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ADAM J. GUTRIDE (State Bar No. 181446)
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3 KRISTEN G. SIMPLICIO (State Bar No. 263291)
100 Pine Street, Suite 1250
4 San Francisco, CA 94111
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5 Facsimile: (415) 449-6469

6 MATTHEW T. MCCRARY (admitted *pro hac vice*)
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7 Boston, MA 02110
Telephone: (214) 502-2171

8 **DURIE TANGRI LLP**
9 DARALYN J. DURIE (State Bar No. 169825)
ADAM BRAUSA (State Bar No. 298754)
10 217 Leidesdorff Street
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11 Telephone: (415) 362-6666
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12 **THE MARGARIAN LAW FIRM**
13 HOVANES MARGARIAN (State Bar No. 246359)
801 North Brand Boulevard, Suite 210
14 Glendale, California 91203
Telephone: (818) 553-1000
15 Facsimile: (818) 553-1005

16 Attorneys for Plaintiffs

17 UNITED STATES DISTRICT COURT
18 FOR THE NORTHERN DISTRICT OF CALIFORNIA

19 JACKIE FITZHENRY-RUSSELL AND
20 GEGHAM MARGARYAN, on behalf of
themselves, the general public and those
21 similarly situated,

22 Plaintiffs,

23 v.

24 KEURIG DR PEPPER, INC., DR
25 PEPPER/SEVEN UP, INC.,

26 Defendants.
27

CASE NO. 17-cv-00564-NC (lead); 5:17-
cv-04435-NC (consolidated)

**DECLARATION OF ROBERT MEYER
IN SUPPORT OF PLAINTIFFS'
MOTION FOR APPROVAL OF CLASS
ACTION SETTLEMENT**

CTRM: 7
JUDGE: Hon. Nathanael Cousins

1 I, Robert A. Meyer, declare:

2 1. I am an attorney licensed to practice law in the State of California and a private
3 mediator affiliated with JAMS. I make this declaration based on my own personal knowledge, and
4 if called as a witness, I could and would testify competently thereto.

5 2. I have been a mediator in complex litigation for approximately 15 years. Prior to
6 becoming a full time mediator, I was a trial attorney and partner at Loeb & Loeb LLP where I
7 practiced for over 40 years. A copy of my biography is attached hereto as Exhibit A.

8 3. I served as the mediator for the settlement discussions between the parties in the
9 above-captioned matter.

10 4. The parties made multiple attempts to settle this dispute. The first attempt that I
11 mediated was on August 15, 2018 in Los Angeles, California. No settlement was reached.

12 5. From December 20 through December 30, 2018 the parties had a series of
13 conversations with me and my colleague Hon. Wayne R. Anderson (Ret.). These mediated
14 negotiations resulted in the settlement that has been presented to this Court.

15 6. Based on my involvement in the mediation process and my experience as a mediator
16 and a trial attorney, I believe the settlement reached in this matter is the result of arm's length
17 negotiations.

18 7. In this case the parties had to reach two separate settlements: a class settlement for
19 the certified California class, and an individual settlement for the plaintiffs in the Massachusetts and
20 New York cases. I was careful to ensure that the parties negotiated these two settlements separately
21 and had reached agreement on all material terms, including class benefits, claims process, and class
22 notice, before any negotiations were held regarding plaintiffs' attorneys' fees and costs.

23 8. After the Parties were agreed on all other issues, and based on discussions I had with
24 each Party individually, I recommended that the parties agree to a total of \$3 million in costs and
25 attorneys' fees apportioned between this Settlement and the settlement regarding the New York and
26 Massachusetts cases. The parties accepted my recommendation. I believe this is a reasonable sum
27 of money in light of the information I received about (1) the out-of-pocket costs that Plaintiff's
28 counsel has expended and (2) the tasks performed and number of hours worked by Plaintiffs'

1 counsel. Indeed, the amount appears to be far less than the total of Plaintiffs' costs and lodestar. In
2 addition, the amount was reasonable in light of the result for the Certified Class and complexity of
3 the litigation.

4 I declare under penalty of perjury under the laws of the state of California that the foregoing
5 is true and correct, and that this declaration was executed at Los Angeles, California.

6
7
8 Dated: January 4, 2019

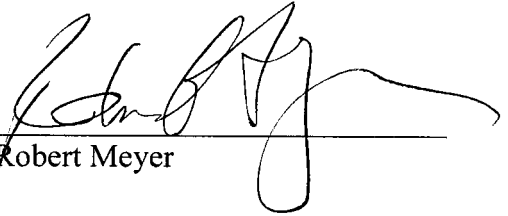
9 
10 Robert Meyer

Exhibit A

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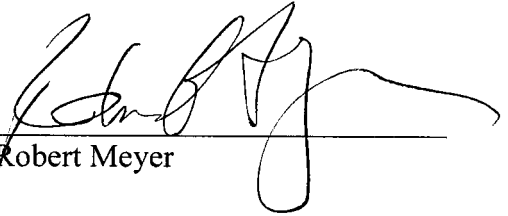
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8 Dated: January 4, 2019

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10 Robert Meyer



Robert A. Meyer, Esq.

Case Manager

Mojgan Binder

T: 310-309-6204

F: 310-396-7576

1925 Century Park East, Suite 1400, The Watt Plaza, Los Angeles, CA 90067

mbinder@jamsadr.com

Biography

News

Publications

General Biography

Robert A. Meyer, Esq. serves as a mediator in complex business litigation pending throughout the United States, including securities and derivative class actions, professional liability lawsuits against accounting and law firms, litigation involving banking and complex financial instruments, cases arising under ERISA, intellectual property disputes, consumer class actions, high-profile employment matters and other commercial disputes.

Mr. Meyer brings the skill set of both an experienced mediator and trial lawyer to his matters. He is a Fellow of the American College of Trial Lawyers and has represented both plaintiffs and defendants in securities litigation, class actions and derivative suits, intellectual property litigation (including copyright, trademark, and right of publicity lawsuits), attorneys' and accountants' professional liability lawsuits, and claims involving breach of contract and commercial fraud.

As a mediator for more than 12 years, Mr. Meyer has focused on building trust with clients and counsel. He comes to each session prepared and regularly conducts pre-mediation conference calls with counsel (and as necessary, with insurers). Mr. Meyer develops creative solutions when negotiations stall. He is persistent with follow-up after mediation sessions, keeping discussions alive, often achieving post-session settlements.

ADR Experience and Qualifications

- Successfully mediated numerous securities lawsuits, in federal and state courts, involving both Fortune 500 companies and start-ups. Cases include '34 Act class actions and IPO and SPO class actions under the '33 Act
- Mediation of numerous merger-related and derivative cases pending in Delaware Chancery Court and other courts throughout the country
- Mediation of complex antitrust and competition-related lawsuits
- Expertise in settling consumer class actions pending throughout the United States
- Leading mediator of ERISA lawsuits, including class actions, ESOP litigation and claims by the U.S. Department of Labor
- Extensive experience addressing insurance issues and working with insurance towers
- Mediations of complex business disputes across numerous industries, including financial services, technology, oil & gas, pharmaceuticals and medical devices, entertainment, healthcare, manufacturing retail and professional services
- Nearly 40 years of experience as a litigation attorney (for plaintiffs and defendants)

Representative Matters

Securities Class Actions

- Willis v. Big Lots, Inc.* (S.D. Ohio) – settlement of '34 Act claims
- Weston v. RCS Capital Corp.* (S.D.N.Y.) – settlement of '34 Act claims
- In re Ubiquiti Networks, Inc. Securities Litigation* (N.D. Cal.) – settlement of '33 Act claims
- In re Commvault Systems, Inc. Securities Litigation* (D.N.J.) – settlement of '34 Act claims
- In re GoPro, Inc. Shareholder Litigation* (San Mateo County Superior Court – settlement of '33 Act claims
- In re CafePress Inc. Shareholder Litigation* (San Mateo County Superior Court) – settlement of section 11 class action under '33 Act
- Plymouth County Retirement System v. Model N, Inc.* (San Mateo County Superior Court) – settlement of section 11 class action under '33 Act
- In re Colonial BancGroup Inc. Securities Litigation* (M.D. Alabama) – settlement of securities class action against directors and officers and outside auditor of failed bank
- In re Washington Mutual Mortgage Backed Securities Litigation* (W.D. Wash.) – settlement of class action by purchasers of residential mortgage backed securities
- In re AOL Time Warner Securities Litigation* (Southern District of New York) – counsel to the Special Master; assisted in the mediation of the shareholder class actions (\$2.5 billion) as well as related ERISA, derivative, and opt-out lawsuits
- Carlson v. Xerox Corporation* (D. Conn.) – settlement (\$750 million) of 21 consolidated shareholder class actions against corporation, management and outside auditor

Mergers and Acquisitions/Shareholder Derivative Litigation

- In re Good Technology Corporation Stockholder Litigation* (Delaware Chancery Court – \$52 million in settlements of shareholder derivative claims against directors, investment funds and bank arising out of corporate acquisition
- In re Sanchez Energy Corp. Derivative Litigation* (Delaware Chancery Court – \$30 million settlement of derivative lawsuit alleging breach of fiduciary duty and claims involving controlling shareholder
- In re In re EZCorp Consulting Agreement Derivative Litigation* (Delaware Chancery Court) – settlement of derivative lawsuit against directors and controlling shareholder
- 3-Sigma Value Financial Opportunities LP v. Jones (Certus)* – \$19.2 million settlement of claims of self-dealing by officers and directors of financial services company
- Laborers Local #231 Pension Fund v. Websense, Inc.* (San Diego County Superior Court) – settlement of shareholder claims arising out of leveraged buy-out
- In Re PLX Technology Inc. Stockholder Litigation* – settlement of breach of fiduciary duty claims alleging flawed sales process in connection with merger transaction
- In re Gardner Denver, Inc. Shareholder Litigation* (Delaware Chancery Court) – \$29 million settlement of shareholder litigation over fairness of merger transaction
- In re ACS Shareholder Litigation* (Delaware Chancery Court) – settlement of fiduciary duty/shareholder cases arising out of \$6 billion corporate acquisition
- Successful mediations of post-merger adjustment claims
- .

Banking, Financial Services and Complex Financial Matters

- 21 Institutional Investors/JP Morgan* - \$4.5 billion settlement of mortgage repurchase and servicing claims involving 330 RMBS trusts
- Settlement of multiple claims by FDIC against former officers and directors of failed banks
- Settlement of numerous lawsuits (both class actions and individual claims) arising out of purchase of complex instruments, including auction rate securities and mortgage backed securities

Consumer Class Actions

- Settlement of several class actions against retailers and manufacturers of consumer products, including claims of product defects, pricing misrepresentation and unfair competition

Entertainment and Intellectual Property

- Settlement of claims arising out of sale of film library
- Settlement of claims to trademark by three different claimants
- As attorney, handled profits accounting litigation arising from motion picture and recording agreements; motion picture finance; copyright infringement of video games; and successful defense of claims by Estate of Princess Diana alleging Lanham Act violations and publicity rights; and trial of ownership of Hard Rock Café trademark

ERISA and ESOP Litigation

- Numerous “church plan” class actions involving claims of non-compliance with ERISA by religiously-affiliated hospitals and health care corporations
- Multiple lawsuits involving large union health plan, including claims against administrators and claims by and against physician groups
- U.S. Department of Labor v. First Bankers Trust* (S.D.N.Y. and D.N.J.) – settlement of three lawsuits against independent fiduciary
- Jessop v. Bankers Trust (Mona Vie)* – settlement of parallel class action and DOL claims arising out of ESOP transaction
- Hans v. Tharaldson* (D.N.D.) – settlement of lawsuit arising out of sale of shares in private corporation to ESOP
- Calvin v. San Antonio Spurs* (W.D. Texas) – settlement of ERISA class action by retired players in the American Basketball Association
- Frazier v. Honeywell Pension & Savings Plan* (D. Arizona) – settlement of ERISA class action
- In re Merck & Co., Inc. Securities, Derivative & ERISA Litigation* (MDL 1658) (District of New Jersey) – settlement of shareholder “stock drop” lawsuits by participants in ERISA plans
- In re Xerox Corp. ERISA Litigation* (District of Connecticut) - settlement of shareholder “stock drop” class actions by participants in retirement plans

Professional Liability

- Settlement of claims by manager of investment fund against Big Four accounting firm for failing to detect embezzlement of investment manager
- Settlement of malicious prosecutions against law firm and bank
- Bankers' Bank Northeast et al. v. Berry, Dunn, McNeil & Parker* (D. Maine) – settlement of professional malpractice claims by third party lenders against accounting firm
- Gascoyne v. Avellino (New York Supreme Court)* – settlement of claims arising out of Madoff-related investment
- Hoberman v. Aspiriant, LLC* (Los Angeles County Superior Court) – settlement of malpractice action against business management and accounting firms
- The Westervelt Company v. Bradley Arant Boult Cummings LLP* (Circuit Court, Alabama) – settlement of legal malpractice action involving corporate benefit and compensation plans
- Settlement of claims by withdrawn partner against former law firm; issues involving partnership agreement and valuation of interest in class action litigation
- Served as sole arbitrator and member of arbitration panel in legal malpractice actions

Antitrust and Competition Law

- In Re Transpacific Passenger Air Transportation Antitrust Litigation* – \$21 million settlement of class action involving claims that defendant conspired to fix the price of air travel
- Pending \$40 million settlement of class action involving pricing of dairy products
- Mediation of antitrust claims against credit card issuer

Employment

- Multiple mediations of sexual harassment claims and wrongful termination against high profile individuals and public companies
- Currently serving as arbitrator in nine related wage-and-hour claims against oil services company

Honors, Memberships, and Professional Activities

- Named "Best Lawyer" in Bet-the-Company Litigation, Commercial Litigation and Securities Litigation, *The Best Lawyers in America*, published by Woodward White, Inc., 2010-2016
- Named "Los Angeles Litigation – Securities Lawyer of the Year," *Best Lawyers*, 2014
- Named in "Southern California Super Lawyers" in Business Litigation, Securities Litigation, and Entertainment & Sports, a *Thomson Reuters* business, 2004-2015; Listed in the Top 100 Southern California Super Lawyers, 2005
- Highest "AV Preeminent (5 out of 5)" Professional Rating, *Martindale-Hubbell Law Directory*
- Fellow, American College of Trial Lawyers
- Member, Central District of California Attorney Settlement Officer Panel
- Board of Directors, Public Counsel (the largest pro bono law office in the United States)
- Board of Directors, Attorneys Insurance Mutual (legal malpractice insurer)
- Frequent lecturer before bar associations and for conferences on various topics including mediation, legal ethics, and attorney malpractice

ADR Profiles

- "Trust is Key," *Daily Journal*, ADR Profile, October 13, 2017

Background and Education

- Partner, Chair of Professional Services Litigation and General Counsel, Loeb & Loeb LLP, 1975-2017
- J.D., Georgetown University Law Center, 1975
- B.A., *cum laude*, American University School of International Service, 1972

News

August 15, 2018

Two JAMS Panelists Named Best Lawyers' "Lawyers of the Year;" 57 JAMS Panelists Recognized as 2019 Best Lawyers in America

October 5, 2015

Robert A. Meyer, Esq. Joins JAMS

Publications

February 8, 2018

Meet the Mediators Who Brokered \$1B in 401k Bias Settlements

Bloomberg Law

October 13, 2017

Trust is Key

Daily Journal - ADR Profile

PRACTICE AREAS

Arbitration

Business/Commercial

Class Action/Mass Tort

Entertainment and Sports

Federal Law

Intellectual Property

Professional Liability

Securities

Special Master/Discovery Referee

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