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6 *Attorneys for Class Representatives and the Class*

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 8 **UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
 9 **SAN FRANCISCO DIVISION**

10 IN RE: SANDISK LLC SECURITIES  
LITIGATION

Case No. 3:15-cv-01455-VC

Hon. Vince Chhabria

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 12 **DECLARATION OF MAX R.**  
**SCHWARTZ IN SUPPORT OF CLASS**  
 13 **REPRESENTATIVES’ UNOPPOSED**  
**MOTION FOR PRELIMINARY**  
 14 **APPROVAL OF CLASS ACTION**  
**SETTLEMENT, APPROVAL OF**  
 15 **FORM AND MANNER OF NOTICE,**  
 16 **AND TO SET DATE FOR HEARING**  
 17 **ON FINAL APPROVAL OF**  
**SETTLEMENT**

18  
19 I, Max R. Schwartz, declare as follows:

20 1. I am a partner at the law firm of Scott+Scott Attorneys at Law LLP  
 21 (“Scott+Scott”), Court-appointed Class Counsel for City of Bristol Pension Fund, City of Milford,  
 22 Connecticut Pension & Retirement Board, City of Newport News Employees’ Retirement Fund,  
 23 Massachusetts Laborers’ Pension Fund, and Pavers and Road Builders Pension Annuity and  
 24 Welfare Funds (collectively, “Class Representatives”) and the certified Class. I respectfully  
 25 submit this Declaration in Support of the Class Representatives’ Unopposed Motion for  
 26 Preliminary Approval of Class Action Settlement, Approval of Form and Manner of Notice, and  
 27 to Set Date for Hearing on Final Approval of Settlement (“Motion”).  
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1           2.       All capitalized terms, unless otherwise defined herein, have the same meaning  
2 given to them in the Stipulation and Agreement of Settlement.

3           3.       Attached hereto are true and correct copies of the following exhibits:

4           Exhibit 1:   Stipulation and Agreement of Settlement;

5                   Exhibit A:   [Proposed] Order Granting Class Representatives'  
6                                   Unopposed Motion for Preliminary Approval of Class Action  
7                                   Settlement, Approving Form and Manner of Notice, and  
8                                   Setting Date for Hearing on Final Approval of Settlement;

9                   Exhibit A-1:  Notice of Proposed Class Action Settlement and Motion for  
10                                   Attorneys' Fees and Expenses;

11                   Exhibit A-2:  Proof of Claim and Release;

12                   Exhibit A-3:  Summary Notice of Proposed Class Action Settlement and  
13                                   Motion for Attorneys' Fees and Expenses;

14                   Exhibit B:   [Proposed] Final Order and Judgment;

15           Exhibit 2:  Declaration of Chad Coffman Regarding Plaintiffs' Calculation of Damages;

16           Exhibit 3:  Declaration of Alexander Villanova of Epiq in Support of Settlement Notice  
17                                   Plan;

18           Exhibit 4:  Proposed Schedule Leading to the Final Settlement Hearing; and

19           Exhibit 5:  Laarni T. Bulan, et al., *Securities Class Action Settlements – 2018 Review  
20                                   and Analysis*, CORNERSTONE RES. (2018).

21           4.       Pursuant to the Court's Procedural Guidelines for Class Action Settlements, Class  
22 Counsel makes the following disclosure regarding Plaintiffs' Counsel's prior retentions of Epiq  
23 Class Action & Claims Solutions, Inc. ("Epiq") as a claims administrator in other class action  
24 cases within the past two years. During this period, Scott+Scott engaged Epiq as claims  
25 administrator in three other class action cases in which Scott+Scott was appointed as Lead  
26 Counsel. During the same period, the other Plaintiffs' Counsel here, Labaton Sucharow LLP and  
27 Cohen Milstein Sellers & Toll PLLC, engaged Epiq as a claims administrator in five and six other  
28 class action cases, respectively.<sup>1</sup>

<sup>1</sup> Epiq has, in the recent past, acquired other companies that provide claims administration services. The foregoing figures do not include engagements of the companies acquired by Epiq.

1           5.       Class Counsel provides the following information concerning a distribution in a  
2 recent comparable case, *Weston v. RCS Capital Corp.*, No. 1:14-cv-10136 (S.D.N.Y.), in which  
3 the distribution motion will shortly be presented:

- 4           a.       The settlement amount was \$31,000,000;
- 5           b.       The total number of individuals or entities that received notice was 23,136,  
6 which is also the best approximation of the total number of class members  
7 because no definitive list of members is available;
- 8           c.       The method of notice was publication and regular mail;
- 9           d.       The percentage of the class that submitted claim forms was approximately  
10 37%;
- 11           e.       The average recovery per class claimant will be approximately \$7,350;
- 12           f.       At present, it has not been determined that any *cy pres* distribution will be  
13 necessary;
- 14           g.       The administrative costs are \$190,945.68; and
- 15           h.       The attorneys' fees and costs were \$9,484,333.68.

16           6.       The lodestar that Class Counsel and additional Plaintiffs' Counsel have totaled  
17 from the more than three years since the inception of the case through the end of April 2019,  
18 which includes extensive and complete factual and expert discovery, briefing on multiple  
19 motions, including under Rules 12(b)(6) and 56, and preparation for trial, is over \$15 million. As  
20 set forth in the proposed Settlement Notice, Class Counsel plan to seek an award of attorneys'  
21 fees not to exceed 28% of the Settlement proceeds – that is, not to exceed \$14 million. Any such  
22 award will thus be less than the lodestar and will result in a negative multiplier. For example, an  
23 award of \$14 million would result in a negative multiplier of approximately 0.9. Class Counsel  
24 and additional Plaintiffs' Counsel will also seek reimbursement of the reasonable litigation  
25 expenses in prosecuting the case to this stage, including reimbursement of Class Representatives'  
26 costs and wages for work expended on the Action, not to exceed \$1 million. Such costs, included,  
27 among other things, substantial expert work, jury and trial preparation, and extensive discovery.

1 I declare under penalty of perjury under the laws of the United States of America that the  
2 foregoing is true and correct to the best of my knowledge.

3 Executed on May 6, 2019, at New York, New York.

4 /s/ Max R. Schwartz  
5 MAX R. SCHWARTZ

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**CERTIFICATE OF SERVICE**

I hereby certify that on May 6, 2019, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the email addresses denoted on the Electronic Mail Notice List.

Executed on May 6, 2019, at New York, New York.

/s/ Max R. Schwartz  
MAX R. SCHWARTZ (*pro hac vice*)

# **EXHIBIT 1**

1 DEBORAH CLARK-WEINTRAUB (*pro hac vice*)  
 MAX R. SCHWARTZ (*pro hac vice*)  
 2 **SCOTT+SCOTT ATTORNEYS AT LAW LLP**  
 The Helmsley Building  
 3 230 Park Avenue, 17th Floor  
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 mschwartz@scott-scott.com

6 *Attorneys for Class Representatives and the Class*

7 [Additional counsel listed on signature page.]

8  
 9 **UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
 10 **SAN FRANCISCO DIVISION**

11 IN RE: SANDISK LLC SECURITIES  
LITIGATION

Case No. 3:15-cv-01455-VC

Hon. Vince Chhabria

13 **STIPULATION AND AGREEMENT**  
 14 **OF SETTLEMENT**

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 16 This stipulation and agreement of settlement (the “Stipulation”) is made and entered into  
 17 by and between: (a) City of Bristol Pension Fund (“Bristol”); City of Milford, Connecticut  
 18 Pension & Retirement Board (“Milford”); Pavers and Road Builders Pension, Annuity and  
 19 Welfare Funds (“Pavers and Road Builders Benefit Funds”); City of Newport News Employees’  
 20 Retirement Fund (“NNERF”); and Massachusetts Laborers’ Pension Fund (“Massachusetts  
 21 Laborers,” together with Bristol, Milford, Pavers and Road Builders Benefit Funds, and NNERF,  
 22 the “Class Representatives” or “Lead Plaintiffs”), on behalf of themselves and each of the  
 23 members of the certified Class (defined below), on the one hand; and (b) SanDisk Corporation  
 24 (n/k/a “SanDisk LLC” and owned by Western Digital, referred to herein as “SanDisk” or the  
 25 “Company”), Sanjay Mehrotra (“Mehrotra”), and Judy Bruner (“Bruner,” together, with  
 26 Mehrotra, the “Individual Defendants” and, with SanDisk as well, the “Defendants”), on the other  
 27 hand, by and through their counsel of record in the above-captioned litigation pending in the  
 28 United States District Court for the Northern District of California (the “Court”). This Stipulation

1 is intended by the parties to fully, finally, and forever resolve, discharge, and settle the Released  
2 Claims and Released Defendants' Claims (both defined below) upon and subject to the terms and  
3 conditions hereof and subject to the Court's approval.

4 **WHEREAS:**

5 A. All words or terms used herein that are capitalized shall have the meaning ascribed  
6 to those words or terms as set forth herein and in ¶1 hereof, entitled "Definitions."

7 B. On March 30, 2015, a class action complaint was filed in the Court, captioned  
8 *Glore v. SanDisk Corp.*, No. 3:15-cv-01455-VC. Two subsequently filed complaints – *Bowers*  
9 *v. SanDisk Corp.*, No. 3:15-cv-02050-VC, and *City of Sterling Heights General Employees'*  
10 *Retirement System v. SanDisk Corp.*, No. 3:15-cv-02358-VC – were consolidated into the *Glore*  
11 action by orders dated May 27, 2015 and July 15, 2015. By order dated July 27, 2017, the caption  
12 in the consolidated action was changed to *In re: SanDisk LLC Securities Litigation*.

13 C. Although another group of investors was initially appointed as lead plaintiffs, at  
14 the Court's invitation, the Class Representatives filed a motion on February 2, 2016, seeking  
15 reconsideration of the Court's prior order appointing lead plaintiffs. On February 22, 2016, the  
16 Court granted the Class Representatives' motion, appointing them Lead Plaintiffs and appointing  
17 Scott+Scott Attorneys at Law LLP as Lead Counsel.

18 D. Lead Plaintiffs filed an Amended Consolidated Class Action Complaint for  
19 Violations of the Federal Securities Laws on March 23, 2016 (ECF No. 129); and a Second  
20 Amended Consolidated Class Action Complaint for Violations of the Federal Securities Laws on  
21 July 15, 2016 (ECF No. 148) ("SAC"). On June 22, 2017, the Court entered an order denying  
22 Defendants' motion to dismiss the SAC. The SAC is the operative complaint in this Action and  
23 it alleges that Defendants fraudulently misrepresented the condition and prospects of SanDisk's  
24 enterprise business, including the then-recently acquired Fusion-io business unit, in violation of  
25 §§10(b) and 20(a) of the Securities Exchange Act of 1934, and Rule 10b-5 promulgated  
26 thereunder.

27 E. The parties completed comprehensive class, fact, and expert discovery in the  
28 Action during which the Class Representatives analyzed over 160,000 documents produced by

1 Defendants. In addition, the Class Representatives took a total of 12 fact and expert depositions.  
2 The Class Representatives sat for Rule 30(b)(6) depositions, and Lead Counsel twice defended  
3 the deposition of the Class' expert on causation and damages, once in connection with class  
4 certification proceedings and later on merits issues.

5 F. On September 4, 2018, the Court granted Lead Plaintiffs' motion to certify the  
6 Action as a class action, certifying a Class consisting of all persons and entities who purchased  
7 or otherwise acquired SanDisk's publicly traded common stock during the period from October  
8 16, 2014, through April 15, 2015, inclusive, and were damaged thereby, with certain exclusions.

9 G. Pursuant to an order entered December 13, 2018, beginning on January 9, 2019,  
10 the Notice of Pendency of Class Action (the "Class Notice") was mailed to potential Class  
11 Members, and the Summary Notice of Pendency of Class Action was published in *Investor's*  
12 *Business Daily* and transmitted over the *PR Newswire* on January 21, 2019. The Class Notice  
13 provided Class Members with the opportunity to request exclusion from the Class, explained that  
14 right, and set forth the deadline and procedures for doing so. The Class Notice informed Class  
15 Members that if they chose to remain a member of the Class, they would "be bound by all  
16 determinations, orders, and judgments in this Action, whether favorable or unfavorable." The  
17 deadline for requesting exclusion from the Class pursuant to the Class Notice was February 28,  
18 2019.

19 H. Following the completion of fact discovery and the exchange of expert reports, the  
20 parties engaged the Honorable Layn R. Phillips (Ret.) ("Judge Phillips"), a well-respected and  
21 highly experienced mediator and former federal judge, to assist them in exploring a potential  
22 negotiated resolution of the claims in the Action. Following an exchange of mediation statements  
23 and exhibits, on October 29, 2018, the Parties met with Judge Phillips in an attempt to reach a  
24 settlement in a full-day mediation. The mediation did not result in a settlement of the Action, but  
25 Judge Phillips continued his efforts to facilitate discussions among the parties.

26 I. On January 17, 2019, Defendants moved for summary judgment and to exclude  
27 the opinions of Class Representatives' loss causation and damages expert, Chad Coffman. Class  
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1 Representatives filed their opposition papers on February 28, 2019, and also moved to exclude  
2 the opinions of Defendants' loss causation expert Daniel R. Fischel.

3 J. Before Defendants filed their reply papers in support of summary judgment, the  
4 parties attended a second in-person mediation with Judge Phillips on March 8, 2019, which  
5 resulted in an agreement-in-principle to settle the Action for \$50,000,000 and entered into a  
6 Memorandum of Understanding. This Stipulation (together with the exhibits hereto) constitutes  
7 the final agreement between the parties.

8 K. Defendants have denied, and continue to deny, any wrongdoing or that they have  
9 committed any act or omission giving rise to any liability or violation of law, including the U.S.  
10 securities laws. Defendants have denied, and continue to deny, each and every one of the claims  
11 alleged by Class Representatives in the Action, including all claims in the complaints filed in the  
12 Action. Defendants also have denied, and continue to deny, *inter alia*, the allegations that Class  
13 Representatives or Class Members have suffered damage or were otherwise harmed by the  
14 conduct alleged in the Action. Defendants have asserted, and continue to assert, that, at all times,  
15 they acted in good faith and in a manner they reasonably believed to be in accordance with all  
16 applicable rules, regulations, and laws. Nonetheless, Defendants have determined that it is  
17 desirable and beneficial to them that the Action be settled in the manner and upon the terms and  
18 conditions set forth in this Stipulation to avoid the further expense, inconvenience, and burden of  
19 this Action, the distraction and diversion of personnel and resources, and to obtain the conclusive  
20 and complete dismissal and/or release of this Action and Released Claims.

21 L. The Stipulation, whether or not consummated, any proceedings relating to any  
22 settlement, or any of the terms of any settlement, whether or not consummated, shall in no event  
23 be construed as, or deemed to be evidence of, an admission or concession on the part of the  
24 Defendants, or any of them, with respect to any fact or matter alleged in the Action, or any claim  
25 of fault or liability or wrongdoing or damage whatsoever, or any infirmity in any claim or defense  
26 that has been or could have been asserted. Each Defendant reserves all defenses to any claims  
27 that may be filed by any individual or entity that has sought, or seeks, exclusion from the Class.

1 M. Class Representatives believe that the claims asserted in the Action have merit and  
2 that the evidence developed to date supports the claims asserted. However, Class Representatives  
3 and Class Counsel recognize and acknowledge the expense and length of continued proceedings  
4 necessary to prosecute the Action through trial (and any possible appeals). Class Representatives  
5 and Class Counsel also have taken into account the uncertain outcome and risk of any litigation,  
6 especially in complex actions, such as the Action, as well as the difficulties and delays inherent  
7 in such litigation. Class Counsel also are mindful of the inherent problems of proof and the  
8 possible defenses to the claims alleged in the Action. Based on their evaluation, Class  
9 Representatives and Class Counsel believe that the Settlement set forth in this Stipulation confers  
10 substantial monetary benefits upon the Class and is in the best interests of the Class.

11 **NOW THEREFORE**, without any concession by Class Representatives that the Action  
12 lacks merit, and without any concession by the Defendants of any liability or wrongdoing or lack  
13 of merit in their defenses, it is hereby **STIPULATED AND AGREED**, by and among the parties  
14 to this Stipulation (“Parties”), through their respective attorneys, subject to approval by the Court  
15 pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, that, in consideration of the  
16 benefits flowing to the Parties hereto, all Released Claims and all Released Defendants’ Claims,  
17 as against all Released Parties, shall be fully, finally, and forever compromised, settled, released,  
18 discharged, and dismissed with prejudice, and without costs (except as provided in the  
19 Stipulation), upon and subject to the following terms and conditions:

#### 20 **DEFINITIONS**

21 1. As used in this Stipulation, the following terms shall have the meanings set forth  
22 below. In the event of any inconsistency between any definition set forth below and any definition  
23 in any other document related to the Settlement, the definition set forth below shall control.

24 (a) “Action” means the civil action captioned *In re: SanDisk LLC Securities*  
25 *Litigation*, No. 3:15-cv-01455-VC (N.D. Cal.), pending in the United States District Court  
26 for the Northern District of California before the Honorable Vince Chhabria.

27 (b) “Alternative Judgment” means a form of final judgment that may be  
28 entered by the Court, but in a form other than the form of Judgment (defined below)

1 provided for in this Stipulation and where none of the Parties hereto elects to terminate  
2 the Settlement (defined below) by reason of such variance.

3 (c) “Authorized Claimant” means a Class Member (defined below) whose  
4 claim for recovery from the Settlement has been allowed pursuant to the terms of the  
5 Stipulation and Court-approved Plan of Allocation (defined below).

6 (d) “Claims Administrator” means the firm Epiq Class Action & Claims  
7 Solutions, Inc. retained, subject to Court approval, to provide all notices approved by the  
8 Court to Class Members, process proofs of claim, and administer the Settlement.

9 (e) “Class” means all persons and entities who purchased or otherwise  
10 acquired publicly traded shares of common stock of SanDisk Corporation from October  
11 16, 2014, through April 15, 2015, inclusive, and were damaged thereby. Excluded from  
12 the Class, by definition, are: Defendants and their immediate family members; the officers  
13 and directors of the Company during the Class Period and their immediate family  
14 members; any entity in which Defendants have, or had, a controlling interest; any person  
15 or entity that timely and validly sought exclusion from the Class in connection with the  
16 Class Notice (defined above) previously disseminated, who does not opt back into the  
17 Class; any person or entity that seeks exclusion by timely submitting a valid request for  
18 exclusion in connection with the Settlement Notice (defined below); and the legal  
19 representatives, heirs, successors, assigns, or affiliates of any excluded person. Also  
20 excluded from the Class are those who had: (a) sold all of their SanDisk stock prior to the  
21 first alleged corrective disclosure on March 26, 2015; and (b) made no subsequent  
22 purchases between March 26, 2015, and April 15, 2015.

23 (f) “Class Counsel” means the law firm of Scott+Scott Attorneys at Law LLP.

24 (g) “Class Member” means any person or entity that meets the definition of  
25 the Class.

26 (h) “Class Notice” means the Notice of Pendency of the Action previously  
27 authorized by order of the Court, which was mailed to Class Members beginning on  
28 January 9, 2019.

1 (i) “Class Period” means the period from October 16, 2014, through April 15,  
2 2015, inclusive.

3 (j) “Class Representatives” means City of Bristol Pension Fund; City of  
4 Milford, Connecticut Pension & Retirement Board; Pavers and Road Builders Pension,  
5 Annuity and Welfare Funds; City of Newport News Employees’ Retirement Fund; and  
6 Massachusetts Laborers’ Pension Fund.

7 (k) “Defendants” means SanDisk Corporation (n/k/a SanDisk LLC and owned  
8 by Western Digital), Sanjay Mehrotra, and Judy Bruner.

9 (l) “Defendants’ Counsel” means the law firm of Wilson, Sonsini, Goodrich  
10 & Rosati Professional Corporation.

11 (m) “Effective Date” means the date upon which the Settlement shall have  
12 become effective, as set forth in ¶37 below.

13 (n) “Escrow Account” means the separate escrow account maintained at  
14 Huntington National Bank into which the Settlement Amount will be deposited for the  
15 benefit of the Class.

16 (o) “Escrow Agent” means Huntington National Bank.

17 (p) “Fee and Expense Application” means Class Counsel’s application, on  
18 behalf of Plaintiffs’ Counsel (defined below), for an award of attorneys’ fees and payment  
19 of litigation expenses incurred in prosecuting the case, including reimbursement of any  
20 expenses of Class Representatives pursuant to 15 U.S.C. §78u-4(a)(4) of the Private  
21 Securities Litigation Reform Act of 1995 (“PSLRA”).

22 (q) “Final,” with respect to a court order, means the later of: (i) if there is an  
23 appeal from a court order, the date of final affirmance on appeal and the expiration of the  
24 time for any further judicial review whether by appeal, reconsideration, or a petition for a  
25 *writ of certiorari* and, if *certiorari* is granted, the date of final affirmance of the order  
26 following review pursuant to the grant; (ii) the date of final dismissal of any appeal from  
27 the order or the final dismissal of any proceeding on *certiorari* to review the order; or (iii)  
28 the expiration of the time for the filing or noticing of any appeal or petition for *certiorari*

1 from the order (or, if the date for taking an appeal or seeking review of the order shall be  
2 extended beyond this time by order of the issuing court, by operation of law or otherwise,  
3 or if such extension is requested, the date of expiration of any extension if any appeal or  
4 review is not sought), without any such filing or noticing being made. However, any  
5 appeal or proceeding seeking subsequent judicial review pertaining solely to the Plan of  
6 Allocation, or to the Court's award of attorneys' fees or expenses, shall not in any way  
7 delay or affect the time set forth above for the Judgment or Alternative Judgment to  
8 become Final or otherwise preclude the Judgment or Alternative Judgment from becoming  
9 Final.

10 (r) "Individual Defendants" means Sanjay Mehrotra and Judy Bruner.

11 (s) "Judgment" means the proposed judgment to be entered by the Court  
12 approving the Settlement, substantially in the form attached hereto as Exhibit B.

13 (t) "Mediator" means Honorable Layn R. Phillips (Ret.).

14 (u) "Net Settlement Fund" means the Settlement Fund (defined below) less:  
15 (i) Court-awarded attorneys' fees and expenses; (ii) Notice and Administration Expenses  
16 (defined below); (iii) Taxes (defined below); and (iv) any other fees or expenses approved  
17 by the Court.

18 (v) "Notice and Administration Expenses" means all costs, fees, and expenses  
19 incurred in connection with providing notice to the Class and the administration of the  
20 Settlement, including, but not limited to: (i) providing Class Notice and the Settlement by  
21 mail, publication, and other means to Class Members; (ii) receiving and reviewing claims;  
22 (iii) applying the Plan of Allocation; (iv) communicating with Persons (defined below)  
23 regarding the Settlement and claims administration process; (v) distributing the proceeds  
24 of the Settlement; and (vi) fees related to the Escrow Account and investment of the  
25 Settlement Fund.

26 (w) "Person(s)" means any individual, corporation (including all divisions and  
27 subsidiaries), general or limited partnership, association, joint stock company, joint  
28 venture, limited liability company, professional corporation, estate, legal representative,

1 trust, unincorporated association, government or any political subdivision or agency  
2 thereof, and any other business or legal entity.

3 (x) “Plaintiffs’ Counsel” means Scott+Scott Attorneys at Law LLP, Labaton  
4 Sucharow LLP, and Cohen Milstein Sellers & Toll PLLC, as well as additional counsel  
5 that assisted certain Class Representatives, the Thornton Law Firm and The Corrente Law  
6 Corporation.

7 (y) “Plan of Allocation” means the Plan of Allocation for the Net Settlement  
8 Fund, which shall be substantially in the form described in the Settlement Notice or any  
9 other plan of distributing the Net Settlement Fund, as shall be approved by the Court.

10 (z) “Preliminary Approval Order” means the proposed Order Granting  
11 Preliminary Approval of Class Action Settlement, Approving Form and Manner of Notice,  
12 and Setting Date for Hearing on Final Approval of Settlement, substantially in the form  
13 attached hereto as Exhibit A.

14 (aa) “Proof of Claim” or “Claim Form” means the Proof of Claim and Release  
15 form for submitting a claim, which shall be substantially in the form attached as Exhibit  
16 A-2 hereto.

17 (bb) “Released Claims” means all claims, demands, losses, rights, and causes  
18 of action of any nature whatsoever that have been, or could have been, asserted in the  
19 Action or could in the future be asserted in any forum, whether foreign or domestic,  
20 whether arising under federal, state, common, or foreign law, by Class Representatives,  
21 any member of the Class, or their successors, assigns, executors, administrators,  
22 representatives, attorneys, and agents, in their capacities as such, whether brought directly  
23 or indirectly against any of the Released Defendants’ Parties (defined below), which both:  
24 (a) arise out of, are based on, or relate in any way to any of the allegations, acts,  
25 transactions, facts, events, matters, occurrences, representations, or omissions involved  
26 that are set forth, alleged, or referred to in the Action, or which could have been alleged  
27 in the Action; and (b) arise out of, are based on, or relate to the purchase or acquisition of  
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1 any SanDisk common stock. Released Claims do not include claims to enforce this  
2 Settlement.

3 (cc) “Released Defendants’ Claims” means all claims, demands, losses, rights,  
4 and causes of action of any nature whatsoever by the Released Defendants’ Parties or any  
5 of them against Class Representatives, members of the Class, or Plaintiffs’ Counsel, which  
6 arise out, or relate in any way to, the institution, prosecution, assertion, settlement, or  
7 resolution of the Action (except for claims to enforce this Settlement).

8 (dd) “Released Defendants’ Parties” means: (i) each Defendant; (ii) each of  
9 their respective family members (for individuals) and each of their direct or indirect parent  
10 entities, subsidiaries, and related entities and affiliates (including Western Digital); and  
11 (iii) for any of the entities listed in parts (i) or (ii), their respective past and present general  
12 partners, limited partners, principals, shareholders, joint venturers, members, officers,  
13 directors, managers, managing directors, supervisors, employees, contractors, consultants,  
14 auditors, accountants, financial advisors, professional advisors, investment bankers,  
15 representatives, insurers, trustees, trustors, agents, attorneys, professionals, predecessors,  
16 successors, assigns, heirs, executors, administrators, and any controlling person thereof,  
17 in their capacities as such.

18 (ee) “Released Parties” means the Released Defendants’ Parties and Released  
19 Plaintiffs’ Parties (defined below).

20 (ff) “Released Plaintiffs’ Parties” means: (i) Class Representatives and the  
21 members of the Class; and (ii) each of their respective family members and their respective  
22 general partners, limited partners, principals, shareholders, joint venturers, members,  
23 officers, directors, managers, managing directors, supervisors, employees, contractors,  
24 consultants, auditors, accountants, financial advisors, professional advisors, investment  
25 bankers, representatives, insurers, trustees, trustors, agents, attorneys, professionals,  
26 predecessors, successors, assigns, heirs, executors, administrators, and any controlling  
27 person thereof, in their capacities as such.  
28

1 (gg) “Settlement” means the resolution of the Action in accordance with the  
2 terms and provisions of this Stipulation.

3 (hh) “Settlement Amount” means the total principal amount of fifty million  
4 U.S. dollars (\$50,000,000).

5 (ii) “Settlement Fund” means the Settlement Amount and any interest earned  
6 thereon.

7 (jj) “Settlement Hearing” means the final hearing to be held by the Court to  
8 determine whether: (i) the Settlement is fair, reasonable, and adequate and should be  
9 approved; (ii) the Plan of Allocation is fair, reasonable, and adequate and should be  
10 approved; and (iii) Class Counsel’s request for an award of attorneys’ fees and expenses  
11 should be approved.

12 (kk) “Settlement Notice” means the Notice of Proposed Class Action  
13 Settlement and Motion for Attorneys’ Fees and Expenses, which is to be provided to Class  
14 Members and shall be substantially in the form attached hereto as Exhibit A-1.

15 (ll) “Stipulation” means this Stipulation and Agreement of Settlement.

16 (mm) “Summary Settlement Notice” means the Summary Notice of Proposed  
17 Class Action Settlement and Motion for Attorneys’ Fees and Expenses for publication,  
18 which shall be substantially in the form attached as Exhibit A-3.

19 (nn) “Taxes” means all federal, state, or local taxes of any kind on any income  
20 earned by the Settlement Fund and the expenses and costs incurred in connection with the  
21 taxation of the Settlement Fund (including, without limitation, interest, penalties, and the  
22 reasonable expenses of tax attorneys and accountants).

23 **SCOPE AND EFFECT OF SETTLEMENT**

24 2. The obligations incurred pursuant to the Stipulation are: (a) subject to approval by  
25 the Court and the Judgment, or Alternative Judgment, reflecting such approval becoming Final;  
26 and (b) in full and final disposition of the Action, with respect to the Released Parties and any  
27 and all Released Claims and Released Defendants’ Claims.  
28



1 ¶52, and SanDisk’s obligation pursuant to ¶35, Defendants and Defendants’ Counsel shall have  
2 no responsibility for, interest in, or liability whatsoever with respect to: (i) any act, omission, or  
3 determination by Class Counsel or the Claims Administrator, or any of their respective designees,  
4 in connection with the administration of the Settlement or otherwise; (ii) the management,  
5 investment, or distribution of the Settlement Fund; (iii) the Plan of Allocation; (iv) the  
6 determination, administration, calculation, or payment of any claims asserted against the  
7 Settlement Fund; (v) any loss suffered by, or fluctuation in value of, the Settlement Fund; or  
8 (vi) the payment or withholding of any Taxes, expenses, and/or costs incurred in connection with  
9 the taxation of the Settlement Fund, distributions, or other payments from the Escrow Account,  
10 or the filing of any federal, state, or local returns.

11 7. Other than the obligation to cause the payment of the Settlement Amount pursuant  
12 to ¶5, Defendants shall have no obligation to make any other payments into the Escrow Account  
13 or to any Class Member pursuant to this Stipulation.

14 **USE AND TAX TREATMENT OF SETTLEMENT FUND**

15 8. The Settlement Fund shall be used to pay: (i) any Taxes; (ii) Notice and  
16 Administration Expenses; (iii) any attorneys’ fees and expenses awarded by the Court; (iv) any  
17 costs and expenses allowed by the PSLRA and awarded to Class Representatives by the Court;  
18 (v) any other fees and expenses ordered by the Court; and (vi) the claims of Authorized Claimants.

19 9. The Net Settlement Fund shall be distributed to Authorized Claimants as provided  
20 in ¶¶20-33 hereof. The Net Settlement Fund shall remain in the Escrow Account before the  
21 Effective Date. All funds held in the Escrow Account, and all earnings thereon, shall be deemed  
22 to be in the custody of the Court and shall remain subject to the jurisdiction of the Court until  
23 such time as the funds shall have been disbursed or returned, pursuant to the terms of this  
24 Stipulation, and/or further order of the Court. The Settlement Fund shall be invested exclusively  
25 in accounts backed by the full faith and credit of the U.S. government or fully insured by the U.S.  
26 government or an agency thereof, including a U.S. Treasury fund or a bank account that is either:  
27 (a) fully insured by the Federal Deposit Insurance Corporation (“FDIC”); or (b) secured by  
28 instruments backed by the full faith and credit of the U.S. government. The proceeds of these

1 accounts shall be reinvested in similar instruments at their then-current market rates as they  
2 mature. All risks related to the investment of the Settlement Fund in accordance with the  
3 investment guidelines set forth in this paragraph shall be borne by the Settlement Fund.

4 10. After the Settlement Amount has been paid into the Escrow Account, the Parties  
5 agree to treat the Settlement Fund as a “qualified settlement fund” within the meaning of Treas.  
6 Reg. §1.468B-1. In addition, Class Counsel shall timely make, or cause to be made, such  
7 elections, as necessary or advisable, to carry out the provisions of this ¶10, including the “relation-  
8 back election” (as defined in Treas. Reg. §1.468B-1) back to the earliest permitted date. Such  
9 election shall be made in compliance with the procedures and requirements contained in such  
10 regulations. It shall be the responsibility of Class Counsel to timely and properly prepare and  
11 deliver, or cause to be prepared and delivered, the necessary documentation for signature by all  
12 necessary parties, and thereafter take all such actions as may be necessary or appropriate to cause  
13 the appropriate filing(s) to occur. Consistent with the foregoing:

14 (a) For the purposes of §468B of the Internal Revenue Code of 1986, as  
15 amended, and Treas. Reg. §1.468B promulgated thereunder, the “administrator” shall be  
16 Class Counsel or their successors, who shall timely and properly file, or cause to be filed,  
17 all federal, state, or local tax returns and information returns (together, “Tax Returns”), as  
18 necessary or advisable, with respect to the earnings on the funds deposited in the Escrow  
19 Account (including, without limitation, the returns described in Treas. Reg. §1.468B-  
20 2(k)). Such Tax Returns (as well as the election described above) shall be consistent with  
21 this subparagraph and in all events shall reflect that all Taxes (including any estimated  
22 taxes, earnings, or penalties) on the income earned on the funds deposited in the Escrow  
23 Account shall be paid out of such funds as provided in subparagraph (c) of this ¶10;

24 (b) All Taxes shall be paid out of the Settlement Fund. In all events,  
25 Defendants and Defendants’ Counsel shall have no liability or responsibility whatsoever  
26 for the Taxes or the filing of any tax return or other document with the Internal Revenue  
27 Service or any other state or local taxing authority. In the event any Taxes are owed by  
28 any of the Defendants on any earnings on the funds accrued after the funds are on deposit

1 in the Escrow Account, such amounts shall also be paid out of the Settlement Fund. Any  
2 Taxes or Tax expenses owed on any earnings on the Settlement Amount accrued before  
3 their transfer to the Escrow Account shall be the sole responsibility of the entities that  
4 make the deposit; and

5 (c) Taxes shall be treated as, and considered to be, a cost of administration of  
6 the Settlement and shall be timely paid, or caused to be paid, by Class Counsel out of the  
7 Settlement Fund, without prior order from the Court or approval by Defendants, and Class  
8 Counsel shall be obligated (notwithstanding anything herein to the contrary) to withhold  
9 from distribution to Authorized Claimants any funds necessary to pay such amounts (as  
10 well as any amounts that may be required to be withheld under Treas. Reg. §1.468B-  
11 2(1)(2)). The Parties agree to cooperate with Class Counsel, each other, and their tax  
12 attorneys and accountants to the extent reasonably necessary to carry out the provisions  
13 of this ¶10.

14 11. This is not a claims-made settlement. As of the Effective Date, Defendants, and/or  
15 any other Person funding the Settlement on a Defendant's behalf, shall not have any right to the  
16 return of the Settlement Fund or any portion thereof for any reason.

17 **ATTORNEYS' FEES AND EXPENSES**

18 12. Class Counsel, on behalf of Plaintiffs' Counsel, will apply to the Court for an  
19 award from the Settlement Fund of attorneys' fees and payment of litigation expenses incurred in  
20 prosecuting the Action, including reimbursement to Class Representatives pursuant to the  
21 PSLRA, with earnings on such amounts at the same rate and for the same periods as earned by  
22 the Settlement Fund. Class Counsel reserves the right to make additional applications for fees  
23 and expenses incurred.

24 13. The amount of attorneys' fees and expenses awarded by the Court is within the  
25 sole discretion of the Court. Any attorneys' fees and expenses awarded by the Court shall be paid  
26 from the Settlement Fund to Class Counsel immediately after entry of the Judgment (or  
27 Alternative Judgment) and order awarding such attorneys' fees and expenses, notwithstanding  
28 the existence of any timely filed objections thereto or to the Settlement, or potential for appeal

1 therefrom, or collateral attack on the awarded fees and expenses, the Settlement, or any part  
2 thereof, or as otherwise ordered by the Court. Class Counsel shall allocate any Court-awarded  
3 attorneys' fees and expenses among Plaintiffs' Counsel.

4 14. Any payment of attorneys' fees and expenses pursuant to ¶¶12-13 above shall be  
5 subject to Class Counsel's obligation to make refunds or repayments to the Settlement Fund of  
6 any paid amounts, plus accrued earnings at the same net rate as is earned by the Settlement Fund,  
7 if the Settlement is terminated pursuant to the terms of this Stipulation or fails to become effective  
8 for any reason, or if, as a result of any appeal or further proceedings on remand or successful  
9 collateral attack, the award of attorneys' fees and/or expenses is reduced or reversed by Final non-  
10 appealable court order. Class Counsel shall make the appropriate refund or repayment in full no  
11 later than fourteen (14) calendar days after receiving notice of the termination of the Settlement  
12 pursuant to this Stipulation, notice from a court of appropriate jurisdiction of the disapproval of  
13 the Settlement by Final non-appealable court order, or notice of any reduction or reversal of the  
14 award of attorneys' fees and/or expenses by Final non-appealable court order.

15 15. With the sole exception of Defendants' obligation to pay the Settlement Amount  
16 into the Escrow Account as provided for in ¶5, Defendants shall have no responsibility for, and  
17 no liability whatsoever with respect to, any payment whatsoever to Plaintiffs' Counsel in the  
18 Action that may occur at any time.

19 16. Defendants shall have no responsibility for, and no liability whatsoever with  
20 respect to, any allocation of any attorneys' fees or expenses among Plaintiffs' Counsel in the  
21 Action, or to any other Person who may assert some claim thereto, or any fee or expense awards  
22 the Court may make in the Action.

23 17. Defendants shall have no responsibility for, and no liability whatsoever with  
24 respect to, any attorneys' fees, costs, or expenses incurred by or on behalf of Class Members,  
25 whether or not paid from the Escrow Account. The Settlement Fund will be the sole source of  
26 payment from Defendants for any award of attorneys' fees and expenses ordered by the Court.

27 18. The procedure for and the allowance or disallowance by the Court of any Fee and  
28 Expense Application are not part of the Settlement set forth in this Stipulation and are separate

1 from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement  
2 set forth in this Stipulation, and any order or proceeding relating to any Fee and Expense  
3 Application, including an award of attorneys' fees or expenses in an amount less than the amount  
4 requested by Class Counsel, or any appeal from any order relating thereto, or reversal or  
5 modification thereof, shall not operate to terminate or cancel the Stipulation, or affect or delay  
6 the finality of the Judgment or Alternative Judgment approving the Stipulation and the Settlement  
7 set forth herein. Class Representatives and Class Counsel may not cancel or terminate the  
8 Stipulation or the Settlement in accordance with ¶¶38-42 or otherwise based on the Court's, or  
9 any appellate court's, ruling with respect to fees and expenses in the Action.

10 **ADMINISTRATION EXPENSES**

11 19. Before the Effective Date, without further approval from Defendants or further  
12 order of the Court, Class Counsel may use the Settlement Fund to pay Notice and Administration  
13 Expenses actually incurred. Taxes and fees related to the Escrow Account and investment of the  
14 Settlement Fund may be paid as incurred, without further approval of Defendants or further order  
15 of the Court. After the Effective Date, without approval of Defendants or further order of the  
16 Court, Notice and Administration Expenses may be paid as incurred.

17 **DISTRIBUTION TO AUTHORIZED CLAIMANTS**

18 20. Except as otherwise provided herein, the Net Settlement Fund shall be held in the  
19 Escrow Account until the Effective Date.

20 21. The Claims Administrator, subject to such supervision and direction of Class  
21 Counsel and/or the Court as may be necessary or as circumstances may require, shall administer  
22 and calculate the claims submitted by Class Members subject to the jurisdiction of the Court and  
23 shall oversee distribution of the Net Settlement Fund to Authorized Claimants. Defendants and  
24 Defendants' Counsel shall have no responsibility for (except as stated in ¶¶5 and 35 hereof),  
25 interest in, or liability whatsoever with respect to the administration of the Settlement or the  
26 actions or decisions of the Claims Administrator and shall have no liability to the Class in  
27 connection with such administration.

1           22.     The Claims Administrator shall determine each Authorized Claimant's *pro rata*  
2 share of the Net Settlement Fund based upon each Authorized Claimant's recognized loss, as  
3 defined in the Plan of Allocation included in the Settlement Notice, or in such other plan of  
4 allocation as the Court may approve.

5           23.     Defendants have no role in the development of the Plan of Allocation. The Plan  
6 of Allocation is a matter separate and apart from the Settlement, and any decision by the Court  
7 concerning the Plan of Allocation shall not affect the validity or finality of the proposed  
8 Settlement. The Plan of Allocation is not a necessary term of the Stipulation and it is not a  
9 condition of the Stipulation that any particular plan of allocation be approved by the Court. Class  
10 Representatives and Class Counsel may not cancel or terminate the Stipulation or Settlement in  
11 accordance with ¶38 or otherwise based on the Court's, or any appellate court's, ruling with  
12 respect to the Plan of Allocation or any plan of allocation in the Action. Defendants and  
13 Defendants' Counsel shall have no responsibility or liability for reviewing or challenging claims,  
14 the allocation of the Net Settlement Fund, or the distribution of the Net Settlement Fund.

15           24.     Upon the Effective Date and thereafter, and in accordance with the terms of the  
16 Stipulation, Plan of Allocation, or such further approval and further order(s) of the Court as may  
17 be necessary or as circumstances may require, the Net Settlement Fund shall be distributed to  
18 Authorized Claimants.

19           25.     If there is any balance remaining in the Net Settlement Fund (whether by reason  
20 of tax refunds, uncashed checks, or otherwise) after at least four (4) months from the date of initial  
21 distribution of the Net Settlement Fund, Class Counsel shall, if feasible and economical,  
22 redistribute such balance among Authorized Claimants who have cashed their checks in an  
23 equitable and economic fashion. These redistributions shall be repeated until the balance in the  
24 Net Settlement Fund is no longer feasible to distribute to Class Members. Any balance that still  
25 remains in the Net Settlement Fund after re-distribution(s), which is not feasible or economical  
26 to reallocate, after payment of Notice and Administration Expenses, Taxes, and attorneys' fees  
27 and expenses, shall be donated in equal amounts to the Consumer Federation of America and the  
28 Council of Institutional Investors.

**ADMINISTRATION OF THE SETTLEMENT**

1  
2           26. Any Class Member who fails to timely submit a valid Proof of Claim (substantially  
3 in the form of Exhibit A-2) will not be entitled to receive any of the proceeds from the Net  
4 Settlement Fund, except as otherwise ordered by the Court, but will otherwise be bound by all of  
5 the terms of this Stipulation and the Settlement, including the terms of the Judgment or Alternative  
6 Judgment to be entered in the Action and all releases provided for herein, and will be barred from  
7 bringing any action against the Released Defendants' Parties concerning the Released Claims.

8           27. Class Counsel shall be responsible for supervising the administration of the  
9 Settlement and disbursement of the Net Settlement Fund by the Claims Administrator. Class  
10 Counsel shall have the right, but not the obligation, to advise the Claims Administrator to waive  
11 what Class Counsel deem to be *de minimis* or formal or technical defects in any Proof of Claim  
12 submitted. Defendants and Defendants' Counsel shall have no liability, obligation, or  
13 responsibility for the administration of the Settlement, the allocation of the Net Settlement Fund,  
14 or the reviewing or challenging of claims of Class Members.

15           28. For purposes of determining the extent, if any, to which a claimant shall be entitled  
16 to be treated as an Authorized Claimant, the following conditions shall apply:

17                   (a) Each claimant shall be required to submit a Proof of Claim, substantially  
18 in the form attached hereto as Exhibit A-2, supported by such documents as are designated  
19 therein, including proof of the claimant's loss, or such other documents or proof as the  
20 Claims Administrator or Class Counsel, in their discretion, may deem acceptable;

21                   (b) All Proofs of Claim must be submitted by the date set by the Court in the  
22 Preliminary Approval Order and specified in the Settlement Notice, unless such deadline  
23 is extended by Class Counsel in their discretion or by order of the Court. Any Class  
24 Member who fails to submit a Proof of Claim by such date shall be barred from receiving  
25 any distribution from the Net Settlement Fund or payment pursuant to this Stipulation  
26 (unless, by order of the Court or the discretion of Class Counsel, late-filed Proofs of Claim  
27 are accepted), but shall, in all other respects, be bound by all of the terms of this Stipulation  
28 and the Settlement, including the terms of the Judgment or Alternative Judgment and all

1 releases provided for herein, and will be permanently barred from bringing any action,  
2 claim, or other proceeding of any kind against any Released Defendants' Party. A Proof  
3 of Claim shall be deemed to be submitted when mailed, if received with a postmark on  
4 the envelope and if mailed by first-class or overnight U.S. mail and addressed in  
5 accordance with the instructions thereon. In all other cases, the Proof of Claim shall be  
6 deemed to have been submitted when actually received by the Claims Administrator.  
7 Notwithstanding the foregoing, Class Counsel shall have the discretion (but not the  
8 obligation) to accept for processing late-submitted claims, so long as the distribution of  
9 the Net Settlement Fund to Authorized Claimants is not materially delayed. Class Counsel  
10 shall have no liability for their discretion in accepting late claims;

11 (c) Each Proof of Claim shall be submitted to and reviewed by the Claims  
12 Administrator, under such supervision of Class Counsel, as necessary, who shall  
13 determine in accordance with this Stipulation the extent, if any, to which each claim shall  
14 be allowed;

15 (d) Proofs of Claim that do not meet the submission requirements may be  
16 rejected. Before rejecting a Proof of Claim in whole or in part, the Claims Administrator  
17 shall communicate with the claimant in writing to give the claimant the chance to remedy  
18 any curable deficiencies in the Proof of Claim submitted. The Claims Administrator,  
19 under such supervision of Class Counsel, as necessary, shall notify, in a timely fashion  
20 and in writing, all claimants whose claims the Claims Administrator proposes to reject in  
21 whole or in part for curable deficiencies, setting forth the reasons therefor and shall  
22 indicate in such notice that the claimant whose claim is to be rejected has the right to a  
23 review by the Court if the claimant so desires and complies with the requirements of  
24 subparagraph (e) below; and

25 (e) If any claimant whose timely claim has been rejected in whole or in part  
26 for curable deficiency desires to contest such rejection, the claimant must, within twenty  
27 (20) calendar days after the date of mailing of the notice required in subparagraph (d)  
28 above, or a lesser period of time if the claim was untimely, serve upon the Claims

1 Administrator a notice and statement of reasons indicating the claimant's grounds for  
2 contesting the rejection, along with any supporting documentation, and requesting a  
3 review thereof by the Court.

4 29. Each claimant who submits a Proof of Claim shall be deemed to have submitted  
5 to the jurisdiction of the Court with respect to the claimant's claim, including, but not limited to,  
6 all releases provided for herein and in the Judgment or Alternative Judgment, and the claim will  
7 be subject to investigation and discovery under the Federal Rules of Civil Procedure, provided  
8 that such investigation and discovery shall be limited to the claimant's status as a Class Member  
9 and the validity and amount of the claimant's claim. In connection with processing the Proofs of  
10 Claim, no discovery shall be allowed on the merits of the Action or the Settlement.

11 30. Payment pursuant to the Stipulation and Plan of Allocation shall be deemed final  
12 and conclusive against any and all Class Members. All Class Members whose claims are not  
13 approved shall be barred from participating in distributions from the Net Settlement Fund, but  
14 otherwise shall be bound by all of the terms of this Stipulation and the Settlement, including the  
15 terms of the Judgment or Alternative Judgment to be entered in the Action, and the releases  
16 provided for herein and therein, and will be barred from bringing any action against the Released  
17 Defendants' Parties concerning the Released Claims.

18 31. All proceedings with respect to the administration, processing, and determination  
19 of claims described by this Stipulation, and the determination of all controversies relating thereto,  
20 including disputed questions of law and fact with respect to the validity of claims, shall be subject  
21 to the jurisdiction of the Court, but shall not, in any event, delay or affect the finality of the  
22 Judgment or Alternative Judgment.

23 32. No Person shall have any claim of any kind against the Released Defendants'  
24 Parties or Defendants' Counsel with respect to the matters set forth in this section (*i.e.*, ¶¶26-33),  
25 or any of its subsections, or otherwise related in any way to the administration of the Settlement,  
26 including, without limitation, the processing of claims and distributions.

27 33. No Person shall have any claim against Class Representatives, Plaintiffs' Counsel,  
28 or the Claims Administrator, or other Person designated by Class Counsel, based on the

1 distributions made substantially in accordance with this Stipulation and the Settlement contained  
2 herein, the Plan of Allocation, or further order(s) of the Court.

3 **TERMS OF THE PRELIMINARY APPROVAL ORDER**

4 34. No later than May 6, 2019, Class Counsel shall apply to the Court for entry of the  
5 Preliminary Approval Order, which shall be substantially in the form annexed hereto as Exhibit  
6 A. The Preliminary Approval Order will, *inter alia*, preliminarily approve the Settlement, set the  
7 date for the Settlement Hearing, approve the form of notice, and prescribe the method for giving  
8 notice of the Settlement to the Class.

9 35. To the extent it has not already done so, SanDisk shall use reasonable efforts to  
10 have its transfer agent provide, or cause to be provided, to Class Counsel and/or the Claims  
11 Administrator, at no cost to Class Counsel, Class Representatives, or the Class, within five (5)  
12 business days of entry of the Preliminary Approval Order, its transfer records in electronic  
13 searchable form, such as Excel, containing the names and addresses of Persons who purchased or  
14 acquired the publicly traded common stock of SanDisk during the Class Period, to the extent that  
15 information is available.

16 **TERMS OF THE JUDGMENT**

17 36. If the Settlement contemplated by this Stipulation is approved by the Court, Class  
18 Counsel shall request that the Court enter a Judgment substantially in the form annexed hereto as  
19 Exhibit B.

20 **EFFECTIVE DATE OF SETTLEMENT**

21 37. The Effective Date of this Settlement shall be the first business day on which all  
22 of the following shall have occurred or been waived:

- 23 (a) entry of the Preliminary Approval Order, which shall be in all material  
24 respects substantially in the form set forth in Exhibit A annexed hereto;
- 25 (b) payment of the Settlement Amount into the Escrow Account pursuant to ¶5;
- 26 (c) approval by the Court of the Settlement, following notice to the Class and  
27 the Settlement Hearing, as prescribed by Fed. R. Civ. P. 23; and  
28

1 (d) a Judgment, which shall be in all material respects substantially in the form  
2 set forth in Exhibit B annexed hereto, will have been entered by the Court, and will have  
3 become Final; or in the event that an Alternative Judgment will have been entered, the  
4 Alternative Judgment will have become Final.

5 **WAIVER OR TERMINATION**

6 38. Defendants and Class Representatives shall have the right to terminate the  
7 Settlement and Stipulation by providing written notice of their election to do so (“Termination  
8 Notice”), through counsel, to all other Parties hereto within fourteen (14) calendar days of: (i) the  
9 Court’s Final refusal to enter the Preliminary Approval Order in any material respect; (ii) the  
10 Court’s Final refusal to approve this Stipulation or any material part of it; (iii) the Court’s Final  
11 refusal to enter the Judgment in any material respect; (iv) the Court’s Final refusal to enter an  
12 Alternative Judgment in any material respect; or (v) the date upon which the Judgment or  
13 Alternative Judgment is modified or reversed in any material respect by a Final order of the Court,  
14 the United States Court of Appeals for the Ninth Circuit, or the Supreme Court of the United  
15 States. For the avoidance of doubt, Class Representatives shall not have the right to terminate the  
16 Settlement due to any decision, ruling, or order relating to the Fee and Expense Application or  
17 any plan of allocation.

18 39. In addition to the foregoing, Defendants shall also have the right to withdraw from  
19 the Settlement in the event the Termination Threshold (defined below) has been reached.

20 (a) Simultaneously herewith, Defendants’ Counsel and Class Counsel are  
21 executing a confidential Supplemental Agreement Regarding Requests for Exclusion  
22 (“Supplemental Agreement”). The Supplemental Agreement sets forth certain conditions  
23 under which Defendants shall have the option to terminate the Settlement and render the  
24 Stipulation null and void in the event that requests for exclusion from the Class exceed  
25 certain agreed-upon criteria (the “Termination Threshold”). The Parties agree to maintain  
26 the confidentiality of the Supplemental Agreement, which shall not be filed with the Court  
27 unless a dispute arises as to its terms, or as otherwise ordered by the Court, nor shall the  
28 Supplemental Agreement otherwise be disclosed unless ordered by the Court. If

1 submission of the Supplemental Agreement is required for resolution of a dispute or is  
2 otherwise ordered by the Court, the Parties will use their best reasonable efforts to have  
3 the Supplemental Agreement submitted to the Court *in camera* or under seal. In the event  
4 of a termination of the Settlement pursuant to the Supplemental Agreement, the  
5 Stipulation shall become null and void and of no further force and effect, with the  
6 exception of the provisions of ¶¶46-47 which shall continue to apply.

7 40. The Preliminary Approval Order, attached hereto as Exhibit A, shall provide that  
8 requests for exclusion shall be received no later than twenty-one (21) calendar days before the  
9 Settlement Hearing (“Notice Date”). Upon receiving any request for exclusion pursuant to the  
10 Settlement Notice, the Claims Administrator shall promptly, and no later than fifteen (15)  
11 calendar days before the Settlement Hearing, notify Class Counsel and Defendants’ Counsel of  
12 such request for exclusion and provide copies of such request for exclusion, and any  
13 documentation accompanying it, by email.

14 41. In addition to all of the rights and remedies that Class Representatives have under  
15 the terms of this Stipulation, Class Representatives shall also have the right to terminate the  
16 Settlement in the event that the Settlement Amount has not been paid in the time period provided  
17 for in ¶5 above, by providing written notice of the election to terminate to all other Parties’ counsel  
18 and, thereafter, there is a failure to pay the Settlement Amount within fourteen (14) calendar days  
19 of such written notice.

20 42. If, before the Settlement becomes Final, any Defendant files for protection under  
21 the Bankruptcy Code, or any similar law, or a trustee, receiver, conservator, or other fiduciary is  
22 appointed under Bankruptcy, or any similar law, and in the event of the entry of a final order of a  
23 court of competent jurisdiction determining the transfer of money or any portion thereof to the  
24 Settlement Fund by or on behalf of such Defendant to be a preference, voidable transfer,  
25 fraudulent transfer, or similar transaction, and any portion thereof is required to be returned, and  
26 such amount is not promptly deposited into the Settlement Fund by others, then, at the election of  
27 Class Representatives, the Parties shall jointly move the Court to vacate and set aside the release  
28 given and the Judgment or Alternative Judgment entered in favor of that Defendant or all

1 Defendants, and that Defendant or all Defendants, Class Representatives, and the members of the  
2 Class shall be restored to their litigation positions as of March 8, 2019. All releases and the  
3 Judgment or Alternative Judgment as to other Defendants shall remain unaffected.

4 43. Defendants each warrant, as to themselves and the payments made on their  
5 behalves, that, at the time of such payment, they will not be insolvent, nor will payment render  
6 them insolvent, within the meaning of and/or for the purposes of the U.S. Bankruptcy Code,  
7 including §§101 and 547 thereof.

8 44. If an option to withdraw from and terminate this Stipulation and Settlement arises  
9 under any of ¶¶38-42 above: (i) neither Defendants nor Class Representatives (as the case may  
10 be) will be required for any reason or under any circumstance to exercise that option; and (ii) any  
11 exercise of that option shall be made in good faith, but in the sole and unfettered discretion of  
12 Defendants or Class Representatives, as applicable.

13 45. With the exception of the provisions of ¶¶46-47, which shall continue to apply, in  
14 the event the Settlement is terminated, as set forth herein, or cannot become effective for any  
15 reason, then the Settlement shall be without prejudice and none of its terms shall be effective or  
16 enforceable, except as specifically provided herein; the Parties shall be deemed to have reverted  
17 to their respective litigation positions in the Action as of March 8, 2019; and, except as  
18 specifically provided herein, the Parties shall proceed in all respects as if this Stipulation and any  
19 related order had not been entered. In such event, this Stipulation, and any aspect of the  
20 discussions or negotiations leading to this Stipulation, shall not be admissible in this Action and  
21 shall not be used against or to the prejudice of Defendants or against or to the prejudice of Class  
22 Representatives, in any court filing, deposition, at trial, or otherwise.

23 46. In the event the Settlement is terminated or fails to become effective for any  
24 reason, any portion of the Settlement Amount previously paid, together with any earnings thereon,  
25 less any Taxes paid or due, less Notice and Administration Expenses actually incurred and paid  
26 or payable from the Settlement Amount, shall be returned to the Person(s) that made the deposit(s)  
27 within fourteen (14) calendar days after written notification of such event in accordance with  
28 instructions provided by Defendants' Counsel to Class Counsel. At the request of Defendants'

1 Counsel, the Escrow Agent or their designees shall apply for any tax refund owed on the amounts  
2 in the Escrow Account and pay the proceeds, after any deduction of any fees or expenses incurred  
3 in connection with such application(s), of such refund to the Person(s) that made the deposits or  
4 as otherwise directed.

5 **NO ADMISSION**

6 47. Except as set forth in ¶48 below, this Stipulation, whether or not consummated,  
7 and whether or not approved by the Court, and any discussion, negotiation, proceeding, or  
8 agreement relating to the Stipulation, Settlement, and any matter arising in connection with  
9 settlement discussions or negotiations, proceedings, or agreements, shall not be offered or  
10 received against or to the prejudice of the Parties or their respective counsel, for any purpose other  
11 than in an action to enforce the terms hereof, and in particular:

12 (a) do not constitute, and shall not be offered or received against or to the  
13 prejudice of Defendants or the Released Defendants' Parties as evidence of, or construed  
14 as, or deemed to be evidence of any presumption, concession, or admission by Defendants  
15 or the Released Defendants' Parties, with respect to the truth of any allegation by Class  
16 Representatives and the Class, or the validity of any claim that has been or could have  
17 been asserted in the Action or in any litigation, including, but not limited to, the Released  
18 Claims, or of any liability, damages, negligence, fault, or wrongdoing of Defendants or  
19 the Released Defendants' Parties or any Person or entity whatsoever;

20 (b) do not constitute, and shall not be offered or received against or to the  
21 prejudice of Defendants or the Released Defendants' Parties as evidence of a presumption,  
22 concession, or admission of any fault, misrepresentation, or omission, with respect to any  
23 statement or written document approved or made by Defendants, or against or to the  
24 prejudice of Class Representatives, or any other member of the Class, as evidence of any  
25 infirmity in the claims of Class Representatives, or the other members of the Class;

26 (c) do not constitute, and shall not be offered or received against or to the  
27 prejudice of Defendants, the Released Defendants' Parties, Class Representatives, the  
28 Released Plaintiffs' Parties, any other member of the Class, or their respective counsel, as

1 evidence of a presumption, concession, or admission, with respect to any liability,  
2 damages, negligence, fault, infirmity, or wrongdoing, or in any way referred to for any  
3 other reason against, or to the prejudice of, any of the Defendants, the Released  
4 Defendants' Parties, Class Representatives, the Released Plaintiffs' Parties, any other  
5 member of the Class, or their respective counsel, in any other civil, criminal, or  
6 administrative action or proceeding, other than such proceedings as may be necessary to  
7 effectuate the provisions of this Stipulation;

8 (d) do not constitute, and shall not be construed against Defendants, the  
9 Released Defendants' Parties, Class Representatives, the Released Plaintiffs' Parties, or  
10 any other member of the Class, as an admission or concession that the consideration to be  
11 given hereunder represents the amount that could be, or would have been, recovered after  
12 trial; and

13 (e) do not constitute, and shall not be construed as or received in evidence, as  
14 an admission, concession, or presumption against Class Representatives, the Released  
15 Plaintiffs' Parties, or any other member of the Class, that any of their claims are without  
16 merit or infirm or that damages recoverable under the SAC would not have exceeded the  
17 Settlement Amount.

18 48. Notwithstanding ¶47 above, the Parties, and their respective counsel, may file this  
19 Stipulation and/or the Judgment or Alternative Judgment in any action that may be brought  
20 against them in order to support a defense or counterclaim based on principles of *res judicata*,  
21 collateral estoppel, release, statute of limitations, statute of repose, good-faith settlement,  
22 judgment bar or reduction, or any theory of claim preclusion or issue preclusion or similar defense  
23 or counterclaim, or to effectuate any liability protection granted them under any applicable  
24 insurance policy. The Parties may file this Stipulation and/or the Judgment or Alternative  
25 Judgment in any action that may be brought to enforce the terms of this Stipulation and/or the  
26 Judgment or Alternative Judgment. All Parties submit to the jurisdiction of the Court for purposes  
27 of implementing and enforcing the Settlement.

**MISCELLANEOUS PROVISIONS**

1  
2 49. All of the exhibits to the Stipulation, and the Supplemental Agreement, are  
3 material and integral parts hereof and fully incorporated herein by this reference.

4 50. The Parties intend the Settlement to be the full, final, and complete resolution of  
5 all claims asserted, or that could have been asserted, by the Parties with respect to the Released  
6 Claims and Released Defendants' Claims. Accordingly, the Parties agree not to assert in any  
7 forum that the Action was brought, prosecuted, or defended in bad faith or without a reasonable  
8 basis. The Parties and their respective counsel agree that each has complied fully with Fed. R.  
9 Civ. P. 11 in connection with the maintenance, prosecution, defense, and settlement of the Action  
10 and shall not make any application for sanctions, pursuant to Rule 11 or other court rule or statute,  
11 with respect to any claim or defense in this Action. The Judgment shall contain a finding that the  
12 Parties and their counsel, at all times, complied with Rule 11. The Parties agree that the amount  
13 paid and the other terms of the Settlement were negotiated at arm's-length and in good faith by  
14 the Parties and their respective counsel and reflect a settlement that was reached voluntarily based  
15 upon adequate information and after consultation with experienced legal counsel.

16 51. This Stipulation, along with its exhibits and the Supplemental Agreement, may not  
17 be modified or amended, nor may any of its provisions be waived, except by a writing signed by  
18 counsel for the Parties hereto.

19 52. Defendants shall be responsible for, and shall pay for, at no cost to the Class,  
20 timely service of any notice that might be required pursuant to the Class Action Fairness Act, 28  
21 U.S.C. §1715.

22 53. The headings herein are used for the purpose of convenience only and are not  
23 meant to have legal effect.

24 54. The administration and consummation of the Settlement, as embodied in this  
25 Stipulation, shall be under the authority of the Court, and the Court shall retain jurisdiction for  
26 the purpose of entering orders providing for awards of attorneys' fees and any expenses and  
27 implementing and enforcing the terms of this Stipulation.

1           55.     The waiver by one Party of any breach of this Stipulation by any other Party shall  
2 not be deemed a waiver of any other prior or subsequent breach of this Stipulation.

3           56.     This Stipulation, its exhibits, and the Supplemental Agreement constitute the  
4 entire agreement among the Parties concerning the Settlement, as against the Defendants, and no  
5 representation, warranty, or inducement has been made by any Party concerning this Stipulation  
6 and its exhibits other than those contained and memorialized in such documents.

7           57.     Nothing in the Stipulation, or the negotiations relating thereto, is intended, or shall  
8 be deemed, to constitute a waiver of any applicable privilege or immunity, including, without  
9 limitation, attorney-client privilege, joint defense privilege, or work product protection.

10          58.     Without further order of the Court, the Parties may agree to reasonable extensions  
11 of time to carry out any of the provisions of this Stipulation.

12          59.     All designations and agreements made, or orders entered during the course of the  
13 Action relating to the confidentiality of documents or information shall survive this Stipulation.

14          60.     This Stipulation may be executed in one or more counterparts. All executed  
15 counterparts and each of them shall be deemed to be one and the same instrument. Signatures  
16 sent by facsimile or via e-mail in pdf format shall be deemed originals.

17          61.     This Stipulation shall be binding when signed, but the Settlement shall be effective  
18 upon the entry of the Judgment or Alternative Judgment and the payment in full of the Settlement  
19 Amount, subject only to the condition that the Effective Date will have occurred.

20          62.     This Stipulation shall be binding upon, and inure to the benefit of, the successors  
21 and assigns of the Parties.

22          63.     The construction, interpretation, operation, effect, and validity of this Stipulation,  
23 and all documents necessary to effectuate it, shall be governed by the laws of the state of  
24 California, without regard to conflicts of laws, except to the extent that federal law requires that  
25 federal law govern.

26          64.     This Stipulation shall not be construed more strictly against one Party than another  
27 merely by virtue of the fact that it, or any part of it, may have been prepared by counsel for one  
28 of the Parties, it being recognized that it is the result of arm's-length negotiations among the

1 Parties, and all Parties have contributed substantially and materially to the preparation of this  
2 Stipulation.

3 65. All counsel and any other person executing this Stipulation and any of the exhibits  
4 hereto, or any related Settlement document, warrant and represent that they have the full authority  
5 to do so, and that they have the authority to take appropriate action required or permitted to be  
6 taken pursuant to the Stipulation to effectuate its terms.

7 66. The Parties and their respective counsel agree to cooperate fully with one another  
8 in promptly applying for preliminary approval by the Court of the Settlement and for the  
9 scheduling of a hearing for consideration of Final approval of the Settlement, the Plan of  
10 Allocation, and Class Counsel's Fee and Expense Application, and to agree promptly upon and  
11 execute all such other documentation, as reasonably may be required, to obtain Final approval by  
12 the Court of the Settlement.

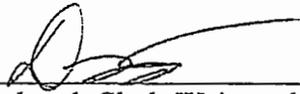
13 67. Except as otherwise provided herein, each Party shall bear its own costs.

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15 [SIGNATURES TO FOLLOW]  
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IN WITNESS WHEREOF, the Parties have caused this Stipulation to be executed by their duly authorized attorneys as of May 6, 2019.

**SCOTT+SCOTT ATTORNEYS AT LAW LLP**

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*Attorneys for Defendants SanDisk LLC, Sanjay Mehrotra, and Judy Bruner*

# **EXHIBIT A**

1 DEBORAH CLARK-WEINTRAUB (*pro hac vice*)  
 MAX R. SCHWARTZ (*pro hac vice*)  
 2 **SCOTT+SCOTT ATTORNEYS AT LAW LLP**  
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 3 230 Park Avenue, 17th Floor  
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6 *Attorneys for Class Representatives and the Class*

7  
 8 **UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
 9 **SAN FRANCISCO DIVISION**

10 IN RE: SANDISK LLC SECURITIES  
LITIGATION

Case No. 3:15-cv-01455-VC

Hon. Vince Chhabria

11  
 12 **[PROPOSED] ORDER GRANTING**  
**PRELIMINARY APPROVAL OF**  
 13 **CLASS ACTION SETTLEMENT,**  
**APPROVING FORM AND MANNER**  
 14 **OF NOTICE, AND SETTING DATE**  
 15 **FOR HEARING ON FINAL**  
 16 **APPROVAL OF SETTLEMENT**

17 **WHEREAS**, as of May 6, 2019, (a) City of Bristol Pension Fund (“Bristol”); City of  
 18 Milford, Connecticut Pension & Retirement Board (“Milford”); Pavers and Road Builders  
 19 Pension, Annuity and Welfare Funds (“Pavers and Road Builders Benefit Funds”); the City of  
 20 Newport News Employees’ Retirement Fund (“NNERF”); and Massachusetts Laborers’ Pension  
 21 Fund (“Massachusetts Laborers,” together with Bristol, Milford, Pavers and Road Builders  
 22 Benefit Funds, and NNERF, the “Class Representatives” or “Lead Plaintiffs”), on behalf of  
 23 themselves and each of the members of the certified Class (defined below), on the one hand, and  
 24 (b) SanDisk Corporation (n/k/a “SanDisk LLC” and owned by Western Digital, referred to herein  
 25 as “SanDisk” or the “Company”), and Sanjay Mehrotra (“Mehrotra”) and Judy Bruner (“Bruner”),  
 26 with Mehrotra the “Individual Defendants,” and with SanDisk as well, the “Defendants”), on the  
 27 other hand, entered into a Stipulation and Agreement of Settlement (the “Stipulation”) in the  
 28 Action, which is subject to review under Rule 23 of the Federal Rules of Civil Procedure and

1 which, together with the exhibits thereto, sets forth the terms and conditions of the Settlement of  
2 this Action;

3         **WHEREAS**, all capitalized terms used in this Preliminary Approval Order that are not  
4 otherwise defined herein have the meanings defined in the Stipulation;

5         **WHEREAS**, by Order entered September 4, 2018, the Court certified a Class of: all  
6 persons and entities who purchased or otherwise acquired publicly traded shares of common stock  
7 of SanDisk Corporation from October 16, 2014 through April 15, 2015, inclusive, (the “Class  
8 Period”) and were damaged thereby. Excluded from the Class, by definition are: Defendants and  
9 their immediate family members; the officers and directors of the Company during the Class  
10 Period and their immediate family members; any entity in which Defendants have or had a  
11 controlling interest; any person or entity that timely and validly sought exclusion from the Class  
12 in connection with the Class Notice previously disseminated, who does not opt back into the  
13 Class; and the legal representatives, heirs, successors, assigns, or affiliates of any excluded  
14 person. Also excluded from the Class is any person or entity that seeks exclusion by timely  
15 submitting a valid request for exclusion in connection with the Settlement Notice, and those who  
16 had (a) sold all of their SanDisk stock prior to the first alleged corrective disclosure on March 26,  
17 2015, and (b) made no subsequent purchases between March 26, 2015 and April 15, 2015;

18         **WHEREAS**, pursuant to this Court’s Order entered December 13, 2018, the Class Notice  
19 was mailed to potential members of the Class to notify them of, among other things: (a) the Action  
20 pending against the Defendants; (b) the Court’s certification of the Action as a class action on  
21 behalf of the certified Class; (c) the effect of remaining in the Class on any person or entity that  
22 falls within the definition of the Class (“Class Members”) (including that Class Members will be  
23 bound by all past, present, and future orders and judgments in the Action, whether favorable or  
24 unfavorable); and (d) the right of Class Members to request exclusion from the Class, the  
25 requirements for requesting exclusion, and the effect of exclusion;

26         **WHEREAS**, a list of five timely and valid requests for exclusion in connection with the  
27 Class Notice was filed with the Court on March 21, 2019 (ECF No. 269-3) and a sixth request for  
28 exclusion was subsequently received that the Parties do not object to;

1           **WHEREAS**, the Court has reviewed and considered the Stipulation, the accompanying  
2 exhibits thereto, and the submissions made relating to Class Representatives’ motion for  
3 preliminary approval of the proposed class action Settlement; and

4           **WHEREAS**, the Parties to the Stipulation have consented to the entry of this Preliminary  
5 Approval Order;

6           **NOW, THEREFORE, IT IS HEREBY ORDERED**, that this \_\_\_\_ day of  
7 \_\_\_\_\_, 2019:

8           1.       The Court has considered the Stipulation under the applicable standard set forth in  
9 Fed. R. Civ. P. 23(e)(1)(B). “At the initial [approval] stage, the inquiry should be whether the  
10 settlement is ‘fair, reasonable, and adequate,’ based on any information the district court receives  
11 from the parties or can obtain through its own research,” and that inquiry is as rigorous as at the  
12 final approval stage. *Cotter v. Lyft, Inc.*, 193 F. Supp. 3d 1030, 1037 (N.D. Cal. 2016) (Chhabria,  
13 J.). Having conducted this inquiry, the Court hereby preliminarily approves the Settlement,  
14 subject to further consideration at the settlement hearing described below.

15           2.       A hearing (the “Settlement Hearing”) pursuant to Rule 23(e) of the Federal Rules  
16 of Civil Procedure is hereby scheduled to be held before the Court on \_\_\_\_\_, 2019,  
17 at \_\_:\_\_\_\_.m. for the following purposes:

18                   (a)     to determine whether the Settlement is fair, reasonable and adequate, and  
19 should be finally approved by the Court;

20                   (b)     to determine whether the Final Order and Judgment (“Judgment”), as  
21 provided for by the Stipulation, should be entered;

22                   (c)     to determine whether the Plan of Allocation for the distribution of the  
23 proceeds of the Settlement is fair, reasonable, and adequate, and should be finally  
24 approved by the Court;

25                   (d)     to consider Class Counsel’s motion for an award of attorneys’ fees and  
26 expenses; and

27                   (e)     to rule upon such other matters as the Court may deem appropriate.  
28

1           3.       The Court may approve the Settlement with or without modification and with or  
2 without additional notice beyond that set forth herein. The Court may enter the Judgment  
3 approving the Settlement regardless of whether it has approved the Plan of Allocation or awarded  
4 attorneys' fees and/or expenses. The Court may also adjourn the Settlement Hearing or modify  
5 any of the dates herein without further notice beyond that set forth herein.

6           4.       The Court approves the form, substance, and requirements of the Notice of  
7 Proposed Class Action Settlement and Motion for Attorneys' Fees and Expenses (the "Settlement  
8 Notice"), and the Proof of Claim and Release form ("Proof of Claim" and, together with the  
9 Settlement Notice, the "Claim Packet"), substantially in the forms annexed hereto as Exhibits A-  
10 1 and A-2, respectively.

11           5.       The Court approves the retention of Epiq Class Action & Claims Solutions, Inc.,  
12 which it previously approved to administer the provision of the Class Notice, as the Claims  
13 Administrator. The Claims Administrator shall cause the Settlement Notice and Proof of Claim,  
14 substantially in the forms annexed hereto, to be mailed, by first-class mail and postage prepaid,  
15 and emailed (to the extent email addresses have been provided) on or before 17 business days  
16 after entry of this Preliminary Approval Order ("Notice Date"), to all Class Members who can be  
17 identified with reasonable effort, including by using the mailing records obtained in connection  
18 with the Class Notice. SanDisk, to the extent it has not already done so, shall use its best efforts  
19 to obtain and provide to Class Counsel, or the Claims Administrator, its transfer records in  
20 electronic searchable form containing the names and addresses of purchasers of the publicly  
21 traded common stock of SanDisk during the Class Period, to the extent that information is  
22 available, no later than ten (10) business days after entry of this Preliminary Approval Order.

23           6.       On or before the Notice Date, the Claims Administrator shall also post the  
24 following on the website for the Action ([www.SandiskSecuritiesLitigation.com](http://www.SandiskSecuritiesLitigation.com)): the Stipulation;  
25 the Claim Packet; Class Representatives' motion for preliminary approval of the Settlement; and  
26 this Preliminary Approval Order.

27           7.       The dissemination of the Settlement Notice shall take into account the previously  
28 disseminated Class Notice as follows. With respect to the Class Notice, brokers, and other

1 nominees (“Nominees”) that were advised that if, for the beneficial interest of any person or entity  
2 other than themselves, they purchased SanDisk publicly traded common stock during the Class  
3 Period, they must either: (i) provide a list of the names, addresses, and email addresses of all such  
4 beneficial owners to the administrator; or (ii) request from the administrator sufficient copies of  
5 the Class Notice to mail to all such beneficial owners, mail them to all such beneficial owners,  
6 and provide the administrator with email addresses for all such beneficial owners. Thus, with  
7 respect to the Settlement Notice:

8 (a) For Nominees who previously chose the first option (*i.e.*, provided a list of  
9 names, addresses, and emails of beneficial holders to the administrator), the Claims  
10 Administrator shall promptly mail, by first-class mail, postage prepaid, and email (to the  
11 extent email addresses were provided) a copy of the Claim Packet to each of the beneficial  
12 owners whose names and addresses the Nominee previously supplied. Unless the  
13 Nominee has identified additional beneficial owners whose names and addresses **WERE**  
14 **NOT** previously provided to the Claims Administrator, such Nominees need not take any  
15 further action;

16 (b) For Nominees who previously chose the second option (*i.e.*, elected to mail  
17 the Class Notice directly to beneficial owners), the Claims Administrator shall forward  
18 the same number of Claim Packets to such Nominees, and the Nominees SHALL,  
19 WITHIN TEN (10) CALENDAR DAYS of receipt of the Claim Packets, mail them by  
20 first-class mail, postage prepaid, to the beneficial owners. Unless the Nominee has  
21 identified additional beneficial owners whose names and addresses **WERE NOT**  
22 previously provided to the Claims Administrator, such Nominees need not take any further  
23 action;

24 (c) For Nominees that have identified additional beneficial owners who  
25 **WERE NOT** previously identified in connection with the Class Notice, such Nominees  
26 SHALL EITHER: (i) WITHIN TEN (10) CALENDAR DAYS of receipt of the Claim  
27 Packet, provide a list of the names and addresses (including emails if available) of all such  
28 additional beneficial owners to the Claims Administrator; or (ii) WITHIN TEN (10)

1 CALENDAR DAYS of receipt of the Claim Packet, request from the Claims  
2 Administrator sufficient copies of the Claim Packet to forward to all such additional  
3 beneficial owners, which the Nominee SHALL, WITHIN TEN (10) CALENDAR DAYS  
4 of receipt of the Claim Packets from the Claims Administrator, mail, by first-class mail,  
5 postage prepaid, to the beneficial owners and provide the Claims Administrator with email  
6 addresses for all such beneficial owners;

7 (d) Nominees who elect to send the Claim Packet to their beneficial owners  
8 SHALL ALSO send a statement to the Claims Administrator confirming that the mailing  
9 was made and SHALL RETAIN their mailing records for use in connection with any  
10 further notices that may be provided in the Action; and

11 (e) Upon full and timely compliance with this Preliminary Approval Order,  
12 Nominees who mail the Claim Packets to beneficial owners, or who provide additional  
13 names and addresses of beneficial owners to the Claims Administrator, may seek  
14 reimbursement of their reasonable expenses actually incurred in complying with this  
15 Preliminary Approval Order by providing the Claims Administrator with proper  
16 documentation supporting the expenses for which reimbursement is sought. Unreasonable  
17 expenses shall not be reimbursed. Such properly documented expenses incurred by  
18 Nominees in compliance with the terms of this Preliminary Approval Order shall be paid  
19 from the Settlement Fund, with any disputes as to the reasonableness or documentation of  
20 expenses subject to review by the Court.

21 8. Class Counsel shall, at least fourteen (14) calendar days before the Settlement  
22 Hearing, file with the Court proof of mailing of the Settlement Notice and Proof of Claim.

23 9. The Court approves the form of the Summary Notice of Proposed Class Action  
24 Settlement and Motion for Attorneys' Fees and Expenses ("Summary Settlement Notice"),  
25 substantially in the form annexed hereto as Exhibit A-3, and directs that the Claims Administrator  
26 shall cause the Summary Settlement Notice to be published in *Investor's Business Daily* and be  
27 transmitted over *PR Newswire* within fourteen (14) calendar days of the Notice Date. Class  
28

1 Counsel shall, at least fourteen (14) calendar days before the Settlement Hearing, file with the  
2 Court proof of publication of the Summary Notice.

3 10. The form and content of the notice program described herein, and the methods set  
4 forth herein of notifying the Class of the Settlement and its terms and conditions, meet the  
5 requirements of Rule 23 of the Federal Rules of Civil Procedure, §21D(a)(7) of the Securities  
6 Exchange Act of 1934, 15 U.S.C. §78u-4(a)(7), as amended by the Private Securities Litigation  
7 Reform Act of 1995, and due process, constitute the best notice practicable under the  
8 circumstances, and shall constitute due and sufficient notice to all persons and entities entitled  
9 thereto.

10 11. In order to be eligible to receive a distribution from the Net Settlement Fund  
11 established by the Settlement, each claimant shall take the following actions and be subject to the  
12 following conditions:

13 (a) A properly executed Proof of Claim, substantially in the form annexed  
14 hereto as Exhibit A-2, must be submitted to the Claims Administrator, at the address  
15 indicated in the Settlement Notice, such that it is postmarked or electronically submitted  
16 no later than fourteen (14) calendar days before the Settlement Hearing. Such deadline  
17 may be further extended by Court order or by Class Counsel in their discretion. Each  
18 Proof of Claim sent by mail shall be deemed to have been submitted when postmarked (if  
19 properly addressed and mailed by first-class or overnight mail, postage prepaid). Any  
20 Proof of Claim submitted in any other manner shall be deemed to have been submitted  
21 when it was actually received at the address designated in the Settlement Notice. Any  
22 Class Member who does not timely submit a Proof of Claim within the time provided for  
23 shall be barred from sharing in the distribution of the Net Settlement Fund, unless  
24 otherwise ordered by the Court or allowed by Class Counsel, but shall remain bound by  
25 all determinations and judgments in this Action concerning the Settlement, as provided  
26 by ¶13 of this Preliminary Approval Order. Notwithstanding the foregoing, Class Counsel  
27 shall have the discretion (but not the obligation) to accept for processing late-submitted  
28 claims, so long as the distribution of the Net Settlement Fund to Authorized Claimants is

1 not materially delayed. Class Counsel shall have no liability for their discretion in  
2 accepting late claims;

3 (b) The Proof of Claim submitted by each claimant must satisfy the following  
4 conditions, unless otherwise allowed pursuant to the Stipulation: (i) it must be properly  
5 completed, signed, and submitted in a timely manner in accordance with the provisions of  
6 the preceding subparagraph; (ii) it must be accompanied by adequate supporting  
7 documentation for the transactions reported therein, in the form of broker confirmation  
8 slips, broker account statements, an authorized statement from the broker containing the  
9 transactional information found in a broker confirmation slip, or such other documentation  
10 as is deemed adequate by the Claims Administrator with such supervision by Class  
11 Counsel, as necessary; (iii) if the Person executing the Proof of Claim is acting in a  
12 representative capacity, a certification of his or her current authority to act on behalf of  
13 the Class Member must be included in the Proof of Claim; and (iv) the Proof of Claim  
14 must be complete and contain no material deletions or modifications of any of the printed  
15 matter contained therein and must be signed under penalty of perjury; and

16 (c) As part of the Proof of Claim, each claimant shall submit to the jurisdiction  
17 of the Court with respect to the claim submitted.

18 12. Any Class Member may enter an appearance in this Action, at his, her, or its own  
19 expense, individually or through counsel of his, her, or its own choice. If any Class Member does  
20 not enter an appearance, he, she, or it will be represented by Class Counsel.

21 13. Class Members shall be bound by all orders, determinations, and judgments in this  
22 Action, whether favorable or unfavorable, unless such Persons requested exclusion in connection  
23 with the previously disseminated Class Notice, and are listed in ECF No. 269-3, or request  
24 exclusion from the Class in a timely and proper manner in connection with the Settlement Notice,  
25 or their request for exclusion is otherwise allowed by the Court or the Parties.

26 (a) A Class Member wishing to make such an exclusion request shall either  
27 mail the request in written form by first-class mail to the address designated in the  
28 Settlement Notice for such exclusions, or use the case website to submit the request, such

1 that it is received (not simply postmarked) or submitted online no later than twenty-one  
2 (21) calendar days before the Settlement Hearing. Such request for exclusion must state  
3 the name, address, and telephone number of the Person seeking exclusion, must state that  
4 the sender Person to be “excluded from the Class in *In re: SanDisk LLC Sec. Litig.*, No.  
5 3:15-cv-01455-VC” and must be signed by such Person. Such Persons requesting  
6 exclusion are also directed to state the information requested in the Settlement Notice,  
7 including the number of shares of SanDisk common stock that the Person purchased,  
8 acquired, and sold during the Class Period, as well as the dates and prices of each such  
9 purchase, acquisition, and sale. The request for exclusion shall not be effective unless it  
10 provides the required information and is made within the time stated above, or the  
11 exclusion is otherwise accepted by the Court or the Parties.

12 14. Any Person that has requested exclusion from the Class in connection with the  
13 previously disseminated Class Notice may elect to opt-back into the Class. By opting-back into  
14 the Class, such Person shall be eligible to submit a Proof of Claim for payment from the Net  
15 Settlement Fund. Any such Person who wishes to opt-back into the Class must either,  
16 individually or through counsel, request to opt-back into the Class in writing to the Claims  
17 Administrator within the time and in the manner set forth in the Settlement Notice, which provides  
18 that any such request to opt-back into the Class must be mailed or submitted such that it is  
19 received, not simply postmarked, no later than twenty-one (21) calendar days before the  
20 Settlement Hearing, at the address set forth in the Settlement Notice. Each request to opt-back  
21 into the Class must: (a) provide the name, address, and telephone number of the Person or entity  
22 requesting to opt-back into the Class; (b) state that such Person or entity “requests to opt-back  
23 into the Class in *In re: SanDisk LLC Sec. Litig.*, No. 3:15-cv-01455-VC”; and (c) be signed by  
24 the Person or entity requesting to opt-back into the Class or an authorized representative. Class  
25 Members who have requested exclusion from the Class, and who do not opt-back into the Class,  
26 shall not be eligible to receive any payment out of the Net Settlement Fund, as described in the  
27 Stipulation and Settlement Notice.

1           15. Any Class Member may show cause why the proposed Settlement should or should  
2 not be approved by the Court, why the proposed Plan of Allocation should or should not be  
3 approved by the Court, and/or why the application for an award of attorneys' fees, litigation  
4 expenses, or the Class Representatives' expenses should or should not be approved by the Court,  
5 if such Class Member has submitted his, her, or its written objection/submission and supporting  
6 papers to the Court either by: (i) mailing them to the Class Action Clerk, United States District  
7 Court for the Northern District of California, San Francisco Courthouse, 450 Golden Gate  
8 Avenue, Box 36060, San Francisco, California 94102-3489; or (ii) filing them in-person at any  
9 location of the Court. Such objections, papers, and briefs must be received or filed, not simply  
10 postmarked, on or before twenty-one (21) calendar days before the Settlement Hearing. Any  
11 Class Member who does not make his, her, or its objection in the manner provided for above and  
12 in the Settlement Notice shall be deemed to have waived such objection and shall forever be  
13 foreclosed from making any objection to any aspect of the Settlement, to the Plan of Allocation,  
14 or to the request for attorneys' fees and expenses, but shall otherwise be bound by the Judgment  
15 to be entered and the releases to be given. Failure to comply with requirements for submitting  
16 objections may be excused by the Court for good cause.

17           16. Attendance at the Settlement Hearing is not necessary, however, Persons wishing  
18 to be heard orally in connection with approval of the Settlement, the Plan of Allocation, and/or  
19 the application for an award of attorneys' fees and other expenses are required to indicate in their  
20 written submission their intention to appear at the Settlement Hearing. Persons who intend to  
21 present evidence at the Settlement Hearing must include in their written submission the identity  
22 of any witnesses they may call to testify and exhibits they intend to introduce into evidence at the  
23 Settlement Hearing. If a Class Member hires an attorney to represent him, her, or it for the  
24 purpose of making an objection, the attorney must file a notice of appearance with the Court and  
25 effect service on the parties to the Action on or before twenty-one (21) calendar days before the  
26 Settlement Hearing. Class Members do not need to appear at the hearing or take any other action  
27 to indicate their approval. Failure to comply with requirements for appearing at the Settlement  
28 Hearing may be excused by the Court for good cause.

1           17.     As provided in the Stipulation, before the Effective Date, Class Counsel may pay  
2 the Claims Administrator fees and costs associated with giving notice to the Class and the review  
3 of claims and administration of the Settlement out of the Settlement Fund without further approval  
4 from Defendants and without further order of the Court.

5           18.     All papers in support of the Settlement, Plan of Allocation, and Class Counsel's  
6 request for an award of attorneys' fees and expenses shall be filed with the Court and served on  
7 or before thirty-five (35) calendar days before the Settlement Hearing. Any reply papers are to  
8 be filed with the Court and served no later than seven (7) calendar days before the Settlement  
9 Hearing.

10          19.     The Court approves the appointment of Huntington Bank as the Escrow Agent to  
11 manage and administer the Settlement Fund for the benefit of the Class.

12          20.     The passage of title and ownership of the Settlement Fund to the Escrow Agent in  
13 accordance with the terms and obligations of the Stipulation is approved. No person who is not  
14 a Class Member or Class Counsel shall have any right to any portion of, or to any distribution of,  
15 the Settlement Fund, unless otherwise ordered by the Court or otherwise provided in the  
16 Stipulation.

17          21.     All funds held in escrow shall be deemed and considered to be in *custodia legis* of  
18 the Court and shall remain subject to the jurisdiction of the Court until such time as such funds  
19 shall be disbursed pursuant to the Stipulation and/or further order of the Court.

20          22.     Neither Defendants nor their counsel shall have any responsibility for the Plan of  
21 Allocation or any application for attorney's fees or expenses submitted by Class Counsel or Class  
22 Representatives.

23          23.     If the Settlement fails to become effective, as defined in the Stipulation, or is  
24 terminated, then, in any such event, the Stipulation, including any amendment(s) thereof, except  
25 as expressly provided in the Stipulation, and this Preliminary Approval Order shall be null and  
26 void, of no further force or effect, and without prejudice to any Party, and may not be introduced  
27 as evidence or used in any actions or proceedings by any person or entity against the Parties, and  
28

1 the Parties shall be deemed to have reverted to their respective litigation positions in the Action  
2 as of March 8, 2019.

3 24. The Court retains exclusive jurisdiction over the Action to consider all further  
4 matters arising out of, or connected with, the Settlement.

5 Dated: \_\_\_\_\_, 2019

6 \_\_\_\_\_  
7 HONORABLE VINCE CHHABRIA  
8 UNITED STATES DISTRICT JUDGE  
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## **EXHIBIT A-1**

1 DEBORAH CLARK-WEINTRAUB (*pro hac vice*)  
 2 MAX R. SCHWARTZ (*pro hac vice*)  
 3 **SCOTT+SCOTT ATTORNEYS AT LAW LLP**  
 4 The Helmsley Building  
 5 230 Park Avenue, 17th Floor  
 6 New York, NY 10169  
 7 Telephone: (212) 223-6444  
 8 Facsimile: (212) 223-6334  
 9 Email: dweintraub@scott-scott.com  
 10 mschwartz@scott-scott.com

11 *Attorneys for Class Representatives and the Class*

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

15 IN RE: SANDISK LLC SECURITIES  
16 LITIGATION

Case No. 3:15-cv-01455-VC

Hon. Vince Chhabria

17 **NOTICE OF PROPOSED CLASS**  
 18 **ACTION SETTLEMENT AND**  
 19 **MOTION FOR ATTORNEYS' FEES**  
 20 **AND EXPENSES**

21 **EXHIBIT A-1**

22 **If you purchased or otherwise acquired the publicly traded common stock of SanDisk Corp. during the period from October 16, 2014, through April 15, 2015, a class action settlement may affect your rights.**

23 *A federal court authorized this notice. This is not a solicitation from a lawyer.*  
 24 *Please read this notice carefully and in its entirety.*

25 This Settlement Notice describes important rights you may have and what steps you must  
 26 take if you wish to participate in the Settlement or wish to be excluded from the Class. ***This notice is different from the Notice of Pendency of Class Action (“Class Notice”), which you might have already received alerting you to the fact that the Class had been certified.***<sup>1</sup>

- 27 • The Settlement, if approved by the Court, will provide **\$50,000,000** (on average approximately \$1.01 per allegedly damaged share before the

28 <sup>1</sup> All capitalized terms not defined in this Settlement Notice have the meanings provided in the Stipulation and Agreement of Settlement, dated as of May 6, 2019 (the “Stipulation”), which can be viewed at [www.SanDiskSecuritiesLitigation.com](http://www.SanDiskSecuritiesLitigation.com).

deduction of Court-approved fees and expenses) in cash for the benefit of the Class (described below).

- The Settlement resolves claims in a class action by City of Bristol Pension Fund (“Bristol”), City of Milford, Connecticut Pension & Retirement Board (“Milford”), Pavers and Road Builders Pension, Annuity and Welfare Funds (“Pavers and Road Builders Benefit Funds”), City of Newport News Employees’ Retirement Fund (“NNERF”), and Massachusetts Laborers’ Pension Fund (“Massachusetts Laborers,” together with Bristol, Milford, Pavers and Road Builders Benefit Funds, and NNERF, “Class Representatives” or “Lead Plaintiffs”); against SanDisk Corporation (n/k/a “SanDisk LLC” and owned by Western Digital, referred to herein as “SanDisk” or the “Company”), Sanjay Mehrotra (“Mehrotra”), and Judy Bruner (“Bruner,” with Mehrotra, “Individual Defendants,” and with SanDisk as well, “Defendants”).
- Class Representatives claim that Defendants made materially false and misleading statements and failed to disclose material information concerning SanDisk’s enterprise business. The complaint in the Action further alleged that the price of SanDisk’s publicly traded common stock was artificially inflated, as a result of the allegedly false and misleading statements, and declined when the truth was allegedly revealed. Defendants deny all of the Class Representatives’ allegations and further deny that they did anything wrong. Defendants also deny that the Class Representatives or the Class suffered damages or that the price of SanDisk’s common stock was artificially inflated by reasons of alleged misrepresentations, nondisclosures, or otherwise. The Court did not decide in favor of either the Class or Defendants.
- Class Counsel, on behalf of Plaintiffs’ Counsel, will ask the Court for no more than \$14 million in attorneys’ fees (28% of the Settlement Fund) and up to \$1 million in litigation expenses, which will include a reimbursement request for the Class Representatives pursuant to the Private Securities Litigation Reform Act of 1995 (the “PSLRA”). If approved by the Court, these amounts (totaling on average up to approximately \$0.30 per allegedly damaged share) will be deducted from the \$50,000,000 Settlement.
- The Court in charge of this case still has to decide whether to approve the Settlement. Payments will be made only if the Court approves the Settlement and after any appeals are resolved. Please be patient.
- **If you are a Class Member, your legal rights will be affected by this Settlement whether you act or do not act. Please read this Settlement Notice carefully.**

**YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:**

**SUBMIT A PROOF OF CLAIM FORM BY \_\_\_\_\_, 2019**

The only way to get a payment. (See Question 8 below.)

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:</b>	
<b>OPT-BACK INTO THE CLASS BY SUBMITTING A REQUEST BY _____, 2019</b>	If you previously submitted a request for exclusion from the Class in connection with the previously mailed Class Notice and now want to be part of the Class in order to receive a payment, you must follow the steps for “Opting-Back Into the Class.” (See Question 12 below.)
<b>EXCLUDE YOURSELF BY _____, 2019</b>	You will get no payment. This is the only option that, assuming your claim is timely brought, might allow you ever to bring or be part of any other lawsuit against the Defendants and the other Released Defendants’ Parties concerning the Released Claims. (See Question 10 below.)
<b>OBJECT BY _____, 2019</b>	Write to the Court about why you do not like the Settlement, the Fee and Expense Application, or the proposed Plan of Allocation. (See Question 15 below.)
<b>GO TO A HEARING ON _____, 2019</b>	Ask to speak in Court about the Settlement. (See Question 18 below.)
<b>DO NOTHING</b>	Get no payment AND give up your rights to bring your own individual action.

**Identification of Attorneys’ Representatives**

Class Representatives and the Class are being represented by Scott+Scott Attorneys at Law LLP, Court-appointed Class Counsel. Any questions regarding the Settlement should be directed to Deborah Clark-Weintraub or Max R. Schwartz, Scott+Scott Attorneys at Law LLP, The Helmsley Building, 230 Park Avenue, 17th Floor, New York, NY 10169, Tel. (212) 223-6444, www.scott-scott.com. **Please do not contact the Court regarding this notice.**

**BASIC INFORMATION**

**1. Why did I get this Settlement Notice?**

The Court authorized that this Settlement Notice be sent to you because you or someone in your family may have purchased or acquired the publicly traded common stock of SanDisk from October 16, 2014, through April 15, 2015, inclusive.

1 If this description applies to you or someone in your family, you have a right to know  
2 about the proposed Settlement of this class action lawsuit, and about all of your options, before  
3 the Court decides whether to approve the Settlement. If the Court approves the Settlement, and  
4 after any objections and appeals are resolved, an administrator appointed by the Court will make  
5 the payments to eligible claimants that the Settlement allows.

6 This Settlement Notice explains the lawsuit, Settlement, Class Members' legal rights,  
7 what benefits are available, who is eligible for them, and how to get them.

8 The Court in charge of this Action is the United States District Court for the Northern  
9 District of California (the "Court"), and the case is known as *In re: SanDisk LLC Securities*  
10 *Litigation*, No. 3:15-cv-01455-VC (N.D. Cal.) (the "Action"). The Action is assigned to the  
11 Honorable Vince Chhabria, United States District Judge.

12 The Court did not decide in favor of either the Class or the Defendants. Instead, they have  
13 agreed to a settlement. For Class Representatives, the principal reason for the Settlement is the  
14 certain benefit of a substantial cash recovery for the Class, in contrast to the risk that the Court  
15 may grant, in whole or in part, some or all of Defendants' motion for summary judgment, the  
16 uncertainty of being able to prove the allegations at a jury trial, and the difficulties and delays  
17 inherent in such litigation (including any appeals), which could result in a lower recovery. For  
18 Defendants, who deny all allegations of wrongdoing or liability whatsoever and deny that any  
19 Class Members were damaged, the principal reason for entering into the Settlement is to bring to  
20 an end the substantial burden, expense, uncertainty, and risk of further litigation.

21 **2. What is this lawsuit about? What has happened so far?**

22 This case arises out of allegations that Defendants violated §§10(b) and 20(a) of the  
23 Securities Exchange Act of 1934 (the "Exchange Act") and Rule 10b-5 promulgated thereunder.  
24 The initial complaint in the case was filed on March 30, 2015. The operative complaint in the  
25 Action, the Second Amended Consolidated Class Action Complaint for Violations of the Federal  
26 Securities Laws (the "SAC"), was filed on July 15, 2016.

1 Class Representatives claim that Defendants made materially false and misleading  
2 statements and failed to disclose information to investors about the condition and prospects of  
3 SanDisk’s enterprise business, including the then-recently acquired Fusion-io business unit, in  
4 violation of the Exchange Act. Class Representatives further allege that the false and misleading  
5 statements and omissions artificially inflated the price of SanDisk’s common stock and that, when  
6 Defendants later disclosed that the enterprise business was not performing as strongly as  
7 previously touted, SanDisk’s stock price dropped.

8 Defendants moved to dismiss the SAC and its prior iterations several times. On January  
9 20, 2017, they filed their final motion to dismiss, and Class Representatives opposed that motion  
10 thereafter. On June 22, 2017, the Court issued an Order denying Defendants’ motion to dismiss.  
11 The SAC, which describes Class Representatives’ allegations in further detail, and the Court’s  
12 Order on the Motion to Dismiss, are available at [www.SanDiskSecuritiesLitigation.com](http://www.SanDiskSecuritiesLitigation.com).

13 On August 7, 2017, Defendants answered the SAC, denying the claims and asserting  
14 various affirmative defenses.

15 On January 19, 2018, Lead Plaintiffs filed their motion for class certification. Following  
16 briefing on the motion and oral argument, on September 4, 2018, the Court issued an Order  
17 granting the motion, certifying the Class, appointing Lead Plaintiffs as “Class Representatives,”  
18 and appointing Scott+Scott as Class Counsel. The Court’s Order is available at  
19 [www.SanDiskSecuritiesLitigation.com](http://www.SanDiskSecuritiesLitigation.com). Pursuant to an Order entered December 13, 2018,  
20 beginning on January 9, 2019, the Class Notice was mailed to potential Class Members, and the  
21 Summary Notice of Pendency of Class Action was published in *Investor’s Business Daily* and  
22 transmitted over the *PR Newswire* on January 21, 2019. The Class Notice provided Class  
23 Members with the opportunity to request exclusion from the Class, explained that right, and set  
24 forth the deadline and procedures for doing so. The deadline for requesting exclusion from the  
25 Class pursuant to the Class Notice was February 28, 2019.

26 The Parties completed comprehensive class, fact, and expert discovery in the Action  
27 during which the Class Representatives analyzed over 160,000 documents produced by  
28

1 Defendants. In addition, the Class Representatives took a total of 12 fact and expert depositions.  
2 The Class Representatives sat for Rule 30(b)(6) depositions and Class Counsel twice defended  
3 the deposition of the Class' expert on causation and damages, once in connection with class  
4 certification proceedings and later on merits issues.

5 On January 17, 2019, Defendants' moved for summary judgment seeking dismissal of the  
6 claims as a matter of law and the exclusion of Class Representatives' damages expert's opinions.  
7 On February 28, 2019, Class Representatives filed their opposition to Defendants' summary  
8 judgment motion and motion to exclude Class Representatives' damages expert, and moved to  
9 exclude the opinions of Defendants' damages expert. Trial was scheduled to begin on May 28,  
10 2019.

11 Following the completion of fact discovery and the exchange of expert reports, the Parties  
12 engaged the Hon. Layn R. Phillips (Ret.) ("Judge Phillips"), a well-respected and highly  
13 experienced mediator and former federal judge, to assist them in exploring a potential negotiated  
14 resolution of the claims in the Action. Following an exchange of mediation statements and  
15 exhibits, on October 29, 2018, the Parties met with Judge Phillips in an attempt to reach a  
16 settlement in a full-day mediation. The mediation did not result in a settlement of the Action, but  
17 Judge Phillips continued his efforts to facilitate discussions among the Parties. Before Defendants  
18 filed their reply papers in support of summary judgment, the Parties attended a second in-person  
19 mediation with Judge Phillips on March 8, 2019, which resulted in an agreement-in-principle to  
20 settle the Action for \$50,000,000, and entered into a Memorandum of Understanding.

21 Defendants deny all of Class Representatives' allegations and further deny that they did  
22 anything wrong. Defendants also deny that Class Representatives or the Class suffered damages  
23 or that the price of SanDisk common stock was artificially inflated by reasons of alleged  
24 misrepresentations, nondisclosures or otherwise.

25 **3. Why is this a class action?**

26 In a class action, one or more persons or entities (in this case, the Class Representatives),  
27 sue on behalf of people and entities that have similar claims. Together, these people and entities  
28

1 are a class, and each is a class member. Bringing a case, such as this one, as a class action allows  
2 the Court to resolve many similar claims of persons and entities that might be economically too  
3 small to bring as individual actions. One court resolves the issues for all class members at the  
4 same time, except for those who exclude themselves, or “opt-out,” from the class.

5 **WHO IS IN THE SETTLEMENT**

6 **4. How do I know if I am part of the Class?**

7 The Court has certified the following Class, subject to certain exceptions identified below:

8 All persons and entities who purchased or otherwise acquired publicly traded  
9 shares of common stock of SanDisk Corporation from October 16, 2014  
through April 15, 2015, inclusive, and were damaged thereby.

10 Check your investment records or contact your broker to see if you purchased or acquired  
11 the publicly traded common stock of SanDisk during the period from October 16, 2014 through  
12 April 15, 2015, inclusive.

13 **5. Are there exceptions to the Class definition and to being included in the Class?**

14 Yes. Some people are excluded from the Class by definition. Excluded from the Class  
15 are: (i) Defendants and their immediate family members; (ii) the officers and directors of the  
16 Company during the Class Period and their immediate family members; (iii) any entity in which  
17 Defendants have or had a controlling interest; and (iv) the legal representatives, heirs, successors,  
18 assigns, or affiliates of any excluded person. Also excluded from the Class are those who had (a)  
19 sold all of their SanDisk stock prior to the first alleged corrective disclosure on March 26, 2015,  
20 and (b) made no subsequent purchases between March 26, 2015 and April 15, 2015.

21 Also excluded from the Class are Class Members who submitted timely and valid requests  
22 for exclusion in connection with the previously mailed Class Notice, and Class Members who  
23 submit timely and valid requests for exclusion from the Class in accordance with the procedures  
24 set forth in Question 10 below.

25 **6. What if I am still not sure if I am included?**

26 If you are still not sure whether you are included in the Class, you can ask for free help.  
27 You can call the Claims Administrator toll-free at 877-432-3788, send an e-mail to the Claims  
28

1 Administrator at info@SanDiskSecuritiesLitigation.com or write to the Claims Administrator,  
2 *SanDisk Securities Litigation*, c/o Epiq, P.O. Box 3058, Portland, OR 97208-3058. Or you can  
3 fill out and return the Proof of Claim form described in Question 8 to see if you qualify.

4 **THE SETTLEMENT BENEFITS — WHAT YOU GET**

5 **7. How much will my payment be?**

6 In exchange for the Settlement and the release of certain claims (the “Released Claims”  
7 as defined below) against Defendants and the Released Defendants’ Parties, Defendants have  
8 agreed to fund a \$50,000,000 settlement fund. That fund will earn interest and will be distributed,  
9 after the deduction of Court-approved fees and expenses, among all Class Members who submit  
10 valid Claim Forms and who are found to be entitled to a distribution from the Net Settlement  
11 Fund (“Authorized Claimants”).

12 If you are an Authorized Claimant entitled to a payment, your share of the Net Settlement  
13 Fund will depend on several things, including: how many Class Members send in valid Claim  
14 Forms; the total amount of recognized losses of other Authorized Claimants; how many shares of  
15 SanDisk common stock you purchased; the prices and dates of those purchases; and the prices  
16 and dates of any sales.

17 You can calculate your recognized loss in accordance with the formulas shown below in  
18 the Plan of Allocation. It is unlikely that you will receive a payment for all of your recognized  
19 loss. See the Plan of Allocation of Net Settlement Fund on pp. 17-26 for more information on  
20 your recognized loss.

21 **HOW YOU RECEIVE A PAYMENT:  
22 SUBMITTING A PROOF OF CLAIM FORM**

23 **8. How can I receive a payment?**

24 To qualify for a payment, you must submit a timely and valid Claim Form. A Claim Form  
25 is included with this Settlement Notice. If you did not receive a Claim Form, you can obtain one  
26 on the website: [www.SanDiskSecuritiesLitigation.com](http://www.SanDiskSecuritiesLitigation.com). You can also ask for a Claim Form by  
27 calling the Claims Administrator toll-free at 877-432-3788.

1 Please read the instructions carefully, fill out the Claim Form, include all the documents  
2 the form requests, sign it, and mail or electronically submit it to the Claims Administrator so that  
3 it is *postmarked or electronically submitted no later than* \_\_\_\_\_, **2019**.

4 **9. What am I giving up to receive a payment or by staying in the Class?**

5 Unless you exclude yourself, or previously excluded yourself, you are staying in the Class,  
6 and that means that upon the “Effective Date,” you will release all “Released Claims,” as defined  
7 below, against the “Released Defendants’ Parties.” Released Claims include claims that share an  
8 identical factual predicate with the claims asserted in the Action.

9 **“Released Claims”** means all claims, demands, losses, rights, and causes of action of any  
10 nature whatsoever, that have been or could have been asserted in the Action or could in the future  
11 be asserted in any forum, whether foreign or domestic, whether arising under federal, state,  
12 common, or foreign law, by Class Representatives, any member of the Class, or their successors,  
13 assigns, executors, administrators, representatives, attorneys, and agents, in their capacities as  
14 such, whether brought directly or indirectly against any of the Released Defendants’ Parties,  
15 which both (a) arise out of, are based on, or relate in any way to any of the allegations, acts,  
16 transactions, facts, events, matters, occurrences, representations or omissions involved, set forth,  
17 alleged or referred to, in the Action, or which could have been alleged in the Action, and (b) arise  
18 out of, are based on, or relate to the purchase or acquisition of any SanDisk common stock.  
19 Released Claims do not include claims to enforce this settlement.

20 **“Released Defendants’ Parties”** means (i) each Defendant, (ii) each of their respective  
21 family members (for individuals) and each of their direct or indirect parent entities, subsidiaries,  
22 related entities and affiliates (including Western Digital), and (iii) for any of the entities listed in  
23 parts (i) or (ii), their respective past and present general partners, limited partners, principals,  
24 shareholders, joint venturers, members, officers, directors, managers, managing directors,  
25 supervisors, employees, contractors, consultants, auditors, accountants, financial advisors,  
26 professional advisors, investment bankers, representatives, insurers, trustees, trustors, agents,

1 attorneys, professionals, predecessors, successors, assigns, heirs, executors, administrators, and  
2 any controlling person thereof, in their capacities as such.

3 Please consult the Stipulation, filed with the Court and posted at  
4 [www.SanDiskSecuritiesLitigation.com](http://www.SanDiskSecuritiesLitigation.com), for additional defined terms.

5 The “Effective Date” will occur when an Order entered by the Court approving the  
6 Settlement becomes final and is not subject to appeal. If you remain a member of the Class, all  
7 of the Court’s orders will apply to you and legally bind you.

### 8 EXCLUDING YOURSELF FROM THE CLASS

9 *If you already submitted a valid and timely request for exclusion in connection with the*  
10 *Class Notice, you do not need to do so again.*<sup>2</sup>

11 If you **did not** previously submit a request for exclusion and **do not** want a payment from  
12 this Settlement, but you want to keep any right you may have to sue or continue to sue Defendants  
13 and the other Released Defendants’ Parties on your own concerning the Released Claims, then  
14 you must take steps to remove yourself from the Class. This is called excluding yourself or  
15 “opting out.” **Please note: if you decide to exclude yourself because you want to bring your**  
16 **own lawsuit to pursue claims alleged in the Action, you should consult with an attorney to**  
17 **discuss whether your individual claim would be time-barred by the applicable statutes of**  
18 **limitations or repose.** Also, Defendants may terminate the Settlement if Class Members who  
19 purchased in excess of a certain amount of shares of SanDisk common stock seek exclusion from  
20 the Class.

#### 21 **10. How do I exclude myself from the Class?**

22 To exclude yourself from the Class, you must submit a signed letter stating that you  
23 request to be “excluded from the Class in *In re SanDisk LLC Sec. Litig.*, No. 3:15-cv-01455-VC.”  
24 You cannot exclude yourself by telephone or e-mail. Your letter must state the date(s), price(s),  
25 and number(s) of shares of all purchases, acquisitions, and sales of SanDisk common stock during  
26 the period from October 16, 2014 through April 15, 2015. Your letter must include your name,  
27

28 <sup>2</sup> If you are not sure whether you did, please call the Claims Administrator at 877-432-3788.

1 mailing address, telephone number, e-mail address, and signature. You must submit your  
2 exclusion request by first-class mail or online at [www.SanDiskSecuritiesLitigation.com](http://www.SanDiskSecuritiesLitigation.com) so that it  
3 is *received (not simply postmarked) no later than \_\_\_\_\_, 2019* to:

4 *SanDisk Securities Litigation*  
5 Claims Administrator  
6 c/o Epiq  
7 P.O. Box 3058  
8 Portland, OR 97208-3058

9 Your exclusion request must comply with these requirements in order to be valid, unless  
10 it is otherwise accepted by the Court. If you ask to be excluded, you will not receive any payment  
11 from the Net Settlement Fund, and you cannot object to the Settlement because you will no longer  
12 be part of the Class.

11 **11. If I do not exclude myself, can I sue Defendants and the other Released  
12 Defendants’ Parties for the same thing later?**

13 No. Unless you properly exclude yourself, you remain in the Class and you give up any  
14 rights to sue Defendants and the other Released Defendants’ Parties for any and all Released  
15 Claims. If you have a pending lawsuit, **speak to your lawyer in that case immediately**. You  
16 must exclude yourself from this Class to continue your own lawsuit. Remember, the exclusion  
17 deadline is \_\_\_\_\_, 2019.

18 **OPTING-BACK INTO THE CLASS**

19 **12. What if I previously requested exclusion in connection with the Class Notice and  
20 now want to be eligible to receive a payment from Settlement? How do I opt-back  
21 into the Class?**

22 If you previously submitted a request for exclusion from the Class in connection with the  
23 Class Notice, you may opt-back into the Class and be eligible to receive a payment from the  
24 Settlement. If you are not certain whether you previously submitted a request for exclusion,  
25 please contact the Claims Administrator at 877-432-3788 for assistance.

26 In order to opt-back into the Class, you, individually or through counsel, must mail a  
27 written “Request to Opt-Back into the Class” to the Claims Administrator, addressed as follows:  
28 *SanDisk Securities Litigation, c/o Epiq, P.O. Box 3058, Portland, OR 97208-3058*. This request  
must be *received (not simply postmarked) no later than \_\_\_\_\_, 2019*. Your Request to

1 Opt-Back into the Class must (i) state the name, address, and telephone number of the person or  
2 entity requesting to opt-back into the Class; (ii) state that such person or entity “requests to opt-  
3 back into the Class in *In re SanDisk LLC Sec. Litig.*, No. 3:15-cv-01455-VC”; and (iii) be signed  
4 by the person or entity requesting to opt-back into the Class or an authorized representative.

5 **Please note:** Opting-back into the Class *does not mean* that you will automatically be  
6 entitled to receive proceeds from the Settlement. If you wish to be eligible to participate in the  
7 distribution of proceeds from the Settlement, you are also required to submit the Proof of Claim  
8 form that is being distributed with this Settlement Notice. *See* Question 8, above.

9 **THE LAWYERS REPRESENTING YOU**

10 **13. Do I have a lawyer in this case?**

11 The Court ordered the law firm of Scott+Scott Attorneys at Law LLP (Scott+Scott) to  
12 represent all Class Members. These lawyers are called Class Counsel. You will not be separately  
13 charged for these lawyers. The Court will determine the amount of Class Counsel’s fees and  
14 expenses, which will be paid from the Settlement Fund. If you want to be represented by your  
15 own lawyer, you may hire one at your own expense.

16 **14. How will the lawyers be paid?**

17 Class Counsel has been prosecuting the Action on a contingent basis and has not been  
18 paid for any of its work. Class Counsel, on behalf of itself and other Plaintiffs’ Counsel, will seek  
19 an attorneys’ fee award of no more than 28% of the Settlement Fund, which will include accrued  
20 interest. Plaintiffs’ Counsel is Class Counsel (Scott+Scott), Labaton Sucharow LLP, and Cohen  
21 Milstein Sellers & Toll PLLC, as well as additional counsel that assisted certain Class  
22 Representatives, the Thornton Law Firm and The Corrente Law Corporation. Any attorneys’ fees  
23 awarded by the Court to Class Counsel will be allocated by Class Counsel to other Plaintiffs’  
24 Counsel. Class Counsel will also seek payment of litigation expenses incurred by Plaintiffs’  
25 Counsel in the prosecution of this Action of no more than \$1 million plus accrued interest, which  
26 will also include an application in accordance with the PSLRA for the reasonable costs and  
27 expenses (including lost wages) of the Class Representatives directly related to their  
28

1 representation of the Class. Any attorneys' fees and expenses awarded by the Court will be paid  
2 from the Settlement Fund. Class Members are not personally liable for any such fees or expenses.

3 **OBJECTING TO THE SETTLEMENT**

4 You can tell the Court that you do not agree with the Settlement or any part of it.

5 **15. How do I tell the Court that I do not like something about the proposed Settlement,  
6 the Plan of Allocation, or the Fee and Expense Application?**

7 If you are a Class Member, you can object to the Settlement or any of its terms, the  
8 proposed Plan of Allocation, and/or the Fee and Expense Application. You may write to the  
9 Court about your objection. You can ask the Court not to approve the Settlement, however you  
10 cannot ask the Court to order a larger or different settlement; the Court can only approve or deny  
11 this Settlement. If the Court denies approval, the settlement payments will not be sent out and  
12 the Parties will return to the position they were in before the settlement was agreed to. If you  
13 would like the Court to consider your views, you must file a proper objection within the deadline  
14 set forth below, and according to the following procedures. Failure to comply with the  
15 requirements for submitting objections may be excused by the Court for good cause. You may  
16 also write in support of the Settlement and related relief.

17 To object, you must mail or file a signed letter stating that you object to the proposed  
18 Settlement, Plan of Allocation, and/or Fee and Expense Application in *In re SanDisk LLC Sec.*  
19 *Litig.*, No. 3:15-cv-01455-VC. Your objection must state why you are objecting and whether  
20 your objection applies only to you, a subset of the Class, or the entire Class. The objection must  
21 also: (i) include the name, address, and telephone number of the person or entity objecting; (ii)  
22 contain a statement of the objection and the specific reasons for it, including any legal and  
23 evidentiary support (including witnesses) you wish to bring to the Court's attention; and (iii)  
24 identify the number of shares of SanDisk common stock purchased, acquired, and sold during the  
25 Class Period, as well as the date, number of shares, and price per share of each such purchase,  
26 acquisition, and sale. Unless otherwise ordered by the Court, any Class Member who does not  
27 object in the manner described in this Settlement Notice will be deemed to have waived any  
28

1 objection and will be forever foreclosed from making any objection to the proposed Settlement,  
2 the Plan of Allocation, and/or the Fee and Expense Application.

3 Your objection must be submitted to the Court either by (i) mailing it to the Class Action  
4 Clerk, United States District Court for the Northern District of California, San Francisco  
5 Courthouse, 450 Golden Gate Avenue, Box 36060, San Francisco, California 94102-3489, or (ii)  
6 filing it in person at any location of the United States District Court for the Northern District of  
7 California. Your objection must be *received or filed, not simply postmarked, on or before*  
8 \_\_\_\_\_, *2019*:

9 You do not need to attend the Settlement Hearing to have your written objection  
10 considered by the Court. However, any Class Member who has complied with the procedures  
11 set out in this Question 15 and below in Question 18 may appear at the Settlement Hearing and  
12 be heard, to the extent allowed by the Court, either in person or through an attorney, arranged at  
13 his, her, or its own expense.

14 **16. What is the difference between objecting and excluding?**

15 Objecting is telling the Court that you do not like something about the proposed  
16 Settlement, Plan of Allocation, or Fee and Expense Application. You can still recover from the  
17 Settlement, and you will still be bound by the Settlement and any Court order in this Action. **You**  
18 **can object *only* if you stay in the Class.**

19 Excluding yourself is telling the Court that you do not want to be part of the Class. If you  
20 exclude yourself, you have no basis to object because the Settlement no longer affects you.

21 **THE SETTLEMENT HEARING**

22 **17. When and where will the Court decide whether to approve the proposed**  
23 **Settlement?**

24 The Court will hold the Settlement Hearing on \_\_\_\_\_, **2019** at \_\_\_\_ \_\_.m., at the  
25 United States District Court for the Northern District of California, San Francisco Courthouse, in  
26 Courtroom 4, 17th Floor, 450 Golden Gate Avenue, San Francisco, CA 94102.

27 At this hearing, the Court will consider (i) whether the Settlement is fair, reasonable, and  
28 adequate, and should be finally approved; (ii) whether the proposed Plan of Allocation is fair,

1 reasonable, and adequate; and (iii) the application of Class Counsel for an award of attorneys’  
2 fees and payment of litigation expenses. The Court will take into consideration any written  
3 objections filed in accordance with the instructions in Question 15. We do not know how long it  
4 will take the Court to make these decisions.

5 You should be aware that the Court may change the date and time of the Settlement  
6 Hearing without another notice being sent to Class Members. If you want to attend the hearing,  
7 you should check with Class Counsel beforehand to be sure that the date and/or time has not  
8 changed, periodically check the Court’s website at [www.cand.uscourts.gov](http://www.cand.uscourts.gov), or periodically check  
9 the case-specific website at [www.SanDiskSecuritiesLitigation.com](http://www.SanDiskSecuritiesLitigation.com) to see if the Settlement  
10 Hearing stays as calendared or is changed.

11 **18. May I speak at the Settlement Hearing?**

12 You may ask the Court for permission to speak at the Settlement Hearing. To do so, you  
13 must submit a statement that it is your intention to appear in “*In re SanDisk LLC Sec. Litig.*, No.  
14 3:15-cv-01455-VC.” Persons who intend to object to the Settlement, the Plan of Allocation, or  
15 Class Counsel’s Fee and Expense Application, and desire to present evidence at the Settlement  
16 Hearing, must also include in their objections (prepared and submitted in accordance with the  
17 answer to Question 15 above) the identity of any witness they may wish to call to testify and any  
18 exhibits they intend to introduce into evidence at the Settlement Hearing. You may not speak at  
19 the Settlement Hearing if you excluded yourself from the Class, or if you have not provided  
20 written notice of your objection and/or intention to speak at the Settlement Hearing in accordance  
21 with the procedures described in Questions 10, 15, and 18, unless your failure to follow these  
22 requirements is excused by the Court for good cause.

23 **IF YOU DO NOTHING**

24 **19. What happens if I do nothing at all?**

25 If you do nothing and you are a member of the Class, you will receive no money from this  
26 Settlement and you will be precluded from starting a lawsuit, continuing with a lawsuit, or being  
27 part of any other lawsuit against Defendants and the other Released Defendants’ Parties  
28

1 concerning the Released Claims. To share in the Net Settlement Fund, you must submit a Claim  
2 Form (*see* Question 8). To start, continue, or be a part of any other lawsuit against Defendants  
3 and the other Released Defendants' Parties concerning the Released Claims in this case, to the  
4 extent it is otherwise permissible to do so or there are other lawsuits, you must exclude yourself  
5 from the Class (*see* Question 10).

6 **GETTING MORE INFORMATION**

7 **20. Are there more details about the proposed Settlement?**

8 This Settlement Notice summarizes the proposed Settlement. More details are in the  
9 Stipulation. Similarly, Class Counsel's motions in support of final approval of the Settlement,  
10 the request for attorneys' fees and litigation expenses, and approval of the proposed Plan of  
11 Allocation will be filed with the Court no later than \_\_\_\_\_, 2019 and be available from  
12 Class Counsel, the Claims Administrator, or the Court, pursuant to the instructions below.

13 You can get a copy of the Stipulation and other case documents by calling the Claims  
14 Administrator toll free at 877-432-3788; writing to the Claims Administrator at *SanDisk*  
15 *Securities Litigation*, c/o Epiq, P.O. Box 3058, Portland, OR 97208-3058; or visiting the websites:  
16 [www.SanDiskSecuritiesLitigation.com](http://www.SanDiskSecuritiesLitigation.com) or [www.scott-scott.com](http://www.scott-scott.com) where you will find answers to  
17 common questions about the Settlement, can download copies of the Stipulation or Claim Form,  
18 and locate other information.

19 You may also review the Stipulation or documents filed in the case at the Office of the  
20 Clerk of the United States District Court for the Northern District of California, San Francisco  
21 Courthouse, 450 Golden Gate Avenue, San Francisco, California 94102-3489, on weekdays  
22 (other than court holidays) between 9:00 a.m. and 4:00 p.m. Subscribers to PACER, a fee-based  
23 service, can also view the papers filed publicly in the Action through the Court's on-line Case  
24 Management/Electronic Case Files System at <https://www.pacer.gov>.

25 **Please do not Call the Court with Questions about the Settlement.**

1 **PLAN OF ALLOCATION OF THE NET SETTLEMENT FUND**

2 The Plan of Allocation set forth below is the plan for distributing the proceeds of the  
3 Settlement among eligible Class Members that is being proposed by Class Representatives and  
4 their counsel to the Court for approval. The Court may approve this Plan of Allocation or modify  
5 it without additional notice to the Class. Any order modifying the Plan of Allocation will be posted  
6 on the Settlement website at: [www.SanDiskSecuritiesLitigation.com](http://www.SanDiskSecuritiesLitigation.com).

7 The \$50 million Settlement Amount and any interest earned thereon is the “Settlement Fund.”  
8 The Settlement Fund, less all Taxes, approved costs, fees and expenses (the “Net Settlement  
9 Fund”) will be distributed to members of the Class who submit valid Claim Forms that are  
10 accepted for payment, in accordance with the Plan of Allocation approved by the Court  
11 (“Authorized Claimants”).

12 The Claims Administrator shall determine each Authorized Claimant’s *pro rata* share of  
13 the Net Settlement Fund based upon each Authorized Claimant’s “Recognized Claim.” The  
14 calculations made pursuant to the Plan of Allocation are not intended to estimate the amount a  
15 Class Member might have been able to recover after a trial; nor are they to estimate the amount  
16 that will be paid to Authorized Claimants pursuant to the Settlement. The calculations pursuant  
17 to the Plan are a method to weigh the claims of Authorized Claimants against one another for the  
18 purpose of making *pro rata* allocations of the Net Settlement Fund.

19 The objective of this Plan of Allocation is to equitably distribute the Net Settlement Fund  
20 among Authorized Claimants who suffered economic losses as a result of the alleged violations  
21 of the federal securities laws during the Class Period (October 16, 2014 through April 15, 2015).  
22 To design this Plan, Class Counsel has conferred with their damages expert. This Plan is intended  
23 to be generally consistent with an assessment of, among other things, the damages that Class  
24 Counsel and Class Representatives believe were recoverable in the Action. The Plan of  
25 Allocation, however, is not a formal damages analysis.

26 For losses to be compensable damages under the federal securities laws, the disclosure of  
27 the allegedly misrepresented information must be the cause of the decline in the price of the  
28

1 securities at issue. In this case, Class Representatives allege that Defendants issued false  
2 statements and omitted material facts during the Class Period, which artificially inflated the price  
3 of SanDisk common stock. It is alleged that corrective information released to the market on  
4 March 26, 2015 (prior to market open and continuing through March 27, 2015) and April 15,  
5 2015 (after market close) impacted the market price of SanDisk common stock in a statistically  
6 significant manner and removed portions of the alleged artificial inflation from SanDisk common  
7 stock on March 26-27, 2015 and April 16, 2015. Accordingly, in order to have a compensable  
8 loss in this Settlement, SanDisk common stock must have been purchased or otherwise acquired  
9 during the Class Period and held through at least one of the alleged corrective disclosures listed  
10 above.

#### 11 **CALCULATION OF RECOGNIZED LOSS AND RECOGNIZED GAIN AMOUNTS**

12 For purposes of determining whether a Claimant has a “Recognized Claim,” purchases,  
13 acquisitions, and sales of SanDisk common stock will first be matched on a First In/First Out  
14 (“FIFO”) basis. Class Period sales will be matched first against any holdings at the beginning of  
15 the Class Period and then against purchases/acquisitions in chronological order, beginning with  
16 the earliest purchase/acquisition made during the Class Period.

17 A “Recognized Loss Amount” will be calculated as set forth for each purchase of SanDisk  
18 common stock during the Class Period from October 16, 2014 through April 15, 2015 that is listed  
19 in the Claim Form and for which adequate documentation is provided. To the extent that the  
20 calculation of a Claimant’s Recognized Loss Amount results in a negative number, that number  
21 shall be set to zero.

22 For each share of SanDisk common stock purchased or otherwise acquired during the  
23 Class Period and sold before the close of trading on July 14, 2015, an “Out of Pocket Loss” will  
24 be calculated. Out of Pocket Loss is defined as the purchase price (without regard to any fees,  
25 taxes, commissions or other costs) minus the sale price (without regard to any fees, taxes,  
26 commissions or other costs). To the extent that the calculation of the Out of Pocket Loss results  
27 in a negative number, that number shall be set to zero.

28

1           **For each share of SanDisk common stock purchased or acquired at any point from**  
2 **October 16, 2014 through and including April 15, 2015 and:**

3           A.     Sold before the opening of trading on March 26, 2015, the Recognized  
4 Loss Amount for each such share shall be zero.

5           B.     Sold after the opening of trading on March 26, 2015, and before the close  
6 of trading on April 15, 2015, the Recognized Loss Amount for each such share shall be  
7 *the lesser of:*

8                   1.     the dollar artificial inflation applicable to each such share on the  
9 date of purchase/acquisition as set forth in **Table 1** below *minus* the dollar artificial  
10 inflation applicable to each such share on the date of sale as set forth in **Table 1**  
11 below; or

12                   2.     the Out of Pocket Loss.

13           C.     Sold after the close of trading on April 15, 2015, and before the close of  
14 trading on July 14, 2015, the Recognized Loss Amount for each such share shall be *the*  
15 *least of:*

16                   1.     the dollar artificial inflation applicable to each such share on the  
17 date of purchase/acquisition as set forth in **Table 1** below; or

18                   2.     the actual purchase/acquisition price of each such share *minus* the  
19 average closing price from April 16, 2015, up to the date of sale as set forth in  
20 **Table 2** below; or

21                   3.     the Out of Pocket Loss.

22           D.     Held as of the close of trading on July 14, 2015, the Recognized Loss  
23 Amount for each such share shall be *the lesser of:*

24                   1.     the dollar artificial inflation applicable to each such share on the  
25 date of purchase/acquisition as set forth in **Table 1** below; or

2. the actual purchase/acquisition price of each such share *minus*  
\$64.90.<sup>3</sup>

**For shares of SanDisk common stock held as of the close of trading on October 15, 2014 and sold during the Class Period, a Recognized Gain Amount will be calculated as follows:**

Shares of SanDisk common stock held as of the close of trading on October 15, 2014 and sold during the Class Period were sold at artificially inflated prices. For each share of SanDisk common stock held as of the close of trading on October 15, 2014 and sold at any point from October 16, 2014 through and including April 15, 2015, a Recognized Gain Amount will be calculated by multiplying the number of shares held as of the close of trading on October 15, 2014 by the amount of artificial inflation per share on the date of sale as set forth in **Table 1**.

**TABLE 1**

**SanDisk Common Stock Artificial Inflation  
For Purposes of Calculating Purchase and Sale Inflation**

<b>Transaction Date</b>	<b>Artificial Inflation Per Share</b>
October 16, 2014 – March 25, 2015	\$9.04
March 26, 2015	\$2.26
March 27, 2015 – April 15, 2015	\$1.35

<sup>3</sup> Pursuant to Section 21D(e)(1) of the Exchange Act, “in any private action arising under this title 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.” Consistent with the requirements of the Exchange Act, Recognized Loss Amounts are reduced to an appropriate extent by taking into account the closing prices of SanDisk common stock during the “90-day look-back period,” April 16, 2015 through July 14, 2015. The mean (average) closing price for SanDisk common stock during this 90-day look-back period was \$64.90.

**TABLE 2****SanDisk Common Stock Closing Price and Average Closing Price  
April 16, 2015 – July 14, 2015**

<b>Date</b>	<b>Closing Price</b>	<b>Average Closing Price between April 16, 2015 and Date Shown</b>	<b>Date</b>	<b>Closing Price</b>	<b>Average Closing Price between April 16, 2015 and Date Shown</b>
4/16/2015	\$67.91	\$67.91	6/1/2015	\$68.23	\$67.60
4/17/2015	\$67.01	\$67.46	6/2/2015	\$67.07	\$67.59
4/20/2015	\$66.87	\$67.26	6/3/2015	\$67.51	\$67.59
4/21/2015	\$67.92	\$67.43	6/4/2015	\$67.10	\$67.57
4/22/2015	\$68.48	\$67.64	6/5/2015	\$68.67	\$67.60
4/23/2015	\$68.76	\$67.82	6/8/2015	\$67.51	\$67.60
4/24/2015	\$67.92	\$67.84	6/9/2015	\$66.81	\$67.58
4/27/2015	\$67.67	\$67.82	6/10/2015	\$67.26	\$67.57
4/28/2015	\$68.69	\$67.91	6/11/2015	\$66.66	\$67.55
4/29/2015	\$67.84	\$67.91	6/12/2015	\$66.10	\$67.51
4/30/2015	\$66.94	\$67.82	6/15/2015	\$64.18	\$67.43
5/1/2015	\$68.47	\$67.87	6/16/2015	\$64.52	\$67.37
5/4/2015	\$67.51	\$67.84	6/17/2015	\$64.73	\$67.31
5/5/2015	\$66.97	\$67.78	6/18/2015	\$65.21	\$67.26
5/6/2015	\$66.64	\$67.71	6/19/2015	\$63.92	\$67.19
5/7/2015	\$66.59	\$67.64	6/22/2015	\$65.48	\$67.15
5/8/2015	\$67.73	\$67.64	6/23/2015	\$65.09	\$67.11
5/11/2015	\$67.77	\$67.65	6/24/2015	\$63.79	\$67.04
5/12/2015	\$66.67	\$67.60	6/25/2015	\$63.35	\$66.97
5/13/2015	\$67.20	\$67.58	6/26/2015	\$62.12	\$66.87
5/14/2015	\$67.00	\$67.55	6/29/2015	\$60.19	\$66.74
5/15/2015	\$67.19	\$67.53	6/30/2015	\$58.22	\$66.58
5/18/2015	\$67.50	\$67.53	7/1/2015	\$56.41	\$66.39
5/19/2015	\$67.33	\$67.52	7/2/2015	\$56.36	\$66.21

Date	Closing Price	Average Closing Price between April 16, 2015 and Date Shown	Date	Closing Price	Average Closing Price between April 16, 2015 and Date Shown
5/20/2015	\$67.08	\$67.51	7/6/2015	\$55.48	\$66.02
5/21/2015	\$67.02	\$67.49	7/7/2015	\$55.89	\$65.84
5/22/2015	\$67.08	\$67.47	7/8/2015	\$54.15	\$65.64
5/26/2015	\$66.39	\$67.43	7/9/2015	\$53.81	\$65.44
5/27/2015	\$69.01	\$67.49	7/10/2015	\$53.53	\$65.24
5/28/2015	\$69.59	\$67.56	7/13/2015	\$53.65	\$65.05
5/29/2015	\$68.38	\$67.58	7/14/2015	\$55.45	\$64.90

#### ADDITIONAL PROVISIONS

Purchases or acquisitions and sales of SanDisk common stock shall be deemed to have occurred on the “contract” or “trade” date as opposed to the “settlement” or “payment” date. The receipt or grant by gift, inheritance or operation of law of SanDisk common stock during the Class Period shall not be deemed a purchase, acquisition, or sale of these shares of SanDisk common stock for the calculation of an Authorized Claimant’s Recognized Claim, nor shall the receipt or grant be deemed an assignment of any claim relating to the purchase/acquisition of such shares of such SanDisk common stock unless (i) the donor or decedent purchased or otherwise acquired such shares of SanDisk common stock during the Class Period; (ii) no Claim Form was submitted by or on behalf of the donor, on behalf of the decedent, or by anyone else with respect to such shares of SanDisk common stock; and (iii) it is specifically so provided in the instrument of gift or assignment.

In accordance with the Plan of Allocation, the Recognized Loss Amount on any portion of a purchase or acquisition that matches against (or “covers”) a “short sale” is zero. The Recognized Loss Amount on a “short sale” that is not covered by a purchase or acquisition is also zero.

In the event that a Claimant has an opening short position in SanDisk common stock at the start of the Class Period, the earliest Class Period purchases or acquisitions shall be matched

1 against such opening short position in accordance with the FIFO matching described above and  
2 any portion of such purchases or acquisition that covers such short sales will not be entitled to  
3 recovery. In the event that a claimant newly establishes a short position during the Class Period,  
4 the earliest subsequent Class Period purchase or acquisition shall be matched against such short  
5 position on a FIFO basis and will not be entitled to a recovery.

6 SanDisk common stock is the only security eligible for recovery under the Plan of  
7 Allocation. With respect to SanDisk common stock purchased or sold through the exercise of an  
8 option, the purchase/sale date of the SanDisk common stock is the exercise date of the option and  
9 the purchase/sale price is the exercise price of the option.

10 The sum of a Claimant's Recognized Loss Amounts minus the sum of a Claimant's  
11 Recognized Gain Amounts will be the Claimant's "Recognized Claim." To the extent that the  
12 calculation of a Claimant's Recognized Claim results in a negative number, the Claimant's  
13 Recognized Claim will be zero.

14 An Authorized Claimant's Recognized Claim shall be the amount used to calculate the  
15 Authorized Claimant's *pro rata* share of the Net Settlement Fund. If the sum total of Recognized  
16 Claims of all Authorized Claimants who are entitled to receive payment out of the Net Settlement  
17 Fund is greater than the Net Settlement Fund, each Authorized Claimant shall receive his, her, or  
18 its *pro rata* share of the Net Settlement Fund. The *pro rata* share shall be the Authorized  
19 Claimant's Recognized Claim divided by the total of Recognized Claims of all Authorized  
20 Claimants, multiplied by the total amount in the Net Settlement Fund.

21 If the Net Settlement Fund exceeds the sum total amount of the Recognized Claims of all  
22 Authorized Claimants entitled to receive payment, the excess amount in the Net Settlement Fund  
23 shall be distributed *pro rata* to all Authorized Claimants entitled to receive payment.

24 The Net Settlement Fund will be allocated among all Authorized Claimants whose  
25 prorated payment is \$10.00 or greater. If the prorated payment to any Authorized Claimant  
26 calculates to less than \$10.00, no distribution will be made to that Authorized Claimant.

27

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1 Class Members who do not submit valid Claim Forms will not share in the distribution of  
2 the Net Settlement Fund, however they will nevertheless be bound by the Settlement and the  
3 Judgment of the Court dismissing this Action, unless they have timely and validly sought  
4 exclusion.

5 Distributions will be made to Authorized Claimants after all claims have been processed  
6 and after the Court has finally approved the Settlement. If any funds remain in the Net Settlement  
7 Fund by reason of un-cashed distributions or otherwise and it is economical to do so, then, after  
8 the Claims Administrator has made reasonable and diligent efforts to have Class Members who  
9 are entitled to participate in the distribution of the Net Settlement Fund cash their distributions,  
10 any balance remaining in the Net Settlement Fund at least four months after the initial distribution  
11 of such funds shall be re-distributed on a *pro rata* basis to Class Members who have cashed their  
12 initial distributions in an equitable and economical manner, after payment of any unpaid costs or  
13 fees incurred in administering the Net Settlement Fund for such re-distribution. These  
14 redistributions shall be repeated until the balance in the Net Settlement Fund is no longer  
15 economical to distribute. Any balance that still remains in the Net Settlement Fund after re-  
16 distribution(s), which is not feasible or economical to reallocate, after payment of any unpaid  
17 costs or fees incurred in administering the Net Settlement Fund, shall be contributed, in equal  
18 amount, to the Consumer Federation of American and the Council of Institutional Investors.

19 Payment pursuant to the Plan of Allocation or such other plan as may be approved by the  
20 Court shall be conclusive against all Claimants. No person shall have any claim against Class  
21 Representatives, Plaintiffs' Counsel, their damages expert, the Claims Administrator, or other  
22 agent designated by Class Counsel, arising from determinations or distributions to Claimants  
23 made substantially in accordance with the Stipulation, the Plan of Allocation approved by the  
24 Court, or further orders of the Court. Defendants, their respective counsel, and all other Released  
25 Defendants' Parties shall have no responsibility for or liability whatsoever for the investment or  
26 distribution of the Settlement Fund, the Net Settlement Fund, the Plan of Allocation or the  
27 determination, administration, calculation, or payment of any Claim Form or non-performance of  
28

1 the Claims Administrator, the payment or withholding of Taxes owed by the Settlement Fund or  
2 any losses incurred in connection therewith.

3 The Court has reserved jurisdiction to allow, disallow, or adjust on equitable grounds the  
4 Claim of any Claimant. Each Claimant shall be deemed to have submitted to the jurisdiction of  
5 the Court with respect to his, her or its Claim Form.

6 **SPECIAL NOTICE TO SECURITIES BROKERS AND NOMINEES**

7 In the previously mailed Class Notice, you were advised that if, for the beneficial interest  
8 of any person or entity other than yourself, you purchased SanDisk common stock during the  
9 period from October 16, 2014 through April 15, 2015, inclusive, you either had to: (1) provide a  
10 list of the names, addresses, and emails of all such beneficial owners to the Claims Administrator;  
11 or (2) request from the Claims Administrator sufficient copies of the Class Notice to forward to  
12 all such beneficial owners, and forward them to all such beneficial owners.

13 If you chose the first option, the Claims Administrator sent a copy of the Settlement  
14 Notices and Proof of Claim and Release Forms (together, the “Claim Packet”) to the beneficial  
15 owners whose names and addresses you previously supplied. Unless you have identified  
16 additional beneficial owners whose names you did not previously provide, **you need do nothing**  
17 **further at this time.**

18 If you chose the second option, *i.e.*, you elected to mail the Class Notice directly to  
19 beneficial owners, you were advised that you must retain the mailing records for use in connection  
20 with any further notices that may be provided in the Action. If you elected this option, the Claims  
21 Administrator will forward the same number of Claim Packets to you to send to the beneficial  
22 owners **WITHIN TEN (10) CALENDAR DAYS** of receipt of the Claim Packets. If you require  
23 more copies than you previously requested, please contact the Claims Administrator at 877-432-  
24 3788 and let them know how many additional Claim Packets you require. You must mail the  
25 Claim Packets to the beneficial owners **WITHIN TEN (10) CALENDAR DAYS** of your receipt  
26 of the packets.

1 If you believe that you have identified additional beneficial owners since responding to  
2 the Class Notice, you must either (a) **WITHIN TEN (10) CALENDAR DAYS** of receipt of the  
3 Claim Packet, provide a list of the names and addresses (including emails if available) of all such  
4 additional beneficial owners to the Claims Administrator, or (b) **WITHIN TEN (10)**  
5 **CALENDAR DAYS** of receipt of the Claim Packet, request from the Claims Administrator  
6 sufficient copies of the Claim Packet to forward to all such additional beneficial owners, which  
7 you shall, **WITHIN TEN (10) CALENDAR DAYS** of receipt of the Claim Packets from the  
8 Claims Administrator, mail, by first-class mail and postage prepaid, to the beneficial owners and  
9 provide the Claims Administrator with email addresses for all such beneficial owners. If you  
10 elect to send the Claim Packet to beneficial owners, you shall also send a statement to the Claims  
11 Administrator confirming that the mailing was made and shall retain your mailing records for use  
12 in connection with any further notices that may be provided in the Action.

13 Upon full and timely compliance with these directions, you may seek reimbursement of  
14 your reasonable expenses actually incurred, by providing the Claims Administrator with proper  
15 documentation supporting the expenses for which reimbursement is sought. Copies of this  
16 Settlement Notice and the Claim Form may also be obtained from the website for this Action,  
17 [www.SanDiskSecuritiesLitigation.com](http://www.SanDiskSecuritiesLitigation.com), or by calling the Claims Administrator at 877-432-3788.

18 All communications concerning the foregoing should be addressed to the Claims  
19 Administrator:

20 *SanDisk Securities Litigation*  
21 Claims Administrator  
22 c/o Epiq  
23 P.O. Box 3058  
24 Portland, OR 97208-3058  
25 Phone: 877-432-3788  
26 [info@ SanDiskSecuritiesLitigation.com](mailto:info@SanDiskSecuritiesLitigation.com)  
27 [www.SanDiskSecuritiesLitigation.com](http://www.SanDiskSecuritiesLitigation.com)

28 Dated: \_\_\_\_\_, 2019

BY ORDER OF THE UNITED STATES  
DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

## **EXHIBIT A-2**

1 DEBORAH CLARK-WEINTRAUB (*pro hac vice*)  
MAX R. SCHWARTZ (*pro hac vice*)  
2 **SCOTT+SCOTT ATTORNEYS AT LAW LLP**  
The Helmsley Building  
3 230 Park Avenue, 17th Floor  
New York, NY 10169  
4 Telephone: (212) 223-6444  
Facsimile: (212) 223-6334  
5 Email: dweintraub@scott-scott.com  
mschwartz@scott-scott.com

6 *Attorneys for Class Representatives and the Class*

7  
8 **UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
9 **SAN FRANCISCO DIVISION**

10 IN RE: SANDISK LLC SECURITIES  
LITIGATION

Case No. 3:15-cv-01455-VC

Hon. Vince Chhabria

**PROOF OF CLAIM AND RELEASE**

**EXHIBIT A-2**

11  
12  
13  
14  
15  
16 **I. GENERAL INSTRUCTIONS**

17 1. To recover as a Class Member based on your claims in the action entitled *In re SanDisk*  
18 *LLC Securities Litigation*, Case No. 3:15-cv-01455-VC (the “Action”), YOU MUST MAIL OR  
19 SUBMIT ONLINE A COMPLETED PROOF OF CLAIM FORM (“CLAIM FORM”),  
20 ACCOMPANIED BY COPIES OF THE DOCUMENTS REQUESTED HEREIN, **ON OR**  
21 **BEFORE \_\_\_\_\_, 2019**, ADDRESSED AS FOLLOWS:

22 *SanDisk Securities Litigation*  
Claims Administrator  
23 c/o Epiq  
P.O. Box 3058  
24 Portland, OR 97208-3058  
Phone: 877-432-3788  
25 info@SanDiskSecuritiesLitigation.com  
www.SanDiskSecuritiesLitigation.com

26 2. Submission of this Claim Form, however, does not assure that you will share in the  
27 proceeds of the settlement of the Action.  
28

1           3.       If you are a Class Member and have not timely and validly requested exclusion from  
2 the Class, **you are bound by the terms of any judgment entered in the Action, including the**  
3 **releases provided therein, WHETHER OR NOT YOU SUBMIT A CLAIM FORM.**

4           4.       All Capitalized Terms have the meaning ascribed to them in the Stipulation of  
5 Settlement unless otherwise defined herein.

6 **II.     CLAIMANT IDENTIFICATION**

7           If you purchased or acquired the publicly traded common stock of SanDisk LLC (“SanDisk”)   
8 during the period from October 16, 2014 through April 15, 2015, inclusive (the “Class Period”), use   
9 Part I of this form entitled “Claimant Identification” to list the claimant’s: name, mailing address, and   
10 account numbers if relevant (such as for a claim submitted on behalf of an IRA, Trust, or estate   
11 account). Please list the most current claimant or account name as you would like the information to   
12 appear on a check, if eligible for payment. Please also provide a telephone number and/or e-mail   
13 address, as the Claims Administrator may need to contact you with questions about the submitted   
14 claim. **If your Claimant Identification information changes, please notify the Claims**  
15 **Administrator in writing at the address above.**

16           All joint purchasers must sign this claim. If you are acting in a representative capacity on   
17 behalf of a Class Member (for example, as an executor, administrator, trustee, or other representative),   
18 you must submit evidence of your current authority to act on behalf of that Class Member. Such   
19 evidence would include, for example, letters testamentary, letters of administration, or a copy of the   
20 trust documents or other documents which provide you with the authority to submit the claim. Please   
21 also indicate your representative capacity under your signature on p. 7 of this Claim Form.

22 **III.   IDENTIFICATION OF TRANSACTIONS**

23           Use Part II of this form entitled “Schedule of Transactions in SanDisk Publicly Traded   
24 Common Stock” to supply all required details of your transaction(s). Neither the Claims   
25 Administrator, the Defendants, nor the Class Representatives have access to your transactional   
26 information. If you need more space or additional schedules, attach separate sheets giving all of the   
27 required information in substantially the same form. Sign and print or type your name on each   
28 additional sheet.

1 On the schedules, provide all of the requested information with respect to *all of your*  
2 purchases or acquisitions of SanDisk publicly traded common stock, and *all of your* sales of SanDisk  
3 publicly traded common stock, whether such transactions resulted in a profit or a loss. You must also  
4 provide the amount of SanDisk publicly traded common stock you held at the close of trading on  
5 October 15, 2014 and July 14, 2015. Failure to report all such transactions may result in the rejection  
6 of your claim.

7 List each transaction separately and in chronological order, by trade date, beginning with the  
8 earliest. You must accurately provide the month, day, and year of each transaction you list.

9 The date of covering a “short sale” is deemed to be the date of purchase of SanDisk common  
10 stock. The date of a “short sale” is deemed to be the date of sale of SanDisk common stock.

11 **COPIES OF BROKER CONFIRMATIONS OR OTHER DOCUMENTATION OF YOUR**  
12 **TRANSACTIONS SHOULD BE ATTACHED TO YOUR CLAIM. FAILURE TO PROVIDE**  
13 **THIS DOCUMENTATION COULD DELAY VERIFICATION OF YOUR CLAIM OR**  
14 **RESULT IN REJECTION OF YOUR CLAIM.**

15 **NOTICE REGARDING ELECTRONIC FILES:** Certain claimants with large numbers of  
16 transactions may request, or may be requested, to submit information regarding their transactions in  
17 electronic files. To obtain the mandatory electronic filing requirements and file layout, you may visit  
18 the settlement website at [www.SanDiskSecuritiesLitigation.com](http://www.SanDiskSecuritiesLitigation.com) or you may email the Claims  
19 Administrator’s electronic filing department at [info@SanDiskSecuritiesLitigation.com](mailto:info@SanDiskSecuritiesLitigation.com). Any file not  
20 in accordance with the required electronic filing format will be subject to rejection. No electronic  
21 files will be considered to have been properly submitted unless the Claims Administrator issues an  
22 email to that effect after processing your file with your claim numbers and respective account  
23 information. Do not assume that your file has been received or processed until you receive this email.  
24 If you do not receive such an email within 10 days of your submission, you should contact the  
25 electronic filing department at [info@SanDiskSecuritiesLitigation.com](mailto:info@SanDiskSecuritiesLitigation.com) to inquire about your file and  
26 confirm it was received and acceptable.



**PART II: SCHEDULE OF TRANSACTIONS IN SANDISK PUBLICLY TRADED COMMON STOCK**

**A. BEGINNING HOLDINGS** - State the number of shares of SanDisk publicly traded common stock held at the close of trading on **October 15, 2014**. (Must be documented). \_\_\_\_\_

**B. PURCHASES/ACQUISITIONS DURING CLASS PERIOD** - List each and every purchase or acquisition of SanDisk publicly traded common stock from the opening of trading on **October 16, 2014** through and including the close of trading **April 15, 2015**. (Must be documented).

Trade Date Month Day Year	Number of Shares Purchased	Price Per Share	Total Purchase Price (without regard to fees, commissions, taxes and other costs)
1. _____	1. _____	1. _____	1. _____
2. _____	2. _____	2. _____	2. _____
3. _____	3. _____	3. _____	3. _____

**C. PURCHASES/ACQUISITIONS DURING “90-DAY LOOKBACK PERIOD”** – State the total number of shares of SanDisk publicly traded common stock you purchased/acquired from **April 16, 2015** through and including the close of trading on **July 14, 2015**.<sup>1</sup> \_\_\_\_\_

**D. SALES**– Separately list each and every sale/disposition of SanDisk publicly traded common stock from after the opening of trading on **October 16, 2014** through and including the close of trading on **July 14, 2015**. (Must be documented.)

Trade Date Month Day Year	Number of Shares Sold	Sales Price Per Share	Total Sales Price (without regard to fees, commissions, taxes and other costs)
1. _____	1. _____	1. _____	1. _____
2. _____	2. _____	2. _____	2. _____
3. _____	3. _____	3. _____	3. _____

**E. ENDING HOLDINGS** – State the total number of shares of SanDisk publicly traded common stock you held as of the close of trading on **July 14, 2015**. (Must be documented.) \_\_\_\_\_

<sup>1</sup> **Please note:** Information requested with respect to your purchases/acquisitions of SanDisk publicly traded common stock from April 16, 2015 through and including the close of trading on July 14, 2015 is needed in order for the Claims Administrator to balance your claim; however, purchases during this period are not eligible under the Settlement and will not be used for purposes of calculating your Recognized Claim pursuant to the Plan of Allocation.

**IV. SUBMISSION TO JURISDICTION OF COURT AND ACKNOWLEDGMENTS**

1. I (We) submit this Claim Form under the terms of the Stipulation and Agreement of Settlement described in the Settlement Notice and available at www.SanDiskSecuritiesLitigation.com. I (We) also submit to the jurisdiction of the United States District Court, Northern District of California, with respect to my (our) claim as a Class Member.

2. I (We) further acknowledge that, upon the Effective Date of the Settlement, I (we) will be bound by and subject to the terms of any judgment that may be entered in the Action, including the release of the Released Claims as against the Released Defendants' Parties. I (We) agree to furnish additional information to the Claims Administrator to support this claim if requested to do so. I (We) have not submitted any other claim covering the same purchases or sales of SanDisk publicly traded common stock during the relevant periods and know of no other person having done so on my (our) behalf.

3. I (We) hereby warrant and represent that I (we) have included information about all of my (our) purchases of SanDisk publicly traded common stock which took place from October 16, 2014 through April 15, 2015, and all of my (our) sales of common stock from October 16, 2014 through July 14, 2015, as well as the number of shares held by me (us) at the close of trading on October 15, 2014 and July 14, 2015.

4. I (We) declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, in \_\_\_\_\_, \_\_\_\_\_.  
(Month / Year) (City) (State/Country)

\_\_\_\_\_  
Signature of Claimant

\_\_\_\_\_  
Signature of Joint Claimant, if any

\_\_\_\_\_  
Print Name of Claimant

\_\_\_\_\_  
Print Name of Joint Claimant, if any

\_\_\_\_\_  
(Capacity of person(s) signing, e.g., Beneficial Purchaser, Executor or Administrator)

1       **ACCURATE CLAIMS PROCESSING TAKES A SIGNIFICANT AMOUNT OF TIME.**  
2       **THANK YOU FOR YOUR PATIENCE.**

3       Reminder Checklist:

- 4           1.       Please sign above.
- 5           2.       Remember to attach copies of supporting documentation.
- 6           3.       **Do not send** originals of certificates or other documentation as they will not be  
7                   returned.
- 8           4.       Keep a copy of your Claim Form and all supporting documentation for your records.
- 9           5.       If you desire an acknowledgment of receipt of your Claim Form, please send it  
10                   Certified Mail, Return Receipt Requested.
- 11           6.       If you move, please send your new address to the address below.
- 12           7.       **Do not use red pen or highlighter** on the Claim Form or supporting documentation.

13       **THIS CLAIM FORM MUST BE SUBMITTED ONLINE OR, IF MAILED, POSTMARKED**  
14       **NO LATER THAN \_\_\_\_\_, 2019, ADDRESSED AS FOLLOWS:**

15                               *SanDisk Securities Litigation*  
16                               Claims Administrator  
17                               c/o Epiq  
18                               P.O. Box 3058  
19                               Portland, OR 97208-3058  
20                               Phone: 877-432-3788  
21                               info@SanDiskSecuritiesLitigation.com  
22                               www.SanDiskSecuritiesLitigation.com

## **EXHIBIT A-3**

1 DEBORAH CLARK-WEINTRAUB (*pro hac vice*)  
 MAX R. SCHWARTZ (*pro hac vice*)  
 2 **SCOTT+SCOTT ATTORNEYS AT LAW LLP**  
 The Helmsley Building  
 3 230 Park Avenue, 17th Floor  
 New York, NY 10169  
 4 Telephone: (212) 223-6444  
 Facsimile: (212) 223-6334  
 5 Email: dweintraub@scott-scott.com  
 mschwartz@scott-scott.com

6 *Attorneys for Class Representatives and the Class*

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 9  
 10 **UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

11  
 12 IN RE SANDISK LLC SECURITIES  
 LITIGATION

Case No. 3:15-cv-01455-VC

Hon. Vince Chhabria

13  
 14 **SUMMARY NOTICE OF PROPOSED**  
**CLASS ACTION SETTLEMENT AND**  
**MOTION FOR ATTORNEYS' FEES**  
**AND EXPENSES**

15  
 16 **EXHIBIT A-3**

17  
 18 **To all persons and entities who purchased or otherwise acquired the publicly traded**  
**common stock of SanDisk Corporation (“SanDisk”) during the period from October 16,**  
 19 **2014 through April 15, 2015 and were damaged thereby (the “Class”).**

20 YOU ARE HEREBY NOTIFIED, pursuant to an Order of the United States District Court  
 21 for the Northern District of California, that the Parties to the above-referenced class action (the  
 22 “Action”) have reached a settlement in the amount of \$50,000,000 in cash (the “Settlement  
 23 Amount”) that, if approved by the Court, will resolve all claims in the Action and related claims  
 24 based on the identical factual predicate.<sup>1</sup>

25  
 26  
 27  
 28 <sup>1</sup> The complete terms of the Settlement are in the Stipulation and Agreement of Settlement, dated May 6, 2019,  
 which can be viewed at [www.SanDiskSecuritiesLitigation.com](http://www.SanDiskSecuritiesLitigation.com).

1 A hearing will be held before the Honorable Vince Chhabria of the United States District  
2 Court for the Northern District of California, in the San Francisco Courthouse, Courtroom 4, 17th  
3 Floor, 450 Golden Gate Avenue, San Francisco, CA 94102 at \_\_:\_\_ \_\_.m. on \_\_\_\_\_,  
4 **2019** to, among other things, determine whether (1) the Settlement should be approved by the  
5 Court as fair, reasonable, and adequate; (2) the Plan of Allocation for distribution of the  
6 Settlement Amount, and any interest thereon, less Court-awarded attorneys' fees, Notice and  
7 Administration Expenses, Taxes, and any other costs, fees, or expenses approved by the Court  
8 (the "Net Settlement Fund") should be approved as fair, reasonable, and adequate; and (3) to  
9 approve the application of Class Counsel, on behalf of Plaintiffs' Counsel, for an award of  
10 attorneys' fees of no more than 28% of the Settlement Fund (which would be up to \$14 million)  
11 and payment of expenses of no more than \$1 million from the Settlement Fund, which will include  
12 the expenses of Class Representatives pursuant to the Private Securities Litigation Reform Act of  
13 1995. The Court may change the date of the Settlement Hearing without providing another notice.  
14 You do NOT need to attend the Settlement Hearing in order to receive a distribution from the Net  
15 Settlement Fund.

16 **IF YOU ARE A MEMBER OF THE CLASS, YOUR RIGHTS WILL BE**  
17 **AFFECTED BY THE SETTLEMENT AND YOU MAY BE ENTITLED TO SHARE IN**  
18 **THE NET SETTLEMENT FUND.** If you have not yet received the full Notice of Proposed  
19 Class Action Settlement and Motion for Attorneys' Fees and Expenses (the "Settlement Notice")  
20 and a Proof of Claim and Release form ("Claim Form"), you may obtain copies of these  
21 documents by contacting the Claims Administrator or visiting the case website:

22 *SanDisk Securities Litigation*  
23 Claims Administrator  
24 c/o Epiq  
25 P.O. Box 3058  
26 Portland, OR 97208-3058  
27 Phone: (877) 432-3788  
28 info@ SanDiskSecuritiesLitigation.com  
www.SanDiskSecuritiesLitigation.com

Inquiries may also be made to Class Counsel:

1 DEBORAH CLARK-WEINTRAUB  
2 MAX R. SCHWARTZ  
3 **SCOTT+SCOTT ATTORNEYS AT LAW LLP**  
4 The Helmsley Building  
5 230 Park Avenue, 17th Floor  
6 New York, NY 10169  
7 Telephone: (212) 223-6444  
8 Facsimile: (212) 223-6334  
9 www.scott-scott.com

6 If you are a Class Member, to be eligible to share in the distribution of the Net Settlement  
7 Fund, you must submit a Claim Form *postmarked or electronically submitted online no later*  
8 *than \_\_\_\_\_, 2019*. If you are a Class Member and do not timely submit a valid Claim  
9 Form, you will not be eligible to share in the distribution of the Net Settlement Fund, but you will  
10 nevertheless be bound by any judgments or orders entered by the Court in the Action.

11 If you previously submitted a valid and timely request for exclusion from the Class in  
12 connection with the Notice of Pendency of Class Action (“Class Notice”) and you wish to remain  
13 excluded, no further action is required.

14 If you did not previously do so, to exclude yourself from the Class now, you must submit  
15 a written request for exclusion in accordance with the instructions set forth in the Settlement  
16 Notice such that it is *received (not simply postmarked) no later than \_\_\_\_\_, 2019*.  
17 If you are a Class Member and do not exclude yourself from the Class, *you will be bound* by any  
18 judgments or orders entered by the Court in the Action.

19 If you previously submitted a request for exclusion from the Class in connection with the  
20 Class Notice but you want to *opt-back* into the Class now for the purpose of being eligible to  
21 receive a payment from the Net Settlement Fund, you may do so. In order to opt-back into the  
22 Class, you must submit a request in writing such that it is *received (not simply postmarked) no*  
23 *later than \_\_\_\_\_, 2019*, in accordance with the instructions set forth in the Settlement  
24 Notice.

25 If you wish to remain in the Class, but object to the Settlement, Plan of Allocation, and/or  
26 application for attorneys’ fees and payment of expenses, any such objection must be provided to  
27  
28

1 the Court in accordance with the instructions set forth in the Settlement Notice so that they are  
2 *received (not simply postmarked) no later than \_\_\_\_\_, 2019.*

3 **PLEASE DO NOT CONTACT THE COURT, DEFENDANTS, OR DEFENDANTS’**  
4 **COUNSEL REGARDING THIS NOTICE.**

5  
6 Dated: \_\_\_\_\_, 2019

7 BY ORDER OF THE UNITED STATES  
8 DISTRICT COURT FOR THE  
9 NORTHERN DISTRICT OF  
10 CALIFORNIA

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## **EXHIBIT B**

1 DEBORAH CLARK-WEINTRAUB (*pro hac vice*)  
MAX R. SCHWARTZ (*pro hac vice*)  
2 **SCOTT+SCOTT ATTORNEYS AT LAW LLP**  
The Helmsley Building  
3 230 Park Avenue, 17th Floor  
New York, NY 10169  
4 Telephone: (212) 223-6444  
Facsimile: (212) 223-6334  
5 Email: dweintraub@scott-scott.com  
mschwartz@scott-scott.com

6 *Attorneys for Class Representatives and the Class*

7  
8 **UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
9 **SAN FRANCISCO DIVISION**

10 IN RE: SANDISK LLC SECURITIES  
LITIGATION

Case No. 3:15-cv-01455-VC  
Hon. Vince Chhabria

11 **[PROPOSED] FINAL ORDER AND**  
12 **JUDGMENT**

13  
14 **WHEREAS:**

15 A. A class action is pending in this Court entitled *In re: SanDisk LLC Securities*  
16 *Litigation*, Case No. 3:15-cv-01455-VC (the “Action”);

17 B. Defendants in the Action are SanDisk Corporation (n/k/a “SanDisk LLC” and  
18 owned by Western Digital, referred to herein as “SanDisk” or the “Company”), and Sanjay  
19 Mehrotra (“Mehrotra”) and Judy Bruner (“Bruner”, with Mehrotra, the “Individual Defendants,”  
20 and with SanDisk as well, the “Defendants”);

21 C. By Order entered September 4, 2018, the Court certified a Class of: all persons  
22 and entities who purchased or otherwise acquired publicly traded shares of common stock of  
23 SanDisk Corporation from October 16, 2014 through April 15, 2015, inclusive (the “Class  
24 Period”) and were damaged thereby, with certain exclusions. Specifically, excluded from the  
25 Class by definition are: Defendants and their immediate family members; the officers and  
26 directors of the Company during the Class Period and their immediate family members; any entity  
27 in which Defendants have or had a controlling interest; any person or entity that timely and validly  
28 sought exclusion from the Class in connection with the Class Notice previously disseminated,

1 who does not opt back into the Class; and the legal representatives, heirs, successors, assigns, or  
2 affiliates of any excluded person. Also excluded from the Class are those who had (a) sold all of  
3 their SanDisk stock prior to the first alleged corrective disclosure on March 26, 2015, and (b)  
4 made no subsequent purchases between March 26, 2015 and April 15, 2015. Further, pursuant to  
5 Rule 23(e) of the Federal Rules of Civil Procedure and by Order of the Court entered  
6 \_\_\_\_\_, 2019, also excluded from the Class are those persons or entities that submitted  
7 a timely and valid request for exclusion pursuant to the Settlement Notice (defined below), which  
8 has been accepted by the Court (*see* Exhibit A hereto);

9 D. As of May 6, 2019, Class Representatives, City of Bristol Pension Fund  
10 (“Bristol”); City of Milford, Connecticut Pension & Retirement Board (“Milford”); Pavers and  
11 Road Builders Pension, Annuity and Welfare Funds (“Pavers and Road Builders Benefit Funds”);  
12 the City of Newport News Employees’ Retirement Fund (“NNERF”); and Massachusetts  
13 Laborers’ Pension Fund (“Massachusetts Laborers,” together with Bristol, Milford, Pavers and  
14 Road Builders Benefit Funds, and NNERF, the “Class Representatives” or “Lead Plaintiffs”), on  
15 behalf of themselves and each of the members of the certified Class, on the one hand, and  
16 Defendants, on the other hand, entered into a Stipulation and Agreement of Settlement (the  
17 “Stipulation”) in the Action;

18 E. Pursuant to the Order Granting Preliminary Approval of Class Action Settlement,  
19 Approving Form and Manner of Notice, and Setting Date for Hearing on Final Approval of  
20 Settlement, entered \_\_\_\_\_, 2019 (the “Preliminary Approval Order”), the Court scheduled  
21 a hearing for \_\_\_\_\_, 2019, at \_\_\_\_:\_\_\_\_ \_\_.m. (the “Settlement Hearing”) to,  
22 among other things: (i) determine whether the proposed Settlement of the Action on the terms  
23 and conditions provided for in the Stipulation is fair, reasonable, and adequate, and should be  
24 approved by the Court; and (ii) determine whether a judgment as provided for in the Stipulation  
25 should be entered;

26 F. Also pursuant to the Preliminary Approval Order, the Court ordered that the Notice  
27 of Proposed Class Action Settlement and Motion for Attorneys’ Fees and Expenses (the  
28 “Settlement Notice”) and a Proof of Claim and Release form (“Proof of Claim”), substantially in

1 the forms attached to the Preliminary Approval Order as Exhibits 1 and 2, respectively, be mailed  
2 by first-class mail, postage prepaid, on or before 17 business days after the date of entry of the  
3 Preliminary Approval Order (“Notice Date”) to all potential Class Members who could be  
4 identified through reasonable effort, and that a Summary Notice of Proposed Class Action  
5 Settlement and Motion for Attorneys’ Fees and Expenses (the “Summary Notice”), substantially  
6 in the form attached to the Preliminary Approval Order as Exhibit 3, be published in *Investor’s*  
7 *Business Daily* and transmitted over *PR Newswire* within fourteen (14) calendar days of the  
8 Notice Date;

9 G. The Settlement Notice and the Summary Notice advised potential Class Members  
10 of the date, time, place, and purpose of the Settlement Hearing. The Settlement Notice further  
11 advised that any objections to the Settlement were required to be mailed to or filed with the Court  
12 such that they were received on or before \_\_\_\_\_, 2019, that new requests for  
13 exclusion from the Class were to be received on or before \_\_\_\_\_, 2019, and that  
14 any requests to opt-back into the Class were to be received on or before \_\_\_\_\_,  
15 2019;

16 H. The provisions of the Preliminary Approval Order as to notice were complied with;

17 I. On \_\_\_\_\_, 2019, Class Representatives moved for final approval of the  
18 Settlement, as set forth in the Preliminary Approval Order. The Settlement Hearing was duly  
19 held before this Court on \_\_\_\_\_, 2019, at which time all interested Persons were  
20 afforded the opportunity to be heard; and

21 J. This Court has duly considered Class Representatives’ motion, the affidavits,  
22 declarations, memoranda of law submitted in support thereof, the Stipulation, and all of the  
23 submissions and arguments presented with respect to the proposed Settlement;

24 NOW, THEREFORE, after due deliberation, IT IS ORDERED, ADJUDGED AND  
25 DECREED that:

26 1. This Judgment incorporates and makes a part hereof: (i) the Stipulation filed with  
27 the Court on May 6, 2019; and (ii) the Settlement Notice, which was filed with the Court at the  
28

1 same time. Capitalized terms not defined in this Judgment shall have the meanings set forth in  
2 the Stipulation.

3 2. This Court has jurisdiction over the subject matter of the Action and over all parties  
4 to the Action, including all Class Members.

5 3. The Court finds that the dissemination of the Settlement Notice, Summary  
6 Settlement Notice, and Proof of Claim: (i) complied with the Preliminary Approval Order; (ii)  
7 constituted the best notice practicable under the circumstances; (iii) constituted notice that was  
8 reasonably calculated to apprise Class Members of the effect of the Settlement, of the Plan of  
9 Allocation, of Class Counsel's request for an award of attorneys' fees and payment of expenses  
10 incurred in connection with the prosecution of the Action, of Class Members' rights to object,  
11 seek exclusion from, and/or opt-back into the Class, and of their right to appear at the Settlement  
12 Hearing; (iv) constituted due, adequate, and sufficient notice to all Persons entitled to receive  
13 notice of the proposed Settlement; and (v) satisfied the notice requirements of Rule 23 of the  
14 Federal Rules of Civil Procedure, the United States Constitution (including the Due Process  
15 Clause), and Section 21D(a)(7) of the Securities Exchange Act of 1934, 15 U.S.C. §78u-4(a)(7),  
16 as amended by the Private Securities Litigation Reform Act of 1995.

17 4. [There have been \_\_\_ objections, which have been considered by the Court and  
18 they are hereby overruled.]

19 5. The Court hereby finds the Settlement set forth in the Stipulation is the result of  
20 arm's-length negotiations between experienced counsel representing the interests of the Class and  
21 Defendants, all of whom had a firm understanding of the factual and legal issues in dispute, and  
22 that Class Representatives and Class Counsel have adequately represented the Class.

23 6. In light of the relief provided to the Class, the complexity, expense and possible  
24 duration of further litigation against Defendants, the risks of establishing liability and damages,  
25 the costs of continued litigation, and the effectiveness of the methods for distributing relief to the  
26 Class, the Court hereby fully and finally approves the Settlement as set forth in the Stipulation in  
27 all respects, and finds that the Settlement is, in all respects, fair, reasonable and adequate.

1           7.       The Second Amended Consolidated Class Action Complaint for Violations of the  
2 Federal Securities Laws filed on July 15, 2016 (the “SAC”) is dismissed in its entirety, with  
3 prejudice, and without costs to any Party, except as otherwise provided in the Stipulation.

4           8.       The Court finds that during the course of the Action, the Parties and their  
5 respective counsel complied with the requirements of Rule 11 of the Federal Rules of Civil  
6 Procedure.

7           9.       By operation of this Judgment, as of the Effective Date, Class Representatives and  
8 each and every other Class Member, on behalf of themselves and each of their respective heirs,  
9 executors, trustees, administrators, predecessors, successors, assigns, representatives, agents, and  
10 attorneys, in their capacities as such, shall be deemed to have fully, finally, and forever waived,  
11 compromised, settled, discharged, dismissed, extinguished, and released each and every one of  
12 the Released Claims against each and every one of the Released Defendants’ Parties and shall  
13 forever be barred from commencing, instituting, prosecuting, or maintaining any and all of the  
14 Released Claims against any and all of the Released Defendants’ Parties.

15           10.      By operation of this Judgment, as of the Effective Date, Defendants, on behalf of  
16 themselves and each of their respective heirs, executors, trustees, administrators, predecessors,  
17 successors, assigns, representatives, agents, and attorneys, in their capacities as such, shall be  
18 deemed to have fully, finally, and forever waived, compromised, settled, discharged, dismissed,  
19 extinguished, and released each and every one of the Released Defendants’ Claims against each  
20 and every one of the Released Plaintiffs’ Parties and shall forever be barred from commencing,  
21 instituting, prosecuting, or maintaining any and all of the Released Defendants’ Claims against  
22 any and all of the Released Plaintiffs’ Parties.

23           11.      Each Class Member, whether or not such Class Member executes and delivers a  
24 Proof of Claim, is bound by this Judgment, including, without limitation, the release of claims as  
25 set forth in the Stipulation.

26           12.      All Persons whose names appear on Exhibit A hereto are hereby excluded from  
27 the Class, are not bound by this Judgment, and may not make any claim with respect to any benefit  
28 or payment from the Settlement.

1           13. This Judgment and the Stipulation, whether or not consummated, and any  
2 discussion, negotiation, proceeding, or agreement relating to the Stipulation, the Settlement, and  
3 any matter arising in connection with settlement discussions or negotiations, proceedings, or  
4 agreements, shall not be offered or received against or to the prejudice of the Parties or their  
5 respective counsel, for any purpose other than in an action to enforce the terms hereof, and in  
6 particular:

7                   (a) do not constitute, and shall not be offered or received against or to the  
8 prejudice of Defendants or the Released Defendants' Parties as evidence of, or construed as, or  
9 deemed to be evidence of any presumption, concession, or admission by Defendants or the  
10 Released Defendants' Parties with respect to the truth of any allegation by Class Representatives  
11 and the Class, or the validity of any claim that has been or could have been asserted in the Action  
12 or in any litigation, including but not limited to the Released Claims, or of any liability, damages,  
13 negligence, fault or wrongdoing of Defendants or the Released Defendants' Parties or any person  
14 or entity whatsoever;

15                   (b) do not constitute, and shall not be offered or received against or to the  
16 prejudice of Defendants or the Released Defendants' Parties as evidence of a presumption,  
17 concession, or admission of any fault, misrepresentation, or omission with respect to any  
18 statement or written document approved or made by Defendants, or against or to the prejudice of  
19 Class Representatives, or any other member of the Class as evidence of any infirmity in the claims  
20 of Class Representatives, or the other members of the Class;

21                   (c) do not constitute, and shall not be offered or received against or to the  
22 prejudice of Defendants, the Released Defendants' Parties, Class Representatives, the Released  
23 Plaintiffs' Parties, any other member of the Class, or their respective counsel, as evidence of a  
24 presumption, concession, or admission with respect to any liability, damages, negligence, fault,  
25 infirmity, or wrongdoing, or in any way referred to for any other reason against or to the prejudice  
26 of any of the Defendants, the Released Defendants' Parties, Class Representatives, the Released  
27 Plaintiffs' Parties, any other member of the Class, or their respective counsel, in any other civil,  
28

1 criminal, or administrative action or proceeding, other than such proceedings as may be necessary  
2 to effectuate the provisions of the Stipulation;

3 (d) do not constitute, and shall not be construed against Defendants, the  
4 Released Defendants' Parties, Class Representatives, the Released Plaintiffs' Parties, any other  
5 member of the Class, as an admission or concession that the consideration to be given hereunder  
6 represents the amount that could be or would have been recovered after trial; and

7 (e) do not constitute, and shall not be construed as or received in evidence as  
8 an admission, concession, or presumption against Class Representatives, the Released Plaintiffs'  
9 Parties, or any other member of the Class, that any of their claims are without merit or infirm or  
10 that damages recoverable under the Complaint would not have exceeded the Settlement Amount.

11 14. The administration of the Settlement, and the decision of all disputed questions of  
12 law and fact with respect to the validity of any claim or right of any Person to participate in the  
13 distribution of the Net Settlement Fund, shall remain under the authority of this Court.

14 15. In the event that the Settlement does not become effective in accordance with the  
15 terms of the Stipulation, then this Judgment shall be rendered null and void to the extent provided  
16 by and in accordance with the Stipulation and shall be vacated, and in such event, all orders  
17 entered and releases delivered in connection herewith shall be null and void to the extent provided  
18 by and in accordance with the Stipulation.

19 16. Without further order of the Court, the Parties may agree to reasonable extensions  
20 of time to carry out any of the provisions of the Stipulation.

21 17. The Parties are hereby directed to consummate the Stipulation and to perform its  
22 terms.

23 18. A separate order shall be entered regarding Class Counsel's motion for an award  
24 of attorneys' fees and payment of expenses. A separate order shall be entered regarding the Plan  
25 of Allocation set forth in the Notice. Such orders shall in no way disturb or affect this Judgment.

26 19. Class Counsel shall file a motion for authorization to distribute the Net Settlement  
27 Fund to eligible claimants on or before \_\_\_\_\_, or file a status report explaining  
28 why such a motion cannot be filed at that time. Thirty (30) calendar days after entry of an Order

1 approving the motion for authorization to distribute, the Claims Administrator shall distribute  
2 payments to Authorized Claimants.

3           20. No later than 104 calendar days after the distribution of payments to Authorized  
4 Claimants, Class Counsel shall file a Post-Distribution Accounting providing the following  
5 information: the total amount of the Settlement Fund; the total amount of the Net Settlement Fund  
6 distributed to Authorized Claimants; the total number of Class Members; the total number of  
7 Class Members sent Settlement Notices not returned as undeliverable; the number and percentage  
8 of Claim Forms submitted; the number and percentage of opt-outs; the number and percentage of  
9 objections; the date on which the distribution was made; the number of Authorized Claimants  
10 who were sent payments; the average and median recovery per Authorized Claimant; the largest  
11 and smallest amounts paid to Authorized Claimants; the methods of notice and of payment to  
12 Authorized Claimants; the number and value of payments negotiated; the number and value of  
13 payments not negotiated; the amounts distributed to each *cy pres* recipient, if any; the total amount  
14 of Notice and Administration Expenses; the total amount of attorneys' fees and expenses;  
15 awarded attorneys' fees as a percentage of the Settlement Fund; and the lodestar multiplier. The  
16 Post-Distribution Accounting shall also be posted on the website for the Action.

17           21. Without affecting the finality of this Judgment in any way, this Court hereby  
18 retains continuing jurisdiction over: (i) implementation of the Settlement; (ii) the allowance,  
19 disallowance, or adjustment of any Class Member's claim on equitable grounds and any award  
20 or distribution of the Settlement Fund; (iii) disposition of the Settlement Fund; (iv) hearing and  
21 determining applications for attorneys' fees, costs, interest and payment of expenses in the  
22 Action; (v) all Parties for the purpose of construing, enforcing and administering the Settlement  
23 and this Judgment; and (vi) other matters related or ancillary to the foregoing. There is no just  
24 reason for delay in the entry of this Judgment and immediate entry by the Clerk of the Court is  
25 expressly directed.

26 Dated: \_\_\_\_\_, 2019

27 \_\_\_\_\_  
HONORABLE VINCE CHHABRIA  
28 UNITED STATES DISTRICT JUDGE

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**EXHIBIT A**

## **EXHIBIT 2**

**UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

IN RE: SANDISK LLC SECURITIES  
LITIGATION

Case No. 3:15-cv-01455-VC

Hon. Vince Chhabria

**DECLARATION OF CHAD COFFMAN REGARDING PLAINTIFFS' CALCULATION  
OF DAMAGES**

I, Chad Coffman, submit this declaration pursuant to 28 U.S.C §1746 and declare as follows:

**I. INTRODUCTION**

1. During the course of this litigation, I was retained by counsel for the Lead Plaintiff and asked to examine and opine on whether the market for SanDisk common stock was efficient during the Class Period and whether calculating damages in this matter was subject to a common methodology under Section 10(b) of the Securities Exchange Act of 1934 and SEC Rule 10b-5 adopted thereunder. I was also asked to opine on the materiality of Defendants' alleged misstatements, whether investor losses were caused by those misstatements, quantification of investor losses attributable to the revelation of the allegedly misrepresented and/or omitted facts, and the proper method to quantify Rule 10b-5 damages for each Class Member.

2. After the parties reached the proposed settlement, I was asked by Class Counsel to assist with the design of the plan to allocate the settlement proceeds (the "Plan of Allocation" or "Plan") among Class Members who submit valid Proof of Claim forms that are approved for payment by the Court ("Authorized Claimants"). As part of this consulting work, I have been asked

to provide quantification of aggregate damages based on the artificial inflation per share.<sup>1</sup> I submit this Declaration regarding Lead Plaintiff's motion for final approval.

3. The details of my analysis are provided in the sections of this declaration immediately following my qualifications.

## **II. QUALIFICATIONS**

4. I am the President of Global Economics Group, a Chicago-based firm that specializes in the application of economics, finance, statistics, and valuation principles to questions that arise in a variety of contexts, including, as here, in the context of litigation.

5. I hold a Bachelor's Degree in Economics with Honors from Knox College and a Master's of Public Policy from the University of Chicago. I am also a CFA charter-holder. The CFA, or Chartered Financial Analyst designation, is awarded to those who have sufficient practical experience and complete a rigorous series of three examinations over three years that cover a wide variety of financial topics including financial statement analysis and valuation.

6. I, along with several others, founded Global Economics Group in March 2008. (Prior to March 16, 2011, Global Economics Group was known as Winnemac Consulting, LLC.) Prior to starting Global Economics Group, I was employed by Chicago Partners, LLC for over twelve years where I was responsible for conducting and managing analysis in a wide variety of areas including securities valuation and damages, labor discrimination, and antitrust. I have been engaged numerous times as a valuation expert both within and outside the litigation context. My experience in class action securities cases includes work for plaintiffs, defendants, D&O insurers,

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<sup>1</sup> Artificial inflation per share in the Plan is identical to that found in my report filed at the merits phase of this matter, "Expert Report of Chad Coffman, CFA, August 30, 2018" ("Merits Report"), ¶17.

and a prominent mediator (Retired Judge Daniel Weinstein) to provide economic analysis and opinions in dozens of securities class actions as well as other matters.

### **III. DAMAGES CALCULATIONS**

7. Among other assignments, my consulting work for Lead Plaintiff in this Action included the calculation of maximum recoverable damages. To complete this assignment, I implemented a methodology commonly used by experts in this context.

8. For losses to be compensable damages under the federal securities laws, the disclosure of the allegedly misrepresented information must be the cause of the decline in the price of the relevant security. Thus, to suffer damages or share in the distribution of the Net Settlement Fund, an Authorized Claimant must have purchased or otherwise acquired SanDisk common stock during the Class Period and must have suffered a loss resulting from the alleged fraud on his/her/its investments in SanDisk common stock – that is, must have purchased or acquired the stock after the allegedly actionable statements and held the stock until after a corrective disclosure had occurred and some measure of artificial inflation had been removed from the price of the stock.

#### **A. THE NUMBER OF DAMAGED SHARES**

9. An initial step in the calculation of maximum recoverable damages is to determine the number of damaged shares. This is done by preparing a model to estimate trading during the Class Period in order to track shares traded during that time. Ideally, if I had access to the actual trading records of all SanDisk investors, I could calculate damages and damaged shares precisely. However, typically, as in this case, experts calculating aggregate damages do not have access to the detailed trading records of Class Members.

10. As a result, experts estimate trading activity based on publicly available information. Each calendar quarter, institutional investment managers that exercise discretion over

\$100 million or more in publicly traded equity securities are required to report their holdings to the U.S. Securities and Exchange Commission on Schedule 13-F. I have obtained a summary of this data from S&P Capital IQ. During the Class Period, reporting institutions on average held nearly 90% of the public float.

11. From this data, I constructed a trading model for institutions (“institutional model”). Specifically, using this quarterly data to pro-rate each institution’s holdings between quarter-ends (weighted by total trading volume of the stock on each day), and using a first-in, first-out (“FIFO”) inventory assumption, I modeled the timing of each Class Period purchase and its corresponding sale encompassed by the data (if the purchased shares were sold during the relevant time period). In my experience, this is the most widely utilized method for modeling institutional trading and has often been used by experts retained by defendants in other securities class actions.<sup>2</sup>

12. I also estimated damages for the remaining shares that are not reflected in the quarterly holdings discussed above (the “non-institutional model”). This group is made up of non-reporting institutions and individual investors. To estimate damages for this group of Class Period purchasers, experts in cases such as this often apply a standard methodology commonly referred to as the 80/20 Proportional Two-Trader Model.<sup>3</sup> Because no investor-specific holdings information is available for non-institutions, the only observable trading input for non-institutional

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<sup>2</sup> For example, this model is outlined in Mayer, Marcia Kramer, “Best-Fit Estimation of Damaged Volume in Shareholder Class Actions: The Multi-Sector, Multi-Trader Model of Investor Behavior,” *National Economic Research Associates (NERA)*, Third Edition, October 2000. NERA is a firm that often represents Defendants in class action securities matters.

<sup>3</sup> See Fischel, Daniel R., Keable, Michael A., and Ross, David J., “The Use of Trading Models to Estimate Aggregate Damages in Securities Fraud Litigation: An Update,” *The National Legal Center for Public Interest*, Vol. 10, Number 3, March 2006; Mayer, Marcia Kramer, “Best-Fit Estimation of Damaged Volume in Shareholder Class Actions: The Multi-Sector, Multi-Trader Model of Investor Behavior,” *National Economic Research Associates (NERA)*, Third Edition, October 2000. Note that the lead author of the first paper, Daniel R. Fischel, submitted an expert report in this matter at the request of Defendants’ counsel.

holders is the total trading volume. With respect to the volume of shares not held by reporting institutions, this model assumes that 80% of the volume is accounted for by “fast” traders that hold 20% of the non-reporting shares – “fast” traders because they are more inclined to trade their shares, accounting for the vast majority of shares traded each day despite holding a small percentage of total shares available to trade. The remaining 20% of volume is accounted for by “slow” traders that hold 80% of the non-reporting shares – “slow” because they have a lower propensity to trade shares and a higher propensity to hold shares, accounting for a minority of daily trading volume despite holding the vast majority of shares. Within the group of “fast” traders, each share is equally likely to trade on any given day regardless of when it was purchased, and within the group of “slow” traders, each share is equally likely to trade on any given day, regardless of when it was purchased. Based on these assumptions, the algorithm identifies the number of shares purchased on each day and when those shares were ultimately sold (if at all).

13. A damaged share is a share that was purchased or acquired with artificial inflation and sold or disposed of with less artificial inflation. (In the next section, I explain how I calculated artificial inflation per share for any given day in the Class Period.) Based on that principle and using the foregoing models to track trades during the Class Period, I was able to calculate the number of damaged shares during the Class Period. Note that under the trading models, the same physical “share” can be damaged more than once. For example, if Trader 1 purchases a share, holds it over the first corrective disclosure, sells the share and suffers a loss, the share is counted as damaged. If the same share is held over a later corrective disclosure and suffers damages as well, it is counted as a damaged share again.

14. The total number of damaged shares, taking into account the foregoing models for reporting-institutions and non-reporting investors is 49.7 million.

15. Additionally, the total amount offered under the proposed Settlement, \$50 million, translates into \$1.01 per damaged share.

## **B. ARTIFICIAL INFLATION**

16. Using the trading model described above, I can calculate maximum recoverable damages after determining the amount of artificial inflation per share over the Class Period.

17. As I described in earlier submissions to this Court, a technique often relied upon by economists and academics (both inside and outside of the context of litigation) to establish a causal connection between new company-specific news events and movements in the market price of company securities is called an “event study.”<sup>4</sup> In this case, an event study was used to determine whether SanDisk’s common stock reacted to the release of corrective information in a statistically significant manner after controlling for market and industry factors.

18. The first corrective event I identified was a SanDisk press release, issued before market hours on Thursday, March 26, 2015, in which the Company announced that it expected revenue for the first quarter of 2015 to be approximately \$1.3 billion.<sup>5</sup> This was \$100 to \$150 million lower than the previously forecasted range of \$1.40 to \$1.45 billion that SanDisk had provided to investors during its earnings call on January 21, 2015.<sup>6</sup> The event study showed that the negative information caused SanDisk’s stock price to decline by 18.31%, or \$14.86 per share.<sup>7</sup>

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<sup>4</sup> “Expert Report of Chad Coffman, CFA, January 19, 2018” (“Efficiency Report”), ¶¶46-64; Merits Report ¶¶5, 12-15, 52-54.

<sup>5</sup> “SanDisk Provides Business Update,” *Business Wire*, March 26, 2015, 3:45 AM.

<sup>6</sup> “FQ4 2014 Earnings Call Transcripts,” *S&P Capital IQ*, January 21, 2015, 5:00 PM, p. 7.

<sup>7</sup> Merits Report ¶¶64-79. After controlling for market and industry effects, the abnormal return was statistically significant at the 99% confidence level with a t-statistic of -14.70.

19. On the following trading day, Friday, March 27, 2015, the market continued to react to the negative earnings announcement as evidenced by analysts continuing to cut their price targets, estimates, and/or ratings for SanDisk. SanDisk's stock price declined by 3.00%, or \$1.98 per share.<sup>8</sup>

20. The final corrective event I identified was SanDisk's earnings announcement after market hours on Wednesday, April 15, 2015, when SanDisk issued a press release including a GAAP net income of \$39.0 million, or \$0.17 per share, and non-GAAP net income of \$133.7 million, or \$0.62 per share, which were below analyst estimates. Shortly thereafter, management held a conference call during which SanDisk lowered its guidance for the second quarter and fiscal year 2015 below consensus analyst estimates, which was due in part to Plaintiffs' claims in this matter. In response, on April 16, 2015, SanDisk's stock price declined by 4.16%, or \$2.96 per share.<sup>9</sup>

21. Since the disclosure of the allegedly corrective information on the alleged Corrective Disclosure Events was released along with other negative information unrelated to the alleged fraud (i.e., "confounding" information), I needed to disaggregate the market price impact of the corrective information from the remainder of the stock price reaction.<sup>10</sup> I performed this disaggregation by analyzing the proportion of the unexpected revenue shortfall that occurred in Enterprise versus other areas of the business and determined that 45.66% of the abnormal dollar decline over the Corrective Disclosure Events was due to alleged corrective information.<sup>11</sup> Based

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<sup>8</sup> Merits Report ¶¶80-84. After controlling for market and industry effects, the abnormal return was statistically significant at the 95% confidence level with a t-statistic of -2.40

<sup>9</sup> Merits Report ¶¶87-117. After controlling for market and industry effects, the abnormal return was statistically significant price at the 99% confidence level with a t-statistic of -3.20.

<sup>10</sup> Merits Report ¶120.

<sup>11</sup> Merits Report ¶¶121-126.

on this disaggregation analysis, I have concluded that the abnormal stock price declines attributable to the corrective information are as follows:<sup>12</sup>

**Price Declines Attributable to Release of Corrective Information**

Corrective Disclosure Event Date	Abnormal Dollar Decline	Disaggregation Factor	Decline Due To Corrective Information
March 26, 2015	-\$14.86	45.66 %	-\$6.78
March 27, 2015	-\$1.98	45.66 %	-\$0.91
April 16, 2015	-\$2.96	45.66 %	-\$1.35
<b>Total</b>	<b>-\$19.80</b>		<b>-\$9.04</b>

22. One standard method commonly relied upon to evaluate the level of artificial inflation in a stock price is the “constant dollar” method. This method is used by a wide variety of experts in matters such as this, and in my experience, is often advocated by defense experts. The constant dollar method assumes that the amount of artificial stock inflation dissipated on each Corrective Disclosure Event was present in the stock price going back to the beginning of the Class Period.<sup>13</sup>

23. Based on my understanding of Plaintiffs’ allegations, coupled with my review of the evidence, I concluded that constant dollar inflation was appropriate in this matter. Plaintiffs allege that from the first day of the Class Period, Defendants knew or recklessly disregarded problems with the Enterprise business and how these issues would negatively impact financial performance.<sup>14</sup> Taking the analysis of Corrective Disclosure Events into account and applying the

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<sup>12</sup> Merits Report ¶127.

<sup>13</sup> Merits Report ¶128.

<sup>14</sup> Merits Report ¶129.

constant dollar methodology, the total artificial inflation per share for SanDisk's Common Stock during the Class Period is presented below:<sup>15</sup>

<b>Transaction Date</b>	<b>Artificial Inflation Per Share</b>
October 16, 2014 – March 25, 2015	\$9.04
March 26, 2015	\$2.26
March 27, 2015 – April 15, 2015	\$1.35

### **C. MAXIMUM DAMAGES**

24. Finally, using the number of damaged shares, the models for when those shares traded, and the amount of artificial inflation on each day of the Class Period, I calculated the maximum recoverable damages.

25. More specifically, I calculated the economic loss, or damages, for any given share purchased during the Class Period. This amount is the artificial inflation in the market price of the security at the time of purchase less the artificial inflation in the market price of the security at time of sale (or the artificial inflation at the time of purchase if the share was not ultimately sold).

26. The calculation of damages also incorporates the application of a statutory cap on recovery in federal securities cases brought under Rule 10(b)-5 (the 90-day lookback provision of the Private Securities Litigation Reform Act of 1995).<sup>16</sup> The limitation is that damages calculated on SanDisk's common stock purchased during the Class Period and sold during the 90-day

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<sup>15</sup> Merits Report ¶130.

<sup>16</sup> Pursuant to 15 U.S.C. § 78u-4 (e)(1), "in any private action arising under this chapter 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."

lookback period cannot exceed the difference between the purchase price paid during the Class Period and the average closing price from the last corrective disclosure to the date of sale.<sup>17</sup>

27. Finally, the damages calculation recognizes that some shares sold during Class Period experienced a gain, and these gains are netted against loss amounts.

28. Under these calculations, maximum class-wide damages are \$361.5 million.

#### **D. ALTERNATE DAMAGES SCENARIOS**

29. Separate and apart from Defendants' repeated assertions that there are no damages in this case, Defendants and their experts presented several arguments that would result in lower aggregate damages.<sup>18</sup> While I do not subscribe to the validity of these arguments, I have calculated how the effect these alternative scenarios, which I understand from Class Counsel that Defendants sought to present to the jury, would have decreased aggregate damages.

30. First, Defendants argued that the Class Period should start on January 22, 2015 rather than October 16, 2014.<sup>19</sup> Implementation of such a change would result in removing purchases from October 16, 2014 through January 21, 2015 from the damages calculations, therefore reducing total damages. There would be no damages for any purchases made from October 16, 2014 to January 21, 2015, which amounts to about half of the Class Period. Aggregate damages would therefore fall by approximately 40%, from \$361.5 million to \$218.3 million.

31. Next, Defendants argued that I used the wrong metric for disaggregating the effect of actionable information from confounding information on the Corrective Disclosure Events. Instead of my revenue-based metric, which resulted in approximately 45.66% of the abnormal

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<sup>17</sup> Merits Report ¶¶131-132.

<sup>18</sup> See "Rebuttal Report of Daniel R. Fischel, September 28, 2018" ("Fischel Report"); "Defendants' Motion for Summary Judgment and to Exclude the Opinions of Chad Coffman; filed January 17, 2019" ("Defendants' Motion").

<sup>19</sup> Fischel Report ¶¶29-33; Defendants' Motion pp. 21-22.

price drop on the Corrective Disclosures being attributed to actionable information, Defendants asserted that that the proper disaggregation metric was based on operating profits, which would have resulted in only approximately 34.01% of those price drops being attributed to actionable information.<sup>20</sup> This would lower damages by reducing the potential amount of artificial inflation. Aggregate damages for the entire Class Period would be reduced by approximately 25%, from \$361.5 million to \$270.5 million; and aggregate damages for the period from January 22, 2015 to April 15, 2015 would be reduced from \$218.3 million to \$163.9 million.

32. Defendants also argue that approximately three months after the final alleged Corrective Disclosure, there was a purported third corrective disclosure on which positive news purportedly related to the alleged fraud was released, causing SanDisk's stock price to increase. As a result, they argue that the abnormal price movement associated with this positive news should be subtracted from the abnormal price movements associated with the negative news from the prior alleged Corrective Disclosures.<sup>21</sup> That would result in reducing the potential artificial inflation throughout the entire Class Period and would lower damages. Aggregate damages for the entire Class Period would be reduced by approximately 48%, from \$361.5 million to \$189.0 million; and aggregate damages for the period from January 22, 2015 to April 15, 2015 would be reduced from \$218.3 million to \$114.9 million.

33. If all three of the foregoing scenarios applied, aggregate damages would be reduced from a maximum of \$361.5 million to \$85.6 million.

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<sup>20</sup> Fischel Report ¶¶34-38.

<sup>21</sup> Fischel Report ¶¶39-45.

#### IV. THE PLAN OF ALLOCATION

34. The Plan of Allocation relies on the general methods and techniques presented in the litigation prior to the Settlement, and had this litigation continued, the same data, methodologies, and calculations would have been presented at trial.

35. For example, the Plan states that in order to have recoverable damages on Exchange Act claims, disclosures that reveal the truth about alleged misrepresentations and omissions must be the cause (at least in part) of the decline in the price of the security. The same concept and conclusion was presented in my Merits Report.<sup>22</sup> In addition, the event study and calculation of inflation per share over the Class Period described above formed the basis for the table of artificial inflation per share over time in the Plan of Allocation (Table 1).

36. Furthermore, similar to what I described in my Merits Reports, the Plan states that if SanDisk common stock shares were purchased during the Class Period and then sold at a time prior to the first corrective disclosure, which in this case is March 26, 2015, then there are no damages, as the artificial inflation at purchase would equal the artificial inflation at sale. However, if the security was purchased during the Class Period and sold after the artificial inflation was partially or fully dissipated, then damages would be equal to the artificial inflation at the time of purchase minus the artificial inflation at the time of sale. For example, if an investor purchased a share of SanDisk common stock on December 1, 2014 and sold it on April 1, 2015, Table 1 in the Plan of Allocation shows that there was \$9.04 of artificial inflation in the stock price at the time of purchase and \$1.35 artificial inflation in the stock price at the time of sale. Thus, the investor's damages would be equal to \$7.69 ( $\$9.04 - \$1.35$ ).<sup>23</sup>

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<sup>22</sup> Merits Report ¶¶60-62.

<sup>23</sup> Merits Report ¶¶131-132.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on: May 6, 2019  
Chicago, Illinois



Chad Coffman

## **EXHIBIT 3**

1 DEBORAH CLARK-WEINTRAUB (*pro hac vice*)  
 MAX R. SCHWARTZ (*pro hac vice*)  
 2 **SCOTT+SCOTT ATTORNEYS AT LAW LLP**  
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7 *Attorneys for Lead Plaintiffs*

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10 **UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
 11 **SAN FRANCISCO DIVISION**

12	IN RE: SANDISK LLC SECURITIES	)	Case No. 3:15-cv-01455-VC
13	LITIGATION	)	
14		)	Hon. Vince Chhabria
15		)	<b>DECLARATION OF ALEXANDER</b>
16		)	<b>VILLANOVA OF EPIQ IN SUPPORT</b>
17		)	<b>OF SETTLEMENT NOTICE PLAN</b>
18		)	
19		)	
20		)	
21		)	
22		)	
23		)	
24		)	
25		)	
26		)	
27		)	
28		)	

1 I, Alexander Villanova, declare and state as follows:

2 1. I am a Senior Project Manager at Epiq Class Action & Claims Solutions, Inc.  
3 (“Epiq”), located at 10300 SW Allen Boulevard, Beaverton, OR 97005. At the request of Class  
4 Counsel,<sup>1</sup> I am providing this declaration to give the Court and the parties to the above-captioned  
5 action information about the procedures and methods that will be used to provide notice of the  
6 proposed Settlement to the certified Class and administer claims filed. I make this declaration based  
7 on personal knowledge, and if called to testify I could and would do so competently.

8 2. Epiq was retained by Class Counsel, subject to Court approval, to provide notice and  
9 claims administration services in the above-captioned class action.

10 3. Epiq has been implementing successful notification and claims administration  
11 programs since 1998. Our experience includes many of the largest and most complex settlement  
12 administrations in both private securities litigation matters and actions brought by government  
13 securities regulators. More information on Epiq’s experience can be found on its website at  
14 [www.EpiqGlobal.com](http://www.EpiqGlobal.com).

15 4. The proposed plan for providing notice of the Settlement in this matter uses  
16 procedures that have been designed to provide individual notification to every investor who is a  
17 member of the Class, who can be identified with reasonable effort, and are the same procedures that  
18 were utilized by Epiq in connection with the notice of pendency phase of the Action. With respect  
19 to individual mailed notice, all persons and entities identified as potential Class Members will be  
20 sent a Notice of Proposed Class Action Settlement and Motion for Attorneys’ Fees and Expenses  
21 (“Settlement Notice”), together with a Claim Form (collectively with the Settlement Notice, the  
22 “Claim Packet”). The Settlement Notice will also request that those who purchased or acquired  
23 SanDisk common stock during the Class Period for the beneficial interest of an individual or entity  
24 other than themselves either (i) send a copy of the Claim Packet to the beneficial holders of such  
25 stock within a period of time after receipt of the Settlement Notice, or (ii) provide Epiq with the  
26 names, last known addresses, and email addresses of such beneficial holders within a period of time

27 \_\_\_\_\_  
28 <sup>1</sup> Capitalized terms, unless otherwise defined herein, have the same meaning as set forth in the  
Stipulation and Agreement of Settlement (the “Stipulation”).

1 after receipt of the Settlement Notice. The proposed notice plan also calls for publication of a  
2 summary version of the Settlement Notice (the “Summary Settlement Notice”) in *Investor’s*  
3 *Business Daily* and the transmission of the Summary Settlement Notice using PR Newswire. Details  
4 of the complete proposed notice plan are outlined below.

5 **PROPOSED NOTICE PROGRAM**

6 5. If Epiq is appointed by the Court as Claims Administrator and subject to the Court’s  
7 approval of the notice plan set forth in the Preliminary Approval Order, Epiq will first send a copy  
8 of the Claim Packet by First-Class Mail to all persons and entities that have already been identified  
9 by SanDisk and third party banks, brokers, and nominees (“Nominees”) as potential Class Members  
10 during the notice of pendency phase.

11 6. In the 20 years that Epiq has been notifying potential class members of actions  
12 involving publicly-traded securities, Epiq has found the majority of potential class members are  
13 reached through the Nominees.

14 7. In connection with the Class Notice, Epiq sent mailings and a cover letter to each  
15 entity included in its propriety list of approximately 1,300 Nominees. This list included the largest  
16 and most common broker firms, banks, and other institutions involving publicly-traded securities  
17 and is contained in a database created and maintained by Epiq. In Epiq’s experience, the institutions  
18 included in this database represent a significant majority of the beneficial holders of the securities  
19 in most settlements involving publicly-traded companies. The cover letter accompanying the  
20 mailing notified the Nominees of the proposed class action and informed them of their obligation to  
21 either provide the names, addresses, and email addresses of their clients who may be Class Members  
22 or request copies of the Class Notice to provide directly to their customers and clients. In response,  
23 Epiq received requests from Nominees for additional copies of the Class Notice and also names and  
24 addresses so that Epiq could complete the mailing.

25 8. Epiq has developed ongoing relationships with the appropriate contacts within each  
26 Nominee institution. Epiq supports the Nominees throughout the process, and provides additional  
27 services such as: coordinating with Nominees to submit claims accurately and efficiently; reviewing  
28 the requirements and procedures for submitting claims; explaining a Plan of Allocation; answering



1 the website or via email. The website will also provide summary information regarding the case  
2 and Settlement and highlight important dates, including the date of the Settlement Hearing. All  
3 posted documents will be available for downloading from the website.

4 14. Because of the availability of name and address data for Class Members from  
5 Nominees, and Epiq's ability to reach potential Class Members through individual mailed notice,  
6 Class Counsel and Epiq (which has its own department that specializes in media notice via multi-  
7 channel advertising) have conferred and determined that using social media or hiring an outside  
8 marketing specialist is not necessary here.

9 **ANTICIPATED RESPONSE RATES**

10 15. Because of the street name system under which most securities are held, even  
11 Defendant SanDisk does not know the identity of the vast majority of its shareholders, and it is  
12 usually not possible to meaningfully project the total number of class members prior to  
13 implementing the notice plan, though a rough estimate can be gathered from a notice of pendency  
14 phase. Here, by taking certain information regarding the volume of trading during the Class Period  
15 and comparing that to similar information collected in other cases Epiq has administered, we can  
16 provide the following information.

17 16. Given SanDisk's trading history during the Class Period and the information  
18 received during the notice of pendency phase of this matter, we estimate that we may mail or email  
19 Settlement Notices to as many as 140,000 potential Class Members. However, this is an estimate  
20 only, and the actual number of potential Class Members identified during the solicitation process  
21 may be higher or lower than this estimate.

22 17. In Epiq's experience, not all class members submit claims, and many of the claims  
23 submitted are ultimately not valid or eligible to receive distributions. Historically, "claims rates,"  
24 when viewed as a percentage of notices disseminated, are on average between 10% and 30% of the  
25 number of mailings in settlements similar to this. Based on the experience of Epiq in similar  
26 settlements in recent years, Epiq estimates that 15% to 25% of Class Members who receive the  
27 Settlement Notice here are expected to submit a claim. This is based on our general experience, as  
28 well as such cases as *Hatamian v. Advanced Micro Devices, Inc.*, No. 14-cv-00226-YGR (N.D.

1 Cal.), where the corresponding percentage was approximately 19%; and *In re Conn's, Inc. Sec.*  
 2 *Litig.*, No. 14-00548 (S.D. Tex.), where the corresponding percentage was approximately 21%. The  
 3 AMD and Conn's settlements are useful examples because they involved disseminating a similar  
 4 number of notices as it is anticipated will be disseminated here. Both of these example cases are  
 5 also very recent examples of settled cases, which we expect to be a better predictor of trends going  
 6 forward versus using older settlements as a comparison.

7 **ESTIMATED NOTICE AND ADMINISTRATION EXPENSES**

8 18. Epiq's pricing estimate below is based on the above assumptions, as well as certain  
 9 other projections based on our experience. The actual fees and costs required to complete the  
 10 administration may be significantly higher or lower, however, depending on how many Class  
 11 Members are identified, how many claims are filed, how many claims are valid, and how many  
 12 claims require additional communication with the filer.

13 19. With respect to Notice and Administration Expenses, Epiq estimates that its total fees  
 14 and expenses in connection with the Class Notice and Settlement Notice and claims process may be  
 15 in the range of \$430,000 to \$480,000, which includes Epiq's fees and expenses to date in connection  
 16 with the notice of pendency phase of the case.<sup>2</sup> This estimate assumes, among other things, that  
 17 approximately 140,000 notice packets of roughly 20 pages (consisting of a settlement notice and  
 18 claim form) will be mailed and that 35,000 claim forms will be received. In the event that actual  
 19 experience differs from these assumptions, the administrative fees and expenses incurred in  
 20 connection with the Settlement may differ from this estimate but, nevertheless, it is anticipated that  
 21 it is unlikely for them to total more than \$400,000 (not including the approximately \$100,000 in  
 22 fees and expenses already incurred in connection with the Class Notice).

23  
 24 I declare under penalty of perjury under the laws of the United States of America that the  
 25 foregoing is true and correct. Executed on May 6, 2019, in Beaverton, Oregon.

26  
 27 \_\_\_\_\_  
 28 <sup>2</sup> Epiq's fees and expenses in connection with the Class Notice, to date, total \$87,150.33 and Epiq  
 anticipates incurring approximately \$10,000 more to complete this stage.



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Alexander Villanova

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## **EXHIBIT 4**

**PROPOSED SCHEDULE LEADING TO THE FINAL SETTLEMENT HEARING**

<b>Event</b>	<b>Deadline for Compliance</b>
Date for Settlement Hearing <sup>1</sup>	Class Representatives suggest on or after September 26, 2019. (¶2)
Deadline for SanDisk to provide shareholder list	No later than ten (10) business days after entry of Preliminary Approval Order. (¶5)
Mailing of the Settlement Notice and Proof of Claim	No later than seventeen (17) business days after entry of the Preliminary Approval Order. (¶5)
Publication of the Stipulation and its exhibits, the Claim Packet, Class Representatives' motion for preliminary approval of the Settlement, and the Preliminary Approval Order on the website for the Action	No later than seventeen (17) business days after entry of the Preliminary Approval Order. (¶6)
Publication of the Summary Settlement Notice	No later than fourteen (14) calendar days after the mailing of the Notice. (¶9)
Deadline for Class Representatives to file papers in support of Final approval of the Settlement, Plan of Allocation, and Class Counsel's Fee and Expense Application	No later than thirty-five (35) calendar days before the Settlement Hearing. (¶18)
Filing deadline for requests for exclusion	No later than twenty-one (21) calendar days before the Settlement Hearing. (¶13(a))
Filing deadline for requests to opt-back into the Class	No later than twenty-one (21) calendar days before the Settlement Hearing. (¶14)
Filing deadline for objections	No later than twenty-one (21) calendar days before the Settlement Hearing. (¶15)
Filing deadline for Proof of Claim forms	No later than fourteen (14) calendar days before the Settlement Hearing. (¶11(a))
Deadline for Class Representatives to file proof of mailing of Settlement Notice and Proof of Claim and publication of Summary Settlement Notice	No later than fourteen (14) calendar days before the Settlement Hearing. (¶¶8-9)
Deadline for Class Representatives to file reply papers in support of Final approval of the Settlement, Plan of Allocation, and Class Counsel's Fee and Expense Application	No later than seven (7) calendar days before the Settlement Hearing. (¶18)

<sup>1</sup> All capitalized terms hereinafter have the same meaning as those defined in the Stipulation. All "¶" and "¶¶" references are to the proposed Preliminary Approval Order, attached as Exhibit A to the Stipulation.

# **EXHIBIT 5**

CORNERSTONE RESEARCH

Economic and Financial Consulting and Expert Testimony

# Securities Class Action Settlements

2018 Review and Analysis

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The views expressed in this report are solely those of the authors, who are responsible for the content, and do not necessarily represent the views of Cornerstone Research.

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Analyses in this report are based on 1,775 securities class actions filed after passage of the Private Securities Litigation Reform Act of 1995 (Reform Act) and settled from 1996 through year-end 2018. See page 16 for a detailed description of the research sample. For purposes of this report and related research, a settlement refers to a negotiated agreement between the parties to a securities class action that is publicly announced to potential class members by means of a settlement notice.

# Highlights

Propelled by mega settlements of \$100 million or higher, total settlement dollars rose to just above \$5 billion in 2018. This was the third-highest total in the prior 10 years. An increase in midsized settlements between \$10 million and \$50 million also contributed to the increased total value of settlements.

- There were 78 securities class action settlements approved in 2018—only slightly fewer than the number of settlements approved in 2017. [\(page 1\)](#)
- Total settlement dollars increased substantially over the 2017 near-historic low to just over \$5 billion, which was 50 percent higher than the average for the prior nine years. [\(page 3\)](#)
- There were five mega settlements (settlements equal to or greater than \$100 million) in 2018. [\(page 4\)](#)
- Compared to the historically low levels in 2017, in 2018 the average settlement amount more than tripled to \$64.9 million, while the median settlement amount (representing the typical case) more than doubled to \$11.3 million. [\(page 1\)](#)
- For 2018 cases with Rule 10b-5 claims, when compared to 2017 results, average “simplified tiered damages” rose 45 percent to \$687 million, while median “simplified tiered damages” rose 88 percent to \$250 million. [\(page 5\)](#)
- The median settlement as a percentage of “simplified tiered damages” in 2018 was 6.0 percent—higher than the median of 5.1 percent over the prior nine years. [\(page 6\)](#)
- Compared to defendant firms involved in cases settled in 2017, defendant firms in 2018 settlements were roughly 50 percent larger, as measured by median total assets. [\(page 5\)](#)
- During 2014–2018, the median settlement for cases that settled before a ruling on a motion for class certification was \$12.6 million, compared to \$18.0 million for cases that settled after such a ruling. [\(page 13\)](#)
- Among 2018 settled cases, the average time to reach a ruling on a motion for class certification was 4.8 years. [\(page 13\)](#)

**Figure 1: Settlement Statistics**

(Dollars in millions)

	1996–2017	2017	2018
Number of Settlements	1,697	81	78
Total	\$96,982.2	\$1,511.1	\$5,064.3
Minimum	\$0.2	\$0.5	\$0.4
Median	\$8.6	\$5.1	\$11.3
Average	\$57.1	\$18.7	\$64.9
Maximum	\$9,008.9	\$215.1	\$3,000.0

Note: Settlement dollars are adjusted for inflation; 2018 dollar equivalent figures are used. Figure 1 includes all post-Reform Act settlements. Settlements during 1996–2017 include 13 cases each exceeding \$1 billion—adjusted for inflation, these settlements drive up the average settlement amount.

# Author Commentary

## 2018 Findings

In this section we provide our perspective on the increase in the 2018 median settlement amount, both in dollars and as a percentage of our simplified proxy for plaintiff-style damages.

While there are important determinants of settlement amounts that we are unable to observe, such as case merits, we collect and analyze publicly available data in an effort to represent underlying constructs relevant to settlement determination. These determinants include the strength of the case, potential damages alleged by plaintiffs, resources available to fund the settlement from named defendants and/or their insurers, as well as other factors that may affect the settlement negotiation process.

Over the years, we have identified a number of factors that are associated with higher settlement amounts. The results in 2018 are unusual in that settlement amounts increased—even as a percentage of our simplified damages proxy—despite a decrease in certain factors typically associated with larger settlements.

For example, relative to both the previous year (2017) and the previous nine years (2009–2017), fewer cases settled in 2018 involved accounting allegations. Similarly, settlements also involved fewer public pension plan lead plaintiffs. These findings raise the question: what did cause the increase in settlement amounts in 2018?

One interesting finding in 2018 is that more than 14 percent of settled cases involved an accompanying criminal action—the highest proportion over the last 10 years. Cases associated with a criminal action generally settle for higher amounts.

However, the answer appears to relate primarily to the potential resources available to fund the settlement. Specifically, we study issuer defendant total assets as a proxy for both the resources available directly from the defendant, as well as potential Directors and Officers (D&O) insurance coverage. In 2018, defendant firms in settled cases were 50 percent larger than in 2017, and over 20 percent larger than over the prior five years. Similarly, both the proportions of settlements involving delisted firms, as well as bankrupt firms, were the lowest over the last decade. Taken together, this suggests that economic factors played an important role in the increase in settlement size in 2018.

---

*What is striking in 2018 is the dramatic increase in average and median settlement amounts despite a drop in a number of factors typically associated with higher settlements.*

*Dr. Laura E. Simmons  
Senior Advisor  
Cornerstone Research*

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## Recent Developments

Recent data on case filings can provide insights into potential settlement trends. Specifically, record levels of market capitalization losses reported for case filings in 2018 may suggest that large settlements will persist in upcoming years. See Cornerstone Research's *Securities Class Action Filings—2018 Year in Review*.<sup>1</sup>

In addition, the emergence of event-driven securities case filings over the last couple of years has been widely discussed. These cases have been described as driven by adverse events such as “an explosion, a crash, [or] a mass torts episode.”<sup>2</sup> Some authors have associated such cases with more rapid filings and the entrance of certain plaintiff law firms lacking connections to institutional investors.<sup>3</sup> Accordingly, we have investigated the development of trends related to these suits for case settlements in 2018.

We observe that, overall, settlement amounts, our simplified damages proxy, and defendant assets are all lower for cases in which the law firms associated with event-driven litigation serve as lead counsel. In addition, consistent with expectations, cases in which they serve as lead counsel are less likely to involve institutional investors as lead plaintiffs.

Given that securities cases take, on average, just over three-and-a-half years to resolve, such cases may have a greater impact on future settlement trends, and we will continue to investigate effects related to event-driven litigation in subsequent reports.

—Laarni T. Bulan, Ellen M. Ryan, and Laura E. Simmons

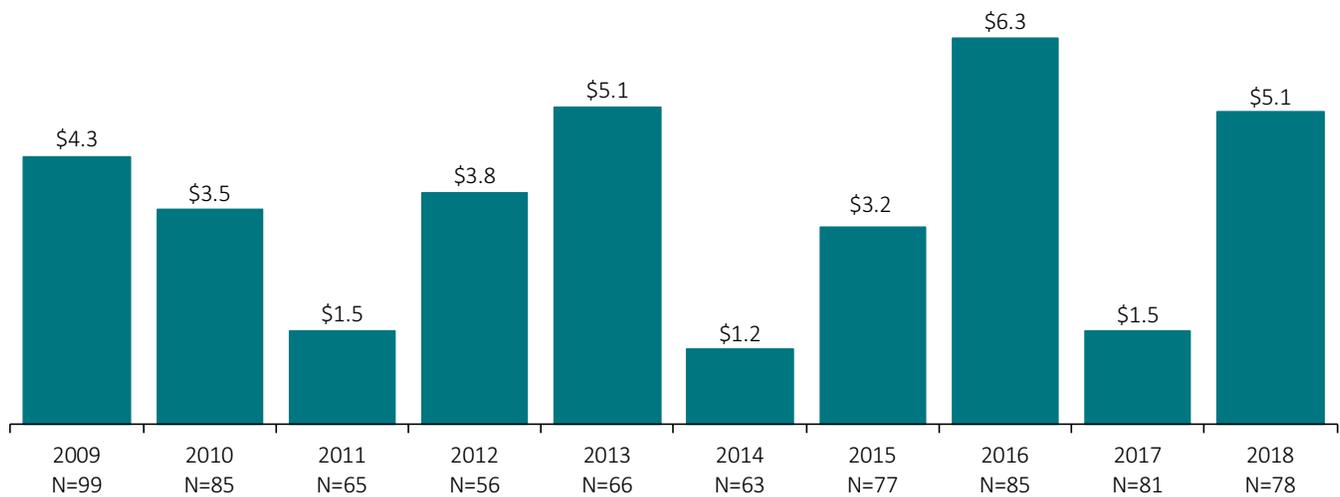
# Total Settlement Dollars

- The total value of settlements approved by courts in 2018 was just over \$5 billion—more than three times the total amount approved in 2017.
- The average settlement amount in 2018 was nearly \$65 million, considerably higher than the \$18.7 million average in 2017 and 44 percent higher than the average for the prior nine years.
- In addition, the 2018 median settlement of \$11.3 million was more than double the 2017 median, indicating larger 2018 settlements overall.
- The larger settlement amounts in 2018 were accompanied by higher levels in our proxy for plaintiff-style damages. (See page 5 for a discussion of damages estimates.)

*2018 total settlement dollars surpassed the prior nine-year average annual total by 50 percent.*

**Figure 2: Total Settlement Dollars 2009–2018**

(Dollars in billions)



Note: Settlement dollars are adjusted for inflation; 2018 dollar equivalent figures are used. N refers to the number of observations.

# Settlement Size

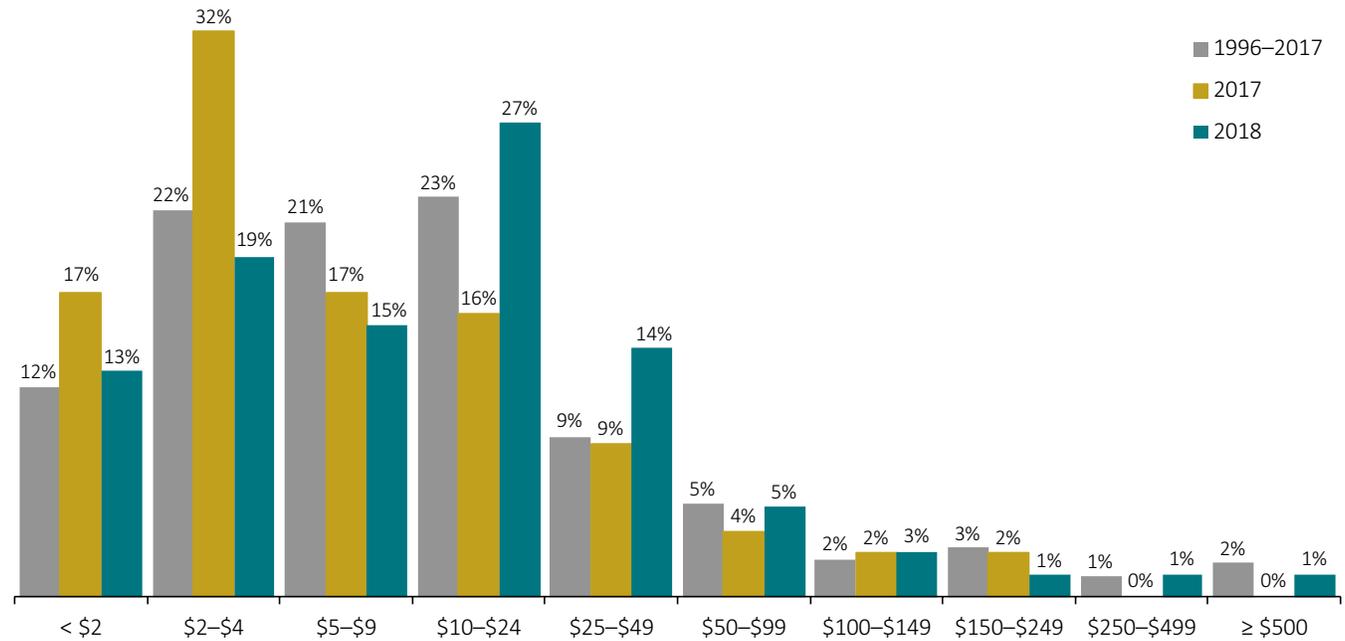
- There were five mega settlements in 2018, with settlements ranging from \$110 million to \$3 billion.

*32 cases settled for between \$10 million and \$49 million in 2018, representing an approximate 60 percent increase over 2017.*

- The median and average settlement amounts in 2018 were 31 percent and 14 percent higher than the median and average, respectively, for all prior post-Reform Act settlements.
- Contributing to the increase in median and average settlement amounts, the number of small settlements (amounts less than \$5 million) declined by nearly 40 percent, from 40 cases in 2017 to 25 in 2018.

**Figure 3: Distribution of Post-Reform Act Settlements 1996–2018**

(Dollars in millions)



Note: Settlement dollars are adjusted for inflation; 2018 dollar equivalent figures are used. Percentages may not sum to 100 percent due to rounding.

# Damages Estimates

## Rule 10b-5 Claims: “Simplified Tiered Damages”

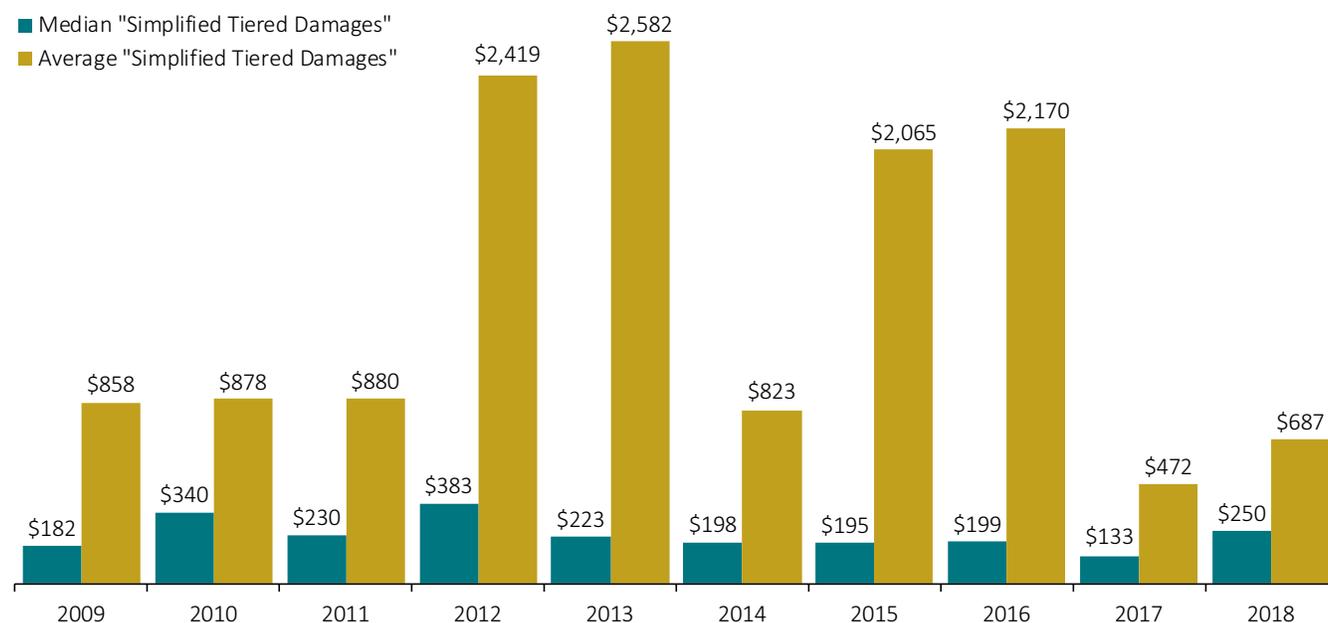
“Simplified tiered damages” uses simplifying assumptions to estimate per-share damages and trading behavior. It provides a measure of potential shareholder losses that allows for consistency across a large volume of cases, thus enabling the identification and analysis of potential trends.<sup>4</sup> Cornerstone Research’s prediction model finds this measure to be the most important factor in predicting settlement amounts.<sup>5</sup> However, this measure is not intended to represent actual economic losses borne by shareholders. Determining any such losses for a given case requires more in-depth economic analysis.

*Median “simplified tiered damages” increased 88 percent from 2017.*

- “Simplified tiered damages” is correlated with stock market volatility at the time of a case filing. The rise in median and average “simplified tiered damages” in 2018 is consistent with increased stock market volatility in 2015 and 2016, when more than half of cases that settled in 2018 were filed.
- “Simplified tiered damages” is also generally correlated with the length of the class period. For cases settled in 2018, the median class period length was over 13 percent longer than the median in 2017.
- Higher “simplified tiered damages” are generally associated with larger issuer defendants (measured by total assets or market capitalization of the issuer). In 2018, the median issuer defendant total assets of \$829 million was almost 50 percent larger than for cases settled in 2017.

Figure 4: Median and Average “Simplified Tiered Damages” 2009–2018

(Dollars in millions)



Note: “Simplified tiered damages” are adjusted for inflation based on class period end dates. Damages are estimated for cases alleging a claim under Rule 10b-5 (whether alone or in addition to other claims).

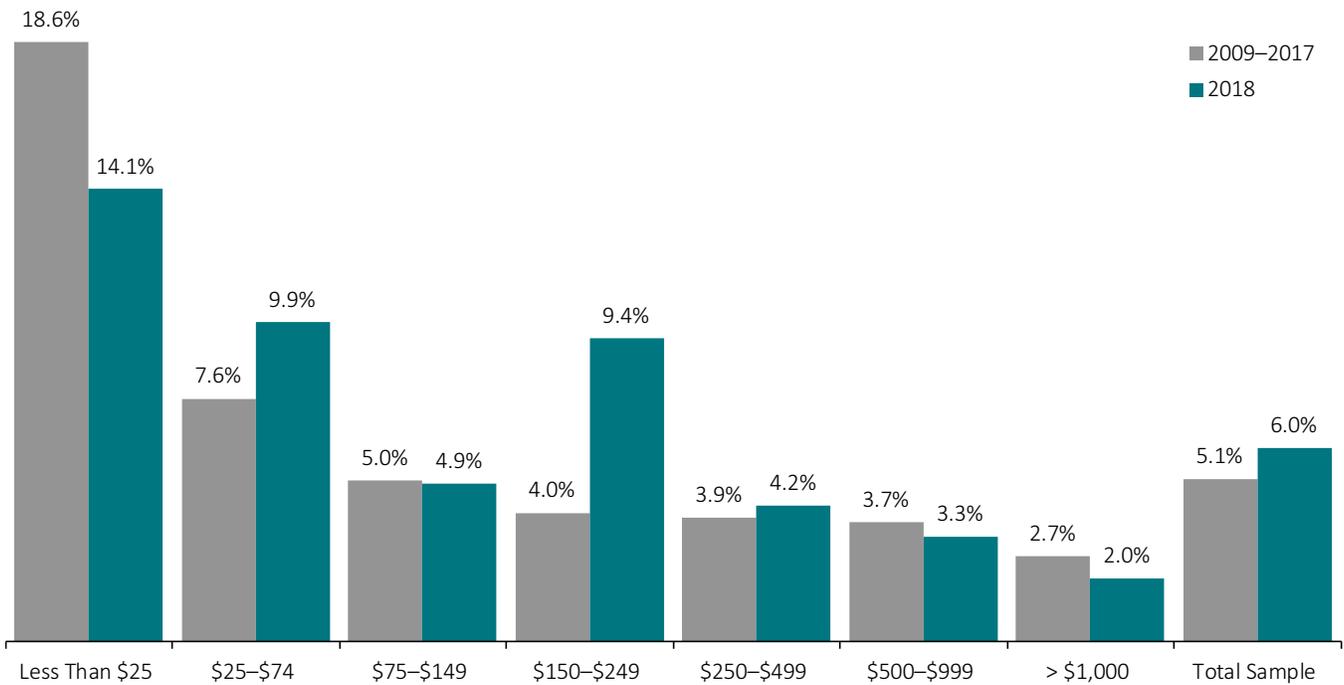
- Larger cases (cases with higher levels of the proxy for shareholder losses) typically settle for a smaller percentage of “simplified tiered damages.”
- The median settlement as a percentage of “simplified tiered damages” increased to 6.0 percent in 2018, compared to a median of 5.1 percent for the prior nine years.
- For the smallest cases (measured by “simplified tiered damages”), the median settlement as a percentage of “simplified tiered damages” decreased by more than 50 percent, from 29 percent in 2017 to 14 percent in 2018.

*The median settlement as a percentage of “simplified tiered damages” increased for the third consecutive year.*

- As observed over the last decade, smaller cases typically settle more quickly. Cases with less than \$25 million in “simplified tiered damages” settled within 2.9 years on average, compared to 4.5 years for cases with “simplified tiered damages” of greater than \$500 million.

Figure 5: Median Settlements as a Percentage of “Simplified Tiered Damages” by Damages Ranges 2009–2018

(Dollars in millions)



Note: Damages are estimated for cases alleging a claim under Rule 10b-5 (whether alone or in addition to other claims).

### '33 Act Claims: "Simplified Statutory Damages"

- For cases involving only Section 11 and/or Section 12(a)(2) claims ('33 Act claims), shareholder losses are estimated using a model in which the statutory loss is the difference between the statutory purchase price and the statutory sales price, referred to here as "simplified statutory damages."<sup>6</sup> Only the offered shares are assumed to be eligible for damages.
- "Simplified statutory damages" are typically smaller than "simplified tiered damages," reflecting differences in the methodologies used to estimate alleged inflation per share, as well as differences in the shares eligible to be damaged (i.e., only offered shares are included).
- In 2018, among settlements involving only '33 Act claims, the median time to settlement was 2.3 years, compared to slightly more than three years for cases involving only Rule 10b-5 claims.
- Median settlement amounts are substantially higher for cases involving both '33 Act claims and Rule 10b-5 allegations than for those with only Rule 10b-5 claims.

-----  
*Eight cases involving only '33 Act claims settled in 2018.*  
 -----

**Figure 6: Settlements by Nature of Claims 2009–2018**

(Dollars in millions)

	Number of Settlements	Median Settlement	Median "Simplified Statutory Damages"	Median Settlement as a Percentage of "Simplified Statutory Damages"
Section 11 and/or Section 12(a)(2) Only	76	\$5.2	\$107.8	8.0%

	Number of Settlements	Median Settlement	Median "Simplified Tiered Damages"	Median Settlement as a Percentage of "Simplified Tiered Damages"
Both Rule 10b-5 and Section 11 and/or Section 12(a)(2)	127	\$14.8	\$339.6	5.8%
Rule 10b-5 Only	537	\$8.2	\$203.9	4.6%

Note: Settlement dollars and damages are adjusted for inflation; 2018 dollar equivalent figures are used. Damages are adjusted for inflation based on class period end dates.

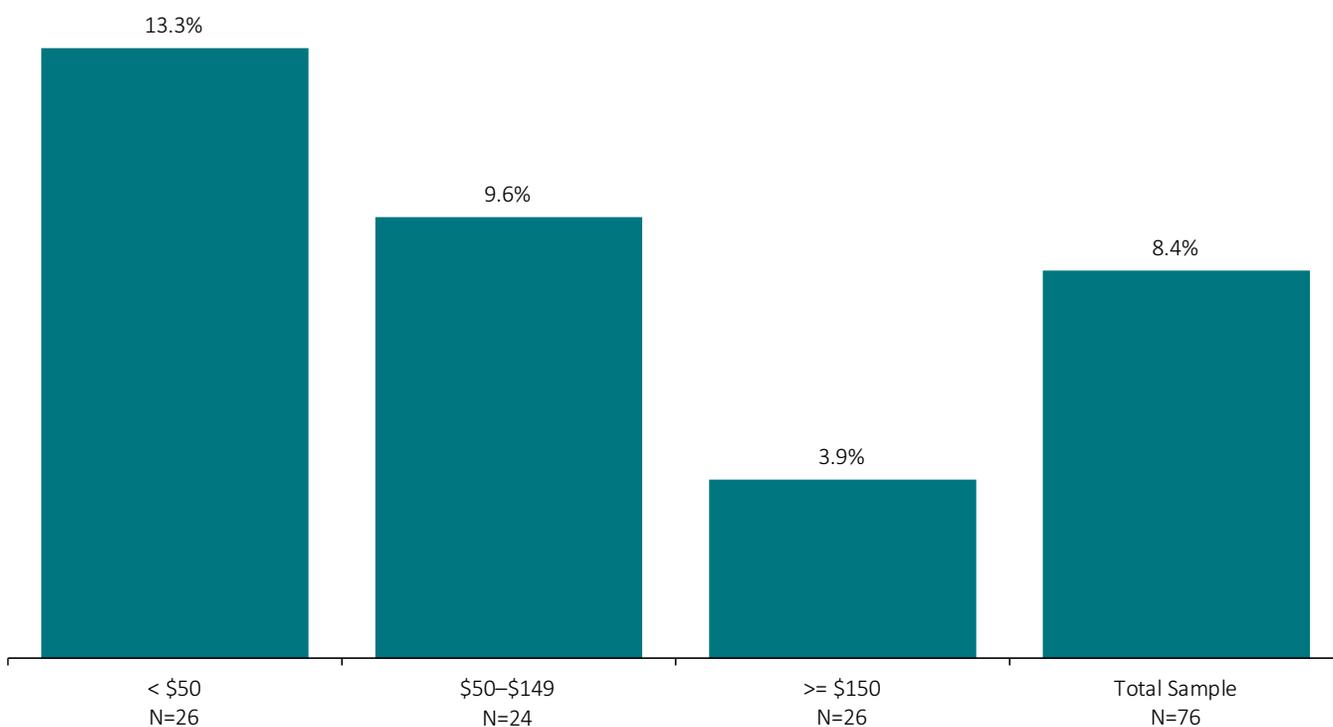
- Similar to cases with Rule 10b-5 claims, settlements as a percentage of “simplified statutory damages” for cases with only ‘33 Act claims are smaller for cases that have larger estimated damages.
- Since 2009, 85 percent of settled cases with only ‘33 Act claims had a named underwriter defendant.
- Over the period 2009–2018, the average settlement as a percentage of “simplified statutory damages” for cases with a named underwriter defendant was 13.2 percent, compared to 5.9 percent for cases without a named underwriter defendant.

50 percent of cases with only ‘33 Act claims settled in 2018 were heard in state courts.

- As discussed in *Securities Class Action Filings—2018 Year in Review*, stand-alone ‘33 Act claim case filings were 45 percent higher in 2018 than the average over the prior five years. These cases will likely reach resolution within the next two to three years and may contribute to an increase in the number of ‘33 Act claim settlements during those years.

Figure 7: Median Settlements as a Percentage of “Simplified Statutory Damages” by Damages Ranges 2009–2018

(Dollars in millions)



Note: N refers to the number of observations.

# Analysis of Settlement Characteristics

## Accounting Allegations

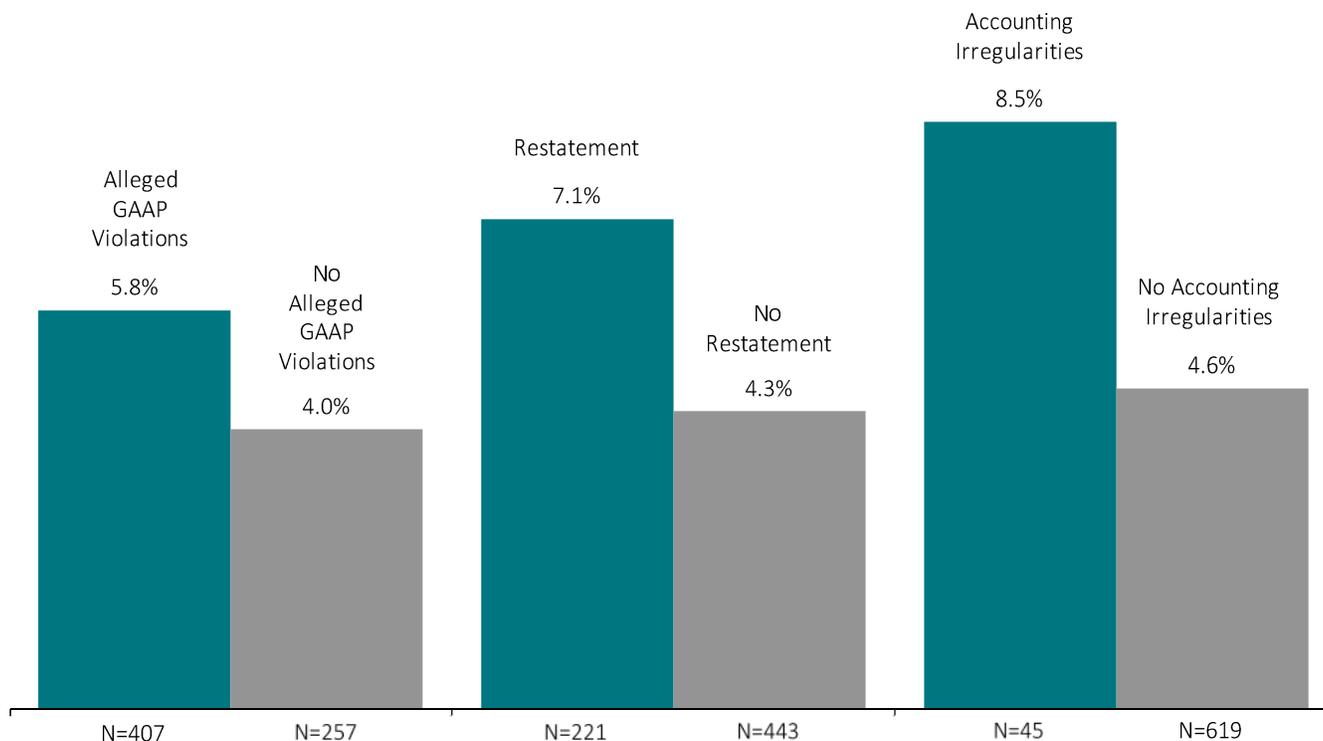
This analysis examines three types of accounting issues among settled cases involving Rule 10b-5 claims: (1) alleged Generally Accepted Accounting Principles (GAAP) violations, (2) restatements, and (3) reported accounting irregularities.<sup>7</sup> For further details regarding settlements of accounting cases, see Cornerstone Research’s annual report on *Accounting Class Action Filings and Settlements*.<sup>8</sup>

- The proportion of settled cases alleging GAAP violations in 2018 was 45 percent, continuing a four-year decline from a high of 67 percent in 2014.
- Settled cases with restatements are generally associated with higher settlements as a percentage of “simplified tiered damages” compared to cases without restatements. In 2018, the median settlement as a percentage of “simplified tiered damages” was 11.3 percent for cases with restatements, but 5.1 percent for cases without restatements.

- Among cases settled in 2018 with accounting-related allegations, approximately 10 percent involved a named auditor codefendant, essentially unchanged from 2017 (10.2 percent). However, these proportions were significantly lower than the average of 21.9 percent over the prior eight years.
- Reported accounting irregularities among settled cases averaged less than 2 percent from 2015 to 2018, compared to almost 10 percent from 2009 to 2014.

*The infrequency of reported accounting irregularities among settled cases continued for the fourth straight year.*

Figure 8: Median Settlements as a Percentage of “Simplified Tiered Damages” and Accounting Allegations 2009–2018



Note: N refers to the number of observations.

## Institutional Investors

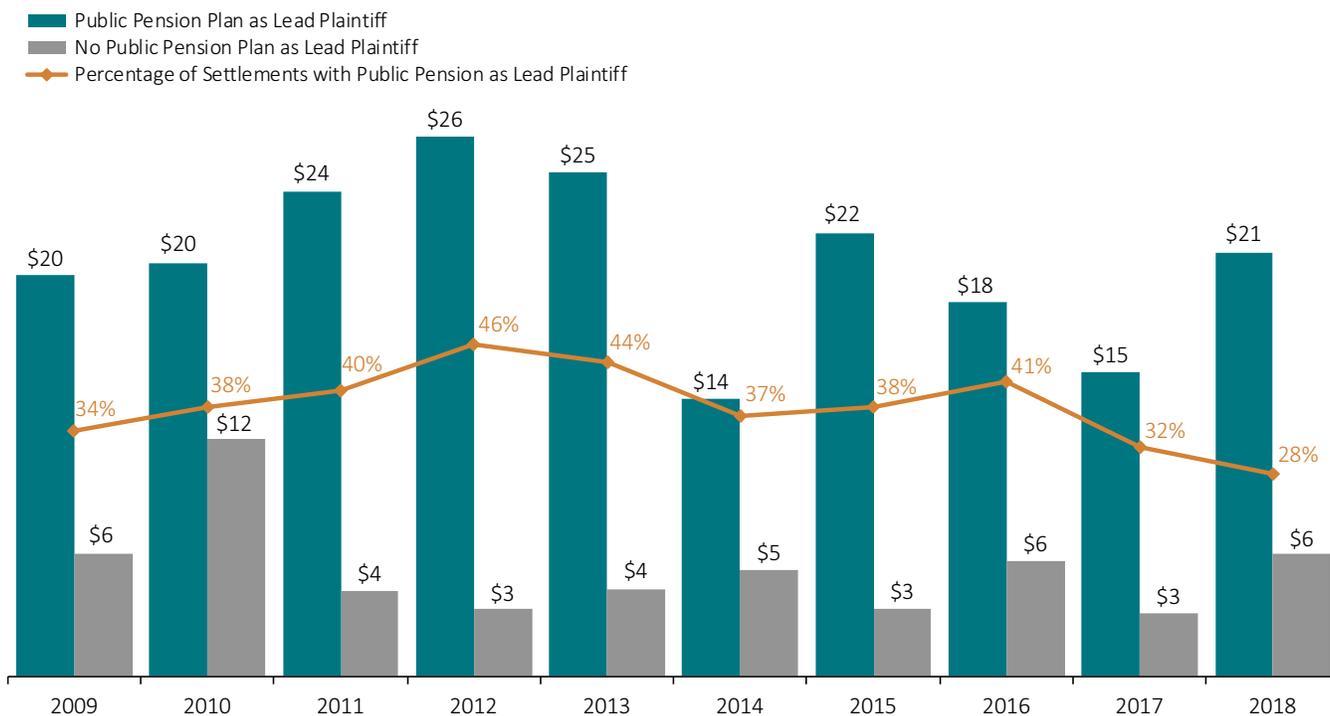
- Institutional investors, including public pension plans (a subset of institutional investors), tend to be involved in larger cases, that is, cases with higher “simplified tiered damages.”
- Median “simplified tiered damages” for cases involving a public pension as a lead plaintiff in 2018 were \$689 million compared to \$213 million for cases without a public pension as a lead plaintiff.
- While public pensions historically have tended to be involved in cases with accounting-related allegations (i.e., alleged GAAP violations, restatements, and accounting irregularities), this was not true in 2018.

*The proportion of 2018 settlements with a public pension plan as lead plaintiff was at its lowest level in the last decade.*

- In 2018, median total assets for issuer defendants in cases involving an institutional investor as a lead plaintiff were \$1.6 billion compared to \$328 million for cases without institutional investor involvement.

**Figure 9: Median Settlement Dollars and Public Pension Plans 2009–2018**

(Dollars in millions)



Note: Settlement dollars are adjusted for inflation; 2018 dollar equivalent figures are used.

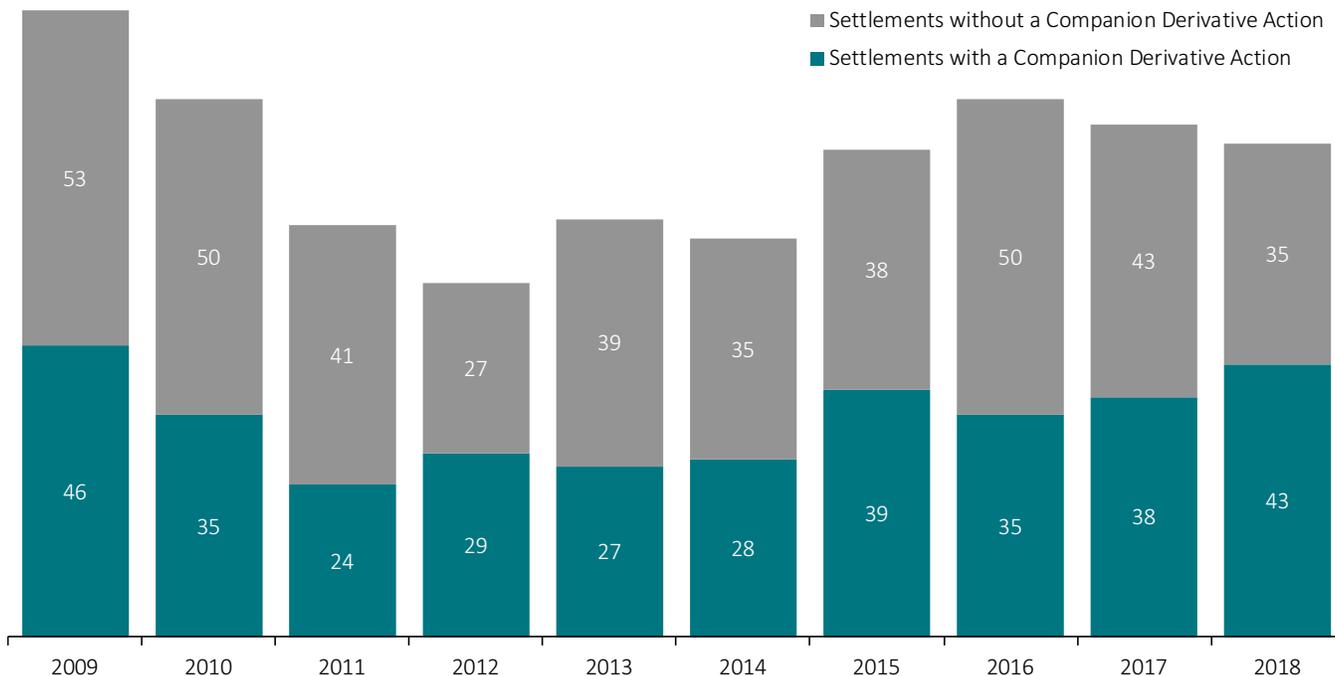
## Derivative Actions

Derivative cases accompanying securities class actions are more frequently filed when corresponding securities class actions are relatively large or involve a financial restatement or public pension plan lead plaintiff.

*The percentage of settled cases with a public pension plan lead plaintiff that also involved an accompanying derivative action reached 77 percent in 2018, its highest level in the last 10 years.*

- The increase in the proportion of settled cases involving an accompanying derivative action is consistent with both the larger cases (measured by “simplified tiered damages”) and the larger settlement amounts observed in 2018.
  - The median “simplified tiered damages” for cases with companion derivative actions was \$480 million, compared to \$47 million for cases without accompanying derivative actions.
  - The median settlement amount for cases with companion derivative actions was \$18 million, compared to \$5 million for cases without accompanying derivative actions.

Figure 10: Frequency of Derivative Actions 2009–2018



## Corresponding SEC Actions

Cases with a corresponding Securities and Exchange Commission (SEC) action related to the allegations are typically associated with significantly higher settlement amounts and higher settlements as a percentage of “simplified tiered damages.”<sup>9</sup>

- The number of settled securities class actions with corresponding SEC actions has remained relatively stable over the last four years.
- Cases with corresponding SEC actions tend to involve larger issuer defendants. For cases settled during 2009–2018, the median total assets of issuer defendant firms at the time of settlement were \$946 million for cases with corresponding SEC actions, compared to \$653 million for cases without a corresponding SEC action.

- Corresponding SEC actions are also frequently associated with distressed firms. For purposes of this research, a distressed firm has either declared bankruptcy or been delisted from a major U.S. exchange prior to settlement.

*At 54 percent, 2018 had one of the highest rates of SEC actions among distressed firms in the past decade.*

**Figure 11: Frequency of SEC Actions 2009–2018**



# Case Stage at the Time of Settlement

In collaboration with Stanford Securities Litigation Analytics (SSLA),<sup>10</sup> we have analyzed settlements in relation to the stage in the litigation process at the time of settlement, expanding on the stages analyzed in our prior reports.

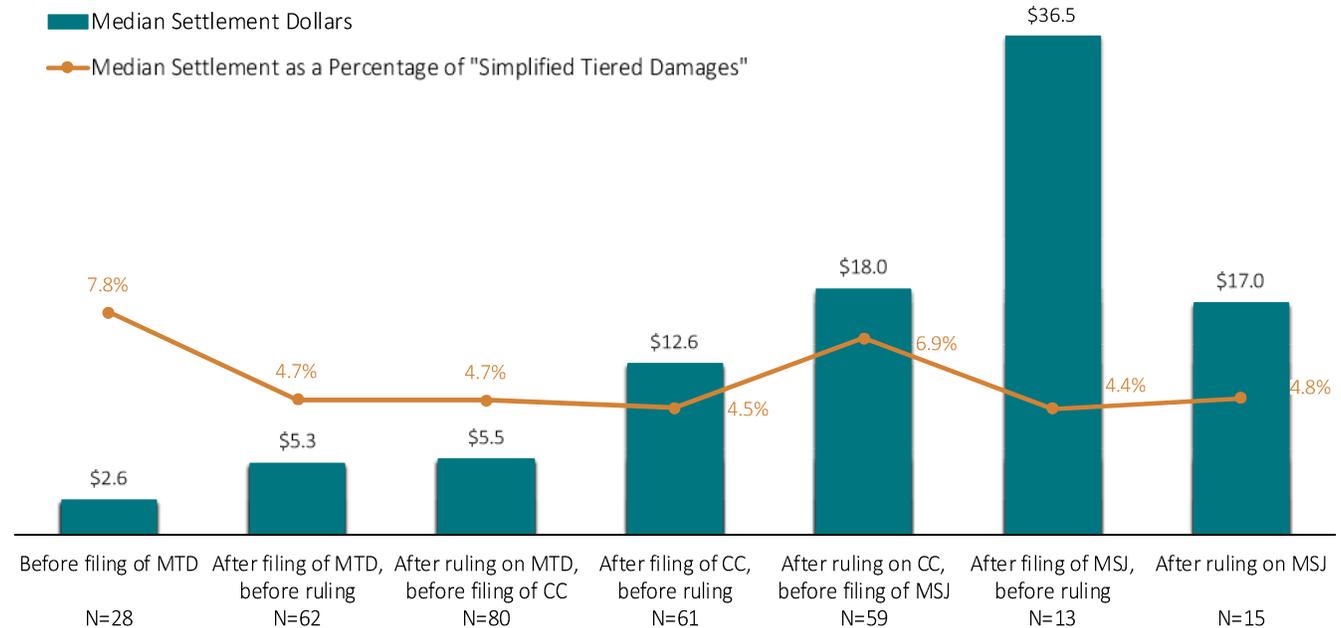
- In 2018, cases settled after a motion to dismiss was filed but prior to a ruling had a median settlement of \$7.9 million, significantly lower than for cases settled at later stages.
- In addition, among 2018 settlements, median total assets at the time of settlement were almost 100 percent larger for cases settled after a ruling on a motion to dismiss than for cases settled at earlier stages.

*The average time to reach a ruling on a motion for class certification among settlements in 2018 was 4.8 years.*

- In the five-year period from 2014 to 2018, the median settlement for cases settled after a motion for class certification was filed but prior to a ruling was \$12.6 million, compared to \$18 million for cases settled after a ruling.
- Over the same period, the median “simplified tiered damages” for cases settled after a filing of a motion for summary judgment was over four times the median for cases settled prior to such a motion being filed. This contributed to higher settlement amounts but lower settlements as a percentage of “simplified tiered damages” for cases settled at this stage.

Figure 12: Median Settlement Dollars and Resolution Stage at Time of Settlement 2014–2018

(Dollars in millions)



Note: Settlement dollars are adjusted for inflation; 2018 dollar equivalent figures are used. MTD refers to “motion to dismiss,” CC refers to “class certification,” and MSJ refers to “motion for summary judgment.” This analysis is limited to cases alleging Rule 10b-5 claims.

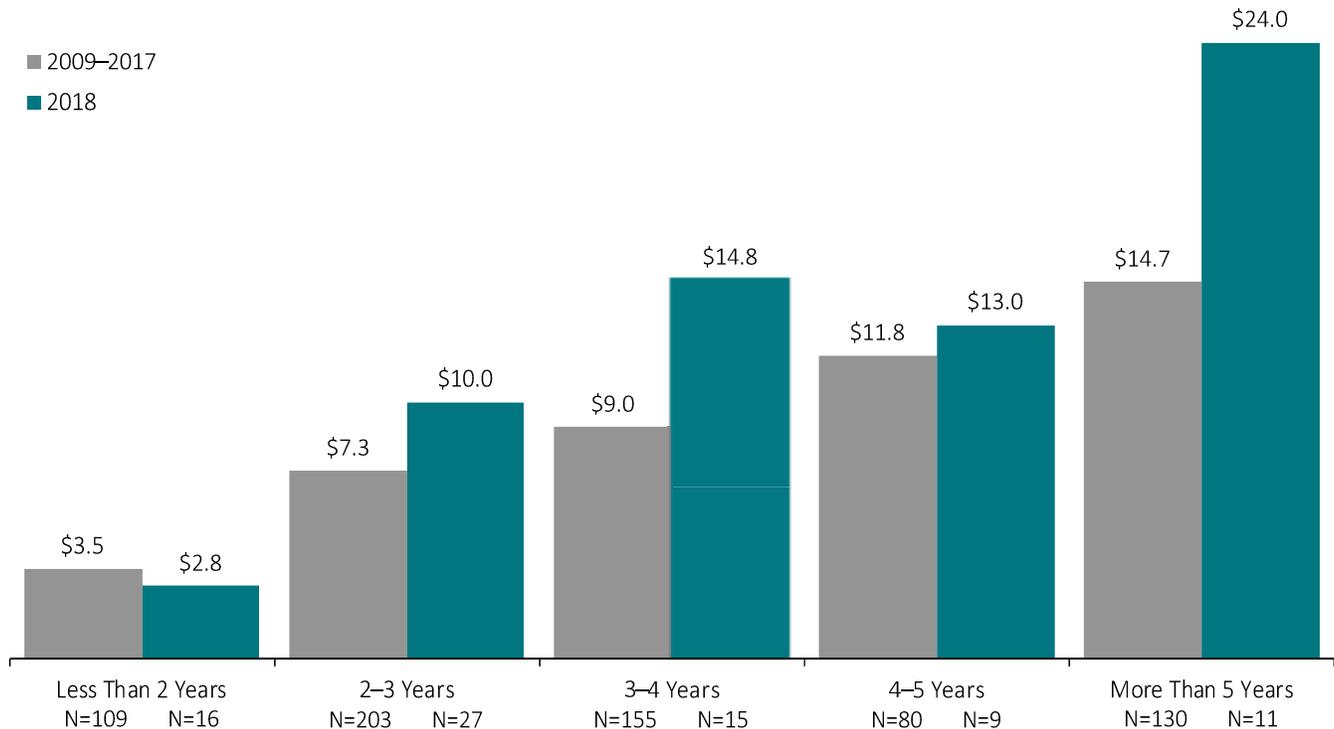
# Time to Settlement and Case Complexity

- In 2018, 21 percent of cases settled within two years of filing, 12 percent higher than the prior five-year average.
- Cases that settle quickly tend to be smaller (measured by “simplified tiered damages” or total assets of the issuer defendant). Rule 10b-5 cases settled in less than two years in 2018 had median “simplified tiered damages” of \$67 million, compared to a median of \$319 million for settlements that took more than two years to be resolved.
- While, on average, settled cases in 2018 reached resolution more quickly than in prior years, almost 15 percent of cases took more than five years to settle in 2018 and settled for substantially higher amounts. Over 80 percent of these cases had accompanying derivative actions, and median assets of the defendant firms were more than twice as large as in other cases.
- For the period 2013–2018, cases settled within two years of filing had higher attorney fees as a percentage of the settlement fund than cases that took longer to settle.<sup>11</sup>

*The average time from filing to settlement in 2018 was 3.3 years.*

Figure 13: Median Settlement by Duration from Filing Date to Settlement Hearing Date 2009–2018

(Dollars in millions)



Note: Settlement dollars are adjusted for inflation; 2018 dollar equivalent figures are used. N refers to the number of observations.

# Cornerstone Research's Settlement Prediction Analysis

This research applies regression analysis to examine the relationships between settlement outcomes and certain security case characteristics. Regression analysis is employed to better understand and predict the total settlement amount, given the characteristics of a particular securities case. Regression analysis can also be applied to estimate the probabilities associated with reaching alternative settlement levels. It is also helpful in exploring hypothetical scenarios, including how the presence or absence of particular factors affects predicted settlement amounts.

## Determinants of Settlement Outcomes

Based on the research sample of post-Reform Act cases that settled through December 2018, the factors that were important determinants of settlement amounts included the following:

- “Simplified tiered damages”
  - Maximum Dollar Loss (MDL)—market capitalization change from its peak to post-disclosure value
  - Most recently reported total assets of the issuer defendant firm
  - A measure of how long the issuer defendant has been a public company
  - Number of entries on the lead case docket
  - The year in which the settlement occurred
  - Whether a restatement of financials related to the alleged class period was announced
  - Whether there was a corresponding SEC action and/or criminal indictments/charges against the issuer, other defendants, or related parties
- Whether an outside auditor or underwriter was named as a codefendant
  - Whether Section 11 and/or Section 12(a) claims were alleged in addition to Rule 10b-5 claims
  - Whether the issuer defendant was distressed
  - Whether a public pension was a lead plaintiff
  - Whether the plaintiffs alleged that securities other than common stock were damaged

Regression analyses show that settlements were higher when “simplified tiered damages,” MDL, issuer defendant asset size, the length of time the company has been public, or the number of docket entries were larger, or when Section 11 and/or Section 12(a) claims were alleged in addition to Rule 10b-5 claims.

Settlements were also higher in cases involving financial restatements, a corresponding SEC action, a public pension involved as lead plaintiff, a third party such as an outside auditor or underwriter was named as a codefendant, or securities other than common stock were alleged to be damaged.

Settlements were lower if the settlement occurred in 2012 or later, or if the issuer was distressed.

Almost 75 percent of the variation in settlement amounts can be explained by the factors discussed above.

## Research Sample

- The database used in this report contains cases alleging fraudulent inflation in the price of a corporation's common stock (i.e., excluding cases with alleged classes of only bondholders, preferred stockholders, etc., and excluding cases alleging fraudulent depression in price and merger and acquisition (M&A) cases).
- The sample is limited to cases alleging Rule 10b-5, Section 11, and/or Section 12(a)(2) claims brought by purchasers of a corporation's common stock. These criteria are imposed to ensure data availability and to provide a relatively homogeneous set of cases in terms of the nature of the allegations.
- The current sample includes 1,775 securities class actions filed after passage of the Reform Act (1995) and settled from 1996 through 2018. These settlements are identified based on a review of case activity collected by Securities Class Action Services LLC (SCAS).<sup>12</sup>
- The designated settlement year, for purposes of this report, corresponds to the year in which the hearing to approve the settlement was held.<sup>13</sup> Cases involving multiple settlements are reflected in the year of the most recent partial settlement, provided certain conditions are met.<sup>14</sup>

## Data Sources

In addition to SCAS and SSLA, data sources include Dow Jones Factiva, Bloomberg, the Center for Research in Security Prices (CRSP) at University of Chicago Booth School of Business, Standard & Poor's Compustat, court filings and dockets, SEC registrant filings, SEC litigation releases and administrative proceedings, LexisNexis, and public press.

# Endnotes

- <sup>1</sup> See *Securities Class Action Filings—2018 Year in Review*, Cornerstone Research (2019), <https://www.cornerstone.com/Publications/Reports/Securities-Class-Action-Filings-2018-Year-in-Review.pdf>
- <sup>2</sup> See John C. Coffee Jr., “Securities Litigation in 2017: ‘It Was the Best of Times, It Was the Worst of Times,’” CLS Blue Sky Blog, March 19, 2018, <http://clsbluesky.law.columbia.edu/2018/03/19/securities-litigation-in-2017-it-was-the-best-of-times-it-was-the-worst-of-times/>.
- <sup>3</sup> See Kevin LaCroix, “Scrutinizing Event-Driven Securities Litigation,” D&O Diary, March 27, 2018, <https://www.dandodiary.com/2018/03/articles/securities-litigation/scrutinizing-event-driven-securities-litigation/>; John C. Coffee Jr., “Securities Litigation in 2017: ‘It Was the Best of Times, It Was the Worst of Times,’” CLS Blue Sky Blog, March 19, 2018, <http://clsbluesky.law.columbia.edu/2018/03/19/securities-litigation-in-2017-it-was-the-best-of-times-it-was-the-worst-of-times/>.
- <sup>4</sup> The “simplified tiered damages” approach used for purposes of this settlement research does not examine the mix of information associated with the specific dates listed in the plan of allocation, but simply applies the stock price movements on those dates to an estimate of the “true value” of the stock during the alleged class period (or “value line”). This proxy for damages uses an estimate of the number of shares damaged based on reported trading volume and the number of shares outstanding. Specifically, reported trading volume is adjusted using volume reduction assumptions based on the exchange on which the issuer defendant’s common stock is listed. No adjustments are made to the underlying float for institutional holdings, insider trades, or short-selling activity during the alleged class period. Because of these and other simplifying assumptions, the damages measures used in settlement outcome modeling may be overstated relative to damages estimates developed in conjunction with case-specific economic analysis.
- <sup>5</sup> See Laarni T. Bulan et al., *Estimating Damages in Settlement Outcome Modeling*, Cornerstone Research (2017), <https://www.cornerstone.com/Publications/Research/Estimating-Damages-in-Settlement-Outcome-Modeling.pdf>.
- <sup>6</sup> The statutory purchase price is the lesser of the security offering price or the security purchase price. Prior to the first complaint filing date, the statutory sales price is the price at which the security was sold. After the first complaint filing date, the statutory sales price is the greater of the security sales price or the security price on the first complaint filing date. Similar to “simplified tiered damages,” the estimation of “simplified statutory damages” makes no adjustments to the underlying float for institutional holdings, insider trades, or short-selling activity. Shares subject to a lock-up period are not added to the float for purposes of this calculation.
- <sup>7</sup> The three categories of accounting issues analyzed in this report are: (1) GAAP violations—cases with allegations involving Generally Accepted Accounting Principles (GAAP); (2) restatements—cases involving a restatement (or announcement of a restatement) of financial statements; and (3) accounting irregularities—cases in which the defendant has reported the occurrence of accounting irregularities (intentional misstatements or omissions) in its financial statements.
- <sup>8</sup> See *Accounting Class Action Filings and Settlements*, Cornerstone Research (2018), <https://www.cornerstone.com/Publications/Reports/2017-Accounting-Class-Action-Filings-and-Settlements.pdf>. Update forthcoming in April 2019.
- <sup>9</sup> It could be that the merits in such cases are stronger, or simply that the presence of a corresponding SEC action provides plaintiffs with increased leverage when negotiating a settlement. For purposes of this research, an SEC action is evidenced by the presence of a litigation release or an administrative proceeding posted on [www.sec.gov](http://www.sec.gov).
- <sup>10</sup> Stanford Securities Litigation Analytics (SSLA) tracks and collects data on private shareholder securities litigation and public enforcements brought by the SEC and the U.S. Department of Justice (DOJ). The SSLA dataset includes all traditional class actions, SEC actions, and DOJ criminal actions filed since 2000. Available on a subscription basis at <https://sla.law.stanford.edu/>.
- <sup>11</sup> Data provided by SSLA.
- <sup>12</sup> Available on a subscription basis. For further details see <https://www.issgovernance.com/securities-class-action-services/>.
- <sup>13</sup> Movements of partial settlements between years can cause differences in amounts reported for prior years from those presented in earlier reports.
- <sup>14</sup> This categorization is based on the timing of the settlement approval. If a new partial settlement equals or exceeds 50 percent of the then-current settlement fund amount, the entirety of the settlement amount is recategorized to reflect the settlement hearing date of the most recent partial settlement. If a subsequent partial settlement is less than 50 percent of the then-current total, the partial settlement is added to the total settlement amount and the settlement hearing date is left unchanged.

# Appendices

## Appendix 1: Settlement Percentiles

(Dollars in millions)

	Average	10th	25th	Median	75th	90th
2018	\$64.9	\$1.5	\$3.6	\$11.3	\$24.8	\$52.1
2017	\$18.7	\$1.5	\$2.6	\$5.1	\$15.4	\$35.3
2016	\$73.8	\$2.0	\$4.4	\$8.9	\$34.5	\$152.7
2015	\$41.7	\$1.4	\$2.3	\$6.9	\$17.2	\$99.6
2014	\$19.3	\$1.8	\$3.0	\$6.4	\$14.0	\$53.0
2013	\$77.9	\$2.0	\$3.2	\$7.0	\$23.9	\$88.9
2012	\$67.0	\$1.3	\$2.9	\$10.3	\$38.8	\$125.8
2011	\$23.4	\$2.1	\$2.8	\$6.4	\$20.1	\$46.6
2010	\$41.1	\$2.3	\$4.9	\$13.0	\$28.8	\$91.7
2009	\$43.9	\$2.8	\$4.5	\$9.4	\$23.4	\$77.7
1996–2018	\$45.4	\$1.7	\$3.6	\$8.6	\$21.9	\$75.1

Note: Settlement dollars are adjusted for inflation; 2018 dollar equivalent figures are used.

## Appendix 2: Select Industry Sectors 2009–2018

(Dollars in millions)

Industry	Number of Settlements	Median Settlement	Median “Simplified Tiered Damages”	Median Settlement as a Percentage of “Simplified Tiered Damages”
Financial	111	\$21.7	\$452.8	4.8%
Technology	108	\$9.2	\$217.9	5.1%
Pharmaceuticals	91	\$8.7	\$251.5	3.9%
Telecommunications	41	\$8.6	\$220.3	4.5%
Retail	38	\$6.6	\$189.6	4.3%
Healthcare	20	\$8.2	\$136.0	6.4%

Note: Settlement dollars and “simplified tiered damages” are adjusted for inflation; 2018 dollar equivalent figures are used. “Simplified tiered damages” are calculated only for cases involving Rule 10b-5 claims.

**Appendix 3: Settlements by Federal Circuit Court  
2009–2018**

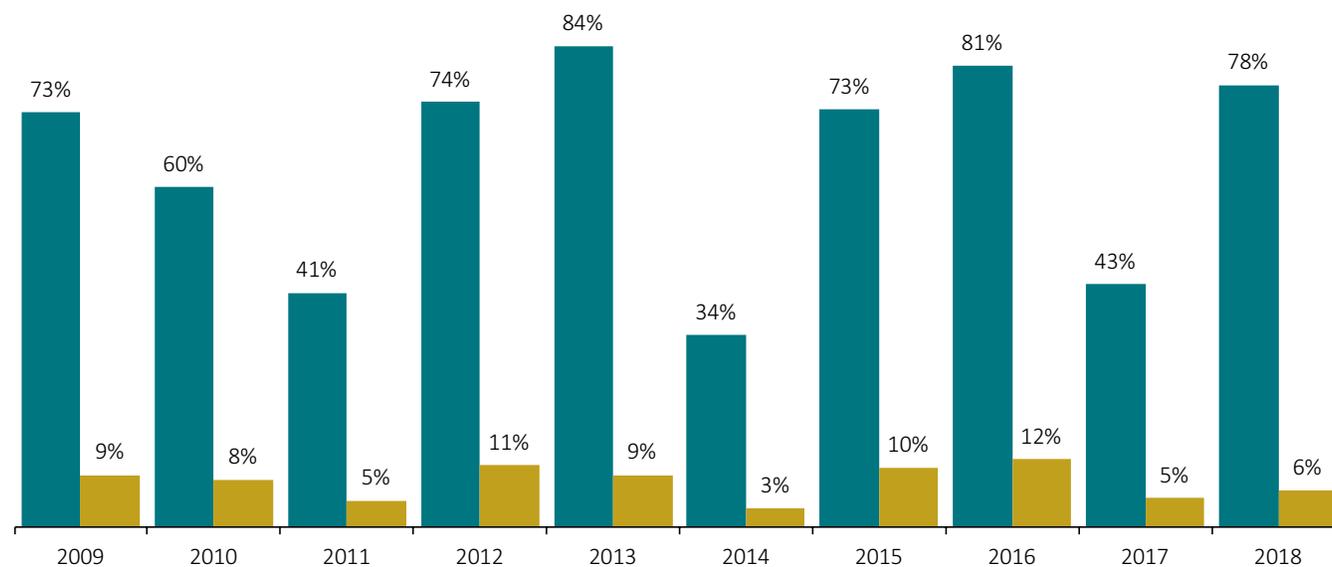
(Dollars in millions)

Circuit	Number of Settlements	Median Settlement	Median Settlement as a Percentage of “Simplified Tiered Damages”
First	24	\$7.1	3.4%
Second	177	\$11.4	4.7%
Third	61	\$7.0	4.6%
Fourth	26	\$12.5	3.2%
Fifth	35	\$8.9	4.5%
Sixth	33	\$13.0	7.4%
Seventh	37	\$10.3	4.4%
Eighth	14	\$11.7	5.9%
Ninth	196	\$8.3	5.1%
Tenth	19	\$8.8	4.8%
Eleventh	36	\$7.2	5.7%
DC	4	\$23.0	2.2%

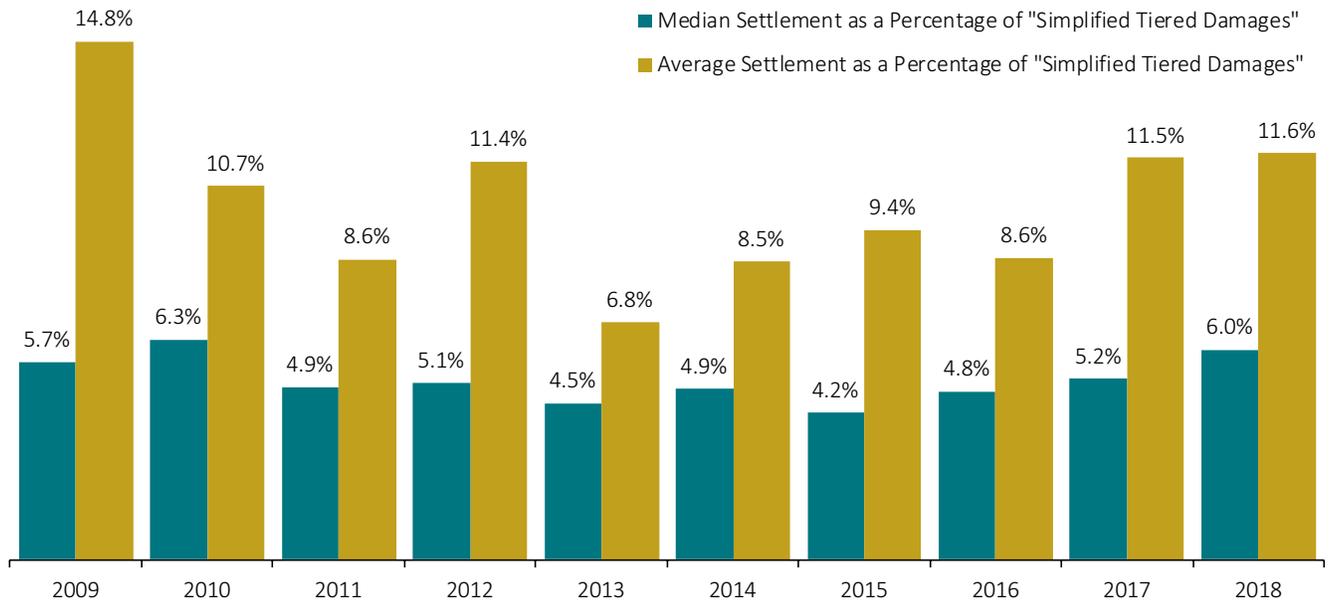
Note: Settlement dollars are adjusted for inflation; 2018 dollar equivalent figures are used. Settlements as a percentage of “simplified tiered damages” are calculated only for cases alleging Rule 10b-5 claims.

**Appendix 4: Mega Settlements  
2009–2018**

- Total Mega Settlement Dollars as a Percentage of All Settlement Dollars
- Number of Mega Settlements as a Percentage of All Settlements



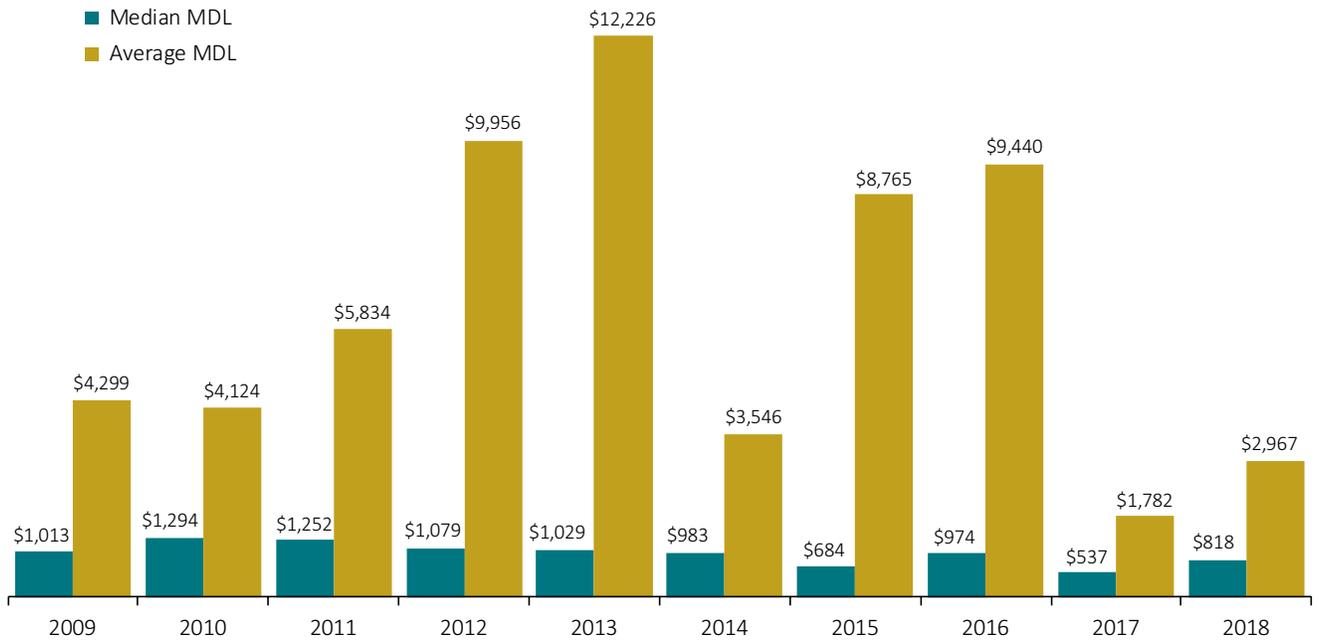
**Appendix 5: Median and Average Settlements as a Percentage of “Simplified Tiered Damages”  
2009–2018**



Note: “Simplified tiered damages” are calculated only for cases alleging Rule 10b-5 claims.

**Appendix 6: Median and Average Maximum Dollar Loss (MDL)  
2009–2018**

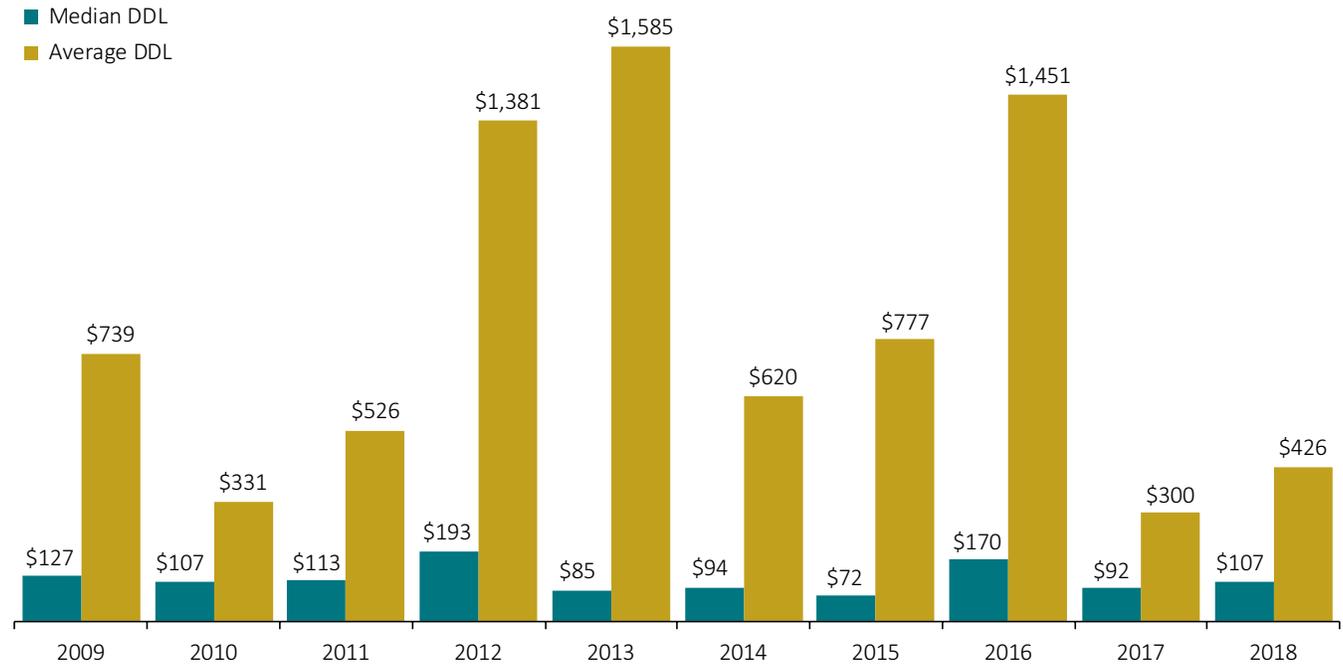
(Dollars in millions)



Note: MDL is adjusted for inflation based on class period end dates. MDL is the dollar value change in the defendant firm’s market capitalization from the trading day with the highest market capitalization during the class period to the trading day immediately following the end of the class period.

**Appendix 7: Median and Average Disclosure Dollar Loss (DDL)  
2009–2018**

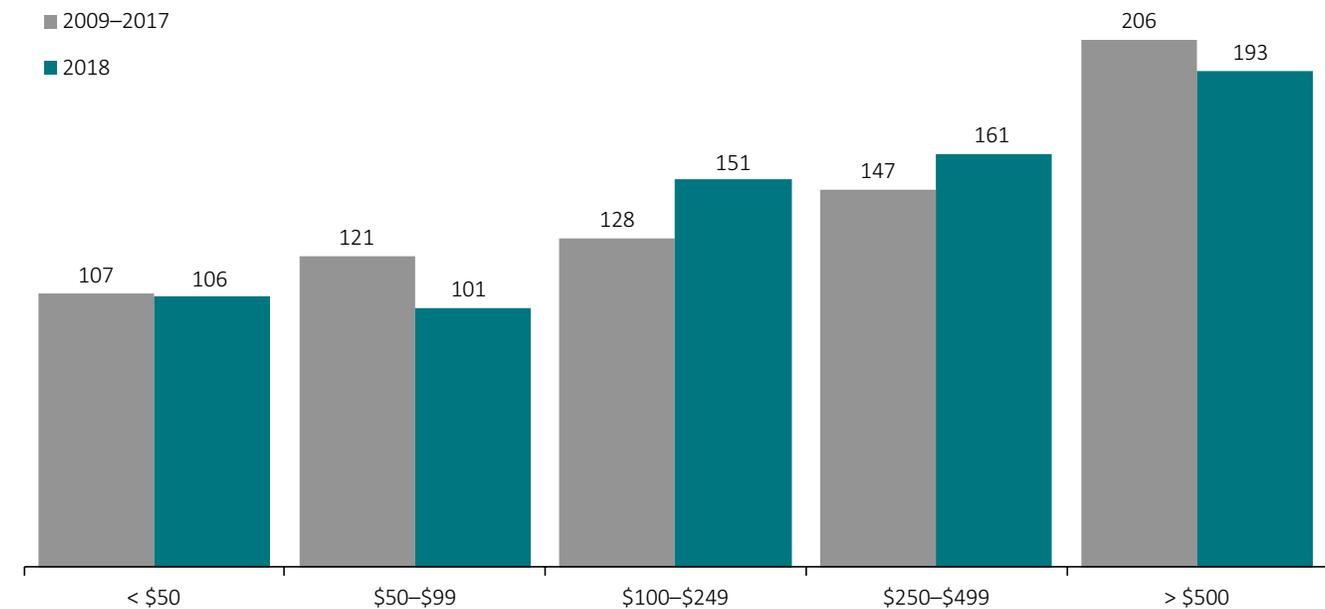
(Dollars in millions)



Note: DDL is adjusted for inflation based on class period end dates. DDL is the dollar value change in the defendant firm’s market capitalization between the trading day immediately preceding the end of the class period and the trading day immediately following the end of the class period. This analysis excludes cases alleging ‘33 Act claims only.

**Appendix 8: Median Docket Entries by “Simplified Tiered Damages” Range  
2009–2018**

(Dollars in millions)



Note: “Simplified tiered damages” are calculated only for cases alleging Rule 10b-5 claims.

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Laarni Bulan is a principal in Cornerstone Research's Boston office, where she specializes in finance. Her work has focused on securities damages and class certification issues, insider trading, merger valuation, risk management, market manipulation and trading behavior, and real estate markets. She has also consulted on cases related to financial institutions and the credit crisis, municipal bond mutual funds, asset-backed commercial paper conduits, credit default swaps, foreign exchange, and securities clearing and settlement. Dr. Bulan has published several academic articles in peer-reviewed journals. Her research covers topics in dividend policy, capital structure, executive compensation, corporate governance, and real options. Prior to joining Cornerstone Research, Dr. Bulan had a joint appointment at Brandeis University as an assistant professor of finance in its International Business School and in the economics department.

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Laura Simmons is a senior advisor with Cornerstone Research. She is a certified public accountant and has more than 25 years of experience in accounting practice and economic and financial consulting. Dr. Simmons has focused on damages and liability issues in securities litigation, as well as on accounting issues arising in a variety of complex commercial litigation matters. She has served as a testifying expert in cases involving accounting analyses, securities case damages, research on securities lawsuits, and other issues involving empirical analyses.

Dr. Simmons's research on pre- and post-Reform Act securities litigation settlements has been published in a number of reports and is frequently cited in the public press and legal journals. She has spoken at various conferences and appeared as a guest on CNBC addressing the topic of securities case settlements. She has also published in academic journals, with recent research focusing on the intersection of accounting and litigation. Dr. Simmons was previously an accounting faculty member at the Mason School of Business at the College of William & Mary. From 1986 to 1991, she was an accountant with Price Waterhouse.

The authors acknowledge the research efforts and significant contributions of their colleagues at Cornerstone Research.

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