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11 *Retirement System and*
12 *Plaintiff John A. Prokop and*
13 *Lead Counsel for the Settlement Class*

14 **UNITED STATES DISTRICT COURT**
15 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
16 **WESTERN DIVISION**

17 CORY LONGO, individually and on behalf
18 of all others similarly situated, et al.,

19 Plaintiffs,

20 v.

21 OSI SYSTEMS, INC., et al.,

22 Defendants.

Case No. 2:17-cv-08841-FMO-SKx

CLASS ACTION

**MEMORANDUM IN SUPPORT OF
LEAD PLAINTIFF'S UNOPPOSED
MOTION FOR APPROVAL OF
DISTRIBUTION PLAN**

Hearing Date: November 7, 2024
Time: 10:00 a.m.
Courtroom: 6D
Judge: Hon. Fernando M. Olguin

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1 Court-appointed Lead Plaintiff Arkansas Teacher Retirement System (“Lead
2 Plaintiff”), by and through its undersigned attorneys, and on behalf of itself, named plaintiff
3 John A. Prokop, and the class certified for purposes of settlement (“Settlement Class”),
4 respectfully submits this Memorandum in support of its unopposed Motion for an order,
5 pursuant to Federal Rule of Civil Procedure 23, approving the proposed plan for distributing
6 the Net Settlement Fund to eligible Settlement Class Members (“Distribution Plan”) as set
7 forth in the accompanying Declaration of Adam D. Walter in Support of Lead Plaintiff’s
8 Unopposed Motion for Approval of Distribution Plan (“Walter Declaration” or “Walter
9 Decl.”), submitted on behalf of the Court-authorized Claims Administrator A.B. Data, Ltd.
10 (“A.B. Data”).¹

11 There are no disputed Claims by any Settlement Class Member requiring Court
12 review. As such, Lead Plaintiff’s Motion is ripe for determination.

13 **I. PRELIMINARY STATEMENT**

14 Lead Plaintiff, on behalf of itself, named plaintiff John A. Prokop, and the Settlement
15 Class, and defendants OSI Systems, Inc. (“OSI”), Deepak Chopra, Alan Edrick, and Ajay
16 Mehra (collectively, “Defendants” and, together with Lead Plaintiff, the “Parties”) entered
17 into the Stipulation wherein the Parties agreed, in substance, that in exchange for
18 consideration of \$12.5 million in cash, there would be a full and complete settlement of all
19 Lead Plaintiff’s Released Claims (as defined in ¶ 1(z) of the Stipulation) against Defendants
20 and the other Released Defendants’ Parties.

21 By its Order Re: Motion for Preliminary Approval of Class Action Settlement dated
22 December 30, 2021 (ECF No. 131) (“Preliminary Approval Order”), the Court directed
23 dissemination of notice to the Settlement Class in accordance with the Stipulation. The
24 mailing, publication, and posting of notice were conducted in accordance with the
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28 ¹ Capitalized terms not defined herein shall have the meanings ascribed to them in the
Walter Declaration and in the Stipulation and Agreement of Settlement dated October 22,
2021 (ECF No. 125-4) (“Stipulation”).

1 Preliminary Approval Order and the Stipulation.² A.B. Data has mailed a total of 51,518
2 Notices Packets (i.e., the Notice, Claim Form, and Exclusion Request Form) to potential
3 Settlement Class Members and nominees. Walter Decl., ¶ 5. The Notice informed
4 Settlement Class Members, among other things, that if they wished to be eligible to
5 participate in the distribution of the Net Settlement Fund, they were required to complete
6 and submit a Claim Form to A.B. Data. Walter Decl., ¶ 8.

7 On May 12, 2022, the Court held a hearing to consider, among other things, whether
8 the proposed Settlement should be granted final approval. By its Order Re: Motion for Final
9 Approval of Class Action Settlement dated August 31, 2022 (ECF No. 146) and Judgment
10 dated August 31, 2022 (ECF No. 147) (together, the “Judgment”), the Court: (i) approved
11 the Settlement provided for in the Stipulation, finding it fair, reasonable, and adequate to
12 the Settlement Class; (ii) found the notice procedures to be proper; and (iii) dismissed with
13 prejudice the claims asserted against Defendants in the Action. By the Judgment, the Court
14 also approved Lead Plaintiff’s proposed plan for allocating the settlement proceeds among
15 eligible Settlement Class Members (“Plan of Allocation”).

16 Pursuant to ¶ 33 of the Stipulation, the Effective Date of the Settlement has occurred
17 and the Net Settlement may be distributed to Authorized Claimants. Accordingly, pursuant
18 to ¶ 28 of the Stipulation, Lead Plaintiff respectfully requests that the Court enter the
19 [Proposed] Order Approving Distribution Plan (“Class Distribution Order”) submitted
20 herewith.³

21 **II. THE NET SETTLEMENT FUND**

22 As set forth in the Stipulation, the Settlement Amount (i.e., \$12,500,000) has been
23

24 ² See Declaration of Eric Schachter Regarding: (A) Mailing of the Notice, Claim Form,
25 and Exclusion Request Form; (B) Publication of the Summary Notice; and (C) Report on
26 Requests for Exclusion Received to Date (ECF No. 133-2) and Supplemental Declaration
27 of Eric Schachter Regarding: (A) Continued Dissemination of the Notice Packet;
28 (B) Update on Telephone Helpline and Settlement Website; and (C) Report on Requests for
Exclusion Received (ECF No. 138-1).

³ The Court “retain[ed] jurisdiction over the parties, including class members, for the
purpose of construing, enforcing, and administering the Order and Judgment, as well as the
Settlement Agreement itself.” ECF No. 146 at p. 15.

1 deposited into the escrow account established by Lead Counsel (“Escrow Account”). In
2 total, \$669,484.81 in income has been earned on the Settlement Amount through August
3 31, 2024. In addition, the following amounts have been paid from the Escrow Account:
4 (i) \$120,384.00 in Taxes; (ii) \$199,018.08 in Notice and Administration Costs to A.B.
5 Data;⁴ and (ii) \$3,259,863.08 in Court-awarded attorneys’ fees and expenses.⁵ As of August
6 31, 2024, the balance of the Escrow Account (“Net Settlement Fund”) was \$9,590,219.65.

7 **III. CLAIMS ADMINISTRATION**

8 All Claims received by A.B. Data through June 15, 2024 have been fully processed
9 in accordance with the Stipulation and the Court-approved Plan of Allocation set forth in
10 the Notice. Walter Decl., ¶ 8.⁶ A.B. Data has responded to all inquiries regarding the Action,
11 the Settlement, and the procedures for completing and submitting Claims, and has worked
12 with Claimants throughout this administration to help them perfect their Claims. *See*
13 *generally id.*, ¶¶ 20-27.

14 As discussed in the Walter Declaration, a large portion of the Claims submitted in
15 connection with the Settlement were initially deficient or ineligible for one or more reasons,
16 including not being signed, not being properly documented, or indicating no eligible
17 transactions in OSI common stock or OSI 1.25% convertible senior notes due 2022
18 (together “OSI Securities”) during the Class Period (i.e., the period between August 21,
19 2013 and February 1, 2018, inclusive), and these Claims required additional follow-up work
20 by A.B. Data. *Id.*, ¶¶ 20, 23. For the Claims that were determined to be deficient, or
21 ineligible, A.B. Data mailed a letter (or sent an email/report in the case of Electronic

22
23 ⁴ Under the terms of the Stipulation, Lead Counsel was authorized to pay from the
24 Settlement Fund, without further approval from Defendants or further order of the Court,
25 Notice and Administration Costs actually incurred and paid or payable, up to \$200,000. *See*
26 Stipulation, ¶ 15.

27 ⁵ The Court awarded attorneys’ fees in the amount of 25% of the Settlement Fund (i.e.,
28 \$3,125,000) and \$134,863.08 in litigation expenses. Judgment, ¶ 1.

⁶ In anticipation of completing the administration for the Settlement, June 15, 2024
was chosen as the cut-off date, after which no additional Claims would be accepted for
processing or considered for inclusion in the Initial Distribution of the Net Settlement Fund.
Walter Decl., ¶ 30. Claims received or adjusted after June 15, 2024, will be eligible to
participate in subsequent distributions subject to the provisions of ¶¶ 40(d)-40(e) of the
Distribution Plan set forth in the Walter Declaration.

1 Claims) to the Claimant describing the defects in their Claim(s) and advising what, if
2 anything, was necessary to complete the Claim(s). *Id.*, ¶¶ 21, 23-25.⁷ These letters/emails
3 advised Claimants that they were required to submit the appropriate information and/or
4 documentary evidence to complete their Claim(s) within twenty (20) days from the date of
5 the letter/email or their Claim(s) would be recommended for rejection to the extent the
6 deficiency(ies) or condition(s) of ineligibility were not cured. *Id.*, ¶¶ 21, 24(a).

7 In addition to advising Claimants what was required to cure the Claim(s), the
8 notices/emails advised Claimants of their right to request an additional review (and
9 ultimately, the Court's review) of their Claim(s) if they contested A.B. Data's
10 administrative determination to reject their Claim(s) in whole or in part. *Id.*, ¶¶ 21, 24(b),
11 28. A.B. Data has not received any Claim disputes/requests for Court review during this
12 administration. *Id.*, ¶ 29. Accordingly, there are no outstanding requests for Court review.

13 Throughout this administration, A.B. Data spent considerable time addressing
14 deficient and ineligible Claims and assisting Claimants in curing the deficiencies in their
15 Claims in order to be eligible to participate in the Settlement. As a result of A.B. Data's
16 efforts, many Claimants who submitted Claims with curable deficiencies were able to
17 properly complete their Claims and are now eligible to participate in the Settlement and
18 receive a payment from the Net Settlement Fund.

19 **IV. ADMINISTRATIVE DETERMINATIONS FOR CLAIMS**

20 **A. Claims Recommended for Acceptance**

21 As set forth in the Walter Declaration, a total of 20,647 Claims were received by A.B.
22 Data in connection with the Settlement through June 15, 2024. Walter Decl., ¶¶ 8, 34. A
23 total of 8,740 of these Claims have been provisionally accepted by A.B. Data in whole or
24 in part. *Id.*, ¶¶ 35-36; *see also id.*, Exs. D & E (listing all accepted Claims (both timely and
25

26 ⁷ A sample Deficiency Letter is attached as Exhibit A to the Walter Declaration. For
27 Electronic Claims, A.B. Data emailed Claimants to notify them of any deficiencies in or the
28 ineligibility of their Electronic Claims. These emails attached a report containing detailed
information associated with the Claims contained in the electronic submission, including
which of the Claims were deficient or rejected. *Id.*, ¶ 23. A sample Status Email and Status
Spreadsheet are attached as Exhibits B and C, respectively, to the Walter Declaration.

1 late) and their Recognized Claim amounts, in Claim number order). Of the 8,740 Claims
2 being recommended for acceptance and approval by the Court, 103 Claims were submitted
3 after the postmark deadline set forth in the Notice and Claim Form (i.e., May 11, 2022), but
4 were received by A.B. Data on or before June 15, 2024. *Id.*, ¶ 36. Although these 103 Claims
5 were submitted late, they were received while the processing of timely Claims was ongoing.
6 Due to the amount of time needed to process the timely Claims received for the Settlement,
7 the processing of these late Claims has not delayed the completion of the Claims
8 administration process or the distribution of the Net Settlement Fund. Accordingly, Lead
9 Counsel believes that it would be appropriate to allow these Late But Otherwise Eligible
10 Claims to share in the Net Settlement Fund. *Id.*, ¶¶ 30, 36.

11 The total Recognized Claims for the 8,740 Claims being recommended for
12 acceptance in whole or in part is \$169,049,346.62 (\$158,689,512.25 for the Timely Eligible
13 Claims listed on Exhibit D to the Walter Declaration and \$10,359,834.37 for the Late But
14 Otherwise Eligible Claims listed on Exhibit E to the Walter Declaration). *Id.*, ¶¶ 35-36.
15 Lead Counsel respectfully requests that the Court approve A.B. Data's administrative
16 determinations with respect to the Claims being recommended for acceptance as listed on
17 Exhibits D and E to the Walter Declaration.

18 **B. Claims Recommended for Rejection**

19 Of the total Claims received by A.B. Data through June 15, 2024, 11,907 Claims are
20 being recommended for rejection. Walter Decl., ¶ 37; *see also id.*, Ex. F (listing all Claims
21 being recommended for rejection and the reasons for rejection, in Claim number order).
22 The 11,907 Claims being recommended for rejection were determined to be ineligible for
23 the following reasons: (i) 9,441 Claims did not result in a Recognized Claim pursuant to
24 the Court-approved Plan of Allocation; (ii) 2,345 Claims had no purchase(s)/acquisition(s)
25 of eligible OSI Securities during the Class Period; (iii) 92 Claims were duplicates or
26 replaced Claims;⁸ (iv) 28 Claims were withdrawn; and (v) one Claim was identified as

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28 ⁸ Replaced Claims are Claims that were re-submitted by Electronic Claim Filers to correct issues with the data initially presented.

1 questionable (and remained questionable after further review and verification). *Id.*, ¶ 37.
2 Lead Counsel respectfully requests that the Court approve A.B. Data's administrative
3 determinations with respect to the Claims being recommended for rejection as listed on
4 Exhibit F to the Walter Declaration.

5 **V. FEES AND EXPENSES OF THE CLAIMS ADMINISTRATOR**

6 In accordance with A.B. Data's agreement with Lead Counsel to act as the Claims
7 Administrator for the Settlement, A.B. Data was responsible for, among other things,
8 disseminating notice of the Settlement to the Class, maintaining a website and toll-free
9 telephone helpline, processing Claims, and allocating and distributing the Net Settlement
10 Fund to Authorized Claimants. As set forth in the accompanying Walter Declaration, A.B.
11 Data has incurred a total of \$240,048.02 for work performed in the Action. Walter Decl.,
12 ¶ 39. In accordance with the Stipulation, A.B. Data has been paid a total of \$199,018.08
13 from the Settlement Fund. *Id.* A.B. Data expects to incur an additional \$18,680.84 in fees
14 and expenses to conduct the Initial Distribution. *Id.*; *see also id.*, Ex. G (copies of A.B.
15 Data's outstanding invoices and cost estimate for Initial Distribution).⁹

16 Lead Counsel respectfully requests that the Court approve payment of A.B. Data's
17 unpaid fees and expenses incurred in connection with this administration as well as the costs
18 it expects to incur to conduct the Initial Distribution and direct payment of this amount (i.e.,
19 \$59,710.78) to A.B. Data prior to the Initial Distribution of the Net Settlement Fund.

20 **VI. DISTRIBUTION PLAN FOR THE NET SETTLEMENT FUND**

21 The Net Settlement Fund is ready to be distributed at this time. Lead Counsel,
22 therefore, respectfully requests the Court enter an order approving A.B. Data's
23 determinations concerning the acceptance and rejection of the Claims received through
24 June 15, 2024, and approving the Distribution Plan set forth in the Walter Declaration.

25 Under the Distribution Plan, A.B. Data will distribute the Net Settlement Fund, after
26

27 ⁹ Should the estimated fees and expenses for the Initial Distribution exceed A.B. Data's
28 actual cost to conduct the Initial Distribution, the excess shall be returned to the Net Settlement Fund and will be available for subsequent distributions of the Net Settlement Fund to Authorized Claimants. *Id.*, ¶ 39 n.6.

1 deducting all payments approved by the Court (i.e., the Initial Distribution). Walter Decl.,
2 ¶ 40(a). A.B. Data will first determine each Authorized Claimant’s *pro rata* share of the
3 total Net Settlement Fund based on the Claimant’s Recognized Claim in comparison to the
4 total Recognized Claims of all Authorized Claimants. *Id.*, ¶ 40(a)(i). In accordance with the
5 Court-approved Plan of Allocation, A.B. Data will eliminate from the Initial Distribution
6 any Authorized Claimant whose *pro rata* share calculates to less than \$10.00, as these
7 Claimants will not receive any payment from the Net Settlement Fund. *Id.*, ¶ 40(a)(ii). A.B.
8 Data will then recalculate the *pro rata* share of the Net Settlement Fund for Authorized
9 Claimants who would have received \$10.00 or more. *Id.*, ¶ 40(a)(iii).

10 It is expected that not all of the checks sent to Authorized Claimants will be
11 negotiated promptly and some of these checks will remain uncashed.¹⁰ Following the Initial
12 Distribution, and after A.B. Data has made reasonable and diligent efforts to have
13 Authorized Claimants negotiate their Initial Distribution checks, any balance remaining in
14 the Net Settlement Fund (including from tax returns, uncashed checks, or otherwise) nine
15 (9) months after the Initial Distribution will, if cost-effective to do so, be redistributed, after
16 deducting A.B. Data’s unpaid fees and expenses incurred in administering the Settlement,
17 including the costs of such redistribution, to Authorized Claimants who negotiated their
18 Initial Distribution checks and who would receive at least \$10.00 from such redistribution
19 (“Second Distribution”). *Id.*, ¶ 40(b).

20 Additional redistributions to Authorized Claimants who have negotiated their prior
21 checks and who would receive at least \$10.00 on such additional redistributions may occur
22 thereafter if Lead Counsel, in consultation with A.B. Data, determines that additional
23 redistributions, after deducting any additional fees and expenses incurred in administering
24 the Settlement, including the costs of such further distributions, would be cost-effective.
25 *Id.*, ¶ 40(c). At such time as it is determined that further redistribution of the funds remaining
26

27 ¹⁰ In order to encourage Authorized Claimants to promptly deposit their payments, the
28 Class Distribution Order sets forth that distribution checks state: “DEPOSIT PROMPTLY;
VOID AND SUBJECT TO RE-DISTRIBUTION IF NOT NEGOTIATED WITHIN 120
DAYS OF DISTRIBUTION.” Walter Decl., ¶ 40(a)(v).

1 in the Net Settlement Fund is not cost-effective, Lead Counsel requests that, in its discretion,
2 it may pay any Claims received after June 15, 2024, or any Claims adjusted after June 15,
3 2024, their distribution amounts or additional distribution amounts on a *pro rata* basis, to
4 the extent that funds are available, that would bring these Claimants into parity with other
5 Authorized Claimants that have negotiated all their prior distribution checks. *Id.*, ¶¶ 40(d)-
6 40(e). Otherwise, any remaining balance, after deducting any additional fees and expenses
7 incurred in administering the Settlement, will be contributed to non-sectarian, not-for-profit
8 organization(s) to be recommended by Lead Counsel and approved by the Court. *Id.*,
9 ¶ 40(d).

10 **VII. RELEASE OF CLAIMS**

11 In order to allow for the full and final distribution of the Net Settlement Fund, it is
12 necessary to bar any further claims against the Net Settlement Fund beyond the amount
13 allocated to Authorized Claimants, and to provide that all persons and entities involved in
14 the review, verification, calculation, tabulation, or any other aspect of the processing of the
15 Claims submitted in connection with the Settlement of the Action, or who are otherwise
16 involved in the administration or taxation of the Settlement Fund or the Net Settlement
17 Fund, be released and discharged from any and all claims arising from such involvement.
18 Accordingly, Lead Plaintiff respectfully requests the Court release and discharge all persons
19 and entities who are involved in the review, verification, calculation, tabulation, or any
20 other aspect of the processing of the Claims submitted in connection with the Settlement of
21 the Action, or who are otherwise involved in the administration or taxation of the Settlement
22 Fund or the Net Settlement Fund from any and all claims arising out of such involvement,
23 and, pursuant to the release terms of the Settlement, bar all Settlement Class Members,
24 whether or not they are to receive payment from the Net Settlement Fund, from making any
25 further claim against the Net Settlement Fund or the parties released pursuant to the
26 Settlement beyond the amount allocated to them by the Settlement as approved by the
27
28

1 Court.¹¹

2 **VIII. RECORD RETENTION AND DESTRUCTION**

3 Lead Plaintiff respectfully requests that the Court authorize A.B. Data to destroy
4 paper copies of Claims and all supporting documentation one (1) year after the Second
5 Distribution, if that occurs, or, if there is no Second Distribution, two (2) years after the
6 Initial Distribution and all electronic copies of the same one (1) year after all funds have
7 been distributed. Walter Decl., ¶ 40(f).

8 **IX. CONCLUSION**

9 Based on the foregoing, Lead Plaintiff respectfully requests that the Court grant its
10 Unopposed Motion for Approval of Distribution Plan and enter the [Proposed] Order
11 Approving Distribution Plan.

12 Respectfully submitted,

13 Dated: September 13, 2024

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22 ¹¹ Similar language has been routinely approved by courts in connection with the
23 distribution of settlement proceeds. *See, e.g., In re LJ Int’l, Inc. Sec. Litig.*, 2010 WL
24 11520577, at *2 (C.D. Cal. May 19, 2010) (“All persons involved in the review,
25 verification, calculation, tabulation, or any other aspect of the processing of the claims
26 submitted herein, or otherwise involved in the administration or taxation of the Settlement
27 Fund or the Net Settlement Fund are released and discharged from any and all claims arising
28 out of such involvement, and all Settlement Class Members, whether or not they are to
receive payment from the Net Settlement Fund, are barred from making any further claim
against the net Settlement Fund or the released persons beyond the amount allocated to
them pursuant to this Order.”); *In re Helios and Matheson Analytics, Inc. Sec. Litig.*, 2022
WL 457311, at *2 (S.D.N.Y. Feb. 15, 2022) (approving substantially similar language in
order authorizing distribution of settlement proceeds); *Baker v. Seaworld Entm’t, Inc.*, 2022
WL 298662, at *3 (S.D. Cal. Jan. 31, 2022) (same); *In re Signet Jewelers Ltd. Sec. Litig.*,
2021 WL 5357468, at *3 (S.D.N.Y. Nov. 12, 2021) (same); *In re Capstone Turbine Corp.
Sec. Litig.*, 2020 WL 7889062, at *2 (C.D. Cal. Aug. 26, 2020) (same); *In re OCZ Tech.
Grp., Inc. Sec. Litig.*, 2016 WL 7974652, at *2 (N.D. Cal. Mar. 11, 2016) (same); *In re
Toyota Motor Co. Sec. Litig.*, 2014 WL 12586787, at *3 (C.D. Cal. Aug. 4, 2014) (same).

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