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page]

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION**

*In re Mattel, Inc. Securities  
Litigation*

Case No. 2:19-cv-10860-MCS (PLAx)

**LEAD PLAINTIFFS' NOTICE OF  
MOTION AND MOTION FOR  
APPROVAL OF DISTRIBUTION  
PLAN; AND MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT**

Judge: Hon. Mark C. Scarsi  
Courtroom: 7C, 7th Floor  
Date: November 20, 2023  
Time: 9:00 a.m.

**NOTICE OF MOTION AND MOTION**

**TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:**

**PLEASE TAKE NOTICE** that on November 20, 2023 at 9:00 a.m., in Courtroom 7C of the First Street Courthouse, 350 W. First Street, Los Angeles, California, 90012, the Honorable Marc C. Scarsi presiding, the Court-appointed Lead Plaintiffs and Class Representatives DeKalb County Employees Retirement System and New Orleans Employees' Retirement System will and hereby do move, pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, for entry of the accompanying [Proposed] Order Approving Distribution Plan ("Class Distribution Order").

This motion is made pursuant to the Court's May 18, 2022 Order (1) Granting Motion for Final Approval and Plan of Allocation; (2) Granting in Part and Denying in Part Motion for Attorneys' Fees and Litigation Expenses; and Granting in Part and Denying in Part Motion for Leave to File Supplemental Authority (ECF No. 160) ("Final Approval Order") and is based upon: (1) this Notice of Motion; (2) the Declaration of Luiggy Segura in Support of Lead Plaintiffs' Motion for Approval of Distribution Plan ("Segura Declaration") submitted on behalf of the Court-approved Claims Administrator JND Legal Administration ("JND"); (3) the supporting Memorandum of Points and Authorities set forth below; and (4) all other papers and proceedings herein.

Among other things, the Class Distribution Order would: (i) approve the administrative determinations of JND accepting and rejecting Claims submitted in connection with the Settlement reached in the above-captioned Action; (ii) direct the distribution of the Net Settlement Fund to Claimants whose Claims are accepted by JND as valid and approved by the Court ("Authorized Claimants"), while maintaining a Reserve for tax liability and claims administration-related contingencies that may arise; (iii) direct that distribution checks state that the check must be cashed within ninety (90) days after the issue date; (iv) direct that

1 Authorized Claimants will forfeit all recovery from the Settlement if they fail to cash  
2 their distribution checks in a timely manner; (v) approve the recommended plan for  
3 any funds remaining after the distribution; (vi) approve JND's fees and expenses  
4 incurred and estimated to be incurred in the administration of the Settlement;  
5 (vii) release claims related to the administration process; and (viii) authorize the  
6 destruction of Claim Forms and supporting documents at an appropriate time.

7 This motion seeks, among other things, Court approval of the Claims  
8 Administrator's determinations accepting and rejecting Claims. The claims  
9 administration process afforded Claimants the opportunity to dispute the rejection  
10 of their Claims and the right to ask for judicial review of the Claims Administrator's  
11 determinations. One claimant has disputed the rejection of his Claim (the "Disputed  
12 Claim") and has requested review by the Court.

13 Lead Counsel has reviewed the Disputed Claim and agrees with the Claims  
14 Administrator's determination to reject the Disputed Claim. Segura Declaration  
15 explains the basis for the rejection of this Disputed Claim. We are today sending the  
16 Claimant with a Disputed Claim a copy of this Motion, the Segura Declaration, the  
17 supporting documentation attached to Exhibit D of the Segura Declaration that  
18 relates to the Claimant's Disputed Claim, and the proposed Distribution Order. We  
19 are informing the Claimant in a cover letter that the Claimant does not need to take  
20 any further action to have the Court consider the Claimant's dispute. If, however,  
21 the Claimant wishes to make an additional submission the Claimant should direct it  
22 to Your Honor's attention with a copy to Lead Counsel and postmarked no later than  
23 October 27, 2023. If any such submission is made, Lead Plaintiffs would submit a  
24 response by November 3, 2023.

25 Pursuant to the terms of the Stipulation, Defendants have no interest in the  
26 relief sought by the motion.  
27  
28

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1       Lead Plaintiffs, DeKalb County Employees Retirement System and New  
 2 Orleans Employees' Retirement System ("Lead Plaintiffs"), respectfully move for  
 3 entry of the proposed Order Approving Distribution Plan ("Class Distribution  
 4 Order") for the proceeds of the Settlement in the above-captioned securities class  
 5 action ("Action"). The Distribution Plan is included in the accompanying  
 6 Declaration of Luiggy Segura ("Segura Decl."), submitted on behalf of the Court-  
 7 approved Claims Administrator, JND.<sup>1</sup>

8       The Class Distribution Order will, upon being entered by the Court, permit  
 9 JND to make an Initial Distribution of the Settlement proceeds to eligible Claimants.  
 10 Among other things, the Class Distribution Order will: (i) approve JND's  
 11 administrative determinations accepting and rejecting Claims submitted in  
 12 connection with the Settlement; (ii) direct the Initial Distribution of the Net  
 13 Settlement Fund to Claimants whose Claims are accepted by JND as valid and  
 14 approved by the Court ("Authorized Claimants"), while maintaining a Reserve for  
 15 tax liability and claims administration-related contingencies that may arise; and (iii)  
 16 approve JND's fees and expenses incurred and estimated to be incurred in the  
 17 administration of the Settlement and the Initial Distribution.

18       Pursuant to the Stipulation, Defendants have no role in or responsibility for  
 19 the administration of the Settlement Fund or processing of Claims, including  
 20 determinations as to the validity of Claims or the distribution of the Net Settlement  
 21 Fund. *See* Stipulation ¶¶ 17, 21, 23; *see also* Notice ¶ 52. Nevertheless, we provided  
 22 Defendants' Counsel a copy of these motion papers, and they informed us that  
 23

24 \_\_\_\_\_  
 25 <sup>1</sup> Unless otherwise indicated in this memorandum, all terms with initial capitalization  
 26 shall have the meanings ascribed to them in the Segura Declaration, the Stipulation  
 27 and Agreement of Settlement dated as of November 23, 2021 (ECF No. 143-1)  
 28 ("Stipulation"), or the Notice of (I) Pendency of Class Action and Proposed  
 Settlement; (II) Settlement Hearing; and (III) Motion for Attorneys' Fees and  
 Litigation Expenses (ECF No. 149-3, Ex. A) ("Notice").

Defendants take no position on this motion.

## **I. BACKGROUND**

On May 18, 2022, the Court entered a Final Approval Order (ECF No. 160) approving the \$98 million all-cash Settlement of this Action and approving the Plan of Allocation for the Net Settlement Fund, as well as final Judgment Approving Class Action Settlement (ECF No. 161). Following the Ninth Circuit’s dismissal of objector James Hayes’s appeal from the approval of the Settlement and the expiration of the time for Mr. Hayes to seek further appellate review, the “Effective Date” of the Settlement occurred on June 30, 2023.<sup>2</sup> The Claims Administrator, JND, has completed processing Claims submitted in connection with the Settlement. Therefore, in accordance with paragraph 26 of the Stipulation, Lead Plaintiffs respectfully request that the Court enter the Class Distribution Order and approve the Distribution Plan so that the Net Settlement Fund can be distributed to Authorized Claimants.

In accordance with the Court’s Order re: Motion for Preliminary Approval of Class Action Settlement (ECF No. 146) (“Preliminary Approval Order”), JND mailed the Notice and Claim Form (together, the “Notice Packet”) to potential Class Members, brokers, and other nominees. Segura Decl. ¶ 2. JND disseminated 216,460 Notice Packets to potential Class Members, brokers, and nominees. *Id.* ¶ 4. The Notice informed Class Members that if they wished to be eligible to participate in the distribution of the Net Settlement Fund, they were required to submit a properly

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<sup>2</sup> See Stipulation ¶ 31(e) (the “Effective Date” occurs when, among other things, “the Court has . . . and entered the Judgment and the Judgment has become Final”); Stipulation ¶ 1(u) (“‘Final,’ with respect to the Judgment . . . means . . . if there is an appeal from the judgment or order, the date the judgment or order is finally affirmed on an appeal, [or] the expiration of the time to file a petition for a writ of certiorari or other form of review”). Mr. Hayes’s appeal was dismissed by the Ninth Circuit on March 31, 2023 and his time to file a petition for certiorari from the dismissal of the appeal expired on June 29, 2023.

1 executed Claim Form postmarked no later than June 8, 2022. *Id.* ¶ 6.

## 2 **II. CLAIMS ADMINISTRATION**

3 As set forth in the Segura Declaration, through October 10, 2023, the Claims  
4 Administrator, JND, received and processed 59,253 Claims. Segura Decl. ¶ 6. All  
5 Claims received through October 10, 2023, have been fully processed in accordance  
6 with the Stipulation and the Court-approved Plan of Allocation included in the  
7 Notice (*see id.*), and JND has worked with Claimants to help them perfect their  
8 Claims. *See id.* ¶¶ 18-29. Many of the Claims were initially deficient or ineligible  
9 for one or more reasons, including being incomplete, not signed, not properly  
10 documented, or otherwise deficient, which required substantial follow-up work by  
11 the Claims Administrator. *Id.* ¶¶ 18, 21.

12 If JND determined a Claim to be defective or ineligible, JND sent a letter (if  
13 the Claimant or filer filed a paper Claim) or an email (if the Claimant or filer filed  
14 an electronic Claim) to the Claimant or filer, as applicable, describing the defect(s)  
15 or condition(s) of ineligibility in the Claim and the steps necessary to cure any  
16 curable defect(s) in the Claim (“Deficiency Notices”). *Id.* ¶¶ 19, 21. The Deficiency  
17 Notices advised the Claimant or filer that the appropriate information or  
18 documentary evidence to complete the Claim had to be sent within twenty (20) days  
19 from the date of the Deficiency Notice or JND would recommend the Claim for  
20 rejection to the extent the deficiency or condition of ineligibility was not cured. *Id.*  
21 ¶¶ 19, 22. Examples of the Deficiency Notices are attached as Exhibits A, B, and C  
22 to the Segura Declaration.

23 Of the 59,253 Claims that are the subject of this motion, JND determined that  
24 21,772 Claims are acceptable in whole or in part, and that 37,481 Claims should be  
25 rejected because they are ineligible for payment from the Net Settlement Fund.  
26 Segura Decl. ¶¶ 39-42. Lead Plaintiffs respectfully request that the Court approve  
27 JND’s administrative determinations accepting and rejecting Claims as set forth in  
28 the Segura Declaration.



1           **A.     Disputed Claim**

2           JND carefully reviewed Claimants’ and filers’ responses to the Deficiency  
3 Notices and worked with them to resolve deficiencies where possible. *Id.* ¶¶ 20, 27.  
4 Consistent with paragraph 24(e) of the Stipulation, the Deficiency Notices  
5 specifically advised the Claimant or filer of the right, within twenty (20) days after  
6 the mailing or emailing of the Deficiency Notice, to contest the rejection of the Claim  
7 and request Court review of JND’s administrative determination of the Claim. *Id.*  
8 ¶¶ 19, 22, & Exhibits A & B.

9           With respect to the fully processed Claims, JND received seventeen (17)  
10 requests for Court review of its administrative determinations. To resolve these  
11 disputes without necessitating the Court’s intervention, JND contacted the  
12 Claimants requesting Court review and attempted to answer all questions, to explain  
13 JND’s administrative determination of the Claim’s status, and to facilitate the  
14 submission of missing information or documentation where applicable. *Id.* ¶ 31. As  
15 a result of these efforts, six (6) Claimants resolved their deficiencies and their Claims  
16 are recommended for approval, and ten (10) Claimants withdrew their request for  
17 Court review after receiving further explanation of the reasons for JND’s  
18 determination. *Id.* Currently one (1) Claim remains disputed and is being submitted  
19 to the Court for resolution (the “Disputed Claim”). *Id.* ¶ 32.

20           Exhibit D of the Segura Declaration contains a copy of the Disputed Claim  
21 with its supporting documentation and sets forth the reasons for JND’s rejection of  
22 the Disputed Claim. *Id.* For privacy reasons, the documents included in Exhibit D  
23 have been redacted to remove personal information such as names, street addresses,  
24 email addresses, telephone numbers, account numbers, Social Security Numbers,  
25 and all financial and transaction information not related to the Claimant’s  
26 transactions in Mattel common stock. JND recommends that the Disputed Claim be  
27 rejected because the Disputing Claimant had no purchases or acquisitions of Mattel  
28 common stock during the Class Period and, thus is not a Class Member. All of the

1 Disputing Claimant's claimed purchases of Mattel common stock took place prior  
2 to the beginning of the Class Period. Lead Counsel has reviewed the Disputed Claim  
3 and JND's determinations and concurs that the Disputed Claim should be rejected  
4 for the reasons identified by JND and set forth in the Segura Declaration.

5 **B. Late Claims and Final Cut-Off Date**

6 The 59,253 Claims received through October 10, 2023, include 713 Claims  
7 that were postmarked or received after June 8, 2022, the Court-approved Claim  
8 submission deadline. *Id.* ¶¶ 33, 41. Those late Claims have been fully processed, and  
9 104 of them are, but for their late submission, otherwise eligible to participate in the  
10 Settlement. *Id.* Although these 104 Claims were late, they were received while the  
11 processing of timely Claims was ongoing. *Id.* The processing of these late Claims  
12 did not delay the completion of the Claims administration process or the distribution  
13 of the Net Settlement Fund. *Id.* ¶ 33. The Court has discretion to accept Claims  
14 received after the Claim submission deadline. *See* Preliminary Approval Order ¶ 8;  
15 Notice ¶ 54. Lead Plaintiffs respectfully submit that, when the equities are balanced,  
16 it would be unfair to prevent an otherwise eligible Claim from participating in the  
17 distribution of the Net Settlement Fund solely because it was received after the  
18 Court-approved Claim submission deadline if it were submitted while timely Claims  
19 were still being processed.

20 To facilitate the efficient distribution of the Net Settlement Fund, however,  
21 there must be a final cut-off date after which no other Claims may be accepted.  
22 Accordingly, Lead Plaintiffs respectfully request that the Court order that any *new*  
23 late Claims (and any requested adjustments to previously filed Claims that would  
24 result in an increased Recognized Claim Amount) received after October 10, 2023,  
25 shall be barred (*see also* Segura Decl. ¶ 45(f)) – subject to the proviso that if Lead  
26 Counsel later determines that an additional distribution is not cost-effective (*see*  
27 Segura Decl. ¶ 45(e)), then any post-October 10, 2023 Claimants may, at the  
28 discretion of Lead Counsel (and to the extent possible after paying remaining

administrative fees and expenses owed), be paid on their new (or adjusted) Claims on a *pro rata* basis so as to bring them into parity with other Authorized Claimants who have cashed their distribution checks.

### III. FEES AND EXPENSES OF CLAIMS ADMINISTRATOR

The Court-approved Claims Administrator for the Settlement, JND, was responsible for, among other things, disseminating notice of the Settlement to the Class, creating and maintaining a website and toll-free telephone helpline, processing Claims, and allocating and distributing the Net Settlement Fund to Authorized Claimants. Segura Decl. ¶ 2. JND's fees and expenses for its work performed through September 30, 2023, are \$736,879.26, and its estimated fees and expenses for work to be performed in connection with the Initial Distribution are \$65,920.24, which together total \$802,799.50. *See id.* ¶ 44. Should the estimate of fees and expenses to conduct the Initial Distribution of the Net Settlement Fund exceed the actual cost, the excess will be returned to the Net Settlement Fund and will be available for subsequent distribution to Authorized Claimants. *Id.* The brokerage firms and nominees charged JND another \$114,169.22 for their work providing names and addresses to potential Class Members and forwarding notices to their clients. *Id.* To date, JND has received reimbursement in the amount of \$635,546.00 for its fees and expenses. *Id.* Accordingly, there is an outstanding balance of \$281,422.52 payable to JND, which amount includes the estimated fees and expenses to be incurred by JND in connection with the Initial Distribution. *Id.* Lead Counsel has reviewed JND's invoices and agrees that the Court should approve JND's fees and expenses.

### IV. DISTRIBUTION PLAN FOR THE NET SETTLEMENT FUND

#### A. Initial Distribution of the Net Settlement Fund

Under the proposed Distribution Plan, JND will distribute 95% of the Net Settlement Fund after deducting (i) all payments previously allowed, (ii) payments approved by the Court on this motion, and (iii) any estimated taxes, the costs of

1 preparing appropriate tax returns, and any escrow fees (i.e., the Initial Distribution).  
2 See Segura Decl. ¶ 45(a). In the Initial Distribution, JND will calculate award  
3 amounts for all Authorized Claimants as if the entire Net Settlement Fund were to  
4 be distributed now. *Id.* ¶ 45(a)(1).<sup>3</sup>

5 JND will first determine each Authorized Claimant's: (a) *pro rata* share of the  
6 Mattel Distribution Fund based on the amount of the Authorized Claimant's Mattel  
7 Recognized Claim in comparison to the total Mattel Recognized Claims of all  
8 Authorized Claimants; and (b) *pro rata* share of the PwC Distribution Fund based  
9 on the amount of the Authorized Claimant's PwC Recognized Claim in comparison  
10 to the total PwC Recognized Claims of all Authorized Claimants as stated in the  
11 Segura Declaration. *Id.* ¶ 45(a)(1). JND will eliminate from the Initial Distribution  
12 any Authorized Claimant whose combined *pro rata* share of the Mattel Distribution  
13 Fund and PwC Distribution Fund calculates to less than \$10.00. These Claimants  
14 will not receive any payment from the Net Settlement Funds and will be so notified  
15 by JND. *Id.* ¶ 45(a)(2). JND will then recalculate the *pro rata* share of the Mattel  
16 Distribution Fund and PwC Distribution Fund for Authorized Claimants who would  
17 have received \$10.00 or more pursuant to the calculations described in subparagraph  
18 (a)(1) above. *Id.* ¶ 45(a)(3). An Authorized Claimant's *pro rata* share of the Mattel  
19 Distribution Fund and *pro rata* share of the PwC Distribution Fund (as recalculated  
20 in the previous sentence) is the Authorized Claimant's Distribution Amount. *Id.*

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22 <sup>3</sup> As provided in the Court-approved Plan of Allocation, the Net Settlement Fund is  
23 divided into two parts: (i) the "Mattel Distribution Fund" (consisting of \$86 million,  
24 less the proportional amount of all Court-approved attorneys' fees, Litigation  
25 Expenses, Notice and Administration Costs, or other expenses), which will be  
26 allocated to claims arising from purchases or acquisitions during the entire Class  
27 Period; and (ii) the "PwC Distribution Fund" (consisting of \$12 million, less the  
28 proportional amount of all Court-approved attorneys' fees, Litigation Expenses,  
Notice and Administration Costs, or other expenses), which will be allocated to  
claims arising from purchases or acquisitions claims during the PwC Subclass  
Period. See Notice App. A ¶ 7.

1 Authorized Claimants whose Distribution Amount calculates to less than \$200.00  
2 will be paid their full Distribution Amount in the Initial Distribution (“Claims Paid  
3 in Full”). *Id.* ¶ 45(a)(4). These Authorized Claimants will receive no additional funds  
4 in subsequent distributions. *Id.* After deducting the payments to the Claims Paid in  
5 Full, 95% of the remaining balance of the Net Settlement Fund will be distributed  
6 *pro rata* to Authorized Claimants whose Distribution Amount calculates to \$200.00  
7 or more. *Id.* ¶ 45(a)(5). The remaining 5% of the Net Settlement Fund will be held  
8 in reserve (the “Reserve”) to address any tax liability and claims administration-  
9 related contingencies that may arise. *Id.* To the extent the Reserve is not depleted,  
10 the remainder will be distributed in the Second Distribution. *Id.*

11 To encourage Authorized Claimants to cash their checks promptly, Lead  
12 Plaintiffs propose that all distribution checks bear the notation, “CASH  
13 PROMPTLY. VOID AND SUBJECT TO REDISTRIBUTION IF NOT CASHED  
14 BY [DATE 90 DAYS AFTER ISSUE DATE].” *Id.* ¶ 45(b). Authorized Claimants  
15 who do not cash their checks within the time allotted or on the conditions stated in  
16 paragraph 45(b) of the Segura Declaration will irrevocably forfeit all recovery from  
17 the Settlement, and the funds allocated to these stale-dated checks will be available  
18 to be redistributed to other Authorized Claimants in a subsequent distribution, as  
19 described below. *Id.* ¶ 45(c).

#### 20 **B. Additional Distribution(s) of the Net Settlement Fund**

21 After JND has made reasonable and diligent efforts to have Authorized  
22 Claimants cash their Initial Distribution checks, but not earlier than seven (7) months  
23 after the Initial Distribution, JND will, after consulting with Lead Counsel, conduct  
24 the Second Distribution of the Net Settlement Fund. *Id.* ¶ 45(d). In the Second  
25 Distribution, any amount remaining in the Net Settlement Fund, after deducting any  
26 unpaid fees and expenses incurred, will be distributed to all Authorized Claimants  
27 (other than Claims Paid in Full) who cashed their Initial Distribution checks and  
28 would receive at least \$10.00 from the Second Distribution based on their *pro rata*

1 shares of the funds remaining in the Mattel Distribution Fund and the PwC  
2 Distribution Fund. *Id.* If any funds remain in the Net Settlement Fund after the  
3 Second Distribution, and if cost-effective, subsequent distributions will take place at  
4 six-month intervals. *Id.*

5 When Lead Counsel, in consultation with JND, determines that a further  
6 distribution is not cost-effective, if sufficient funds remain to warrant the processing  
7 of Claims received after October 10, 2023, JND will process those Claims. *Id.* ¶  
8 45(e). Any of these Claims that are otherwise valid, as well as any earlier received  
9 Claims for which an upward adjustment was received after October 10, 2023, may  
10 be paid in accordance with paragraph 45(f) of the Segura Declaration. *Id.* If any  
11 funds remain in the Net Settlement Fund after payment of these Claims and any  
12 unpaid fees or expenses, Lead Counsel proposes that such remaining funds (if there  
13 are any) be contributed to the Investor Protection Trust (“IPT”) be designated as the  
14 “non-sectarian, not-for-profit 501(c)(3) organization to be recommended by Lead  
15 Counsel” referenced in the Court-approved Plan of Allocation. *See* Notice App. A  
16 ¶ 20.

17 IPT is a non-sectarian, nonprofit organization exempt from taxation under  
18 Section 501(c)(3) of the Internal Revenue Code. *See About the Investor Protection*  
19 *Trust*, Investor Protection Trust, <https://iptrust.wpengine.com/about/> (last visited  
20 October 10, 2023), *Investor Protection Trust*, Charity Navigator,  
21 <https://www.charitynavigator.org/ein/396570280> (last visited October 10, 2023).  
22 Founded in 1993, IPT’s primary mission is “to provide the independent, objective  
23 investor education that Americans need to make informed investment decisions.”  
24 *About the Investor Protection Trust*, Investor Protection Trust,  
25 <https://iptrust.wpengine.com/about/> (last visited October 10, 2023). IPT’s recently  
26 funded projects include radio-based and video ad-based investor protection  
27 awareness campaigns, the creation and distribution of a digital investor education  
28 awareness campaign, and a program to educate professional groups, military



1 organizations, law enforcement, and religion groups on resources for investor  
2 protection. *See Grants, Investor Protection Trust*,  
3 <https://investorprotection.org/grants/> (last visited October 10, 2023). Federal courts  
4 have approved IPT as a *cy pres* recipient of residual balances of net settlement funds  
5 in other settlements. *See, e.g., In re Capstone Turbine Corp. Sec. Litig.*, 2020 WL  
6 7889062, at \*2 (C.D. Cal. Aug. 26, 2020) (“At such time as Lead Counsel, in  
7 consultation with the Claims Administrator, determines that no additional  
8 distributions are cost-effective, then the funds will be donated to Investor Protection  
9 Trust, a non-sectarian, not-for-profit organization.”); *Hefler v. Wells Fargo & Co.*,  
10 2018 WL 6619983, at \*11 (N.D. Cal. Dec. 18, 2018) (“[T]he Court concludes that  
11 the Investor Protection Trust’s mission of educating investors makes it an  
12 appropriate *cy pres* beneficiary.”), *aff’d sub nom. Hefler v. Pekoc*, 802 F. App’x 285  
13 (9th Cir. 2020); *In re Illumina, Inc. Sec. Litig.*, Case No. 3:16-cv-3044, 2021 WL  
14 1017295, at \*9 (S.D. Cal. Mar. 17, 2021).

## 15 **V. RELEASE OF CLAIMS**

16 In order to allow the full and final distribution of the Net Settlement Fund, it  
17 is necessary to (i) bar any further claims against the Net Settlement Fund beyond the  
18 amounts allocated to Authorized Claimants, and (ii) provide that all persons involved  
19 in any aspect of Claims processing, or who are involved in the administration or  
20 taxation of the Settlement Fund or the Net Settlement Fund, be released and  
21 discharged from all claims arising out of that involvement. *See* Stipulation ¶ 28.  
22 Accordingly, Lead Plaintiffs respectfully request that the Court release and  
23 discharge all persons involved in the review, verification, calculation, tabulation, or  
24 any other aspect of the processing of the Claims submitted in connection with the  
25 Settlement, or who are otherwise involved in the administration or taxation of the  
26 Settlement Fund or the Net Settlement Fund from all claims arising out of that  
27 involvement, and bar all Class Members and other Claimants, whether or not they  
28 receive payment from the Net Settlement Fund, from making any further claims

1 against the Net Settlement Fund, Lead Plaintiffs, Lead Counsel, the Claims  
2 Administrator, the Escrow Agent or any other agent retained by Lead Plaintiffs or  
3 Lead Counsel in connection with the administration or taxation of the Settlement  
4 Fund or the Net Settlement Fund, or any other person released under the Settlement  
5 beyond the amounts allocated to Authorized Claimants.

6 In the United States District Court for the Central District of California,  
7 similar releases in connection with the distribution of settlement proceeds have been  
8 repeatedly approved. *See, e.g., In re Capstone Turbine Corp. Sec. Litig.*, 2020 WL  
9 7889062, at \*2 (C.D. Cal. Aug. 26, 2020) (“All persons involved in the review,  
10 verification, calculation, tabulation, or any other aspect of the processing of the  
11 Claims submitted herein, or otherwise involved in the administration or taxation of  
12 the Settlement Fund or the Net Settlement Fund, are released and discharged from  
13 any and all claims arising out of such involvement, and all Settlement Class  
14 Members, whether or not they are to receive payment from the Net Settlement Fund,  
15 are barred from making any further claim against the Net Settlement Fund or the  
16 released persons beyond the amount allocated to them pursuant to this Order.”); *see*  
17 *also In re OCZ Tech. Grp., Inc. Sec. Litig.*, 2016 WL 7974652, at \*2 (N.D. Cal. Mar.  
18 11, 2016) (approving substantially similar language in order authorizing distribution  
19 of settlement proceeds).

## 20 **VI. CONCLUSION**

21 For the foregoing reasons, Lead Plaintiffs respectfully request that the Court  
22 grant their Motion for Approval of Distribution Plan and enter the [Proposed] Order  
23 Approving Distribution Plan.  
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1 Dated: October 13, 2023

Respectfully submitted,

2 **BERNSTEIN LITOWITZ BERGER**  
3 **& GROSSMANN LLP**

4 /s/ John Rizio-Hamilton

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