BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP
RICHARD D. GLUCK
(Bar No. 151675)
rich.gluck@blbglaw.com
12481 High Bluff Drive, Suite 300
San Diego, CA 92130
Telephone: (858) 793-0070
Facsimile: (858) 793-0323

-and-

KESSLER TOPAZ MELTZER & CHECK, LLP
ELI R. GREENSTEIN
(Bar No. 217945)
egreenstein@ktmc.com
One Sansome Street, Suite 1850
San Francisco, CA 94104
Telephone: (415) 400-3000
Facsimile: (415) 400-3001

Counsel for Class Representatives

[Additional counsel on signature page]

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

SOUTHERN DIVISION

IN RE ALLERGAN, INC. PROXY VIOLATION SECURITIES LITIGATION

Case No. 8:14-CV-02004-DOC-KESx

CLASS ACTION

PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND APPROVAL OF PLAN OF ALLOCATION; AND MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT

Hearing Date: May 30, 2018
Time: 7:30 a.m.
Courtroom: 9D (Santa Ana)
Judge: Hon. David O. Carter

NOTICE OF MOTION AND MOTION

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

PLEASE TAKE NOTICE that on May 30, 2018 at 7:30 a.m., in Courtroom 9D of the United States District Court for the Central District of California, Ronald Reagan Federal Building and United States Courthouse, 411 West Fourth Street, Santa Ana, CA 92701, the Honorable David O. Carter presiding, the Court-appointed class representatives State Teachers Retirement System of Ohio, Iowa Public Employees Retirement System and Patrick T. Johnson (together, "Plaintiffs" or "Class Representatives") will and hereby do move for an Order pursuant to Rule 23 of the Federal Rules of Civil Procedure: (i) granting final approval of the proposed settlement of the above-captioned securities class action; and (ii) granting approval of the proposed plan for allocating the net settlement proceeds.

This motion is based upon: (i) this Notice of Motion, (ii) the supporting Memorandum of Points and Authorities set forth below, (iii) the accompanying Joint Declaration of Mark Lebovitch and Lee Rudy and the exhibits attached thereto, (iv) the Stipulation and Agreement of Settlement dated January 26, 2018 filed previously with the Court, (v) the pleadings and records on file in this action, and (vi) other such matters and argument as the Court may consider at the hearing of this motion. This motion is made pursuant to the Court's March 19, 2018 Order Preliminarily Approving Proposed Settlement and Providing for Notice (ECF No. 614) ("Preliminary Approval Order").

Proposed orders will be submitted with Plaintiffs' reply submission, which will be filed after the May 9, 2018 deadline for objecting has passed.[1]

[1] To date, there have been no objections and this motion is currently unopposed.

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Cases **Page(s)**

Statutes

MEMORANDUM OF POINTS AND AUTHORITIES

Court-appointed Class Representatives State Teachers Retirement System of Ohio ("Ohio STRS"), Iowa Public Employees Retirement System ("Iowa PERS") and Patrick T. Johnson, on behalf of themselves and the Court-certified Class, respectfully submit this memorandum in support of their motion for an Order: (i) granting final approval of the proposed settlement of this securities class action ("Settlement"), which the Court preliminarily approved by its Preliminary Approval Order dated March 19, 2018, and (ii) approving the proposed plan for allocating the net settlement proceeds to the Class ("Plan of Allocation").[1]

I. INTRODUCTION

After three years of vigorous litigation, including the completion of fact and expert discovery, a highly contested motion for class certification, cross-summary judgment motions and extensive trial preparation, Plaintiffs have agreed to settle all claims asserted in the Action against Defendants[2] in exchange for $250 million in cash. Not only does the Settlement provide a significant and certain recovery for the Class

[1] All capitalized terms not defined herein have the meanings ascribed to them in the Stipulation and Agreement of Settlement dated January 26, 2018 (ECF No. 606) ("Stipulation") and the Joint Declaration of Mark Lebovitch and Lee Rudy in Support of: (I) Plaintiffs' Motion for Final Approval of the Proposed Settlement and Plan of Allocation and (II) Lead Counsel's Motion for Award of Attorneys' Fees and Reimbursement of Litigation Expenses ("Joint Declaration") filed concurrently herewith. The Joint Declaration is an integral part of this submission and, for the sake of brevity in this memorandum, Plaintiffs respectfully refer the Court to the Joint Declaration for a detailed description of, among other things: the claims asserted (¶¶20-21), the procedural history of the Action (¶¶19-152), the negotiations leading to the Settlement (¶¶147-152), the risks of continued litigation (¶¶153-171) and the Plan of Allocation (¶¶178-185).

[2] Defendants are Valeant Pharmaceuticals International, Inc., Valeant Pharmaceuticals International, J. Michael Pearson, Pershing Square Capital Management, L.P., PS Management GP, LLC, PS Fund 1, LLC, Pershing Square, L.P., Pershing Square II, L.P., Pershing Square GP, LLC, Pershing Square Holdings, Ltd., Pershing Square International, Ltd. and William Ackman.

in an extraordinarily complex case fraught with substantial risk, but in terms of precedential value, this Settlement represents the sixth largest securities recovery ***of any kind*** in the Ninth Circuit (and the largest without a parallel government enforcement action), the largest recovery by private plaintiffs alleging only insider-trading claims, and the largest recovery in a private action alleging violations under Rule 14e-3.

Particularly when considering the sheer number of novel issues that would have put any judgment at risk following years of appeals, and the risk that a jury would give undue weight to Defendants' assertions of subjective belief in the legality of their conduct, the Settlement represents a meaningful percentage of the Class's likely recoverable damages. This recovery represents 25% of recoverable damages under various scenarios where the Class's total recovery could be limited to $1 billion, and 9% of the Class's maximum theoretical damages of $2.8 billion as estimated by Plaintiffs' damages experts. This percentage recovery range is between three and eight times greater than median securities recoveries in recent securities class actions.[3]

Besides providing a meaningful, immediate monetary recovery for the Class, the Settlement avoids the substantial risks of continued litigation that could have precluded any recovery at all, let alone a recovery greater than the Settlement Amount. Notably, the Settlement was reached just two months before trial, where Plaintiffs would have faced critical challenges to establishing both liability and damages. For example, Plaintiffs would have had the difficult task of convincing a jury that Pershing traded

[3] *See* Laarni T. Bulan, Ellen M. Ryan & Laura E. Simmons, *Securities Class Action Settlements: 2017 Review and Analysis* (Cornerstone Research 2018) (Ex. 8 to the Joint Decl.) at 8, Fig. 7 (finding median securities settlement in 2017 recovered 3% of estimated damages where damages were $1 billion or more, and 2.5% of estimated damages in the same range for years 2008-2016). *See also* NERA Economic Consulting, *Recent Trends in Securities Class Action Litigation: 2017 Full-Year Review* (finding median securities class action recovery at 2.6% of investor losses in 2017) (Ex. 9 to the Joint Decl.) at 38, Fig. 29.

on material non-public information ("MNPI") "related to" a tender offer, and that it was "reasonably foreseeable" to Valeant that its tip to Pershing would "result in a violation of [Section 14e]." As Defendants argued, doing so could have required Plaintiffs to prove Defendants' subjective state of mind and a specific plan or intent to launch a tender offer – a formidable task in light of Defendants' witnesses' deposition testimony denying any such intent. Plaintiffs would have also had to overcome Defendants' strategy of suggesting their conduct was legal because it was reviewed by numerous highly credentialed lawyers and implicitly approved by the SEC. While Plaintiffs believed any reference to the SEC would be improper, they faced a constant risk that Defendants would find ways to suggest that the jury should give weight to the fact that the SEC not only failed to prosecute Defendants, but it fined Valeant's target, Allergan, for its conduct in defending against the takeover at the heart of this case. Defendants also would challenge loss causation and damages by asserting, for example, that Plaintiffs benefitted from Defendants' conduct and were simply upset because they could have made even more money had they not sold their Allergan stock. Finally, given the many novel legal issues presented in this case, even a complete and total victory for Plaintiffs at trial would have, in all likelihood, led to years of post-trial appeals, with challenges to virtually *every* element of Plaintiffs' claims and many presenting issues of first impression.

When the Settlement was reached, Plaintiffs and their counsel were well-informed of the strengths and weaknesses of their case. Over the course of three years of intensive litigation, Lead Counsel, *inter alia*: (i) conducted a significant investigation into the Class's claims and drafted two detailed amended complaints; (ii) defeated three motions to dismiss; (iii) successfully moved for class certification; (iv) defeated a Rule 23(f) petition to the Ninth Circuit; (v) engaged in comprehensive fact and expert discovery, including taking or defending over 70 depositions, analyzing over 1.5 million pages of document discovery, reviewing and producing over 800,000

pages of client discovery, and exchanging opening and rebuttal reports for thirteen retained experts; (vi) briefed and argued over 40 separate discovery motions before two Court-appointed Special Masters; (vii) worked with experts and consultants in market efficiency, damages, loss causation, and mergers and acquisitions; (viii) briefed and argued (over the course of four days) cross-summary judgment motions; and (ix) undertook extensive pre-trial preparations. *See generally* Joint Decl. ¶¶7-9, 24-146.

In addition to these efforts, the Parties also engaged in protracted, arm's-length settlement discussions with the assistance of two experienced mediators–the Honorable Layn R. Phillips and Gregory P. Lindstrom, prior to reaching the Settlement. Following an unsuccessful full-day mediation in September 2016, it took another 15 months of hard-fought litigation and intensive negotiations with Defendants and the mediators to ultimately resolve the Action for $250 million.

The Settlement has the full support of Plaintiffs, including Court-appointed Lead Plaintiffs Ohio STRS and Iowa PERS—both highly sophisticated, institutional investors of the type favored by Congress when passing the Private Securities Litigation Reform Act of 1995 ("PSLRA") that were intimately involved throughout the litigation and settlement negotiations. Further, while the deadline to object to the Settlement has not yet passed, not a single objection has been received to date.[4]

In light of the considerations discussed herein, Plaintiffs and Lead Counsel submit that the Settlement is fair, reasonable, and adequate, satisfies the standards of Rule 23, and provides a significant recovery for the Class. Accordingly, Plaintiffs respectfully request that the Court grant final approval of the Settlement and deem the

[4] The deadline for submitting an objection is May 9, 2018. If any timely objections are received, Lead Counsel will address them in Plaintiffs' reply papers to be filed with the Court on or before May 23, 2018.

Plan of Allocation, set forth in the mailed Settlement Notice, to be a fair and reasonable method for distributing the Net Settlement Fund to eligible Class Members.

II. THE SETTLEMENT MERITS FINAL APPROVAL BY THE COURT

A. The Standards for Judicial Approval of Class Action Settlements

Rule 23(e) of the Federal Rules of Civil Procedure requires judicial approval of any class action settlement. *See Tait v. BSH Home Appliances Corp.*, No. SACV 10-0711-DOC (ANx), 2015 WL 4537463, at *4 (C.D. Cal. July 27, 2015) (Carter, J.). The authority to grant such approval lies within the sound discretion of the court. *See Class Plaintiffs v. Seattle*, 955 F.2d 1268, 1276 (9th Cir. 1992). In exercising this discretion, courts should be mindful of the "strong judicial policy favoring class settlements." *Van Ba Ma v. Covidien Holding, Inc.*, SACV 12-02161-DOC (RNBx), 2014 WL 360196, at *4 (C.D. Cal. Jan. 31, 2014) (Carter, J.); *see also Officers for Justice v. Civil Serv. Comm'n of the City and Cty. Of San Francisco*, 688 F.2d 615, 625 (9th Cir. 1982) (noting that "voluntary conciliation and settlement are the preferred means of dispute resolution" in the Ninth Circuit). Moreover, judicial policy favors settlements in class actions "where substantial resources can be conserved by avoiding the time, costs, and rigors of formal litigation." *In re Skilled Healthcare Grp., Inc. Sec. Litig.*, No. CV 09-5416 DOC (RZx), 2011 WL 280991, at *2 (C.D. Cal. Jan. 26, 2011) (Carter, J.).[5]

Under Rule 23(e), the Court may grant final approval of a settlement "only after a hearing and on finding that [the settlement] is fair, reasonable and adequate." *Vinh Nguyen v. Radient Pharms. Corp.*, No. SACV 11-00406 DOC (MLGx), 2014 WL 1802293, at *1 (C.D. Cal. May 6, 2014) (Carter, J.); Fed. R. Civ. P. 23(e)(2). In determining whether a settlement warrants final approval, courts in this Circuit are guided by the following factors:

> (1) the strength of the plaintiffs' case; (2) the risk, expense, complexity, and likely duration of further litigation; (3) the risk of maintaining class

[5] Internal citations and footnotes are omitted unless otherwise indicated.

> action status throughout the trial; (4) the amount offered in settlement; (5) the extent of discovery competed and the stage of the proceedings; (6) the experience and views of counsel; (7) the presence of a governmental participant; and (8) the reaction of class members to the proposed settlement.

Churchill Vill., LLC v. Gen. Elec., 361 F.3d 566, 575 (9th Cir. 2004). "The relative degree of importance to be attached to any particular factor will depend upon and be dictated by the nature of the claim(s) advanced, the type(s) of relief sought and the unique facts and circumstances presented by each individual case." *Officers for Justice*, 688 F.2d at 625. Courts may also consider the "procedure by which the parties arrived at the settlement to determine whether the settlement is truly the product of arm's length bargaining, rather than the product of collusion or fraud." *Radient*, 2014 WL 1802293, at *2. A court, however, "need not reach any ultimate conclusions on the contested issues of fact and law which underlie the merits of the dispute, for it is the very uncertainty of outcome in litigation and avoidance of wasteful and expensive litigation that induce consensual settlements." *Class Plaintiffs*, 955 F.2d at 1291; *see also Lane v. Facebook, Inc.*, 696 F.3d 811, 819 (9th Cir. 2012) ("whether a settlement is fundamentally fair within the meaning of Rule 23(e) is different from [] whether the settlement is perfect in the estimation of the reviewing court").

As set forth below, the Settlement warrants the Court's final approval.

B. The Settlement Satisfies the Ninth Circuit's Criteria for Approval

1. The Factors Enumerated in *Churchill* Support Final Approval

(a) The Amount Offered in Settlement

The amount of a settlement "is generally considered the most important [factor], because the critical component of any settlement is the amount of relief obtained by the class." *Destefano v. Zynga, Inc.*, No. 12-cv-04007-JSC, 2016 WL 537946, at *11 (N.D. Cal. Feb. 11, 2016). In assessing the recovery, a fundamental question is how

the value of the settlement compares to the amount the class potentially could recover at trial, discounted for risk, delay and expense. "Naturally, the agreement reached normally embodies a compromise; in exchange for the saving of cost and elimination of risk, the parties each give up something they might have won had they proceeded with litigation." *Officers of Justice*, 688 F. 2d at 624; *see also Shapiro v. JPMorgan Chase & Co.*, Nos. 11 Civ. 8331 (CM) (MHD), 11 Civ. 7961 (CM), 2014 WL 1224666, at *11 (S.D.N.Y. Mar. 24, 2014) (settlement amount must be judged "not in comparison with the possible recovery in the best of all possible worlds, but rather in light of the strengths and weaknesses of plaintiffs' case"); *In re Mego Fin. Corp. Sec. Litig.*, 213 F.3d 454, 459 (9th Cir. 2000) (same).

Here, the Settlement Amount—a quarter billion dollars in cash—is significant under any measure. The recovery provides an immediate and tangible benefit to the Class and eliminates the significant risk that the Class could recover less, or even nothing at all, if the Action continued to trial. Joint Decl., ¶¶156-169.[6] While Plaintiffs' damages expert estimates the Class's *maximum* potential recovery to be $2.8 billion in the aggregate, obtaining this amount at trial was far from certain and would have required a jury to award damages related to price increases in Allergan stock which occurred *months after* the announcement of Valeant's hostile takeover for Allergan and after Pershing's large stake in Allergan shares had been obtained. *Id*. ¶¶163-169.

At trial, Defendants would have argued that damages were truly zero, and at a minimum, far less than the $2.8 billion figure. For example, Defendants would argue that a more realistic recoverable amount was, at best, $1 billion—the aggregate amount of Allergan's share price increase the day that Valeant announced its hostile bid and Pershing revealed its multi-billion dollar position in Allergan stock. Thus, the

[6] *See White v. Experian Info. Sols., Inc.*, 803 F. Supp. 2d 1086, 1098 (C.D. Cal. 2011) (Carter, J.) ("It was not unreasonable … to decide that a guaranteed recovery of $45 million was better than the risk of no recovery at all.").

Settlement Amount can be viewed as representing a recovery ranging between 9% and 25% of the Class's potential recoverable damages in this Action. Joint Decl. ¶169. *See Van Ba Ma v. Covidien Holding, Inc.,* 2014 WL 2472316, at *3 (C.D. Cal. May 30, 2014) (approving settlement constituting "9.1% of the total potential value of the action;" noting that "it is not uncommon for a class action settlement to amount to approximately 10% of the total potential value.").[7] By way of comparison, in 2017, median securities class action settlements nationally were only 3% of estimated damages for cases with estimated damages of $1 billion or more, and only 2.5% for the same damages range for years 2008 through 2016.[8] Indeed, the Settlement ranks as the largest ever securities class action recovery in the Ninth Circuit without a parallel government action.

Importantly, the prosecution of this case and the Court's rulings resulted in significant precedent on multiple issues of first impression and will serve as a future deterrent to the type of warehousing practices at issue in this Action. Indeed, the harm to Pershing arising from its insider trading scheme extends far beyond the monetary payment embodied in the Settlement. It is hard to believe any other hedge fund will try

---

[7] Courts routinely approve settlements with relatively lower percentages of maximum recoverable damages in securities class actions. *See, e.g.*, *Roberti v. OSI Sys., Inc.*, No. CV-13-09174 MWF (MRW), 2015 WL 8329916, at *4 (C.D. Cal. Dec. 8, 2015) (approving settlement that represented 8% of "the potential maximum recoverable damages in this case"); *IBEW Local 697 Pension Fund v. Int'l Game Tech., Inc.*, 2012 WL 5199742, at *3 (D. Nev. Oct. 19, 2012) (approving settlement recovering approximately 3.5% of the maximum damages plaintiffs believed could be recovered at trial); *In re Broadcom Corp. Sec. Litig.*, No. SACV 01-275 DT (MLGx), 2005 WL 8153007, at *6 (C.D. Cal. Sept. 12, 2005) (approving settlement representing 2.7% of damages and finding such percentage as "not [] inconsistent with the average recovery in securities class action[s]"); *In re OmniVision Techs., Inc.*, 559 F. Supp. 2d 1036, 1042 (N.D. Cal. 2008) (approving 9% settlement as "higher than the median percentage [] recovered in recent shareholder class action settlements.").

[8] *See supra* n. 3 above.

to replicate what Pershing attempted here. Thus, the Settlement represents an excellent result for the Class and this factor weighs strongly in favor of the Settlement.

(b) The Strength of Plaintiffs' Case and the Significant Risks of Continued Litigation

Courts evaluating proposed class action settlements consider the strength of the plaintiffs' case and the risks of further litigation. *See Torrisi v. Tucson Elec. PowerCo.*, 8 F.3d 1370, 1376 (9th Cir. 1993). Although Plaintiffs believe that they had adduced substantial evidence to support their claims and were prepared to prove their case at trial, they also acknowledged that there were considerable risks to success. *See In re OmniVision Techs., Inc.*, No. C-04-2297 SC, 2007 WL 4293467, at *4 (N.D. Cal. Dec. 6, 2007) ("merely reaching trial is no guarantee of recovery").[9] The Court also recognized these risks. *See* Settlement Hr'g Tr. ("1/16/18 Tr."), 46:12-13 ("I want the plaintiffs to know that I recognize the numerous risks that you had at trial and on appeal."); *see also* Declaration of Co-Mediator Gregory P. Lindstrom (ECF No. 601) ("Mediator Decl."), ¶11 ("Counsel presented significant arguments regarding their clients' positions, and it was apparent to us that both sides possessed strong, non-frivolous arguments, and that neither side was assured of victory."). Moreover, even if Plaintiffs prevailed at trial, there is no assurance that a jury would have awarded them an amount equal to, much less greater than, the Settlement Amount.[10]

---

[9] Plaintiffs also were cognizant of the possibility that the Court's Tentative, which ruled in Plaintiffs' favor on certain elements, could change prior to becoming final. The Court repeatedly made clear that the Tentative was subject to revision (ECF No. 589 at 9:3-10:6) and that a second Tentative existed that went "exactly the opposite way" (*id.* at 60:19-25) on the crucial element of "substantial steps." ECF No. 594 at 60:19-25.

[10] Even a successful jury verdict for plaintiffs is no guarantee of a recovery. *See In re Apollo Grp., Inc. Sec. Litig.*, Master File No. CV 04-2147-PHX-JAT, 2008 WL 3072731 (D. Ariz. Aug. 4, 2008), *rev'd*, 2010 WL 5927988 (9th Cir. 2010) (granting judgment to defendants and nullifying a unanimous jury verdict for plaintiffs following a two-month trial).

First, Plaintiffs faced challenges in establishing Defendants' liability at trial. Under the Tentative Summary Judgment Opinion ("Tentative") as written, Plaintiffs would be required to convince a unanimous jury that: (i) Pershing traded on MNPI "related to" a tender offer (as opposed to a negotiated merger), and (ii) it was "reasonably foreseeable" to Valeant that its tip to Pershing would "result in a violation of this section." *See* Tentative at 33-34, 36-37 (noting that whether the information Pershing possessed during the Class Period '"related to a tender offer,' … is a vigorously disputed fact"). Plaintiffs faced the risk that Defendants—and the numerous witnesses and attorneys they planned to put on the stand—could seek to rebut these elements with evidence and argument surrounding Defendants' subjective intent and state of mind prior to and during the Class Period. For example, Defendants would likely argue that their conduct was legal because, among other things: (i) Valeant and Pershing *believed* they were partners and "co-bidders" in the takeover; (ii) Valeant did not *subjectively* intend to launch a tender offer and affirmatively rejected any tender offer before the Class Period; (iii) numerous lawyers negotiated the deal structure and signed off on the trading; and (iv) the SEC *implicitly* approved Defendants' conduct by prosecuting claims against Valeant's takeover target, Allergan, and *not* Defendants. Plaintiffs' ability to preclude the jury from hearing such potentially damaging arguments depended on a variety of pretrial disputes, including opposing jury instructions and *Daubert* and *in limine* motions. If such "subjective intent" or SEC-related evidence was ultimately permitted at trial, a jury could infer (wrongly, in Plaintiffs' view) that no securities law violation occurred.

Second, even with a unanimous jury verdict on liability, Plaintiffs faced risks in establishing loss causation and damages and, in particular, their entitlement to the full amount of Defendants' profits under Section 20A's damages cap. Among other things, Defendants would argue that the Class was not harmed at all, was never forced to sell their Allergan shares, took inherent risk in investing in the stock market, and simply

suffered from "seller's remorse." *See* 1/16/18 Tr., 41:3-4; 41:22-23 (noting that the "jury might hear that evidence and say it's worth substantially less" especially given that damages in the case did not represent an "actual loss" but instead "money that wasn't made").

In addition, Defendants would argue, as they did throughout the litigation, that damages, to the extent they exist at all, should be cut off on April 22, 2014, when Valeant's hostile takeover for Allergan was announced, and not, as Plaintiffs sought to prove, on November 17, 2014, when the MNPI was fully disclosed—namely, what Valeant was ultimately willing to pay for Allergan. They would also point to "intervening" events purportedly unrelated to the alleged MNPI to explain away the vast majority of Allergan's stock price movements during the relevant period. If a jury agreed with Defendants on this point, maximum damages would be reduced from the $2.8 billion estimated by Plaintiffs' damages expert, to approximately $1 billion.[11] Indeed, as in any securities class action—and particularly in this Action where little case law addressing Section 14e-3 damages exists—proof of damages would have been a heavily contested matter subject to conflicting expert testimony, and it would be virtually impossible to predict with confidence how the court or a jury would resolve such a dispute. *See In re Cendant Corp. Litig.*, 264 F.3d 201, 239 (3d Cir. 2001) (damages award would come down to a "'battle of experts' … with no guarantee whom

[11] Further, with respect to April 22, 2014, Defendants' expert would testify that the mere public disclosure of Pershing's position in Allergan impacted the stock price, requiring that Pershing's presence in the deal alone be treated as "confounding" information that had to be "disaggregated." *See, e.g.*, Glenn Hubbard Rep., May 5, 2017 ¶61. Defendants would also argue that Pershing was tipped only that Valeant *might* make a bid for Allergan, which was not certain until April 21, 2014. *See, e.g.*, *id*. ¶¶18, 22. Based on this argument, Defendants' experts would claim that the disclosure on April 22, 2014 of Valeant's *actual* plan to takeover Allergan did not mirror the tipped MNPI or "relate" to a tender offer, which was inherently less certain. *See, e.g.*, *id*. ¶¶57-60; Steven Grenadier Rep., May 5, 2017 ¶¶30-53, 55-73, 86-87. If successful, this defense argument could reduce damages even further.

the jury would believe"); *Radient*, 2014 WL 1802293, at *2 ("Proving and calculating damages require[s] a complex analysis, requiring the jury to parse divergent positions of expert witnesses in a complex area of the law. The outcome of that analysis is inherently difficult to predict and risky.").

Finally, given the novel issues involved in this Action, Plaintiffs faced a serious risk of appeal. As the Court acknowledged:

> There would be numerous appeals. The case has many issues of first impression, have never been decided, nor guidance given by the SEC. It could be quite a process . . . If an appellate court went the other way on any of the numerous issues that have been placed before the Court, I think plaintiffs' counsel – you're absolutely right – this case would have come spinning back in a year, year and a half, two years.

See 1/16/18 Tr., 46:24-25; 47:1-3. At a minimum, Defendants would appeal: (i) whether a private cause of action exists under Rule 14e-3; (ii) whether Rule 14e-3 is constitutional as applied in the "warehousing" scenario presented here; (iii) the standard for determining an "offering person"; (iv) the role of subjective intent in the standard for "substantial steps"; (v) whether Plaintiffs' stock sales were "contemporaneous" with Pershing's options trades with Nomura; and (vi) whether there was a material dispute of fact on any liability element granted at summary judgment. As many of the foregoing are matters of first impression, much of the appellate review could be *de novo*.

By resolving the Action at this juncture, Plaintiffs avoid these litigation risks and guarantee the Class a favorable and immediate cash recovery of $250 million. Accordingly, this factor strongly supports the Settlement.

(c) Complexity, Expense and Likely Duration of Litigation

Courts consistently recognize that the expense, complexity, and possible duration of the litigation are key factors in evaluating the reasonableness of a settlement. *See, e.g.*, *Torrisi*, 8 F.3d at 1375-76 (finding that "the cost, complexity and

time of fully litigating the case" rendered the settlement fair). Due to the "notorious complexity" of securities class actions in particular, settlement is often appropriate because it "circumvents the difficulty and uncertainty inherent in long, costly trials." *In re AOL Time Warner, Inc. Sec. & "ERISA" Litig.*, No. MDL 1500, 02 Civ. 5575 (SWK), 2006 WL 903236, at *8 (S.D.N.Y. Apr. 6, 2006). Thus, a court "shall consider the vagaries of litigation and compare the significance of immediate recovery by way of the compromise to the mere possibility of relief in the future, after protracted and expensive litigation." *Nat'l Rural Telecomms. Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 526 (C.D. Cal. 2004).

As the Court is aware, this case was unquestionably complex and involved a complicated fact pattern, numerous legal issues of first impression, and nuanced M&A concepts involved in hostile takeover transactions. Unlike "traditional" securities cases arising under Section 10(b) of the Exchange Act and Rule 10b-5, the precedent for the claims at issue in this Action (Section 14(e) of the Exchange Act and Rule 14e-3 promulgated thereunder) is less developed. This lack of precedent, which this Court has repeatedly acknowledged, presented significant hurdles to Plaintiffs' prosecution of the case and would continue to be an issue at trial and beyond.[12] *See Boyd v. Bank of Am. Corp.*, No. SACV 13-0561-DOC (JPRx) 2014 WL 6473804, at *5 (C.D. Cal. Nov. 18, 2014) (Carter, J.) ("Trial would present significant risks for the Plaintiffs, given the lack of direct Ninth Circuit authority..."); *Elliott*, *v. Rolling Frito-Lay Sales*, No. SACV 11-01730 DOC (ANx), 2014 WL 2761316, at *7 (C. D. Cal. June 12, 2014)

[12] *See, e.g.*, *Allergan, Inc. v. Valeant Pharms., Int'l, Inc.*, No. 14-cv-01214 DOC(ANx), 2014 WL 5604539, at *11-12 (C.D. Cal. Nov. 4, 2014) (noting, for example, that "[t]he parties have not cited nor has the Court been able to find any legal authority directly addressing how to distinguish between a cooffering person and 'any other person' for Rule 14e-3 purposes" and "[n]either Congress nor the SEC has provided guidance directly on point" and recognizing the "sparse case law" on this issue).

(Carter, J.) ("the complex and novel legal issues would require significant briefing on appeal, further increasing the cost and difficulty of the case").

Plaintiffs also did not have the benefit of a parallel government action to assist in prosecuting their claims. Rather, the government's non-involvement was used against them, as Defendants sought favorable inferences from the fact that the SEC reviewed Defendants' trading and public filings but has done nothing (to date).

The expense and likely duration of trial and appeals also support approving the Settlement. *See In re Amgen Inc. Sec. Litig.*, No. CV 7-2536 PSG (PLAx), 2016 WL 10571773, at *3 (C.D. Cal. Oct. 25, 2016) ("A trial of a complex, fact-intensive case like this could have taken weeks, and the likely appeals of rulings on summary judgment and at trial could have added years to the litigation."). And, even with a verdict at trial affirmed on appeal, the Class would have faced a potentially complex, lengthy and (almost certainly) contested claims administration process.[13] Barring settlement, there is no question that resolution of this case would take considerable time and require additional expenses, with the end result far from certain. *See Hartless v. Clorox Co.*, 273 F.R.D. 630, 640 (S.D. Cal. 2011), *aff'd in part*, 473 F. App'x 716 (9th Cir. 2012) ("Considering these risks, expenses and delays, an immediate and certain recovery for class members … favors settlement of this action."). Therefore, this factor favors the Settlement.

[13] In other securities fraud class actions that have gone to trial, the time from a verdict to a final judgment has taken as long as *seven* years. *See Jaffe Pension Plan v. Household Int'l., Inc.*, No. 1:-02-cv-05893, Verdict Form, ECF No. 1611 (N.D. Ill. May 7, 2009) & Final Judgment and Order of Dismissal With Prejudice, ECF No. 2267 (N.D. Ill. Nov. 10, 2016); *see also Vivendi Universal, S.A. Sec. Litigation*, Civ. No. 02-5571 (RJH/HBP), Verdict Form, ECF No. 998 (S.D.N.Y. Feb. 2, 2010) (jury verdict issued on Jan. 29, 2010) & Final Judgment Approving Class Action Settlement of All Remaining Claims, ECF No. 1317 (S.D.N.Y. May 9, 2017).

(d) The Extent of Discovery and Stage of Proceedings

The purpose of considering the extent of discovery and stage of the proceedings at which the settlement was achieved, is to ensure that plaintiffs and their counsel had sufficient information to "make an informed decision about the merits of their case." *Amgen*, 2016 WL 10571773, at *4. Specifically, "a settlement following sufficient discovery and genuine arms-length negotiation is presumed fair." *DIRECTV*, 221 F.R.D. at 528; *see also Radient,* 2014 WL 1802293, at *3 (finding that the parties had "thorough sense of the options going forward and the likelihood of success at trial" where there had been "extensive fact and expert discovery and Plaintiffs successfully opposed summary judgment" and "an ongoing mediation process").

This factor overwhelmingly supports final approval. The case was zealously litigated from its commencement in December 2014 through the Parties' agreement to settle the Action just two months before trial. Before reaching the Settlement, Plaintiffs, through Lead Counsel, had completed both fact and expert discovery, which included reviewing over 1.5 million pages of document discovery, preparing and exchanging opening and rebuttal reports for six experts witnesses and analyzing the reports of seven defense experts, taking or defending over 70 depositions and litigating over 40 separate discovery motions before two Court-appointed discovery Special Masters. *See generally* Joint Decl. ¶¶58-115. Plaintiffs also briefed two motions to dismiss, successfully moved for class certification, fought off a subsequent Rule 23(f) appeal, briefed oppositions to two summary judgment motions, prepared and filed an affirmative motion for summary judgment, and undertook exhaustive preparations for trial, including preparing jury instructions, contentions of law and fact, motions *in limine*, and a proposed pre-trial order. *Id*. ¶¶28-46; 52-53; 116-143.

The Parties also engaged in protracted and completely arm's-length settlement negotiations. In September 2016, the Parties (and scores of Valeant insurers) engaged in a full-day, in-person mediation session with Judge Phillips and Mr. Lindstrom. Joint

Decl. ¶147. Although that session failed to result in a deal, the mediators stayed apprised of case developments for over a year, occasionally getting the Parties to exchange demands and offers, but never to any avail. *Id.*; *see also* Mediator Decl. ¶11. Following the extended summary judgment hearing in December 2017 and with trial preparations underway, the mediators made a final settlement push, engaging in numerous one-on-one conversations with the Parties before reaching an acceptable resolution of the Action for $250 million very late on December 27, 2017. Mediator Decl. ¶12.

Accordingly, when the Settlement was reached, Plaintiffs and Lead Counsel had sufficient information to assess the strengths and weaknesses of their case and "to effectively evaluate […] the advantages of the settlement." *Elliott*, 2014 WL 2761316, at *8; *see also Amgen*, 2016 WL 10571773, at *4 (finding class representative had "enough information to make an informed decision about settlement based on the strengths and weaknesses of its case" where "discovery had been completed and th[e] case was on the verge of trial"). This factor clearly weighs in favor of the Settlement's final approval.

(e) Risk of Maintaining Class Action Status Through Trial

The Class has already been formally certified; however, a court's prior grant of certification "may be altered or amended before final judgment" under Rule 23(c)(1)(C). *See OmniVision*, 559 F. Supp. 2d at 1041 (noting that even if a class is certified, "there is no guarantee the certification would survive through trial, as Defendants might have sought decertification or modification of the class"). Having prevailed on the Rule 23(f) Petition, Plaintiffs believed that neither this Court nor the Ninth Circuit were very likely to undo the Court-certified Class. Nevertheless, a post-trial judgment would inevitably put the certification issue before the U.S. Supreme Court, which could raise serious risks. *See McKenzie v. Fed. Exp. Corp.*, No. CV 10-02420 GAF (PLAx), 2012 WL 2930201 at *4 (C.D. Cal. July 2, 2012) (despite class

certification and denial of defendant's motion for reconsideration, this factor favored final approval because "settlement avoids all possible risk").

(f) The Experience and Views of Counsel

"With regard to class action settlements, the opinions of counsel should be given considerable weight both because of counsel's familiarity with th[e] litigation and previous experience with cases." *Covidien Holding, Inc.*, 2014 WL 2472316, at *4; *see also Rodriguez v. W. Publ'g Corp.*, 563 F.3d 948, 965 (9th Cir. 2009) ("[t]his circuit has long deferred to the private consensual decision of the parties" in settling an action). Thus, "the trial judge, absent fraud, collusion, or the like, should be hesitant to substitute its own judgment for that of counsel." *In re Heritage Bond Litig.*, No. 02-ML-1475, 2005 WL 1594403, at *9 (C.D. Cal. June 10, 2005); *see also In re Biolase, Inc. Sec. Litig.*, No. SACV 13-1300-JLS (FFMx), 2015 WL 12720318, at *5 (C.D. Cal. Oct. 13, 2015) ("recommendation of plaintiffs' counsel should be given a presumption of reasonableness").

Lead Counsel have extensive experience in litigating securities class action litigation throughout the country, including within this Circuit and District in particular, and assessing the respective merits of each side's case.[14] As the Court has

[14] *See* firm resumes of Bernstein Litowitz and Kessler Topaz, attached as Exhibits 3A-4 and 3B-5 to the Joint Declaration. For example, Kessler Topaz has served as counsel in the following high-profile matters in this Circuit: *Maine State Retirement System v. Countrywide Financial Corp., et al.*, No. 2:10-cv-00302-MRP(MANx) (C.D. Cal.) ($500 million recovery); *In re Tenet Healthcare Corp. Sec. Litig.,* No. CV-02-8462-RSWL (Rzx) (C.D. Cal.) (combined recovery of $281.5 million from Tenet and its outside auditor KPMG); and *In re HP Sec. Litig.*, No. 3:12-CV-05980-CRB (N.D. Cal) ($100 million recovery). Likewise, Bernstein Litowitz has served as counsel in the following high-profile matters in this Circuit: *In re McKesson HBOC, Inc. Securities Litigation*, 5:99-cv-20743 (N.D. Cal.) (over $1.05 billion recovery); *In re Wells Fargo Mortgage-Backed Certificates Litigation*, 3:09-cv-01376 (N.D. Cal.) ($125 million recovery); *In re Maxim Integrated Products, Inc. Securities Litigation*, No. 08-cv-00832 (N.D. Cal.) ($173 million recovery); *In re New Century*, No. 07-cv-00931 (C.D. Cal.) ($125 million in total settlements from individual defendants,

seen, Lead Counsel vigorously litigated this case for three years and were intimately familiar with the strengths and weaknesses of this Action when they recommended the Settlement to Plaintiffs and now support its approval for the Class.

(g) The Absence of Governmental Participant

The absence of a government participant is typically viewed as neutral or inapplicable to a court's analysis of a settlement. *Spann v. J.C. Penney Corp.*, 211 F. Supp. 3d 1244, 1257 (C.D. Cal. 2016) ("There is no government participant in this matter. Accordingly, this factor is not relevant."); *Wren v. RGIS Inventory Specialists*, 2011 WL 1230826, at *10 (N.D. Cal. Apr. 1, 2011) (noting lack of government entity involved in case rendered factor inapplicable to the analysis).

In this Action, however, the lack of SEC action (thus far) underscores the strength of the result as the Settlement provides the *only* certain recovery for Class Members as a result of Defendants' alleged misconduct.[15] Further, as noted, the SEC instead took action against Valeant's takeover target—a development that Defendants sought to exploit and cite to undermine Plaintiffs' at trial. This recovery stands as the Ninth Circuit's largest recovery in a private securities action without a parallel government enforcement action—a factor that clearly weighs in favor of approval.

---

underwriters and auditor); *In re Washington Mutual, Inc., Sec. Litigation*, No. 08-cv-01919 (W.D. Wash.) ($208.5 million recovery); *In re International Rectifier Corporation. Securities Litigation*, 2:07-cv-02544 (C.D. Cal.) ($90 million recovery).

[15] Lead Counsel have been informed by Defendants that the United States Attorney General and State and Territory Attorneys General were notified of the Settlement pursuant to the notice provision of the Class Action Fairness Act ("CAFA"). *See Zynga*, 2016 WL 537946, at *13 ("Although CAFA does not create an affirmative duty for either state or federal officials to take any action in response to a class action settlement, CAFA presumes that, once put on notice, state or federal officials will raise any concerns that they may have during the normal course of the class action settlement procedures."). Moreover, the Settlement in no way impairs, impedes, or prevents the SEC from taking any action against Defendants.

(h) The Reaction of the Class to Date

While it is well settled that "the absence of a large number of objections to a proposed class action settlement raises a strong presumption that the terms of a proposed class action settlement are favorable to the class members," *OmniVision*, 559 F. Supp. 2d at 1043, the deadline for Class Members to submit an objection is not until May 9, 2018. Thus, although to date, no objections to any aspect of the Settlement have been received, it is premature to evaluate this factor from the perspective of absent Class Members.

All three Court-appointed Class Representatives, however, who each actively participated in this Action, strongly endorse the Settlement.[16] *See DirecTV*, 221 F.R.D. at 528 (quoting Manual for Complex Litigation (Third) § 30.44 (1995)) (noting representatives' views should be "entitled to special weight because [they] may have a better understanding of the case than most members of the class"); *see also In re Veeco Instruments Inc. Sec. Litig.*, No. 05 MDL 01695 (CM), 2007 WL 4115809, at *5 (S.D.N.Y. Nov. 7, 2007) (a settlement reached "under the supervision and with the endorsement of a sophisticated institutional investor . . . is 'entitled to an even greater presumption of reasonableness'").

2. The Settlement Is the Result of Arm's-Length Negotiations Assisted By Experienced Mediators

Courts have found that a strong initial presumption of fairness attaches to a proposed settlement if the settlement is reached in good faith after well-informed arm's length negotiations. *See Weeks v. Kellogg Co.*, No. CV 09-08102 (MMM) (RZx), 2013 WL 6531177, at *12 (C.D. Cal. Nov. 23, 2013); *Heritage Bond*, 2005 WL 1594403, at *2. Moreover, "[t]he assistance of an experienced mediator in the settlement process confirms that the settlement is non-collusive." *OSI Sys.*, 2015 WL 8329916, at *3; *see*

[16] *See* Declarations of Bill J. Neville, Gregg Schochenmaier and Patrick T. Johnson attached as Exhibits 5 through 7 to the Joint Declaration.

IBEW, 2012 WL 5199742, at *2 (finding settlement to be fair where it "was reached following arm's length negotiations between experienced counsel that involved the assistance of an experienced and reputable private mediator, retired Judge Phillips").

Here, the Parties' negotiations were protracted and thorough and the Settlement was reached only after years of litigation and intensive good-faith bargaining. Joint Decl. ¶¶147-150; *see also* Mediator Decl. ¶14 (noting negotiations were "extremely vigorous, completely at arm's length, and fully conducted in good faith"). As previously noted, the Parties began exploring settlement in the fall of 2016. Although too far apart in their respective positions to reach a resolution at that time, the Parties continued informal discussions with Judge Phillips and Mr. Lindstrom over the following year while simultaneously engaging in vigorous litigation. *See* Mediator Decl. ¶¶8-11.[17] Following argument on summary judgment, the Parties made a final push towards settlement and, with the assistance of the mediators, resolved the Action on December 27, 2017. *Id*. ¶¶12-13. Given the massive evidentiary and litigation record in the case combined with the protracted negotiations and extensive mediation briefing, both sides were fully informed of the strengths and weaknesses of their cases before agreeing to a resolution. The informed, arm's-length nature of the negotiations leading to the Settlement unquestionably support its approval.

For all of the foregoing reasons, the Court should find that the Settlement is fair, reasonable and adequate, in the Class's best interests and warrants final approval.

[17] The fact that the Parties were unable to resolve the Action following their September 2016 mediation and required substantial additional negotiations further demonstrates that the Settlement is the product of arm's-length negotiations and free of collusion. *See Hicks v. Stanley*, No. 01 Civ 10071 (RJH), 2005 WL 2757792, at *5 (S.D.N.Y. Oct. 24, 2005) ("A breakdown in settlement negotiations can tend to display the negotiation's arms-length and non-collusive nature.").

III. THE PLAN OF ALLOCATION IS FAIR, REASONABLE AND ADEQUATE

A plan of allocation under Rule 23 "is governed by the same standards of review applicable to approval of the settlement as a whole; the plan must be fair, reasonable and adequate." *Radient*, 2014 WL 1802293, at *5. Courts "recognize that '[a]n allocation formula need only have a reasonable, rational basis, particularly if recommended by experienced and competent counsel." *Id*. Moreover, "[a] plan of allocation that reimburses class members based on the extent of their injuries is generally reasonable." *In re Oracle Sec. Litig.*, No. C-90-0931-VRW, 1994 WL 502054, at *1 (N.D. Cal. June 18, 1994); *see also Ansell v. Laiken*, No. CV 10-9292 PA (AGRx), 2012 WL 13034812, at *9 (C.D. Cal. July 11, 2012) (finding that "Plan of Allocation, which distributes the proceeds of the net settlement fund on a pro rata basis, based on the claimant's recognized claim amounts, is fair and reasonable").

Here, the proposed Plan of Allocation ("Plan"), which was developed by Lead Counsel in consultation with Plaintiffs' damages expert, is a fair and reasonable method for allocating the Net Settlement Fund among eligible Class Members. Joint Decl. ¶¶179-180. The Plan is designed to equitably distribute the Net Settlement Fund to those Class Members who suffered economic losses as a proximate result of the alleged wrongdoing. It is straightforward, calculating the difference between the price at which Class Members sold shares of Allergan common stock during the Class Period and $209.20, the closing price of Allergan common stock on November 17, 2014 (i.e., the date Allergan announced it would be acquired by Actavis), offset by any gains resulting from shares purchased during the Class Period. *Id.*

Under the Plan, the Court-authorized Claims Administrator, Garden City Group, LLC ("GCG"), will calculate each Claimant's "Recognized Claim" based on the information supplied in the Claimant's Claim Form. Thereafter, following approval of the Settlement and upon the Court's entry of an Order approving a distribution plan,

the Net Settlement Fund will be distributed to Authorized Claimants on a *pro rata* basis based on the relative size of their Recognized Claims (i.e., the sum of a Claimant's losses for all sales of Allergan common stock during the Class Period less the sum of that Claimant's gains from all purchases of Allergan common stock during the Class Period). *See In re Broadcom Corp. Sec. Litig.*, No. SACV 01-275 DT (MLGx), 2005 WL 8152913, at *5 (C.D. Cal. Sept. 12, 2005) (approving plan of allocation when the allocation was pro rata across the class).

The Plan was fully disclosed in the Settlement Notice mailed to potential Class Members and nominees. To date, there have been no objections to the Plan. Joint Decl. ¶185. Accordingly, Lead Counsel believe that the Plan is fair, reasonable and adequate and should be approved.

IV. THE CLASS RECEIVED ADEQUATE NOTICE

Plaintiffs have provided the Class with adequate notice of the Settlement. In accordance with the Preliminary Approval Order, GCG mailed the Settlement Notice and Claim Form via first-class mail to all persons and entities who were previously mailed copies of the Class Notice in 2017 as well as any other potential Class Members identified through reasonable effort. *See* Affidavit of Jose C. Fraga (Joint Decl. Ex. 2), ¶¶3-8. In addition, GCG caused the Summary Settlement Notice to be published in *The Wall Street Journal*, *The New York Times,* and *The Financial Times* and transmitted over *PRNewswire* on April 10, 2018. *Id.* ¶9. GCG also updated the website for this case, www.AllerganProxyViolationSecuritiesLitigation.com, to provide members of the Class and other interested persons with information about the Settlement and the applicable deadlines, as well as access to downloadable copies of the Settlement Notice (including the Plan of Allocation), the Claim Form, Stipulation, and the Preliminary Approval Order. *Id.* ¶11.

The Settlement Notice provides the necessary information for Class Members to make an informed decision regarding the Settlement. *See, e.g.*, *Spann v. J.C. Penney*

Corp., 314 F.R.D. 312, 330 (C.D. Cal. 2016) ("Settlement notices must fairly apprise the prospective members of the class of the terms of the proposed settlement and of the options that are open to them in connection with the proceedings."). The Settlement Notice informs Class Members of, among other things: (1) the amount of the Settlement; (2) the reasons why the Parties are proposing the Settlement; (3) the estimated average recovery per affected share of Allergan common stock; (4) the maximum amount of attorneys' fees and expenses that will be sought; (5) the identity and contact information for the representatives of Lead Counsel who are reasonably available to answer questions from Class Members concerning matters contained in the Settlement Notice; (6) the right of Class Members to object to the Settlement; (7) the binding effect of a judgment on Class Members; and (8) the dates and deadlines for certain Settlement-related events. 15 U.S.C. § 78u-4(a)(7). The Settlement Notice also contains the Plan of Allocation and provides Class Members with information on how to submit a Claim Form in order to be eligible to receive a distribution from the Net Settlement Fund. *See* Fraga Aff., Ex. A. Thus, the Settlement Notice is sufficient because it "generally describes the terms of the settlement in sufficient detail to alert those with adverse viewpoints to investigate and to come forward and be heard." *Lane*, 696 F.3d at 826.

In sum, the Settlement Notice fairly apprises Class Members of their rights with respect to the Settlement, is the best notice practicable under the circumstances, and complies with the Court's Preliminary Approval Order, the Federal Rules of Civil Procedure, the PSLRA and due process. *See, e.g.*, *Hayes v. MagnaChip Semiconductor Corp.*, No. 14-cv-01160-JST, 2016 WL 6902856, at *4-5 (N.D. Cal. Nov. 21, 2016) (approving similar notice program); *OSI Sys.*, 2015 WL 8329916, at *2-3 (same).

V. CONCLUSION

For the reasons stated herein and in the Joint Declaration, Plaintiffs respectfully request that the Court grant final approval of the proposed Settlement and approve the Plan of Allocation.

DATED: April 25, 2018

Respectfully submitted,

BERNSTEIN LITOWITZ BERGER
& GROSSMANN LLP

RICHARD D. GLUCK (Bar No. 151675)
rich.gluck@blbglaw.com
12481 High Bluff Drive, Suite 300
San Diego, CA 92130
Telephone: (858) 793-0070
Facsimile: (858) 793-0323

-and-

/s/ Mark Lebovitch
MARK LEBOVITCH (*Pro Hac Vice*)
markl@blbglaw.com
JEREMY P. ROBINSON (*Pro Hac Vice*)
Jeremy@blbglaw.com
MICHAEL D. BLATCHLEY (*Pro Hac Vice*)
michaelb@blbglaw.com
EDWARD G. TIMLIN (*Pro Hac Vice*)
edward.timlin@blbglaw.com
1251 Avenue of the Americas, 44th Floor
New York, NY 10020
Telephone: (212) 554-1400
Facsimile: (212) 554-1444

KESSLER TOPAZ
MELTZER & CHECK, LLP
ELI R. GREENSTEIN (Bar No. 217945)
egreenstein@ktmc.com
STACEY M. KAPLAN (Bar No. 241989)

skaplan@ktmc.com
PAUL A. BREUCOP (Bar No. 278807)
pbreucop@ktmc.com
RUPA NATH COOK (Bar No. 296130)
rcook@ktmc.com
One Sansome Street, Suite 1850
San Francisco, CA 94104
Telephone: (415) 400-3000
Facsimile: (415) 400-3001

-and-

LEE RUDY (*Pro Hac Vice*)
lrudy@ktmc.com
JOSH D'ANCONA (*Pro Hac Vice*)
jdancona@ktmc.com
JUSTIN O. RELIFORD (*Pro Hac Vice*)
jreliford@ktmc.com
280 King of Prussia Road
Radnor, PA 19087
Telephone: (610) 667-7706
Facsimile: (610) 667-7056

Lead Counsel for Class Representatives and the Class

MURRAY MURPHY MOUL
BASIL LLP
BRIAN K. MURPHY (*Pro Hac Vice*)
murphy@mmmb.com
JOSEPH F. MURRAY (*Pro Hac Vice*)
murray@mmmb.com
1114 Dublin Road
Columbus, OH 43215
Telephone: (614) 488-0400
Facsimile: (614) 488-0401

Special Counsel for the Ohio Attorney General