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14 UNITED STATES DISTRICT COURT
15 SOUTHERN DISTRICT OF CALIFORNIA

16 AUSTIN DICKER, Individually and on)
Behalf of All Others Similarly Situated,)

17 Plaintiff,)

18 vs.)

19 TUSIMPLE HOLDINGS, INC., et al.,)

20 Defendants.)
21)
22)
23)
24)

Case No. 3:22-cv-01300-BEN-MSB
(Consolidated with No. 3:23-cv-00282-
BEN-MSB)

CLASS ACTION

**DECLARATION OF ROBERT
MILLER IN SUPPORT OF
MOTION FOR FINAL APPROVAL
OF PROPOSED SETTLEMENT
AND AN AWARD OF
ATTORNEYS' FEES AND
EXPENSES AWARDS TO
PLAINTIFFS PURSUANT TO 15
U.S.C. §78U-4(A)(4)**

1 I, Robert Miller, in accordance with 28 U.S.C. § 1746, hereby declare as
2 follows:

3 1. I am a named plaintiff and Court-appointed class representative in the
4 above-captioned action (the “Action”). I submit this Declaration in support of the:
5 (i) Unopposed Motion for Final Approval of Proposed Settlement; and (ii) Plaintiffs’
6 Motion for Attorneys’ Fees and Expenses and Awards to Plaintiffs Pursuant to 15
7 U.S.C. §78u-4(a)(4).

8 2. I have personal knowledge of the facts as set forth herein and, if called
9 as a witness, I could and would competently testify thereto.

10 3. I have worked alongside Lead Plaintiff Indiana Public Retirement
11 System and fellow named plaintiff Michelle Poirier (collectively, “Plaintiffs”) to
12 direct the prosecution of the Action. I have dedicated a substantial amount of time
13 to monitoring its progress, as well as the efforts of Kahn Swick & Foti, LLC (“KSF”)
14 and Robbins Geller Rudman & Dowd LLP. I believe I have faithfully performed
15 my duties as a named plaintiff over the past two years.

16 4. In October 2022, I contacted KSF about seeking appointment as the
17 lead plaintiff in the Action due to my substantial investment loss in TuSimple’s
18 publicly traded securities. In connection with preparing my motion for lead plaintiff,
19 I reviewed and discussed with KSF the initial complaints in this matter. I
20 subsequently located and produced my trade confirmations detailing my transactions
21 in TuSimple securities during the Class Period and executed a certification as
22 required by the PSLRA.

23 5. I oversaw Plaintiffs’ Counsels’ preparation of the 121-page
24 Consolidated Complaint. I also reviewed the final draft before its filing on October
25 2, 2023 and discussed it with KSF.

26 6. I also reviewed and discussed with KSF Defendants’ seven Motions to
27 Dismiss Consolidated Class Action Complaint and the related documents and

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1 exhibits and oversaw Plaintiffs' Counsels' preparation of the Omnibus Opposition
2 to the Motions to Dismiss and Plaintiffs' Requests for Judicial Notice. I discussed
3 all of these pleadings with KSF.

4 7. I reviewed and discussed with KSF Plaintiffs' Motion to Request
5 Alternate Service of Process for Defendants Chao and Zhang and to Partially Lift
6 the PSLRA Discovery Stay as to Defendants Chao and Zhang as well as Plaintiffs'
7 Opposition to Defendants' Chao's and Zhang's Motion to Quash Service and Motion
8 to Dismiss.

9 8. I helped oversee Plaintiffs' Counsel's preparation of Plaintiffs' *Ex*
10 *Parte* Motion for a Temporary Restraining Order and Limited Expedited Discovery
11 ("TRO Motion") and reviewed the final draft of the motion before filing it on May
12 30, 2024. I reviewed and discussed with KSF Defendants' Opposition to the TRO
13 Motion and Plaintiffs' Reply in Further Support of the TRO Motion.

14 9. I also took an active role in the mediation process that resulted in the
15 \$189 million Settlement. I discussed with KSF the benefits and drawbacks of
16 pursuing mediation, including the selection of former U.S. District Judge Layn R.
17 Phillips of Phillips ADR Enterprise as the mediator, versus the risks and rewards of
18 prosecuting the Action through class certification, discovery, summary judgment,
19 and trial. I reviewed in detail all parties' submissions to Judge Phillips. I further
20 participated in (and remained available throughout) the mediation process, which
21 included one formal mediation session with Judge Phillips in New York City on May
22 2, 2024, and further virtual mediation sessions throughout May, June and July 2024.
23 I also engaged in substantive discussions with KSF related to the mediation between
24 these sessions.

25 10. I engaged in discussions with KSF concerning the pros and cons of
26 mediation, the substance of all parties' mediation submissions to Judge Phillips, and
27

1 negotiation strategy. I also spent considerable time and effort deciding whether to
2 approve the \$189 million Settlement that was ultimately reached in this Action.

3 11. I fully appreciate the strengths and weaknesses of our claims and am
4 aware of the obstacles to prosecuting this Action through class certification,
5 discovery, summary judgment, and trial. My understanding of the facts and law in
6 the Action enable me to evaluate the Settlement and the related requests for fees and
7 expenses. My understanding of the facts and law in the Action enable me to strongly
8 support presentation of the proposed Settlement to the Court for approval.

9 12. I believe that the proposed Settlement represents an excellent recovery
10 for the Settlement Class in light of the substantial risks of continuing to prosecute
11 the claims in this case, including the very substantial risk of recovering nothing
12 whatsoever. Therefore, I strongly endorse final approval of the proposed Settlement
13 by the Court, particularly given the risks of continuing to prosecute the claims in the
14 Action and the extraordinary result achieved in this case.

15 13. I also support Plaintiffs' Counsels' request for an award of attorney's
16 fees in the amount of 25% of the Settlement Fund and find the request fair and
17 reasonable considering the work Plaintiffs' Counsel performed, the litigation risks
18 faced, and the substantial recovery obtained for the Settlement Class in the Action.
19 I understand that part of my role as a named plaintiff is to ensure that attorney's fees
20 are fair considering the result achieved in the Action and that they reasonably
21 compensate Plaintiffs' Counsel for the work involved and the substantial risk they
22 undertook in litigating the Action. I believe Plaintiffs' Counsel handled this
23 Litigation in an efficient and ethical manner and zealously represented the
24 Settlement Class, and I therefore support Plaintiffs' Counsels' fee request.

25 14. I also believe that Plaintiffs' Counsels' litigation expenses are
26 reasonable and represent costs and expenses necessary for the prosecution and
27 resolution of the Action. Based on the foregoing, and consistent with their obligation

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1 to the Settlement Class to obtain the best result at the most efficient cost, I fully
2 support Plaintiffs' Counsels' fee and expenses application.

3 15. I further understand that reimbursement of a representative plaintiff's
4 reasonable costs and expenses is authorized by the PSLRA. Therefore, in connection
5 with Plaintiffs' Counsels' request for reimbursement of litigation expenses and
6 pursuant to 15 U.S.C. § 78u-4(a)(4) of the PSLRA, I am seeking reimbursement for
7 the time and expenses I incurred relating directly to my service as a named plaintiff.


8 16. Since its inception in 2022, I have devoted approximately 15 hours to
9 this Action. I have calculated an average hourly rate by dividing my average annual
10 compensation over the years by 2,080 hours, which is the standard number of
11 working hours per year. This calculation yields a rate of \$480 per hour, for a total of
12 \$7,200 in time spent in connection with my role as a named plaintiff.

13 17. In short, I strongly endorse this Settlement as fair, reasonable, and
14 adequate, and I believe that the Settlement represents an excellent recovery for the
15 Settlement Class in light of the risks of continued litigation. I also support Plaintiffs'
16 Counsels' request for a fee of 25% for their outstanding work bringing this
17 challenging matter to resolution, as well as reimbursement for their costs and
18 litigation expenses.

19 18. Accordingly, I respectfully request that the Court grant the (i)
20 Unopposed Motion for Final Approval of Proposed Settlement; and (ii) Plaintiffs'
21 Motion for Attorneys' Fees and Expenses and Awards to Plaintiffs Pursuant to 15
22 U.S.C. §78u-4(a)(4).

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

25 Executed this 21st day of October, 2024.

26
27 
28 Robert Miller