UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

---------- x **18 Civ. 7253 (NG)(PK)**

IN RE DENTSPLY SIRONA, INC. SECURITIES LITIGATION

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MEMORANDUM IN SUPPORT OF LEAD PLAINTIFF'S MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND PLAN OF ALLOCATION

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Lead Plaintiff Strathclyde Pension Fund ("Lead Plaintiff" or "Strathclyde"), on behalf of itself and the Settlement Class, respectively moves this Court, pursuant to Federal Rule of Civil Procedure 23, for: (i) final approval of the proposed settlement of the above-captioned action ("Action") on the terms set forth in the Stipulation and Agreement of Settlement dated March 12, 2025 (ECF 173-1) ("Settlement Agreement"); and (ii) approval of the proposed plan for allocating the net proceeds of the Settlement ("Plan of Allocation" or "Plan").[1]

I. PRELIMINARY STATEMENT

Lead Plaintiff respectfully submits that the proposed $84 million Settlement is an excellent result given the serious risks it faced in proving the securities claims at issue and the significant delays of continued litigation. The Settlement is the culmination of over six years of vigorous litigation by Lead Plaintiff and Lead Counsel, and is the product of extensive arm's length negotiations by experienced and well-informed counsel, including a two-day mediation session supervised by the Honorable Layn R. Phillips of Phillips ADR Enterprises ("Judge Phillips"), who was assisted by his Phillips ADR colleague Caroline Cheng (together with Judge Phillips, the "Mediator"). As detailed in the accompanying Golan Declaration and summarized here, the proposed Settlement provides a substantial, certain, and near-term recovery for Settlement Class Members and avoids the significant risks of continued litigation, including the risk of a diminished recovery or no recovery at all—after years of additional litigation, appeals, and delay.

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[1] Unless defined below, all capitalized terms have the meanings set forth in the Settlement Agreement or the accompanying Declaration of Jeffrey W. Golan in Support of (1) Lead Plaintiff's Motion for Final Approval of Class Action Settlement and Plan of Allocation; and (2) Lead Counsel's Motion for Attorneys' Fees and Litigation Expenses ("Golan Declaration"), which is an integral part of this submission. For the sake of brevity, Lead Plaintiff respectfully refers the Court to the Golan Declaration for a detailed summary of, *inter alia*: the claims asserted, the procedural history, the arm's length negotiations, the risks of continued litigation, compliance with the Court-approved notice plan, and the Plan of Allocation. Citations to "¶__" refer to paragraphs in the Golan Declaration, and citations to "Ex. __" refer to its exhibits. Unless noted, all internal cites and punctuation are omitted, and emphasis is added.

By the time the Parties reached the proposed Settlement, Lead Plaintiff and Lead Counsel had devoted significant time and resources to the case and had a thorough understanding of the strengths and weaknesses of their claims. Prior to filing the First Complaint, Lead Counsel had (i) conducted an investigation into the Securities and Exchange Commission ("SEC") filings of Dentsply Sirona, Sirona Dental Systems, Inc. ("Sirona") and Dentsply International, Inc. ("Dentsply Intl."), as well as these companies' conference call transcripts, press releases, investor presentations and other public communications; (ii) reviewed numerous news articles and research reports by securities and financial analysts; and (iii) analyzed pleadings and evidence cited in the enforcement action brought by the Federal Trade Commission ("FTC") against Dentsply Sirona's distribution partners, and other litigation involving Dentsply Sirona and/or its distribution partners. ¶8. Subsequently, Lead Plaintiff amended its First Complaint to account for the Cease-and-Desist Order and succeeded in overcoming Defendants' motion to dismiss the Complaint. ¶¶14-18. Lead Plaintiff thereafter conducted extensive fact discovery, including obtaining over 2.4 million pages of documents from Defendants as well as productions of documents from five third parties, taking the depositions of three former Dentsply Sirona employees, and preparing to take 14 additional depositions. ¶¶22-23, 28. The Parties also conducted discovery on Lead Plaintiff's motion for class certification, including taking the depositions of four expert witnesses and a representative from Strathclyde, and the Parties submitted substantial briefing on that motion, including sur- and sur-sur-replies. ¶¶29-37. Additionally, the Parties fully briefed Defendants' motion for judgment on the pleadings. ¶¶38-41.

The proposed Settlement is also the product of extensive arm's-length negotiations between the Parties, including a formal two-day mediation session before the Mediator in June 2024. ¶44. Prior to the mediation session, the Parties exchanged opening and reply mediation

statements to the Mediator. ¶43. Although the mediation session ended without any agreement being reached, the Mediator facilitated continuing negotiations between the Parties over the following months and ultimately made a Mediator's Recommendation that the Action be settled for $84 million, which the Parties accepted on January 16, 2025. ¶45.

Lead Plaintiff and Lead Counsel believe that the Settlement is in the best interests of the Settlement Class given the serious risks involved in continued litigation. As discussed below and in the Golan Declaration, the Action presented many significant risks to establishing both liability and damages through prolonged litigation that could have resulted in no recovery at all. The Settlement avoids these risks and provides a substantial and certain benefit rather than the mere possibility of a recovery after additional years of litigation, including inevitable appeals.

Further, the Settlement has the full support of Lead Plaintiff, which is a sophisticated institutional investor that took an active role in supervising the litigation and the settlement negotiations. Also, while the deadline to object to the Settlement has not yet passed, to date no Settlement Class Members have objected to the Settlement.[2]

Accordingly, for the reasons discussed below, Lead Plaintiff respectfully submits that (a) the Settlement is fair, reasonable, and adequate, and should be approved, and (b) the Plan of Allocation, which Lead Counsel developed in consultation with Lead Plaintiff's damages expert, provides a reasonable method for allocating the Net Settlement Fund among Settlement Class Members who submit valid claims, and should also be approved.

II. THE SETTLEMENT WARRANTS FINAL APPROVAL

Rule 23(e)(2) requires judicial approval of any class action settlement. "The law favors settlement, particularly in class actions and other complex cases where substantial resources can

[2] The Court-ordered deadline for submission of objections is August 20, 2025. Should any objections be received, Lead Plaintiff will address them in its reply papers.

be conserved by avoiding the time, cost, and rigor of prolonged litigation." *In re Advanced Battery Techs., Inc. Sec. Litig.*, 298 F.R.D. 171, 174 (S.D.N.Y. 2014) ("*Advanced Battery*"); *see also In re MetLife Demutualization Litig.*, 689 F. Supp. 2d 297, 330 (E.D.N.Y. 2010) (Weinstein, J.) (alteration in original) ("[C]lass action suits readily lend themselves to compromise because of the difficulties of proof, the uncertainties of the outcome, and the typical length of the litigation."). Under Rule 23(e)(2), the Court should approve a proposed class action settlement if it finds it to be "fair, reasonable, and adequate." Fed. R. Civ. P. 23(e)(2); *see also In re Patriot Nat'l, Inc. Sec. Litig.*, 828 F. App'x 760, 762 (2d Cir. 2020). "Whether a settlement is 'fair, reasonable, and adequate' entails a review of both procedural and substantive fairness." *McIntosh v. Katapult Holdings, Inc.*, 2024 WL 5118192, at *7 (S.D.N.Y. Dec. 13, 2024). In evaluating procedural fairness, the Court "must look first to the negotiating process leading up to the settlement." *In re Tenaris S.A. Sec. Litig.*, 2024 WL 1719632, at *3 (E.D.N.Y. Apr. 22, 2024) ("Tenaris") (Matsumoto, J.). Then, the Court evaluates the settlement's substantive terms. *Id.*

Rule 23(e)(2) provides that a court should consider whether:

> (A) the class representatives and class counsel have adequately represented the class;
> (B) the proposal was negotiated at arm's length;
> (C) the relief provided for the class is adequate, taking into account:
> (i) the costs, risks, and delay of trial and appeal;
> (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims;
> (iii) the terms of any proposed award of attorney's fees, including timing of payment; and
> (iv) any agreement required to be identified under Rule 23(e)(3); and
> (D) the proposal treats class members equitably relative to each other.

"The first two factors are procedural in nature and the latter two guide the substantive review of a proposed settlement." *Moses v. N.Y. Times Co.*, 79 F.4th 235, 242 (2d Cir. 2023). "In addition, courts in the Second Circuit have traditionally considered the nine factors listed in *City*

of Detroit v. Grinnell Corp., 495 F.2d 448 (2d Cir. 1974), *abrogated on other grounds by Goldberger v. Integrated Res., Inc.*, 209 F.3d 43 (2d Cir. 2000), known as the *Grinnell* factors, to assist in weighing final approval and determining whether a settlement is substantively fair, reasonable, and adequate." *In re Payment Card Interchange Fee & Merch. Disc. Antitrust Litig.*, 2024 WL 3236614, at *12 (E.D.N.Y. June 28, 2024) (Brodie, J.). Those factors are: (1) the complexity, expense and likely duration of the litigation; (2) the reaction of the class to the settlement; (3) the stage of the proceedings and the amount of discovery completed; (4) the risks of establishing liability; (5) the risks of establishing damages; (6) the risks of maintaining the class through the trial; (7) the ability of the defendants to withstand a greater judgment; (8) the range of reasonableness of the settlement fund in light of the best possible recovery; and (9) the range of reasonableness of the settlement fund to a possible recovery in light of all the attendant risks of litigation. *Id.* The *Grinnell* and Rule 23(e)(2) factors "largely overlap," but courts must "expressly consider two core factors when reviewing the substantive fairness of a settlement: the adequacy of relief provided to a class and the equitable treatment of class members." *Moses*, 79 F.4th at 244 (citing Fed. R. Civ. P. 23(e)(2)(C)-(D)).

A. The Proposed Settlement Is Procedurally Fair

1. Lead Plaintiff and Lead Counsel Have Adequately Represented the Settlement Class

"Under this factor, the Court inquires as to 'whether: (1) [Lead] [P]laintiff's interests are antagonistic to the interest of other members of the class and (2) [Lead Counsel] are qualified, experienced and able to conduct the litigation.'" *Ashe v. Arrow Fin. Corp.*, 2025 WL 487427, at *5 (N.D.N.Y. Feb. 13, 2025) (quoting *Baffa v. Donaldson, Lufkin & Jenrette Sec. Corp.*, 222 F.3d 52, 60 (2d Cir. 2000)).

First, Lead Counsel is highly experienced in securities litigation and has actively pursued

the claims on behalf of the Settlement Class for over six years, resulting in a favorable Settlement through mediation after engaging in extensive discovery and motion practice. *See Copley v. Bactolac Pharm., Inc.*, 2023 WL 2470683, at *7 (E.D.N.Y. Mar. 13, 2023) (Block, J.). As detailed in the Golan Declaration, Lead Counsel: (i) conducted an investigation into investors' claims, including, among other things, review and analysis of materials made public by Defendants and pleadings and evidence in the FTC's enforcement action against Dentsply Sirona's distribution partners and other litigation involving Dentsply Sirona and/or its distribution partners (¶8); (ii) researched and drafted two detailed complaints (¶¶9-15); (iii) successfully opposed a motion to strike and two rounds of a motion to dismiss (¶¶12-13; 16-18) (iv) opposed a motion for judgment on the pleadings (¶¶38-41); (v) conducted substantial fact witness discovery, including procuring and analyzing 2.4 million pages of documents from Defendants as well as productions of documents from five third parties, and taking three depositions of former Dentsply Sirona employees and noticing 14 additional depositions (¶¶22-23, 28); (vi) supported the class certification motion with extensive briefing, including a sur-sur-reply brief and a report from Lead Plaintiff's expert on market efficiency (¶¶29-37); (vii) conducted discovery regarding the class certification motion, including taking the depositions of Defendants' three experts and the deposition of Defendants' Vice President of Investor Relations and defending the deposition of Lead Plaintiff's expert and a representative from Strathclyde (¶¶30, 33, 36); and (viii) participated in a two-day mediation session including submitting opening and reply papers to the Mediator (¶¶43-44). *See McIntosh*, 2024 WL 5118192, at *9 (finding settlement procedurally fair where counsel were "experienced in class action litigation, conducted extensive investigations of the facts, engaged in sufficient exchange of information to understand facts pertinent to the settlement negotiations, and engaged in substantial motion practice, which also illuminated the risks of

litigation").

Second, Lead Plaintiff's claims, which are based on a common course of alleged wrongdoing by Defendants, are typical of other Settlement Class Members. In proving their securities claims, Lead Plaintiff likewise would prove the same claims of Settlement Class Members—and no conflicts exist between the interests of Lead Plaintiff and the other Settlement Class Members. *See Arrow Fin. Corp.*, 2025 WL 487427, at *5 ("In the present matter, there is no evidence that the interests of the Named Plaintiffs and the Settlement Class Members are at odds. Rather, the record reflects that the Named Plaintiffs and the Settlement Class Members have the same incentive to maximize their compensation for past harm."); *see also Maddison v. Comfort Sys. USA (Syracuse), Inc.*, 2023 WL 3251421, at *3 (N.D.N.Y. May 3, 2023); *In re GSE Bonds Antitrust Litig.*, 414 F. Supp. 3d 686, 692 (S.D.N.Y. Nov. 7, 2019).

2. The Settlement Resulted from Extensive Arm's Length Negotiations Supervised by an Experienced Mediator

Lead Plaintiff and Lead Counsel negotiated the Settlement "at arm's length." Fed. R. Civ. P. 23(e)(2)(B). In June 2024, counsel for the Parties, Defendants' insurance carriers, and certain Party personnel participated in a formal two-day mediation session before the Mediator. ¶44. In advance of that session, the Parties exchanged and submitted mediation statements to the Mediator and each other. ¶43. The session ended without any agreement being reached. ¶44. After the mediation session concluded, the Parties continued to engage in negotiations facilitated by the Mediator while the litigation proceeded over a period of many months. ¶45. Ultimately, Judge Phillips, "an experienced and well-regarded mediator of complex securities cases," *In re Bear Stearns Cos., Inc. Sec. Derivative, & ERISA Litig.*, 909 F. Supp. 2d 259, 265 (S.D.N.Y. 2012), made a Mediator's Recommendation that the Action be settled for $84 million, which the Parties accepted on January 16, 2025, ¶¶42, 45; *see also In re Signet Jewelers Ltd. Sec. Litig.*, 2020 WL

4196468, at *3 (S.D.N.Y. July 21, 2020) (citing with approval the fact that the settlement was reached following months of arm's length negotiations between experienced counsel, following mediation under the guidance of Judge Phillips, and the settlement was the product of a mediator's recommendation by Judge Phillips). Accordingly, the Settlement is procedurally fair.

B. The Proposed Settlement Is Substantively Fair

1. The Complexity, Expense, and Likely Duration of the Litigation

"Courts consistently recognize that the complexity, expense, and likely duration of litigation are critical factors in evaluating the reasonableness of a settlement, especially in a securities class action." *Advanced Battery*, 298 F.R.D. at 175. "As a general rule, securities class actions are notably difficult and notoriously uncertain." *In re Facebook, Inc. IPO Sec. & Derivative Litig.*, 2015 WL 6971424, at *3 (S.D.N.Y. Nov. 9, 2015); *see also In re PPDAI Grp. Inc. Sec. Litig.*, 2022 WL 198491, at *9 (E.D.N.Y. Jan. 21, 2022) ("*PDDAI*") (Markl, J.).

"While the parties have conducted significant discovery, additional discovery would be necessary absent settlement," including the numerous depositions of former Dentsply Sirona employees that Lead Plaintiff had already noticed, and the depositions of representatives from third parties like Patterson and Schein. *See* ¶¶28, 53; *see also Kommer v. Ford Motor Co.*, 2020 WL 7356715, at *4 (N.D.N.Y. Dec. 15, 2020); *see also Tenaris*, 2024 WL 1719632, at *7 (finding this factor weighed in favor of approving the settlement as "substantial discovery [was] already exchanged, [and] Lead Plaintiffs contemplated several forthcoming depositions"). "The parties resolved this action prior to the resolution of Lead Plaintiff's class certification motion" and Defendants' motion for judgment on the pleadings, "or the filing of any summary judgment and *Daubert* motions, thereby avoiding further contentious motion practice, a complex trial, and likely appeals." *Advanced Battery*, 298 F.R.D. at 176. The Settlement thus avoids the risk, expense, and delay of continued litigation while providing a substantial, near-term recovery for the Class.

2. The Reaction of the Class to the Settlement

In assessing a settlement, courts in the Second Circuit also consider "the reaction of the class to the settlement[.]" *Kohari v. MetLife Grp., Inc.*, 2025 WL 100898, at *10 (S.D.N.Y. Jan. 15, 2025). The deadline for Settlement Class Members to object to the Settlement is August 20, 2025. ¶85. As of July 25, 2025, 196,821 copies of the Notice have been mailed to potential Settlement Class Members, Ex. 2, Walter Decl. ¶11, and as of the date of this filing, the Settlement has received no objections. Lead Plaintiff will address any objections to the Settlement that may be received hereafter in its reply papers.

3. The Stage of the Proceedings and Amount of Discovery Completed

In assessing the stage of the proceedings and discovery completed, "the question is whether the parties had adequate information about their claims, . . . such that counsel possessed a record sufficient to permit evaluation of the merits of [the] claims, the strengths of the defenses asserted by Defendants, and the value of [the] causes of action for purposes of settlement." *In re Giant Interactive Grp., Inc. Sec. Litig.*, 279 F.R.D. 151, 161 (S.D.N.Y. 2011).

Here, the Settlement occurred after briefing and a decision on Defendants' motion to dismiss, after extended briefing on Lead Plaintiff's motion for class certification and class-related discovery, after briefing on Defendants' motion for judgment on the pleadings, after Lead Counsel had reviewed millions of pages of documents produced by Defendants and by third parties, after Lead Counsel had taken several depositions and was preparing to take more, and following arm's-length negotiations with an experienced mediator, including the submission of supporting statements. ¶¶12-18, 22-23, 28-45, 53-54. Thus, when the Settlement was reached, Lead Plaintiff and Lead Counsel clearly had "sufficient information to make a meaningful evaluation of the merits of [the] claims, the strengths of the defenses asserted by defendants and damages." *Chavarria v. N.Y. Airport Serv., LLC*, 875 F. Supp. 2d 164, 173-74 (E.D.N.Y. June 25, 2012)

("Since the parties engaged in extensive discovery and motion practice, this factor weighs in favor of approving the settlement.").

4. The Risks of Establishing Liability

"In considering this factor, the Court need not adjudicate the disputed issues or decide unsettled questions; rather, the Court need only assess the risks of litigation against the certainty of recovery under the proposed settlement." *In re Graña y Montero S.A.A. Sec. Litig.*, 2021 WL 4173684, at *13 (E.D.N.Y. Aug. 13, 2021), adopted by 2021 WL 4173170, at *1 (E.D.N.Y. Sept. 14, 2021); *see Springer v. Code Rebel Corp.*, 2018 WL 1773137, at *4 (S.D.N.Y. Apr. 10, 2018).

At the time the Settlement was reached, Defendants' motion for judgment on the pleadings was still pending before the Court, and this motion could have substantially reduced the Class Period from encompassing four corrective disclosures to just one. ¶¶67-68; *see also In re 3D Sys. Sec. Litig.*, 2024 WL 50909, at *10 (E.D.N.Y. Jan. 4, 2024) (Garaufis, J.) (discussing the risks of establishing liability, which included the risk that defendants' pending motion to dismiss could be granted). Even if Lead Plaintiff had prevailed on this motion, it was likely Defendants would renew the arguments in a motion for summary judgment. ¶¶69, 114. Defendants would have also likely argued in a motion for summary judgment and at trial that statements that the new Schein and Patterson non-exclusive distribution strategy would drive future growth and that there would be no further impairment charges taken in 2018 cannot be shown to be false because they reflected the real beliefs of the speakers at that time, and Lead Plaintiff would have needed to present compelling evidence showing that Defendants had actual knowledge contradicting these statements. ¶¶68-69, 72-73.

In order to prevail at summary judgment and at trial, Lead Plaintiff would also need to present credible admissible evidence that Defendants acted with the requisite scienter. Defendants have principally challenged scienter by arguing that Patterson had announced it was terminating

its exclusive agreements with Dentsply Sirona in November 2016, which would become effective as of September 2017; Dentsply Sirona had already disclosed the Patterson inventory situation to the market prior to any alleged corrective disclosures; and Defendants could not have known or consciously disregarded whether their public statements on this subject were false and misleading. ¶¶67, 73, 114. "Proving scienter is hard to do – especially here where Defendants have asserted that the alleged hidden information was in fact publicly available and that certain statements were inactionable forward-looking statements." *McIntosh*, 2024 WL 5118192, at *10; *see also Tenaris*, 2024 WL 1719632, at *8 (alteration in original) (finding this factor favored approval of the settlement where defendants were "expected to contest scienter, which typically [poses] a difficult challenge in a securities fraud action"); *Kalnit v. Eichler*, 99 F. Supp. 2d 327, 345 (S.D.N.Y. 2000) ("The element of scienter is often the most difficult and controversial aspect of a securities fraud claim."), *aff'd*, 264 F.3d 131 (2d Cir. 2001). Accordingly, Lead Plaintiff faced significant risks in establishing liability and this factor supports approval of the Settlement.

5. The Risks of Establishing Damages

"Lead Plaintiff would have to prove that each class member's damages (if any) resulted from defendants' alleged misconduct, and the amount of any such damages." *Guevora Fund Ltd. v. Sillerman*, 2019 WL 6889901, at *8 (S.D.N.Y. Dec. 18, 2019). "Courts have observed that proof of damages in a securities fraud case is always difficult and invariably requires expert testimony." *Mikhlin v. Oasmia Pharm. AB*, 2021 WL 1259559, at *6 (E.D.N.Y. Jan. 6, 2021) (Garaufis, J.); *see also McIntosh*, 2024 WL 5118192, at *10. Lead Plaintiff would have presented the opinion of its damages expert and Defendants would have presented their own damages expert(s), "with conflicting conclusions and theories." *In re EVCI Career Colls. Holding Corp. Sec. Litig.*, 2007 WL 2230177, at *8 (S.D.N.Y. July 27, 2007). "When the success of a party's case turns on winning a so-called 'battle of experts,' victory is by no means assured." *In re Bear*

Stearns Cos., Inc. Sec., Derivative, & ERISA Litig., 909 F. Supp. 2d at 267.

Defendants had also opposed class certification of even the narrower, modified class Lead Plaintiff presented in its reply brief to the class certification motion, arguing that although the class definition is now limited to open market purchases of Dentsply Intl. and Dentsply Sirona common stock, the putative class members that exchanged shares of Sirona common stock for Dentsply Sirona common stock in the Merger should be excluded from the Class because they benefited from the alleged fraud. ¶¶35, 71. Additionally, in their opposition to the class motion and in their motion for judgment on the pleadings, Defendants argued that the Class Period should end with the first alleged corrective disclosure. ¶¶32, 39, 65-69. Importantly, "the prospects for obtaining certification have a great impact on the range of recovery one can expect to reap from the action." *EVCI Career Colls. Holding Corp.*, 2007 WL 2230177, at *7 (noting arguments that, if successful, "would have splintered the Class"). As the court recognized in *EVCI* and as is true here: "Any reduction in the size of the Class would have affected the claims and damages at issue in the Action." *Id.*

Defendants would also have continued to argue that Lead Plaintiff and the Class's losses could not be attributed to the alleged fraud because the alleged corrective disclosures did not reveal any previously undisclosed material information. ¶75. Defendants would also continue to argue that Dentsply Sirona appropriately took the impairment charges in the quarters in which they were taken and could not have taken them earlier. *Id.*; *see also PPDAI*, 2022 WL 198491, at *11 (emphasis and alteration in original) (finding this factor favored settlement where defendants maintained that "the alleged depreciation in [PPDAI's] shares did not actually *result from* the materialization of a risk contained within a material misstatement"). "Establishing loss causation in securities cases is a complicated concept, both factually and legally, and typically involve[s]

conflicting expert opinion about the differences between the purchase price and the stock's 'true' value absent the alleged fraud." *Id.* (alteration in original). Accordingly, in order to establish loss causation and damages, Lead Plaintiff would have faced a battle of the experts, and its ability to prevail is far from certain. *See In re Graña y Montero S.A.A. Sec. Litig.*, 2021 WL 4173684, at *13 (Because plaintiff "would have had to rely heavily on expert testimony to establish loss causation and damages," it was "virtually impossible to predict which side's testimony would be found more credible, as well as which damages would be found to have been caused by actionable, rather than the myriad nonactionable factors such as general market conditions."). This factor also supports approval of the Settlement.

6. The Risks of Maintaining the Class through Trial

Lead Plaintiff's motion for class certification had been fully briefed, including the submissions of sur- and sur-sur-reply briefs, and was pending when the Settlement was reached. Defendants advanced multiple arguments in opposing class certification and, even under Lead Plaintiff's modified class definition, "there is a significant dispute over the scope of the class." *Vasquez v. A+ Staffing LLC*, 746 F. Supp. 3d 26, 55-56 (E.D.N.Y. 2024) (Pollak, J.); *see also* ¶¶31-37, 66, 70-71. "Courts generally acknowledge that a contested motion to certify a class would pose at least some increased risk that class certification might be denied." *Oasmia Pharm. AB*, 2021 WL 1259559, at *6. "Moreover, even if the Class were certified, Defendants may have moved to decertify the Class before trial or on appeal at the conclusion of trial, as class certification may always be reviewed." *Advanced Battery*, 298 F.R.D. at 178. Thus, this factor also supports approval of the proposed Settlement.

7. The Ability of Defendants to Withstand a Greater Judgment

"Under the *Grinnell* analysis, the court also considers Defendants' ability to withstand a greater judgment than that provided for in the proposed settlement." *Rosenfeld v. Lenich*, 2021

WL 508339, at *7 (E.D.N.Y. Feb. 11, 2021) (Garaufis, J.). Nevertheless, the possibility that Defendants may be able to withstand a greater judgment does not preclude a finding that the Settlement in this case is fair. *See Tenaris*, 2024 WL 1719632, at *8; *McIntosh*, 2024 WL 5118192, at *11. Indeed, even if Defendants could afford to pay more, this factor would not outweigh the numerous factors strongly favoring Settlement, including the serious risks to continued litigation and the certain, immediate, and substantial recovery for the Settlement Class.

8. The Reasonableness of the Proposed Settlement in Light of the Best Possible Recovery and the Risks of Litigation

"Courts often consider the eighth *Grinnell* factor, the range of reasonableness of the settlement in light of the best possible recovery, and the ninth *Grinnell* factor, the range of reasonableness of the settlement fund to a possible recovery in light of all the attendant risks of litigation, together." *Johnson v. Rausch, Sturn, Israel, Enerson & Hornik, LLP*, 333 F.R.D. 314, 323 (S.D.N.Y. 2019). "The adequacy of the amount achieved in settlement may not be judged in comparison with the possible recovery in the best of all possible worlds, but rather in light of the strengths and weaknesses of plaintiffs' case." *Giant Interactive Grp.*, 279 F.R.D. at 162. "[T]here is a range of reasonableness with respect to a settlement, and the settlement amount's ratio to the maximum potential recovery need not be the sole, or even the dominant, consideration when assessing the settlement's fairness." *In re Glob. Crossing Sec. & ERISA Litig.*, 225 F.R.D. 436, 460-61 (S.D.N.Y. 2004). "[T]he Court should also consider that the Settlement provides for payment to the Class now, rather than a speculative payment potentially many years down the road." *Sillerman*, 2019 WL 6889901, at *10; *see also Glob. Crossing*, 225 F.R.D. at 461 ("The prompt, guaranteed payment of the settlement money increases the settlement's value in comparison to some speculative payment of a hypothetically larger amount years down the road.").

As noted above, the Settlement was reached while Lead Plaintiff's motion for class

certification and Defendants' motion for judgment on the pleadings were still pending, and the outcome of those motions could have drastically impacted the potential recovery available to the Class. *E.g.*, ¶¶65-71, 78. If the Court agreed with Defendants' arguments in this regard, Lead Plaintiff's maximum damages for the remaining claim would have been approximately $260 million. ¶78.[3] However, Defendants would have likely argued that even the damages figure of $260 million is overstated based primarily on gains to certain Class members that Defendants believe would have been netted from Lead Plaintiff's loss amounts, and that with netting, the total damages for this shorter class period would be approximately $175 million. *Id.* Settlements are routinely approved where the settlement amount represents a much smaller percentage of potentially recoverable damages. *See In re Telik, Inc. Sec. Litig.*, 576 F. Supp. 2d 570, 580 (S.D.N.Y. 2008) (collecting cases); *In re Virtus Inv. Partners, Inc. Sec. Litig.*, 2018 WL 6333657, at *3 (S.D.N.Y. Dec. 4, 2018). Accordingly, the Settlement Amount falls within the range of reasonableness.

9. Remaining Rule 23(e)(2) Factors

In evaluating the proposed Settlement, Rule 23(e)(2) instructs courts to also consider: (i) the effectiveness of the proposed method of distributing the relief provided to the class, including the method of processing class member claims; (ii) the terms of any proposed award of attorney's fees, including the timing of payment; (iii) any other agreement made in connection with the proposed settlement; and (iv) whether class members are treated equitably relative to each other. Fed. R. Civ. P. 23(e)(2)(C)(ii)-(iv) & (e)(2)(D). These factors also support final approval.

[3] Notably, it was this shorter period that the SEC had investigated, which resulted in a settlement payment by Dentsply Sirona to the U.S. Treasury of only $1 million, notwithstanding the findings made by the SEC in the Cease and Desist Order. ¶15.

First, the proposed method of distribution and claims processing ensures equitable treatment of Settlement Class Members. *See* Fed. R. Civ. P. 23(e)(2)(C)(ii) & (e)(2)(D). Settlement Class Members' claims will be processed, and the Net Settlement Fund will be distributed, pursuant to a standard method routinely approved in securities class actions. The Court-authorized Claims Administrator, A.B. Data, Ltd. ("A.B. Data"), will review and process all Claims received, provide Claimants with an opportunity to cure any deficiency or request judicial review of the denial of their Claims, if applicable, and will ultimately mail or wire Authorized Claimants their *pro rata* share of the Net Settlement Fund, as calculated under the Plan of Allocation. And none of the Settlement proceeds will revert to Defendants. *See* Settlement Agreement ¶13.

Second, as further discussed in the accompanying Memorandum in Support of Lead Counsel's Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses, the requested attorneys' fees of 30% of the Settlement Fund, to be paid only upon the Court's approval, are reasonable in light of the efforts devoted by Lead Counsel over the past six years, the recovery obtained, and the significant risks that Lead Counsel shouldered at every step. The request for attorneys' fees is also consistent with attorneys' fee percentages awarded to counsel in other complex class actions in this Circuit. *See, e.g.*, *In re Lloyd's Am. Trust Fund Litig.*, 2002 WL 31663577, at *26 (S.D.N.Y. Nov. 26, 2002) (collecting cases and stating "[i]n this district alone, there are scores of common fund cases where fees alone (i.e., where expenses are awarded in addition to the fee percentage) were awarded in the range of 33-1/3% of the settlement fund."); *Lea v. Tal Educ. Grp.*, 2021 WL 5578665, at *12 (S.D.N.Y. Nov. 30, 2021) ("Class Counsel's request for 33% of the Settlement Fund is typical in class action settlements in the Second Circuit."); *Pearlstein v. BlackBerry Ltd.*, 2022 WL 4554858, at *7 (S.D.N.Y. Sept. 29, 2022) (33%

fee awarded from a $165 million settlement plus expenses); *In re J.P. Morgan Stable Value Fund ERISA Litig.*, 2019 WL 4734396, at *1, 6 (S.D.N.Y. Sept. 23, 2019) (one-third fee awarded for a $75 million settlement). In any event, the approval of attorneys' fee awards is separate from the approval of the Settlement and "will not affect the validity or finality of the Settlement." Settlement Agreement ¶17.[4]

Third, as previously disclosed, the only agreement the Parties entered into—other than the Settlement Agreement (which supersedes the Parties' initial Term Sheet)—was a confidential Supplemental Agreement, which sets forth the conditions under which Defendants would be able to terminate the Settlement if the amount of Settlement Class Members who request exclusion reaches a certain threshold. *See* Settlement Agreement ¶35. "This type of agreement is a standard provision in securities class actions and has no negative impact on the fairness of the Settlement." *Signet Jewelers*, 2020 WL 4196468, at *13; *accord PPDAI*, 2022 WL 198491, at *13.

For the reasons herein and in the Golan Declaration, the proposed Settlement is fair, reasonable, and adequate under any relevant standard or factor and, thus, should be approved.

III. THE COURT SHOULD APPROVE THE PLAN OF ALLOCATION

"Like the settlement agreement itself, the plan of allocation must also be fair and reasonable." *In re N. Dynasty Mins. Ltd. Sec. Litig.*, 2024 WL 308242, at *13 (E.D.N.Y. Jan. 26, 2024) (Merkl, J.). In evaluating the fairness of a plan of allocation, "courts give weight to the opinion of qualified counsel." *Advanced Battery*, 298 F.R.D. at 180. "When formulated by competent and experienced class counsel, an allocation plan need only have a reasonable, rational basis." *Glob. Crossing*, 225 F.R.D. at 462.

The Plan of Allocation, which is set forth in the Notice, *see* Ex. 2 (Walter Decl.), Ex. A

[4] Pursuant to the Settlement Agreement, Court-awarded attorneys' fees may be paid upon issuance of such an award. Settlement Agreement ¶16.

("Notice") at 12-16, was developed with the assistance of Lead Plaintiff's damages consultant, Frank C. Torchio, CFA, and his team at Forensic Economics. *See* Notice ¶79. The objective of the Plan of Allocation is to equitably distribute the Net Settlement Fund among Settlement Class Members who suffered economic losses as a proximate result of the alleged wrongdoing in the Action. Notice ¶78. It provides for a "*pro rata* allocation of settlement proceeds based on the proportional losses suffered by each individual class member" and "takes into account when individual class members purchased and sold their common stock." *In re Renaissancere Holdings Ltd. Sec. Litig.*, 2008 WL 236684, at *3 (S.D.N.Y. Jan. 18, 2008) (approving the proposed plan of allocation); *see also* Notice ¶¶83, 93, Table A. As the Notice explains, the Plan of Allocation calculates a Recognized Loss Amount for each Claimant's purchases of Dentsply Intl. or Dentsply Sirona common stock, based on a methodology closely related to how Lead Plaintiff's expert would measure the artificial inflation in the price of Dentsply Intl. and Dentsply Sirona common stock proximately caused by Defendants' alleged materially false and misleading statements and omissions. Notice ¶¶79-84.[5] Recognized Claim amounts are further capped at the amount of a Claimant's overall market loss in Dentsply Intl. or Dentsply Sirona common stock during the Class Period. Notice ¶¶91-92.

The claims administrator will process the claims under Lead Counsel's guidance, allow claimants an opportunity to cure any purported deficiencies or request that the Court review their claim denial, and, if approved, mail authorized claimants their *pro rata* share of the net settlement

[5] In addition, consistent with the Private Securities Litigation Reform Act ("PSLRA"), Recognized Loss Amounts for shares of Dentsply Sirona common stock sold during the 90-day period after the end of the Class Period, or held to the end of that 90-day period, are further limited to the difference between the purchase price and the average closing price of the stock during that period. Notice ¶¶83(C)(ii), (D)(ii).

fund. Notice ¶¶46, 93. This is a further hallmark of plans of allocation that courts have approved. *See PPDAI*, 2022 WL 198491, at *13.[6]

Lead Plaintiff and Lead Counsel believe that the proposed Plan of Allocation provides a fair and reasonable method to equitably allocate the Net Settlement Fund among Settlement Class Members who suffered losses as a result of the misconduct alleged in the Action. ¶¶92-94. Moreover, the Plan of Allocation was fully disclosed in the Notice, and following mailing of the Notice to more than 196,821 potential Settlement Class Members, to date, no objections to the Plan of Allocation have been received. ¶¶82, 85; Ex. 2, Walter Decl. ¶11. Accordingly, Lead Plaintiff and Lead Counsel believe the Plan of Allocation is fair, reasonable, and adequate and should be approved. Fed. R. Civ. P. 23(e)(2)(C)(ii) & (e)(2)(D).

IV. THE NOTICE SATISFIED RULE 23, DUE PROCESS, AND THE PSLRA

Lead Plaintiff has provided the members of the Settlement Class with adequate notice of the Settlement. Here, the notice satisfied both: (i) Rule 23, as it was "the best notice . . . practicable under the circumstances" and directed "in a reasonable manner to all class members who would be bound by the" Settlement, Fed. R. Civ. P. 23(c)(2)(B) & (e)(1)(B); *see also Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 173-75 (1974); and (ii) due process, as it was "reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 314 (1950).

[6] Under the Plan of Allocation, the entire Net Settlement Fund will be distributed to Authorized Claimants. If any funds remain after the initial *pro rata* distribution, as a result of uncashed or returned checks or other reasons, subsequent distributions to Authorized Claimants will be conducted. Only when the residual amount left for re-distribution to Settlement Class Members is so small that a further re-distribution would not be cost effective, will those funds be donated to one or more non-sectarian, not-for-profit, 501(c)(3) organizations, to be recommended by Lead Counsel and approved by the Court. Notice ¶95.

In accordance with the Court's Preliminary Approval Order, on June 9, 2025, A.B. Data began mailing copies of the Notice Packet to potential Settlement Class Members and nominees. *See* Ex. 2, Walter Decl. ¶¶5-7. Through July 25, 2025, A.B. Data has mailed a total of 196,821 Notice Packets. ¶82. A.B. Data also caused the Summary Notice to be published in *Investor's Business Daily* and transmitted over the *PR Newswire* on June 23, 2025. ¶83. A.B. Data also established a website for the settlement, which has been reviewed daily by a Barrack Rodos partner and from where potential Settlement Class Members can download a copy of the Notice and Claim Form and submit claims. *See* DentsplySironaSecuritiesLitigation.com. The Notice and other key documents were also posted to Lead Counsel's website announcing the settlement of the case. ¶84; www.barrack.com/newsroom/settlement-alert-dentsply-sirona-inc/.

The Notice apprised Settlement Class Members of, *inter alia*: (i) the amount of the Settlement; (ii) the reasons for the Settlement; (iii) the estimated average recovery per affected share of Dentsply Intl. and Dentsply Sirona common stock; (iv) the maximum amount of attorneys' fees and expenses that could be sought; (v) the identity and contact information for a representative of Lead Counsel available to answer questions; (vi) the right of Settlement Class Members to object to the Settlement or request exclusion from the Settlement Class; (vii) the binding effect of a judgment on Settlement Class Members; (vii) the dates and deadlines for certain Settlement-related events, including the of the Settlement Hearing; and (ix) information on how to submit a Claim Form. *See* Fed. R. Civ. P. 23(c)(2)(B); 15 U.S.C. § 78u-4(a)(7). As such, the Notice "contain[ed] content sufficient to inform class members of the proposed settlement and apprise them of their options moving forward." *In re LIBOR-Based Fin. Instruments Antitrust Litig.*, 327 F.R.D. 483, 491-92 (S.D.N.Y. 2018).

In sum, this combination of sending individual first-class mail to all Settlement Class

Members who could be identified with reasonable effort, supplemented by notice in an appropriate publication, transmission over a newswire, and publication on internet websites, was "the best notice that is practicable under the circumstances." Fed. R. Civ. P. 23(c)(2)(B). Comparable notice programs are routinely approved by Courts in this Circuit. *See, e.g.*, *In re Synchrony Fin. Sec. Litig.*, 2023 WL 4992933, at *4-5 (D. Conn. Aug. 4, 2023); *Cates v. Trs. of Columbia Univ. in City of N.Y.*, 2021 WL 4839619, at *1 (S.D.N.Y. Oct. 13, 2021); *In re LIBOR-Based Fin. Instruments Antitrust Litig.*, 327 F.R.D. at 492; *Limpert v. Cambridge Credit Counseling Corp.*, 2010 WL 11629028, at *1 (E.D.N.Y. Mar. 15, 2010); *In re Priceline.com, Inc. Sec. Litig.*, 2007 WL 2115592, at *3 (D. Conn. July 20, 2007).

V. THE COURT SHOULD CERTIFY THE SETTLEMENT CLASS FOR SETTLEMENT PURPOSES

"Before approving a class settlement agreement, a district court must first determine whether the requirements for class certification in Rule 23(a) and (b) have been satisfied." *In re Am. Int'l Grp., Inc. Sec. Litig.*, 689 F.3d 229, 238 (2d Cir. 2012). "Rule 23(a) states four threshold requirements applicable to all class actions: (1) numerosity (a class [so large] that joinder of all members is impracticable); (2) commonality ('questions of law or fact common to the class'); (3) typicality (named parties' claims or defenses are typical ... of the class); and (4) adequacy of representation (representatives will fairly and adequately protect the interests of the class)." *Edwards v. N. Am. Power & Gas, LLC*, 2018 WL 3715273, at *6 (D. Conn. Aug. 3, 2018) (alterations in original) (quoting *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 613 (1997)). "In addition to satisfying Rule 23(a)'s prerequisites, parties seeking class certification must show that the action is maintainable under Rule 23(b)(1), (2), or (3)." *Id.* (quoting *Amchem Prods., Inc.*, 521 U.S. at 614). "In certifying a Settlement Class, however, the Court is not required to determine whether the action, if tried, would present intractable management problems, for the proposal is

that there be no trial." *Advanced Battery*, 298 F.R.D. at 181.

A. Numerosity

"Numerosity is presumed for classes larger than forty members." *Pa. Pub. Sch. Emps.' Ret. Sys. v. Morgan Stanley & Co.*, 772 F.3d 111, 120 (2d Cir. 2014). "[C]ourts have acknowledged that numerosity in securities actions may be premised on "a showing that a large number of shares were outstanding and traded during the relevant period." *In re NIO, Inc. Sec. Litig.*, 2023 WL 5048615, at *5 (E.D.N.Y. Aug. 8, 2023); *see also In re Winstar Commc'ns Sec. Litig.*, 290 F.R.D. 437, 443 (S.D.N.Y. 2013).

Early in the Class Period, as of February 2, 2016, there were 140.1 million Dentsply Intl. shares of common stock outstanding, and at the end of the Class Period, Dentsply Sirona had 222.3 million shares of common stock outstanding. ECF 103-1 (Torchio Report) ¶¶24, 33. Pursuant to the Court-approved notice program, A.B. Data disseminated the Notice to 196,821 potential Settlement Class Members and had received 179 Claim Forms as of July 25, 2025, with the majority of Claim Forms expected to be submitted closer to the claim filing deadline. Ex. 2, Walter Decl. ¶¶11, 15. There is no doubt that numerosity is satisfied. *See PPDAI*, 2022 WL 198491, at *6.

B. Commonality and Typicality

"The commonality and typicality requirements of Rule 23(a) tend to merge such that similar considerations inform the analysis for both prerequisites." *McIntosh*, 2024 WL 5118192, at *6. "Commonality requires the plaintiff to demonstrate that the class members must 'have suffered the same injury.'" *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 349-50 (2011). "The "commonality requirement [is] satisfied if the class shares even one common question of law or fact, and factual differences in the claims of the class do not preclude a finding of commonality." *Newman v. RCN Telecom Servs., Inc.*, 238 F.R.D. 57, 73 (S.D.N.Y. 2006) (alteration in original).

"Similarly, with the typicality requirement, Rule 23(a)(3) requires that 'the claims or defenses of the representative parties are typical of [those] of the class.'" *McIntosh*, 2024 WL 5118192, at *6 (alteration in original). The typicality requirement is met by demonstrating that "each class member's claim arises from the same course of events and each class member makes similar legal arguments to prove the defendant[s'] liability." *In re Flag Telecom Holdings, Ltd. Sec. Litig.*, 574 F.3d 29, 35 (2d Cir. 2009).

Here, the common questions of law and fact "all relate to whether Defendants engaged in a common scheme to defraud their investors who relied on certain alleged misrepresentations and omissions when buying and selling [Dentsply Intl. and Dentsply Sirona] stock—the proposed Settlement Class." *McIntosh*, 2024 WL 5118192, at *6. "Thus, all of the members of the proposed class are alleged to have suffered the same harm based on the same acts and omissions of Defendants," and Lead Plaintiff is "relying on the same conduct and suffered the same harm as the other settlement class members." *Id.*; *see also Schutter v. Tarena Int'l, Inc.*, 2024 WL 4118465, at *4 (E.D.N.Y. Sept. 9, 2024) (Chen, J.). Therefore, the commonality and typicality requirements are met.

C. Adequacy

"Adequacy is satisfied where 'the representative parties will fairly and adequately protect the interests of the class.'" *Jander v. Ret. Plans Comm. of IBM*, 2021 WL 3115709, at *5 (S.D.N.Y. July 22, 2021). "Determination of adequacy typically entails inquiry as to whether: (1) plaintiff's interests are antagonistic to the interest of other members of the class and (2) plaintiff's attorneys are qualified, experienced and able to conduct the litigation." *In re Payment Card Interchange Fee & Merch. Disc. Antitrust Litig.*, 330 F.R.D. 11, 30 (E.D.N.Y. 2019) (Brodie, J.).

As discussed in detail above with respect to the procedural fairness of the Settlement, Lead Plaintiff's interests are aligned with those of absent class members because they suffered the same

injuries, and Lead Counsel has ably represented the Class for over six years, including through extensive discovery, motions practice, and mediation that resulted in a favorable Settlement. *See supra* II.A.1; *see also Jander*, 2021 WL 3115709, at *5 (finding plaintiffs established adequacy where they "devoted substantial time and effort to this action, monitoring the case for over six years, responding to discovery requests, and reviewing pleadings," and their interests were "aligned with the rest of the Class"). Therefore, adequacy is established here.

D. Rule 23(b)(3)

Lead Plaintiff seeks certification of the Settlement Class pursuant to Rule 23(b)(3), which permits a class action to be maintained if the court finds "that the questions of law or fact common to class members predominate over any questions affecting only individual members, and that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy." Fed. R. Civ. P. 23(b)(3). "Predominance is satisfied if resolution of some of the legal or factual questions . . . can be achieved through generalized proof, and if these particular issues are more substantial than the issues subject only to individualized proof." *PPDAI*, 2022 WL 198491, at *7. To "satisfy the superiority requirement, the moving party must show that 'the class action presents economies of time, effort and expense, and promote[s] uniformity of decision.'" *Lea*, 2021 WL 5578665, at *6 (alteration in original).

Here, there are questions of law and fact common to the Settlement Class that predominate over any individual questions, including whether Defendants' actions violated federal securities laws and whether those violations were knowing or reckless. These common issues "predominate over any individual issues." *Advanced Battery*, 298 F.R.D. at 182; *see also Amchem Prods.*, 521 U.S. at 625 ("Predominance is a test readily met in certain cases alleging . . . securities fraud[.]"). A class action is also the superior method for fairly and efficiently adjudicating this controversy, which involved a large number of purchasers whose individual damages are likely small enough

to render individual litigation prohibitively expensive. "Members of the Settlement Class are not likely to (and many do not have) an interest or the means to prosecute an individual case against . . . Defendants. Additionally, concerns of efficiency and economy tip the scales in favor of litigating the issues in one suit before this Court." *Advanced Battery*, 298 F.R.D. at 182. "And, because class certification is only for purposes of settlement, the Court need not inquire as to whether the case, if tried, would present management problems that would render class treatment inferior." *McIntosh*, 2024 WL 5118192, at *7. Accordingly, the requirements of Rule 23(b)(3) are satisfied.

Finally, the Second Circuit "has long acknowledged the propriety of certifying a class solely for settlement purposes." *Advanced Battery*, 298 F.R.D. at 180 (citing *Weinberger v. Kendrick*, 698 F.2d 61, 72-73 (2d Cir. 1982)). On May 16, 2025, in considering Lead Plaintiff's motion for preliminary approval of the Settlement, the Court found that "each element required for certification of the Settlement Class pursuant to Rule 23 of the Federal Rules of Civil Procedure has been met or will likely be met[.]" ECF 178 ¶¶2-3. Because the Settlement Class meets all of the requirements for certification under Rule 23(a) and (b)(3), the Court should now grant final class certification for purposes of the Settlement.

VI. CONCLUSION

For the reasons set forth here and in the Golan Declaration, Lead Plaintiff respectfully requests that the Court grant final approval of the Settlement and the Plan of Allocation.

Dated: August 5, 2025

Respectfully submitted,

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