

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

	X	
In re DOUYU INTERNATIONAL	:	Index No. 651703/2020
HOLDINGS LIMITED SECURITIES	:	Part 53
LITIGATION	:	Justice Andrew Borrok
	:	
	:	Motion Seq. No. 009
This Document Relates To:	:	
	:	<u>CLASS ACTION</u>
THE CONSOLIDATED ACTION.	:	
	:	
	X	SUPPLEMENTAL AFFIRMATION OF MARK T. MILLKEY IN FURTHER 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, MARK T. MILLKEY, an attorney duly admitted to practice before the Courts of the State of New York, hereby affirm as follows:

1. I am a member of the Bar of the State of New York and am a partner with the law firm of Robbins Geller Rudman & Dowd LLP (“Robbins Geller”), co-lead counsel for plaintiffs Pavel Kovalenko and Marcus Chelf (the “State Plaintiffs”) in the above-captioned action (the “State Action”).

2. I submit this supplemental affirmation in further 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. Unless otherwise indicated, I have personal knowledge of the matters set forth herein based on my extensive participation in the prosecution and settlement of the claims asserted in the State Action and my supervision of those working at my direction. If called upon by the Court, I could and would competently testify that the following facts are true and correct.

3. Attached as Exhibit A is a true and correct copy of the proposed Order and Final Judgment.

DATED: November 23, 2022

s/ Mark T. Millkey

MARK T. MILLKEY

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:

Name of Typeface: Times New Roman
Point Size: 12
Line Spacing: Double

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 196 words.

DATED: November 23, 2022

ROBBINS GELLER RUDMAN
& DOWD LLP
MARK T. MILLKEY

/s/ Mark T. Millkey

MARK T. MILLKEY

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EXHIBIT A

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[PROPOSED] ORDER AND FINAL JUDGMENT

WHEREAS, the Parties, through their counsel, have agreed, subject to judicial approval following issuance of notice to the Settlement Class and a Fairness Hearing, to settle and dismiss with prejudice this Action upon the terms and conditions set forth in the Parties' Stipulation of Settlement dated June 3, 2022 (the "Stipulation");

WHEREAS, on August 8, 2022, the Court issued its Order Granting Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement, for Issuance of Notice to the Class; and for Scheduling of Fairness Hearing in this Action (the "Preliminary Order") (NYSCEF No. 160), and Notice of Entry of that Order was duly filed on August 9, 2022 (NYSCEF No. 161);

WHEREAS, it appears in the record that the Notice substantially in the form approved by the Court in its Preliminary Order was mailed to all reasonably identifiable Settlement Class Members, and posted on the settlement website established by the Claims Administrator in this matter, in accordance with the Preliminary Order; and

WHEREAS, it appears in the record that the Summary Notice, substantially in the form approved by the Court, was published in accordance with the Preliminary Order;

WHEREAS, the Fairness Hearing was held before the Court on December 1, 2022 following issuance of notice to the Settlement Class, consistent with the Court's Preliminary Order;

NOW THEREFORE, based upon the Stipulation and all of the findings, records, and proceedings herein, and it appearing to the Court upon examination and following a duly-noticed Fairness Hearing that the Settlement set forth in the Stipulation is fair, reasonable, and adequate and should be finally approved; that the Judgment should be entered; and that the proposed Plan of Allocation provides a fair and reasonable method to allocate the Net Settlement Fund among Settlement Class Members;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. This Order and Final Judgment incorporates by reference the definitions in the Stipulation, and all capitalized terms used herein shall have the same meanings as set forth therein.

2. The Court has jurisdiction over the subject matter of the Action, the State Plaintiffs, all Settlement Class Members, and the Settling Defendants.

3. The Court finds that, for settlement purposes only, the prerequisites for a class action under §902 of the Civil Practice Law and Rules (“CPLR”) have been satisfied in that (a) the number of Settlement Class Members is so numerous that joinder of all members of the Settlement Class is impracticable; (b) there are questions of law and fact common to the Settlement Class, and such questions predominate over any questions affecting only individual members; (c) the claims of the State Plaintiffs are typical of the claims of the Settlement Class they seek to represent; (d) the State Plaintiffs will fairly and adequately protect the interests of the Settlement Class; and (e) a class action is superior to other available methods for the fair and efficient adjudication of the Action; and that class certification is also warranted in light of:

(i) the (lack of) interest of members of the class in individually controlling the prosecution of separate actions;

(ii) the impracticability and inefficiency of prosecuting or defending separate actions;

(iii) the extent and nature of any litigation concerning the controversy already commenced by or against members of the class, including the benefits flowing to the class and the broader interests of judicial efficiency in resolving both this Action and the Federal Action has part of a global settlement by all parties in both Actions in accord with the terms of the Stipulation;

(iv) the desirability or undesirability of concentrating the litigation of the claim in the particular forum, including the benefits flowing to the class and the broader interests of judicial efficiency in resolving both this Action and the Federal Action has part of a global settlement by all parties in both Actions in accord with the terms of the Stipulation; and

(v) the (lack of) difficulties likely to be encountered in the management of a class action, given, inter alia, that the proposed class is being settled in the context of a settlement (such that, if the Settlement is approved, there will no class action litigation for the Court to manage).

4. Pursuant to §§901 and 902 of the CPLR and for the purposes of the Settlement only, the Court hereby grants final certification of this action as a class action on behalf of a Settlement Class consisting of all Persons or entities who purchased or otherwise acquired the American Depository Shares of DouYu International Holdings Limited (“DouYu”) between July 16, 2019, the date of DouYu’s initial public offering (the “IPO”), and January 21, 2020, inclusive (the “Class Period”). Excluded from the Settlement Class are Defendants; their respective successors and assigns; the past and current executive officers and directors of DouYu, Tencent Holdings Limited (and any of its subsidiaries or affiliates), Cogency Global Inc., and the Underwriter Defendants; the members of the immediate families of the Individual Defendants; the legal representatives, heirs, successors, or assigns of any excluded person; and any entity in which any of the above excluded persons have or had a majority ownership interest. Also excluded from the Settlement Class are those Persons or entities that the Court finds to have timely and validly requested exclusion from the Settlement Class, of which there are none. Notwithstanding this definition, any “Investment Vehicle” (as defined in the Stipulation) shall not be excluded from the Settlement Class.

5. Pursuant to Article 9 of the CPLR, and for purposes of the Settlement only, the State Plaintiffs are certified as the class representatives (“Class Representatives”) of the Settlement Class,

and State Lead Counsel are appointed as Class Counsel for the Settlement Class. In accordance with the Court's Preliminary Order, the Court hereby finds that the form, content and methods of disseminating the Notice of the Settlement, the Plan of Allocation, and their respective terms and conditions was adequate and reasonable; met the requirements of due process, CPLR §904, and all other applicable laws and rules; constituted the best notice practicable under the circumstances (including individual notice to all Settlement Class Members who could be identified through reasonable effort); and constituted due and sufficient notice of these proceedings and the matters set forth herein to all Persons and entities entitled to such notice. Thus, it is hereby determined that all Settlement Class Members are bound by this Order and Final Judgment.

6. The Settlement is approved as fair, reasonable and adequate under CPLR §908, and is in the best interests of the Settlement Class.

7. The Court further finds that the Settlement set forth in the Stipulation is the result of good faith, arm's-length negotiations; and that all Parties have been represented throughout by experienced counsel. The Court further finds that the Action was settled only after, *inter alia*, (a) Plaintiffs' Counsel had conducted a pre-filing investigation; (b) the filing of a consolidated class action complaint; (c) full briefing on the Settling Defendants' motions to dismiss that complaint (which the Court denied in its March 16 Decision and Order (the "MTD Order")); (d) the Settling Defendants began producing documents in response to the State Plaintiffs' various First Set of Requests for Production of Documents; (e) the State Plaintiffs' completion of their production of documents in response to the Settling Defendants' various Requests for Production of Documents; (f) the deposition of State Plaintiff Marcus Chelf; (g) full briefing on defendant Tencent Holdings Limited's Motion to Dismiss for (*inter alia*) lack of *in personam* jurisdiction (which motion was pending when the Settlement was reached); (h) the State Plaintiffs' filing of their Motion for Class Certification and the Settling Defendants filing of their papers in opposition thereto (which motion

was pending when the Settlement was reached); (i) full briefing in the Appellate Division on the Settling Defendants' interlocutory appeal of the Court's MTD Order (which appeal was pending when the Settlement was reached); (j) all Plaintiffs' and Defendant DouYu's preparation and exchange of comprehensive pre-mediation briefs, participation in a day-long mediation session in September 2021, and subsequent settlement negotiations over the following three months – all under the auspices of a highly experienced mediator of complex commercial cases (Robert Meyers, Esq., of JAMS); and (k) further negotiation and drafting of the detailed terms of the global Settlement at issue. Accordingly, the Court also finds that all Parties were well-positioned to evaluate benefits of the proposed Settlement against the risks of further and uncertain litigation.

8. The Court further finds that its conclusions as to the fairness, reasonableness and adequacy of the proposed Settlement are further supported by the fact that Federal Lead Counsel, who filed the related Federal Action on behalf of the Federal Plaintiffs, actively participated in the mediation process and have also recommended and endorsed the approval of the Stipulation as part of a global settlement (to be administered under the jurisdiction of this Court) of all claims asserted in either this State Action or the Federal Action.

9. The Court further finds that if the Settlement had not been achieved, all Parties faced the expense, risk, and uncertainty of extended litigation. The Court takes no position on the merits of either Plaintiffs' or Defendants' liability positions, but notes that the existence of substantial arguments both for and against their respective positions further supports approval of the Settlement.

10. The Action and all claims contained therein are hereby dismissed with prejudice as against all Defendants and the Released Defendants' Parties.

11. Upon the Effective Date, each Plaintiff and each Settlement Class Member shall be deemed to have, and by operation of this Order and Final Judgment shall have, fully, finally, and forever waived, released, and discharged all Released Claims against each Released Defendant

Party, and the Action shall be dismissed with prejudice, regardless of whether such Plaintiff or Settlement Class Member executes and delivers a Proof of Claim.

12. Upon the Effective Date, each of the Released Defendants' Parties shall be deemed to have, and by operation of this Order and Final Judgment shall have, fully, finally, and forever released and discharged all Released Defendants' Claims against each Released Plaintiff Party.

13. Nothing contained herein shall, however, bar any Settling Party, Released Defendants' Party or Released Plaintiff's Party from bringing any action or claim to enforce the terms of the Stipulation or of this Order and Final Judgment.

14. The releases provided for herein shall become effective immediately upon occurrence of the Effective Date without the need for any further action, notice, condition or event.

15. Each Settling Party shall bear its own fees, costs, and expenses, except as otherwise provided in the Stipulation.

16. Plaintiffs' Counsel are hereby awarded attorneys' fees of one-third (33-1/3%) of the \$15 million Settlement Amount, and expenses in the amount of \$183,276.63, together with any interest earned thereon for the same time period and at the same net rate as that earned by the Settlement Fund until paid pursuant to the terms set forth in the Stipulation. The Court finds that the amount of fees awarded is fair, reasonable, and appropriate, after taking into consideration (among other things) (a) the time and effort spent on the matter by Plaintiffs' Counsel; (b) the results achieved for the Settlement Class in the face of significant litigation risk; (c) the complexity of claims alleged and level of litigation skill and specialized legal expertise required; (d) the fully contingent nature of the representation; (e) fee awards approved in the other similarly complex securities class actions; and (f) the fact that, under the Stipulation that provides for the global settlement of both the State Action and the related Federal Action, the fees awarded in this Order will cover all attorneys' fees in *both* this Action *and* the Federal Action. The Court also finds that

the requested expenses are reasonable in amount and are for expenses of a type (*e.g.*, expert fees, electronic legal research fees, mediation fees) that are customarily awarded in class action cases of this type.

17. Such fees and expenses may be paid out of the Settlement Fund, in whole or in part, to Lead Counsel at any time after entry of this Order, notwithstanding the existence of any timely filed objections thereto, or potential for appeal therefrom, or collateral attack on the Settlement or any part thereof; however, such payments shall be subject to all of the terms, conditions and obligations (including repayment obligations) set forth in the Stipulation, which terms, conditions, and obligations are expressly incorporated herein.

18. Plaintiffs are awarded a total of \$20,000 for their service to the Settlement Class, including for reasonable costs and expenses directly relating to the representation of the Settlement Class, as follows: (a) State Plaintiff Marcus Chelf, \$5,000; (b) State Plaintiff Pavel Kovalenko, \$5,000; and (c) Federal Plaintiffs LiYunyan and Heng Huang, \$5,000 each. Such awards shall be payable from the Settlement Fund upon the Effective Date of the Settlement.

19. The Court hereby finds that the proposed Plan of Allocation is a fair and reasonable method to allocate the Net Settlement Fund among Settlement Class Members, and Lead Counsel and the Claims Administrator are directed to administer the Plan of Allocation in accordance with its terms and the terms of the Settlement Stipulation.

20. The Court finds that the Settling Parties and their respective counsel have at all times complied with all requirements 22 N.Y. Code, Rules and Regulation §130-1, and all similar statutes, rule, law or ethical standards, whether under state or federal law, in connection with the commencement, maintenance, defense, litigation and/or resolution of the Actions.

21. Neither this Order and Final Judgment, nor the Stipulation (including the Settlement contained therein), nor any act performed or document executed pursuant to or in furtherance of the Settlement:

(a) is or may be deemed to be, or may be used as an admission, concession, or evidence of, the validity or invalidity of any Released Claims, the truth or falsity of any fact alleged by any Plaintiff, the sufficiency or deficiency of any defense that has been or could have been asserted in either Action, or of any deception, wrongdoing, liability, negligence or fault of Defendants, the Released Defendants' Parties, or each or any of them, or that any Plaintiff or Settlement Class Member was harmed or damaged by any conduct by Defendants;

(b) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or misrepresentation or omission with respect to any statement or written document attributed to, approved or made by Defendants or the Released Defendants' Parties in any arbitration proceeding or any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal;

(c) is or may be deemed to be or shall be used, offered or received against the Settling Parties, Defendants, the Released Defendants' Parties, the Released Plaintiffs' Parties, or any of them, as an admission, concession or evidence of the validity or invalidity of the Released Claims, the infirmity or strength of any claim raised in the Action, the truth or falsity of any fact alleged by the Plaintiffs or the Settlement Class, or the availability or lack of availability of meritorious defenses to the claims raised in the Action; and

(d) is or may be deemed to be or shall be construed as or received in evidence as an admission or concession against Defendants, the Released Defendants' Parties, the Released Plaintiffs' Parties, or any of them, that any of Plaintiffs' or Settlement Class Members' claims are with or without merit, that a litigation class should or should not be certified, that damages

recoverable in the Action would have been greater or less than the Settlement Fund, or that the consideration to be given pursuant to the Settlement Stipulation represents an amount equal to, less than or greater than the amount which could have or would have been recovered after trial.

22. The Released Defendants' Parties and/or the Released Plaintiffs' Parties may file the Stipulation and/or this Order and Final Judgment in any other action that may be brought against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, full faith and credit, release, good faith settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim. The Parties, Released Defendants' Parties, the Released Plaintiffs' Parties, and the Settlement Class Members, or any of them, may file the Stipulation and/or this Order and Final Judgment in any proceedings that may be necessary to consummate or enforce them.

23. Except as otherwise provided herein or in the Stipulation, all funds held by the Escrow Bank shall be deemed to be in *custodia legis* and remain subject to the Court's jurisdiction until such funds are distributed or returned pursuant to the Stipulation or further order of the Court.

24. Without affecting the finality of this Order and Judgment in any way, this Court hereby retains continuing exclusive jurisdiction over the Settling Parties and the Settlement Class Members for all matters relating to the Action, including the administration, interpretation, effectuation or enforcement of the Stipulation and this Order and Final Judgment, and including any application for fees and expenses incurred in connection with administering and distributing the Settlement proceeds to the Settlement Class Members.

25. Without further order of the Court, the Settling Parties may agree to reasonable extensions of time to carry out any of the provisions of the Settlement Stipulation.

26. The finality of this Order and Final Judgment with respect to its approval of the Settlement shall not be affected, in any manner, by the Court's rulings on Plaintiffs' Counsels' Fee and Expense Application (including any awards to any representative plaintiff).

27. The Settling Parties are hereby directed to consummate the Settlement in accordance with the terms and provisions of the Stipulation.

DATED: _____

THE HONORABLE ANDREW BORROK
SUPREME COURT OF THE STATE OF NEW
YORK
NEW YORK COUNTY, COMMERCIAL
DIVISION