SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION

SONNY ST. JOHN, Individually and on Behalf of All Others Similarly Situated, Plaintiff, v. CLOOPEN GROUP HOLDING LIMITED, CHANGXUN SUN, YIPENG LI, KUI ZHOU, QINGSHENG ZHENG, XIAODONG LIANG, ZI YANG, MING LIAO, FENG ZHU, LOK YAN HUI, JIANHONG ZHOU, CHING CHIU, COGENCY GLOBAL INC., COLLEEN A. DEVRIES, GOLDMAN SACHS (ASIA) L.L.C., CITIGROUP GLOBAL MARKETS INC., CHINA INTERNATIONAL CAPITAL CORPORATION HONG KONG SECURITIES LIMITED, TIGER BROKERS (NZ) LIMITED, and FUTU, INC., Defendants.	Index No. 652617/2021 Part 53: Hon. Andrew Borrok **ORAL ARGUMENT REQUESTED**

JOINT AFFIRMATION OF MAX R. SCHWARTZ AND MICHAEL DELL'ANGELO IN SUPPORT OF (1) PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND PLAN OF ALLOCATION; (2) PLAINTIFFS' CLASS COUNSEL'S APPLICATION FOR ATTORNEYS' FEES AND EXPENSES; AND (3) PLAINTIFFS' REQUESTS FOR SERVICE AWARDS

Max R. Schwartz and Michael Dell'Angelo, attorneys duly admitted to practice law before this Court, hereby affirm the following under the penalty of perjury, pursuant to CPLR 2106. Unless otherwise indicated, we have personal knowledge of the matters set forth herein based upon our extensive participation in the prosecution and settlement of the claims asserted. If called upon by the Court, we could and would competently testify that the following facts are true and correct.

1. Max R. Schwartz is a partner at Scott+Scott Attorneys at Law LLP ("Scott+Scott" or "State Class Counsel") and Class Counsel for State Class Representative Sonny St. John ("State Plaintiff") in the above-captioned action (the "State Action").

2. Michael Dell'Angelo is an executive shareholder of Berger Montague PC ("Berger Montague" or "Federal Lead Counsel" and, together with State Class Counsel, "Plaintiffs' Class Counsel") and Class Counsel for Lead Plaintiff Guozhang Wang ("Federal Plaintiff" and, together with State Plaintiff, "Plaintiffs") in *Dong v. Cloopen Group Holding Limited, et al.*, No. 1:21-cv-10610-JGK-RWL (S.D.N.Y.) (the "Federal Action").[1]

3. We submit this joint affirmation in support of (1) Plaintiffs' Motion for Final Approval of Class Action Settlement and Plan of Allocation, (2) Plaintiffs' Counsel's Application for Attorneys' Fees and Expenses, and (3) Named Plaintiffs' Requests for Service Awards.

4. For the reasons set forth set forth below and in the accompanying memoranda,[2] we respectfully submit that: (i) the terms of the proposed Settlement and Plan of Allocation are fair, reasonable, and adequate in all respects and should be finally approved by the Court; and (ii) Plaintiff's Counsel's Fee and Expense Application, as well as the request for services awards to Plaintiffs, is fair and reasonable, and should also be approved in all respects.

I. INTRODUCTION

5. After over two years of hard-fought litigation, this Court preliminarily approved the Parties' proposed global Settlement by Order dated October 6, 2023 (the "Preliminary

[1] All capitalized terms not defined herein have the meanings ascribed to them in Section 1 of the Stipulation of Settlement dated August 16, 2023 (the "Stipulation," NYSCEF No. 107). All references to "ECF No." shall be to the docket in the Federal Action.

[2] *See* (i) Plaintiff's Motion and Memorandum in Support of Final Approval of Class Action Settlement and Plan of Allocation (the "Final Approval Memo"); and (ii) Plaintiff's Counsel's Motion and Memorandum in Support of Application for Attorneys' Fees and Named Plaintiffs' Requests for Service Awards (the "Fee Memo").

Approval Order," NYSCEF No. 112). The Settlement would resolve both the State and Federal Actions (the "Actions") with a substantial $12 million, non-recourse recovery.

6. Importantly, the Settlement was reached after extensive settlement discussions led by a highly experienced mediator, Robert Meyer of JAMS ("Meyer" or the "Mediator"). Moreover, it was only after almost four months of negotiation, after the Parties' initial full-day mediation session (held on February 13, 2023) had broken up with the Parties still far apart, that the Parties were able to reach agreement. And the resulting $12 million settlement was itself based on Meyer's independent "mediator's proposal," which the Parties accepted in May 2023. There can thus be no question that the Settlement was the result of vigorous arm's-length negotiations, conducted by experienced counsel and supervised by an equally experienced mediator.

7. As discussed in the Final Approval Memo at §I.A., the $12 million settlement compares favorably to other securities class action settlements, the median of which, between 2012 and 2022, equated to only about 2.9% of maximum damages in cases involving estimated investor losses between $100 million and $199 million, according to a recent report by NERA Economic Consulting. Assuming Plaintiffs "ran the table" on all liability issues at trial, Plaintiffs' experts estimated that maximum theoretically recoverable damages were approximately $170 million, but that realistic maximum damages, given the relevant circumstances, were at most approximately $135 million. Further, Defendants contended that damages, at best, would only be a tiny fraction of the total statutory damages. Accordingly, the $12,000,000 Settlement represents a recovery, in a complex and high-risk case, of at least 7% to 9% of potential damages, a notably superior percentage compared to most securities settlements.

8. Pursuant to the Preliminary Approval Order, the Claims Administrator has (a) completed the mailing of 4,967 Notices and Proof of Claim forms ("Notice Packets") to potential

Settlement Class Members or their nominees who could be identified with reasonable effort, and (b) published the Summary Notice electronically on *PR Newswire* and in print in *Investor's Business Daily* (which directed Settlement Class Members to www.cloopensecuritieslitigation.com, where potential Settlement Class Members could, and still can, download Notice Packets and submit claims). *See* accompanying Schachter Aff.[3] Although the deadline to opt out of the Settlement is December 26, 2023, and the deadline to object to the Settlement is January 2, 2024, to date, ***no*** objections to any aspect of the Settlement or opt-out requests have been received. Should any be received, Plaintiffs will address them in reply papers.

9. Notice having been duly disseminated, for all of the reasons set forth herein and in the accompanying memorandum, we respectfully submit that the proposed Settlement is fair, reasonable, and adequate in all respects, and should be finally approved.

10. Plaintiffs also request the Court's final approval of the proposed Plan of Allocation ("POA"), which provides for a customary *pro rata* distribution of the Settlement Fund based on "Recognized Losses" that take into account the different per-share losses that Settlement Class Members suffered, depending on when they bought and (if applicable) sold their Cloopen American Depositary Shares ("ADSs").

11. We also respectfully submit that individually and collectively Plaintiffs' Counsel's request for ***total*** attorneys' fees equal to one-third (33-1/3%) of the $12 million Settlement (or $4,000,000) and payment of $150,936.06 in litigation expenses (plus interest at the same rate as

[3] "Schachter Aff." Refers to the Affidavit of Eric Schachter Regarding: (A) Mailing of Notice and Claim Form; (B) Publication of Summary Notice; and (C) Report on Requests for Exclusion Received to Date, dated December 18, 2023, submitted herewith.

earned by the Settlement Fund) is fair and reasonable.[4] Indeed, the reasonableness of the requested one-third fee is confirmed by a lodestar cross-check, which yields a multiplier of 1.52. Given that lodestar multipliers of 2x-4x or more are commonly awarded, we respectfully submit that a requested one-third fee that results in a multiplier of 1.52 merits approval, especially in a case where counsel achieved a superior result.

12. Finally, we support the named Plaintiffs' request for modest awards of $7,500 (totaling $15,000) as fair and reasonable, based on their service to the Settlement Class.

II. BACKGROUND

A. Plaintiffs' Allegations

13. Defendant Cloopen is a China-based company that purports to be the largest multi-capability cloud-based communications solutions provider in China, and the only provider in China that offers a full suite of cloud-based communications solutions covering communications platform as a service (CPaaS), cloud-based contact centers (cloud-based CC), and cloud-based unified communications and collaborations (cloud-based UC&C).[5] ¶3.

14. On February 9, 2021, Cloopen went public, selling 23 million ADSs to investors at $16 per share. ¶4.

15. The IPO Offering Documents highlighted Cloopen's "dollar-based net customer retention rate" ("Retention Rate") as a "key operating metric" that highlighted the Company's

[4] Plaintiffs' Counsel filed separate motions for awards of attorneys' fees, expenses, and service awards. Counsel in the Federal Action requested an attorneys' fee award equal to 10% of the Settlement Fund and counsel in the State Action requested an attorneys' fee award equal to 23.3% of the Settlement Fund. Collectively, the attorneys' fees requested total 33-1/3% of the Settlement Fund.

[5] All "¶" and "¶¶" references are to State Plaintiff's Amended Complaint for Violation of Securities Act of 1933 (NYSCEF No. 23).

success. ¶¶6, 61. That metric measured Cloopen's ability to increase revenue from existing customers, and showed how well- or poorly-positioned Cloopen was for revenue growth. ¶6. As alleged by Plaintiffs, the Retention Rate was thus part and parcel with Cloopen's "land and expand" growth plan, which attempted to keep, and capitalize on, the Company's customer base by "optimiz[ing] [its] existing solutions" and "develop[ing] new features" to sell to existing customers as well. *Id.* The Offering Documents referred to the Retention Rate when discussing, for example, "cross-selling and up-selling opportunities" with existing customers. *Id.*

16. The Offering Documents stated that, as of the IPO, with external impediments in previous years having run their course, Cloopen's "dollar-based net retention rate will remain stable at a relatively high level." ¶76. Due to the supposed impact of new regulations by the People's Republic of China affecting cloud companies and customer outreach, the Retention Rate had dropped from 135.7% in 2018 to 102.7% in 2019. *See* ¶63. It then dropped to 94.7% through the first three quarters of 2020, purportedly owing to the Covid-19 pandemic. *Id.* The Offering Documents stated that these external headwinds had abated as the "regulatory framework becomes more established" and "China's economy recovers from the COVID-19 pandemic."

17. Plaintiffs alleged that, by reporting a stable Retention Rate close to 100%, Defendants created the impression that the Company was not just retaining a high-level of its existing customers, but was also substantially growing the amount of revenue it generated from them. ¶¶76-80. Indeed, the Offering Documents stated that Cloopen's customers "stay with [the Company] due to the critical role [its] solutions play in their business," and assured investors of "steady revenue from repeat customers." ¶¶75-77.

18. The Offering Documents also noted that, in order to raise funds before the IPO, among other things, Cloopen issued privately placed warrants to purchase convertible shares. It

classified these warrants as liabilities. For example, Cloopen described the "Series E Warrants," which conferred on certain private investors the right to purchase 6,112,570 Series E preferred shares, as adjusted, at the aggregate exercise price of $15,000,000, or approximately $2.45 per share. ¶44. Further, the Offering Documents indicated that the Series E Warrants had incurred additional liability, with their fair value having increased to $2.70 per share since their issuance.

19. The Offering Documents also mentioned another issuance, the "Series F Warrants." Plaintiffs alleged, however, that the Offering Documents omitted the most recent fair value and resulting additional liability of the Series F Warrants. ¶83. The Offering Documents noted that the Series F Warrants conferred on certain private investors the right to purchase 11,799,685 Series F preferred shares at the exercise price of approximately $2.8814 per share. ¶47. However, Plaintiffs alleged that the Offering Documents omitted any mention of liability associated with the Series F Warrants and that such liability was already substantial.

20. In support of these claims, Plaintiffs alleged that (a) the Offering Documents did not disclose that Cloopen's Retention Rate for Q4 2020 had plunged to 63.1% by December 31, 2020, which dragged its full year Retention Rate for FY 2020 down to 86.8%, and (b) prior to the IPO, Cloopen suffered a liability of over $26 million from its Series F Warrants, which it also failed to disclose in the Offering Documents. ¶¶64, 98.

21. On March 26, 2021, Cloopen reported its fourth quarter and fiscal year 2020 results, which closed on December 31, 2020, more than a month before the IPO. ¶92. Cloopen reported that the Company's customer retention rate had cratered in Q4 2020 to 63.1%, which also dragged the full year 2020 rate down to 86.8%. ¶97.

22. On that same day, Cloopen also revealed that its warrants liabilities had a substantial impact on Cloopen in Q4 and FY 2020. ¶94. The Company stated for the first time

that Cloopen had incurred a huge net loss of RMB305.4 million ($46.8 million) in Q4 2020 (a 466.9% increase year-over-year), largely due to a "change in fair value of warrant liabilities" in the amount of RMB224.8 million (US$34.4 million). *Id.*

23. In response to this news, Cloopen's ADS price plunged from $14.42 per ADS on March 25, 2021 to close at $11.75 per ADS on March 26, 2021, a decline of 18.5%. ¶12.

24. Several weeks later, in the Company's 2020 Annual Report, filed on May 10, 2021, Cloopen revealed that this massive net loss had been primarily caused by a huge increase in the estimated fair value of the Series F Warrants prior to the IPO, spiking to $31 million as of December 31, 2020. ¶97.

25. The value of Cloopen's shares fell from $9.89 per ADS on May 11, 2021 to close at $8.97 per ADS on May 12, 2021, representing a decline of 9.3%. ¶13.

26. Based on the foregoing allegations, State Plaintiff brought strict liability claims under §§11, 12(a)(2), and 15 of the Securities Act of 1933 ("1933 Act") on behalf of all those who purchased Cloopen ADSs "pursuant or traceable to" the allegedly false and misleading Offering Materials.

27. Federal Plaintiff, in addition to alleging substantially similar 1933 Act claims, also brought securities fraud claims under §§10(b) and 20(a) of the Securities Exchange Act of 1934 (the "1934 Act").

28. Both the State and Federal Actions assert class-wide claims on behalf of a substantively ***identical*** Class – effectively, all those who purchased Cloopen ADSs between the February 9, 2021 IPO and May 10, 2021, inclusive.

B. History of and Work Performed in Litigating the State Action[6]

29. The first complaint in this Action was filed on April 19, 2021 by State Class Representative Sonny St. John, asserting claims (based upon the investigation of his counsel) against Cloopen, certain of its officers and directors, and the underwriters of Cloopen's IPO for violations of the 1933 Act. NYSCEF No. 2.

30. State Class Counsel's extensive pre-filing investigation included, *inter alia*, collecting, reviewing, and analyzing: (a) Cloopen's numerous SEC filings, including the voluminous Offering Materials and incorporated exhibits; (b) Cloopen's press releases, investor conference call transcripts, and other public statements; and (c) analyst reports and news stories from the United States and China about Cloopen.

31. Following additional investigation, State Class Representative and State Class Counsel prepared and submitted the operative Amended Complaint, with additional details on October 4, 2021. NYSCEF No. 23.

32. On December 3, 2021, Defendant Cloopen moved to dismiss the State Action, contending that State Class Representative had failed to plead any actionable misstatements or omissions. NYSCEF No. 25. Cloopen argued, *inter alia*, that State Class Representative (1) manufactured "statements" that Cloopen never actually made by stringing together snippets of Cloopen's statements, and such statements either way were non-actionable opinions, statements of corporate optimism, and/or forward-looking statements, and (2) expressly disclosed the business trends that State Plaintiff alleged were omitted. On the same day, Underwriter Defendants Goldman Sachs (Asia) L.L.C., Citigroup Global Markets Inc. ("Citigroup"), Tiger Brokers (NZ) Limited, and Futu, Inc. submitted a joinder in support of Cloopen's Motion to Dismiss. NYSCEF

[6] This section is submitted by the undersigned State Class Counsel.

Nos. 33, 34. Defendants Cogency Global Inc. and Colleen A. DeVries also submitted a joinder in support of Cloopen's Motion to Dismiss along with a memorandum of law in support of their Limited Motion to Dismiss. NYSCEF No. 40.

33. In response, State Class Representative and State Class Counsel prepared, and on January 19, 2022, filed an omnibus opposition to the motion to dismiss. NYSCEF No. 44. Cloopen filed its reply brief on February 18, 2022. NYSCEF No. 48. Underwriter Defendants Goldman Sachs (Asia) L.L.C., Citigroup Global Markets Inc. ("Citigroup"), Tiger Brokers (NZ) Limited, and Futu, Inc. and Defendants Cogency Global Inc. and Colleen A. DeVries submitted a joinder in support of Cloopen's reply brief. NYSCEF Nos. 52-24.

34. State Class Counsel thereafter prepared for and presented oral argument on the motions to dismiss. A hearing was held on August 3, 2022.

35. As a result of State Class Counsel's effective advocacy and work, this Court denied Defendants' motion to dismiss in its entirety. *See* Decision and Order dated August 10, 2022 (the "MTD Order," NYSCEF No. 57). Defendants did not seek to appeal the MTD Order.

36. Following the issuance of the MTD Order, in September 2022, State Class Representative moved for class certification. NYSCEF No. 68. In connection with class certification, State Class Representative responded to Defendants' various document requests, and sat for a deposition on November 12, 2022.

37. On December 5, 2022, the Parties stipulated to class certification with respect to §§11 and 15 of the 1933 Act against Defendants Cloopen, Goldman Sachs (Asia) L.L.C., Citigroup Global Market Inc., Tiger Brokers (NZ), and Futu Inc. NYSCEF No. 100. On April 10, 2023, the Court so Ordered the stipulation, appointing Mr. St. John as State Class Representative in the State Action and Scott+Scott as State Class Counsel. NYSCEF No. 102.

38. Concurrently, State Class Representative commenced discovery by serving interrogatories and document requests – totaling 126 individual requests that sought relevant documents over the span of 4.5 years – on Cloopen, the Cogency Defendants, and the Underwriter Defendants. Over the course of almost a year, State Class Counsel also commenced what proved to be protracted negotiations over the scope of those requests, the electronic search terms (in both English and Chinese) to be used, and the custodial files to be searched. In light of discovery, the Parties negotiated stipulated Orders for the Production and Exchange of Confidential Information and Exchange of Electronically Stored Information. NYSCEF Nos. 84-85.

39. The Underwriter Defendants and Cogency Defendants began producing responsive documents in December 2022, including hundreds of documents in Chinese. They made additional productions on March 17, 2023, March 24, 2023, March 31, 2023, April 14, 2023, April 25, 2023, and May 5, 2023 — producing over 20,700 documents. State Class Counsel retained a Chinese translator and began to review the evidence in preparation for potential depositions and motions for class certification and summary judgment.

40. While Cloopen had begun to collect and review documents in response to the discovery demands, it took the position that it was unable to produce any documents while Chinese regulators considered whether Cloopen's documents or data, stored within the mainland territory of the People's Republic of China, was discoverable.

41. As set forth below, while engaging in discovery, the Parties were also conducting settlement negotiations. State Class Representative and State Class Counsel continued undertaking discovery up to and until the time that the Settlement was reached.

C. History of and Work Performed in Litigating the Federal Action[7]

42. On December 10, 2021, the first complaint in the Federal Action was filed in the Federal Court by Boyan Dong, individually and on behalf of all those who purchased Cloopen ADSs pursuant or traceable to the Offering Documents for the IPO and were allegedly damaged thereby, asserting claims against the Defendants and Xiaodong Liang, Zi Yang, Ming Liao, Feng Zhu, Lok Yan Hui, Jianhong Zhou, Ching Chiu, and Yunhao Liu for alleged violations of the 1933 Act and the Securities Exchange Act of 1934 (previously defined as, the "1934 Act"). ECF No. 1.

43. On February 8, 2022, eight competing motions were filed in the Federal Court by members of the putative class defined in the Federal Action complaint, for appointment as lead plaintiff in the Federal Action pursuant to the Private Securities Litigation Reform Act of 1995 ("PSLRA"). On April 8, 2022, Federal Plaintiff was appointed by Hon. John G. Koeltl as Lead Plaintiff in the Federal Action, and the law firm of Berger Montague PC was appointed as Lead Counsel in the Federal Action and the law firm of Kirby McInerney LLP was appointed as Local Counsel in the Federal Action. ECF No. 71.

44. On May 31, 2022, the Federal Plaintiff filed his Amended Class Action Complaint (the "Federal Amended Complaint") alleging claims under the 1993 Act and the 1934 Act. ECF No. 84.

45. On July 15, 2022, Cloopen filed its Motion to Dismiss the Federal Action together with accompanying briefs, affidavits, and other papers in support thereof. On July 15, 2022, the Cogency Defendants and Underwriter Defendants, upon Joinder with Cloopen, also moved to dismiss the Federal Amended Complaint. ECF Nos. 92-97.

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[7] This section is submitted by the undersigned Federal Lead Counsel.

46. On August 15, 2022, Federal Plaintiff filed his papers in opposition to the Defendants' Motion to Dismiss (ECF Nos. 104-105), and the Defendants filed reply papers in further support of their Motion to Dismiss on September 14, 2022. ECF Nos. 109-111.

47. On March 16, 2023, the Federal Court issued its Decision and Order denying the Defendants' Motion to Dismiss. As a result of (we submit) Federal Class Counsel's effective advocacy and work, this District Court denied Defendants' motion to dismiss in its entirety. ECF No. 113.

48. On April 17, 2023, Defendants filed their Answers to Federal Plaintiff's Federal Amended Complaint. Defendants began producing documents in response to Federal Class Representative's requests in April 2023. ECF Nos. 123, 126-127.

49. On June 6, 2023, the Parties informed the Federal Court that they had reached an agreement-in-principle to settle the claims in the State Action and the parallel Federal Action, and requested a continuance of all deadlines. On the same day, the Federal Court dismissed the Federal Action with prejudice, with the understanding that the parties plan to seek approval of the joint settlement in the State Action. ECF Nos. 134-135.

D. Settlement Negotiations, the Stipulation, and Preliminary Approval

50. In November 2022, Plaintiffs and Cloopen agreed to explore the possibility of resolving the Actions through mediation, and ultimately agreed to retain Mr. Meyer as Mediator.

51. In connection with the mediation, State Class Counsel in this Action and Federal Lead Counsel in the Federal Action, along with Cloopen, prepared comprehensive pre-mediation submissions for, and engaged in pre-mediation calls with, the Mediator on both liability and damages issues. Plaintiffs' Class Counsel also consulted extensively with their damages experts during this period, before participating in a full-day, in-person mediation session on February 13, 2023.

52. The Parties did not reach an agreement on February 13, 2023, but, at the urging of Mr. Meyer, continued to negotiate while at the same time continuing to vigorously litigate as set forth above.

53. After three additional months of difficult negotiations, during which the Parties were unable to bridge their differences, the Mediator made a "mediator's proposal" in early May 2023 to settle all claims for $12 million. Each of the Parties ultimately decided to accept this proposal. After further negotiations, in June 2023, the Parties finalized a Confidential Term Sheet documenting the material terms of their agreement.

54. On June 6, 2023, the Parties advised the Court that they had reached a settlement in principle, subject to completion of long-form settlement documents and necessary judicial approval. Federal Plaintiff similarly advised the Federal Court on June 6, 2023.

55. The Federal Court then dismissed the Federal Action with prejudice so that the settlement process could proceed in this State Action. ECF No. 135.

56. The Parties executed the Stipulation of Settlement (with all exhibits) as of August 16, 2023. NYSCEF No. 107. On the same day, Plaintiffs sought preliminary approval of the proposed Settlement by filing order-to-show-cause papers in this Court. NYSCEF No. 105.

57. Following a hearing on October 5, 2023, the Court entered the Preliminary Approval Order on October 6, 2023. NYSCEF No. 112.

III. PLAINTIFFS' CLASS COUNSEL'S COMPLIANCE WITH THE COURT'S NOTICE REQUIREMENTS

58. In accordance with the Preliminary Approval Order, Plaintiffs' Class Counsel, through the Claims Administrator, has implemented a comprehensive notice program by individual mail and publication. The Notice Packets contain all required information regarding the Settlement and how Settlement Class Members can (a) exclude themselves from the Settlement

Class; (b) object to the Settlement, the POA, or the Fee and Expense Application; (c) file a Proof of Claim; and/or (d) attend the Fairness Hearing. They have been mailed to 4,967 potential Settlement Class Members or their nominees. Notice Packet materials have also been, and continue to be, posted at www.cloopensecuritieslitigation.com, along with other Settlement-related documents. In addition, on October 13, 2023, the Summary Notice – which directed Settlement Class Members to the Settlement website – was published on *PR Newswire* (internet) and in *Investor's Business Daily* (print). Schachter Aff., ¶¶2-14.

59. While the deadline for Settlement Class Members to object or opt out of the settlement is January 2, 2024, to date, we have received no objections or opt-out requests – nor has the Claims Administrator. *See* Schachter Aff., ¶¶15-16. Should any be received before the Fairness Hearing, Plaintiffs will address them in their reply papers.

IV. THE SIGNIFICANT BENEFITS OF THE PROPOSED SETTLEMENT VERSUS THE MATERIAL, LIKELY RISKS OF CONTINUED LITIGATION

A. Litigation Risks

60. Although Defendants' motions to dismiss were denied in both Actions (NYSCEF No. 57; ECF No. 113), Plaintiffs recognize that proving the necessary facts to prevail on the merits would be challenging, and that surviving summary judgment was not guaranteed. The risks of litigation here were plainly substantial, and some of the challenges that Plaintiffs faced in prevailing on liability on the claims that they propose to settle were made clear early on.

61. For example, Plaintiffs expected Cloopen to continue to advance the argument that it had no duty to disclose its declining Net Customer Retention Rate during Q4 2020 financials because it contended that at the time the Prospectus was filed, this was "interim data" under Section 11 or Item 303. Plaintiffs expected Cloopen would also continue to advance arguments that the Registration Statement contained detailed and specific warnings, including 60 pages of risk

factors, that warned about competitive and financial risks and disclosed the trends of increasing losses, increasing accounts receivable, and decreasing Retention Rates that were allegedly omitted. Further, Plaintiffs anticipated that Defendants would continue to contend that the Registration Statement provided explicit and extensive disclosures about the Series F Warrants and even disclosed that the warrant liabilities were subject to remeasurement at each reporting period. While Plaintiffs disputed these arguments, Plaintiffs recognize that each of them created material uncertainty regarding the ultimate outcome of the Actions at summary judgment or trial, where legal arguments are based on factual sufficiency in contrast to notice pleading standards at the pleadings stage.

62. In addition, Federal Plaintiff asserted securities fraud claims arising under the 1934 Act. There were additional risks related to proving scienter. Defendants would have claimed that they did not have the fraudulent intent – or *scienter* – required in a securities fraud claim. Although Federal Plaintiff believes that he would be able to successfully prove that Defendants subject to 1934 Act claims had the intent to deceive or defraud, the uncertainty of jury reaction would pose as a significant barrier to recovery.

63. Plaintiffs also faced an uphill battle in obtaining proof of their claims because most of the evidence in this case is located in the People's Republic of China. Plaintiffs' ability to obtain deposition discovery was uncertain, as virtually all relevant witnesses are located there, and it would be a multi-year process to obtain permission form China's Central Authority to take depositions, which may have resulted in Plaintiffs not obtaining the needed permission to take depositions.

64. Further, while Cloopen had begun to collect and review documents in response to Plaintiffs' discovery demands, it took the position that it was unable to produce any documents

while Chinese regulators considered whether Cloopen's documents or data, stored within the mainland territory of the People's Republic of China, could be produced in litigation in the United States.

65. In sum, the risk of being unable to collect relevant evidence was far greater here than in cases where all relevant witnesses and documents are located in the United States (or in countries that are more willing to assist foreign litigants than China).

66. In addition, the bulk of the documents located in China, if they were produced at all, were likely to be produced in Chinese, requiring translation and creating an additional cost and layer of complexity not present in the ordinary securities class action.

67. Even if Plaintiffs prevailed on liability, Defendants had colorable "negative loss causation" arguments that some of Class's alleged damages resulted from factors other than the alleged material misstatements and omissions in the Offering Documents. Defendants raised negative causation defenses ranging from macroeconomic factors that they say caused the drop in Cloopen's ADSs, to factors unrelated to the undisclosed information that purportedly contributed to those drops, to the timing of when the allegedly undisclosed information was released relative to the drop in the price of Cloopen's ADSs.

68. In addition, Federal Plaintiff would also have encountered significant loss causation and damages defenses relating to the 1934 Act claims at summary judgment phase and trial. Pursuant to *Dura Pharm., Inc. v. Broudo*, 544 U.S. 336, 345-47 (2005), Federal Plaintiff would need to show that it was the disclosure of the alleged securities violations that caused investors' losses, as opposed to other unrelated matters.

69. If Plaintiffs had survived summary judgment and prevailed across the board on liability, causation, and damages issues at trial, there would still be no assurance that a favorable jury verdict would survive Defendants' inevitable post-trial motions and appeals.

70. Plaintiffs also faced the risk of being unable to collect a judgment against Cloopen because its financial status and ability to withstand a greater judgment than the recovery here is questionable. On May 17, 2023, the New York Stock Exchange ***suspended*** the trading of Cloopen ADSs for the Company's failure to file annual reports with the SEC for years ended December 31, 2021 and December 31, 2022. Cloopen's ADSs are currently trading at $0.0001 (as of December 18, 2023) and have been under $1 per share since May 31, 2023.

71. Further, because Cloopen is a China-based company and appears to have no significant assets in the United States (or elsewhere outside of China), and because Cloopen and its officers had no relevant insurance policy applicable to the claims here, collectability issues were a major additional risk.

72. In addition, the United States and China have no treaties providing for enforcement of judgments rendered in each other's courts. Courts in China, moreover, are seldom known to recognize and enforce U.S. civil court judgments.

73. Although collectability is not an issue as to Underwriter Defendants, those defendants (unlike Cloopen) would have been able to assert a "due diligence" defense by arguing that they reasonably relied on Cloopen's assurances with regard to any allegedly misstated or omitted matters. A due diligence defense is difficult to overcome. In addition, the Underwriter Defendants here, like in similar cases, claim to be indemnified by the security issuer, Cloopen.

74. While we maintain that the Settlement Class's claims are meritorious, Defendants have steadfastly maintained that the claims are meritless throughout the case. If the Settlement had

not been achieved, Plaintiffs faced numerous hurdles to establishing Defendants' liability and damages, and success was far from guaranteed. The Actions lack several of the hallmarks of a typical, successful securities action. For example, there was no restatement of financial results, no SEC investigation, and no criminal indictment on which Plaintiffs could "piggy-back." Indeed, the Actions presented several unusual risk factors due to the difficulties of taking depositions and conducting document discovery in China, as detailed above, and of enforcing a favorable judgment in China even if the evidence to sustain Plaintiffs' claims against Cloopen could be obtained.

B. Benefits of the Settlement

75. Most settlements provide the benefit of at least some recovery, as well as the avoidance of further delays and the uncertainties of further litigation. Here, however, there would be an especially long and costly road ahead to any litigated recovery, with many months (and more likely years) of hard-fought fact and expert discovery involving Cloopen's performance in the rapidly developing cloud-based computing industry in China during the global financial upheaval of the Covid-19 pandemic, as well as discovery involving the regulatory risks posed to Cloopen's business model by Chinese authorities; and how such diverse factors may have impacted the price of Cloopen's ADSs – objects which would all have likely required specialized testimony from industry experts and damages analysts. In addition, as discussed above, obtaining proof of Plaintiffs' claims was made even more difficult by the fact that most of the evidence in this case is located in the People's Republic of China.

76. Here, as mentioned above, Plaintiffs' expert estimated that the maximum theoretically recoverable damages were approximately $170 million, but that the realistic maximum recoverable damages, given the relevant circumstances, were at most approximately $135 million. Importantly, this latter figure does not take into account the bulk of Defendants'

counterarguments. Indeed, Defendants insisted that their negative causation defenses would eliminate most of the realistic damages.

77. If one compares the proposed Settlement – $12 million – to Plaintiffs' high-end realistic maximum damages of $135 million, the Settlement would result in the recovery of roughly 9% of investor losses (and a recovery of about 7% of maximum theoretical damages), a decidedly superior percentage compared to most securities settlements. For example, NERA Economic Consulting recently reported that, between 2012 and 2022, the median securities class action settlement equated to only about 2.9% of maximum damages in cases involving estimated investor losses between $100 million and $199 million.[8] The foregoing percentages also assume that Plaintiffs would run the table on all damages questions. Defendants maintain that the maximum recoverable damages is far smaller than $135 million, and thus the percentage recovery here is far greater than 9%. The Settlement here ($12 million) is also larger than the median securities class action settlement in the Second Circuit between 2013 and 2023 of $9 million.[9]

C. Plaintiffs' Class Counsel's Conclusion

78. By the time the Settlement was reached, Plaintiffs' Class Counsel had a strong understanding of the strengths and weaknesses of the Settlement Class's claims based on, *inter alia*, their (a) extensive pre-filing factual investigations; (b) thorough briefing of the motion to dismiss; (c) stipulating to Class Certification in the State Action; (d) consultation with damages

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[8] Janeen McIntosh, et al., *Recent Trends In Securities Class Action Litigation: 2022 Full-Year Review*, NERA ECON. CONSULTING (Jan. 25, 2022), at 17, located at https://www.nera.com/content/dam/nera/publications/2023/PUB_2022_Full_Year_Trends.pdf.

[9] Laarni T. Bulan & Laura E. Simmons, *Securities Class Action Settlements: 2022 Review and Analysis*, CORNERSTONE RESEARCH (2022), at 19, located at https://www.cornerstone.com/wp-content/uploads/2023/03/Securities-Class-Action-Settlements-2022-Review-and-Analysis.pdf.

experts; (e) participation in a comprehensive and protracted mediation and settlement negotiation process, and (f) the discovery described above.

79. The numerous factual and legal complexities of both Actions – as compounded by the procedural complications inherent in pursuing claims against a Chinese company – presented undeniable challenges and risks for Plaintiffs.

80. Based on the foregoing – combined with their own considerable professional experience in litigating actions of this type – Plaintiffs' Class Counsel strongly believes that the Settlement is decidedly "fair, reasonable, and adequate," and should be approved.

V. THE PLAN OF ALLOCATION IS CUSTOMARY, FAIR, AND REASONABLE

81. To receive a distribution from the Net Settlement Fund, Settlement Class Members are required to submit a Proof of Claim form ("Claim Form"), which was mailed with the Notice and is also available on the Settlement website. The Claims Administrator will review the Claim Forms and supporting documents submitted, provide an opportunity to cure any deficiencies, and mail or wire Settlement Class Members their *pro rata* share of the Net Settlement Fund in accordance with the proposed Plan of Allocation.

82. The proposed Plan of Allocation (previously defined as "POA") was formulated by Plaintiffs' Class Counsel in consultation with the Plaintiffs' damages consultant, who has designed POAs approved by numerous courts previously. *See* ¶9, *supra*. The POA provides for a customary *pro rata* allocation based on "Recognized Losses" calculated using formulas that take into account the time and prices at which Claimants purchased and sold Cloopen ADSs, as well impacts on those prices at different times. The proposed POA will therefore result in a fair and equitable distribution of the Net Settlement Fund.

83. Moreover, although the POA was set forth in full in the Notice (*see* Schachter Aff., Ex. A (the Notice at 9)), to date, no objections to the POA have been received. Accordingly, we respectfully submit that the POA should be approved.

VI. PLAINTIFFS' CLASS COUNSEL'S FEE AND EXPENSE APPLICATION AND REQUEST FOR MODEST SERVICE AWARDS TO PLAINTIFFS

A. The Requested Fee Is Reasonable under the Factors Considered by New York Courts

84. As set forth in the accompanying Memorandum of Law in Support of (1) Plaintiffs' Counsel's Application for Attorneys' Fees and Expenses and (2) Named Plaintiffs' Requests for Service Awards, New York courts have long recognized that attorneys who successfully represent a class are entitled to compensation for their services, and that attorneys who obtain a recovery for a class in the form of a common fund should be awarded fees and expenses from that fund.

85. Plaintiffs' Class Counsel seek an attorneys' fee award of one third (33-1/3%) of the Settlement, including accrued interest, for the more than 3,200 hours of total time that Plaintiffs' Class Counsel devoted to this Action. This request is justified under well-established case law, and is fully supported by Plaintiffs. St. John Aff., ¶¶1, 8; Wang Decl., ¶¶1, 8.[10] The Settlement Class also appears to agree, as to date no objections to the requested fee have been received.

86. We further respectfully submit that a one-third fee is reasonable in light of the superior results obtained in the face of above-average litigation risks. The requested fee is also

[10] "St. John Aff." refers to the Affirmation of Sonny St. John in Support of Motions for (1) Final Settlement Approval; (2) Attorneys' Fees and Payment of Litigation Expenses; and (3) Plaintiffs' Service Award, dated December 15, 2023; "Wang Decl." refers to the Declaration of Guozhang Wang in Support of Motions for (1) Final Settlement Approval; (2) Attorneys' Fees and Payment of Litigation Expenses; and (3) Plaintiffs' Service Award, dated December 18, 2023, both submitted herewith.

consistent with awards approved by this Court in other securities class actions. *See In re Netshoes*, NYSCEF No. 141, ¶15 (awarding one-third fee); *In re EverQuote*, NYSCEF No. 132, ¶14 (same).

87. We address below the specific factors that New York courts typically consider in analyzing attorneys' fee requests, notably (i) the risks of the action; (ii) the existence of a precedential decision in a similar, prior litigation; (iii) counsel's experience and reputation; (iv) the magnitude and complexity of the action; (v) the amount recovered for the class; and (vi) the work done by counsel and resulting lodestar cross-check. *See, e.g.*, *Fiala v. Metro. Life Ins. Co.*, 899 N.Y.S.2d 531, 540 (Sup. Ct., N.Y. Cnty. 2010).

1. Litigation Risks

88. As set forth above, Plaintiffs recognize that the risks of litigation here were plainly substantial, and many of the challenges that Plaintiffs faced in prevailing on liability on the claims that they propose to settle were made clear early on. *See* Section IV, *supra*.

89. Although we believe that the evidence that would be adduced in discovery would support Plaintiffs' allegations, Plaintiffs faced substantial questions as to whether that evidence would be sufficient at summary judgment and trial and notable challenges in proving their claims. The specific risks Plaintiffs faced included obtaining sufficient evidence from China, as well as ensuring that there would be additional funds from Defendants to support a larger or any recovery in the future.

90. Plaintiffs expected Cloopen would also continue to advance arguments that the Offering Documents contained detailed and specific warnings, including over fifty pages of risk factors, that warned about competitive and financial risks and disclosed the trends of increasing losses, increasing accounts receivable, and decreasing trends that were allegedly omitted.

91. Even if Plaintiffs were successful in proving liability, they faced challenges proving the extent of damages, as Defendants had colorable "negative loss causation" arguments that some

of Class's alleged damages resulted from factors other than the alleged material misstatements and omissions in the Offering Documents. For example, Defendants argued that macroeconomic factors caused the drop in Cloopen's ADSs.

92. Defendants also asserted arguments regarding scienter in the Federal Action, where they specifically argued that the Federal Plaintiff failed to allege instances in which any Defendants received information related to the Retention Rate or warrant liabilities that was contrary to Cloopen's public declarations. While the court in the Federal Action held that Federal Plaintiff sufficiently pled scienter, the burden of pleading scienter is less exacting than the burden of proving it. *See Lea v. TAL Educ. Grp.*, 837 F. App'x 20, 23 (2d Cir. 2020) (quoting Tellabs, Inc. v. Makor Issues & Rts., Ltd., 551 U.S. 308, 328-29 (2007) ("To allege a strong inference of scienter, a plaintiff 'must plead facts rendering an inference of scienter ***at least as likely*** *as* any plausible opposing inference,' unlike at trial where a plaintiff must prove scienter by a preponderance of the evidence, *i.e.*, 'that it is ***more likely*** than not that the defendant acted with scienter.'") (emphasis in original); *Patel v. L-3 Commc'ns Holdings Inc.*, No. 14-CV-6038-VEC, 2016 WL 1629325, at *15 (S.D.N.Y. Apr. 21, 2016) ("Although Lead Plaintiffs have pled a strong inference of corporate scienter for the purpose of surviving Defendants' Motion to Dismiss, to survive summary judgment or to win at trial, Lead Plaintiffs will need to ***prove*** that the Aerospace Systems CFO acted with the requisite scienter ***at the time of each of the alleged misstatements*** in order for L-3 to be held liable for the alleged Section 10(b) violation.") (emphasis in original). Thus, there is a real risk that Plaintiffs would not be able to establish that Cloopen acted with an intent to deceive investors.

93. We respectfully submit that Plaintiffs' Class Counsel's achievement of a decidedly superior result, in the face of such substantial risks, strongly supports the requested one-third fee.

2. Plaintiffs' Class Counsel Lacked the Benefit of a Prior Judgment

94. The State and Federal Actions were the only ones filed and prosecuted arising from the allegedly false and misleading Offering Materials. There were no earnings restatements or governmental regulatory actions, or any parallel investigations by the SEC, to assist Plaintiffs' Class Counsel's investigation and prosecution of the claims.

95. Plaintiffs' Class Counsel were thus required to independently develop the facts and legal theories necessary to win the excellent $12 million Settlement for the Settlement Class now pending before this Court.

3. Plaintiffs' Class Counsel's Experience and Reputation in Securities Litigation

96. Plaintiffs' Class Counsel – Scott+Scott and Berger Montague PC – are each experienced in class actions and representing plaintiffs, with a significant history of achieving successful results in securities class actions. We respectfully submit that their skill and effort were also confirmed by their hard work and resulting success for the Settlement Class here. *See* Scott Aff., Ex. C; Dell'Angelo Aff., Ex. C.[11]

97. That success, we submit, was all the more significant here because Defendants were represented by reputable defense firms, including Wilson Sonsini Goodrich & Rosati, P.C., Wilkie Farr & Gallagher LLP, K&L Gates LLP, and Morrison & Foerster LLP. These attorneys presented a thorough and thoughtful defense, and challenged Plaintiffs at every turn.

[11] "Scott Aff." refers to the Affirmation of Daryl F. Scott on Behalf of Scott+Scott Attorneys at Law LLP in Support of Application for Award of Attorneys' Fees and Expenses, dated December 19, 2023; "Dell'Angelo Aff." refers to the Affirmation of Michael Dell'Angelo on Behalf of Berger Montague PC in Support of Application for Award of Attorneys' Fees and Expenses, dated December 19, 2023, both submitted herewith.

98. As the Settlement is a direct result of Plaintiffs' Class Counsel's work in the prosecution of the Actions on behalf of the Settlement Class, this factor also supports the requested one-third fee.

4. The Action's Complexity and Magnitude

99. Courts have recognized that securities class actions are, in general, ***highly*** complex, and as shown above the Actions were no exception. As discussed in greater length above at §I, the Actions involved multiple defendants, a Company located in China, plus underwriter defendants that had credible and complex defenses based on having allegedly satisfied the standards for conducting "due diligence" of a Chinese company. The magnitude of the ***recovery*** Plaintiffs' Class Counsel achieved constituted a superior result under multiple metrics as discussed above and in the following paragraph. Thus, both the complexity and magnitude of the Actions support the requested fees.

5. The Amount Recovered

100. As discussed at greater length above at §I, the proposed $12 million Settlement represents an excellent recovery when considered against other comparable securities class-action settlements. The proposed Settlement – $12 million – would result in the recovery of roughly 9% of investor losses (or a recovery of about 7% of maximum theoretical damages). Both figures translate into a superior settlement compared to most securities settlements between 2012 and 2022, with similar actions recovering only 2.9% of damages. As set forth above, in absolute terms, the settlement amount is also larger than the $9 million median settlement for comparable securities cases. Further, the recovery is particularly commendable where, as here, Defendants had a variety of credible liability, loss causation, and damages arguments – and where Plaintiffs also faced the heightened procedural difficulties and collectability issues inherent in suing primarily China-based defendants.

6. The Work Done by Plaintiffs' Class Counsel

101. Since the inception of the Actions, Plaintiffs' Class Counsel, have among them expended over 3,200 hours, with a combined lodestar value of $2,626,057. Their work consisted of:

a. conducting pre-filing investigations, which included a review of Cloopen's numerous SEC filings, Cloopen's press releases, investor conference call transcripts, analyst reports, and news stories from the United States and China about Cloopen;

b. drafting the initial and amended complaints;

c. researching and successfully opposing multiple motions to dismiss by multiple defendants;

d. negotiating a Confidentiality Order and stipulation on the exchange of electronic discovery;

e. conducting document discovery, including serving interrogatories and document requests and retaining a Chinese translator to develop electronic search terms;

f. responding to defendants' discovery demands;

g. preparing of State Class Representative for his deposition and defense of that deposition;

h. successfully briefing and subsequently stipulating to class certification in the State Action;

i. retaining and consulting with a damages expert;

j. preparing comprehensive mediation briefs and related materials on both liability and damages issues;

k. mediating the Settlement;

l. drafting the subsequent Confidential Term Sheet and complex "cross-Action" long-form Stipulation of Settlement; and

m. successfully obtaining preliminary approval. *See* §II. above.

102. And additional work still lies ahead to obtain Final Approval and to (hopefully) thereafter supervise the administration and distribution of the proceeds of a fully approved Settlement. We respectfully submit that Plaintiffs' Class Counsel have earned the requested fee.

103. Plaintiffs' Counsel devoted a total of 3,236.30 hours to the investigation, litigation, and ultimate resolution of the State and Federal Actions over more than two years. The value of that time results in a total aggregate lodestar of $2,626,057. Because the requested combined 33-1/3% fee equates to $4 million, Plaintiffs' Counsel's requested fee represents a modest "lodestar multiplier" of 1.52 on their aggregate lodestar.

104. Plaintiffs' Class Counsel – Scott+Scott and Berger Montague PC – have each attached an affidavit in Support of an Application for Award of Attorneys' Fees and Expenses, setting forth their lodestar and expenses. The other Plaintiffs' Counsel, the Schall Law Firm and Kirby McInerney, have done so as well. These affidavits are attached hereto. Schall Aff., Ex. B; Elrod Aff., Ex. C.[12]

105. Moreover, Plaintiffs' Class Counsel, who worked on a fully contingent basis, at all times bore the risk that no recovery would be achieved. Plaintiffs' Class Counsel thus understood that they were embarking on complex, expensive, risky, and lengthy litigation with no guarantee

[12] "Schall Aff." refers to the Affirmation of Brian J. Schall on Behalf of the Schall Law Firm in Support of Application for Award of Attorneys' Fees and Expenses; "Elrod Aff." refers to the Affirmation of Thomas W. Elrod on Behalf of Kirby McInerney LLP in Support of Application for Award of Attorneys' Fees and Expenses, both submitted herewith.

of ever being compensated for the substantial investment of time and money the Actions would require. As noted above, that risk was particularly pronounced here by the difficult challenge of litigating claims against Defendants based in China.

B. The Requested Expenses Are Fair and Reasonable

106. Plaintiffs' Counsel also seek an award of $150,936.06 for the expenses that they incurred in litigating the Actions. These expense items are all separately reflected in each Counsel's affidavit, which are attached to this Joint Affidavit. The claimed expenses were all reasonably necessary for the successful prosecution of the Actions. Plaintiffs' Class Counsel also closely managed expenses in their respective Actions, while also ensuring that they took all steps necessary to prosecute Plaintiffs' claims aggressively.

107. The requested expenses are typical of those incurred in securities litigation. For example, the expenses include retaining industry and damages experts ($88,713.93), legal and factual research ($12,820.79), service fees ($15,190), and the Mediator's fees ($11,014).

C. Plaintiffs' Requested Service Awards Are Reasonable

108. The Plaintiffs have requested modest service awards of $7,500 each for their time and effort prosecuting the Actions on behalf of the Settlement Class. As detailed in their respective affidavit or declaration, attached hereto, each Plaintiff has diligently fulfilled their fiduciary obligations to the Settlement Class. St. John Aff., ¶5; Wang Decl., ¶5. For example, State Plaintiff reviewed multiple drafts of the complaint, prepared for and provided testimony in response to Defendants' Notice of Deposition, read and reviewed the numerous briefs and pleadings filed in this Court, and reviewed the various pre-mediation statements submitted to the Mediator by both Class Counsel and Defendants.

109. Similarly, Federal Plaintiff reviewed drafts of the Amended Class Action Complaint filed in the Federal Action and drafts of his opposition to Defendants' motion to

dismiss. Wang Decl., ¶5. Federal Plaintiff also responded to Defendants' discovery demands, was involved in the mediation, and, in total, Federal Plaintiff has spent over 45 hours in connection with discharging his duties as lead plaintiff and class representative in the Federal Action. *Id.* ¶¶ 5,6.

110. We can also attest that Plaintiffs diligently performed the foregoing work on behalf of the Settlement Class, and were in regular contact with Plaintiffs' Counsel throughout the litigation, mediation and settlement.

111. The Notice advised Settlement Class Members of Plaintiffs' intent to request service awards of up to $15,000 in the aggregate – and to date there have been no objections to the requested awards. Because the Plaintiffs' efforts during this litigation are of the type that courts routinely find to support service awards, the relatively modest awards totaling less than the noticed amount should also be approved.

VII. CONCLUSION

112. Plaintiffs' Class Counsel respectfully submits that (a) the Settlement and Plan of Allocation should be approved as fair, reasonable, and adequate, (b) the requests for a 33-1/3% attorneys' fee award and reimbursement of $150,936.06 in expenses, including accrued interest, and (c) service awards of $7,500 to each Plaintiff, should also be approved as fair and reasonable.

I certify under penalty of perjury that the foregoing is true and correct. Executed this 19th day of December 2023 in New York, NY.

/s/Max R. Schwartz
Max R. Schwartz

I certify under penalty of perjury that the foregoing is true and correct. Executed this 19th day of December 2023 in Philadelphia, PA.

/s/Michael Dell'Angelo
Michael Dell'Angelo

PRINTING SPECIFICATIONS STATEMENT

Pursuant to 22 N.Y.C.R.R. §202.70(g), Rule 17, the undersigned counsel certifies that the foregoing affirmation was prepared on a computer using Microsoft Word. A proportionally spaced typeface was used as follows:

Name of Typeface: Times New Roman
Point Size: 12
Line Spacing: Double

The total number of words in the affirmation, inclusive of point headings and footnotes and exclusive of the caption, signature block, and this Certification, is 8,434 words.

DATED: December 19, 2023

/s/Max R. Schwartz
Max R. Schwartz