

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

STEPHEN SULLIVAN, WHITE OAK FUND LP,
CALIFORNIA STATE TEACHERS' RETIREMENT
SYSTEM, SONTERRA CAPITAL MASTER FUND, LTD.,
FRONTPOINT PARTNERS TRADING FUND, L.P., AND
FRONTPOINT AUSTRALIAN OPPORTUNITIES TRUST
on behalf of themselves and all others similarly situated,

Docket No. 13-cv-02811 (PKC)

Plaintiffs,

ECF Case

- against -

BARCLAYS PLC, BARCLAYS BANK PLC, BARCLAYS
CAPITAL INC., BNP PARIBAS S.A., CITIGROUP, INC.,
CITIBANK, N.A., COÖPERATIEVE CENTRALE
RAIFFEISEN-BOERENLEENBANK B.A., CRÉDIT
AGRICOLE S.A., CRÉDIT AGRICOLE CIB, DEUTSCHE
BANK AG, DB GROUP SERVICES UK LIMITED, HSBC
HOLDINGS PLC, HSBC BANK PLC, ICAP PLC, ICAP
EUROPE LIMITED, J.P. MORGAN CHASE & CO.,
JPMORGAN CHASE BANK, N.A., THE ROYAL BANK OF
SCOTLAND PLC, SOCIÉTÉ GÉNÉRALE SA, UBS AG AND
JOHN DOE NOS. 1-50,

Defendants.

**DECLARATION OF THE HONORABLE DANIEL WEINSTEIN (RET.) IN SUPPORT
OF PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION
SETTLEMENT WITH DEUTSCHE BANK AG AND DB GROUP SERVICES (UK)
LTD.**

I, The Honorable Daniel Weinstein (Ret.), pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am a person of the full age of majority and, if called to testify, am competent to testify as to the facts set forth herein.

2. I am the agreed-upon mediator in the above-captioned matter involving Plaintiffs Stephen Sullivan, White Oak Fund LP, California State Teachers' Retirement System, Sonterra Capital Master Fund, Ltd., FrontPoint Partners Trading Fund, L.P., and FrontPoint Australian Opportunities Trust (by and through Lowey Dannenberg Cohen & Hart, P.C. and Lovell Stewart Halebian Jacobson, LLP, hereinafter referred to as "Class Counsel") and Defendants Deutsche Bank AG and DB Group Services (UK) Ltd. (collectively, "Deutsche Bank") (by and through "Deutsche Bank Counsel"). I submit this Declaration in connection with the pending Motion for Preliminary Approval of the Class Action Settlement with Deutsche Bank AG and DB Group Services (UK) Ltd. reached as a result of the mediation process.

3. For the past 30 years, I have served as a full-time mediator, focusing primarily on complex disputes. I am a co-founder of Judicial Arbitration and Mediation Services ("JAMS"), the nation's largest provider of alternative dispute resolution services, and currently serve as a mediator with the organization. I also founded the Class Action Settlement Administration, a subsidiary of JAMS dedicated to the fair and speedy allocation of settlement funds in large matters. I have also taught Mediation Advocacy as a Professor at Stanford University and other universities.

4. Throughout my career, I have mediated over 3,000 complex disputes. I have mediated, among other things, numerous big-ticket antitrust, securities, and intellectual property cases, many of them class actions. These were cases filed in numerous federal and state courts across the country, including multi-district litigation, and some of them involved billions of dollars at stake. Examples include, among others, the Enron bankruptcy, Adelphia, the I.P.O. cases, Marsh, Motorola, the Shinsei Bank collapse, General Motors, the KPMG tax-shelter class action cases,

various price-fixing cases against major financial institutions (*e.g.*, the credit default swaps multi-district litigation), the Swiss Convergence case, United Health, Apple, Intel, Samsung, and the Parmalat case. I also served as the United States Special Representative to Bosnia (1999-2000), where I oversaw the transfer of over \$14 billion in funds to Muslims, Croats, and Serbs in connection with privatization of that country. In addition, I helped arrange and mediate issues concerning the historic professional boxing match between Floyd Mayweather, Jr. and Manny Pacquiao in 2015 along with numerous other sporting and entertainment matters.

5. My dispute resolution services are well known in the legal community and I have received numerous awards. In 2014, I received the International Advocate for Peace Award by the Cardozo Journal of Conflict Resolution; in 2013, I was named a “Top Master” in the Los Angeles *Daily Journal* Top California Neutrals List; in 2003, I received the Distinguished Learned Hand Award from the American Jewish Committee; and in 2002 and 2004-2012, I was named as a “Top California Neutral” by the Los Angeles *Daily Journal*. Further, in 2016, I was included on the “National Mediators” list by *Chambers USA America’s Leading Lawyers for Business*.

6. Prior to my mediation career, I served as a Judge of the Superior Court of San Francisco (1982-1988), and as Chief Associate Justice Pro Tem for the California Supreme Court and the First District Court of Appeal (1984). Prior to taking the bench, I was an Assistant District Attorney in San Francisco. Immediately after receiving my J.D. with honors from Harvard University, I spent seven years in private practice in which I focused on complex litigation in federal court. I am the Founder of the Weinstein JAMS International Fellowship, the 7 Teepees Youth Program, and the Danny Weinstein Youth Foundation.

7. A copy of my curriculum vitae is attached hereto as Exhibit A.

8. In December 2016, Class Counsel and Deutsche Bank Counsel asked me if I would agree to serve as a mediator in an agreed-upon, voluntary, and confidential mediation process

designed to secure a comprehensive settlement in the above-captioned matter involving Plaintiffs and Deutsche Bank. I agreed to do so with the full support and approval of both sides. A mediation budget and schedule were agreed upon, with the Declarant acting as the sole neutral mediator to assist the mediation participants in attempting to reach a comprehensive settlement of the dispute.

9. Prior to being retained by both sides, I had no prior knowledge or understanding of the facts of the dispute. During the course of the mediation, I acted as an independent, neutral mediator encouraging each side separately, and both sides together, to resolve their differences through strenuous, arms-length, contested negotiation. I supervised the entire process as the mediator.

10. In the course of the mediation process, commencing in December 2016 and concluding on January 9, 2017, I engaged in several telephone conversations with the mediation participants, separately and together, in an effort to help the parties reach a successful mediated settlement.

11. At my request, Class Counsel and Deutsche Bank Counsel each provided me with a memorandum discussing the legal arguments that would be covered during the face-to-face meetings on January 9, 2017, including personal jurisdiction arguments and merits arguments.

12. At the face-to-face meetings on January 9, 2017, I met with representatives of both sides, heard from each side concerning background information about the litigation and its status, as well as each party's views as to the litigation risks and costs if a mediated settlement were not achieved. Each side also discussed with me in confidence what it saw as the outstanding issues and how those outstanding issues might be resolved. The settlement discussions were vigorous, contested, well informed, and arms-length. They involved highly experienced counsel representing both sides, as well as the General Counsel for the California State Teachers' Retirement System and

Deutsche Bank's Global Head of Litigation and Regulatory Enforcement. Both sides engaged in hard bargaining.

13. By the end of the January 9 meeting, the parties had reached an impasse. At that point, I made a mediator's proposal, which was ultimately accepted by Plaintiffs and Deutsche Bank. At my urging and direction, the mediation participants then engaged in direct negotiations to create a binding Term Sheet. I understand that the parties executed the binding Term Sheet on January 24, 2017, and, eventually, a settlement agreement.

14. It is my belief that the settlement reached between the parties at the mediation was the result of a fair, reasonable, and *bona fide* negotiation process involving sophisticated and capable counsel on both sides.

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

Executed on May 24, 2017
San Francisco, CA
City, State

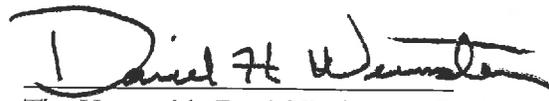

The Honorable Daniel Weinstein (Ret.)

EXHIBIT A



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*"I especially enjoy taking on large, difficult and complex cases and designing a resolution process tailored specifically to that dispute, then sticking with it tirelessly until it settles."
- Hon. Daniel Weinstein (Ret.)*

Recognized as a Best Lawyer, Alternative Dispute Resolution Category, Best Lawyers in America, 2006-2015

Recognized as a "Top Master," Daily Journal Top California Neutrals List, 2013

Recognized as a "Top California Neutral," Daily Journal, 2002, 2004-2012

Recognized as One of the 500 Leading Judges in America, Lawdragon Magazine, 2006

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Hon. Daniel Weinstein (Ret.)

Hon. Daniel Weinstein (Ret.) is one of the nation's preeminent mediators of complex civil disputes. He is a pioneer in the development of mediation and teaches and lectures to fellow mediators and lawyers throughout the United States. Judge Weinstein is recognized as one of the premier mediators of complex, multi-party, high-stake cases, both in the United States and abroad. He is the recipient of the 2014 International Advocate for Peace Award from the Cardozo Journal of Conflict Resolution, whose past honorees have included former Presidents Jimmy Carter and Bill Clinton, Ambassador Richard Holbrooke, and Nobel Peace Prize winner Bishop Desmond Tutu.

ADR Experience and Qualifications

- Designs the process and oversees the resolution of challenging securities class actions, mass torts, intellectual property, antitrust, entertainment law, insurance allocation, environmental, toxic tort, professional malpractice, and venture capital partnership disputes
- Mediates cases with aggregate values of billions of dollars annually (since 1997), while designing innovative processes tailored to unique, complex, and highly sensitive cases
- Founded CASA (Class Action Settlement Administration), a JAMS subsidiary dedicated to the fair and speedy allocation of settlement funds in large scale matters i.e. the Union Oil Carbide settlement, African American Farmers discrimination claims, and compensation and overtime claims in retail industries
- Former California Judge and a founder of JAMS, the World's largest provider of mediation and arbitration services

Representative Matters

Judge Weinstein has successfully mediated the following representative complex cases:

- **Securities cases** involving Enron, Homestore, Qwest, Adelphia, Dynegy, Providian, Clarent, and other major NYSE and NASDAQ corporations
- **Class Actions** involving borrowers, credit card customers, toxic tort claimants, low cost housing tenants, insurance purchasers, and a wide variety of product liability suits, including:
 - Resolution of the KPMG tax shelter class action cases, hepatitis C blood product class, California Phen-fen litigation, and Manufacturers Life vanishing premium cases
- **Intellectual Property** disputes including significant cases involving Apple Computer, Intel, Microsoft, Oracle, Motorola, and Hewlett Packard
- **Entertainment cases** involving numerous high profile actors and all studios, major music groups, and entertainers; Rosa Parks v. Outkast defamation case
- **Anti-Trust actions** involving price fixing allegations against multinational oil corporations, cosmetic industry companies, and major financial institutions
- **Environmental cases:**
 - Hillview Porter; Lockheed; and City of Santa Monica, major environmental superfund cases
 - PCL v. DWR, dispute involving the water resources for the State of California and the Monterey agreement
- **Human and Civil Rights matters** including Black Farmers, Doe v. Unocal, Alien Tort claims, civil rights case regarding pipeline construction in Burma, Holocaust restitution, and racial discrimination
- **International matters** involving major disputes in the international financial markets:
 - Served as the U.S. Special Representative to Bosnia for privatization to oversee \$14 billion transfer of funds to Muslims, Croats, and Serbs (1999-2000)
 - Mediated the Swiss Convergium case, the Parmalat case involving American banks, accounting firms, and Parmalat Bank in Italy, and the Shinsei Bank financial disaster in Tokyo, Japan
 - Currently assigned as mediator in the Vivendi litigation
 - Mediated numerous, high dollar figure reinsurance cases in Amsterdam and England, 2006-present, involving all major international insurance carriers
 - Mediated disputes for Volvo and BMW
 - Resolved litigation arising out of Adelphia, Qwest, and Enron financial "meltdowns"
 - Mediated tax shelter cases including international claims involving international accounting

firms Deloitte and KPMG, among others

- **Other Complex Matters** - Paceco Corp. v. City of Long Beach, public entity litigation; City of Atascadero v. Merrill Lynch, Orange County bankruptcy case; 80 death cases arising out of Alaska Airlines flight #261 crash; and Stull v. Bank of America, involving bank escheats funds

Honors, Memberships, and Professional Activities

- Honoree, International Advocate for Peace Award, Cardozo Journal of Conflict Resolution, 2014
- Recognized as a Best Lawyer, Alternative Dispute Resolution Category, *Best Lawyers in America*, 2006-2015
- Recognized as a "Top Master," *Daily Journal* Top California Neutrals List, 2013
- Recognized as a "Top California Neutral," *Daily Journal*, 2002, 2004-2012
- Northern California Super Lawyer, *San Francisco Magazine*, 2006, 2009, 2011-2014
- Recognized as One of the 500 Leading Judges in America, *Lawdragon Magazine*, 2006
- American Jewish Committee, Distinguished Learned Hand Award, 2003
- Selected as the Bay Area's Most Popular Mediator, *The Recorder*, 2002
- San Francisco Trial Lawyers Association first recipient, Distinguished Mediator Award, 1999
- Board of Directors, Environmental Law Institute, 2009
- U.S. Representative to the Bosnian Privatization Commission, overseeing the transfer of \$15 billion of state-owned assets to the citizens of Bosnia, 1998-2001
- Co-founder and President of 7 Tepees Youth Program for disadvantaged youth
- Former Chairman of the Northern California CORO Foundation, No. California Special Olympics, and The Midnight Basketball League
- Professor, Mediation Advocacy, Stanford University
- Northern California Selection Commission for Federal Judgeships, Feinstein Committee

Background and Education

- Superior Court of San Francisco, 1982-1988
- Associate Justice Pro Tem, California Supreme Court and the First District Court of Appeal, 1984
- Municipal Court of San Francisco, 1978-1982
- Chief Assistant District Attorney of San Francisco, 1976-1978
- Private practice for seven years, specializing in litigation of federal cases
- L.L.B., *cum laude*, Harvard University Law School, 1965; B.A., *cum laude*, Stanford University, 1962