SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION

In re DOUYU INTERNATIONAL HOLDINGS LIMITED SECURITIES LITIGATION	Index No. 651703/2020 Part 53 Justice Andrew Borrok
This Document Relates To: THE CONSOLIDATED ACTION.	Motion Sequence No. 009 CLASS ACTION

JOINT AFFIRMATION OF MARK T. MILLKEY, WILLIAM C. FREDERICKS, AND BRIAN CALANDRA IN SUPPORT OF (1) PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND PLAN OF ALLOCATION; (2) PLAINTIFFS' COUNSEL'S APPLICATION FOR ATTORNEYS' FEES AND EXPENSES; AND (3) NAMED PLAINTIFFS' REQUESTS FOR SERVICE AWARDS

Mark T. Millkey, William C. Fredericks, and Brian Calandra, attorneys duly admitted to practice law before this Court, hereby affirm the following under the penalty of perjury, pursuant to CPLR 2106. Unless otherwise indicated, we have personal knowledge of the matters set forth herein based upon our extensive participation in the prosecution and settlement of the claims asserted. If called upon by the Court, we could and would competently testify that the following facts are true and correct.

1. Mark T. Millkey is a member of Robbins Geller Rudman & Dowd LLP ("Robbins Geller"), co-lead counsel for plaintiffs Pavel Kovalenko ("Kovalenko") and Marcus Chelf ("Chelf" and, with Kovalenko, the "State Plaintiffs") in the above-captioned action (the "State Action").

2. William C. Fredericks is a partner at Scott+Scott Attorneys at Law LLP ("Scott+Scott" and, with Robbins Geller, "State Lead Counsel"), co-lead counsel for the State Plaintiffs in the State Action.

3. Brian Calandra is Of Counsel at Pomerantz LLP ("Pomerantz" or "Federal Lead Counsel"), lead counsel for lead plaintiff Li Yunyan ("Yunyan") and named plaintiff Heng Huang ("Huang" and, with Yunyan, the "Federal Plaintiffs") in *In re DouYu Int'l Holdings Ltd. Securities Litig.*, CA No. 1:20-cv-07234 (S.D.N.Y.) (the "Federal Action"). As detailed in §II.D below, on March 14, 2022, the Federal Court dismissed the Federal Action without prejudice, with the further direction that its dismissal would be automatically converted to one with prejudice should ***this*** Court approve the proposed global settlement in this State Action.[1] ECF 171.[2]

4. We submit this joint affirmation in support of (1) Plaintiffs' Motion for Final Approval of Class Action Settlement and Plan of Allocation, (2) Plaintiffs' Counsel's Application for Attorneys' Fees and Expenses, and (3) Named Plaintiffs' Requests for Service Awards.

I. INTRODUCTION

5. By Order dated August 8, 2022 (the "Preliminary Approval Order," NYSCEF No. 154), after more than two years of hard-fought litigation, this Court preliminarily approved the Settling Parties' proposed global Settlement, which would resolve both the State and Federal Actions (the "Actions"). As further detailed below, the $15 million all-cash Settlement represents a decidedly above-average recovery in the face of decidedly above-average risk. In a supplemental Order, the Court has also (correctly) determined that it has jurisdiction to enter the Settling Parties'

[1] All capitalized terms not defined herein have the meanings ascribed to them in Section 1 of the Stipulation of Settlement dated June 3, 2022 (the "Stipulation," NYSCEF No. 155).

[2] References to "ECF" are to the docket in the Federal Action.

requested Judgment, which provides for the release of all claims asserted in the Federal Action. NYSCEF No. 164 at 1.

6. Importantly, the Settlement was only reached after extensive settlement discussions led by a highly experienced mediator, Robert Meyer of JAMS ("Meyer" or the "Mediator").[3] Moreover, it was only after more than three months of negotiation – after the Parties' initial full-day mediation session (held on September 23, 2021) had broken up with the Parties still far apart – that the Parties were able to reach agreement. And the resulting $15 million settlement was itself based on Meyer's independent "mediator's proposal," which the Parties accepted at the end of December 2021. There can thus be no question that the Settlement was the result of vigorous arm's-length negotiations, conducted by experienced counsel, and supervised by an equally experienced mediator.

7. Pursuant to the Preliminary Approval Order, the Claims Administrator has (a) completed the mailing of 14,951 Notices and Proof of Claim forms ("Notice Packets") to potential Settlement Class Members or their nominees who could be identified with reasonable effort, and (b) published the Summary Notice electronically on *PR Newswire* and in print in *Investor's Business Daily* (which directed Settlement Class Members to www.douyusecuritieslitigation.com, where they could, and still can, download Notice Packets). *See* accompanying Affidavit of Ross D. Murray Regarding Notice Dissemination, Publication, and Requests for Exclusion Received to Date ("Murray Aff."). To date, however, ***no*** objections to any

[3] Our Westlaw research identified two dozen opinions in other securities or similarly complex cases from just the last six years where Meyer was publicly identified as the mediator.

aspect of the Settlement – or even any opt-out requests – have been received from any Settlement Class Members.[4]

8. Notice having been duly disseminated, for all of the reasons set forth herein and in the accompanying memorandum, we respectfully submit that the proposed Settlement is fair, reasonable, and adequate in all respects, and should be finally approved.

9. Plaintiffs also request the Court's final approval of the proposed Plan of Allocation ("POA"), which provides for a customary *pro rata* distribution of the Settlement Fund based on "Recognized Loss Amounts" that take into account the different per-share losses that Settlement Class Members suffered, depending on when they bought and (if applicable) sold their DouYu American Depositary Shares ("ADSs"). In sum, the POA here is consistent with allocation plans that other courts have approved in similar cases, and was developed by the same expert/consultant that prepared the POAs approved by this Court in at least two other cases. *See* *In re Netshoes Sec. Litig.*, No. 157435/2018, NYSCEF No. 141, ¶12 (Sup. Ct. N.Y. Cnty. Dec. 10, 2020) (Borrok, J); *In re EverQuote, Inc. Sec. Litig.*, No. 651177/2019, NYSCEF No. 132, ¶11 (Sup. Ct. N.Y. Cnty. June 11, 2020) (Borrok, J.).

10. We also respectfully submit that Plaintiffs' Counsel's request for ***total*** attorneys' fees equal to one-third (33-1/3%) of the $15 million Settlement ($5 million) and payment of $183,276.63 in litigation expenses (plus interest at the same rate as earned by the Settlement Fund) is fair and reasonable. Indeed, the reasonableness of the requested one-third fee is confirmed by a lodestar cross-check, which yields a "***negative***" (or fractional) multiplier of 0.90 – *i.e.*, a ***discount*** on lead counsel's combined lodestar of over $5.5 million. That multiplier is even more negative

[4] The deadlines for Settlement Class Members to submit "opt out" requests or objections do not expire until November 1 and 10, 2022, respectively. Should any be received, Plaintiffs will address them in reply papers.

– *i.e.*, 0.85 – if one includes the additional lodestar time of the non-lead counsel firms that also did work in the case. Given that multipliers of 2x, 3x, 4x or more are commonly awarded, we submit that a requested one-third fee that results in a ***negative*** multiplier merits approval, especially in a case where counsel achieved a ***superior*** result. *See also* ¶¶59-72 below, and the accompanying fee affidavits/affirmations separately submitted by Mark T. Millkey, William Fredericks, and Brian Calandra of the respective Lead Counsel firms. Finally, we support the named Plaintiffs' request for modest awards of $5,000 each (totaling $20,000) as fair and reasonable, based on their service to the Settlement Class.

II. BACKGROUND

A. Plaintiffs' Allegations

11. Defendant DouYu is a China-based company that operates a video live-streaming platform that runs on users' personal computers, smart phones, and/or tablets. Live-streaming technology allows users to watch, create, and/or share videos in real time over the Internet. Users who "stream" – *i.e.*, transmit – content on DouYu's platform are called "streamers." Through its video platform, DouYu allows users to, among other things, (a) play eSports/videogames online with other users, and (b) watch their favorite streamers, including "eSports players."

12. On July 17, 2019, DouYu went public, selling 67.3 million ADSs to investors.

13. The IPO Offering Materials portrayed DouYu as a rapidly growing company that benefitted significantly from its business relationships with and financial support from Tencent Holdings, Ltd. ("Tencent") – the world's largest developer and distributor of Internet-based video games. The Offering Materials also described how high barriers to entry helped protect DouYu from competition, as well as management's belief that DouYu's use of virtual currency – which it sold to users who would in turn use them to buy "virtual gifts" for their favorite "streamers," and

which users could multiply by essentially placing virtual currency bets using a platform feature called "Lucky Draw" – were legal under Chinese law.

14. Plaintiffs alleged that such statements were materially false and misleading. In support of these claims, Plaintiffs alleged that (a) immediately after the IPO, it was publicly reported that Tencent planned to invest at least $1 billion in an upstart DouYu competitor, Kuaishou, and (b) soon after, beginning in August 2019, it was also publicly disclosed that (i) DouYu's growth rate was declining, (ii) DouYu had suspended its "Lucky Draw" feature (amid public rumors that Chinese authorities had determined that it constituted illegal gambling), and (iii) one of DouYu's most popular streamers had "masked" her true identity.[5]

15. In response to these disclosures, the price of DouYu ADSs fell. The State Plaintiffs thereafter brought claims under §§11 and 15 of the Securities Act of 1933 ("1933 Act") on behalf of all those who purchased DouYu ADSs "pursuant or traceable to" the allegedly false and misleading Offering Materials. The Federal Plaintiffs, in addition to alleging substantially similar 1933 Act claims, also brought claims under §§10(b) and 20(a) of the Securities Exchange Act of 1934 (the "1934 Act"). Because all parties agree that "traceability" here extended into late January 2020, and because the last alleged corrective disclosure occurred on January 21, 2020, both the State and Federal Actions assert class-wide claims on behalf of a substantively ***identical*** class – namely, all those who purchased DouYu ADSs between the July 16, 2019 IPO and January 21, 2020, inclusive.

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[5] Based on certain confidential witness accounts, Federal Plaintiffs also alleged that DouYu had inflated its reported revenues using *de facto* "wash transactions," whereby streamers purchased virtual gifts for themselves using funds that DouYu had paid them, with DouYu then kicking back half the hard currency proceeds of those sales to the streamers.

B. History of and Work Performed in Litigating the State Court Action[6]

16. The first complaint in this Action was filed on March 13, 2020 by plaintiff Kovalenko, asserting claims (based upon the investigation of his counsel) against DouYu, certain of its officers and directors, and the underwriters of DouYu's IPO for violations of the 1933 Act. NYSCEF No. 1.

17. Thereafter, on May 27, 2020, the Court (a) consolidated into this Action another case brought in this Court by another plaintiff against the same Defendants, and (b) appointed Scott+Scott and Robbins Geller as co-lead counsel in this consolidated State Action. NYSCEF No. 8. These counsel then filed the Consolidated Complaint (NYSCEF No. 15) on June 29, 2020.

18. State Lead Counsel's extensive pre-filing investigation included, *inter alia*, collecting, reviewing and analyzing (a) DouYu's numerous SEC filings, including the voluminous Offering Materials and incorporated exhibits; (b) DouYu's press releases, investor conference call transcripts, and other public statements; and (c) analyst reports and news stories about DouYu, other relevant entities (such as Kuaishou, Huya, and Tencent), and the e-gaming/live-streaming industry generally. Some of this work also involved using Chinese-speaking attorneys to identify and translate relevant Chinese-language sources.

19. On August 14, 2020, Settling Defendants moved to dismiss the State Action, contending that State Plaintiffs had failed to plead any actionable misstatements or omissions. NYSCEF No. 17. Settling Defendants argued, *inter alia*, that State Plaintiffs did not adequately allege DouYu's advance knowledge of any likely Tencent/Kuaishou transaction, and that – even ***if*** DouYu had such knowledge – it had no legal duty to disclose Tencent's non-public plans to finance Kuaishou because (1) any such plans were not yet sufficiently concrete, and (2) further

6 This section is submitted by the undersigned State Lead Counsel.

comment by DouYu would have improperly required it to speculate as to a third party's (Tencent's) true intentions where no "duty to speculate" existed. As for Plaintiffs' "Lucky Draw"-related claims, Settling Defendants argued that (a) DouYu's Offering Materials accurately stated management's belief that DouYu's use of "virtual currency" was legal; (b) Defendants adequately warned investors of the risk that, despite management's good-faith beliefs, Chinese law was not settled and Chinese authorities might take a different view; and (c) the Offering Materials never even mentioned "Lucky Draw," and that accordingly Defendants did not have any legal duty in the first place to make the kinds of Lucky Draw-related disclosures that Plaintiffs claimed were required. DouYu also argued that describing itself as a growing company was not misleading when it was only DouYu's ***rate*** of growth that was slowing.

20. In response, on September 29, 2020, State Plaintiffs filed comprehensive papers in opposition to the motion to dismiss (NYSCEF No. 33), and Defendants filed their replies on October 20, 2020. NYSCEF No. 37.

21. State Lead Counsel thereafter prepared for and presented oral argument on the motion. As a result of (we submit) State Lead Counsel's effective advocacy, this Court denied the Settling Defendants' motion to dismiss in its entirety. *See* Decision and Order dated March 16, 2021 (the "MTD Order," NYSCEF No. 76).

22. In April 2021, Settling Defendants appealed the MTD Order to the First Department. NYSCEF No. 80. Defendants' subsequent appellate brief effectively renewed all of their prior arguments in this Court, and required State Lead Counsel to file (in November 2021) a comprehensive brief opposing Defendants' interlocutory appeal.

23. Following the issuance of the MTD Order, State Plaintiffs commenced discovery by serving document requests on DouYu, the Cogency Defendants, and the Underwriter Defendants, and also commenced what proved to be protracted negotiations over the scope of those

requests, the electronic search terms (in both English and Chinese) to be used, and the custodial files to be searched. Settling Defendants began producing responsive documents in the Fall of 2021, including hundreds of documents in Chinese that required State Lead Counsel to hire Chinese-speaking attorneys to review.

24. In August 2021, State Plaintiffs moved for class certification (NYSCEF No. 100), which Defendants opposed. NYSCEF No. 134. In connection with class certification, State Plaintiffs and their counsel responded to Settling Defendants' various document requests, and plaintiff Chelf was deposed on October 19, 2021.

25. In the meantime, having successfully moved to obtain additional time to serve Tencent, State Lead Counsel also succeeded in effecting service on Tencent in China via The Hague Service Convention in late July 2021. In response, in August 2021, Tencent moved to dismiss all claims against it for (*inter alia*) lack of personal jurisdiction – and State Plaintiffs opposed that Motion on October 7, 2021. NYSCEF Nos. 105, 122.

26. As of late December 2021 – when the Settling Parties agreed to settle the claims at issue – Tencent's motion to dismiss, the Settling Defendants' interlocutory appeal, and State Plaintiffs' class certification motion were all pending.

C. History of and Work Performed in Litigating the Federal Court Action[7]

27. On March 24, 2020, the first complaint in the Federal Action was filed in a U.S. District Court in California. On August 18, 2020, that Court (a) consolidated a later-filed action with the Federal Action, and (b) appointed Yunyan as "lead plaintiff" and Pomerantz as lead

[7] This section is submitted by the undersigned Federal Lead Counsel.

counsel. ECF 41. On September 2, 2020, that Court transferred the Federal Action to the Federal Court (namely, the Southern District of New York). ECF 44.

28. Federal Plaintiffs filed their Amended Complaint on December 24, 2020. ECF 74. Like State Lead Counsel, Federal Lead Counsel also conducted a thorough pre-filing investigation.

29. On February 24, 2021, Federal Plaintiffs sought permission to file a Second Amended Complaint ("SAC"), which was granted on March 15, 2021. ECF 88.

30. Federal Plaintiffs filed their SAC on April 2, 2021, asserting claims against all Defendants under the 1933 Act, as well as additional claims against certain Defendants under the 1934 Act. ECF 93.

31. On May 21, 2021, Settling Defendants moved to dismiss the SAC. ECF 102. In response, Federal Plaintiffs, after obtaining leave to do so, filed a Third Amended Complaint ("TAC") on June 11, 2021 (and the motions to dismiss the SAC were terminated as moot). ECF 109; ECF 110.

32. On July 19, 2021, the Settling Defendants filed motions to dismiss the TAC. *See, e.g.*, ECF 119. In response, on August 30, 2021, Federal Plaintiffs filed their comprehensive brief in opposition. *See, e.g.*, ECF 128; ECF 134.

33. On November 24, 2021, Tencent filed its own separate motion to dismiss the TAC. ECF 145. In response, on December 15, 2021, Federal Plaintiffs filed their opposition. ECF 156.

34. As of late December 2021, when the material terms of the Settlement were agreed, DouYu's, the Cogency Defendants', the Underwriter Defendants', and Tencent's motions to dismiss the TAC in the Federal Action were all pending.

D. Settlement Negotiations

35. During the summer of 2021, Plaintiffs and DouYu agreed to explore the possibility of resolving the Actions through mediation, and ultimately agreed to retain Meyer as Mediator.

36. In connection with the mediation, both State Lead Counsel and Federal Lead Counsel (as well as DouYu) prepared comprehensive pre-mediation submissions for (and engaged in pre-mediation calls with) the Mediator on both liability and damages issues. Plaintiffs' Counsel also consulted extensively with their damages experts during this period, before participating in a full-day, in-person mediation session on September 23, 2021.

37. The September 23, 2021 mediation ended without an agreement, and with the parties far apart. At the urging of the Mediator, however, both sides continued (with the Mediator's assistance) to negotiate – while at the same time continuing to vigorously litigate. In the State Action, this continuing litigation involved both further document discovery and further briefing on class certification, Tencent's motion to dismiss, and Defendants' interlocutory appeal. In the Federal Action, it involved further briefing on the various pending motions to dismiss).

38. After three additional months of difficult negotiations, during which the Settling Parties were unable to bridge their differences, the Mediator made a "mediator's proposal" in late December 2021 to settle all claims for $15 million. Each of the Settling Parties ultimately decided to accept this proposal. On January 3, 2022, Federal Plaintiffs advised the Federal Court that they had reached a settlement in principle, subject to completion of customary, long-form settlement documents and necessary judicial approval. The State Plaintiffs similarly advised this Court on January 6, 2022.

39. After further negotiations, on March 10, 2022, the Parties finalized a Memorandum of Understanding documenting the material terms of their agreement.

40. On March 14, 2022, the Federal Court dismissed the Federal Action without prejudice, and further directed that its dismissal be automatically converted to a dismissal with prejudice if and when ***this*** Court's approval of the Settlement becomes final and non-appealable. *See* Stipulation and Order entered March 14, 2022. ECF 171.

41. After still further months of protracted, arm's-length negotiations, the Settling Parties ultimately executed the Stipulation of Settlement (with all exhibits) as of June 3, 2022. NYSCEF No. 155.

42. Promptly thereafter, on June 8, 2022, Plaintiffs sought preliminary approval of the proposed Settlement by filing order-to-show-cause papers in this Court, NYSCEF No. 152, and following a hearing on August 8, 2022, the Court signed the Preliminary Approval Order (which also preliminarily certified the Settlement Class), albeit "subject to the Court's review of supplemental briefing on the issue of whether the Court can settle 1934 Act claims." NYSCEF No. 154. Plaintiffs' Counsel submitted the requested supplemental briefing on August 11, 2022 (NYSCEF No. 162), and on August 15, 2022, the Court issued a further Order finding that there was "no impediment to this Court proceeding with the proposed settlement." NYSCEF No. 164.

III. COUNSEL'S COMPLIANCE WITH THE PRELIMINARY APPROVAL ORDER'S NOTICE REQUIREMENTS

43. In accordance with the Preliminary Approval Order, Lead Counsel, through the Claims Administrator, has implemented a comprehensive notice-by-individual-mail-and-publication program. Notice Packets – which contain all required information regarding the Settlement and how Settlement Class Members can (a) exclude themselves from the Settlement Class; (b) object to the Settlement, the POA, or the Fee and Expense Application; (c) file a Proof of Claim; and/or (d) attend the Fairness Hearing – have been mailed to 14,951 potential Settlement Class Members or their nominees. Notice Packet materials have also been, and continue to be, posted at www.douyusecuritieslitigation.com, along with other Settlement-related documents. In addition, in September 2022, the Summary Notice – which directed Settlement Class Members to the Settlement website – was published on *PR Newswire* (internet) and in *Investor's Business Daily* (print). *See generally* the accompanying Murray Aff.

44. To date, we have received no objections or opt-out requests – nor has the Claims Administrator. *See* Murray Aff., ¶¶16-17. Should any be received before the Fairness Hearing, Plaintiffs will address them in their reply papers.

IV. THE SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE

A. Plaintiffs' Likelihood of Success and the Complexity of the Actions

45. We respectfully submit that the Settlement Class's claims are meritorious, as reflected in the MTD Order (NYSCEF No. 76). Defendants, however, have taken a very different view throughout the case. If the Settlement had not been achieved, Plaintiffs faced numerous hurdles to establishing Defendants' liability and damages, and success was far from guaranteed. The Actions lack several of the hallmarks of a typical, successful securities action. For example, there was no restatement of financial results, no SEC investigation, and no criminal indictment on which Plaintiffs' could "piggy-back." Indeed, the Actions presented several particularly severe – and unusual – risk factors due to the difficulties (to say the least) of taking depositions and conducting third-party document discovery in China, and of enforcing a favorable judgment in China even if the evidence to sustain Plaintiffs' claims against the central defendant (DouYu) could be obtained. In sum, there is no assurance that the Settlement Class could recover through further litigation an amount equal to, let alone greater than, the proposed $15 million Settlement.

46. In negotiating the Settlement, Lead Counsel considered, among other factors: (a) the substantial immediate cash benefit conferred on Settlement Class Members under the Settlement; (b) the possibility that the Settling Defendants would succeed in appealing the MTD Order; (c) the expense and time that would be required to prosecute the Actions through trial, particularly given that DouYu is headquartered in China; (d) the risk that the Court might not certify the Class; (e) the probability that Settling Defendants would move for summary judgment at the close of discovery, leading to unpredictable "battles of the experts" with respect to loss

causation, materiality, and damages issues; (f) the difficulties and risks involved in proving the same issues at trial; (g) the probability that the Settling Defendants would file post-verdict motions and appeals if Plaintiffs succeeded at trial; and (h) the risk that the Settling Defendants might ultimately be unable to satisfy a judgment after trial, or that Plaintiffs would be unable to enforce their judgment in China. In short, there were very serious risks as to whether Plaintiffs would ultimately prevail and, even if they did, equally serious risks as to whether any judgment could be collected.

47. On the merits, for example, in both their motions to dismiss and during the mediation process, the Settling Defendants asserted numerous defenses:

(a) Concerning Plaintiffs' claims about Tencent's investment in Kuaishou, DouYu argued, *inter alia*:

- That it was public knowledge that Tencent had previously invested in Kuaishou;
- That there was no duty for DouYu to disclose plans before they crystallized, much less the plans of a third party;
- That Plaintiffs failed to allege that Tencent had any definitive plan to invest in Kuaishou at the time of the IPO; and
- That even if there were such a plan, the plans of a DouYu shareholder – Tencent – need not be disclosed in DouYu's public disclosures.

(b) Concerning Plaintiffs' claims about Lucky Draw, DouYu argued, *inter alia*:

- That it had previously disclosed uncertainty regarding the unsettled nature in general of Chinese law concerning the use of virtual currencies;
- That the Offering Materials had, in any event, not even mentioned "Lucky Draw";
- That Chinese regulators never apprised DouYu that Lucky Draw was illegal; and
- That issuers have no duty to disclose theoretical, uncharged legal violations.

(c) Concerning Plaintiffs' claims about DouYu's streamers, DouYu argued, *inter alia*:

- That DouYu disclosed that streamers could use a filter to alter their appearance, and in any event the incident in question did not give rise to a securities-law violation;
- That DouYu had warned investors of the risk of top streamers leaving for competing platforms; and
- That discovery would disprove Plaintiffs' allegation that DouYu was losing top streamers.

(d) Concerning Plaintiffs' claims about alleged "wash" transactions, DouYu argued, *inter alia*:

- That Plaintiffs did not allege that DouYu misreported its financial results as a result of these transactions, nor that DouYu's accounting for these transactions violated applicable standards;
- That the Offering Materials disclosed that streamers could purchase virtual gifts, and that DouYu shares revenue from gifts made to a streamer with that streamer; and
- That there was nothing else DouYu could, or should, have disclosed.

48. Although Plaintiffs dispute and have a response to each of these defenses, as well as to the Settling Defendants' attacks on Plaintiffs' other claims, Plaintiffs also recognize that each of these defenses created material uncertainty regarding the ultimate outcome of the Actions.

49. Further, as noted above, conducting and obtaining adequate discovery to support Plaintiffs' claims presented unusually high hurdles, as DouYu's business was run and operated in China. Although Defendants were subject to Plaintiffs' discovery demands, the process was still proving to be slow, and the Settling Parties had yet to resolve the legal and logistical problems inherent in taking the depositions of China-based witnesses – given that China forbids depositions in its territory. While a Defendant (such as DouYu) ***might*** be willing to produce its own current employees to be deposed outside of China, neither Plaintiffs nor this Court had any clear way to

compel former employees or third parties (such as Kuaishou) that are based in China to give deposition testimony. Moreover, Plaintiffs anticipate that the bulk of most relevant documents yet to be produced would be in Chinese, requiring translation and creating an additional layer of complexity not present in the ordinary securities class action.

50. In sum, the Parties disagreed strongly on the merits of the Actions. And had a jury agreed with Defendants on either liability or damages, the Class would have walked away with little or nothing.

51. Finally, independent research also strongly confirms that the $15 million Settlement represents a well-above-average recovery compared to other securities cases involving similar levels of investor losses. Indeed, the proposed Settlement represents between 10% and 20% of Plaintiffs' expert's estimates of the Settlement Class's maximum reasonably recoverable damages of $75 to $150 million (estimates that take into account, *inter alia*, the Defendants' better loss causation-related arguments). However, even if one compares the proposed Settlement – $15 million – to Plaintiffs' maximum ***theoretically*** recoverable damages (which are as high as $210 to $225 million), the Settlement would still result in the recovery of roughly 6% to 7% of investor losses – a decidedly superior percentage compared to most securities settlements. By contrast, the median securities settlement between 2012 and 2021 equated to 2.3% of maximum damages in cases involving estimated investor losses between $200 and $399 million. J. McIntosh & S. Starykh, *Recent Trends in Securities Class Action Litigation: 2021 Full-Year Review*, NERA Econ. Consulting at 23 (Jan. 25, 2022) (available at https://www.nera.com/content/dam/nera/publications/2022/PUB_2021_Full-Year_Trends_012022.pdf). The settlement here

($15 million) is also nearly ***twice*** as large as the median settlement (of approximately $8 million) observed for all securities class action settlements in 2021.[8]

B. Lead Counsel's Judgment Supports the Settlement

52. By the time the Settlement was reached, Lead Counsel had a strong understanding of the strengths and weaknesses of the Settlement Class's claims based on, *inter alia*, their (a) extensive pre-filing factual investigations; (b) thorough briefing of multiple motions to dismiss (plus appellate briefing in the State Action); (c) consultation with damages experts; and (d) participation in a comprehensive and protracted mediation and settlement negotiation process. Based on the foregoing – combined with their own considerable professional experience in litigating actions of this type – all Lead Counsel strongly believe that the Settlement is decidedly "fair, reasonable, and adequate," and should be approved.

C. The Plainly Arm's-Length Negotiation Process, Supervised by a Nationally Respected Mediator, Further Supports Approval

53. In evaluating whether a settlement is fair, courts consider whether it was the product of an arm's-length negotiation, including whether a neutral mediator was involved, or whether, by contrast, the plaintiffs appear to have rushed into an ill-advised settlement.

54. As discussed above, the Settlement was the product of difficult and lengthy negotiations, under the supervision of an experienced mediator, which continued long after the initial (and unsuccessful) September 23, 2021 mediation session. Moreover, the $15 million Settlement reflects not only counsel's considered judgment, but is also based on the Mediator's own independent proposal of what was fair and reasonable.

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[8] *See also* L. Bulan & L. Simmons, *Securities Class Action Settlements: 2021 Year in Review*, Cornerstone Research at 1 (2022) (available at https://securities.stanford.edu/research-reports/1996-2021/Securities-Class-Action-Settlements-2021-Review-and-Analysis.pdf) (finding median securities class action settlement in 2021 was $8.3 million).

55. Because these litigations were hard-fought at every stage by experienced counsel even as negotiations were also being pursued, and because the entire negotiation process itself was also overseen at all times by a highly experienced mediator, this factor strongly weighs in favor of finding that the Settlement is fair and reasonable, and should be approved.

V. THE PLAN OF ALLOCATION IS CUSTOMARY, FAIR, AND REASONABLE

56. To receive a distribution from the Net Settlement Fund, Settlement Class Members are required to submit a Proof of Claim form ("Claim Form"), which was mailed with the Notice and is also available on the Settlement website. The Claims Administrator will review the Claim Forms and supporting documents submitted, provide an opportunity to cure any deficiencies, and mail or wire Settlement Class Members their *pro rata* share of the Net Settlement Fund in accordance with the proposed Plan of Allocation.

57. The proposed Plan of Allocation (POA) was formulated by Lead Counsel in consultation with the State Plaintiffs' damages consultant, ValueScope, which also designed the POAs that this Court approved in *In re Netshoes* and *EverQuote*. *See* ¶9, *supra*. The POA provides for a customary *pro rata* allocation based on "recognized losses" calculated using formulas that take into account the different amounts of artificial inflation in DouYu ADSs at different times.

58. Specifically, the POA is based on the decline in value of DouYu ADSs that occurred following partial disclosure events, which gradually disclosed the truth concerning the problems with DouYu (which, in turn, reduced the amount of artificial inflation in the stock price allegedly caused by the alleged misstatements and omissions at issue). The proposed POA will therefore result in a fair and equitable distribution of the Net Settlement Fund. Moreover, although the POA was set forth in full in the Notice (*see* Murray Aff., Ex. A (the Notice at 9-12)), to date,

no objections to the POA have been received. Accordingly, we respectfully submit that the POA should be approved.

VI. LEAD COUNSEL'S FEE AND EXPENSE APPLICATION AND REQUEST FOR MODEST SERVICE AWARDS TO PLAINTIFFS

A. The Requested Fee Is Reasonable under the Factors Considered by New York Courts

59. As set forth in the accompanying memorandum, New York courts have long recognized that attorneys who successfully represent a class are entitled to compensation for their services, and that attorneys who obtain a recovery for a class in the form of a common fund should be awarded fees and expenses from that fund.

60. Plaintiffs' Counsel seek an attorneys'-fee award of one third (33-1/3%) of the Settlement for the more than 6,970 hours of total time that Plaintiffs' Counsel devoted to this action.[9] This request is justified under well-established case law, and is fully supported by Plaintiffs. *See* Kovalenko Aff., ¶7; Chelf Aff., ¶8; Yunyan Aff., ¶8, and Huang Aff., ¶8. The Settlement Class also appears to agree, as to date no objections to the requested fee have been received. We further respectfully submit that a one-third fee is also reasonable in light of the superior results obtained in the face of above-average litigation risks – especially where the fee, even if granted in full, would result in a decidedly ***below average*** 0.85 multiplier on counsel's $5,896,888.85 lodestar. The requested fee is also consistent with awards approved by this Court

[9] *See* the accompanying attorney affidavits/affirmations submitted herewith by Mark T. Millkey of Robbins Geller; William C. Fredericks of Scott+Scott; Brian Calandra of Pomerantz; Michael I. Fistel, Jr. of Johnson Fistel, LLP; Stephen J. Oddo of Robbins LLP; Brian J. Schall of The Schall Law Firm; David W. Hall of Hedin Hall LLP; and Junbo Hao of The Hao Law Firm. In the case of Lead Counsel, the reported lodestar ***excludes*** time for all work performed after entry of the Court's Preliminary Approval Order, including time spent on preparing materials in support of final approval and the Fee and Expense Application – nor will it include additional time required to be spent administering the Settlement going forward.

in other securities class actions. *See* *In re Netshoes*, NYSCEF No. 141, ¶15 (awarding one-third fee); *In re EverQuote*, NYSCEF No. 132, ¶14 (same).

61. We also further address below the specific factors that New York courts typically consider in analyzing attorneys' fee requests, notably (i) the risks of the action; (ii) the existence of a precedential decision in a similar, prior litigation; (iii) counsel's experience and reputation; (iv) the magnitude and complexity of the action; (v) the amount recovered for the class; and (vi) the work done by counsel and resulting lodestar cross-check. *See, e.g.*, *Fiala v. Metro. Life Ins. Co.*, 899 N.Y.S.2d 531, 540 (Sup. Ct. N.Y. Cnty. 2010).

1. Litigation Risks

62. Although we believe that the evidence that would be adduced in discovery would support Plaintiffs' allegations, it cannot be disputed that Plaintiffs faced substantial challenges in proving their claims. The specific risks Plaintiffs faced, along with the risks of proceeding to trial, are discussed above at ¶¶45-50.

63. Moreover, Plaintiffs' Counsel, who worked on a fully contingent basis, at all times bore the risk that no recovery would be achieved. Plaintiffs' Counsel thus understood that they were embarking on complex, expensive, risky, and lengthy litigation with no guarantee of ever being compensated for the substantial investment of time and money the Actions would require. As noted above, that risk was particularly pronounced here, in the absence of any regulatory investigation or earnings restatement – and as further compounded by the uniquely difficult challenges of litigating claims against predominantly China-based defendants.

64. We submit that Lead Counsel's achievement of a decidedly superior result, in the face of such substantial risks, strongly supports the requested one-third fee.

2. Lead Counsel Lacked the Benefit of a Prior Judgment

65. The State and Federal Actions were the only ones filed and prosecuted arising from the allegedly false and misleading Offering Materials. Nor were there any earnings restatements or governmental regulatory actions to assist Lead Counsel's investigation. Lead Counsel were thus required to independently develop the facts and legal theories necessary to win the excellent $15 million Settlement for the Class now pending before this Court.

3. Counsel's Experience and Reputation in Securities Litigation

66. Lead Counsel – Robbins Geller, Scott+Scott, and Pomerantz – are each preeminent plaintiffs' class-action firms, with a significant history of achieving successful results in securities class actions. We respectfully submit that their skill and perseverance was also confirmed by their hard work and resulting success for the Settlement Class here.

67. That success, we submit, was also all the more significant here because Defendants were represented by some of the finest defense firms in the country, including Davis Polk & Wardwell LLP (for DouYu) and O'Melveny & Myers LLP (for the Underwriters). They presented a thorough and thoughtful defense, and challenged Lead Counsel at every turn.

68. The Settlement is a direct result of Lead Counsel's tireless efforts in the prosecution of the Actions, assisted by their reputation as aggressive and skillful practitioners, against world-class Defense Counsel. Thus, this factor also supports the requested one-third fee.

4. The Action's Complexity and Magnitude

69. Courts have recognized that securities class actions are, in general, ***highly*** complex, and as shown above the Actions were no exception. In scope, the Actions involved multiple defendants, notably a Company located in China, plus underwriter defendants that had credible and complex defenses based on having allegedly satisfied the standards for conducting "due diligence" of a Chinese company. And not only was the magnitude of reasonably recoverable

damages here significant, but the magnitude of the ***recovery*** Plaintiffs' Counsel actually achieved constituted a superior result under multiple metrics.

70. Thus, both the complexity and magnitude of the Actions support the requested fees.

5. The Amount Recovered

71. As previously discussed at §IV.A, published data confirm that the proposed $15 million Settlement represents an excellent recovery when considered against other comparable securities class-action settlements. And the recovery is particularly commendable where, as here, Defendants had a variety of credible liability, loss causation, and damages arguments – and where Plaintiffs also faced the heightened procedural difficulties and collectability issues inherent in suing primarily China-based defendants. Indeed, whether compared to all recent securities class actions generally (median settlement $8 million vs. $15 million here), or judged on the basis of maximum theoretical investor losses recovered (median 2.3% vs. at least 6% to 7% here), we respectfully reiterate that the Settlement represents a superior result despite above-average risk.

6. The Work Done by Plaintiffs' Counsel

72. Since March 2020, Lead Counsel, with relatively modest assistance by a few additional Plaintiffs' Counsel firms (*see* fn. 9), have among them expended over 6,464 hours, with a combined lodestar value of over $5,571,169 in (a) conducting pre-filing investigations; (b) drafting multiple complaints; (c) briefing multiple motions to dismiss by multiple defendants; (d) conducting document discovery; (e) responding to defendants' discovery demands; (f) briefing class certification; (g) briefing the defendants' interlocutory appeal of this Court's MTD Order; (h) consulting with experts; (i) preparing extensive mediation briefs; (j) negotiating the Settlement and drafting the subsequent MOU and relatively complex "cross-Action" long-form Stipulation of Settlement; and (k) successfully obtaining preliminary approval. *See* §II. above. And additional work still lies ahead to obtain Final Approval and to (hopefully) thereafter supervise the

administration and distribution of the proceeds of a fully approved Settlement. We respectfully submit that Plaintiffs' Counsel have earned the requested fee.

B. The Requested Expenses Are Fair and Reasonable

73. Lead Counsel also seek an award of $183,276.63 for the expenses that they and certain other Plaintiffs' Counsel incurred in litigating the Actions. These expense items are all separately reflected in the Millkey, Fredericks, Calandra, Oddo, Fistel, Schall, Hall, and Hao affidavits/affirmations. The claimed expenses were all reasonably necessary for the successful prosecution of the Actions. Lead Counsel also closely managed expenses in their respective Actions, while also ensuring that they took all steps necessary to prosecute Plaintiffs' claims aggressively.

74. The requested expenses are typical of those incurred in securities litigation, such as expert fees, filing and service fees, mediator fees, investigator fees, legal research, and copying – as well as (less typically) various document translation-related costs.

C. Plaintiffs' Requested Service Awards Are Reasonable

75. The four Plaintiffs have requested modest service awards of $5,000 each for their time and effort prosecuting the Actions on behalf of the Settlement Class. As detailed in their respective affidavits/affirmations, each Plaintiff has diligently fulfilled their fiduciary obligations to the Settlement Class. *See* Kovalenko Aff., ¶¶2-4; Chelf Aff., ¶¶5-6; Yunyan Aff., ¶¶4-5; and Huang Aff., ¶¶4-5. We can also attest that, with respect to each named Plaintiff that we worked with in our respective Actions, those Plaintiffs worked diligently to, *inter alia*, review relevant pleadings and to otherwise be responsive to their counsel's requests for information and/or consultations whenever needed during the litigation.

76. The Notice advised Settlement Class Members of Plaintiffs' intent to request service awards of up to $20,000 in the aggregate – and to date there have been no objections to the

requested awards. Because the Plaintiffs' efforts during this litigation are of the type that courts routinely find to support service awards, the relatively modest $5,000 awards should also be approved.

VII. CONCLUSION

77. Lead Counsel respectfully submit that (a) the Settlement and Plan of Allocation should be approved as fair, reasonable, and adequate; (b) the requests for a 33-1/3% attorneys' fee award, for payment of $183,276.63 in expenses (plus accrued interest), and for service awards of $5,000 to each of the four named Plaintiffs, should also be approved as fair and reasonable.

Executed this 27th day of October 2022.

DATED: Melville, New York
October 27, 2022

/s/ Mark T. Millkey
MARK T. MILLKEY

DATED: New York, New York
October 27, 2022

/s/ William C. Fredericks
WILLIAM C. FREDERICKS

DATED: New York, New York
October 27, 2022

/s/ Brian Calandra
BRIAN CALANDRA

PRINTING SPECIFICATIONS STATEMENT

1. Pursuant to 22 N.Y.C.R.R. §202.70(g), Rule 17, the undersigned counsel certifies that the foregoing affirmation was prepared on a computer using Microsoft Word. A proportionally spaced typeface was used as follows:

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2. The total number of words in the affirmation, inclusive of point headings and footnotes and exclusive of the caption, signature block, and this Certification, is 6,704 words.

DATED: October 27, 2022

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