SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. ANDREA MASLEY **PART** 48

Justice

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EMPLOYEES RETIREMENT SYSTEM FOR THE CITY OF PROVIDENCE, DERIVATIVELY AS A SHAREHOLDER OF CREDIT SUISSE GROUP AG ON BEHALF OF CREDIT SUISSE GROUP AG,

Plaintiff,

- v -

URS ROHNER, IRIS BOHNET, CHRISTIAN GELLERSTAD, ANDREAS GOTTSCHLING, MICHAEL KLEIN, SHAN LI, SERAINA MACIA, RICHARD MEDDINGS, KAI S. NARGOLWALA, ANA PAULA PESSOA, JOAQUIN J. RIBEIRO, SEVERIN SCHWAN, JOHN TINER, ERIC VARVEL, THOMAS P. GOTTSTEIN, LARA J. WARNER, BRIAN CHIN, DAVID MILLER, PARSHU SHAH, RADHIKA VENKATRAMAN, and CREDIT SUISSE GROUP AG, NOMINAL DEFENDANT,

Defendants.

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INDEX NO. 651657/2022

MOTION DATE ________

MOTION SEQ. NO. 026 027

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 026) 965, 966, 967, 971, 972, 973, 974, 979, 981, 982, 983, 984, 985, 986, 987, 988, 996, 997, 998, 999, 1000, 1006, 1007, 1010, 1011, 1012, 1013, 1020, 1023, 1024, 1027, 1029, 1030, 1031, 1032, 1033, 1035, 1036, 1037, 1044, 1045, 1046, 1048

were read on this motion to/for MISCELLANEOUS.

The following e-filed documents, listed by NYSCEF document number (Motion 027) 968, 969, 970, 975, 976, 977, 978, 980, 1001, 1002, 1003, 1004, 1005, 1008, 1009, 1014, 1015, 1016, 1017, 1021, 1025, 1026, 1028, 1038

were read on this motion to/for FEES/COMMISSIONS/DISBURSEMENTS.

The parties, plaintiff Employees Retirement System for the City of Providence (Providence), the individual defendants, and the UBS Group AG, successor to Credit Suisse Group AG (UBS), jointly move pursuant to New York Business Corporation Law § 626 for an order granting the final approval of the Proposed Settlement Agreement (Settlement) (NYSCEF Doc. No. 965 [NYSCEF], Notice of Motion) and for an award of attorneys' fees, litigation expenses and a service award. (NYSCEF 968, Notice of Motion). Only one objection was filed by Ezra Cattan[1], plaintiff in a related shareholder derivative action. (NYSCEF 981, Objection.)

Background

This case arises from Credit Suisse's alleged failures in risk oversight within its New York-based Prime Services business. (NYSCEF 2, Complaint.) The litigation record reflects extensive discovery, three years of litigation, conducted across multiple jurisdictions. (NYSCEF 971, Robinson[2] aff ¶ 3.)

Settlement negotiations took place over more than two years under the supervision of former United States District Judge Layn R. Phillips. (NYSCEF 966, Philips aff ¶¶ 3, 8.) The parties participated in three formal in-person mediation sessions, supported by detailed mediation submissions. (*Id.* ¶¶ 8-9.) Judge Phillips acknowledged that "the work that went into the mediation submissions and competing presentations and arguments was substantial and complex." (*Id.* ¶ 9.) The mediation culminated in a mediator's proposal accepted by all parties. (*Id.* ¶ 11.) The result was a Stipulation and Agreement of Settlement dated August 21, 2025 (NYSCEF 952, Stipulation of Settlement) which provides for payment of $115 million, funded entirely by the directors' and officers' liability insurance, into an escrow account to be transferred to UBS upon final approval. (*Id.* ¶ 23.)

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[1] The court notes that three affirmations were submitted in support of Cattan's objection; however, they were not filed by proper objectors. (NYSCEF 986, 987, and 988.)

[2] Jeremy P. Robinson is plaintiff's counsel. (NYSCEF 971, Robinson aff ¶ 1.)

On August 22, 2025, the Court granted preliminary approval and directed notice to shareholders. (NYSCEF 956, August 22, 2025 Order.) No objections were filed by any of the approximately 230,000 registered UBS shareholders except for the single objection submitted by Cattan. (NYSCEF 981, Objection.)

While this motion was pending, two appellate courts issued decisions addressing Cattan's parallel actions. On May 26, 2026, the First Department unanimously affirmed this Court's dismissal of the *Cattan v Rohner* derivative action on forum non conveniens grounds, emphasizing that the broad, worldwide allegations in that case were primarily centered in Switzerland—not New York. (NYSCEF 1045, First Department Decision.) On February 3, 2026, the Second Circuit affirmed dismissal of the *Stevenson v Thornburgh* federal action, likewise concluding that the dispute was "overwhelmingly Swiss." (NYSCEF 1046, Second Circuit Decision.) These appellate determinations directly support the Court's analysis in approving the settlement.

Legal Analysis

Final Approval of Settlement Under BCL § 626(d)

Under BCL § 626(d), derivative settlements must be approved by the Court. (BCL § 626(d) "[derivative] action shall not be discontinued, compromised or settled, without the approval of the court having jurisdiction of the action.") Section 626(d) does not specify criteria for approval, but New York courts evaluate derivative settlements under BCL § 626(d), by applying the following factors: likelihood of success; extent of support from the parties; judgment of counsel; arm's-length bargaining; and complexity of issues. (*In re Colt Indus. Shareholder Litig.*, 155 AD2d 154, 160 [1st Dept 1990].)

(i) Likelihood of success

Plaintiff faced significant litigation risk; lack of standing and jurisdictional motions by foreign defendants posed serious risk that many defendants would be dismissed. (NYSCEF 979, Plaintiff's Memorandum of Law [MOL] at 15-19 [NYSCEF pagination].) Further, the First Department's *Cattan* decision confirmed that similar broad allegations could not proceed in New York. (NYSCEF 1045, First Dept Decision.) Plaintiff's New York-centered claims presented the only viable path to recovery.

(ii) Extent of support from parties

The settlement has the full support of all parties and from UBS, the corporate beneficiary. (NYSCEF 952, Stipulation of Settlement; NYSCEF 966, Phillips aff.) Only one shareholder objected. (NYSCEF 981, Objection.)

(iii) Arm's-length bargaining

Plaintiff's counsel litigated the action intensively for three years through massive discovery and consultation with experts. (NYSCEF 979, Plaintiff's MOL at 20-21 [NYSCEF pagination].) Thus, plaintiff's counsel was fully informed about the strengths and risks of the litigation at the time the settlement was reached. Further, parties participated in three full days of mediation and numerous complex and substantial arguments. (NYSCEF 966, Phillips aff ¶ 9.) This demonstrates that the settlement resulted from vigorous arm's length negotiations.

(iv) Complexity of issues

Finally, as noted above, this case involved complex questions of Swiss law, global discovery, jurisdictional and standing challenges, and extensive expert disputes. (NYSCEF 971, Robinson aff ¶¶ 4-12; NYSCEF 979, Plaintiff's MOL at 22 [NYSCEF pagination].)

In his objection, Cattan argues that the settlement improperly releases claims worth "tens of billions." (NYSCEF 981, Objection at 5 [NYSCEF pagination].) Those claims were dismissed and the dismissals affirmed. (NYSCEF 1044, May 28, 2026 Letter; NYSCEF 1045, First Department Decision; NYSCEF 1046, Second Circuit Decision.) These claims cannot proceed in New York or federal court. Thus, the Settlement does not compromise viable claims.

Notably, the $115 million settlement achieved here represents the largest monetary recovery settlement ever obtained in a shareholder derivative oversight action in New York state court history. (NYSCEF 1015, Riedel[3] aff at 2-3 - Riedel conducted a multifaceted search of publicly available sources - including Westlaw, Bloomberg Law and *The D&O Diary* – to confirm no derivative oversight settlement in New York has reached or exceeded this amount; NYSCEF 1021, Supplemental Submission.) No party has submitted evidence disputing this conclusion.

As requested by the court, plaintiff's counsel submitted the parties' competing expert reports concerning damages in this action. (NYSCEF 1016, Plaintiff Damage Report, NYSCEF 1017, Defendant Damage Report.) The parties' experts sharply disagreed on the amount of damages. (NYSCEF 1021, Plaintiff's Supplemental Submission at 6.) On one end, plaintiff's damages expert opined that damages ranged from $7 to $9.4 billion, and on the other end, defendants' expert opined there were no damages. (*Id.* at 7.) These divergent views only increased litigation risk and created a substantial risk that plaintiff would obtain little or no recovery at trial. (NYSCEF 979, Plaintiff's MOL at 6.)

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[3] Eric J. Riedel is counsel for plaintiff. (NYSCEF 1015, Riedel aff at 2.)

Accordingly, applying the factors in *Colt*, the court finds that the settlement is fair, reasonable and adequate.

<u>Attorneys' Fees – BCL § 626(e)</u>

Business Corporation Law § 626(e) governs the award of attorneys' fees in derivative actions filed in New York and provides:

> "If the action on behalf of the corporation was successful, in whole or in part, or if anything was received by the plaintiff or plaintiffs or a claimant or claimants as the result of a judgment, compromise or settlement of an action or claim, the court may award the plaintiff or plaintiffs, claimant or claimants, reasonable expenses, including reasonable attorney's fees." (BCL § 626 [e].)

Attorneys' fees in representative litigation may be calculated on either a percentage of recovery basis or evaluated using the percentage-of-the-fund method, with a lodestar cross-check. (*See Fernandez v Legends Hosp., LLC*, 2015 WL 3932897 [Sup Ct NY County 2015] [the lodestar method is determined by "multiplying the hours reasonably billed by a reasonable hourly rate, then applying a multiplier based on a more subjective factors"].)

Plaintiff seeks 29% of the $155 million settlement fund, totaling $33,350,000 (NYSCEF 980, Plaintiff MOL for Attorney's Fee.) This percentage aligns with typical fee awards in representative litigation in New York and is approved by the institutional plaintiff. (*Id*. at 7 [NYSCEF pagination].) This request is further supported by the lodestar cross-check: plaintiff's counsel expended 64,252.50 hours litigating this complex, multi-jurisdictional case, resulting in a lodestar of $33,727,890. (NYSCEF 975, Robinson aff ¶ 86.) Indeed, the NYSCEF file contains 1,048 documents which is some evidence of the attorneys' tremendous amount of work in this case. Thus, the requested fee of $33,350,000 represents a negative multiplier of approximately 0.99 (*id.*

¶ 87), which strongly indicates reasonableness. Plaintiff's counsel also seeks reimbursement of $2,474,886 in litigation expenses (*id.* ¶¶ 97-98), encompassing expert fees, mediation costs, deposition travel, and document management and hosting, all of which were necessary (NYSCEF 980, Plaintiff MOL for Attorney's Fee at 24 [NYSCEF pagination]) and fall below the $3,200,000 maximum amount disclosed in the Notice. (*See* NYSCEF 956, Notice of Motion.) Additionally, plaintiff requests a $10,000 service award for its time and effort expended in this action, including reviewing pleadings, attending mediation sessions, producing discovery, and presenting a representative for deposition. (NYSCEF 970, Dana[4] aff ¶¶ 4, 7.) The court finds that the fee, expense reimbursement, and service award requests are proper and should be approved.

Cattan, the Objector, seeks an attorneys' fee award in the range of 10–15% of the settlement amount. (NYSCEF 1018, October 21, 2025 Letter.) Cattan claims he spearheaded this derivative litigation by filing a comprehensive, detailed complaint in June 2020 and that plaintiff poached the easiest claims from the *Cattan* action. (NYSCEF 981, Objection.) Cattan argues that he is entitled to attorneys' fees under quantum meruit. (*Id. at* 24 [NYSCEF pagination].)

To state a claim for quantum meruit, one must establish "(1) the performance of services in good faith, (2) the acceptance of the services by the person to whom they are rendered, (3) an expectation of compensation therefor, and (4) the reasonable value of the services." (*Soumayah v Minnelli*, 41 AD3d 390, 391 [1st Dept 2007].) However, Cattan fails to provide any record that he contributed to the prosecution or resolution of this case. Cattan's counsel did not engage in discovery, nor did he review any

[4] Jeff Dana is counsel for plaintiff. (NYSCEF 970, Dana aff ¶ 1.)

productions, attend depositions, or had anything to do with the three mediations and hard-fought settlement negotiations. (NYSCEF 1008, Reply MOL at 17-18.) Moreover, both of Cattan's derivative actions, state and federal were dismissed. (*See* supra at 3.) Because there is no evidence that Cattan contributed to the prosecution or resolution of this case, his efforts conferred no benefit to the corporation—failing the prerequisite for a quantum meruit award. As there is no legal or equitable basis upon which Cattan may recover attorneys' fees, his application for attorneys' fees is denied.

Accordingly, it is

ORDERED that motion sequence 026 is granted; and it is further

ORDERED that motion sequence 027 is granted; and it is further

ORDERED that the Settlement Agreement is approved pursuant to BCL § 626(d) (proposed judgment [NYSCEF 1007] to follow); and it is further

ORDERED that Objector's attorneys' fees request is denied; and it is further

ORDERED that plaintiff's attorneys' fee application is granted, awarding 29% of the settlement fund, $2,474,886 in litigation expenses, and $10,000 in service award.

The foregoing constitutes the Decision and Order of the Court.

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7/10/2026		
DATE		**ANDREA MASLEY, J.S.C.**

CHECK ONE:	X	**CASE DISPOSED**			**NON-FINAL DISPOSITION**	
	X	**GRANTED**	☐ **DENIED**	☐	**GRANTED IN PART**	☐ **OTHER**
APPLICATION:	☐	**SETTLE ORDER**		☐	**SUBMIT ORDER**	
CHECK IF APPROPRIATE:	☐	**INCLUDES TRANSFER/REASSIGN**		☐	**FIDUCIARY APPOINTMENT**	☐ **REFERENCE**