UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FT. MYERS DIVISION

IN RE MIVA, INC. SECURITIES LITIGATION	))))	**CIVIL ACTION FILE NO. 2:05-cv-00201-FtM-29DNF**

LEAD PLAINTIFFS' UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF SETTLEMENT AND INCORPORATED MEMORANDUM OF LAW IN SUPPORT

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MOTION

Pursuant to Federal Rule of Civil Procedure 23, Lead Plaintiffs Y.P. and Sampurna Jain ("Plaintiffs") respectfully submit this motion, and the incorporated memorandum of law, for preliminary approval of the settlement reached with FindWhat.com, Inc. (the "Company") and its successors, Craig Pisaris-Henderson and Phillip R. Thune (collectively, "Defendants" and with Plaintiffs, the "Parties").

MEMORANDUM OF LAW

I. INTRODUCTION

The Parties have negotiated, at arms-length and with the assistance of an experienced mediator, a proposed Settlement of all claims brought on behalf of all persons and entities who purchased FindWhat[1] common stock between February 23, 2005 and May 4, 2005, inclusive. The Settlement provides for a cash payment of $2,400,000, which represents an exceptional recovery for the Class. Lead Plaintiffs are fully informed of the strengths and weaknesses of the action, having had the opportunity to engage in extensive discovery and to consult with highly respected experts before agreeing to the proposed Settlement. Lead Plaintiffs also appreciate the complex and highly uncertain nature of trying this action before a jury and anticipate that it would face significant hurdles in establishing Defendants' liability and the full amount of the Class's damages if it were to proceed to trial. Indeed, at all times, Defendants have denied and continue to deny any and all claims of wrongdoing, and any and all liability alleged in

[1] Miva was originally named FindWhat.com. After changing its name to Miva, the Company again rebranded itself as Vertro. For consistency with court proceedings and the Settlement documents, we refer to the Company as both Miva and FindWhat interchangeably.

connection with Plaintiffs' claims. Moreover, even if the Class were to prevail at trial, Defendants would likely appeal any favorable judgment, delaying and possibly jeopardizing any recovery. Lead Plaintiffs fully endorse and respectfully recommend the proposed Settlement, as it believes it is in the best interests of the Class.

The proposed Settlement is contained in the executed Stipulation of Settlement dated May 14, 2014 ("Stipulation") and filed contemporaneously with this Motion. The Stipulation includes several exhibits:

- Exhibit A, the [Proposed] Order Preliminarily Approving Settlement and Providing for Notice ("Preliminary Order");
- Exhibit A-1, the Notice of Proposed Settlement of Class Action ("Notice");
- Exhibit A-2, the Proof of Claim and Release ("Proof of Claim");
- Exhibit A-3, the Summary Notice ("Summary Notice"); and
- Exhibit B, the Final Judgment and Order of Dismissal with Prejudice ("Final Order").

Lead Plaintiffs seek entry of the proposed Preliminary Order, which (1) preliminarily approves the proposed Settlement, including the Plan of Allocation; (2) approves the form and manner of giving notice of the proposed Settlement to the Class by means of the Notice and Summary Notice; and (3) sets a hearing date for final approval of the Settlement ("Settlement Hearing"), along with a schedule for various deadlines relevant to the Settlement Hearing. These deadlines include mailing the Notice and publishing the Summary Notice, the submission of all objections or requests for exclusion, and the submission of Proofs of Claim.

As shown below, the proposed Settlement is an excellent result for the Class as it is fair, reasonable and adequate under the governing standards in this Circuit, and should be preliminarily approved by the Court.

II. THE SETTLEMENT SHOULD BE PRELIMINARILY APPROVED

A. The Law Favors and Encourages Settlements

Federal Rule of Civil Procedure 23(e) requires court approval of any proposed settlement of a class action. There is a long-standing "strong judicial policy favoring settlement." *Bennett v. Behring Corp.*, 737 F.2d 982, 986 (11th Cir. 1984). The decision of whether to approve a proposed settlement is within the discretion of the court, and the court "should always review the proposed settlement in light of the strong judicial policy that favors settlements." *Behrens v. Wometco Enterprises, Inc.*, 118 F.R.D. 534, 537 (S.D. Fla. 1988) *aff'd sub nom. Behrens v. Wometco Enterpris*es, 899 F.2d 21 (11th Cir. 1990). Settlements of class actions particularly warrant this approach:

> This policy has special importance in class actions with their notable uncertainty, difficulties of proof, and length. Settlements of complex cases contribute greatly to the efficient utilization of scarce judicial resources and achieve the speedy resolution of justice, for a just result is often no more than an arbitrary point between competing notions of reasonableness.

Id. at 538 (internal citations and quotations omitted); *see also In re Sunbeam Sec. Litig.*, 176 F. Supp. 2d 1323, 1329 (S.D. Fla. 2001). Indeed, the promotion of fair, adequate and reasonable settlements is a fundamental tenet of litigation in federal courts. *See, e.g., McDermott, Inc. v. Amclyde*, 511 U.S. 202, 211 (1994). Moreover, there is a strong initial presumption that the compromise is fair and reasonable. *Hernandez v. Tropical Const. & Maintenance Corp.*, 2007 WL 1201143, at *2 (M.D. Fla. Apr. 23, 2007) (*citing Cotton v. Hinton*, 559 F.2d 1326, 1331 (5th Cir. 1977)); *Ferguson v. Upscale Saturday Night, Inc.*, 2007 WL 2774196, at *1 (M.D. Fla. Sep. 6, 2007).

Approval of a class action settlement is a two-step process: preliminary approval and a subsequent fairness hearing. *Smith v. Wm. Wrigley Jr. Co.*, 2010 WL 2401149, at *2 (S.D. Fla.

Jun. 15, 2010). Preliminary approval "is appropriate where the proposed settlement is the result of the parties' good faith negotiations, there are no obvious deficiencies and the settlement falls within the range of reason." *In re Checking Account Overdraft Litig.*, 2012 WL 4173458, at *5 (S.D. Fla. Sep. 19, 2012). Settlement negotiations that "involve arm's-length, informed bargaining with the aid of experienced counsel support a preliminary finding of fairness." *Id*. In determining whether to approve a proposed settlement, "the cardinal rule is that the District Court must find that the settlement is fair, adequate and reasonable and is not the product of collusion between the parties." *Cotton*, 559 F.2d at 1330. Once the Court has made a preliminary evaluation of the Settlement's fairness, notice must be given to class members of a formal fairness hearing. *Wrigley*, 2010 WL 2401149, at *2.

Here, as detailed below, the Settlement fully satisfies the standard for preliminary approval. The indicia of procedural fairness are present here, including arm's-length negotiations by competent counsel overseen by an experienced and well-respected mediator. Lead Plaintiffs respectfully submit that the Settlement is fair and in the best interests of the settlement Class, and should be approved.

B. The Proposed Settlement is the Result of Non-Collusive, Good Faith, Arm's-Length Negotiations

The $2,400,000 Settlement is an excellent result for the Class, and is the product of extensive good-faith, arm's-length negotiations between Lead Counsel and Defendants' counsel. These negotiations were overseen by the Parties' selected mediator, Jed E. Melnick.

The parties conducted a formal, day-long mediation session in New York on March 25, 2014. Prior to the mediation, the parties exchanged comprehensive mediation statements. The mediator made a double blind mediator's proposal when the parties were unable to mutually reach an agreeable resolution. The parties had until noon March 28 to indicate their willingness

to accept the proposal. After continued settlement negotiations, the parties reached an agreement-in-principle to settle the Litigation.

At all times, negotiations were conducted at arm's-length, and the process required all parties and their counsel to assess difficult and uncertain outcomes. There can be no doubt that the proposed Settlement is the product of serious, informed, non-collusive negotiations. *D'Amato v. Deutsche Bank,* 236 F.3d 78, 85 (2d Cir. 2001) ("[M]ediator's involvement in . . . settlement negotiations helps to ensure that the proceedings were free of collusion and undue pressure."); *Holman v. Student Loan Xpress, Inc.*, 2009 WL 4015573, at *5 (M.D. Fla. Nov. 19, 2009) (no fraud or collusion on reaching settlement because the settlement was the product of arm's-length negotiations before a mediator); *Borcea v. Carnival Corp.*, 238 F.R.D. 664, 675 (S.D. Fla. 2006) (settlement reached after attendance at mediation was "the product of good-faith, arm's length negotiations rather than collusion or overreaching by the parties.").

C. The Proposed Settlement is Fair, Reasonable and Adequate

The Eleventh Circuit has identified six factors that district courts should consider in determining whether a settlement is fair, reasonable and adequate:

> (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; and (6) the stage of proceedings at which the settlement was achieved.

Bennett, 737 F. 2d at 986. With respect to the substance and amount of opposition to the Settlement, Class Members have not yet had the opportunity to review the terms of the Settlement. Therefore, Lead Counsel will advise the Court of the Class Members' reaction to the Settlement following completion of the notice process, as part of the analysis presented in

support of final approval of the Settlement. A preliminary evaluation of the other considerations demonstrates that the Settlement should receive preliminary approval.[2]

1. Lead Plaintiffs' Likelihood of Success at Trial Supports Approval

The ability to avoid the risk, uncertainty, expense, complexity and likely duration of further litigation should be considered by the Court in reviewing this motion. It has been long-recognized that "[t]he risks of litigation are what ultimately leads to settlement." *Chatelain v. Prudential-Bache Sec., Inc.*, 805 F. Supp. 209, 215 (S.D.N.Y. 1992) (citations omitted). While Lead Plaintiffs were prepared to try this case against Defendants, and remain confident in their ability to ultimately prove their claims, a trial is always a risky proposition. *Gutter v. E.I. Dupont De Nemours & Co.*, 2003 U.S. Dist. LEXIS 27238, at *5 (S.D. Fla. May 30, 2003) ("[T]he risks associated with proceeding to trial in . . . complex securities litigation, particularly the risks associated with establishing materiality, causation and damages favor approval of the [s]ettlement."). These risks are particularly apparent in this case, where certain of Lead Plaintiffs' Section 10(b) claims based on MIVA's allegedly deficient internal controls and statements regarding its financial condition were dismissed. But even though a portion of Lead Plaintiffs' Section 10(b) claims survived the motion to dismiss, Lead Plaintiffs still would face risks in litigating this action to a verdict, which would require that it prevail on all matters at pretrial motions and trial. Lead Plaintiffs face particular risks with respect to the numerous outstanding motions before the Court, including the renewed *Daubert* motions and renewed motions for summary judgment.

[2] Lead Plaintiffs respectfully submit that a preliminary analysis of these factors is sufficient to provide the Class with notice of the proposed Settlement. *Authors Guild v. Google, Inc.*, 2009 WL 4434586, at *1 (S.D.N.Y. Dec. 1, 2009) ("In evaluating a proposed class action settlement agreement for preliminary approval . . . a full fairness analysis is neither feasible nor appropriate.").

Lead Plaintiffs recognize the significant risks and uncertainty involved in pursuing its claims through a *Daubert* hearing, summary judgment, trial and subsequent appeals. Indeed, even if Plaintiffs were successful at summary judgment and trial, they could still face the possibility of obtaining no recovery on behalf of the Class. *See, e.g., Robbins v. Koger Properties, Inc.*, 116 F.3d 1441 (11th Cir. 1997) (finding no loss causation and overturning $81 million jury verdict); *In re BankAtlantic Bancorp, Inc. Sec. Litig.*, 2011 WL 1585605, at *1 (S.D. Fla. Apr. 25, 2011) (overturning jury verdict in favor of plaintiff class and granting judgment as a matter of law in favor of defendants); *Berkey Photo, Inc. v. Eastman Kodak Co.*, 603 F.2d 263, 308 (2d Cir. 1979) (reversing $87 million judgment after trial. Moreover, Lead Plaintiffs are mindful of the issues of proof under, and possible defenses to, the violations of securities laws alleged.

Under these circumstances, the Settlement balances the risks, costs and delay inherent in complex cases evenly with respect to all parties. Thus, the benefits created by the Settlement weigh heavily in favor of granting the motion for preliminary approval. Lead Plaintiffs respectfully submit that, considering the risks of continued litigation and the time and expense which would be incurred to prosecute the action through a trial, the $2.4 million Settlement represents a meaningful recovery that is in the best interests of the Class.

2. The Range of Possible Recovery; the Point in the Range of Recovery at Which the Settlement is Fair, Adequate, and Reasonable; and the Complexity, Expense, and Duration of Litigation Support Approval

"Particularly in class action suits, there is an overriding public interest in favor of settlement [because it] is common knowledge that class action suits have a well-deserved reputation as being most complex." *Strube v. Am. Equity Inv. Life Ins. Co.*, 226 F.R.D. 688, 698 (M.D. Fla. 2005) (*quoting Cotton*, 559 F.2d at 1331). Part of that complexity lies in the

calculation of damages and determining the range of possible recovery, an issue which generally requires expert testimony and invariably leads to a "battle of the experts" at trial.

Dr. Hakala has calculated the maximum damages attributable to the alleged fraud to be approximately $22 million using solely the modified class period. Alternative damage models conducted by other experts using the same period indicate damages of less than $10 million. Defendants have denied and continue to deny that the Class suffered any damages at all. Lead Plaintiffs acknowledge that at trial, recoverable damages could be significantly less if the Court were to determine that some part of the alleged stock decline was attributable to factors other than the alleged violations of the securities laws as Defendants would surely argue. The range of possible recovery here is therefore wide and uncertain, a factor which supports the Settlement that secures immediate compensation for the Class.

Furthermore, the $2.4 million Settlement represents a recovery of between approximately 10.9% and 24% of maximum provable damages for the Class. Lead Plaintiffs respectfully submit that this is an excellent result that further supports the fairness, reasonableness and adequacy of the Settlement, especially given that Lead Plaintiffs still face significant hurdles in the prosecution of this action.[3] *See, e.g*., *City of Detroit v. Grinnell Corp*., 495 F.2d 448, 455 n. 2 (2nd Cir. 1974) ("[T]here is no reason, at least in theory, why a satisfactory settlement could not amount to a hundredth or even a thousandth part of a single percent of the potential recovery."); *In re Telik, Inc. Sec. Litig.*, 576 F. Supp. 2d 570, 580 (S.D.N.Y. 2008) (in a case in

[3] The Settlement significantly exceeds the metrics of the recoveries in comparable securities fraud class actions. *See* Dr. Renzo Comolli and Svetlana Starykh, *Recent Trends in Securities Class Action Litigation: 2013 Full-Year Review*, at 32 (NERA Economic Consulting 2014) (median settlement as a percentage of estimated damages where damages were between $20 and $49 million was 8.9% from January 1996-December 2013), available at http://www.nera.com/nera-files/PUB_2013_Year_End_Trends_1.2014.pdf (last accessed May 14, 2014).

which plaintiffs face significant challenges, "almost any amount could be deemed reasonable[.]").

Moreover, as a whole, the "complexity, expense and duration of the litigation" weigh heavily in favor of approving a settlement. *Bennett*, 737 F.2d at 986; *see also Woodward v. Nor-Am Chem. Co.*, 1996 U.S. Dist. LEXIS 7372, at *61 (S.D. Ala. May 23, 1996) (settlements "alleviate the need for judicial exploration of . . . complex subjects, reduce litigation cost, and eliminate the significant risk that individual claimants might recover nothing."). Lead Plaintiffs' claims involve numerous complex legal and financial issues, including the protracted procedural history and complex *Daubert* and summary judgment issues. These issues alone have and would continue to require extensive expert discovery and testimony, adding considerably to the complexity, expense and duration of the action. In addition, the costs and risks associated with litigating this action to a verdict would be high, and the process would require many hours of the Court's time and expenditure of its resources. The Settlement enables the Class to swiftly recover a meaningful sum of money in circumstances where it would otherwise not recover for years, if at all.

3. The Stage of Proceedings at Which the Settlement Was Achieved Supports Approval

"There is no precise formula for what constitutes sufficient evidence to enable the court to analyze intelligently the contested questions of fact. It is clear that the court need not possess evidence to decide the merits of the issue, because the compromise is proposed in order to avoid further litigation. At a minimum, the court must possess sufficient information to raise its decision above mere conjecture." Newberg & Conte, NEWBERG ON CLASS ACTIONS §11.45 (3d ed. 1992); *see also Woodward*, 1996 U.S. Dist. LEXIS 7372, at *64. The volume and

substance of Lead Plaintiffs' knowledge of this action is demonstrably adequate to support the Settlement.

Lead Plaintiffs have litigated this action for approximately nine years, passing significant hurdles by surviving the Defendants' motion to dismiss, obtaining class certification, completing extensive discovery and successfully petitioning the Eleventh Circuit regarding the District Court's ruling on summary judgment. Lead Plaintiffs have thus entered into the Settlement with a clear understanding of the strengths and weaknesses of their claims based on, *inter alia*: (i) the review and analysis of MIVA's public filings with the SEC; (ii) review and analysis of news articles, press releases, announcements, and analysts' reports relating to MIVA; (iii) research of the applicable law with respect to the claims asserted in the action and the potential defenses thereto; (iv) review and analysis of approximately 2.6 million of non-public, internal company documents, and other non-public third-party documents; (v) extensive consultation with damages, economics and financial experts; (vi) consultation with professional investigators; and (vii) a formal mediation session with an experienced and distinguished mediator. Accordingly, the stage of the proceedings supports the preliminary approval of the Settlement.

D. The Plan of Allocation is Fair and Reasonable

"An allocation formula need only have a reasonable, rational basis, particularly if recommended by experienced and competent class counsel." *In re American Bank Note Holographics, Inc.*, 127 F. Supp. 2d 418, 429-30 (S.D.N.Y. 2001) (internal quotations omitted). The court's "principal obligation is simply to ensure that the fund distribution is fair and reasonable." *Id.* (*quoting Walsh v. Great Atl. & Pac. Tea Co.*, 726 F.2d 956, 964 (3d Cir. 1983)).

Here, the proposed Plan of Allocation[4] was drafted by Lead Plaintiff's damages and loss causation expert, Dr. Zachary Nye of the Stanford Consulting Group, who has significant experience in drafting plans of allocation, and was approved by Lead Counsel. It is consistent with Mr. Nye's damages and loss causation calculations, and takes into account the relative strengths and weaknesses of the claims asserted in the Complaint. It provides a reasonable, rational basis for Class Members to recover their *pro rata* damages based upon the dates on which they purchased or sold MIVA shares. The proposed Plan of Allocation also prohibits Class Members from receiving a windfall by limiting recovery only to those Class Members who suffered actual losses. The proposed Plan of Allocation is fair and reasonable, and should be approved. *See Danieli v. IBM Corp.*, 2009 WL 6583144, at *5 (S.D.N.Y. Nov. 16, 2009) (approving plan of allocation where it "is rationally related to the relative strengths and weaknesses of the respective claims asserted" and falls within the range of possible approval).

III. THE PROPOSED FORM AND METHOD OF NOTICE ARE ADEQUATE

A. The Scope of the Notice Program

Lead Counsel has selected the Garden City Group, Inc. ("GCG") to serve as the Notice and Claims Administrator for the proposed Settlement. GCG has substantial experience in serving as claims administrator, and has done so for other settlements in this District. *See, e.g., Wm. Wrigley Jr.*, 2010 WL 2401149, at *6; *Borcea*, 238 F.R.D. at 670. In connection with the distribution of the Notice, GCG will receive from MIVA's transfer agent the names and addresses of all holders of the Company's common stock during the Class Period. GCG will make an initial mailing of the Notice and Proof of Claim to these Class Members, as well as

[4] The proposed Plan of Allocation is found in the Notice, which is attached as Exhibit A-1 to the Stipulation.

nominees contained in GCG's proprietary database not later than 10 business days after the entry of the proposed Preliminary Order.

Lead Counsel has also instructed GCG to maintain a website, at www.mivasecuritieslitigationsettlement.com, and to post the Stipulation, Notice and Proof of Claim on this website no later than 10 business days after the entry of the proposed Preliminary Order. This website will provide more information on the Settlement as well as important dates relating to the Settlement and Fairness Hearing. GCG will also publish the Summary Notice, which provides a summary of the action and the proposed Settlement, and also explains how to obtain the more detailed Notice and Proof of Claim.[5] The Summary Notice will be published in the national edition of Investor's Business Daily and posted by *PR Newswire*, no later than 10 business days after the mailing of the Notice, or 20 business days following the entry of proposed Preliminary Order (subject to Court approval).

B. The Notice Program Comports with Due Process

The threshold requirement concerning class notice is whether the means employed to distribute the notice was reasonably calculated to apprise the class of the pendency of the action, of the proposed Settlement, and of the Class members' rights to opt out or object. *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 173 (1974); *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 315 (1950). The mechanics of the notice process are left to the discretion of the court, subject only to the broad "reasonableness" standards imposed by due process. It has long been the case that a notice of settlement will be adjudged satisfactory if it reaches the parties affected and conveys the required information. *In re Nissan Motor Corp. Antitrust Litig.*, 552 F. 2d 1088, 1104-05 (5th Cir. 1977) (the class members' "substantive claims [must] be adequately

[5] The Summary Notice is attached as Exhibit A-3 to the Stipulation.

described [and] the notice must also contain information reasonably necessary to make a decision to remain a class member and be bound by the final judgment.").

The proposed Notice and Summary Notice have been carefully drafted to contain all necessary information. They are substantially similar in content and form to the models published by the Federal Judicial Center.[6] All of the information is provided in a format that is easily accessible to the reader. The Notices clearly advise recipients of their legal rights and obligations, including that they can object to any portion of the Settlement, exclude themselves from the Settlement, or submit an attached Proof of Claim to share in their *pro rata* portion of the Settlement. Contact information for both Lead Counsel and GCG is provided, as well as a toll-free number and website for the recipient if there are any further questions.

Lead Counsel is employing the traditional methods for notifying Class Members of the Settlement: notification by mail and by publication in a national newswire focusing on investors, as well as maintenance of a settlement website. Notice programs such as this have been approved in a multitude of class action settlements. *See, e.g., Checking Account Overdraft Litig.*, 2012 WL 4173458, at **6-7 (approving notice to be mailed to potential class members and to be published in newspapers, and directing a settlement website to be maintained); *Borcea*, 238 F.R.D. at 670-71 (notice consisted of mailings to class members, publication in newspapers, and settlement website); *In re Domestic Air Transp. Antitrust Litig.*, 141 F.R.D. 534, 550-51 (N.D. Ga. 1992) (notice by mail to class members who could be identified and by publication to those who could not be identified satisfies due process requirements).

[6] The FJC model is available at http://www.fjc.gov/public/pdf.nsf/lookup/ClaAct13.pdf/$file/ClaAct13.pdf (last visited, April 28, 2014). The Summary Notice is also similar in content to the FJC's publication notice model, available at http://www.fjc.gov/public/pdf.nsf/lookup/ClaAct14.pdf/$file/ClaAct14.pdf.

Upon notification of the Settlement, Class Members will have three choices: (1) submit a Proof of Claim to share in their *pro rata* share of the Settlement proceeds; (2) exclude themselves from the Settlement by "opting out" of the Class, in which case they will not participate in the Settlement recovery and will retain their individual claims against the Defendants; or (3) object to the Settlement or any of its terms (including the Plan of Allocation and the award of attorneys' fees and expenses). The notice program advises that to participate in the Settlement, Class Members must submit a Proof of Claim within the time specified in the Preliminary Order. Class Members who wish to exclude themselves from the Settlement must submit a timely request for exclusion. Class Members who wish to object to the Settlement must file and serve a notice of their intention to appear and object. Objectors can submit an opposition to the Settlement and can appear at the Fairness Hearing. This Court should find that the notice procedures are reasonably calculated to provide sufficient notice of the Settlement to the Class.

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IV. PROPOSED SCHEDULE

Lead Counsel respectfully submits the following procedural schedule for the Court's review and approval, which summarizes the deadlines in the proposed Preliminary Order:

Event	**Proposed Deadline**
Mailing of Notice *See* Preliminary Order ¶3(a)	10 business days after entry of Preliminary Order
Notice Posted on Settlement Website *See* Preliminary Order ¶3(b)	10 business days after entry of Preliminary Order
Publication of Summary Notice *See* Preliminary Order ¶3(c)	10 business days after Mailing of Notice
Declaration of Notice Mailing and Publishing *See* Preliminary Order ¶3(d)	21 days prior to the Settlement Hearing
Submission of Motion for Final Approval of Settlement and Attorneys' Fees and Expenses *See* Preliminary Order ¶13	21 days prior to the Settlement Hearing
Submission of Requests for Exclusion *See* Preliminary Order ¶9	21 days prior to the Settlement Hearing
Submission of Objections *See* Preliminary Order ¶11	14 days prior to the Settlement Hearing
Submission of Reply in Support of Final Approval and Attorney's Fees and Expenses *See* Preliminary Order ¶13	7 days prior to the Settlement Hearing
Submission of Proofs of Claim *See* Preliminary Order ¶7	90 days from the Notice publication date
Settlement Hearing *See* Preliminary Order ¶2	100 days after entry of the Preliminary Order[7]

[7] 28 U.S.C. § 1715 requires Defendants to notify certain federal and state officials of the proposed Settlement within 10 days from the date of filing this Motion. Subsection (d) requires the Court to wait 90 days from the date these officials are served to give final approval to the proposed Settlement. In order to comply with the statute, Lead Counsel respectfully requests that the Court schedule the Fairness Hearing to occur at least 100 days, and no later than 120 days, from the date the Settlement is preliminarily approved, subject to the Court's convenience.

V. CERTIFICATION PURSUANT TO LOCAL RULE 3.01(g)

Pursuant to Local Rule 3.01(g), counsel for Lead Plaintiffs have conferred with counsel for Defendants and is authorized to represent that said counsel has consented and agreed to the relief requested herein.

VI. CONCLUSION

Based on the foregoing, Lead Plaintiffs respectfully requests that the Court enter the proposed Preliminary Order, granting: (i) preliminary approval of the Settlement; (ii) approval of the form and manner of giving notice of the proposed Settlement to the Class; and (iii) a time and date for the Fairness Hearing, to consider final approval of the Settlement and related matters.

Dated: May 14, 2014

Respectfully submitted,

SAXENA WHITE P.A.

/s/ Lester R. Hooker

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
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CERTIFICATE OF SERVICE

I certify that on May 14, 2014, I electronically filed the foregoing Opposition to Defendants' Motion to Stay Proceedings with the Clerk of Court using the CM/ECF system, which will send a notice of electronic filing to all registered users.

/s/ Lester R. Hooker
Lester R. Hooker
Florida Bar No. 0032242