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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

Coordination Proceeding
Special Title Rule (3.550)

SNAP INC. SECURITIES CASES

This Document Relates To:

ALL ACTIONS.

Case No. JCCP 4960

PLAINTIFFS' MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND APPROVAL OF PLAN OF ALLOCATION

Judge: Honorable Elihu M. Berle
Dept: 6
Date: February 25, 2021
Time: 9:00 a.m.

Coordinated Actions:

Hsieh, et al. v. Snap Inc., et al., No. BC669394, CA Super. Ct., Cnty. of Los Angeles

Iuso v. Snap Inc., et al., No. 17CIV03710, CA Super. Ct., Cnty. of San Mateo

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Plaintiffs Joseph Iuso, Chenghsin D. Hsieh and Wei C. Hsieh (together, "Plaintiffs") respectfully submit this memorandum in support of their motion for final approval of the settlement of this class action on the terms set forth in the Amended Stipulation of Settlement dated October 13, 2020 (the "Stipulation" or "Settlement"), and for approval of the Plan of Allocation.[1]

I. INTRODUCTION

The Settlement provides for payment by or on behalf of Defendants of $32,812,500 for the benefit of the Settlement Class.[2] The Settlement is the culmination of vigorous litigation, and is the product of arm's-length negotiations between the Parties[3] with the substantial assistance of the Honorable Layn R. Phillips (Ret.), one of the nation's most well-respected and effective mediators of securities class actions. The Settlement, approved by each of the Plaintiffs,[4] resolves all claims against Defendants. Plaintiffs' Counsel believe that the Settlement represents a highly favorable result for the Settlement Class and warrants this Court's approval.

As an initial matter, the Settlement should be presumed fair because it was reached through arm's-length bargaining, and Plaintiffs' Counsel's investigation and prosecution of this case assured that Plaintiffs entered into the Settlement on a fully informed basis. Further, Plaintiffs' Counsel are

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[1] Unless otherwise defined herein, all capitalized terms have the meanings ascribed to them in the Stipulation.

[2] The "Settlement Class" means all Persons and entities who purchased or otherwise acquired Snap common stock between March 2, 2017 and July 29, 2017, inclusive, and were damaged thereby. Excluded from the Settlement Class are Defendants, members of families of Defendants and their legal representatives, heirs, successors and assigns, and any entity in which Defendants have or had a controlling interest. Also excluded from the Settlement Class is any Person who validly requests exclusion pursuant to the requirements set forth in the Notice. Stipulation, ¶1.31.

[3] "Parties" shall mean Plaintiffs, on behalf of themselves and the Settlement Class, and Defendants Snap Inc. ("Snap" or the "Company"), Evan Spiegel, Robert Murphy, Andrew Vollero, Imran Khan, Joanna Coles, A.G. Lafley, Mitchell Lasky, Michael Lynton, Stanley Meresman, Scott D. Miller, and Christopher Young (collectively, the "Snap Defendants"), and Morgan Stanley & Co. LLC, Goldman Sachs & Co. LLC, J.P. Morgan Securities LLC, Deutsche Bank Securities Inc., Barclays Capital Inc., Credit Suisse Securities (USA) LLC, and Allen & Company LLC (the "Underwriter Defendants") (collectively, with the Snap Defendants, the "Defendants").

[4] *See* Declaration of Joseph Iuso in Support of Plaintiffs' Motion for Final Approval of Settlement and Award of Attorneys' Fees and Expenses, ¶4; Declaration of Wei C. Hsieh and Chenghsin D. Hsieh in Support of Plaintiffs' Motion for Final Approval of Settlement and Award of Attorneys' Fees and Expenses, ¶3, submitted herewith.

experienced in securities class action litigation and there have been no objections to the Settlement or Plan of Allocation to date.

Moreover, there is nothing to rebut the presumption of fairness. While Plaintiffs and Plaintiffs' Counsel believe that the litigation has substantial merit and they would have prevailed at trial, they considered the numerous risks raised by the arguments Defendants made during the case and in settlement negotiations, as well as the risks in establishing liability and damages at trial. At trial, the jury could have sided with Defendants on some or all of the determinative issues, leaving the Settlement Class with little or no recovery.

Plaintiffs' Counsel, who are well-respected and experienced in prosecuting shareholder class actions, have concluded that the Settlement is a highly favorable result and in the best interest of the Settlement Class. This conclusion is based on, among other things: (i) the substantial recovery obtained when weighed against the significant risk, expense and delay presented in continuing this litigation through trial and probable appeal, (ii) a complete analysis of the evidence obtained, (iii) past experience in litigating complex actions similar to the present action, and (iv) the serious disputes among the Parties on both merits and damages issues.

For these and other reasons set forth below, as well as those set forth in the previously-filed Joint Declaration in Support of Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement ("Joint Decl."), dated April 27, 2020,[5] Plaintiffs respectfully request that the Court grant final approval to the Settlement and approve the Plan of Allocation as fair, reasonable, and adequate to Settlement Class Members.[6]

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[5] The Joint Declaration details Plaintiffs' claims, the procedural history of the litigation, the efforts of Plaintiffs' Counsel in prosecuting this case, the risks of continued litigation, and why the Settlement is in the best interests of the Settlement Class.

[6] This memorandum focuses primarily upon the legal standards for approving the Settlement and evaluating the Plan of Allocation. A separate memorandum is being submitted herewith in support of the motion for an award of attorneys' fees and expenses. For a complete factual recitation, Plaintiffs' Counsel respectfully refer the Court to the Joint Declaration, incorporated by reference herein.

II. THE SETTLEMENT IS FAIR, ADEQUATE, AND REASONABLE AND WARRANTS FINAL APPROVAL

A. Standards Governing Final Approval of Class Action Settlements

"A class action shall not be dismissed, settled, or compromised without the approval of the court." Cal. Civ. Code §1781(f). When assessing a proposed class action settlement, the court's inquiry centers on whether the settlement is "'fair, adequate, and reasonable.'" *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1801 (1996). The inquiry "'must be limited to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned.'" *Id.*[7]

Accordingly, the Court need not inquire into the result that might have been obtained at trial. *See Wershba v. Apple Comput., Inc.*, 91 Cal. App. 4th 224, 245 (2001), *overruled on other grounds by Hernandez v. Restoration Hardware, Inc.*, 4 Cal. 5th 260 (2018). A review of the likely rewards of settlement and the risks and costs of continued litigation suffices. *See N. Cnty. Contractor's Ass'n v. Touchstone Ins. Servs.*, 27 Cal. App. 4th 1085, 1091 (1994) (court must determine if settlement is in the "ballpark"). "'In most situations, unless the settlement is clearly inadequate, its acceptance and approval are preferable to lengthy and expensive litigation with uncertain results.'" *Nat'l Rural Telecomms. Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 526 (C.D. Cal. 2004).[8] Further, longstanding public policy strongly favors settlements. *See, e.g.*, *Hamilton v. Oakland Sch. Dist. of Alameda Cnty.*, 219 Cal. 322, 329 (1933) ("[I]t is the policy of the law to discourage litigation and to favor compromises."). This policy becomes an "overriding public interest" in class actions. *Bell v. Am. Title Ins. Co.*, 226 Cal. App. 3d 1589, 1608 (1991).

In determining whether a settlement is fair, adequate, and reasonable, there is a "presumption of fairness . . . where: (1) the settlement is reached through arm's-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in

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[7] Unless otherwise noted, citations are omitted and emphasis is added throughout.

[8] California courts also look to the standards developed by federal courts in reviewing and approving class action settlements. *See, e.g.*, *La Sala v. Am. Sav. & Loan Ass'n*, 5 Cal. 3d 864, 872 (1971).

similar litigation; and (4) the percentage of objectors is small." *Dunk*, 48 Cal. App. 4th at 1802; *see also Cellphone Termination Fee Cases*, 186 Cal. App. 4th 1380, 1389 (2010) (same).

The court in *Dunk* set forth additional factors to be considered along with this presumption, including (1) the settlement amount; (2) the risks of continued litigation; (3) the stage of proceedings; (4) the complexity, expense, and likely duration of the litigation absent settlement; (5) the experience and views of class counsel; and (6) the reaction of class members. *Dunk*, 48 Cal. App. 4th at 1801. As discussed below, the Settlement is entitled to a presumption of fairness, and readily satisfies the additional *Dunk* factors.

B. The Settlement Should Be Accorded a Presumption of Fairness

The Settlement is presumptively fair.

First, the Parties negotiated the Settlement at arm's length under the direct supervision of former Judge Layn R. Phillips (Ret.), a highly experienced and effective mediator in cases like this. *See In re Delphi Corp. Sec., Derivative & ERISA Litig.*, 248 F.R.D. 483, 498 (E.D. Mich. 2008) ("[T]he Court and the parties have had the added benefit of the insight and considerable talents of a former federal judge who is one of the most prominent and highly skilled mediators of complex actions."). The negotiations included three separate full-day mediation sessions during which the Parties' positions on merits and damages issues were fully vetted and informed by detailed mediation briefs and supporting materials exchanged in advance of the negotiations. *See* Joint Decl., ¶¶17-19.

Second, the Parties engaged in extensive pretrial investigation and discovery and other proceedings to evaluate the strengths and weaknesses of the claims and defenses, and therefore entered into the Settlement on a fully informed basis. Plaintiffs' Counsel, among other things:

(a) conducted an extensive factual investigation of the events underlying Snap's March 2, 2017 IPO, including ongoing witness investigation and interviews, reviewing and analyzing the representations made by the Company in the Registration Statement, as well as subsequent U.S. Securities and Exchange Commission filings, and reviewing industry and securities analyst reports and comprehensive news reports, press releases and other media files concerning Snap;

(b) litigated issues regarding class certification in the Federal Action to protect the rights of members of the class;

(c) conducted informal document discovery in connection with the mediation, receiving, reviewing and analyzing over 1.9 million pages of documents;

(d) reviewed and analyzed four depositions from the Federal Action;

(e) retained and consulted with a forensic damages consultant regarding the calculation of damages under the Securities Act; and

(f) analyzed, briefed and presented evidence in support of the claims of the Settlement Class at mediation.

Joint Decl., ¶20. Given these substantial efforts, Plaintiffs' Counsel plainly were in a position to negotiate the Settlement based on an informed evaluation of the strengths and weaknesses of the claims asserted, the defenses raised, and the risks of continued litigation.

Third, although the Court must independently review the Settlement, the judgment of experienced counsel regarding the Settlement is entitled to great weight and supports a presumption of fairness. *See Nat'l Rural*, 221 F.R.D. at 528 ("'Great weight is accorded to the recommendation of counsel, who are most closely acquainted with the facts of the underlying litigation.'"); *Dunk*, 48 Cal. App. 4th at 1802. Plaintiffs' Counsel here have extensive experience and expertise in the prosecution of securities class actions in federal and state courts throughout the country. *See* Joint Decl., Exs. A, B and C (Plaintiffs' Counsel's firm resumes). Plaintiffs' Counsel fully support the Settlement and believe that the substantial and certain recovery of $32,812,500 is a highly favorable result for the Settlement Class when weighed against the uncertainty and substantial risk and expense of continuing this litigation through trial and appeals. *Id.*, ¶¶25-30. The fact that qualified and well-informed counsel endorse the Settlement as being fair, adequate, and reasonable favors this Court's approval of the Settlement.

Fourth, the reaction of the Settlement Class to the Settlement further supports a presumption of fairness. Pursuant to the Court's Notice Order, more than 547,700 copies of the Postcard Notice were sent to potential Settlement Class Members and their nominees. *See* Declaration of Luiggy Segura

1 Regarding (A) Dissemination of Postcard Notice, Notice and Claim Form; (B) Establishment of Call
2 Center Services and Settlement Website; (C) Posting of Notice and Claim Form on Settlement Website;
3 (D) Publication/Transmission of Summary Notice; and (E) Report on Requests for Exclusion Received
4 to Date ("Segura Decl."), ¶11, submitted herewith. The Postcard Notice described the nature of the
5 litigation, the terms of the Settlement, and how to qualify for payment. It also directed Settlement Class
6 Members to the Settlement website (www.SnapSecuritiesLitigation.com). The website contains, among
7 other things, the long form Notice which explains the manner in which the Net Settlement Fund will be
8 allocated among Settlement Class Members and an estimate of the per share recovery. Both the
9 Postcard Notice and the long form Notice also advised Settlement Class Members of their right to
10 object and the procedures and deadline for objecting to the Settlement, the Plan of Allocation, and/or
11 counsel's request for an award of attorneys' fees and expenses. In addition, the Claims Administrator
12 conducted a social media campaign on Google banner ads, twitter and LinkedIn, utilizing the Notice
13 Ads, attached to the Stipulation as Exhibit A-4, for a duration of 60 days, beginning November 25,
14 2020. *Id.*, ¶12. The Notice, Stipulation, and other relevant documents and information, including all
15 deadlines, have been made publicly available on the Settlement website. *Id.*, ¶¶15-16.

16 Although Settlement Class Members have until January 25, 2021 to object or exclude
17 themselves from the Settlement Class, Plaintiffs' Counsel are not aware of any objections to the
18 Settlement or the Plan of Allocation as of the date hereof, and no requests for exclusion from the
19 Settlement Class have been received.[9] *See id.*, ¶17. The lack of objections by the Settlement Class to
20 date supports a presumption of fairness. *See 7-Eleven Owners for Fair Franchising v. Southland Corp.*,
21 85 Cal. App. 4th 1135, 1153 (2000) (one factor that "lead[s] to a presumption the settlement was fair" is
22 that only "a small percentage of objectors" came forward); *Nat'l Rural*, 221 F.R.D. at 529 (small
23 number of objections raises strong presumption that settlement is fair).
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27 [9] If any objections are received, Plaintiffs will address them in a reply memorandum to be filed on
February 11, 2021, in accordance with this Court's Notice Order.
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C. The Settlement Readily Satisfies the Additional *Dunk* Factors

1. The Amount of the Settlement Balanced Against the Strength of Plaintiffs' Case Favors Approval

Each of the additional *Dunk* factors supports final approval. Under the Settlement, the Company and certain of its insurers have paid $32,812,500 in cash for the benefit of the Settlement Class, with no right of reversion. This $32,812,500 Settlement, if approved, would be comfortably in the range of court-approved settlements in recent years in class actions asserting federal statutory claims in California Superior Court for alleged material misstatements in the offering documents for a public stock offering.

Based on the assumption that Plaintiffs would meet their burden of proof and persuade the jury at trial as to each element of their *prima facie* claims, and that Plaintiffs would successfully rebut every affirmative defense Defendants intended to establish, maximum estimated damages could reach as high as $163.2 million. Accordingly, the percentage of recovery is approximately 20%, well above the median settlement as a percentage of estimated damages courts have approved in cases like this only involving §§11 and/or 12(a)(2) claims. *See* Laarni T. Bulan & Laura E. Simmons, *Securities Class Action Settlements – 2019 Review and Analysis* at 7, Fig. 6 (Cornerstone Research 2020) (analyzing 77 class action settlements asserting §§11 and/or 12(a)(2) claims filed between 2010 and 2019, and finding the median settlement as a percentage of "simplified statutory damages" was 7.4%).[10] Not surprisingly, Defendants estimated damages at a fraction of the amount estimated by Plaintiffs' expert, based on expected loss causation affirmative defenses. Therefore, the recovery here as a percentage of Defendants' version of damages would well exceed 20%.

Regardless of the specific percentage of recovery yielded by the Settlement, however, the Settlement is unquestionably better than another possibility – little or no recovery at all in view of the risks of continued litigation, discussed below. *See Wershba*, 91 Cal. App. 4th at 250 ("Compromise is inherent and necessary in the settlement process . . . even if 'the relief afforded by the proposed settlement is substantially narrower than it would be if the suits were to be successfully litigated,' this is

[10] The Cornerstone Research report is available online at: https://www.cornerstone.com/Publications/Reports/Securities-Class-Action-Settlements-2019-Review-and-Analysis.pdf.

no bar to a class settlement because 'the public interest may indeed be served by a voluntary settlement in which each side gives ground in the interest of avoiding litigation.'"). This factor supports final approval of the Settlement.

2. The Substantial Risks of Continued Litigation

a. Risks Related to Establishing Liability

While Plaintiffs believe their claims are strong on the merits, success is hardly assured. The Complaint alleges that Snap's IPO Registration Statement and Prospectus was false and misleading because they failed to disclose the following: (i) Snap was experiencing slow growth in its Daily Active User rate and was being adversely affected by Instagram; (ii) a purported whistleblower complaint which raised questions about false growth metrics used by Snap executives, and (iii) Snap faced substantial liability in connection with a potential patent-infringement action by iFrame Canada Ltd. Joint Decl., ¶6. Defendants would have likely argued that Plaintiffs cannot demonstrate the materiality or falsity of any of the challenged statements in the Registration Statement and Prospectus. *See id.*, ¶27. Defendants would also likely argue at the summary judgment stage and at trial that Snap's price decline after its IPO was not attributable to any omission or misrepresentation in the Registration Statement, but (to the extent Snap even admits the drop is statistically significant, which it does not) was simply consistent with overall market conditions. *See id.*, ¶28.

While Plaintiffs have substantial responses to these arguments, the uncertainty of continued litigation weighs strongly in favor of approval of the Settlement. As one court has observed:

> It is known from past experience that no matter how confident one may be of the outcome of litigation, such confidence is often misplaced. Merely by way of example, two instances in this Court may be cited where offers of settlement were rejected by some plaintiffs and were disapproved by this Court. The trial in each case then resulted unfavorably for plaintiffs; in one case they recovered nothing and in the other they recovered less than the amount which had been offered in settlement.

State of W. Va. v. Chas. Pfizer & Co., 314 F. Supp. 710, 743-44 (S.D.N.Y. 1970), *aff'd*, 440 F.2d 1079 (2d Cir. 1971); *see also Bellows v. NCO Fin. Sys., Inc.*, No. 3:07-cv-01413-W-AJB, 2008 WL 5458986, at *7 (S.D. Cal. Dec. 10, 2008) ("[W]hile Class Counsel believe strongly in the merit of the class claims, they also recognize that any case encompasses risks and that settlement of contested cases is preferred in this circuit. Indeed, even if Plaintiff were to prevail at trial, risks to the class remain."); *In*

re Heritage Bond Litig., No. 02-ML-1475 DT, 2005 WL 1594403, at *7 (C.D. Cal. June 10, 2005) ("Also favoring approval of the Settlement is the knowledge that, while Plaintiffs are confident of the strength of their case, it is imprudent to presume ultimate success at trial and thereafter.") (both citing *Chas. Pfizer*, 314 F. Supp. at 743-44). The numerous uncertainties and risks of proving liability at trial support approval of the Settlement.

b. Risks Relating to Establishing Causation and Damages

Although Plaintiffs were confident that they could establish damages assuming a finding of liability, Plaintiffs faced a risk that the Court or jury would substantially reduce or even eliminate damages. Under §11(e) of the Securities Act, 15 U.S.C. §77k(e), a defendant can reduce or eliminate damages through a showing that the false or misleading statements or omissions alleged were not the cause, in whole or in part, of the loss sustained by the class. As noted above, Defendants were likely to argue "negative causation" at both summary judgment and trial.

The Parties' respective experts would offer sharply divergent testimony concerning damages at both summary judgment and trial, reducing the determination of this element to a "battle of the experts." *See In re Tyco Int'l, Ltd. Multidistrict Litig.*, 535 F. Supp. 2d 249, 260-61 (D.N.H. 2007) (fact that "trial would likely involve a confusing 'battle of the experts' over damages" supported approval of settlement). Plaintiffs faced a substantial risk that the fact finder would credit Defendants' contentions that damages were not linked to the misstatements in the offering documents or that damages were a fraction of the amount Plaintiffs proffered. *See In re Warner Commc'ns Sec. Litig.*, 618 F. Supp. 735, 744-45 (S.D.N.Y. 1985) (approving settlement where "it is virtually impossible to predict with any certainty which testimony would be credited, and ultimately, which damages would be found to have been caused by actionable, rather than the myriad nonactionable factors such as general market conditions"), *aff'd*, 798 F.2d 35 (2d Cir. 1986).

Even if Plaintiffs were to obtain 100% of their damages, the risks would not end there. *See In re Mfrs. Life Ins. Co. Premium Litig.*, No. 96-CV-230 BTM (AJB), 1998 WL 1993385, at *5 (S.D. Cal. Dec. 21, 1998) ("[E]ven if it is assumed that a successful outcome for plaintiffs at summary judgment or at trial would yield a greater recovery than the Settlement – which is not at all apparent – there is

easily enough uncertainty in the mix to support settling the dispute rather than risking no recovery in future proceedings.”). There are numerous cases in which a successful verdict has been overturned either by motion after trial or an appeal. In *In re Apple Comput. Sec. Litig.*, No. C-84-20148(A)-JW, 1991 WL 238298, at *1 (N.D. Cal. Sept. 6, 1991), for example, the jury rendered a verdict for plaintiffs after an extended trial. Based upon the jury’s findings, recoverable damages would have exceeded $100 million. The court, however, overturned the verdict, entered judgment for the individual defendants, and ordered a new trial with respect to the corporate defendant. *See also, e.g.*, *Glickenhaus & Co. v. Household Int’l, Inc*., 787 F.3d 408, 433 (7th Cir. 2015) (reversing and remanding jury verdict of $2.46 billion after 13 years of litigation on loss causation grounds and error in jury instruction under *Janus Capital Grp., Inc. v. First Derivative Traders*, 564 U.S. 135 (2011)); *In re BankAtlantic Bancorp, Inc.*, No. 07-61542-CIV, 2011 WL 1585605, at *20 (S.D. Fla. Apr. 25, 2011) (after plaintiffs’ jury verdict, court granted defendants’ motion for judgment as a matter of law and entered judgment for defendants), *aff’d*, 688 F.3d 713 (11th Cir. 2012) (finding trial court erred, but defendants nevertheless entitled to judgment as a matter of law based on lack of loss causation). Litigation risks on liability and damages support approval of the Settlement.

3. Plaintiffs Had Sufficient Information to Negotiate and Obtain a Fair Settlement

This factor focuses on whether the Parties had sufficient information to conduct an informed negotiation for a settlement that adequately reflects the merits of the case.

As detailed above, when the Parties reached the Settlement, Plaintiffs’ Counsel had sufficiently investigated and researched the merits of their claims and Defendants’ potential defenses to determine that the terms of the Settlement are fair, reasonable, and adequate and in the best interests of the Settlement Class. Plaintiffs’ Counsel’s reasoned judgment was obtained after they conducted an extensive factual investigation, drafted the Complaint and Amended Complaint, reviewed and analyzed over 1.9 million pages of documents, reviewed and analyzed four depositions in the Federal Action, consulted with a forensic damages consultant, and participated in mediated settlement negotiations during which the strengths and weaknesses of the Parties’ positions were fully explored and debated. Joint Decl., ¶20. The knowledge and insight gained through these activities provided Plaintiffs’

Counsel with sufficient information to evaluate the strengths and weaknesses of the Settlement Class' claims and Defendants' defenses, as well as the likelihood of obtaining a larger recovery from Defendants had the litigation continued.

This factor weighs significantly in favor of approval.

4. Balancing the Certainty of an Immediate Recovery Against the Complexity, Expense, and Likely Duration of Continued Litigation and Trial Favors Settlement

The immediacy and certainty of a recovery balanced against the complexity, expense and duration of continued litigation is another factor for the Court to balance in determining whether the Settlement is fair, adequate, and reasonable. *See Wershba*, 91 Cal. App. 4th at 244-45; *Dunk*, 48 Cal. App. 4th at 1801. The benefit of the present settlement must be balanced against the expense of achieving a more favorable result at a trial in the future.

Approval of the Settlement assures a prompt and significant recovery for Settlement Class Members. If not for the Settlement, this litigation would continue to proceed through the completion of document and deposition discovery, expert discovery, summary judgment, trial, and likely appeal. A trial would occupy teams of attorneys for weeks and would require substantial and costly expert testimony on both sides. Further, a judgment favorable to the Settlement Class, in light of the contested nature of virtually every aspect of this case, would unquestionably be the subject of post-trial motions and appeals, which would prolong the case for several more years. *See Warner Commc'ns*, 618 F. Supp. at 745 (delay from appeals is factor to be considered). Delay, not just at the trial stage, but through post-trial motions and the appellate process as well, could force Settlement Class Members to wait many more years for any recovery, further reducing its value. Settlement of this litigation ensures an immediate recovery, and eliminates the risk of no recovery at all.

The essence of a settlement is compromise, "'a yielding of absolutes and an abandoning of highest hopes.'" *Officers for Justice v. Civil Serv. Comm'n of City & Cnty. of San Francisco*, 688 F.2d 615, 624 (9th Cir. 1982). "'[T]he agreement reached normally embodies a compromise; in exchange for the saving of cost and elimination of risk, the parties each give up something they might have won had they proceeded with litigation.'" *Id*. The certainty of recovery balanced against the complexity,

expense, and duration of continued litigation weighs in favor of approval of the Settlement. *See* Joint Decl., ¶¶31-33.

5. The Recommendation of Experienced Counsel Favor Approval of the Settlement

The views of the attorneys actively conducting the litigation, while not conclusive, are entitled to weight in the fairness analysis. *Dunk*, 48 Cal. App. 4th at 1802; *see also In re Omnivision Techs., Inc.*, 559 F. Supp. 2d 1036, 1043 (N.D. Cal. 2007) ("'The recommendations of plaintiffs' counsel should be given a presumption of reasonableness.'"). Plaintiffs' Counsel, who have extensive experience in the prosecution of securities class actions, recommend the Settlement to the Court as in the best interests of the Settlement Class. *See* Joint Decl., ¶¶31-33.

In sum, because each of the *Dunk* factors supports a finding that the Settlement is fair, reasonable, and adequate, the Court should approve the Settlement.

III. THE PLAN OF ALLOCATION IS FAIR AND REASONABLE AND SHOULD BE APPROVED

Plaintiffs also seek approval of the Plan of Allocation. The Plan of Allocation is set forth in full in the Notice posted on the Settlement website. Assessment of a plan of allocation in a class action is governed by the same standards of review applicable to the settlement as a whole – the plan must be fair and reasonable. *See Class Plaintiffs v. City of Seattle*, 955 F.2d 1268, 1284 (9th Cir. 1992). An allocation formula "'need only have a reasonable, rational basis, particularly if recommended by experienced and competent'" class counsel. *See, e.g.*, *In re Zynga Inc. Sec. Litig*., No. 12- cv-04007-JSC, 2015 WL 6471171, at *12 (N.D. Cal. Oct. 27, 2015). No objections to the Plan of Allocation have been filed to date.

The Plan of Allocation provides an equitable basis to allocate the Net Settlement Fund among all Settlement Class Members who submit an acceptable Proof of Claim. The Plan of Allocation, developed by Plaintiffs' Counsel with the assistance of their damages consultant, incorporates a methodology for assessing damages that is similar to what would have been used to calculate damages at trial – namely, the statutory framework for calculating damages under §11(e) of the Securities Act.

Accordingly, Plaintiffs respectfully submit that the Plan of Allocation is a fair and reasonable method for allocating the Net Settlement Fund among the members of the Settlement Class.

IV. NOTICE TO THE CLASS SATISFIES DUE PROCESS AND CALIFORNIA LAW

Pursuant to the Court's Notice Order, and as described above, §II.B., Plaintiffs have provided the Settlement Class with adequate notice of the Settlement. Plaintiffs, through their counsel and the Claims Administrator, have disseminated more than 547,700 copies of the Court-approved Postcard Notice to potential Settlement Class Members and their nominees who could be identified with reasonable effort, from multiple sources. *See* Segura Decl., ¶11. In addition, since November 25, 2020, the Claims Administrator has been running the Notice Ads on Google banner ads, twitter and LinkedIn. *Id.*, ¶12. Also, the Court-approved Summary Notice was published in the national edition of *The Wall Street Journal*, and published electronically over the *PR Newswire* on November 30, 2020. *Id.*, ¶12. The Claims Administrator also provided all information regarding the Settlement online through the Settlement website, SnapSecuritiesLitigation.com, which included the long form Notice. *Id.*, ¶¶15-16. This method of giving notice, previously approved by the Court, is appropriate because it "fairly apprise[d] the [Settlement] class members of the terms of the proposed compromise and the options open to dissenting class members." *Laffitte v. Robert Half Int'l Inc.*, 231 Cal. App. 4th 860, 874 (2014).

The Notice provides the necessary information for Settlement Class Members to make an informed decision regarding the proposed Settlement. It informs the Settlement Class of, among other things: (1) the amount of the Settlement; (2) the reasons why the parties propose the Settlement; (3) the estimated average recovery per share of Snap stock; (4) the maximum amount of attorneys' fees and expenses that will be sought; (5) the name, telephone number, and address of representatives of Plaintiffs' Counsel who will be reasonably available to answer questions from Settlement Class Members concerning matters contained in the Notice; (6) the right of Settlement Class Members to object to the Settlement or seek exclusion from the Settlement Class, and the consequences thereof; and (7) the dates and deadlines for certain Settlement-related events. The Notice further explains that the Net Settlement Fund will be distributed to eligible Settlement Class Members who submit valid and timely Proof of Claim forms under the Plan of Allocation, as described in the Notice.

In sum, the notice program here fairly apprises Settlement Class Members of their rights with respect to the Settlement, is the best notice practicable under the circumstances, and complies with the Court's Notice Order, Cal. Ct. R. 3.766(d), the PSLRA (15 U.S.C. §78u-4(a)(7)), and due process. *See Wershba*, 91 Cal. App. 4th at 251 ("'notice given to the class must fairly apprise the class members of the terms of the proposed compromise and of the options open to dissenting class members'"). In addition, notice of entry of the Judgment, once entered by the Court, will be provided to the Settlement Class by posting it on the Settlement website.

V. THE COURT SHOULD GRANT FINAL CERTIFICATION OF THE CLASS

In its Notice Order, the Court preliminarily certified the Settlement Class for settlement purposes, thereby recognizing that Plaintiffs had satisfied the requirements of California Code of Civil Procedure §382. Notice Order at ¶1(c). Since the Court's Notice Order, nothing has changed to disturb the Court's conclusion that class treatment is appropriate, and there is good reason and just cause to finally certify the Settlement Class, for settlement purposes, under California Code of Civil Procedure §382.

VI. CONCLUSION

The Settlement reached by Plaintiffs' Counsel and approved by Plaintiffs is a very good one, and for the foregoing reasons, Plaintiffs respectfully request that the Court grant final approval to the Settlement, approve the Plan of Allocation, grant final certification of the Settlement Class, and enter the proposed Judgment and Order Granting Final Approval of Class Action Settlement.

DATED: December 24, 2020

Respectfully submitted,

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PROOF OF SERVICE

I, Katie Woods, declare:

I am employed in San Diego County, State of California. I am over the age of 18 years and not a party to the within action. My business address is Robbins Geller Rudman & Dowd LLP, 655 West Broadway, Suite 1900, San Diego, CA 92101.

On this date, I served:

- **NOTICE OF MOTION AND MOTION FOR: (1) FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND APPROVAL OF PLAN OF ALLOCATION; AND (2) AN AWARD OF ATTORNEYS' FEES AND EXPENSES AND AWARD TO PLAINTIFFS PURSUANT TO 15 u.s.c. §77z-1(a)(4)**
- **PLAINTIFFS' COUNSEL'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR AN AWARD OF ATTORNEYS' FEES AND EXPENSES AND AWARD TO PLAINTIFFS PURSUANT TO 15 U.S.C. §77z-1(a)(4)**
- **PLAINTIFFS' MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND APPROVAL OF PLAN OF ALLOCATION**
- **DECLARATION OF THEODORE J. PINTAR IN SUPPORT OF MOTION FOR AN AWARD OF ATTORNEYS' FEES AND EXPENSES AND AWARD TO PLAINTIFFS PURSUANT TO 15 U.S.C. §77z-1(a)(4)**
- **DECLARATION OF JAMES I. JACONETTE FILED ON BEHALF OF ROBBINS GELLER RUDMAN & DOWD LLP IN SUPPORT OF APPLICATION FOR AWARD OF ATTORNEYS' FEES AND EXPENSES**
- **DECLARATION OF JACOB A. WALKER FILED ON BEHALF OF BLOCK & LEVITON LLP IN SUPPORT OF APPLICATION FOR AWARD OF ATTORNEYS' FEES AND EXPENSES**
- **DECLARATION OF FRANCIS A. BOTTINI JR. FILED ON BEHALF OF BOTTINI & BOTTINI, INC. IN SUPPORT OF APPLICATION FOR AWARD OF ATTORNEYS' FEES AND EXPENSES**
- **DECLARATION OF JOSEPH IUSO IN SUPPORT OF PLAINTIFFS' MOTION FOR FINAL APPROVAL OF SETTLEMENT AND AWARD OF ATTORNEYS' FEES AND EXPENSES**
- **DECLARATION OF WEI C. HSIESH AND CHENGSHIN D. HSIESH IN SUPPORT OF PLAINTIFFS' MOTION FOR FINAL APPROVAL OF SETTLEMENT AND AWARD OF ATTORNEYS' FEES AND EXPENSES**
- **DECLARATION OF LUIGGY SEGURA REGARDING (A) DISSEMINATION OF POSTCARD NOTICE, NOTICE AND CLAIM FORM; (B) ESTABLISHMENT OF CALL CENTER SERVICES AND SETTLEMENT WEBSITE; (C) POSTING OF NOTICE AND CLAIM FORM ON SETTLEMENT WEBSITE; (D)**

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PUBLICATION/TRANSMISSION OF SUMMARY NOTICE; AND (E) REPORT ON REQUESTS FOR EXCLUSION RECEIVED TO DATE

[X] By electronic transmission via Case Anywhere LLC to all parties on the electronic service list maintained for this case:

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I am readily familiar with Robbin Geller Rudman & Dowd LLP's practice for collection and processing of documents for delivery according to instructions indicated above. In the ordinary course of business, documents would be handled accordingly.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 24th day of December, 2020, at San Diego, California.

KATIE WOODS