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12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**
14 **SAN FRANCISCO DIVISION**

16 **IN RE: CATHODE RAY TUBE (CRT)
17 ANTITRUST LITIGATION**

Master File No. CV-07-5944-SC

MDL No. 1917

18 This Document Relates to:
19 ALL DIRECT PURCHASER ACTIONS
20

**DIRECT PURCHASER PLAINTIFFS’
21 NOTICE OF MOTION AND MOTION FOR
22 CLASS REPRESENTATIVE INCENTIVE
23 AWARDS; MEMORANDUM OF POINTS
24 AND AUTHORITIES IN SUPPORT
25 THEREOF**

Date: October 23, 2015
Time: 10:00 a.m.
Judge: Hon. Samuel Conti
Courtroom: 1

NOTICE OF MOTION AND MOTION

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that at 10:00 a.m. on October 23, 2015, Direct Purchaser Plaintiffs (“DPPs”) and their counsel (“Class Counsel”) will, and hereby do move before the Honorable Samuel Conti, United States District Judge, at the United States Courthouse, 450 Golden Gate Avenue, Courtroom 1, San Francisco, California, for payments to the Class Representatives of \$25,000 for their time and effort representing the Class throughout the litigation. This motion is brought pursuant to Fed. R. Civ. P. 23(h), 54(b) and 54(d)(2).

This motion is made on the grounds that a reasonable payment of \$25,000 to each Class Representative for their substantial efforts on behalf of the Class is warranted and appropriate.

This motion is based upon this Memorandum of Points and Authorities; the Declaration of Cadio Zirpoli in Support of Plaintiffs’ Motion for Class Representative Incentive Awards; the proposed order submitted herewith; the declarations of Class Counsel, and other records, pleadings, and papers filed in this action; and upon such argument and further pleadings as may be presented to the Court at the hearing on this motion.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Direct Purchaser Plaintiffs (“DPPs”) respectfully request that that Court award each Class Representative \$25,000 for their service to the class.

II. PAYMENTS TO THE CLASS REPRESENTATIVES ARE APPROPRIATE

It is common for courts in this circuit to approve incentive awards to class representatives in recognition of their service to the class. *See Online DVD.*, 779 F.3d at 943 (incentive awards are “‘modest compensation’ paid to class representatives for services performed in the class action”); *In re Mego Fin. Corp. Sec. Litig.*, 213 F.3d 454, 463 (9th Cir. 2000) (affirming incentive awards to class representatives); *Rodriguez v. West Publ’g Corp.*, 563 F.3d 948, 958 (9th Cir. 2009) (“Incentive awards are fairly typical in class action cases.”). These awards are intended “to compensate class representatives for work done on behalf of the class, to make up for financial or reputational risk undertaken in bringing the action, and, sometimes, to recognize their willingness to act as a private attorney general.” *Id.* at 958–59.

DPPs seek awards of \$25,000 for each of the ten Class Representative named in the CAC.¹ Such awards would amount to \$250,000, less than 0.2% of the total Settlement Fund.

In evaluating the appropriateness of an award, courts consider: (1) financial and other risks to the representative in bringing the case; (2) reputational repercussions and difficulties endured by the representative; (3) time and effort expended by the representative; (4) the duration of the litigation and; (5) the benefits, or lack thereof, to the representatives resulting from the litigation. *Van Vranken v. Atl. Richfield Co.*, 901 F. Supp. 294, 299 (N.D. Cal. 1995).

Application of these factors shows that the requested incentive awards are well deserved:

Time, Effort & Duration: Each of the ten Class Representatives has spent a significant amount of time and effort litigating these cases over the past eight years for the benefit of the

¹ The Class Representatives named in the DPPs’ Consolidated Amended Complaint (“CAC”) for which incentive awards are sought are: (1) Crago, d/b/a Dash Computers, Inc.; (2) Arch Electronics, Inc.; (3) Hawel A. Hawel, d/b/a City Electronics; (4) Meijer, Inc. and Meijer Distribution, Inc.; (5) Nathan Muchnick, Inc.; (6) Princeton Display Technologies, Inc.; (7) Radio & TV Equipment, Inc.; (8) Royal Data Services, Inc.; (9) Studio Spectrum, Inc.; and (10) Wettstein and Sons, Inc. d/b/a Wettstein’s.

1 absent members of the Settlement Classes. *See* Declaration of Cadio Zirpoli in Support of Direct
2 Purchaser Plaintiffs’ Motion for Class Representative Incentive Awards ¶¶ 3–8 (“Zirpoli Decl.”).
3 Prior to the filing of their original non-consolidated complaint, each Class Representative spent
4 time with their counsel reviewing drafts of the complaint. Zirpoli Decl. ¶ 4. This process was
5 repeated with the CAC. *Id.* Each Class Representative spent time reviewing and responding to nine
6 sets of document requests containing a total of 75 separate document requests. *Id.* ¶ 5. Each Class
7 Representative participated in the collection of responsive hard copy documents and identification
8 of ESI sources likely to contain responsive data. Each Class Representative also was required to
9 review and respond to eight sets of interrogatories totaling 78 separate interrogatories. Zirpoli Decl.
10 ¶ 6. The Class Representatives also kept abreast of the major filings in the case, including
11 reviewing briefs and pleadings, and consulting with class counsel regarding litigation strategy,
12 settlement negotiations, and other matters. Zirpoli Decl. ¶ 7. Each of the Class Representatives also
13 spent a significant amount of time preparing for their deposition and being deposed. Zirpoli Decl.
14 ¶ 8.

15 **Financial and Reputational Risk:** Each Class Representative also faced the prospect of
16 retaliation from Defendants by denying future sales or allocations of CRTs or other products
17 necessary for the representative’s business.

18 The \$25,000 award sought is well within the range of awards in comparable cases. *See, e.g.,*
19 *Van Vranken*, 901 F. Supp. at 299–300 (awarding \$50,000 to class representative where case
20 spanned four years, testimony was valuable, plaintiff had small claim, plaintiff was deposed twice
21 and testified at trial). *Glass v. UBS Fin. Servs., Inc.*, No. C-06-4068 MMC, 2007 WL 221862, at
22 *17 (N.D. Cal. Jan. 26, 2007) *aff’d*, 331 F. App’x 452 (9th Cir. 2009) (\$25,000 to representatives
23 placing themselves at reputational risk by suing large brokerage houses); *Cook v. Niedert*, 142 F.3d
24 1004, 1016 (7th Cir. 1998) (affirming award of \$25,000 where suit resulted in structural reforms to
25 the industry, plaintiff assisted counsel and faced risk of retaliation); *In re CV Therapeutics, Inc.*
26 *Sec. Litig.*, No. C 03-3709 SI, 2007 WL 1033478, at *2 (N.D. Cal. April 4, 2007) (\$26,000 award
27 “for reimbursement of time and expenses incurred in representing the class”); *In re Lorazepam &*
28 *Chlorazepate Antitrust Litig.*, 205 F.R.D. 369, 400 (D.D.C. 2002) (awards of \$25,000 and \$10,000

1 representing 0.3% of each class's recovery); *In re: High-Tech Emp. Antitrust Litig.*, Case No. 11-
2 cv-2509-LHK, 2015 WL 5158730, at *18 (N.D. Cal. Sept. 2, 2015) (awarding \$80,000 in addition
3 to previous awards of \$20,000 to four named Class Representatives).²

4 By taking on the burdens of this case, each Class Representative has made possible the
5 recovery obtained for the class. In light of the substantial recovery for the class, the important role
6 of the class representatives should be acknowledged with a reasonable payment to compensate
7 them for the time they spent on the case, the risks they took, and to incentivize future service. DPPs
8 therefore respectfully request that the Court approve incentive awards in the amounts requested.

9 **II. CONCLUSION**

10 For the foregoing reasons, DPPs respectfully request that the Court grant Plaintiffs' Motion
11 for Class Representative Incentive Awards.

12 Dated: September 11, 2015

Respectfully submitted,

13 /s/ Guido Saveri

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² See also, e.g., *Linerboard*, 2004 WL 1221350, at *18–19 (awarding \$25,000 to the each representative where representatives participated in discovery and depositions); *In re Dun & Bradstreet Credit Servs. Customer Litig.*, 130 F.R.D. 366, 373–74 (S.D. Ohio 1990) (awards of between \$35,000 to \$55,000).

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