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7 *Lead Counsel for the Indirect Purchaser*  
 8 *Plaintiffs for the 22 States*

9 **UNITED STATES DISTRICT COURT**  
 10 **NORTHERN DISTRICT OF CALIFORNIA**  
 11 **OAKLAND DIVISION**

12 IN RE: CATHODE RAY TUBE (CRT)  
 13 ANTITRUST LITIGATION

Master File No. 4:07-cv-05944-JST  
 Case No. 13-cv-03234-JST

14 MDL No. 1917

15 This Document Relates to:  
 16 INDIRECT PURCHASER ACTIONS FOR  
 17 THE 22 STATES

**DECLARATION OF MARIO N. ALIOTO  
 IN SUPPORT OF INDIRECT  
 PURCHASER PLAINTIFFS’ MOTION  
 FOR ORDER APPOINTING FUND  
 ADMINISTRATOR AND AUTHORIZING  
 DISTRIBUTION OF SETTLEMENT  
 FUNDS**

Hearing Date: July 28, 2022  
 Time: 2:00 p.m.  
 Courtroom: 6, 2nd Floor (Oakland)  
 Judge: Honorable Jon S. Tigar

1 I, Mario N. Alioto, declare:

2 1. I am an attorney duly licensed by the State of California and am admitted to  
3 practice before this Court. I am a partner with the law firm Trump, Alioto, Trump & Prescott,  
4 LLP and my firm serves as Lead Counsel for the Indirect Purchaser Plaintiffs (“IPPs”) in the  
5 above-captioned action. The matters set forth herein are within my personal knowledge and if  
6 called upon and sworn as a witness I could competently testify regarding them.

7 **THE NET SETTLEMENT FUNDS FOR DISTRIBUTION**

8 2. In or prior to the year 2015, pursuant to the original Settlement Agreements with  
9 IPPs, the Settling Defendants deposited \$576,804,127<sup>1</sup> into multiple defendant-specific escrow  
10 accounts at Union Bank and Citi Bank, under the supervision of the Court. I and an attorney for  
11 each defendant are Co-Escrow Agents on each account (the “Escrow Accounts”).

12 3. Subsequently, the Settlement Agreements were amended to reduce the settlement  
13 consideration by \$29,000,000, which amount was refunded to the Settling Defendants pursuant to  
14 Order dated July 13, 2020. ECF No. 5787. Defendant Hitachi has not yet withdrawn the  
15 \$1,498,846.33 that the Court ordered be refunded to it. However, these funds are not available for  
16 distribution to claimants. The amended Settlements reduced the principal amount of the  
17 Settlement Fund to \$547,804,127 plus accrued interest.

18 4. In preparation for distribution and this Motion, I commissioned and oversaw a  
19 thorough audit of the individual Escrow Accounts by a Certified Public Accountant.

20 5. The Escrow Accounts have been invested in instruments backed by the full faith  
21 and credit of the United States Treasury (*i.e.*, T-Bills and T-Notes). These investments have  
22 yielded interest at various rates over the years. As of May 31, 2022, the net amount of interest  
23 earned on the settlement funds to be distributed to claimants was \$17,471,780.40. Interest is  
24 continuing to accrue, thus the Net Settlement Funds available for distribution will continue to  
25 increase.

26

27 <sup>1</sup> Defendant Chunghwa paid its \$10,000,000 in three installments. Thus, I negotiated settlement  
28 terms requiring Chunghwa to pay interest on those installments, which totaled \$54,127.

1           6.       The Court has previously authorized deductions totaling \$149,993,268.44 to be  
2 made from the Escrow Accounts for the establishment of the Future Expense Fund (described  
3 below), the cost of providing notice of the various settlements, claims administration, attorneys’  
4 fees plus interest,<sup>2</sup> litigation expenses, incentive awards to class representatives, and distributions  
5 to the Attorneys General of Illinois and Oregon.<sup>3</sup>

6           7.       This Court previously approved the establishment of the Future Expense Fund  
7 with withdrawals totaling \$6,250,000 from the Escrow Accounts,<sup>4</sup> and approved the expenditure  
8 of \$4,495,878.02 from that fund for common litigation expenses. A total of \$2,354,121.98  
9 (\$1,754,121.98 remaining from the \$6,250,000, plus \$600,000 received from the Direct Action  
10 Plaintiffs<sup>5</sup>) was retained in the Future Expense Fund to fund the ongoing litigation.

11           8.       Pursuant to this Court’s Order requiring that the Chunghwa settlement only be  
12 charged its pro rata share of litigation expenses (ECF No. 4443 at 6-7), the \$2.5 million  
13 withdrawal from the Chunghwa settlement fund for the Future Expense Fund was reallocated pro  
14 rata amongst all settlements. Other common expenses were also reallocated to ensure that each  
15 Escrow Account only pays its pro rata share of common expenses.

16           9.       As of May 31, 2022, \$6,341,556.68 is available for distribution from the  
17 Chunghwa Escrow Account and \$414,143,781.42 from the other settlements’ Escrow Accounts.  
18 These amounts include the settlement proceeds plus accrued interest, less taxes, escrow fees,  
19 accounting fees, and Court-approved attorneys’ fees plus interest, costs, expenses, and incentive  
20 awards to Class Representatives. Interest is continuing to accrue.

21  
22 \_\_\_\_\_  
23 <sup>2</sup> Pursuant to the Settlement Agreements and the Final Approval Order, IPP Counsel is entitled to  
24 interest on their attorney fee award. *See* ECF Nos. 3862-1 ¶ 23a, 5786 at 26. The attorney fee  
25 award is approximately 23.66% of the total \$547,750,000 settlement fund. Thus, IPP Counsel is  
entitled to 23.66% of the total interest accrued on the fund, net of taxes.

26 <sup>3</sup> *See* ECF Nos. 993; 2248; 3906; 4712 at 34, 37; 5376; 5786 at 25-27; 6003.

27 <sup>4</sup> ECF Nos. 1334, 2618, 2944, and 3524.

28 <sup>5</sup> The Direct Action Plaintiffs (“DAPs”) paid these monies to IPPs when they joined the litigation  
in 2012 in exchange for access to IPP Counsel’s extensive work product.

1           10.     If the Court approves the payment of an additional \$99,240.13 to the Settlement  
2 Administrator, and \$345,171.76 in out-of-pocket expenses to IPP Counsel, these amounts will  
3 also be deducted pro rata from the Escrow Accounts, leaving a total of \$420,040,926.21;  
4 \$6,321,228.55 in the Chunghwa Fund and \$413,719,697.66 in the other funds.<sup>6</sup>

5           11.     In consultation with the Settlement Administrator, I propose that a reserve of  
6 \$10,000,000 be withheld, on a pro rata basis, from funds distributed to claimants being awarded  
7 \$1 million or more. This reserve would be for any contingencies that may arise with respect to  
8 claims, to pay for any other future fees or expenses that are authorized by the Court and incurred  
9 in connection with administering the Settlements, as well as any further escrow fees, taxes, and  
10 the costs of preparing appropriate tax returns.

11           12.     Accordingly, \$6,137,693.41 will be available for distribution now to End User and  
12 Reseller claimants from the Chunghwa settlement, and \$403,903,232.80 will be available for  
13 distribution to End User claimants from the other settlements. These amounts are equal to the  
14 current Net Settlement Funds less \$99,240.13 to be paid to the Settlement Administrator, the  
15 \$345,171.16 in out-of-pocket expenses to IPP Counsel, and \$10,000,000 to be held in reserve.  
16 Any unused portion of the \$10,000,000 reserve will be distributed to the claimants from which it  
17 is withheld as part of a subsequent distribution.

18                   **APPOINTING THE NOTICE COMPANY AS FUND ADMINISTRATOR**

19           13.     In order for The Notice Company to process the payments to claimants, the  
20 current Escrow Agents (Citibank, Union Bank and Lead Counsel) should be ordered to transfer  
21 all funds from the Escrow Accounts, including all accrued interest, to the account established for  
22 the Qualified Settlement Fund (“QSF”) at Western Alliance Bank and administered by The  
23 Notice Company. The Escrow Agents also must transfer to The Notice Company the  
24 “administrator” role in accordance with Section 468B of the Internal Revenue Code (26 U.S.C. §  
25  
26

27  
28                   \_\_\_\_\_

<sup>6</sup> The \$6,250,000 for the Future Expense Fund has already been withdrawn from the Escrow Accounts, and has already been accounted for in the calculation of the Net Settlement Funds.

1 468B) for the QSF, as outlined in the Escrow Agreements. The Escrow Agents have agreed to  
2 cooperate with this transition.

3 14. The Notice Company will not distribute, withdraw, or transfer any funds from the  
4 QSF account without written authorization (“Distribution Notice”) from me.

5 **CLAIMS ADMINISTRATION AND LATE CLAIMS**

6 15. In consultation with the Settlement Administrator, I propose that, like the other  
7 settlements, the Court authorize a \$25 minimum payment for Reseller claimants from the  
8 Chunghwa settlement (qualifying End User claimants will receive the \$25 minimum payment  
9 pursuant to the Plan of Distribution for the other settlements). The minimum payment will help to  
10 reduce administration costs and will avoid issuing checks for very small amounts.

11 16. The Settlement Administrator and I, with substantial assistance from U.S. District  
12 Judge Jacqueline Scott Corley, have devised a fair and balanced proposal for the partial payment  
13 of Late Claims (claims filed after the applicable Court-ordered deadlines for filing claims).

14 17. I recommend that the Court adopt the following approach for Late Claims:

- 15 a. Late Claims “on file” with the Settlement Administrator as of May 5, 2020,  
16 and approved by the Settlement Administrator, shall be paid at 50%-unit  
17 value, as compared with Timely Claims, which shall be paid at 100%-unit  
18 value;
- 19 b. Placeholder Claims which, as of May 5, 2020, did not provide a good-faith  
20 number of CRT units purchased are not considered “on file” and shall not be  
21 paid;
- 22 c. Claims filed after May 5, 2020 are rejected;
- 23 d. Application of the 50% reduction to Late Claims shall not reduce the value of  
24 any such claim to less than the minimum payment of \$25 (unless the minimum  
25 payment is reduced to less than \$25 for all claimants);
- 26 e. If any residual remains in the Net Settlement Fund after distribution checks  
27 become stale, such residual will be shared as follows (i) if the residual is less  
28 than or equal to \$12 million, it shall be share pro rata by the Late Claimants,

1 subject to a minimum threshold set at the Settlement Administrator’s  
2 discretion, and (ii) if the residual is more than \$12 million, it shall be shared  
3 pro rata by all claimants, subject to a minimum threshold set at the Settlement  
4 Administrator’s discretion.

5 18. I believe the foregoing proposal for the treatment of Late Claims properly  
6 balances the interests of all claimants. I am informed and believe that there have been a  
7 substantial number of Late Claims in this case. I believe that my recommended approach—under  
8 which Late Claims submitted before May 5, 2020 would be paid at 50% of the value of Timely  
9 Claims, with the potential for an additional payment from any residue—strikes a balance between  
10 disallowing Late Claims entirely and allowing all Late Claims at full value despite the Court-  
11 ordered deadlines. My approach is designed to avoid the delay and expense of continuing  
12 litigation over Late Claims.

13 **EXPENSES**

14 19. I have reviewed the Settlement Administrator’s invoices for work performed from  
15 September 1, 2021 through May 31, 2022 and, based on my first-hand knowledge of the work  
16 performed by the Settlement Administrator, I recommend that the Court approve the payment of  
17 this unpaid amount as fair, reasonable and necessary for the administration of claims in this  
18 complex case.

19 20. Since September 23, 2015 (when IPPs filed their motion for attorneys’ fees and  
20 reimbursement of expenses), IPP Counsel has expended an additional \$2,330,710.87 of the  
21 \$2,354,121.98 remaining in the Future Expense Fund for expenses incurred in the continued  
22 prosecution and settlement of this litigation.

23 21. As of May 31, 2022, the balance of the Future Expense Fund was \$40,375.83,  
24 including accrued interest on the fund. These funds are being retained in the Future Expense  
25 Fund for case expenses, including the ongoing litigation against the Irico Defendants.

26 22. In addition, IPP Counsel have expended an additional \$345,171.76 from the  
27 Litigation Fund (which is funded by assessments by IPP Counsel) for the continued prosecution  
28 and settlement of this litigation.



# **EXHIBIT A**



## FUTURE EXPENSE FUND/LITIGATION FUND EXPENDITURES

Sept. 16, 2015 through May 31, 2022

<b>EXPERTS/CONSULTANTS/INVESTIGATORS</b>	<b>FUTURE EXPENSE FUND</b>	<b>LITIGATION FUND</b>	<b>TOTAL</b>
applEcon	\$ 22,840.55	\$ 91,377.00	
Moskovitz Appellate Team	\$ 114,273.91		
Nathan & Associates	\$ 57,571.86	\$ 77,081.35	
Fishkin Slatter		\$ 142.20	
Shaun P. Martin		\$ 17,550.00	
Laura Hoehn		\$ 500.00	
<b>Total Experts/Consultants</b>	\$ 194,686.32	\$ 186,650.55	\$ 381,336.87
<b>SPECIAL MASTERS/MEDIATORS</b>			
JAMS (Martin Quinn and Marlo Cohen)	\$ 38,562.63	\$ 90,310.81	
Federal Arbitration, Inc. (Judge Walker, Ret.)	\$ 137,827.52		
<b>Total Special Masters/Mediators</b>	\$ 176,390.15	\$ 90,310.81	\$ 266,700.96
<b>NOTICE/CLAIMS ADMINISTRATION</b>			
The Notice Company	\$ 1,827,247.24	\$ 40,030.00	
Rust Consulting	\$ 18,878.17		
<b>Total Notice/Claims Administration</b>	\$ 1,846,125.41	\$ 40,030.00	\$ 1,886,155.41
<b>TRANSLATIONS</b>			
Park IP Translations	\$ 1,496.46		
Consortra Translations	\$ 10,782.42		
Language Fish	\$ 8,137.94		
<b>Total Translations</b>	\$ 20,416.82		\$ 20,416.82

## FUTURE EXPENSE FUND/LITIGATION FUND EXPENDITURES

Sept. 16, 2015 through May 31, 2022

<b>COURT REPORTERS/DEPOSITION TRANSCRIPTS &amp; VIDEOS</b>	<b>FUTURE EXPENSE FUND</b>	<b>LITIGATION FUND</b>	<b>TOTAL</b>
Veritext	\$ 43,787.81	\$ 5,256.92	
US Legal Support	\$ 407.12		
Kathleen Powell Sullivan	\$ 49.50	\$ 30.60	
<b>Total Court Reports/Deposition Transcripts &amp; Videos</b>	\$ 44,244.43	\$ 5,287.52	\$ 49,531.95
<b>DOCUMENT DEPOSITORY/MANAGEMENT</b>			
Meta-Ediscovery	\$ 33,970.86		
<b>Total Document Depository/Management</b>	\$ 33,970.86		\$ 33,970.86
<b>COMPUTER LEGAL RESEARCH</b>			
Westlaw - Thomson Reuters	\$ 2,050.36	\$ 8,442.00	
<b>Total Computer Legal Research</b>	\$ 2,050.36	\$ 8,442.00	\$ 10,492.36
<b>FILING COSTS - FILING FEES/POSTAGE/COURIERS</b>			
Court Filings	\$ 220.50	\$ 725.50	
Postage/Couriers	\$ 868.69	\$ 1,467.72	
<b>Total Filing Costs - Fees/Postage/Couriers</b>	\$ 1,089.19	\$ 2,193.22	\$ 3,282.41
<b>WITNESS/SERVICE FEES</b>			
Witness Fees		\$ 253.10	
Service of Process		\$ 4,517.38	
<b>Total Witness/Service Fees</b>		\$ 4,770.48	\$ 4,770.48

## FUTURE EXPENSE FUND/LITIGATION FUND EXPENDITURES

Sept. 16, 2015 through May 31, 2022

<b>ACCOUNTING/TAXES</b>			
CPA Fees	\$ 5,485.14	\$ 4,350.00	
Taxes	\$ 417.71		
<b>Total Accounting/Taxes</b>	\$ 5,902.85	\$ 4,350.00	\$ 10,252.85
<b>OUTSIDE COPIES/PRINTING</b>			
Outside Copies/Printing		\$1,885.03	
<b>Total Outside Copies/Printing</b>		\$1,885.03	\$1,885.03
<b>TRAVEL/MEALS</b>			
Travel/Meals	\$ 5,834.48	\$ 1,252.15	
<b>Total Travel/Meals</b>	\$ 5,834.48	\$ 1,252.15	\$ 7,086.63
<b>Total Expenditures from Future Expense Fund and Litigation Fund from Sept. 16, 2015 through May 31, 2022</b>			\$ 2,675,882.63