

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

SANKTOKH SOHAL, Individually and on	)	No. 1:15-cv-00393-DAP
Behalf of All Others Similarly Situated,	)	
	)	Judge Dan Aaron Polster
Plaintiff,	)	
	)	<u>CLASS ACTION</u>
vs.	)	
	)	
ELLIS YAN, <i>et al.</i> ,	)	
	)	
Defendants.	)	
_____	)	

REPLY MEMORANDUM IN FURTHER SUPPORT OF LEAD PLAINTIFF'S MOTION FOR  
FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND PLAN OF ALLOCATION  
AND LEAD COUNSEL'S MOTION FOR AN AWARD OF ATTORNEYS' FEES AND  
EXPENSES

Lead Plaintiff City of Warren Police & Fire Retirement System and Lead Counsel respectfully submit this reply memorandum of law in further support of Lead Plaintiff's Motion for Final Approval of Class Action Settlement and Plan of Allocation (Dkt. No. 85) and Lead Counsel's Motion for an Award of Attorneys' Fees and Expenses (Dkt. No. 86).<sup>1</sup>

## I. INTRODUCTION

Lead Plaintiff and Lead Counsel are pleased to advise the Court of the overwhelmingly positive reaction of the Class to the Settlement, the Plan of Allocation, and Lead Counsel's request for an award of attorneys' fees and expenses, now that the July 7, 2017 deadline for objections and exclusions has passed. In accordance with the Court-approved notice program, the Notice of Pendency and Proposed Settlement of Class Action ("Notice") has been mailed to more than 8,900 potential Class Members and nominees. *See* Supplemental Declaration of Carole K. Sylvester Regarding Further Dissemination of the Notice and Proof of Claim and Requests for Exclusion Received, ¶3 ("Supp. Sylvester Decl."), submitted herewith. In addition, the Summary Notice was published in *The Wall Street Journal*, and was transmitted over the *Business Wire*. *See* Declaration of Carole K. Sylvester Regarding Dissemination of the Notice and Proof of Claim, Publication of the Summary Notice, and Requests for Exclusion Received to Date, ¶14 (Dkt. No. 88). Moreover, relevant settlement-related documents were posted on a case-specific website established by the Claims Administrator. *Id.*, ¶13.

Notwithstanding the extensive notice program, not a single objection was made. In addition, *no* requests for exclusion have been received from the Class.<sup>2</sup> *See* Supp. Sylvester Decl., ¶4. These

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<sup>1</sup> Unless otherwise noted, all capitalized terms not defined herein have the same meanings set forth in the Stipulation of Settlement, filed on April 12, 2017 (the "Stipulation" or "Settlement"). Dkt. No. 83-3.

<sup>2</sup> The lack of any requests for exclusion offers support for the Court's final approval of the Settlement. *See, e.g., In re Bear Stearns Cos., Inc. Sec., Derivative, & ERISA Litig.*, 909 F. Supp. 2d 259, 266-67 (S.D.N.Y. 2012) (noting the absence of significant exclusion requests weighs "strongly

results are a clear testament to the fairness, adequacy, and reasonableness of the Settlement, the Plan of Allocation, and Lead Counsel's request for an award of attorneys' fees and expenses.

## **II. THE REACTION OF THE CLASS SUPPORTS APPROVAL OF THE SETTLEMENT, PLAN OF ALLOCATION AND APPROVAL OF LEAD COUNSEL'S REQUEST FOR AN AWARD OF ATTORNEYS' FEES AND EXPENSES**

The reaction of the Class to the Settlement is a factor to be weighed in considering its adequacy. *See Olden v. Gardner*, 294 Fed. Appx. 210, 217 (6th Cir. 2008) ("Out of nearly 11,000 absent class members, only 79 objected to the settlement. . . . This tends to support a finding that the settlement is fair."); *see, e.g., Brotherton v. Cleveland*, 141 F. Supp. 2d 894, 906 (S.D. Ohio 2001) ("[A] relatively small number of class members who object is an indication of a settlement's fairness."); *In re Delphi Corp. Sec., Derivative & ERISA Litig.*, 248 F.R.D. 483, 499 (E.D. Mich. 2008) ("If only a small number [of opt-outs or objections] are received, that fact can be viewed as indicative of the adequacy of the settlement.") (citations omitted). After an extensive notice program, not a single objection has been filed.

## **III. CONCLUSION**

For all the reasons set forth herein and in Lead Plaintiff's and Lead Counsel's previous submissions, the Court is respectfully requested to approve the Settlement and Plan of Allocation as

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in favor of approval" where 115 requests for exclusion were received); *Destefano v. Zynga, Inc.*, No. 12-cv-04007-JSC, 2016 U.S. Dist. LEXIS 17196, at \*47 (N.D. Cal. Feb. 11, 2016) ("[A] low number of exclusions representing a small fraction of shares in the public float also supports the reasonableness of a securities class action settlement.").

fair, reasonable, and adequate and to approve Lead Counsel's request for an award of attorneys' fees and expenses as reasonable.

DATED: July 19, 2017

Respectfully submitted,

ROBBINS GELLER RUDMAN  
& DOWD LLP

s/ Ellen Gusikoff Stewart

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*Additional Counsel for Plaintiff*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on July 19, 2017, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send a Notice of Electronic Filing to all counsel of record.

*/s/ Ellen Gusikoff Stewart*  
ELLEN GUSIKOFF STEWART (*pro hac vice*)