

1 Elizabeth J. Cabraser (State Bar No. 083151)
2 LIEFF CABRASER HEIMANN &
3 BERNSTEIN, LLP
4 275 Battery Street, 29th Floor
5 San Francisco, CA 94111-3339
6 Telephone: (415) 956-1000
7 Facsimile: (415) 956-1008
8 ecabraser@lchb.com

9 Steve W. Berman (*Pro Hac Vice*)
10 HAGENS BERMAN SOBOL SHAPIRO LLP
11 715 Hearst Avenue, Suite 202
12 Berkeley, CA 94710
13 Telephone: (510) 725-3000
14 Facsimile: (510) 725-3001
15 steve@hbsslaw.com

16 Adam Zapala (State Bar No. 245748)
17 COTCHETT, PITRE & McCARTHY, LLP
18 840 Malcolm Road
19 Burlingame, CA 94010
20 Telephone: (650) 697-6000
21 Facsimile: (650) 697-0577
22 azapala@cpmlegal.com

23 *Interim Co-Lead Class Counsel for*
24 *Indirect Purchaser Plaintiffs*

25 UNITED STATES DISTRICT COURT
26 NORTHERN DISTRICT OF CALIFORNIA
27 OAKLAND DIVISION

28 IN RE LITHIUM ION BATTERIES
ANTITRUST LITIGATION

Case No. 4:13-md-02420 YGR (DMR)

MDL No. 2420

STATEMENT OF RECENT DECISION

This Document Relates to:

ALL INDIRECT PURCHASER
ACTIONS

1 Pursuant to Local Rule 7-3(d)(2), Indirect Purchaser Plaintiffs (“Plaintiffs”) respectfully
2 submit this Statement of Recent Decision calling the Court’s attention to the February 13, 2019
3 Order of a three-judge panel of the Ninth Circuit, in *In re Cathode Ray Tube (CRT) Antitrust*
4 *Litigation*, No. 16-16368 (9th Cir.), as supplemental authority in further support of Plaintiffs’
5 Motion to Direct Notice to the Class Regarding the SDI, Tokin, Toshiba, and Panasonic
6 Settlements (ECF No. 2459). A true and correct copy of the Order is attached as Exhibit A.
7

8 Dated: February 19, 2019

LIEFF CABRASER HEIMANN & BERNSTEIN, LLP

9 By /s/ Brendan P. Glackin
10 BRENDAN P. GLACKIN

11 Elizabeth J. Cabraser (083151)
12 Brendan P. Glackin (199643)
13 Lin Y. Chan (255027)
14 Michael K. Sheen (288284)
15 Abbye R. Klamann (311112)
16 275 Battery Street, 29th Floor
17 San Francisco, CA 94111-3339
18 Tel: (415) 956-1000
19 Fax: (415) 956-1008
20 ecabraser@lchb.com
21 bglackin@lchb.com
22 lchan@lchb.com
23 msheen@lchb.com
24 aklamann@lchb.com
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

HAGENS BERMAN SOBOL SHAPIRO LLP

By /s/ Shana E. Scarlett
SHANA E. SCARLETT

Steve W. Berman (*Pro Hac Vice*)
Jeff D. Friedman (173886)
Shana E. Scarlett (217895)
Benjamin J. Siegel (256260)
HAGENS BERMAN SOBOL SHAPIRO LLP
715 Hearst Avenue, Suite 202
Berkeley, CA 94710
Tel: (510) 725-3000
Fax: (510) 725-3001
steve@hbsslaw.com
jefff@hbsslaw.com
shanas@hbsslaw.com
bens@hbsslaw.com

COTCHETT, PITRE & McCARTHY, LLP

By /s/ Adam J. Zapala
ADAM J. ZAPALA

Joseph W. Cotchett (36324)
Adam J. Zapala (245748)
Tamarah Prevost (313422)
840 Malcolm Road
Burlingame, CA 94010
Tel: (650) 697-6000
Fax: (650) 697-0577
jcotchett@cpmlegal.com
azapala@cpmlegal.com
tprevost@cpmlegal.com

***Interim Co-Lead Class Counsel
For Indirect Purchaser Plaintiffs***

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ATTESTATION

I, Brendan P. Glackin, hereby attest, pursuant to Northern District of California, Local Rule 5-1(i)(3) that concurrence in the filing of this document has been obtained from each of the signatories hereto.

Dated: February 19, 2019

By: /s/ *Brendan P. Glackin*
BRENDAN P. GLACKIN

EXHIBIT A

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 13 2019

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

In re: CATHODE RAY TUBE (CRT)
ANTITRUST LITIGATION,

No. 16-16368

D.C. No. 3:07-cv-05944-JST

INDIRECT PURCHASER PLAINTIFFS,

ORDER*

Plaintiff-Appellee,

v.

JOHN FINN; LAURA TOWNSEND
FORTMAN,

Objectors-Appellants,

v.

TOSHIBA CORPORATION; TOSHIBA
AMERICA, INC.; TOSHIBA AMERICA
INFORMATION SYSTEMS, INC.;
TOSHIBA AMERICA CONSUMER
PRODUCTS, LLC; TOSHIBA AMERICA
ELECTRONIC COMPONENTS, INC.;
SAMSUNG SDI CO., LTD.; SAMSUNG
SDI AMERICA, INC.; SAMSUNG SDI
(MALAYSIA) SDN BHD; SAMSUNG SDI
MEXICO S.A. DE C.V.; SAMSUNG SDI
BRASIL LTDA.; SHENZEN SAMSUNG
SDI CO., LTD.; TIANJIN SAMSUNG SDI

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

CO., LTD.; HITACHI, LTD.; HITACHI DISPLAYS, LTD., AKA Japan Display, Inc.; HITACHI AMERICA, LTD; HITACHI ASIA, LTD.; HITACHI ELECTRONIC DEVICES (USA), INC.; PANASONIC CORPORATION, FKA Matsushita Electric Industrial Co., Ltd. ("MEI"), is a Japanese entity; PANASONIC CORPORATION OF NORTH AMERICA; MT PICTURE DISPLAY CO., LTD; PHILIPS KONINKLIJKE N.V.; PHILIPS ELECTRONICS NORTH AMERICA CORPORATION; PHILIPS TAIWAN LIMITED; PHILIPS DO BRASIL LTDA.; THOMSON CONSUMER ELECTRONICS, INC.; THOMSON SA,

Defendants-Appellees.

In re: CATHODE RAY TUBE (CRT)
ANTITRUST LITIGATION,

INDIRECT PURCHASER PLAINTIFFS,

Plaintiff-Appellee,

v.

SEAN HULL; GORDON B. MORGAN,

Objectors-Appellants,

v.

TOSHIBA CORPORATION; TOSHIBA AMERICA, INC.; TOSHIBA AMERICA

No. 16-16371

D.C. No. 3:07-cv-05944-JST

INFORMATION SYSTEMS, INC.;
TOSHIBA AMERICA CONSUMER
PRODUCTS, LLC; TOSHIBA AMERICA
ELECTRONIC COMPONENTS, INC.;
SAMSUNG SDI CO., LTD.; SAMSUNG
SDI AMERICA, INC.; SAMSUNG SDI
(MALAYSIA) SDN BHD; SAMSUNG SDI
MEXICO S.A. DE C.V.; SAMSUNG SDI
BRASIL LTDA.; SHENZHEN SAMSUNG
SDI CO., LTD.; TIANJIN SAMSUNG SDI
CO., LTD.; HITACHI, LTD.; HITACHI
DISPLAYS, LTD., AKA Japan Display,
Inc.; HITACHI AMERICA, LTD;
HITACHI ASIA, LTD.; HITACHI
ELECTRONIC DEVICES (USA), INC.;
PANASONIC CORPORATION, FKA
Matsushita Electric Industrial Co., Ltd.
("MEI"), is a Japanese entity; PANASONIC
CORPORATION OF NORTH AMERICA;
MT PICTURE DISPLAY CO., LTD;
PHILIPS KONINKLIJKE N.V.; PHILIPS
ELECTRONICS NORTH AMERICA
CORPORATION; PHILIPS TAIWAN
LIMITED; PHILIPS DO BRASIL LTDA.;
THOMSON CONSUMER ELECTRONICS,
INC.; THOMSON SA,

Defendants-Appellees.

In re: CATHODE RAY TUBE (CRT)
ANTITRUST LITIGATION,

INDIRECT PURCHASER PLAINTIFFS,

Plaintiff-Appellee,

No. 16-16373

D.C. No. 3:07-cv-05944-JST

v.

ANTHONY GIANASCA; GLORIA
COMEAX; MINA ASHKANNEJHAD,
individually and as Administrator of the
Estate of the late R. Deryl Edwards, Jr.;
JEFFREY SPEAECT; ROSEMARY
CICCONE; JEFF CRAIG,

Objectors-Appellants,

v.

TOSHIBA CORPORATION; TOSHIBA
AMERICA, INC.; TOSHIBA AMERICA
INFORMATION SYSTEMS, INC.;
TOSHIBA AMERICA CONSUMER
PRODUCTS, LLC; TOSHIBA AMERICA
ELECTRONIC COMPONENTS, INC.;
SAMSUNG SDI CO., LTD.; SAMSUNG
SDI AMERICA, INC.; SAMSUNG SDI
(MALAYSIA) SDN BHD; SAMSUNG SDI
MEXICO S.A. DE C.V.; SAMSUNG SDI
BRASIL LTDA.; SHENZEN SAMSUNG
SDI CO., LTD.; TIANJIN SAMSUNG SDI
CO., LTD.; HITACHI, LTD.; HITACHI
DISPLAYS, LTD., AKA Japan Display,
Inc.; HITACHI AMERICA, LTD;
HITACHI ASIA, LTD.; HITACHI
ELECTRONIC DEVICES (USA), INC.;
PANASONIC CORPORATION, FKA
Matsushita Electric Industrial Co., Ltd.
("MEI"), is a Japanese entity; PANASONIC
CORPORATION OF NORTH AMERICA;
MT PICTURE DISPLAY CO., LTD;
PHILIPS KONINKLIJKE N.V.; PHILIPS
ELECTRONICS NORTH AMERICA
CORPORATION; PHILIPS TAIWAN

LIMITED; PHILIPS DO BRASIL LTDA.;
THOMSON CONSUMER ELECTRONICS,
INC.; THOMSON SA,

Defendants-Appellees.

In re: CATHODE RAY TUBE (CRT)
ANTITRUST LITIGATION,

No. 16-16374

D.C. No. 3:07-cv-05944-JST

INDIRECT PURCHASER PLAINTIFFS,

Plaintiff-Appellee,

v.

DONNIE CLIFTON,

Objector-Appellant,

v.

TOSHIBA CORPORATION; TOSHIBA
AMERICA, INC.; TOSHIBA AMERICA
INFORMATION SYSTEMS, INC.;
TOSHIBA AMERICA CONSUMER
PRODUCTS, LLC; TOSHIBA AMERICA
ELECTRONIC COMPONENTS, INC.;
SAMSUNG SDI CO., LTD.; SAMSUNG
SDI AMERICA, INC.; SAMSUNG SDI
(MALAYSIA) SDN BHD; SAMSUNG SDI
MEXICO S.A. DE C.V.; SAMSUNG SDI
BRASIL LTDA.; SHENZEN SAMSUNG
SDI CO., LTD.; TIANJIN SAMSUNG SDI
CO., LTD.; HITACHI, LTD.; HITACHI
DISPLAYS, LTD., AKA Japan Display,
Inc.; HITACHI AMERICA, LTD;

HITACHI ASIA, LTD.; HITACHI ELECTRONIC DEVICES (USA), INC.; PANASONIC CORPORATION, FKA Matsushita Electric Industrial Co., Ltd. ("MEI"), is a Japanese entity; PANASONIC CORPORATION OF NORTH AMERICA; MT PICTURE DISPLAY CO., LTD; PHILIPS KONINKLIJKE N.V.; PHILIPS ELECTRONICS NORTH AMERICA CORPORATION; PHILIPS TAIWAN LIMITED; PHILIPS DO BRASIL LTDA.; THOMSON CONSUMER ELECTRONICS, INC.; THOMSON SA,

Defendants-Appellees.

In re: CATHODE RAY TUBE (CRT) ANTITRUST LITIGATION,

INDIRECT PURCHASER PLAINTIFFS,

Plaintiff-Appellee,

v.

DAN L. WILLIAMS & CO.,

Objector-Appellant,

v.

TOSHIBA CORPORATION; TOSHIBA AMERICA, INC.; TOSHIBA AMERICA INFORMATION SYSTEMS, INC.; TOSHIBA AMERICA CONSUMER PRODUCTS, LLC; TOSHIBA AMERICA

No. 16-16378

D.C. No. 3:07-cv-05944-JST

ELECTRONIC COMPONENTS, INC.;
SAMSUNG SDI CO., LTD.; SAMSUNG
SDI AMERICA, INC.; SAMSUNG SDI
(MALAYSIA) SDN BHD; SAMSUNG SDI
MEXICO S.A. DE C.V.; SAMSUNG SDI
BRASIL LTDA.; SHENZEN SAMSUNG
SDI CO., LTD.; TIANJIN SAMSUNG SDI
CO., LTD.; HITACHI, LTD.; HITACHI
DISPLAYS, LTD., AKA Japan Display,
Inc.; HITACHI AMERICA, LTD;
HITACHI ASIA, LTD.; HITACHI
ELECTRONIC DEVICES (USA), INC.;
PANASONIC CORPORATION, FKA
Matsushita Electric Industrial Co., Ltd.
("MEI"), is a Japanese entity; PANASONIC
CORPORATION OF NORTH AMERICA;
MT PICTURE DISPLAY CO., LTD;
PHILIPS KONINKLIJKE N.V.; PHILIPS
ELECTRONICS NORTH AMERICA
CORPORATION; PHILIPS TAIWAN
LIMITED; PHILIPS DO BRASIL LTDA.;
THOMSON CONSUMER ELECTRONICS,
INC.; THOMSON SA,

Defendants-Appellees.

In re: CATHODE RAY TUBE (CRT)
ANTITRUST LITIGATION,

INDIRECT PURCHASER PLAINTIFFS,

Plaintiff-Appellee,

v.

ROCKHURST UNIVERSITY; GARY

No. 16-16379

D.C. No. 3:07-cv-05944-JST

TALEWSKY; HARRY GARAVANIAN,

Objectors-Appellants,

v.

TOSHIBA CORPORATION; TOSHIBA AMERICA, INC.; TOSHIBA AMERICA INFORMATION SYSTEMS, INC.; TOSHIBA AMERICA CONSUMER PRODUCTS, LLC; TOSHIBA AMERICA ELECTRONIC COMPONENTS, INC.; SAMSUNG SDI CO., LTD.; SAMSUNG SDI AMERICA, INC.; SAMSUNG SDI (MALAYSIA) SDN BHD; SAMSUNG SDI MEXICO S.A. DE C.V.; SAMSUNG SDI BRASIL LTDA.; SHENZHEN SAMSUNG SDI CO., LTD.; TIANJIN SAMSUNG SDI CO., LTD.; HITACHI, LTD.; HITACHI DISPLAYS, LTD., AKA Japan Display, Inc.; HITACHI AMERICA, LTD; HITACHI ASIA, LTD.; HITACHI ELECTRONIC DEVICES (USA), INC.; PANASONIC CORPORATION, FKA Matsushita Electric Industrial Co., Ltd. ("MEI"), is a Japanese entity; PANASONIC CORPORATION OF NORTH AMERICA; MT PICTURE DISPLAY CO., LTD; PHILIPS KONINKLIJKE N.V.; PHILIPS ELECTRONICS NORTH AMERICA CORPORATION; PHILIPS TAIWAN LIMITED; PHILIPS DO BRASIL LTDA.; THOMSON CONSUMER ELECTRONICS, INC.; THOMSON SA,

Defendants-Appellees.

In re: CATHODE RAY TUBE (CRT)

No. 16-16399

ANTITRUST LITIGATION,

16-16400

D.C. No. 3:07-cv-05944-JST

INDIRECT PURCHASER PLAINTIFFS,

Plaintiff-Appellee,

v.

ANTHONY GIANASCA; GLORIA
COMEAX; MINA ASHKANNEJHAD,
individually and/or as Administrator of the
Estate of the Late R. Deryl Edwards, Jr.;
JEFFREY SPEAECT; ROSEMARY
CICCONE; JEFF CRAIG,

Movants-Appellants,

v.

TOSHIBA CORPORATION; TOSHIBA
AMERICA, INC.; TOSHIBA AMERICA
INFORMATION SYSTEMS, INC.;
TOSHIBA AMERICA CONSUMER
PRODUCTS, LLC; TOSHIBA AMERICA
ELECTRONIC COMPONENTS, INC.;
SAMSUNG SDI CO., LTD.; SAMSUNG
SDI AMERICA, INC.; SAMSUNG SDI
(MALAYSIA) SDN BHD; SAMSUNG SDI
MEXICO S.A. DE C.V.; SAMSUNG SDI
BRASIL LTDA.; SHENZEN SAMSUNG
SDI CO., LTD.; TIANJIN SAMSUNG SDI
CO., LTD.; HITACHI, LTD.; HITACHI
DISPLAYS, LTD., AKA Japan Display,
Inc.; HITACHI AMERICA, LTD;
HITACHI ASIA, LTD.; HITACHI
ELECTRONIC DEVICES (USA), INC.;
PANASONIC CORPORATION, FKA

Matsushita Electric Industrial Co., Ltd.
("MEI"), is a Japanese entity; PANASONIC
CORPORATION OF NORTH AMERICA;
MT PICTURE DISPLAY CO., LTD;
PHILIPS KONINKLIJKE N.V.; PHILIPS
ELECTRONICS NORTH AMERICA
CORPORATION; PHILIPS TAIWAN
LIMITED; PHILIPS DO BRASIL LTDA.;
THOMSON CONSUMER ELECTRONICS,
INC.; THOMSON SA,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of California
Jon S. Tigar, District Judge, Presiding

Argued and Submitted April 10, 2018
Submission Vacated April 30, 2018
Re-Submitted February 13, 2019
San Francisco, California

Before: Kim McLane Wardlaw and Richard R. Clifton, Circuit Judges, and Gary
S. Katzmman,* Judge.

On November 8, 2018, in response to Indirect Purchaser Plaintiffs' motion
for an indicative ruling pursuant to Federal Rule of Civil Procedure 62.1, the
District Court stated that, "with the benefit of hindsight . . . it erred in approving
the parties' original settlement" now pending on appeal in our court. The district
court recognized that it should have provided recovery to class members in the

* The Honorable Gary S. Katzmman, Judge for the United States Court
of International Trade, sitting by designation.

Omitted Repealer States, Massachusetts, Missouri, and New Hampshire, which necessarily affects the remaining issues on appeal: 1) the adequacy of representation under Federal Rules of Civil Procedure 23(a)(4); and 2) the attorneys' fees awarded to Lead Counsel.

We therefore remand this case so that the district court may reconsider its approval of the settlement.

The Indirect Purchaser Plaintiffs' motion for a stay, filed October 1, 2018 (Dkt. No. 226), and the Objector-Appellants' motion for leave to file an enlarged response (Dkt. Nos. 223 & 224) are **DENIED** as moot.

The Indirect Purchaser Plaintiffs' Motion Requesting Remand with Instructions Regarding: (1) The Plan of Distribution for the Settlements; and (2) The Fee Order, filed January 9, 2019 (Dkt. No. 230), is **DENIED**.¹

The Indirect Purchaser Plaintiffs' Motion for Leave to File Excess Pages, filed January 29, 2019 (Dkt. No. 233), is **GRANTED**. The Reply brief has already been filed (Dkt. No 234). The request of Objectors-Appellants to file a Surreply to that Reply, contained within their Opposition to the Motion for Leave to File Excess Pages (Dkt. 235), is **DENIED** as moot.

¹ Objector-Appellants' motion to supplement the record on appeal (Dkt. No. 120) and motion to strike Indirect Purchaser Plaintiffs' response to the same (Dkt. No. 150) are **DENIED** as moot. Objector-Appellants' and Defendant-Appellees' motions to take judicial notice (Dkt. Nos. 130, 197) are **DENIED** as moot.

The motions to dismiss appeal voluntarily filed by Objectors-Appellants Sean Hull (Dkt. No. 198), John Finn and Laura Townsend Fortman (Dkt. No. 199), Donnie Clifton (Dkt. No. 200), and Josie Saik (Dkt. No. 222) are **GRANTED**.

We therefore **REMAND** to the District Court to reconsider its order on class certification and settlement approval. We do not vacate the order at this time.

The current panel will retain responsibility for future appeals in this case.

Each party shall bear its own costs of appeal.

IT IS SO ORDERED.