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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

IN RE TALIS BIOMEDICAL SECURITIES  
LITIGATION

Case No. 22-cv-00105-SI

CLASS ACTION

THIS DOCUMENT RELATES TO:

ALL ACTIONS

**SUPPLEMENTAL BRIEF IN FURTHER  
SUPPORT OF (I) LEAD PLAINTIFF’S  
MOTION FOR FINAL APPROVAL OF  
CLASS ACTION SETTLEMENT, AND  
(II) LEAD COUNSEL’S MOTION FOR  
ATTORNEYS’ FEES, LITIGATION  
EXPENSES, AND LEAD PLAINTIFF’S  
REASONABLE COSTS AND EXPENSES**

Judge: Hon. Susan Illston  
Date: March 21, 2025  
Time: 10:00 a.m.  
Courtroom: 1 – 17<sup>th</sup> Floor

Pursuant to the Court’s Order (ECF No. 199), Lead Plaintiff submits this supplemental brief to (1) provide updated information on the number of claims submitted, percentage of class participation in the settlement, and estimated average recovery; and (2) address Lead Plaintiff Martin Dugan’s requested award pursuant to the PSLRA.<sup>1</sup>

## I. CLAIMS, CLASS PARTICIPATION RATE, AND AVERAGE RECOVERY

**Claims and Class Participation Rate:** To date, the Claims Administrator has received 5,312 claims, or 27% of the 19,876 Notices disseminated. (Suppl. Teichmiller Decl. ¶¶ 5, 8.) This substantial class participation rate compares favorably to recent securities class settlements, such as *In re Lyft, Inc. Sec. Litig.*, No. 4:19-cv-02690-HSG, ECF No. 397 at 3 (N.D. Cal. Sept. 30, 2024), where the rate was 21% (72,320 claims and 351,970 notices), and *In re Twitter Inc. Sec. Litig.*, No. 4:16-cv-05314-JST, ECF No. 678 at 2 (N.D. Cal. May 24, 2024), where the rate was 25% (114,846 claims and 468,150 notices).

For context, the Claims Administrator previously reported 393 claims as of February 28, 2025, while indicating that the vast majority of claims were expected to be submitted at or around the March 13, 2025 claim filing deadline. (ECF No. 195 ¶ 13.) After February 28, claims increased sharply, with over 1,000 received between February 28 and March 12, and over 3,900 received on or after March 13, 2025.<sup>2</sup> (Suppl. Teichmiller Decl. ¶ 4.) This pattern is consistent with the Claims Administrator’s experience (*id.*) and with other securities class settlements.<sup>3</sup>

**Estimated Average Recovery:** Based on the data currently available, a preliminary estimate indicates an average recovery of over \$6,300 per claim (after fees and expenses).

Specifically, while the Claims Administrator continues to process claims, to date, it has preliminarily identified 3,463 valid claims. (Suppl. Teichmiller Decl. ¶ 6.) Given the number of

<sup>1</sup> Capitalized terms not defined herein shall have same meaning as set forth in the Stipulation of Settlement dated September 30, 2024 (the “Stipulation”) and Class Representative’s March 7, 2025 Reply Brief (ECF No. 196). Unless otherwise noted, all emphasis is added and all internal citations and quotation marks are omitted.

<sup>2</sup> Claims submitted after March 13, 2025 will be accepted to the extent they do not interfere with the timely distribution of the Net Settlement Fund.

<sup>3</sup> For example, in *Lyft*, ECF No. 360-2 ¶¶ 3, 7 (N.D. Cal. Apr. 27, 2023), the participation rate was 1.5% (5,400 claims out of 351,228 notices) about a month before the claims deadline, but ultimately increased to 21% by the distribution stage. *See supra*.

1 claims and the \$32.5 million Settlement Amount, the estimated average per-claim recovery is  
 2 \$9,384.93, or \$6,315.52 after fees and expenses.<sup>4</sup> (*Id.* ¶ 7.) This substantial per-claim recovery  
 3 compares favorably to other securities class settlements. (*See* ECF No. 185 at 2–3 (Securities Act  
 4 settlements with average recoveries from \$465.52 to \$5,858.61 per claimant).)

## 5 **II. LEAD PLAINTIFF DUGAN’S REQUESTED AWARD**

6 While any award to Lead Plaintiff Dugan is in the Court’s discretion, we respectfully  
 7 submit that Mr. Dugan’s requested award is consistent with the PSLRA and relevant authority.

8 The PSLRA recognizes that courts may award “reasonable costs and expenses (including  
 9 lost wages) directly relating to the representation of the class to any representative party serving  
 10 on behalf of the class.” 15 U.S.C. § 77z-1(a)(4). While *Rodriguez v. W. Publ’g Corp.*, 563 F.3d  
 11 948, 960 n.4 (9th Cir. 2009), stated in a footnote that the PSLRA “prohibits granting incentive  
 12 awards to class representatives,” *Rodriguez* was an antitrust case where incentive agreements tied  
 13 class representatives’ “compensation—in advance—to a sliding scale based on the amount  
 14 recovered.” 563 F.3d at 959.

15 In PSLRA actions, by contrast, reasonable hours-based awards are permissible and routine.  
 16 Thus, before and after *Rodriguez*, courts in this District and Circuit have regularly granted awards  
 17 to PSLRA class representatives based on the time they devoted to pursuing litigation on behalf of  
 18 the class. For example:

- 19 • Last year, in *Moradpour v. Velodyne Lidar, Inc.*, No. 21-cv-01486-SI, ECF No. 237  
 20 at 2 (N.D. Cal. Aug. 19, 2024), this Court awarded \$20,000 to an individual lead  
 21 plaintiff who (together with her retired husband) had devoted 65 hours to the action.  
 22 *See id.* & ECF No. 230-3 (declaration stating time expended as lead plaintiff).
- 23 • Similarly, in *In re CV Therapeutics, Inc.*, No. 03-cv-3709-SI, ECF No. 455 at 3  
 24 (N.D. Cal. Apr. 4, 2007), this Court awarded \$26,000 to an individual lead plaintiff  
 25 who had devoted 104 hours to the action “for reimbursement of time and expenses  
 26 incurred in representing the class.”

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27 <sup>4</sup> Final recoveries may vary because the Claims Administrator continues to receive and process  
 28 claims. Pursuant to the Procedural Guidance, the final average, median, maximum, and minimum  
 recovery per claimant will be presented in a post-distribution accounting.

- 1 • In *Davis v. Yelp, Inc.*, No. 18-cv-00400-EMC, 2023 WL 3063823, at \*2 (N.D. Cal.  
2 Jan. 27, 2023), Judge Chen granted a \$15,000 award to an individual lead plaintiff  
3 who had devoted about 100 hours to the action.
- 4 • In *In re Immune Response Sec. Litig.*, 497 F. Supp. 2d 1166, 1173–74 (S.D. Cal.  
5 2007), the court awarded \$40,000 to an individual lead plaintiff who had devoted  
6 200 hours.

7 These hours-based awards are permissible under the PSLRA. As explained in *In re Stable*  
8 *Rd. Acquisition Corp.*, No. 2:21-cv-5744-JFW(SHKX), 2024 WL 3643393, at \*16 (C.D. Cal. Apr.  
9 23, 2024), “[c]ourt[s] have found that the PSLRA permits courts to award lead plaintiffs in federal  
10 securities actions reimbursement for their time devoted to participating in and directing the  
11 litigation on behalf of the class.” *Id.* (citing *Guevoura Fund Ltd. v. Sillerman*, 2019 WL 6889901,  
12 at \*22 (S.D.N.Y. Dec. 18, 2019)). Thus, the *Stable Rd.* court awarded \$10,000 to an individual  
13 lead plaintiff who had devoted about 20 hours to the action (*id.* ECF No. 202-5 ¶ 13).

14 Finally, despite the established practice of reimbursing PSLRA class representatives for  
15 their time, certain courts have declined to do so (as the Order indicated). However, the PSLRA  
16 does not mandate that result: the statute does not define what constitutes a reimbursable “cost[.]”  
17 or “expense[.]” (other than citing “lost wages” as one example). Practically, imposing a heightened  
18 requirement that class representatives must have “lost wages” or “missed any work or other  
19 earning opportunities,” *In re Yahoo! Inc. Sec. Litig.*, No. 17-cv-00373-LHK, 2018 WL 4283377,  
20 at \*3 (N.D. Cal. Sept. 7, 2018), would effectively bar awards for retired persons—although their  
21 time, like that of hourly workers, has value. Indeed, this Court and others have appropriately  
22 granted PSLRA awards to retired persons. For example, in *CV Therapeutics*, No. 03-cv-3709-SI,  
23 ECF No. 442 at 2 (N.D. Cal. Mar. 2, 2007), the Court awarded \$26,000 to a lead plaintiff who had  
24 “retired in 2000,” seven years earlier. *See also Velodyne*, No. 21-cv-01486-SI, ECF No. 237  
25 (\$20,000 award to married lead plaintiffs), ECF No. 45-4 ¶¶ 3–4 (declaration stating that husband  
26 was retired) & ECF No. 173-1 at 6–7 of 91 (wife’s testimony indicating that her last employment  
27 ended in 2007); *Klein v. Altria Grp., Inc.*, No. 3-20-cv-00075-DJN, ECF No. 320 ¶ 20 (E.D. Va.  
28

1 2021) (awarding \$40,000 to married lead plaintiffs) & ECF No. 38-1 ¶¶ 2–3 (declaration stating  
2 that husband is “retired” and wife is a “homemaker”).

3 Here, Mr. Dugan’s request is based solely on the substantial time he devoted to this action  
4 on behalf of the Class to achieve the best possible result.

5  
6 Dated: March 19, 2025

Respectfully submitted,

7 By: /s/ Joseph A. Fonti

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