

May 11, 2014

The Honorable Lucy H. Koh  
United States District Court  
for the Northern District of California  
280 South First Street, #4050,  
Courtroom 8 – 4<sup>th</sup> Floor  
San Jose, CA 95113

Re: In re High-Tech Employee Antitrust Litigation  
11-CV-2509-LHK (N.D. Cal.)

Your Honor,

I am a Class Representative in this case, and in that role I am writing to inform the Court that I feel the tentative settlement agreement reached between Defendants' and Plaintiffs' counsel, of which the Court was notified in Docket #900, and which was correctly reported in the press as being in the amount of \$324 million, is grossly inadequate and fails to achieve justice for the Class. Therefore I respectfully ask that the Court reject it as unfair and unjust. The Class wants a chance at real justice. We want our day in court.

The evidence of the Defendants' illegal conspiracy, and its intended impact, is very strong. In fact, the Defendants' own actions reveal their valuation of the conspiracy. Just look at Google which, when Facebook rejected their illegal overture, felt compelled to raise annual compensation 10% companywide to stem the flow of employees to Facebook. This settlement, in contrast, will amount to less than 1% of compensation for each class member over the duration of the illegal agreements. That's one tenth of the experts' estimates of damages and is lacking in any penalty. There's no justice for the Class in that, nor is there any real deterrent to future wrongdoing. We want a chance at achieving real justice.

As an analogy, if a shoplifter is caught on video stealing a \$400 iPad from the Apple Store, would a fair and just resolution be for the shoplifter to pay Apple \$40, keep the iPad, and walk away with no record or admission of wrongdoing? Of course not, nor is such a resolution appropriate in our case. Perhaps, though, the prevalence of corporate crime is in part due to the absence of real justice for the victims in the courtroom? Why, with such uniquely compelling evidence in hand, would we short circuit this case? Please, Your Honor, allow us our day in court.

I also wish to inform the Court that I was not informed that the most recent round of mediation that lead to the tentative settlement was even taking place until the day after Plaintiffs' and Defendants' counsel had already reached an agreement. I should have been notified of this mediation so that I could substantively participate and fulfill my duties as Class Representative. Nonetheless, after learning of this settlement, I informed Plaintiffs' counsel in writing that I

found it inadequate and that I intended, on behalf of the Class, to oppose it. Despite this, Plaintiffs' counsel proceeded with informing the Court that a settlement agreement had been reached and thus litigation was halted. Is the role of Class Representative a mere formality absent substance? Does this case belong to the Plaintiffs' counsel rather than the Class? No and no. This case belongs to the Class and we wish to proceed with the litigation.

The tentative settlement, if it stands, amounts to big profits for Plaintiffs' counsel, insulation from real liability for the Defendants, and locks in a significant net loss for the Class. Therefore, on behalf of the Class, I respectfully ask that you reject this settlement so that we may have our day in court and a have real shot at justice.

Sincerely,

Michael Devine