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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
CHATTANOOGA DIVISION

LEWIS STEIN, et al., Individually and on)	Civil Action No. 1:19-cv-00098-TRM-CHS
Behalf of All Others Similarly Situated,)	
)	<u>CLASS ACTION</u>
Plaintiffs,)	
vs.)	Judge Travis R. McDonough
)	Magistrate Judge Christopher H. Steger
U.S. XPRESS ENTERPRISES, INC., et al.,)	
)	
Defendants.)	
)	

PLAINTIFFS' STATEMENT OF NON-OPPOSITION IN FURTHER SUPPORT OF
MOTIONS FOR: (1) FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND
APPROVAL OF PLAN OF ALLOCATION; AND (2) AN AWARD OF ATTORNEYS' FEES
AND EXPENSES AND AWARD TO PLAINTIFFS PURSUANT TO 15 U.S.C. §77z-1(a)(4)

Pursuant to the Court’s March 28, 2023 Order (ECF 222), and as a supplement to the initial filing made by Plaintiffs and their counsel on June 5, 2023 (ECF 226-241), Plaintiffs Deirdre Terry, Charles Clowdis, and Bryan K. Robbins (“Plaintiffs”) respectfully submit this statement of non-opposition in support of their Motions for: (1) Final Approval of Class Action Settlement and Approval of Plan of Allocation; and (2) an Award of Attorneys’ Fees and Expenses and Award to Plaintiffs Pursuant to 15 U.S.C. §77z-1(a)(4).

**I. No Class Member Has an Objection to Any Portion of the Settlement
Whatsoever**

Here, at the conclusion of an extensive Court-approved notice program, the Class’ response to the Settlement, Plan of Allocation, and counsel’s request for an award of attorneys’ fees and expenses has been overwhelmingly positive. In accordance with the March 28, 2023 Order, more than 15,100 copies of the Notice of Proposed Settlement of Class Action (“Notice”) and Proof of Claim and Release form (“Proof of Claim”) were sent to potential Class Members and their nominees.¹ In addition, the Summary Notice was transmitted over *Business Wire* and published in *The Wall Street Journal* on April 25, 2023. Murray Decl., ¶12. Copies of the Notice, Proof of Claim, Stipulation of Settlement, March 28, 2023 Order, and other documents in support of the Settlement were also posted on a website dedicated to the Litigation. *Id.*, ¶14. The deadline for submitting objections to any aspect of the Settlement, the Plan of Allocation, and/or Plaintiffs’ Counsel’s request for an award of attorneys’ fees and expenses has passed. To counsel’s knowledge, as of the date of this filing, not a single objection has been received to any aspect of the relief requested whatsoever.

¹ See ¶¶4-11 to the Declaration of Ross D. Murray Regarding Notice Dissemination, Publication, and Requests for Exclusion Received to Date (“Murray Decl.”) (ECF 234), and ¶¶3-4 to the accompanying Supplemental Declaration of Ross D. Murray Regarding Notice Dissemination and Requests for Exclusion Received to Date.

The reaction of the Class – no objections – demonstrates that the Class supports the Settlement, Plan of Allocation, counsel’s attorneys’ fee and expense request and awards to Plaintiffs, and is the most powerful evidence that the Settlement is fair, reasonable, and adequate and that it should be approved. *See, e.g., Moore v. Medical Fin. Servs.*, 2021 WL 6333304, at *4 (W.D. Tenn. Nov. 30, 2021) (“When there are few objections, that fact is indicative of the adequacy of the settlement.”); *In re Southeastern Milk Antitrust Litig.*, 2013 WL 2155379, at *6 (E.D. Tenn. May 17, 2013) (“The lack of objections by class members in relation to the size of the class highlights the fairness of the settlements to unnamed class members and supports approval of the settlements.”); *Brotherton v. Cleveland*, 141 F. Supp. 2d 894, 906 (S.D. Ohio 2001) (“[A] relatively small number of class members who object is an indication of a settlement’s fairness.”).

For the reasons set forth herein and in previously submitted memoranda and declarations, Plaintiffs respectfully submit that the \$13 million Settlement is a favorable result for the Class and that the Plan of Allocation is a fair and equitable method for distributing the Net Settlement Fund. Therefore, both should be approved as fair, reasonable, and adequate. Finally, the attorneys’ fees and expenses requested by Plaintiffs’ Counsel and awards to Plaintiffs pursuant to 15 U.S.C. §77z-1(a)(4) are reasonable under the circumstances and should be awarded in the amounts sought.²

DATED: June 30, 2023

Respectfully submitted,

ROBBINS GELLER RUDMAN
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s/ Christopher M. Wood

CHRISTOPHER M. WOOD

² Proposed orders granting the relief sought herein are submitted herewith.

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*Additional Counsel for Plaintiffs Charles Clowdis
and Bryan K. Robbins*

CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury that on June 30, 2023, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the email addresses of the CM/ECF participants in this case.

s/ Christopher M. Wood

CHRISTOPHER M. WOOD

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