IN THE SUPERIOR COURT OF FULTON COUNTY
BUSINESS CASE DIVISION
STATE OF GEORGIA

IN RE ENDOCHOICE HOLDINGS, INC. SECURITIES LITIGATION	**CIVIL ACTION NO. 2016 CV 277772** **(Consolidated with Civil Action No. 2016 CV 281193)**

NOTICE OF FILING FREDERICKS AFFIDAVIT

Please take notice that Plaintiffs Jesse L. Bauer and Kenneth T. Raczewski hereby submit the following materials in support of the proposed Class Action Settlement:

SUPPLEMENTAL AFFIDAVIT OF WILLIAM C. FREDERICKS IN SUPPORT OF (A) PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND PLAN OF ALLOCATION AND (B) PLAINTIFFS' COUNSEL'S MOTION FOR AN AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION EXPENSES

Respectfully submitted this 11th day of May, 2020.

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CERTIFICATE OF SERVICE

I hereby certify that I have this day caused the foregoing NOTICE OF FILING FREDERICKS AFFIDAVIT be filed with the Clerk of Court through the Odyssey eFileGA system and served a true and correct copy of the same by electronic mail upon the following:

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This 11th day of May, 2020.

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IN THE SUPERIOR COURT OF FULTON COUNTY
BUSINESS CASE DIVISION
STATE OF GEORGIA

IN RE ENDOCHOICE HOLDINGS, INC. SECURITIES LITIGATION	Civil Action File No. 2016 CV 277772 (Consolidated with Civil Action No. 2016 CV 281193) CLASS ACTION

SUPPLEMENTAL AFFIDAVIT OF WILLIAM C. FREDERICKS IN SUPPORT OF (A) PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND PLAN OF ALLOCATION AND (B) PLAINTIFFS' COUNSEL'S MOTION FOR AN AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION EXPENSES

STATE OF NEW YORK)
) ss.
COUNTY OF NEW YORK)

I, WILLIAM C. FREDERICKS, hereby state as follows under penalty of perjury:

1. I am a partner in the law firm of Scott+Scott Attorneys at Law LLP ("Scott+Scott"), one of the two Court-appointed co-Class Counsel firms for the certified Class.[1] I am a member of the bar of the state of New York and have been admitted to practice in this Court *pro hac vice*. Except for matters pertaining to the time and expenses incurred by my co-counsel firms (and which are separately attested to in separate affidavits attached hereto as exhibits), this Affidavit is based on my personal knowledge of the matters set forth herein, and, if called upon, I could and would competently testify thereto.

2. I submit this Affidavit in support of (A) Plaintiffs' Motion for Final Approval of Class Action Settlement and Plan of Allocation (the "Final Approval Motion") and (B) Plaintiffs'

[1] All Capitalized terms used herein that are not otherwise defined have the same meaning as given to them in the Parties' Stipulation of Settlement, dated January 31, 2020, and previously submitted to the Court on February 4, 2020 as Exhibit 1 to the 1/30/20 Affidavit of William C. Fredericks in Support of Plaintiffs' Unopposed Motion for Preliminary Approval.

Counsel's Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses (the "Fee Motion" and, with the Final Approval Motion, the "Motions").

3. As detailed herein and in the other papers being submitted in support of the Motions, it is respectfully submitted that the proposed $8.5 million Settlement represents an excellent result for the Class. In particular, despite significant litigation risks, as discussed at ¶¶48-55, Plaintiffs and Class Counsel here achieved a decidedly above-average recovery of investor losses for a case of this type based on objective data. *See* ¶57. Moreover, as this Court noted in its February 11, 2020 Order preliminarily approving the Settlement (the "Preliminary Approval Order"), the Settlement was only reached after arm's length negotiations held under the aegis of a highly experienced mediator, Robert Meyer, Esq. of JAMS, and is fully consistent with the "Mediator's proposal" made by Mr. Meyer after a full-day mediation had failed to result in an agreement. In sum, the Settlement readily meets the standards for final approval under O.C.G.A. §9-11-23(e).

4. Counsel also respectfully submit that they have earned an attorneys' fee award of 33⅓ % of the Settlement. As detailed at ¶¶ 11-41 below, Counsel diligently pursued this Action throughout, beginning with their comprehensive fact investigation, and thereafter proceeding through, *inter alia*: their preparation of the detailed Consolidated Complaint; their success (in substantial part) in defeating Defendants' motions to dismiss; their success (in both this Court and the Court of Appeals) in certifying the Class over Defendants' vigorous attacks; their conduct of adversarial discovery practice (and prevailing on a disputed discovery issue that required resolution by the Court); and, ultimately, Class Counsel's highly successful navigation of an adversarial mediation process that involved (on Plaintiffs' part alone) preparing three separate mediation briefs, a full-day mediation session, eventual agreement on the "Mediator's proposal",

and the negotiation of lengthy and detailed "long-form" settlement papers. In total, Counsel have spent ***nearly 4,000*** hours, over nearly four years, all on a fully contingent fee basis with no assurance of ever being paid, to achieve the $8.5 million Settlement for the Class.

5. The requested 33⅓ % fee is also well within the range of percentage-based fees awarded in complex securities, and fully merited by a review of all relevant *Johnson/Friedrich* factors. Significantly, the requested one-third fee (equal to roughly $2.833 million), even if granted in full, is also ***less*** than the combined value of Plaintiffs' Counsel's "lodestar" time (equal to roughly $3.084 million) – and results in a "negative multiplier" of only 0.92 ($2.833 divided by $3.084 million). Given that a "positive" multiple of two times (or more) on the lodestar value of Plaintiffs' Counsel's time would be unexceptional for a case involving such a strong recovery for the Class, *a fortiori* a percentage-based fee that results in a "negative" multiplier (i.e., a multiplier of less than 1.0) is fair and reasonable.

6. For the reasons set forth below and in their accompanying papers, Class Counsel also respectfully submit that their combined request for reimbursement of their expenses in the total amount of $121,361.41 is fair and reasonable, and that both Class Representatives fully merit a service award of $15,000 for their diligent work on behalf of the Class.

COMPANY BACKGROUND AND THE IPO

7. Prior to its 2016 sale to Boston Scientific, EndoChoice was a standalone company focused on designing and commercializing products for gastrointestinal caregivers in the U.S. and internationally. Beginning in 2013, EndoChoice expanded its business to include development (and eventually manufacture and sale) of a purportedly revolutionary endoscopy system, the so-called "FUSE System" – which it heralded as the catalyst for the Company's future growth. The FUSE System purportedly differed from other endoscopes on the market because of its greatly

expanded range of view. EndoChoice launched its "second generation" ("Gen2") FUSE Product in April 2015.

8. On the strength of EndoChoice's purported success in commercially launching its FUSE system, EndoChoice "went public" in a June 5, 2015 Initial Public Offering ("IPO") of 6,350,000 shares of EndoChoice common stock at $15.00 per share.

9. Plaintiffs, however, allege that the Offering Materials were plagued by multiple material misrepresentations and omissions. Specifically, the operative Complaint put forward four main theories of liability, namely that: (1) the disclosures in the Offering Materials concerning FUSE contained material misstatements and omissions concerning the existence of defects in the FUSE product; (2) Defendants misrepresented the quality of their salesforce; (3) Defendants did not disclose a shortage of functional FUSE "Gen2" demonstration units, which in turn (Plaintiffs alleged) would inevitably have an adverse material impact on its ability to generate new sales and excitement for the product in line with investor expectations; and (4) that, as result of the foregoing misrepresentations and/or omissions, the Offering Materials' statements about the Company's expected revenue were also rendered false and misleading. *See also* this Court's Order on Motions to Dismiss ("MTD Order") at 10-15.

10. Plaintiffs further alleged that, as the truth concerning these matters was gradually disclosed following the IPO, the price of EndoChoice shares fell sharply, resulting in significant investor losses.

I. PROCEDURAL HISTORY AND SUMMARY OF WORK PERFORMED

A. The Preparation of the Initial Complaints and the Consolidated Complaint

11. On July 18, 2016 and October 10, 2016 respectively, Plaintiffs Jesse L. Bauer and Kenneth T. Raczewski filed the actions captioned as *Bauer v. EndoChoice Holdings, Inc. et al*., Civil Action No. 2016 CV 277772, and *Kenneth T. Raczewski v. EndoChoice Holdings, Inc. et al*., Civil Action No. 2016 CV 281193, in this Court alleging violations of §§ 11, 12(a)(2) and 15 of the Securities Act of 1933 (the "Securities Act") in connection with EndoChoice's IPO. The Court thereafter (a) consolidated these two actions; (b) appointed Bauer and Raczewski as "lead plaintiffs" in the resulting consolidated Action; and (c) appointed Scott+Scott and Levi Korsinsky as co-lead counsel.

12. In connection with the preparation of the operative Consolidated Complaint (the "Complaint"), Class Counsel conducted an extensive factual investigation. This investigation included:

- identifying, locating, and interviewing multiple former EndoChoice employees concerning the matters alleged in the Complaint;
- collecting and thoroughly reviewing the voluminous Offering Materials and all of EndoChoice's other public SEC filings, as well as all of the Company's press releases, transcripts of conference calls and announcements;
- collecting and thoroughly reviewing news stories regarding EndoChoice;
- collecting and thoroughly reviewing analysts' reports and advisories concerning EndoChoice and the medical device industry generally; and
- identifying and reviewing publicly available information from the files of the U.S. Food and Drug Administration ("FDA").

Class Counsel also reviewed and researched relevant recent legal developments concerning the Plaintiffs' claims.

13. Following the completion of this thorough investigation, Class Counsel then prepared and filed the highly detailed, 64-page operative consolidated Complaint (the "Complaint") on behalf of Plaintiffs and the proposed class.

B. The Contested Motions to Dismiss

14. Plaintiffs and their Counsel thereafter had to defeat the EndoChoice and Underwriter Defendants' respective motions to dismiss, which were filed on January 17, 2017. In support of their motions, Defendants argued, *inter alia*, that (a) the Court lacked jurisdiction to hear this action in light of certain amendments made to the Securities Act that were enacted as part of the federal Securities Litigation Uniform Standards Act of 1998, Pub. L. No. 105-353, 112 Stat. 3227 ("SLUSA"); (b) that the Complaint failed to allege any actionable affirmative misstatements, on the grounds that the only misstatements alleged were either inactionable "puffery" or inactionable statements of opinion; and (c) that any alleged "omissions" were immaterial, either because the problems alleged were not sufficiently alleged to be both serious and pervasive, or because the risks of any problems that may have actually existed were adequately disclosed in the "risk disclosure" sections of the Offering Materials.

15. In response to Defendants' respective briefs (prepared by two leading national law firms with unquestioned expertise in the securities laws), Plaintiffs and Class Counsel filed an equally comprehensive omnibus brief in opposition, addressing each of the complex issues raised by Defendants' briefs.

16. In addition, the undersigned Class Counsel presented oral argument before the Court in opposition to Defendants' motions on April 18, 2017.

17. On May 2, 2017, the Court issued a 16-page order denying the motions to dismiss in substantial part.

C. Initial Discovery and Plaintiffs' Hotly Disputed Motion for Class Certification

18. On May 26, 2017, Class Counsel researched, prepared and filed Plaintiffs' Motion for Class Certification pursuant to O.C.G.A. 9-11-23.

19. The parties thereafter engaged in initial discovery, which was largely related to class certification. This work included, *inter alia*, Plaintiffs and Class Counsel's efforts in connection with:

- preparing Plaintiffs' responses and objections to Defendants' Interrogatories;
- preparing Plaintiffs' responses and objections to Defendants' multiple Requests for Production of Documents, and collecting, reviewing and ultimately producing relevant documents from Class Counsel's and Plaintiffs' files;
- preparing each Plaintiff to be deposed, and travelling to Atlanta for each of their respective, day-long depositions by Defendants' counsel.

20. Following extensive briefing, which included Defendants' November 2, 2017 opposition papers and Plaintiffs' subsequent (and lengthy) reply papers, the Court held oral argument on the class certification motion on January 24, 2018.

21. Plaintiffs and their Counsel succeeded in obtaining class certification as the Court, by Order and opinion dated February 14, 2018, granted Plaintiffs' motion for class certification (with only a minor temporal modification that Class Counsel had requested), and rejected each of Defendants' arguments to the effect that the Class Representatives were somehow not "adequate" or that common issues somehow did not "predominate."

D. The Contested Interlocutory Appeal to the Georgia Court of Appeals

22. Plaintiffs and Class Counsel thereafter also had to relitigate class certification issues in 2018, as both Defendants filed separate Notices of Appeal to the Georgia Court of Appeals on March 12, 2018 seeking interlocutory review of the Court's February 2018 class certification order.

23. All Parties submitted further exhaustive briefing on class certification to the Georgia Court of Appeals, and the undersigned Class Counsel thereafter presented oral argument to that Court on December 12, 2018. Once again, Plaintiffs and Class Counsel prevailed, as the Court of Appeals issued a unanimous published opinion on June 28, 2019 affirming this Court's Class Certification order. *See EndoChoice Holdings, Inc. v. Raczewski*, 830 S.E.2d 597 (Ga. Ct. App. 2019).

E. The Supreme Court Amicus Brief

24. While the class certification appeal was pending in the Georgia Court of Appeals, Class Counsel were also active on another appellate front in connection with efforts to protect the interests of the Class and other investors who had pending Securities Act cases in various state courts. Specifically, shortly after this Court issued its decision on the motion to dismiss, Class Counsel learned that the U.S. Supreme Court had granted *certiorari* in the *Cyan* case to resolve a split in authority on the issue of whether state courts (such as this Court) had continuing concurrent jurisdiction over Securities Act claims in the wake of the 1998 SLUSA amendments. If, on appeal, the Supreme Court ruled adversely to the position taken by Plaintiffs – and to the position taken by this Court in its MTD rulings - on this jurisdictional issue, this Action would have had to be dismissed (as lack of subject matter jurisdiction is an issue that can be raised at any time).

25. In response, Class Counsel retained a specialist Washington D.C.-based appellate firm (Kellogg Huber) with nationally recognized expertise in Supreme Court litigation to prepare an *amicus curiae* brief to the U.S. Supreme Court in connection with the question of state court jurisdiction over class actions brought under Securities Act, and to defend the interests of investors in both this Action and in other cases who had elected to sue in state court. The Supreme Court ultimately adopted the arguments of the *amicus* brief that Class Counsel had funded (and which

this Court had adopted in its earlier ruling here). *See Cyan, Inc. v. Beaver Cty. Empl. Ret. Fund*, 138 S. Ct. 1061 (2018).

F. Class Counsel Pursue Adversarial Merits Discovery

26. After the automatic stay under O.C.G.A. 9-11-23(g) was lifted by the docketing of the remittiturs from the Georgia Court of Appeals in July 2019 Class Counsel commenced formal merits discovery with vigor. For example, Class Counsel prepared and serving their comprehensive First Set of Requests of Production of Documents and First Set of Interrogatories on the EndoChoice Defendants in August 2019. Plaintiffs also drafted and served document requests and interrogatories on the Underwriter Defendants.

27. Class Counsel also negotiated an aggressive stipulated Case Management Order (CMO) with Defendants, which the Court entered on September 24, 2019. Consistent with that schedule, Class Counsel also negotiated and ultimately reached agreement on a 6-page, single-spaced list of electronic search terms to be used by the EndoChoice Defendants in locating potentially relevant emails and other electronic documents ("ESI") in EndoChoice's possession.

28. At all times, the discovery process was hard fought and at arm's length. Indeed, the Parties' negotiations resulted in various discovery disputes that necessitated (a) the exchange of dozens of emails and letters and multiple telephonic "meet and confers" relating to Plaintiffs' discovery demands and Defendants' responses and objections thereto, as well as (b) the submission of certain unresolved discovery disputes to the Court relating to whether (and to what extent) the Court should impose certain restrictions on the use of confidential materials and on Plaintiffs' ability to retain any of Defendants' competitors as experts in the Action. This latter dispute ultimately required the Parties to submit further briefing to the Court, which ultimately resolved

the matter in Plaintiffs' favor and entered their proposed form of Confidentiality Order on November 4, 2019.

29. Plaintiffs' Counsel additionally prepared and served a subpoena seeking documents from third-party Boston Scientific, to better understand its view of EndoChoice and FUSE prior to its acquisition of the Company.

II. THE NEGOTIATION OF SETTLEMENT AND THE STIPULATION

30. Plaintiffs and the EndoChoice Defendants first engaged in preliminary discussions as to whether it might be productive to engage a mediator to explore the possibility of reaching a negotiated settlement in late August of 2019.

31. These preliminary discussions continued in parallel to Plaintiffs' discovery efforts and, at all times, were conducted at arm's length.

32. In October 2019, the Parties agreed to retain the services of Robert Meyer, Esq. of JAMS. Mr. Meyers is nationally recognized for his work in successfully meditating securities class actions and other complex commercial disputes. Mr. Meyer's biography, which is available for public viewing at www.jamsadr.com/meyer, specifically identifies his successful mediation of cases involving initial public offerings brought under the Securities Act of 1933, such as this one, and lists numerous other examples of settlements in complex securities and other matters reached under his guidance.

33. In advance of mediation, the Parties exchanged multiple detailed mediation statements, setting forth their views of causation-related issued and of recoverable damages. In total, Class Counsel prepared and submitted ***three*** separate sets of mediation briefs on behalf of Plaintiffs and the Class (one of which was devoted exclusively to damages and causation issues) and Defendants submitted two sets of mediation papers. Exclusive of exhibits, which provided a

significant record for the benefit of the Mediator to assist in his oversight over the mediation, these combined submissions totaled approximately 100 pages and touched on nearly every aspect of the matter to that point.

34. In connection with their mediation submissions, Class Counsel also consulted extensively with their retained damages expert to critically evaluate estimated recoverable damages at trial and to test Defendants' assertions regarding the same. With this further knowledge, Class Counsel entered into mediation with a clear view of the pros and cons of further litigation versus settlement at different ranges, and based on different assumptions concerning both liability and damages.

35. On December 6, 2019, all Parties participated in a full-day, arms'-length and face-to-face private mediation session at JAMS' offices in New York under the auspices of the Mediator, Mr. Meyer. Despite negotiating in good faith, the Parties were unable to reach an accord at that session. However, following the full day of back-and-forth, Mr. Meyer made a mediator's proposal wherein he recommended settlement of all securities claims that were or could have been asserted in the Action in exchange for $8.5 million in cash.

36. Following additional post-mediation communications with the Mediator, the Parties each separately agreed to accept the Mediator's recommendation.

37. Class Counsel thereafter concluded the terms of a Memorandum of Understanding concerning the material terms of the proposed Settlement on December 11, 2019.

38. After entering into the "short-form" MOU, Class Counsel then undertook the additional work of preparing the initial drafts of all of the customary "long form" settlement documents, including the Stipulation of Settlement, the Notice, the Proof of Claim and Release Form, and the proposed orders granting preliminary and final approval.

39. Class Counsel's work to negotiate and finalize the required long-form settlement papers continued over several additional weeks.

III. CLASS COUNSEL OBTAIN PRELIMINARY APPROVAL

40. While Class Counsel were negotiating the Stipulation, they were also preparing Plaintiffs' motion for preliminary approving and related papers. On February 4, 2020, Plaintiffs filed their Motion for Preliminary Approval of Class Action Settlement (the "Preliminary Approval Motion"). On February 11, 2020, the Court issued its Order Preliminarily Approving Class Action Settlement and Providing for Issuance of Notice (the "Preliminary Approval Order").

41. Thirty days later, in accordance with the Stipulation, Defendants caused the $8.5 million Settlement amount to be deposited into an interest-bearing escrow account that Class Counsel has established for the benefit of the Class.

IV. THE PROPOSED SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE AND WARRANTS FINAL APPROVAL

42. A class action settlement should be approved if the court finds it to be fair, reasonable, and adequate. *See, e.g. Ellison v. Southstar Energy Services LLC*, 2008-CV-147195, 2012 WL 2050514 at *5 (Fulton Super. Ct., Apr. 6, 2012) (Shoob, J.); Newberg on Class Actions ("Newberg") §13:48 (5th ed. 2011, December 2019 update).

A. The Settlement Was Reached Following an Intensive Investigation and Arm's-Length Mediation Process and Negotiations by Informed and Experienced Counsel

43. In evaluating whether a settlement is fair, courts often consider whether the settlement was the product of arms-length negotiation, including whether a neutral mediator was involved or whether, by contrast, the plaintiffs appear to have rushed into settlement negotiations prematurely.

44. Here, the possibility of entering into a mediation to try to settle this case did not seriously arise until the late summer of 2019, when this litigation was already over three years old, and after this Action was well past the pleading and class certification stages and into merits discovery (and only after this Action had, in fact, already survived one trip to the Georgia Court of Appeals). Moreover, the Parties continued to actively pursue and litigate discovery through the date of the December 6, 2019 mediation in New York City.

45. The Settlement was also only reached after extensive negotiations between experienced counsel that were conducted under the auspices of a highly experienced and nationally recognized mediator of complex class actions, Mr. Robert Meyer, Esq. of JAMS. The negotiations were conducted at arm's length throughout, which included a full-day mediation session. That mediation session ended without agreement.

46. However, at the conclusion of the mediation, the Mediator made a "mediator's proposal" to settle the case for $8.5 million. The Settlement now before the Court is fully consistent with all material terms of the Mediator's proposal, which both sides accepted shortly after it was proposed.

B. Analysis of Relevant *Bennett* Factors

47. Courts in Georgia and the Eleventh Circuit also analyze proposed class action settlements under the so-called *Bennett* factors: (1) the likelihood of success at trial; (2) the range of possible recovery; (3) the point on or below the range of possible recovery at which a settlement is fair, adequate, and reasonable; (4) the complexity, expense, and duration of litigation; (5) the substance and amount of opposition to the settlement; (6) and the stage of proceedings at which the settlement was achieved. *Carpenters Health & Welfare Fund v. Coca-Cola Co*., No. 1:00-CV-2838-WBH, 2008 WL 11336122, at *7 (N.D. Ga. Oct. 20, 2008) (citing *Bennett v. Behring Corp.*,

737 F.2d 982, 986 (11th Cir. 1984)); *see also Ellison*, 2012 WL 2050514 at *5-6 (listing nearly identical factors). These factors are briefly discussed below.

i. Likelihood of Success at Trial

48. Plaintiffs believe the Class's claims have merit. Defendants, however, took a very different view throughout. Had a jury agreed with Defendants on either liability or damages, the Class would have walked away with little or nothing. Indeed, although the $8.5 million Settlement represents an above-average recovery compared to comparably sized securities cases (see § ii below), it is respectfully submitted that the Settlement is particularly strong when considered against the specific risks of continued litigation here.

49. ***Liability Risks***: To establish liability under the Securities Act, a plaintiff must prove she acquired a security pursuant to offering materials that (1) contained a materially untrue statement of fact, or (2) omitted a material fact necessary to make a statement not misleading, or that was otherwise required to be included. Plaintiffs' Complaint put forward four main theories of liability: (1) "whether disclosures in the Offering Materials detailing [the FUSE] Gen[eration] 2's [alleged and then-existing] defects" were material; (2) whether Defendants' misrepresented the quality of their salesforce; (3) "whether the [alleged] lack of functional Gen2 demonstration units for use by the sales force" was material; and (4) whether, as result of the foregoing misrepresentations and/or omissions, the Company's statements about its expected revenue were also rendered false and misleading. *See generally* this Court's Order on Motions to Dismiss ("MTD Order") at 10-15.

50. Although the Court sustained all of Plaintiffs' "omissions" theories at the motion to dismiss stage, the Court's order found that all but one of the alleged affirmative misstatements contained in the Offering Documents concerning the alleged quality of the Company's FUSE

product and its salesforce were immaterial "puffery", and hence not actionable as a matter of law. In addition, the one surviving affirmative misstatement (regarding expected revenue growth) was a statement of opinion, as to which Plaintiffs would have had to meet a higher standard of proof at trial. *See Omnicare, Inc. v. Laborers Dist. Council Constr. Indus. Pension Fund*, 575 U.S. 175, 186 (2015) (for opinions to be actionable, plaintiff must show that the speaker subjectively disbelieved them, or that they were objectively false or misleading based on their omission of undisclosed facts that stripped the opinion of any reasonable basis). Accordingly, although Plaintiffs' "omissions" theories survived, Defendants would still be able to argue to a jury that they made no affirmatively false statements – a potentially powerful argument.

51. Moreover, Defendants also vigorously argued throughout that any problems that the FUSE had were unexceptional, and that investors understand that any new "cutting edge" technologies will experience at least some "bugs." Defendants also pointed to various "risk disclosures" in the Offering Documents that, they argued, showed that they had adequately warned investors that there might be product problems, and that there could be no assurance that the Company's salesforce could deliver long term growth. In sum, though Plaintiffs had survived dismissal, there could be no assurance that evidence obtained during fact discovery would ultimately enable Plaintiffs to prove that the nature, size and scope of any alleged problems with the FUSE or EndoChoice's salesforce were so large that the Offering Materials' lack of further disclosure violated the Securities Act.

52. Moreover, because the claims at issue involved technical questions concerning alleged defects in EndoChoice's "cutting edge" FUSE system, Plaintiffs would have ultimately had to win a "battle of experts" on liability. EndoChoice (which is now owned by one of the biggest medical equipment makers in the world, Boston Scientific Corp.) would have predictably

presented top-flight liability experts on their side – and, in Class Counsel's experience, even in the best of circumstances "battles of the experts" are inherently unpredictable and high risk.

53. ***Damages Risks***: Plaintiffs also faced additional challenges in establishing damages, and in refuting Defendants' affirmative "negative causation" defenses. (Under §11(e) of the Securities Act, 15 U.S.C. §77(e), a defendant may escape liability to the extent it can show that the class's alleged losses were caused by matters unrelated to the matters that were allegedly misrepresented in or omitted from the offering documents). Such disputed issues would have also come down to a "battle of experts," thus further supporting approval of the Settlement.

54. ***Other Litigation Risks***. Of course, assuming that Plaintiffs prevailed at trial, they would have almost certainly also had to defeat efforts by Defendants to overturn any Plaintiffs' verdict through post-trial motions and appeals. Indeed, Plaintiffs note that Defendants have already taken this case to the Court of Appeals to challenge (albeit unsuccessfully) this Court's prior order certifying the Class.

55. In addition, even though Plaintiffs prevailed on appeal in sustaining this Court's class certification Order, class certification orders remain subject to review until entry of final judgment. In an apparent effort to try to gain some leverage at the December 6, 2019 mediation, on November 27, 2019 Defendants filed a Motion to Decertify the Class. Although Plaintiffs believe that the motion was baseless, in theory at least there was some risk that the Class might ultimately be decertified.

ii. The Settlement Represents a Substantial Percentage of Likely Recoverable Damages

56. Here, assuming that Plaintiffs "ran the table" on all liability issues at trial and appeal, Plaintiffs' expert estimated that maximum theoretically recoverable damages were roughly $75 million, but that reasonably recoverable damages were closer to $40 million – while

Defendants argued that damages were actually no more than $21 million (and likely less). Accordingly, the $8.5 million Settlement represents the recovery, in a complex and high risk case, of roughly 25% of Plaintiffs' best estimate of reasonably recoverable damages (assuming success on all disputed merits issues).

57. Published data also confirms that the $8.5 Settlement represents a decidedly superior result. For example, recent research shows that in securities class actions (as here) involving total investor losses of $50 to $99 million, settlements from 1996 to 2019 have recovered on average only 4.7% of estimated such losses. *See* J. McIntosh & S. Starykh, "Recent Trends in Securities Class Action Litigation: 2019 Full-Year Review (NERA Economic Consulting, Feb. 12, 2020), at 18. In other words, this objective research supports the conclusion that the recovery here represents roughly twice the expected recovery in a securities class action of comparable size.

iii. The Costs and Delays of Continued Litigation

58. Absent a settlement, the Parties would have had to complete fact and expert discovery before obtaining any favorable verdict after trial. Moreover, it is respectfully submitted that Defendants, by having already taken one appeal to the Court of Appeals in this matter (and by filing a motion to decertify the Class just prior to the Mediation in November 2019), have already confirmed that it is all but inevitable that any Plaintiffs' verdict would have been followed by post-trial motions and further appeals. It is therefore respectfully submitted that the further costs and delays inherent in further litigation would have been very substantial.

iv. The Reaction of Absent Class Members

59. Although the deadline (May 25) for Class Members to exclude themselves or object to the Settlement has not yet passed, to date no objections to the Settlement have been lodged and

no requests for exclusion have been received. Should any such objections or opt-out requests subsequently be received, Class Counsel will update the Court accordingly.

v. The Parties Had a Strong Understanding of the Strengths and Weaknesses of the Case

59b. The stage of proceedings at which the Settlement was achieved also supports its approval. As stated previously, the Settlement was only reached after: (1) a detailed investigation undertaken by Lead Counsel prior to filing the Complaint; (2) extensive legal research in preparing the Complaint, the briefing in opposition to Defendants' Motions to Dismiss and Plaintiffs' motion to certify the Class; (3) defending the Court's class certification order on appeal; (5) researching and responding to lengthy discovery requests; (6) engaging in heavy negotiations over the parameters of fact discovery; (7) consultation with their damages expert; and (8) extended settlement negotiations, which included exchanging detailed mediations statements and a full-day mediation. In sum, it is respectfully submitted that at the time the case was settled, after more than three years of litigation, Class Counsel had a strong understanding of the strengths and weakness of the Class's claims.

C. The Proposed Plan of Allocation Is Fair and Reasonable

60. Class Counsel developed the POA here in close consultation with their damages expert, using allocation methodologies routinely applied in securities cases of this type. Specifically, the POA is (a) based on the decline in value of EndoChoice shares that occurred following partial disclosure events as the truth concerning the problems with EndoChoice and its technology were gradually disclosed (which in turn reduced the amount of artificial inflation in the stock price allegedly caused by the alleged misstatements and omissions at issue), while also (b) taking into account that Class Members who purchased earlier in the Class Period faced fewer

"traceability" and causation issues. The proposed POA will therefore result in a fair and equitable distribution of the Net Settlement Fund and should be approved.

61. The POA in its entirety was set forth in the Notice that was mailed to all Class members. *See* accompanying Affidavit of Justin Hughes of KCC, dated May 8, 2020 ("Hughes Aff.") at Exhibit 1 thereto, at pp. 9-12. To date, there have also been no objections received to the proposed Plan of Allocation.

V. FACTORS JUSTIFYING THE REQUESTED 33⅓ % FEE

A. The Requested Fee Represents A Reasonable Percentage of The Common Fund

62. As set forth in the accompanying brief, courts have long recognized that attorneys who represent a class and achieve a benefit for class members are entitled to compensation for their services, and that attorneys who obtain a recovery for a class in the form of a common fund are entitled to an award of fees and expenses from that fund. Here, Plaintiffs' Counsel seek an attorneys' fee award of 33⅓ % of the Settlement for the ***nearly 4,000 hours*** of total time that they devoted to this Action.

63. The various factors relevant to assessing the fairness and reasonableness of a proposed fee (the so-called *Johnson/Friedrich* factors) are set forth in the accompanying brief. Set forth below are the factual predicates relevant to those factors, organized using the same "grouped" category headings to minimize unnecessary duplication

64. **Results Achieved**: For all of the reasons previously discussed at §§IV(B)(i)-(iii) (¶¶56-58) above, it is respectfully submitted that Class Counsel here achieved a decidedly above-average result in the face of above-average risk.

65. **Complexity, Risk, and Desirability of the Case**: As set forth in §IV(B)(i) above ((¶¶48-55), this Action raised many complex factual and legal questions.

66. Indeed, the prior discussion actually ***understates*** the riskiness of this litigation viewed as of the time the case was first brought and the motions to dismiss were filed. Specifically, when Class Counsel filed the Complaint on behalf of their clients, there was a split in authority as to whether state courts (such as this Court) continued to have concurrent jurisdiction with federal courts) to hear Securities Act claims in the wake of certain 1998 amendments. Absent prior Georgia precedent, Plaintiffs had to (and did) prevail against Defendants' vehement threshold argument that this Court lacked jurisdiction over this case. *See* MTD Order at 2-4. However, this Court's ruling on the jurisdictional issue remained subject to reversal on appeal – thus exposing Class Counsel to still further risk that all their work on this case would be for naught. And in fact, soon after the Court issued its MTD Order, the Supreme Court granted certiorari in *Cyan, Inc. v. Beaver Cty. Emples. Ret. Fund*, 138 S. Ct. 1061 (2018) on the issue in another case. Although the Supreme Court ultimately affirmed the correctness of Plaintiffs' position (and this Court's ruling) on the issue, that it granted review at all provides further strong evidence of just how complex and risky this case was. *See Earthlink, Inc.,* No. 2005-cv-97274 at 10-11 (grant of appellate court review on an issue confirms that case involved difficult and complex issues).

67. As for the desirability of the case, Class Counsel respectfully submit that it is not uncommon for many law firms to bring separate securities class action cases on behalf of their investor clients, with the most promising securities cases attracting a dozen or more prospective lead plaintiffs (and their respective firms). Here, by contrast, the two lead counsel firms were the only ones that pursued the case.

68. **Contingent Nature of the Fee and Economics Involved:** Counsel undertook this case on a purely contingent basis, knowing they would have to spend substantial time and money despite a substantial risk of never receiving any compensation. Counsel agreed to front all expenses

(which have been substantial given expert and mediation costs) while bearing the risk of no recovery. To date, Counsel have not received any fees related to their prosecution of this Action.

69. **Customary Fees and Awards in Similar Cases:** It is respectfully submitted that the "customary fee" in a securities class action lawsuit of this nature is a contingency fee, and that as set forth in the accompanying brief, the requested 33⅓ % fee percent is in line with similar fees awarded in Georgia and the Eleventh Circuit.

70. **Skills and Experience of Counsel**: Lead Counsel practice nearly exclusively in the highly challenging field of complex class action litigation. It is respectfully submitted that their expertise in the field of securities class action litigation in particular is not disputed here. Similarly, it is respectfully submitted that Class Liaison Counsel, David Bain, has significant experience in complex litigation. Should the Court (which has previously found all counsel qualified to serve as Class Counsel and Liaison Counsel, respectively) require additional information about any of Plaintiffs' Counsel, such information is available on each firm's respective website, as referenced in their fee affidavits.

71. **Reaction of the Class**: To date, no Class Member has objected to the requested fee. Should any objections be received before the deadline for such objections expires (on May 25), Class Counsel will update the Court appropriately.

71a. **Time and Labor Required, and Lodestar Cross-Check**: Counsel here devoted ***3,907.45*** hours to the investigation, litigation and ultimate resolution of this Action over the course of nearly three-and-a-half years. As summarized above, this work included extensive factual and legal research, successfully briefing and arguing hotly contested motions to dismiss and motion for class certification, prevailing on Defendants' appeals to the Court of Appeals, engaging in an adversarial discovery process, and ultimately having their thorough mediation preparation pay off

for the Class in the form of getting the Mediator to propose a highly favorable "mediator's proposal" which Defendants ultimately agreed to accept.

71b. Significantly, a "lodestar cross-check" also results in a "negative multiplier." In performing a lodestar "cross-check," courts consider the total value of the legal services provided, based on (a) the number of hours billed by each professional or paraprofessional timekeeper, multiplied by (b) that timekeeper's reasonable hourly rate. As stated in their respective time and expense affidavits (attached hereto as Exhibits 1, 2 and 3) and summarized in the chart below, the time spent by the two Class Counsel firms and their local counsel on this matter results in a total combined lodestar of $3,084,404:

Law Firm	**Hours Billed**	**Lodestar**
Scott+Scott	1,995.40	$1,794,206.00
Levi Korsinsky	1,492.55	$1,059,473.75
David Bain	419.50	$230,725.00
Total	**3,907.45**	**$3,084,404.75**

By contrast, the requested 33⅓% fee equates to only about $2.833 million. The resulting ratio between the requested 33⅓% fee ($2.833 million) and Class Counsel's total lodestar ($3.084 million) is just 0.92. Ratios of less than 1.0, as here, are referred to as "negative multipliers."

72. Given that multipliers between 2 and 5 are commonly awarded in complex class actions with substantial contingency risks (*see* accompanying brief), it is respectfully submitted that the modest (and indeed negative) multiplier requested here strongly confirms the reasonableness of the requested fee.

73. Accordingly, and for all of the reasons set forth above in the accompanying brief, Class Counsel respectfully submit that the requested 33⅓% fee award is fair, reasonable, and supported by all relevant *Johnson/Friedrich* factors, and should be approved in full.

B. Counsel's Request For Reimbursement of Litigation Expenses

74. The three Plaintiffs' Counsel firms also seeks reimbursement of expenses from the Settlement Fund in the total combined amount of $121,361.41. As set forth in the separate Fee Affidavits submitted by each firm (attached hereto as Exhibits 1, 2 and 3), it is respectfully submitted that the expenses for which reimbursement is sought were all reasonably and necessarily incurred by Counsel in connection with commencing, litigating, and settling the claims asserted in the Action, and reflect amounts that are reflected in each firm's books and records. The expenses for which Counsel seek reimbursement are the types of expenses that are necessarily incurred in litigation and routinely charged to clients billed by the hour. These expenses include, among others, expert fees, the Mediator's fees, legal research fees (e.g. Westlaw charges), court fees, transcript expenses, mail and overnight delivery expenses, and out-of-town travel and meal costs.

C. The Class Representatives' Requests for a Service Award

75. Plaintiffs seek an award of $15,000 each for the time they dedicated to litigating this Action for nearly three-and-a-half years on behalf of the Class.

76. Over the course of this litigation, Plaintiffs: (1) regularly reviewed significant pleadings and briefs; (2) communicated regularly with Counsel regarding developments in this Action; (3) searched for, gathered, and produced documents for production in response to Defendants' document requests; (4) prepared for, traveled, and sat for depositions; and (5) evaluated and approved the proposed settlement. Absent their involvement, no relief could have been obtained for the Class. Notably, Plaintiffs were the original named plaintiffs in this Action and the only individuals who sought to litigate the claims asserted in the Complaint on behalf of the Class.

77. Plaintiffs have each submitted affidavits attesting to their involvement in the prosecution of this Action and the significant amount of time devoted to this case for the benefit

of the Class. *See* Exhibit 4 (Raczewski Affidavit) and Exhibit 5 (Bauer Affidavit) attached hereto. Based on their first-hand knowledge of these Plaintiffs' commitment to and work on behalf of the Class, both Class Counsel firms respectfully submit that their respective requests for a service award are fair and reasonable, and should be granted.

VI. EXHIBITS

78. Attached hereto as **Exhibit 1** is my separately executed Fee Affidavit of William C. Fredericks on behalf of Scott+Scott Attorneys at Law LLP.

79. Attached here as **Exhibit 2** is the Fee Affidavit of Shannon L. Hopkins on behalf of Levi & Korsinsky, LLP in Support of the Fee and Expense Request.

80. Attached here as **Exhibit 3** is the Affidavit of David A. Bain on behalf of the Law Offices of David A. Bain, LLP in Support of the Fee and Expense Request.

81. Attached hereto as **Exhibit 4** is the Affidavit of Kenneth T. Raczewski in Support of Plaintiffs' Motion for Final Approval of Class Action Settlement, Plan of Allocation, and Counsel's Motion for Attorneys' Fees and Litigation Expenses.

82. Attached hereto as **Exhibit 5** is the Affidavit of Jesse L. Bauer in Support of Plaintiffs' Motion for Final Approval of Class Action Settlement, Plan of Allocation, and Counsel's Motion for Attorneys' Fees and Litigation Expenses.

VII. CONCLUSION

83. For the reasons set forth herein and in the accompanying memorandum of law in support, both Scott+Scott and my co-counsel at Levi Korsinsky believe that the Settlement is fair, reasonable, adequate, and in the best interests of the Class, and accordingly recommend its final approval to the Court.

84. Similarly, both Class Counsel firms respectfully submit that the Plan of Allocation is fair, reasonable, and adequate, and consistent with Plans of Allocation routinely approved in other securities class actions, and should also be approved.

85. Finally, for the reasons set forth herein and the accompanying memorandum of law in support, it is respectfully submitted that (a) Plaintiffs' Counsel's request for attorneys' fees equal to 33⅓ % of the Settlement, (b) Plaintiffs' Counsel request for reimbursement of expenses in the total amount of $121,361.41, (c) and each Plaintiffs' request for a service award in the amount of $15,000, are all fair and reasonable, and should be approved in full.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 11th day of May, 2020 in New York, New York.

William C. Fredericks

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

On this **11th** day of May, 2020, before me, the undersigned, a Notary Public in and for said State, appeared **WILLIAM C. FREDERICKS**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he executed the same, and that by his signature on the instrument, the individual duly executed the instrument under penalty of perjury.

Notary Public
Kaitlin Steinberger
Qualified in New York County
Registration #01ST6335473
Commission Expires Jan. 11, 2024

Exhibit 1

IN THE SUPERIOR COURT OF FULTON COUNTY
BUSINESS CASE DIVISION
STATE OF GEORGIA

IN RE ENDOCHOICE HOLDINGS, INC. SECURITIES LITIGATION	Civil Action File No. 2016 CV 277772 (Consolidated with Civil Action No. 2016 CV 281193) CLASS ACTION

FEE AFFIDAVIT OF WILLIAM C. FREDERICKS, ON BEHALF OF SCOTT+SCOTT ATTORNEYS AT LAW LLP, IN SUPPORT OF PLAINTIFFS' COUNSEL'S MOTION FOR AN AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION EXPENSES

STATE OF NEW YORK)
) ss.
COUNTY OF NEW YORK)

I, WILLIAM C. FREDERICKS, hereby state as follows under penalty of perjury:

1. I am a partner in the law firm of Scott+Scott Attorneys at Law LLP ("Scott+Scott"), one of the two Court-appointed co-Class Counsel firms for the previously certified Class[1] and for the Court-appointed co-Class Representative, Jesse Bauer.

2. I am a member of the bar of the State of New York, and I have been admitted to practice in this Court *pro hac vice*.

3. I submit this Affidavit in support of Plaintiffs' Counsel's request for an award of attorneys' fees and reimbursement of litigation expenses (the "Fee Request"). The Fee Request seeks an award of attorneys' fees equaling 33⅓ % of the Settlement Fund (or roughly $2,833,000), plus reimbursement of Plaintiffs' Counsel's expenses, plus a service award to each of the two Class

[1] All Capitalized terms used herein that are not otherwise defined have the same meaning as given to them in the accompanying Supplemental Affidavit of William C. Fredericks in Support of (A) Plaintiffs' Motion for Final Approval of Class Action Settlement and Plan of Allocation and (B) Class Counsel's Motion for Attorneys' Fees and Reimbursement of Litigation Expenses, filed herewith.

Representative Plaintiffs in the amount of $15,000 ($30,000 in total) for their diligent efforts in litigating this Action on behalf of the Settlement Class of EndoChoice investors.

4. This Affidavit is based on my personal knowledge of the matters set forth herein, including my knowledge from my active supervision of and participation in the prosecution and settlement of the claims asserted in the Action as well as my review of the firm's records of the matters stated herein. If called upon, I could and would competently testify thereto.

5. With respect to the time and expenses of Scott+Scott, I reviewed the firm's records (and backup documentation where necessary or appropriate) in connection with the preparation of this Affidavit. The purpose of this review was to confirm the accuracy and reasonableness of the time and expense entries reflected in my firm's accounting records with respect to the work performed by attorneys and para-professionals at my firm in connection with this Action. On the basis of this review and my knowledge of the case, I believe that the time and expenses as reflected in my firm's lodestar and expense records as summarized in this Affidavit, and as to which payment or reimbursement is now sought, are reasonable in amount and were reasonably and appropriately expended for the effective and efficient prosecution and resolution of the Action and for the benefit of the Class.

6. As summarized below by billing individual, and prepared based on time sheets kept contemporaneously and thereafter maintained as part of my firm's business records, since the summer of 2016 (or nearly four years ago) when the Action was commenced, Scott+Scott has devoted ***1,995.4 hours***, with a total lodestar value of ***$1,794,206***, to the diligent and successful prosecution of, and ultimate settlement of, this Action:

Billing Individual	Position	Number of Hours	Hourly Rate	Lodestar
David R. Scott	Partner	45.0	1,295	58,275
William C. Fredericks	Partner	1,015.10	1,150	1,167,365
Thomas Laughlin	Partner	56.2	995	55,919
Anjali Bhat	Associate	283.0	695	196,685
Stephen Teti	Associate	149.0	575	85,675
Joseph Halloran	Associate	37.7	400	15,080
J. Alex Vargas	Atty & Sr. Investigator	217.8	650	141,570
Ellen Dewan	Paralegal	19.0	395	7,505
Ann Slaughter	Paralegal	59.5	395	23,502
Kimberly Jager	Paralegal	32.8	395	12,956
Dylan Gatzke	Paralegal	29.3	395	11,573
Veronica Flannery	Paralegal	11.0	395	4,345
Sandy Manzolillo	Paralegal	29.2	325	9,490
Charlie Torres	Lit Support	10.8	395	4,266
TOTALS		**1,995.4**		**$1,794,206**

7. The hourly rates for the attorneys and professional support staff set forth above are the firm's regular rates for contingent cases, and are consistent with my firm's regular rates as periodically adjusted over time that have been accepted by courts across the country in other contingent class action cases in recent years. If a timekeeper is no longer employed by the firm, the lodestar is based on their billing rate during their last year of employment at the firm.

8. Time spent preparing counsel's fee and expense application has been excluded from the above compilation of hours spent. In addition, in the exercise of billing discretion, all time spent by timekeepers who billed less than 10 hours to this matter have also been excluded.

9. My firm also incurred expenses totaling ***$71,681.37*** in connection with commencing, litigating, and settling the claims asserted in the Action. Expenses are tracked as they are incurred and recorded by my firm's accounting personnel. I have reviewed the table of expenses set forth below, and confirm that, based on my knowledge of the expenses that were incurred, the summary appears to be fair and accurate in all respects. Each of the expense items

identified below was billed separately by Counsel, and is not duplicated in Counsel's billing rates.

10. Scott+Scott's expenses incurred in connection with this matter on behalf of the Class are as follows:

Scott + Scott Attorneys at Law LLP	
Expense through May 8, 2020	
Expert fees and expenses	18,517.69
Mailing and overnight delivery charges	503.15
Court filing fees, *pro hac vice* fees, court hearing transcript costs, and service of process fees	3,652.04
Deposition transcript costs	1,246.81
Online legal and fact research (primarily Westlaw and Bloomberg)	14,663.34
Pro rata contribution to costs of amicus curiae brief in US Supreme Court in *Cyan* case (affirming state jurisdiction over §11 claims)	3,125.00
Costs of retaining interim local counsel Robert Killorin (charged on an out-of-pocket, non-contingent hourly basis)	3,750.00
Internal photocopying, scanning and computer printing	6,353.75
Telephone charges	445.75
Notary services	70.00
Mediation fees of mediator Robert Meyer, Esq., of JAMS	8,673.80
Unreimbursed notice of action costs	795.00
Staff overtime	363.39
Out-of-town travel (airfare, hotel, transportation, meals)[2]	9,521.65
TOTAL EXPENSES	**$71,681.37**

11. My firm undertook its representation of Plaintiffs and the Class on a wholly contingent basis and, to date, has not been reimbursed for ***any*** of its time or any expenses incurred.

12. A copy of Scott+Scott's firm résumé has previously been submitted to the Court in connection with the Class Representatives' previously granted motion to certify the Class and appoint Class Counsel. My firm would be happy to provide a further hard copy on request, and

[2] Out of town travel includes an allowance of $950 for the expenses of one attorney from my firm to appear before the Court in connection with the scheduled Final Hearing in Georgia, which costs have not yet been incurred. Should that hearing be converted to a telephonic hearing, or should the allowance otherwise not be incurred, my firm will reduce any approved expense award accordingly.

the Court can also find extensive additional information about the experience and qualifications of my firm (and of the individual attorneys reference in the chart above who were primarily responsible for litigating this case) at www.scott-scott.com.

13. I also submit this affidavit in support of the application of co-Class Representative Jesse Bauer for a service award of $15,000. I have first hand knowledge of Mr. Bauer's commitment and contributions to this case, and believe that the summary of his time and work on this case that is detailed in his separately submitted affidavit is true and complete in all material respects. Indeed, I believe his willingness to continue on as a class representative -- which included travelling to Atlanta at Defendants' insistence to be deposed just six weeks after his home was severely damaged by flooding from Hurricane Harvey in August of 2017 – was simply one example of his dedication to protecting the interests of the Class in this matter. I further respectfully submit that, based on my roughly 30 years' of experience in litigating class actions, that his requested service award in the amount of $15,000 is fair and reasonable.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 11th day of May, 2020 in Bronxville, New York.

William C. Fredericks

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

On this 11th day of May, 2020, before me, the undersigned, a Notary Public in and for said State, appeared **WILLIAM C. FREDERICKS**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he executed the same, and that by his signature on the instrument, the individual duly executed the instrument under penalty of perjury.

Notary Public

Kaitlin Steinberger
Qualified in New York County
Registration #01ST6335473
Commission Expires Jan. 11, 2024

Exhibit 2

IN THE SUPERIOR COURT OF FULTON COUNTY
BUSINESS CASE DIVISION
STATE OF GEORGIA

IN RE ENDOCHOICE HOLDINGS, INC. SECURITIES LITIGATION	Civil Action File No. 2016 CV 277772 (Consolidated with Civil Action No. 2016 CV 281193) CLASS ACTION

FEE AFFIDAVIT OF SHANNON L. HOPKINS, ON BEHALF OF LEVI & KORSINSKY, LLP, IN SUPPORT OF PLAINTIFFS' COUNSEL'S MOTION FOR AN AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION EXPENSES

STATE OF CONNECTICUT)
) ss.
COUNTY OF FAIRFIELD)

I, SHANNON L. HOPKINS, hereby state as follows under penalty of perjury:

1. I am a partner at the law firm of Levi & Korsinsky, LLP ("Levi Korsinsky"), one of two Court-appointed co-Class Counsel firms for the previously certified Class[1] and for the Court-appointed co-Class Representative, Kenneth T. Raczewski.

2. I am admitted to the bar of the states of New York, Connecticut, and Massachusetts. I have been admitted to practice in this Court *pro hac vice*.

3. I offer this Affidavit in support of Plaintiffs' and their Counsel's request for an award of attorneys' fees and reimbursement of litigation expenses, and payment of service awards (the "Fee Request"). The Fee Request seeks an award of attorneys' fees equaling 33⅓ % of the Settlement Fund (or $2,833,333.33), plus reimbursement of Plaintiffs' Counsel's expenses, and a

[1] All Capitalized terms used herein that are not otherwise defined have the same meaning as given to them in the Affidavit of William C. Fredericks in Support of (A) Plaintiffs' Motion for Final Approval of Class Action Settlement and Plan of Allocation and (B) Class Counsel's Motion for Attorneys' Fees and Reimbursement of Litigation Expenses, filed herewith.

service award to each Class Representative in the amount of $15,000 ($30,000 in total) for their diligent efforts in litigating this Action on behalf of the Settlement Class of EndoChoice investors.

4. This Affidavit is based on my personal knowledge of the matters set forth herein based on my active supervision of and participation in the prosecution and settlement of the claims asserted in the Action and/or the firm's records of the matters stated herein and, if called upon, I could and would competently testify thereto.

5. With respect to the time and expenses of Levi Korsinsky, I reviewed the firm's records (and backup documentation where necessary or appropriate) in connection with the preparation of this Affidavit. The purpose of this review was to confirm the accuracy and reasonableness of the time and expense entries reflected in my firm's accounting records with respect to the work performed by it in connection with this Action. On the basis of this review and my knowledge of the case, I believe that the time and expenses as reflected in my firm's lodestar and expense records as summarized in this Affidavit, and as to which payment or reimbursement is now sought, are reasonable in amount and were reasonably and appropriately expended for the effective and efficient prosecution and resolution of the Action and the benefit of the Class.

6. As summarized below by billing individual and calculated based on the time sheets kept contemporaneously and maintained as part of my firm's business records, Levi Korsinsky devoted more than 1,492.55 hours, with a total lodestar value at our regular rates of $1,059,473.75, to the effective and successful prosecution of this Action, including the successful settlement of all claims asserted for $8.5 million:

Billing Individual	Position	Number of Hours	Hourly Rate	Lodestar
Eduard Korsinsky	Partner	11.5	$1,025.00	$11,787.50
Joseph Levi	Partner	134.25	$1,025.00	$137,606.25
Shannon L. Hopkins	Partner	443.25	$975.00	$432,168.75
Sebastian Tornatore	Associate	379.25	$625.00	$237,031.25
Cecille Cargill	Associate	2.50	$550.00	$1,375.00
Andrew Rocco	Associate	373.45	$525.00	$196,061.25
Meghan Daley	Associate	0.75	$425.00	$318.75
Samantha Halliday	Paralegal	33.60	$325.00	$10,920.00
Mallory Papp	Paralegal	25.50	$325.00	$8,287.50
Ettienna Gallaher	Paralegal	7.75	$325.00	$2,518.75
Joanna Chlebus	Paralegal	0.75	$265.00	$198.75
Michael Iovanna	Law School Extern	47.00	$265.00	$12,455.00
Sean Flanagan	Law School Extern	33.00	$265.00	$8,745.00
TOTALS		1,492.55		$1,059,473.75

7. The hourly rates for the attorneys and professional support staff in my firm set forth above are the firm's regular rates for contingent cases, and are consistent with the regular rates for my firm, as periodically adjusted over time, that have been accepted by courts across the country in other contingent class action litigation in recent years. If a timekeeper is no longer employed by the firm, the lodestar was calculated using the individual's billing rate during his or her final year of employment at the firm. Time spent preparing counsel's fee and expense application has been excluded from the compilation above of hours spent.

8. Additionally, my firm incurred expenses totaling $49,201.64 in connection with commencing, litigating, and settling the claims asserted in the Action. Expenses are tracked as they are incurred and recorded by my firm's accounting personnel. I have reviewed the table of expenses set forth below, and confirm that, based on my knowledge of the expenses that were incurred, the summary appears to be fair and accurate in all respects. Each of the expense items identified below as billed separately by Counsel, and is not duplicated in Counsel's billing rates.

9. Levi Korsinsky's expenses in connection with this matter are as follows:

LEVI & KORSINSKY, LLP	
Inception through May 11, 2020	
Expert Costs	$3,424.00
Mailing and Overnight Delivery	$99.17
Court Filing Fees, Pro Hac Vice Fees, and Court Hearing Transcript Costs	$1,627.93
Online Legal and Factual Research (Lexis, Westlaw, and Thomson Reuters Eikon)	$29,702.98
Pro rata contribution to costs of amicus curiae brief in US Supreme Court in *Cyan* case (affirming state jurisdiction over §11 claims)	$3,000.00
Internal Photocopying, Scanning and Computer Printing	$1,192.20
Telephone Charges	$225.00
Notary Services	$25.00
Out-of-town travel (Airfare, Hotel, Transportation, Meals)[2]	$9,905.36
TOTAL EXPENSES	**$49,201.64**

10. My firm undertook its representation of Plaintiffs and the Class on a wholly contingent basis and, to date, has not been reimbursed for any of its time or any expenses incurred.

11. A copy of the firm résumé of Levi & Korsinsky, LLP has previously been submitted to the Court in connection with the Class Representative's previously granted motion to certify the Class and appoint Class Counsel. My firm would be happy to provide a further hard copy on request, and the Court can also find extensive additional information about the experience and qualifications of my firm (and of the individual attorneys reference n the chart above who were primarily responsible for litigating this case) at www.zlk.com.

12. I also submit this affidavit in support of the application of co-Class Representative Kenneth T. Raczewski's for a service award of $15,000. I have first-hand knowledge of Mr.

[2] * Out of town travel includes an allowance of $950 for the expenses of one attorney from my firm to appear before the Court in connection with the scheduled Final Hearing in Georgia, which costs have not yet been incurred. Should that hearing be converted to a telephonic hearing, or should the allowance otherwise not be incurred, my firm will reduce any approved expense award accordingly.

Raczewski's commitment and contributions to this case, and believe that the summary of the time and work that is spelled out in greater detail in his separately submitted affidavit is true and complete in all material respects. Indeed, I believe his willingness to continue on as a class representative -- which included travelling to Atlanta at Defendants' insistence to be deposed and then again to attend the class certification hearing – were simply two examples of his dedication to protecting the interests of the Class in this matter, and I further respectfully submit that based on my roughly 20 years of experience in litigating class actions that his requested service award in the amount of $15,000 is fair and reasonable.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 11th day of May, 2020 in Stamford, Connecticut.

Shannon L. Hopkins

Remotely subscribed and sworn to before me this
11th day of May, 2020, by Shannon L. Hopkins,
who is personally known to me, pursuant to
Connecticut Governor Ned Lamont's Executive
Order 7Q

Notary Public

SAMANTHA D. HALLIDAY
Notary Public, State of Connecticut
My Commission Expires July 31, 2020

Exhibit 3

IN THE SUPERIOR COURT OF FULTON COUNTY
BUSINESS CASE DIVISION
STATE OF GEORGIA

IN RE ENDOCHOICE HOLDINGS, INC. SECURITIES LITIGATION	Civil Action File No. 2016 CV 277772 (Consolidated with Civil Action No. 2016 CV 281193) CLASS ACTION

AFFIDAVIT OF DAVID A. BAIN IN SUPPORT OF PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND PLAN OF ALLOCATION AND FOR ATTORNEYS' FEES AND LITIGATION EXPENSES

STATE OF GEORGIA)
) ss.
COUNTY OF FULTON)

I, DAVID A. BAIN, being duly sworn, hereby state as follows under penalty of perjury:

1. I am the owner of the Law Offices of David A. Bain, LLC, the Court-appointed Liaison Counsel for the previously certified Class.[1]

2. I am admitted to the State Bar of Georgia.

3. I offer this Affidavit in support of Plaintiffs' and their Counsel's request for an award of attorneys' fees and reimbursement of litigation expenses, and payment of service awards (the "Fee Request"). The Fee Request seeks an award of attorneys' fees equaling 33⅓ % of the Settlement Fund (or $2,833,333.33), reimbursement of Counsel's expenses, and a service award to each Plaintiff in the amount of $15,000 ($30,000 in total) for their diligent efforts in litigating this Action on behalf of the Settlement Class of EndoChoice investors.

[1] All Capitalized terms used herein that are not otherwise defined have the same meaning as given to them in the Affidavit of William C. Fredericks in Support of Plaintiffs' Motion for Final Approval of Class Action Settlement and Plan of Allocation and for Attorneys' Fees and Litigation Expenses, filed herewith.

4. This Affidavit is based on my personal knowledge of the matters set forth herein, my active participation in the prosecution and settlement of the claims asserted in the Action, and my firm's records of the matters stated herein. If called upon, I could and would competently testify thereto.

5. With respect to my firm's time and expenses, I reviewed the firm's records (and backup documentation where necessary or appropriate) in connection with the preparation of this Affidavit. The purpose of this review was to confirm the accuracy of the entries as well as the necessity for, and reasonableness of, the time and expense committed to the litigation. Following this review, I believe that the time reflected in the firm's lodestar calculation and the expenses for which payment is sought as set forth in this Affidavit are reasonable in amount and were necessary for the effective and efficient prosecution and resolution of the Action.

6. As summarized below and calculated based on the time sheets kept contemporaneously and maintained as part of my firm's business records, I devoted more than 419.5 hours, with a total lodestar value at my regular rate, of $230,725, to the effective and successful prosecution of this Action:

Billing Individual	Position	Number of Hours	Hourly Rate	Lodestar
David A. Bain	Owner	419.5	$550	$230, 725
TOTALS		419.5		$230,725

7. The hourly rate set forth above is my regular rate for contingent cases, and is consistent with the regular rates for my firm, as periodically adjusted over time, that have been accepted by state and federal courts in other contingent class action litigation in recent years. Time

spent preparing counsel's fee and expense application has been excluded from the compilation above of hours spent.

8. Additionally, my firm incurred expenses totaling $478.40 in connection with commencing, litigating, and settling the claims asserted in the Action. Expenses are tracked as they are incurred and recorded by me into my firm's records. I have reviewed the table of expenses set forth below, and confirm that, based on my knowledge of the expenses that were incurred, the summary appears to be fair and accurate in all respects. Each of the expense items identified below is billed separately by Counsel, and is not duplicated in Counsel's billing rates.

9. My firm's unreimbursed expenses in connection with this matter are as follows:

LAW OFFICES OF DAVID A. BAIN, LLC	
Inception through May 11, 2020	
Mailing and Overnight Delivery	$11.68
Court Fees and Transcript Costs	$332.22
Parking	$67.00
Internal Photocopying and Computer Printing	$66.50
Courthouse Copies	$1.00
TOTAL EXPENSES	**$478.40**

10. My firm undertook its representation of Plaintiffs and the Class on a wholly contingent basis and, to date, has not been reimbursed for any of its time or any of the expenses set forth above.

11. My firm would be happy to provide a firm resume on request, and the Court can also find extensive additional information about the experience and qualifications of my firm at www.bain-law.com

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 11th day of May, 2020 in Atlanta, Georgia.

David A. Bain

Remotely subscribed and sworn to before me this 11th day of May, 2020, by David A. Bain, who is personally known to me, pursuant to Georgia Governor Brian Kemp's Executive Order 04.09.20.01

Notary Public

MARY REBEKAH STOKES
NOTARY PUBLIC
DEKALB COUNTY, GEORGIA
COMMISSION EXPIRES
DEC. 22, 2023

Exhibit 4

IN THE SUPERIOR COURT OF FULTON COUNTY
BUSINESS CASE DIVISION
STATE OF GEORGIA

IN RE ENDOCHOICE HOLDINGS, INC. SECURITIES LITIGATION	Civil Action File No. 2016 CV 277772 (Consolidated with Civil Action No. 2016 CV 281193) CLASS ACTION

AFFIDAVIT OF KENNETH T. RACZEWSKI IN SUPPORT OF PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT, PLAN OF ALLOCATION, AND COUNSEL'S MOTION FOR ATTORNEYS' FEES AND LITIGATION EXPENSES

STATE OF CONNECTICUT)
) ss.
COUNTY OF TOLLAND)

I, Kenneth T. Raczewski, hereby state as follows under the penalty of perjury:

1. My name is Kenneth T. Raczewski. I am more than 21 years of age and competent to give this affidavit. I have personal knowledge of the matters set forth herein, and could and would testify competently to these matters.

2. I am a Court-appointed co-lead plaintiff and Court-appointed class representative in the above-captioned securities class action (the "Action").[1] I submit this affidavit in support of: (1) Plaintiffs' Motion for Final Approval of the Proposed Settlement and the Proposed Plan of Allocation; and (2) Counsel's Motion for Attorneys' Fees and Litigation Expenses.

3. As a representative plaintiff, I understand that I have had throughout the obligation to do my best to represent not only my own interests, but to also faithfully represent the best

[1] Unless otherwise defined in this Affidavit, all capitalized terms have the meanings set out in the Stipulation of Settlement dated January 30, 2020.

interests of all other members of the certified Class. I respectfully submit that I have discharged those duties to the best of my ability, including working with my counsel, producing documents, sitting for my deposition, reviewing important litigation briefs and court orders, and otherwise generally following the course of the litigation and consulting with class counsel at important junctures in the Action.

4. I have worked for approximately 40 years designing industrial-grade tools. I graduated from high school, attended college for two years, and then joined Pratt & Whitney where I completed significant technical training in furtherance of my career. I currently work for North Hartland Tool Corporation as a tool design engineer and have been employed in a similar capacity over the course of my career. I have been investing in securities for approximately 40 years. Based on my own Company research, I purchased EndoChoice common stock on June 10, 2015 and suffered a loss due to the allegations in the Action, and at my own initiative, I contacted and retained Levi & Korsinsky, LLP in 2016 to file one of the initial class action complaints in this matter.

I. SUMMARY OF WORK PERFORMED ON BEHALF OF THE CLASS

5. I have been actively involved in the prosecution of this Action since its inception in 2016. In connection with my representation of the Class, over the past four years I have, among other things:

- Researched EndoChoice stock;
- Independently contacted Levi & Korsinsky, LLP ("Levi & Korsinsky"), discussed the basis of possible securities claims against Defendants with my attorneys, and ultimately retained them to file one of the first complaints in this Action;
- Reviewed the initial and consolidated complaints filed against Defendants;

- Reviewed and discussed with counsel the Court's order denying Defendants' motions to dismiss;
- Responded to Defendants' interrogatories;
- Searched for, located, and produced documents in response to Defendants' requests for production of documents;
- Prepared over the course of multiple sessions to be deposed by defense counsel;
- Traveled from my home in Connecticut to Georgia to be deposed by Defendants' counsel;
- Traveled from my home in Connecticut to Georgia to attend the Court's hearing on class certification;
- Read and reviewed numerous briefs, pleadings, and mediation submissions;
- Consulted regularly with my counsel at Levi & Korsinsky (including Shannon Hopkins, Sebastiano Tornatore, and Andrew Rocco) regarding important developments in this case;
- Consulted with counsel regarding the possibility of pursuing mediation, and regarding overall settlement prospects and objectives; and
- Evaluated and ultimately approved the terms of the proposed settlement;

6. In total, I conservatively estimate that I have spent at least 235 hours in connection with bringing this case on behalf of the Class and in discharging my duties as a lead plaintiff and class representative.

7. Based on the time and effort I have spent on this case, the success that has been achieved in obtaining an excellent $8.5 million settlement on behalf of the Class, and my

understanding from my counsel that service awards are regularly awarded in similar circumstances by Georgia courts, I respectfully request that the Court approve my request for a service award of $15,000, consistent with Georgia law.

8. I also note that Plaintiffs' Counsel agreed to represent me and the Class on a fully contingent basis, and also agreed to advance all litigation costs and expenses. I understand that all Class Counsel intend to seek an award of attorneys' fees in the amount of 33 and ⅓ percent of the $8.5 million Settlement Fund, plus reimbursement of expenses. Based on my experience working with my counsel, my general knowledge that contingent fees of one-third of the recovery are unexceptional, the excellent result achieved, and my understanding that even a one-third fee will not result in any significant "multiple" on the value of their time based on their hourly rates that are consistent with those approved by Courts across the country in similar complex class actions, I support their fee and expense application.

9. Accordingly, I respectfully request the Court approve: (1) Plaintiffs' Motion for Final Approval of the Proposed Settlement and the Proposed Plan of Allocation; (2) Counsel's Motion for Attorneys' Fees and Litigation Expenses, and (3) my application for a service award in the amount of $15,000.

I, Kenneth T. Raczewski, being duly cautioned and sworn, depose and state that I have read the foregoing affidavit and the same is true and correct to the best of my knowledge and belief.

Kenneth T. Raczewski

Sworn to and subscribed before me this 5/8 day of _____, 2020.

Notary Public
My Commission Expires:

SAMANTHA D. HALLIDAY
Notary Public, State of Connecticut
My Commission Expires July 31, 2020

Exhibit 5

IN THE SUPERIOR COURT OF FULTON COUNTY
BUSINESS CASE DIVISION
STATE OF GEORGIA

IN RE ENDOCHOICE HOLDINGS, INC. SECURITIES LITIGATION	Civil Action File No. 2016 CV 277772 (Consolidated with Civil Action No. 2016 CV 281193) CLASS ACTION

AFFIDAVIT OF JESSE L. BAUER IN SUPPORT OF PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT, PLAN OF ALLOCATION, AND COUNSEL'S MOTION FOR ATTORNEYS' FEES AND LITIGATION EXPENSES

STATE OF TEXAS)
) ss.
COUNTY OF ORANGE)

I, Jesse L. Bauer, hereby state as follows under the penalty of perjury:

1. My name is Jesse L. Bauer. I am more than 21 years of age and competent to give this affidavit. I have personal knowledge of the matters set forth herein, and could and would testify competently to these matters.

2. I am one of the two Court-appointed co-lead plaintiffs and Court-appointed class representatives in the above-captioned securities class action (the "Action"). I submit this affidavit in support of: (1) Plaintiffs' Motion for Final Approval of the Proposed Settlement and the Proposed Plan of Allocation; (2) Plaintiffs and Class Counsel's Application for an award of Attorneys' Fees and Litigation Expenses, and which I understand will also include my application for a service award for the time and effort I spent on behalf of the Class in this matter.

3. As a representative plaintiff, I understand that, throughout these proceedings, I have had the obligation to do my best to represent not only my own interests, but to also faithfully represent the best interests of all other members of the certified class. I respectfully submit that I have discharged those duties to the best of my ability, including: (a) consulting with

my counsel; (b) producing documents and responding to interrogatories served by Defendants; (c) traveling from my home in Vidor, TX, to sit for my deposition at Defendants' request in Atlanta, GA[1]; (d) reviewing important litigation briefs and court orders in both this Court and in connection with Defendants' appeal, to the Georgia Court of Appeals, of this Court's class certification order; and (e) otherwise generally following the course of the litigation and consulting with class counsel at important junctures in the Action, including, *inter alia*, meeting with my lead attorney, Mr. William Fredericks of the Scott + Scott law firm, in person in New York, NY last October regarding the then-upcoming mediation which ultimately resulted in the $8.5 million settlement.

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1 After my wife and I were flooded out of our one-story ranch home by roughly two feet of water in the wake of Hurricane Harvey in late August 2017, I asked my attorneys to ask Defendants whether they would agree to move the location of my deposition from Atlanta to Houston. My hometown of Vidor was in the hardest hit area of Texas, receiving nearly *60 inches* of rain from this catastrophic, rainfall record-setting storm (we were flooded by two feet of water even though our home was not in any government-recognized "flood plain"). Given the losses I sustained from the flooding and given the shortage of contractors, over the next several months I ended up spending virtually all of my spare time – which was itself limited in light of my own duties as a first responder in a disaster-struck region – working on efforts to salvage and personally repairing my significantly damaged home. Given that a deposition in Atlanta required a two-hour drive to Houston, a flight to Atlanta, a day-long commitment for the deposition itself and then a return flight back to Houston and return two-hour drive back to Vidor, I had hoped that Defendants would agree at least move the deposition to Houston (which itself is still a two hour trip for me). Defendants, however, *refused* this request.

My attorney, Mr. Fredericks, told me that he would understand if I decided to withdraw from the case under these conditions. I told him, however, that even if Defendants refused to depose me in Houston (which would have required just a day trip for them), I would ***not*** drop my commitment to the case even if it meant my having to find two full days off to be deposed in Atlanta. After prepping with my attorney in Atlanta on October 9, I appeared for my deposition in Atlanta on October 10 – less than 6 weeks after my wife and I had lost virtually all of our personal possessions to Hurricane Harvey. My family was certainly not the only one to be adversely affected by Hurricane Harvey -- and of course we are all facing a different crisis today caused by the coronavirus. However, I respectfully submit that the foregoing facts are relevant to the Court's assessment of the extent to which, at all times, I have done all I could to faithfully represent and protect the interests of the Class.

4. I have spent most of my career as a medic and first-responder. I have taken college-level courses in computer science and accounting, and completed extensive state-required training to obtain required Emergency Medical Technician certifications. Having purchased EndoChoice common shares in EndoChoice's IPO in 2015, I thereafter periodically followed news about the Company. After following news of the stock's price collapse in 2016, I contacted an attorney, Jesse Strauss, Esq., regarding possible claims against EndoChoice. Mr. Strauss thereafter referred me to specialist securities class action counsel (Scott + Scott) located in New York City. I thereafter consulted with and retained the Scott + Scott firm, and authorized them to file on my behalf what I understand was the first of the two cases filed in this matter against EndoChoice (with the other case having been filed by my co-lead plaintiff, Mr. Raczewski).

I. SUMMARY OF WORK PERFORMED ON BEHALF OF THE CLASS

5. I have been actively involved in the prosecution of this Action since its inception in the 2016. In connection with my representation of the Class, over the past four years I have, among other things:

- Researched and followed the performance of EndoChoice stock;

- Contacted counsel (first Strauss Law LLC, and then at their recommendation specialist securities class action counsel Scott+Scott) to discuss the basis of possible securities claims against the Defendants;

- Reviewed my initial complaint, and my and my co-lead plaintiff's subsequent consolidated complaint, that were filed against Defendants;

- Reviewed and discussed with counsel the Court's order denying Defendants' motions to dismiss;

- Responded to Defendants' interrogatories;

- Searched for, located, and produced documents in response to Defendants' Requests for Production of Documents;

- Reviewed extensive case filings and other documents relating to the case, and participated in multiple telephone conferences with Mr. Fredericks of Scott+Scott, to fully prepare for my deposition;

- Traveled from my home in Vidor, TX to Atlanta to participate in a final preparation meeting with Mr. Fredericks, and to be deposed by Defendants' counsel the following day (and thereafter making the return trip home);

- Read and reviewed the numerous briefs and pleadings filed in this Court throughout the case;

- Worked with my counsel on my Affidavit in Support of Class Certification, and thereafter reviewed this Court's decision granting class certification, the briefs filed in

- Consulted regularly with my counsel at Scott+Scott (primarily Mr. Fredericks) by phone, text message and email regarding important developments in this case;

- Had multiple phone calls with Mr. Fredericks to discuss the prospects for a successful mediation, and overall settlement prospects and objectives – and also met in person with Mr. Fredericks in New York in late October 2019 to discuss matters relating to the upcoming settlement;

- Reviewed, prior to the mediation, the several pre-mediation briefs submitted to the Mediator by both Class Counsel and Defendants' counsel; and

- Discussed with counsel, following the early December 2019 mediation in New York, the terms of the "mediator's proposal" to settle the case for $8.5 million, before ultimately agreeing to accept that proposal.

6. In total, I conservatively estimate that I have spent roughly 100 hours in connection with discharging my duties as a lead plaintiff and class representative in this Action.

7. Based on the time and effort I have spent on this case, the success that has been achieved in obtaining an excellent $8.5 million settlement on behalf of the Class, and my understanding from my counsel that service awards are regularly awarded in similar circumstances by Georgia courts, I respectfully request that the Court approve my request for a service award of $15,000.

8. I also note that Plaintiffs' Counsel here agreed to represent me and the Class on a fully contingent basis, and also agreed to advance all litigation costs and expenses. I understand that that all Class Counsel intend to seek an award of attorneys' fees in the amount of 33⅓ % of the $8.5 million Settlement Fund, plus reimbursement of their reasonable expenses. Based on my experience working with my counsel, my general knowledge that contingent fees of one-third of the recovery are unexceptional, the excellent result achieved, and my understanding that even a 1/3 fee will not result in any significant "multiple" on the value of the time they devoted to this case, I support their fee and expense application.

9. In sum, I respectfully request the Court approve: (1) Plaintiffs' Motion for Final Approval of the Proposed Settlement and the Proposed Plan of Allocation; (2) Counsel's Motion for Attorneys' Fees and Litigation Expenses, and (3) my application for a service award in the amount of $15,000.

I, Jesse L. Bauer, being duly cautioned and sworn, depose and state that I have read the foregoing affidavit and the same is true and correct to the best of my knowledge and belief.

Jesse L Bauer

Jesse L. Bauer

State of Texas County of Orange

Sworn to and subscribed before me this 08th day of May, 2020.

5

Notary Public, Texas
My Comm. Exp. 05-28-2022

CHRIS ANTHONY
Notary Public, State of Texas
Comm. Expires 03-28-2022
Notary ID 125615565