UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CONSTRUCTION LABORERS PENSION TRUST FOR SOUTHERN CALIFORNIA, GENE SAMIT and JOHN LANTZ, Individually and on Behalf of All Others Similarly Situated, Plaintiffs, vs. CBS CORPORATION and LESLIE MOONVES, Defendants.	Civil Action No. 1:18-cv-07796-VEC **(Consolidated)** CLASS ACTION MEMORANDUM OF LAW IN SUPPORT OF LEAD PLAINTIFF'S MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND APPROVAL OF PLAN OF ALLOCATION

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Pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, Lead Plaintiff Construction Laborers Pension Trust for Southern California, on behalf of itself and the Settlement Class, respectfully submits this memorandum of law in support of its motion for final approval of the $14,750,000 Settlement (the "Settlement Amount") reached in this action (the "Action") and approval of the Plan of Allocation of Settlement proceeds (the "Plan"). The terms of the Settlement are set forth in the Stipulation and Agreement of Settlement, dated April 15, 2022 (the "Stipulation"). ECF 177.[1]

I. INTRODUCTION

Lead Plaintiff's $14.75 million recovery is the result of its rigorous nearly four-year effort to prosecute this highly contested litigation, reached following lengthy arm's-length settlement negotiations by experienced and knowledgeable counsel, overseen by a nationally renowned mediator. The Settlement represents a very good result for the Settlement Class under the circumstances and easily satisfies each of the Rule 23(e)(2) factors, as well as the factors set forth in the Second Circuit decision of *Detroit v. Grinnell Corp.*, 495 F.2d 448 (2d Cir. 1974).

The Settlement is especially beneficial to the Settlement Class in light of the substantial litigation risks Lead Plaintiff faced. The gravamen of Lead Plaintiff's claims was that, during the Settlement Class Period, Defendants made materially false and misleading statements and/or omitted material information regarding the Company's policies and corporate governance, the importance of key personnel, including Defendant Leslie Moonves, and other statements made to news media, which caused the price of CBS's stock to trade at artificially inflated prices, until the market learned

[1] All capitalized terms not otherwise defined herein shall have the meanings set forth in the Stipulation and the Declaration of Spencer A. Burkholz in Support of: (1) Lead Plaintiff's Motion for Final Approval of Settlement Class Action Settlement and Approval of Plan of Allocation; and (2) Lead Counsel's Motion for an Award of Attorneys' Fees and Expenses and an Award to Lead Plaintiff Pursuant to 15 U.S.C. §78u-4(a)(4) ("Burkholz Decl."), submitted herewith. Citations are omitted and emphasis is added throughout unless otherwise noted.

the false and misleading nature of the statements, and the stock price significantly declined. While Lead Plaintiff believes in the merit of its claims, Defendants had strong arguments that Lead Plaintiff could not establish that the remaining alleged misstatement was materially false or misleading or made with scienter.[2] Defendants also firmly argued that Lead Plaintiff could not establish loss causation because the July 27, 2018 article in *The New Yorker* did not qualify as a "corrective disclosure." Burkholz Decl., ¶21. And that to the extent the Settlement Class suffered any damages (which Defendants vehemently denied), Defendants argued that they were far lower than the amount calculated by Lead Plaintiff's expert. Moreover, Defendants raised challenges to class certification that may have led to denial of the pending motion, and complete dismissal of the case. Burkholz Decl., ¶¶47-48.

Given the stage of the litigation, Lead Plaintiff and Lead Counsel had a thorough understanding of the strengths and weaknesses of the case before reaching the Settlement, as they had conducted a significant factual investigation into the merits of the claims, engaged in briefing in connection with Defendants' motions to dismiss, conducted extensive class certification discovery, including document review and depositions and expert consultation, fully briefed Lead Plaintiff's class certification motion, and participated in formal mediation discussions. Lead Plaintiff and Lead Counsel also knew that despite their belief in the merits of the claims, there existed the possibility of little or no recovery at all. Moreover, a skilled and highly reputable securities litigation mediator – the Hon. Layn R. Phillips (Ret.) – assisted the parties in reaching a resolution of the case for $14.75 million.

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[2] In its order on Defendants' motions to dismiss, the Court held that none of Defendants' statements regarding CBS's business conduct, CBS's ethics code, key personnel, the #MeToo movement, and CBS's efforts to address workplace sexual misconduct in the wake of Charlie Rose's departure from the network were materially false or misleading. *Constr. Laborers Pension Tr. v. CBS Corp.*, 433 F. Supp. 3d 515 (S.D.N.Y. 2020).

Given the risks to proceeding and the recovery obtained, Lead Plaintiff respectfully submits that the $14.75 million Settlement and the Plan – which was prepared with the assistance of Lead Counsel's in-house damages expert, and is substantially similar to numerous other such plans that have been approved in this Circuit – are fair and reasonable in all respects. Accordingly, Lead Plaintiff respectfully requests that the Court grant final approval of the Settlement under Rule 23(e) of the Federal Rules of Civil Procedure.

II. FACTUAL AND PROCEDURAL BACKGROUND

To avoid repetition, Lead Plaintiff respectfully refers the Court to the accompanying Burkholz Decl. for a detailed discussion of the factual background and procedural history of the Action, the extensive efforts undertaken by Lead Plaintiff and its counsel during the course of the Action, the risks of continued litigation, and the negotiations leading to the Settlement.

III. STANDARDS FOR FINAL APPROVAL OF SETTLEMENT CLASS ACTION SETTLEMENTS

A. The Law Favors and Encourages Settlements

"Courts examine procedural and substantive fairness in light of the 'strong judicial policy favoring settlements' of class action suits." *McMahon v. Olivier Cheng Catering & Events, LLC*, 2010 WL 2399328, at *3 (S.D.N.Y. Mar. 3, 2010) (citing *Wal-Mart Stores, Inc. v. Visa U.S.A. Inc.*, 396 F.3d 96, 116 (2d Cir. 2005)); *see also In re Advanced Battery Techs., Inc. Sec. Litig.*, 298 F.R.D. 171, 174 (S.D.N.Y. 2014) ("The law favors settlement, particularly in class actions and other complex cases where substantial resources can be conserved by avoiding the time, cost, and rigor of prolonged litigation."). Thus, the Second Circuit has instructed that, while a court should not give "rubber stamp approval" to a proposed settlement, it should "stop short of the detailed and thorough investigation that it would undertake if it were actually trying the case." *Grinnell*, 495 F.2d at 462.

As set forth below, the $14.75 million Settlement here, particularly in light of the significant litigation risks Lead Plaintiff faced, is manifestly reasonable, fair, and adequate under all of the pertinent factors courts use to evaluate a settlement. Accordingly, the Settlement warrants final approval from this Court.

B. The Settlement Must Be Procedurally and Substantively Fair, Adequate, and Reasonable

Federal Rule of Civil Procedure 23(e) requires judicial approval of a class action settlement. Rule 23(e)(2) provides that courts should consider certain factors when determining whether a class action settlement is "fair, reasonable, and adequate" such that final approval is warranted:

(A) the class representatives and class counsel have adequately represented the class;

(B) the proposal was negotiated at arm's length;

(C) the relief provided for the class is adequate, taking into account:

(i) the costs, risks, and delay of trial and appeal;

(ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims;

(iii) the terms of any proposed award of attorneys' fees, including timing of payment; and

(iv) any agreement required to be identified under Rule 23(e)(3); and

(D) the proposal treats class members equitably relative to each other.

Fed. R. Civ. P. 23(e)(2).

In addition, the Second Circuit considers the following factors (the "*Grinnell* Factors"), which overlap with the Rule 23(e)(2) factors, when determining whether to approve a class action settlement: (1) the complexity, expense and likely duration of the litigation; (2) the reaction of the class to the settlement; (3) the stage of the proceedings and the amount of discovery completed; (4) the risks of establishing liability; (5) the risks of establishing damages; (6) the risks of maintaining

the class action through the trial; (7) the ability of defendants to withstand a greater judgment; (8) the range of reasonableness of the settlement fund in light of the best possible recovery; and (9) the range of reasonableness of the settlement fund to a possible recovery in light of all of the attendant risks of litigation. *Grinnell*, 495 F.2d at 463; *see also In re Payment Card Interchange Fee & Merch. Disc. Antitrust Litig.*, 330 F.R.D. 11, 29 (E.D.N.Y. 2019) (explaining that "the new Rule 23(e) factors . . . add to, rather than displace, the *Grinnell* [F]actors," and "there is significant overlap" between the two "as they both guide a court's substantive, as opposed to procedural, analysis"); *In re Namenda Direct Purchaser Antitrust Litig.*, 462 F. Supp. 3d 307, 310-11 (S.D.N.Y. 2020).

For a settlement to be deemed substantively and procedurally fair, reasonable, and adequate, not every factor need be satisfied. "[R]ather, the court should consider the totality of these factors in light of the particular circumstances." *Thompson v. Metro. Life Ins. Co.*, 216 F.R.D. 55, 61 (S.D.N.Y. 2003) (citing *D'Amato v. Deutsche Bank*, 236 F.3d 78, 86 (2d Cir. 2001)). Additionally, "'[a]bsent fraud or collusion, [courts] should be hesitant to substitute [their] judgment for that of the parties who negotiated the settlement.'" *Yuzary v. HSBC Bank USA, N.A.*, 2013 WL 5492998, at *4 (S.D.N.Y. Oct. 2, 2013); *see also In re Glob. Crossing Sec. & ERISA Litig.*, 225 F.R.D. 436, 455 (S.D.N.Y. 2004) (courts should not substitute their "'business judgment for that of counsel, absent evidence of fraud or overreaching'").

Under Rule 23(e)(2), courts "must assess at the preliminary approval stage whether the parties have shown that the court will likely find that the [Rule 23(e)(2)] factors weigh in favor of final settlement approval." *Payment Card Interchange*, 330 F.R.D. at 28. As set forth in Lead Plaintiff's Memorandum of Law in Support of Unopposed Motion for Preliminary Approval of Settlement Class Action Settlement, Certification of the Settlement Class, and Approval of Notice to

the Class (ECF 176), and acknowledged by this Court's Opinion & Order (ECF 188), Lead Plaintiff meets all of the requirements imposed by Rule 23(e)(2). Courts have noted that a plaintiff's satisfaction of these factors is virtually assured where, as here, little has changed between preliminary approval and final approval. *See In re Chrysler-Dodge-Jeep Ecodiesel Mktg., Sales Practices & Prods. Liability Litig.*, 2019 WL 2554232, at *2 (N.D. Cal. May 3, 2019) (finding that the "conclusions [made in granting preliminary approval] stand and counsel equally in favor of final approval now"); *Snyder v. Ocwen Loan Servicing, LLC*, 2019 WL 2103379, at *4 (N.D. Ill. May 14, 2019) (noting in analyzing Rule 23(e)(2) that "[s]ignificant portions of the Court's analysis remain materially unchanged from the previous order [granting preliminary approval]").

C. The Proposed Settlement Is Procedurally and Substantively Fair, Adequate, and Reasonable

1. The Settlement Satisfies the Requirements of Rule 23(e)(2)

a. Lead Plaintiff and Lead Counsel Have Adequately Represented the Settlement Class

The determination of adequacy "typically 'entails inquiry as to whether: 1) plaintiff's interests are antagonistic to the interests of other members of the class and 2) plaintiff's attorneys are qualified, experienced and able to conduct the litigation.'" *Cordes & Co. Fin. Servs. v. A.G. Edwards & Sons, Inc.*, 502 F.3d 91, 99 (2d Cir. 2007). Here, Lead Plaintiff's interests are not antagonistic to, and in fact are directly aligned with, the interests of other Members of the Settlement Class. "Lead Plaintiff has claims that are typical of and coextensive with those of other Class Members and had no interests antagonistic to those other Class Members. Lead Plaintiff has an interest in obtaining the largest possible recovery from Defendants." *In re Signet Jewelers Ltd. Sec. Litig.*, 2020 WL 4196468, at *2 (S.D.N.Y July 21, 2020). Lead Plaintiff and Lead Counsel have adequately represented the Settlement Class by zealously prosecuting this action, including by, among other things, conducting an extensive investigation of the relevant factual events, drafting a

highly detailed amended complaint, opposing Defendants' motions to dismiss, engaging in class certification briefing, conducting class certification discovery, and preparing for and participating in a mediation session before Judge Phillips, followed by lengthy settlement negotiations. *See generally* Burkholz Decl. Through each step of the Action, Lead Plaintiff and Lead Counsel have strenuously advocated for the best interests of the Settlement Class. Lead Plaintiff and Lead Counsel therefore satisfy Rule 23(e)(2)(A) for purposes of final approval.

b. The Proposed Settlement Was Negotiated By Experienced Counsel at Arm's-Length Before an Experienced Mediator

Lead Plaintiff satisfies Rule 23(e)(2)(B) because the Settlement is the product of arm's-length negotiations between the parties' counsel before a neutral mediator, with no hint of collusion. Burkholz Decl., ¶¶38-41. Notably, the case did not settle following the mediation session. Indeed, the use of the mediation process provides compelling evidence that the Settlement is not the result of collusion. *See In re Facebook, Inc., IPO Sec. & Derivative Litig.*, 343 F. Supp. 3d 394, 408-09 (S.D.N.Y. 2018) (settlement was procedurally fair where it was "based on the suggestion by a neutral mediator"), *aff'd*, 822 F. App'x 40 (2d Cir. 2020); *McMahon*, 2010 WL 2399328, at *4 ("Arm's-length negotiations involving counsel and a mediator raise a presumption that the settlement they achieved meets the requirements of due process.") (citing *Wal-Mart Stores*, 396 F.3d at 116); *D'Amato*, 236 F.3d at 85 (a "mediator's involvement in . . . settlement negotiations helps to ensure that the proceedings were free of collusion and undue pressure"); *In re Bear Stearns Cos. Inc. Sec., Derivative & ERISA Litig.*, 909 F. Supp. 2d 259, 265 (S.D.N.Y. 2012) (finding a settlement fair where parties engaged in "arm's length negotiations," including mediation before "retired federal judge Layn R. Phillips, an experienced and well-regarded mediator of complex securities cases"). Moreover, the Settlement negotiations in this case were "carried out under the direction of Lead Plaintiff[], . . . whose involvement suggests procedural fairness." *Facebook*, 343 F. Supp. 3d at 409.

"A settlement reached 'under the supervision and with the endorsement of a sophisticated institutional investor . . . is "entitled to an even greater presumption of reasonableness."'" *Signet*, 2020 WL 4196468, at *4.

It is well-settled in this Circuit that "a class action settlement enjoys a strong 'presumption of fairness' where it is the product of arm's-length negotiations concluded by experienced, capable counsel." *Advanced Battery*, 298 F.R.D. at 175 (citing *Wal-Mart Stores*, 396 F.3d at 116); *see also Charron v. Pinnacle Grp. NY LLC*, 874 F. Supp. 2d 179, 195 (S.D.N.Y. 2012) ("Recommendations of experienced counsel are entitled to great weight in evaluating a proposed settlement in a class action because such counsel are most closely acquainted with the facts of the underlying litigation."), *aff'd sub nom. Charron v. Wiener*, 731 F.3d 241 (2d. Cir. 2013); *McMahon*, 2010 WL 2399328, at *4 (settlement was "procedurally fair, reasonable, adequate, and not a product of collusion" where it was reached after "arm's-length negotiations between the parties"). Accordingly, this factor weighs heavily in favor of the Court granting final approval of the Settlement.

c. The Proposed Settlement Is Adequate in Light of the Litigation Risks, Costs, and Delays of Trial and Appeal

Rule 23(e)(2)(C)(i) and the first, fourth and fifth *Grinnell* Factors overlap, as they address the substantive fairness of the Settlement in light of the risks posed by continuing litigation. As set forth below, these factors weigh in favor of final approval.

(1) The Risks of Establishing Liability at Trial

In considering this factor, "the Court need only assess the risks of litigation against the certainty of recovery under the proposed settlement." *Glob. Crossing*, 225 F.R.D. at 459. As a preliminary matter, the significant unpredictability and complexity posed by securities class actions generally weigh in favor of final approval. Indeed, "'[i]n evaluating the settlement of a securities class action, federal courts, . . . "have long recognized that such litigation is notably difficult and

notoriously uncertain.""" *Signet*, 2020 WL 4196468, at *4; *Christine Asia Co., Ltd. v. Yun Ma*, 2019 WL 5257534, at *10 (S.D.N.Y. Oct. 16, 2019); *see also In re FLAG Telecom Holdings, Ltd. Sec. Litig.*, 2010 WL 4537550, at *15 (S.D.N.Y. Nov. 8, 2010) (same); *In re AOL Time Warner, Inc.*, 2006 WL 903236, at *11 (S.D.N.Y. Apr. 6, 2006) ("The difficulty of establishing liability is a common risk of securities litigation."). Although Lead Plaintiff and Lead Counsel firmly believe that the claims asserted in the Action are meritorious, and that they would prevail at trial, further litigation against the remaining Defendants posed risks that made any recovery uncertain.

As set forth above and in the Burkholz Decl., at the time of the Settlement, the parties had completed class certification discovery and briefing, with Lead Plaintiff's class certification motion awaiting a ruling when this Settlement was reached. Had the motion been granted, full scale merits and expert discovery was on the horizon. Defendants have vigorously contested their liability and have denied and continue to deny each and every claim and allegation of wrongdoing.[3] Specifically, Defendants have argued that Lead Plaintiff failed to allege that Moonves' November 29, 2017 *Variety* Statement was actionable, because it was too general and did not contain any promise or certainty about his knowledge of his past misconduct or that such conduct would likely become public. *Id.*, ¶50. Defendants also argued that there was no allegation that Moonves' statements were false at the time they were made or that Moonves did not hold the opinions he expressed. *Id.* In support, Defendants emphasized the fact that the allegations of misconduct took place more than ten years before the *Variety* Statement was published. *Id.* In light of the difficulty of pleading falsity, materiality, scienter, and loss causation in securities fraud class actions under the high bar of the Private Securities Litigation Reform Act of 1995 ("PSLRA"), Lead Plaintiff knew it faced a substantial risk that the Court would grant Defendants' likely motion for summary judgment on the

[3] In fact, the Court granted Defendants' motions to dismiss except with respect to one statement by Defendant Moonves. Burkholz Decl., ¶26.

sole remaining alleged misstatement, leaving Lead Plaintiff and the Settlement Class with no recovery at all.[4]

(2) The Risks of Establishing Loss Causation and Damages at Trial

The risks of establishing liability apply with equal force to establishing loss causation and damages. Here, Defendants argued that Lead Plaintiff had not adequately alleged (and could not prove) loss causation with respect to the remaining alleged misrepresentation: the *Variety* Statement. Burkholz Decl., ¶52. Defendants maintained that there was no causal link between the alleged misstatement and the decline in CBS's share price because: (1) the market was already aware of potential sexual misconduct allegations against Mr. Moonves as early as January 2018; and (2) the corrective disclosures did not reveal to the market the falsity of the *Variety* Statement because that statement could not reasonably be read to make any representations about Moonves' conduct. *Id.*

Defendants also argue that even if the lack of causation did not ***eliminate*** damages, various circumstances severely limited them. *Id.*, ¶53. Defendants asserted that any damages calculations must be limited to a decline on a single trading day, which they would argue is more than a sufficient time period for the market to absorb information about *The New Yorker* article, and nothing disclosed when the article was published after the market closed provided any new information that itself would constitute an additional, separate corrective disclosure. *Id.* Had litigation continued, Lead Plaintiff would have relied heavily on expert testimony to establish loss causation and damages, likely leading to a battle of the experts at trial and *Daubert* challenges. As courts have

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[4] The Court indicated to the parties at a status conference following its order on the motions to dismiss that Lead Plaintiff "barely survived the motion to dismiss" and that it had "a big note of skepticism that [Lead Plaintiff would] be able to prove" the case. Hr'g. Tr. at 12:17-20 (Feb. 21, 2020).

long recognized, the substantial uncertainty as to which side's experts' views might be credited by a jury presents a serious litigation risk. *See In re IMAX Sec. Litig.*, 283 F.R.D. 178, 193 (S.D.N.Y. 2012) ("[I]t is well established that damages calculations in securities class actions often descend into a battle of experts."); *In re Telik, Inc. Sec. Litig.*, 576 F. Supp. 2d 570, 579-80 (S.D.N.Y. 2008) (in this "''battle of experts,'' it is virtually impossible to predict with any certainty which testimony would be credited, and ultimately, which damages would be found'"). If the Court determined that one or more of Lead Plaintiff's experts should be excluded from testifying at trial, Lead Plaintiff's case would become much more difficult to prove.

Thus, in light of the very significant risks Lead Plaintiff faced at the time of the Settlement with regard to establishing liability and damages, this factor weighs heavily in favor of final approval.

(3) The Settlement Eliminates the Additional Costs and Delay of Continued Litigation

The anticipated complexity, cost, and duration of the Action would be considerable. *See Advanced Battery*, 298 F.R.D. at 175 ("the complexity, expense, and likely duration of litigation are critical factors in evaluating the reasonableness of a settlement"). Indeed, if not for the Settlement, the Action, which has already been pending for almost four years, would have continued through the completion of fact and expert discovery. The subsequent motion for summary judgment, as well as the preparation for what would likely be a multi-week trial, would have caused the action to persist for several more years before the class could possibly receive any recovery. Such a lengthy and highly uncertain process would not serve the best interests of the Settlement Class compared to the immediate, certain monetary benefits of the Settlement. *See Strougo v. Bassini*, 258 F. Supp. 2d 254, 261 (S.D.N.Y. 2003) ("even if a shareholder or class member was willing to assume all the risks of pursuing the actions through further litigation . . . the passage of time would introduce yet more risks

. . . and would, in light of the time value of money, make future recoveries less valuable than this current recovery"); *Hicks v. Morgan Stanley*, 2005 WL 2757792, at *6 (S.D.N.Y. Oct. 24, 2005) ("Further litigation would necessarily involve further costs [and] justice may be best served with a fair settlement today as opposed to an uncertain future settlement or trial of the action.").

Accordingly, the Rule 23(e)(2)(C)(i) factor, as well as the first, fourth and fifth *Grinnell* factors, all weigh in favor of final approval.

d. The Proposed Method for Distributing Relief Is Effective

With respect to Rule 23(e)(2)(C)(ii), Lead Plaintiff and Lead Counsel have taken appropriate steps to ensure that the Settlement Class is notified about the Settlement. Pursuant to the Preliminary Approval Order, over 162,000 copies of the Notice and Proof of Claim Form were mailed to potential Settlement Class Members and nominees, and the Summary Notice was published in *The Wall Street Journal* and transmitted over *Business Wire*. *See* Declaration of Ross D. Murray Regarding Notice Dissemination, Publication, and Requests for Exclusion Received to Date ("Murray Decl."), ¶¶11-12, submitted herewith. Additionally, a settlement-specific website was created where key Settlement documents were posted, including the Stipulation, Notice, Proof of Claim Form, and Preliminary Approval Order. *Id.*, ¶14. Settlement Class Members have until September 19, 2022 to object to the Settlement and to request exclusion from the Settlement Class. While the objection and exclusion date has not yet passed, there are no objections to the adequacy of the Settlement, and only two requests for exclusion from the Settlement Class. *Id.*, ¶16.[5]

Settlement Class Members have until September 19, 2022 to submit claim forms. The claims process is similar to that typically used in securities class action settlements. *See Christine Asia*,

[5] As addressed below, one objection that challenges the $10 minimum distribution threshold was received.

2019 WL 5257534, at *14 ("[t]his type of claims processing and method for distributing settlement proceeds is standard in securities and other class actions and is effective"). *Signet*, 2020 WL 4196468, at *12. This factor therefore supports final approval.

e. Lead Counsel's Request for Attorneys' Fees Is Reasonable

Rule 23(e)(2)(C)(iii) addresses "the terms of any proposed award of attorney's fees, including timing of payment." Fed. R. Civ. P. 23(e)(2)(C)(iii). Consistent with the Notice, and as discussed in Lead Counsel's accompanying fee memorandum, counsel for Lead Plaintiff seeks an award of attorneys' fees in the amount of 25% of the Settlement Amount, and expenses in the amount of $355,355.92, in addition to interest on both amounts, to be paid at the time of award.[6]

As set forth in Lead Counsel's fee memorandum, this request is in line with recent fee awards in this District in similar common-fund cases.

Lead Counsel's fee request is reasonable, and Lead Plaintiff has ensured that the Settlement Class is fully apprised of the terms of the proposed award of attorneys' fees, including the timing of such payments. Accordingly, this factor supports final approval of the Settlement.

f. The Parties Have No Other Agreements Besides Opt-Outs

Rule 23(e)(2)(C)(iv) requires the consideration of any agreement required to be disclosed under Rule 23(e)(3). As previously disclosed in connection with Lead Plaintiff's motion for preliminary approval of the Settlement (ECF 186 at 7), the parties have entered into a supplemental agreement providing that, in the event that requests for exclusion from the Settlement Class exceed a

[6] The Stipulation provides that any attorneys' fees and expenses awarded by the Court shall be paid to Lead Counsel when the Court executes the Judgment and an Order awarding such fees and expenses. *See* Stipulation, ¶6.2; *see also Pelzer v. Vassalle*, 655 F. App'x 352, 365 (6th Cir. 2016) (finding the "quick-pay provision" did "not harm the class members in any discernible way, as the size of the settlement fund available to the class will be the same regardless of when the attorneys get paid").

certain agreed-upon threshold, CBS has the option to terminate the Settlement. As is standard in securities class actions, the Supplemental Agreement is being kept confidential in order to avoid incentivizing the formation of a group of opt-outs for the sole purpose of leveraging a larger individual settlement, to the detriment of the Settlement Class. This agreement has no bearing on the fairness of the Settlement, and as such, this factor weighs in favor of final approval. *See Christine Asia*, 2019 WL 5257534, at *15 (stating that opt-out agreements are "standard in securities class action settlements and ha[ve] no negative impact on the fairness of the Settlement").[7]

g. The Settlement Ensures Settlement Class Members Are Treated Equitably

Rule 23(e)(2)(D), the final factor, considers whether Settlement Class members are treated equitably. As discussed further below in §IV, Lead Counsel developed the Plan of Allocation in consultation with its in-house damages expert to treat Settlement Class Members equitably relative to each other by: (i) taking into account the timing of their CBS purchases, acquisitions, and sales; and (ii) providing that each Authorized Claimant shall receive his, her, or its *pro rata* share of the Net Settlement Fund based on their recognized losses. Lead Plaintiff will be subject to the same formula for distribution of the Net Settlement Fund as every other Settlement Class Member. This factor therefore merits granting final approval of the Settlement.

Based on the foregoing, Lead Plaintiff and Lead Counsel respectfully submit that each of the Rule 23(e)(2) factors support granting final approval of the Settlement.

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[7] Pursuant to the Court's order, a redacted version of the Supplemental Agreement was filed on May 13, 2022. ECF 187.

2. The Settlement Satisfies the Remaining *Grinnell* Factors

a. The Lack of Objections Supports Final Approval

The reaction of the Settlement Class to the settlement "is considered perhaps 'the most significant factor to be weighed in considering its adequacy,'" *In re Veeco Instruments Inc. Sec. Litig.*, 2007 WL 4115809, at *7 (S.D.N.Y. Nov. 7, 2007), such that the "'absence of objections may itself be taken as evidencing the fairness of a settlement.'" *City of Providence v. Aeropostale, Inc.*, 2014 WL 1883494, at *5 (S.D.N.Y. May 9, 2014), *aff'd sub nom. Arbuthnot v. Pierson*, 607 F. App'x 73 (2d Cir. 2015). "'If only a small number of objections are received, that fact can be viewed as indicative of the adequacy of the settlement.'" *Wal-Mart Stores*, 396 F.3d at 118.

The deadline to submit objections is September 19, 2022; to date none have been filed to the adequacy of the Settlement. Only two requests for exclusion been received. Murray Decl., ¶16. This positive reaction of the Settlement Class supports approval of the Settlement. *See Yuzary*, 2013 WL 5492998, at *6 (the "favorable response" from the settlement class "demonstrates that the Settlement Class approves of the settlement and supports final approval"); *Facebook*, 343 F. Supp. 3d at 410 ("[t]he overwhelmingly positive reaction – or absence of a negative reaction – weighs strongly in favor" of final approval).

b. Lead Plaintiff Had Sufficient Information to Make an Informed Decision Regarding the Settlement

Under the third *Grinnell* Factor, "'the question is whether the parties had adequate information about their claims such that their counsel can intelligently evaluate the merits of plaintiff's claims, the strengths of the defenses asserted by defendants, and the value of plaintiffs' causes of action for purposes of settlement.'" *Bear Stearns*, 909 F. Supp. 2d at 267; *Martignago v. Merrill Lynch & Co., Inc.*, 2013 WL 12316358, at *6 (S.D.N.Y. Oct. 3, 2013) ("The pertinent question is 'whether counsel had an adequate appreciation of the merits of the case before

negotiating.'"). "To satisfy this factor, parties need not have even engaged in formal or extensive discovery." *In re Hi-Crush Partners L.P. Sec. Litig.*, 2014 WL 7323417, at *7 (S.D.N.Y. Dec. 19, 2014) (noting that in cases brought under the PSLRA, discovery cannot commence until the motion to dismiss is denied); *see also Glob. Crossing*, 225 F.R.D. at 458 ("Formal discovery is not a prerequisite; the question is whether the parties had adequate information about their claims.").

Unquestionably, Lead Plaintiff and Lead Counsel had sufficient information to assess the adequacy of the Settlement. As detailed in the Burkholz Decl., Lead Plaintiff and Lead Counsel negotiated the Settlement only after conducting an extensive factual investigation, opposing Defendants' motions to dismiss, conducting class certification discovery and briefing, and consulting with experts. Lead Plaintiff also participated in hard-fought settlement discussions with Defendants, overseen by an experienced and nationally renowned mediator, which ultimately resulted in the Settlement. During the mediation, Defendants' Counsel pressed the arguments raised in their motions to dismiss, in addition to further arguments they intended to make if the case were to progress. This case did not settle for more than two years after the mediation, as litigation proceeded.

Thus, by the time of the Settlement, Lead Plaintiff was well-versed in the strengths and weaknesses of the case. This factor weighs in favor of final approval.

c. Maintaining Class-Action Status Through Trial Presents a Substantial Risk

Lead Plaintiff's class certification motion was fully briefed and awaiting decision when the Settlement was reached. Defendants vigorously opposed the motion, arguing that Lead Plaintiff did not satisfy the typicality requirement, arguing it had unique defenses as a "net seller" under its damages theory because it benefitted from the alleged fraud. Burkholz Decl., ¶47. Defendants also raised a potential "disabling conflict of interest" with respect to the Lead Plaintiff, depending on how

the Court ruled with respect to "disclosure dates." *Id.*, ¶48. Had the Court adopted Defendants' arguments, the class would not be certified, and the case would be over. Even if the Court granted Lead Plaintiff's motion, Defendants could still have pressed a Rule 23(f) petition or moved to decertify the class or trim the class period before trial or on appeal, as class certification may be reviewed at any stage of the litigation. *See Christine Asia*, 2019 WL 5257534, at *13 (stating that this risk weighed in favor of final approval because "a class certification order may be altered or amended any time before a decision on the merits"); Fed. R. Civ. P. 23(c) (authorizing a court to decertify a class at any time).[8] "The risk of maintaining class status throughout trial . . . weighs in favor of final approval." *McMahon*, 2010 WL 2399328, at *5.

d. Defendants' Ability to Withstand a Greater Judgment

This factor is not dispositive when all other factors favor approval. Even if Defendants could have withstood a greater judgment, a "'defendant's ability to withstand a greater judgment, standing alone, does not suggest that the settlement is unfair.'" *Castagna v. Madison Square Garden, L.P.*, 2011 WL 2208614, at *7 (S.D.N.Y. June 7, 2011); *see also Aeropostale*, 2014 WL 1883494, at *9 (courts "generally do not find the ability of a defendant to withstand a greater judgment to be an impediment to settlement when the other factors favor the settlement"). A "defendant is not required to 'empty its coffers' before a settlement can be found adequate." *In re Sony SXRD Rear Projection Television Settlement Class Action Litig.*, 2008 WL 1956267, at *8 (S.D.N.Y. May 1, 2008). Here, though CBS is unquestionably able to endure a larger judgment, all other factors favor final approval.

[8] The Court has already shortened the class period by virtue of its ruling on the motions to dismiss.

e. The Settlement Amount Is Reasonable in View of the Best Possible Recovery and the Risks of Litigation

The adequacy of the amount offered in a settlement must be judged "not in comparison with the possible recovery in the best of all possible worlds, but rather in light of strengths and weaknesses of plaintiffs' case." *In re Agent Orange Prod. Liab. Litig.*, 597 F. Supp. 740, 762 (E.D.N.Y. 1984), *aff'd*, 818 F.2d 145 (2d Cir. 1987). A court need only determine whether the settlement falls within a "range of reasonableness" that "recognizes the uncertainties of law and fact" in the case and "the concomitant risks and costs necessarily inherent in taking any litigation to completion." *Newman v. Stein*, 464 F.2d 689, 693 (2d Cir. 1972); *see also Glob. Crossing*, 225 F.R.D. at 461 ("the certainty of [a] settlement amount has to be judged in [the] context of the legal and practical obstacles to obtaining a large recovery").

Here, "[b]ecause [Lead Plaintiff] face[s] serious challenges to establishing liability, consideration of [Lead Plaintiff's] best possible recovery must be accompanied by the risk of non-recovery." *Facebook*, 343 F. Supp. 3d at 414; *see also Bear Stearns*, 909 F. Supp. 2d at 270 (stating this *Grinnell* factor is "a function of both (1) the size of the amount relative to the best possible recovery; and (2) the likelihood of non-recovery"). The Settlement represents a recovery of approximately 7%-9% of reasonably recoverable damages for the portion of the case not dismissed (Burkholz Decl., ¶6), an amount that exceeds median recoveries in cases of this size. *See* Laarni T. Bulan & Laura E. Simmons, *Securities Settlement Class Action Settlements: 2021 Review and Analysis* at 6, Fig. 5 (Cornerstone Research 2022) (attached hereto as Ex. A).[9]

Moreover, the $14.75 million Settlement Amount "was agreed upon only after careful consideration, both by competent Lead Counsel and by [a neutral mediator]" – all of whom

[9] Not surprisingly, Defendants contended that damages were zero due to the absence of any liability and loss causation.

concluded the Settlement represented a very good recovery for the Settlement Class in light of the substantial litigation risks Lead Plaintiff faced. *See Facebook*, 343 F. Supp. 3d at 414; *see also id.* (finding that even if the settlement "amounts to one-tenth – or less – of Plaintiffs' potential recovery," such a recovery is within "the range of reasonableness" where "the risks of a zero – or minimal – recovery scenario are real"). This factor weighs in favor of final approval.

IV. THE PLAN OF ALLOCATION IS FAIR AND ADEQUATE

The standard for approval of the Plan of Allocation is the same as the standard for approving the Settlement as a whole: namely, "fair, reasonable, and adequate." *Signet*, 2020 WL 4196468, at *13. "'When formulated by competent and experienced class counsel,' a plan for allocation of net settlement proceeds 'need have only a reasonable, rational basis.'" *Advanced Battery*, 298 F.R.D. at 180; *see also Christine Asia*, 2019 WL 5257534, at *15-*16. A plan of allocation that reimburses class members based on the relative strength and value of their claims is reasonable. *IMAX*, 283 F.R.D. at 192. However, a plan of allocation does not need to be tailored to fit each and every class member with "mathematical precision." *In re PaineWebber Ltd. P'ships Litig.*, 171 F.R.D. 104, 133 (S.D.N.Y. 1997).

Here, as set forth in the Notice, the Plan was prepared with the assistance of Lead Counsel's in-house damages expert and has a rational basis, as it is based on the same methodology underlying Lead Plaintiff's measure of damages: the amount of artificial inflation in the price of CBS common stock during the Settlement Class Period. *See Facebook*, 343 F. Supp. 3d at 414 (plan of allocation was fair where it was "prepared by experienced counsel along with a damages expert – both indicia of reasonableness"). This is a fair method to apportion the Net Settlement Fund among Authorized Claimants, as it is based on, and consistent with, the claims alleged.

The Net Settlement Fund will be distributed to Authorized Claimants who timely submit valid Proof of Claim Forms that are approved for payment from the Net Settlement Fund under the

Plan. The Plan treats all Settlement Class Members equitably, as everyone who submits a valid and timely Proof of Claim Form, and does not otherwise exclude himself, herself, or itself from the Settlement Class, will receive a *pro rata* share of the Net Settlement Fund in the proportion that the Authorized Claimant's claim bears to the total of the claims of all Authorized Claimants, so long as such Authorized Claimant's payment amount is $10.00 or more. *See id.*; *see also* Murray Decl., Ex. A (Notice) at 11.

One objection was filed to the $10 minimum distribution threshold, and therefore to the Plan of Allocation. *See* Objection of Wendy Fellows. Many courts have concluded that "'*de minimis* thresholds for payable claims are beneficial to the class as a whole since they save the settlement fund from being depleted by the administrative costs associated with claims unlikely to exceed those costs and courts have frequently approved such thresholds, often at $10." *Sullivan v. DB Indus., Inc.*, 667 F.3d 273, 328 (3d Cir. 2011); *City of Livonia Emps.' Ret. Sys. v. Wyeth*, 2013 WL 4399015, at *2-*3 (S.D.N.Y. Aug. 7, 2013) (approving $10 minimum threshold and collecting cases);[10] *In re Glob. Crossing Sec. & ERISA Litig.*, 225 F.R.D. at 463 (approving $10 minimum threshold, holding "at some point, the need to avoid excessive expense to the class as a whole outweigh[ed] the minimal loss to the claimants who are not receiving their *de minimis* amounts of relief").

Lead Plaintiff and Lead Counsel believe that the Plan is fair and reasonable, and that the $10 distribution threshold is appropriate to minimize administration costs. Therefore, it is respectfully submitted that the Court should approve the proposed Plan and overrule Ms. Fellows' objection.

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[10] This Court has approved plans of allocation which contain the $10 minimum threshold. *Patel v. L-3 Commc'ns Holdings, Inc., et al.*, No. 1:14-cv-06038-VEC, ECF 163-8 (Order); ECF 160-1 at 12 (Notice) (S.D.N.Y Aug. 16. 2017); *City of Austin Police Ret. Sys. v. Kinross Gold Corp., et al.*, No. 1:12-cv-01203-VEC, ECF 206 (Order); ECF 200-1 at 8 (Notice) (Oct. 19, 2015), submitted herewith as Exs. B-C.

V. THE COURT SHOULD FINALLY CERTIFY THE SETTLEMENT CLASS FOR PURPOSES OF EFFECTUATING THE SETTLEMENT

In its motion for preliminary approval of the Settlement, Lead Plaintiff requested that the Court certify the Settlement Class for settlement purposes so that notice of the Settlement, the Settlement Hearing, and the rights of Settlement Class Members to object to the Settlement, request exclusion from the Settlement Class, or submit Proof of Claim Forms, could be issued. *See* ECF 176 at 17-23. In the Preliminary Approval Order, the Court addressed the requirements for Settlement Class certification as set forth in Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure. The Court found that Lead Plaintiff had met the requirements for certification of the Settlement Class for purposes of settlement. ECF 188, ¶¶2-3. Specifically, in the Preliminary Approval Order, the Court preliminarily certified a Settlement Class of "all Persons who purchased or otherwise acquired CBS common stock during the period from November 29, 2017 through July 27, 2018, inclusive." *Id.*, ¶2. In addition, the Court preliminarily certified Lead Plaintiff as Class Representative and Lead Counsel as Class Counsel. *Id.*, ¶4.

Nothing has changed since the Court's entry of the Preliminary Approval Order to alter the propriety of the Court's preliminary certification of the Settlement Class for settlement purposes. Thus, for all of the reasons stated in Lead Plaintiff's motion for preliminary approval (incorporated herein by reference), Lead Plaintiff respectfully requests that the Court affirm its preliminary certification and finally certify the Settlement Class for purposes of carrying out the Settlement pursuant to Fed. R. Civ. P. 23(a) and 23(b)(3), and appoint Lead Plaintiff as Class Representative and Lead Counsel as Class Counsel.

VI. NOTICE TO THE SETTLEMENT CLASS SATISFIES THE REQUIREMENTS OF RULE 23 AND DUE PROCESS

Rule 23 requires that notice of a settlement be "the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable

effort," Fed. R. Civ. P. 23(c)(2)(B), and that it be directed to class members in a "reasonable manner." Fed. R. Civ. P. 23(e)(1)(B). Notice of a settlement satisfies Rule 23(e) and due process where it fairly apprises "'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.'" *Wal-Mart Stores*, 396 F.3d at 114; *Vargas v. Capital One Fin. Advisors*, 559 F. App'x 22, 26-27 (2d Cir. 2014). Notice is adequate "if the average person understands the terms of the proposed settlement and the options provided to class members thereunder." *In re Merrill Lynch Tyco Rsch. Sec. Litig.*, 249 F.R.D. 124, 133 (S.D.N.Y. 2008) (citing *Wal-Mart Stores*, 396 F.3d at 114).

The Notice and the method used to disseminate the Notice to potential Settlement Class Members satisfy these standards. The Court-approved Notice and Proof of Claim Form (the "Notice Packet") amply inform Settlement Class Members of, among other things: (i) the pendency of the Action; (ii) the nature of the Action and the Settlement Class's claims; (iii) the essential terms of the Settlement; (iv) the proposed Plan; (v) Settlement Class Members' rights to request exclusion from the Settlement Class or object to the Settlement, the Plan, or the requested attorneys' fees or expenses; (vi) the binding effect of a judgment on Settlement Class Members; and (vii) information regarding Lead Counsel's motion for an award of attorneys' fees and expenses. The Notice also provides specific information regarding the date, time, and place of the Final Approval Hearing, and sets forth the procedures and deadlines for: (i) submitting a Proof of Claim Form; (ii) requesting exclusion from the Settlement Class; and (iii) objecting to any aspect of the Settlement, including the proposed Plan and the request for attorneys' fees and expenses.

The Notice also contains all the information required by the PSLRA, including: (i) a statement of the amount to be distributed, determined in the aggregate and on an average-per-share basis; (ii) a statement of the potential outcome of the case; (iii) a statement indicating the attorneys'

fees and expenses sought; (iv) identification and contact information of counsel; and (v) a brief statement explaining the reasons why the parties are proposing the Settlement.

In accordance with the Preliminary Approval Order, Gilardi & Co. LLC ("Gilardi"), the Court-approved Claims Administrator, commenced the mailing of the Notice Packet by First-Class Mail to potential Settlement Class Members, brokers, and nominees on June 13, 2022. As of August 18, 2022, 162,114 copies of the Notice Packet have been mailed. Murray Decl., ¶11. Gilardi also published the Summary Notice in *The Wall Street Journal* and transmitted it over *Business Wire*. *Id.*, ¶12, Ex. C. Additionally, Gilardi posted the Notice Packet, as well as other important documents, on the website maintained for the Settlement. *Id.*, ¶14.

The combination of individual First-Class Mail to all potential Settlement Class Members who could be identified with reasonable effort, supplemented by mailed notice to brokers and nominees and publication of the Summary Notice in a relevant, widely-circulated publication and internet newswire, was "the best notice . . . practicable under the circumstances." Fed. R. Civ. P. 23(c)(2)(B); *see also Padro v. Astrue*, 2013 WL 5719076, at *3 (E.D.N.Y. Oct. 18, 2013) ("'Notice need not be perfect, but need be only the best notice practicable under the circumstances, and each and every class member need not receive actual notice, so long as class counsel acted reasonably in choosing the means likely to inform potential class members.'"). Indeed, this method of providing notice has been routinely approved for use in securities class actions and other similar class actions. *E.g.*, *Christine Asia*, 2019 WL 5257534, at *16 (finding that direct First-Class Mail combined with print and Internet-based publication of settlement documents was "the best notice practicable under the circumstances"); *Dornberger v. Metro. Life Ins. Co.*, 203 F.R.D. 118, 123-24 (S.D.N.Y. 2001) (same).

VII. CONCLUSION

The $14.75 million Settlement obtained by Lead Plaintiff and Lead Counsel represents a very good recovery for the Settlement Class under the circumstances, particularly in light of the significant litigation risks Lead Plaintiff faced, including the very real risk of the Settlement Class receiving no recovery at all. For the foregoing reasons, Lead Plaintiff respectfully requests that the Court approve the proposed Settlement and Plan as fair, reasonable, and adequate, and overrule the objection.

DATED: August 19, 2022

Respectfully submitted,

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Lead Counsel for Lead Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury that on August 19, 2022, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the email addresses on the attached Electronic Mail Notice List, and I hereby certify that I caused the mailing of the foregoing via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

s/ VINCENT M. SERRA

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Mailing Information for a Case 1:18-cv-07796-VEC Samit v. CBS Corporation et al

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Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

John Lantz
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INDEX OF EXHIBITS TO MEMORANDUM OF LAW IN SUPPORT OF LEAD PLAINTIFF'S MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND APPROVAL OF PLAN OF ALLOCATION

DOCUMENT	EXHIBIT
Laarni T. Bulan & Laura E. Simmons, *Securities Settlement Class Action Settlements: 2021 Review and Analysis* (Cornerstone Research 2022)	A
Patel v. L-3 Commc'ns Holdings, Inc., et al., No. 1:14-cv-06038-VEC, ECF 163-8 (Order); ECF 160-1 (Notice) (S.D.N.Y Aug. 16. 2017)	B
City of Austin Police Ret. Sys. v. Kinross Gold Corp., et al., No. 1:12-cv-01203-VEC, ECF 206 (Order); ECF 200-1 (Notice) (Oct. 19, 2015)	C

EXHIBIT A

CORNERSTONE RESEARCH
Economic and Financial Consulting and Expert Testimony

Securities Class Action Settlements

2021 Review and Analysis

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Analyses in this report are based on 2,013 securities class actions filed after passage of the Private Securities Litigation Reform Act of 1995 (Reform Act) and settled from 1996 through year-end 2021. See page 16 for a detailed description of the research sample. For purposes of this report and related research, a settlement refers to a negotiated agreement between the parties to a securities class action that is publicly announced to potential class members by means of a settlement notice.

2021 Highlights

While the number of settlements increased in 2021 to a 10-year high, several key metrics declined below recent levels. The median total settlement amount decreased to $8.3 million. And, reversing a trend observed in recent years, median "simplified tiered damages" were 42% below the 2020 median value.

- There were 87 settlements, totaling $1.8 billion, in 2021. (page 3)
- The median settlement of $8.3 million fell 22% from 2020 (adjusted for inflation). (page 4)
- Almost 60% of cases (51) settled for less than $10 million, and of these, 14 cases settled for less than $2 million. (page 4)
- There were three mega settlements (equal to or greater than $100 million), ranging from $130 million to $187.5 million. (page 3)
- Median "simplified tiered damages" (among cases with Rule 10b-5 claims) was the lowest since 2017 and the second lowest in the last decade. (page 5)
- In 2021, the number of settlements in cases with only Section 11 and/or Section 12(a)(2) claims ('33 Act claims) was nearly double the annual average from 2017 to 2020. (page 7)
- The proportion of settled cases alleging Generally Accepted Accounting Principles (GAAP) violations in Rule 10b-5 cases was 32%, a record low among all post–Reform Act years. (page 9)
- The rate of settled cases involving a corresponding action by the U.S. Securities and Exchange Commission (SEC) was the lowest in the past decade. (page 11)
- The median time from filing to settlement hearing date was 2.6 years, compared to 3.0 years for 2012 to 2020. (page 13)

Figure 1: Settlement Statistics

(Dollars in millions)

	2016–2020	2019	2020	2021
Number of Settlements	395	75	77	87
Total Amount	$20,486.9	$2.227.5	$4,395.2	$1,787.7
Minimum	$0.3	$0.5	$0.3	$0.6
Median	$9.9	$11.7	$10.6	$8.3
Average	$51.9	$29.7	$57.1	$20.5
Maximum	$3,237.5	$413.0	$1,266.9	$187.5

Note: Settlement dollars are adjusted for inflation; 2021 dollar equivalent figures are presented.

Author Commentary

Findings

There was no slowdown in settlement activity in 2021, even with the backdrop of the COVID-19 pandemic, as the number of securities class action settlements increased to a 10-year high. Since the typical duration from case filing to settlement is approximately three years, the uptick in 2021 settlements is consistent with the unprecedented number of case filings in 2017–2019,[1] which is when the majority of these settled cases were filed.

The record number of cases settled in 2021, however, did not translate into higher total settlement dollars. Both total settlement dollars and median settlement amount declined to their lowest levels since 2017, reflecting an increase in the proportion of smaller settlements (i.e., less than $10 million) compared to prior years.

The decline in settlement sizes can largely be attributed to lower estimates of our proxy for economic losses borne by shareholders, or "simplified tiered damages." Moreover, median issuer defendant total assets were more than 45% smaller for cases settled in 2021 compared to those settled in 2020.

Weaker cases may have contributed to the reduced settlement values as well. For example, the proportion of settled cases alleging a GAAP violation or involving a related SEC action were at record-low levels. Both of these factors are typically associated with higher settlement amounts and are sometimes considered proxies for stronger cases.[2] In addition, the frequency of other factors that our research finds are associated with higher settlement amounts, such as the involvement of an institutional investor as lead plaintiff or the presence of a parallel derivative action, were among the lowest observed in the last decade.

The mix of cases that settled in 2021 had smaller estimates of potential shareholder losses and lacked many of the plus factors that often contribute to higher settlement outcomes.

Dr. Laarni T. Bulan
Principal, Cornerstone Research

Similarly, our research finds that the number of docket entries—a proxy for the time and effort expended by plaintiff counsel and/or case complexity—is positively associated with settlement amounts. The average number of docket entries for cases settled in 2021 was the lowest in the last five years.

Undeterred by the challenges of the pandemic, securities class action settlements occurred in larger numbers and were resolved more quickly than observed in prior years. The increase in the number of settlements also reflects the unusually high rate of case filings when many of these settled cases were first initiated.

Dr. Laura E. Simmons
Senior Advisor, Cornerstone Research

Looking Ahead

We expect heightened settlement activity to continue in upcoming years given the elevated number of case filings in 2018–2020 compared to earlier years,[3] assuming no increases in dismissal rates. The higher number of smaller settlements observed in 2021 could also continue due to the decline in the median disclosure dollar loss (another proxy for shareholder losses) among case filings during the same time frame (2018–2020).

Several recent trends in case allegations have been observed in case filings since 2017, such as allegations related to cybersecurity, cryptocurrency, cannabis, COVID-19, and special purpose acquisition companies (SPACs).[4] We continue to see a small number of these cases settling, but a large portion remains active. In addition, the spike in SPAC filings in 2021, as shown in Cornerstone Research's *Securities Class Action Filings—2021 Year in Review*, is likely to affect settlement trends in future years.

—*Laarni T. Bulan and Laura E. Simmons*

Total Settlement Dollars

As has been observed in prior years, the presence or absence of just a few very large settlements can have an outsized effect on total reported settlement dollars.

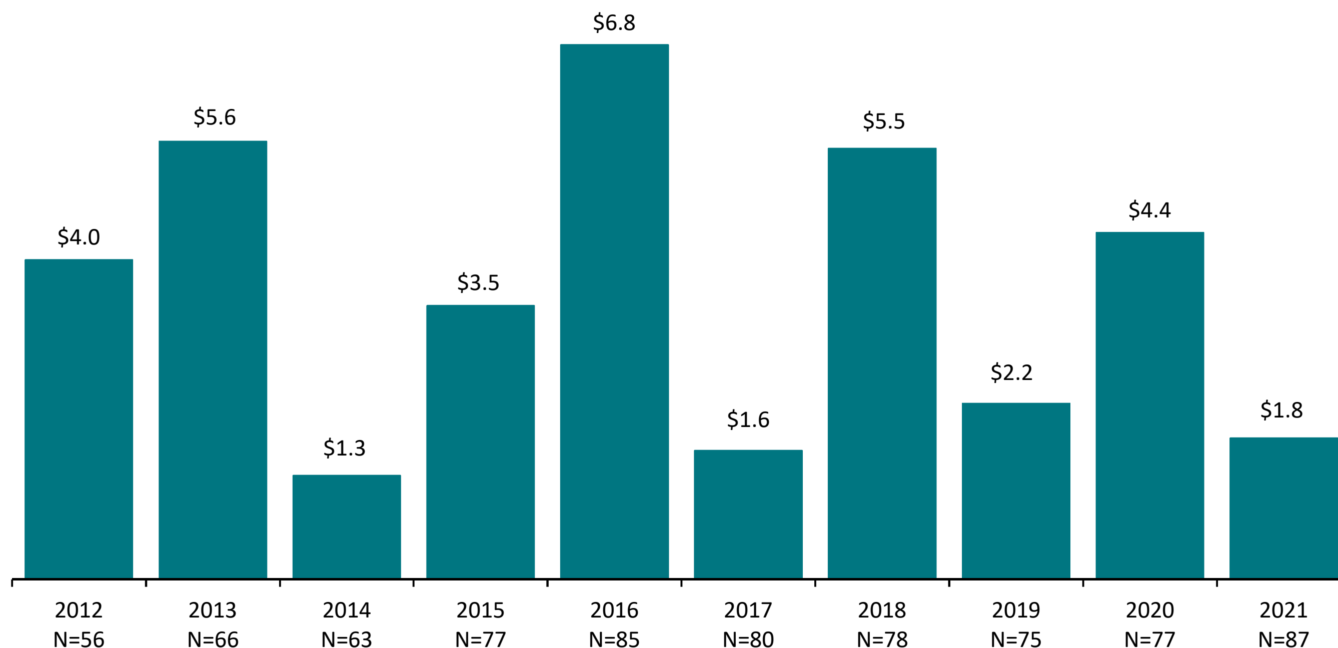
- In 2021, the absence of these very large settlements contributed to a nearly 60% decline in total settlement dollars from the prior year (adjusted for inflation).
- There were three mega settlements (equal to or greater than $100 million) in 2021, ranging from $130 million to $187.5 million. The maximum settlement value of $187.5 million in 2021 is the lowest maximum value in the last decade.

The number of settlements in 2021 reached a 10-year high.

- Only 25% of total settlement dollars in 2021 came from mega settlements, the lowest percentage in the last decade. *(See Appendix 4 for additional information on mega settlements.)*
- The number of settlements in 2021 (87 cases) represented a 19% increase from the prior nine-year average (73 cases).

Figure 2: Total Settlement Dollars
2012–2021

(Dollars in billions)



Note: Settlement dollars are adjusted for inflation; 2021 dollar equivalent figures are presented. "N" refers to the number of cases.

Settlement Size

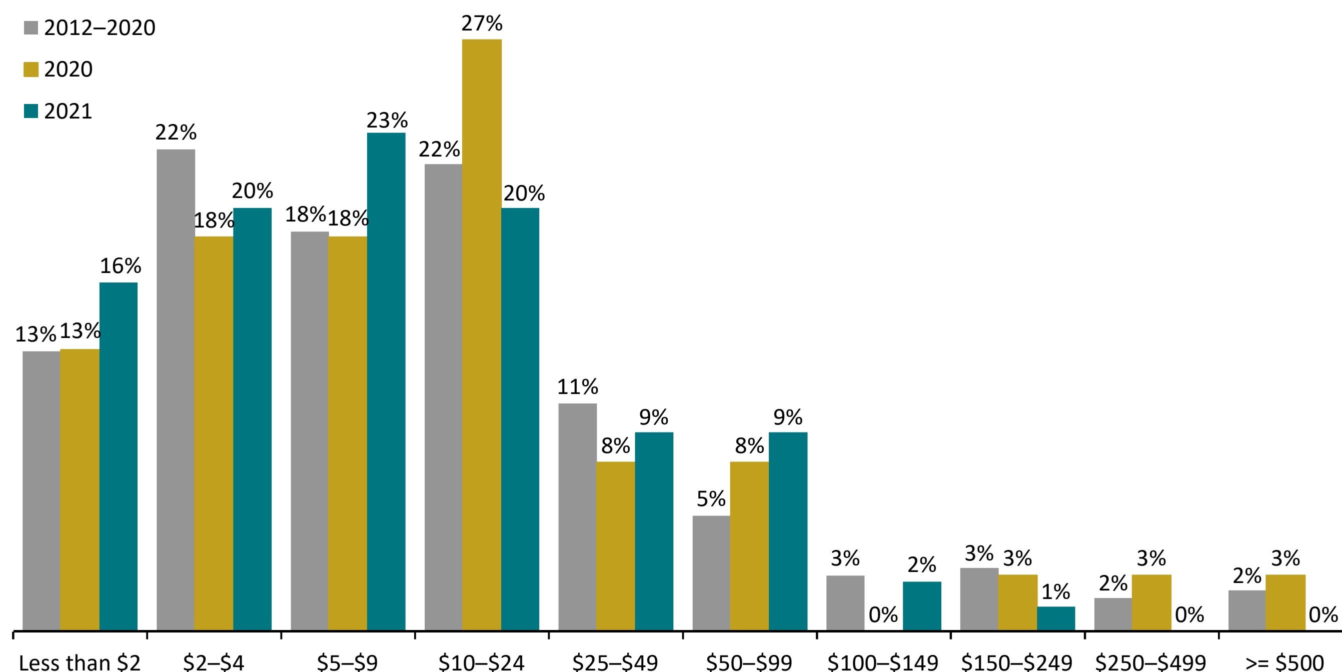
- The median settlement amount in 2021 was $8.3 million, a 22% decline from 2020 (adjusted for inflation), and a 10% decline from the 2012–2020 median.
- There were 14 cases that settled for less than $2 million in 2021 (historically referred to by commentators as nuisance suits).[5] This compares to an annual average of 10 such settlements during the 2012–2020 period.
- Both the average settlement and median settlement amounts in 2021 were the lowest since 2017. *(See Appendix 1 for an analysis of settlements by percentiles.)*

Nearly 60% of settlements in 2021 were for less than $10 million.

- As noted in prior research, three law firms (The Rosen Law Firm, Pomerantz LLP, and Glancy Prongay & Murray LLP) have accounted for more than half of securities class action filings in recent years, and those filings have been dismissed at a higher rate overall than those with other lead plaintiff counsel.[6] For cases that progressed to a settlement in 2021 with one or more of these three firms acting as lead counsel, the median settlement amount was 76% lower than the median for cases involving other lead plaintiff counsel. These three firms were involved as lead counsel in 31 settled cases in 2021, compared to 19 in 2020.

Figure 3: Distribution of Settlements
2012–2021

(Dollars in millions)



Type of Claim

Rule 10b-5 Claims and "Simplified Tiered Damages"

"Simplified tiered damages" uses simplifying assumptions to estimate per-share damages and trading behavior for cases involving Rule 10b-5 claims. It provides a measure of potential shareholder losses that allows for consistency across a large volume of cases, thus enabling the identification and analysis of potential trends.[7]

Cornerstone Research's prediction model finds this measure to be the most important factor in predicting settlement amounts.[8] However, this measure is not intended to represent actual economic losses borne by shareholders. Determining any such losses for a given case requires more in-depth economic analysis.

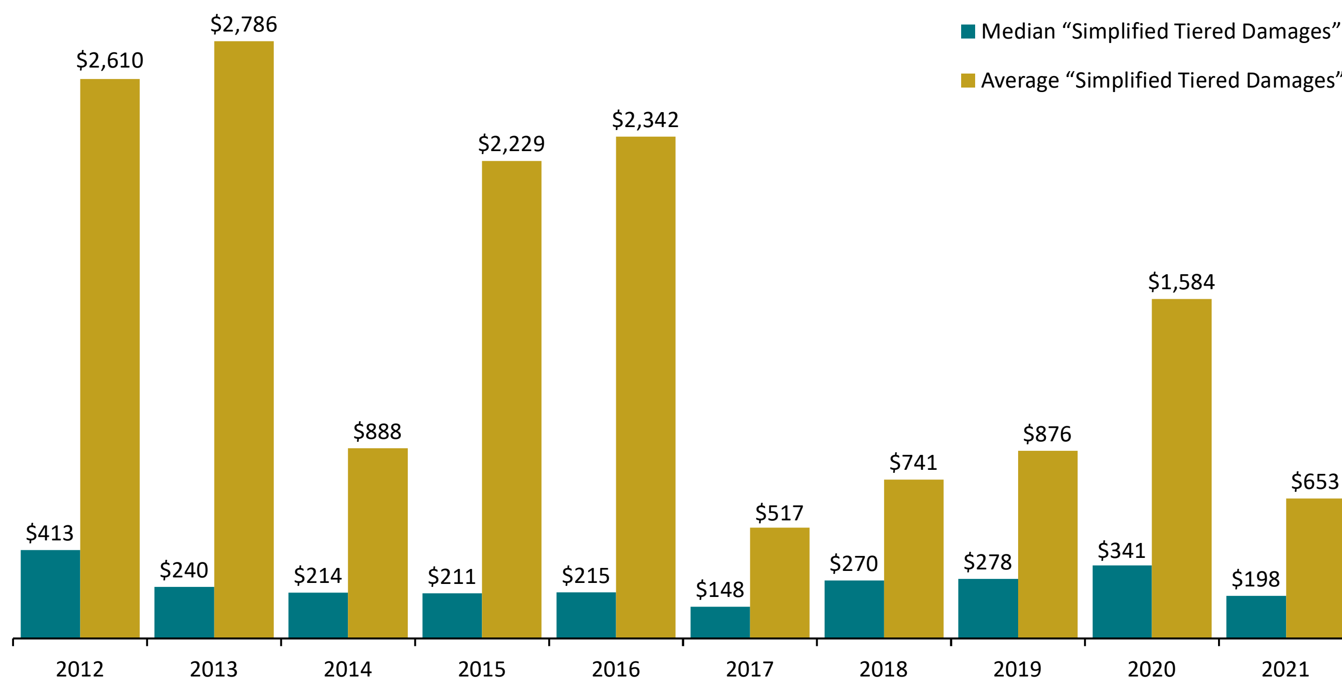
- Similar to settlement amounts, the average "simplified tiered damages" in 2021 declined to the lowest level since 2017. *(See Appendix 5 for additional information on median and average settlements as a percentage of "simplified tiered damages.")*

Median "simplified tiered damages" was the lowest since 2017 and the second lowest in the last decade.

- Median values provide the midpoint in a series of observations and are less affected than averages by outlier data. The decrease in median "simplified tiered damages" in 2021 indicates a decline in the number of larger cases relative to 2020 (e.g., cases with "simplified tiered damages" exceeding $250 million).
- Smaller "simplified tiered damages" are typically associated with smaller issuer defendants (measured by total assets or market capitalization of the issuer). However, the median market capitalization of issuer defendants[9] in settled cases increased 30% over 2020, in part reflecting the upward market trend through the end of 2021.

Figure 4: Median and Average "Simplified Tiered Damages" in Rule 10b-5 Cases
2012–2021

(Dollars in millions)

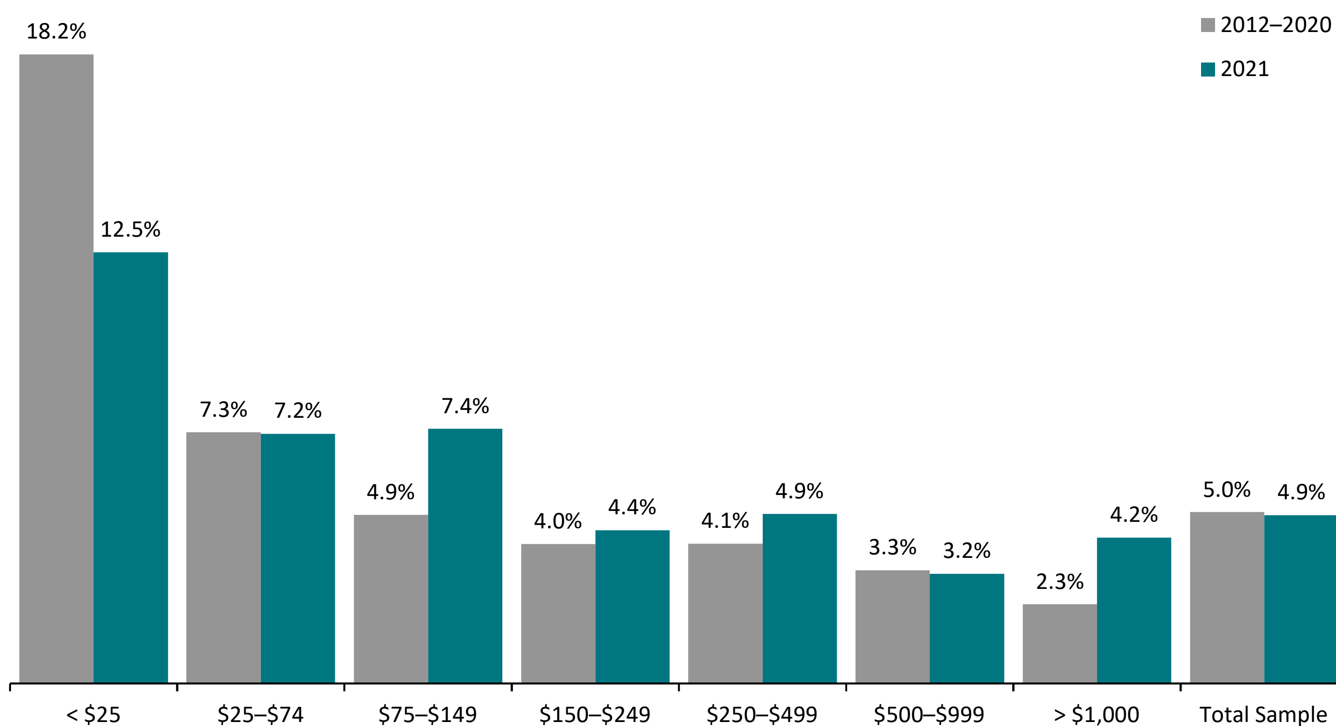


Note: "Simplified tiered damages" are adjusted for inflation based on class period end dates for common stock only; 2021 dollar equivalent figures are presented. Damages are estimated for cases alleging a claim under Rule 10b-5 (whether alone or in addition to other claims).

- Cases with larger "simplified tiered damages" are more likely to be associated with factors such as institutional lead plaintiffs, related SEC actions, or criminal charges. *(See Analysis of Settlement Characteristics on pages 9–12 for additional discussion of these factors.)*
- Among cases with Rule 10b-5 claims, the median class period length declined 20% in 2021 from the median class period length observed in 2020, explaining, in part, the relatively low median "simplified tiered damages."
- Fourteen settlements in 2021 had "simplified tiered damages" less than $25 million, the largest proportion of such cases in more than 15 years.
- Cases with less than $25 million in "simplified tiered damages" typically settle more quickly. In 2021, these cases settled within 2.5 years on average, compared to about four years for cases with "simplified tiered damages" greater than $500 million.
- Half of the cases settled in 2021 with "simplified tiered damages" of less than $25 million involved issuers that had been delisted from a major exchange and/or declared bankruptcy prior to settlement.
- Very large cases (more than $1 billion in "simplified tiered damages") typically settle for a smaller percentage of such damages. However, compared to cases with "simplified tiered damages" between $150 million and $1 billion, this pattern did not hold in 2021.

Figure 5: Median Settlements as a Percentage of "Simplified Tiered Damages" by Damages Ranges in Rule 10b-5 Cases 2012–2021

(Dollars in millions)



Note: Damages are estimated for cases alleging a claim under Rule 10b-5 (whether alone or in addition to other claims).

’33 Act Claims and “Simplified Statutory Damages”

For ’33 Act claim cases—those involving only Section 11 and/or Section 12(a)(2) claims—shareholder losses are estimated using a model in which the statutory loss is the difference between the statutory purchase price and the statutory sales price, referred to here as “simplified statutory damages.” Only the offered shares are assumed to be eligible for damages.[10]

“Simplified statutory damages” are typically smaller than “simplified tiered damages,” in part reflecting differences in the methodologies used to estimate alleged damages per share, as well as differences in the shares eligible to be damaged. As such, settlements as a percentage of “simplified statutory damages” may be higher than the percentages observed among Rule 10b-5 settlements.

- However, for the first time since 2014, the median settlement as a percentage of “simplified statutory damages” was lower than the median settlement as a percentage of “simplified tiered damages.” In 2021, the median settlement as a percentage of “simplified statutory damages” was 4.4%, 10% lower than the median “simplified tiered damages” of 4.9%. *(See Appendix 6 for additional information on median and average settlements as a percentage of “simplified statutory damages.”)*

The median settlement value for ’33 Act claim cases in 2021 was $8.4 million, largely unchanged from 2020 ($8.6 million).

- In 2021, the number of settlements in cases with only ’33 Act claims was nearly double the annual average from 2017 to 2020.
- Cases involving ’33 Act claims typically resolve more quickly than cases involving Rule 10b-5 (Exchange Act) claims. In 2021, however, the median interval from filing date to settlement hearing date for both case types narrowed to within 10%.

Figure 6: Settlements by Nature of Claims
2012–2021
(Dollars in millions)

	Number of Settlements	Median Settlement	Median “Simplified Statutory Damages”	Median Settlement as a Percentage of “Simplified Statutory Damages”
Section 11 and/or Section 12(a)(2) Only	77	$8.9	$142.2	7.6%

	Number of Settlements	Median Settlement	Median “Simplified Tiered Damages”	Median Settlement as a Percentage of “Simplified Tiered Damages”
Both Rule 10b-5 and Section 11 and/or Section 12(a)(2)	116	$16.0	$406.9	6.1%
Rule 10b-5 Only	543	$7.9	$215.2	4.8%

Note: Settlement dollars and damages are adjusted for inflation; 2021 dollar equivalent figures are presented.

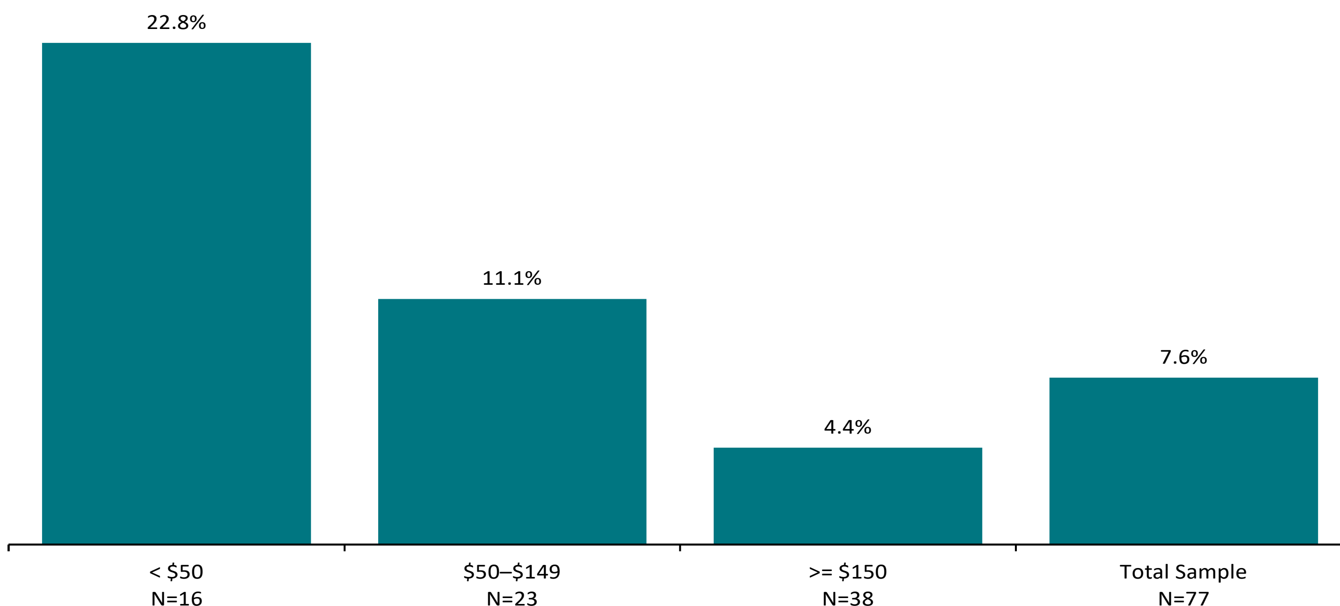
- More than 80% of cases with only ’33 Act claims involved an initial public offering (IPO).
- In 2021, 88% of the settled ’33 Act claim cases involved an underwriter (or underwriters) as a named codefendant.
- Among those cases with identifiable contributions, D&O liability insurance provided, on average, more than 90% of the total settlement fund for ’33 Act claim cases from 2012 to 2021.[11]
- Median “simplified statutory damages” in 2021 was the highest since 2014, and double the median in 2020.

As noted in previous reports, the March 2018 U.S. Supreme Court decision in *Cyan Inc. v. Beaver County Employees Retirement Fund* (*Cyan*) held that ’33 Act claim securities class actions could be brought in state court. While ’33 Act claim cases had often been brought in state courts before *Cyan*, filing rates in state courts increased substantially following this ruling. This trend reversed, however, following the March 2020 Delaware Supreme Court decision in *Salzberg v. Sciabacucchi* upholding the validity of federal forum-selection provisions in corporate charters.[12]

- In 2021, among ’33 Act claim only cases filed post-*Cyan* but prior to the *Sciabacucchi* ruling, 13 have settled, six of which were filed in state court.[13]
- In the years since the *Cyan* decision, an increase in the number of overlapping or parallel suits has been observed—for example, a ’33 Act claim case filed in state court that is related to a Rule 10b-5 claim case filed in federal court.[14] The number of these overlapping suits that settled in 2021 was nearly triple the average from 2017 to 2020.

Figure 7: Median Settlements as a Percentage of “Simplified Statutory Damages” by Damages Ranges in ’33 Act Claim Cases 2012–2021

(Dollars in millions)



Jurisdictions of Settlements of ’33 Act Claim Cases

	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
State Court	1	1	0	2	4	5	4	4	7	6
Federal Court	3	7	2	3	6	3	4	5	1	10

Note: “N” refers to the number of cases. Table does not include parallel suits.

Analysis of Settlement Characteristics

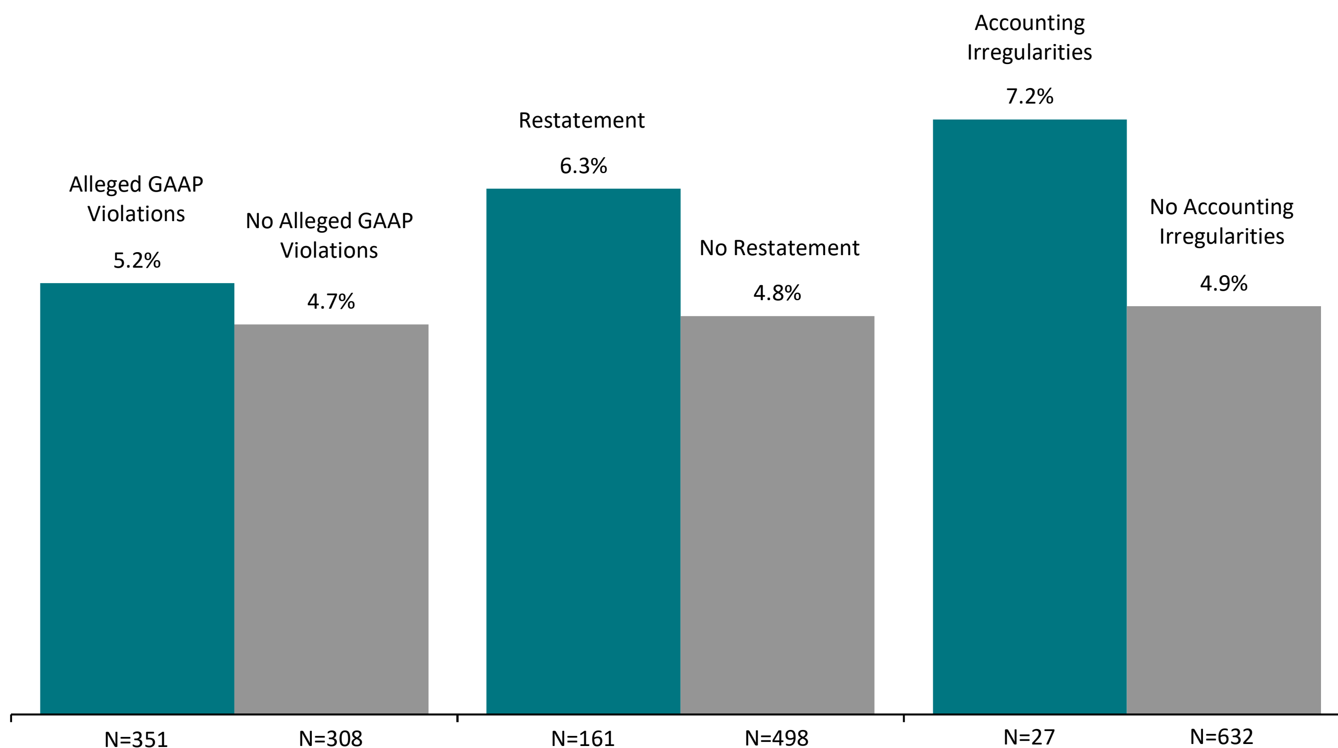
GAAP Violations

This analysis examines allegations of GAAP violations in settlements of securities class actions involving Rule 10b-5 claims, including two sub-categories of GAAP violations—financial statement restatements and accounting irregularities.[15] For further details regarding settlements of accounting cases, see Cornerstone Research's annual report on *Accounting Class Action Filings and Settlements*.[16]

- In 2021, median "simplified tiered damages" for cases involving GAAP allegations were 38% higher than the 2012–2020 median for such cases.
- As this research has observed, settlements as a percentage of "simplified tiered damages" for cases involving GAAP allegations are typically higher than for non-GAAP cases. This is true even as the rate of accounting allegations has declined in recent years. For example, only 14% of settlements in 2021 involved a restatement of financial statements.
- The frequency of an outside auditor codefendant has declined substantially in recent years. In 2021, an outside auditor was a codefendant in just 3% of settlements.
- The frequency of reported accounting irregularities among settlements from 2017 to 2021 was also low, at just 3.5% of cases. Of those cases, more than 50% also involved criminal charges/indictments related to the allegations in the class action.

The proportion of settled cases in 2021 with Rule 10b-5 claims alleging GAAP violations was 32%, an all-time low among all post–Reform Act years.

Figure 8: Median Settlements as a Percentage of "Simplified Tiered Damages" and Allegations of GAAP Violations 2012–2021



Note: "N" refers to the number of cases.

Derivative Actions

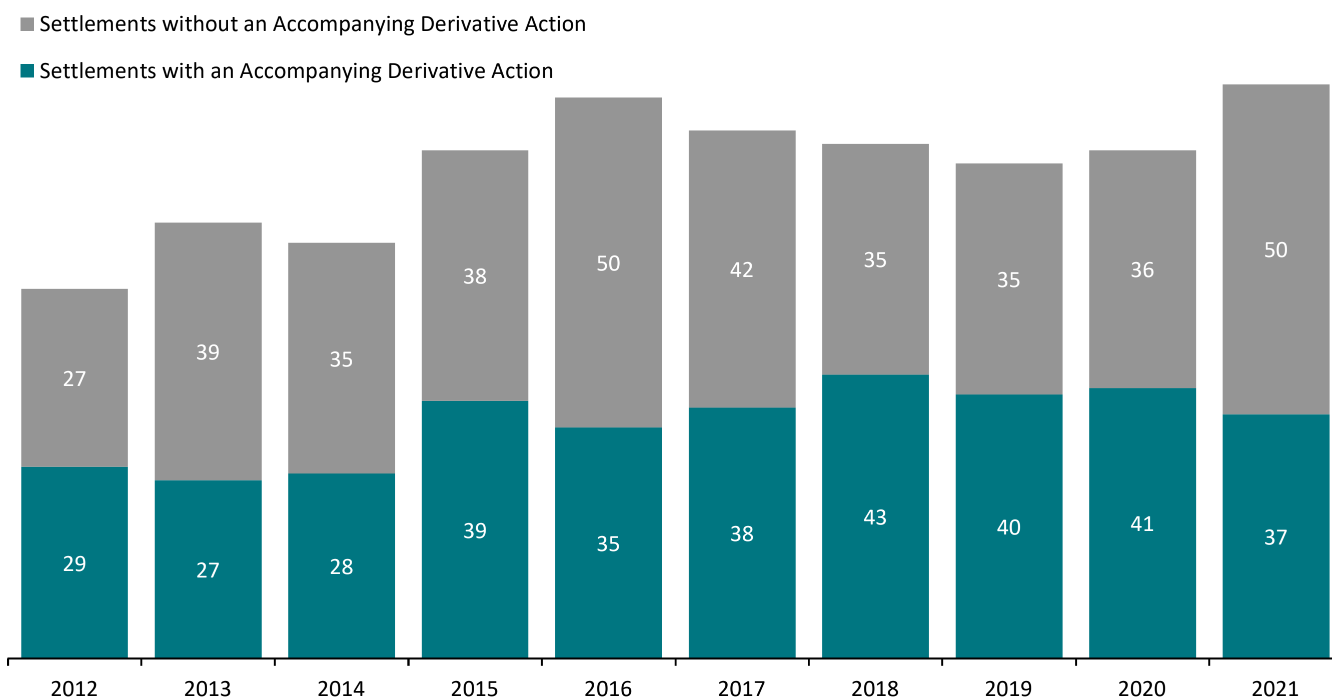
Historically, settled cases involving an accompanying derivative action have been associated with both larger cases (measured by "simplified tiered damages") and larger settlement amounts. For example, from 2012 to 2020, the median settlement for cases with an accompanying derivative action was nearly 45% higher than for cases without a derivative action.

- However, in 2021, the median settlement for cases with an accompanying derivative action was $8.5 million compared to $7.5 million for cases without a derivative action, a difference of 13%.
- In 2021, median "simplified tiered damages" for settled cases with an accompanying derivative action was more than double the median for cases without an accompanying derivative action.

In 2021, 43% of settled cases involved an accompanying derivative action, the lowest rate in the last five years.

- For cases settled during 2017–2021, nearly one-third of parallel derivative suits were filed in Delaware. California and New York were the next most common venues for such actions, representing 22% and 13% of such settlements, respectively.

Figure 9: Frequency of Derivative Actions
2012–2021



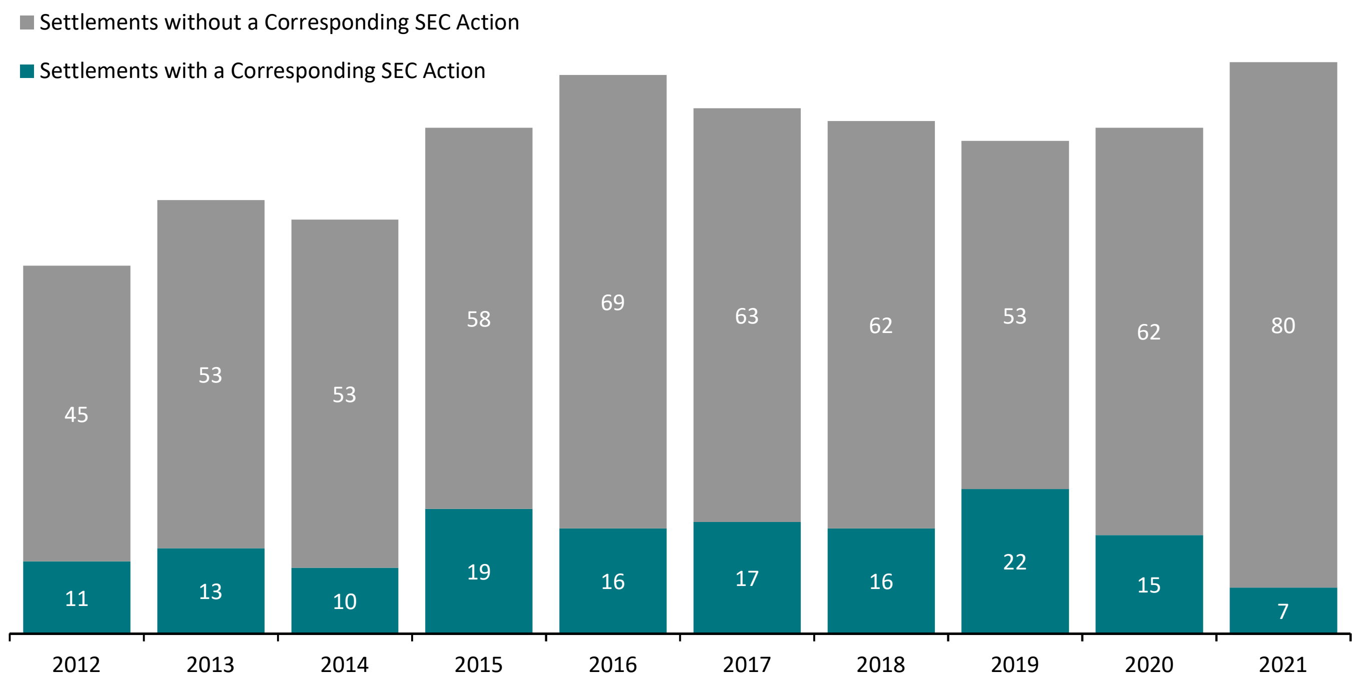
Corresponding SEC Actions

- Cases with an SEC action related to the allegations are typically associated with substantially higher settlement amounts.[17]
- In 2021, median settlement amounts for cases that involved a corresponding SEC action were double the median for cases without such an action.
- Settled cases in 2021 with a corresponding SEC action took more than 30% longer to reach settlement compared to cases without such an action. *(See page 13 for additional discussion.)*

In 2021, the number of settled cases involving a corresponding SEC action was the lowest in the past decade

- The dramatic decline in corresponding SEC actions (Figure 10) may reflect, in part, the decline in SEC enforcement activity during the filing date years associated with 2021 settlements. For additional details, see Cornerstone Research's *SEC Enforcement Activity: Public Company and Subsidiaries—FY 2021 Update*.
- Cases involving corresponding SEC actions may also include related criminal charges in connection with the allegations covered by the underlying class action. From 2017 to 2021, 40% of settled cases with an SEC action had related criminal charges.[18]

Figure 10: Frequency of SEC Actions
2012–2021



Institutional Investors

As is well known, increasing institutional participation in litigation as lead plaintiffs was a focus of the Reform Act.[19] Institutional investors are often involved in larger cases, that is, cases with higher "simplified tiered damages" and higher total assets.

- In 2021, for cases involving an institutional investor as lead plaintiff, median "simplified tiered damages" and median total assets were six times and 11 times higher, respectively, than the median values for cases without an institutional investor in a lead role.
- The involvement of an institutional investor as a lead plaintiff is correlated with specific law firms serving as lead plaintiff counsel. For example, over the last five years, an institutional investor served as lead plaintiff in 86% of the settled cases in which Robbins Geller Rudman & Dowd LLP and/or Bernstein Litowitz Berger & Grossman LLP served as lead plaintiff counsel. In comparison, an institutional investor served as lead plaintiff in only 15% of cases in which The Rosen Law Firm, Pomerantz, or Glancy served as lead counsel.

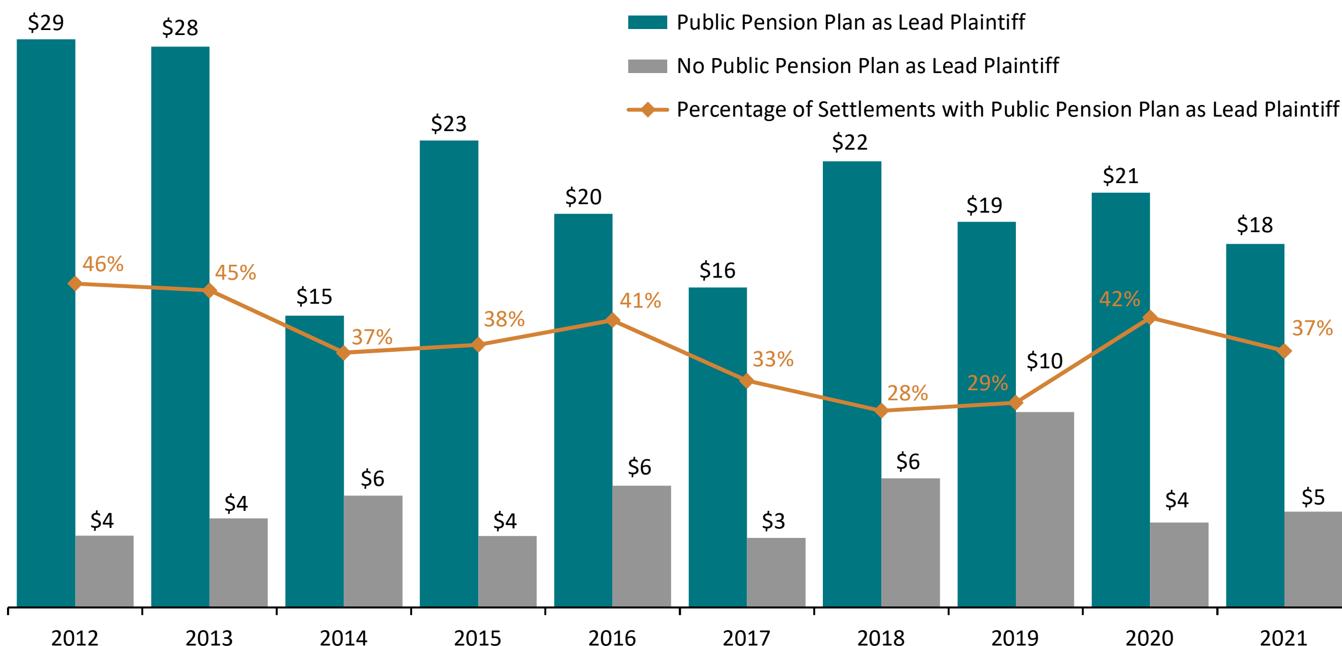
Since passage of the Reform Act, public pension plans have been the most frequent type of institutional lead plaintiff, and the presence of a public pension acting as a lead plaintiff is associated with higher settlement amounts. *(See page 15 for further discussion of factors that influence settlement outcomes.)*

- For example, for cases settled in 2021, public pension plans served as lead plaintiffs in almost 76% of cases involving institutions, while union funds appeared as lead plaintiffs in less than 10% of these cases.
- Public pensions are also more likely to be lead plaintiffs in cases involving more established publicly traded issuers. In 2021 settled cases, the median age from IPO to the filing date for cases with a public pension lead plaintiff was more than 8.5 years compared to a median of 4.3 years for cases without a public pension lead.

Among cases settled in 2021, institutional investor lead plaintiff appointments were among the lowest in more than 15 years.

Figure 11: Median Settlement Amounts and Public Pension Plans
2012–2021

(Dollars in millions)



Note: Settlement dollars are adjusted for inflation; 2021 dollar equivalent figures are presented.

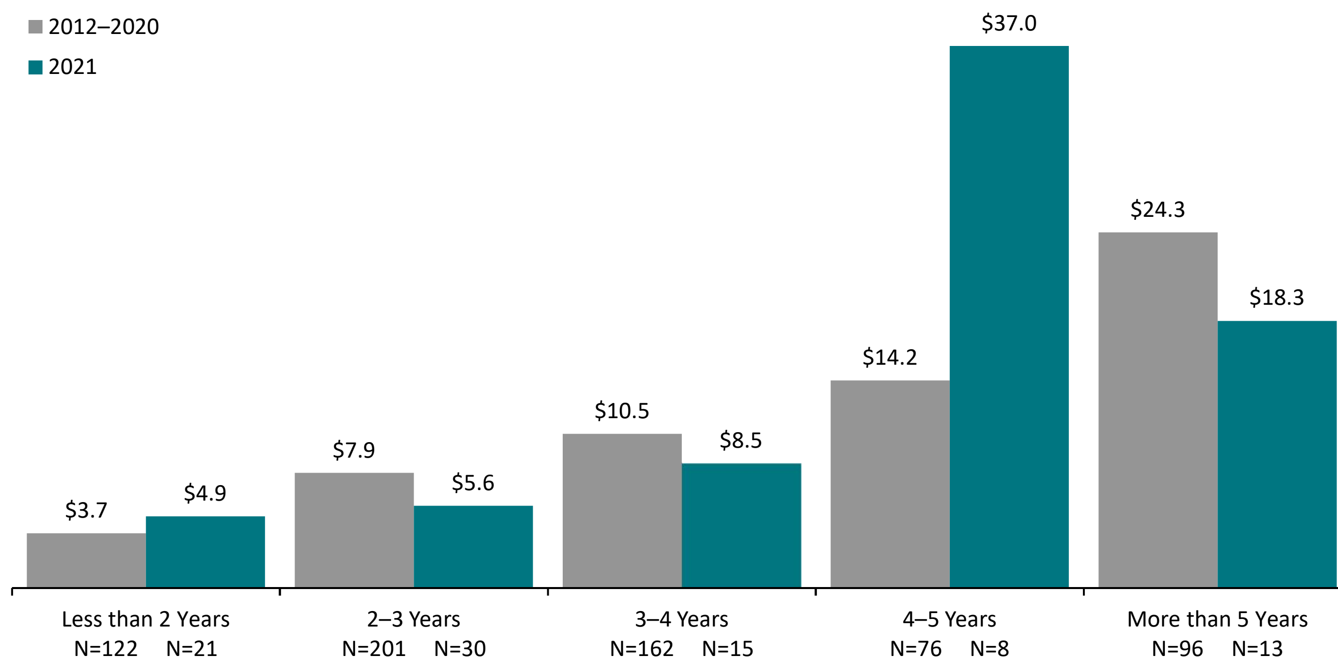
Time to Settlement and Case Complexity

- The median time from filing to settlement hearing date was 2.6 years for 2021 settlements, compared to 3.0 years for 2012–2020 settlements. This decline in the time to reach settlement was largely driven by the Ninth Circuit, where the median time to settlement declined by almost 40% in 2021.
- Larger cases (as measured by "simplified tiered damages") often take longer to resolve. Consistent with this, in 2021 all three mega settlements took at least three years to reach a settlement hearing date.

Over 55% of cases in 2021 reached a settlement hearing date within three years of filing, compared to under 45% in 2020.

- In 2021, for cases that took at least three years to settle, median "simplified tiered damages" were more than five times higher for settlements with an institutional lead plaintiff than for those without an institutional lead plaintiff.
- Reflecting both the smaller dollar amounts and the shorter interval from filing date to settlement hearing date among 2021 settlements, the number of docket entries for these cases declined, on average, 26% from the prior year.[20]

Figure 12: Median Settlement by Duration from Filing Date to Settlement Hearing Date
2012–2021
(Dollars in millions)



Note: Settlement dollars are adjusted for inflation; 2021 dollar equivalent figures are presented. "N" refers to the number of cases.

Case Stage at the Time of Settlement

In collaboration with Stanford Securities Litigation Analytics (SSLA),[21] this report analyzes settlements in relation to the stage in the litigation process at the time of settlement.

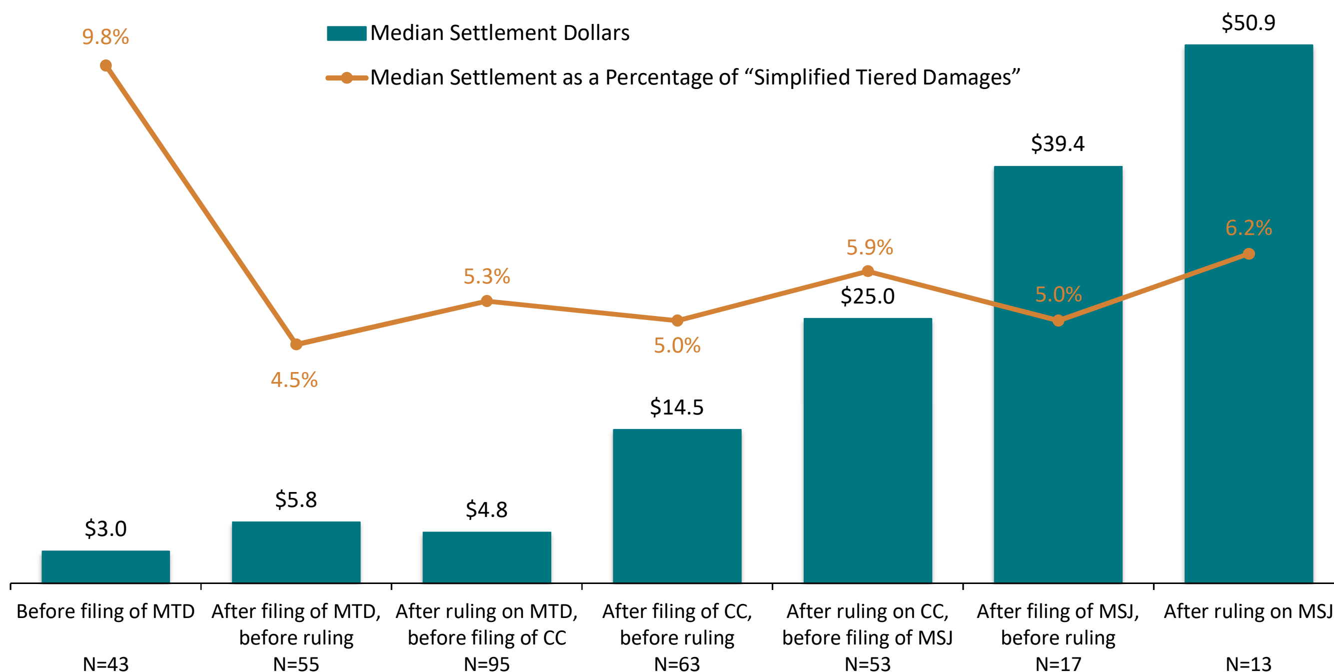
- Despite the overall smaller size of cases settled in 2021 and the shorter time to reach settlement, the stage at which cases settled remained largely unchanged. For example, in 2021, more than 60% of cases were resolved before a motion for class certification was filed, compared to 57% for 2017–2020 settlements.
- Similarly, approximately 20% of settlements in 2021 reached settlement sometime after a ruling on a motion for class certification, compared to 24% for 2017–2020 settlements.

Once a motion for class certification was filed, the median interval to the settlement hearing date for 2021 settlements was around 1.5 years.

- In 2021, cases that settled after a motion for class certification was filed were substantially larger than cases that settled at earlier stages. In particular, median "simplified tiered damages" for cases settling after a motion for class certification had been filed was more than eight times the median for cases that resolved prior to such a motion.
- Cases settling at later stages in 2021 were also larger in terms of issuer size. Specifically, the median issuer-reported total assets for 2021 cases that settled after the filing of a motion for summary judgment was more than five times the median for cases that settled prior to such a motion being filed.

Figure 13: Median Settlement Dollars and Resolution Stage at Time of Settlement 2017–2021

(Dollars in millions)



Note: Settlement dollars are adjusted for inflation; 2021 dollar equivalent figures are presented. "N" refers to the number of cases. MTD refers to "motion to dismiss," CC refers to "class certification," and MSJ refers to "motion for summary judgment." This analysis is limited to cases alleging Rule 10b-5 claims.

Cornerstone Research's Settlement Prediction Analysis

This research applies regression analysis to examine the relationships between settlement outcomes and certain securities case characteristics. Regression analysis is employed to better understand and predict the total settlement amount, given the characteristics of a particular securities case. Regression analysis can also be applied to estimate the probabilities associated with reaching alternative settlement levels. It can also be helpful in exploring hypothetical scenarios, including how the presence or absence of particular factors affects predicted settlement amounts.

Determinants of Settlement Outcomes

Based on the research sample of cases that settled from January 2006 through December 2021, the factors that were important determinants of settlement amounts included the following:

- "Simplified tiered damages"
- Maximum Dollar Loss (MDL)—market capitalization change from its class period peak to post-disclosure value
- Most recently reported total assets of the issuer defendant firm
- Number of entries on the lead case docket
- Whether there were accounting allegations
- Whether there was a corresponding SEC action against the issuer, other defendants, or related parties
- Whether there were criminal charges against the issuer, other defendants, or related parties with similar allegations to those included in the underlying class action complaint
- Whether there was an accompanying derivative action
- Whether an outside auditor was named as a codefendant
- Whether Section 11 and/or Section 12(a) claims were alleged in addition to Rule 10b-5 claims
- Whether the issuer defendant was distressed
- Whether a public pension was a lead plaintiff
- Whether securities, in addition to common stock, were included in the alleged class

Regression analyses show that settlements were higher when "simplified tiered damages," MDL, issuer defendant asset size, or the number of docket entries was larger, or when Section 11 and/or Section 12(a) claims were alleged in addition to Rule 10b-5 claims.

Settlements were also higher in cases involving accounting allegations, a corresponding SEC action, criminal charges, an accompanying derivative action, a public pension involved as lead plaintiff, an outside auditor named as a codefendant, or securities in addition to common stock included in the alleged class.

Settlements were lower if the issuer was distressed.

More than 74% of the variation in settlement amounts can be explained by the factors discussed above.

Research Sample

- The database compiled for this report is limited to cases alleging Rule 10b-5, Section 11, and/or Section 12(a)(2) claims brought by purchasers of a corporation's common stock. The sample contains cases alleging fraudulent inflation in the price of a corporation's common stock.
- Cases with alleged classes of only bondholders, preferred stockholders, etc., cases alleging fraudulent depression in price, and mergers and acquisitions cases are excluded. These criteria are imposed to ensure data availability and to provide a relatively homogeneous set of cases in terms of the nature of the allegations.
- The current sample includes 2,013 securities class actions filed after passage of the Reform Act (1995) and settled from 1996 through 2021. These settlements are identified based on a review of case activity collected by Securities Class Action Services LLC (SCAS).[22]
- The designated settlement year, for purposes of this report, corresponds to the year in which the hearing to approve the settlement was held.[23] Cases involving multiple settlements are reflected in the year of the most recent partial settlement, provided certain conditions are met.[24]

Data Sources

In addition to SCAS, data sources include Dow Jones Factiva, Bloomberg, the Center for Research in Security Prices (CRSP) at University of Chicago Booth School of Business, Standard & Poor's Compustat, Refinitiv Eikon, court filings and dockets, SEC registrant filings, SEC litigation releases and administrative proceedings, LexisNexis, Stanford Securities Litigation Analytics (SSLA), Securities Class Action Clearinghouse (SCAC), and public press.

Endnotes

[1] *Securities Class Action Filings—2021 Year in Review*, Cornerstone Research (2022).

[2] See, for example, Stephen J. Choi, "Do the Merits Matter Less after the Private Securities Litigation Reform Act?," *Journal of Law, Economics, and Organization* 23, no. 3 (2007).

[3] *Securities Class Action Filings—2021 Year in Review*, Cornerstone Research (2022).

[4] *Securities Class Action Filings—2021 Year in Review*, Cornerstone Research (2022).

[5] See, for example, Stephen J. Choi, Karen K. Nelson, and Adam C. Pritchard, "The Screening Effect of the Private Securities Litigation Reform Act," Law & Economics Working Paper, University of Michigan Law School (2007).

[6] *Securities Class Action Filings—2021 Year in Review*, Cornerstone Research (2022).

[7] The "simplified tiered damages" approach used for purposes of this settlement research does not examine the mix of information associated with the specific dates listed in the plan of allocation, but simply applies the stock price movements on those dates to an estimate of the "true value" of the stock during the alleged class period (or "value line"). This proxy for damages utilizes an estimate of the number of shares damaged based on reported trading volume and the number of shares outstanding. Specifically, reported trading volume is adjusted using volume reduction assumptions based on the exchange on which the issuer defendant's common stock is listed. No adjustments are made to the underlying float for institutional holdings, insider trades, or short-selling activity during the alleged class period. Because of these and other simplifying assumptions, the damages measures used in settlement outcome modeling may be overstated relative to damages estimates developed in conjunction with case-specific economic analysis.

[8] Laarni T. Bulan, Ellen M. Ryan, and Laura E. Simmons, *Estimating Damages in Settlement Outcome Modeling*, Cornerstone Research (2017).

[9] Median market capitalization as of the most recent quarter-end prior to the settlement hearing date.

[10] The statutory purchase price is the lesser of the security offering price or the security purchase price. Prior to the first complaint filing date, the statutory sales price is the price at which the security was sold. After the first complaint filing date, the statutory sales price is the greater of the security sales price or the security price on the first complaint filing date. Similar to "simplified tiered damages," the estimation of "simplified statutory damages" makes no adjustments to the underlying float for institutional holdings, insider trades, or short-selling activity.

[11] Based on data for cases where the amount contributed by the D&O liability insurer was verified in settlement materials and/or the issuer defendant's SEC filings—approximately 83% of all '33 Act claims cases. Data are supplemented with additional observations from the SSLA.

[12] *Securities Class Action Filings—2021 Year in Review*, Cornerstone Research (2022).

[13] This calculation excludes settlements with both '33 Act claims filed in state court and Rule 10b-5 claims filed in federal court.

[14] In some instances, the federal action also includes '33 Act claims.

[15] The three categories of accounting issues analyzed in Figure 8 of this report are (1) GAAP violations; (2) restatements—cases involving a restatement (or announcement of a restatement) of financial statements; and (3) accounting irregularities—cases in which the defendant has reported the occurrence of accounting irregularities (intentional misstatements or omissions) in its financial statements.

[16] *Accounting Class Action Filings and Settlements—2021 Review and Analysis*, Cornerstone Research (2022), forthcoming in spring 2022.

[17] As noted previously, it could be that the merits in such cases are stronger, or simply that the presence of a corresponding SEC action provides plaintiffs with increased leverage when negotiating a settlement. For purposes of this research, an SEC action is evidenced by the presence of a litigation release or an administrative proceeding posted on www.sec.gov involving the issuer defendant or other named defendants with allegations similar to those in the underlying class action complaint.

[18] Identification of a criminal charge and/or criminal indictment based on review of SEC filings and public press. For purposes of this research, criminal charges and/or indictments are collectively referred to as "criminal charges."

[19] See, for example, Michael A. Perino, "Have Institutional Fiduciaries Improved Securities Class Actions? A Review of the Empirical Literature on the PSLRA's Lead Plaintiff Provision," St. John's Legal Studies Research Paper No. 12-0021 (2012).

[20] Docket entries reflect the number of entries on the court docket for events in the litigation and have been used in prior research as a proxy for the amount of plaintiff attorney effort involved in resolving securities cases. See Laura Simmons, "The Importance of Merit-Based Factors in the Resolution of 10b-5 Litigation," University of North Carolina at Chapel Hill Doctoral Dissertation (1996); Michael A. Perino, "Institutional Activism through Litigation: An Empirical Analysis of Public Pension Fund Participation in Securities Class Actions," St. John's Legal Studies Research Paper No. 06-0055 (2006).

[21] Stanford Securities Litigation Analytics (SSLA) tracks and collects data on private shareholder securities litigation and public enforcements brought by the SEC and the U.S. Department of Justice. The SSLA dataset includes all traditional class actions, SEC actions, and DOJ criminal actions filed since 2000. Available on a subscription basis at https://sla.law.stanford.edu/.

[22] Available on a subscription basis. For further details see https://www.issgovernance.com/securities-class-action-services/.

[23] Movements of partial settlements between years can cause differences in amounts reported for prior years from those presented in earlier reports.

[24] This categorization is based on the timing of the settlement hearing date. If a new partial settlement equals or exceeds 50% of the then-current settlement fund amount, the entirety of the settlement amount is re-categorized to reflect the settlement hearing date of the most recent partial settlement. If a subsequent partial settlement is less than 50% of the then-current total, the partial settlement is added to the total settlement amount and the settlement hearing date is left unchanged.

Appendices

Appendix 1: Settlement Percentiles

(Dollars in millions)

	Average	10th	25th	Median	75th	90th
2012	$72.3	$1.4	$3.2	$11.1	$41.9	$135.7
2013	$84.1	$2.2	$3.5	$7.6	$25.8	$96.0
2014	$20.9	$1.9	$3.3	$6.9	$15.1	$57.2
2015	$45.0	$1.5	$2.5	$7.4	$18.6	$107.5
2016	$79.7	$2.1	$4.7	$9.7	$37.3	$164.8
2017	$20.4	$1.7	$2.9	$5.8	$16.9	$39.2
2018	$70.0	$1.6	$3.9	$12.1	$26.7	$53.0
2019	$29.7	$1.6	$6.0	$11.7	$21.2	$53.0
2020	$57.1	$1.5	$3.5	$10.6	$20.9	$55.7
2021	$20.5	$1.7	$3.1	$8.3	$17.9	$58.6

Note: Settlement dollars are adjusted for inflation; 2021 dollar equivalent figures are presented.

Appendix 2: Settlements by Select Industry Sectors 2012–2021

(Dollars in millions)

Industry	Number of Settlements	Median Settlement	Median "Simplified Tiered Damages"	Median Settlement as a Percentage of "Simplified Tiered Damages"
Financial	99	$16.2	$409.5	5.1%
Technology	101	$8.6	$228.9	4.7%
Pharmaceuticals	107	$7.0	$215.2	4.7%
Retail	37	$10.5	$254.7	4.3%
Telecommunications	23	$9.3	$278.8	5.4%
Healthcare	19	$12.3	$152.8	6.7%

Note: Settlement dollars and "simplified tiered damages" are adjusted for inflation; 2021 dollar equivalent figures are presented. "Simplified tiered damages" are calculated only for cases involving Rule 10b-5 claims.

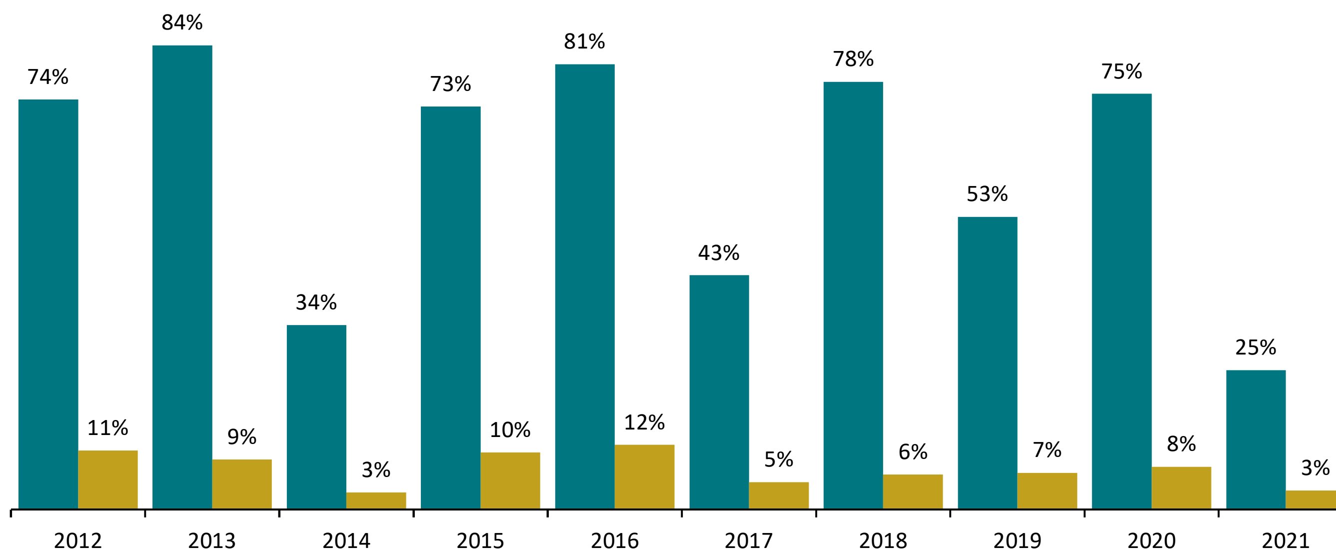
Appendix 3: Settlements by Federal Circuit Court
2012–2021

(Dollars in millions)

Circuit	Number of Settlements	Median Settlement	Median Settlement as a Percentage of "Simplified Tiered Damages"
First	20	$10.8	3.2%
Second	192	$9.3	5.1%
Third	65	$7.0	5.6%
Fourth	24	$20.1	4.1%
Fifth	36	$9.9	5.0%
Sixth	30	$13.3	7.4%
Seventh	35	$14.2	3.9%
Eighth	13	$14.7	6.8%
Ninth	183	$6.9	4.9%
Tenth	17	$8.5	5.3%
Eleventh	38	$11.0	4.9%
DC	4	$24.8	2.2%

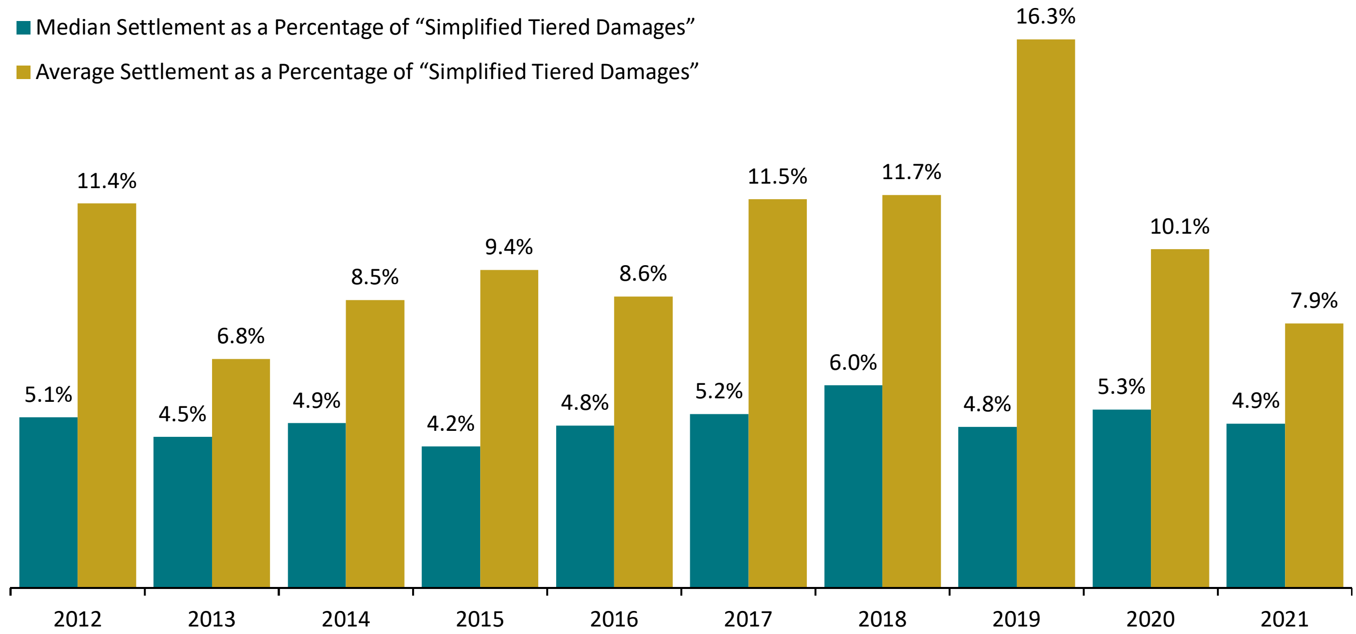
Note: Settlement dollars are adjusted for inflation; 2021 dollar equivalent figures are presented. Settlements as a percentage of "simplified tiered damages" are calculated only for cases alleging Rule 10b-5 claims.

Appendix 4: Mega Settlements
2012–2021



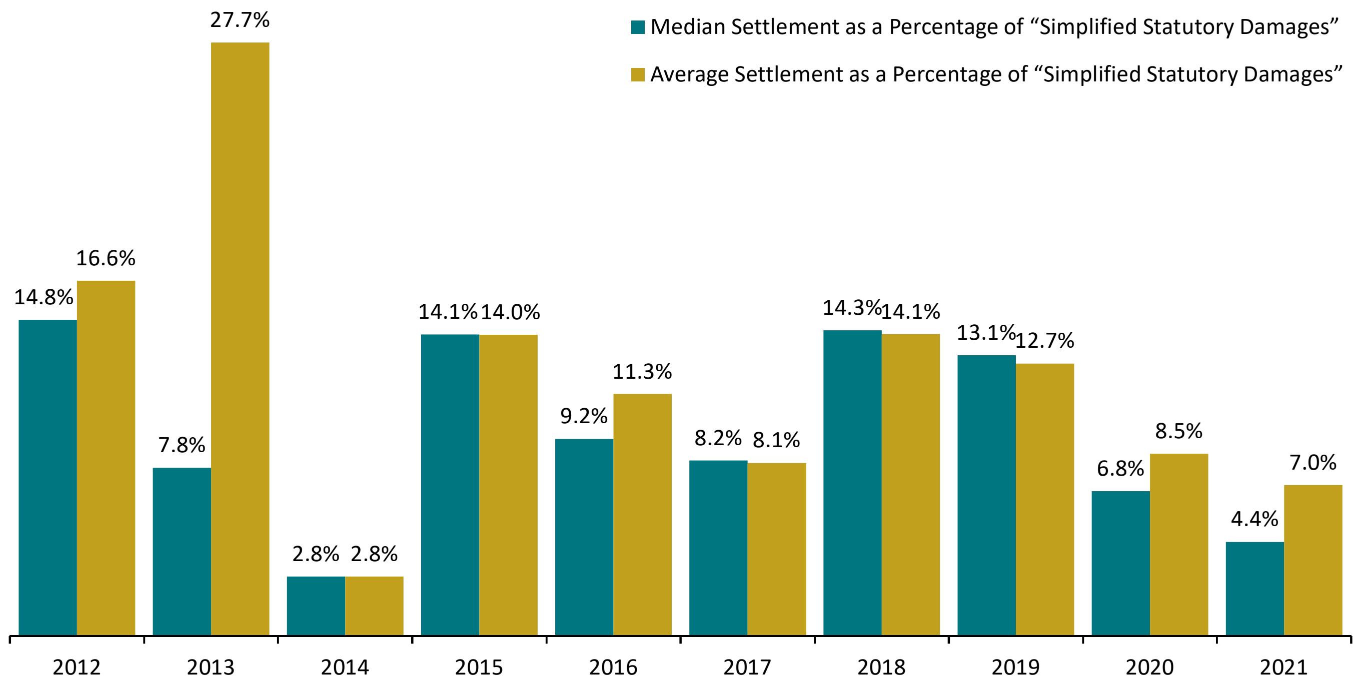
Note: Mega settlements are defined as total settlement funds equal to or greater than $100 million. Settlement dollars are adjusted for inflation; 2021 dollar equivalent figures are presented.

Appendix 5: Median and Average Settlements as a Percentage of "Simplified Tiered Damages"
2012–2021



Note: "Simplified tiered damages" are calculated only for cases alleging Rule 10b-5 claims.

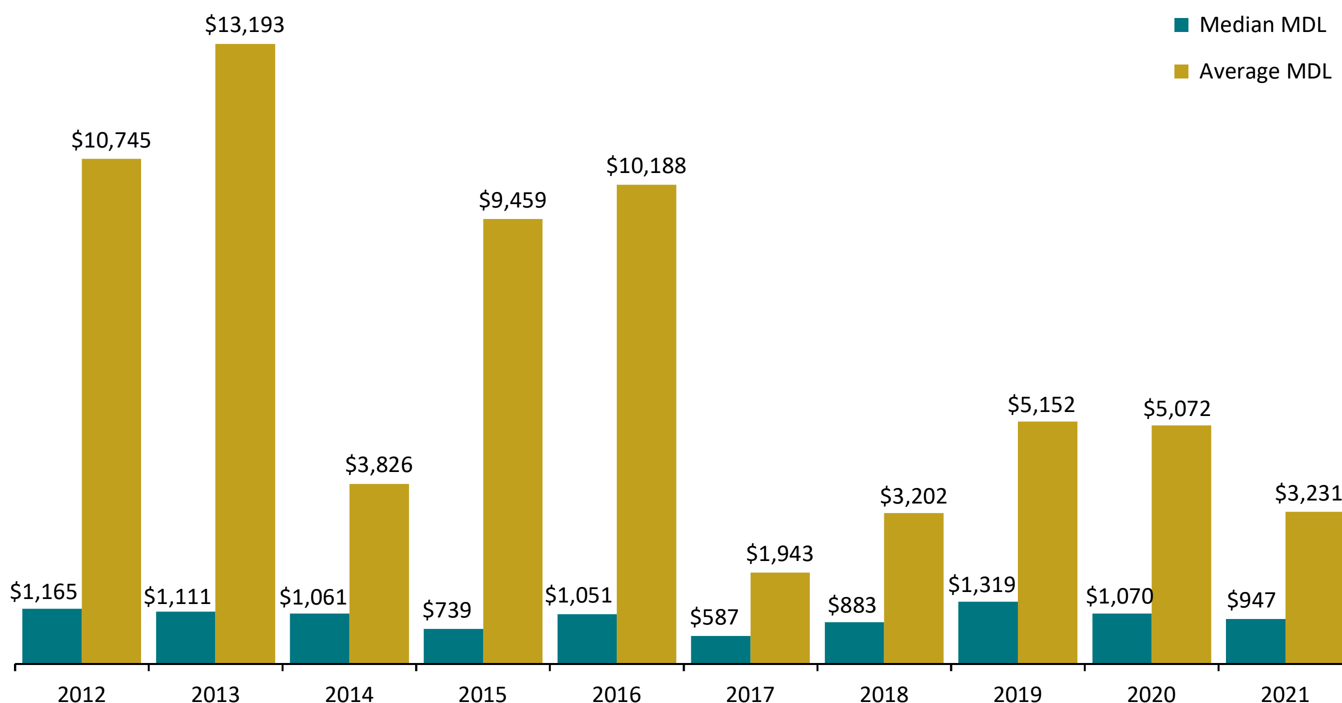
Appendix 6: Median and Average Settlements as a Percentage of "Simplified Statutory Damages"
2012–2021



Note: "Simplified statutory damages" are calculated only for cases alleging Section 11 ('33 Act) claims and no Rule 10b-5 claims.

Appendix 7: Median and Average Maximum Dollar Loss (MDL)
2012–2021

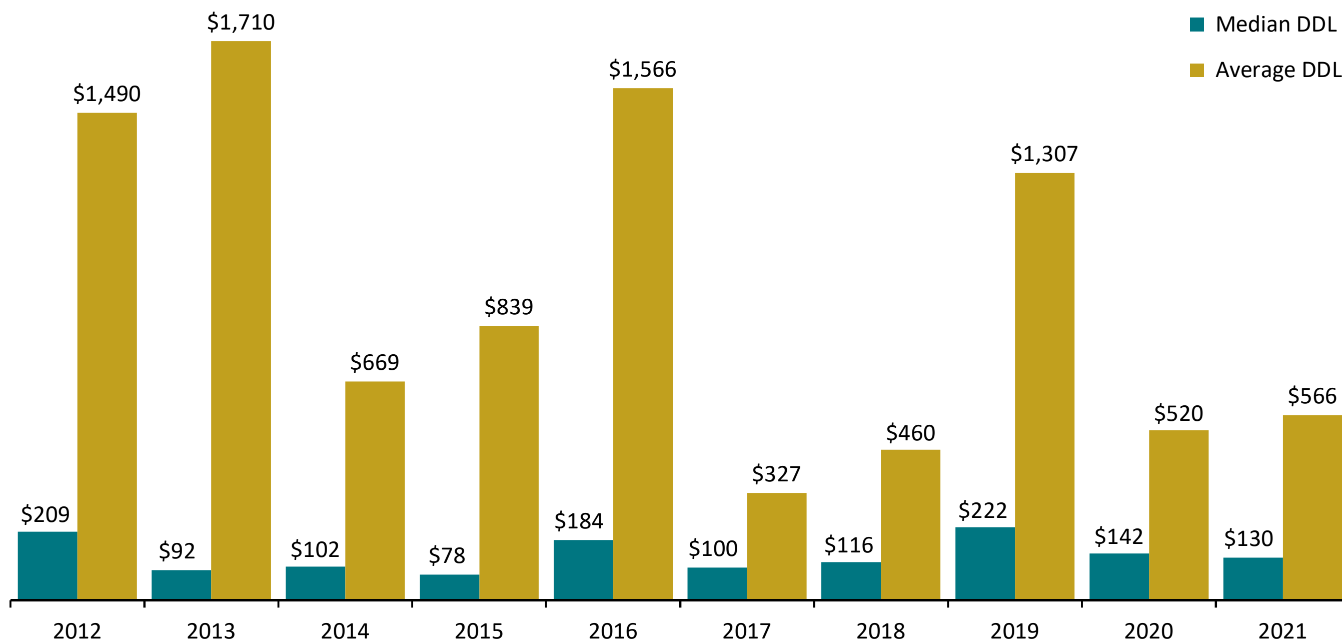
(Dollars in millions)



Note: MDL is adjusted for inflation based on class period end dates; 2021 dollar equivalents are presented. MDL is the dollar value change in the defendant firm's market capitalization from the trading day with the highest market capitalization during the class period to the trading day immediately following the end of the class period.

Appendix 8: Median and Average Disclosure Dollar Loss (DDL)
2012–2021

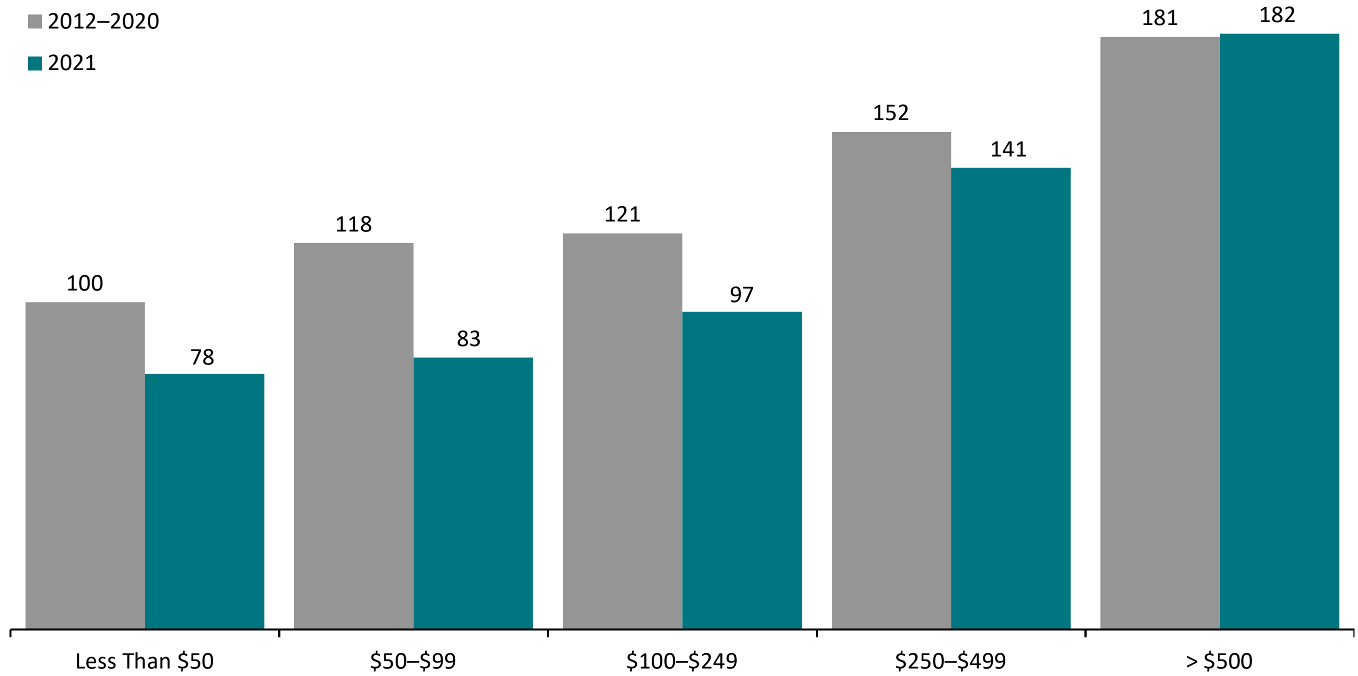
(Dollars in millions)



Note: DDL is adjusted for inflation based on class period end dates; 2021 dollar equivalents are presented. DDL is the dollar value change in the defendant firm's market capitalization between the trading day immediately preceding the end of the class period and the trading day immediately following the end of the class period. This analysis excludes cases alleging '33 Act claims only.

Appendix 9: Median Docket Entries by "Simplified Tiered Damages" Range
2012–2021

(Dollars in millions)



Note: "Simplified tiered damages" are calculated only for cases alleging Rule 10b-5 claims.

About the Authors

Laarni T. Bulan
Ph.D., Columbia University; M.Phil., Columbia University; B.S., University of the Philippines

Laarni Bulan is a principal in Cornerstone Research's Boston office, where she specializes in finance. Her work has focused on securities and other complex litigation addressing class certification, damages, and loss causation issues, firm valuation, and corporate governance, executive compensation, and risk management issues. She has also consulted on cases related to insider trading, market manipulation and trading behavior, financial institutions and the credit crisis, derivatives, foreign exchange, and securities clearing and settlement.

Dr. Bulan has published several academic articles in peer-reviewed journals. Her research covers topics in dividend policy, capital structure, executive compensation, corporate governance, and real options. Prior to joining Cornerstone Research, Dr. Bulan had a joint appointment at Brandeis University as an assistant professor of finance in its International Business School and in the economics department.

Laura E. Simmons
Ph.D., University of North Carolina at Chapel Hill; M.B.A., University of Houston; B.B.A., University of Texas at Austin

Laura Simmons is a senior advisor with Cornerstone Research. She has more than 25 years of experience in economic and financial consulting. Dr. Simmons has focused on damage and liability issues in securities and ERISA litigation, as well as on accounting issues arising in a variety of complex commercial litigation matters. She has served as a testifying expert in litigation involving accounting analyses, securities case damages, ERISA matters, and research on securities lawsuits.

Dr. Simmons's research on pre– and post–Reform Act securities litigation settlements has been published in a number of reports and is frequently cited in the public press and legal journals. She has spoken at various conferences and appeared as a guest on CNBC addressing the topic of securities case settlements. She has also published in academic journals, including research focusing on the intersection of accounting and litigation. Dr. Simmons was previously an accounting faculty member at the Mason School of Business at the College of William & Mary. From 1986 to 1991, she was an accountant with Price Waterhouse.

The authors gratefully acknowledge the research efforts and significant contributions of their colleagues at Cornerstone Research in the writing and preparation of this annual update.

Many publications quote, cite, or reproduce data, charts, or tables from Cornerstone Research reports. The authors request that you reference Cornerstone Research in any reprint, quotation, or citation of the charts, tables, or data reported in this study.

Please direct any questions and requests for additional information to the settlement database administrator at settlementdatabase@cornerstone.com.

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EXHIBIT B

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 8/16/17

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ZUBAIR PATEL, Individually and on Behalf of All Others Similarly Situated, Plaintiff, vs. L-3 COMMUNICATIONS HOLDINGS, INC., et al., Defendants.	Civil Action No. 1:14-cv-06038-VEC **(Consolidated)** CLASS ACTION ~~[PROPOSED]~~ ORDER APPROVING PLAN OF ALLOCATION

This matter having come before the Court on August 16, 2017, on Lead Plaintiffs' motion for approval of the Plan of Allocation of the settlement proceeds in the above-captioned action; the Court having considered all papers filed and proceedings had herein and otherwise being fully informed in the premises;

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

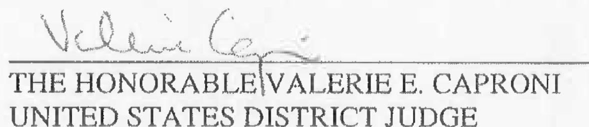
1. This Order incorporates by reference the definitions in the Stipulation of Settlement dated February 22, 2017 (the "Stipulation"), and all capitalized terms used, but not defined herein, shall have the same meanings as set forth in the Stipulation.

2. Pursuant to and in full compliance with Rule 23 of the Federal Rules of Civil Procedure, this Court hereby finds and concludes that due and adequate notice was directed to all persons who are Class Members who could be identified with reasonable effort, advising them of the Plan of Allocation and of their right to object thereto, and a full and fair opportunity was accorded to all persons and entities who are Class Members to be heard with respect to the Plan of Allocation.

3. The Court finds and concludes that the formula for the calculation of the claims of Authorized Claimants which is set forth in the Notice of Pendency and Proposed Settlement of Class Action (the "Notice") sent to Class Members provides a fair and reasonable basis upon which to allocate the proceeds of the Net Settlement Fund established by the Stipulation among the Class Members, with due consideration having been given to administrative convenience and necessity.

4. This Court finds and concludes that the Plan of Allocation, as set forth in the Notice, is, in all respects, fair and reasonable and the Court approves the Plan of Allocation.

DATED: 8-16-17



THE HONORABLE VALERIE E. CAPRONI
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ZUBAIR PATEL, Individually and on Behalf of All Others Similarly Situated,	Civil Action No. 1:14-cv-06038-VEC **(Consolidated)**
Plaintiff,	CLASS ACTION
vs.	
L-3 COMMUNICATIONS HOLDINGS, INC., et al.,	
Defendants.	

NOTICE OF PENDENCY AND PROPOSED SETTLEMENT OF CLASS ACTION

A FEDERAL COURT AUTHORIZED THIS NOTICE. THIS IS NOT A SOLICITATION FROM A LAWYER.

TO: ALL PERSONS WHO PURCHASED OR OTHERWISE ACQUIRED L-3 COMMUNICATIONS HOLDINGS, INC. (NOW KNOWN AS L3 TECHNOLOGIES, INC.) ("L3" OR THE "COMPANY") COMMON STOCK DURING THE PERIOD FROM JANUARY 30, 2014, THROUGH AND INCLUDING JULY 30, 2014 (THE "CLASS PERIOD"):

- **PLEASE READ THIS NOTICE CAREFULLY.**[1]
- **IF YOU WISH TO COMMENT IN FAVOR OF THE SETTLEMENT OR OBJECT TO THE SETTLEMENT, YOU MUST FOLLOW THE DIRECTIONS IN THIS NOTICE.**
- **YOU MAY BE ELIGIBLE TO RECEIVE MONEY FROM THE SETTLEMENT OF THIS CASE.**
- **YOUR LEGAL RIGHTS MAY BE AFFECTED BY THIS LAWSUIT.**
- **TO RECEIVE MONEY FROM THIS SETTLEMENT, YOU MUST SUBMIT A VALID PROOF OF CLAIM AND RELEASE FORM ("PROOF OF CLAIM") POSTMARKED OR SUBMITTED ONLINE ON OR BEFORE JULY 29, 2017.**
- **IF YOU DO NOT WISH TO PARTICIPATE IN THE SETTLEMENT YOU MAY REQUEST TO BE EXCLUDED FROM THE SETTLEMENT BY SENDING A WRITTEN REQUEST FOR EXCLUSION THAT MUST BE POSTMARKED ON OR BEFORE JULY 21, 2017.**
- **IF YOU RECEIVED THIS NOTICE ON BEHALF OF A CLASS MEMBER, AS DEFINED BELOW, WHO IS DECEASED, YOU SHOULD PROVIDE THE NOTICE TO THE AUTHORIZED LEGAL REPRESENTATIVE OF THAT CLASS MEMBER.**

YOU ARE HEREBY NOTIFIED AS FOLLOWS:

A proposed $34.5 million settlement (the "Settlement") has been reached between the parties in the class action pending in the United States District Court for the Southern District of New York (the "Court") brought on behalf of all individuals and entities described above (the "Class"). The Court has preliminarily approved the Settlement, whose terms are set forth in the Stipulation, which is available at www.L3TechnologiesSecuritiesLitigation.com. You have received this Notice of Pendency and Proposed Settlement of Class Action (the "Notice") because the Settling Parties' records indicate that you may be a member of the Class. This Notice is designed to inform you of your rights, how you can submit a claim and how you can comment in favor of the Settlement or object to the Settlement. If the Settlement is finally approved by the Court, the Settlement will be binding upon you, unless you exclude yourself, even if you do not submit a claim to obtain money from the Settlement and even if you object to the Settlement.

The Settlement creates a fund in the amount of $34.5 million in cash (the "Settlement Fund") for the benefit of members of the Class ("Class Members") who purchased or otherwise acquired L3 common stock during the period from January 30, 2014, through and

[1] All capitalized terms used in this Notice that are not otherwise defined herein shall have the meanings provided in the Stipulation of Settlement dated February 22, 2017 (the "Settlement Agreement" or "Stipulation"), which is available on the website www.L3TechnologiesSecuritiesLitigation.com.

including July 30, 2014 (the "Class Period"). Your recovery from the Settlement Fund will be calculated according to the Plan of Allocation, which is detailed below on pages 10-12 or as otherwise determined by the Court. The amount of your payment will depend on a number of variables, including the number of shares that you purchased or acquired during the Class Period and the timing of any purchases or acquisitions and sales that you made. Lead Counsel estimates that the average distribution per share of L3 common stock under the Settlement is $2.05 before deduction of fees and expenses. If you have any questions regarding the Plan of Allocation or your potential recovery, you may contact Lead Counsel or the Claims Administrator, whose contact information is listed below in this Notice.

Lead Counsel, who has been prosecuting this Litigation on a wholly-contingent basis since its inception, has not received any payment of attorneys' fees for its representation of the Class and it has advanced the funds to pay expenses necessarily incurred to prosecute the Litigation. Lead Counsel will apply to the Court for an award of attorneys' fees for all plaintiffs' counsel in the amount of 25% of the Settlement Fund. In addition, Lead Counsel will apply for reasonable litigation expenses (exclusive of administration costs) in an amount not to exceed $600,000. In addition, Lead Counsel will submit an application for reimbursement of the reasonable costs and expenses incurred by Lead Plaintiffs directly related to their representation of the Class in an amount not to exceed $10,000 collectively. Any fees and expenses awarded by the Court will be paid from the Settlement Fund. Class Members are not personally liable for any such fees or expenses. If the Settlement is approved, and Lead Counsel's fee and expense application is granted in its entirety, the average cost per share of these fees and expenses will be approximately $0.55 per share of L3 common stock.

Lead Plaintiffs and the Class are being represented by Lead Counsel Robbins Geller Rudman & Dowd LLP. Any questions regarding the Litigation or the Settlement should be directed to Rick Nelson, Shareholder Relations at:

Robbins Geller Rudman & Dowd LLP
655 West Broadway, Suite 1900
San Diego, CA 92101
1-800-449-4900

YOUR LEGAL RIGHTS AND OPTIONS IN THE SETTLEMENT	
SUBMIT A PROOF OF CLAIM POSTMARKED OR SUBMITTED ONLINE NO LATER THAN JULY 29, 2017.	This is the only way to be eligible to get a payment in connection with the Settlement.
EXCLUDE YOURSELF FROM THE CLASS BY SUBMITTING A WRITTEN REQUEST POSTMARKED NO LATER THAN JULY 21, 2017.	If you exclude yourself from the Class, you will not be eligible to get any payment from the Net Settlement Fund. This is the only option that allows you to be part of any other lawsuit against L3 or the other Related Parties concerning the Released Claims (defined below).
OBJECT TO THE SETTLEMENT BY SUBMITTING A WRITTEN OBJECTION SO THAT IT IS RECEIVED NO LATER THAN JULY 21, 2017.	If you do not like the proposed Settlement, the proposed Plan of Allocation, or the fee and expense application, you may write to the Court and explain why you do not like them. You cannot object to the Settlement, the Plan of Allocation, or the fee and expense application unless you are a Class Member and do not exclude yourself.
GO TO THE SETTLEMENT HEARING ON AUGUST 10, 2017 AT 2:00 P.M. EDT. AND FILE A NOTICE OF INTENTION TO APPEAR SO THAT IT IS RECEIVED NO LATER THAN JULY 21, 2017.	Filing a written objection and notice of intention to appear allows you to speak in Court about the fairness of the Settlement, the Plan of Allocation, and/or the fee and expense application. If you submit a written objection, you may (but do not have to) attend the hearing and speak to the Court about your objection.
DO NOTHING	If you are a member of the Class and you do not submit a Proof of Claim by July 29, 2017, you will not be eligible to receive any payment from the Net Settlement Fund. You will, however, remain a member of the Class, which means that you give up your right to sue about the claims that are resolved by the Settlement and you will be bound by any judgments or orders entered by the Court pertaining to the Litigation.

There will be a fairness hearing on the Settlement ("Settlement Hearing") before the Honorable Valerie E. Caproni, United States District Court Judge, at 2:00 p.m., on August 10, 2017, in Courtroom 443 of the Thurgood Marshall United States Courthouse, 40 Foley Square, New York, New York 10007.

SUMMARY OF THIS NOTICE

FURTHER INFORMATION

For further information regarding the Litigation, this Notice or to review the Settlement Agreement, please contact the Claims Administrator toll-free at 1-800-231-1815, or visit the website www.L3TechnologiesSecuritiesLitigation.com.

Please Do Not Call the Court or the Defendant with Questions About the Settlement.

REASONS FOR THE SETTLEMENT

Lead Plaintiffs' principal reason for entering into the Settlement is the benefit to the Class now, without further risk or the delays inherent in continued litigation. The cash benefit under the Settlement must be considered against the significant risk that a smaller recovery – or, indeed, no recovery at all – might be achieved after contested motions, trial, and likely appeals, a process that could last several years into the future. For L3, which has denied and continues to deny all allegations of liability, fault, wrongdoing, or damages whatsoever, the principal reason for entering into the Settlement is to eliminate the uncertainty, risk, costs, and burdens inherent in any litigation, especially in complex cases such as this Litigation. L3 has concluded that further conduct of this Litigation could be protracted and distracting.

BASIC INFORMATION

1. WHY DID I GET THIS NOTICE PACKAGE?

This Notice was sent to you pursuant to an Order of the Court because you or someone in your family or an investment account for which you serve as custodian may have purchased or acquired L3 common stock during the period from January 30, 2014, through and including July 30, 2014 ("Class Period"). The Court has directed us to send you this Notice because, as a potential Class Member, you have a right to know about your options before the Court rules on the proposed Settlement and you have a right to understand how a class action lawsuit may generally affect your legal rights. If the Court approves the Settlement and the Plan of Allocation (or some other plan of allocation), the Claims Administrator selected by Lead Counsel and approved by the Court will make payments pursuant to the Settlement and the Court-approved Plan of Allocation after any objections and appeals are resolved. This Notice is also being sent to inform you of a hearing to be held by the Court to consider the fairness, reasonableness, and adequacy of the Settlement, the proposed Plan of Allocation, and the fee and expense application.

The Court in charge of the Litigation is the United States District Court for the Southern District of New York, and the case is known as *Patel v. L-3 Communications Holdings, Inc., et al.*, Case No. 1:14-cv-06038-VEC. The case has been assigned to the Honorable Valerie E. Caproni. The pension funds representing the Class are the "Lead Plaintiffs," and the company they sued, which has now settled, is called the Defendant.

This Notice does not express any opinion by the Court concerning the merits of any claim or defense in the Litigation, and the Court still has to decide whether to approve the Settlement. If the Court approves the Settlement and the Plan of Allocation, payments to Authorized Claimants will be made after any appeals are resolved, and after completion of all claims processing.

2. WHAT IS THIS LAWSUIT ABOUT?

The Litigation is pending before the Honorable Valerie E. Caproni in the United States District Court for the Southern District of New York. The initial complaint in this action was filed on August 1, 2014. On October 20, 2014, the Court appointed Lead Plaintiffs and Lead Counsel.

Lead Plaintiffs alleged that the Defendant and Former Defendants Michael T. Strianese and Ralph G. D'Ambrosio violated §§10(b) and 20(a) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder by, *inter alia*, issuing materially false and misleading statements regarding the Company's Aerospace Systems segment. Specifically, Lead Plaintiffs' Consolidated Amended Complaint for Violations of the Federal Securities Laws (the "Complaint"), filed on December 22, 2014, alleged material misstatements and/or omissions concerning: (i) errors in L3's financial statements related to the improper deferral of cost overruns on a fixed-price maintenance and logistics support contract resulting in overstatement of operating income; (ii) overstatement of net sales with respect to the fixed-price maintenance and logistics support contract; and (iii) the adequacy of the Company's internal controls with respect to financial reporting. Lead Plaintiffs further alleged that, as a result of the alleged materially false or misleading statements, the Company's financial

statements were materially false and misleading during the Class Period (January 30, 2014 through and including July 30, 2014), and that L3 common stock traded at artificially inflated prices.

On July 31, 2014, L3 announced preliminary financial results and an internal accounting review into matters at the Company's Aerospace Systems segment. As a result of its preliminary review, which was ongoing at that time, the Company announced that it expected to incur an aggregate pre-tax charge of $84 million against operating income and a related reduction in net sales of approximately $43 million. Following this news, the price of L3 shares fell more than 12%.

On February 20, 2015, L3 and the Former Defendants filed their Motion to Dismiss the Complaint. On March 13, 2015, Lead Plaintiffs filed their Second Consolidated Amended Complaint for Violations of the Federal Securities Laws ("Amended Complaint"). Defendant L3 and the Former Defendants, on April 24, 2015, moved to dismiss the Amended Complaint. Lead Plaintiffs filed their opposition to the Motion to Dismiss on June 9, 2015. L3 and the Former Defendants filed their reply on June 26, 2015.

Following oral argument on the Motion to Dismiss on March 4, 2016, the Court ordered the parties to submit supplemental letter briefing on the issue of scienter. The parties filed their supplemental materials on March 10, 2016, and on March 30, 2016, the Court issued its Memorandum Opinion and Order granting the Motion to Dismiss as to Former Defendants Strianese and D'Ambrosio, and denying it with respect to L3. On April 13, 2016, L3 filed its answer to the Amended Complaint.

The parties thereafter engaged in extensive document and deposition discovery, and Lead Plaintiffs filed their motion for class certification, which was opposed by L3. The Court ordered additional briefing on the motion, which was completed on October 31, 2016.

In an effort to conserve judicial resources and attempt to settle the Litigation, the parties engaged the services of the Hon. Layn R. Phillips (Ret.), a nationally recognized mediator. The parties prepared detailed mediation statements and engaged with Judge Phillips in a full-day in-person mediation session on November 11, 2016, and subsequent telephonic sessions. These efforts culminated on January 23, 2017, with the parties executing a Term Sheet in which they agreed to settle the Litigation on the terms set forth below, subject to the negotiation of a stipulation of settlement and approval by the Court.

3. WHY IS THERE A SETTLEMENT?

The Court has not decided in favor of L3 or of the Lead Plaintiffs. Instead, both sides agreed to the Settlement to avoid the distraction, costs, and risks of further litigation, and Lead Plaintiffs agreed to the Settlement in order to ensure that Class Members will receive some compensation.

The Settling Parties disagree on both liability and damages and do not agree on the amount of damages that would be recoverable if the Class were certified and prevailed on each claim alleged. L3 denies that it is liable to the Class and denies that the Class has suffered any damages. The issues on which the parties disagree are many, but include: (1) whether L3 engaged in conduct that would give rise to any liability to the Class under the federal securities laws, or any other laws; (2) whether L3 has valid defenses to any such claims of liability; (3) the appropriate economic model for determining the amount by which the price of L3 common stock was allegedly artificially inflated (if at all) during the Class Period; (4) the amount, if any, by which the price of L3 common stock was allegedly artificially inflated (if at all) during the Class Period; (5) the effect of various market forces on the price of L3 common stock at various times during the Class Period; (6) the extent to which external factors influenced the price of L3 common stock at various times during the Class Period; (7) the extent to which the various matters that Lead Plaintiffs alleged were materially false or misleading influenced (if at all) the price of L3 common stock at various times during the Class Period; and (8) the extent to which the various allegedly adverse material facts that Lead Plaintiffs alleged were omitted influenced (if at all) the price of L3 common stock at various times during the Class Period.

WHO IS IN THE SETTLEMENT

4. HOW DO I KNOW IF I AM A CLASS MEMBER?

The Court directed that everyone who fits this description is a Class Member: ***all Persons who purchased or acquired L3 common stock during the period from January 30, 2014, through and including July 30, 2014***, except those Persons and entities that are excluded.

Excluded from the Class are: L3, Persons who served as directors of L3 during the Class Period, Section 16 officers of L3 and officers of the Company's Aerospace Systems segment during the Class Period, members of such excluded Persons' immediate families and their legal representatives, heirs, successors or assigns, and any entity in which any excluded Person has or had a controlling interest.

Also excluded from the Class are those Persons who timely and validly exclude themselves therefrom by submitting a request for exclusion in accordance with the requirements set forth in question 11 below.

Please Note: Receipt of this Notice does not mean that you are a Class Member or that you will be entitled to receive a payment from the Settlement. If you are a Class Member and you wish to be eligible to participate in the distribution of proceeds from the Settlement Fund, you are required to submit the Proof of Claim that is being distributed with this Notice and the required supporting documentation as set forth therein postmarked or submitted online on or before July 29, 2017.

5. WHAT IF I AM STILL NOT SURE IF I AM INCLUDED?

If you are still not sure whether you are included, you can ask for free help. You can contact the Claims Administrator toll-free at 1-800-231-1815, or you can fill out and return the Proof of Claim enclosed with this Notice package, to see if you qualify.

THE SETTLEMENT BENEFITS – WHAT YOU GET

6. WHAT DOES THE SETTLEMENT PROVIDE?

The Settlement provides that, in exchange for the release of the Released Claims (defined below) and dismissal of the Litigation, L3 has agreed to pay (or cause to be paid) $34.5 million in cash to be distributed after taxes, fees, and expenses to Class Members who send in a valid Proof of Claim pursuant to the Court-approved Plan of Allocation. The Plan of Allocation is described in more detail at the end of this Notice.

7. HOW MUCH WILL MY PAYMENT BE?

Your share of the Net Settlement Fund will depend on several things, including the total amount of claims represented by the valid Proofs of Claim that Class Members send in, compared to the amount of your claim, all as calculated under the Plan of Allocation discussed below. At this time, however, it is not possible to make any determination as to how much a Class Member may receive from the Settlement.

HOW YOU GET A PAYMENT – SUBMITTING A PROOF OF CLAIM

8. HOW CAN I GET A PAYMENT?

To be eligible to receive a payment from the Net Settlement Fund, you must submit a Proof of Claim. A Proof of Claim is enclosed with this Notice or it may be downloaded at www.L3TechnologiesSecuritiesLitigation.com. Read the instructions carefully, fill out the Proof of Claim, include all the documents the form asks for, sign it, and **mail or submit it online so that it is postmarked or received no later than July 29, 2017.** The Proof of Claim may be submitted online at www.L3TechnologiesSecuritiesLitigation.com.

9. WHEN WOULD I GET MY PAYMENT?

The Court will hold a Settlement Hearing on August 10, 2017, at 2:00 p.m., to decide whether to approve the Settlement. If the Court approves the Settlement, there might be appeals. It is always uncertain whether appeals can be resolved, and if so, how long it would take to resolve them. It also takes time for all the Proofs of Claim to be processed. The Net Settlement Fund will not be distributed until the Court has approved a plan of allocation, and the time for any petition for rehearing, appeal, or review has expired. Please be patient.

10. WHAT AM I GIVING UP TO GET A PAYMENT OR TO STAY IN THE CLASS?

Unless you timely and validly exclude yourself, you are staying in the Class, and that means you cannot sue, continue to sue, or be part of any other lawsuit against L3 or its Related Parties about the Released Claims (as defined below) in this case. It also means that all of the Court's orders will apply to you and legally bind you. If you remain a Class Member, and if the Settlement is approved, you will give up all "Released Claims" (as defined below), including "Unknown Claims" (as defined below), against the "Released Persons" (as defined below):

- "Released Claims" means any and all claims, rights, causes of action, duties, obligations, demands, actions, debts, sums of money, suits, contracts, agreements, promises, damages and liabilities, whether known or unknown, contingent or non-contingent, or suspected or unsuspected, whether asserted directly, indirectly, derivatively, representatively, or in any other capacity, including, without limitation, any claims arising under federal or state statutory or common law or any other law, rule or regulation, whether foreign or domestic, and any claims for gross negligence, fraud or negligent misrepresentation that a Class Member has or may have against the Released Persons that arise from, are based on, or are related in any way to the allegations, transactions, facts, events, matters, occurrences, acts, representations, statements or omissions that were or could have been alleged, set forth or referred to in the Litigation and the purchase or acquisition of L3 common stock during the Class Period, except for claims related to the enforcement of the Settlement. "Released Claims" includes "Unknown Claims" as defined below, but does not include the shareholder derivative claims asserted in the action captioned *Francis Weidman v. Michael T. Strianese, et al.*, Index No. 155802/2016, filed in the Supreme Court of New York, New York County.

- "Released Defendants' Claims" means any and all claims, rights, duties, controversies, obligations, demands, actions, debts, sums of money, suits, contracts, agreements, promises, damages, losses, judgments, liabilities, allegations, arguments, and causes of action of every nature and description (including Unknown Claims), whether arising under federal, state, local, common, statutory, administrative, or foreign law, or any other law, rule or regulation, at law or in equity, that arise out of or relate in any way to the institution, prosecution or settlement of the claims against Defendant and the Former Defendants in the Litigation, except for claims relating to the enforcement of the Settlement.

- "Released Persons" means the Defendant, each and all of the Former Defendants and their respective Related Parties.

- "Related Parties" means each of L3's or the Former Defendants' respective former, present or future parents, subsidiaries, divisions and affiliates and the respective present and former employees, members, partners, principals, officers, directors, controlling shareholders, attorneys, advisors, accountants, auditors, insurers and reinsurers of each of them; and the predecessors, successors, estates, spouses, immediate family members, heirs, executors, trusts, trustees, administrators, agents, legal or personal representatives and assigns of each of them, in their capacity as such.

- "Unknown Claims" means any and all Released Claims or Released Defendants' Claims that any of the Settling Parties or Class Members do not know or suspect to exist in his, her, or its favor at the time of the release of the Released Persons, Lead Plaintiffs, Lead Plaintiffs' Counsel, or Class Members which, if known by him, her, or it, might have affected his, her, or its settlement with and release of the Released Persons, Lead Plaintiffs, Lead Plaintiffs' Counsel or Class Members, or might have affected his, her, or its decision(s) with respect to the Settlement, including, but not limited to, whether or not to object to this Settlement or to the release of the Released Persons, Lead Plaintiffs, Lead Plaintiffs' Counsel, or Class Members. With respect to any and all Released Claims and Released Defendants' Claims, the Settling Parties stipulate and agree that, upon the Effective Date, the Settling Parties shall expressly waive and each of the Class Members shall be deemed to have, and by operation of the Judgment shall have, expressly waived the provisions, rights, and benefits of California Civil Code §1542, which provides:

  A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

The Settling Parties shall expressly waive and each of the Class Members shall be deemed to have, and by operation of the Judgment shall have, expressly waived any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law, which is similar, comparable or equivalent to California Civil Code §1542. The Settling Parties acknowledge that they may hereafter discover facts in addition to or different from those which he, she, it or their counsel now knows or believes to be true with respect to the subject matter of the Released Claims or Released Defendants' Claims, but the Settling Parties shall expressly settle and release, and each Class Member, upon the Effective Date, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever settled and released any and all Released Claims and Released Defendants' Claims, known or

unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct which is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts. The Settling Parties acknowledge, and the Class Members shall be deemed by operation of the Judgment to have acknowledged, that the foregoing waiver was separately bargained for and is a key element of the Settlement of which this release is a part.

EXCLUDING YOURSELF FROM THE CLASS

If you do not want to participate in this Settlement, and you want to keep the right to potentially sue L3 and the other Released Persons, on your own, about the claims being released by the Settlement, then you must take steps to remove yourself from the Settlement. This is called excluding yourself – or is sometimes referred to as "opting out."

11. HOW DO I GET OUT OF THE CLASS AND THE PROPOSED SETTLEMENT?

To exclude yourself from the Class and the Settlement, you must send a letter by First-Class Mail stating that you "request exclusion from the Class in the *L3 Securities Litigation*." Your letter must include all of your purchases, acquisitions and sales of L3 common stock during the Class Period, including the dates, the number of shares of L3 stock purchased, acquired or sold, and price paid or received for each such purchase, acquisition, or sale. In addition, you must include your name, address, telephone number, and your signature. You must submit your exclusion request so that it is **postmarked no later than July 21, 2017**, to:

L3 Securities Litigation
Claims Administrator
c/o Garden City Group, LLC
P.O. Box 9349
Dublin, OH 43017-4249

If you ask to be excluded, you will not get any payment from the Settlement Fund, and you cannot object to the Settlement. You will not be legally bound by anything that happens in this lawsuit, and you may be able to sue L3 and the other Released Persons about the Released Claims in the future.

NO REQUEST FOR EXCLUSION WILL BE CONSIDERED VALID UNLESS ALL OF THE INFORMATION DESCRIBED ABOVE IS INCLUDED IN ANY SUCH REQUEST

12. IF I DO NOT EXCLUDE MYSELF, CAN I SUE L3 AND THE OTHER RELEASED PERSONS FOR THE SAME THING LATER?

No. Unless you exclude yourself, you give up any rights you may potentially have to sue L3 and the other Released Persons for any and all Released Claims. If you have a pending lawsuit against the Released Persons speak to your lawyer in that case immediately. You must exclude yourself from the Class in this Litigation to continue your own lawsuit. Remember, the exclusion deadline is July 21, 2017. L3 may withdraw from and terminate the Settlement if Class Members who purchased in excess of a certain amount of L3 common stock exclude themselves from the Class.

13. IF I EXCLUDE MYSELF, CAN I GET MONEY FROM THE PROPOSED SETTLEMENT?

No. If you exclude yourself, you should not send in a Proof of Claim to ask for any money. But you may have the right to potentially sue or be part of a different lawsuit against L3 and the other Released Persons.

THE LAWYERS REPRESENTING YOU

14. DO I HAVE A LAWYER IN THIS CASE?

The Court ordered that the law firm of Robbins Geller Rudman & Dowd LLP represents the Class Members, including you. These lawyers are called Lead Counsel. If you want to be represented by your own lawyer, you may hire one at your own expense.

15. HOW WILL THE LAWYERS BE PAID?

Lead Counsel will apply to the Court for an award of attorneys' fees not to exceed twenty-five percent (25%) of the Settlement Amount and for expenses and costs (exclusive of administration costs) in an amount not to exceed $600,000 in connection with the Litigation, plus interest on such fees and expenses at the same rate as earned by the Settlement Fund. Lead Counsel's application for a 25% fee and expenses up to $600,000 consists of the fees and expenses of Lead Counsel, and additional plaintiffs' counsel Sullivan, Ward, Asher & Patton, P.C. and VanOverbeke Michaud & Timmony, P.C. These law firms performed work on behalf of the Class and will submit affidavits or declarations to the Court documenting their time and expenses in support of Lead Counsel's application. In addition, the Lead Plaintiffs may seek up to $10,000 collectively for their time and expenses incurred in representing the Class. The requested fees and expenses would amount to an average of $0.55 per share. Such sums as may be approved by the Court will be paid from the Settlement Fund. Class Members are not personally liable for any such fees, expenses or compensation.

OBJECTING TO THE SETTLEMENT

You can tell the Court that you do not agree with the Settlement or any part of it.

16. HOW DO I TELL THE COURT THAT I OBJECT TO THE PROPOSED SETTLEMENT?

If you are a Class Member, you can comment or object to the proposed Settlement, the proposed Plan of Allocation and/or Lead Counsel's fee and expense application. You can write to the Court setting out your comment or objection. The Court will consider your views. To comment or object, you must send a signed letter saying that you wish to comment on or object to the proposed Settlement in the *L3 Securities Litigation.* Include your name, address, telephone number, email address, and your signature, identify the number of shares of L3 common stock you owned as of the beginning of trading on January 30, 2014, the date(s), price(s), and number(s) of shares of L3 common stock you purchased, acquired and sold during the Class Period, including written documentation of such trading, and state your comments or the reasons why you object to the proposed Settlement. Your comments or objection must be filed with the Court **on or before July 21, 2017**, and also must be **received**, not simply postmarked, by the following recipients **no later than July 21, 2017:**

Counsel for Lead Plaintiffs:

ELLEN GUSIKOFF STEWART
ROBBINS GELLER RUDMAN & DOWD LLP
655 West Broadway, Suite 1900
San Diego, CA 92101

Counsel for L3:

MICHAEL J. GARVEY
DAVID ELBAUM
SIMPSON THACHER & BARTLETT LLP
425 Lexington Avenue
New York, NY 10017

17. WHAT IS THE DIFFERENCE BETWEEN OBJECTING AND EXCLUDING?

Objecting is simply telling the Court that you do not like something about the Settlement. You can object **only** if you stay in the Class.

Excluding yourself is telling the Court that you do not want to be paid and do not want to release any claims you think you may have against L3 and its Related Parties. If you exclude yourself, you cannot object to the Settlement because it does not affect you.

THE COURT'S SETTLEMENT HEARING

The Court will hold a hearing to decide whether to approve the proposed Settlement. You may attend and you may ask to speak, but you do not have to.

18. WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE PROPOSED SETTLEMENT?

The Court will hold a Settlement Hearing at **2:00 p.m., on August 10, 2017**, in the Courtroom of the Honorable Valerie E. Caproni, at the United States District Court for the Southern District of New York, Thurgood Marshall United States Courthouse, 40 Foley Square, New York, New York. At the hearing the Court will consider whether the Settlement and the Plan of Allocation are fair, reasonable, and adequate. If there are objections, the Court will consider them, even if you do not ask to speak at the hearing. The Court will listen to people who have asked to speak at the hearing. The Court may also decide how much to pay to Lead Counsel and Lead Plaintiffs. After the Settlement Hearing, the Court will decide whether to approve the Settlement and the Plan of Allocation. We do not know how long these decisions will take. You should be aware that the Court may change the date and time of the Settlement Hearing without another notice being sent to Class Members. If you want to attend the hearing, you should check with Lead Counsel or the Settlement website www.L3TechnologiesSecuritiesLitigation.com beforehand to be sure that the date and/or time have not changed.

19. DO I HAVE TO COME TO THE HEARING?

No. Lead Counsel will answer questions the Court may have. But you are welcome to come at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary. Class Members do not need to appear at the hearing or take any other action to indicate their approval.

20. MAY I SPEAK AT THE HEARING?

If you object to the Settlement, the Plan of Allocation, or Lead Counsel's fee and expense application, you may ask the Court for permission to speak at the Settlement Hearing. To do so, you must include with your objection (*see* question 16 above) a statement saying that it is your "Notice of Intention to Appear in the *L3 Securities Litigation*." Persons who intend to object to the Settlement, the Plan of Allocation, and/or any attorneys' fees and expenses to be awarded to Lead Counsel or Lead Plaintiffs and desire to present evidence at the Settlement Hearing must include in their written objections the identity of any witnesses they may call to testify and exhibits they intend to introduce into evidence at the Settlement Hearing. Your notice of intention to appear must be **received** no later than July 21, 2017, and addressed to counsel at the addresses listed above in question 16.

You cannot speak at the hearing if you exclude yourself from the Class.

IF YOU DO NOTHING

21. WHAT HAPPENS IF I DO NOTHING?

If you do nothing, you will not receive any money from this Settlement. In addition, unless you exclude yourself, you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against L3 and its Related Parties about the Released Claims in this case.

GETTING MORE INFORMATION

22. HOW DO I GET MORE INFORMATION?

For even more detailed information concerning the matters involved in this Litigation, you can obtain answers to common questions regarding the proposed Settlement by contacting the Claims Administrator toll-free at 1-800-231-1815. You may also review the Settlement Agreement, the pleadings in support of the Settlement, the Orders entered by the Court and the other settlement related papers filed in the Litigation, which are posted on the Settlement website at www.L3TechnologiesSecuritiesLitigation.com, and which may be inspected at the Office of the Clerk of the United States District Court for the Southern District of New York, Daniel Patrick Moynihan U.S. Courthouse, 500 Pearl Street, New York, New York, during regular business hours. For a fee, all papers filed in this Litigation are available at www.pacer.gov.

PLAN OF ALLOCATION OF NET SETTLEMENT FUND AMONG CLASS MEMBERS

The Settlement Amount of $34.5 million and any interest earned thereon is the "Settlement Fund." The Settlement Fund, less all taxes, approved costs, fees, and expenses (the "Net Settlement Fund") shall be distributed to Class Members who submit timely and valid Proofs of Claim to the Claims Administrator ("Authorized Claimants"). The Plan of Allocation provides that you will be eligible to participate in the distribution of the Net Settlement Fund only if you have an overall net loss on all of your transactions in L3 common stock during the Class Period.

For purposes of formulating the Plan of Allocation and determining the amount an Authorized Claimant may recover under it, Lead Counsel has conferred with its damages consultant regarding the Plan of Allocation and it reflects an assessment of the damages that it believes could have been recovered by Class Members had Lead Plaintiffs prevailed at trial.

In the unlikely event there are sufficient funds in the Net Settlement Fund, each Authorized Claimant will receive an amount equal to the Authorized Claimant's claim, as defined below. If, however, and as is more likely, the amount in the Net Settlement Fund is not sufficient to permit payment of the total claim of each Authorized Claimant, then each Authorized Claimant shall be paid the percentage of the Net Settlement Fund that each Authorized Claimant's claim bears to the total of the claims of all Authorized Claimants. Payment in this manner shall be deemed conclusive against all Authorized Claimants.

Allowed claims will also be subjected to the statutory PSLRA 90-day look-back amount of $110.68.[2]

The calculation of claims below is not an estimate of the amount you will receive. It is a formula for allocating the Net Settlement Fund among all Authorized Claimants. Furthermore, if any of the formulas set forth below yield an amount less than $0.00, the claim per share shall be $0.00.

A "claim" will be calculated as follows:

For shares of L3 common stock ***purchased, or otherwise acquired, on or between January 30, 2014 through and including July 30, 2014***, the claim per share shall be as follows:

a) If sold prior to July 31, 2014, the claim per share is zero.

b) If retained at the end of July 30, 2014 and sold prior to October 28, 2014 the claim per share shall be the least of (i) $14.68 (July 31, 2014 Price Decline); (ii) the difference between the purchase price and the selling price; and (iii) the difference between the purchase price and the average closing price up to the date of sale as set forth in the table below.

c) If retained or sold on or after October 28, 2014, the claim per share shall be the lesser of: (i) $14.68 and (ii) the difference between the purchase price and $110.68.

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[2] Pursuant to Section 21D(e)(1) of the PSLRA, "in any private action arising under this chapter in which the plaintiff seeks to establish damages by reference to the market price of a security, the award of damages to the plaintiff shall not exceed the difference between the purchase or sale price paid or received, as appropriate, by the plaintiff for the subject security and the mean trading price of that security during the 90-day period beginning on the date on which the information correcting the misstatement or omission that is the basis for the action is disseminated to the market."

DATE	CLOSING PRICE	AVERAGE CLOSING PRICE	DATE	CLOSING PRICE	AVERAGE CLOSING PRICE
7/31/2014	$104.96	$104.96	9/16/2014	$116.13	$108.85
8/1/2014	$107.41	$106.19	9/17/2014	$115.99	$109.06
8/4/2014	$104.55	$105.64	9/18/2014	$115.49	$109.24
8/5/2014	$104.83	$105.44	9/19/2014	$114.24	$109.38
8/6/2014	$101.39	$104.63	9/22/2014	$112.61	$109.47
8/7/2014	$101.59	$104.12	9/23/2014	$110.63	$109.50
8/8/2014	$104.75	$104.21	9/24/2014	$111.13	$109.54
8/11/2014	$104.12	$104.20	9/25/2014	$109.73	$109.54
8/12/2014	$104.23	$104.20	9/26/2014	$114.75	$109.67
8/13/2014	$105.55	$104.34	9/29/2014	$115.26	$109.80
8/14/2014	$105.50	$104.44	9/30/2014	$118.92	$110.02
8/15/2014	$105.74	$104.55	10/1/2014	$115.23	$110.14
8/18/2014	$108.34	$104.84	10/2/2014	$113.61	$110.21
8/19/2014	$107.75	$105.05	10/3/2014	$115.09	$110.32
8/20/2014	$109.28	$105.33	10/6/2014	$113.08	$110.38
8/21/2014	$110.40	$105.65	10/7/2014	$110.80	$110.39
8/22/2014	$109.77	$105.89	10/8/2014	$112.06	$110.42
8/25/2014	$109.65	$106.10	10/9/2014	$108.11	$110.37
8/26/2014	$109.43	$106.28	10/10/2014	$115.15	$110.47
8/27/2014	$109.54	$106.44	10/13/2014	$109.25	$110.44
8/28/2014	$109.52	$106.59	10/14/2014	$108.27	$110.40
8/29/2014	$109.95	$106.74	10/15/2014	$109.09	$110.38
9/2/2014	$110.19	$106.89	10/16/2014	$109.23	$110.36
9/3/2014	$110.15	$107.02	10/17/2014	$110.63	$110.36
9/4/2014	$110.97	$107.18	10/20/2014	$109.55	$110.35
9/5/2014	$112.06	$107.37	10/21/2014	$110.15	$110.35
9/8/2014	$112.96	$107.58	10/22/2014	$111.66	$110.37
9/9/2014	$112.27	$107.74	10/23/2014	$114.43	$110.44
9/10/2014	$113.58	$107.95	10/24/2014	$114.56	$110.50
9/11/2014	$114.81	$108.17	10/27/2014	$115.23	$110.58
9/12/2014	$114.78	$108.39	10/28/2014	$116.76	$110.68
9/15/2014	$115.82	$108.62			

The date of purchase, acquisition or sale is the "contract" or "trade" date as distinguished from the "settlement" date. All purchase, acquisition and sale prices shall exclude any fees and commissions. The receipt or grant by gift, devise or operation of law of L3 common stock during the Class Period shall not be deemed a purchase, acquisition or sale of L3 common stock for the calculation of a claimant's recognized claim nor shall it be deemed an assignment of any claim relating to the purchase of such shares unless specifically provided in the instrument of gift or assignment. The receipt of L3 common stock during the Class Period in exchange for securities of any other corporation or entity shall not be deemed a purchase, acquisition or sale of L3 common stock.

For Class Members who held L3 common stock at the beginning of the Class Period or made multiple purchases, acquisitions or sales during the Class Period, the First-In, First-Out ("FIFO") method will be applied to such holdings, purchases, acquisitions, and sales for purposes of calculating a claim. Under the FIFO method, sales of L3 common stock during the Class Period will be matched, in chronological order, first against shares of L3 common stock held at the beginning of the Class Period. The remaining sales of L3 common stock during the Class Period will then be matched, in chronological order, against common stock purchased or acquired during the Class Period.

A Class Member will be eligible to receive a distribution from the Net Settlement Fund only if a Class Member had a net overall loss, after all profits from transactions in all L3 common stock described above during the Class Period are subtracted from all losses.

However, the proceeds from sales of common stock that have been matched against the common stock held at the beginning of the Class Period will not be used in the calculation of such net loss. **No distributions will be made to Authorized Claimants who would otherwise receive a distribution of less than $10.00.**

Subject to Court approval, payment pursuant to the Plan of Allocation set forth above shall be conclusive against all Authorized Claimants. L3, its counsel, and all other Released Persons will have no responsibility or liability whatsoever for the investment of the Settlement Fund, the distribution of the Net Settlement Fund, the Plan of Allocation, or the payment of any claim. No Person shall have any claim against Lead Plaintiffs, Lead Plaintiffs' Counsel, the Claims Administrator, or other Person designated by Lead Counsel, L3, or L3's counsel based on distributions made substantially in accordance with the Stipulation and the Settlement contained therein, the Plan of Allocation, or further orders of the Court. Lead Plaintiffs and Lead Plaintiffs' Counsel, likewise, will have no liability for their reasonable efforts to execute, administer, and distribute the Settlement. All Class Members who fail to complete and submit a valid and timely Proof of Claim shall be barred from participating in distributions from the Net Settlement Fund (unless otherwise ordered by the Court), but otherwise shall be bound by all of the terms of the Stipulation, including the terms of any judgment entered and the releases given.

Please contact the Claims Administrator or Lead Counsel if you disagree with any determinations made by the Claims Administrator regarding your Proof of Claim. If you are unsatisfied with the determinations, you may ask the Court, which retains jurisdiction over all Class Members and the claims administration process, to decide the issue by submitting a written request.

Distributions will be made to Authorized Claimants after all claims have been processed and after the Court has finally approved the Settlement and the Plan of Allocation. If any funds remain in the Net Settlement Fund by reason of un-cashed distribution checks or otherwise, then, after the Claims Administrator has made reasonable and diligent efforts to have Class Members who are entitled to participate in the distribution of the Net Settlement Fund cash their distributions, any balance remaining in the Net Settlement Fund after at least six (6) months after the initial distribution of such funds shall be used: (a) first, to pay any amounts omitted from the initial disbursement; (b) second, to pay additional settlement administration fees, costs, and expenses, including those of Lead Plaintiffs' Counsel as may be approved by the Court; and (c) to make a second distribution to claimants who cashed their checks from the initial distribution and who would receive at least $10.00, after payment of the estimated costs, expenses, or fees to be incurred in administering the Net Settlement Fund and in making this second distribution, if such second distribution is economically feasible. These redistributions shall be repeated, if economically feasible, until the balance remaining in the Net Settlement Fund is *de minimis* and such remaining balance shall then be distributed to an appropriate non-sectarian, non-profit charitable organization serving the public interest, designated by Lead Counsel and approved by the Court.

SPECIAL NOTICE TO SECURITIES BROKERS AND OTHER NOMINEES

If you purchased or acquired L3 common stock during the Class Period for the beneficial interest of an individual or organization other than yourself, the Court has directed that, WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS NOTICE, you either (a) provide to the Claims Administrator the name and last known address of each person or organization for whom or which you purchased or acquired such securities during such time period, or (b) request additional copies of this Notice and the Proof of Claim, which will be provided to you free of charge, and within ten (10) days mail the Notice and Proof of Claim directly to the beneficial owners of the securities referred to herein. If you choose to follow alternative procedure (b), upon such mailing, you must send a statement to the Claims Administrator confirming that the mailing was made as directed and retain the names and addresses for any future mailings to Class Members. You are entitled to reimbursement from the Settlement Fund of your reasonable expenses actually incurred in connection with the foregoing, including reimbursement of postage expense and the cost of ascertaining the names and addresses of beneficial owners. Your reasonable expenses will be paid upon request and submission of appropriate supporting documentation. All communications concerning the foregoing should be addressed to the Claims Administrator:

L3 Securities Litigation
Claims Administrator
c/o Garden City Group, LLC
P.O. Box 9349
Dublin, OH 43017-4249
www.L3TechnologiesSecuritiesLitigation.com

DATED: March 10, 2017

BY ORDER OF THE COURT
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EXHIBIT C

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 10/19/2015

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CITY OF AUSTIN POLICE RETIREMENT SYSTEM, Individually and on Behalf of All Others Similarly Situated, Plaintiffs, vs. KINROSS GOLD CORPORATION, TYE W. BURT, PAUL H. BARRY, GLEN MASTERMAN, and KENNETH G. THOMAS, Defendants.	Civil Action No. 1:12-cv-01203-VEC Judge Valerie Caproni ECF Case CLASS ACTION

ORDER AND FINAL JUDGMENT

WHEREAS, (i) Lead Plaintiff the City of Austin Police Retirement System, on behalf of itself and all other Class Members, and (ii) Kinross Gold Corporation ("Kinross" or the "Company"), Tye W. Burt, Paul H. Barry, Glen Masterman, and Kenneth G. Thomas (collectively, "Defendants") entered into the Stipulation of Settlement dated March 26, 2015, providing for the settlement and release of all Released Claims and Released Defendants' Claims, which include Unknown Claims, on the terms and conditions set forth in the Stipulation, subject to the approval of this Court (the "Settlement");

WHEREAS, unless otherwise defined in this Order and Final Judgment, the capitalized terms herein shall have the same meaning as they have in the Stipulation and its exhibits;

WHEREAS, in the Preliminary Approval Order dated May 26, 2015, this Court (a) preliminarily approved the Settlement; (b) preliminarily certified the Action as a class action for settlement purposes; (c) ordered that notice of the proposed Settlement be provided to

potential Class Members; (d) provided Class Members with the opportunity either to exclude themselves from the Settlement Class or to object to the proposed Settlement; and (e) scheduled a hearing regarding final approval of the Settlement;

WHEREAS, due and adequate notice has been given to the Class;

WHEREAS, the Court conducted a hearing on October 15, 2015 (the "Settlement Hearing") to consider, among other things, (i) whether the terms and conditions of the Settlement are fair, reasonable, and adequate and should therefore be approved; (ii) whether a judgment should be entered dismissing the Action with prejudice as against the Defendants; (iii) whether to approve the Plan of Allocation as a fair and reasonable method to allocate the settlement proceeds among Class Members; and (iv) whether and in what amount to award Lead Counsel's, Lead Plaintiff's, and additional named plaintiffs' fees and reimbursement of expenses;

WHEREAS, the Court having reviewed and considered the Stipulation, all papers filed and proceedings held in connection with the Settlement, and the record in the Action, and with good cause appearing therefor;

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. This Order and Final Judgment incorporates by reference the definitions of terms defined in the Stipulation, and all terms used herein shall have the same meanings as set forth in the Stipulation and its exhibits.

2. The Court has jurisdiction over the subject matter of the Action and over all parties to the Action, including, but not limited to, the Lead Plaintiff, all Class Members (including any Class Members who did not file a proper and timely request for exclusion), and the Defendants.

3. Lead Plaintiff is hereby appointed, for settlement purposes only, as "Class Representative" in respect of the Class for purposes of Federal Rule of Civil Procedure 23. Bernstein Liebhard LLP, which was appointed by the Court to serve as Lead Counsel, is hereby appointed, for settlement purposes only, as counsel for the Class pursuant to Rules 23(c)(1)(B) and (g) of the Federal Rules of Civil Procedure.

4. The Class that this Court preliminarily certified in the Preliminary Approval Order is hereby finally certified for settlement purposes under Federal Rule of Civil Procedure 23(b)(3).

5. Pursuant to the Preliminary Approval Order, the Court certified, for settlement purposes only, a Class consisting of:

> All persons or entities that purchased Kinross common stock on the open market in the United States (including, but not limited to, the New York Stock Exchange or any other U.S. trading platform) between August 11, 2011 and January 16, 2012, inclusive (the "Class Period"), and who were purportedly damaged thereby (the "Class"). Excluded from the Class are the following, and their immediate family members: Defendants; Kinross's Board of Directors during the Class Period; Kinross's Senior Leadership Team during the Class Period; and any firm, trust, corporation, officer, director, or other entity in which any Defendant has a controlling interest, or which is related to or affiliated with any of the Defendants, and the legal representatives, affiliates, heirs, successors-in-interest or assigns of any such excluded party. Also excluded from the Class are any putative Class Members who exclude themselves by filing a request for exclusion in accordance with the requirements set forth in the Notice.

6. Persons who filed timely and valid requests for exclusion from the Class are identified on Exhibit A, annexed hereto.

7. In granting final certification of the Class, the Court finds that the prerequisites for a class action under Federal Rules of Civil Procedure 23(a) and (b)(3) have been satisfied in that: (a) the number of Class Members is so numerous that joinder of all members thereof is

impracticable; (b) there are questions of law and fact common to the Class; (c) the claims of the proposed settlement class representatives are typical of the claims of the Class; (d) the proposed Class Representative and Lead Counsel have and will fairly and adequately represent the interests of the Class; (e) the questions of law and fact common to the members of the Class predominate over any questions affecting only individual members of the Class; and (f) a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

8. The Stipulation and the Settlement are approved as fair, reasonable, and adequate, and in the best interests of the Class, and the Class Members and the parties to the Stipulation are directed to implement the Stipulation in accordance with its terms and provisions.

9. The complaints filed in the Action are hereby dismissed with prejudice and without costs, except as provided in the Stipulation.

10. The Court finds that the complaints filed in the Action were filed on a good faith basis in accordance with the Private Securities Litigation Reform Act of 1995 ("PSLRA") and Rule 11 of the Federal Rules of Civil Procedure. The Court further finds that during the course of the Action, the parties and their respective counsel at all times complied with the requirements of Rule 11 of the Federal Rules of Civil Procedure.

11. The Notice was disseminated and published in accordance with the Preliminary Approval Order. The form and method of notifying the Class of the pendency of the Action as a class action and of the terms and conditions of the proposed Settlement satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure, the Securities Exchange Act of 1934 (as amended by the PSLRA), due process, and any other applicable law, constituted the best notice

practicable under the circumstances, and constituted due and sufficient notice to all Class Members entitled thereto.

12. Neither this Order and Final Judgment, the Stipulation, the Supplemental Agreement, nor any negotiations or proceedings connected thereto, nor any of the documents, provisions, or statements referred to therein: (i) is, or shall be deemed to be, or shall be used as an admission of any Released Party, or any other person of the validity of any Released Claims, or any wrongdoing by or liability of any Released Party; (ii) is, or shall be deemed to be, or shall be used as an admission of any fault or omission of any Released Party in any statement, release, or written documents issued, filed, or made; (iii) shall be offered or received in evidence against any Released Party in any civil, criminal, or administrative action or proceeding in any court, administrative agency, or other tribunal other than such proceedings as may be necessary to consummate or enforce the Stipulation, the Settlement set forth therein, the releases provided pursuant thereto, and/or this Order and Final Judgment, except that the Stipulation may be filed by any Released Party in this Action or in any subsequent action brought against any of the Released Parties in order to support a defense or counterclaim of any Released Party of *res judicata*, collateral estoppel, release, good faith settlement, or any theory of claim or issue preclusion or similar defense or counterclaim, including, without limitation, specific performance of the Settlement embodied in the Stipulation as injunctive relief; (iv) shall be construed against the Released Parties, Lead Plaintiff, and Class Members as an admission or concession that the consideration to be given hereunder represents the amount which could be or would have been recovered after trial; and (v) shall be construed as or received in evidence as an admission, concession, or presumption against Lead Plaintiff and Class Members, or any of them, that any of their claims are without merit or that damages recoverable in the Action would

not have exceeded the Cash Settlement Amount.

13. The releases set forth in the Stipulation (the "Releases"), together with the definitions contained in the Stipulation relating thereto, are expressly incorporated herein in all respects. The Releases are effective as of the Effective Date. Accordingly, this Court orders that, as of the Effective Date:

(a) the "Releasors" shall be deemed by operation of law to have fully granted and completely discharged, dismissed with prejudice, settled and released, and agreed to be barred by a permanent injunction from the assertion of, Released Claims against any of the Released Parties and their attorneys, and

(b) each Defendant, on behalf of himself or itself, as well as on behalf of his or its heirs, executors, administrators, predecessors, successors, and assigns, shall be deemed by operation of law to have fully granted and completely discharged, dismissed with prejudice, settled and released, and agreed to be barred by a permanent injunction from the assertion of Released Defendants' Claims against Lead Plaintiff, Lead Counsel, and all other Class Members and their respective counsel.

14. The terms of the Stipulation and of this Order and Final Judgment shall be forever binding on Defendants, Lead Plaintiff, and all other Class Members (regardless of whether or not any individual Settlement Class Member submits a Claim Form or seeks or obtains a distribution from the Net Settlement Fund), as well as their respective heirs, executors, administrators, predecessors, successors, and assigns.

15. The persons listed on Exhibit A, annexed hereto, have submitted requests for exclusion from the Class that were accepted by the Court. By virtue of such requests, those persons are deemed not to be members of the Class and have no right to participate in the

Settlement or to receive any distributions from the Net Settlement Fund. Except for those persons listed on Exhibit A, no other persons have submitted requests for exclusion from the Class that were accepted by the Court. The persons listed on Exhibit A are the only persons whose requests for exclusion have been accepted, and, as a consequence, these persons are not bound by the terms of the Stipulation and this Order and Final Judgment.

16. The Escrow Agent shall maintain the Settlement Fund in accordance with the requirements set forth in the Stipulation. No Released Party shall have any liability, obligation, or responsibility whatsoever for the administration of the Settlement or disbursement of the Net Settlement Fund. Lead Counsel, Lead Plaintiff, the Escrow Agent, and the Claims Administrator shall have no liability to any Class Member with respect to any aspect of the administration of the Settlement Fund, including, but not limited to, the processing of Proof of Claim forms and the distribution of the Net Settlement Fund to Class Members.

17. The Plan of Allocation is approved as fair and reasonable, and Lead Counsel and the Claims Administrator are directed to administer the Stipulation in accordance with its terms and provisions. Any further orders or proceedings solely regarding the Plan of Allocation shall in no way disturb or affect this Order and Final Judgment and shall be separate and apart from it.

18. Pursuant to the PSLRA, 15 U.S.C. § 78u-4(f)(7)(A), and applicable law, upon the Effective Date any and all claims, actions, allegations, causes of action, demands, or rights, however denominated and whether presently known or unknown, seeking contribution as that term is defined for purposes of the PSLRA or other law, or seeking indemnification for claims arising under the federal securities laws or for state law claims arising out of or related to the actions underlying the claims in the Action, brought by any person against the Defendants are hereby barred and discharged against any Released Party.

19. Lead Counsel are hereby awarded 30% of the Gross Settlement Fund in attorneys' fees, which sum the Court finds to be fair and reasonable, and, for the reasons stated on the record at the fairness hearing on October 15, 2015, $823,067.03 in reimbursement of expenses, which, together with the attorneys' fees, shall be paid to Lead Counsel from the Gross Settlement Fund. The award of attorneys' fees shall be paid with interest at the same net rate that the Gross Settlement Fund earns. The award of attorneys' fees shall be allocated among additional plaintiffs' counsel in a fashion which, in the opinion of Lead Counsel, fairly compensates additional plaintiffs' counsel for their respective contributions in the prosecution of the Action.

20. In making this award of attorneys' fees and reimbursement of expenses, the Court has considered and found that:

(a) The Settlement has created a fund of $33,000,000 million in cash that is already on deposit, and numerous Class Members who submit, or have submitted, acceptable Claim Forms will benefit from the Settlement created by Lead Counsel.

(b) Over 107,000 copies of the Notice were disseminated to Class Members indicating that Lead Counsel were moving for attorneys' fees in the amount of 30% of the Gross Settlement Fund and for reimbursement of expenses in an amount not to exceed $975,000 and no valid objections were filed against the Fee and Expenses Application filed by Lead Counsel contained in the Notice;

(c) Lead Counsel have litigated the Action and achieved the Settlement with skill, perseverance, and diligent advocacy;

(d) The Action involves complex factual and legal issues and, in the absence of a settlement, would involve further lengthy proceedings with uncertain resolution of the complex factual and legal issues;

(e) Had Lead Counsel not achieved the Settlement, there would remain a significant risk that the Class may have recovered less or nothing from the Defendants;

(f) Lead Counsel have devoted over 17,000 hours, with a lodestar value of $10,600,950, to achieve the Settlement; and

(g) The amount of attorneys' fees awarded and expenses reimbursed from the Settlement Fund is fair, reasonable and consistent with fee and expense awards in similar cases.

21. The awarded attorneys' fees and expenses, and interest earned on the attorneys' fees, shall be paid to Lead Counsel from the Gross Settlement Fund immediately after the date this Order and Final Judgment is executed subject to the terms, conditions, and obligations of the Stipulation, which terms, conditions, and obligations are incorporated herein.

22. Pursuant to 15 U.S.C. § 78u-4(a)(4), the Court hereby awards reimbursement of expenses to the Lead Plaintiff and additional named plaintiffs in the amount of $16,800.11 to compensate them for their reasonable costs and expenses directly relating to their representation of the Class.

23. This Court hereby retains exclusive jurisdiction over the Parties and the Class Members for all matters relating to this Action, including the administration, interpretation, effectuation, or enforcement of the Stipulation and this Order and Final Judgment, and including any application for fees and expenses incurred in connection with administering and distributing the settlement proceeds to the members of the Settlement Class.

24. In the event the Effective Date does not occur, then this Order and Final Judgment shall be rendered null and void and shall be vacated and, in such event, the Stipulation, and all orders entered and releases delivered in connection herewith, shall be null and void.

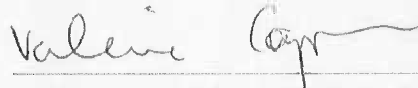
25. Without further approval from the Court, the parties are hereby authorized to

agree to and adopt such amendments or modifications of the Stipulation or any exhibits attached thereto to effectuate the Settlement that: (i) are not materially inconsistent with this Order and Final Judgment; and (ii) do not materially limit the rights of Class Members in connection with the Settlement. Without further order of the Court, the Parties may agree to reasonable extensions of time to carry out any of the provisions of the Stipulation.

26. As there is no just reason for delay in the entry of this Order and Final Judgment, the Court hereby directs that this Order and Final Judgment be entered by the clerk forthwith pursuant to Federal Rule of Civil Procedure 54(b). The direction of the entry of final judgment pursuant to Rule 54(b) is appropriate and proper because this judgment fully and finally adjudicates the claims of the Lead Plaintiff and the Class Members against the Defendants in this Action, it allows consummation of the Settlement, and will expedite the distribution of the Settlement proceeds to the Class Members.

Dated: New York, New York

October 19, 2015



HONORABLE VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE

EXHIBIT A

INDIVIDUALS EXCLUDED FROM THE SETTLEMENT

1. Carolyn Martin
2. Jordan Yahiro
3. Scott Scully
4. Seng Chye Tan
5. Kwong Yuen Kei
6. Mei Sze Tang

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CITY OF AUSTIN POLICE RETIREMENT SYSTEM, Individually and on Behalf of All Others Similarly Situated, Plaintiffs, vs. KINROSS GOLD CORPORATION, TYE W. BURT, PAUL H. BARRY, GLEN MASTERMAN, and KENNETH G. THOMAS, Defendants.	Civil Action No. 1:12-cv-01203-VEC Judge Valerie E. Caproni ECF Case CLASS ACTION

NOTICE OF PENDENCY OF CLASS ACTION AND PROPOSED SETTLEMENT, SETTLEMENT FAIRNESS HEARING, AND MOTION FOR AN AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION EXPENSES

A Federal Court Authorized This Notice. This Is Not A Solicitation From A Lawyer

TO: **ALL PERSONS OR ENTITIES THAT PURCHASED KINROSS COMMON STOCK ON THE OPEN MARKET IN THE UNITED STATES (INCLUDING, BUT NOT LIMITED TO, THE NEW YORK STOCK EXCHANGE OR ANY OTHER U.S. TRADING PLATFORM) BETWEEN AUGUST 11, 2011 AND JANUARY 16, 2012, INCLUSIVE (THE "CLASS PERIOD"), AND WHO WERE PURPORTEDLY DAMAGED THEREBY (THE "CLASS" OR "CLASS MEMBERS").**[1]

- **PLEASE READ THIS NOTICE CAREFULLY.**
- **IF YOU WISH TO COMMENT IN FAVOR OF THE SETTLEMENT OR OBJECT TO THE SETTLEMENT, YOU MUST FOLLOW THE DIRECTIONS IN THIS NOTICE.**
- **YOU MAY BE ELIGIBLE TO RECEIVE MONEY FROM THE SETTLEMENT OF THIS CASE.**
- **YOUR LEGAL RIGHTS MAY BE AFFECTED BY THIS LAWSUIT.**
- **TO RECEIVE MONEY FROM THIS SETTLEMENT, YOU MUST SUBMIT A VALID PROOF OF CLAIM AND RELEASE FORM ("CLAIM FORM") POSTMARKED ON OR BEFORE SEPTEMBER 17, 2015.**
- **IF YOU DO NOT WISH TO PARTICIPATE IN THE SETTLEMENT, YOU MAY REQUEST TO BE EXCLUDED FROM THE SETTLEMENT BY SENDING A WRITTEN REQUEST FOR EXCLUSION THAT MUST BE POSTMARKED ON OR BEFORE SEPTEMBER 17, 2015.**
- **IF YOU RECEIVED THIS NOTICE ON BEHALF OF A CLASS MEMBER WHO IS DECEASED, YOU SHOULD PROVIDE THE NOTICE TO THE AUTHORIZED LEGAL REPRESENTATIVE OF THAT CLASS MEMBER.**

YOU ARE HEREBY NOTIFIED AS FOLLOWS:[2]

A proposed settlement (the "Settlement") has been reached by the Parties[3] in the class action pending in the United States District Court for the Southern District of New York (the "Court"), which was brought on behalf of all Class Members described above. The Court has preliminarily approved the Settlement, whose terms are set forth in the Stipulation, which is available at www.kinrossgoldcorpsecuritiessettlement.com, and has preliminarily certified the Class for Settlement purposes only. You have received this Notice because the Parties' records indicate that you are a member of the Class. This Notice is designed to inform you of your rights, how you can submit a Claim Form, and how you can comment in favor of the Settlement or object to the Settlement. If the Settlement is finally approved by the Court, the Settlement will be binding upon you, unless you exclude yourself, even if you do not submit a Claim Form to obtain money from the Net Settlement Fund and even if you object to the Settlement.

There will be a hearing on the Settlement (the "Settlement Hearing") before the Honorable Valerie E. Caproni, United States District Court Judge, at 2:00 p.m., on October 15, 2015, in Courtroom 443 of the Thurgood Marshall United States Courthouse, 40 Foley Square, New York, New York 10007.

[1] All capitalized terms that are not defined in this Notice have the meaning ascribed to them in the Stipulation of Settlement (the "Stipulation") dated March 26, 2015, which is available on the website established for the Settlement at www.kinrossgoldcorpsecuritiessettlement.com. Purchases of Kinross common stock listed on the Toronto Stock Exchange (TSX:K) are not eligible for compensation pursuant to the Settlement.

[2] A copy of this Notice may be found at www.kinrossgoldcorpsecuritiessettlement.com.

[3] The "Parties" are collectively defined as Lead Plaintiff the City of Austin Police Retirement System (on behalf of itself and the Class), and Defendant Kinross and Individual Defendants Tye W. Burt, Paul H. Barry, Glen Masterman, and Kenneth G. Thomas.

I. BACKGROUND OF THE CASE

On February 16, 2012, a putative securities class action complaint, captioned *Bo Young Cha v. Kinross Gold Corp.* 12-CV-1203, was filed in the Court against Kinross and certain of its former officers and directors (the "Action"). That complaint alleged violations of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 (the "Exchange Act") and Rule 10b-5 promulgated under Section 10(b). On May 31, 2012, the Court appointed the City of Austin Police Retirement System as Lead Plaintiff ("Lead Plaintiff") and Bernstein Liebhard LLP as Lead Counsel for the putative Class in the Action. Lead Plaintiff filed an Amended Class Action Complaint (the "Amended Complaint") in the Action on July 23, 2012, and Defendants moved to dismiss the Amended Complaint on September 7, 2012.

On March 22, 2013, the Court changed the caption of the Action to the *City of Austin Police Retirement System v. Kinross Gold Corp., Tye W. Burt, Paul H. Barry, Glen Masterman, and Kenneth G. Thomas.* One day later, the Court issued an Opinion & Order granting in part and denying in part Defendants' motion to dismiss the Amended Complaint. The Order sustained against all Defendants the Lead Plaintiff's claims concerning alleged securities law violations resulting from Defendants' public statements between August 10, 2011 and January 16, 2012, inclusive. Defendants filed a motion for reconsideration of the Opinion & Order on April 5, 2013, which, following full briefing on that motion, was denied by the Court on June 6, 2013. Fact discovery commenced thereafter. During the course of discovery, the Parties collectively produced and reviewed approximately 750,000 pages of documents and conducted twenty-one depositions.

In or around March 2014, the Parties commenced mediation of the Action with retired San Francisco Superior Court Judge Daniel Weinstein acting as mediator. Mediated settlement negotiations have been ongoing since that time.

On July 30, 2014, Lead Plaintiff filed a motion for class certification, which Defendants opposed on September 5, 2014. The class certification motion was fully briefed on September 19, 2014. On September 29, 2014, Defendants filed a motion to strike portions of Lead Plaintiff's class certification reply brief. Lead Plaintiff opposed that motion on October 14, 2014, and Defendants filed their reply papers on October 21, 2014.

On September 18, 2014, proposed expert reports were exchanged between the Parties. Lead Plaintiff submitted two proposed expert reports, and Defendants submitted three proposed expert reports. Expert rebuttal reports were exchanged on October 20, 2014, and all five proposed experts were deposed thereafter. On December 19, 2014, the Parties filed with the Court motions to exclude the reports and testimony of each other's proposed experts, and opposition briefs on those motions were filed thereafter, on January 20, 2015. On December 20, 2014, Defendants filed a motion requesting a hearing both on Lead Plaintiff's class certification motion and to exclude the testimony of one of Lead Plaintiff's proposed experts.

Prior to the Court's resolution of the motion for class certification, and before the briefing on the motions to exclude the proposed experts was complete, the Parties, with the mediator's assistance, reached an agreement-in-principle to settle the Action, on terms that include the use of the Defendants' Directors' and Officers' Liability Insurance Policies to fund the payment of $33,000,000, to be paid by the insurers for the benefit of the Class.

On March 26, 2015, the Parties entered into the Stipulation memorializing their agreement to settle the Action.

Defendants have denied the claims asserted against them in the Action and deny having engaged in any wrongdoing or violation of law of any kind whatsoever. Defendants have agreed to the Settlement solely to eliminate the burden and expense of continued litigation. Accordingly, the Settlement may not be construed as an admission of any wrongdoing by any of the Defendants. The Court has not ruled on the merits of whether the Defendants violated the securities laws, or any other laws or rules.

Lead Plaintiff and Defendants, and their counsel, have concluded that the Settlement is advantageous, considering the risks and uncertainties to each side of continued litigation. The Parties and their counsel have determined that the Settlement is fair, reasonable, and adequate and is in the best interests of the Class Members.

The Settlement creates a Gross Settlement Fund in the amount of $33,000,000 in cash. Your recovery from the Gross Settlement Fund will depend on a number of variables, including the number of shares of Kinross common stock that you purchased on the open market in the United States (including, but not limited to, the New York Stock Exchange or any other U.S. trading platform) during the Class Period, and the timing of your purchases and sales of any such shares. Lead Plaintiff's damages expert estimates that if all eligible Claimants submit a valid Claim Form, the average distribution per damaged share[4] will be approximately $0.21 before deduction of Court-approved fees and expenses. Class Members should note, however, that this is only an estimate based on the overall number of potentially affected shares. Some Class Members may recover more or less than the amount estimated herein.

Lead Plaintiff and Defendants do not agree on the average amount of damages per share that would be recoverable if Lead Plaintiff were to have prevailed in the Action. The issues on which the Parties disagree include: (1) the amount by which shares of Kinross common stock were allegedly artificially inflated (if at all) during the Class Period; (2) the effect of various market forces on the price of Kinross common stock at various times during the Class Period; (3) the extent to which external factors, such as general market and industry conditions, influenced the price of Kinross common stock at various times during the Class Period; (4) the extent to which the various public statements that Lead Plaintiff alleged were materially false or misleading influenced (if at all) the price of Kinross common stock at various times during the Class Period; (5) the extent to which the various allegedly adverse material facts that Lead Plaintiff alleged were omitted influenced (if at all) the price of Kinross common stock at various times during the Class Period; (6)

[4] An allegedly damaged share might have been traded more than once during the Class Period, and the indicated average recovery would be the total for all purchasers of that share.

whether the statements made or facts allegedly omitted were material, false, misleading, or otherwise actionable under the federal securities laws; and (7) whether the market for Kinross common stock was efficient.

Lead Counsel, who has been prosecuting this Action on a wholly-contingent basis since its inception, has not received any payment of attorneys' fees for their representation of the Class and has advanced the funds to pay expenses necessarily incurred to prosecute the Action. Lead Counsel will apply to the Court for an award of attorneys' fees for all plaintiffs' counsel in the amount of 30% of the Gross Settlement Fund. In addition, Lead Counsel will apply for reimbursement of reasonable litigation expenses (exclusive of administration costs) paid or incurred in connection with the prosecution and resolution of the claims against the Defendants, in an amount not to exceed $975,000. In addition, Lead Counsel will submit an application for reimbursement of the reasonable costs and expenses incurred by Lead Plaintiff and additional named plaintiffs directly related to their representation of the Class through their involvement in the discovery process, in an amount not to exceed $30,000 collectively. Any fees and expenses awarded by the Court will be paid from the Gross Settlement Fund. Class Members are not personally liable for any such fees or expenses. If the Settlement is approved, and Lead Counsel's fee and expense application is granted in its entirety, the average cost per share of these fees and expenses will be approximately $.07 per share of common stock.

Lead Plaintiff and the Class are represented by Lead Counsel Bernstein Liebhard LLP. Any questions regarding the Action or the Settlement should be directed to U. Seth Ottensoser at Bernstein Liebhard LLP, 10 East 40th Street, New York, NY 10016, (212) 779-1414, KGC@bernlieb.com.

YOUR LEGAL RIGHTS AND OPTIONS IN THE SETTLEMENT:	
Submit A Claim Form By September 17, 2015.	This is the only way to be eligible to get a payment in connection with the Settlement.
Exclude Yourself From The Settlement Class By Submitting A Written Request Postmarked No Later Than September 17, 2015.	If you exclude yourself from the Class, you will not be eligible to get any payment from the Net Settlement Fund. This is the only option that allows you to be part of any other lawsuit against any of the Defendants or the other Released Parties concerning the Released Claims (defined below).
Object To The Settlement By Submitting A Written Objection No Later Than September 17, 2015.	If you do not like the proposed Settlement, the proposed Plan of Allocation, or the Fee and Expense Application, you may write to the Court and explain why you do not like them. You cannot object to the Settlement, the Plan of Allocation, or the Fee and Expense Application unless you are a Class Member and do not exclude yourself.
Go To The Settlement Hearing On October 15, 2015 And File A Notice Of Intention To Appear No Later Than September 17, 2015.	Filing a written objection and notice of intention to appear allows you to speak in Court about the fairness of the Settlement, the Plan of Allocation, and/or the Fee and Expense Application. If you submit a written objection, you may (but do not have to) attend the hearing and speak to the Court about your objection.
Do Nothing	If you are a member of the Class and you do not submit a Claim Form by September 17, 2015, you will not be eligible to receive any payment from the Net Settlement Fund. You will, however, remain a member of the Class, which means that you give up your right to sue about the claims that are resolved by the Settlement and you will be bound by any Judgments or Orders entered by the Court pertaining to the class actions in the Action.

II. TERMS OF THE SETTLEMENT

The Stipulation setting forth the terms of the Settlement provides for the following:

A. Why Did I Get This Notice?

This Notice is being sent to you pursuant to an order of the Court because you, someone in your family, or an investment account for which you serve as a custodian may have purchased Kinross common stock on the open market in the United States (including, but not limited to, the New York Stock Exchange or any other U.S. trading platform) during the Class Period. The Court has directed us to send you this Notice because, as a potential Class Member, you have a right to know about your options before the Court rules on the proposed Settlement. Additionally, you have the right to understand how a class action lawsuit may generally affect your legal rights. If the Court approves the Settlement and the Plan of Allocation (or some other plan of allocation), the Claims Administrator selected by Lead Plaintiff and approved by the Court will make payments pursuant to the Settlement and the Court-approved Plan of Allocation after any objections and appeals are resolved. This Notice is also being sent to inform you of a hearing to be held by the Court to consider the fairness, reasonableness, and adequacy of the Settlement, the proposed Plan of Allocation, and the Fee and Expense Application.

In a class action lawsuit, a court selects one or more people, known as class representatives, to sue on behalf of all people with similar claims, commonly known as the class or the class members. A class action is a type of lawsuit in which the claims of a number of individuals are resolved together, thus providing the class members with both consistency and efficiency. Once a class is certified, the presiding court must resolve all issues on behalf of the class members, except for any persons or entities who choose to exclude themselves from the class. In the Action, the Court appointed the City of Austin Police Retirement System to serve as "Lead Plaintiff" under a federal law governing securities lawsuits, and approved Lead Plaintiff's selection of the law firm Bernstein Liebhard LLP to serve as "Lead Counsel." The Court has preliminarily certified the Action to proceed as a class action for settlement purposes only and preliminarily certified the Lead Plaintiff as representative for the Class.

This Notice does not express any opinion by the Court concerning the merits of any claim in the Action, and the Court still has to decide whether to approve the Settlement. If the Court approves the Settlement and the Plan of Allocation, payments to Authorized Claimants will be made after any appeals are resolved, and after the completion of all claims processing.

B. What Does The Settlement Provide?

The Contributing Insurers are paying $33,000,000 in cash for the benefit of the Class (the "Gross Settlement Fund").

C. Am I Included In The Settlement?

You are included in the Settlement if you purchased Kinross common stock on the open market in the United States (including, but not limited to, the New York Stock Exchange or any other U.S. trading platform) during the Class Period and were purportedly damaged thereby.

Excluded from the Class are the following, and their immediate family members: Defendants; Kinross's Board of Directors during the Class Period; Kinross's Senior Leadership Team during the Class Period; and any firm, trust, corporation, officer, director, or other entity in which any Defendant has a controlling interest, or which is related to or affiliated with any of the Defendants, and the legal representatives, affiliates, heirs, successors-in-interest or assigns of any such excluded party. Also excluded from the Class are any putative Class Members who exclude themselves by filing a request for exclusion in accordance with the requirements set forth in the Notice.

PLEASE NOTE: RECEIPT OF THIS NOTICE DOES NOT MEAN THAT YOU ARE A CLASS MEMBER OR THAT YOU WILL BE ENTITLED TO RECEIVE PROCEEDS FROM THE SETTLEMENT. IF YOU ARE A CLASS MEMBER AND YOU WISH TO BE ELIGIBLE TO PARTICIPATE IN THE DISTRIBUTION OF PROCEEDS FROM THE SETTLEMENT, YOU ARE REQUIRED TO SUBMIT THE CLAIM FORM THAT IS BEING DISTRIBUTED WITH THIS NOTICE AND THE REQUIRED SUPPORTING DOCUMENTATION AS SET FORTH THEREIN POSTMARKED NO LATER THAN SEPTEMBER 17, 2015.

D. <u>What Might Happen If There Is No Settlement?</u>

If there is no Settlement, and Lead Plaintiff fails to establish any essential legal or factual element of its claims against the Defendants, neither it nor any Class Member would recover anything from the Defendants. If the Defendants succeed in proving any of their defenses, the Class could recover substantially less than the amounts provided in the Settlement, or nothing at all. Additionally, there are limits on the insurance coverage available for the Defendants, and such coverage is a wasting asset. The ongoing prosecution of the Action against the Defendants, along with other costs being paid from the insurance policies in connection to other ongoing litigation, depletes the amount of available funds to settle claims such as this one. Thus, even if Lead Plaintiff would prevail at trial and on any appeal that would have followed, by the time Lead Plaintiff could seek to enforce the judgment, the insurance coverage could be materially depleted.

E. <u>What Is The Legal Effect Of The Settlement On My Rights?</u>

If you are a member of the Class, the Settlement will affect you. If the Court grants final approval of the Settlement, the Action will be dismissed with prejudice and all Class Members will fully release and discharge the Defendants from all claims for relief arising out of or based on Lead Plaintiff's allegations. When a Person "releases" claims, that means that Person cannot sue the Defendants for any of the claims covered by the release. If you are a Class Member and you submit a valid and timely Claim Form, you will receive a payment based upon the distribution formula described below.

F. <u>What Will I Receive From The Settlement?</u>

At this time, it is not possible to make any determination as to how much a Class Member may receive from the Settlement.

Pursuant to the Settlement, the Contributing Insurers have agreed to pay $33,000,000 in cash. If the Settlement is approved by the Court, the Net Settlement Fund (*i.e.*, the Gross Settlement Fund less (a) all federal, state, and local taxes on any income earned by the Gross Settlement Fund and the reasonable costs incurred in connection with determining the amount of and paying taxes owed by the Gross Settlement Fund (including reasonable expenses of tax attorneys and accountants); (b) the costs and expenses incurred in connection with providing Notice to Class Members and administering the Settlement on behalf of Class Members; (c) any attorneys' fees, expenses, and plaintiffs' reimbursements awarded by the Court; and (d) the escrow costs of maintaining the Gross Settlement Fund will be distributed to Class Members as set forth in the proposed Plan of Allocation, or such other plan as the Court may approve.

After approval of the Settlement by the Court, and upon satisfaction of the other conditions to the Settlement, the Net Settlement Fund will be distributed to Authorized Claimants in accordance with the Plan of Allocation approved by the Court. The Net Settlement Fund will not be distributed until the Court has approved a plan of allocation, and the time for any petition for rehearing, appeal, or review, whether by certiorari or otherwise, has expired.

Neither the Defendants nor any Contributing Insurer nor any other Person that paid any portion of the Gross Settlement Amount is entitled to get back any portion of the Net Settlement Fund once the Court's Order and Final Judgment approving the Settlement becomes final. The Defendants will not have any liability, obligation, or responsibility for the administration of the Settlement or disbursement of the Net Settlement Fund or the Plan of Allocation.

Approval of the Settlement is independent from approval of the Plan of Allocation. Any determination with respect to the Plan of Allocation will not affect the Settlement, if approved.

Each Person wishing to participate in the distribution must timely submit a valid Claim Form establishing membership in the Class, and including all required documentation, postmarked on or before September 17, 2015, to the address set forth in the Claim Form that accompanies this Notice.

Unless the Court otherwise orders, any Class Member who fails to submit a Claim Form postmarked on or before September 17, 2015, shall be fully and forever barred from receiving payments pursuant to the Settlement, but will in all other respects remain a Class Member and be subject to the provisions of the Stipulation and Settlement that is approved, including the terms of any judgment entered and releases given.

The Court has reserved jurisdiction to allow, disallow, or adjust the Claim of any Class Member on equitable grounds.

Each Claimant shall be deemed to have submitted to the jurisdiction of the Court with respect to his, her, or its Claim Form. Upon request of the Claims Administrator, each Person that submits a Claim Form shall subject his, her, or its Claim to investigation as to his, her, or its status as a Claimant and the allowable amount of his, her, or its Claim.

Persons that are excluded from the Class by definition or that exclude themselves from the Class will not be eligible to receive a distribution from the Net Settlement Fund and should not submit a Claim Form.

G. Proposed Plan Of Allocation

The Net Settlement Fund will be distributed to Class Members who submit valid, timely Claim Forms. A "Recognized Loss" will be calculated as set forth below for each share of Kinross common stock purchased on the open market in the United States (including, but not limited to, the New York Stock Exchange or any other U.S. trading platform) during the Class Period. The calculation of Recognized Loss will depend on several factors, including when the stock was purchased during the Class Period, and in what amounts, and whether those shares were sold, and if sold, when they were sold, and for what amounts. Each Authorized Claimant's Recognized Claim shall be the total of his, her, or its Recognized Loss amounts for shares of Kinross common stock purchased on the open market in the United States (including, but not limited to, the New York Stock Exchange or any other U.S. trading platform) during the Class Period. If the sum total of Recognized Claims of all Authorized Claimants who are entitled to receive payment out of the Net Settlement Fund is greater than the Net Settlement Fund, each Authorized Claimant shall receive his, her, or its pro rata share of the Net Settlement Fund. The pro rata share shall be the Authorized Claimant's Recognized Claim divided by the total of Recognized Claims of all Authorized Claimants, multiplied by the total amount in the Net Settlement Fund. Payment in this manner shall be deemed conclusive against all Authorized Claimants.

The objective of the Plan of Allocation is to equitably distribute the Net Settlement Fund among Authorized Claimants who suffered economic losses as a result of the alleged violations of the federal securities laws, as opposed to losses caused by market- or industry-wide factors, or company-specific factors not related to the alleged violations of the federal securities laws. Federal securities laws allow investors to recover for losses caused by disclosures which correct defendants' previous misleading statements or omissions. Thus, in order to have been damaged by the alleged violations of the federal securities laws, shares of Kinross common stock purchased on the open market in the United States (including, but not limited to, the New York Stock Exchange or any other U.S. trading platform) during the Class Period must have been held during a period of time in which its price declined due to the disclosure of information which corrected an allegedly misleading statement or omission. Lead Plaintiff alleges that such price decline occurred on January 17, 2012 (the "corrective disclosure date"). Accordingly, if a share of Kinross common stock purchased on the open market in the United States (including, but not limited to, the New York Stock Exchange or any other U.S. trading platform) was sold before January 17, 2012, the Recognized Loss for those shares is $0.00, and any loss suffered is not compensable under the federal securities laws.

The estimate of the alleged artificial inflation in the price of Kinross common stock purchased on the open market in the United States (including, but not limited to, the New York Stock Exchange or any other U.S. trading platform) during the Class Period, assuming that Lead Plaintiff could adequately allege and prove liability for that entire period, is reflected in Table 1 below. The estimate of the alleged artificial inflation reflects the change in the price of Kinross common stock purchased on the open market in the United States (including, but not limited to, the New York Stock Exchange or any other U.S. trading platform), net of market- and industry-wide factors on January 17, 2012, in reaction to the public announcement that corrected the misrepresentations alleged by Lead Plaintiff in the Complaint.

Table 1 Alleged Artificial Inflation in the Price of KGC		
From	**To**	**Alleged Artificial Inflation**
August 11, 2011	January 16, 2012	$1.04

The "90-day look-back" provision of the Private Securities Litigation Reform Act of 1995 ("PSLRA") is incorporated into the calculation of the Recognized Loss. The limitations imposed by the PSLRA are applied such that the Recognized Loss on Kinross common stock purchased on the open market in the United States (including, but not limited to, the New York Stock Exchange or any other U.S. trading platform) during the Class Period and held as of the close of the 90-day period subsequent to the Class Period (the "90-day look-back period") must not exceed the difference between the purchase price paid per share of Kinross common stock and the average closing price of Kinross common stock on the New York Stock Exchange during the 90-day look-back period. The Recognized Loss on Kinross common stock purchased on the open market in the United States (including, but not limited to, the New York Stock Exchange or any other U.S. trading platform) during the Class Period and sold during the 90-day look-back period, must not exceed the difference between the purchase price paid per share of Kinross common stock and the average closing price of the stock during the period from the start of the 90-day look-back period through the date of sale.

CALCULATION OF RECOGNIZED LOSS PER SHARE

Each Authorized Claimant's Recognized Loss will be calculated as follows:

For each share of Kinross common stock purchased on the open market in the United States (including, but not limited to, the New York Stock Exchange or any other U.S. trading platform) during the Class Period, *i.e.*, August 11, 2011, through January 16, 2012, inclusive:[5]

1. and sold on or before January 16, 2012, the Recognized Loss per share is $0.

2. and sold during the period January 17, 2012 through April 13, 2012, inclusive, (*i.e.*, the 90-day period following the Class Period), the Recognized Loss per share is the lesser of:

   i. the amount of artificial inflation per share on the date of purchase as appears in Table 1 above; and

   ii. the purchase price (excluding all fees, taxes and commissions) **minus** the "90-Day Look-Back Price" on the date of sale/disposition provided in Table 2 below. If this calculation results in a negative number, then the Recognized Loss shall be $0.

3. and still held on or after April 14, 2012, the Recognized Loss per share is the lesser of:

   i. the amount of artificial inflation per share on the date of purchase as appears in Table 1 above; and

   ii. the purchase price (excluding all fees, taxes and commissions) **minus** the average closing price of Kinross common stock on the NYSE:KGC during the 90 days following the Class Period, which is $10.52. If this calculation results in a negative number, then the Recognized Loss shall be $0.

Table 2 PSLRA Loss Limitation for 90-day Look-Back Period	
Sale / Disposition Date	**90-Day Look-Back Price**
1/17/2012	$10.27
1/18/2012	$10.33
1/19/2012	$10.25
1/20/2012	$10.24
1/23/2012	$10.33
1/24/2012	$10.37
1/25/2012	$10.50
1/26/2012	$10.61
1/27/2012	$10.73
1/30/2012	$10.79
1/31/2012	$10.84
2/1/2012	$10.87
2/2/2012	$10.91
2/3/2012	$10.93
2/6/2012	$10.95
2/7/2012	$10.95
2/8/2012	$10.96
2/9/2012	$10.96
2/10/2012	$10.95
2/13/2012	$10.93
2/14/2012	$10.90
2/15/2012	$10.87
2/16/2012	$10.88
2/17/2012	$10.89
2/21/2012	$10.90

[5] Any transactions in Kinross common stock executed outside of regular trading hours for the U.S. financial markets shall be deemed to have occurred during the previous regular trading session.

Table 2
PSLRA Loss Limitation for 90-day Look-Back Period

Sale / Disposition Date	90-Day Look-Back Price
2/22/2012	$10.93
2/23/2012	$10.95
2/24/2012	$10.96
2/27/2012	$10.96
2/28/2012	$10.98
2/29/2012	$10.98
3/1/2012	$10.99
3/2/2012	$10.99
3/5/2012	$10.98
3/6/2012	$10.97
3/7/2012	$10.96
3/8/2012	$10.96
3/9/2012	$10.96
3/12/2012	$10.96
3/13/2012	$10.95
3/14/2012	$10.92
3/15/2012	$10.90
3/16/2012	$10.88
3/19/2012	$10.86
3/20/2012	$10.84
3/21/2012	$10.83
3/22/2012	$10.81
3/23/2012	$10.79
3/26/2012	$10.78
3/27/2012	$10.76
3/28/2012	$10.74
3/29/2012	$10.72
3/30/2012	$10.70
4/2/2012	$10.69
4/3/2012	$10.67
4/4/2012	$10.64
4/5/2012	$10.62
4/9/2012	$10.60
4/10/2012	$10.57
4/11/2012	$10.55
4/12/2012	$10.53
4/13/2012	$10.52

Additional Provisions

Purchases and sales of Kinross common stock shall be deemed to have occurred on the "contract" or "trade" date as opposed to the "settlement" or "payment" date. The receipt or grant by gift, inheritance, or operation of law of Kinross common stock during the Class Period shall not be deemed a purchase or sale of these shares of Kinross for the calculation of an Authorized Claimant's Recognized Claim, nor shall the receipt or grant be deemed an assignment of any claim relating to the purchase of Kinross common stock unless: (i) the donor or decedent purchased such stock during the Class Period; (ii) no Claim Form was submitted by or on behalf of the donor, on behalf of the decedent, or by anyone else with respect to such stock; and (iii) it is specifically so provided in the instrument of gift or assignment.

For Authorized Claimants who made multiple purchases or sales of Kinross common stock during the Class Period, the earliest subsequent sale shall be matched first against the Authorized Claimant's opening position as of the first day of the Class Period, and then matched chronologically thereafter against each purchase made through the end of the Class Period.

The Recognized Loss for "short sales" of Kinross common stock is $0. In the event that an Authorized Claimant had a short position in Kinross common stock, the date of covering a "short sale" is deemed to be the date of purchase of the stock. The date of a "short sale" is deemed to be the date of sale of the stock. The earliest Class Period purchases of Kinross common stock shall be matched against such short position, and not be entitled to a recovery, until that short position is fully covered.

Kinross common stock purchased on the open market in the United States (including, but not limited to, the New York Stock Exchange or any other U.S. trading platform) is the only security eligible for recovery under the Plan of Allocation. Option contracts are not securities eligible to participate in the Settlement. With respect to Kinross common stock purchased or sold through the exercise of an option, the purchase/sale date of the stock shall be the exercise date of the option and the purchase/sale price of the stock shall be the exercise price of the option.

An Authorized Claimant will be eligible to receive a distribution from the Net Settlement Fund only if the Authorized Claimant had a net loss, after all profits from transactions in Kinross common stock purchased on the open market in the United States (including, but not limited to, the New York Stock Exchange or any other U.S. trading platform) during the Class Period are subtracted from all losses. A Class Member's net market loss or gain represents his, her or its out-of-pocket losses (or profit) on Kinross common stock purchased on the open market in the United States (including, but not limited to, the New York Stock Exchange or any other U.S. trading platform) during the Class Period, and is based on the difference between the total amount paid for all Kinross common stock purchased on the open market in the United States (including, but not limited to, the New York Stock Exchange or any other U.S. trading platform) during the Class Period less the total proceeds received from sales or the holding value of such Kinross shares. For Kinross shares held as of the end of the Class Period, the holding value shall be $10.52 (*i.e.*, the average New York Stock Exchange closing price of Kinross shares during the 90 days following the Class Period). However, the proceeds from sales of stock which have been matched against stock held at the beginning of the Class Period will not be used in the calculation of such net loss. If, during the Class Period, a Class Member had a net market loss from his, her or its trading in Kinross common stock purchased on the open market in the United States (including, but not limited to, the New York Stock Exchange or any other U.S. trading platform), the Class Member's net Recognized Loss shall be limited to the Class Member's net market loss.

If an Authorized Claimant's distribution amount calculates to less than $10.00, no distribution will be made to that Authorized Claimant.

Distributions will be made to Authorized Claimants after all Claims have been processed and after the Court has finally approved the Settlement. If there is any balance remaining in the Net Settlement Fund six months from the date of distribution of the Net Settlement Fund by reason of un-cashed distributions or otherwise, then, after the Claims Administrator has made reasonable efforts to have Authorized Claimants cash their distributions, and it is economically feasible, any balance remaining in the Net Settlement Fund shall be redistributed to Authorized Claimants who have cashed their initial distributions and who would receive at least $10.00 from such redistribution after the payment of any taxes and unpaid costs or fees incurred in administering the Net Settlement Fund for such redistribution. If, after six months following such redistribution funds still remain in the Net Settlement Fund, the outstanding balance shall be donated to a non-sectarian, not-for-profit 501(c)(3) organization serving the public interest, designated by Lead Plaintiff.

Payment pursuant to the Plan of Allocation, or such other plan as may be approved by the Court, shall be conclusive against all Authorized Claimants. No Person shall have any claim against Lead Plaintiff, Lead Counsel, or the Claims Administrator or other agent designated by Lead Counsel arising from distributions made substantially in accordance with the Stipulation, the Plan of Allocation approved by the Court, or further orders of the Court. No Person shall have any claim against Defendants, and their respective counsel or any of the other Released Parties arising from any distributions made by the Claims Administrator.

Lead Plaintiff, Defendants, and their respective counsel, and all other Released Parties shall have no responsibility or liability whatsoever for the investment or distribution of the settlement funds, the Net Settlement Fund, the Plan of Allocation, or the determination, administration, calculation, or payment of any Claim Form or nonperformance of the Claims Administrator, the payment or withholding of taxes owed by the Settlement Fund, or any losses incurred in connection therewith.

The Plan of Allocation set forth herein is the plan that is being proposed by Lead Plaintiff and Lead Counsel to the Court for approval. The Court may approve this Plan of Allocation as proposed or it may modify the Plan of Allocation without further notice to the Class. Any orders regarding a modification of the Plan of Allocation will be posted on the settlement website, www.kinrossgoldcorpsecuritiessettlement.com.

H. Can I Decide To Opt Out Of This Settlement?

Yes. If you do not wish to be included in the Class and you do not wish to participate in the Settlement, you may request to be excluded. To do so, you must submit a written request for exclusion that must be signed by you or your authorized representative and postmarked on or before September 17, 2015. You must set forth: (a) the name, address, and telephone number of the Person requesting exclusion; (b) the number of shares of Kinross common stock the person or entity purchased on the open market in the United States during the Class Period along with the dates and prices of such purchase(s) and the number of shares the person or entity sold during the Class Period along with the dates and prices of such sales; and (c) a statement that the person or entity wishes to be excluded from the Class.

The exclusion request should be addressed as follows:

City of Austin Police Retirement System v. Kinross Gold Corp. Settlement
Exclusion
c/o Garden City Group, LLC
PO Box 10165
Dublin OH 43017-3165

NO REQUEST FOR EXCLUSION WILL BE CONSIDERED VALID UNLESS ALL OF THE INFORMATION DESCRIBED ABOVE IS INCLUDED IN ANY SUCH REQUEST.

If you timely and validly request exclusion from the Class, (a) you will be excluded from the Class, (b) you will not share in the proceeds of the Settlement described herein, (c) you will not be bound by any judgment entered in the case, and (d) you will not be precluded, by reason of your decision to request exclusion from the Class, from otherwise prosecuting an individual claim, if timely, against the Defendants based on the matters complained of in the litigation. The Defendants may withdraw from and terminate the Settlement if Class Members who purchased in excess of a certain amount of Kinross common stock exclude themselves from the Class.

I. What If A Settlement Class Member Is Deceased?

The authorized legal representative(s) of a Class Member may receive a recovery on behalf of the Class Member.

J. What If I Bought Shares of Kinross Common Stock on the Open Market in the United States On Someone Else's Behalf?

If you purchased Kinross common stock on the open market in the United States during the Class Period for the beneficial interest of a Class Member, you must either (a) send copies of the Notice and Claim Form to the beneficial owners of the stock within five business days from the receipt of the Notice, and provide written confirmation to the Claims Administrator of such transmittal, or (b) provide the Claims Administrator with the names and addresses of such beneficial owners within five business days from the receipt of the Notice, in which event the Claims Administrator will promptly mail the Notice and Claim Form to such beneficial owners. The Claims Administrator will provide nominees with additional copies of the Notice and Claim Form upon request. Nominees may seek reimbursement of their reasonable administrative expenses actually incurred in searching their records to find the names and addresses of beneficial owners and for mailing the Notice and Claim Forms by providing the Claims Administrator with proper documentation supporting the expenses for which reimbursement is sought.

Copies of this Notice and the Claim Form can be obtained from the website maintained by the Claims Administrator, www.kinrossgoldcorpsecuritiessettlement.com; from Lead Counsel's website, www.bernlieb.com; or by contacting the Claims Administrator:

City of Austin Police Retirement System v.
Kinross Gold Corp. Settlement
c/o Garden City Group, LLC
PO Box 10165
Dublin OH 43017-3165
Toll Free number: 1-877-940-5048
Email: info@kinrossgoldcorpsecuritiessettlement.com

K. How And What Do I Do To Make Sure The Claims Administrator Has My Correct Address?

If your address changes from the address to which this Notice was directed, you must notify the Claims Administrator of your new address as soon as possible. Failure to keep the Claims Administrator informed of your address may result in the loss of any monetary award you might be eligible to receive. Please send your new contact information to the Claims Administrator at the address listed below and include your old address, new address, new telephone number, date of birth, and Social Security number. These last two items are required so that the Claims Administrator can verify that the address change is from an actual Class Member.

City of Austin Police Retirement System v.
Kinross Gold Corp. Settlement
c/o Garden City Group, LLC
PO Box 10165
Dublin OH 43017-3165

L. What Is The Lead Plaintiff Being Paid?

Lead Plaintiff will receive only its proportionate share of the recovery, the same as all other Class Members. However, Lead Counsel will apply for the reimbursement of the reasonable costs and expenses incurred by Lead Plaintiff and additional named plaintiffs in connection with the prosecution and resolution of the Action through their involvement in the discovery process as part of Lead Counsel's Fee and Expense Application.

M. What Are The Lead Counsel's Fees And Costs?

At the Settlement Hearing, Lead Counsel will request that the Court award attorneys' fees of 30% of the Gross Settlement Fund, plus expenses (exclusive of administration costs) not to exceed $975,000 which were incurred in connection with the litigation of the Action, plus interest thereon, which includes the reasonable costs and expenses incurred by Lead Plaintiff and additional named plaintiffs. Lead Counsel's application for a 30% fee and expenses up to $975,000 also consists of the fees and expenses incurred by Lead Counsel and additional plaintiffs' counsel Robbins Geller Rudman & Dowd LLP, Scott+Scott Attorneys at Law LLP, Klausner Kaufman Jensen & Levinson, and Siskinds LLP. These law firms performed work on behalf of the Class and will submit affidavits to the Court documenting their time and expenses in support of Lead Counsel's application. Whatever amount is approved by the Court as legal fees and expenses will be paid from the Gross Settlement Fund.

To date, Lead Counsel has not received any payment for their services in conducting this Action, nor has Lead Counsel been reimbursed for their substantial expenses. The fees requested by Lead Counsel will compensate Lead Counsel for their efforts in achieving the Gross Settlement Fund for the benefit of the Class, and for their risk in undertaking this representation on a wholly-contingent basis. If the amount requested is approved by the Court, the estimated average cost per share for the Class will be $.07.

III. LEAD PLAINTIFF AND LEAD COUNSEL SUPPORT THE SETTLEMENT

Lead Plaintiff and Lead Counsel believe that the claims asserted against the Defendants have merit. Lead Plaintiff and Lead Counsel recognize, however, the expense and length of continued proceedings necessary to pursue their claims against these Defendants through trial and appeals, as well as the difficulties in establishing liability and damages at trial. Lead Plaintiff and Lead Counsel have also taken into account the possibility that the claims asserted in the Action might have been dismissed in response to various motions the Defendants were expected to make, including a motion for summary judgment, and have considered issues that would have been decided by a jury in the event of a trial of the Action, including whether certain of the Defendants acted with an intent to mislead investors, whether all of the Class Members' losses were caused by the alleged misrepresentations or omissions and the amount of damages. Lead Plaintiff and Lead Counsel have considered the uncertain outcome and trial risk in complex lawsuits like this one, and that, even if they were successful, after the resolution of the appeals that were certain to be taken (which could take years to resolve) substantial funds available for payment of claims would be expended. Moreover, the limits on available insurance coverage, and the fact that the insurance coverage provided to the Defendants by the directors' and officers' policies is a wasting asset, which would have continued to be depleted by the costs of this and other ongoing litigation, were significant factors that Lead Plaintiff considered in connection with entering into the Settlement.

In light of the value of the Settlement and the immediacy of a cash recovery to the Class, Lead Plaintiff and Lead Counsel believe that the proposed Settlement is fair, reasonable, and adequate. Indeed, Lead Plaintiff and Lead Counsel believe that the Settlement achieved is an excellent result and in the best interests of the Class. The Settlement, which provides an immediate $33,000,000 in cash (less the various deductions described in this Notice), individually and collectively provide substantial benefits now as compared to the risk that a similar, smaller, or no recoveries would be achieved after a trial and appeals, possibly years in the future.

IV. WHAT OPPORTUNITY WILL I HAVE TO GIVE MY OPINION ABOUT THE SETTLEMENT?

A. How Can I Object To The Settlement, Plan of Allocation and Fee and Expense Application?

If you wish to object to the Settlement, Plan of Allocation, and/or the Fee and Expense Application you may submit a written statement of the objection. Your written objection should include all reasons for the objection. The objection must also include your name, address, telephone number, and the number of shares of Kinross common stock you purchased on the open market in the United States (including, but not limited to, the New York Stock Exchange or any other U.S. trading platform) during the Class Period, including proof of your purchase of such stock.

To be considered, your written objection and copies of any papers and briefs must be sent to Bernstein Liebhard LLP, Stanley D. Bernstein, 10 East 40th Street, New York, NY 10016 and Sullivan & Cromwell LLP, Robert J. Giuffra, Jr., 125 Broad Street, New York, NY 10004, and filed with the Clerk of the United States District Court for the Southern District of New York no later than September 17, 2015.

You may file a written objection without having to appear at the Settlement Hearing. You may not, however, appear at the Settlement Hearing to present your objection unless you first filed and served a written objection in accordance with the procedures described above, unless the Court orders otherwise.

If you file an objection to the Settlement, Plan of Allocation, and/or the Fee and Expense Application you also have a right to appear at the Settlement Hearing either in person or through counsel hired by you at your own expense. If you wish to be heard orally at the hearing in opposition to the approval of the Settlement, the Plan of Allocation, or the Fee and Expense Application, and if you file and serve a timely written objection as described above, you must also file a notice of appearance with your objection. Persons who intend to object and desire to present evidence at the Settlement Hearing must include in their written objection or notice of appearance the identity of any witnesses they may call to testify and exhibits they intend to introduce into evidence at the hearing.

Unless the Court orders otherwise, any Class Member who does not object in the manner described above will be deemed to have waived any objection and shall be forever foreclosed from making any objection to the proposed Settlement, the proposed Plan of Allocation and the Lead Plaintiff's and Lead Counsel's Fee and Expense Application.

B. What Rights Am I Giving Up By Remaining In The Class?

If you remain in the Class, you will be bound by any orders issued by the Court. For example, if the Court approves the Settlement, the Court will enter the Order and Final Judgment. The Order and Final Judgment will dismiss with prejudice the claims against the Defendants and will provide that, upon the Effective Date of the Settlement, Lead Plaintiff and each of the other Class Members on behalf of themselves, their respective heirs, executors, administrators, predecessors, successors, and assigns, among others, shall be deemed by operation of law to have fully granted and completely discharged, dismissed with prejudice, settled and released, and agreed to be barred by a permanent injunction from the assertion of, Released Claims against any of the Released Parties and their attorneys.

"Released Claims" means any and all claims, debts, demands, rights or causes of action or liabilities whatsoever (including, but not limited to, any claims for damages, interest, attorneys' fees, expert or consulting fees, and any other costs, expenses or liability whatsoever), whether based on federal, state, local, statutory or common law or any other law, rule or regulation, whether fixed or contingent, accrued or un-accrued, liquidated or un-liquidated, at law or in equity, matured or un-matured, whether class or individual in nature, including both known claims and Unknown Claims, (i) that have been asserted in this Action by Class Members or any of them against any of the Released Parties, or (ii) that could have been asserted in any forum by Class Members or any of them against any of the Released Parties which arise out of or are related to the allegations, transactions, facts, matters or occurrences, representations or omissions involved, set forth, or referred to in the Amended Complaint and which relate to the purchase of shares of Kinross common stock purchased on the open market in the United States (including, but not limited to, the New York Stock Exchange or any other U.S. trading platform) during the Class Period.

"Released Parties" means any and all Defendants, their past or present subsidiaries, parents, successors and predecessors, officers, directors, agents, employees, attorneys, advisors, investment advisors, auditors, accountants, insurers, reinsurers, co-insurers, and any person, firm, trust, corporation, officer, director or other individual or entity in which any Defendant has a controlling interest or which is related to or affiliated with any Defendants, and the legal representatives, heirs, successors in interest or assigns of Defendants.

"Unknown Claims" means any and all Released Claims which Lead Plaintiff or any Class Member does not know or suspect to exist in his, her or its favor at the time of the release of the Released Parties, and any Released Defendants' Claims which any Defendant does not know or suspect to exist in his, her or its favor, which if known by him, her or it might have affected his, her or its decision(s) with respect to the Settlement. With respect to any and all Released Claims and Released Defendants' Claims, the parties stipulate and agree that upon the Effective Date, Lead Plaintiff and Defendants shall expressly waive, and each Class Member shall be deemed to have waived, and by operation of the Judgment shall have expressly waived, any and all provisions, rights and benefits conferred by any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to Cal. Civ. Code § 1542, which provides:

> **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.**

Lead Plaintiff and Defendants acknowledge, and all other Class Members by operation of law shall be deemed to have acknowledged, that the inclusion of "Unknown Claims" in the definition of Released Claims and Released Defendants' Claims was separately bargained for and was a key element of the Settlement.

The Order and Final Judgment will also provide that, upon the Effective Date of the Settlement, each Defendant, on behalf of himself or itself, his or its heirs, executors, administrators, predecessors, successors, and assigns, shall be deemed by operation of law to have fully granted and completely discharged, dismissed with prejudice, settled and released, and agreed to be barred by a permanent injunction from the assertion of Released Defendants' Claims against Lead Plaintiff, Lead Counsel and the other Class Members and their respective counsel.

"Released Defendants' Claims" means any and all claims, rights or causes of action or liabilities whatsoever, whether based on federal, state, local, statutory or common law or any other law, rule or regulation, including both known claims and Unknown Claims, that have been or could have been asserted in the Action or any forum by Defendants or any of them or the successors and assigns of any of them against Lead Plaintiff, other Class Members, or their attorneys, which arise out of or relate in any way to the institution, prosecution, or settlement of the Action (except for claims to enforce the Settlement).

V. SETTLEMENT HEARING

The Court will hold a Settlement Hearing at 2:00 p.m. on October 15, 2015 in Courtroom 443 of the United States District Court for the Southern District of New York, Thurgood Marshall United States Courthouse, 40 Foley Square, New York, NY 10007, to determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court will also be asked to approve the proposed Plan of Allocation and the Fee and Expense Award. The Court may adjourn or continue the Settlement Hearing without further notice to the Class. If you intend to attend the Settlement Hearing, you should confirm the date and time with Lead Counsel.

Class Members do not need to attend the Settlement Hearing. The Court will consider any submission made in accordance with the provisions in this Notice even if the Class Member does not attend the hearing. You can participate in the Settlement without attending the Settlement Hearing. You are not obligated to attend the Settlement Hearing.

VI. GETTING MORE INFORMATION

This Notice is a summary and does not describe all of the details of the Stipulation. For precise terms and conditions of the Settlement, you may review the Stipulation filed with the Court, as well as the other pleadings and records of this litigation, which may be inspected during business hours, at the office of the Clerk of the Court, United States District Court, Southern District of New York, Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, NY 10007, at www.kinrossgoldcorpsecuritiessettlement.com, or from Lead Counsel's website, www.bernlieb.com. Class Members without access to the Internet may be able to review this document on-line at locations such as a public library.

If you have any questions about the settlement of the Action, you may contact Lead Counsel:

U. Seth Ottensoser
Michael S. Bigin
Laurence J. Hasson
BERNSTEIN LIEBHARD LLP
10 East 40th Street, 28th Floor
New York, New York 10016
(212) 779-1414
KGC@bernlieb.com

You may also call 1-877-940-5048 or write to the Claims Administrator at City of Austin Police Retirement System v. Kinross Gold Corp. Settlement c/o Garden City Group, LLC, PO Box 10165, Dublin OH 43017-3165, stating that you are requesting assistance regarding the Kinross Securities Litigation.

DO NOT TELEPHONE THE COURT REGARDING THIS NOTICE.

DATED: June 19, 2015

BY ORDER OF THE COURT,
UNITED STATES DISTRICT COURT SOUTHERN
DISTRICT OF NEW YORK