UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE CITIGROUP INC. SECURITIES LITIGATION	No. 07 Civ. 9901 (SHS) **ECF Case**

REPLY DECLARATION OF IRA M. PRESS AND PETER S. LINDEN IN FURTHER SUPPORT OF (i) PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND APPROVAL OF PLAN OF ALLOCATION AND (ii) PLAINTIFFS' COUNSEL'S MOTION FOR AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION EXPENSES

TABLE OF CONTENTS

LIST OF EXHIBITS

IRA M. PRESS and **PETER S. LINDEN**, pursuant to 28 U.S.C. § 1746, declare as follows under penalty of perjury:

1. We are members of the law firm of Kirby McInerney LLP, Court-appointed lead class counsel in this Action.[1] We respectfully submit this reply declaration in further support of (i) Plaintiffs' motion for final approval of class action settlement and approval of plan of allocation and (ii) Plaintiffs' counsel's motion for an award of attorneys' fees and reimbursement of litigation expenses. We have personal knowledge of all material matters related to this Action based upon our active supervision and participation in the prosecution of this Action since its inception. Unless otherwise stated, the statements in this declaration are made based upon our personal knowledge.

2. The salient features demonstrating that the Settlement is fair, reasonable, and adequate, and that the application for attorneys' fees and nontaxable costs is reasonable and fair as well, are:

a. The amount paid by Citigroup in this litigation is greater than the amount paid by any other single defendant in any other subprime crisis-related, purely fraud-based PSLRA litigation. It is also one of the five largest settlements *ever* of a fraud-only PSLRA claim.

b. The outcome here compares favorably to other parallel litigations against the same defendants arising from the same facts. In fact, several of those litigations resulted in $0.

[1] All capitalized terms as otherwise not defined herein shall have the meanings set forth in the Stipulation and Agreement of Settlement dated August 28, 2012 as amended (the "Stipulation") and filed with the Court on August 29, 2012 [Dkt. No. 155-1] and as modified by the Court's September 28, 2012 Order further amending the preliminary approval order [Dkt. No. 159].

c. More than two million Notices have been mailed out. Less than 0.01% of the class sought exclusion. Only 9 Class Members objected. This translates to an approval or acquiescence rate of 99.99%.

d. The application seeks fees representing 16.5% of the Fund; which is less than averages awarded in similarly sized settlements, as is the lodestar multiplier of 1.89.

e. The attorneys who worked on this matter are highly-qualified and experienced and they did important, substantive work.

f. The billing rates of the attorneys who worked on this action are in line with market rates for similarly-qualified attorneys who do similar work.

g. To our knowledge, every court that has considered billing rates for project-specific attorneys in PSLRA settlements has approved the fee based on market rate billing. Plaintiffs' firms bear the financial risk for employment of such attorneys, just as they do for firm associates.

We now provide the factual underpinnings for the foregoing.

I. THE CLASS' REACTION TO THE SETTLEMENT

3. The Court-appointed Claims Administrator advises us that pursuant to the August 29, 2012 Order of this Court Preliminarily Approving Proposed Settlement and Providing for Notice [Dkt. No. 156] (the "Preliminary Approval Order"), it mailed more than two million copies of the Notice of (1) Pendency of Class Action, (2) Proposed Settlement and Plan of Allocation, (3) Settlement Fairness Hearing, and (4) Motion for An Award of Attorneys' Fees and Reimbursement of Litigation Expenses (the "Class Notice" or "Notice") to potential class members prior to the Preliminary Approval Order's deadline for filing objections to the proposed Settlement. Annexed hereto as Exhibit 1 is a true and correct copy of the Class Notice.

A. Requests for Exclusion

4. The Claims Administrator also advised us that on or before December 6, 2012 (the deadline for filing Requests for Exclusion from the Settlement set forth in the Preliminary Approval Order), it had received only 135 Requests for Exclusion. This number amounts to less than 0.01% of the Class Notices that had been mailed out to that point. Moreover, 54 of these Requests came from persons who did not provide information concerning purchases of Citigroup common stock during the Class Period or provided information that reflected no purchases during that period. Another 23 of the Requests came from persons or entities that had already commenced litigation against Citigroup prior to the parties' agreement to settle this Class Action.

5. Each person who submitted a request for exclusion that did not provide all of the required information ("Non-Conforming Opt Outs") was sent a notice by the Claims Administrator between November 30 and December 7, 2012 advising of the deficiencies and providing an opportunity to cure those deficiencies by December 20, 2012. We are advised by the Claims Administrator that only nine of the Non-Conforming Opt Outs have, in fact, cured those deficiencies. Thus, of more than two million Notices mailed out, there were only 67 valid exclusion requests from class members who were not already engaged in individual litigation against Citigroup.[2]

B. Objections

6. As of December 21, 2012 (the deadline for objections that was set forth in the Notice and in the September 6, 2012 Order Amending the Preliminary Approval Order [Dkt. No. 158]), we have received only 13 objections to the proposed Settlement and/or attorneys' fees request. Only nine of these objections came from persons who supplied evidence, or provided

[2] *See* n.5, *infra*.

purported details, of purchases of Citigroup Inc. ("Citigroup") common stock during the Class Period.

7. Annexed hereto as Exhibit 2 is a true and correct copy of the objection of Paul L. Agnew. Mr. Agnew did not supply any documents evidencing, or make any assertions concerning, purchases of Citigroup common stock during the Class Period.

8. Counsel also received an objection to the Settlement dated October 31, 2012 from Charles and Gladys Andersen. The Andersens' objection attached a confirmation of a Class Period purchase of Citigroup common stock. The objection is not attached hereto because it appears on the docket as entry number 163.

9. Counsel received an objection to the proposed Settlement dated December 19, 2012 from David E. Breskin. Mr. Breskin did not provide any documents or details concerning purported Citigroup common stock purchases during the Class Period. The objection is not attached hereto because it appears on the docket as entry number 186.

10. Counsel received an objection dated December 20, 2012 from Ann Cochran and Gina Martin. Only Ms. Cochran attached transactional data reflecting the purchase of Citigroup common stock during the Class Period. The objection is not attached hereto because it appears on the docket as entry number 187.

11. Counsel received an objection dated December 21, 2012 from Daniel Brecher, Scott Short, Jennifer Murphy, Chad Taylor, Paul Koch, and Mark Oelfke (collectively, the "Brecher Objectors" or the "FA Cap Objectors"). A copy of this objection is not attached hereto because it was filed with the Court and appears on the Court's docket. The Brecher Objectors' December 21, 2012 Memorandum of Law in Support of Their Objection, the supporting declaration of the Brecher Objectors' Counsel, Matthew M. Guiney, and exhibits thereto, and the

Corrected Memorandum of Law in Support of Their Objection dated December 21, 2012 appear on the docket as entry numbers 175, 176 and 178, respectively.

12. Counsel received an objection dated December 20, 2012 from Theodore H. Frank. Mr. Frank's December 20, 2012 objection, together with his supporting declaration and exhibits, appear on the docket as entries numbers 181 and 182 ("Frank Br." and "Frank Decl.", respectively). Accordingly, Mr. Frank's objection is not annexed hereto.

13. This is not the first time that Mr. Frank has objected to a class action settlement. Annexed hereto as Exhibit 3 is a chart listing 25 other class or derivative actions in which Mr. Frank objected to the proposed settlement since 2009, either as a class member or in his capacity as the founder and lead attorney of an organization that calls itself the Center for Class Action Fairness ("CCAF"). As shown in Exhibit 3, of the 25 class or derivative actions in which Mr. Frank has filed objections, only one of those cases was a securities fraud action (*In re Apple Inc. Sec. Litig.*).[3] Fifteen of the 25 cases are tort, consumer fraud-related, and/or antitrust cases, and do not involve class counsel requesting a fee percentage from a common fund. Ten of the cases involved a fee request from a common fund. In six of those cases involving a common fund (none of which were securities actions), the courts granted the fee request in its entirety. In three of the other four common fund cases (none of which was a securities fraud case), even though the courts reduced the fee awards, class counsel were awarded fee percentages and/or lodestar multipliers that were still *higher* than the percentage fee and multiplier requested here. *See* Ex. 3 (*Dewey v. Volkswagen of America*; *In re Classmates.com Consolidated Litig.*; and *Fogel v.*

[3] There was a 26th case in which Mr. Frank's organization, CCAF, filed an objection on behalf of a class member in an antitrust class action captioned *McDonough, et al. v. Toys "R" US, Inc., d/b/a Babies "R" US*, No. 2:06-cv-0242-AB (E.D. Pa.).

Farmers Grp. Inc.).[4] Annexed hereto as Exhibit 4 is an article by Susan Beck, titled "A Conversation With Class Action Objector Ted Frank," that appeared in the *American Lawyer* on March 4, 2011, discussing Mr. Frank and the CCAF. Attached hereto as Exhibit 5 is a true and correct copy of an article by Ashby Jones, titled "A Litigator Fights Class-Action Suits," that appeared in *The Wall Street Journal* on October 31, 2011.

14. We believe that attorneys and other employees of CCAF are assisting Mr. Frank with his objection to the Settlement. In several emails to class counsel shortly before the filing of his objection, Mr. Frank copied Adam Schulman and Melissa Holyoak. Mr. Schulman has appeared on briefs filed by CCAF in other matters, and he and CCAF were listed as the "sender" on the overnight courier package containing Mr. Frank's objection. Ms. Holyoak's Linkedin profile describes herself as Senior Counsel for CCAF.

15. As Mr. Frank notes in his papers, his Citigroup shares were held in "street name" by his broker, Charles Schwab & Co. ("Schwab"). *See* Frank Decl. ¶ 7. Accordingly, Mr. Frank is not a record holder of Citigroup shares.

16. The Claims Administrator advised us that it mailed the Notice to Schwab on October 10, 2012. In that mailing, the Claims Administrator requested that Schwab within 15 calendar days either (a) provide the Claims Administrator with the names and addresses of Schwab clients for whose benefit Schwab holds Citigroup stock, or (b) forward the Notice directly to such beneficial owners. The Claims Administrator advises that it followed this protocol with each of the more than 2,000 brokers and other nominees to whom it mailed the Notice. The Claims Administrator advises us that when it did not hear back from Schwab, the

[4] The fourth case that involved a reduced fee award from a common fund was *Cobell v. Salazar* (D.D.C.) – a non-securities fraud case. There, the court reduced class counsel's fee request pursuant to, *inter alia*, an express provision in the parties' agreement on attorneys' fees, controlling law and the Claims Resolution Act. *See Cobell*, No. 1:96-cv-01285, slip op. (D. D.C. July 27, 2011) [Dkt. No. 3850].

Claims Administrator made follow up inquiries with Schwab on October 17 and November 16, 2012.

17. The Claims Administrator informed us that Schwab provided the Claims Administrator with a list of beneficial Citigroup holders (including Mr. Frank) on December 3, 2012, and on or before December 8, 2012, the Claims Administrator mailed the Notice to those beneficial holders (including Mr. Frank).[5]

18. Counsel received an objection dated December 6, 2012 from a purported class member named Seb Houle. The objection is not attached hereto because it appears on the docket as number 173. Houle's objection provided details concerning Class Period purchases of Citigroup stock.

19. Annexed hereto as Exhibit 6 is a true and correct copy of an objection dated December 8, 2012 from William B. James and Joy A. James. The James' objection attaches several pages of documentation reflecting Class Period purchases of Citigroup common stock. While the James' objection attached a confirmation of a Class Period purchase of Citigroup common stock, due to privacy concerns, the transaction data and proof of claim form are not attached hereto.

20. Counsel received an objection to the proposed Settlement filed on December 20, 2012 by Steve A. Miller for and on behalf of the Steve A. Miller P.C. Profit Sharing Plan. The objection is not attached hereto because it appears on the docket as entry number 174. Miller's objection provided details concerning Class Period purchases of Citigroup stock.

[5] Pursuant to the Court's January 2, 2013 Order [Dkt. No. 183], the deadline to file objections, claims or exclusion requests for class members whose Notices were mailed to them by the Claims Administrator after November 9, 2012 was extended to March 8, 2013. Any timely-filed objections that are subject to this extended deadline will be addressed in a supplemental submission, which, pursuant to Court Order, will be filed on or before March 18, 2013.

21. Counsel received an objection dated December 11, 2012 by Robert Shattuck. Mr. Shattuck states on the first page of his objection that he is "not a member of the plaintiff class." The objection is not attached hereto because it appears on the docket as entry number 185.

22. Annexed hereto as Exhibit 7 is a true and correct copy of an objection dated December 21, 2012 from Mildred Terry Warren by her son (Richard Paul Warren). The Warrens' objection provided no evidence of transactions in Citigroup common stock during the Class Period. The objection did contain a brokerage account statement that listed transactions in securities of companies other than Citigroup, as well as transactions during the Class Period in "Citigroup Inc. Perpetual Non-CUM 8.125% PFD STK Series AA." It is our understanding that the security referenced in the Warrens' account statement is Citigroup preferred stock, not Citigroup common stock. Due to privacy concerns, the transaction data is not attached hereto.

23. Counsel received an undated objection from William J. Warren. Mr. Warren attached documents setting forth details of purported purchases of Citigroup common stock during the Class Period. The objection is not attached hereto because it appears on the docket as entry number 188.

24. Annexed hereto as Exhibit 8 is a true and correct copy of an objection dated November 16, 2012 from Kenneth Patrick Wright and Hyejin Chung Wright. While the Wrights' objection attached copies of information purporting to set forth Class Period purchases of Citigroup common stock, due to privacy concerns, the transaction data and proof of claim form are not attached hereto.

II. RISK OF DISMISSAL IN PSLRA CASES

25. Mr. Frank contends that securities class actions brought pursuant to the Private Securities Litigation Reform Act of 1995 ("PSLRA") are subject to little risk once they progress beyond the motion to dismiss. Our prior Joint Declaration contains a large volume of evidence

to the contrary. *See* Joint Decl. ¶¶ 159-170.[6] Surveys that specifically address rulings on class certification and summary judgment in securities class actions, as well as trial verdicts in such cases, further demonstrate that securities class action prosecution faces a high risk at all stages of the litigation.

26. Annexed hereto as Exhibit 9 is a true and correct copy of a report prepared by Cornerstone Research, titled *Securities Class Action Filings – 2011 Year in Review* ("Cornerstone 2011 Report"). The report was cited by Mr. Frank at paragraph 56 of his declaration in support of his objection.

27. Page 31 of the Cornerstone 2011 Report sets forth figures demonstrating that fewer than 50% of PSLRA actions commenced since 2008 have resulted in settlements.

28. Annexed hereto as Exhibit 10 is a true and correct copy of a report prepared by NERA, titled *Recent Trends in Securities Class Action Litigation: 2012 Mid-Year Review* (July 24, 2012) (the "NERA Report").

29. Figure 18 at page 19 of the NERA Report reflects the fact that class certification is denied in nearly 14% of the PSLRA cases in which the court rules on that issue.

30. Figures at page 20 of the NERA Report show that summary judgment is granted for defendants in full in approximately 20% of the PSLRA cases in which the court rules on summary judgment. Moreover, partial summary judgment is granted in part in an additional 37.5% of the cases in which the court rules on summary judgment. In many instances, a partial grant of summary judgment effectively guts the case.

[6] References herein to "Joint Decl." refer to the December 7, 2012 Joint Declaration of Ira M. Press and Peter S. Linden in Support of (i) Plaintiffs' Motion for Final Approval of Class Action Settlement and Approval of Plan of Allocation and (ii) Plaintiffs' Counsel's Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses [Dkt. No. 171]. The Joint Decl. along with the memoranda of law filed on the same date in support of the application for final approval of the settlement ("Settlement Br.") [Dkt. No. 169] and the memorandum of law filed on the same date in support of the Motion for Attorneys' Fees (the "Fee Br.") [Dkt. No. 170] are also referred to herein as the "Final Approval Papers."

31. The NERA Report also confirms that more than 40% of all securities class actions do not survive dismissal and the majority of the securities class actions that make it through trial result in verdicts for defendants. *See* NERA Report at 21, 37.

32. In our experience, this litigation was subject to these and other risks, including, *inter alia*, *Daubert* challenges to experts, possible denial of class certification or a limitation to the scope or size of the class, and loss causation. Moreover, the necessity of proving materiality during the Class Period is now before the Supreme Court. *See Amgen v. Connecticut Ret. Plans & Trust Funds*, No. 11-1085.

III. FEE AWARDS IN OTHER LARGE PSLRA SETTLEMENTS

33. We and other personnel at this law firm reviewed the fee award orders and opinions in every single class action commenced pursuant to the PSLRA which settled for $400 million or more. There were a total of 29 such actions. The chart annexed hereto as Exhibit 11 provides citations to the relevant court order concerning the fee award in each of those cases. The chart also sets forth (a) the total settlement amount, (b) the fee award, (c) the fee as a percentage of settlement, (d) the lodestar multiplier (the fee award multiplied by the total lodestar), and (e) whether or not the case had progressed beyond the motion to dismiss stage prior to the settlement.

34. The circumstances of these settlements and the fees that the courts awarded thereon contradict much of what Mr. Frank says about fee awards in comparable cases.

35. As Exhibit 11 hereto reflects, 25 of the 29 PSLRA actions that settled for more than $400 million progressed beyond a motion to dismiss prior to settlement. The average lodestar multiplier awarded in those cases was 3.89. As noted previously, the fee that Lead Counsel seeks in this case represents a lodestar multiplier of 1.89. The information from other large PSLRA cases suggests that courts do not believe that lodestar multipliers should decline if

a case progresses beyond the dismissal motion.[7] Even if courts do believe that, the multiplier sought here is still significantly below the blended rates that courts apply in other PSLRA cases that result in large settlements after the motion to dismiss was decided and discovery commenced. In sum, the risk in such complex securities litigation remains high through discovery, and the court-approved multipliers confirm this.

36. Our Final Approval Papers included a December 6, 2012 declaration from Professor John C. Coffee, Jr. [Dkt. No. 167] ("Coffee Decl.") as well as a December 6, 2012 declaration from Professor Geoffrey P. Miller [Dkt. No. 166] ("Miller Decl."). Professor Coffee's declaration, at paragraph 17, included a chart of all PSLRA class actions that settled in the range of $490 million to $690 million. There were a total of 7 cases listed in that chart. Professor Miller's declaration included, at paragraph 58, a table listing all PSLRA cases that had settled in the range of $550 million to $800 million. There were a total of 6 cases listed in that table.

37. Mr. Frank asserts that PSLRA fee awards must be calculated as a percentage of the net settlement fund, *i.e.*, after reduction of litigation costs and expenses. Frank Br. 7. However, the fee awards in 4 of the 7 PSLRA cases that settled in the range of $490 million to $690 million (*i.e.*, the cases set forth in the table at paragraph 17 of Professor Coffee's declaration) were calculated as percentages of the total settlement funds, as opposed to percentages of the settlement funds net of counsels' expenses or other expense items. The 4 actions are the *Wachovia Preferred*; *Lucent*; *Countrywide*; and *Lehman Bros.* actions that appear on the table set forth in Exhibit 11 hereto as items 14, 15, 16, and 19.

[7] In fact, the average lodestar multiplier in the 4 cases from the chart that settled prior to, or just after, denial of the motion to dismiss was 2.51, which is lower than the average lodestar multiplier for the cases that had progressed to discovery. *See* Ex. 11.

38. Similarly, the fee awards in 4 of the 6 securities class actions that settled in the range of $550 million to $800 million (*i.e.*, the cases set forth and described on the table at paragraph 58 of Professor Miller's declaration) were calculated as percentages of the total settlement funds, as opposed to percentages of a net settlement fund reduced by the amount of attorneys' expenditures and other costs. Those 4 cases are the *Wachovia Preferred*; *Lucent*; and *Countrywide* actions (described above) as well as *Carlson v. Xerox Corp.*, which appears in Exhibit 11 hereto as item 13. The foregoing demonstrates that the courts do not share Mr. Frank's view that PSLRA fee awards *must* be calculated as a percentage of the *net* settlements.

39. If all of the fee awards in the cases set forth in paragraph 17 of Professor Coffee's declaration and paragraph 58 of Professor Milller's declaration were calculated as percentages of the net settlement rather than the total settlement fund, the average percentage fee award in those other cases rises would be higher than the 16.69% and 17.34% averages set forth in the respective declarations of Professors Coffee and Miller. *See* Coffee Decl. ¶ 18; Miller Decl. ¶ 58.

40. Here, in this Settlement, our fee request was for 16.5% of the gross settlement fund. If our expenses are removed from the gross settlement fund, our fee request amounts to 16.58% of the remaining fund. If one also takes out $8 million in projected notice costs, our fee request amounts to 16.81% of the remaining fund.

41. Mr. Frank urges consideration of the fee award in the *Lehman Bros.* action. Annexed hereto as Exhibit 12 is a true and correct copy of the court's opinion awarding fees to class counsel in *In re Lehman Bros. Sec. & ERISA Litig.*, No. 09-MD-2017 (S.D.N.Y. June 29, 2012) [Dkt. No. 970]. In this opinion, the court granted a lower fee award than class counsel had requested. The primary reason provided by the court was that:

> [P]laintiffs' counsel [in *Lehman*] had the benefit of the quite extraordinary report of the examiner appointed by the Bankruptcy Court in the Lehman bankruptcy. It was that report that revealed the facts regarding Lehman's use of and accounting for Repo 105s, which became the most important part of plaintiffs' case. [*See In re Lehman Bros. Sec. & ERISA Litig.*, 799 F. Supp.2d 258 (S.D.N.Y. 2011).] Indeed, the second amended complaint, which antedated the examiner's report, did not even mention that subject while the third amended complaint ("TAC") relied heavily upon it - as did the Court in denying in significant respects defendants' motions to dismiss the TAC. [*See id.*] Thus, plaintiffs took great and good advantage of the examiner's report, which became a roadmap for the most significant part of their case. [Lead Counsel candidly acknowledged that the examiner's report provided plaintiffs with important information they had not had earlier, particular with respect to Repo 105s. (citation omitted)] They were right to do so. But the fact remains that this very significant factor in the denial of much of the motions to dismiss and, doubtless, in the price defendants eventually paid to settle was the product of the examiner's efforts. And just to be quite clear, this implies no criticism of plaintiffs' counsel, who lacked the examiner's access to the evidence. But it does bear on the amount of compensation appropriately paid to plaintiffs' counsel, particularly any amount above the lodestar.

Ex. 12, p. 2 (footnotes in the *Lehman* opinion included in brackets above).

42. Mr. Frank also urges consideration of the recently-announced (but as of yet not-approved) $2.425 billion settlement in *In re Bank of America Securities Litigation*, No. 09-MDL-2058 (S.D.N.Y.). In prosecuting that action, plaintiffs benefited from prior investigative efforts of at least three separate regulatory/governmental agencies: the SEC, the United States House of Representatives Oversight and Government Reform Committee (the "Oversight Committee"), and New York Attorney General ("NYAG"), *prior* to the *Bank of America* plaintiffs' filing of their Consolidated Amended Complaint on September 25, 2009, which relied on such prior

efforts in pleading its claims. On September 8, 2009, in connection with its investigation, the NYAG publicly released a letter to Bank of America's counsel, setting forth certain of the NYAG's findings (*see* http://www.ag.ny.gov/press-release/office-attorney-generals-letter-bank-america-regarding-merrill-lynch-merger). That letter, a copy of which is annexed hereto as Exhibit 35, sets forth detailed facts concerning what senior Bank of America officers knew, and when they knew it, with respect to the matters at issue in the *Bank of America* private litigation, including sizeable Merrill Lynch losses during the fourth quarter of 2008. *See* Ex. 35, pp. 3-6. The NYAG's September 8, 2009 letter stated that senior Bank of America officers "became aware" of such losses in November 2008 and early December 2008, prior to the December 5, 2008 shareholder vote on the merger. *See* Ex. 35, pp. 3-4.

IV. MR. FRANK'S OBJECTIONS CONCERNING PROJECT-SPECIFIC ATTORNEYS

A. Overview

43. In his objection, Mr. Frank: (1) charges that Kirby McInerney "misled the Court" in its fee petition concerning work performed in this litigation by "temporary contract attorneys"; (2) denigrates the qualifications and quality of certain attorneys that were hired to work on this case; (3) denigrates the work such attorneys performed in this litigation; and (4) argues that the rates at which such attorneys' work were billed in Kirby McInerney's fee petition and lodestar were not market rates. *See* Frank Br. 1-2, 10-14; Frank Decl. ¶¶ 26-55.

44. The facts set forth below demonstrate that each of Mr. Frank's above arguments are without basis.

45. First, project-specific attorneys are no different from "regular" associates in terms of risk or the quality of the work. Project-specific attorneys pose the same financial risk upon a plaintiffs' law firm as do general associates. Any compensation paid to such attorneys is out-of-

pocket and at risk, just as an associate's compensation is at risk. Additionally, as shown below, the quality and nature of the work performed by project-specific attorneys here was comparable to, and often the same as, the work performed by firm associates.

46. Defense firms also rely on project-specific attorneys. However, with respect to the devotion of attorney time and resources to litigation (including the employment of attorneys on a project basis), plaintiffs and defense firms are not equally situated. Defense firms are paid by their clients whether they win or lose, and they are paid as time and money is spent on the litigation. Accordingly, the resources invested by large non-contingent firms are not at any serious risk of non-recovery. On the other hand, all investments of time, money and other resources by plaintiffs' counsel in securities class actions (and by any other contingency-based litigation) are at tremendous risk. These investments are made without any guarantee of recoupment, and counsel often faces great risk that the entire investment will be lost entirely or, at a minimum, that any potential recovery will be delayed for years. *See* Joint Decl. ¶¶ 159-170.

47. Second, Kirby McInerney disclosed its use of so-called temporary contract attorneys (*see* Joint Decl. ¶ 69), and provided the Court with (1) a lodestar report setting forth the names of each attorney who performed work in this litigation and the amount of those hours, together with (2) Kirby McInerney's firm resumé identifying Kirby McInerney's partners, of counsel and associates (*id.* at Ex. E). Comparison of these materials allows for easy distinguishing of personnel employed by Kirby McInerney on a continuing basis from those employed on a project-specific basis in connection with this litigation – as Mr. Frank himself recognizes (*see* Frank Br. 11).

48. Third, regarding the issue of qualifications and quality, Mr. Frank: (1) cherry picks a handful of individuals; (2) reports selective aspects of their backgrounds in order to

distort their qualifications; and (3) then portrays these sensationalized and distorted instances as the norm.

49. As set forth at ¶¶69-78, *infra*, however, many of the project-specific attorneys: (1) had graduated from the nation's most prestigious law schools; (2) had previously worked for certain of the nation's most prestigious law firms (both as associates and as project-specific personnel); (3) had previous legal experience not only in complex securities fraud class litigation, but also with respect to the highly complex mortgage-backed and structured finance securities at specific issue here, such as RMBS and CDOs; and/or (4) possessed further qualifications relevant to the work they performed here, including advanced degrees in accounting, finance and/or business, and/or substantial prior work experience in the securities industry. This was not happenstance, but purposive: Kirby McInerney went to substantial lengths to assemble and retain a highly qualified, highly experienced and highly able "core team" that would be capable of performing the extremely complicated and important work that, after extensive training, was entrusted to them here.

50. Fourth, regarding the issue of the work performed by project-specific attorneys, Mr. Frank, without basis, repeatedly characterizes the work performed by project-specific personnel as "ministerial work of first-tier document review" (Frank Br. 1), "trivial and relatively unskilled first-pass document review work" (*id*, p. 11; *see also* variations on "low skill" characterizations at each of pages 11-14 and at Frank Decl. ¶¶ 26-55). He also speculates that "[i]t is entirely possible that 'such personnel' are not even doing low-skilled attorney work, but are doing purely clerical 'objective coding' work that need not be performed by an attorney at all" (*id*. at 12 and Frank Decl. ¶ 51), and then proceeds as if this distorted view actually existed (*id*. at 14 and Frank Decl. ¶¶ 54-55, accusing Lead Counsel of overbilling for "first-tier

document review and objective coding"). However, the work Mr. Frank imagines project-specific personnel to have done simply bears no relation to the work they actually did. That work, as set forth in substantial detail at ¶¶ 96-127, 130-151, *infra*, was exactly the sort of work that Mr. Frank himself describes as "legally substantive" (*see* Frank Decl. ¶ 52). Contrary to Mr. Frank's speculation, there was no "objective coding" work done by the attorneys here.

51. Fifth, Mr. Frank accuses Kirby McInerney of billing project-specific personnel at above-market rates. This too is simply false. The billing rates charged for the attorneys that worked on this matter were in line with billing rates typically charged by attorneys of similar seniority in plaintiffs' securities class action law firms and by large non-contingency defense firms, as well. *See* Joint Decl. ¶ 146; Miller Decl. ¶¶ 38-42.

B. Lead Counsel's Prior Submissions Disclosed the Use Of Project-Specific Attorneys and Provided the Means To Distinguish Them from Kirby McInerney Personnel

52. Mr. Frank accuses Kirby McInerney of misleading the Court in its fee application, purportedly by failing to disclose that certain of the attorneys performing work in this litigation were "temporary contract attorneys" and failing to distinguish such attorneys from "Lead Counsel attorneys" or "full-fledged attorneys doing highly-skilled legal work for class counsel's firms." Frank Br. 11; *see also* Frank Decl. ¶¶ 26-27 *et seq*. Mr. Frank's accusation is simply false.

53. The Joint Declaration previously submitted to the Court explained that Kirby McInerney retained dozens of additional attorneys on a project-specific basis specifically to aid in document review, deposition preparation and further litigation efforts in proceeding towards

trial. *See* Joint Decl. ¶ 69.[8] Annexed to that Joint Declaration were (1) a lodestar report setting forth the names of each attorney who performed work in this litigation and the amount of those hours, together with (2) a Kirby McInerney's firm resumé identifying Kirby McInerney's partners, of counsel and associates. *See* Joint Decl. Ex. E. Comparison of these materials would allow anyone – and, in fact, actually did allow Mr. Frank (*see* Frank Br. 11) – to identify and distinguish those attorneys and personnel employed by Kirby McInerney on a continuing basis from those attorneys employed on a project-specific basis in connection with this litigation.

54. Such a comparison, however, would yield a picture that differed from reality in two distinct but important ways.

55. As a preliminary matter, both what Mr. Frank means by "temporary contract attorney" as well as the line separating such attorneys from Kirby McInerney personnel is not as clear as Mr. Frank assumes. For purposes of analytical clarity, we will assume that Mr. Frank is referring to those attorneys specifically hired to work on this case, and use a defined term (hereinafter, "project-specific attorneys" or "project-specific personnel") for such persons. Yet even though the definition seems clear in principle, it is not as clear in practice. For example, some attorneys retained initially as project-specific personnel later transitioned into, respectively, associates and of counsel to the firm. Others work (and are paid) on a project-by-project basis,

[8] Stating: "Given the size of the assembled productions, it was incumbent upon Lead Counsel to institute an efficient, streamlined, and effective document review process in preparation for depositions, settlement negotiations, and possible trial of the Action. Toward this end, Lead Counsel employed a review team of 35 highly qualified attorneys over the course of the litigation to review documents. Most of the review attorneys had either relevant experience with reviewing complex transactional documents or subject matter expertise gained through transactional experience at top law firms or large financial institutions. Plaintiffs' review team worked for over one year solely on the document review in the Action". The Joint Declaration also attested to the quality and qualifications of such attorneys, to the extensive training and supervision provided by Kirby McInerney, and to the work they performed. *Id*. at ¶¶ 69-78. Further factual detail on these matters is provided here to address Mr. Frank's assertions and arguments concerning the quality and qualifications of such attorneys, the work they performed, and the market rates for such work. *See* ¶¶96-127, 130-158, *infra*.

but have been doing so for years. Others continued to work for the firm on other matters after the Settlement in this litigation was reached.

56. Looking to the substance of the work performed rather than status of the individual performing it, project-specific personnel were not different than or separate from Kirby McInerney personnel, but rather, as further detailed below, performed the same work as Kirby McInerney personnel did. Project-specific personnel were not segregated into "low-skilled" work as Mr. Frank repeatedly asserts, but rather were entrusted with the same high-level, high-complexity, high-importance work performed by Kirby McInerney personnel at both partner and associate levels. Their billing rates therefore reflect and are appropriate for the work *they actually performed*. For example, one of the project-specific attorneys was entrusted with taking the depositions of certain of Citigroup's senior executives and top officers (joining various Kirby McInerney partners for that task among Kirby McInerney's roster of deposing attorneys). Likewise, the "core team" discussed below, consisting of Kirby McInerney personnel and project-specific personnel working together, spent the lion's share of their time preparing for the depositions of dozens of Citigroup executives and officers – work Mr. Frank himself terms "legally substantive" (Frank Decl. ¶ 52).

57. In any event, there is nothing unusual or untoward about the use of such project-specific personnel. The hiring of project-specific attorneys for a large project – such as the review of nearly 40 million pages of documents in order to prepare for the depositions of dozens of witnesses and to proceed to trial – is a practice that this and other securities class action plaintiff firms engage in frequently in order to effectively prosecute large complex litigation against some of the largest law firms in the country.

58. Indeed, it appears that project-specific personnel were employed to significant extent in many of the largest PSLRA securities class action cases. In those cases, the courts approved inclusion of those attorneys in the lodestar, and the court awarded fees that include multipliers on that lodestar.[9]

59. Nor is the employment of attorneys on a project basis unique to the plaintiffs' bar: large defense-side law firms frequently engage in that practice as well (as evidenced by the prior experience of some of the attorneys that worked for us on the document review project in this Action – *see* ¶ 72 n.13, *infra*). The widespread and/or large-scale use of such attorneys is further discussed at some length in several of the case opinions cited in the accompanying memorandum of law (*see* Reply Br. 15-17).[10]

60. Here, Plaintiffs obtained approximately 35 million pages of documents from Citigroup as well as approximately 5 million further pages of documents from various third

[9] The issue is discussed in opinions in *Carlson v. Xerox Corp.*, 596 F. Supp. 2d 400, 410 (D. Conn. 2009) ($750 million settlement); *In re UnitedHealth Group, Inc. PSLRA Litig.*, 643 F. Supp. 2d 1094, 1105 (D. Minn. 2009) ($925 million settlement); *In re Enron Corp. Sec., Deriv. & ERISA Litig.*, 586 F. Supp. 2d 732 (S.D. Tex. 2008) ($7.2 billion settlement); *In re Tyco Int'l Ltd. Multidistrict Litig.*, 553 F. Supp. 2d 249, 272-73 (D.N.H. 2007) ($3.2 billion settlement); *In re WorldCom Inc. Sec. Litig.*, No. 02 Civ. 3288, 2004 WL 2591402, at *21 (S.D.N.Y. Nov. 17, 2004) ($6.13 billion settlement). In addition, it is apparent from examination of the filings in many of the other cases listed in Ex. 11, that counsel in those cases included project attorneys in their lodestar, and the courts awarded counsel multipliers on that lodestar. *See In re Nortel Networks Corp.* ("Nortel II"), No. 05 md 01659 (S.D.N.Y. Sept. 05, 2006) (Dkt. No. 61-2 at 4-6); *In re HealthSouth Corp. Sec. Litig.*, No. 03 Civ. 1500 (N.D. Ala.) (Dkt. Nos. 1055-2 at 3-4, 1055-3 at 3-5 (2008); 1608-7 at 5-6, 1608-8 at 4-5 (2009); 1689 at 2-3, 1690 at 2-3 (2010); 1700-3 at 9-11 (2010 (Bond)); *In re Wachovia Preferred Sec. and Bond/Notes Litig.*, No. 09 Civ. 6351 (S.D.N.Y. Oct. 10, 2011) (Dkt. Nos. 148-7 at 6-8; 148-8 at 5-6; 148-9 at 7-8); *In re Cardinal Health Inc. Sec. Litig.*, No. 04 Civ. 575 (S.D. Ohio Sept. 17, 2007) (Dkt. No. 319-10 at 2-4); *In re Lehman Bros. Sec. and ERISA Litig.*, No. 09 md 2017 (S.D.N.Y. Mar. 08, 2012) (Dkt. Nos. 807-12 at 6-9; 807-13 at 6-8); *In re Dynegy, Inc. Sec. Litig.*, No. H-02-1571 (S.D. Tex. June 30, 2005) (Dkt. No. 678 at 7-9); *In re Raytheon Co. Sec. Litig.*, No. 99 Civ. 12142 (D. Mass. Nov. 23, 2004) (Dkt. No. 633 at 9-13); *In re Adelphia Commc'ns Corp. Sec. & Deriv. Litig.*, No. 03 mdl 1529 (S.D.N.Y. Nov. 2, 2006) (Dkt. No. 454); *In re Qwest Commc'ns Int'l Inc. Sec. Litig.*, No. 01 Civ. 01451 (D. Colo. Feb. 27, 2006) (Dkt. Nos. 939 at 2-4; 1162 at 2-3).

[10] References herein to "Reply Br." are to Plaintiffs' Reply Memorandum of Law in Further Support of the Proposed Settlement and Request for Attorneys' Fees, and in Response to All Objections to the Proposed Settlement and the Fee Request, filed concurrently herewith.

parties – or approximately 40 million pages in all. These documents were produced in "rolling" fashion between March 2011 and April 2012.

61. As previously stated in the Joint Declaration, in order to review, evaluate, organize and use this evidence (including for depositions of many dozens of Citigroup executives and yet further anticipated third party depositions) – in a timely fashion and within Court-ordered discovery deadlines – Kirby McInerney needed and retained, in addition to its current personnel, further project-specific personnel. *See* Joint Decl. ¶ 69.

62. The project-specific personnel retained for this litigation, and the work they then performed, are detailed below.

C. The Project-Specific Attorneys' Quality and Qualifications

63. Kirby McInerney went to great lengths to ensure the quality of the project-specific attorneys employed. As demonstrated below, many of these attorneys had prior experience working for large defense law firms on complex litigation or had other relevant prior work experience or education. From the outset, Kirby McInerney sought to and did exercise substantial quality control with respect to the project-specific attorneys entrusted with work in this litigation.

64. First, in order to assemble its "core team" for the discovery phase of this action (*see* ¶ 100 n.18, *infra*) Kirby McInerney hired approximately 20 project-specific attorneys to assist Kirby McInerney in document review and analysis and in deposition preparation. However, to end up with those twenty, Kirby McInerney reviewed in excess of 100 attorney resumes, and rejected approximately 3 of every 4 candidates through such pre-screening.

65. Second, before hiring any of its initial and core team of project-specific personnel, Kirby McInerney invited this more limited, pre-screened pool of the best candidates to interview in person with at least two and often three Kirby McInerney personnel (generally including

Kirby McInerney partners Peter Linden and Andrew McNeela or the Kirby McInerney attorney supervising the document review). Kirby McInerney thereafter eliminated candidates that appeared more impressive on paper than in person, and ultimately hired only a fraction of the candidates it interviewed. By this means, Kirby McInerney sought to and did retain the "best of the best," as further demonstrated below by closer examination of the relevant qualifications and experience they possessed.

66. In addition to the core team, Lead Counsel also employed a "supplemental team" of attorneys for discrete document review projects (*see* ¶ 106 n.20, *infra*). Here too, Lead Counsel sought to ensure that the attorneys possessed relevant or superior work experience or education.

67. Specifically, Kirby McInerney sought to select from the pool of available attorneys a *more elite, experienced and able subset*, as evidenced by: (1) traditional, general criteria of quality, such as the law schools from which they graduated and the firms at which they had previously worked; (2) concrete relevant prior experience and skills, such as prior document review work in large, complex securities litigation, prior securities litigation experience and/or familiarity with the intricacies and logic of litigating securities claims, and familiarity with the specialized software used in such litigation; or (3) specific prior experience in the extremely-complex exposures at the center of this litigation, such as prior legal work in connection with collateralized debt obligations (CDOs) and/or residential mortgage-backed securities (RMBS).

68. The team of project-specific attorneys ultimately assembled by Kirby McInerney in fact met these goals, as detailed below, and subsequently satisfied on all counts (as further detailed in ¶¶ 96-127, 130-151, *infra*).

69. Many of the project-specific personnel were graduates of the nation's top 10 or top 25 law schools, including attorney India Autry repeatedly and unfairly singled out by Mr. Frank (*see* repeated characterization of Ms. Autry as a "lipstick and style counselor" at Frank Br. 1, 11; Frank Decl. ¶ 29).[11] Ms. Autry is a graduate of New York University School of Law.

70. Some of the project-specific personnel selected by Kirby McInerney had previously worked as associates for certain of the nation's largest and most prestigious law firms.[12]

71. The overwhelming majority of the project-specific attorneys had previous document review experience in complex, large-scale litigation and/or specifically in securities litigation (two of Kirby McInerney's practical selection criteria), and were familiar with the sophisticated database system chosen by Kirby McInerney for document review here.

72. Indeed, almost all of the project-specific attorneys had previously performed document review work for some of the nation's largest and most-highly respected law firms.[13] This includes Ms. Autry, who had previously performed document review work for Davis Polk & Wardwell LLP; Skadden, Arps, Slate, Meagher & Flom LLP; and Sullivan & Cromwell LLP.

---

[11] The project-specific attorneys include two graduates from Columbia University School of Law, five from New York University School of Law, and four from Georgetown University Law Center.

[12] Attorneys on the team worked as associates for, *inter alia*, Allen & Overy; Arent Fox; Clifford Chance; Dewey & LeBoeuf; Foley & Lardner; Hogan & Hartson; Kramer, Levin, Naftalis & Frankel, LLP; Mayer, Brown & Platt; Orrick, Herrington & Sutcliffe; and Stroock & Stroock & Lavan.

[13] The attorneys previously worked on document review projects for, *inter alia*: Cadwalader, Wickersham & Taft, LLP; Cleary, Gottlieb, Steen & Hamilton LLP; Clifford Chance LLP; Covington & Burling LLP; Cravath, Swaine & Moore LLP; Davis Polk & Wardwell LLP; Debevoise & Plimpton, LLP; Gibson Dunn & Crutcher LLP; Goodwin Proctor LLP; Hughes Hubbard & Reed LLP; Kirkland & Ellis; Latham & Watkins LLP; Mayer Brown LLP; Patterson Belknap Webb & Tyler; Paul, Hastings, Janosky & Walker LLP; Paul, Weiss, Rifkind, Wharton & Garrison; Proskauer Rose; Ropes & Gray LLP; Shearman & Sterling, P.C.; Sidley Austin, Brown & Wood; Simpson Thatcher & Bartlett LLP; Skadden, Arps, Slate, Meagher & Flom LLP; Sullivan & Cromwell, LLP; Wachtell, Lipton, Rosen & Katz; Wilkie Farr & Gallagher LLP; and Wilmer Cutler Pickering Hale and Dorr LLP.

73. Additionally, certain of the project-specific attorneys had previously clerked for Federal District Court and Circuit Court judges or were employed as staff attorneys by, *inter alia*, the Securities & Exchange Commission (including Kumudini Uswatte-Aratchi, also singled out by Mr. Frank for suspicion) and the United States Courts of Appeals for the Second, Fourth and Eleventh Circuits.

74. Due to the exceptional complexity of the structured finance securities at the center of this litigation, such as CDOs and RMBS, one of Kirby McInerney's most demanding selection criteria in selecting project-specific attorneys was prior experience with CDOs, structured finance, and/or subprime-backed securities. For example, one attorney selected by Kirby McInerney already had substantial experience with CDOs from years of prior transactional work at a top defense firm, where he worked as an associate in the structured finance department and had even served as a "deal leader" in multiple CDO and CLO transactions, as well as in RMBS securitizations. Two more attorneys similarly had years of experience via working on structured finance transactions when employed as associates by top firms. Multiple attorneys had done prior project-specific work in matters concerning RMBS and CDOs, both on the plaintiffs' side and on the defense side (working for firms such as Simpson Thacher & Bartlett LLP and Debevoise & Plimpton LLP). One attorney, hired by Lead Counsel to supervise the document review here, had recently led document review efforts in another very large securities class action case dealing with subprime exposures, where he managed a large team of document reviewers.

75. Indeed, many of the attorneys singled out by name by Mr. Frank (*see, e.g.*, Frank Br. 11; Frank Decl. ¶¶ 28, 30) had exactly such prior experience. For example, Kumudini Uswatte-Aratchi had prior experience in CDO-related litigation, substantial complex securities

litigation experience (both as an associate and as a project-specific attorney), and had previously worked as a staff attorney in the Enforcement Division of the SEC. Similarly, Michael Balducci already was familiar with mortgage securitizations by virtue of years of work on such transactions as an associate in a top firm. But Mr. Frank chooses to unfairly refer to Mr. Balducci as a "laid off real estate attorney" (Frank Br. 1).

76. Contrary to Mr. Frank's depictions of such individuals, Lead Counsel found that such attorneys with similar prior experience with mortgage-backed securities or CDOs, including Michael Balducci as well as others not singled out by Mr. Frank, provided superior work-product, as further detailed below. Such attorneys, including Michael Balducci, were among those to whom Lead Counsel entrusted the most complex and important assignments, such as preparing for the depositions of key Citigroup executives and officers.

77. Other project-specific attorneys possessed advanced degrees or certificates in finance and/or accounting, or had prior finance work experience. At least two possessed Masters degrees in Finance; one was also a Ph.D. candidate in business school. Three possessed Masters of Laws; two possessed MBAs; one was a CFA (chartered financial analyst); another, a CPA (certified public accountant). Indeed, this CPA was specially assigned in this litigation to focus, along with similarly-certificated and more experienced Kirby McInerney of counsel Henry Telias, on review, analysis and evaluation of a third-party document production from Citigroup's auditor. Several project-specific attorneys previously had been employed by large financial institutions, including Deutsche Bank, HSBC, Morgan Stanley, Prudential Securities, PaineWebber, Smith Barney and UBS. In fact, one of the attorneys singled out by name by Mr. Frank (Nelson De La Cruz; *see* Frank Decl. ¶ 31) had previously been employed by UBS AG.

78. Furthermore, certain attorneys retained initially on a project basis in connection with this litigation were already "known quantities" to Kirby McInerney. One had previously worked for 3 years as a Kirby McInerney associate (and had subsequently performed project-specific work for Kirby McInerney in other large securities litigation efforts), and was knowledgeable of the intricacies of securities litigation. Likewise, one attorney, hired for this project to be of counsel to the firm (and who remains with Kirby McInerney) had even more extensive securities litigation experience by virtue of approximately a decade of work in other leading plaintiffs' firms. Kirby McInerney had recently worked with one of these firms, and with this attorney specifically, as co-lead counsel in another large subprime- and CDO-related securities litigation, and we were very impressed with this attorney's abilities. Kirby McInerney was very glad to retain this attorney in connection with this litigation, where this attorney – along with Kirby McInerney partners – shared responsibility for taking depositions of Citigroup's senior executives and officers, and the attorney continues to work at Kirby McInerney as of counsel.

79. More fundamentally, as already mentioned, a "bright line" separation between project-specific attorneys and Kirby McInerney attorneys is difficult to ascertain, both in terms of "paper" status and in terms of the substance of the work assigned and performed. First, on the merest surface/status level, multiple attorneys originally hired on a project-specific basis for this litigation either began as of counsel or associates, or later joined the firm on a continuing basis as an associate. Second, on a deeper and more fundamental level, there was little difference between the work performed by attorneys hired on a project-specific basis and permanent Kirby McInerney attorneys. Kirby McInerney associates and personnel worked together with project-specific attorneys engaged in document review and analysis and in deposition preparation. In

sum, in terms of *actual work performed*, certain project-specific attorneys did the same work (such as deposing senior Citigroup executives) as Kirby McInerney partners, while other project attorneys did the same work as Kirby McInerney associates (such as document analysis and review, and deposition preparation).

80. In sum, Kirby McInerney expended substantial effort and scrutiny to ensure that it retained the best team possible to assist in document review and analysis and deposition preparation.

D. The Work Actually Performed by Project-Specific Attorneys

81. Mr. Frank's objection: (1) raises the spectre that such work was mere "objective coding" and then treats that spectre as if it were actually real (*see* Frank Br. 12, 14; Frank Decl. ¶¶ 51, 54); (2) denigrates the work he imagines was performed by these "contract" attorneys as "low-skilled," "relatively unskilled," "ministerial," "largely administrative," etc. (*see* Frank Br. 1-2, 10-14; Frank Decl. ¶¶ 26-35, 52-53); and (3) characterizes it somewhat vaguely, but negatively, as "first tier document review" (*see* Frank Br. 1, 13-14, 24; Frank Decl. ¶¶ 39, 48-55). All of these characterizations were made without any specific factual basis, and are contrary to what actually happened.

1. Mr. Frank's Arguments Concerning "Objective Coding" Are Meritless Here: No Such "Objective Coding" Was Performed

82. Objective coding refers to the practice of entering "objective" information into a document database, such as the date, sender, recipients and subject line of an email, or the bates numbers of a document. This indeed is low-skilled work, as these entries are certain, obvious, objective, and require no judgment, analysis or expertise to do.

83. There was effectively no objective coding here. Almost without exception, the 40 million pages of documents produced in this case were produced with such objective coding

already supplied as metadata (*e.g.*, fields such as "date sent," "time sent," "sent from", "sent to," "cc", "subject," "document custodian," "bates begin" and "bates end" were already "populated" with the relevant data).[14] This freed attorneys engaged in document review to focus on more complex tasks requiring greater discretion, judgment, analysis and expertise, as described below.

84. Therefore, Mr. Frank's arguments about overbilling for "objective coding" – together with Mr. Frank's accusations concerning the same[15] – are wholly without basis.

2. Mr. Frank's Arguments that Project-Specific Attorneys Performed "First Tier" and "Low Skilled" Work Are Also Incorrect

85. Mr. Frank repeatedly asserts that the work performed by project-specific attorneys here was "first tier document review" (*see* Frank Br. 1, 13-14, 24; Frank Decl. ¶¶ 39, 48-55), and applies numerous negative epithets to further characterize such work (such as "low-skilled", "relatively unskilled," "ministerial," "largely administrative," etc. – *see* Frank Br. 1-2, 10-14; Frank Decl. ¶¶ 26-35, 52-53).

86. These assertions, like those concerning "objective coding," are made without any factual basis, and are wrong.

87. As an initial matter, it is not clear what Mr. Frank means by "first tier document review." For example, in Mr. Frank's most specific description of his "first tier" document review epithet, Mr. Frank seeks to "distinguish[] between the largely administrative task of first-

[14] Certain "hard copy" documents (as opposed to email files) were produced with less objective coding metadata (for example, metadata identifying bates numbers and document custodian). Of the 35 million pages of documents produced by Citigroup here, the total page count of such "hard copy" documents produced was far below 1%, and approximately on the order of 0.1% (*i.e.*, 35,000 pages). Third-party productions totaling approximately 5 million pages featured a slightly higher percentage of documents lacking some pre-supplied objective coding: we estimate that approximately 1%-5% of such third-party productions were so produced. Lead Counsel developed a special, standard protocol to review, evaluate, and code such documents, which boiled down to providing slightly more fulsome descriptions in the "attorney comments" field for such documents in those cases where such documents appeared to be of interest.

[15] *See* Frank Br. 12 ("It is entirely possible that they are not even doing low-skilled attorney work, but are doing purely clerical 'objective coding' work that need not be performed by an attorney at all – all to inflate the lodestar and create tremendous profit for class counsel at the expense of the class.").

tier document review and the more legally substantive task of document review of pre-screened documents in preparation for depositions or trial." (Frank Decl. ¶ 52). It appears that Mr. Frank may be referring to a term of art customarily phrased as "first pass document review" (a term also used by Mr. Frank – *see* Frank Br. 11).

88. As most commonly used, "first pass" document review is a document review generally employed by organizations *producing* documents or overseeing the production of documents, or by receiving firms choosing a broad selection of documents for production, in which: (1) "responsive" documents are distinguished from non-responsive documents; (2) confidential documents are distinguished from non-confidential documents; and (3) privileged documents are distinguished from non-privileged documents.[16]

89. Such "first pass" review is little more than a series of blunt, mechanistic "yes/no" decisions concerning responsiveness, confidentiality, and privilege. There is no evaluation of the content or meaning of the document involved, let alone its probity or utility with respect to the claims and allegations at issue in the litigation. No such review work was done – or, indeed, could have been done – by project-specific attorneys here since they worked solely to review and evaluate the documents already produced by Defendants and third parties after Defendants and third parties themselves had conducted such "first pass" reviews, and were primarily tasked to prepare for and take depositions of Defendants and third parties.

[16] *See, e.g.*, http://www.wcsr.com/resources/pdfs/PL_StatementofWork.pdf ("'First-Pass'" Review to identify responsive documents, make required confidentiality designations, identify potentially privileged documents, identify important documents, and to otherwise narrow and categorize the universe of documents from which the Production Set will be drawn"); http://www.dorsey.com/legal_mine/?op=1309ca8d-7ace-4466-8555-d0018fba49df&ajax=no ("'What is "First Pass Document Review'? First pass document review segregates responsive/relevant documents from the non-responsive/irrelevant or privileged documents. Other flags include: confidential, key or 'hot' document, redaction, and further review. Documents deemed responsive or privileged are subject to further legal issue analysis.").

90. It is generally contemplated that such a "first pass" document review will be followed by a "second pass" document review which typically involves a more detailed evaluation of documents previously-identified to be important, more detailed "issue coding" of the legal and factual issues to which those documents speak, and the selection and analysis of the most important documents for use in witness or expert depositions.[17]

91. The division of labor and the segregation of project-specific attorneys into "first pass"-level work that Mr. Frank imagines to have occurred here did not, in fact, occur.

92. Here, as detailed below, project-specific attorneys in Kirby McInerney's core team were not kept in any sort of restricted, "first pass" review pen, but rather spent most of their time in what is frequently described as "second level" review.

93. More fundamentally, the "first pass"/"second pass" distinction, perhaps relevant in other litigations, was simply not relevant here. Here, there was no distinction in work or personnel between "first pass" and "second pass," as these were not distinct activities but simultaneous parts of the more holistic work performed by Kirby McInerney personnel and project-specific attorneys.

94. As detailed below, the project-specific attorneys here, together with Kirby McInerney personnel, engaged – after extensive training by and with supervision from Kirby McInerney – in a sophisticated evaluation and very detailed factual and legal issue coding of the documents they reviewed, including the subset of documents identified as most important,

[17] *See, e.g.*, http://www.sunlexis.com/document-review-services-india.html ("Second/Advanced Level Document Review: involves coding the documents; identification of privileged documents that can be withheld from production or redacted for content; identification of documents for deposition preparation, production and maintaining documents in specific folders based on issues, subject and parties"); http://discoverready.com/services/document-review/ ("Second-pass document review – Enhanced issue coding and preparation of witness and expert kits").

probative or interesting, in order to prepare the depositions of dozens of Citigroup's senior executives and officers.

95. Therefore, project-specific attorneys here did not perform such "first pass" work, but rather – *and by Mr. Frank's own description* – the "more legally substantive" work of closely evaluating the best "pre-screened" documents "in preparation for deposition."

3. The Work Actually Performed by Project-Specific Attorneys Here

a. Overview

96. After the Court sustained Plaintiffs' CDO-related claims over Defendants' motion to dismiss in November 2010, Plaintiffs sought production of documents from Citigroup and multiple third parties. Defendants began document production in March 2011. By April 2011, Defendants had produced approximately 12 million pages; by May 2011, more than 18 million pages (and third-party productions added nearly 3 million more pages); and by July 2011, approximately 30 million pages.

97. However, a tight discovery schedule required depositions to begin in July 2011. Therefore, Plaintiffs' document review efforts: (1) had to begin quickly and on a very large scale, given timing constraints and the high volume of evidence to review and evaluate; and (2) quickly transformed from "generalized" review of the mass of documents to directed, targeted and particularized review and evaluation of specific documents associated with specific witnesses in order to prepare for depositions.

98. To meet the scale and timeline of the task at hand, Kirby McInerney sought to supplement its already-available resources and personnel by retaining an initial group of further attorneys to assist in reviewing and evaluating these documents and in preparing for upcoming depositions. As already detailed in ¶¶ 63-77, *supra*, Kirby McInerney went to substantial lengths to select a highly able, experienced and knowledgeable group of attorneys.

99. As noted above, these project-specific attorneys, together with certain central Kirby McInerney personnel focusing on this litigation, constituted, as detailed below, a "core team" that worked full-time or more for slightly more than one year as the vanguard of Plaintiffs' litigation effort during the discovery phase of proceedings.

100. In prosecuting this case, Kirby McInerney relied primarily on this core team[18] numbering approximately 35 individuals employed by Kirby McInerney or retained by Kirby McInerney on a project-specific basis. Core team members performed the lion's share of the work from beginning to end and collectively make up the lion's share of Kirby McInerney's lodestar. Specifically, core team members expended 71,266.25 hours (or 81.08% of Kirby McInerney's total hours) and comprise a lodestar of $33,679,305.00 (or 85.93% of Kirby McInerney's total lodestar).

101. The core team's discovery effort, as detailed below, included:

a. a sophisticated review and evaluation of the documents produced by Defendants and numerous third parties, of the sort often termed a "second pass" review, in which attorneys coded documents not merely for degree of relevance but for their probity with respect to an extremely wide array of different factual and legal issues, which here numbered more than 50 discrete issues, and which required extensive training in and understanding

[18] Core team members included: (1) 4 primary and 2 additional Kirby McInerney partners (respectively, Peter Linden, Ira Press, Mark Strauss and Andrew McNeela, and additionally Roger Kirby and Daniel Hume); (2) 2 attorneys "of counsel" to Kirby McInerney (Lauren Pedersen and Henry Telias); (3) 3 Kirby McInerney associates (Steven Cohn, Joshua Masters and Edward Varga) and 4 senior analysts (Kya Blackstone, Orie Braun, Matthew Meador and Elaine Mui); and (4) 20 project-specific attorneys retained by Kirby McInerney to form the vanguard of its discovery and deposition preparation efforts as further detailed herein (Michael Balducci, Peter Brueggen, Kristine Cangcuesta, Nelson De La Cruz, Steven Dimirsky, Eileen Dimitry, Thomas Elrod, Riley Fenner, Damien Figueroa, Joshua Greenberg, Brian Healey, Nader Khuri, Michael Markunas, Belden Nago, Kellen Stevens, Gail Torodash, Kumudini Uswatte-Aratchi, Ievgeniia Vatrenko, Andrew Watt, and Soo Woo).

of the most intricate factual complexities associated with Plaintiffs' claims;

b. more particularly, and constituting the vast bulk of this effort, conducting such review specifically to prepare for the depositions of dozens of Citigroup officers and senior executives, which occupied this core team more than full-time between July 2011 and April 2012, and which involved, for each actual and/or noticed deponent:

i. the formation of a dedicated sub-team for each deponent, generally consisting of one to four attorneys (per the relative magnitude of the task), charged with reviewing, coding and evaluating *all* documents sent or received by, or from the files of, a given deponent (which, for many deponents, involved review of more than a million pages of documents);

ii. initial direction and training given to such sub-team to alert them to the most salient issues or documents that they would encounter;

iii. subsequent progress meetings during which the team presented to Kirby McInerney personnel (including senior investigators and the partners or other attorney tasked with deposing the particular witness at issue) their progress, findings, discoveries, questions and problems, and received further guidance to allow them to best complete their review and analysis;

iv. the production of a witness binder, as the goal and end result of the aforementioned review and evaluation process, for the use of the

partner or other attorney charged with deposing the witness, which binder included:

1. copies of 100 to 400 documents, chosen from tens or hundreds of thousands, that "told the story" of the deponent's involvement with and connection to the matters at issue in the litigation over the course of the Class Period;
2. an index of the aforementioned documents, containing the review team's observations and evaluations of each of the selected documents;
3. a narrative memorandum, typically 10-20 pages, summarizing the "story" evidenced by those documents and through the larger review, pointing the deposing attorney to the most salient and interesting issues, documents and questions, and recommending the most important lines of inquiry and documents for use in the upcoming deposition; and
4. a compendium of prior deposition testimony addressing either (i) the upcoming deponent, (ii) key meetings attended by that individual; or (iii) key documents sent or received by that individual;

v. in the weeks and days prior to depositions, further meetings between the members of these dedicated sub-teams and the attorney charged with conducting the deposition, in order to

prepare such attorney for the deposition and/or research and answer any further lines of inquiry suggested by such attorney; and

vi. assisting the deposing attorneys by, among other things, researching particular questions for review, analysis and evaluation by the deposing attorney of the materials provided to him or her, winnowing down these extensive materials (generally more than 200 documents, and often around 400 documents) in order to select the most promising or probative subset as potential deposition exhibits, and formulating a deposition outline and plan.

102. The members of this core team are generally evident on the face of Kirby McInerney's lodestar submission by the large number of hours (generally between 1,000 and 3,000) they expended during the course of this litigation. *See* Joint Decl. Ex. E.

103. At senior levels, this core team consisted primarily of 6 Kirby McInerney partners as well as 2 project-specific attorneys. The partners were involved in drafting and editing pleadings and briefs; appearing before the Court on motions or other applications; negotiating discovery and discovery disputes with Defendants; overseeing and supervising the discovery work detailed herein; preparing for and deposing dozens of Citigroup executives and officers; preparing for and engaging in the mediation that led to the Settlement; and negotiating and finalizing the terms of the Settlement. In many of these efforts – notably, in preparing for and deposing Citigroup executives, and in negotiating discovery and discovery disputes with Defendants – the aforementioned partners were joined by a project-specific attorney.

104. In addition to the above-mentioned senior-most level, this core team included approximately 23 Kirby McInerney associates, of counsel, or project-specific attorneys retained

by Kirby McInerney to assist in the above-summarized and below-detailed discovery efforts, and attorneys who began as the latter but later joined the former. For all practical purposes, this was one group of personnel (*e.g.*, the "discovery team") – not two (*e.g.*, Kirby McInerney personnel vs. other personnel) – engaged in unified, common effort.

105. In addition to this core team, another 11 Kirby McInerney partners, associates and of counsel performed occasional work at all litigation stages, including researching and drafting the Complaint, briefing the motion to dismiss and class certification, legal research, discovery, mediation and settlement.[19] Collectively, these additional Kirby McInerney personnel expended 1,194.50 hours (or 1.36% of Kirby McInerney's total hours) and comprise a lodestar of $515,106.25 (or 1.31% of Kirby McInerney's total lodestar).

106. Lastly, Kirby McInerney employed a separate team (the "supplemental team") of approximately twenty attorneys[20] – also generally evident on the face of Kirby McInerney's lodestar submission by the smaller number of hours (generally between 200 and 600) they expended in this litigation – to perform necessary work that the core team simply had no time to do. After providing them with extensive training similar to that received by the core team, Kirby McInerney tasked them, *inter* alia, with: (1) summarizing deposition testimony and evaluating it for potential use in later stages of the litigation, such as summary judgment and/or trial; and (2) reviewing, analyzing and evaluating documents so as to supplement the work of the core team.

[19] These additional Kirby McInerney personnel included 1 partner (David Kovel), 1 of counsel (Kenneth Walsh), and 9 associates and former associates (Kathryn Allen, Pamela Kulsrud-Corey, Sarah Lopez, Beverly Tse Mirza, Surya Palaniappan, Christopher Studebaker, Meghan Summers, Kalyani Sundararajan, and J. Brandon Walker).

[20] These attorneys included India Autry, Seth Ayarza, Ryan Belk, Anne Bodley, Gale Boesky, Mashariki Daniels, Joanne Donbeck, Tilewa Folami, Paul Keaton, Kevin Kessler, Teresa Lin, Kristie Ortiz, Nina Petraro-Bastardi, Janet Pitter, Michael Schnurr, Stephanie Siaw, Julian Stephenson, Colin Stewart, Jason Stowe, and Steven Willmore.

107. The work performed by the supplemental team comprised a total of 8,946.50 hours, with a total lodestar of $3,976,050. It thus represents a small fraction – specifically, 10.14% – of Kirby McInerney's total lodestar.

b. The High Level of Factual Complexity Here Required That Project-Specific Attorneys Master a Vast Array of Sophisticated Factual and Legal Issues

108. Many of the attorneys retained by Kirby McInerney had prior experience with complex securities litigation, and thus already were familiar with the basic and generic elements and logic of securities fraud claims. However, the unparalleled factual complexity of the specific CDO-related matters at issue here, meant that very substantial further training would be necessary to ensure that the attorneys would be able to comprehend the documents they would be reviewing, evaluate their significance, and understand exactly why, when, where and how the evidence supported the elements of Plaintiffs' securities fraud claims.[21]

109. As previously detailed in the Joint Declaration, our pre-discovery investigation into Citigroup's CDO operations already had provided us with extensive insights into CDO structure and the conditions that would cause even super senior CDO tranches to be at risk, into Citigroup's specific CDO operations, and into the dozens of actual CDOs that made up the aggregate CDO exposures at issue here. *See* Joint Decl. ¶¶ 33-46. Similarly, that pre-investigation discovery had provided us with novel factual discoveries and arguments that, as this Court found in its November 2010 opinion, could support our claims. These included, for example, arguments that: (1) although concealed by fearsome structural complexity, even the super senior tranches of CDOs were at risk upon (a) relatively small levels of aggregate

[21] As noted *supra* at ¶¶ 74-75, 77, one of the specific criteria used by Kirby McInerney to retain attorneys for this litigation was prior experience with CDOs or similar mortgage-backed securities, and many of the attorneys retained by Kirby McInerney had such prior experience.

subprime mortgage losses and (b) impairment of the *lower*-rated tranches of subprime RMBS; (2) although likewise concealed by structural complexity, such lower-rated RMBS tranches were at risk of total losses at relatively small levels of aggregate subprime mortgage losses; (3) although concealed by structural complexity, even small housing price declines could cause subprime mortgage losses to rise to levels that would impair lower-rated RMBS and thereby impair even super-senior tranches of CDOs; (4) that certain of Citigroup's own analysts and certain of Citigroup's published research themselves stated (1)-(3) above; (5) that ABX and TABX index declines also could evidence awareness of super senior risk; (6) that Citigroup's efforts to offload super senior risk to monoline insurers or to special-purpose vehicles such as Foraois could evidence awareness of super senior risk; (7) that so-called "CDO recycling" efforts in connection with specific Citigroup CDOs and in conjunction with particular CDO collateral managers could evidence awareness of CDO risk. *Id*.

110. Kirby McInerney used its comparatively detailed and advanced understanding of CDOs generally and of Citigroup's CDO operations specifically to craft an unusually-detailed "coding sheet" to be used in document review and evaluation, and to provide extensive advanced training to the attorneys entrusted with document review and evaluation.

111. The coding sheet developed by Lead Counsel and used by attorneys thereafter in review, analysis and evaluation of 40 million pages of documents, contained more than 50 discrete issues to which documents might relate, corresponding both to the basic elements of Plaintiffs' legal claims and to Lead Counsel's detailed understanding of the factual complexities.

112. For example, in addition to the more obvious issue "awareness of CDO risk", Lead Counsel also added further issues such as "awareness of RMBS risk," "awareness of subprime risk," or "awareness of credit ratings wrong," "ABX/TABX," and "mortgage/real

estate market observations." These latter issues reflected Kirby McInerney's understanding that awareness of these matters/risks could objectively equate to awareness of CDO risk, *even where no mention of CDOs was made at all*. Put more simply, even documents that made no mention of CDOs could nevertheless evidence effective awareness of CDO risk – and Lead Counsel sought to make sure that its review of the document production would proceed in a manner conscious of this fact.

113. Likewise, the coding sheet included issues relating to Lead Counsel's factual discoveries – such as "attempts to swap super senior tranches to monolines," "other attempts to offload super senior tranches," and "attempts to reduce CDO exposures (CDO recycling)." Additionally, Lead Counsel included in the Coding Sheet a "drop-down" list of approximately 10 specific Citigroup CDOs of heightened interest (*e.g.*, CDOs which Lead Counsel believed to have been involved in "CDO recycling," or CDOs whose super senior tranches Citigroup transferred to monolines); as well as further "drop down" list of approximately 10 specific Citigroup CDO collateral managers of heightened interest for similar reasons.

114. Moreover, Lead Counsel included numerous issues relating to analytically distinct elements of CDO valuation (including issues with respect to "CDO valuation," "model assumptions," and "model validation") and accounting (including issues relating to audit-related matters, as well as issues corresponding to specific, relevant accounting regulations such as FIN 46(R) [relating to consolidation of CDOs and other similar vehicles on or off balance sheet] and FAS 107 [concentration of credit risk]).

115. In addition to the obvious issue of "CDO exposure", Lead Counsel added a separate issue relating specifically to the "liquidity put" or "commercial paper" CDOs. Lead Counsel included further issue tags to identify various categories of CDO-related documents,

such as CDO prospectuses, pitchbooks and termsheets, or research reports on, respectively, subprime, RMBS and/or CDOs. Lead Counsel established further issue codes so as to capture Citigroup's communications, respectively, with credit rating agencies and with various regulators such as the SEC, OCC and the Federal Reserve.

116. Lead Counsel also included further "bigger picture" issues relating more closely to the elements of Plaintiffs' legal claims rather than to factual minutiae. For example, a "loss causation" issue was included in order to capture documents concerning Citigroup's share price and the causes of its declines. Similarly, a set of issues was included in order to capture Citigroup's internal preparations for its public disclosures, including (1) documents associated with *each* of Citigroup's quarterly results disclosures between year-end 2006 and the first quarter of 2008, and (2) documents of heightened interest, such as "Flash Deck" documents released by the SEC, or documents associated with the "Flash Calls" as described by the SEC.

117. In addition to all of the above, project-specific attorneys were asked to provide evaluative comments in the "attorney comments" section. This information could then be mined by other counsel in preparing for depositions, briefs, or argument with opposing counsel.

118. The point of the foregoing detail, which well describes but certainly does not exhaust the set of issues Kirby McInerney included in document review coding here, is to illustrate and concretize two simple facts: (1) the extreme factual complexity of this litigation; and (2) the necessity to train attorneys involved in document review to a very high level of understanding with respect to the matters at issue.

c. The Extensive Training Provided to Core Team Personnel

119. Initial training for the core team of attorneys – both Kirby McInerney associates and personnel, and project-specific attorneys – lasted more than one week.

120. First, attorneys were required to review the Complaint, Plaintiffs' memorandum of law in opposition to Defendants' motion to dismiss; the Court's November 2010 opinion granting in part and denying in part Defendants' motion to dismiss; the SEC's July 2010 complaint against Citigroup and the certain internal Citigroup documents released by the SEC in September 2010. After reviewing those materials, these individuals spent another day with other Kirby McInerney "core team" personnel, who presented and explained the materials, answered questions about matters thought to be unclear, and led a general discussion of the basic claims and the more and less obvious facts that could support such claims.

121. Second, simultaneously, attorneys were also given what amounted to a CDO "boot camp," in which Kirby McInerney personnel sought to impart their detailed knowledge of CDOs generally and Citigroup's CDOs specifically. We explained the path from subprime mortgages to RMBS, and from RMBS tranches to CDOs, in order to demonstrate the precise interlinkages that functioned to expose even the super senior tranches of CDOs to substantial impairment (even at relatively low levels of underlying mortgage losses sufficient merely to impair the lower-rated tranches of RMBS). We emphasized how observations concerning subprime mortgage performance, housing prices, ABX and TABX index prices, and RMBS prices could all equate to awareness of CDO and/or super senior CDO tranche risk. We provided a list of all of Citigroup's CDOs that were relevant to this action,[22] and explained why a subset of approximately ten of them, included in the coding sheet, was believed to be of particular interest.

[22] In addition to the ABS CDOs relevant to this action that comprised the exposures and caused the losses at issue, Citigroup also created dozens more CDOs that were entirely irrelevant here, such as CDOs backed by commercial real estate mortgages (CRE CDOs), CDOs backed by trust—preferred securities (TRuPS CDOs), CDOs backed by leveraged loans (CLOs), CDOs backed by project finance bonds, and CDOs backed by synthetic pools of corporate/sovereign debt (CSOs).

122. Third, Lead Counsel provided a 30 page, single-spaced "case summary" to core team members, that detailed, *inter alia*: (1) Plaintiffs' essential claims and arguments; (2) the counter-arguments that Defendants had made and/or were expected to make in response; (3) Citigroup's internal organization, including the hierarchy of groups and divisions connecting, for example, Citigroup's CDO desks through various layers to ever-more senior executives and officers; (4) what sorts of documents or evidence or facts we were looking for (*e.g.*, the many ways that internal awareness of CDO risk could be evidenced); (5) what we already believed we knew, such as the timeline of Citigroup's acquisition of its super senior exposures, or the timeline of market awareness of subprime, RMBS and CDO risk; and (6) the timeline of what Citigroup stated publicly concerning subprime and CDOs during 2007 and 2008.

123. Importantly, training did not stop after the initial round, and did not merely flow in one direction.

124. As the core team's review and evaluation of documents began to produce new factual discoveries, these discoveries were shared among core team members. For example, core team members were encouraged to and did issue real-time reports via a group email list on documents of interest they had encountered. Similarly, team members were encouraged to ask questions and to bring to light matters or documents that they did not understand, which provided further opportunities for training to be delivered to all team members.

125. Several months into the review, as depositions were beginning, Kirby McInerney circulated a revised "case summary" document featuring and summarizing the team's evidentiary discoveries to date. This document, in essence, sought to show who knew what when. It organized, on a month by month basis – and at certain key periods, on a week by week and day by day basis – what was known *at each level* within Citigroup: what CDO executives were

saying and/or doing; what more senior business executives were saying and/or doing; what risk management executives were saying and/or doing; what investment relations executives were saying and/or doing; and what financial executives were saying and/or doing. This document was continuously revised as new documents were discovered and as new deposition testimony was produced. This document allowed the core team to develop an ever-finer and more integrated understanding of what was happening within Citigroup at any given time, at all levels.

126. Similarly, through "quality control" monitoring of the document review and through many formal and informal discussions with core team members, we came to an early understanding of factual and review matters that were still subjects of confusion. Lead Counsel therefore held periodic follow-up training sessions, including one devoted to detailed explication of every single element of the issue coding protocol, with examples of what sorts of documents were properly described by each issue.

127. In addition to training, directing, organizing and supervising the efforts of the core team, we also solicited input from the project-specific attorneys as to how to improve the document review and deposition preparation process. For example, several months after document review began, insights from project-specific attorneys were used to make significant changes to the initial issue coding protocol, resulting in significant streamlining and efficiency gains without losing any ability to capture and organize the factual complexities at issue.

d. Lead Counsel's Monitoring of Project-Specific Attorney Work

128. At all times, Kirby McInerney closely monitored the work done by project-specific members of the core team. This was done continuously and through multiple means, including:

a. quality-control spot-checking of core team members' issue- and relevance-coding and document evaluations, to determine which team members had

solid grasp of the facts and issues and which team members were not fully up to speed;

b. document database technology that allowed us to observe how many documents each team member was reviewing per day;

c. observation through formal and informal conversations to ensure that team members evidenced solid understanding of the facts and issues;

d. observation of the "discovery" emails circulated by team members (*see* ¶124, *supra*);

e. numerous meetings with team members as part of the deposition preparation process, as is further detailed below (*see* ¶¶130-146, *infra*); and

f. a Kirby McInerney attorney who worked together with other project-specific attorneys to supervise their work and respond to questions.

129. At all times, our monitoring was further enhanced by the fact that certain Kirby McInerney personnel were working side-by-side with the core team, and could thus directly observe them. Most members of the core team, including both project-specific attorneys and certain Kirby McInerney personnel, were established in offices one block away from Kirby McInerney's offices, putting everyone within easy reach of each other; while other Kirby McInerney core team members remained in Kirby McInerney's offices. The project-specific attorneys on the core team regularly used Kirby McInerney's facilities for its work. Conference rooms were used for regular meetings with attorneys assigned to prepare for a particular deponent. Moreover, core team members used the Kirby McInerney support staff, printers,

photocopiers and other facilities to produce and disseminate their work product to the necessary Kirby McInerney attorneys.

e. The Core Team's Deposition Preparation Work

130. The initial two or three months of document review were organized and directed by Kirby McInerney to achieve two basic goals: (1) to develop an overall sense of which sorts of documents had been produced from the files of different Citigroup employees, so as to understand the roles, responsibilities and degree of relevance of such employees; (2) to quickly build baseline knowledge on various topics – and, again, come to a better understanding of the roles, responsibilities and degree of relevance of various Citigroup employees – by conducting a multitude of targeted and iterative searches of the document database.

131. However, an accelerated discovery schedule required the core team to shift its focus to deposition preparation, beginning in July 2011. Thereafter, the daily work of the core team was almost entirely taken up with deposition preparation, as detailed below.

132. Between June 2011 and October 2011, Lead Counsel, building on the initial review work of the core team, developed a list of Citigroup employees (and third parties) it wished to depose. The list was effectively complete by October 2011 and modified only marginally thereafter: subsequently, a few individuals were added as new discoveries came to light, while others were removed when their testimony was judged duplicative or otherwise unnecessary. Prior to Settlement, Plaintiffs had already deposed more than 30 persons on the list, and intended to depose approximately another 30 witnesses, most of whom had already been noticed.

133. The core team's deposition preparation efforts proceeded as follows.

134. First, a sub-team of core team members consisting primarily of project-specific attorneys was assigned to review and evaluate *all* documents produced from the files of, or sent to or received by, the proposed deponent. Depending on the scale of this initial task, as well as scheduling matters, this sub-team generally consisted of 1 to 3 people. Certain deponents had relatively few documents, capable of timely review by one individual; many other individual deponents were associated with more than a million pages of documents, in which case the sub-team typically consisted of 3 or more core team members.

135. Second, *before* beginning their review of these documents, members of the sub-team met with Kirby McInerney personnel who provided initial orientation concerning the deponent, the kinds of issues and documents that would present themselves, and issues and documents that were expected to be of heightened and/or most interest.

136. Third, the set of documents relevant to that deponent was then carved out of the larger database and reviewed and evaluated in its entirety by the sub-team members for relevance and for issue coding. As part of this process, core team members also appended evaluative or explanatory comments or observations for those documents they found to be most interesting or probative.

137. Fourth, typically halfway or more through this process, the sub-team met again with Kirby McInerney personnel, including the partner or other attorney designated to take the deposition. This meeting served a two-fold purpose: to check on the progress and understanding of the sub-team members, and to orient the deposing attorney to what had been discovered so far.

138. Fifth, and the immediate goal of this process, the sub-team produced a witness binder for the deposing attorney's review and use in preparing for and taking the deposition.

Typically, this witness binder, delivered two or three weeks prior to the deposition, contained a standardized set of materials.

139. As an initial matter, sub-team members selected, from the entire universe of documents, a relatively large subset of documents (typically about 200, but often nearing 400) that together sufficed to demonstrate the deponent's involvement in relevant matters over the course of the Class Period. The purpose behind this relatively large number was to provide the deposing attorney with a far more complete context regarding what the deponent was doing throughout the time period in question, rather than a more limited subset of documents that might leave the deposing attorney to guess at "what else" might exist.

140. Additionally, sub-team members provided an index listing all of those documents, featuring basic objective information (*e.g.*, for emails, date sent, author, recipients, subject line, etc.) as well as the core team members' own comments describing, explaining or commenting on each document and/or its contents.

141. Moreover, sub-team members authored a narrative memorandum (typically 10-20 pages) that identified the individual, his or her position within Citigroup, and his or her involvement in issues of interest. These memoranda identified the most important and/or probative documents for various issues, and recommended lines of inquiry and documents to be used at deposition, with citations to dozens of the larger set of documents provided.

142. Furthermore, sub-team members provided a compendium of prior deposition testimony from other witnesses that mentioned the current deponent, or that made important assertions about key meetings or documents with which the current deponent was also involved.

143. Finally, as a "belts and suspenders" matter, sub-team members conducted two further searches. They first searched a set of data extracted from the database, consisting of

calendar program-related documents scheduling meetings (*e.g.*, Microsoft Outlook meeting announcements, etc.), in order to get further information on the important meetings (if any) attended by the deponent. Then, they searched a constantly updated list of documents previously marked as exhibits in prior depositions – presumably, a set of the "best" or most important documents – to double-check that all such documents associated with the current deponent had been included in the set of documents selected for the deposing attorney.

144. After the deposing attorney received these materials and reviewed them, he or she typically met with sub-team members and other Kirby McInerney personnel repeatedly in the weeks prior to the deposition, to discuss the materials, identify key issues and documents, plan for the upcoming deposition, winnow down the set of documents to a more practical and most important subset of documents for use as potential deposition exhibits, and ask further research questions of sub-team members.

145. This procedure was repeated for the more than 30 depositions taken here, as well as for further noticed depositions for which core team members had prepared prior to the Settlement.

146. This work occupied core team members on a more-than-full-time basis for nearly one calendar year, from approximately July 2011 through approximately May 2012.

f. The Supplemental Team and the Work Performed by the Supplemental Team

147. As core team members were fully occupied, Kirby McInerney retained a supplemental team of project-specific attorneys to conduct work that the core team simply had no time do.

148. The supplemental team, numbering approximately 20 further project-specific attorneys, first received similar but more condensed training than earlier received by the core

team. Although training was not as extensive as for core team members, it was more efficient: supplemental team members received the benefit of knowledge accumulated from months of intensive discovery work. For example, supplemental team members, as part of their training, were provided with a set of memoranda on various distinct legal and factual issues that organized the evidence discovered to date. These memos, depending on the issue, ranged from approximately 5 to approximately 50 pages, and *in toto* attached more than 500 of the most probative documents. These materials allowed supplemental team members to come "up to speed" more easily.

149. After this training, and familiarization with and immersion into the facts, the supplemental team proceeded to work on several different assignments.

150. First, the supplemental team summarized deposition testimony and evaluated it for potential use later in the litigation.

151. Second, the supplemental team reviewed, analyzed and evaluated documents. This document review work, like that of the core team, was substantive and in essence combined "first pass" and "second pass" review into one, but proceeded in slightly pared-down fashion from the core team review protocol.

E. Project-Specific Attorney Billing Rates Accurately Reflect Market Rates for Such Work

152. Mr. Frank accuses Kirby McInerney of billing project-specific personnel at above-market rates, and doing so in order inflate its lodestar and requested fee. Frank Br. 1; Frank Decl. ¶ 26. This too is simply false.

153. Mr. Frank's argument rests, in part, on the false premise that such personnel were doing "menial" or "low-skilled" work. The detail provided above at paragraphs 96-127, 130-151 demonstrates that, in fact, they were not. Project-specific personnel were performing highly

complicated, highly important work – work that, absent extensive training, almost no one else could do. *Id*. Mr. Frank himself concedes that the sort of work described here is "legally substantive." Frank Decl. ¶ 52. Moreover, as discussed above, the attorneys were well qualified.

154. Factually, as already demonstrated in our prior Joint Declaration, the billing rates charged for the attorneys that worked on this matter were in line with billing rates typically charged by attorneys of similar seniority in plaintiffs' securities class action law firms and by large non-contingency firms. This is evidenced by orders and opinions concerning attorneys' fees in other recent lawsuits and the back-up documentation submitted in those cases. *See* Joint Decl. ¶ 146; Miller Decl. ¶¶ 38-42.

155. Again, the work performed by project-specific attorneys here is precisely the sort of work performed by experienced associates, of counsel and partners. Their billing rates accurately reflect this fact.

156. Legally, as detailed in the accompanying memorandum of law, courts considering this issue are unanimous in dismissing exactly the objection raised by Mr. Frank here. Courts faced with these objections have held – repeatedly, explicitly and unanimously – that such billing rates for such project-specific personnel performing such work are appropriate. *See* Reply Br. 15-18. Moreover, the same courts have also approved application of a multiplier to lodestar to reflect the risk involved. *See id*., pp. 18-20.

157. Lastly, Mr. Frank asserts that Kirby McInerney overbilled for one attorney, Nelson De La Cruz, by representing that he graduated from law school in 1998 and by billing his hours at a rate reflecting that fact. Frank Decl. ¶ 31. Mr. Frank asserts that this graduation date is false, and that Mr. De La Cruz in fact graduated in 2009 (and therefore should command a lower hourly rate).

158. Mr. Frank is again wrong. Mr. Frank appears to have misconstrued his own evidence, which shows merely that Mr. De La Cruz was admitted in 2009 but says nothing about when Mr. De La Cruz graduated. *See* Frank Decl. Ex. 10. In fact, when hired, Mr. De La Cruz confirmed that he graduated from law school in 1998, as initially represented by Lead Counsel, and we have since confirmed that date. Accordingly, Mr. De La Cruz was billed at a rate accurately reflecting that fact and his experience.

V. NOTICES AND PROOF OF CLAIM FORMS IN OTHER SETTLEMENTS

A. The Plan of Allocation

159. Objectors Kenneth and Hyejin Wright maintain that the settlement papers do not provide sufficient information about the plan of allocation. The sole authority they purport to rely on is a description provided by the court in *In re the Bear Stearns Companies, Inc. Securities, Derivative & ERISA Litigation*, 08 MDL 1963, 2012 U.S. Dist. LEXIS 161269, at *25 (S.D.N.Y. Nov. 9, 2012) of the information that class counsel there provided concerning the plan of allocation relating to that settlement – information that the court found to be adequate. We have provided the same level of detail as that required by the *Bear Stearns* court.

160. Annexed hereto as Exhibit 13 are true and correct copies of excerpts from the June 27, 2012 notice of class action settlement that was provided to potential class members in *In re Bear Stearns.* The excerpts include paragraph 25 thereof, which discusses the plan of allocation of that settlement – a plan that was approved by the court in that action. Annexed hereto as Exhibit 14 is a true and correct copy of the court's order approving the plan of allocation in *In re Bear Stearns* dated November 30, 2012 [Dkt. No. 250].

161. Annexed hereto as Exhibits 15 and 16 are true and correct copies of excerpts from the brief and declaration, submitted by class counsel in *In re Bear Stearns* that describe the plan of allocation there [Dkt. No. 299 and Dkt. No. 302]. The foregoing can be compared to the

information concerning the Plan of Allocation that we supplied in the Notice (at ¶ 44), the Joint Declaration (at ¶¶ 134-136) and the Settlement Br. (at pp. 22-23).

B. Information Required On The Proof Of Claim Forms

162. Objectors Agnew, Breskin and Miller object to the fact that Class Members must submit information concerning the dates, prices, and share quantities of their Citigroup transactions in order to share in the Settlement recovery. However, without trade data, it is impossible to administer the Plan of Allocation – as the allocation to any particular Class Member depends on the dates, prices and share qualities of each Class Member's transactions in Citigroup stock.

163. While objectors Agnew, Breskin and Miller have each suggested that the parties already have their trade data, that is not the case. These objectors' shares were held in street name by their respective brokers (TD Ameritrade and Fidelity for Agnew; RBC for Breskin; and Charles Schwab for Miller). Therefore, the parties do not have records of their specific purchases and sales of Citigroup stock during the Class Period (if in fact they engaged in Class Period trades).

164. For that reason, transactional information has been required in every settlement of a PSLRA class action settlement that we are aware of brought on behalf of investors in publicly-traded securities. Our understanding comes from the fact that both of us have been actively involved in securities litigation since prior to the PSLRA's enactment in 1995. Below are a few recent examples.

a. Annexed hereto as Exhibit 17 is a true and correct copy of excerpts from the proof of claim form that class members were required to fill out in order to participate in the settlement fund in connection with the 2012 settlement in *In re CIT Group Inc. Sec. Litig.*, No. 08-cv-6613 (S.D.N.Y.). At page 2, the document advises class members that they must furnish

the details of their trades in the securities at issue in that action in order to obtain payment in connection with that settlement.

b. Annexed hereto as Exhibit 18 is a true and correct copy of excerpts from the proof of claim form that class members were required to complete in order to share in the settlement fund in connection with the 2012 settlement in *In re Wachovia Equity Sec. Litig.*, No. 08-cv-6171 (S.D.N.Y.). At page 1, the document advises class members that they must furnish the details of their trades in the securities at issue in that action in order to obtain payment in connection with that settlement.

c. Annexed hereto as Exhibit 19 is a true and correct copy of excerpts from the proof of claim form that class members were required to complete in order to share in the settlement fund in connection with the 2011 settlement in *In re MBIA, Inc., Sec. Litig.*, No. 08-cv-264 (S.D.N.Y.). At page 3, the document advises class members that they must furnish the details of their trades in the securities at issue in that action in order to obtain payment in connection with that settlement.

d. Annexed hereto as Exhibit 20 is a true and correct copy of excerpts from the proof of claim form that class members were required to complete in order to share in the settlement fund in connection with the 2011 settlement of *Rubin v. MF Global, Ltd.*, No. 08-cv-2233 (S.D.N.Y.). At page 3, the document advises class members that they must furnish the details of their trades in the securities at issue in that action in order to obtain payment in connection with that settlement.

e. Annexed hereto as Exhibit 21 is a true and correct copy of excerpts from the proof of claim form that class members were required to complete in order to share in the settlement fund in connection with the 2011 settlement of *In re Satyam Computer Servs. Ltd. Sec.*

Litig., No. 09-MD-2027 (S.D.N.Y.). At page 2, the document advises class members that they must furnish the details of their trades in the securities at issue in that action in order to obtain payment in connection with that settlement.

C. Amount of Time Provided For Class Members To Respond To The Notice

165. Mr. Frank asserts that the Court-approved Notice did not provide sufficient time for Class Members to opt out or object, given the fact that many Class Members' shares are held in "street name", so several weeks elapsed before many Class Members received their mailed Notices (as the Claims Administrator could not mail the Notice to these persons until it received their contact information from their brokers in response to the Claims Administrator's initial mailing). Frank Br. 4-6.

166. The Court-approved Notice in this action provided for 57 days between the date of the initial mailing (October 10, 2012) and the earliest date by which a Class Member would have to take action (December 6, 2012 – the deadline to opt out of the Settlement). *See* Ex. 1 hereto. In our experience, this time-lag is typical of securities class actions, and it affords Class Members with ample time to take action – even assuming that many Class Members will receive their Notices several weeks after the initial mailing due to delays by their brokers in furnishing the contact information to the Claims Administrator.

167. Based on a review of notices in other securities class actions in this District, this amount of time between the deadline for the mailing of notice to the Class and the earliest deadline for class members to act is typical, and, in fact, class members are given less time in many instances. *See, e.g.*, *In re MBIA, Inc., Sec. Litig.*, No. 08-cv-264 (S.D.N.Y.) (45 days between notice mailing deadline of October 11, 2011 and exclusion request deadline of November 25, 2011); *In re Wachovia Preferred Sec. & Bond/Notes Litig.*, No. 09-cv-6351 (S.D.N.Y.) (56 days between notice mailing deadline of August 30, 2011 and exclusion request

deadline of October 25, 2011); *In re Giant Interactive Group, Inc. Sec. Litig.*, No. 07-cv-10588 (S.D.N.Y.) (56 days between notice mailing deadline of August 7, 2011 and exclusion request deadline of October 12, 2011); *In re Take-Two Interactive Sec. Litig.*, No. 06-cv-803 (S.D.N.Y.) (53 days between notice mailing deadline of August 3, 2010 and exclusion request deadline of September 21, 2010); *In re Marsh McLennan Cos., Inc. Sec. Litig.*, No. 04-cv-8144 (S.D.N.Y.) (31 days between notice mailing deadline of November 13, 2009 and exclusion request deadline of December 14, 2009); *In re IPO Sec. Litig.*, No. 21-mc-92 (S.D.N.Y.) (39 days between notice mailing deadline of July 2, 2009 and exclusion request deadline of August 10, 2009).

D. Release Granted To Class Counsel

168. Mr. Frank also asserts that "the Settlement contains an extraordinary release waiving claims against class counsel." Frank Decl. ¶ 25. Although Mr. Frank does not specify the precise provision at issue, it appears that he is referring to the waiver of claims concerning the administration of the Settlement Fund. That waiver provides:

> Payment pursuant to this Plan of Allocation, or such other plan of allocation as may be approved by the Court, shall be conclusive against all Authorized Claimants. No person shall have any claim against Plaintiffs, Lead Class Counsel, Defendants, and their respective counsel, or other agent designated by Lead Class Counsel, arising from distributions made substantially in accordance with the Stipulation, the Plan of Allocation approved by the Court, or further orders of the Court, and against Defendants under any circumstances with respect to distributions. Lead Class Counsel, Plaintiffs, the Defendants and their respective counsel shall have no responsibility or liability whatsoever for the investment of distribution of the Settlement Fund, the Net Settlement Fund, the Plan of Allocation, or the determination, administration, calculation, or payment of any Claim Form or nonperformance of the Claims Administrator, the payment or withholding of taxes owed by the Settlement Fund, or any losses incurred in connection therewith.

Ex. 1, Notice, ¶ 45; *see also* Stipulation, ¶ 22 [Dkt. No. 155-1].

169. Annexed hereto as Exhibit 22 is a true and correct copy of a chart containing excerpts from the stipulations and notices in more than a dozen recent PSLRA settlements that

contain similar or identical release language. True and correct copies of the relevant excerpts also are annexed herewith.

VI. THE FA CAP PLAINTIFFS

170. The FA Cap Objectors all acquired Citigroup common stock pursuant to Citigroup's Voluntary Capital Accumulation Program (the "FA Cap Plan"). They are also the plaintiffs in a lawsuit filed in this Court titled, *Brecher v. Citigroup*, 09-cv-7359, which asserts claims against, *inter alia*, Citigroup on behalf of FA Cap Plan participants who received their Citigroup share on the following dates:

a. An award of a total of 2,646,640 shares of Citigroup stock on or about July 1, 2007 at a price of $39.53. The price was a 25% discount from the average of the closing prices of Citigroup common stock on the last trading days of January, February, March, April, May, and June of 2007. While the shares were awarded during the Class Period in this Action and price was set during the Class Period, in order to be eligible to receive the shares employees had to make their designation in 2006, prior to the start of the Class Period.

b. An award of 3,570,230 shares on January 1, 2008 at a price of $30.59 per share. This price was a 25% discount to the average trading price for Citigroup common stock on the last trading days of July, August, September, October, November and December 2007. While the award was made at a price that was set during the Class Period, in order to participate in this award, shareholders had to make an election in 2006, prior to the start of the Class Period.

c. An award of 6,703,140 shares on July 1, 2008 at a price of $17.15 per share. This price was a 25% discount off of the average trading price for Citigroup common stock on the last trading day of January, February, March, April, May and June 2008. While the FA Cap Plan participants had to make their election to receive the shares during the Class Period

(in 2007), the shares were awarded and the share price was determined in July 2008, following the conclusion of the Class Period.

171. Annexed hereto as Exhibit 23 is a true and correct copy of the prospectus dated December 30, 2005 and revised on November 22, 2006 for Citigroup's FA CAP Plan.

172. Because of the way the FA CAP Plan is structured, to acquire shares pursuant to the Plan, the shares were priced and awarded many months later after Plan participants are required to make their elections. The pricing and awards for the July 2007 and January 2008 awards were made during the Class Period, but the employee's election to participate in the FA CAP program with respect to those awards occurred prior to the Class Period (in 2006). And, while the employees' election concerning the July 2008 award was made during the Class Period, the shares were not priced or awarded until after the end of the Class Period.

173. In connection with the Plan of Allocation, the parties determined that the "purchase" date of shares issued pursuant to the FA Cap Plan was the date upon which the share price was set and the shares were awarded. This position is consistent with the position that the Brecher Objectors took in the sworn certifications that they signed and their counsel filed in the Southern District of California in April and May 2009.

174. Annexed hereto as Exhibit 24 is a true and correct copy of the April 2, 2009 Certification of Daniel Brecher that his counsel filed with the United States District Court for the Southern District of California on April 6, 2009.

175. Annexed hereto as Exhibit 25 is a true and correct copy of the May 29, 2009 Certification of Paul Koch that was filed with the United States District Court for the Southern District of California on May 29, 2009.

176. Annexed hereto as Exhibit 26 is a true and correct copy of the May 28, 2009 Certification of Jennifer Murphy that her counsel filed with the United States District Court for the Southern District of California on May 29, 2009.

177. Annexed hereto as Exhibit 27 is a true and correct copy of the May 29, 2009 Certification of Mark E. Oelfke that was filed with the United States District Court for the Southern District of California on May 29, 2009.

178. Annexed hereto as Exhibit 28 is a true and correct copy of the April 2, 2009 Certification of Scott Short that was filed by his counsel with the United States District Court for the Southern District of California on April 6, 2009.

179. Annexed hereto as Exhibit 29 is a true and correct copy of the May 29, 2009 Certification of Chad Taylor that was filed by his counsel with the United States District Court for the Southern District of California on May 29, 2009.

180. The 6 FA CAP Objectors acquired an aggregate total of fewer than 6,000 shares of Citigroup common stock during the Class Period pursuant to the FA CAP program. As noted previously, a total of approximately 6.2 million shares of Citigroup stock were awarded pursuant to the FA CAP plan during the Class Period. Pursuant to the Plan of Allocation, the Recognized Loss for these shares in the aggregate (approximately $17 million) represents less than one third of one percent (0.33%) of the aggregate class-wide Recognized Loss.

181. On September 19, September 27, and November 5, 2012, we had telephone conversations with Matthew M. Guiney and Mark Rifkin of the law firm of Wolf Haldenstein Adler Freeman & Herz LLP (counsel for the FA CAP Objectors). We also met in person with Messrs. Guiney and Rifkin on October 10, 2012.

182. At no time during any of these discussions did counsel for the FA CAP Objectors request that we make efforts to carve out the claims in the pending *Brecher* action from the settlement in this Action. Nor did FA CAP's counsel at any time ever suggest that the FA CAP Objectors (or other FA Cap participants) should receive an enhanced Recognized Loss under the Plan of Allocation on account of 1933 Act claims that had been filed in the *Brecher* action.

183. The FA Cap Objectors were not the only members of the Class herein to have filed their own actions against Citigroup prior to the announcement of the settlement herein, asserting claims for damages arising from their purchase of Citigroup common stock during the Class Period. Annexed hereto as Exhibit 30 is a true and correct copy of the first 11 pages of the docket sheet from *International Fund Management S.A. v. Citigroup Inc.*, No. 09-civ-8755 (S.D.N.Y.). Many of the plaintiffs in that action asserted claims arising from their purchases of Citigroup common stock during the Class Period at allegedly artificially inflated prices. As reflected in Exhibit D to the December 7, 2012 Declaration of Steven J. Cirami [Dkt. No. 171-1], many of the plaintiffs in the *International Fund Management* action and other actions consolidated therewith filed timely Requests for Exclusion from this Action, including: International Fund Management S.A., Deka Investment GmbH, Swiss Life Investment Management Holding AG, Nord/LB Kapitalanlagegesellschaft AG, Metzler Investment GmbH, Norges Bank, Mineworkers' Pension Scheme, Salomon Melgen, Flor Melgen, and SFM Holdings LP, among others.

VII. CITIGROUP'S STOCK PRICE REACTION TO THE ANNOUNCEMENT OF THE SETTLEMENT

184. Mr. Frank argues that the market did not view the Settlement favorably, because Citigroup's stock price increased from $29.34 to $29.91 per share on August 29, 2012, the day

that the Settlement was announced publicly, even though the S&P 500 Index and the common stock of Bank of America Corporation declined that day. *See* Frank Br. at 19.

185. In fact, the S&P 500 and Bank of America stock both rose on August 29, 2012. Annexed hereto as Exhibits 31 and 32, respectively, are true and correct copies of the daily prices for the S&P 500 Index and for Bank of America stock for August and September 2012.

186. Moreover, a review of Citigroup's intraday stock trading on August 29, 2012 confirms that the news of the Settlement did not cause Citigroup's price increase that day. Annexed hereto as Exhibit 33 is a true and correct copy of an intraday trading chart for Citigroup for August 29, 2012. It confirms that as of 11:51 a.m. that day, when the Settlement was first announced, Citigroup's stock price had already risen to $29.67 per share. Annexed hereto as Exhibit 34 is a true and correct copy of the press release titled, "Kirby McInerney LLP Announces $590 Million Proposed Settlement of Class Action Claims Against Citigroup Inc." dated August 29, 2012. This was the first public announcement of the Settlement in this action. It was issued at 11:51 a.m. Moreover, Citigroup's stock price fell slightly in immediate reaction to the news of the Settlement at 11:51 a.m. Finally, the remaining part of the increase in Citigroup's stock price that day (from $29.67 to $29.91 per share) occurred after 1:40 p.m. – approximately 2 hours after the Settlement was disclosed – apparently in reaction to other news.

We declare under penalty of perjury that the foregoing is true and correct. Executed this 18th day of January 2013, in New York, New York.

Ira M. Press

Peter S. Linden

EXHIBIT 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE CITIGROUP INC. SECURITIES LITIGATION	No. 07 Civ. 9901 (SHS) **ECF Case**

NOTICE OF (I) PENDENCY OF CLASS ACTION; (II) PROPOSED SETTLEMENT AND PLAN OF ALLOCATION; (III) SETTLEMENT FAIRNESS HEARING; AND (IV) MOTION FOR AN AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION EXPENSES

A Federal Court authorized this Notice. This is not a solicitation from a lawyer.

NOTICE OF PENDENCY OF CLASS ACTION: Please be advised that your rights may be affected by the above-captioned class action lawsuit before this Court (the "Action"), if you purchased or otherwise acquired Citigroup Inc. ("Citigroup" or the "Company") common stock between February 26, 2007 and April 18, 2008, inclusive (the "Class Period"), and were damaged thereby.[1]

NOTICE OF SETTLEMENT: The Court-appointed Class Representatives (as defined in Paragraph 9 below), on behalf of themselves and the Settlement Class (as defined in Paragraph 24 below), have reached an agreement to settle the Action for a $590 million cash settlement (the "Settlement"). If the Settlement is approved by the Court, all claims in the Action by the Settlement Class Members (defined in Paragraph 24 below) against all the Defendants, as well as other Released Parties, identified in Paragraph 49 below, will be resolved.

PLEASE READ THIS NOTICE CAREFULLY. This Notice explains important rights you may have, including the possible receipt of cash from the Settlement. If you are a member of the Settlement Class, your legal rights will be affected whether or not you act.

1. **Overview of the Action and the Settlement Class:** This Action is a class action lawsuit brought by investors alleging that they suffered damages as a result of alleged violations of the federal Securities Exchange Act of 1934. A more detailed description of the Action is set forth in Paragraphs 14-23 below. The "Defendants" in the Action are: (a) Citigroup; and (b) Charles Prince, Gary Crittenden, Robert Druskin, Thomas Maheras, Michael Klein, David Bushnell and Robert Rubin (the "Individual Defendants").

The proposed Settlement provides for the release of claims against all the Defendants, as well as certain other parties related to the Defendants, as specified in the Stipulation and as defined more fully in Paragraph 49 below. The Settlement Class consists of all persons and entities who purchased or otherwise acquired Citigroup common stock during the Class Period (as defined more fully in Paragraph 24 below). Members of the Settlement Class will be affected by the Settlement, if approved by the Court, and may be eligible to receive a payment from the Settlement.

2. **Statement of the Settlement Class' Recovery:** The parties have agreed to settle all claims asserted in the Action in exchange for $590 million in cash, plus interest as earned from the date ten business days after Preliminary Approval of the Settlement, until the Effective Date (the "Settlement Amount"). The sum of the Settlement Amount is referred to as the "Settlement Fund." The "Net Settlement Fund" (the Settlement Fund less any taxes, attorneys' fees, expert fees, Notice and Administration Costs, Litigation Expenses, or other costs and expenses approved by the Court) will be distributed in accordance with the plan of allocation that is approved by the Court, which will determine how the Net Settlement Fund shall be allocated among Settlement Class Members who are eligible to participate in the distribution of the Net Settlement Fund and who submit a timely and valid proof of claim and release form (a "Claim Form" or "Proof of Claim Form"). The proposed plan of allocation (the "Plan of Allocation") is included in this Notice at pages 7-8 below.

3. **Estimate of Average Amount of Recovery Per Share**: Based on the information currently available to Plaintiffs and the analysis performed by their damages experts, the estimated average recovery per eligible share (before the deduction of any Court-approved fees, expenses and costs as described herein) would be approximately $0.19, if all eligible Settlement Class Members submit valid and timely Claim Forms. If fewer than all Settlement Class Members submit timely and valid claims, this may result in higher distributions per share. A Settlement Class Member's actual recovery will be a proportion of the Net Settlement Fund determined by that Settlement Class Member's Recognized Loss (as defined below) as compared to the total Recognized Losses of all Settlement Class Members who submit timely and valid Claim Forms. *See* the Plan of Allocation beginning on page 7 for more information.

4. **Statement of Potential Outcome of Case**: The Parties disagree on both liability and damages and do not agree on the average amount of damages per share of Citigroup common stock that would be recoverable if Plaintiffs were to prevail in the Action. The Defendants deny that Plaintiffs have asserted any valid claims as to any of them, and expressly deny any and all allegations of fault, liability, wrongdoing or damages whatsoever. The issues on which the Parties disagree with respect to liability include, without limitation: (1) whether Defendants made any materially false or misleading statements during the Class Period; (2) in the event that Plaintiffs can establish that Defendants made any false or misleading statements, whether Plaintiffs can also prove that Defendants acted with fraudulent intent in doing so; and (3) the impact, if any, that any alleged false or misleading statements had on the market price of Citigroup common stock during the relevant period. The Defendants assert that they were prepared to establish that the price of Citigroup's common stock declined in value for reasons not related to the allegations at issue in the Action. The issues on which the Parties disagree with respect to damages, even assuming that Plaintiffs were to prevail on all liability issues, include, without limitation: (1) the appropriate economic methodology for determining the amount by which Citigroup common stock was allegedly artificially inflated (if at all) during the Class Period; (2) the amount by which Citigroup common stock was allegedly artificially inflated (if at all) during the Class Period; and (3) the extent to which information that influenced the trading prices of Citigroup common stock at various times during the Class Period corrected or otherwise related to the allegedly misleading statements that gave rise to Plaintiffs' claim.

[1] Any capitalized terms used in this Notice that are not otherwise defined herein shall have the meanings ascribed to them in the Stipulation and Agreement of Settlement dated August 28, 2012 (the "Stipulation"), which is available on the website established for the Settlement at www.citigroupsecuritiessettlement.com.

5. **Attorneys' Fees and Expenses Sought**: Plaintiffs intend to seek attorneys' fees not to exceed 17% of the $590 million Settlement Fund, plus expenses incurred in connection with prosecution of this Action in the approximate amount of $3,750,000. Such requested attorneys' fees and expenses would amount to an average of approximately $0.03 per damaged share of Citigroup common stock. In addition, the class recovery will be reduced by Notice and Administration costs. *See* How Will The Notice Costs And Expenses Be Paid? on page 10 below. **Please note that these amounts are only estimates.**

6. **Identification of Attorneys' Representatives:** Plaintiffs and the Settlement Class are represented by the law firm of Kirby McInerney LLP, the Court-appointed Lead Class Counsel in the Action ("Lead Class Counsel"). Any questions regarding the Settlement should be directed to:

Andrew McNeela, Esq.
Peter S. Linden, Esq.
KIRBY McINERNEY LLP
825 Third Avenue
New York, NY 10022
(212) 371-6600

The Court has appointed a Claims Administrator, who is also available to answer questions from Settlement Class Members regarding matters contained in this Notice, including submission of a Proof of Claim Form, and from whom additional copies of this Notice and the Proof of Claim Forms may be obtained.

In re Citigroup Inc. Securities Litigation
c/o GCG
P.O. Box 9899
Dublin, Ohio 43017-5799
(877) 600-6533
www.citigroupsecuritiessettlement.com
Questions@citigroupsecuritiessettlement.com

Please do not contact any representative of the Defendants or the Court with questions about the Settlement.

7. **Reasons for the Settlement:** Plaintiffs believe that the proposed Settlement is an excellent recovery and is in the best interests of the Settlement Class. The principal reasons for entering into the Settlement are the substantial benefits payable to the Settlement Class now, without further risk or the delays inherent in further litigation. The significant cash benefits under the Settlement must be considered against the significant risk that a smaller recovery – or indeed no recovery at all – might be achieved after a decision on the pending motion for class certification, contested summary judgment process, a contested trial (if the Plaintiffs prevailed on previous motions) and possible appeals at each stage, a process that may last years into the future. Plaintiffs further considered, after conducting substantial investigation into the facts of the case, the risks to proving liability and damages and if successful in doing so, whether a larger judgment could ultimately be obtained. For the Defendants, who deny all allegations of wrongdoing or liability whatsoever (and also deny all allegations that any conduct on their part caused any Settlement Class Members to suffer any damages), the principal reason for entering into the Settlement is to eliminate the expense, risks and uncertainty of further litigation.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
SUBMIT A CLAIM FORM POSTMARKED BY FEBRUARY 7, 2013.	This is the only way to be eligible to get a payment from the Settlement. If you are a Settlement Class Member, and do not exclude yourself from the Settlement Class, you will be bound by the Settlement as approved by the Court and you will give up any "Released Claims" (as defined in Paragraph 49 below) that you have against the Defendants. If you do not exclude yourself from the Settlement Class, it is likely in your interest to submit a Claim Form.
EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS BY SUBMITTING A WRITTEN REQUEST FOR EXCLUSION SO THAT IT IS *RECEIVED* NO LATER THAN DECEMBER 6, 2012.	If you exclude yourself from the Settlement Class, you will not be eligible to receive any payment from the Settlement Fund. This is the only option that allows you ever to be part of any other lawsuit against any of the Defendants concerning the Released Claims.
OBJECT TO THE SETTLEMENT BY SUBMITTING A WRITTEN OBJECTION SO THAT IT IS *RECEIVED* NO LATER THAN DECEMBER 21, 2012.	If you do not like any aspect of the proposed Settlement, the proposed Plan of Allocation, or the request for attorneys' fees and reimbursement of Litigation Expenses, you may write to the Court and explain why you do not like them. You cannot object to the Settlement, the Plan of Allocation or the fee and expense request unless you are a Settlement Class Member and do not exclude yourself from the Settlement Class.
GO TO A HEARING ON JANUARY 15, 2013 AT 10:00 A.M., AND FILE A NOTICE OF INTENTION TO APPEAR SO THAT IT IS *RECEIVED* NO LATER THAN DECEMBER 21, 2012.	Filing a written objection and notice of intention to appear by **December 21, 2012** allows you to speak in Court about the fairness of the Settlement, the Plan of Allocation and/or the request for attorneys' fees and reimbursement of Litigation Expenses. If you submit a written objection, you may (but you do not have to) attend the hearing and speak to the Court about your objection.
DO NOTHING.	If you are a member of the Settlement Class and you do not submit a Claim Form postmarked by **February 7, 2013**, you will not be eligible to receive any payment from the Settlement Fund. You will, however, remain a member of the Settlement Class, which means that you give up your right to sue about the claims that are resolved by the Settlement and you will be bound by any judgments or orders entered by the Court in the Action.

[END OF COVER PAGE]

WHAT THIS NOTICE CONTAINS

WHY DID I GET THIS NOTICE?

8. This Notice is being sent to you pursuant to an Order of the United States District Court for the Southern District of New York because you or someone in your family or an investment account for which you serve as a custodian may have purchased or otherwise acquired Citigroup common stock during the Class Period. The Court has directed us to send you this Notice because, as a potential Settlement Class Member, you have a right to know how this Settlement may generally affect your legal rights.

9. A class action is a type of lawsuit in which similar claims of a large number of individuals or entities are resolved together, thereby allowing for the efficient and consistent resolution of the claims of all class members in a single proceeding. In a class action lawsuit, the court appoints one or more people, known as class representatives, to sue on behalf of all people with similar claims, commonly known as the class or the class members. In this Action, the Court has appointed Jonathan Butler, M. David Diamond, David K. Whitcomb, Henrietta C. Whitcomb, John A. Baden III, Warren Pinchuck, Anthony Sedutto, Edward Claus, Carol Weil, and Public Employees' Retirement Association of Colorado to serve as the class representatives (hereinafter "Class Representatives"), and the Court has approved Lead Plaintiffs' selection of the law firm of Kirby McInerney LLP to serve as Lead Class Counsel in the Action.

10. The court in charge of this case is the United States District Court for the Southern District of New York, and the case is known as *In re Citigroup Inc. Securities Litigation,* No. 07 Civ. 9901 (S.D.N.Y.) (SHS). The Judge presiding over this case is the Hon. Sidney H. Stein, United States District Judge. The persons or entities that are suing are called plaintiffs, and those who are being sued are called defendants. If the Settlement is approved, it will resolve all claims in the Action by Settlement Class Members against all of the Defendants, and will bring the Action to an end.

11. The purpose of this Notice is to inform you of the existence of this class action, how you might be affected and how to exclude yourself from the Settlement Class if you wish to do so. It is also being sent to inform you of the terms of the proposed Settlement, and of a hearing to be held by the Court to consider the fairness, reasonableness and adequacy of the Settlement, the proposed Plan of Allocation and the motion by Lead Class Counsel for an award of attorneys' fees and reimbursement of Litigation Expenses (the "Settlement Hearing").

12. The Settlement Hearing will be held on January 15, 2013 at 10:00 a.m., before the Hon. Sidney H. Stein at the United States District Court for the Southern District of New York, Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, Courtroom 23A, New York, NY 10007-1312, to determine:

a. whether the proposed Settlement is fair, reasonable and adequate, and should be approved by the Court;
b. whether all claims asserted in the Action against the Defendants should be dismissed on the merits and with prejudice, and whether all Released Claims against the Defendants and Citigroup Releasees should be released as set forth in the Stipulation;
c. whether the proposed Plan of Allocation is fair and reasonable, and should be approved by the Court; and
d. whether Lead Class Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses should be approved.

13. This Notice does not express any opinion by the Court concerning the merits of any claim in the Action, and the Court still has to decide whether to approve the Settlement. If the Court approves the Settlement and the Plan of Allocation, then payments to Authorized Claimants will be made after any appeals are resolved and after the completion of all claims processing. Please be patient, as this process can take some time to complete.

WHAT IS THE CASE ABOUT? WHAT HAS HAPPENED SO FAR?

14. On November 8, 2007, a putative class action, *In re Citigroup Inc. Securities Litigation*, No. 07 Civ. 9901 (S.D.N.Y.) (SHS), was filed in the United States District Court for the Southern District of New York (the "Court") alleging claims under Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 (the "Exchange Act") against Citigroup and certain of its officers and directors.

15. On August 19, 2008 the Court appointed Jonathan Butler, M. David Diamond, David Whitcomb and Henrietta Whitcomb (the "ATD Group") as Interim Lead Plaintiffs and the law firm of Kirby McInerney LLP as Interim Lead Counsel to represent the putative class.

16. On February 24, 2009, Plaintiffs filed their Amended Consolidated Class Action Complaint (the "Complaint"), on behalf of a proposed class of themselves and all other persons or entities who purchased or otherwise acquired Citigroup's common stock between January 1, 2004 and January 15, 2009, inclusive, and who were damaged thereby. The Complaint asserted claims under Sections 10(b) and 20(a) of the Exchange Act in connection with, among other things, Citigroup's disclosures concerning collateralized debt obligations ("CDOs"), structured investment vehicles ("SIVs"), mortgages, leveraged loans, auction rate securities, residential mortgage backed securities ("RMBSs"), solvency and generally accepted accounting principles against Citigroup and certain of Citigroup's officers and directors including Charles Prince, Robert Rubin, Lewis Kaden, Sallie Krawcheck, Gary Crittenden, Steven Freiberg, Robert Druskin, Todd S. Thomson, Thomas G. Maheras, Michael Stuart Klein, David Bushnell, John C. Gerspach, Stephen R. Volk and Vikram Pandit.

17. On March 13, 2009, the Defendants filed a motion to dismiss the Complaint and a comprehensive brief and numerous exhibits in support thereof. Plaintiffs filed their similarly comprehensive papers in opposition to these motions on April 24, 2009, and the Defendants filed their reply papers on May 13, 2009.

18. On November 9, 2010, the Court entered its Opinion and Order on the motion to dismiss. *See In re Citigroup Inc. Sec. Litig.*, 753 F. Supp. 2d. 206 (S.D.N.Y. 2010) (the "November 9 Opinion"). The November 9 Opinion denied Defendants' motion to dismiss: (1) the Section 10(b) claims against Citigroup and the Section 10(b) and 20(a) claims against Prince, Crittenden, Druskin, Maheras, Klein, Bushnell and Rubin for the alleged misstatements and omissions relating to Citigroup's CDO exposure during the period from February 2007 through November 3, 2007; and (2) the Section 10(b) claims against Citigroup and the Section 10(b) and 20(a) claims against Crittenden for the alleged CDO-related misstatements and omissions occurring in the period from November 4, 2007 to April 2008. *In re Citigroup Inc. Sec. Litig.*, 753 F. Supp. 2d 206, 249 (S.D.N.Y. 2010). The remaining defendants and claims alleged in the Complaint were dismissed by the Court.

19. Following the November 9 Opinion, each party has conducted extensive discovery. Plaintiffs have produced thousands of pages of documents and provided 16 witnesses who were deposed by Defendants. Plaintiffs obtained almost 35 million pages of documents from Defendants and took depositions of more than 30 witnesses who were produced by Defendants. In addition, Plaintiffs obtained approximately 5 million pages of documents from third parties, and several experts for both Plaintiffs and Defendants have issued reports and have been deposed.

20. On July 15, 2011, Plaintiffs filed a motion seeking certification of the class. In the ensuing months, both sides filed numerous submissions with the Court in connection with this motion.

21. Plaintiffs and Defendants subsequently agreed to retain Judge Layn R. Phillips (ret.) ("Judge Phillips" or the "Mediator") to assist them in exploring a potential negotiated resolution of the claims against the Defendants, and met and exchanged certain information under the auspices of the Mediator in February and March 2012 (including a lengthy face-to-face mediation session held in New York City) in an effort to determine if the claims against the Defendants could be settled. After making significant progress, a second face-to-face mediation session was held in April 2012, and thereafter the Parties engaged in further negotiation through the mediator.

22. **Mediator's Statement:** In late April 2012, and after face-to-face and arm's-length negotiation, Judge Phillips proposed a settlement of the Action for $590 million, all cash, to be paid by the Defendants or their insurers. The parties and their counsel accepted the proposal. In Judge Phillips' opinion, "the proposed Settlement is the result of vigorous arm's length negotiation by both sides. I believe, based on my extensive discussions with the Parties and the information made available to me both before and during the mediation, that the Settlement was negotiated in good faith and that the Settlement is fair and reasonable."

23. On August 28, 2012, the Parties entered into the Stipulation setting forth the terms and conditions of the proposed Settlement. On August 29, 2012, the Court entered an Order Preliminarily Approving Proposed Settlement and Providing for Notice ("Order"), which preliminarily approved the Settlement, authorized this Notice be sent to potential Settlement Class Members and scheduled the Settlement Hearing to consider whether to grant final approval to the Settlement. Pursuant to the Court's August 29th Order, the Action was also certified as a class action with the consent of the Defendants for settlement purposes only.

HOW DO I KNOW IF I AM AFFECTED BY THE SETTLEMENT?

24. If you are a member of the Settlement Class, you are subject to the Settlement, unless you timely request to be excluded. The "Settlement Class" consists of:

> All persons who purchased or otherwise acquired common stock issued by Citigroup during the period between February 26, 2007 and April 18, 2008, inclusive, or their successor in interest, and who were damaged thereby, excluding (i) the defendants named in the Complaint, (ii) members of the immediate families of the individual defendants named in the Complaint, (iii) any firm, trust, partnership, corporation, present or former officer, director or other individual or entity in

which any of the Citigroup Defendants has a controlling interest or which is related to or affiliated with any of the Citigroup Defendants, and (iv) the legal representatives, heirs, successors-in-interest or assigns of any such excluded persons or entities. The Settlement Class includes persons or entities who acquired shares of Citigroup common stock during the Class Period by any method, including but not limited to in the secondary market, in exchange for shares of acquired companies pursuant to a registration statement, or through the exercise of options including options acquired pursuant to employee stock plans, and persons or entities who acquired shares of Citigroup common stock after the Class Period pursuant to the sale of a put option during the Class Period. Regardless of the identity of the person or entity that beneficially owned Citigroup common stock in a fiduciary capacity or otherwise held Citigroup common stock on behalf of third party clients or any employee benefit plans, such third party clients and employee benefit plans shall not be excluded from the Settlement Class, irrespective of the identity of the entity or person in whose name the Citigroup common stock were beneficially owned, except that any beneficiaries of such third party clients, or beneficiaries of such benefit plans who are natural persons and, who are otherwise excluded above will not share in any settlement recovery. Notwithstanding the foregoing, the Settlement Class shall not include Persons whose only acquisition of Citigroup common stock during the Class Period was via gift or inheritance if the Person from which the common stock was received did not themselves acquire the common stock during the Class Period.

"Settlement Class Member" means a member of the Settlement Class who does not exclude himself, herself or itself by submitting a request for exclusion in accordance with the requirements set forth in this Notice.

PLEASE NOTE: RECEIPT OF THIS NOTICE DOES NOT MEAN THAT YOU ARE A SETTLEMENT CLASS MEMBER OR THAT YOU WILL BE ENTITLED TO RECEIVE PROCEEDS FROM THE SETTLEMENT. IF YOU ARE A SETTLEMENT CLASS MEMBER AND YOU WISH TO BE ELIGIBLE TO PARTICIPATE IN THE DISTRIBUTION OF PROCEEDS FROM THE SETTLEMENT, YOU ARE REQUIRED TO SUBMIT THE CLAIM FORM THAT IS BEING DISTRIBUTED WITH THIS NOTICE AND THE REQUIRED SUPPORTING DOCUMENTATION AS SET FORTH THEREIN POSTMARKED NO LATER THAN FEBRUARY 7, 2013.

WHAT ARE PLAINTIFFS' REASONS FOR THE SETTLEMENT?

25. Plaintiffs and Lead Class Counsel believe that the claims asserted against the Defendants in this Action have substantial merit, and that their legal advocacy and diligent factual investigation have led to a Settlement that reflects an exceptionally significant recovery.

26. Plaintiffs and Lead Class Counsel recognize, however, the expense and length of continued proceedings necessary to pursue their claims against the Defendants, as well as the inherent risks in establishing liability for violations of the federal securities laws. In the event that the motion for certification of the class was granted, there remains the inherent uncertainty that Plaintiffs and Lead Class Counsel would face in proving that the Defendants acted with fraudulent intent. Plaintiffs have taken into account that the claims made in the Complaint may not have survived a motion for summary judgment by Defendants. Moreover, jury reactions to Plaintiffs' proofs (and the Defendants' responses thereto) on the types of complex issues in this case are inherently difficult to predict. Although Plaintiffs were confident that they would have been able to support their claims with qualified and persuasive expert testimony, Defendants would have almost certainly retained highly experienced experts to argue their various defenses to liability.

27. In addition, even if the Defendants' liability could otherwise be established, Plaintiffs faced serious arguments by the Defendants that any losses suffered by Settlement Class Members on their investments in Citigroup common stock were attributable to factors other than the alleged wrongdoing. For example, the Defendants may have argued that any losses suffered by Settlement Class Members here were caused primarily – if not entirely – by the "financial tsunami" and related financial and liquidity crisis of 2007-08, and not by any alleged misrepresentations concerning Citigroup's exposure to, or valuation of, CDOs or the other matters alleged in the Complaint. As with contested liability issues, issues relating to loss causation and damages would also have likely come down to an inherently unpredictable and hotly disputed "battle of the experts." Accordingly, even if liability were established, there was a real risk that, after a trial of the Action, the Settlement Class would have recovered an amount less than the Settlement Amount – or even nothing at all.

28. In agreeing to the terms of the Settlement, Plaintiffs and Lead Class Counsel weighed the magnitude of the benefits ($590,000,000) against the risks that the claims asserted in the Complaint would be dismissed following completion of discovery in response to Defendants' anticipated motion for summary judgment. They have also considered the nature of the various issues that would have been decided by a jury in the event of a trial of the Action, including all of the risks of litigation discussed above.

29. Finally, Plaintiffs and Lead Class Counsel have also considered the fact that any recoveries obtained from a favorable verdict after a trial would still be in jeopardy on further appeal, and, even if a favorable verdict were ultimately sustained on appeal, it would likely take additional years before the Action was finally resolved, absent a settlement.

30. In light of the amount of the Settlement and the benefits of immediate and certain recovery to the Settlement Class as compared to the risks and uncertainties of ever obtaining a superior recovery at some indeterminate date in the future, Plaintiffs and Lead Class Counsel strongly believe that the proposed Settlement is fair, reasonable, adequate and in the best interests of the Settlement Class. Indeed, they respectfully submit that the Settlement achieved represents a truly outstanding result for the Settlement Class.

31. The Defendants have vigorously denied the claims asserted against them in the Action and vigorously deny having engaged in any wrongdoing or violation of law of any kind whatsoever. Defendants state that they are entering into this Settlement solely to eliminate the uncertainties, burden and expense of further protracted litigation, and the Stipulation they have agreed to provides that the Settlement shall not be construed as an admission of any wrongdoing by any of the Defendants or counsel for any of the Defendants.

HOW MUCH WILL MY PAYMENT BE?

32. At this time, it is not possible to make any determination as to how much a Settlement Class Member may receive from the Settlement. After approval of the Settlement by the Court and upon satisfaction of the other conditions to the Settlement, the Net Settlement Fund will be distributed to Authorized Claimants in accordance with the Plan of Allocation approved by the Court. Under the proposed Plan of Allocation, your share of the Net Settlement Fund will depend on: (1) the dates you acquired or sold your Citigroup common stock, (2) the number of shares acquired or sold and the price paid or received, (3) the expense of administering the claims process, (4) any attorneys' fees and expenses awarded by the Court, (5) interest income received and taxes paid by the Settlement Fund, (6) the number of eligible shares acquired by other Settlement Class Members who submit timely and valid Proof of Claim Forms, and (7) the Recognized Losses of all other Authorized Claimants computed in accordance with the Plan of Allocation set out on pages 7-8 below.

33. You can calculate your Recognized Loss in accordance with the formula set forth below in the proposed Plan of Allocation. In the event the aggregate Recognized Losses of all timely and validly submitted Proof of Claim Forms exceed the Net Settlement Fund, your share of the Net Settlement Fund will be proportionally less than your calculated Recognized Loss. It is unlikely that you will get a payment for all of your Recognized Loss. After all Settlement Class Members have sent in their Proof of Claim Forms, the payment you get will be that proportion of the Net Settlement Fund equal to your Recognized Loss divided by the total Recognized Losses of all Settlement Class Members who submit timely and valid Proof of Claim Forms (the "*Pro Rata* Share"). *See* the Plan of Allocation on pages 7-8 for more information on your Recognized Loss.

34. The Defendants have agreed to pay $590 million in cash. The Settlement Amount will be deposited into an interest-bearing escrow account. If the Settlement is approved by the Court, the Net Settlement Fund will be distributed to Settlement Class Members as set forth in the proposed Plan of Allocation or such other plan as the Court may approve. The Claims Administrator shall determine each Authorized Claimant's *Pro Rata* Share of the Net Settlement Fund based upon each Authorized Claimant's Recognized Loss. The Recognized Loss formula is the basis upon which the Net Settlement Fund will be proportionately allocated to the Authorized Claimants. The Net Settlement Fund shall be distributed to Settlement Class Members who submit timely and valid Proof of Claim Forms and whose payment from the Net Settlement Fund would equal or exceed ten dollars ($10.00).

35. The Net Settlement Fund will not be distributed until the Court has approved a plan of allocation, and the time for any petition for rehearing, appeal or review, whether by certiorari or otherwise, has expired.

36. Neither the Defendants nor any other person or entity that paid any portion of the Settlement Amount on any of their behalves are entitled to get back any portion of the Settlement Fund once the Court's order or judgment approving the Settlement becomes final. The Defendants shall not have any liability, obligation or responsibility for the administration of the Settlement or disbursement of the Net Settlement Fund or the Plan of Allocation.

37. Approval of the Settlement is independent from approval of the Plan of Allocation. Any determination with respect to the Plan of Allocation will not affect the Settlement, if approved.

38. Only those Settlement Class Members who purchased or otherwise acquired Citigroup common stock during the Class Period and were damaged as a result of such purchases or acquisitions, will be eligible to share in the distribution of the Net Settlement Fund. Each person or entity wishing to participate in the distribution must timely submit a valid Claim Form establishing membership in the Settlement Class, and include all required documentation, postmarked on or before **February 7, 2013** to the address set forth in the Claim Form that accompanies this Notice.

39. Unless the Court otherwise orders, any Settlement Class Member who fails to submit a Claim Form postmarked on or before **February 7, 2013** shall be forever barred from receiving payments pursuant to the Settlement but will in all other respects remain a Settlement Class Member and be subject to the provisions of the Stipulation and Settlement, including the terms of any judgments entered and releases given. This means that each Settlement Class Member is bound by the release of claims (described in Paragraph 49 below) regardless of whether or not such Settlement Class Member submits a Claim Form.

40. *Information Required on the Claim Form*: Among other things, each Claim Form must state and provide sufficient documentation for each Claimant's transactions in Citigroup common stock during the Class Period.

41. The Court has reserved jurisdiction to allow, disallow or adjust the Claim of any Settlement Class Member on equitable grounds.

42. Each Claimant shall be deemed to have submitted to the jurisdiction of the United States District Court for the Southern District of New York with respect to his, her or its Claim Form.

43. Persons and entities that are excluded from the Settlement Class by definition or that exclude themselves from the Settlement Class will not be eligible to receive a distribution from the Net Settlement Fund and should not submit Claim Forms.

PROPOSED PLAN OF ALLOCATION

44. The Plan of Allocation has been prepared by Plaintiffs and Lead Class Counsel. It reflects the allegations in the Complaint that Defendants made materially untrue and misleading statements and omissions resulting in violations of Sections 10(b) and 20(a) of the Exchange Act and opinions of Plaintiffs' experts on damages that were caused by disclosures relating to Defendants' alleged misleading statements. The objective of the Plan of Allocation is to equitably distribute the Settlement proceeds to the Settlement Class Members who suffered economic losses as a result of the alleged violations of the federal securities laws, as opposed to losses caused by market or industry factors or factors unrelated to the alleged violations of law. As set forth in the Plan of Allocation, Plaintiffs allege that on certain disclosure dates, Citigroup disclosed information that allegedly corrected previous alleged misrepresentations and omissions, causing a drop in Citigroup's stock price (net of factors unrelated to the alleged misrepresentations and omissions). An Authorized Claimant's Recognized Loss will be based upon the particular disclosure date(s) on which the Claimant held Citigroup stock for those shares purchased during the Class Period. The Recognized Loss formula is not intended to be an estimate of the amount that will be paid to Authorized Claimants pursuant to the Settlement. The Recognized Loss formula is simply the basis upon which the Net Settlement Fund will be proportionately allocated to the Authorized Claimants.

For shares of Citigroup common stock purchased or otherwise acquired between February 26, 2007 and April 18, 2008, inclusive, the Recognized Loss will be calculated as set forth below:

A. For shares held at the end of trading on July 17, 2008, the Recognized Loss shall be that number of shares multiplied by the lesser of:

(1) the applicable purchase/acquisition date artificial inflation per share figure, as found in Table A below; or
(2) the difference between the purchase/acquisition price per share and $21.07.[2]

B. For shares sold between February 26, 2007 and April 18, 2008, inclusive, the Recognized Loss shall be that number of shares multiplied by the lesser of:

(1) the applicable purchase/acquisition date artificial inflation per share figure less the applicable sale date artificial inflation per share figure, as found in Table A below; or
(2) the difference between the purchase/acquisition price per share and the sale price per share.

C. For shares sold between April 19, 2008 and July 17, 2008, inclusive, the Recognized Loss shall be the lesser of:

(1) the applicable purchase/acquisition date artificial inflation per share figure, as found in Table A below;
(2) the difference between the purchase/acquisition price per share and the sale price per share; or
(3) the difference between the purchase/acquisition price per share and the average closing price of Citigroup common stock between April 19, 2008 and the date of sale.[3]

D. To the extent an Authorized Claimant had an aggregate gain from his, her or its transactions in Citigroup common stock during the Class Period, the value of his, her or its total Recognized Loss will be zero. To the extent that an Authorized Claimant suffered an overall loss on his, her or its transactions in Citigroup common stock during the Class Period, but the loss was less than the Recognized Loss calculated above, then the Recognized Loss shall be limited to the amount of the actual loss. There shall be no Recognized Loss on short sales of Citigroup common stock during the Class Period or Class Period purchases that were made in order to cover short sales; however, any aggregate gains with respect to short sales shall be offset against Recognized Losses on other transactions.

Table A

Purchase/Acquisition or Sale Date Range	Artificial Inflation Per Share
2/26/07 – 11/4/07	$4.94
11/5/07	$3.38
11/6/07 – 11/18/07	$1.72
11/19/07 – 1/14/08	$1.15
1/15/08	$0.71
1/16/08 – 4/18/08	$0.10

[2] Pursuant to Section 21(D)(e)(1) of the Private Securities Litigation Reform Act of 1995, "in any private action arising under this Act in which the plaintiff seeks to establish damages by reference to the market price of a security, the award of damages to the plaintiff shall not exceed the difference between the purchase or sale price paid or received, as appropriate, by the plaintiff for the subject security and the mean trading price of that security during the 90-day period beginning on the date on which the information correcting the misstatement or omission that is the basis for the action is disseminated to the market." $21.07 was the mean closing price of Citigroup common stock during the 90 day period beginning on April 19, 2008 and ending on July 17, 2008 (the "Holding Value").

[3] Pursuant to Section 21(D)(e)(2) of the Private Securities Litigation Reform Act of 1995, "in any private action arising under this Act in which the plaintiff seeks to establish damages by reference to the market price of a security, if the plaintiff sells or repurchases the subject security prior to the expiration of the 90 day period described in paragraph (1), the plaintiff's damages shall not exceed the difference between the purchase or sale price paid or received, as appropriate, by the plaintiff for the security and the mean trading price of the security during the period beginning immediately after dissemination of information correcting the misstatement or omission and ending on the date on which the plaintiff sells or repurchases the security."

All purchases/acquisitions and sales of Citigroup shares in the Class Period shall be matched on a Last-In-First-Out ("LIFO") basis; sales during the Class Period and the 90 days thereafter will be matched first against the most recent Citigroup shares purchased during that period that have not already been matched to sales under LIFO, and then against prior purchases/acquisitions in backward chronological order, until the beginning of the Class Period. A purchase/acquisition or sale of Citigroup common stock shall be deemed to have occurred on the "contract" or "trade" date as opposed to the "settlement" or "payment" date. However, (a) for Citigroup shares acquired pursuant to a corporate merger or acquisition, the purchase of the Citigroup shares shall be deemed to have occurred on the date that the merger agreement was executed, and (b) for Citigroup shares that were put to investors pursuant to put options sold by those investors, the purchase of the Citigroup shares shall be deemed to have occurred on the date that the put option was sold, rather than the date on which the stock was subsequently put to the investor pursuant to that option. The proceeds of any put option sales shall be offset against any losses from shares that were purchased as a result of the exercise of the put option.

The receipt or grant by gift, devise or inheritance of Citigroup common stock during the Class Period shall not be deemed to be a purchase or acquisition of Citigroup common stock for the calculation of an Authorized Claimant's Recognized Loss if the Person from which the Citigroup common stock was received did not themselves acquire the common stock during the Class Period, nor shall it be deemed an assignment of any claim relating to the purchase or acquisition of such shares unless specifically provided in the instrument or gift or assignment.

The following defined terms shall be used to describe the process the Claims Administrator shall use to determine whether an Authorized Claimant had a gain or suffered a loss in his, her or its overall transactions in Citigroup common stock during the Class Period: the "Total Purchase Amount" is the total amount paid by the Authorized Claimant for all Citigroup common stock purchased or otherwise acquired during the Class Period less commissions and fees; the "Sales Proceeds" means the amount received for sales of Citigroup common stock purchased or otherwise acquired by the Authorized Claimant during the Class Period and sold on or by July 17, 2008, as matched pursuant to LIFO less commissions and fees; and "Holding Value" means the monetary value assigned to the shares of Citigroup common stock purchased or otherwise acquired by the Authorized Claimant during the Class Period and still held by the Authorized Claimant as of the close of trading on July 17, 2008 (see fn. 2).

If any funds remain in the Net Settlement Fund by reason of uncashed distributions or otherwise, then after the Claims Administrator has made reasonable and diligent efforts to have Settlement Class Members who are entitled to participate in the distribution of the Net Settlement Fund cash their distributions, any balance remaining in the Net Settlement Fund six (6) months after the initial distribution of such funds shall be redistributed to Settlement Class Members who have cashed their initial distributions in a manner consistent with the Plan of Allocation. Lead Class Counsel shall, if feasible, continue to reallocate any further balance remaining in the Net Settlement Fund after the redistribution is completed among Settlement Class Members in the same manner and time frame as provided for above. In the event that Lead Class Counsel determines that further redistribution of any balance remaining (following the initial distribution and redistribution) is no longer feasible, thereafter, Lead Class Counsel shall donate the remaining funds, if any, to a non-sectarian charitable organization(s) certified under the United States Internal Revenue Code § 501(c)(3), to be designated by Lead Class Counsel and approved by the Court.

45. Payment pursuant to this Plan of Allocation, or such other plan of allocation as may be approved by the Court, shall be conclusive against all Authorized Claimants. No person shall have any claim against Plaintiffs, Lead Class Counsel, Defendants, and their respective counsel, or other agent designated by Lead Class Counsel, arising from distributions made substantially in accordance with the Stipulation, the Plan of Allocation approved by the Court, or further orders of the Court, and against Defendants under any circumstances with respect to distributions. Lead Class Counsel, Plaintiffs, the Defendants and their respective counsel shall have no responsibility or liability whatsoever for the investment or distribution of the Settlement Fund, the Net Settlement Fund, the Plan of Allocation, or the determination, administration, calculation, or payment of any Claim Form or nonperformance of the Claims Administrator, the payment or withholding of taxes owed by the Settlement Fund, or any losses incurred in connection therewith.

46. The Plan of Allocation set forth herein is the plan that is being proposed to the Court for its approval by Plaintiffs and Lead Class Counsel after consultation with their experts. The Court may approve this plan as proposed or it may modify the Plan of Allocation without further notice to the Settlement Class. The Court will retain jurisdiction over the Plan of Allocation to the extent necessary to ensure that it is fully and fairly implemented. Any orders regarding any modification of the Plan of Allocation will be posted on the settlement website, www.citigroupsecuritiessettlement.com and Lead Class Counsel's website at www.kmllp.com.

WHAT RIGHTS AM I GIVING UP BY REMAINING IN THE SETTLEMENT CLASS?

47. If you remain in the Settlement Class, you will be bound by any orders issued by the Court. For example, if the Settlement is approved, the Court will enter a judgment (the "Judgment"), which will dismiss on the merits with prejudice the claims against the Defendants and will provide that Lead Plaintiff, Named Plaintiffs, Additional Proposed Named Plaintiffs and other Settlement Class Members who have not timely and validly opted out in accordance with the requirements set forth in the Notice of Class Action, on behalf of themselves, their respective present and former parents, subsidiaries, divisions and affiliates, the present and former employees, officers and directors of each of them, the present and former attorneys, accountants, insurers, and agents of each of them, and the predecessors, heirs, successors and assigns of each, are deemed to have, and by operation of the Judgment have, fully, finally, and forever released, relinquished and discharged (whether or not such Settlement Class Members execute and deliver the proof of claim and release forms) (1) all Released Claims (as defined in Paragraph 49 below) against the Citigroup Releasees (as defined in Paragraph 49 below); and (2) against each and all of the Citigroup Releasees all claims arising out of, relating to, or in connection with, the defense, settlement or resolution of the Action or Released Claims. All Settlement Class Members are hereby permanently barred and enjoined from instituting or prosecuting any other action asserting any Released Claim in any court against the Citigroup Releasees. This release shall not apply to any Person who has timely and validly requested exclusion from the Settlement Class in accordance with the instructions set forth in Paragraph 58 below.

48. If you purchased or otherwise acquired Citigroup common stock during the Class Period through Citigroup's Voluntary FA Capital Accumulation Program then you may also be a member of a proposed plaintiff investor class in a lawsuit pending in the Southern District of New York titled *Brecher v. Citigroup Inc.* 09 civ. 7359 (the "*Brecher* action"). If you participate in this Settlement, you will release any claims that you may have in the *Brecher* action relating to Citigroup common stock that you purchased or otherwise acquired during the Class Period. The only way you can preserve any claims that you may have in the *Brecher* action, or otherwise, relating to Citigroup common stock purchased or otherwise acquired during the Class Period, is by filing valid requests for exclusion from this Settlement.

49. As described in more detail below, the Released Claims are any and all claims that (1) are based on, related to, or arise out of the allegations, transactions, facts, matters, events, disclosures, statements, occurrences, circumstances, representations, conduct, acts or omissions or failures to act that have been or could have been alleged or asserted in the Action (or in any forum or proceeding or otherwise), and/or (2) relate to or arise out of Plaintiffs' or any other Settlement Class Member's purchase, acquisition, holding or sale or other disposition of Citigroup common stock during the Class Period.

"Released Claims" means[4]:

1) with respect to the Citigroup Releasees, defined below, the release by Lead Plaintiff, Named Plaintiffs, Additional Proposed Named Plaintiffs and all Settlement Class Members, on behalf of themselves, their respective present and former parents, subsidiaries, divisions and affiliates, the present and former employees, officers and directors of each of them, the present and former attorneys, accountants, insurers, and agents of each of them, and the predecessors, heirs, successors and assigns of each, of all claims of every nature and description, known and unknown, arising out of or relating to investments in (including, but not limited to, purchases, sales, exercises, and decisions to hold) Citigroup common stock through April 18, 2008, inclusive, including without limitation all claims arising out of or relating to any disclosures, registration statements or other statements made or issued by any of the Citigroup Defendants concerning subprime-related assets, collateralized debt obligations, residential mortgage-backed securities, auction rate securities, leveraged lending activities, or structured investment vehicles, as well as all claims relating to such investments in Citigroup common stock asserted by or that could have been asserted by Plaintiffs or any member of the Settlement Class in the Action against the Citigroup Releasees, as defined below.

2) with respect to Lead Plaintiff, Named Plaintiffs, Additional Proposed Named Plaintiffs and all other Settlement Class Members, the release by the Citigroup Defendants of the Plaintiff Releasees, as defined below, from any claims relating to the institution or prosecution of this Action.

"Released Parties" means:

1) with respect to the Citigroup Defendants, the Citigroup Defendants, their respective present and former parents, subsidiaries, divisions and affiliates, the present and former employees, officers and directors of each of them, the present and former attorneys, accountants, insurers, and agents of each of them, and the predecessors, heirs, successors and assigns of each (together, the "Citigroup Releasees"), and any person or entity which is or was related to or affiliated with any Citigroup Releasee or in which any Citigroup Releasee has or had a controlling interest and the present and former employees, officers and directors, attorneys, accountants, insurers, and agents of each of them.

2) with respect to Plaintiffs and all other Settlement Class Members, their respective present and former parents, subsidiaries, divisions and affiliates, the present and former employees, officers and directors of each of them, the present and former attorneys, accountants, insurers, and agents of each of them, and the predecessors, heirs, successors and assigns of each (together, the "Plaintiff Releasees"), and any person or entity in which any Plaintiff Releasee has or had a controlling interest or which is or was related to or affiliated with any Plaintiff Releasee.

"Unknown Claims" means any Released Claims which Lead Plaintiff or any other Class Member does not know or suspect to exist in his, her or its favor at the time of the release of the Citigroup Releasees, and any Citigroup Releasees' Claims which any Citigroup Releasee does not know or suspect to exist in his, her, or its favor at the time of the release of the Plaintiff Releasees, which, if known by him, her or it, might have affected his, her or its decision(s) with respect to this Settlement. With respect to any and all Released Claims, the Parties stipulate and agree that, upon the Effective Date, Plaintiffs and each of the Defendants shall expressly waive, and each of the other Settlement Class Members and each of the other Citigroup Releasees shall be deemed to have waived, and by operation of the Judgment shall have expressly waived, any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law or foreign law, which is similar, comparable, or equivalent to California Civil Code § 1542, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

Plaintiffs and each of the Defendants acknowledge, and each of the other Settlement Class Members and each of the other Citigroup Releasees shall be deemed by operation of law to have acknowledged, that the foregoing waiver was separately bargained for and a key element of the Settlement.

[4] Released Claims do not include, release, bar, waive, impair or otherwise impact any (i) claims asserted in the action styled *In re Citigroup Inc. Bond Litigation*, Master File No. 08 Civ. 9522 (S.D.N.Y.) (SHS), insofar as those claims are not asserted in connection with the purchase or acquisition of Citigroup common stock; (ii) contractual obligations arising out of a corporate merger or acquisition agreement pursuant to which Citigroup common stock was acquired; and (iii) claims relating to the enforcement of the Settlement.

50. The Judgment will also provide that, upon the Effective Date, the Citigroup Releasees fully, finally, and forever release, relinquish and discharge each and all of the Lead Plaintiff, Named Plaintiffs, Additional Proposed Named Plaintiffs, other Settlement Class Members, Lead Class Counsel and Additional Settlement Class Counsel from all claims arising out of, relating to, or in connection with the institution, prosecution, assertion, settlement or resolution of the Action or the Released Claims.

51. In addition, the proposed Judgment provides that all Persons are barred from bringing any claim for contribution or indemnification against the Citigroup Releasees arising out of or related to the Released Claims, and the Citigroup Releasees are barred from bringing any claim for contribution or indemnification arising out of or related to the Released Claims against any such persons.

WHAT PAYMENT ARE THE ATTORNEYS FOR THE SETTLEMENT CLASS SEEKING? HOW WILL THE LAWYERS BE PAID?

52. Lead Class Counsel and other counsel for Plaintiffs in this Action have not received any payment for their services in pursuing claims against the Defendants on behalf of the Settlement Class, nor have they been reimbursed for their out-of-pocket expenses. Prior to the Settlement Hearing (see Paragraph 12 above), Lead Class Counsel will apply to the Court for an award of attorneys' fees in an amount not to exceed 17% of the Settlement Fund. In addition, Lead Class Counsel will apply for reimbursement of Litigation Expenses paid or incurred in connection with the institution, prosecution and resolution of the claims against Defendants, in the approximate amount of $3,750,000 (which may include an application for reimbursement of the reasonable costs and expenses incurred by the Lead Plaintiffs themselves that relate directly to their representation of the Settlement Class), plus interest on such expenses at the same rate as earned on the Settlement Amount.

HOW WILL THE NOTICE COSTS AND EXPENSES BE PAID?

53. Lead Class Counsel are authorized by the Stipulation to pay the Claims Administrator's fees and expenses incurred in connection with giving notice, administering the Settlement, and distributing the Net Settlement Fund to Settlement Class Members.

HOW DO I PARTICIPATE IN THE SETTLEMENT? WHAT DO I NEED TO DO?

54. To be eligible for a payment from the proceeds of the Settlement, you must be a member of the Settlement Class and you must timely complete and return the Claim Form with adequate supporting documentation **postmarked no later than February 7, 2013**. A Claim Form is included with this Notice, or you may obtain one from the website maintained by the Claims Administrator for the Settlement, www.citigroupsecuritiessettlement.com, or you may request that a Claim Form be mailed to you by calling the Claims Administrator toll free at (877) 600-6533. If you request exclusion from the Settlement Class or do not submit a timely and valid Claim Form, you will not be eligible to share in the Net Settlement Fund. Please retain all records of your ownership of and transactions in Citigroup common stock, as they may be needed to document your Claim.

55. As a Settlement Class Member you are represented by Plaintiffs and Lead Class Counsel, unless you enter an appearance through counsel of your own choice at your own expense. You are not required to retain your own counsel, but if you choose to do so, such counsel must file a notice of appearance on your behalf and must serve copies of his or her appearance on the attorneys listed in the section entitled, "When and Where Will the Court Decide Whether to Approve the Settlement?," below, so that the notice is ***received*** on or before **December 21, 2012**.

56. If you are a Settlement Class Member and do not wish to remain a Settlement Class Member, you may exclude yourself from the Settlement Class by following the instructions in the section entitled, "What If I Do Not Want to Participate in the Settlement? How Do I Exclude Myself?," below.

57. If you are a Settlement Class Member and you wish to object to any aspect of the Settlement, the Plan of Allocation, or Lead Class Counsel's application for attorneys' fees and reimbursement of Litigation Expenses, and if you do not exclude yourself from the Settlement Class, you may present your objections by following the instructions in the section entitled, "When and Where Will the Court Decide Whether to Approve the Settlement?," below.

WHAT IF I DO NOT WANT TO PARTICIPATE IN THE SETTLEMENT? HOW DO I EXCLUDE MYSELF?

58. Each Settlement Class Member will be bound by all determinations and judgments in this lawsuit, whether favorable or unfavorable, unless such person or entity mails or delivers a written "Request for Exclusion" from the Settlement Class, addressed to *In re Citigroup Inc. Securities Litigation*, EXCLUSIONS, c/o GCG, P.O. Box 9932, Dublin, Ohio 43017-5832. The exclusion request must be ***received*** no later than **December 6, 2012**. You will not be able to exclude yourself from the Settlement Class after that date. Each Request for Exclusion must (1) state the name, address and telephone number of the person or entity requesting exclusion; (2) state that such person or entity "requests exclusion from the Settlement Class in *In re Citigroup Inc. Securities Litigation*, No. 07 Civ. 9901 (S.D.N.Y.) (SHS)"; (3) state the date(s), price(s) and number of shares of Citigroup common stock that the person or entity requesting exclusion purchased or otherwise acquired and sold during the period February 26, 2007 through and including July 17, 2008; (4) state the number of shares held at the start of the Class Period; (5) state the number of shares held through the close of trading on July 17, 2008; and (6) be signed by such person or entity requesting exclusion or an authorized representative. A Request for Exclusion shall not be valid and effective unless it provides all the information called for in this paragraph and is received within the time stated above, or is otherwise accepted by the Court.

59. If you do not want to be part of the Settlement Class, you must follow these instructions for exclusion even if you have pending, or later file, another lawsuit, arbitration or other proceeding relating to any Released Claim against any of Defendants. You cannot exclude yourself by telephone or by email.

60. If you ask to be excluded from the Settlement Class, you will not be eligible to receive any payment out of the Net Settlement Fund, or any other benefit provided for in the Stipulation.

61. The Defendants have the right to terminate the Settlement if valid requests for exclusion are received from Persons and entities entitled to be members of the Settlement Class in an amount that exceeds an amount agreed to by Plaintiffs and the Defendants.

WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT? DO I HAVE TO COME TO THE HEARING? MAY I SPEAK AT THE HEARING IF I DON'T LIKE THE SETTLEMENT?

62. **Settlement Class Members may, but do not need to, attend the Settlement Hearing. The Court will consider any submission made in accordance with the provisions below even if the Settlement Class Member does not attend the Settlement Hearing. You can participate in the Settlement without attending the Settlement Hearing.**

63. The Settlement Hearing will be held on January 15, 2013 at 10:00 a.m. before the Honorable Sidney H. Stein, at the United States District Court for the Southern District of New York, Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, Courtroom 23A, New York, NY 10007. At the Settlement Hearing the Court will decide whether to approve the Settlement, the Plan of Allocation and an award of attorneys' fees and reimbursement of Litigation Expenses. If the Court approves the Settlement, there may then be appeals by interested parties which may further delay distribution of the Net Settlement Fund. It is always uncertain how those appeals will resolve, and resolving them can take time, perhaps more than a year. The Court reserves the right to approve the Settlement at or after the Settlement Hearing without further notice to the members of the Settlement Class.

64. Any Settlement Class Member who does not request exclusion may object to any aspect of the Settlement, the proposed Plan of Allocation or Lead Class Counsel's request for an award of attorneys' fees and reimbursement of Litigation Expenses. Objections must be in writing. You must file any written objection, together with copies of all other papers and briefs supporting the objection, with the Clerk's Office at the United States District Court for the Southern District of New York at the address set forth below on or before **December 21, 2012**. You must also serve the papers on designated representative Lead Class Counsel and Defendants' counsel at the addresses set forth below for their respective counsel so that the papers are ***received*** **on or before December 21, 2012**.

Clerk's Office

Clerk of the Court
United States District Court
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, NY 10007-1312
Re: *In re Citigroup Inc. Securities Litigation*, Case No. 07 Civ. 9901 (SHS)

Defendants' Counsel

Brad S. Karp, Esq.
Richard A. Rosen, Esq.
Susanna M. Buergel, Esq.
Jane B. O'Brien, Esq.
Asad Kudiya, Esq.
Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, NY 10019

Lead Class Counsel

Peter S. Linden, Esq.
Ira M. Press, Esq.
Andrew McNeela, Esq.
Kirby McInerney LLP
825 Third Avenue
New York, NY 10022

65. Any objection (1) must contain a statement of the Settlement Class Member's objection or objections, and the specific reasons for each objection, including any legal and evidentiary support the Settlement Class Member wishes to bring to the Court's attention; and (2) must include documents sufficient to prove membership in the Settlement Class, including the number of shares of Citigroup common stock that the objecting Settlement Class Member purchased or otherwise acquired during the Class Period, as well as sales of such stock during the Class Period or thereafter through the close of trading on July 17, 2008, along with the dates and prices of each such purchase or other acquisition and sale or other disposition. You may not object to any aspect of the Settlement, the Plan of Allocation or the motion for attorneys' fees and reimbursement of expenses if you exclude yourself from the Settlement Class or if you are not a member of the Settlement Class.

66. You may file a written objection without having to appear at the Settlement Hearing. You may not, however, appear at the Settlement Hearing to present your objection unless you first filed and served a timely written objection in accordance with the procedures described above, unless the Court orders otherwise.

67. If you wish to be heard orally at the hearing in opposition to the approval of any aspect of the Settlement, the Plan of Allocation or Lead Class Counsel's request for an award of attorneys' fees and reimbursement of Litigation Expenses, and if you file and serve a timely written objection as described above, you must also file a notice of appearance with the Clerk's Office and serve it on the designated representatives of Lead Class Counsel and counsel for the Defendants at the addresses set forth above so that it is ***received*** on or before **December 21, 2012**. Persons who intend to object and desire to present evidence at the Settlement Hearing must include in their written objection or notice of appearance the identity of any witnesses they may call to testify and exhibits they intend to introduce into evidence at the hearing.

68. You are not required to hire an attorney to represent you in making written objections or in appearing at the Settlement Hearing. If you decide to hire an attorney, which will be at your own expense, however, he or she must file a notice of appearance with the Court and serve it on the designated representatives of Lead Class Counsel and counsel for the Defendants at the addresses set forth above so that the notice is ***received*** on or before **December 21, 2012**.

69. The Settlement Hearing may be adjourned by the Court without further written notice to the Settlement Class. If you intend to attend the Settlement Hearing, you should confirm the date and time with Lead Class Counsel.

Unless the Court orders otherwise, any Settlement Class Member who does not object in the manner described above will be deemed to have waived any objection and shall be forever foreclosed from making any objection to any aspect of the proposed Settlement, the proposed Plan of Allocation or Lead Class Counsel's request for an award of attorneys' fees and reimbursement of expenses. Settlement Class Members do not need to appear at the Settlement Hearing or take any other action to indicate their approval.

WHAT HAPPENS IF I DO NOTHING AT ALL?

70. If you do nothing, you will get no money from this Settlement. To share in the Net Settlement Fund you must submit a Proof of Claim Form by following the instructions in the section entitled "How Do I Participate In The Settlement? What Do I Need To Do?," on page 10 above.

71. If you are a Settlement Class Member and you do not exclude yourself from the Settlement, you will be bound by the terms of the proposed Settlement described in this Notice once approved by the Court and you shall be forever barred from receiving payments pursuant to the Settlement but will in all other respects remain a Settlement Class Member and be subject to the provisions of the Stipulation and Settlement, including the terms of any judgments entered and releases given. This means that each Settlement Class Member releases the Released Claims (as defined above) against the Citigroup Releasees (as defined above) and will be enjoined and prohibited from filing, prosecuting, or pursuing any of the Released Claims against any of the Defendants regardless of whether or not such Settlement Class Member submits a Claim Form.

WHAT IF I BOUGHT SHARES ON SOMEONE ELSE'S BEHALF?

72. If you purchased or otherwise acquired Citigroup common stock during the Class Period for the beneficial interest of persons or organizations other than yourself, you must, WITHIN FIFTEEN (15) CALENDAR DAYS AFTER RECEIPT OF THIS NOTICE, either (1) forward copies of the Notice and Claim Form (the "Notice Packet") to all such beneficial owners; or (2) provide the names and addresses of such persons or entities to *In re Citigroup Inc. Securities Litigation*, c/o GCG, P.O. Box 9899, Dublin, Ohio 43017-5799. If you choose the second option, the Claims Administrator will send a copy of the Notice and the Claim Form to the beneficial owners. Upon full compliance with these directions, such nominees may seek reimbursement of their reasonable expenses actually incurred, by providing the Claims Administrator with proper documentation supporting the out-of-pocket expenses for which reimbursement is sought. Copies of this Notice and the Claim Form can be obtained from the website maintained by the Claims Administrator, www.citigroupsecuritiessettlement.com, or by calling the Claims Administrator toll-free at (877) 600-6533.

CAN I SEE THE COURT FILE? WHOM SHOULD I CONTACT IF I HAVE QUESTIONS?

73. This Notice contains only a summary of the terms of the proposed Settlement. For more detailed information about the matters involved in this Action, you are referred to the papers on file in the Action, including the Stipulation, which may be inspected during regular office hours at the Office of the Clerk, United States District Court for the Southern District of New York, Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, NY 10007-1312. Additionally, copies of the Stipulation and any related orders entered by the Court will be posted on the website maintained by the Claims Administrator, www.citigroupsecuritiessettlement.com.

All inquiries concerning this Notice should be directed to:

In re Citigroup Inc. Securities Litigation
c/o GCG
P.O. Box 9899
Dublin, Ohio 43017-5799
(877) 600-6533
www.citigroupsecuritiessettlement.com
Questions@citigroupsecuritiessettlement.com

and/or

Andrew McNeela, Esq.
Peter S. Linden, Esq.
KIRBY McINERNEY LLP
825 Third Avenue
New York, NY 10022
(212) 371-6600

DO NOT CALL OR WRITE THE COURT OR THE OFFICE OF THE CLERK OF THE COURT REGARDING THIS NOTICE.

Dated: October 10, 2012

By Order of the Court
United States District Court
Southern District of New York

EXHIBIT 2

PART III - SCHEDULE OF TRANSACTIONS IN CITIGROUP COMMON STOCK AND SALES OF PUT OPTIONS

A. BEGINNING HOLDINGS: Number of shares of Citigroup common stock held at the beginning of trading on **February 26, 2007.** If none, write "zero" or "0".

Shares

B. PURCHASES/ACQUISITIONS: Purchases or acquisitions of Citigroup common stock during the period **February 26, 2007** to **July 17, 2008**, inclus

TO WHOM IT MAY CONCERN:

I DO NOT HAVE RECORDS OF MY INVESTMENT IN CITIGROUP COMMON STOCK FROM FEB. 26, 2007 TO JULY 17, 2008. I DO NOT FEEL IT FAIR THAT YOU REQUEST THIS INFORMATION FROM ME TO PROTECT MY CLAIM. CITIGROUP SHOULD HAVE THIS INFORMATION.

IF THIS INFORMATION IS ESSENTIAL TO PROTECT MY CLAIM, I WOULD LIKE TO APPEAR BEFORE THE JUDGE WHO IS ASKED TO APPROVE THE SETTLEMENT TO EXPRESS MY OBJECTIONS.

THANK YOU FOR YOUR CONSIDERATION TO MY REQUESTS.

PAUL L. AGNEW
PO BOX 98
ABBEVILLE SC 29620
(864) 366-8348

Trade Date (Month/Day /Yea

ursuant to:
rate merger or
shares or
ition
if not applicable)

²Only purchases
mon stock issuec
Program, Supple
price at which the

ares of com-
ccumulation
is the share

IF YOU NEED ADDITIONAL SPACE TO LIST YOUR TRANSACTIONS YOU MUST PHOTOCOPY THIS PAGE AND CHECK THIS BOX ✓ IF YOU DO NOT CHECK THIS BOX THESE ADDITIONAL PAGES WILL NOT BE REVIEWED

EXHIBIT 3

In re Citigroup Inc. Sec. Litig. , No. 07 Civ. 9901
Cases in which Theodore Frank has filed objections

	Case	Nature of Case	Date Mr. Frank's objection was filed	Capacity in which Mr. Frank objected	Did Mr. Frank object to the fee request? If so, was the fee part of a common fund?
1	*In re Bluetooth Headset Prods. Liability Litig.*, No. 07 ML 01822-DSF-E (C.D. Cal.)	Products Liability	June 3, 2009 [Dkt. No. 107]	Frank, as attorney for Center for Class Action Fairness LLC ("CCAF"), filed objection on behalf of class members	Yes. Common fund? No.
2	*In re TD Ameritrade Account Holder Litig.*, Nos. 07 Civ. 2852 SBA, 07 Civ. 4903 SBA (N.D. Cal.)	Torts / Negligence	July 9, 2009 [Dkt. No. 150]	Frank, as CCAF attorney, filed objection on behalf of himself and another class member	Yes. Common fund? Yes. - Court granted fee request of 7.7% of appx. $6.5 million settlement fund
3	*Fairchild v. AOL, Inc.*, No. 09 Civ. 03568 CAS-PLA (C.D. Cal.)	Torts / Negligence	December 7, 2009 [Dkt. No. 33]	Frank, as CCAF attorney, filed objection on behalf of class member	Yes. Common fund? No.
4	*True v. American Honda Motor Co.*, No. 07 Civ. 00287-VAP-OP, (C.D. Cal.)	Contracts	December 14, 2009 [Dkt. No. 117]	Frank, as CCAF attorney, filed objection on behalf of class member	Yes. Common fund? No.
5	*In re Yahoo! Litig.*, No. 06 Civ. 02737-CAS-FMO (C.D. Cal.)	Contracts	December 14, 2009 [Dkt. No. 192]	Frank, as CCAF attorney, filed objection on behalf of class member	Yes. Common fund? No.
6	*Londardo v. Travelers Indemnity Co.*, No. 06 Civ. 0962 (N.D. Ohio)	Torts/Negligence	January 11, 2010 [Dkt. No. 173]	Frank, as CCAF attorney, filed objection on behalf of class member	Yes. Common fund? No.
7	*In re New Motor Vehicles Canadian Export Antitrust Litig* ., No. 03 MD 1532 (D. Me.)	Antitrust	January 28, 2011 [Dkt. No. 1138]	CCAF/Greenberg Legal services, filed objection on behalf of Theodore Frank	Yes. Common fund? Yes. - Court granted fee request of 13.2% of $37.3 million settlement fund (or appx. $4.92 million). - Lodestar multiplier was 0.107.
8	*In re Motor Fuel Temperatures Sales Practices Litig.*, No. 07 MD 1840-KHV-JPO (D. Kan.)	Torts / Negligence	March 1, 2010 [Dkt. No. 1578]	Frank, as CCAF attorney, filed objection on behalf of class members	Yes. Common fund? No.
9	*Bachman v. A.G.Edwards, Inc.*, No. 22052-01266-03, (Mo. Circuit Ct.)	Torts / Negligence	April 29, 2010 [No docket number available]	Frank, as CCAF attorney, filed objection on behalf of trustee for class members' estate	Yes. Common fund? Yes. - Court granted fee request of 35% of $60 million settlement fund (or $21 million in fees)
10	*Dewey v. Volkswagen of America*, Nos. 07 Civ. 2249, 07 Civ. 2361 (FSH) (D.N.J.)	Torts / Negligence	June 15, 2010 [Dkt. No. 208]	Frank, as CCAF attorney, filed objection on behalf of class members	Yes. Common fund? Yes. - Plaintiffs requested 25% of $90 million fund. - Court awarded 13.3% (amounting to a multiplier of 2) after the Court reduced the settlement fund value to $69,277,430

In re Citigroup Inc. Sec. Litig. , No. 07 Civ. 9901
Cases in which Theodore Frank has filed objections

	Case	Nature of Case	Date Mr. Frank's objection was filed	Capacity in which Mr. Frank objected	Did Mr. Frank object to the fee request? If so, was the fee part of a common fund?
11	*Robert F. Booth Trust v. Crowley* , No. 09 Civ. 05314 (N.D. Ill.)	Shareholder Derivative Action	July 1, 2010 [Dkt. No. 107]	Frank filed objection *in pro per*	Yes. Common fund? No.
12	*In re Classmates.com Consolidated Litig.,* No. 09 Civ. 45 (RAJ) (W.D. Wash.)	Torts	November 18, 2010 [Dkt. No. 102] and November 18, 2011 [Dkt. No. 167]	Frank, as CCAF attorney, filed objection on behalf of class member	Yes. Common fund? Yes. - Plaintiffs requested $1.05 million of $4.55 million settlement fund (appx. 23%) - Court awarded $900K in fees (or appx. 19.78%)
13	*Ercoline v. Unilever United States, Inc.,* No. 10 Civ. 01747 (SRC-MAS) (D.N.J)	Torts	December 10, 2010 [Dkt. No. 31]	Frank, as CCAF attorney, filed objection *in pro per*	Yes. Common fund? No.
14	*In re HP Inkjet Printer Litig.* , No. 05 Civ. 3580 JF (N.D. Cal.)	Torts	December 30, 2010 [Dkt. No. 263]	Frank, as CCAF attorney, filed objection on behalf of himself and another class member	Yes. Common fund? No.
15	*In re Apple Inc. Sec. Litig.,* No. 06 Civ. 05208-JF (N.D. Cal.)	Securities Fraud involving alleged violations of the Securities Exchange Act of 1934	January 21, 2011 [Dkt. No. 148]	Frank, as CCAF attorney, filed objection on behalf of class member	Yes. Common fund? Yes. - Court granted fee request of 11.9% of $16.5 million settlement fund
16	*In re HP Laserjet Printer Litig* ., No. 07 Civ. 00667-AG-RNB (C.D. Cal.)	Torts	January 22, 2011 [Dkt. No. 233]	Frank filed objection *in pro per*	Yes. Comon fund? No.
17	*The NVIDIA GPU Litig* ., No. 08 Civ. 04312 JW (N.D. Cal.)	Torts	February 28, 2011 [Dkt. No. 349]	Frank, as CCAF attorney, filed motion to enforce settlement and cure breach of settlement agreement on behalf of class members	No.
18	*Cobell v. Salazar* , No. 96 Civ. 01285 (TFH) (D.D.C.)	Torts	April 21, 2011 [Dkt. No. 3740]	Frank, as CCAF attorney, filed objection on behalf of class member	Yes. Common fund? Yes. - Plaintiffs requested 14.75% of $1.512 billion settlement fund. Lodestar multiplier was 2.5. - Court awarded fees of 7.1% pursuant to express "clear sailing" provision in Class Counsel's fee agreement, controlling law and the Claims Resolution Act
19	*Blessing, v. Sirius XM Radio Inc.* , No. 09 Civ. 10035 (HB) (S.D.N.Y.)	Antitrust	July 18, 2011 [Dkt. No. 11]	Frank, as CCAF attorney, filed objection on behalf of class member	Yes. Common fund? No.

In re Citigroup Inc. Sec. Litig. , No. 07 Civ. 9901
Cases in which Theodore Frank has filed objections

	Case	Nature of Case	Date Mr. Frank's objection was filed	Capacity in which Mr. Frank objected	Did Mr. Frank object to the fee request? If so, was the fee part of a common fund?
20	*Fogel v Farmers Group Inc., et al.*, No. BC 300142 (Cal. Super. Ct.)	Torts / Negligence	August 17, 2011 [no docket number available but Frank's objection was attached as Exhibit 9-204 to the Supplemental Declaration of Graham B. Lippsmith in Support of the Class and Plaintiff's Omnibus Response to Objections to Settlement dated September 30, 2011]	Frank, as CCAF attorney, filed objection on behalf of class members	Yes. Common fund? Yes. - Plaintiffs requested 16% of $545 million settlement fund with a lodestar multiplier of 4.14 - Court awarded $72,783,595 (appx. 13.35%) and 3 multiplier after applying a 5% discount to Plaintiffs' lodestar for "redundant staffing"
21	*Brazil v. Dell Inc* ., No. 07 Civ. 1700-RMW (N.D. Cal.)	Torts	September 27, 2011 [Dkt. No. 322]	Frank, as CCAF attorney, filed objection on behalf of class member	Yes. Common fund? No.
22	*In re Magsafe Apple Power Adapter Litig* ., No. 09 Civ. 01911 JW (N.D. Cal.)	Torts	January 5, 2012 [Dkt. No. 85]	Frank, as CCAF attorney, filed objection on behalf of class member	Yes. Common fund? No.
23	*In re Online DVD Rental Antitrust Litig* ., No. 09 MD 2029 PJH (N.D. Cal.)	Antitrust	February 14, 2012 [Dkt. No. 581]	Frank filed objection *in pro per*	Yes. Common fund? Yes. - Court granted fee request of 25% of $27,250,000 settlement fund (or $6,812,500)
24	*In re Groupon Marketing & Sales Practices Litig* ., No. 11 MD 2238-DMS-RBB (S.D. Cal.)	Consumer (*e.g.*, violation of Electronic Funds Transfer Act)	July 27, 2012 [Dkt. No. 67]	Frank, as CCAF attorney, filed objection *in pro per*	Yes. Common fund? Yes. - Court granted fee request of 25% of $8.5 million fund (or $2,125,000).
25	*In re Johnson & Johnson Derivative Litig* ., Nos. 10 Civ. 2033 (FLW), 11 Civ. 4993 (FLW), 11 Civ. 2511 (FLW) (D. N.J.)	Shareholder Derivative Action	August 31, 2012 [Dkt. No. 61-2]	Frank, as attorney for CCAF, filed objection on behalf of shareholder	Yes. Common fund? No.

There was a 26th case in which Mr. Frank's organization, the CCAF, filed an objection on behalf of a class member in an antitrust action captioned *McDonough, et al. v. Toys "R" US, Inc., d/b/a Babies "R" US, et al.* No. 06 Civ. 242 (E.D. Pa.). Mr. Frank was not listed on the objection.

EXHIBIT 4

A Conversation With *Class Action Objector Ted Frank*

The American Lawyer (Online)
March 4, 2011 Friday

THE AMERICAN LAWYER
Length: 912 words

Byline: Susan Beck, Special to the

Body

Ted Frank is on ***a*** mission to curb abusive ***class action*** settlements. Since mid-2009, his fledgling nonprofit group, the Center for Class Action Fairness, has filed objections to 17 settlements that he believed provided little, if any, benefit to ***class*** members, but showered plaintiffs lawyers with outsized fees. To date he's convinced federal judges to reject or modify six settlements, including ***an*** Apple securities settlement that was modified, which we reported on here. He currently has eight objections pending in federal district courts, including a motion he filed this week to enforce a settlement involving computer chip maker NVIDIA. ***Frank*** claims that the company has reneged on ***a*** promise to replace defective Hewlett-Packard computers with similar machines.

The 42-year-old ***Frank***, who clerked for Judge ***Frank*** Easterbrook of the U.S. Court of Appeals for the Seventh Circuit, began his legal career as ***an*** associate at Kirkland & Ellis, Irell & Manella, and O'Melveny & Myers. He was previously ***a*** resident fellow with the American Enterprise Institute and he now writes ***a*** blog that appears on the Manhattan Institute's website, called Pointoflaw.com.

The Litigation Daily talked to ***Frank*** about his work as ***a*** professional ***objector***.

Litigation Daily: What made you decide to get into the role of challenging ***class action*** settlements? Was there ***a*** particular settlement that really bothered you?

Ted Frank: On ***a*** whim in 2008 I objected to ***a*** settlement where I was ***a class*** member--the Grand Theft Auto [video game] settlement. I discovered that that brought more attention to the issue than any law review article I would write. On top of it I scuttled ***a*** very bad settlement. After the publicity from Grand Theft Auto, i started getting phone calls from other ***class*** members. in the best tradition of Rabbi Hillel, I asked: If if not me, who? And if not now, when? I think I can accomplish more by litigating than pontificating.

LD: Are you opposed to ***class actions*** in principle?

TF: No. When appropriately administered, with appropriate procedural protections, it's the right way to aggregate litigation by numerous claimants. Judges are supposed to make sure everything is happening on the up and up, but without some sort of ombudsman to insist on this, not every judge will do this. It's astonishing to me we still see settlements with worthless coupons. But I do have sympathy for these judges who have very crowded dockets.

LD: Do you think ***class action*** plaintiffs lawyers are making too much money off of these cases?

TF: I think they are disproportionately paying themselves relative to what their clients are receiving. I saw ***a*** case last week where the attorneys filed ***a*** complaint and there was no motion practice, and the company agreed to pay ***a*** nuisance settlement of $3.5 million. The attorneys filed ***a*** 33 percent fee request. They could not have put in more than ***a*** few hours of work. We really wanted to object to this fee request, but we didn't have the bandwidth to do it.

LD: Have you had some unpleasant ***conversations*** with plaintiffs lawyers in these cases?

TF: Yeah. Some law firms simply lie about me in their pleadings. They claim I'm trying to extort ***a*** piece of the settlement for myself. I've never agreed to ***a*** quid pro quo settlement. [In ***a*** quid pro quo settlement, the ***objector*** agrees to drop his ***action*** in exchange for ***a*** slice of the fees.] It's ironic that [in the NVIDIA case] Milberg issued ***a*** press release stating that I have ***an*** anti-consumer agenda when they're the ones arguing against the consumers I represent in my motion. But I also had Mark Lanier--perhaps the greatest living trial lawyer who hasn't been convicted of ***a*** felony--tell me he liked what I was was doing because there are ***a*** lot of ***class action*** lawyers who are ripping off their clients. [The Litigation Daily reached out to Lanier to confirm if he said this, but didn't hear back.]

LD: Have you gotten grief from the defense side? After all, they were hoping to get rid of these cases in which you're filing objections.

TF: I've had ***a*** variety of reactions. I've had defense attorneys and general counsels come up to me and say, we really appreciate what you're doing but you're wrong in this case. But I've been surprised that some defense lawyers have gone up against me as hard as some plaintiffs lawyers. It seems very short-sighted for them to complain that I'm ***a*** tort reform advocate.

LD: Have you ever been awarded fees in ***a*** case as ***an objector***?

TF: We have been awarded fees as *an objector* in *a* case called Lonardo v. Travelers Indemnity, where our objection resulted in *an* extra $2 million to the *class*. We're planning to file *a* fee application in the Apple securities *class action* where we got $2 million more for the *class*. We have *a* bright line. We won't ask for fees unless the *class* gets *a* pecuniary benefit.

LD: How are you making *a* living from this?

TF: We're *a* project of *a* 501(c)(3) organization and it pays me as *an* independent contractor to manage the project. I'm making less than *a* junior associate, but I can still pay the mortgage.

LD: Who are some of the major contributors to your organization?

TF: Our donors consist of charitable foundations and independent individuals who like what we're doing.

LD: Can you name some of them?

TF: I'd prefer not to get into that.

LD: Does your work for the Center take up most of your working day?

TF: It's turned into that and is also taking up most of my leisure time, too. It's the main focus of my life now.

Classification

Language: ENGLISH

Publication-Type: Magazine

Subject: LITIGATION (95%); *CLASS ACTIONS* (93%); SETTLEMENT & COMPROMISE (90%); MAJOR US LAW FIRMS (90%); SUITS & CLAIMS (90%); LAWYERS (89%); NON-PROFIT ORGANIZATIONS (89%); JUDGES (77%); APPELLATE DECISIONS (76%); COMPUTER EQUIPMENT (75%); ELECTRONICS (75%); APPEALS COURTS (70%); COMPUTER CHIPS (70%); SEMICONDUCTOR MFG (70%); BLOGS & MESSAGE BOARDS (67%)

Company: O'MELVENY & MYERS LLP (84%); KIRKLAND & ELLIS LLP (58%); IRELL & MANELLA LLP (58%); NVIDIA CORP (57%); HEWLETT-PACKARD CO (57%); AMERICAN ENTERPRISE INSTITUTE FOR PUBLIC POLICY RESEARCH (55%)

Ticker: NVDA (NASDAQ) (57%); HPQ (NYSE) (57%)

Industry: NAICS541110 OFFICES OF LAWYERS (84%); SIC8111 LEGAL SERVICES (84%); NAICS334413 SEMICONDUCTOR & RELATED DEVICE MANUFACTURING (57%); NAICS334119 OTHER COMPUTER PERIPHERAL EQUIPMENT MANUFACTURING (57%); SIC3674 SEMICONDUCTORS & RELATED DEVICES (57%); SIC3577 COMPUTER PERIPHERAL EQUIPMENT, NEC (57%); NAICS511210 SOFTWARE PUBLISHERS (57%); NAICS334111 ELECTRONIC COMPUTER MANUFACTURING (57%); SIC8733 NONCOMMERCIAL RESEARCH ORGANIZATIONS (55%)

Geographic: UNITED STATES (92%)

Load-Date: March 28, 2012

EXHIBIT 5

THE WALL STREET JOURNAL.
WSJ.com

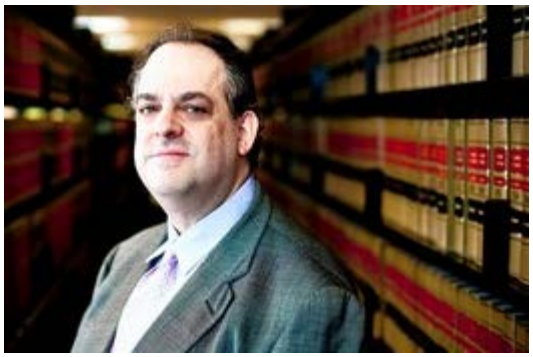
LAW | October 31, 2011

A Litigator Fights Class-Action Suits

By ASHBY JONES

There are two types of class-action lawyers: those who bring the big lawsuits against corporate America, and those who defend them.

And then there's Ted Frank.


T.J. Kirkpatrick for The Wall Street Journal
Lawyer Ted Frank leads the Center for Class Action Fairness.

Mr. Frank is a relative newcomer to the burgeoning world of class-action objectors. Objectors are lawyers who swoop in at the 11th hour and make formal objections to settlements hammered out between corporate defendants and "classes" of individuals who have alleged that a company has defrauded its investors or created a product that injured consumers.

Many objectors' aims are simple. They want to get more money for a small subset of the class unhappy with a settlement's proposed terms. So they'll typically drop their complaints if the lead class attorneys agree to cut them—and their clients—a bigger slice of the settlement.

Not Mr. Frank, who has emerged as a rare breed in the world of class-action objectors because he tends to stay and fight settlements to the end, rather than cut quick deals. His stated mission is different, too. He says it's to right the wrongs of the class-action system by upending settlements that he thinks give class members too little and give the plaintiffs' lawyers too much.

He has already picked up some wins, including a significant ruling in August involving Bluetooth headsets.

More
- **Class-Action Settlement's Value Isn't Always Clear Cut**

And many in the class-action world are paying close attention to an appeal pending in New York involving a settlement between Sirius XM Radio Inc. and subscribers that Mr. Frank finds objectionable. A win could give Mr. Frank his most influential victory yet.

Mr. Frank's critics paint him as a right-wing ideologue recklessly using the courts to pursue a political agenda against class-action litigation and the plaintiffs' bar. But he insists he's out not to abolish class actions but to improve them.

"Class actions have a place in our legal system, but right now they're corrupt in so many ways," said Mr. Frank, who in 2009 left a position at a right-leaning think tank, the American Enterprise Institute, to launch a new career as a litigator focusing on class actions. "Plaintiffs' lawyers are getting rich without winning anything for their clients, and the consumers are getting ripped off," he says.

Judges in recent cases involving Hertz Corp., West Publishing Corp., Honda Motor Co. and Kellogg Co. have rejected proposed settlements after Mr. Frank and his organization, the Center for Class Action Fairness, raised objections.

In the Bluetooth case, which involved defendants Plantronics Inc. and the company formerly known as Motorola Inc., the Ninth Circuit Court of Appeals rebuffed a deal that would have paid no money to class members but would have given $100,000 to four nonprofit groups dedicated to hearing loss and $850,000 to the plaintiffs' lawyers. Judge Michael Hawkins, writing for a three-judge panel, expressed "discomfort" with the lower court's approval of the fees and said that the settlement carried "multiple indicia of possible implicit collusion" between the two parties.

The lawyers are now back in the lower court, trying to hash out a new deal. "I think the settlement complies with the law," said Daniel Warshaw, a lawyer representing the class. "Our goal now is to put more in the record that shows that we're right." A representative from Motorola Mobility Inc. didn't return a call seeking comment. Plantronics declined to comment.

Mr. Frank considers that case his most significant win largely because the Ninth Circuit issued a lengthy opinion that will serve as "precedent" that lower courts in the western U.S will have to follow. "This is why we're doing this," he said. "To generate opinions that have leverage beyond individual cases."

In other words, Mr. Frank says he is trying to change the law through his lawyering.

Some supporters think he's doing just that: effectively serving as a watch-dog over the class-action system, a role that Congress and the courts have for too long neglected.

"The fact is that he's been able to persuade courts to finally look seriously at issues that they used to completely ignore," said Lester Brickman, an expert on class-action litigation and a professor at the Benjamin N. Cardozo School of Law in New York.

Others are less supportive. "I'm not sure anyone really believes he's in it for the reason he states—that he cares about consumers," said James Sabella, a plaintiffs' lawyer currently defending the Sirius XM settlement over Mr. Frank's objections. "He wants class actions to go awayentirely."

But without class actions, said Mr. Sabella, corporate America will get a "free pass on a lot of questionable behavior."

In some ways, Mr. Frank comes across as more of an eccentric professor than a crusading lawyer. He has been known to show up to court appearances unshaven and rumpled.

And unlike many lawyers, Mr. Frank welcomes a bit of risk in his life. In 2004, he won $215,000 by

investing in a semiprofessional poker player, Greg Raymer, who won that year's World Series of Poker.

Earlier this year, he spent thousands of dollars on Wal-Mart Inc. stock in the hope that the company would win a widely followed employment-discrimination case at the U.S. Supreme Court—and that its stock would jump. (Wal-Mart won the case, but the stock barely budged."The Greek crisis hammered me," he said shortly thereafter.)

Mr. Frank says the money he won in 2004 enabled him to leave full-time legal practice and join the think-tank world, specifically AEI, where he wrote widely on reforming the civil legal system.

But he didn't start objecting to class-action settlements until 2008, when he found himself a member of a class himself. The allegation: that Take-Two Interactive Software Inc., the maker of the videogame "Grand Theft Auto," had defrauded consumers by including on the game disc some software code that contained illicit scenes.

Mr. Frank objected to the settlement between the class and Take-Two, which gave class members a partial refund on their games but gave the plaintiffs' lawyers a seven-figure fee.

The judge rejected the settlement on other grounds, but the case prompted Mr. Frank to switch his emphasis, and the following year, he launched his current organization, the Center for Class Action Fairness. The center is funded through private donations, which is what, for now, allows Mr. Frank to turn down offers to get out of cases and instead press his cause. He won't divulge his funding sources, saying only that the money comes from "others who believe, as I do, that the class-action system is being abused."

David Zlotnick, a San Diego plaintiffs' lawyer, reached a settlement with Hertz on behalf of a class of consumers who argued they were overcharged, only to see it overturned after Mr. Frank's group objected. Since then, settlement talks have stalled.

In Mr. Zlotnick's opinion, Mr. Frank should be made to divulge his funders. "I don't think he's entitled to masquerade his political agenda under the guise of making class actions more fair, especially if he has large, powerful agents behind him."

Still, some feel that regardless of who's doing the funding, Mr. Frank is just what the system needed. Jeffrey Jacobson, the lawyer who defended the "Grand Theft Auto" settlement, said he initially butted heads with Mr. Frank, but has warmed toward him and his work.

"Ted has already made a big difference," said Mr. Jacobson, a Debevoise & Plimpton partner. "Even if he accomplishes nothing else, he'll have had a greater impact than most lawyers will achieve in their careers."

Write to Ashby Jones at ashby.jones@wsj.com

EXHIBIT 6

December 8, 2012

William B. James and Joy A. James
3675 Classic Dr. S
Memphis, TN 38125

Clerk of the Court
United States District Court
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, NY 10007-1312
RE: In re Ctitgroup Inc. securities Litigation,
Case No. 07 Civ. 9901 (SHS)

cc. Brad S. Karp, Esq.
Richard A. Rosen, Esq
Susanna M. Buergel, Esq.
Jane B. O'Brien, Esq.
Asad Kudiya, Esq.
Paul Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, NY 10019

cc. Peter S. Linden, Esq.
Ira M. Press, Esq
Andrew McNeela, Esq.
Kirby McInerney LLP
825 Third Avenue
New York, NY 10022

To the Court:

We are writing to object to the proposed settlement and award of attorney's fees and reimbursement of litigation expenses.

As background, I, William B. James, was an employee of Citigroup, Inc. and predecessor firms from January, 1984 until the creation of the joint venture with Morgan Stanley caused the sale of Smith Barney and my termination in January of 2009. I subsequently resigned from Morgan Stanley in September, 2009.

Much of my life's savings was invested and lost in Citigroup, Inc. common stock, primarily because of the mandatory participation in the firm's Management Capital Appreciation Program and a firm requirement for management employees above a certain level to maintain ownership of 75% of the shares purchased. The transactions and losses included on these forms represent only a small fraction of the total losses we had in Citigroup.

During my employment I was in attendance at meetings with senior management at Smith Barney during the time frame which this proposed settlement covers. I heard firsthand from several of the defendants that "everything was secure", "our capital position was strong and would remain strong", "our risk is constantly monitored and under control". My most specific memory of this was a meeting we held for our top producers in 2007. Mr. Crittenden, Citigroup CFO, was asked to come and meet with us (senior Smith Barney management) because of the worries surrounding the involvement we had in the mentioned securities. He was adamant that there was nothing to worry about, that all was manageable and that Citi would weather the storm, survive and prosper. Needless to say, I heard that many times as things eventually spun out of control and the company collapsed.

We object to the settlement itself because we believe it is inadequate. Citigroup, Inc. lost 95% + of its value from highs in the $50's to lows below $2. How can a proposed settlement that suggests a $.19c per share recovery is "an exceptionally significant recovery" and a "truly outstanding result for the Settlement Class" be deemed fair and adequate? We suspect this proposed settlement conveniently mirrors the insurance coverage limits of the defendants and has little or nothing to do with a reasonable settlement for the damaged shareholders.

We object to the settlement process that has been set up as well. It appears to be designed to dissuade shareholders from participation by being so narrow in the scope of the time frame chosen, complicated, and time consuming to complete. It also includes language that takes away the rights of shareholders who don't manage to complete the documents. We suspect that many, many injured parties will not participate for these reasons and we suspect that is the goal of those who designed this settlement.

We object to the proposed payment of attorney's fees and reimbursement of litigation expenses. While not made obvious in the notice to shareholders, simple math suggests that the attorneys are asking to collect ***$100 million dollars*** and then get back any out of pocket expense on top of that. That is offensive. We lost millions of dollars. We stand to get back pennies. There is a proposed "exceptionally significant recovery" and a "truly outstanding result" for the attorneys who crafted this settlement, not for the Settlement Class. We ask that fairness prevail and the fees paid to the attorneys be reduced significantly by the court to a reasonable amount.

We respectfully submit these objections and appreciate your consideration of them.

William B. James

Joy A. James

EXHIBIT 7