

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Mark Smilovits, Individually and on Behalf
of All Others Similarly Situated,

Plaintiff,

vs.

First Solar, Inc., Michael J. Ahearn, Robert
J. Gillette, Mark R. Widmar, Jens
Meyerhoff, James Zhu, Bruce Sohn and
David Eaglesham,

Defendants.

No. 2:12-cv-00555-DGC

CLASS ACTION

DECLARATION OF PAUL
McCORMICK IN SUPPORT OF
SETTLEMENT

1 I, Paul McCormick, declare as follows:

2 1. I am the Head of Investment Operations at Coal Pensions Trustee Services
3 Limited which provides, among other things, executive, investment and administrative
4 service and function for the UK's Mineworkers Pension Scheme and its sister fund, the
5 British Coal Staff Superannuation Scheme (together the "Funds"), the Lead Plaintiffs in
6 the above-captioned case (the "Litigation"). I respectfully submit this declaration in
7 support of: (a) plaintiffs' motion for final approval of the \$350 million settlement (the
8 "Settlement") reached between the Funds (on behalf of themselves and Class Members)
9 and the defendants; (b) Lead Counsel Robbins Geller Rudman & Dowd LLP's ("Robbins
10 Geller") motion for an award of attorneys' fees and expenses; and (c) the Funds' request
11 for reimbursement for their time incurred in representing the Class.
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14 2. The Funds understand that the Private Securities Litigation Reform Act of
15 1995 was intended to encourage institutional investors with large losses to manage and
16 direct securities fraud class actions. In seeking appointment as Lead Plaintiffs, the Funds
17 understood their duty to serve the interests of Class Members by supervising the
18 management and prosecution of the Litigation. We vigorously prosecuted this case on
19 behalf of the Class for almost eight years. Ultimately, we agreed to settle the case at the
20 eve of trial and only after balancing the risks of a trial and appeal, if we prevailed, against
21 the immediate benefit of a \$350 million recovery.
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24 3. Following appointment as Lead Plaintiffs, the Funds kept fully informed
25 regarding case developments and procedural matters over the course of the Litigation,
26 including significant engagement and multiple meetings with Robbins Geller concerning
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1 the Litigation strategy in connection with pleading the case, discovery, class certification,
2 summary judgment, appeals, trial, and the potential resolution of the Litigation. In their
3 capacity as Lead Plaintiffs, the Funds also: (a) reviewed pleadings and briefs and detailed
4 correspondence concerning the status of the Litigation; and (b) identified and provided
5 relevant information during the discovery process.
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7 4. As part of the oversight referred to above, I and my colleagues worked
8 closely with Robbins Geller to prepare the Lead Plaintiff motion, prepare for and attend
9 the Lead Plaintiff hearing, comply with discovery requests, and prepare for and provide
10 deposition testimony on behalf of the Funds and Class Members in connection with Lead
11 Plaintiffs' motion for class certification, as well as reviewed trial court and appellate court
12 briefs and summaries of proceedings and participated in settlement negotiations. In that
13 regard, I and colleagues at the Funds met with Robbins Geller partner, Mark Solomon, on
14 multiple occasions throughout the litigation in Sheffield and London, England, as well as
15 corresponded with him and engaged with him in frequent phone conferences. In London,
16 I met further with Robbins Geller attorneys Mr. Solomon, Mr. Forge and Mr. Stewart in
17 connection with my deposition testimony which I provided as the Lead Plaintiffs'
18 representative.
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22 5. Over the course of the Litigation, aside from deposition related meetings with
23 counsel, I and colleagues met with Lead Counsel regularly to discuss the status of the case
24 and Lead Counsel's strategy for the prosecution of the case, including consideration of
25 issues relating to causation and damages. On numerous occasions we discussed with
26 Robbins Geller attorneys the potential for a settlement of the case and considered and
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1 analysed the ranges of potential recoveries depending upon the outcome of various
2 scenarios. Lead Plaintiffs' travel to the United States devoted to the case included my
3 travelling to Phoenix, Arizona to attend the Lead Plaintiff hearing and meet with Robbins
4 Geller attorneys and my colleague, Gerry Lane, travelling to New York in connection with
5 mediation efforts and again to meet with Robbins Geller attorneys. We reviewed materials
6 submitted by the parties to the mediator on numerous occasions and engaged in lengthy
7 deliberations with Mr. Solomon and other Robbins Geller attorneys in order to maximise
8 the outcome for Class Members.
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11 6. The Funds have evaluated the significant risks and uncertainties of
12 continuing litigation, including the possibility of a nominal recovery or even no recovery
13 at all, and have authorised Robbins Geller to settle this Litigation for \$350 million.
14 Notwithstanding their belief in the strength of their case, the Funds are conscious of the
15 possibility of losing at trial and that, even were they to prevail, the defendants likely would
16 appeal, rendering any ultimate recovery for Class Members still years away. The Funds
17 believe this Settlement is fair and reasonable, represents a very good recovery, and is in
18 the best interests of Class Members.
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21 7. While the Funds recognise that any determination of attorneys' fees and
22 expenses is left to the Court, the Funds believe that Robbins Geller's request for fees of
23 18.83% of the settlement fund (which percentage is the result of a tiered arrangement we
24 negotiated deliberately to help maximise the recovery for the Class) and expenses of
25 \$5,263,516.69, plus interest on both amounts, is fair and reasonable, as this Settlement
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1 would not have been possible without Robbins Geller's diligent and aggressive
2 prosecutorial efforts.

3 8. I and my colleagues at the Funds have devoted approximately 420.25 hours
4 to the prosecution of this Litigation, which would otherwise have been focused on daily
5 business activities of the Funds, and based upon our overall level of compensation and
6 benefits believe what equates to an average rate of \$101.35 per hour, plus applicable
7 interest, is reasonable and appropriate.
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9 9. The Funds respectfully request that the Court grant final approval of the
10 Settlement, approve Robbins Geller's motion for an award of attorneys' fees and expenses,
11 and award the Funds \$42,591.42, plus interest, for their time expended in representing the
12 Class in this Litigation.
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14 I declare under penalty of perjury under the laws of the United States that the
15 foregoing is true and correct and that this declaration was executed this 23rd day of April,
16 2020, in Sheffield, England.
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PAUL McCORMICK
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CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury that on April 24, 2020, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

s/ Luke O. Brooks
LUKE O. BROOKS

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