of the
17 reasonableness of the Settlement.

18 F. Plaintiffs and Plaintiffs' Counsel have fairly and adequately represented the interest of
19 the Class Members in connection with the Settlement.

20 G. Plaintiffs, all Class Members, and Defendants are hereby bound by the terms of the
21 Settlement set forth in the Stipulation.

22 **IT IS HEREBY ORDERED THAT:**

23 1. The Settlement on the terms set forth in the Stipulation is finally approved as fair,
24 reasonable, and adequate. The Settlement shall be consummated in accordance with the terms and
25 provisions of the Stipulation. The Parties are to bear their own costs, except as otherwise provided in
26 the Stipulation.

27 2. The Court hereby certifies this Action as a class action for purposes of this Settlement
28 only, pursuant to California Code of Civil Procedure §382, on behalf of all persons and entities who

1 purchased or otherwise acquired Menlo common stock pursuant and/or traceable to the Registration
2 Statement and Prospectus issued in connection with Menlo's initial public offering ("IPO") on or about
3 January 29, 2018. For purposes of this Settlement only, the Class includes all Persons who purchased
4 or otherwise acquired Menlo's common stock between January 29, 2018 and July 24, 2018, inclusive.
5 Excluded from the Class are: the Defendants (meaning, Menlo, the Individual Defendants, and the
6 Underwriter Defendants) and their respective successors and assigns; past and current executive officers
7 and directors of Menlo and the Underwriter Defendants; members of the immediate families of the
8 Individual Defendants; the legal representatives, heirs, successors or assigns of the Individual
9 Defendants; any entity in which any of the above excluded persons have or had a majority ownership
10 interest; and any person who validly requests exclusion from the Class. The foregoing exclusion shall
11 not cover "Investment Vehicles," which for these purposes shall mean any investment company or
12 pooled investment fund, including, but not limited to, mutual fund families, exchange-traded funds,
13 fund of funds, private equity funds, real estate funds, and hedge funds, in which any Underwriter
14 Defendant or any of its affiliates has or may have a direct or indirect interest or as to which any
15 Underwriter Defendant or any of its affiliates may act as an investment advisor, general partner,
16 managing member, or in other similar capacity, other than an investment vehicle of which the
17 Underwriter Defendant or any of its affiliates is a majority owner or holds a majority beneficial interest
18 and only to the extent of such Underwriter Defendant's or affiliate's ownership or interest. Also
19 excluded from the Class are those Persons who would otherwise be Class Members but who timely and
20 validly exclude themselves therefrom.

21 3. All Released Persons as defined in the Stipulation are released in accordance with, and
22 as defined in, the Stipulation.

23 4. Upon the Effective Date, Plaintiffs and each Class Member shall be deemed to have, and
24 by operation of this Judgment shall have, fully, finally, and forever released, relinquished, and
25 discharged all Released Claims against the Released Persons, whether or not such Class Member
26 executes and delivers a Proof of Claim.

1 5. Upon the Effective Date, each of the Defendants shall be deemed to have, and by
2 operation of this Judgment shall have, fully, finally, and forever released Plaintiffs, Plaintiffs' Counsel,
3 and each and all of the Class Members from all Released Defendants' Claims.

4 6. All Class Members who have not objected to the Settlement in the manner provided in
5 the Notice of Proposed Settlement of Class Action ("Notice") are deemed to have waived any
6 objections by appeal, collateral attack, or otherwise.

7 7. All Class Members who have failed to properly submit requests for exclusion (requests
8 to opt out) from the Class are bound by the terms and conditions of the Stipulation and this Judgment.

9 8. All other provisions of the Stipulation are incorporated into this Judgment as if fully
10 rewritten herein.

11 9. Plaintiffs and all Class Members are hereby barred and enjoined from instituting,
12 commencing, maintaining, or prosecuting in any court or tribunal any of the Released Claims against
13 any of the Released Persons.

14 10. Neither the Stipulation nor the Settlement, nor any act performed or document executed
15 pursuant to or in furtherance of the Stipulation or the Settlement:

16 (a) shall be offered or received against Defendants as evidence of, or evidence in
17 support of, a presumption, concession, or admission with respect to any liability, negligence, fault, or
18 wrongdoing, or in any way referred to for any other reason as against Defendants, in any civil, criminal,
19 or administrative action or proceeding, other than such proceedings as may be necessary to effectuate
20 the provisions of the Stipulation; however, Defendants may refer to it to effectuate the liability
21 protection granted them hereunder;

22 (b) shall be construed as or received in evidence as an admission, concession, or
23 presumption against Plaintiffs or any of the Class Members that any of their claims are without merit, or
24 that any defenses asserted by Defendants have any merit, or that damages recoverable in this Action
25 would have exceeded the Settlement Fund; and

26 (c) Notwithstanding the foregoing, Defendants, Plaintiffs, Class Members and/or the
27 Released Persons may file the Stipulation and/or this Judgment in any action that may be brought
28 against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral

1 estoppel, release, good faith settlement, judgment bar, reduction, or any other theory of claim preclusion
2 or issue preclusion or similar defense or counterclaim.

3 11. The Court hereby finds and concludes that due and adequate notice was directed to all
4 Persons and entities who are Class Members advising them of the Plan of Allocation and of their right
5 to object thereto, and a full and fair opportunity was accorded to all Persons and entities who are Class
6 Members to be heard with respect to the Plan of Allocation.

7 12. The Court hereby finds and concludes that the formula for the calculation of the claims
8 of Authorized Claimants, which is set forth in the Notice sent to Class Members, provides a fair and
9 reasonable basis upon which to allocate the proceeds of the Net Settlement Fund established by the
10 Stipulation among Class Members, with due consideration having been given to administrative
11 convenience and necessity.

12 13. Nothing in the Settlement restricts the ability of any Party to advocate in favor of or
13 against the applicability of any offset to any claims asserted in any other action based on any amount
14 paid to Authorized Claimants through the Settlement.

15 14. The Court hereby awards Plaintiffs' Counsel attorneys' fees in the amount of one-third
16 of the Settlement Amount (or \$3,166,666), plus Plaintiffs' Counsel's expenses in the amount of
17 \$52,421.52, together with the interest earned thereon for the same time period and at the same rate as
18 that earned on the Settlement Fund until paid. The Court finds that the amount of fees awarded is
19 appropriate and that the amount of fees awarded is fair and reasonable given the contingent nature of
20 the case and the substantial risks of non-recovery, the time and effort involved, and the result obtained
21 for the Class.

22 15. The awarded attorneys' fees and expenses and interest earned thereon shall immediately
23 be paid to Lead Counsel from the Settlement Fund subject to the terms, conditions, and obligations of
24 the Stipulation, which terms, conditions, and obligations are incorporated herein.

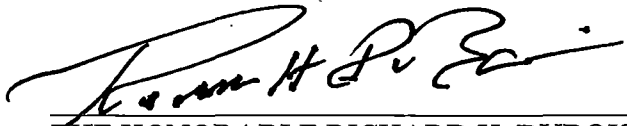
25 16. Payments are awarded to Plaintiffs Pavel Silvestrov and Hugh McKay in the amounts of
26 \$9,500 and \$2,500, respectively. Such payment is appropriate considering their active participation as
27 Plaintiffs in this Action, as attested to by the declarations submitted to the Court. Such payment is to be
28 made from the Settlement Fund.

1 17. In the event that the Stipulation is terminated in accordance with its terms: (i) this
2 Judgment shall be rendered null and void and shall be vacated *nunc pro tunc*; and (ii) this Action shall
3 proceed as provided in the Stipulation.

4 18. Without affecting the finality of this Judgment in any way, this Court retains continuing
5 jurisdiction over: (a) implementation of this Settlement and any award or distribution of the Settlement
6 Fund, including interest earned thereon; (b) disposition of the Settlement Fund; (c) hearing and
7 determining applications for attorneys' fees, interest, and expenses in the Action; and (d) all parties
8 hereto for the purpose of construing, enforcing, and administering the Stipulation.

9 IT IS SO ORDERED.

10 DATED: 8-14-2020



THE HONORABLE RICHARD H. DUBOIS
JUDGE OF THE SUPERIOR COURT

EXHIBIT F

**ENDORSED FILED
SAN MATEO COUNTY**

DEC 14 2018

Clerk of the Superior Court
By TERRI MARAGOULAS
DEPUTY CLERK

1 ROBBINS GELLER RUDMAN
& DOWD LLP
2 JAMES I. JACONETTE (179565)
ELLEN GUSIKOFF STEWART (144892)
3 RACHEL L. JENSEN (211456)
ASHLEY M. PRICE (281797)
4 655 West Broadway, Suite 1900
San Diego, CA 92101
5 Telephone: 619/231-1058
619/231-7423 (fax)

6 COTCHETT, PITRE & McCARTHY, LLP
7 MARK C. MOLUMPY (168009)
TAMARAH P. PREVOST (313422)
8 San Francisco Airport Office Center
840 Malcolm Road, Suite 200
9 Burlingame, CA 94010
Telephone: 650/697-6000
10 650/697-0577 (fax)

11 Co-Lead Class Counsel for Plaintiffs

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA

13 COUNTY OF SAN MATEO

14 In re SUNRUN INC. SHAREHOLDER
15 LITIGATION

) Lead Case No. CIV538215
)
)

) CLASS ACTION
)

16 This Document Relates To:
17
18

) Assigned to: Hon. Marie S. Weiner
)
)

17 ALL ACTIONS.
18

) JUDGMENT AND ORDER GRANTING
) FINAL APPROVAL OF CLASS ACTION
) SETTLEMENT

19 DEPT: 2
20

DATE ACTION FILED: 4/13/16
21
22

23 CIV538215
PJR
Proposed Judgment Received
1540961



24
25
26
27
28 JUDGMENT AND ORDER GRANTING FINAL APPROVAL OF CLASS ACTION SETTLEMENT

1510069_1

SCANNED

FILE BY FAX

1 WHEREAS, the Court is advised that the Parties,¹ through their counsel, have agreed, subject to
2 Court approval following notice to the Class and a hearing, to settle this Action upon the terms and
3 conditions set forth in the Stipulation of Settlement dated August 23, 2018 (the "Stipulation" or
4 "Settlement"); and

5 WHEREAS, on September 14, 2018, the Court entered its Order Preliminarily Approving
6 Settlement and Providing for Notice, which preliminarily approved the Settlement, and approved the
7 form and manner of notice to the Class of the Settlement, and said notice has been made, and the
8 fairness hearing having been held; and

9 NOW, THEREFORE, based upon the Stipulation and all of the filings, records and proceedings
10 herein, and it appearing to the Court upon examination that the Settlement set forth in the Stipulation is
11 fair, reasonable and adequate, and upon a Settlement Fairness Hearing having been held after notice to
12 the Class of the Settlement to determine if the Settlement is fair, reasonable, and adequate and whether
13 the Final Judgment should be entered in this Action;

14 **THE COURT HEREBY FINDS AND CONCLUDES THAT:**

15 A. The provisions of the Stipulation, including definitions of the terms used therein, are
16 hereby incorporated by reference as though fully set forth herein.

17 B. This Court has jurisdiction of the subject matter of this Action and over all of the Parties
18 and all Class Members.

19 C. The form, content, and method of dissemination of notice given to the Class was
20 adequate and reasonable and constituted the best notice practicable under the circumstances, including
21 individual notice to all Class Members who could be identified through reasonable effort.

22 D. Notice, as given, complied with the requirements of California law, satisfied the
23 requirements of due process, and constituted due and sufficient notice of the matters set forth herein.

24
25 ¹ As used herein, the term "Parties" means Plaintiffs Jeffrey L. Pytel and Jackie L. Nunez and
26 Defendants Sunrun Inc., Lynn Jurich, Bob Komin, Edward Fenster, Jameson McJunkin, Gerald Risk,
27 Steve Vassallo, Richard Wong, Credit Suisse Securities (USA) LLC, Goldman Sachs & Co. LLC (f/k/a
28 Goldman, Sachs & Co.), Morgan Stanley & Co. LLC, Merrill Lynch, Pierce Fenner & Smith
Incorporated, RBC Capital Markets, LLC, KeyBanc Capital Markets Inc., SunTrust Robinson
Humphrey, Inc., Foundation Capital VI, L.P. and Foundation Capital Management Co. VI, LLC.

1 E. The Settlement set forth in the Stipulation in the amount of \$32,000,000 is fair,
2 reasonable, and adequate.

3 (i) The Settlement was negotiated at arm's length by Plaintiffs on behalf of the Class
4 and by Defendants, all of whom were represented by highly experienced and skilled counsel. The case
5 settled only after, among other things: (a) a mediation conducted by an experienced mediator who was
6 thoroughly familiar with this Action; (b) the exchange between the Plaintiffs and the Sunrun Defendants
7 of detailed mediation statements prior to the mediation which highlighted the factual and legal issues in
8 dispute; (c) follow-up negotiations between the Plaintiffs and the Sunrun Defendants with the assistance
9 of the mediator; (d) Plaintiffs' Counsel's extensive investigation, which included, among other things, a
10 review of Sunrun's press releases, U.S. Securities and Exchange Commission filings, analyst reports,
11 media reports, and other publicly disclosed reports and information about the Defendants; (e) the
12 drafting and submission of detailed complaints; (f) extensive motion practice; (g) the review and
13 analysis of over one million pages of non-public documents produced by Defendants and third parties;
14 (h) certification of the Class and Subclass; and (i) a number of depositions. Accordingly, both the
15 Plaintiffs and Defendants were well-positioned to evaluate the settlement value of this Action. The
16 Stipulation has been entered into in good faith and is not collusive.

17 (ii) If the Settlement had not been achieved, both Plaintiffs and Defendants faced the
18 expense, risk, and uncertainty of extended litigation. The Court takes no position on the merits of either
19 Plaintiffs' or Defendants' arguments, but notes these arguments as evidence in support of the
20 reasonableness of the Settlement.

21 F. Plaintiffs and Plaintiffs' Counsel have fairly and adequately represented the interest of
22 the Class Members and Subclass Members in connection with the Settlement.

23 G. Plaintiffs, all Class Members, and Defendants are hereby bound by the terms of the
24 Settlement set forth in the Stipulation.

25 **IT IS HEREBY ORDERED THAT:**

26 1. The Settlement on the terms set forth in the Stipulation is finally approved as fair,
27 reasonable, and adequate. The Settlement shall be consummated in accordance with the terms and
28

1 provisions of the Stipulation. The Parties are to bear their own costs, except as otherwise provided in
2 the Stipulation.

3 2. All Released Parties as defined in the Stipulation are released in accordance with, and as
4 defined in, the Stipulation.

5 3. Upon the Effective Date, Plaintiffs and each Class Member and Subclass Member shall
6 be deemed to have, and by operation of this Final Judgment shall have, fully, finally, and forever
7 released, relinquished, and discharged all Settled Claims against the Released Parties, whether or not
8 such Class Member or Subclass Member executes and delivers a Proof of Claim and Release.

9 4. Upon the Effective Date, each of the Released Parties shall be deemed to have, and by
10 operation of this Final Judgment shall have, fully, finally, and forever released Plaintiffs, Plaintiffs'
11 Counsel, and each and all of the Class Members and Subclass Members from all Settled Defendants'
12 Claims.

13 5. All Class Members and Subclass Members who have not made their objections to the
14 Settlement in the manner provided in the Notice of Proposed Settlement of Class Action ("Notice") are
15 deemed to have waived any objections by appeal, collateral attack, or otherwise.

16 6. All Class Members and Subclass Members who have failed to properly submit requests
17 for exclusion (requests to opt out) from the Class are bound by the terms and conditions of the
18 Stipulation and this Final Judgment.

19 7. The requests for exclusion by the persons or entities identified in Exhibit A to this Final
20 Judgment are accepted by the Court.

21 8. All other provisions of the Stipulation are incorporated into this Final Judgment as if
22 fully rewritten herein.

23 9. Plaintiffs and all Class Members and Subclass Members are hereby barred and enjoined
24 from instituting, commencing, maintaining, or prosecuting in any court or tribunal any of the Settled
25 Claims against any of the Released Parties.

26 10. Neither the Stipulation nor the Settlement, nor any act performed or document executed
27 pursuant to or in furtherance of the Stipulation or the Settlement:
28

M

*Peter F. Hovell, Wendy S. Henry,
Sravan Kumar Madadi, Robert & Petricia Komin, Erin Elahi,
Stephen P Kennard Jr., Gregory J. West, Carl L. Quinn, and John Giordano*

1 (a) shall be offered or received against Defendants as evidence of a presumption,
2 concession, or admission with respect to any liability, negligence, fault, or wrongdoing, or in any way
3 referred to for any other reason as against Defendants, in any other civil, criminal, or administrative
4 action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of
5 the Stipulation; however, Defendants may refer to it to effectuate the liability protection granted them
6 hereunder;

7 (b) shall be construed as or received in evidence as an admission, concession, or
8 presumption against Plaintiffs or any of the Class Members or Subclass Members that any of their
9 claims are without merit, or that any defenses asserted by Defendants have any merit, or that damages
10 recoverable in this Action, or any subsequent operative complaint filed in this Action would have
11 exceeded the Settlement Fund; and

12 (c) Notwithstanding the foregoing, Defendants, Plaintiffs, Class Members and/or the
13 Released Parties may file the Stipulation and/or this Final Judgment in any action that may be brought
14 against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral
15 estoppel, release, good faith settlement, judgment bar or reduction or any other theory of claim
16 preclusion or issue preclusion or similar defense or counterclaim.

17 11. The Court hereby finds and concludes that the Action was brought, prosecuted and/or
18 defended in good faith, with a reasonable basis.

19 12. Pursuant to and in full compliance with California law, this Court hereby finds and
20 concludes that due and adequate notice was directed to all Persons and entities who are Class Members
21 and Subclass Members advising them of the Plan of Allocation and of their right to object thereto, and a
22 full and fair opportunity was accorded to all Persons and entities who are Class Members and Subclass
23 Members to be heard with respect to the Plan of Allocation.

24 13. The Court hereby finds and concludes that the formula for the calculation of the claims
25 of Authorized Claimants, which is set forth in the Notice sent to Class Members and Subclass Members,
26 provides a fair and reasonable basis upon which to allocate the proceeds of the Net Settlement Fund
27 established by the Stipulation among Class Members and Subclass Members, with due consideration
28 having been given to administrative convenience and necessity.

1 14. The Court hereby awards Plaintiffs' Counsel attorneys' fees of \$10,656,000, plus Lead
2 Counsel's expenses in the amount of \$473,536.28, together with the interest earned thereon for the same
3 time period and at the same rate as that earned on the Settlement Fund until paid. The Court finds that
4 the amount of fees awarded is appropriate and that the amount of fees awarded is fair and reasonable
5 given the contingent nature of the case and the substantial risks of non-recovery, the time and effort
6 involved, and the result obtained for the Class and Subclass.

7 15. The awarded attorneys' fees and expenses and interest earned thereon shall immediately
8 be paid to Lead Counsel from the Settlement Fund subject to the terms, conditions, and obligations of
9 the Stipulation, which terms, conditions, and obligations are incorporated herein.


10 16. Time and expenses are awarded to Plaintiffs Jeffrey L. Pytel and Jackie L. Nunez, in the
11 amounts of \$16,000 and \$15,000, respectively. Such payment is appropriate considering their active
12 participation as Plaintiffs in this Action, as attested to by the declarations submitted to the Court. Such
13 payment is to be made from the Settlement Fund.

14 17. In the event that the Stipulation is terminated in accordance with its terms: (i) this Final
15 Judgment shall be rendered null and void and shall be vacated *nunc pro tunc*; and (ii) this Action shall
16 proceed as provided in the Stipulation.

17 18. Without affecting the finality of this Final Judgment in any way, this Court retains
18 continuing jurisdiction over: (a) implementation of this Settlement and any award or distribution of the
19 Settlement Fund, including interest earned thereon; (b) disposition of the Settlement Fund; (c) hearing
20 and determining applications for attorneys' fees, interest, and expenses in the Action; and (d) all parties
21 hereto for the purpose of construing, enforcing, and administering the Stipulation.

22 IT IS SO ORDERED.

23 DATED: 12/14/18



HONORABLE MARIE S. WEINER
JUDGE OF THE SUPERIOR COURT

EXHIBIT G

FRANK E. MAYO/State Bar #42972
Law Office of Frank E. Mayo
4962 El Camino Real, Ste. 104
Los Altos, CA 94022

(650) 964-8901

Attorney for Plaintiffs

RECEIVED

FEB 21 2017

CLERK OF THE SUPERIOR COURT
SAN MATEO COUNTY

FILED
SAN MATEO COUNTY

MAR 07 2017

Clerk of the Superior Court

By JM
DEPUTY CLERK

CIV536903
JUD
Judgment
404836



IN THE SUPERIOR COURT OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN MATEO

JACOB BROOKS,

Plaintiff,

vs.

CAPITOL VALLEY ELECTRIC INC.
and DOES 1-50 Inclusive,

Defendants.

) Case No. CIV 536903

) ~~(PROPOSED)~~ **JUDGMENT AND**
) **ORDER GRANTING FINAL**
) **APPROVAL TO CLASS**
) **ACTION SETTLEMENT**
) **AND AWARDING ATTORNEY**
) **FEES, LITIGATION COSTS,**
) **SERVICE AWARD AND**
) **CASE ADMINISTRATORS**
) **FEES**

) Assigned to Complex Dept 2 for
) all purposes

Plaintiff's Motion for an Order granting Final
Approval to the class action settlement in this matter came on
regularly for hearing this seventh day of March 2017. Frank E
Mayo having appeared as class counsel and Larry Kazanjaian having
appeared as counsel for Defendant Capitol Valley Electric, Inc.

The court finds as follows:

1. In accordance with the terms of the Preliminary Approval
Order, Class Members with the exception of Armando BuenaVentura,
have been given notice of the terms of the Settlement, including
[PROPOSED] ORDER AWARDING FINAL APPROVAL TO CLASS ACTION SETTLEMENT, AWARDING
ATTORNEY FEES AND COSTS, AND GRANTING A SERVICE AWARD TO CLASS REPRESENTATIVE

1 its provision for Attorney Fees, Costs of Litigation and a
2 Service Award to the Class Representative, and have had the
3 opportunity to comment on or object to the Settlement's
4 provisions for Attorney Fess, Litigation Costs and or the Service
5 Award and case administrators fees.

6 2. The court finds that the class member Armando Buena Ventura,
7 did not receive notice of this class action and therefore he is
8 not bound by any order or judgment entered by this court in this
9 class action proceeding.

10 3 Yaxaya Yang has filed a late claim which was allowed by the
11 case administrator. Said claim is allowed.

12 4. The claims of all class members receiving notice of this
13 class action by the judgment entered in this action release all
14 claims they have for unpaid overtime prejudgment interest and
15 statutory or civil penalties arising out of events during the
16 class period June 12, 2012 through June 12, 2016 are released

17 5. Jacob Brooks by the by the judgment in this action release
18 all claims he has against Capitol Valley Electric from all
19 claims he has, know or unknown as of March 7, 2017.

20 6. The court finds there were no objections made to the
21 settlement and no class member has opted out of the settlement.

22 7. The payment of Attorney Fees in the amount of One Hundred
23 Ten Thousand Eight Hundred Sixty Eight Dollars for all past and
24 remaining work in accordance with the terms of the Settlement is
25 fair and reasonable under the circumstances.

26 8. The amount of the attorney fee award is Thirty Three percent
27 (33%) of the common fund after deduction of cost of litigation
28 and less than Plaintiff's Counsel's lodestar in this case.

9. Plaintiff counsel has incurred litigation costs in excess
[PROPOSED] ORDER AWARDDING FINAL APPROVAL² TO CLASS ACTION SETTLEMENT, AWARDDING
ATTORNEY FEES AND COSTS, AND GRANTING A SERVICE AWARD TO CLASS REPRESENTATIVE

1 of Four Thousand Eight Hundred and Ninety Five Dollars.

2 10. An incentive award Plaintiff in the sum of Fifteen Thousand
3 Dollars is fair and reasonable in view of his work performed in
4 this matter and damages incurred as lead plaintiff in this
5 action.


6 11 CAC Services LLC has earned fees of Ten Thousand Dollars as
7 case administrator.

8 12. The Court approves the Plan of Allocation set forth in the
9 attachment to this Order.

10 IT IS THEREFORE HEREBY ORDERED AS FOLLOWS:

11 The parties shall perform each and every obligation
12 required by them in accordance with the terms of the settlement
13 agreement dated November 7, 2016 and the case administrator shall
14 distribute the net settlement funds in accord pursuant the Plan
15 of Allocation attached to this Order

16 Dated this 24th day of March 2017

17 
18 _____
19 Hon. Marie Weiner Judge
20
21
22
23
24
25
26
27
28

PLAN OF ALLOCATION

DEFINED TERMS

For the purpose of this plan of allocation, the following definitions apply to this allocation.

Following definitions are added:

1. Participating Class Members means all electricians, electrician helpers and laborers employed by Capitol Valley Electric at any time between January 12, 2012 and January 12, 2016 who have received notice of the class action in accordance with the Class Certification Orders entered by the Superior Court of California, County of San Mateo in the class action # CIV 536903 Brooks v Capitol Valley Electric Inc. and have submitted a claim claims within the time permitted or have submitted a late claim which has been allowed
2. Settlement means the sum of \$337,500 to be paid by Capitol Valley Electric as a lump sum settlement
3. Lead Plaintiff means Jacob Brooks.
4. Class or Case Administrator means CAC Services Group LLC
5. Net Settlement Fund means the settlement amount less class counsel fees, incentive award to lead plaintiff, CA Service s Group LLC fees and litigation costs as allowed by the Superior Court of California county of San Mateo action.
6. Distribution means payment of the Net Settlement Fund means payment to Participating Class Members and shall be pursuant to this plan of distribution.
7. Distribution Lists means a list containing the names of each Participating Class member and the calculation of the participating class members pro rata share of the Net Settlement Fund before withholding of state, federal and local taxes.

8. Undistributed Funds means distributions to class members by payroll checks not Negotiated by class members within sixty days of mailing

CALCULATIONS

The settlement shall be paid as follows:

A. to lead plaintiff	\$15,000.00
B. to CAC Services LLC	10,000.00
C. to CLWDA	7 500.00
D to litigation costs	4,895.00
E to Class Counsel	110,868.00
F. to the net settlement fund	189,237.00

The Net Settlement fund shall be distributed to Participating class members as set forth in Attachments A. This allocation results in payment to Participating Class Members of approximately 70% of their unpaid overtime as of the date of distribution , June 15, 2017

All payments made to participating class members shall be allocated 50% to unpaid overtime compensation and 50% to penalties.

Distribution shall be by the Class Administrator subject to the direction and control of The Superior Court of San Mateo County and shall be accomplished within 7 calendar days of receipt of all settlement funds which shall be paid in two installments. The first of which shall be deposited by Capitol Valley Electric on or before March 14, 2017 and the final sum within 90 days of the court granting final approval to the settlement.

Settlement checks shall have applicable Federal State and Local Taxes withheld from that portion of the settlement due as wages to each participating class member.

Any portion of the settlement fund not distributed as class counsel fees, litigation expenses or a incentive award to lead plaintiff shall be distributed on a pro rata basis to participating class members.

Any check sent a participating class member which remains uncashed for a period of sixty days from the date it was issued shall be voided and not re issued.

The net settlement funds shall be distributed by the class administrator in accord with schedule A. attached

Claim ID	Name	Claim Status	Unpaid Overtime Compensation	Per Diem Adjustment to Unpaid Overtime	Per Diem Adjustment to Paid Overtime	Prejudgment Interest	Labor Code 226	Labor Code 201-203	PAGA	Total Claim	PAGA Rate Share	Settlement Payment Rate
12022399	BRANDON A. THORP	DNQ	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	24.920499%
12021874	FERNANDO M. MEDINA	DNQ	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	
12021517	JASON M. GUTIERREZ	DNQ	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	
12021118	LIONEL A. BARRERA	DNQ	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	
12022539	YAXAYA YANG	VALID - LATE	\$57.00	\$0.00	\$0.00	\$10.40	\$0.00	\$3,985.00	\$0.00	\$4,052.40	\$1,009.88	
12022504	AARON W VOGEL	VALID	\$1,237.50	\$276.00	\$0.00	\$151.00	\$900.00	\$0.00	\$1,000.00	\$3,564.50	\$888.29	
12021720	ADAM R KNOOP	VALID	\$111.00	\$8.04	\$0.00	\$21.00	\$0.00	\$7,676.00	\$0.00	\$7,816.04	\$1,947.80	
12021979	ADRIAN C. MURILLO	VALID	\$1,890.00	\$282.00	\$36.00	\$181.00	\$1,550.00	\$0.00	\$1,600.00	\$5,539.00	\$1,380.35	
12021776	ADRIAN M. LOPEZ	VALID	\$22.00	\$0.00	\$0.00	\$1.32	\$50.00	\$2,046.00	\$100.00	\$2,219.32	\$553.07	
12021335	ALEKS DUB	VALID	\$182.00	\$31.80	\$0.00	\$66.00	\$150.00	\$4,570.00	\$200.00	\$5,199.80	\$1,295.82	
12022210	ANDREW J. ROSADO	VALID	\$8,770.00	\$182.00	\$0.00	\$105.00	\$1,250.00	\$0.00	\$1,300.00	\$11,607.00	\$2,892.52	
12022028	ANDREY PALAMARCHUK	VALID	\$3,500.80	\$502.39	\$0.00	\$731.00	\$1,350.00	\$0.00	\$1,400.00	\$7,484.19	\$1,865.10	
12021419	ANGELO FURIOSI	VALID	\$6,925.00	\$1,773.00	\$226.00	\$1,773.00	\$2,350.00	\$0.00	\$2,400.00	\$15,447.00	\$3,849.47	
12021027	ANTONIO D. ALVAREZ	VALID	\$0.00	\$337.50	\$77.49	\$24.75	\$550.00	\$0.00	\$600.00	\$1,589.74	\$396.17	
12021391	ANTONIO M. FEJERAN	VALID	\$1,296.53	\$694.00	\$512.00	\$41.50	\$1,950.00	\$0.00	\$2,000.00	\$6,494.03	\$1,618.34	
12021881	ANTONIO MENDEZ	VALID	\$2,423.00	\$627.00	\$0.00	\$201.13	\$2,450.00	\$0.00	\$2,500.00	\$8,201.13	\$2,043.76	
12021209	BRANDON BUCHER	VALID	\$3,219.00	\$588.00	\$567.00	\$587.00	\$2,950.00	\$0.00	\$3,000.00	\$10,911.00	\$2,719.08	
12021664	BRANDON L JONES	VALID	\$111.00	\$15.78	\$0.00	\$88.00	\$50.00	\$0.00	\$100.00	\$364.78	\$90.90	
12021762	BRIAN J. LESTER	VALID	\$4,510.00	\$1,429.00	\$396.00	\$742.00	\$2,750.00	\$7,170.00	\$2,800.00	\$19,797.00	\$4,933.51	
12022343	CEDRICK J. STONE	VALID	\$578.00	\$241.00	\$0.00	\$68.00	\$1,450.00	\$0.00	\$1,500.00	\$3,837.00	\$956.20	
12021230	CESAR O. CABRERA-LUCERO	VALID	\$960.00	\$367.00	\$0.00	\$128.00	\$1,150.00	\$0.00	\$1,200.00	\$3,805.00	\$948.22	
12022091	CHRISTOPHER G. PEYSER	VALID	\$174.00	\$38.19	\$0.00	\$20.90	\$250.00	\$3,773.00	\$300.00	\$4,556.09	\$1,135.40	
12021265	CHRISTOPHER H. CARROLL	VALID	\$378.00	\$165.86	\$0.00	\$51.30	\$650.00	\$7,653.00	\$700.00	\$9,598.16	\$2,391.91	
12022280	CHRISTOPHER J. SHERMAN	VALID	\$270.00	\$164.00	\$0.00	\$54.25	\$350.00	\$0.00	\$400.00	\$1,238.25	\$308.58	
12021433	CHRISTOPHER M. GARCIA	VALID	\$180.00	\$37.50	\$0.00	\$16.31	\$150.00	\$3,600.00	\$200.00	\$4,183.81	\$1,042.63	
12021398	CRISTIAN E. FERNANDEZ TELLEZ	VALID	\$2,950.00	\$737.00	\$0.00	\$0.00	\$2,650.00	\$0.00	\$2,700.00	\$9,037.00	\$2,252.07	
12021538	DAMON E. HANSON	VALID	\$38.99	\$0.00	\$0.00	\$10.26	\$0.00	\$5,649.00	\$0.00	\$5,698.25	\$1,420.03	
12021293	DAMON W. COLLINS	VALID	\$257.90	\$11.28	\$0.00	\$44.14	\$0.00	\$5,261.00	\$0.00	\$5,574.32	\$1,389.15	
12021601	DANIEL HUBER	VALID	\$2,554.00	\$1,492.71	\$855.71	\$211.93	\$2,050.00	\$0.00	\$2,100.00	\$9,264.35	\$2,308.72	
12021867	DANIEL J. MCTAGGART	VALID	\$294.00	\$57.96	\$0.00	\$98.00	\$0.00	\$4,428.00	\$0.00	\$4,877.96	\$1,215.61	
12021139	DANIEL R. BELDEN	VALID	\$2,452.00	\$606.00	\$0.00	\$254.00	\$2,250.00	\$0.00	\$2,300.00	\$7,862.00	\$1,959.25	
12022133	DAVID S. PUCKET	VALID	\$1,123.00	\$251.39	\$0.00	\$261.00	\$0.00	\$5,180.46	\$0.00	\$6,815.85	\$1,698.54	
12021839	DELBERT A. MARQUEZ II	VALID	\$1,011.31	\$145.47	\$28.75	\$307.00	\$0.00	\$4,149.00	\$0.00	\$5,641.53	\$1,405.90	
12021671	DERRICK D. JORDAN	VALID	\$673.00	\$70.31	\$0.00	\$73.00	\$850.00	\$4,438.00	\$900.00	\$7,004.31	\$1,745.51	
12022273	DUSTIN A SHELL	VALID	\$7,333.10	\$2,037.93	\$0.00	\$971.00	\$4,000.00	\$0.00	\$4,100.00	\$18,442.03	\$4,595.85	
12021622	EDUARDO IBARRA HERNANDEZ	VALID	\$1,707.00	\$431.00	\$0.00	\$195.00	\$1,550.00	\$0.00	\$1,600.00	\$5,483.00	\$1,366.39	
12022553	EDUARDO ZESATI	VALID	\$330.00	\$35.91	\$0.00	\$24.00	\$250.00	\$0.00	\$300.00	\$939.91	\$234.23	
12021048	ERIC A. ANDREOTTI	VALID	\$2,926.00	\$750.00	\$0.00	\$359.00	\$0.00	\$0.00	\$2,300.00	\$6,335.00	\$1,578.71	
12021454	ERIC S. GOEBEL	VALID	\$3,168.00	\$1,034.00	\$0.00	\$277.00	\$2,950.00	\$0.00	\$3,000.00	\$10,429.00	\$2,598.96	
12021594	ERIK HOUSE	VALID	\$82.53	\$0.00	\$0.00	\$2.90	\$0.00	\$10,890.00	\$0.00	\$10,975.43	\$2,735.13	
12021853	EZRA TAJ MAYNARD	VALID	\$613.00	\$252.00	\$0.00	\$242.00	\$1,150.00	\$2,661.00	\$1,200.00	\$6,118.00	\$1,524.64	
12021272	FERNANDO CERNA	VALID	\$499.20	\$204.21	\$0.00	\$78.00	\$650.00	\$4,243.00	\$700.00	\$6,374.41	\$1,588.53	
12021685	GARRETT A. KERSEY	VALID	\$4,959.00	\$1,088.00	\$44.00	\$610.00	\$4,000.00	\$0.00	\$4,400.00	\$15,101.00	\$3,763.24	
12021503	GREGORY A. GRANT	VALID	\$540.00	\$49.71	\$0.00	\$62.00	\$350.00	\$2,336.00	\$400.00	\$4,738.71	\$1,180.01	

ID	Name	Status	Compensation	Unpaid Overtime	Paid Overtime	Interest	Code 226	20	203	PAGA	Claim	Share	Payment Rate
12022294	GREGORY J. SILVA	VALID	\$1,466.00	\$552.00	\$46.87	\$168.00	\$3,350.00	\$0.00	\$3,400.00	\$8,982.87	\$2,238.58		
12022490	GUILMERME VICKER	VALID	\$559.00	\$0.00	\$0.00	\$81.00	\$0.00	\$6,584.00	\$0.00	\$7,224.00	\$1,800.26		
12021055	H. DOUGLAS AREVALO	VALID	\$0.00	\$281.41	\$148.00	\$112.00	\$0.00	\$3,546.61	\$0.00	\$4,088.02	\$1,018.75		
12022154	INGOMAR A. RAIGOZA-RUIZ	VALID	\$418.00	\$180.00	\$0.00	\$49.81	\$550.00	\$0.00	\$600.00	\$1,797.81	\$448.02		
12021475	JACOB D. GOMEZ	VALID	\$406.00	\$14.60	\$0.00	\$90.00	\$0.00	\$5,229.00	\$0.00	\$5,739.60	\$1,430.34		
12021181	JACOB W. BROOKS	VALID	\$1,480.00	\$408.00	\$0.00	\$124.00	\$1,250.00	\$0.00	\$1,300.00	\$4,562.00	\$1,136.87		
12021748	JAKE D. LEE	VALID	\$2,340.00	\$648.00	\$0.00	\$435.00	\$2,050.00	\$0.00	\$2,100.00	\$7,573.00	\$1,887.23		
12022546	JAMES D YOUNG	VALID	\$243.00	\$41.85	\$0.00	\$82.78	\$0.00	\$5,836.00	\$0.00	\$6,203.63	\$1,545.98		
12021314	JAMES D. CUMMINGS	VALID	\$3,135.00	\$514.00	\$0.00	\$568.00	\$1,450.00	\$0.00	\$1,500.00	\$7,167.00	\$1,786.05		
12022329	JAMES STEPHENS	VALID	\$1,354.00	\$251.00	\$260.00	\$155.00	\$750.00	\$0.00	\$800.00	\$3,570.00	\$889.66		
12021692	JASON A. KERSEY	VALID	\$975.00	\$292.00	\$0.00	\$115.00	\$850.00	\$0.00	\$900.00	\$3,132.00	\$780.51		
12022385	JEFFERY W. TASH	VALID	\$1,027.00	\$286.00	\$147.93	\$250.00	\$0.00	\$6,705.00	\$0.00	\$8,415.93	\$2,097.29		
12021412	JESSIE A. FRIEDMAN	VALID	\$85.00	\$35.19	\$0.00	\$11.00	\$250.00	\$2,400.00	\$300.00	\$3,081.19	\$767.85		
12022056	JOHN F. PELLEGRINO	VALID	\$56.00	\$0.00	\$0.00	\$5.00	\$1,050.00	\$5,124.00	\$1,100.00	\$7,335.00	\$1,827.92		
12021111	JOHN MICHAEL BARBOUR	VALID	\$2,735.00	\$668.00	\$454.00	\$2,050.00	\$0.00	\$2,100.00	\$0.00	\$8,007.00	\$1,995.38		
12021153	JOSEPH E. BENSON	VALID	\$536.00	\$245.00	\$71.00	\$0.00	\$0.00	\$1,920.00	\$0.00	\$2,772.00	\$690.80		
12021258	JOSUE A. CARRILLO CRUZ	VALID	\$365.71	\$151.41	\$0.00	\$65.00	\$650.00	\$0.00	\$700.00	\$1,932.12	\$481.49		
12021790	JUAN C. LUNA	VALID	\$1,045.00	\$208.00	\$0.00	\$83.25	\$750.00	\$0.00	\$800.00	\$2,886.25	\$719.27		
12021349	JUSTIN H. DYRDAHL	VALID	\$973.00	\$452.21	\$0.00	\$283.00	\$0.00	\$6,009.81	\$0.00	\$7,718.02	\$1,923.37		
12021286	KENNITH J. CLARK	VALID	\$228.00	\$0.00	\$0.00	\$30.39	\$250.00	\$5,700.00	\$300.00	\$6,508.39	\$1,621.92		
12021195	KEVIN M. BRYANT	VALID	\$931.00	\$215.00	\$0.00	\$100.00	\$1,050.00	\$5,379.00	\$1,100.00	\$8,775.00	\$2,186.77		
12022084	KODI PETERSON	VALID	\$1,278.00	\$782.00	\$0.00	\$218.00	\$0.00	\$2,776.00	\$0.00	\$5,054.00	\$1,259.48		
12021006	KYLE E ADAMS	VALID	\$1,443.00	\$321.00	\$303.37	\$234.00	\$0.00	\$6,240.00	\$0.00	\$8,541.37	\$2,128.55		
12022301	LARRY D SIMMONS JR.	VALID	\$42.00	\$3.94	\$71.00	\$26.00	\$0.00	\$4,547.00	\$0.00	\$4,689.94	\$1,168.76		
12022119	LARRY E. PORTER	VALID	\$2,651.00	\$902.00	\$0.00	\$363.00	\$2,050.00	\$0.00	\$2,100.00	\$8,066.00	\$2,010.09		
12021328	LARRY K. DEVONT	VALID	\$30.00	\$18.00	\$0.00	\$4.80	\$50.00	\$2,934.00	\$100.00	\$3,136.80	\$781.71		
12021657	LAWRENCE C. JOHNSON	VALID	\$2,205.00	\$589.07	\$0.00	\$254.00	\$0.00	\$2,900.00	\$0.00	\$5,948.07	\$1,482.29		
12022049	LOWEL PATRICK	VALID	\$779.80	\$372.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,151.80	\$287.03		
12021972	LUIS R. MURILLO RAMIREZ	VALID	\$1,518.00	\$672.00	\$0.00	\$182.00	\$2,250.00	\$0.00	\$2,300.00	\$6,922.00	\$1,725.00		
12021090	MANUEL AVILADIAZ	VALID	\$0.00	\$746.66	\$51.00	\$96.15	\$950.00	\$0.00	\$1,000.00	\$2,843.81	\$708.69		
12022077	MANUEL J. PERRY	VALID	\$1,312.00	\$334.00	\$0.00	\$299.00	\$0.00	\$7,080.00	\$0.00	\$9,025.00	\$2,249.08		
12021909	MATTHEW J. MESSANO	VALID	\$3,136.00	\$1,526.00	\$723.00	\$517.00	\$2,050.00	\$0.00	\$2,100.00	\$10,052.00	\$2,505.01		
12022308	MAURICE C. SMITH	VALID	\$2,600.00	\$0.00	\$0.00	\$216.00	\$1,450.00	\$0.00	\$1,500.00	\$5,766.00	\$1,436.92		
12021566	MICHAEL D. HAYES	VALID	\$82.61	\$0.00	\$0.00	\$34.74	\$950.00	\$9,956.00	\$1,000.00	\$12,023.35	\$2,996.28		
12022455	MICHAEL G VALERIO	VALID	\$192.00	\$6.36	\$0.00	\$45.00	\$0.00	\$5,532.00	\$0.00	\$5,775.36	\$1,439.25		
12022378	MICHAEL J. TALTON	VALID	\$2,855.00	\$851.00	\$152.00	\$967.00	\$2,450.00	\$0.00	\$2,500.00	\$9,775.00	\$2,435.98		
12021741	MICHAEL LATHOUWERS	VALID	\$2,442.00	\$411.00	\$0.00	\$329.00	\$1,950.00	\$0.00	\$2,000.00	\$7,132.00	\$1,777.33		
12022497	MIGUEL A. VISAIRO	VALID	\$339.00	\$237.26	\$0.00	\$62.30	\$850.00	\$2,126.77	\$900.00	\$4,515.33	\$1,125.24		
12022350	NATHANIEL W. STUCKY	VALID	\$18.00	\$0.00	\$0.00	\$3.60	\$0.00	\$2,430.00	\$0.00	\$2,451.60	\$610.95		
12021832	NICHOLAS L MARION	VALID	\$7,654.58	\$2,996.00	\$0.00	\$212.00	\$4,000.00	\$0.00	\$4,100.00	\$18,962.58	\$4,725.57		
12021727	NIKOLAY A. KOKHANETS	VALID	\$5,903.00	\$1,567.00	\$0.00	\$821.00	\$350.00	\$0.00	\$400.00	\$9,041.00	\$2,253.06		
12021034	ODON AMADOR	VALID	\$1,170.00	\$473.00	\$0.00	\$113.00	\$2,050.00	\$0.00	\$2,200.00	\$6,006.00	\$1,496.73		
12022252	OMAR Z. SANCHEZ	VALID	\$1,116.00	\$331.00	\$47.00	\$127.00	\$1,350.00	\$0.00	\$1,400.00	\$4,371.00	\$1,089.28		
12021783	OWIN LOPEZ	VALID	\$46.00	\$5.17	\$8.52	\$0.00	\$0.00	\$4,002.00	\$0.00	\$4,061.69	\$1,012.19		
12021930	PATRICK E MIDDLETON	VALID	\$2,927.00	\$511.00	\$18.75	\$392.00	\$2,450.00	\$0.00	\$2,500.00	\$8,798.75	\$2,192.69		
12022357	PAUL SUIT	VALID	\$148.00	\$0.00	\$0.00	\$32.00	\$50.00	\$2,100.00	\$0.00	\$2,330.00	\$580.65		

ID	Name	Status	Compensation	Unpaid Overtime	Paid Overtime	Interest	Code 226	201-203	PAGA	Claim	Share	Payment Rate
12021811	PEDRO J. MACIEL	VALID	\$453.00	\$364.00	\$0.00	\$68.00	\$850.00	\$0.00	\$900.00	\$2,635.00	\$656.66	
12022413	RENE N. TORRES	VALID	\$1,472.00	\$399.00	\$0.00	\$120.00	\$1,950.00	\$0.00	\$2,000.00	\$5,941.00	\$1,480.53	
12022462	RENE VALLESTEROS	VALID	\$5,269.00	\$2,090.00	\$99.85	\$1,690.00	\$4,000.00	\$0.00	\$4,500.00	\$17,648.85	\$4,398.18	
12021237	RICARDO CANALES	VALID	\$392.00	\$6.25	\$36.40	\$350.00	\$0.00	\$400.00	\$0.00	\$1,184.65	\$295.22	
12021251	RICARDO G. CARDONA	VALID	\$775.83	\$296.00	\$454.46	\$127.00	\$750.00	\$0.00	\$800.00	\$3,203.29	\$798.28	
12021489	RICARDO M. GONZALEZ	VALID	\$550.00	\$49.00	\$0.00	\$49.00	\$750.00	\$0.00	\$800.00	\$2,198.00	\$547.75	
12021916	ROBERT J MESSANO	VALID	\$7,329.00	\$1,217.00	\$65.80	\$1,294.00	\$2,950.00	\$0.00	\$3,000.00	\$15,855.80	\$3,951.34	
12022315	ROBERT SMITH	VALID	\$1,212.00	\$294.00	\$0.00	\$185.00	\$1,350.00	\$0.00	\$1,400.00	\$4,441.00	\$1,106.72	
12022182	ROBERT W. RICCOBUONO	VALID	\$2,737.00	\$1,272.00	\$0.00	\$381.00	\$2,350.00	\$0.00	\$2,400.00	\$9,140.00	\$2,277.73	
12021062	ROGELIO ARGUETA VAZQUEZ	VALID	\$726.00	\$230.00	\$56.25	\$75.40	\$650.00	\$0.00	\$700.00	\$2,437.65	\$607.47	
12022511	RONALD D. WARD	VALID	\$34.00	\$15.00	\$0.00	\$3.67	\$0.00	\$2,400.00	\$0.00	\$2,452.67	\$611.22	
12022175	RONNIE K. RAYFIELD	VAUD	\$104.00	\$16.90	\$13.50	\$36.00	\$0.00	\$2,864.00	\$0.00	\$3,034.40	\$756.19	
12021958	RUSSELL K. MULLER	VALID	\$2,869.97	\$1,071.45	\$0.00	\$617.00	\$0.00	\$3,775.52	\$0.00	\$8,333.94	\$2,076.86	
12022168	SERGIO RAMIREZ	VALID	\$2,705.00	\$0.00	\$0.00	\$143.55	\$1,950.00	\$0.00	\$2,000.00	\$6,798.55	\$1,694.23	
12021104	SHAWN M. BARBER	VALID	\$571.00	\$44.42	\$0.00	\$173.00	\$0.00	\$8,586.00	\$0.00	\$9,374.42	\$2,336.15	
12021132	SIMON BEDOLLA-GARCIA	VALID	\$619.00	\$129.54	\$0.00	\$51.00	\$450.00	\$0.00	\$500.00	\$1,749.54	\$435.99	
12021580	STACY A. HINSON	VALID	\$418.00	\$0.00	\$0.00	\$34.88	\$250.00	\$8,202.00	\$300.00	\$9,204.88	\$2,293.90	
12022021	THOMAS F. OSTATNIK	VALID	\$60.00	\$281.00	\$0.00	\$11.50	\$250.00	\$0.00	\$300.00	\$902.50	\$224.91	
12021160	THOMAS S BONNER	VALID	\$0.00	\$391.00	\$0.00	\$123.00	\$0.00	\$3,985.00	\$0.00	\$4,499.00	\$1,121.17	
12021167	WANZA F. BOWMAN	VALID	\$66.00	\$0.00	\$26.00	\$0.00	\$0.00	\$0.00	\$0.00	\$92.00	\$22.93	
12021097	WILLIAM S. BANKS	VALID	\$727.00	\$178.00	\$42.18	\$94.00	\$0.00	\$5,577.00	\$0.00	\$6,618.18	\$1,649.28	
12021125	WINFRIED BAUER	VALID	\$8,802.00	\$3,775.00	\$0.00	\$1,937.00	\$0.00	\$7,693.00	\$0.00	\$22,207.00	\$5,534.10	
12021426	ZACHARY J GALLA	VALID	\$1,456.00	\$457.00	\$276.35	\$427.00	\$50.00	\$0.00	\$100.00	\$2,766.35	\$689.39	
			\$171,900.36	\$48,690.63	\$6,316.18	\$27,541.91	\$103,050.00	\$243,348.17	\$110,000.00	\$710,847.25	\$177,146.69	

Fund and Fee Summary				Employer Tax Summary					W2 Wages
Settlement Sum	\$337,500.00								\$0.00
Attorney Fees	\$110,868.00								\$0.00
Attorney Costs	\$4,895.00								\$0.00
LWDA (PAGA Penalties)	\$7,500.00								\$0.00
Service Fee	\$15,000.00								\$504.94
Claims Administration Costs	\$10,000.00								\$444.15
Employer Taxes	\$12,090.31			\$88,573.64	\$5,491.57	\$1,284.32	\$5,314.42	\$12,090.31	\$973.90
Net Settlement Sum	\$177,146.69								\$690.18
Participating Class Members	\$177,146.69	Column L							\$276.54
Difference	\$0.00								\$647.91
Class Participants Summary - Valid Claims									\$1,446.26
Minimum Payment	\$22.93								\$932.55
Maximum Payment	\$5,534.10								\$1,924.74
Average Payment	\$1,625.20								\$198.09
Median Payment	\$1,480.53								\$809.17
Total Number of Checks Issued	109								\$1,021.88
									\$1,359.54
									\$45.45
									\$2,466.76
									\$478.10
									\$474.11
									\$567.70
									\$1,195.96
									\$154.29
									\$521.32
									\$1,126.04
									\$710.02
									\$694.58
									\$1,154.36
									\$607.81
									\$979.63
									\$849.27
									\$702.95
									\$872.76
									\$2,297.93
									\$683.20
									\$117.12
									\$789.36
									\$1,299.48
									\$1,367.57
									\$762.32
									\$794.27
									\$1,881.62
									\$590.46

EXHIBIT H

ORIGINAL

F I L E D
Clerk of the Superior Court

JUN 28 2012

By: R. LINDSEY-COOPER, Deputy

JUN 8 12 PM '12

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

WEST PALM BEACH POLICE PENSION
FUND, Individually and on Behalf of All Others
Similarly Situated,

Plaintiff,

vs.

CARDIONET, INC., ARIE COHEN, JAMES
M. SWEENEY, MARTIN P. GALVAN, FRED
MIDDLETON, WOODROW MYERS JR.,
M.D., ERIC N. PRYSTOWSKY, M.D., HARRY
T. REIN, ROBERT J. RUBIN, M.D., RANDY
H. THURMAN, BARCLAYS CAPITAL, INC.,
CITIGROUP GLOBAL MARKETS INC.,
LEERJNK SWANN LLC, THOMAS WEISEL
PARTNERS LLC, BANC OF AMERICA
SECURITIES LLC and COWEN AND
COMPANY,

Defendants.

Case No. 37-2010-00086836-CU-SL-CTL

**[PROPOSED] FINAL APPROVAL ORDER
AND JUDGMENT OF DISMISSAL WITH
PREJUDICE**

Date: June 22, 2012
Time: 8:30 a.m.
Dept: C-65

Judge: Hon. Joan M. Lewis
Complaint Filed: March 5, 2010
Trial Date: June 15, 2012 [vacated]

1 **FINAL APPROVAL ORDER AND JUDGMENT OF DISMISSAL WITH PREJUDICE**

2 WHEREAS, the Court is advised that the Parties,¹ through their counsel, have agreed, subject
3 to Court approval following notice to the Class and a hearing, to settle this Action (the "Action") upon
4 ~~the terms and conditions set forth in the Stipulation and Agreement of Settlement (the "Stipulation")~~
5 which was filed with the Court; and

6 WHEREAS, the Court entered its Order Preliminarily Approving Settlement and Confirming
7 Final Settlement Hearing which conditionally certified the Settlement Class and preliminarily
8 approved notice to the Class (including notice of the proposed Settlement and of a fairness hearing
9 thereon), and said notice has been made, and the fairness hearing has been held; and

10 NOW, THEREFORE, based upon the Stipulation and all of the filings, records and
11 proceedings herein, and it appearing to the Court upon examination that the Stipulation and Settlement
12 are fair, reasonable and adequate, and upon a Settlement Fairness Hearing having been held after
13 notice to the Class of the proposed Settlement to determine if the Stipulation and Settlement are fair,
14 reasonable and adequate and whether a Final Approval Order and Judgment of Dismissal with
15 Prejudice should be entered in this Action based upon the Stipulation;

16 **THE COURT HEREBY FINDS AND CONCLUDES THAT:**

17 A. The provisions of the Stipulation, including definitions of the terms used therein, are
18 hereby incorporated by reference as though fully set forth herein.

19 B. This Court has jurisdiction of the subject matter of this Action and over all of the
20 Parties and all members of the Class.

21
22
23
24 ¹ As used herein, the term "Parties" means Plaintiff West Palm Beach Police Pension Fund
25 ("Plaintiff"), on behalf of itself and the Class (as defined herein), and Defendants: CardioNet, Inc.
26 ("CardioNet" or the "Company"); current and former CardioNet officers and/or directors Arie Cohen,
27 James M. Sweeney, Martin P. Galvan, Fred Middleton, Woodrow Myers Jr., M.D., Eric N. Prystowsky,
28 M.D., Harry T. Rein, Robert J. Rubin, M.D., and Randy H. Thurman (the "Individual Defendants"); and
underwriters Citigroup Global Markets Inc., Leerink Swann LLC, Thomas Weisel Partners LLC, Banc
of America Securities LLC, Cowen and Company and Barclays Capital, Inc. (collectively, with the
Individual Defendants and CardioNet, "Defendants").

1 C. All of the requirements for class certification under California law are met, and
2 therefore this Action is properly maintained as a class action for purposes of settlement and the Class
3 is properly certified. The Class is defined as:

4 All Persons who purchased or acquired CardioNet's common stock
5 pursuant or traceable to the Company's registration statements and
6 prospectuses, as amended (collectively, the "Registration Statements"),
7 filed with the Securities and Exchange Commission ("SEC") in
8 connection with CardioNet's March 25, 2008 initial public offering
9 ("IPO") and/or its August 6, 2008 secondary stock offering ("Secondary
10 Offering"), and who claim to have been damaged thereby. Excluded from
the Class are Defendants, the officers and directors of the Company, at all
relevant times, members of their immediate families and their legal
representatives, heirs, successors or assigns and any entity in which
Defendants have or had a majority interest. Also excluded from the Class
are Persons otherwise meeting the definition of the Class who submit valid
and timely requests for exclusion from the Settlement.

11 D. With respect to the Class, the Court finds that:

- 12 i. The members of the Class are so numerous that their joinder in the Action is
13 impracticable. Based on the Company's stock transfer records, the Claims
14 Administrator sent notice to 25,749 putative Class Members. The Class is,
15 therefore, sufficiently numerous to render joinder impracticable. *See, e.g., Int'l*
16 *Molders' and Allied Workers' Local Union No. 164 v. Nelson*, 102 F.R.D. 457,
17 461 (N.D. Cal. 1983) (numerosity generally met if the class consists of more than
18 40 members).
- 19 ii. There are questions of law and fact common to the Class. Those questions
20 include whether the Registration Statements contained misstatements or
21 omissions, whether any misstatements or omissions were material, and whether
22 any misstatements or omissions caused harm to the members of the Class.
- 23 iii. The claims of the Plaintiff are typical of the claims of the Class Members.
24 Plaintiff claims to have acquired CardioNet stock pursuant or traceable to the
25 same Registration Statements as the members of the Class, and it claims that
26 Defendants' conduct with respect to it and the members of the Class was
27
28

1 identical. Consequently, Plaintiff claims that it and the other members of the
2 Class sustained damages as a result of the same misconduct by Defendants

3 iv. Plaintiff and Plaintiff's Counsel have fairly and adequately represented and
4 protected the interests of the Class Members. Plaintiff has no interests in

5 conflict with absent members of the Class. The Court is satisfied that Plaintiff's
6 Counsel are qualified, experienced and prepared to represent the Class to the
7 best of their abilities. The law firm of Scott+Scott LLP is hereby appointed
8 Lead Counsel for the Class.

9 v. The questions of law or fact common to the members of the Class predominate
10 over any questions affecting only individual members.

11 E. The form, content and method of dissemination of Notice given to the Class was
12 adequate and reasonable and constituted the best notice practicable under the circumstances, including
13 individual notice to all Class Members who could be identified through reasonable effort.

14 F. Notice, as given, complied with the requirements of California law, satisfied the
15 requirements of due process and constituted due and sufficient notice of the matters set forth herein.

16 G. The Settlement set forth in the Stipulation is fair, reasonable and adequate.

17 i. The Settlement was negotiated vigorously and at arm's-length by the Plaintiff
18 and its experienced counsel on behalf of the Class. The case settled only after:
19 (a) a mediation conducted by a retired U.S. District Court Judge who was
20 thoroughly familiar with this Action; (b) Plaintiff's Counsel conducted an
21 extensive investigation, which included, among other things, a review of
22 CardioNet's press releases, SEC filings, analyst reports, media reports and other
23 publicly disclosed reports and information about the Defendants; (c) the removal
24 of this Action to federal court pursuant to the Securities Litigation Uniform
25 Standards Act and a remand motion to state court (*see West Palm Beach Police*
26 *Pension Fund v. CardioNet, Inc.*, No. 10cv711-L(NLS), 2011 WL 1099815 (S.D.
27 Cal. March 24, 2011)); and (d) the drafting and submission of a highly detailed
28

1 First Amended Complaint ("FAC") that survived a demurrer. Accordingly, both
2 the Plaintiff and Defendants were well positioned to evaluate the settlement
3 value of this Action. The Stipulation has been entered into in good faith and is
4 not collusive.

5 ii. If the Settlement had not been achieved, both Plaintiff and Defendants faced the
6 expense, risk, and uncertainty of extended litigation. The Court takes no
7 position on the merits of either Plaintiff's or Defendants' arguments, but notes
8 these arguments as evidence in support of the reasonableness of the Settlement.

9 H. Plaintiff and Plaintiff's Counsel have fairly and adequately represented the interest of
10 the Class Members in connection with the settlement.

11 I. Plaintiff, all Class Members and Defendants are hereby bound by the terms of the
12 Settlement set forth in the Stipulation.

13 **IT IS HEREBY ORDERED THAT:**

14 1. The Stipulation and the Settlement embodied therein are approved as final, fair,
15 reasonable and adequate. The Settlement shall be consummated in accordance with the terms and
16 provisions of the Stipulation. ~~The Court has duly considered each objection that was filed to the~~
17 ~~proposed Settlement, and each objection is hereby overruled.~~ *JK*

18 2. The Action and all claims that are or have ever been contained therein, as well as all of
19 the Settled Claims, are dismissed with prejudice as to the Plaintiff and the Class Members. The
20 Parties are to bear their own costs, except as otherwise provided in the Stipulation.

21 3. All Released Parties as defined in the Stipulation are released in accordance with, and
22 as defined in, the Stipulation.

23 4. Upon the Effective Date hereof, Plaintiff and all members of the Class shall be deemed
24 to have, and by operation of the judgment shall have, absolutely and unconditionally, fully, finally,
25 and forever released, relinquished, and discharged any and all of the Defendants and any and all of
26 their families, parent entities, subsidiaries, associates, affiliates, or successors and each and all of their
27 respective past, present or future officers, directors, executives, partners, stockholders, representatives,
28

1 employees, principals, trustees, attorneys, financial or investment advisors, consultants, accountants,
2 auditors, banks or investment bankers, commercial bankers, insurers, reinsurers, advisors or agents,
3 heirs, executors, trusts, general or limited partners or partnerships, personal representatives, estates,
4 administrators, predecessors, successors, indemnitors, indemnitees, divisions, joint ventures, related or
5 affiliated entities, any entity in which any Defendant has a majority interest, assignees, any trust of
6 which any Individual Defendant is the settlor or which is for the benefit of any Individual Defendant
7 and/or members of his family, and any other representatives of any of these Persons or entities or their
8 successors ("Released Parties") from, and shall forever be enjoined from suing any or all of the Released
9 Parties for, any and all claims, rights, causes of action, damages, or liabilities whatsoever, fixed or
10 contingent, accrued or unaccrued, liquidated or unliquidated, at law or in equity, matured or unmatured,
11 foreseen or unforeseen, whether class or individual in nature, including both known and unknown
12 (including, but not limited to, Unknown Claims, as defined in the Stipulation), that were asserted or
13 could have been asserted in this Action by Plaintiff or members of the Class against the Released Parties
14 under United States federal, state, local, statutory or common law, or any other law, rule or regulation,
15 whether foreign or domestic based upon, arising out of, or relating to, in any way, (i) the facts and
16 circumstances alleged in the complaints filed in this Action, and (ii) the purchase of CardioNet's
17 common stock pursuant or traceable to the Company's IPO and Secondary Offering Registration
18 Statements. "Settled Claims" also includes any and all claims arising out of, relating to, or in connection
19 with the Settlement or resolution of the Action against the Released Parties (including Unknown
20 Claims), except claims to enforce any of the terms of this Stipulation.

21 5. Upon the Effective Date hereof, Defendants shall be deemed to have, and by operation
22 of the judgment shall have, absolutely and unconditionally, fully, finally, and forever released,
23 relinquished, and discharged any and all claims, rights, causes of action, damages, or liabilities
24 whatsoever, whether based on United States federal, state, local, statutory or common law, or any other
25 law, rule or regulation, whether foreign or domestic, fixed or contingent, accrued or unaccrued,
26 liquidated or unliquidated, at law or in equity, matured or unmatured, foreseen or unforeseen, whether
27 class or individual in nature, including both known claims and Unknown Claims (as defined in the
28

1 Stipulation), that have been or could have been asserted in the Action or any other forum by any of the
2 Defendants or the successors or assigns of any of them against Plaintiff, Class Members or their
3 attorneys, which arise out of or relate to the institution, prosecution, or settlement of the Action (except
4 for claims to enforce the terms of the Stipulation) ("Settled Defendants' Claims").

5 6. The Releases granted herein shall be effective as a bar to any and all claims within the
6 scope of their express terms and provisions that Plaintiff or any Class Member does not know or suspect
7 to exist in his, her or its favor at the time of the release of the Released Parties, and any Settled
8 Defendants' Claims that Defendants do not know or suspect to exist in their favor, which if known by
9 him, her or it might have affected his, her or its decision(s) with respect to the Settlement. With respect
10 to any and all Settled Claims and Settled Defendants' Claims, the Parties stipulate and agree that by
11 operation of this Final Order and Judgment, upon the Effective Date, the Plaintiff and Defendants shall
12 have expressly waived, and each Class Member shall be deemed to have waived, and by operation of
13 this Final Order and Judgment shall have expressly waived, the provisions, rights and benefits of Cal.
14 Civ. Code §1542, which provides:

15 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS**
16 **WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO**
17 **EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING**
18 **THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST**
HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT
WITH THE DEBTOR;

19 and any and all provisions, rights and benefits conferred by any law of any state or territory of the
20 United States, or principle of common law, which is similar, comparable, or equivalent to Cal. Civ.
21 Code §1542. Plaintiff and Defendants acknowledge, and Class Members shall be deemed to have
22 acknowledged, that the inclusion of Unknown Claims in the definitions of Settled Claims and Settled
23 Defendants' Claims was separately bargained for and was a key element of the Settlement.

24 7. All Class Members who have not made their objections to the settlement in the manner
25 provided in the notice are deemed to have waived any objections by appeal, collateral attack or
26 otherwise.

27 8. All Class Members who have failed to properly file requests for exclusion (requests to
28 opt out) from the Class are bound by the terms and conditions of the Stipulation and this Final Order

1 and Judgment and release and forever discharge the Released Parties from all Settled Claims as
2 provided in the Stipulation.

3 9. Lead Counsel are hereby awarded 33 1/3% of the Gross Settlement Fund in fees, which
4 ~~sum the Court finds to be fair and reasonable, and \$ 84,324.~~ ⁶⁹ in reimbursement of expenses, which
5 fees and expenses shall be paid within five (5) days of entry of this Order to Lead Counsel from the
6 Gross Settlement Fund with interest from the date such Gross Settlement Fund was funded to the date of
7 payment at the same rate earned by the Gross Settlement Fund. The aforementioned attorneys' fees
8 shall be allocated by Lead Counsel in a manner which in its good faith judgment reflects each counsel's
9 contribution to the institution, prosecution, and resolution of the Action.

10 10. In making this award of attorneys' fees and reimbursement of expenses to be paid from
11 the Gross Settlement Fund, the Court has considered and found that:

12 (a) The Settlement has created a fund of \$7,250,000 in cash plus interest thereon and that
13 Class Members who submit acceptable Proofs of Claim will benefit from the Settlement created by
14 Plaintiff's Counsel;

15 (b) Over 25,749 copies of the Notice were disseminated to putative Class Members
16 indicating that Plaintiff's Counsel were moving for attorneys' fees in the amount of up to 33 1/3% of the
17 Gross Settlement Fund and for reimbursement of expenses in an amount of approximately \$100,000 and
18 ~~only~~ (no) objections were filed against the terms of the proposed Settlement or the ceiling on the
19 fees and expenses requested by Plaintiff's Counsel contained in the Notice;

20 (c) Plaintiff's Counsel have conducted the litigation and achieved the Settlement with skill,
21 perseverance and diligent advocacy;

22 (d) The Action involves complex factual and legal issues, was actively prosecuted and, in the
23 absence of a settlement, would involve further lengthy proceedings with uncertain resolution of the
24 complex factual and legal issues;

25 (e) Had Plaintiff's Counsel not achieved the Settlement there would remain a significant risk
26 that Plaintiff and the Class may have recovered less or nothing from the Defendants; and
27
28

1 (f) The amount of attorneys' fees awarded and expenses reimbursed from the Settlement
2 Fund are consistent with awards in similar cases.

3 11. The Court finds that an award to Plaintiff West Palm Beach Police Pension Fund for its
4 ~~reasonable costs and expenses (including lost wages) spent directly in its representation of the~~
5 Settlement Class and prosecution of this action is fair and reasonable, and thus awards Plaintiff West
6 Palm Beach Police Pension Fund \$ 4500 from the Settlement Fund. The facts supporting
7 reimbursement and the amount awarded are set forth in the declaration Plaintiff submitted to the Court
8 in support of its request.

9 12. All other provisions of the Stipulation are incorporated into this Order as if fully rewritten
10 herein. To the extent that the terms of this Order conflict with the terms of the Stipulation, the
11 Stipulation shall control.

12 13. Plaintiff and all Class Members are hereby BARRED AND PERMANENTLY
13 ENJOINED from instituting, commencing, maintaining or prosecuting in any court or tribunal any of the
14 Settled Claims against any of the Released Parties.

15 14. Defendants and their successors or assigns are hereby BARRED AND PERMANENTLY
16 ENJOINED from instituting, commencing, maintaining or prosecuting any of the Settled Defendants'
17 Claims against Plaintiff, Class Members or Plaintiff's Counsel.

18 15. The Plan of Allocation set forth in the Notice is approved as fair and reasonable, and
19 Plaintiff's Counsel are directed to arrange for the administration of the Settlement in accordance with its
20 terms and provisions. Any modification or change in the Plan of Allocation that may hereafter be
21 approved shall in no way disturb or affect this Final Order and Judgment or the releases provided
22 hereunder and shall be considered separate from this Final Order and Judgment.

23 16. The Court hereby decrees that neither the Stipulation nor this Final Order and Judgment
24 nor the fact of the settlement is an admission or concession by the Released Parties, or any of them, of
25 any liability or wrongdoing. This Final Order and Judgment is not a finding of the validity or invalidity
26 of any of the claims asserted or defenses raised in the Action. Neither the Stipulation nor this Final
27 Order and Judgment nor the fact of settlement nor the settlement proceedings nor the settlement
28

1 negotiations nor any related documents shall be offered or received in evidence as an admission,
2 concession, presumption or inference against any of the Released Parties in any proceeding, other than
3 such proceedings as may be necessary to consummate or enforce the Stipulation, or in an action or
4 proceeding to determine the availability, scope, or extent of insurance coverage (or reinsurance related
5 to such coverage) for the sums expended for the settlement and defense of this Action.

6 17. The Action is dismissed with prejudice; subject, however, to this Court retaining
7 jurisdiction over compliance with the Stipulation and this Final Order and Judgment.

8 18. The Court hereby bars all future claims for contribution arising out of the Action (i) by
9 any person against the settling Parties; and (ii) by the settling Parties against any person, other than a
10 person whose liability has been extinguished by the settlement of the settling Parties.

11 19. Nothing in this Final Order and Judgment constitutes or reflects a waiver, release or
12 discharge of any rights or claims of Defendants against their insurers, or their insurers' subsidiaries,
13 predecessors, successors, assigns, affiliates, or representatives. Nothing in this Final Order and
14 Judgment constitutes or reflects a waiver or release of any rights or claims relating to indemnification,
15 advancement or any undertakings by an indemnified party to repay amounts advanced or paid by way of
16 indemnification or otherwise.

17 20. In the event that the Stipulation is terminated in accordance with its terms, (i) this
18 Judgment shall be rendered null and void and shall be vacated *nunc pro tunc*, (ii) this Action shall
19 proceed as provided in the Stipulation, (iii) the Defendants shall be permitted to object to the
20 certification of any proposed class in this Action, and (iv) the Defendants shall not be judicially or
21 equitably estopped from arguing against the certification of any class in this Action.

1
2 21. There is no just reason for delay, and this is a final, appealable order as of when it is
3 stamped as received for filing.

4 22. Final judgment shall be entered herein.

5 ~~23. Distribution Hearing is set for Nov. 30, 2012 @ 8³⁰ AM.~~
6 So ordered.

7 Dated: 6/28/12

Joan M. Lewis
8 HON. JOAN M. LEWIS

9 Submitted by:

10 SCOTT+SCOTT LLP

11 Geoffrey M. Johnson / n.v.k.
12 Geoffrey M. Johnson
13 12434 Cedar Road, Suite 12
14 Cleveland Heights, OH 44106
Tel: 216.229.6088
Fax: 216.229.6092

EXHIBIT I

ORIGINAL FILED

AUG 10 2004

LOS ANGELES
SUPERIOR COURT

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

CAROL LEZIN, On Behalf of Herself and All
Others Similarly Situated,

Plaintiff,

vs.

MINIMED, INC., et al.,

Defendants.

Case No. BC251832

CLASS ACTION

ASSIGNED TO: Judge Anthony J. Mohr

~~PROPOSED~~ ORDER AWARDING
PLAINTIFF'S COUNSEL'S ATTORNEYS'
FEES AND REIMBURSEMENT OF
EXPENSES

DATE: August 10, 2004

TIME: 10:00 a.m.

DEPT: 309

DATE ACTION FILED: 06/06/01

TRIAL DATE: 08/04/03

~~PROPOSED~~ ORDER AWARDING PLAINTIFF'S COUNSEL'S ATTYS' FEES & EXPENSES

1 THIS MATTER having come before the Court on August 10, 2004, on the application of
2 counsel for the plaintiff for an award of attorneys' fees and reimbursement of expenses incurred in the
3 litigation, the Court having considered all papers filed and proceedings conducted herein and having
4 found the settlement of this litigation to be fair, reasonable and adequate and otherwise being fully
5 informed in the premises and good cause appearing therefor, IT IS HEREBY ORDERED, ADJUDGED
6 AND DECREED that:

7 1. All capitalized terms used herein shall have the same meanings as set forth in the
8 Stipulation of Settlement dated as of May 11, 2004 (the "Stipulation").

9 2. This Court has jurisdiction over the subject matter of the application and all matters
10 relating thereto, including all Members of the Settlement Class.

11 3. The Court hereby awards plaintiff's counsel attorneys' fees of one-third of the
12 Settlement Fund, together with the interest earned thereon for the same time period and at the same rate
13 as that earned on the Settlement Fund. The Court also awards plaintiffs' counsel \$85,000.00 in
14 unreimbursed out-of-pocket expenses. The awarded attorneys' fees shall be allocated among plaintiff's
15 counsel in a manner which, in Plaintiff's Settlement Counsel's good-faith judgment, reflects each such
16 counsel's contribution to the institution, prosecution and resolution of the litigation. The Court finds
17 that the fees awarded are fair and reasonable under the percentage-of-recovery method. The Court finds
18 that the amount of fees awarded is fair and reasonable.

1 4. The awarded attorneys' fees and expenses shall be paid to Plaintiff's Settlement Counsel
2 from the Settlement Fund immediately after the date this Order is executed subject to the terms and
3 conditions of the Stipulation, in particular ¶6.2 thereof.

4 IT IS SO ORDERED.

5 DATED: AUG 10 2004

ANTHONY J. MOHR

THE HONORABLE ANTHONY J. MOHR
JUDGE OF THE SUPERIOR COURT

7 Submitted by:

8 LERACH COUGHLIN STOLA
9 & ROBBINS LLP
10 WILLIAM S. LERACH
11 DARREN J. ROBBINS
12 RANDALL J. BARON
13 ELLEN GUSIKOFF STEWART
14 STEPHEN J. ODDO

15 

ELLEN GUSIKOFF STEWART

14 401 B Street, Suite 1700
15 San Diego, CA 92101
16 Telephone: 619/231-1058
619/231-7423 (fax)

17 GELLER RUDMAN, PLLC
18 PAUL J. GELLER
19 197 S. Federal Highway, Suite 200
Boca Raton, FL 33432
Telephone: 561/750-3000
561/750-3364 (fax)

20 Attorneys for Plaintiff

21 S:\Settlement\Minimed.set\ORD00012169.doc

EXHIBIT J

ORIGINAL FILED

SEP 17 1993

LOS ANGELES
SUPERIOR COURT

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

A. JACQUES LOU, On Behalf of	)	Case No. BC015017
Herself and Derivatively on Behalf)	
of ZENITH NATIONAL INSURANCE CORP.,	)	[Assigned to The Hon.
a Delaware corporation,	)	John H. Leahy]
)	
Plaintiff,	)	(Derivative Action)
)	
vs.)	
)	
STANLEY R. ZAX, et al.,)	
)	
Defendants,)	
	)	DATE:
- and -	)	TIME:
	)	DEPT: 53
ZENITH NATIONAL INSURANCE CORP.,)	
	)	DISCOVERY CUTOFF: None
Nominal Defendant.	)	MOTION CUTOFF: None
	)	TRIAL DATE: None

~~PROPOSED~~ ORDER AWARDING PLAINTIFF'S
COUNSEL'S FEES AND EXPENSES

1 THIS MATTER having come before the Court on Sept. 17, 1993
2 on the application of counsel for the named plaintiff for an award
3 of attorneys' fees and reimbursement of expenses incurred in the
4 above-captioned action, the Court, having considered all papers
5 filed and proceedings conducted herein, having found the
6 settlements of this action to be fair, reasonable and adequate and
7 otherwise being fully informed in the premises and good cause
8 appearing therefor, it is hereby ORDERED, ADJUDGED AND DECREED
9 that:

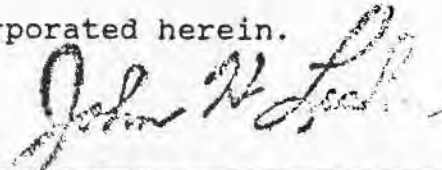
10 1. All of the capitalized terms used herein shall have the
11 same meaning as set forth in the Stipulation and Agreement of
12 Compromise and Settlement dated as of September 15, 1993.

13 2. This Court has jurisdiction over the subject matter of
14 this application and all matters relating thereto.

15 3. Pursuant and subject to the provisions of ¶5 of the
16 Stipulation, the court hereby awards plaintiff's counsel attorneys'
17 fees of 35% of the recovery on the SLCSA Claim, the Drexel Civil
18 Disgorgement Claim and the Settlement Fund plus expenses in the
19 amount of \$327,149.56 and interest earned thereon, if any.

20 4. The awarded attorneys' fees and expenses and interest
21 earned thereon, shall be paid to Plaintiff's Counsel as provided in
22 the Stipulation subject to the terms, conditions and obligations of
23 the Stipulation and in particular ¶5 thereof which terms,
24 conditions and obligations are incorporated herein.

25
26 DATED: SEP 17 1993



THE HONORABLE JOHN H. LEAHY
JUDGE OF THE SUPERIOR COURT

EXHIBIT K

ORIGINAL FILED

NOV 30 1993

COUNTY CLERK

87

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

STEVEN GOLDMAN, et al.,	)	Case No. C-754698
)	
Plaintiffs,	)	(Derivative Action)
vs.)	
)	
WILLIAM BELZBERG, et al.,)	
)	
Defendants,)	
- and -)	
)	
FARWEST FINANCIAL CORPORATION, a)	
Delaware corporation,)	
	)	DISCOVERY CUTOFF: None
Nominal Defendant.	)	MOTION CUTOFF: None
	)	TRIAL DATE: None

FINAL JUDGMENT AND APPROVAL OF STIPULATION
AND AGREEMENT OF COMPROMISE AND SETTLEMENT

1 The Court having reviewed and considered the Stipulation and
2 Agreement of Compromise and Settlement and Exhibits thereto, dated
3 as of September 24, 1993 (the "Stipulation") between derivative
4 plaintiffs Steven Goldman, Clinton Krislov, John Paul Decker,
5 Gunther Boden and nominal defendant FarWest Financial Corporation,
6 now known as "Westminster Capital, Inc." ("FarWest"), and the
7 Settling Defendants William Belzberg, Samuel Belzberg, Hyman
8 Belzberg, First City Financial Corporation Ltd., now known as
9 Harrowston Corporation, Gibralt Holdings, Ltd., Padena Holdings,
10 Ltd., Fred Kayne, Kurt C. Kemper, Charles H. Green, Dwight C. Baum,
11 Keenan Behrle, Barbara C. George, Monty Hall, Robert A. Muh, James
12 Nathan, and Lester Ziffren, the Securities Litigation Claims
13 Settlement Agreement entered in the Drexel Burnham Lambert
14 bankruptcy proceeding (the "SLCSA") and the pooling agreements and
15 arrangements set forth therein and the Court having reviewed and
16 considered all oral and written comments regarding same; the Court
17 having reviewed the entire record of the case; and good cause
18 appearing,

19 THE COURT HEREBY ORDERS, ADJUDGES AND DECREES THAT:

20 1. The capitalized terms used in this Judgment shall have
21 the same meaning as defined in the Stipulation except as otherwise
22 specified herein.

23 2. The Stipulation and this Judgment shall be binding on and
24 inure to the benefit of the Settling Parties as set forth in the
25 Stipulation.

26 3. The Court has jurisdiction over the subject matter of the
27 Action and all parties to the Action, except Lambert Brussels
28 Associates Limited Partnership, Groupe Bruxelles Lambert S.A.,

1 Pargesa Holdings S.A., and Saif Limited, as to which personal
2 jurisdiction is a contested issue.

3 4. On or about October 18, 1993, a notice was sent by United
4 States mail to all current holders of FarWest common stock which
5 describes the filing of this Action, the general nature of the
6 allegations of the Complaint, the principle terms of the
7 Stipulation and related matters and Plaintiffs' counsel's intention
8 to dismiss the Action with prejudice as to the Settling Defendants
9 on the terms and conditions set forth in the Stipulation. Upon
10 request, additional copies of the notice were sent to banks,
11 brokerage firms, institutions, and other nominees who are current
12 holders of FarWest common stock for the beneficial interest of
13 other persons. A post office box in the name of "FarWest
14 Shareholders Derivative Litigation" was rented for the purpose of
15 receiving requests for additional copies of the notice from nominee
16 holders of FarWest common stock. All requests for additional
17 copies of the notice were promptly responded to. The Court has
18 determined that the notice given to FarWest shareholders complies
19 fully with the requirements of due process and applicable
20 California law.

21 5. Plaintiffs have agreed to settle the Action pursuant to
22 the terms of this Stipulation after considering: (i) the
23 substantial benefits to FarWest that will be realized as a result
24 of the Settlement; (ii) the risk of protracted litigation absent
25 the Settlement, the outcome of which would be uncertain; and (iii)
26 the conclusion of counsel for Plaintiffs that the Settlement is
27 fair, reasonable and adequate and in the best interests of FarWest.
28 The parties hereto desire to settle the Action, in order to avoid

1 the burden, expense and delay of further litigation against the
2 Settling Parties.

3 6. Settling Defendants vigorously deny all liability with
4 respect to any and all of the purported facts or claims alleged in
5 the Complaint and other papers filed in the Action, and, in
6 particular, deny that they have committed or bear any
7 responsibility for any wrongs, breaches of fiduciary duty or trust,
8 or violations of law, but consider it desirable that the Action be
9 compromised, settled and dismissed on the terms set forth in the
10 Stipulation because such compromise, settlement and dismissal will
11 eliminate the burden and expense of further litigation and the
12 inconvenience and devotion of employee, executive and personal time
13 and effort to this Action.

14 7. The Court grants final approval of the Settlement
15 provided for in the Stipulation and adjudges its terms to be fair,
16 reasonable and adequate to FarWest and its shareholders, directs
17 consummation of the Stipulation according to its terms and
18 provisions, and retains jurisdiction over the Settling Parties for
19 the purpose of effectuating the terms and conditions of the
20 Stipulation.

21 8. (a) The Court dismisses on the merits and with prejudice
22 all claims, rights, causes of action, suits, matters and issues,
23 whether statutory or at common law, whether state or federal, known
24 or unknown, which have or could have been asserted by or on behalf
25 of Plaintiffs or FarWest, their officers, directors, agents,
26 employees, attorneys, accountants, representatives, heirs,
27 executors, administrators, partnerships, partners, predecessors,
28 successors, parents, subsidiaries or affiliates, or any of their

1 predecessors or successors in interest or assigns in any capacity,
2 or by or on behalf of any of FarWest's past, present or future
3 shareholders or their officers, directors, agents, employees,
4 attorneys, accountants, representatives, heirs, executors,
5 administrators, partnerships, partners, predecessors, successors,
6 parents, subsidiaries or affiliates, or any of their predecessors
7 or successors in interest or assigns in any capacity in connection
8 with, arising out of, or in any way, directly or indirectly,
9 related to any acts, facts, transactions, occurrences, omissions or
10 other subject matter alleged or otherwise referred to in the
11 Complaints or other papers filed in this Action against the
12 Settling Defendants, their officers, directors, agents, employees,
13 attorneys, representatives, heirs, executors, administrators,
14 partnerships, partners, predecessors, successors, parents,
15 subsidiaries or affiliates, or any of their predecessors or
16 successors in interest or assigns in any capacity, and each
17 Settling Party does hereby release each other Settling Party, their
18 officers, directors, agents, employees, attorneys, representatives,
19 heirs, executors, administrators, partnerships, partners,
20 predecessors, successors, parents, subsidiaries or affiliates or
21 any of their predecessors or successors in interest or assigns in
22 any capacity (but not including Drexel and its affiliates and the
23 Drexel Defendants) from all Released Claims as that term is defined
24 in ¶1 of the Stipulation and Agreement of Compromise and
25 Settlement.

26 (b) Plaintiffs and FarWest, their officers, directors,
27 agents, employees, attorneys, accountants, representatives, heirs,
28 executors, administrators, partnerships, partners, predecessors,

1 successors, parents, subsidiaries or affiliates, or any of their
2 predecessors or successors in interest or assigns in any capacity
3 or any past, present or future shareholders of FarWest or their
4 officers, directors, agents, employees, attorneys, accountants,
5 representatives, heirs, executors, administrators, partnerships,
6 partners, predecessors, successors, parents, subsidiaries or
7 affiliates, or any of their predecessors or successors in interest
8 or assigns in any capacity are hereby barred and permanently
9 enjoined from prosecuting any Released Claim against the Settling
10 Defendants, and any of their officers, directors, agents,
11 employees, attorneys, representatives, heirs, executors,
12 administrators, partnerships, partners, predecessors, successors,
13 parents, subsidiaries or affiliates, or any of their predecessors
14 or successors in interest or assigns in any capacity (but not
15 including Drexel and its affiliates and the Drexel Defendants).

16 (c) Nothing in this Final Judgment shall constitute or
17 be deemed to constitute a release, waiver or compromise by any of
18 the Settling Defendants or FarWest of any claim (including, without
19 limitation, any claim for contribution, indemnity or otherwise)
20 which any of them may have against any auditor or accountant
21 (including, without limitation, Touche, Ross and Deloitte & Touche
22 or any of their partners, affiliates, shareholders, predecessors,
23 successors or assigns in any capacity) for FarWest, its parents,
24 subsidiaries, affiliates, predecessors or successors.

25 9. Plaintiffs, jointly and severally, and Plaintiffs'
26 counsel, jointly and severally, will provide protection, by
27 judgment reduction or reduction by amounts received by Plaintiffs
28 (or any of them) or Plaintiffs' counsel in settlement to the

1 Settling Defendants against claims over or otherwise made against
2 the Settling Defendants for contribution or indemnity by the Non-
3 Settling Defendants in an amount up to a total of \$1.5 million.

4 10. Nothing contained in the Stipulation or this Judgment
5 shall impair or impede Plaintiffs' or FarWest's ability to pursue,
6 prosecute, resolve and collect for the benefit of FarWest the
7 Derivative or FarWest SLCSA Sub-Class A Claims, the Milken Civil
8 Disgorgement Claim or the Drexel Civil Disgorgement Claim,
9 entitlement to other funds determined to be allocable to the
10 Derivative or FarWest SLCSA Subclass A Claims in the Drexel
11 Bankruptcy Proceedings, including proceeds from the Milken
12 Settlement, and/or from any Non-Settling Defendant, or any Non-
13 Settling Defendant's right to raise any available defense to such
14 claims.

15 11. The provision of the Stipulation to pay plaintiffs and
16 their counsel 35% of any recovery on the SLCSA Claim, the Milken
17 Civil Disgorgement Claim and the Drexel Civil Disgorgement Claim or
18 other funds determined to be allocable to the Derivative SLCSA Sub-
19 Class A Claim (including proceeds obtained from or by reason of the
20 Milken Settlement) and/or the pending actions against Non-Settling
21 Defendants for attorneys' fees plus expenses, if any, as provided
22 for in ¶10 of the Stipulation, is approved.

23 12. The provision of the Stipulation to pay Plaintiffs and
24 their counsel the sum of \$1.5 million, plus interest thereon from
25 March 15, 1992, for their attorneys' fees and expenses in
26 connection with their institution, prosecution and settlement of
27 this Action with respect to the Settling Defendants, as provided
28 for in ¶9 of the Stipulation, is approved.

1 13. Without affecting the finality of this Final Judgment in
2 any way, the Court retains jurisdiction over: (a) implementation
3 of the Settlement provided for in the Stipulation; and (b) any
4 other action necessary to conclude this Action and to implement the
5 Stipulation.

6 NOV 30 1993

7 DATED: _____

Madeline I. Flier

HONORABLE MADELEINE I. FLIER
JUDGE OF THE SUPERIOR COURT

9 Submitted by:

10 MILBERG WEISS BERSHAD
11 HYNES & LERACH
12 WILLIAM S. LERACH
13 KEITH F. PARK
14 SUSAN S. GONICK

[Signature]

KEITH F. PARK

15 600 West Broadway, Suite 1800
16 San Diego, CA 92101
17 Telephone: 619/231-1058

18 MILBERG WEISS BERSHAD
19 HYNES & LERACH
20 KEVIN P. RODDY
21 JEFF S. WESTERMAN
One Bunker Hill, 12th Floor
22 601 West Fifth Street
23 Los Angeles, CA 90071
24 Telephone: 213/622-3188

25 BARRACK, RODOS & BACINE
26 EDWARD M. GERGOSIAN
27 DOUGLAS J. CAMPION
28 600 West Broadway, Suite 1700
San Diego, CA 92101
Telephone: 619/230-0800

EXHIBIT L

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA

In re McAfee, INC. SHAREHOLDER
LITIGATION,

Case No. 2010-1-CV-180413

Consolidated action, including:
Greenberg v. McAfee, Inc., Santa Clara County
Superior Court, Case No. 1:10-cv-180413;
Colwell v. McAfee, Inc., Santa Clara County
Superior Court, Case No. 1:10-cv-180420;
Faulkner v. McAfee, Inc., Santa Clara County
Superior Court, Case No. 1:10-cv-180597;
Korsinsky v. Bass, Santa Clara County Superior
Court, Case No. 1:10-cv-180928.

**ORDER RE: MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT; AMENDED
JUDGMENT**

This Document Relates To:

ALL ACTIONS.

The above-entitled matter came on for hearing on Friday, October 4, 2019, at 9:00 a.m. in Department 5 (Complex Civil Litigation), the Honorable Thomas E. Kuhnle presiding. The Court reviewed and considered the written submissions filed by the parties and issued a tentative ruling on Thursday, October 3, 2019. No party contested the tentative ruling; therefore, the Court ordered the tentative ruling be adopted as the Order of the Court, and entered judgment. Upon further consideration, the Court now issues an amended judgment.

I. INTRODUCTION

This is a certified class action arising out of a merger between McAfee, Inc. and Intel Corporation. The parties have reached a settlement. On May 24, 2019, the Court signed an

1 order granting preliminary approval of the settlement. Plaintiff now moves for final approval of
2 the settlement.

3 **II. LEGAL STANDARD**

4 Generally, “questions whether a settlement was fair and reasonable, whether notice to the
5 class was adequate, whether certification of the class was proper, and whether the attorney fee
6 award was proper are matters addressed to the trial court’s broad discretion.” (*Wershba v. Apple*
7 *Computer, Inc.* (2001) 91 Cal.App.4th 224, 234-235, citing *Dunk v. Ford Motor Co.* (1996) 48
8 Cal.App.4th 1794.)

9 In determining whether a class settlement is fair, adequate and reasonable, the
10 trial court should consider relevant factors, such as “the strength of plaintiffs’
11 case, the risk, expense, complexity and likely duration of further litigation, the
12 risk of maintaining class action status through trial, the amount offered in
13 settlement; the extent of discovery completed and the stage of the proceedings, the
14 experience and views of counsel, the presence of a governmental participant, and
15 the reaction of the class members to the proposed settlement.”
(*Wershba v. Apple Computer, Inc.*, *supra*, 91 Cal.App.4th at pp. 244-245, citing *Dunk*, *supra*, 48
16 Cal.App.4th at p. 1801 and *Officers for Justice v. Civil Service Com’n, etc.* (9th Cir. 1982) 688
17 F.2d 615, 624.)

18 “The list of factors is not exclusive and the court is free to engage in a balancing and
19 weighing of factors depending on the circumstances of each case.” (*Wershba v. Apple*
20 *Computer, Inc.*, *supra*, 91 Cal.App.4th at p. 245.) The court must examine the “proposed
21 settlement agreement to the extent necessary to reach a reasoned judgment that the agreement is
22 not the product of fraud or overreaching by, or collusion between, the negotiating parties, and
23 that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned.” (*Ibid.*,
24 quoting *Dunk*, *supra*, 48 Cal.App.4th at p. 1801 and *Officers for Justice v. Civil Service Com’n*,
25 *etc.*, *supra*, 688 F.2d at p. 625, internal quotation marks omitted.)

26 The burden is on the proponent of the settlement to show that it is fair and
27 reasonable. However “a presumption of fairness exists where: (1) the settlement
28 is reached through arm’s-length bargaining; (2) investigation and discovery are
sufficient to allow counsel and the court to act intelligently; (3) counsel is
experienced in similar litigation; and (4) the percentage of objectors is small.”
(*Wershba v. Apple Computer, Inc.*, *supra*, 91 Cal.App.4th at p. 245, citing *Dunk*, *supra*, 48
Cal.App.4th at p. 1802.)

1 **III. DISCUSSION**

2 The case has been settled on behalf of the following class:

3 [A]ll holders of McAfee common stock who exchanged their shares for
4 consideration in the acquisition of McAfee by Intel Corporation at the price of
5 \$48.00 per share. Excluded from the Class are Defendants and any person, firm,
6 trust, corporation or other entity related to or affiliated with any Defendant. Also
7 excluded from the Class is any Person who validly requested exclusion from the
8 Class following the issuance of the Notice of Pendency.

9 A list of all individuals and entities that requested exclusion from the Class pursuant to
10 the Notice of Pendency, and who are therefore excluded from the Class, is attached hereto as
11 Exhibit A.

12 As discussed in connection with the motion for preliminary approval, defendants Intel
13 Corporation, McAfee, Inc., and David G. DeWalt (collectively, "Defendants") will pay a total of
14 \$11,700,000. This amount includes \$3,510,000 for attorneys' fees, \$650,000 in expenses, and
15 \$5,000 for an incentive award for Plaintiff. Administration costs are capped at \$250,000. If the
16 full amounts of these items are approved, pro rata distributions to class members will be
17 approximately \$0.05 per share.

18 On June 11, 2019, the claims administrator mailed notice to 283 names and addresses
19 from the Notice of Pendency mailed on April 16, 2012, and to 280 brokerages, custodial banks,
20 and other institutions that hold securities in "street name" as nominees for the benefit of their
21 customers who are the beneficial owners of the securities. (Declaration of Carole K. Sylvester
22 Regarding Notice Dissemination and Publication, ¶¶ 5-6.) On the same date, the claims
23 administrator delivered electronic copies of the notice package to 392 registered electronic filers
24 who are qualified to submit electronic claims. (*Id.* at ¶ 7.) The notice was also published by the
25 Depository Trust Company ("DTC") on the DTC Legal Notice System on June 11, 2019. (*Id.* at
26 ¶ 8.) As of July 29, 2019, the claims administrator had mailed a total of 22,090 notice packages
27 to potential class members and nominees. (*Id.* at ¶ 11.) A summary notice was published on
28 June 17, 2019, in *The Wall Street Journal*, *Investor's Business Daily*, and over the *Business*
Wire. (*Id.* at ¶ 14.) The claims administrator also established a website in connection with the
settlement – www.McAfeeShareholderSettlement.com. (*Id.* at ¶ 13.)

1 There has been one objection to the settlement. The objector, who owns 45 shares of
2 McAfee stock, takes issue with the requirement in the settlement that class members be entitled
3 to a minimum payment of \$10 to receive a settlement distribution. (Supplemental Declaration of
4 Maxwell R. Huffman in Further Support of Motions for: (1) Final Approval of Class Action
5 Settlement and Approval of Plan of Allocation; and (2) an Award of Attorneys' Fees and
6 Expenses, Ex. A.) The objector suggests all class members should receive a minimum of
7 \$10 from the settlement. (*Ibid.*)

8 Setting a minimum threshold of \$10 to receive a distribution from a settlement fund is
9 permissible because issuing very small checks to class members can cause a disproportionate
10 administrative expense due to the costs of mailing checks, tracking and accounting for payments,
11 following up on uncashed checks, and reissuing checks not cashed during their valid periods.
12 (*In re MGM Mirage Securities Litigation* (9th Cir. 2017) 708 Fed.Appx. 894, 897.) For these
13 reasons, the objection is **OVERRULED**, and Plaintiff's proposed plan of allocation is approved.

14 The Court previously found that the proposed settlement is fair and the Court continues to
15 make that finding for purposes of final approval.

16 Plaintiff requests a class representative incentive award of \$5,000.

17 The rationale for making enhancement or incentive awards to named plaintiffs is
18 that they should be compensated for the expense or risk they have incurred in
19 conferring a benefit on other members of the class. An incentive award is
20 appropriate if it is necessary to induce an individual to participate in the suit.
21 Criteria courts may consider in determining whether to make an incentive award
22 include: 1) the risk to the class representative in commencing suit, both financial
23 and otherwise; 2) the notoriety and personal difficulties encountered by the class
24 representative; 3) the amount of time and effort spent by the class representative;
25 4) the duration of the litigation and; 5) the personal benefit (or lack thereof)
26 enjoyed by the class representative as a result of the litigation. These "incentive
27 awards" to class representatives must not be disproportionate to the amount of
28 time and energy expended in pursuit of the lawsuit.

24 (*Cellphone Termination Fee Cases* (2010) 186 Cal.App.4th 1380, 1394-1395, quotation marks,
25 brackets, ellipses, and citations omitted.)

26 The class representative, Central Laborers' Pension Fund ("CLPF"), has filed a
27 declaration through its Executive Director, Dan Koeppel. Koeppel states CLPF's involvement in
28 the action has included conferring with counsel, reviewing pleadings, searching for and

1 collecting records, preparing for and participating in a deposition, and discussing settlement of
2 the case. (Declaration of Dan Koeppel in Support of Plaintiff's Motion for Final Approval of
3 Class Action Settlement, ¶ 6.) The Court finds the incentive award is justified and it is approved.

4 The Court also has an independent right and responsibility to review the requested
5 attorneys' fees and only award so much as it determines reasonable. (See *Garabedian v. Los*
6 *Angeles Cellular Telephone Co.* (2004) 118 Cal.App.4th 123, 127-128.) Plaintiff's counsel
7 requests attorneys' fees in the amount of \$3,510,000. This is 30% of the total settlement amount.
8 Plaintiff's counsel provides evidence demonstrating a lodestar of \$6,650,631.75. (Declaration of
9 Maxwell R. Huffman Filed on Behalf of Robbins Geller Rudman & Dowd LLP in Support of
10 Application for Award of Attorneys' Fees and Expenses, ¶ 4 and Ex. A.) This results in a
11 negative multiplier for the requested fees. The Court approves the requested attorney's fees of
12 \$3,510,000.

13 Plaintiff's counsel also requests payment of costs totaling \$638,123.37. Plaintiff provides
14 evidence supporting those costs. (Declaration of Maxwell R. Huffman Filed on Behalf of
15 Robbins Geller Rudman & Dowd LLP in Support of Application for Award of Attorneys' Fees
16 and Expenses, ¶ 5 and Ex. B.) The Court approves the requested costs of \$638,123.37.

17 The motion for final approval of class action settlement is GRANTED, and final
18 judgment incorporating the terms thereof, including the releases, is hereby entered.

19 Pursuant to Rule 3.769, subdivision (h), of the California Rules of Court, this Court
20 retains jurisdiction over the parties to enforce the terms of the Settlement Agreement, and the
21 final Order and Judgment.

22 The Court now sets a compliance hearing for March 20, 2020 at 10:00 a.m. in
23 Department 5. At least ten court days before the hearing, class counsel and the settlement
24 administrator must submit a summary accounting of the net settlement fund identifying
25 distributions made as ordered herein, the number and value of any uncashed checks, amounts

26 ///

27 ///

28 ///

1 remitted to Defendants, the status of any unresolved issues, and any other matters appropriate to
2 bring to the court's attention. Counsel may appear at the compliance hearing telephonically.

3
4 Dated: October 17, 2019



Thomas E. Kuhnle
Judge of the Superior Court

EXHIBIT M

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ENDORSED FILED
SAN MATEO COUNTY

OCT 18 2019

Clerk of the Superior Court
By UNA FINAU
~~DEPUTY CLERK~~

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN MATEO

In re OOMA, INC. SHAREHOLDER
LITIGATION

) Lead Case No. CIV536959

) CLASS ACTION

This Document Relates To:

) JUDGMENT AND ORDER GRANTING
) FINAL APPROVAL OF CLASS ACTION
) SETTLEMENT

ALL ACTIONS.

) Complex Case
) Assigned for All Purposes to
) Hon. Gerald J. Buchwald, Dept. 10

1 WHEREAS, the Court is advised that the Parties,¹ through their counsel, have agreed, subject to
2 Court approval following notice to the Class and a hearing, to settle this Action upon the terms and
3 conditions set forth in the Stipulation of Settlement dated May 15, 2019 (the "Stipulation" or
4 "Settlement"); and

5 WHEREAS, on June 24, 2019, the Court entered its Order Preliminarily Approving Settlement
6 and Providing for Notice, which preliminarily approved the Settlement, and approved the form and
7 manner of notice to the Class of the Settlement, and said notice has been made, and the fairness hearing
8 having been held; and

9 NOW, THEREFORE, based upon the Stipulation and all of the filings, records and proceedings
10 herein, and it appearing to the Court upon examination that the Settlement set forth in the Stipulation is
11 fair, reasonable and adequate, and upon a Settlement Fairness Hearing having been held after notice to
12 the Class of the Settlement to determine if the Settlement is fair, reasonable, and adequate and whether
13 the Judgment should be entered in this Action;

14 **THE COURT HEREBY FINDS AND CONCLUDES THAT:**

15 A. The provisions of the Stipulation, including definitions of the terms used therein, are
16 hereby incorporated by reference as though fully set forth herein.

17 B. This Court has jurisdiction of the subject matter of this Action and over all of the Parties
18 and all Class Members for purposes of the Settlement.

19 C. The form, content, and method of dissemination of notice given to the Class was
20 adequate and reasonable and constituted the best notice practicable under the circumstances, including
21 individual notice to all Class Members who could be identified through reasonable effort.

22 D. Notice, as given, complied with the requirements of California law, satisfied the
23 requirements of due process, and constituted due and sufficient notice of the matters set forth herein.

24
25 ¹ As used herein, the term "Parties" means Plaintiff and Class Representative Stan Kaye and
26 individual plaintiff's Michael Barnett and Harrison Wise (collectively, "Plaintiffs"), on behalf of
27 themselves and the Class, and Defendants Ooma, Inc., Eric B. Stang, Ravi Narula, James Wei, Peter J.
28 Goettner, Alison Davis, Andrew H. Galligan, Russell Mann, Sean N. Parker, William D. Pearce, Credit
Suisse Securities (USA) LLC, Merrill Lynch, Pierce, Fenner & Smith Incorporated, JMP Securities
LLC, William Blair & Company, L.L.C., and Wunderlich Securities, Inc. (collectively, the
"Defendants"), by their respective counsel.

10/18/19
JSM

1 E. The Settlement, as set forth in the Stipulation, is fair, reasonable, and adequate.

2 (i) The Settlement was negotiated at arm's length by Plaintiffs on behalf of the Class
3 and by Defendants, all of whom were represented by highly experienced and skilled counsel. The case
4 settled only after, among other things: (a) a mediation conducted by an experienced mediator who was
5 familiar with this Action; (b) the exchange between the Plaintiffs and Defendants of detailed mediation
6 statements prior to the mediation which highlighted the factual and legal issues in dispute; (c) follow-up
7 negotiations between the Plaintiffs and Defendants with the assistance of the mediator; (d) Plaintiffs'
8 Counsel's extensive investigation, which included, among other things, a review of Ooma's press
9 releases, U.S. Securities and Exchange Commission filings, analyst reports, media reports, and other
10 publicly disclosed reports and information about the Defendants; (e) the drafting and submission of
11 detailed complaints; (f) extensive motion practice; (g) the review and analysis of over 14,000 pages of
12 non-public documents produced by Defendants and third parties; and (h) briefing Plaintiffs' motion for
13 class certification. Accordingly, both the Plaintiffs and Defendants were well-positioned to evaluate the
14 settlement value of this Action. The Stipulation has been entered into in good faith and is not collusive.

15 (ii) If the Settlement had not been achieved, both Plaintiffs and Defendants faced the
16 expense, risk, and uncertainty of extended litigation. The Court takes no position on the merits of either
17 Plaintiffs' or Defendants' arguments, but notes these arguments as evidence in support of the
18 reasonableness of the Settlement.

19 F. Plaintiffs and Plaintiffs' Counsel have fairly and adequately represented the interest of
20 the Class Members in connection with the Settlement.

21 G. Plaintiffs, all Class Members, and Defendants are hereby bound by the terms of the
22 Settlement set forth in the Stipulation.

23 **IT IS HEREBY ORDERED THAT:**

24 1. The Settlement on the terms set forth in the Stipulation is finally approved as fair,
25 reasonable, and adequate. The Settlement shall be consummated in accordance with the terms and
26 provisions of the Stipulation. The Parties are to bear their own costs, except as otherwise provided in
27 the Stipulation.

10/18/14
JMS

1 2. All Released Parties as defined in the Stipulation are released in accordance with, and as
2 defined in, the Stipulation.

3 3. Upon the Effective Date, Plaintiffs and each Class Member shall be deemed to have, and
4 by operation of this Judgment shall have, fully, finally, and forever released, relinquished, and
5 discharged all Released Claims against the Released Parties, whether or not such Class Member
6 executes and delivers a Proof of Claim and Release.

7 4. Upon the Effective Date, each of the Released Parties shall be deemed to have, and by
8 operation of this Judgment shall have, fully, finally, and forever released Plaintiffs, Plaintiffs' Counsel,
9 and each and all of the Class Members from all Released Defendants' Claims.

10 5. All Class Members who have not objected to the Settlement in the manner provided in
11 the Notice of Proposed Settlement of Class Action ("Notice") are deemed to have waived any
12 objections by appeal, collateral attack, or otherwise.

13 6. All Class Members who have failed to properly submit requests for exclusion (requests
14 to opt out) from the Class are bound by the terms and conditions of the Stipulation and this Judgment.

15 7. The requests for exclusion by the persons or entities identified in Exhibit A to this
16 Judgment are accepted by the Court.

17 8. All other provisions of the Stipulation are incorporated into this Judgment as if fully
18 rewritten herein.

19 9. Plaintiffs and all Class Members are hereby barred and enjoined from instituting,
20 commencing, maintaining, or prosecuting in any court or tribunal any of the Released Claims against
21 any of the Released Parties.

22 10. Neither the Stipulation nor the Settlement, nor any act performed or document executed
23 pursuant to or in furtherance of the Stipulation or the Settlement:

24 (a) Shall be offered or received against Defendants as evidence of, or evidence in
25 support of, a presumption, concession, or admission with respect to any liability, negligence, fault, or
26 wrongdoing, or in any way referred to for any other reason as against Defendants, in any civil, criminal,
27 or administrative action or proceeding, other than such proceedings as may be necessary to effectuate
28

10/10/19
JMS

1 the provisions of the Stipulation; however, Defendants may refer to it to effectuate the liability
2 protection granted them hereunder;

3 (b) Shall be construed as or received in evidence as an admission, concession, or
4 presumption against Plaintiffs or any of the Class Members that any of their claims are without merit, or
5 that any defenses asserted by Defendants have any merit, or that damages recoverable in this Action
6 would have exceeded the Settlement Fund; and

7 (c) Notwithstanding the foregoing, Defendants, Plaintiffs, Class Members and/or the
8 Released Parties may file the Stipulation and/or this Judgment in any action that may be brought against
9 them in order to support a defense or counterclaim based on principles of *res judicata*, collateral
10 estoppel, release, good faith settlement, judgment bar or reduction or any other theory of claim
11 preclusion or issue preclusion or similar defense or counterclaim.

12 11. The Court hereby finds and concludes that due and adequate notice was directed to all
13 Persons and entities who are Class Members advising them of the Plan of Allocation and of their right
14 to object thereto, and a full and fair opportunity was accorded to all Persons and entities who are Class
15 Members to be heard with respect to the Plan of Allocation.

16 12. The Court hereby finds and concludes that the formula for the calculation of the claims
17 of Authorized Claimants, which is set forth in the Notice sent to Class Members, provides a fair and
18 reasonable basis upon which to allocate the proceeds of the Net Settlement Fund established by the
19 Stipulation among Class Members, with due consideration having been given to administrative
20 convenience and necessity.

21 13. Nothing in the Settlement restricts the ability of any Party to advocate in favor of or
22 against the applicability of any offset to any claims asserted in any other action based on any amount
23 paid to Authorized Claimants through the Settlement.

24 14. The Court hereby awards Plaintiffs' Counsel attorneys' fees of 30% of the Settlement
25 Fund, or \$2,595,000, plus Plaintiffs' Counsel's expenses in the amount of \$137,168.72, together with
26 the interest earned thereon for the same time period and at the same rate as that earned on the
27 Settlement Fund until paid. The Court finds that the amount of fees awarded is appropriate and that the
28

1 amount of fees awarded is fair and reasonable given the contingent nature of the case and the substantial
2 risks of non-recovery, the time and effort involved, and the result obtained for the Class.

3 15. The awarded attorneys' fees and expenses and interest earned thereon shall immediately
4 be paid to Class Counsel from the Settlement Fund subject to the terms, conditions, and obligations of
5 the Stipulation, which terms, conditions, and obligations are incorporated herein.

6 16. Payment is awarded to Plaintiff in the amount of \$10,000. Such payment is appropriate
7 considering his active participation as Plaintiff and Class Representative in this Action, as attested to by
8 his declaration submitted to the Court. Such payment is to be made from the Settlement Fund.

9 17. In the event that the Stipulation is terminated in accordance with its terms: (i) this
10 Judgment shall be rendered null and void and shall be vacated *nunc pro tunc*; and (ii) this Action shall
11 proceed as provided in the Stipulation.

12 18. Without affecting the finality of this Judgment in any way, this Court retains continuing
13 jurisdiction over: (a) implementation of this Settlement and any award or distribution of the Settlement
14 Fund, including interest earned thereon; (b) disposition of the Settlement Fund; (c) hearing and
15 determining applications for attorneys' fees, interest, and expenses in the Action; and (d) all Parties
16 hereto for the purpose of construing, enforcing, and administering the Stipulation.

17 DATED: OCT 18 2019

18 
19 THE HONORABLE GERALD J. BUCHWALD
20 JUDGE OF THE SUPERIOR COURT
21
22
23
24
25
26
27
28

10/18/19

EXHIBIT N

1 ROBBINS GELLER RUDMAN
& DOWD LLP
2 SHAWN A. WILLIAMS (213113)
CHRISTOPHER P. SEEFER (201197)
3 JOHN H. GEORGE (292332)
Post Montgomery Center
4 One Montgomery Street, Suite 1800
San Francisco, CA 94104
5 Telephone: 415/288-4545
415/288-4534 (fax)

6 COTCHETT, PITRE & McCARTHY, LLP
7 MARK C. MOLUMPY (168009)
BRIAN DANITZ (247403)
8 TAMARAH P. PREVOST (313422)
840 Malcolm Road, Suite 200
9 Burlingame, CA 94010
Telephone: 650/697-6000
10 650/697-0577 (fax)

11 Co-Lead Counsel for Plaintiffs and the Putative Class

12
13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 COUNTY OF SAN MATEO

15 CHICAGO LABORERS PENSION FUND, et	)	Case No. CIV535692
16 al., Individually and on Behalf of All Others	)	(Consolidated)
16 Similarly Situated,)	
17	)	<u>CLASS ACTION</u>
17 Plaintiffs,)	
18	)	JUDGMENT AND ORDER GRANTING
18 vs.	)	FINAL APPROVAL OF CLASS ACTION
19	)	SETTLEMENT
19 ALIBABA GROUP HOLDING LIMITED, et)	
20 al.,	)	Assigned for All Purposes to Dept. 16
21	)	Date Action Filed: 10/05/15
21 Defendants.)	
22)	

ENDORSED FILED
SAN MATEO COUNTY

MAY 17 2019

Clerk of the Superior Court
By Jennifer Tannous
DEPUTY CLERK

1 WHEREAS, the Court is advised that the Parties,¹ through their counsel, have agreed, subject to
2 Court approval following notice to the Class and a hearing, to settle this Action upon the terms and
3 conditions set forth in the Stipulation of Settlement dated December 28, 2018 (the "Stipulation" or
4 "Settlement"); and

5 WHEREAS, on January 11, 2019, the Court entered its Order Preliminarily Approving
6 Settlement and Providing for Notice, which preliminarily approved the Settlement, and approved the
7 form and manner of notice to the Class of the Settlement, and said notice has been made, and the
8 fairness hearing having been held; and

9 NOW, THEREFORE, based upon the Stipulation and all of the filings, records and proceedings
10 herein, and it appearing to the Court upon examination that the Settlement set forth in the Stipulation is
11 fair, reasonable and adequate, and upon a Settlement Fairness Hearing having been held after notice to
12 the Class of the Settlement to determine if the Settlement is fair, reasonable, and adequate and whether
13 the Judgment should be entered in this Action;

14 **THE COURT HEREBY FINDS AND CONCLUDES THAT:**

15 A. The provisions of the Stipulation, including definitions of the terms used therein, are
16 hereby incorporated by reference as though fully set forth herein.

17 B. This Court has jurisdiction of the subject matter of this Action and over all of the Parties
18 and all Class Members for purposes of the Settlement.

19 ¹ As used herein, the term "Parties" means Chicago Laborers Pension Fund ("CLPF"), Gary Buelow,
20 Rustem Nurlybayev and Michael Hercules ("Plaintiffs"), on behalf of themselves and the Class (as
21 defined below), and Defendants Alibaba Group Holding Limited ("Alibaba"), Jack Yun Ma, Joseph
22 Tsai, Jonathan Zhaoxi Lu, Maggie Wei Wu, Timothy Steinert and Masayoshi Son (collectively, the
23 "Alibaba Defendants") and Credit Suisse Securities (USA) LLC; Deutsche Bank Securities Inc.;
24 Goldman Sachs (Asia) L.L.C.; J.P. Morgan Securities LLC; Morgan Stanley & Co. International plc;
25 Citigroup Global Markets Inc.; BOCI Asia Limited; China International Capital Corporation Hong
26 Kong Securities Limited; CLSA Limited; DBS Bank Ltd.; BHF-BANK Aktiengesellschaft LLC (n/k/a
27 ODDO BHF Aktiengesellschaft); CIMB Securities Limited (n/k/a CGS-CIMB Securities (Hong Kong)
28 Limited); China Merchants Securities (HK) Co., Limited; HSBC Securities (USA) Inc.; Mizuho
Securities USA Inc.; Pacific Crest Securities LLC (n/k/a KeyBanc Capital Markets Inc.); Stifel,
Nicolaus & Company, Incorporated; Wells Fargo Securities, LLC; BNP Paribas Securities Corp.;
Evercore Group L.L.C.; Raymond James & Associates, Inc.; SunTrust Robinson Humphrey, Inc.; ING
Financial Markets LLC; Needham & Company, LLC; Nomura Securities International, Inc.; Raine
Securities LLC; RBS Securities Inc.; SG Americas Securities, LLC; C.L. King & Associates, Inc.;
Lebenthal & Co., LLC; Mischler Financial Group, Inc.; Samuel A. Ramirez & Company, Inc.; Topeka
Capital Markets Inc.; and The Williams Capital Group, L.P. (the "Underwriter Defendants")
(collectively, "Defendants").

1 C. The form, content, and method of dissemination of notice given to the Class was
2 adequate and reasonable and constituted the best notice practicable under the circumstances, including
3 individual notice to all Class Members who could be identified through reasonable effort.

4 D. Notice, as given, complied with the requirements of California law, satisfied the
5 requirements of due process, and constituted due and sufficient notice of the matters set forth herein.

6 E. The Settlement, as set forth in the Stipulation, is fair, reasonable, and adequate.

7 (i) The Settlement was negotiated at arm's length by Plaintiffs on behalf of the Class
8 and by Defendants, all of whom were represented by highly experienced and skilled counsel. The case
9 settled only after, among other things: (a) a mediation conducted by an experienced mediator who was
10 familiar with this Action; (b) the exchange between the Plaintiffs and the Alibaba Defendants of
11 detailed mediation statements prior to the mediation which highlighted the factual and legal issues in
12 dispute; (c) follow-up negotiations between the Plaintiffs and the Alibaba Defendants with the
13 assistance of the mediator; (d) Plaintiffs' Counsel's extensive investigation, which included, among
14 other things, a review of Alibaba's press releases, U.S. Securities and Exchange Commission filings,
15 analyst reports, media reports, and other publicly disclosed reports and information about the
16 Defendants; (e) the drafting and submission of detailed complaints; (f) extensive motion practice;
17 (g) the review and analysis of approximately one million pages of non-public documents produced by
18 Defendants and third parties; (h) briefing Plaintiffs' motion for class certification; and (i) a number of
19 depositions. Accordingly, both the Plaintiffs and Defendants were well-positioned to evaluate the
20 settlement value of this Action. The Stipulation has been entered into in good faith and is not collusive.

21 (ii) If the Settlement had not been achieved, both Plaintiffs and Defendants faced the
22 expense, risk, and uncertainty of extended litigation. The Court takes no position on the merits of either
23 Plaintiffs' or Defendants' arguments, but notes these arguments as evidence in support of the
24 reasonableness of the Settlement.

25 F. Plaintiffs and Plaintiffs' Counsel have fairly and adequately represented the interest of
26 the Class Members in connection with the Settlement.

27 G. Plaintiffs, all Class Members, and Defendants are hereby bound by the terms of the
28 Settlement set forth in the Stipulation.

1 **IT IS HEREBY ORDERED THAT:**

2 1. The Settlement on the terms set forth in the Stipulation is finally approved as fair,
3 reasonable, and adequate. The Settlement shall be consummated in accordance with the terms and
4 provisions of the Stipulation. The Parties are to bear their own costs, except as otherwise provided in
5 the Stipulation.

6 2. The Court hereby certifies this Action as a class action for purposes of this Settlement
7 only, pursuant to California Code of Civil Procedure §382, on behalf of all persons and entities who
8 purchased or otherwise acquired Alibaba American Depositary Shares ("ADS") pursuant or traceable to
9 the September 2014 Registration Statement and Prospectus filed in connection with Alibaba's initial
10 public offering ("IPO") on or about September 19, 2014. For purposes of this Settlement only, the
11 "Class" includes all persons or entities who purchased or otherwise acquired Alibaba ADS on or before
12 October 5, 2015. Excluded from the Class are Defendants, the officers and directors of Alibaba (at all
13 relevant times), members of their immediate families and their legal representatives, heirs, successors or
14 assigns, and any entity in which any of the above has a majority ownership interest. Also excluded
15 from the Class are those Persons who would otherwise be members of the Class but timely and validly
16 excluded themselves therefrom.

17 3. All Released Parties as defined in the Stipulation are released in accordance with, and as
18 defined in, the Stipulation.

19 4. Upon the Effective Date, Plaintiffs and each Class Member shall be deemed to have, and
20 by operation of this Judgment shall have, fully, finally, and forever released, relinquished, and
21 discharged all Released Claims against the Released Parties, whether or not such Class Member
22 executes and delivers a Proof of Claim and Release.

23 5. Upon the Effective Date, each of the Released Parties shall be deemed to have, and by
24 operation of this Judgment shall have, fully, finally, and forever released Plaintiffs, Plaintiffs' Counsel,
25 and each and all of the Class Members from all Released Defendants' Claims.

26 6. All Class Members who have not objected to the Settlement in the manner provided in
27 the Notice of Proposed Settlement of Class Action ("Notice") are deemed to have waived any
28 objections by appeal, collateral attack, or otherwise.

1 7. All Class Members who have failed to properly submit requests for exclusion (requests
2 to opt out) from the Class are bound by the terms and conditions of the Stipulation and this Judgment.

3 8. The requests for exclusion by the persons or entities identified in Exhibit A to this
4 Judgment are accepted by the Court.

5 9. All other provisions of the Stipulation are incorporated into this Judgment as if fully
6 rewritten herein.

7 10. Plaintiffs and all Class Members are hereby barred and enjoined from instituting,
8 commencing, maintaining, or prosecuting in any court or tribunal any of the Released Claims against
9 any of the Released Parties.

10 11. Neither the Stipulation nor the Settlement, nor any act performed or document executed
11 pursuant to or in furtherance of the Stipulation or the Settlement:

12 (a) Shall be offered or received against Defendants as evidence of, or evidence in
13 support of, a presumption, concession, or admission with respect to any liability, negligence, fault, or
14 wrongdoing, or in any way referred to for any other reason as against Defendants, in any civil, criminal,
15 or administrative action or proceeding, other than such proceedings as may be necessary to effectuate
16 the provisions of the Stipulation; however, Defendants may refer to it to effectuate the liability
17 protection granted them hereunder;

18 (b) Shall be construed as or received in evidence as an admission, concession, or
19 presumption against Plaintiffs or any of the Class Members that any of their claims are without merit, or
20 that any defenses asserted by Defendants have any merit, or that damages recoverable in this Action
21 would have exceeded the Settlement Fund; and

22 (c) Notwithstanding the foregoing, Defendants, Plaintiffs, Class Members and/or the
23 Released Parties may file the Stipulation and/or this Judgment in any action that may be brought against
24 them in order to support a defense or counterclaim based on principles of *res judicata*, collateral
25 estoppel, release, good faith settlement, judgment bar or reduction or any other theory of claim
26 preclusion or issue preclusion or similar defense or counterclaim.

27 12. The Court hereby finds and concludes that due and adequate notice was directed to all
28 Persons and entities who are Class Members advising them of the Plan of Allocation and of their right

1 to object thereto, and a full and fair opportunity was accorded to all Persons and entities who are Class
2 Members to be heard with respect to the Plan of Allocation.

3 13. The Court hereby finds and concludes that the formula for the calculation of the claims
4 of Authorized Claimants, which is set forth in the Notice sent to Class Members, provides a fair and
5 reasonable basis upon which to allocate the proceeds of the Net Settlement Fund established by the
6 Stipulation among Class Members, with due consideration having been given to administrative
7 convenience and necessity.

8 14. Nothing in the Settlement restricts the ability of any Party to advocate in favor of or
9 against the applicability of any offset to any claims asserted in any other action based on any amount
10 paid to Authorized Claimants through the Settlement.

11 15. The Court hereby awards Plaintiffs' Counsel attorneys' fees of 29% of the Settlement
12 Fund, or \$21,750,000, plus Plaintiffs' Counsel's expenses in the amount of \$296,910.44, together with
13 the interest earned thereon for the same time period and at the same rate as that earned on the
14 Settlement Fund until paid. The Court finds that the amount of fees awarded is appropriate and that the
15 amount of fees awarded is fair and reasonable given the contingent nature of the case and the substantial
16 risks of non-recovery, the time and effort involved, and the result obtained for the Class.

17 16. The awarded attorneys' fees and expenses and interest earned thereon shall immediately
18 be paid to Lead Counsel from the Settlement Fund subject to the terms, conditions, and obligations of
19 the Stipulation, which terms, conditions, and obligations are incorporated herein.

20 17. Payments are awarded to Plaintiffs Chicago Laborers Pension Fund, Gary Buelow,
21 Rustem Nurlybayev and Michael Hercules, in the amounts of \$20,000, \$12,000, \$12,000 and \$12,000,
22 respectively. Such payment is appropriate considering their active participation as Plaintiffs in this
23 Action, as attested to by the declarations submitted to the Court. Such payment is to be made from the
24 Settlement Fund.

25 18. In the event that the Stipulation is terminated in accordance with its terms: (i) this
26 Judgment shall be rendered null and void and shall be vacated *nunc pro tunc*; and (ii) this Action shall
27 proceed as provided in the Stipulation.

28

19. Without affecting the finality of this Judgment in any way, this Court retains continuing jurisdiction over: (a) implementation of this Settlement and any award or distribution of the Settlement Fund, including interest earned thereon; (b) disposition of the Settlement Fund; (c) hearing and determining applications for attorneys' fees, interest, and expenses in the Action; and (d) all parties hereto for the purpose of construing, enforcing, and administering the Stipulation.

20. The Court has reviewed and considered the letter sent to it by Andrey Tserkus, and finds it to be without merit; therefore, the relief requested therein is denied.

RICHARD H. DuBOIS

DATED: MAY 17 2019

THE HONORABLE RICHARD H. DuBOIS
JUDGE OF THE SUPERIOR COURT

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

I hereby declare that on February 7, 2022, I served the attached DECLARATION OF ELLEN GUSIKOFF STEWART IN SUPPORT OF PLAINTIFFS' COUNSEL'S MOTION FOR AN AWARD OF ATTORNEYS' FEES AND EXPENSES AND AWARDS TO CLASS REPRESENTATIVES PURSUANT TO 15 U.S.C. §77z-1(a)(4) on the parties in the within action by emailing a copy to the addresses below:

NAME	FIRM	EMAIL
James I. Jaconette Ellen Gusikoff Stewart	ROBBINS GELLER RUDMAN & DOWD LLP 655 West Broadway, Suite 1900 San Diego, CA 92101 Telephone: 619/231-1058 619/231-7423 (fax) <i>Co-Lead Counsel for Plaintiffs</i>	jamesj@rgrdlaw.com elleng@rgrdlaw.com
Francis A. Bottini, Jr. Yury A. Kolesnikov	BOTTINI & BOTTINI, INC. 7817 Ivanhoe Avenue, Suite 102 La Jolla, CA 92037 Telephone: 858/914-2001 858/914-2002 (fax) <i>Co-Lead Counsel for Plaintiffs</i>	fbottini@bottinilaw.com ykolesnikov@bottinilaw.com
David W. Hall	HEDIN HALL LLP Four Embarcadero Center, Suite 1400 San Francisco, CA 94104 Telephone: 415/766-3534 415/402-0058 (fax) <i>Additional Counsel for Plaintiffs</i>	dhall@hedinhall.com
Guillaume Buell	THORNTON LAW FIRM LLP 1 Lincoln Street Boston, MA 02111 Telephone: 617/720-1333 <i>Additional Counsel for Plaintiffs</i>	gbuell@tenlaw.com

1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
26	
27	
28	

1 **COUNSEL FOR DEFENDANTS:**

2

NAME	FIRM	EMAIL
Matthew W. Close Jonathan B. Waxman	O'MELVENY & MYERS LLP 400 South Hope Street, 18th Floor Los Angeles, CA 90071 Telephone: 213/430-6000 213/430-6407 (fax) <i>Attorneys for Defendants</i>	mclose@omm.com jwaxman@omm.com

3
4
5
6

7 I declare under penalty of perjury that the foregoing is true and correct. Executed on February
8 7, 2022, at San Diego, California.

9 

10 _____
11 MARIANNE MALONEY
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28