



IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

BRET KUKARD, Derivatively on)
Behalf of the Symantec)
Corporation Employee Stock)
Purchase Plan,)

C.A. No. N18C-07-117-VLM-CCLD

Plaintiff,)

v.)

SYMANTEC CORPORATION,)
FRANK E. DANGEARD,)
GERALDINE B. LAYBOURNE,)
DAVID L. MAHONEY,)
ROBERT S. MILLER,)
SUZANNE M. VAUTRINOT and)
V. PAUL UNRUH,)

Defendants.)

**DECLARATION OF THOMAS J. McKENNA IN SUPPORT OF
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF PROPOSED SETTLEMENT**

I, THOMAS J. McKENNA, hereby declare that:

1. I am a member of the law firm of Gainey McKenna & Egleston, counsel for Plaintiff Bret Kukard. I respectfully submit this declaration in support of Plaintiff's Unopposed Motion for Preliminary Approval of Proposed Settlement in the above-captioned action.

2. I am a member in good standing of the Bar of the State of New York and I have been admitted *pro hac vice* in this Action.

3. I have overseen all material aspects of this litigation and was involved in the negotiation of the terms of the Settlement. Accordingly, I have personal knowledge of the underlying facts and, if called upon to testify, could and would testify competently thereto.

4. Plaintiff alleges that Defendants are liable under Section 11 of the Securities Act by reason of material misrepresentations and omissions in documents incorporated by reference in the Plan's Registration Statement. On July 13, 2018, Plaintiff filed the complaint ("Complaint"), C.A. No. N18C-07-117-VLM-CCLD, in this Court, on behalf of all persons who purchased or otherwise acquired Symantec common stock under the ESPP between May 22, 2015 and May 10, 2018.

5. On August 2, 2018, by mutual agreement, the Parties agreed to stay the Action pending the filing of the Company's Annual Report on Form 10-K for the fiscal year ended March 30, 2018. The Court granted the Stay on August 9, 2018. The Company subsequently filed its Annual Report for the fiscal year ended March 30, 2018 on October 26, 2018. Following the filing of the Company's Annual Report, the Parties met and conferred on October 31, 2018 and agreed that the stay should remain in effect pending the outcome of the related securities class action captioned *SEB Investment Management AB v. Symantec Corporation, et al.*, Case No. 3:18-cv-02902-WHA (N.D. Cal.) ("Federal Securities Action"). Following a successful motion to dismiss and subsequent filing of an amended complaint in the

Federal Securities Action, the Parties agreed again to stay the Action pending the outcome of the Federal Securities Action, beginning July 12, 2019 continuing through the present.

6. While the Action was stayed, the Parties attempted to resolve the claims by engaging in mediation with Greg Lindstrom of Phillips ADR. In connection with the mediation, the Parties exchanged insurance information, factual materials, settlement demands and counteroffers, and the Company also produced 10,807 pages of confidential documents for Plaintiff to review.

7. Although a resolution was not reached immediately at the mediation, the Parties continued to engage in arms-length negotiations and eventually reached an agreement in principle to settle the Action, subject to the negotiation of a Stipulation of Settlement and approval by the Court.

8. In reaching this Settlement, Plaintiff considered the challenges associated with, *inter alia*, (i) prevailing on questions as to whether Defendants violated the federal securities laws in a novel claim asserted on behalf of an ESPP and its participants; (ii) overcoming any jurisdictional challenges that Defendants likely would have asserted, including the relevant statute of limitations and statute of repose; (iii) overcoming any factual defenses that Defendants would have raised; (iv) proving damages; (v) being able to certify a class; and (vi) the costs associated therewith.

9. I can confirm that the Settlement achieved here is the product of arm's-length and hard fought negotiations reached after months of give-and-take between the Parties, including with the assistance of a well-respected mediator. As such, this Settlement should be preliminarily approved.

10. Attached hereto as **Exhibit 1** is a true and correct copy of the Stipulation of Settlement dated June 26, 2024 (the "Stipulation").

11. Attached to the Stipulation as **Exhibit A** is a true and correct copy of the [Proposed] Order Granting Preliminary Approval of Class Action Settlement, Preliminarily Certifying a Class for Settlement Purposes, Approving Form and Manner of Class Notice, Preliminarily Approving Plan of Allocation and Scheduling a Date for a Final Approval Hearing.

12. Attached to the Stipulation as **Exhibit A-1** is a true and correct copy of the Notice of Class Action Determination, Proposed Settlement and Hearing.

13. Attached to the Stipulation as **Exhibit A-2** is a true and correct copy of the Summary Notice of Proposed Class Action Settlement and Hearing.

14. Attached to the Stipulation as **Exhibit B** is a true and correct copy of the [Proposed] Final Approval Order and Judgment.

15. Attached to the Stipulation as **Exhibit C** is a true and correct copy of the Plan of Allocation.

16. Attached hereto as **Exhibit 2** is a true and correct copy of the firm résumé of Gainey McKenna & Egleston.

17. Attached hereto as **Exhibit 3** is a true and correct copy of the firm résumé of Bielli & Klauder, LLC.

I declare under penalty of perjury that the foregoing is true to the best of my knowledge.

Dated: July 10, 2024

/s/ Thomas J. McKenna
Thomas J. McKenna