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12
13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**

15 IN RE MULLEN AUTOMOTIVE,
16 INC. SECURITIES LITIGATION

Case No. 2:22-cv-03026-DMG-AGR

Honorable Dolly M. Gee

17 **MEMORANDUM OF LAW IN**
18 **SUPPORT OF LEAD PLAINTIFF'S**
19 **UNOPPOSED MOTION FOR**
20 **CLASS DISTRIBUTION ORDER**

Hearing Date: April 10, 2026

Hearing Time: 9:30 a.m.

Location: 350 West 1st Street

Courtroom: 8C

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28 2020 WL 5628039 (S.D.N.Y. Sept. 21, 2020) 10

1 Court-appointed lead plaintiff Mejgan Mirbaz (“Lead Plaintiff”), respectfully
2 submits this memorandum in support of her unopposed motion (“Motion”) for entry
3 of the Proposed Class Distribution Order (“Class Distribution Order”) in the above-
4 captioned action (the “Action”).¹ If entered by the Court, the Class Distribution Order
5 will, among other things: (i) approve the Claims Administrator’s recommendations
6 accepting and rejecting Claims submitted in the Action; (ii) direct the distribution of
7 the Net Settlement Fund to Authorized Claimants whose Claims have been accepted
8 as valid and approved by the Court; and (iii) approve the Claims Administrator’s fees
9 and expenses incurred in connection with the Action. The specifics of the proposed
10 plan for distribution of the Net Settlement Fund are set forth in the accompanying
11 Walter Declaration. *See* Walter Decl. ¶¶39(a)-(f).

12 **I. BACKGROUND**

13 On August 14, 2024, the Parties entered into the Stipulation, the terms of which
14 established a \$7,250,000 Settlement Fund for the benefit of the Settlement Class,
15 consisting of all Persons that purchased or otherwise acquired the publicly traded
16 common stock of Mullen Automotive Inc. or Net Element Inc., and/or purchased or
17 otherwise acquired publicly traded call options on such stock, and/or wrote publicly
18 traded put options on such stock, during the Settlement Class Period, and who suffered
19 economic losses as a proximate result of the alleged wrongdoing. Excluded from the
20 Settlement Class are: (a) Persons who suffered no compensable losses; and (b)(i)
21 Defendants, Net Element, and the Excluded Entities; (ii) present and former parents,
22 subsidiaries, assigns, successors, predecessors and affiliates of Mullen Auto, Mullen
23

24 _____
25 ¹ All capitalized terms used herein that are not otherwise defined have the meanings
26 ascribed to them in the Stipulation and Agreement of Settlement dated August 14,
27 2024 (the “Stipulation”; ECF No. 91-1), or the concurrently filed Declaration of
28 Adam D. Walter in Support of Plaintiff’s Unopposed Motion for Class Distribution
Order (“Walter Decl.” or “Walter Declaration”), submitted on behalf of the Court-
approved Claims Administrator, A.B. Data, Ltd. (“Claims Administrator”).

1 Tech, Net Element, and the Excluded Entities; (iii) any Person who served as an
2 Officer and/or director of Mullen Auto, Mullen Tech, Net Element, or the Excluded
3 Entities during the Settlement Class Period and their Immediate Family Members;
4 (iv) any entity in which the Defendants have or had a controlling interest; (v) any trust
5 of which Michery is the settler or which is for the benefit of Michery and/or his
6 Immediate Family Members; (vi) Defendants’ and Net Element’s D&O Insurers; and
7 (vii) the legal representatives, heirs, successors, and assigns of any Person excluded
8 under provisions (i) through (vi) hereof. Also excluded from the Settlement Class are
9 any Persons who or which submit a request for exclusion from the Settlement Class
10 that is accepted by the Court. *See* ECF No. 91-1.²

11 The Court granted preliminary approval of the proposed Settlement by its
12 original Order Preliminarily Approving Settlement and Providing for Notice dated
13 September 13, 2024, which was subsequently revised in an order docketed on
14 September 23, 2024 and dated September 13, 2024 to correct a typographical error
15 (“Preliminary Approval Order”; ECF Nos. 98 and 99). Pursuant to the Preliminary
16 Approval Order, a total of 118,024 potential Settlement Class Members and nominees
17 were either mailed a Postcard Notice or sent an email containing a link to: (a) the
18 Notice of (I) Pendency of Class Action, Certification of Settlement Class, and
19 Proposed Settlement, (II) Settlement Fairness Hearing, and (III) Motion for an Award
20 of Attorneys’ Fees and Reimbursement of Litigation Expenses (the “Notice”); and (b)
21 the Proof of Claim and Release Form (“Claim Form”). *See* Walter Decl. ¶5.
22 Moreover, the Claims Administrator published the Summary Notice in *Investor’s*
23 *Business Daily*, transmitted the Summary Notice over *PR Newswire* (a national
24 newswire service), established a case-specific website dedicated to the Settlement

25 _____
26 ² The Court’s Order re Final Approval of Class Action Settlement and Final Judgment
27 excluded from the Settlement Class, pursuant to their requests Akush Gupta, Lauren
28 Lidros, Johan Lidros, Michele A. Webber, Efrat Lichtman, and Roei Listman [*sic*].
ECF No. 131, at 13.

1 (www.MullenSecuritiesSettlement.com), and set up a toll-free telephone helpline.
2 *See* Walter Decl. ¶3. The Notice and the Settlement Website provided Settlement
3 Class Members with information about the Settlement, including the deadlines for
4 requesting exclusion, objecting, and filing Claims. The Settlement Website also
5 provided Settlement Class Members with access to downloadable documents relevant
6 to the Settlement, such as the Stipulation, Notice, and Claim Form.

7 On June 20, 2025, the Court entered an order granting final approval of the
8 Settlement as fair, reasonable, and adequate. ECF No. 131. That same day, the Court
9 entered an order approving the Plan of Allocation, which was explained in the Notice,
10 as providing a fair and equitable basis upon which to allocate the proceeds of the Net
11 Settlement Fund. ECF No. 129.

12 Lead Counsel now request that the Court authorize distribution of the Net
13 Settlement Fund (after payment of the Claims Administrator expenses as discussed
14 below, and payment of, or reserve for, Taxes and escrow fees) to Authorized
15 Claimants.

16 **II. CLAIMS ADMINISTRATION**

17 Pursuant to the Court-approved Postcard Notice and Notice, all Settlement
18 Class Members wishing to participate in the Settlement were required to submit Claim
19 Forms online or by mail, postmarked or received no later than February 6, 2025. *See*
20 ECF No. 123-1, Exs. A (Postcard Notice) and B (Notice). By Order dated January
21 13, 2025, the Court extended the claims filing deadline until April 25, 2025. ECF No.
22 114. The Claims Administrator received and reviewed all submitted Claims and, to
23 the extent that a Claim was deficient in any regard, the Claims Administrator notified
24 the Claimant of the deficiency and advised the Claimant as to possible ways to cure
25 the deficiency. Walter Decl. ¶¶19-26.

26 Of the 193,796 Claims submitted to and fully processed by the Claims
27 Administrator, 280 were paper submissions, and 576 were online submissions through
28 the online filing portal on the Settlement Website. Walter Decl. ¶9. The remaining

1 192,940 Claims were Electronic Claims filed by E-Claim Filers, who are typically
2 banks, brokers, nominees, and other third-party filers that file Claims on behalf of
3 numerous Claimants. *Id.* ¶¶9, 13. Because E-Claim Filers submit a high volume of
4 Claims on behalf of multiple Claimants, the Claims Administrator provides E-Claim
5 Filers with the opportunity to submit a master claim form and mail a computer disc
6 or submit an electronic file containing all the transactions of the Claimants on whose
7 behalf the E-Claim Filer is submitting a Claim—rather than providing large volumes
8 of paper documentation. *Id.* ¶13. This process is designed to expedite the claims
9 process.

10 If a paper or online Claim was deficient or defective, the Claims Administrator
11 sent a letter to the Claimant, a sample of which is attached as Exhibit A to the Walter
12 Declaration. Walter Decl. ¶¶19-20; Ex. A. The letter advised the Claimant that he,
13 she, or it had twenty (20) days from the date of the letter to submit additional
14 information and/or documentary evidence to cure the Claim, otherwise the Claims
15 Administrator would recommend the Claim for rejection. *Id.* ¶20. Of the 856 paper
16 and online Claims, the Claims Administrator sent deficiency letters for 554 Claims
17 (or approximately 68%). *Id.* ¶¶19-20.

18 If an Electronic Claim was deficient or defective, the Claims Administrator sent
19 an email to each E-Claim Filer with an attached spreadsheet containing detailed
20 information associated with the accounts and indicating which of those accounts
21 within the filing were deficient and/or rejected, samples of which are attached as
22 Exhibits B and C to the Walter Declaration respectively. *Id.* ¶¶22-26; Exs. B & C.
23 Of the 192,940 Electronic Claims, 155,504 (or approximately 80%) were incomplete
24 or deficient and were filed by a total of 124 E-Claim filers. *Id.* ¶22. The Claims
25 Administrator worked diligently with Claimants to resolve deficiencies where
26 possible, and, as a result of this process, a number of Claimants with initially deficient
27 Claims are now eligible to participate in the Settlement.

28 Ultimately, as detailed in the Walter Declaration, after the deficiency process

1 was complete, the Claims Administrator determined that 37,851 Claims are
2 acceptable and should receive a distribution. Walter Decl. ¶¶34-35, 37(a)-(b); Exs. D
3 & E. This number includes 37,805 timely and valid claims, and 46 Late But
4 Otherwise Eligible Claims (addressed in Section III below). *Id.* The Claims
5 Administrator also determined that 155,945 Claims are not eligible and should be
6 rejected for the following reasons: (i) 97,243 Claims did not hold Mullen Automotive
7 Securities through any Corrective Disclosure Dates; (ii) 48,141 Claims did not result
8 in a Recognized Claim under the Court-approved Plan of Allocation; (iii) 8,468
9 Claims were duplicates; (iv) 2,025 Claims had no eligible transactions in Mullen
10 Automotive Securities; (v) 65 Claims were replaced; (vi) one (1) Claim was submitted
11 on behalf of an individual or entity excluded from the Settlement Class; (vii) one (1)
12 Claim was identified as questionable; and (viii) one (1) Claim was rejected for not
13 providing the required backup documentation to support their transactions during the
14 Settlement Class Period. *Id.* ¶¶36, 37(c); Ex. F.

15 **III. LATE BUT OTHERWISE ELIGIBLE CLAIMS**

16 The Claims Administrator continued to receive Claims after the April 25,
17 2025, claim filing deadline. Walter Decl. ¶¶29, 35. “There must, however, be a final
18 cut-off date after which no more Claims may be accepted so that a proportional
19 distribution of the Net Settlement Fund may take place.” *In re Stable Rd. Acquisition*
20 *Corp. Sec. Litig.*, 2025 WL 924928, at *3 (C.D. Cal. Mar. 24, 2025) (“There is no
21 question that in the distribution of a large class settlement fund, ‘a cutoff date is
22 essential and at some point the matter must be terminated.’”) (quoting *In re Gypsum*
23 *Antitrust Cases*, 565 F.2d 1123, 1127 (9th Cir. 1977)); *In re Orthopedic Bone Screw*
24 *Prods. Liab. Litig.*, 246 F.3d 315, 329 (3d Cir. 2001). Acceptance of additional
25 Claims received during the finalization of the administration process and the
26 preparation of this Motion would necessarily require a delay in the distribution.
27 Accordingly, the Claims Administrator imposed a cut-off date of January 21, 2026—
28

1 approximately nine (9) months after the Court-imposed April 25, 2025 deadline.
2 Walter Decl. ¶¶29, 35, 39(e).

3 Of the 193,796 Claims submitted, 165 Claims were received or postmarked
4 after the initial April 25, 2025 deadline, but before the Claims Administrator’s
5 imposed cut-off of January 21, 2026. Walter Decl. ¶¶33, 35. Of these 165 Claims,
6 46 are late but otherwise eligible (“Late But Otherwise Eligible Claims”). *Id.* ¶¶29,
7 35, 37(b); Ex. E. These 46 Late But Otherwise Eligible Claims have been
8 recommended for payment. *Id.* Lead Counsel and the Claims Administrator believe
9 that when the equities are balanced, it would be unfair to prevent an otherwise valid
10 Claim from participating in the distribution of the Net Settlement Fund solely because
11 it was submitted after the deadline to submit a Claim Form, but while the Claims were
12 still being processed. *See In re Gypsum*, 565 F.2d at 1128 (district court has discretion
13 to grant late claims); *In re Eletrobras Sec. Litig.*, 467 F. Supp. 3d 149, 150 (S.D.N.Y.
14 2020) (accepting “late but otherwise valid Proofs of Claim”); *In re Stable Rd.*, 2025
15 WL 924928, at *3 (accepting “Late but Otherwise Valid Claims”); *In re Toyota Motor*
16 *Corp. Sec. Litig.*, 2014 WL 12586787, at *1 (C.D. Cal. Aug. 4, 2014) (similar); *see*
17 *also In re “Agent Orange” Prod. Liab. Litig.*, 689 F. Supp. 1250, 1261-63 (E.D.N.Y.
18 1988) (court permitting the qualifying late claimants and opt-out claimants to
19 participate in the settlement distribution because “[t]he cost to the fund of admitting
20 late claimants and readmitting the opt-out claimants to the class action should be
21 relatively small. No significant administrative costs need be incurred to allow the late
22 claims and opt-out claims”). Accordingly, it is respectfully requested that this Court
23 approve Lead Counsel’s recommendation and permit the Claims Administrator to
24 include the Late But Otherwise Eligible Claims in the Distribution Plan. *See* Walter
25 Decl. ¶¶29, 35, 37(b); Ex. E.

26 Additionally, it is respectfully requested that the Court enter an Order directing
27 that no Claims or responses to deficiency letters received after January 21, 2026, be
28 included in the distribution, except as provided in paragraphs 39(d) and (e) of the

1 Walter Declaration. *See also, infra*, Sec. IV. “Drawing a line is essential to achieve
2 certainty and finality in such a large class action.” *Hartman v. Powell*, 2001 WL
3 410461, at *1 (D.C. Cir. Mar. 15, 2001); *see also In re Citigroup Inc. Sec. Litig.*, 2014
4 WL 7399039, at *4 (S.D.N.Y. Dec. 29, 2014) (quoting *In re Gypsum*, 565 F.2d at
5 1127).

6 **IV. DISTRIBUTION OF THE NET SETTLEMENT FUND**

7 Consistent with the terms of the Plan of Allocation and with the Court’s
8 approval, the Claims Administrator will conduct an initial distribution of the Net
9 Settlement Fund to all Claimants on a *pro rata* basis whose distribution payments
10 calculate to \$10.00 or more (the “Initial Distribution”). *See* Walter Decl. ¶¶39(a)-(f).
11 Based on the substantial experience of Lead Counsel in similar distributions, it is
12 anticipated that a certain number of the payments to be distributed to Settlement Class
13 Members who filed valid Claims will not be cashed promptly. To encourage
14 Authorized Claimants to promptly cash their distribution checks and to avoid or
15 reduce future expenses relating to uncashed checks, Lead Counsel propose that all the
16 distribution checks bear a notation “DEPOSIT PROMPTLY; VOID AND SUBJECT
17 TO REDISTRIBUTION IF NOT NEGOTIATED WITHIN 120 DAYS OF
18 DISTRIBUTION.” *Id.* ¶39(a)(v).

19 The Claims Administrator will make reasonable and diligent efforts to
20 encourage Authorized Claimants who are entitled to participate in the distribution of
21 the Net Settlement Fund to cash their distribution. However, if after nine months any
22 funds remain in the Net Settlement Fund, by reason of uncashed checks or otherwise,
23 the Claims Administrator will conduct a second distribution (the “Second
24 Distribution”) if Lead Counsel, in consultation with the Claims Administrator,
25 determines that it is cost-effective to do so. Walter Decl. ¶39(b). During the Second
26 Distribution, any amounts remaining in the Net Settlement Fund after the Initial
27 Distribution, after payment of Notice and Administration Expenses (including the
28 estimated costs of such Second Distribution), Taxes, and any escrow fees, will be

1 redistributed to all Authorized Claimants who participated in the Initial Distribution
2 who cashed their distribution checks and would receive at least \$10.00 from the
3 Second Distribution. *Id.* Following the Second Distribution, additional
4 redistributions will occur following the same process of the Second Distribution until
5 no funds remain in the Net Settlement Fund or until Lead Counsel, in consultation
6 with the Claims Administrator, determines that additional distributions are no longer
7 cost-effective. *Id.* ¶39(c).

8 Thereafter, if sufficient funds remain to warrant the processing of Claims
9 received after January 21, 2026, those claims will be processed, as well as any earlier-
10 received Claims for which an adjustment was received after January 21, 2026, that
11 resulted in an increased Recognized Claim, and will be paid in accordance with
12 subparagraph 39(e) of the Walter Declaration. *Id.* ¶39(d)-(e). More specifically, after
13 payment of any unpaid fees or expenses incurred in connection with administering
14 the Net Settlement Fund and after deducting the payment of any estimated taxes, the
15 costs of preparing appropriate tax returns, and any escrow fees, such Claimants, at the
16 discretion of Lead Counsel and to the extent possible, may be paid their distribution
17 amounts or additional distribution amounts on a *pro rata* basis that would bring them
18 into parity with other Authorized Claimants who have cashed all their prior
19 distribution checks. *Id.* ¶39(e).

20 Finally, if any funds remain in the Net Settlement Fund after payment of any
21 further Notice and Administration Costs and Taxes, the remaining balance shall be
22 contributed to “the Public Justice Foundation, a non-sectarian, not-for-profit
23 organization dedicated to, among other things, investor education and advocacy.” *In*
24 *re Stable Rd.*, 2025 WL 924928, at *4; *In re Loop Indus., Inc. Sec. Litig.*, 2023 WL
25 6458976, at *2 (S.D.N.Y. Oct. 4, 2023) (same); *see also* Walter Decl., ¶39(d);
26 Declaration of Lauren Barnes of the Public Justice Foundation, ¶¶11-13 (listing
27 securities cases in which the Public Justice Foundation received court approval as the
28 *cy pres* beneficiary). The proposed Class Distribution Order filed concurrently

1 herewith confirms the Settlement’s provisions for such redistribution of any residue
2 of the Net Settlement Fund.

3 **V. RELEASE OF CLAIMS**

4 To permit the full and final distribution of the Net Settlement Fund, it is
5 necessary to bar any further claims against the Net Settlement Fund beyond the
6 amounts allocated to Authorized Claimants, and to provide that all persons involved
7 in reviewing, verifying, calculating, tabulating, or otherwise processing the submitted
8 Claims, or in administering or handling the taxation of the Settlement Fund or Net
9 Settlement Fund, shall be released and discharged from any and all claims arising
10 from such involvement. Accordingly, Lead Plaintiff respectfully requests that the
11 Court: (a) release and discharge all persons involved in the review, verification,
12 calculation, tabulation, or any other aspect of the processing of the Claims submitted
13 in connection with the Settlement, or who are otherwise involved in the administration
14 or taxation of the Settlement Fund or the Net Settlement Fund, from any and all claims
15 arising out of that involvement; and (b) bar all Settlement Class Members and other
16 Claimants, whether or not they receive payment from the Net Settlement Fund, from
17 making any further claims against the Net Settlement Fund, Lead Plaintiff, Lead
18 Counsel, the Claims Administrator, the Escrow Agent or any other agent retained by
19 Lead Plaintiff or Lead Counsel in connection with the administration or taxation of
20 the Settlement Fund or the Net Settlement Fund, or any other person released under
21 the Settlement beyond the amounts allocated to them pursuant to the terms of the
22 Class Distribution Order, provided that such released persons acted in accordance
23 with the Stipulation, the Judgment, and the Class Distribution Order.

24 Courts have repeatedly approved similar provisions in connection with the
25 distribution of settlement proceeds. *See, e.g., Donley v. Live Nation Entm’t, Inc.*, 2026
26 WL 44681, at *2 (C.D. Cal. Jan. 5, 2026) (“All persons involved in the review,
27 verification, calculation, tabulation, or any other aspect of the processing of the claims
28 submitted herein, or otherwise involved in the administration or taxation of the

1 Settlement Fund or the Net Settlement Fund, are released and discharged from any
2 and all claims arising out of such involvement, and all Settlement Class Members and
3 other Claimants, whether or not they are to receive payment from the Net Settlement
4 Fund, are barred from making any further claim against the Net Settlement Fund,
5 Lead Plaintiffs, Lead Counsel, Plaintiffs’ Counsel, the Claims Administrator, the
6 Escrow Agent, or any other agent retained by Lead Plaintiffs or Lead Counsel in
7 connection with the administration or taxation of the Settlement Fund or the Net
8 Settlement Fund, or any other person released under the Settlement beyond the
9 amounts allocated to them pursuant to the terms of this Class Distribution Order,
10 provided that such released persons acted in accordance with the Stipulation, the
11 Judgment, and this Order.”); *Wilson v. LSB Indus., Inc.*, 2020 WL 5628039, at *2
12 (S.D.N.Y. Sept. 21, 2020) (approving substantially similar language in order
13 authorizing distribution of settlement proceeds); *In re Qudian Inc. Sec. Litig.*, 2022
14 WL 633863, at *2 (S.D.N.Y. Mar. 4, 2022) (same); *Stein v. Eagle Bancorp, Inc.*, 2022
15 WL 4245185, at *2 (S.D.N.Y. Sept. 15, 2022) (same); *In re Stable Rd.*, 2025 WL
16 924928, at *4 (same).

17 **VI. THE COURT SHOULD APPROVE PAYMENT OF**
18 **ADMINISTRATION-RELATED FEES AND EXPENSES**

19 The cost of the administration for this project up to the Initial Distribution is
20 \$280,901.50. Walter Decl. ¶38. To date, the Claims Administrator has received
21 payment of \$279,305.04. *Id.* The estimate to conduct the Initial Distribution is
22 \$23,313.78. *Id.*; Ex. G. Therefore, Lead Counsel respectfully requests that the Court
23 authorize payment to the Claims Administrator from the Settlement Fund of
24 \$24,910.24, consisting of \$1,596.46 for fees and expenses already accrued, and
25 \$23,313.78 in anticipation of the work to be performed during the Initial Distribution.³

26 _____
27 ³ If the anticipated fees and expenses to conduct the Initial Distribution is greater than
28 the actual cost to conduct the distribution, the excess will be returned to the Net
Settlement Fund.

1 *Id.*

2 **VII. RECORD RETENTION AND DESTRUCTION**

3 Lead Plaintiff respectfully requests the Court order that: (i) no earlier than one
4 (1) year after the Second Distribution of the Net Settlement Fund, if that occurs, or, if
5 there is no Second Distribution, two years after the Initial Distribution, the Claims
6 Administrator will destroy the paper copies of the Claims and all supporting
7 documentation; and (ii) no earlier than one (1) year after all funds have been
8 distributed, the Claims Administrator will destroy the electronic copies of the Claims
9 and all supporting documentation. *Id.* ¶39(f).

10 **VIII. CONCLUSION**

11 For all of the above reasons, Lead Plaintiff respectfully requests that the Court
12 grant the Motion.

13
14 Dated: March 12, 2026

**GLANCY PRONGAY WOLKE &
ROTTER LLP**

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27 *Counsel for Lead Plaintiff Mejgan Mirbaz and
28 the Settlement Class*

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CERTIFICATE OF COMPLIANCE

The undersigned, counsel of record for Lead Plaintiff Mejgan Mirbaz, certifies that this brief contains 3,423 words, which complies with the word limit of L.R. 11-6.1.

DATED: March 12, 2026

s/ Garth Spencer

Garth Spencer

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PROOF OF SERVICE

I hereby certify that on this 12th day of March, 2026, a true and correct copy of the foregoing document was served by CM/ECF to the parties registered to the Court’s CM/ECF system.

s/ Garth Spencer
Garth Spencer