

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CARRIE SCHEUFELE, JEFFREY	:	Civil Action No. 1:17-cv-05753-JGK
SCHEUFELE and NICHOLAS ORAM,	:	
Individually and on Behalf of All Others	:	<u>CLASS ACTION</u>
Similarly Situated,	:	
	:	DECLARATION OF DAVID A.
Plaintiffs,	:	ROSENFELD IN SUPPORT OF MOTIONS
	:	FOR: (1) FINAL APPROVAL OF CLASS
vs.	:	ACTION SETTLEMENT AND APPROVAL
	:	OF PLAN OF ALLOCATION; AND (2) AN
TABLEAU SOFTWARE, INC., CHRISTIAN	:	AWARD OF ATTORNEYS' FEES AND
CHABOT, THOMAS WALKER, PATRICK	:	EXPENSES
HANRAHAN and CHRISTOPHER STOLTE,	:	
	:	
Defendants.	:	
	:	
	X	

I, DAVID A. ROSENFELD, declare as follows:

1. I am an attorney duly licensed to practice before all of the courts of the State of New York. I am a member of Robbins Geller Rudman & Dowd LLP (“Robbins Geller” or “Lead Counsel”), and counsel for Lead Plaintiff and Class Representative United Association National Pension Fund (“Plaintiff” or the “Fund”) and the Class.¹ I have been actively involved in the prosecution and resolution of this action (hereinafter, the “Litigation”), am familiar with its proceedings and have personal knowledge of the matters set forth herein based upon my active supervision and participation in all material aspects of the Litigation.²

2. I submit this declaration pursuant to Rule 23 of the Federal Rules of Civil Procedure in support of: (a) Plaintiff’s motion for final approval of the all-cash settlement of \$95,000,000 (the “Settlement Amount”); (b) Plaintiff’s motion for approval of the proposed Plan of Allocation; and (c) Lead Counsel’s application for an award of attorneys’ fees and expenses.

I. PRELIMINARY STATEMENT

3. This case has been vigorously litigated from its commencement in July 2017 through settlement. At every stage of the Litigation, Defendants aggressively litigated the matter and asserted that they had winning defenses.³ The Settlement was achieved through mediation only after Lead Counsel, *inter alia*: (a) undertook an extensive investigation of the facts alleged in the Second Amended Complaint for Violations of the Federal Securities Laws filed on February 2, 2018 (ECF No. 45) (the “Second Amended Complaint”); (b) successfully opposed Defendants’ motion to

¹ The Fund was formerly known as “The Plumbers and Pipefitters National Pension Fund.” *See* ECF No. 181.

² Capitalized terms not otherwise defined in this declaration have the same meaning set forth in the Stipulation of Settlement dated April 16, 2021 (ECF No. 173) (“Stipulation” or “Settlement”).

³ The “Defendants” are Tableau Software, Inc. (“Tableau” or the “Company”) and Christian Chabot, Thomas Walker, Patrick Hanrahan and Christopher Stolte (the “Individual Defendants”).

dismiss; (c) successfully moved for class certification over Defendants' opposition; (d) conducted extensive fact and expert discovery, including the review and analysis of hundreds of thousands of documents produced by Defendants and dozens of third parties and the exchange of expert reports; (e) deposed more than 25 fact and expert witnesses; (f) responded to discovery propounded by Defendants, consisting of document requests and interrogatories; (g) prepared for and defended the depositions of Plaintiff and its experts; and (h) prepared *Daubert* motions and began drafting Plaintiff's opposition to Defendants' motion for summary judgment, which was forthcoming at the time of settlement.

4. This Settlement is the product of years of hard-fought litigation and takes into consideration the significant risks specific to the case. Furthermore, the Settlement is the result of arm's-length negotiations between the parties facilitated by former United States District Court Judge Layn R. Phillips and former Ambassador Jeff Bleich, Esq., nationally recognized mediators with extensive experience in their fields. These negotiations were conducted by experienced counsel with a full understanding of both the strengths and weaknesses of their respective cases.

5. Plaintiff believes that this Settlement is an excellent result. The substantial discovery, motion practice and trial preparation outlined herein informed Plaintiff that, while its case had strengths, it also had weaknesses, which were conscientiously evaluated in determining what course of action was in the best interest of the Class. As set forth below, despite the fact that many of Plaintiff's allegations were supported by documentary evidence as well as deposition testimony, there remained numerous uncertainties if the case proceeded to summary judgment and trial. Plaintiff took into account in evaluating the proposed Settlement that even if it were to win at trial, it faced the risk of a potentially multi-year appeal process, during which time the Class would be denied any recovery. While the time for objecting to the Settlement or counsel's fees has not yet

expired, to date not a single objection has been filed. Any objections will be addressed in Lead Counsel's reply brief.

II. SUMMARY OF PLAINTIFF'S ALLEGATIONS

6. The gravamen of the Second Amended Complaint is that, in violation of §§10(b) and 20(a) of the Securities Exchange Act of 1934 ("Exchange Act") and Rule 10b-5 promulgated thereunder, Defendants made materially false and misleading statements regarding the Company's business and operations and omitted that product launches and upgrades by major software competitors were negatively impacting Tableau's competitive position and growth. Plaintiff alleged that as a result of Defendants' false statements and/or omissions, Tableau Class A common stock traded at artificially inflated prices, and that when the true facts regarding the effect of competition on Tableau's growth and outlook were revealed, the price of the Company's stock dropped, causing damage to Members of the Class.

7. More specifically, Plaintiff alleged that, prior to the Class Period, Tableau had established itself as the leader in the burgeoning self-service business intelligence and analytics market by developing easy-to-use software products that enabled laypeople to easily query, analyze and visualize their data. As a result, Tableau experienced rapid growth, enjoyed little competition and benefited from superior pricing power.

8. But by no later than the start of the Class Period, Defendants knew that large technology companies with significant financial, technical and marketing capabilities – such as Microsoft – and new, innovative start-ups, had introduced, or were set to introduce, aggressively-priced software products that directly competed with Tableau's products and were causing Tableau's customers to delay (and later cancel) pending license orders. Tableau sales personnel were unable to meet established quotas when license deals slowed due to lower-priced bids by the Company's

competitors, and, as more Tableau customers adopted a wait-and-see approach, sales cycles lengthened and the growth rate of Tableau's licensing revenue during the Class Period decelerated.

9. As a result, Plaintiff alleged that Defendants knew, or recklessly disregarded, that the Company's historical rate of growth was unsustainable and would soon decline as competitors seized market share and lowered prices, but nevertheless misled investors about the true scope and extent of the competitive threat facing Tableau, claiming competition was having little, if any, impact on the Company's business and outlook. Plaintiff further alleged that, while Defendants were telling investors that the competitive landscape had not changed, Tableau insiders sold hundreds of millions of dollars of their personal holdings in Tableau shares during the Class Period, providing a motive and opportunity for the alleged fraud.

10. On February 4, 2016, after the market closed, Defendants disclosed less-than-expected license revenue during the fourth quarter of 2015 and acknowledged that the competitive dynamic had changed for the Company. During the quarter, license revenue growth declined by almost 50% from the third quarter of 2015, and Tableau recorded a \$34 million income tax charge due to the Company's acknowledgment that its future income would be insufficient to utilize its deferred tax assets. Plaintiff alleged that these and related disclosures revealed the truth of Defendants' fraudulent conduct to the public, and, as the truth became apparent to the market, the price of Tableau common stock fell precipitously, declining nearly 50%, as the prior artificial inflation came out. A more detailed description of the allegations is set forth in the Second Amended Complaint. ECF No. 45.

11. In opting to settle the Litigation, Plaintiff and its counsel considered the risks associated with proving the claims alleged in the Second Amended Complaint. For example, it was Defendants' position that their alleged misstatements concerning the state of Tableau's competitive

landscape were not materially misleading and not made with scienter. Although Plaintiff disputes Defendants' assertions, based on the document discovery and depositions taken, it was clear that Defendants would offer both evidence and legal arguments to bolster their defenses for summary judgment and trial.

12. The parties also disputed the related issues of loss causation and damages. Defendants argued that factors unrelated to the alleged fraud caused the price of Tableau common stock to decline. While Plaintiff disputed these contentions, there was a substantial risk of recovering limited or no damages if the jury agreed in whole or in part with Defendants' arguments.

13. Accordingly, in deciding to settle the Litigation, Plaintiff and its counsel weighed the witness testimony and documents they believed supported the allegations against the testimony of other witnesses and documents that could be used to undercut those allegations. The parties disagreed on the importance of much of the witness testimony and evidence, and there is no way to predict which interpretations and inferences a jury would accept.

14. On balance, considering all the circumstances and risks both sides faced were the case to continue to trial, both Plaintiff (for itself and the Class) and Defendants concluded that settlement on the terms agreed upon was in their respective best interests.

15. Lead Counsel has prosecuted the Litigation on a wholly contingent basis and has advanced or incurred substantial litigation expenses. In doing so, Lead Counsel shouldered the substantial risk of an unfavorable result. Lead Counsel has not yet received any compensation for its effort.

16. The fee application for 28% of the Settlement Amount – which was negotiated by Plaintiff after the Settlement was reached – is fair and within the range of fee percentages frequently awarded in this type of action. Indeed, the fee request is reasonable and within the range of fee

awards in this District. *See* Memorandum of Law in Support of Class Counsel’s Motion for an Award of Attorneys’ Fees and Expenses (“Fee Memorandum”), III.C., submitted herewith. Under the particular facts of this case, this percentage is justified in light of the substantial benefits conferred on the Class, the risks undertaken, the quality of representation and the nature and extent of legal services performed.

17. Lead Counsel also seeks payment for expenses totaling \$1,057,881.05 that were reasonably and necessarily committed to the prosecution of the Litigation. These expenses include: (a) the fees and expenses of consultants and experts whose services Lead Counsel required in the successful prosecution and resolution of this case; (b) the costs associated with conducting fact and expert witness depositions, which included court reporter and videographer fees as well as travel expenses; (c) photocopying, imaging, shipping and managing a database of more than 2 million pages of documents; (d) online factual and legal research; and (e) mediation fees. These expenses were reasonable and necessary to obtain the successful result.

18. The following is a summary of the principal events that occurred during the course of the Litigation and the legal services provided by Plaintiff’s counsel.

III. THE LITIGATION

A. The Commencement of the Action

19. On July 28, 2017, the initial complaint in this putative class action was filed on behalf of purchasers of Tableau Class A common stock alleging violations of §§10(b) and 20(a) of the Exchange Act and United States Securities and Exchange Commission (“SEC”) Rule 10b-5.⁴ Plaintiff filed a motion to be appointed lead plaintiff and have its selection of counsel approved as

⁴ On August 2, 2017, a similar complaint was filed in the United States District Court for the Western District of Washington. That complaint was voluntarily dismissed on October 18, 2017.

lead counsel on September 26, 2017. ECF No. 15. On October 18, 2017, the Court: (1) appointed the Fund as Lead Plaintiff; and (2) approved Robbins Geller as Lead Counsel. ECF No. 27.

B. Lead Counsel’s Investigation and Amended Complaints

20. Lead Counsel directed an extensive investigation of the alleged securities law violations. This investigation included, but was not limited to, a review and analysis of: (i) Tableau’s public filings with the SEC; (ii) transcripts of Tableau’s public conference calls; (iii) Tableau’s press releases; (iv) reports of securities analysts following Tableau; (v) independent media reports regarding Tableau; (vi) publicly available information concerning the business intelligence and analytics market; (vii) economic analyses of Tableau’s stock price movement and pricing and volume data; (viii) interviews with former Tableau employees; and (ix) other publicly available material and data.

21. With respect to interviews with former Tableau employees, Plaintiff’s counsel’s in-house investigators assisted in gathering detailed and specific information critical to pleading facts sufficient to meet the heightened pleading standards mandated by the PSLRA. These investigators have significant experience in investigations involving federal and state securities class action cases, and helped identify, locate and interview former Tableau employees and other knowledgeable percipient witnesses likely to have information pertinent to the claims alleged. Under the direction and supervision of counsel, the investigators interviewed several potential witnesses and discussed their findings and research with Plaintiff’s Counsel.

22. Based on this investigation, Lead Counsel prepared a detailed Amended Complaint for Violations of the Federal Securities Laws (“Amended Complaint”) on behalf of Tableau investors who purchased or otherwise acquired the Class A common stock of Tableau between February 5, 2015 and February 4, 2016, inclusive, and were damaged thereby. The Amended

Complaint was filed on December 8, 2017, and alleged claims pursuant to §§10(b) and 20(a) of the Exchange Act and Rule 10b-5 promulgated thereunder. ECF No. 33.

23. Defendants moved to dismiss the Amended Complaint on January 12, 2018. Lead Counsel then filed the Second Amended Complaint on February 2, 2018, which added allegations and two new defendants, Tableau co-founders Patrick Hanrahan and Christopher Stolte. ECF No. 45.

C. Defendants' Motion to Dismiss the Second Amended Complaint

24. On March 13, 2018, Defendants moved to dismiss the Second Amended Complaint. ECF Nos. 53-54. In accordance with the PSLRA, formal discovery in the case was stayed until the Court ruled on the motion to dismiss. In support of their motion to dismiss, Defendants primarily argued that the Second Amended Complaint did not give rise to a strong inference of either motive and opportunity, or knowledge or recklessness sufficient to plead an intent to commit fraud and, thus, did not adequately plead the element of scienter.

25. Specifically, Defendants argued, first, that the allegations were too vague to establish that the Defendants had knowledge of any information concerning slowed growth attributable to increased competition that contradicted the alleged false and misleading statements at the time they were made. Second, Defendants argued that Plaintiff failed to plead particularized allegations that the Defendants' personal sales of Tableau stock during the Class Period were unusual, and therefore were insufficient to support a strong inference of scienter. Defendants also argued that many of the alleged false and misleading statements in the Second Amended Complaint were non-actionable "puffery," *i.e.*, statements of opinion and forward looking statements protected by the PSLRA's safe harbor provision, and that Plaintiff had failed to adequately plead loss causation because there was no link between the alleged "corrective disclosure" on February 4, 2016, and the alleged fraud.

26. On April 13, 2018, Plaintiff filed its opposition to Defendants' motion to dismiss. ECF No. 58. In the opposition, Plaintiff rebutted Defendants' arguments that the Second Amended Complaint failed to adequately plead a strong inference of scienter, false or misleading statements or loss causation, and argued that the Second Amended Complaint adequately alleged: (i) that Defendants failed to disclose material information and made materially false and misleading statements regarding the negative effect increased competition was having on Tableau's business; (ii) a strong, cogent and compelling inference of scienter based on Defendants' knowledge of the facts that rendered their statements false and misleading, including through access to internal Tableau sales data and competitive analyses monitored by Defendants; (iii) a strong, cogent and compelling inference of scienter based on Defendants' motive and opportunity to commit fraud due to the large scale and suspicious timing of Defendants' sales of Tableau common stock during the Class Period; and (iv) that Defendants made a corrective disclosure directly related to the alleged fraud and that Tableau's stock price dropped immediately following that disclosure. Lead Counsel spent significant time and resources performing the legal and factual research necessary to address Defendants' arguments and draft an effective opposition that demonstrated the Second Amended Complaint satisfied the strict pleading burden imposed by the PSLRA.

27. On April 27, 2018, Defendants filed a reply brief in support of their motion to dismiss the Second Amended Complaint. ECF No. 59. Oral argument on Defendants' motion to dismiss was held on February 8, 2019. Following argument on the motion, the Court denied Defendants' motion to dismiss, issuing a lengthy oral opinion in Plaintiff's favor on the record. The Court held that Plaintiff's "core contention is sufficient to plead material misrepresentations, namely, that the defendant made statements throughout the class period that suggested there was no real threat from competition and that the company was not suffering any adverse effects from any competition,

when, in reality, increased competition was causing the company to lose expected licenses.” 2/8/19 MTD Hearing Tr. at 54:6-12.

D. The Initial Case Management Order and Defendants’ Answer

28. Following the February 8, 2019 hearing, the parties began to meet and confer regarding case management, pre-trial scheduling, and fact discovery. After engaging in negotiations, the parties filed a proposed pre-trial schedule and case management statement, which also set out the parties’ respective positions on any issues where agreement could not be reached. ECF No. 72. The Court entered the scheduling order on May 29, 2019, and resolved the outstanding disputes regarding case management issues. ECF No. 106.

29. Defendants filed their Answer to the Second Amended Complaint on March 1, 2019, denying all of Plaintiff’s substantive allegations and asserting 16 separate affirmative defenses. ECF No. 78. After Lead Counsel objected to many of Defendants’ asserted affirmative defenses as improper and insufficiently plead, Defendants filed an Amended Answer on April 18, 2019, asserting just four affirmative defenses. ECF No. 100.

E. Plaintiff’s Motion for Class Certification

30. Plaintiff moved for class certification on August 1, 2019. ECF Nos. 111-112. Plaintiff requested that the Court appoint it as class representative based on its vigorous prosecution of the securities fraud claims in this case, and that Robbins Geller be appointed as class counsel. The motion for class certification addressed all of the requirements of Fed. R. Civ. P. 23, as well as *Basic Inc. v. Levinson*, 485 U.S. 224 (1988) (“efficient market”) and *Halliburton Co. v. Erica P. John Fund, Inc.*, 573 U.S. 258, 268 (2014) (upholding the “fraud-on-the-market” presumption of reliance).

31. In support of its motion, Plaintiff retained Bjorn Steinholt, CFA, to conduct an event study of publicly available information about Tableau and to opine on the efficiency of the market for Tableau's stock. *See* ECF No. 113-1. Based on his findings, Mr. Steinholt concluded that Tableau's Class A common stock traded in an efficient market during the Class Period. Lead Counsel spent substantial time consulting with Mr. Steinholt on his report and the class certification briefing, as well as preparing Mr. Steinholt for his September 24, 2019 deposition, which Defendants took in connection with Plaintiff's motion for class certification.

32. On September 30, 2019, Defendants opposed Plaintiff's motion, contending that Plaintiff had not satisfied its burden under Rule 23 of showing questions common to the class predominated because the Fund had purportedly failed to demonstrate that damages could be calculated on a class-wide basis consistent with Plaintiff's theory of liability according to *Comcast Corp. v. Behrend*, 569 U.S. 27 (2013). ECF No. 123. According to Defendants, Plaintiff's damages model did not properly account for a purported change in the "relevant truth" of what Plaintiff alleged was concealed from the market during the Class Period and that the model did not disaggregate potential non-fraud-related reasons for the decline in the stock price on the corrective disclosure date.

33. On November 20, 2019, Plaintiff filed its reply memorandum in support of its motion for class certification and argued that the Fund had met its burden under Rule 23 and specifically satisfied the predominance requirement of Rule 23(b)(3) because Plaintiff's proposed damages methodology, relying on Mr. Steinholt's event study framework, was sufficiently detailed, consistent with its theory of liability (which did not rely on a theory that the relevant truth of what Defendants concealed from the market changed over the course of the Class Period) and could account for confounding information and differences between Plaintiff's allegations and the facts uncovered

during discovery at summary judgment or trial. ECF No. 130. Plaintiff further asserted that the arguments in Defendants' opposition were: (i) premature loss causation arguments not appropriately resolved as class certification; and (ii) equally applicable to all class members and therefore could not preclude common questions from predominating.

34. Oral argument on Plaintiff's motion for class certification was heard on January 16, 2020. At the conclusion of the hearing, the Court ruled orally and on the record in Plaintiff's favor, certifying the proposed Class, appointing the Fund as Class Representative and Robbins Geller as Class Counsel.

35. Pursuant to Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure, the Class was defined as:

All persons and entities that purchased or otherwise acquired shares of Tableau Software, Inc.'s ("Tableau") Class A common stock between February 5, 2015 and February 4, 2016, inclusive (the "Class Period"), and were damaged thereby. Excluded from the Class are Defendants, present or former executive officers of Tableau, and their immediate family members (as defined in 17 C.F.R. §229.404, Instructions 1(a)(iii) and 1(b)(ii)).

Lead Counsel then filed a motion seeking the Court's approval of the proposed form and manner of providing notice that the Class had been certified. ECF No. 142. The motion was filed unopposed after Lead Counsel successfully met and conferred with Defendants' counsel to reach agreement on the substance of the notice. The Court thereafter granted Plaintiff's motion on May 12, 2020. ECF No. 144.

F. Fact Discovery

36. Lead Counsel rigorously pursued fact discovery immediately following the February 8, 2019 Order denying Defendants' motion to dismiss. Fact discovery continued until the parties reached agreement to settle the Litigation. During that time, Lead Counsel obtained, reviewed and

analyzed more than 2 million pages of documents from Defendants and over a dozen non-parties, and deposed numerous fact witnesses in multiple states.

1. Protective Order

37. To protect against the disclosure of potentially sensitive personal or proprietary records, Lead Counsel drafted a comprehensive protective order to govern the treatment of confidential evidence produced in this case and negotiated with Defendants' counsel over the terms of the proposed order. The parties also negotiated the extent to which, and the conditions under which, confidential information could be shown to deponents, non-parties and others not previously privy to such information. The parties were able to reach agreement on all of their respective areas of concern and filed a Stipulation and proposed Protective Order. On March 21, 2019, the Court entered the Protective Order. ECF No. 92. The parties thereafter also successfully negotiated two additional amendments to the Protective Order concerning the propriety and use of customer-related information and other privileged information. The Court entered these stipulated modifications to the Protective Order on September 27, 2019 and November 18, 2020. ECF Nos. 122, 159.

2. Written Discovery Directed to Defendants

a. Document Requests

38. Following the parties' Fed. R. Civ. P. 26 conference, Plaintiff served its First Set of Requests for the Production of Documents on Defendants on March 6, 2019, consisting of 36 discrete requests germane to the claims and defenses asserted by the parties. Plaintiff then propounded its Second Set of Requests for the Production of Documents on June 14, 2019, consisting of three additional requests related to documents and communications between Defendants and Salesforce.com, which was in the process of acquiring Tableau at that time, and concerning this and related derivative litigation involving Tableau. Plaintiff, finally, propounded its

Third Set of Requests for the Production of Documents on October 9, 2020, consisting of seven additional requests concerning Defendants' failure to produce documents responsive to Plaintiff's requests for production.

39. In their responses, Defendants objected to nearly every request for production on the grounds of relevance, over breadth, ambiguity and/or seeking privileged information. Lead Counsel engaged in numerous meet and confer discussions with Defendants' counsel to address their objections to Plaintiff's requests for production, which continued over several months. As a result of these efforts, the parties were able to resolve the majority of their disputes without Court intervention.

b. Negotiations Concerning the Production of Defendants' Electronically Stored Information ("ESI")

40. Multiple additional meet and confer discussions were also necessary to address the identification and production of relevant ESI. Virtually all of the relevant materials were maintained electronically, making these discussions particularly important to the prosecution of this case. Lead Counsel, based on consultation with in-house ESI experts, posed detailed questions to Defendants concerning Tableau's information technology systems, focused on the general electronic systems maintained by and for Tableau, and the location of potentially responsive ESI. Lead Counsel diligently pursued this information for months and engaged in numerous conferences with Defendants regarding the specific information sought.

41. The focus of these discussions included: custodial and non-custodial sources of ESI; search terms and date ranges to be used in identifying relevant ESI; ESI retention and deletion policies and practices; file server and document management systems and policies; the use of backup tapes or systems; retention of instant messages and text messages; the initiation of a litigation hold; and the volume of data by custodian, date and file type.

42. Lead Counsel initiated and participated in written and telephonic exchanges with Defendants' counsel regarding the use of de-duplication, file type filtering, date filtering and review by thread-view as potential methods to efficiently search, review and produce the documents from agreed upon custodians. In response to Defendants' concerns regarding the burden of review, Lead Counsel provided suggestions as to how to further reduce Defendants' burden, including the use of search terms.

43. The parties worked cooperatively to reach agreement on search terms, which required numerous meet and confer discussions and negotiations spanning over a series of months. This process involved running and testing various alternatives to Plaintiff's and Defendants' proposed searches in an effort to reach a mutually agreeable set of search terms. At each step, Lead Counsel utilized the services of in-house e-discovery experts and researched the capabilities of Defendants' ESI systems.

c. Interrogatories

44. Plaintiff served multiple sets of interrogatories on Defendants during the Litigation to aid in the identification of relevant documents and witnesses and to garner evidence in support of its claims. Plaintiff's First Set of Interrogatories was served on March 6, 2019, consisting of one request concerning the identities of financial advisors or stock brokers involved in sales of Tableau common stock by Company insiders, including the Individual Defendants. Plaintiff propounded its Second Set of Interrogatories on October 17, 2019, consisting of three additional requests, concerning the deals that Tableau lost to competitors or that were potentially delayed due to competition. Plaintiff propounded its Third Set of Interrogatories on October 21, 2019, consisting of four additional requests concerning Defendants' affirmative defenses. The interrogatories required further meet and confer discussions concerning Defendants' responses and objections.

d. Requests for Admission

45. Plaintiff served requests for admission on Defendants to narrow the scope of evidentiary issues in dispute in connection with class certification. Plaintiff's First Set of Requests for Admission was served on June 24, 2019, consisting of 44 discrete requests concerning the market efficiency of Tableau's stock. The parties met and conferred following Plaintiff's receipt of Defendants' responses and objections to these requests.

3. Discovery Disputes with Defendants

46. Lead Counsel devoted substantial time to analyzing documents produced in discovery, including the review of lengthy privilege logs, containing thousands of entries, to identify documents that may have been improperly withheld from Plaintiff. Lead Counsel devoted further substantial time to preparing for meet and confer conferences with counsel for Defendants, conducting meet and confer conferences regarding discovery issues and preparing correspondence memorializing those conversations in order to narrow the scope of discovery disputes while still aggressively pursuing the discovery rights of the Class. While the parties were able to resolve the vast majority of their differences, the following disputes were not able to be resolved without the Court's guidance.

47. On May 15, 2019, Plaintiff filed a letter motion requesting a pre-motion conference for a protective order limiting Defendants' communications with former Tableau employees who may have provided information cited in the Second Amended Complaint. ECF No. 102. Lead Counsel had received reports from former Tableau employees that Tableau or its counsel made statements that could have reasonably caused the former employees to believe, incorrectly, that their identities had been disclosed by Lead Counsel and that Tableau had made inquiries that could

potentially infringe on Lead Counsel's work product. The issue was resolved after the Court provided guidance during a May 29, 2019 Local Rule 37.2 conference.

48. On November 20, 2019, Plaintiff filed another letter motion shortly before the end of the fact discovery period requesting that the Court extend fact discovery and allow for a second deposition of defendant Hanrahan because he had not previously identified that produced documents likely responsive to Plaintiff's requests for production were maintained on his Stanford University work-related email account and computer. ECF No. 131. Following a telephonic hearing on the issue on November 22, 2019, the issue was resolved in Plaintiff's favor.

4. Third Party Discovery

a. Document Subpoenas

49. A significant amount of relevant information in this Litigation was in the possession, custody, or control of third parties. As with Defendants' production, Lead Counsel expended significant time and resources negotiating the scope of the document requests with third parties, addressing any objections to the requests by the third parties, arranging for the production of responsive documents and reviewing, organizing and analyzing the documents.

50. Following the Court's Order denying Defendants' motion to dismiss, Lead Counsel served document subpoenas on 37 third parties. The third parties subpoenaed by Plaintiff in the Litigation are set forth below:

Person/Entity	Date	Relationship to Litigation
Amazon.com, Inc.	4/18/2019	Tableau competitor
International Business Machines Corporation	4/18/2019	Tableau competitor
Microsoft Corporation	4/18/2019	Tableau competitor
MicroStrategy, Inc.	4/18/2019	Tableau competitor
Qlik Technologies Inc.	4/18/2019	Tableau competitor
Salesforce.com, Inc.	4/18/2019	Tableau competitor
SAP America, Inc.	4/18/2019	Tableau competitor
TIBCO Software Inc.	4/18/2019	Tableau competitor

Person/Entity	Date	Relationship to Litigation
Cowen and Company	4/18/2019	Securities analyst for Tableau
J.P. Morgan Securities LLC	4/18/2019	Securities analyst for Tableau
Maxim Group	4/18/2019	Securities analyst for Tableau
Morgan Stanley & Co. LLC	4/18/2019	Securities analyst for Tableau
SunTrust – Robinson Humphrey	4/18/2019	Securities analyst for Tableau
Susquehanna Financial Group, LLP	4/18/2019	Securities analyst for Tableau
Constellation Research, Inc.	4/18/2019	Provided market research on Tableau
Gartner, Inc.	4/18/2019	Provided market research on Tableau
UBS Financial Services, Inc.	4/18/2019	Financial advisor
Wells Fargo Advisors, LLC	4/18/2019	Financial advisor
Forest Baskett	4/18/2019	Tableau Board member
Elliott Jurgensen, Jr.	4/18/2019	Tableau Board member
Brooke Seawell	4/18/2019	Tableau Board member
William Bosworth	4/18/2019	Tableau Board member
John McAdam	4/18/2019	Tableau Board member
Market Street Partners	7/19/2019	Tableau's investor relations consultant
PricewaterhouseCoopers LLP.	8/8/2019	Tableau's auditor
Summit Insights Group, LLC	8/30/2019	Securities analyst for Tableau
W.R. Hambrecht + Co., LLC	8/30/2019	Securities analyst for Tableau
Evan Randall	9/17/2019	Tableau Sales Operations Vice President
Barry Sowerwine	9/30/2019	Tableau Enterprise Sales Senior Vice President
Ryan Janoff	9/30/2019	Tableau Sales Manager
Kelly Wright	9/30/2019	Tableau Sales Executive Vice President
Scott Jones	9/30/2019	Tableau Americas Sales Senior Vice President
Joni Davis	9/30/2019	Tableau Investor Relations
Stanford University	11/20/2019	Defendant Hanrahan's employer
TransPerfect Legal Solutions	10/6/2020	Tableau's e-discovery vendor
Mimecast Ltd.	10/6/2020	Tableau's email vendor
Cooley LLP ("Cooley")	10/6/2020	Tableau's litigation counsel

51. Defendants served subpoenas for documents on Plaintiff's counsel, and on one of Plaintiff's experts, Bjorn Steinholt. Plaintiff's counsel responded and objected to the subpoenas.

b. Plaintiff's Discovery of Gaps in Defendants' Document Production

52. After Defendants informed Lead Counsel near the end of the fact discovery period, in November 2019, that documents likely responsive to Plaintiff's document requests resided in

defendant Hanrahan's Stanford University email account and computer, but had not been produced, Plaintiff subpoenaed Stanford University. ECF No. 131. Due to COVID, Stanford did not produce documents pursuant to the subpoena until July 31, 2020, after expert discovery had concluded, at which time Lead Counsel undertook a review of the more than ten thousand pages of documents produced by Stanford. In Stanford's production, Lead Counsel identified numerous emails that should have been, but were not, produced by Defendants. The parties met and conferred on the issue and, after further investigation by Defendants' counsel, Lead Counsel learned in September 2020 that tens of thousands of documents had not been reviewed or produced by Defendants as the result of a document collection error with Tableau's email. ECF No. 151. As a result, Defendants requested that the Court stay the deadline for filing summary judgment and *Daubert* motions until their document production could be completed. Plaintiff opposed Defendants' request and the Court held a hearing to discuss the issue on October 1, 2020.

53. At the hearing, the Court ordered the parties to provide a joint status report on October 28, 2020. As detailed in that joint-report, Tableau identified a host of problems that had occurred during its document collection and production efforts, which resulted in potentially relevant documents failing to be collected or produced. *See* ECF No. 156. The Court then held a conference on October 30, 2020 to further discuss the issue and ordered that additional updates be provided. ECF No. 157.

54. Ultimately, Defendants identified hundreds of thousands of additional documents potentially responsive to Plaintiff's document requests that had not been reviewed or produced. ECF No. 160. Lead Counsel continued to review these documents as Defendants produced them on a rolling basis. At the same time, Plaintiff issued additional document requests to Tableau concerning the Company's document collection efforts and also subpoenaed Cooley, TransPerfect, and

Mimecast, the other third-parties involved in Tableau's document collection in the Litigation, to investigate the matter further.

55. At the time the Settlement was reached, Lead Counsel was contemplating deposing Cooley, TransPerfect, and Mimecast, and re-opening depositions of the Individual Defendants and other fact witnesses based on the new documents Plaintiff received as a result of Lead Counsel's discovery of these deficiencies in Defendants' document production. Plaintiff, indeed, had identified additional evidence in support of its claims in these belatedly produced materials and intended to use certain of the documents to oppose Defendants' anticipated motion for summary judgment.

5. Plaintiff's Review and Analysis of Discovery Materials

56. As a result of Plaintiff's document requests to Defendants, subpoenas to third parties, and Lead Counsel's extensive meet and confer discussions with both Defendants and the third parties, Plaintiff obtained over 2 million pages of documents. Careful examination and analysis of these documents, in preparation for deposition and trial, required a considerable effort by Lead Counsel.

57. First, Lead Counsel uploaded these documents on a database to manage the volume of documents produced. Then, Lead Counsel utilized its e-discovery system for, *inter alia*, identifying and tracking the documents most likely to be used in depositions and at trial (whether by Plaintiff or Defendants), identifying relevant witnesses for deposition or additional discovery requests, and establishing procedures to identify additional documents and information that had not been produced.

58. Attorneys and staff reviewed documents and used search terms, date filters, custodian fields and other metadata to analyze thousands of documents related to key issues in the case. Throughout the document review process, counsel for Plaintiff analyzed the information contained in

the documents, determined the documents' relevance to the alleged fraud and located the evidence needed to present the case at trial and rebut Defendants' defenses.

6. Depositions

59. In preparation for trial, Lead Counsel identified numerous individuals and entities whose testimony Plaintiff wanted for trial and obtained an extension of the Fed. R. Civ. P. 30(a)(2)(A)(i) ten deposition limit from the Court to take up to 20 depositions. *See* ECF No. 106. Lead Counsel spent extensive time preparing questions and identifying and analyzing documents to use in its examinations of Tableau executives and consultants. These depositions took place throughout the country and are set forth as follows:

Deponent	Position	Date	Location
Tableau Rule 30(b)(6) corporate designee Martha Jaworski	Sales Operations Manager	7/31/2019	Seattle, Washington
Tableau Rule 30(b)(6) corporate designee Sarah Lash	Sales Operations Vice President	7/31/2019	Seattle, Washington
Tableau Rule 30(b)(6) corporate designee Mathew Nelson	Finance Director	9/1/2019	Seattle, Washington
Evan Randall	Sales Operations Vice President	9/25/2019	Washington, D.C.
Damon Fletcher	Finance Vice President	10/9/2019	Seattle, Washington
Barry Sowerwine	Enterprise Sales Senior Vice President	10/11/2019	Frisco, Texas
Torgeir Braaten	Competitive Analysis Project Manager	10/11/2019	Seattle, Washington
Ryan Janoff	Sales Manager	10/17/2019	Seattle, Washington
Daniel Jewett	Product Management Vice President	10/18/2019	Seattle, Washington
Kelly Wright	Sales Executive Vice President	10/22/2019	Seattle, Washington
Scott Jones	Americas Sales Senior Vice President	10/24/2019	Seattle, Washington
Lynn Smith	Strategic Sales Vice President	10/28/2019	Seattle, Washington
Jay Peir	Corporate Development	11/1/2019	Palo Alto, California

	Senior Vice President		
Francois Ajenstat	Product Management Vice President	11/4/2019	Seattle, Washington
Thomas Gleason	Financial Planning and Analysis Director	11/6/2019	Seattle, Washington
Joni Davis	Investor Relations	11/8/2019	Seattle, Washington
Carolyn Bass	Investor Relations consultant	11/15/2019	Tucson, Arizona
Thomas Walker	Defendant CFO	11/18/2019	Seattle, Washington
Christian Chabot	Defendant CEO	11/19/2019	Seattle, Washington
Patrick Hanrahan	Defendant Board member	12/3/2019	Palo Alto, California
Christopher Stolte	Defendant Chief Development Officer	12/10/2019	Seattle, Washington

60. Defendants' counsel also noticed numerous additional depositions of Tableau sales personnel. Lead Counsel, or at times counsel at Labaton Sucharow LLP ("Labaton"),⁵ participated in questioning these deponents and spent significant time preparing for their depositions. These depositions took place throughout the country and are set forth as follows:

Deponent	Position	Date	Location
Erik Werner	Sales Manager	11/3/2019	Seattle, Washington
Chris Threadgill	Sales Account Executive	11/9/2019	Chicago, Illinois
Colin Fulton	Sales Manager	11/12/2019	Charlotte, North Carolina
Jason Kim	Sales Manager	11/15/2019	Seattle, Washington
Noel Warner	Commercial Sales	11/18/2019	Atlanta, Georgia
Andrew Maliwat	Sales Development Manager	11/20/2019	Broomfield, Colorado

61. The depositions taken by Plaintiff's attorneys were critical in developing evidence regarding Defendants' alleged fraud.

7. Plaintiff's Response to Defendants' Discovery

62. Over the course of the fact discovery period, Plaintiff responded to multiple discovery requests from Defendants, including 15 requests for production of documents and 25 interrogatories,

⁵ Labaton, who together with Lead Counsel is referred to herein as Plaintiff's counsel, worked at the direction of Lead Counsel in performing non-duplicative document review and interviewing and coordinating witnesses that supported Plaintiff's claims in the amended complaints.

20 of which were contention interrogatories. Plaintiff responded and objected to Defendants' discovery, and the parties subsequently met and conferred, resolving all potential disputes. Plaintiff searched for and collected documents potentially responsive to Defendants' document requests and produced responsive, non-privileged documents to Tableau.

63. Defendants also sought a Rule 30(b)(6) deposition of Plaintiff. On September 18, 2019, Lead Counsel defended the Rule 30(b)(6) deposition of the Fund's representative, Toni Inscoc, in Washington, D.C. Prior to the deposition, Lead Counsel met with Ms. Inscoc and Fund Counsel from the law firm of O'Donoghue & O'Donoghue LLP, ("Fund Counsel") to assist in her preparation for the deposition.

G. Expert Discovery

1. Plaintiff's Expert Witnesses and Consultants

64. To assist Lead Counsel in investigating and proving Plaintiff's claims and navigating the complex issues involved in this matter, the services of certain experts and consultants were required. The work performed by these experts and consultants provided valuable insight to Lead Counsel in evaluating the case as well as prospects for settlement during the course of the Litigation.

a. Bjorn Steinholt, CFA

65. Bjorn Steinholt is a designated Chartered Financial Analyst (CFA), holds a Master of International Business degree from the University of San Diego and is a managing director at Caliber Advisors. Caliber is a valuation and economic consulting firm with expertise in identifying and calculating economic damages in conjunction with market statements and disclosures.

66. Mr. Steinholt has provided analyses and testimony in numerous class action securities lawsuits and complex business litigation. Plaintiff utilized the services of Mr. Steinholt to examine and explain whether Tableau stock traded in an efficient market, and he prepared an expert report on

behalf of Plaintiff at class certification. In conducting his analysis, Mr. Steinholt conducted a thorough event study examining all industry, market and Company-specific news during the Class Period. Mr. Steinholt was deposed by Defendants on September 24, 2019. Prior to his deposition, Lead Counsel met with Mr. Steinholt and assisted him in his preparation for the deposition.

67. During the expert discovery phase, Mr. Steinholt prepared a second report. In addition to the issue of market efficiency, Mr. Steinholt's second report opined on the complex issues of loss causation, damages and economic materiality, and incorporated a full evidentiary record after the completion of fact discovery. Mr. Steinholt's economic analysis would have been essential at summary judgment and trial to prove that Plaintiff could establish loss causation and to quantify the damages suffered by the Class. Mr. Steinholt was deposed by Defendants again on July 28, 2020. Prior to his deposition, Lead Counsel met with Mr. Steinholt and assisted him in his preparation for the deposition. Mr. Steinholt also assisted Lead Counsel in deposing Defendants' expert, Kenneth Lehn, addressing Mr. Lehn's arguments regarding loss causation and damages, and prepared and analyzed multiple damages models used for the purposes of mediation and in connection with Lead Counsel's investigation of this case.

b. Professor M. Todd Henderson

68. Plaintiff also utilized the services of Professor M. Todd Henderson to evaluate and opine on the trading in Tableau stock by Company insiders during the Class Period. Professor Henderson is the Michael J. Marks Professor of Law & Mark Claster Mamolen Research Scholar at the University of Chicago Law School. Between 2011 and 2014, Professor Henderson served as a judge on the "supreme court" of the Financial Industry Regulatory Authority – the primary, first-line regulator of stock markets. Professor Henderson has extensive experience as a consultant advising companies on corporate policies, including executive compensation, and governance. He has

conducted extensive empirical research on the issue of insider trading and has been published numerous times on the topics of insider trading, executive compensation and corporate governance.

69. Professor Henderson consulted with Plaintiff, through Lead Counsel, throughout the discovery phase. Professor Henderson analyzed numerous documents pertaining to insider trading and executive compensation at Tableau, including Tableau's filings with the SEC and Rule 10b5-1 trading plans. He provided insight on those topics to Lead Counsel and aided in Lead Counsel's preparations to depose Tableau employees. Professor Henderson prepared an expert report opining on the insider trading alleged in the Second Amended Complaint and Tableau's related policies and practices. His report included in-depth analyses of evidence obtained through discovery, and he was deposed by Defendants' counsel on July 16, 2020. Lead Counsel met with Professor Henderson and assisted him in his preparation for the deposition.

c. Kevin Hill, MBA, and Fit forProjects, Inc.

70. Plaintiff utilized the services of Kevin Hill to evaluate and opine on competition in the business intelligence and analytics market and how competition affected Tableau's business both prior to, and during, the Class Period. Mr. Hill holds a Masters of Business Administration (MBA) degree from the University of California at Berkley, where he teaches a data visualization course to MBA students. Mr. Hill previously worked as an equity research associate for RBC Capital Markets and Canaccord Genuity, where he focused on software companies, before joining Autodesk, a leading software design company, where he founded the Market Intelligence team, which was responsible for delivering quantitative insights about Autodesk's business, customers and markets. Since 2015, he has managed an independent consulting practice, Heights Consulting, LLC, serving clients in software and several other industries with strategic and operational insights on pricing, go-

to-market frameworks, customer loyalty programs, market sizing, market prioritization, data governance and more.

71. Mr. Hill consulted with Plaintiff, through Lead Counsel, throughout the discovery phase, and analyzed a substantial number of documents pertaining to Tableau's business, including internal Company reports and data, third party market research and stock analyst reports. He provided insight on those topics to Lead Counsel and aided in Lead Counsel's preparations to depose Tableau employees and the experts Tableau retained in this matter. His expert report included in-depth analyses of evidence obtained through discovery, including deposition testimony, and he was deposed by Defendants' counsel on July 23, 2020. Lead Counsel met with Mr. Hill several times and assisted him in his preparation for the deposition.

72. Lead Counsel and Mr. Hill were further aided in their analysis of Tableau's sales data by FitforProjects, Inc., a data consulting and processing firm, which assisted Mr. Hill with utilizing volumes of raw Tableau sales data relating to the Company's win rates against competitors and the lengths of sales cycles. FitforProjects' services enabled Mr. Hill to better develop his opinions concerning Tableau's position in the business intelligence market and how the product offerings by other companies in that market affected Tableau's ability to close deals and generate revenue compared to Tableau's performance historically.

2. Defendants' Expert Witnesses

73. During the expert discovery phase of the Litigation, Defendants served rebuttal reports from two experts: (1) Kenneth Lehn, Ph.D.; and (2) Sona Vaish Venkat, MBA. The report from Mr. Lehn addressed Mr. Steinholt's report on loss causation and damages and Professor Henderson's report on Tableau's insider stock sales. Ms. Venkat's report responded to Mr. Hill's

expert report and offered opinions on the state of competition in the business intelligence and analytics market as it related to Tableau.

74. Each report included extensive analysis and supporting documentation. Lead Counsel spent significant time analyzing Defendants' lengthy expert reports in preparation for their depositions. Lead Counsel deposed Ms. Venkat on July 29, 2020 and Mr. Lehn on July 30, 2020.

H. Summary Judgment and *Daubert* Motions

75. Following the expert discovery phase of the Litigation, the deadline to submit summary judgment and *Daubert* motions under the Court's schedule at that time was October 6, 2020. Lead Counsel, accordingly, undertook substantial work preparing *Daubert* motions to exclude the opinions of Defendants' experts, and began preparing Plaintiff's responses to Defendants' forthcoming motions for summary judgment and *Daubert* motions to exclude Plaintiff's experts. The Court stayed the October 6, 2020 deadline, however, on October 1, 2020 until the gaps in Defendants' document production described above were resolved. ECF No. 153. The Settlement was reached thereafter.

IV. SETTLEMENT NEGOTIATIONS AND TERMS

76. During fact discovery, the parties began settlement discussions with former Ambassador Jeffrey Bleich, Esq., an experienced mediator. Prior to the mediation, the parties submitted and exchanged detailed mediation statements and exhibits that outlined each side's critical facts and legal principles.

77. On March 30, 2020, the parties participated in a mediation session with Mr. Bleich via Zoom. During the mediation, Plaintiff conducted arm's-length negotiations with Defendants with a view to achieving the best relief possible consistent with the interests of the Class. The settlement discussions were led by undersigned counsel, Douglas Britton, and Samuel Rudman, all

of whom have extensive experience in litigating and resolving complex cases in federal courts. The lead negotiators on the defense side from Cooley had similar substantial experience in resolving complex litigation. The parties disagreed on the value of Plaintiff's claims so no settlement was reached at the conclusion of the mediation, and litigation continued.

78. The parties continued to keep in touch regarding potential resolution of the case and resumed mediation on March 10, 2021, with the Hon. Layn R. Phillips, a former United States District Court judge and experienced mediator, via Zoom. Prior to this mediation session, the parties again exchanged detailed mediation briefing, with supporting evidence and materials. During the mediation, the parties reached an agreement-in-principle to resolve the Litigation, subject to the negotiation of mutually acceptable terms of a settlement agreement.

79. The parties then negotiated, drafted, finalized and signed the formal settlement agreement detailing the terms of the proposed Settlement, which was filed in the Court on April 16, 2021, along with Plaintiff's Unopposed Motion for (I) Preliminary Approval of Class Action Settlement; and (II) Approval of Notice to the Class. *See* ECF No. 172. On May 7, 2021, the Court granted preliminary approval of the Settlement, including the form and manner of notice of the Settlement to the Class. ECF No. 177.

80. The Settlement set forth in the Stipulation resolves the claims of the Class against all Defendants for \$95,000,000 in cash, inclusive of attorneys' fees and costs. The recovery to individual Class Members will depend on variables, including the number of shares of Tableau common stock the Class Member purchased or acquired and when and at what price such purchases or acquisitions were made.

A. The Settlement Is in the Best Interests of the Class and Warrants Approval

81. Plaintiff believes it would have prevailed on the merits at trial. Defendants were just as adamant that Plaintiff would have failed. There was a very real risk that Plaintiff would not have convinced a jury that Defendants acted with scienter or that the alleged misrepresentations and omissions were materially false and misleading when made.

82. Having considered the foregoing, and evaluated Defendants' defenses, it is the informed judgment of Lead Counsel, based upon all proceedings to date and its extensive experience in litigating class actions under the federal securities laws, that the proposed Settlement of this matter before the Court is fair, reasonable and adequate and in the best interest of the Class.

V. THE RISKS OF LITIGATION

83. Plaintiff, by and through Lead Counsel, vigorously litigated this case, and the Settlement in this Litigation was reached only after Lead Counsel had a thorough understanding of the strengths and potential weaknesses of the claims alleged in the Second Amended Complaint. At the time of Settlement, fact discovery was substantially complete, although, as described above, it was likely that depositions of certain witnesses would need to be reopened due to Defendants' continued production of documents after the initial fact discovery period had closed, and expert reports had been exchanged. Accordingly, Plaintiff and Lead Counsel firmly understood the strengths of their claims, the strengths of Defendants' defenses, and the potential damages suffered by the Class.

84. The Settlement here represents a very good result for the Class. The Settlement Amount reflects a recovery of at least 11% of the maximum estimated recoverable damages, which far exceeds the median and average recovery in PSLRA cases. *See* Exhibit A to concurrently filed Memorandum of Law in Support of Plaintiff's Motion for Final Approval of Class Action Settlement

and Approval of Plan of Allocation, Janeen McIntosh & Svetlana Starykh, *Recent Trends in Securities Class Action Litigation: 2020 Full-Year Review* (NERA Jan. 25, 2021) (“The average settlement value in 2020 was \$44 million for non-merger objection cases with settlements of more than \$0 to the class” (15, Fig. 13) and the median ratio of settlements to investor losses in 2020 was 1.7% (20, Fig. 16)). Given the risks at trial described above, the size of the recovery strongly supports approval.

85. While Lead Counsel believes that substantial evidence exists to support a jury verdict in favor of the Class, it recognizes that there were considerable risks and uncertainties if the case had proceeded to trial. Lead Counsel carefully considered these risks throughout the Litigation and in recommending that Plaintiff settle this matter.

86. For example, although at the time of the Settlement, Plaintiff’s motion for class certification had been granted, there was always the risk that the Court might not maintain the Litigation, or particular claims, on a class-wide basis through trial, as class certification could be revisited at any time. Defendants, indeed, argued that the Class Period should be shorted significantly, down to as little as three months.

87. Moreover, motions important to Plaintiff’s ability to obtain a verdict in the Class’ favor at trial likely would have been filed, including motions that would determine the extent of the evidence that could be presented at trial and the issues upon which liability could be premised. These would include disputes over the admissibility of expert testimony, specific trial exhibits, objections to deposition testimony and others. This created additional uncertainty as to what evidence would ultimately be permitted to be shown to the jury and for what purposes. Depending on their outcome, such motions could seriously undermine or altogether preclude Plaintiff from proving its case.

88. Thus, while Plaintiff firmly believes that the documentary and testimonial evidence it intended to offer at trial fully supports its claims, it also understands that there is no way of predicting which interpretations, inferences or testimony the jury would have accepted at trial. Defendants have adamantly denied any culpability throughout the Litigation and were prepared to mount defenses that could potentially bar a Class recovery. If the jury sided with Defendants on even one of their defenses, or the Court granted Defendants' summary judgment, the Class would recover nothing.

A. Falsity

89. Plaintiff alleged that statements by Defendants downplaying the competitive threat facing Tableau were false and misleading when made. Defendants, on the other hand, maintained that the statements were primarily non-actionable opinions that could not be shown to be verifiably false or misleading. Defendants asserted that the internal data and metrics that were available to Tableau executives suggested that competition was not impacting Tableau's business to any greater extent than it had before the start of the Class Period, that their statements to investors were consistent with the internal data, and that Defendants consistently warned that Tableau operated in a highly competitive environment. While the parties disagreed about the merits of these arguments, Plaintiff recognized that if a jury found them compelling, Plaintiff would be hard pressed to demonstrate at trial that Defendants' statements were materially false or misleading.

B. Scierer

90. In addition to the risks Plaintiff faced establishing falsity, Defendants were also prepared to mount a defense asserting that Plaintiff could not establish that Defendants made any false or misleading statements with the requisite intent. Defendants asserted that they lacked scierer because they reasonably believed that their statements to investors were consistent with the internal

data available to them. Defendants therefore argued that Plaintiff would be unable to provide any evidence that they did not actually believe the statements made or that the statements were made recklessly. Defendants further asserted that their insider trades in Tableau stock were not unusual or suspicious, but properly and consistently made, both prior to and during the Class Period, for the purposes of diversifying their assets according to the Company's insider trading policies and Rule 10b5-1 trading plans. Were a jury to find these arguments persuasive, it would be difficult for Plaintiff to prove Defendants acted with fraudulent intent.

C. Loss Causation and Damages

91. Even if a jury found Plaintiff succeeded in proving falsity and scienter, there remained a risk related to Plaintiff's ability to prove loss causation and damages. Defendants argued that loss causation could not be established because Plaintiff's alleged "corrective disclosure" on February 4, 2016 did not reveal any of the information the Fund contended was concealed by Defendants. Defendants also argued that the corrective information was specific to Tableau's fourth quarter 2015 results and therefore could not be corrective of alleged false and misleading statements made at the start of the Class Period, in early 2015.

92. Defendants were also expected to argue that Plaintiff could not disaggregate non-fraud related factors from the declines in Tableau's stock price and that the methodology Plaintiff's expert would use to prove damages at trial was unreliable and should be excluded. While Plaintiff would have had the burden of identifying and isolating the fraud-related damages suffered by Class Members, Defendants only had to identify a flaw with the methodology utilized by Plaintiff's experts and prevail on a *Daubert* motion or win the inevitable, and inherently unpredictable, "battle of the experts" between the parties' loss causation and damages experts before the jury. Defendants

would have argued that the case either should not reach a jury or that the jury had no choice but to determine that there were little or no cognizable damages.

93. Although Plaintiff is confident that it would have been able to support its claims with qualified and persuasive expert testimony, jury reactions to competing experts are difficult to predict, and Defendants would have presented highly experienced experts to support their various defenses to liability. Accordingly, in the absence of a settlement, there was a very real risk that the Class would have recovered an amount significantly less than the total Settlement Amount – or even nothing at all.

94. In short, the parties disagreed on the merits of this case, including whether or not damages were suffered and recoverable. Defendants strongly defended this lawsuit with experienced attorneys from Cooley and consistently denied that they were liable in any respect. Recovery of any amount at trial was far from certain.

95. Assuming Plaintiff prevailed at trial, it is likely that Defendants would file post-trial motions and appeals to limit or overturn any verdict in Plaintiff's favor. The post-trial motion and appeals process would likely span several years, during which time the Class would receive no payment. In addition, an appeal of any verdict would carry with it the risk of reversal, in which case the Class would receive no payment despite having prevailed on the claims at trial.

96. While Lead Counsel had developed strong documentary and testimonial evidence, it faced both factual and legal challenges in presenting this matter to a jury and potentially on appeal. Based on all these factors, as well as the extensive experience of Lead Counsel in the litigation of securities class actions, Lead Counsel submits that the Settlement, which provides a very substantial recovery to Class Members, outweighs the risks of continued litigation.

VI. THE PLAN OF ALLOCATION

97. The Net Settlement Fund will be distributed to Class Members who, in accordance with the terms of the Stipulation, are entitled to a distribution and who submit a valid and timely Proof of Claim and Release form. The Plan of Allocation provides that a Class Member will be eligible to participate in the distribution of the Net Settlement Fund only if the Class Member has an overall net loss on all of his, her or its transactions in Tableau common stock during the Class Period.

98. For purposes of determining the amount an Authorized Claimant may recover under the Plan of Allocation, Lead Counsel conferred with its economics and damages expert, Mr. Steinholt. The plan is premised on the out-of-pocket measure of damages and is designed to measure the difference between what Class Members paid for Tableau common stock during the Class Period and what the price of Tableau stock would have been had the allegedly omitted and misstated information been accurately disclosed.

VII. LEAD COUNSEL'S APPLICATION FOR ATTORNEYS' FEES AND EXPENSES IS REASONABLE

99. The successful prosecution of this action required Plaintiff's counsel, investigators, paraprofessionals and staff to perform 24,800 hours of work and incur \$1,057,881.05 in expenses. *See* Declaration of David A. Rosenfeld Filed on Behalf of Robbins Geller Rudman & Dowd LLP in Support of Application for Award of Attorneys' Fees and Expenses ("Robbins Geller Decl."), Exs. A-B; Declaration of Christine M. Fox Filed on Behalf of Labaton Sucharow LLP in Support of Application for Award of Attorneys' Fees and Expenses ("Labaton Sucharow Decl."), Exs. A-B, submitted herewith. Based on the extensive efforts on behalf of the Class, as described above, Lead Counsel is applying for compensation from the Settlement Fund on a percentage basis, and has

requested a fee in the amount of 28% of the Settlement Amount, plus interest – a fee it negotiated with Plaintiff after the Settlement was reached.

A. The Requested Fee Is Reasonable

100. In light of the nature and extent of the Litigation, the diligent prosecution of the action, the complexity of the factual and legal issues presented and the other factors described above and in the accompanying application for attorneys' fees and expenses, Lead Counsel believes that the requested fee of 28% of the Settlement Amount, plus interest, is fair and reasonable.

101. A 28% fee award is consistent with percentages awarded by courts in this District and around the country (*See* Fee Memorandum, III.C.), and is justified by the specific facts and circumstances in this case and the substantial risks that Lead Counsel had or in the future would have had to overcome at the pleadings, class certification, discovery and summary judgment phases of the Litigation, and at trial, as set forth herein.

B. The Requested Fee Was Negotiated and Is Supported by Plaintiff

102. Working closely with Fund Counsel, Plaintiff spent considerable time and effort fulfilling its duties and responsibilities in this case, including answering discovery requests, reviewing documents, producing documents, sitting for deposition, and consulting with Lead Counsel concerning the merits of this Litigation. Fund Counsel, on behalf of Plaintiff, also attended court hearings and actively participated in both mediations. After the Settlement was reached, Plaintiff negotiated with Lead Counsel regarding its fee request, concluding that 28% of the Settlement was appropriate. Thus, throughout the Litigation, Plaintiff actively monitored Lead Counsel and negotiated and supports its requested fee.

C. The Requested Fee Is Supported by the Effort Expended and Results Achieved

103. As set forth herein, the \$95 million cash Settlement was achieved as a result of extensive prosecutorial and investigative efforts, complicated motion practice, hard-fought discovery, analysis of voluminous evidence and preparation for summary judgment and trial.

104. As discussed in greater detail above, this case was fraught with significant risks concerning liability and damages. Plaintiff's success was by no means assured. Defendants disputed whether the alleged misstatements and omissions were even actionable, asserted that the statements at issue were neither false nor misleading and that Tableau had no duty to disclose the information Plaintiff claims was omitted and sought to attribute any harm suffered to factors unrelated to the alleged fraud. Were this Settlement not achieved, and even if Plaintiff prevailed at trial, Plaintiff potentially faced years of costly and risky appellate litigation, with ultimate success far from certain. It is also possible that a jury could have found no liability or no damages.

105. As a result of this Settlement, Class Members will benefit and receive compensation for their losses and avoid the very substantial risk of no recovery in the absence of a settlement. These factors also support Lead Counsel's request for an award of attorneys' fees of 28% of the Settlement Amount, plus interest.

D. The Risk of Contingent Class Action Litigation Supports the Requested Fee Award

106. As set forth in the accompanying application for attorneys' fees and expenses, a determination of a fair fee should include consideration of the contingent nature of the fee, the financial burden carried by Lead Counsel and the difficulties that were overcome in obtaining the Settlement.

107. This action was prosecuted by Plaintiff's counsel on a contingent fee basis. Plaintiff's counsel committed 24,800 hours of attorney and professional time and incurred \$1,057,881.05 in expenses in the prosecution of the Litigation, as set forth in the accompanying Robbins Geller and Labaton Sucharow Declarations. Plaintiff's counsel fully assumed the risk of an unsuccessful result. Plaintiff's counsel have received no compensation for their services during the course of this Litigation and have incurred very significant expenses in litigating for the benefit of the Class. Any fees or expenses awarded to Plaintiff's counsel have always been at risk and are completely contingent on the result achieved. Because the fee to be awarded in this matter is entirely contingent, the only certainty from the outset was that there would be no fee without a successful result, and that such a result would be realized only after a lengthy and difficult effort.

108. Lead Counsel's efforts were performed on a wholly contingent basis, despite significant risk and in the face of determined opposition. Under these circumstances, Lead Counsel is justly entitled to the award of a reasonable percentage fee based on the benefit conferred and the common fund obtained for the Class. A 28% fee, plus expenses and interest, is fair and reasonable under the circumstances present here.

109. There are numerous cases, including many handled by Robbins Geller, where class counsel in contingent fee cases such as this, after expenditure of thousands of hours of time and incurring significant costs, have received no compensation whatsoever. Class counsel who litigate cases in good faith and receive no fees whatsoever are often the most diligent members of the plaintiffs' bar. The fact that Defendants and their counsel know that the leading members of the plaintiffs' bar are able to, and will, go to trial even in high-risk cases like this one gives rise to meaningful settlements in actions such as this. The losses suffered by class counsel in other actions where insubstantial settlement offers were rejected, and where class counsel ultimately received little

or no fee, should not be ignored. Lead Counsel knows from personal experience that despite the most vigorous and competent of efforts, success in contingent litigation is never assured.

110. Lawsuits such as this are expensive to litigate. Those unfamiliar with the efforts required to litigate class actions often focus on the aggregate fees awarded at the end but ignore the fact that those fees fund enormous overhead expenses incurred during the course of many years of litigation, are taxed by federal and state authorities, are used to fund the expenses of other contingent cases prosecuted by class counsel and help pay the salaries of the firms' attorneys and staff.

VIII. CONCLUSION

For all of the foregoing reasons, Lead Counsel respectfully requests that the Court approve the Settlement and Plan of Allocation, and award Lead Counsel 28% of the Settlement Amount and \$1,057,881.05 in expenses, plus the interest earned on both amounts at the same rate and for the same period as that earned on the Settlement Fund until paid.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 10th day of August, 2021, at Melville, New York.

s/David A. Rosenfeld

DAVID A. ROSENFELD

CERTIFICATE OF SERVICE

I, David A. Rosenfeld, hereby certify that on August 10, 2021, I authorized a true and correct copy of the foregoing document to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such public filing to all counsel registered to received such notice. I further certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed August 10, 2021, at Melville, New York.

/s/ DAVID A. ROSENFELD
DAVID A. ROSENFELD