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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

BOSTON RETIREMENT SYSTEM,

Plaintiff,

v.

UBER TECHNOLOGIES, INC., et al.,

Defendants.

Case No.: 3:19-cv-06361-RS

**REPLY MEMORANDUM OF POINTS
AND AUTHORITIES IN FURTHER
SUPPORT OF CLASS
REPRESENTATIVES' MOTION FOR
FINAL APPROVAL OF PROPOSED
CLASS ACTION SETTLEMENT AND
PLAN OF ALLOCATION AND CLASS
COUNSEL'S MOTION FOR AWARD
OF ATTORNEYS' FEES AND
EXPENSES**

Hearing: December 4, 2024 at 9:30 a.m.
Courtroom: No. 3 – 17th Floor
Judge: Hon. Richard Seeborg
Filed: Oct. 4, 2019

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Pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, Lead Plaintiff Boston Retirement System (“BRS”), David Messinger (“Messinger”), Salvatore Toronto acting on behalf of the Ellie Marie Toronto ESA (“Toronto”), and Irving S. and Judith Braun (the “Brauns”) (collectively, “Class Representatives”), on behalf of themselves and the other members of the certified Class, and Class Counsel Labaton Keller Sucharow LLP (“Class Counsel”), respectfully submit this reply memorandum of law in further support of (i) Class Representatives’ motion for final approval of the proposed Settlement and approval of the proposed Plan of Allocation (ECF No. 476) and (ii) Class Counsel’s motion for an award of attorneys’ fees and payment of expenses (ECF No. 475) (together, the “Motions”).¹

STATEMENT OF ISSUES TO BE DECIDED

1. Whether the reaction of the Class supports approval of the Motions.

PRELIMINARY STATEMENT

Now that the November 20, 2024 deadline for objecting has passed, Class Representatives and Class Counsel respectfully submit that the reaction of the Class to the Settlement, the proposed Plan of Allocation, and Class Counsel’s Fee and Expense Application has been overwhelmingly positive.

A total of 774,894 Settlement Postcards have been mailed to potential Class Members or their nominees through November 27, 2024. *See* Supplemental Declaration of Adam D. Walter Regarding: (A) Continued Dissemination of the Settlement Postcard; (B) Update on Telephone Helpline and Website; and (C) Claims Received to Date, dated November 27, 2024, at ¶5, filed herewith (“Supp. Mailing Decl.”). Additionally, the long-form Settlement Notice and Claim Form were posted on the website created for the Action on August 23, 2024 and the Summary Notice was published in *The Wall Street Journal* and transmitted over *PR Newswire* on September 6, 2024. *See* Declaration of Adam D. Walter Regarding (A) Mailing of the Settlement Postcard and (B) Publication of the Summary Notice, dated October 2, 2024, (“Initial Mailing Decl.”) at

¹ The terms of the Settlement are set forth in the Stipulation and Agreement of Settlement, dated July 19, 2024 (the “Stipulation”, ECF No. 459-2). All capitalized terms used herein are defined in the Stipulation and have the same meanings as set forth therein. Unless otherwise noted, citations and internal quotations have been omitted.

¶¶12-13; ECF No. 477-6. There have been *no objections* to the proposed Settlement or Plan of Allocation, and *no objections* to the Fee and Expense Application.

Accordingly, Class Representatives and Class Counsel respectfully submit that this reaction by the Class further demonstrates the fairness, adequacy, and reasonableness of the Settlement, Plan of Allocation, and Class Counsel's Fee and Expense Application.

STATEMENT OF RELEVANT FACTS

Pursuant to the Court's Preliminary Approval Order, the Claims Administrator has mailed 774,894 copies of the Settlement Postcard to all potential Class Members and/or their nominees identified to date. *See* Supp. Mailing Decl. at ¶5. In addition, copies of the long-form Settlement Notice, Claim Form, Stipulation, and other Court documents were posted on the website maintained for the Action, www.UberIPOSecuritiesLitigation.com, as well as the website of Class Counsel. Further, on September 6, 2024, the Claims Administrator published the Summary Notice in *The Wall Street Journal* and released it over the internet via *PR Newswire* (*see* Initial Mailing Decl. at ¶12).

Collectively, the notices provided important information about the Action and the Settlement and stated that Class Counsel would apply for an award of attorneys' fees in an amount not to exceed 29% of the Settlement Fund and payment of Litigation Expenses in an amount not to exceed \$3,125,000. *See* Initial Mailing Decl. Exs. A-C. The notices also apprised Class Members of their right to object to the proposed Settlement, the Plan of Allocation, and/or the Fee and Expense Application, and the option to request to opt back into the Class, and the November 14, 2024 deadline for doing so. The long-form Notice provided more detailed information about the Action and Settlement, including the Plan of Allocation. Class Representatives and Class Counsel also filed their opening papers in support of the Motions. Those papers—which are available on the public docket (*see* ECF Nos. 475-477), the case website (www.UberIPOSecuritiesLitigation.com), and Class Counsel's firm website—described Class Representatives' and Class Counsel's views of the Settlement, the Plan of Allocation, work performed in this litigation, and the fee and expense awards requested.

1 No objections have been filed with the Court or received by the Claims Administrator or
 2 Class Counsel. No requests to opt back into the Class have been received. *See* Supp. Mailing
 3 Decl. at ¶6.²

4 To date, 1,186,737 claims have been received by the Claims Administrator. *Id.* at ¶10.
 5 The Claim deadline was November 20, 2024 and processing and review are ongoing.

6 **ARGUMENT**

7 **I. THE REACTION OF THE CLASS STRONGLY SUPPORTS APPROVAL OF** 8 **THE SETTLEMENT AND PLAN OF ALLOCATION**

9 Following a thorough notice program, no Class Member objected to any aspect of the
 10 Settlement or the Plan of Allocation. “[T]he absence of a large number of objections to a proposed
 11 class action settlement raises a strong presumption that the terms of a proposed class settlement
 12 action are favorable to the class members.” *In re Lyft Inc. Sec. Litig.*, No. 19-cv-2690, 2023 WL
 13 5068504, at *9 (N.D. Cal. Aug. 7, 2023); *Vataj v. Johnson*, No. 19-cv-6996, 2021 WL 5161927,
 14 at *7 (N.D. Cal. Nov. 5, 2021) (same); *Destefano v. Zynga Inc.*, No.12-cv-04007, 2016 WL
 15 537946, at *13 (N.D. Cal. Feb. 11, 2016) (“By any standard, the lack of objection of the Class
 16 Members favors approval of the Settlement.”).

17 The absence of objections from institutional investors and pension funds is also
 18 noteworthy. That these sophisticated Class Members—who have the resources to carefully
 19 evaluate the Settlement and object if it were appropriate to do so—have not objected to the
 20 Settlement (or the Plan of Allocation) provides further evidence of the fairness of the Settlement.
 21 *See, e.g., In re Extreme Networks, Inc. Sec. Litig.*, No. 15-cv- 4883, 2019 WL 3290770, at *9
 22 (N.D. Cal. July 22, 2019) (“Many potential class members are sophisticated institutional
 23 investors; the lack of objections from such institutions indicates that the settlement is fair and
 24 reasonable.”).

25 The lack of objections from Class Members also supports approval of the proposed Plan
 26 of Allocation. *See Atlas v. Accredited Home Lenders Holding Co.*, No. 07-CV-00488-H (CAB),

27
 28 ² Nineteen requests for exclusion were received in connection with the Class Notice. *See* ECF
 Nos. 342 and 401.

2009 WL 3698393, at *4 (S.D. Cal. Nov. 4, 2009) (noting the “predominantly positive response” to the plan of allocation where only two objections to it were submitted).

II. THE REACTION OF THE CLASS STRONGLY SUPPORTS APPROVAL OF CLASS COUNSEL’S FEE AND EXPENSE APPLICATION

Not one Class Member has objected to Class Counsel’s Fee and Expense Application. The fact that there have been no objections is strong evidence that the requests are fair and reasonable. *See, e.g., Ferreira v. Funko, Inc.*, No. 20-cv-2319, 2022 WL 22877154, at *9 (C.D. Cal. Dec. 13, 2022) (“The positive reaction by Settlement Class Members demonstrated by the 5,848 claims, the lack of objections to the Settlement, and the sole request for exclusion also support Class Counsel’s fee request.”); *Zynga, Inc.*, 2016 WL 537946, at *18 (“the lack of objection by any Class Members also supports the . . . fee”); *Cheng Jiangchen v. Rentech, Inc.*, No. 17-cv-1490, 2019 WL 5173771, at *10 (C.D. Cal. Oct. 10, 2019) (noting that the fact “there have been no objections filed to the requested attorney’s fees” [] “supports granting the requested fees”).

III. CLAIM SUBMISSIONS TO DATE

The notices and Claim Form notified Class Members that, in order to qualify for a payment from the Net Settlement Fund, a Claim Form must be submitted to the Claims Administrator by November 20, 2024. The Claims Administrator has received a very substantial number of claims. As of November 26, 2024, 1,186,737 claims have been received. *See* Supp. Mailing Decl. at ¶10.

Of the claims received, approximately 7,764 are paper claims that were mailed or uploaded through the case website and 1,178,973 were submitted by institutional filers. *See* Supp. Mailing Decl. at ¶10.

Claims processing and reviewing is ongoing, and subject to further analysis, quality assurance reviews, audits, and change as Claimants are notified of deficiencies in their claims and given an opportunity to cure the deficiencies and conditions of ineligibility. *Id.* at ¶12.

CONCLUSION

For the reasons set forth herein and the opening papers filed in support of the Motions, Class Representatives and Class Counsel respectfully request that the Court approve the proposed

Settlement and Plan of Allocation as fair, reasonable, and adequate, and approve the Fee and Expense Application. Three proposed orders are being submitted herewith: a proposed Final Order and Judgment, negotiated by the Parties; a proposed Order Approving Plan of Allocation; and a proposed Order Awarding Attorneys' Fees, Litigation Expenses, and PSLRA Awards.

Dated: November 27, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on November 27, 2024, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List served via ECF on all registered participants only.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on November 27, 2024

/s/ Alfred L. Fatale III

Alfred L. Fatale III

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