

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN  
MILWAUKEE DIVISION

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STEVEN DUNCAN, et al., Individually and  
on Behalf of All Others Similarly Situated,

Plaintiffs,

Civil No. 2:16-cv-01229-PP

vs.

CLASS ACTION

JOY GLOBAL INC., et al.,

Defendants.

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STIPULATION OF SETTLEMENT

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This Stipulation of Settlement, dated May 22, 2018 (the “Stipulation”), is made and entered into by and among the following Settling Parties to the above-captioned litigation (the “Litigation”): (i) the Court-appointed Lead Plaintiffs Steven Duncan, Peter Cahill and Charles Caparelli (“Lead Plaintiffs”), by and through their counsel of record in the Litigation; and (ii) Joy Global Inc. (“Joy Global” or the “Company”), Edward L. Doheny II, Steven L. Gerard, Mark J. Gliebe, John T. Grempp, John Nils Hanson, Gale E. Klappa, Richard B. Loynd, P. Eric Siegert and James H. Tate (all defendants may be referred to collectively as the “Defendants”; the individuals may be referred to herein as the “Individual Defendants”), by and through their counsel of record in the Litigation. The Stipulation is intended by the Settling Parties to fully, finally, and forever resolve, discharge, relinquish, release, waive, dismiss with prejudice and settle the Released Claims, upon and subject to the terms and conditions hereof and subject to the approval of the United States District Court for the Eastern District of Wisconsin (the “Court”).

## **I. THE LITIGATION**

This is an action on behalf of a putative class of all Persons who purchased, sold, or held Joy Global common stock during the period from and including September 1, 2016, the record date for Joy Global’s special stockholder meeting regarding the acquisition of Joy Global by Komatsu Ltd. (“Komatsu”) and certain of its subsidiaries (the “Acquisition”), through and including April 5, 2017, the date the Acquisition closed. On July 21, 2016, Joy Global issued a press release announcing execution of the Agreement and Plan of Merger (the “Merger Agreement”), pursuant to which Komatsu and certain of its subsidiaries would purchase all of Joy Global’s outstanding shares for \$28.30 per share. On August 15, 2016, Joy Global filed with the SEC a Preliminary Proxy Statement on Schedule 14A. On September 2, 2016, Joy Global filed with the SEC the Definitive Proxy Statement on Schedule 14A (the “Proxy”).

Joy Global issued additional supplemental disclosures dated September 29, 2016 and October 3, 2016 (the “Supplements”).

On September 13, 2016, Plaintiff Duncan filed the initial complaint in this matter (the “Initial Complaint”). The Initial Complaint alleged claims for breach of fiduciary duty and violations of §§14(a) and 20(a) of the Securities Exchange Act of 1934 (the “1934 Act”) and SEC Rule 14a-9 promulgated thereunder. In addition to the Defendants identified herein, the Initial Complaint named as defendants Komatsu Ltd., Komatsu America Corp., and Pine Solutions, Inc. After negotiation, on October 26, 2016, the then-existing parties agreed to a stipulation requiring that, *inter alia*, an amended complaint, if any, would be filed not later than 30 days from the date of the appointment by the Court of lead plaintiff and lead counsel, which stipulation the Court signed on November 1, 2016 and November 9, 2016.

Also on September 13, 2016, Plaintiff Duncan’s counsel issued a notice to investors informing them of the right to seek appointment as lead plaintiff by November 7, 2016.

Between August 24, 2016 and September 8, 2016, six other complaints were filed on behalf of Joy Global’s shareholders purportedly arising out of the Acquisition (the “Related Actions”).<sup>1</sup> On October 5, 2016, all plaintiffs in the Related Actions filed a “Stipulation and [Proposed] Order Concerning Plaintiffs’ Voluntary Dismissal of the Above Actions,” stating that plaintiffs Oduntan, Soffer, Gordon, Rote, Tansey and McGregor were dismissing their cases with prejudice as to them only. On October 7, 2016, the Court signed an Order dismissing the Related Actions with prejudice as to those named plaintiffs only.

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<sup>1</sup> The Related Actions are: *Oduntan v. Joy Global Inc., et al.*, No. 16-cv-1136 (filed 8/24/16); *Soffer v. Doheny, et al.*, No. 16-cv-1148 (filed 8/26/16); *Gordon v. Joy Global Inc., et al.*, No. 16-cv-1153 (filed 8/26/16); *Rote v. Joy Global Inc., et al.*, No. 16-cv-1186 (filed 9/2/16); *Tansey v. Joy Global Inc., et al.*, No. 16-cv-1201 (filed 9/6/16); and *McGregor v. Joy Global Inc., et al.*, No. 16-cv-1213 (filed 9/8/16).

On November 7, 2016, Lead Plaintiffs filed motions seeking appointment as lead plaintiffs and their selected counsel as lead counsel in this action. More specifically, Plaintiff Cahill and Plaintiff Caparelli filed a motion seeking appointment as lead plaintiffs pursuant to the Private Securities Litigation Reform Act of 1995 (“PSLRA”), 15 U.S.C. §§78u-4(a)(3)(B), and seeking approval of their selection of Bronstein Gewirtz & Grossman, LLC as Lead Counsel and Bykhovsky Law LLC as Liaison Counsel. The same day, Plaintiff Duncan filed a motion seeking appointment as lead plaintiff and for an order appointing his selection of Robbins Geller Rudman & Dowd LLP as lead counsel. Plaintiffs Cahill, Caparelli and Duncan, through counsel, negotiated a resolution of the competing lead plaintiff and lead counsel motions. As a result of those arm’s-length negotiations, on November 22, 2016, Duncan filed a Stipulation and [Proposed] Order Appointing Lead Plaintiff and Lead Counsel Pursuant to the PSLRA (the “Leadership Stipulation”) stating, *inter alia*, that their “respective counsel, have agreed, subject to this Court’s approval, that Messrs. Cahill, Caparelli and Duncan should be jointly appointed Lead Plaintiff and their counsel approved as Lead Counsel.” Defendants took “no position on the pending motions and reserv[ed] all rights to challenge the Rule 23 requirements at the class certification stage.” On November 28, 2016, the Court approved the Leadership Stipulation and ordered: “Pursuant to 15 U.S.C. §78u-4(a)(3)(B), the court APPOINTS Peter Cahill, Charles Caparelli and Steven Duncan as Lead Plaintiffs”; “Pursuant to 15 U.S.C. §78u-4(a)(3)(B)(v), the court APPROVES the Lead Plaintiffs’ selection of Robbins Geller Rudman & Dowd LLP and Bronstein Gewirtz & Grossman LLC, and APPOINTS those firms as Lead Counsel for the Lead Plaintiffs; and APPROVES the Lead Plaintiffs’ selection of Wagner Law Group, S.C. as Local Counsel, and APPOINTS that firm as Local Counsel for the Lead Plaintiffs.”

On December 27, 2016, Lead Plaintiffs and the then-existing defendants entered into a stipulation stating, *inter alia*, that “the Parties agree that the efficient prosecution of this case and administration of justice favors extending the time for lead plaintiffs to amend the complaint and for

the Defendants to respond to the amended complaint until after the transaction closes” and that “Lead Plaintiffs shall file an amended complaint not later than 21 days from the date on which the transaction closes.” The Court approved that stipulation, which also contained a briefing schedule for any subsequent motions to dismiss, on December 27, 2016.

Twenty-one days after the close of the Acquisition, on April 26, 2017, Lead Plaintiffs filed an Amended Complaint for Violations of §§14(a) and 20(a) of the Securities Exchange Act of 1934 (the “Amended Complaint”). The Amended Complaint dropped the claims for breach of fiduciary duty and dropped Komatsu Ltd., Komatsu America Corp., and Pine Solutions Inc. as defendants. As noted, however, the Amended Complaint continued to allege claims on behalf of Joy Global stockholders for violations of §§14(a) and 20(a) of the 1934 Act and SEC Rule 14a-9 promulgated thereunder.

Defendants filed an omnibus Motion to Dismiss on June 26, 2017 (the “Motion to Dismiss”). In the Motion to Dismiss, Defendants argued that under Fed. R. Civ. P. 12(b)(6), the Amended Complaint failed to state a claim upon which relief could be granted and should be dismissed with prejudice. On August 10, 2017, Lead Plaintiffs filed a Memorandum of Law in Opposition to Defendants’ Motion to Dismiss the Amended Class Action Complaint. On September 11, 2017, Defendants filed a Reply Memorandum of Law in Support of Defendants’ Motion to Dismiss the Amended Class Action Complaint. While the Motion to Dismiss remained pending, the parties filed the following notices, responses, and motions to consider additional authority:

- October 6, 2017: Lead Plaintiffs filed a Notice of Recent Authority calling the Court’s attention to a recent “Findings and Recommendations” issued by the Honorable Magistrate Judge Youlee Yim You of the United States District Court for the District of Oregon in *NECA-IBEW Pension Trust Fund v. Precision Castparts Corp.*, No. 3:16-cv-01756-YY (Dist. Or. Oct. 3, 2017) (“*Precision Castparts*”).
- October 13, 2017: Defendants responded to Lead Plaintiffs’ Notice regarding *Precision Castparts*.

- January 30, 2018: Lead Plaintiffs filed a Supplemental Notice of Recent Authority regarding the district court’s adoption of the *Precision Castparts* Findings and Recommendations.
- February 2, 2018: Defendants moved the Court, under Civil Local Rules 7(h) and 7(i), for an order permitting them to file supplemental authority concerning: *City of Hialeah Employees’ Retirement Sys. v. FEI Co.*, Case No. 3:16-cv-1792-SI (D. Or. Jan. 25, 2018) (“*FEI*”).
- February 9, 2018: Lead Plaintiffs responded to Defendants’ motion regarding *FEI*.

In December 2017, the parties’ counsel began discussing the potential for resolution of this matter. Arm’s-length negotiations took place over the next approximately three months and on March 23, 2018, Defendants filed a “Notice of Settlement” with the Court stating that “the parties have reached a settlement in principle that would resolve all outstanding issues in this case among all parties.”

## **II. DEFENDANTS’ DENIALS OF WRONGDOING AND LIABILITY**

This Stipulation constitutes a compromise of matters that are in dispute between the parties. Each of the Defendants have denied and continue to deny any wrongdoing by or liability against them arising out of any of the conduct, statements, acts, or omissions alleged, or that could have been alleged, in the Litigation. Defendants expressly deny that Lead Plaintiffs have asserted any valid claims as to any of them, and expressly deny any and all allegations of fault, liability, wrongdoing, or damages whatsoever and maintain that their conduct was at all times proper and in compliance with all applicable provisions of law. In addition, Defendants maintain that they have meritorious defenses to all claims alleged in the Litigation.

This Stipulation shall in no event be construed or deemed to be evidence of an admission or concession on the part of any Defendant, or any Released Persons (defined below), with respect to any claim or of any fault, liability, wrongdoing, negligence, omission, or damage whatsoever, or any infirmity in the defenses that Defendants have asserted. Defendants’ decision to settle the Litigation is based on the conclusion that further conduct of the Litigation could be protracted and expensive,

that it is desirable that the Litigation be fully and finally settled and that it would be beneficial to avoid the uncertainty and risks inherent in any litigation.

### **III. CLAIMS OF LEAD PLAINTIFFS AND BENEFITS OF SETTLEMENT**

Lead Plaintiffs and Lead Counsel believe that the claims asserted in the Litigation have merit and that the evidence developed to date supports those claims. Lead Plaintiffs and Lead Counsel, however, recognize and acknowledge the expense and length of continued proceedings necessary to prosecute the Litigation against Defendants through trial, potential post-trial proceedings sought by Defendants, and appeals. Lead Plaintiffs and Lead Counsel also have taken into account the uncertain outcome and the risk of any litigation, as well as the difficulties and delays inherent in any litigation. Lead Plaintiffs and Lead Counsel also are mindful of the inherent problems of proof and possible defenses to the violations asserted in the Litigation. Lead Plaintiffs and Lead Counsel believe that the Settlement set forth in this Stipulation confers substantial benefits upon the Class. Based on their evaluation, Lead Plaintiffs and Lead Counsel have determined that the Settlement set forth in this Stipulation is in the best interests of the Class, and that the Settlement provided for herein is fair, reasonable and adequate.

### **IV. TERMS OF STIPULATION AND AGREEMENT OF SETTLEMENT**

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among Lead Plaintiffs (for themselves and on behalf of the Class Members (as defined below)) and the Defendants, by and through their respective counsel of record, that, subject to the approval of the Court, pursuant to Rule 23(e) of the Federal Rules of Civil Procedure and the PSLRA, the Litigation and the Released Claims shall be finally, fully and forever resolved, discharged, relinquished, released, waived, settled, and dismissed with prejudice, upon and subject to the terms and conditions of the Stipulation, as follows:

## **1. Definitions**

As used in the Stipulation the following terms have the meanings specified below:

1.1 “Authorized Claimant” means any Class Member whose claim for recovery has been allowed pursuant to the terms of the Plan of Allocation ultimately approved by the Court.

1.2 “Claim Form” or “Proof of Claim Form” or “Proof of Claim and Release” means the form, substantially in the form attached hereto as Exhibit A-2.

1.3 “Claimant” means a person or entity who or which submits a Claim Form to the Claims Administrator.

1.4 “Claims Administrator” means the firm of Gilardi & Co. LLC.

1.5 “Class” means: all Persons who purchased, sold or held Joy Global common stock during the period from and including September 1, 2016, the record date for Joy Global’s special stockholder meeting regarding the acquisition of Joy Global by Komatsu and certain of its subsidiaries, through and including April 5, 2017, the date the Acquisition closed. Excluded from the Class are (i) Defendants; (ii) members of the immediate families of each Defendant; (iii) Joy Global’s subsidiaries and affiliates; (iv) any entity in which any Defendant has a controlling interest; and (v) the legal representatives, heirs, successors, administrators, executors, and assigns of each defendant. Also excluded from the Class are those Persons who properly exclude themselves by timely and validly requesting exclusion from the Class pursuant to the Notice of Pendency and Proposed Settlement of Class Action to be sent to Class Members pursuant to the Preliminary Approval Order.

1.6 “Class Member” or “Member of the Class” means any Person who falls within the definition of the Class as set forth in ¶1.5 of the Stipulation.

1.7 “Class Period” means the period commencing on September 1, 2016 and ending on April 5, 2017, inclusive.

1.8 “Corporate Defendant” means Joy Global.

1.9 “Court” means the United States District Court for the Eastern District of Wisconsin.

1.10 “Defendants” means Joy Global, Edward L. Doheny II, Steven L. Gerard, Mark J. Gliebe, John T. Grep, John Nils Hanson, Gale E. Klappa, Richard B. Loynd, P. Eric Siegert and James H. Tate.

1.11 “Defendants’ Counsel” means the undersigned counsel for Defendants.

1.12 “Defendants’ Insurance Claims” means any or all of Defendants’ claims and rights existing at any point in time, whether known or unknown, to seek insurance coverage or any other relief or finding of liability from any insurer in connection with or related to this Settlement or the subject matter of the Litigation or the Related Actions.

1.13 “Effective Date” means the first date by which all of the events and conditions specified in ¶7.1 of the Stipulation have been met and have occurred.

1.14 “Escrow Account” means the account described in ¶2.1 through ¶2.4 hereof.

1.15 “Escrow Agent” means Robbins Geller Rudman & Dowd LLP or its successor(s).

1.16 “Final” means when the last of the following with respect to the Order and Final Judgment, substantially in the form of Exhibit B attached hereto, shall occur: (i) the expiration of three (3) business days after the time for the filing of any motion to alter or amend the Order and Final Judgment under Federal Rule of Civil Procedure 59(e) without any such motion having been filed; (ii) the expiration of the time for the filing or noticing of any appeal from the Order and Final Judgment without any appeal having been filed; and (iii) if such motion to alter or amend is filed or if an appeal is filed or noticed, then immediately after the determination of that motion or appeal so that the Order and Final Judgment is no longer subject to any further judicial review or appeal whatsoever, whether by reason of affirmance by court of last resort, lapse of time, voluntary dismissal of the appeal or otherwise. For purposes of this paragraph, an appeal shall include any

petition for a writ of certiorari or other writ that may be filed in connection with the approval or disapproval of this Settlement, but shall not include any appeal that concerns only the issue of attorneys' fees and expenses, payment of Lead Plaintiffs' time and expenses or the Plan of Allocation of the Settlement Fund. Any proceeding or order, or any appeal or petition for a writ of certiorari pertaining solely to any plan of distribution and/or application for attorneys' fees, costs, or expenses and/or Lead Plaintiffs' request for payment of time and expenses, shall not in any way delay or preclude the Order and Final Judgment from becoming Final.

1.17 "Final Approval Hearing" means the hearing to determine whether the proposed Settlement embodied by this Stipulation is fair, reasonable, and adequate to the Class, and whether the Court should: (1) enter the Order and Final Judgment approving the proposed Settlement; (2) approve the Plan of Allocation of settlement proceeds; and (3) assess Lead Counsel's petition for attorneys' fees and expenses to Lead Plaintiffs' counsel and Lead Plaintiffs' request for payment of time and expenses.

1.18 "Individual Defendants" means Edward L. Doheny II, Steven L. Gerard, Mark J. Gliebe, John T. Grep, John Nils Hanson, Gale E. Klappa, Richard B. Loynd, P. Eric Siegert and James H. Tate.

1.19 "Joy Global" or the "Company" means Joy Global Inc.

1.20 "Lead Counsel" means Robbins Geller Rudman & Dowd LLP and Bronstein, Gewirtz & Grossman, LLC.

1.21 "Lead Plaintiffs" means Steven Duncan, Peter Cahill and Charles Caparelli.

1.22 "Liaison Counsel" means Kerkman Wagner & Dunn or its successor(s).

1.23 "Litigation" means the above-captioned action, *Duncan, et al. v. Joy Global Inc., et al.*, Civil No. 2:16-cv-01229-PP in the United States District Court for the Eastern District of Wisconsin, Milwaukee Division.

1.24 “Notice” means the Notice of Pendency and Proposed Settlement of Class Action defined in ¶3.1 hereof.

1.25 “Notice and Administration Costs” means the costs defined in ¶2.8 hereof.

1.26 “Order and Final Judgment” means the judgment to be rendered by the Court, in the form attached hereto as Exhibit B.

1.27 “Person” means a natural person, individual, corporation, limited liability corporation, professional corporation, limited liability partnership, partnership, limited partnership, limited liability company, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, and any business or legal entity and all of their respective spouses, heirs, beneficiaries, executors, administrators, predecessors, successors, representatives, or assignees.

1.28 “Plaintiffs’ Counsel” means any counsel who have appeared for Lead Plaintiffs in the Litigation, specifically: Robbins Geller Rudman & Dowd LLP; Bronstein, Gewirtz & Grossman, LLC; Kerkman Wagner & Dunn; Johnson Fistel, LLP; and Bykhovsky Law LLC; or their successors. No other law firm is included within the definition of Plaintiffs’ Counsel.

1.29 “Plan of Allocation” means a plan or formula of allocation of the Settlement Fund whereby the Settlement Fund shall be distributed to Authorized Claimants after payment of expenses of notice and administration of the Settlement, Taxes and Tax Expenses, and such attorneys’ fees, costs, expenses (including time and expenses awarded by the Court to Lead Plaintiffs), and interest as may be awarded by the Court. Any Plan of Allocation, as well as Exhibit A-2 hereto, is not part of the Stipulation, and Defendants and their Related Parties shall have no responsibility or liability with respect thereto.

1.30 “Preliminary Approval Order” means the order described in ¶3.1 hereof, substantially in the form attached hereto as Exhibit A.

1.31 “Related Parties” means, with respect to each Defendant, any and all of their related parties, including, without limitation, any and all of their past or present parents (direct or indirect), subsidiaries (direct or indirect), affiliates, predecessors, or successors, as well as any and all of its or their current or former officers, directors, employees, associates, members of their immediate families, agents or other persons acting on their behalf, investment banks, including, but not limited to, Goldman Sachs Group, Inc., attorneys, advisors, financial advisors, publicists, independent certified public accountants, auditors, accountants, assigns, creditors, administrators, heirs, estates, or legal representatives. “Related Parties” also means any insurers of Defendants, but solely in the context of, and in respect to, any Released Claims that could be asserted directly against such insurers by Lead Plaintiffs.

1.32 “Released Claims” means any and all claims that have been asserted, could have been asserted, or could be asserted in the future in this Litigation; and any and all claims, actions, potential actions, demands, losses, rights, causes of action, controversies, costs, damages, liabilities, obligations, judgments, suits, matters and issues of any nature for any remedy, known or unknown, suspected or unsuspected, accrued or unaccrued, whether class, individual, or otherwise, arising under the laws, regulations, or common law of the United States of America, any state or political subdivision thereof, or any foreign country or jurisdiction, in law, in contract, or in equity, and regardless of legal theory, and including claims for indemnification, contribution, or otherwise denominated, that have been asserted, could have been asserted, or could be asserted in the future, by Lead Plaintiffs or any Class Member in his, her or its capacity as a purchaser, seller or holder of Joy Global stock, that have arisen from, could have arisen, or relate in any manner to, in whole or in part, the allegations, conduct, facts, events, transactions, acts, occurrences, statements, representations, omissions or any other matter related to, or arising out of, the Acquisition, the Proxy and the Supplements thereto, the projections and investor presentations referenced in the Amended

Complaint, or to the purchase, sale, or holding of Joy Global's common stock in the period from and including September 1, 2016 through and including April 5, 2017. "Released Claims" includes "Unknown Claims" as defined in ¶1.42 hereof. Notwithstanding any other provision to the contrary herein, Released Claims shall not include Defendants' Insurance Claims. For the avoidance of doubt, nothing in this Stipulation is intended to, nor shall it be deemed to, release any claim that the Defendants have against any of Defendants' insurers.

1.33 "Released Persons" means each and all of the Defendants and each and all of their Related Parties.

1.34 "Settled Defendants' Released Claims" means any and all claims, actions, potential actions, demands, losses, rights, causes of action, controversies, costs, damages, liabilities, obligations, judgments, suits, matters and issues of any nature for any remedy, known or unknown, suspected or unsuspected, accrued or unaccrued, whether class, individual, or otherwise, arising under the laws, regulations, or common law of the United States of America, any state or political subdivision thereof, or any foreign country or jurisdiction, in law, in contract, or in equity, and regardless of legal theory, and including claims for indemnification, contribution, or otherwise denominated, that have been asserted, could have been asserted, or could be asserted in the future by the Released Persons or any of them against Lead Plaintiffs, Class Members, or Plaintiffs' Counsel, that arise out of or relate in any way to the institution, prosecution, or settlement of the claims against the Released Persons, except for claims related to the enforcement of the Settlement. In all events, Lead Plaintiffs, Plaintiffs' Counsel, and all Class Members shall have no liability or responsibility for Defendants' Insurance Claims.

1.35 "Settlement" means the settlement of the Litigation as set forth in this Stipulation.

1.36 "Settlement Amount" means the principal amount of Twenty Million Dollars (\$20,000,000.00), to be paid by the Company pursuant to ¶2.1 and ¶2.2 of this Stipulation. Neither

Defendants nor their Related Parties shall have any obligation whatsoever to pay any amount over and above the principal amount of Twenty Million Dollars (\$20,000,000.00). Such amount is to be paid as consideration for full and complete settlement of all the Released Claims.

1.37 “Settlement Fund” means the Settlement Amount plus all interest and accretions thereto after being transferred to an account controlled by the Escrow Agent, and which may be reduced by payments or deductions as provided for herein or by court order.

1.38 “Settling Parties” means, collectively, each of the Defendants and Lead Plaintiffs on behalf of themselves and each of the Class Members.

1.39 “Stipulation” means this Stipulation of Settlement, including the recitals and Exhibits thereto.

1.40 “Taxes” means all taxes (including any estimated taxes, interest or penalties) arising with respect to the income earned by the Settlement Fund as described in ¶2.9.

1.41 “Tax Expenses” means expenses and costs incurred in connection with the calculation and payment of taxes or the preparation of tax returns and related documents, including, without limitation, expenses of tax attorneys and/or accountants and mailing and distribution costs relating to filing (or failing to file) the returns described in ¶2.9.

1.42 “Unknown Claims” means (i) any of the Released Claims which Lead Plaintiffs or any Class Member, or any of their agents or attorneys, does not know or suspect to exist in such Person’s favor at the time of the release of the Released Claims, and (ii) any of the Settled Defendants’ Released Claims that the Released Persons do not know or suspect to exist in his, her or its favor at the time of the release of the Settled Defendants’ Released Claims, which, in the case of both (i) and (ii), if known by such Person, might have affected such Person’s decision with respect to this Settlement, including, without limitation, such Person’s decision not to object to this Settlement or not to exclude himself, herself or itself from the Class. Unknown Claims include those Released

Claims in which some or all of the facts comprising the claim may be suspected, or even undisclosed or hidden. With respect to any and all Released Claims and the Settled Defendants' Released Claims, upon the Effective Date, Lead Plaintiffs and Defendants shall expressly, and each of the Class Members and Released Persons shall be deemed to have, and by operation of the Order and Final Judgment shall have, expressly waived to the fullest extent permitted by law, the provisions, rights, and benefits of California Civil Code §1542, which provides:

**A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.**

Lead Plaintiffs and Defendants shall expressly, and each of the Class Members and Released Persons shall be deemed to have, and by operation of the Order and Final Judgment, shall have expressly waived any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law, which is similar, comparable or equivalent to California Civil Code §1542. Lead Plaintiffs, Class Members and the Released Persons may hereafter discover facts in addition to or different from those which such party now knows or believes to be true with respect to the subject matter of the Released Claims and the Settled Defendants' Released Claims, but Lead Plaintiffs and Defendants shall expressly, and each Class Member and Released Persons, upon the Effective Date, shall be deemed to have, and by operation of the Order and Final Judgment shall have fully, finally, and forever settled and released any and all Released Claims, or the Settled Defendants' Released Claims, as the case may be, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct that is negligent, reckless, intentional, with or without malice, or a breach of any duty, law, or rule, without regard to the subsequent discovery or existence of such different or additional facts, whether or not previously

or currently asserted in any action. Lead Plaintiffs and Defendants acknowledge, and the Class Members and Released Persons shall be deemed by operation of the Order and Final Judgment to have acknowledged, that the foregoing waiver was separately bargained for and a key element of the Settlement of which this release is a part.

## **2. The Settlement**

### **a. The Settlement Fund**

2.1 In consideration of the terms of this Stipulation, Joy Global shall pay or cause to be paid the Settlement Amount into the Escrow Account, no later than fourteen (14) days after the later of: (i) entry of the Preliminary Approval Order, as defined in ¶3.1 herein; and (ii) the provision to counsel for Defendants of payment instructions and a W-9 form providing the tax identification number for the Escrow Agent. The Escrow Agent shall deposit the Settlement Amount, plus any accrued interest, in a segregated escrow account maintained by the Escrow Agent.

2.2 The deposit of the Settlement Amount is the only payment to be made by or on behalf of Defendants in connection with this Settlement. The Individual Defendants do not have and should not be suggested to have any payment liability. As set forth below, all fees, costs, and expenses incurred by or on behalf of Lead Plaintiffs and the Class associated with the Settlement, including, but not limited to, Taxes, Tax Expenses, administrative costs and costs of providing notice of the Settlement to the Class Members, any award of attorneys' fees and expenses of Plaintiffs' Counsel, and any award to Lead Plaintiffs made by the Court pursuant to the PSLRA for reasonable costs and expenses, shall be paid from the Settlement Fund, and in no event shall Defendants or their Related Parties bear any responsibility for any such fees, costs or expenses.

2.3 The payment of the Settlement Amount shall be made by Joy Global only. Joy Global's obligation to pay the Settlement Amount shall not be conditional upon any payment from or on behalf of any of Joy Global's insurers.

**b. The Escrow Agent**

2.4 The Escrow Agent will invest the Settlement Fund created pursuant to ¶2.1 hereof only in instruments backed by the full faith and credit of the United States Government or fully insured by the United States Government or an agency thereof, and will reinvest the proceeds of these instruments as they mature in similar instruments at their then-current market rates. All costs and risks related to the investment of the Settlement Fund in accordance with the guidelines set forth in this paragraph shall be borne by the Settlement Fund and neither Defendants nor their Related Parties shall have any responsibility for, interest in, or liability whatsoever with respect to the funds held in the Escrow Account, including with respect to investment decisions, distribution of the Settlement Fund, or the actions of the Escrow Agent, or any transactions executed by the Escrow Agent.

2.5 The Escrow Agent shall not disburse the Settlement Fund except as provided by: (i) the Stipulation; (ii) an order of the Court; or (iii) prior written agreement of counsel for Defendants.

2.6 Subject to further order(s) and/or directions as may be made by the Court, or as provided in the Stipulation, the Escrow Agent is authorized to execute such transactions on behalf of the Class Members as are consistent with the terms of the Stipulation. The Released Persons shall have no responsibility for, interest in, or liability whatsoever with respect to, the actions of the Escrow Agent, or any transaction executed by the Escrow Agent.

2.7 All funds held by the Escrow Agent shall be deemed and considered to be in *custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court, until such time as such funds shall be distributed or returned pursuant to the Stipulation and/or further order(s) of the Court.

2.8 The Escrow Agent may pay from the Settlement Fund the costs and expenses reasonably and actually incurred in connection with providing notice to Members of the Class, mailing the Notice and Proof of Claim and Release and publishing notice (such amount shall

include, without limitation, the actual costs of publication, printing and mailing the Notice, and reimbursement to nominee owners for forwarding notice to their beneficial owners), soliciting Class claims, assisting with the filing of claims, administering and distributing the Net Settlement Fund to Authorized Claimants, processing Proofs of Claim and Releases, and paying escrow fees and costs, if any, and the administrative expenses incurred and fees charged by the Claims Administrator in connection with providing notice and processing the submitted claims (“Notice and Administration Costs”). In the event that the Settlement does not become final, any money paid or incurred for the above purposes, including any related fees, shall not be returned or repaid to Joy Global or its insurers.

**c. Taxes**

2.9 (a) The Settling Parties and the Escrow Agent agree that the Settlement Fund is intended to be and should be treated as being at all times a “qualified settlement fund” within the meaning of Treas. Reg. §1.468B-1. In addition, the Escrow Agent shall timely make such elections as necessary or advisable to carry out the provisions of this ¶2.9, including the “relation-back election” (as defined in Treas. Reg. §1.468B-1(j)(2)) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such Treasury regulations promulgated under §1.468B of the Internal Revenue Code of 1986, as amended (the “Code”). It shall be the responsibility of the Escrow Agent to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur.

(b) For the purpose of §1.468B of the Code and the Treasury regulations promulgated thereunder, the Escrow Agent shall be designated as the “administrator” of the Settlement Fund. The Escrow Agent shall timely and properly file all informational and other tax returns necessary or advisable with respect to the Settlement Fund (including, without limitation, the

returns described in Treas. Reg. §1.468B-2(k)). Such returns (as well as the election described in ¶2.9(a) hereof) shall be consistent with this ¶2.9 and in all events shall reflect that all Taxes as defined in ¶1.40 hereof (including any estimated Taxes, interest, or penalties) on the income earned by the Settlement Fund shall be paid out of the Settlement Fund as provided in ¶2.9(c) hereof.

(c) All: (a) Taxes (including any estimated Taxes, interest, or penalties) arising with respect to the income earned by the Settlement Fund, including any Taxes or tax detriments that may be imposed upon Defendants or their Related Parties with respect to any income earned by the Settlement Fund for any period during which the Settlement Fund does not qualify as a “qualified settlement fund” for federal or state income tax purposes; and (b) Tax Expenses, and costs incurred in connection with the operation and implementation of this ¶2.9 (including, without limitation, expenses of tax attorneys and/or accountants and mailing and distribution costs and expenses relating to filing (or failing to file) the returns described in this ¶2.9), shall be paid out of the Settlement Fund. In no event shall Defendants or their Related Parties have any responsibility for or liability with respect to the Taxes or the Tax Expenses. Further, Taxes and Tax Expenses shall be treated as, and considered to be, a cost of administration of the Settlement Fund and shall be timely paid by the Escrow Agent out of the Settlement Fund without prior order from the Court, and the Escrow Agent shall be obligated (notwithstanding anything herein to the contrary) to withhold from distribution to Authorized Claimants any funds necessary to pay such amount, including the establishment of adequate reserves for any Taxes and Tax Expenses (as well as any amounts that may be required to be withheld under Treas. Reg. §1.468B-2(1)(2)); neither Defendants nor their Related Parties are responsible therefor nor shall they have any liability with respect thereto and shall have no responsibility or liability for the acts or omissions of Lead Counsel or their agents with respect to the payment of Taxes, as described herein. The Settling Parties hereto agree to cooperate with the

Escrow Agent, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of this ¶2.9.

(d) Neither Defendants nor their Related Parties are responsible for Taxes, Tax Expenses, or Notice and Administration Costs, nor shall they be liable for any claims with respect thereto.

**d. Termination of Settlement**

2.10 In the event that the Stipulation is not approved, or is terminated pursuant to ¶7.3 or ¶7.4, or is canceled, or fails to become effective for any reason, including, without limitation, in the event the Order and Final Judgment is reversed or vacated following any appeal taken therefrom, or is successfully collaterally attacked, the Settlement Fund (including accrued interest and income), less Notice and Administration Costs, Taxes or Tax Expenses paid in connection with the Settlement provided for herein, incurred or due and owing, shall be refunded in accordance with the instructions to be provided by counsel for Defendants no later than ten (10) business days from the termination event or as otherwise agreed upon in writing by counsel for Defendants.

**3. Preliminary Approval Order and Final Approval Hearing**

3.1 Promptly after execution of the Stipulation, Lead Plaintiffs shall submit the Stipulation together with its Exhibits to the Court and Lead Counsel shall apply for entry of an order, substantially in the form and content of Exhibit A attached hereto (the “Preliminary Approval Order”), requesting, *inter alia*, the preliminary approval of the Settlement set forth in the Stipulation, approval for the mailing of the Notice of Pendency and Proposed Settlement of Class Action (the “Notice”) and the Proof of Claim and Release, substantially in the forms of Exhibits A-1 and A-2 attached hereto, and approval of the publication of a Summary Notice, substantially in the form of Exhibit A-3 attached hereto, or such other substantially similar form agreed to by the Settling Parties.

3.2 Lead Plaintiffs will request that the Court hold the Final Approval Hearing and finally approve the Settlement of the Litigation as set forth herein. At or after the Final Approval Hearing, Lead Counsel also will request that the Court approve the proposed Plan of Allocation and the Fee and Expense Application.

#### **4. Releases**

4.1 Upon the Effective Date, as defined in ¶1.13 hereof, Lead Plaintiffs, and each and all of the Class Members and anyone claiming through or on behalf of any of them, including, but not limited to, their predecessors, successors, agents, representatives, attorneys, affiliates, heirs, executors, administrators, and assigns, shall be deemed to have, and by operation of the Order and Final Judgment shall have, fully, finally, and forever resolved, discharged, relinquished, released, waived, settled, and dismissed with prejudice any and all Released Claims (including, without limitation, Unknown Claims), as well as any and all claims arising out of, relating to, or in connection with, the defense, settlement, or resolution of the Litigation or the Released Claims, against each and all of the Released Persons, regardless of whether a Class Member executes and delivers a Proof of Claim and Release, except that claims relating to the enforcement of the Settlement shall not be released.

4.2 Upon the Effective Date, as defined in ¶1.13 hereof, without further action by anyone, Lead Plaintiffs, each and all of the Class Members and anyone claiming through or on behalf of any of them, including, but not limited to, their predecessors, successors, agents, representatives, attorneys, affiliates, heirs, executors, administrators, and assigns, are and shall be forever barred and enjoined from commencing, instituting, asserting, maintaining, enforcing, aiding, prosecuting, or continuing to prosecute any action or proceeding in any forum (including, but not limited to, any state or federal court of law or equity, any arbitral forum, any tribunal, administrative forum, or the court of any foreign jurisdiction, or any other forum of any kind), any and all of the Released Claims

(including, without limitation, Unknown Claims), as well as any and all claims arising out of, relating to, or in connection with, the defense, settlement or resolution of the Litigation or the Released Claims, against each and all of the Released Persons, regardless of whether such Class Member executes and delivers a Proof of Claim and Release, except that claims relating to the enforcement of the Settlement shall not be released.

4.3 Upon the Effective Date, Lead Plaintiffs and each and every Class Member, for themselves and for any Person claiming now or in the future through or on behalf of them, shall covenant or be deemed to have covenanted not to sue any Released Persons with respect to any and all Released Claims, except to enforce the terms and conditions contained in this Stipulation or the Order and Final Judgment.

4.4 The Proof of Claim and Release to be executed by Class Members shall release any and all Released Claims against each and all of the Released Persons and shall be substantially in the form contained in Exhibit A-2 attached hereto.

4.5 Upon the Effective Date, as defined in ¶1.13 hereof, without further action by anyone, each and all of the Released Persons shall be deemed to have, and by operation of the Order and Final Judgment shall have, fully, finally, and forever released, relinquished, and discharged Lead Plaintiffs, each and all of the Class Members, and Plaintiffs' Counsel from all Settled Defendants' Released Claims, and shall forever be enjoined from prosecuting such claims, except for claims relating to the enforcement of the Settlement.

4.6 In accordance with the PSLRA as codified at 15 U.S.C. §78u-4(f)(7)(A), (a) all obligations to any Class Member of any Released Person arising out of the Litigation are discharged, and (b) any and all claims for contribution arising out of the Litigation or any of the Released Claims (i) by any person or entity against any of the Released Persons, and (ii) by any of the Released

Persons against any person or entity, other than as set out in 15 U.S.C. §78u-4(f)(7)(A)(ii), are hereby permanently barred, extinguished, discharged, satisfied and unenforceable.

4.7 For the avoidance of doubt, nothing in this Stipulation is intended to, nor shall it be deemed to, release any claim that the Defendants have against any of Defendants' insurers.

**5. Administration and Calculation of Claims, Final Awards, and Supervision and Distribution of Settlement Fund**

5.1 The Claims Administrator, subject to such supervision and direction of the Court and/or Lead Counsel as may be necessary or as circumstances may require, shall administer and calculate the claims submitted by Class Members and shall oversee distribution of the Net Settlement Fund (defined below) to Authorized Claimants. Except for the Company's obligation to pay or cause payment of the Settlement Amount as set forth herein, Defendants and their Related Parties shall have no responsibility for, interest in, or liability whatsoever with respect to the investment or distribution of the Settlement Fund, the Plan of Allocation, the determination, administration, or calculation of claims, the payment or withholding of Taxes or Tax Expenses, or any losses incurred in connection therewith.

5.2 The Settlement Fund shall be applied as follows:

- (a) to pay all Notice and Administration Costs;
- (b) to pay the Taxes and Tax Expenses;
- (c) to pay Plaintiffs' Counsel's attorneys' fees and expenses with interest thereon (the "Fee and Expense Award"), if and to the extent awarded by the Court, and Lead Plaintiffs' time and expenses pursuant to 15 U.S.C. §78u-4(a)(4), if and to the extent awarded by the Court; and
- (d) after the Effective Date, to distribute the balance of the Settlement Fund (the "Net Settlement Fund") to Authorized Claimants as allowed by the Stipulation, the Plan of Allocation, or the Court.

5.3 Upon the Effective Date and thereafter, and in accordance with the terms of the Stipulation, the Plan of Allocation, or such further approval and further order(s) of the Court as may be necessary or as circumstances may require, the Net Settlement Fund shall be distributed to Authorized Claimants, subject to and in accordance with the following:

(a) Each Class Member shall be required to submit a Proof of Claim and Release, substantially in a form approved by the Court, supported by such documents as are designated therein, including proof of the transactions claimed, or such other documents or proof as the Claims Administrator, in its discretion, may deem acceptable;

(b) All Proofs of Claim and Releases must be submitted by the date specified in the Notice unless such period is extended by Court order. Any Class Member who fails to submit a Proof of Claim and Release by such date, or timely submits a Proof of Claim and Release that is ultimately and finally disallowed or rejected by the Claims Administrator, shall be forever barred from receiving any payment pursuant to this Stipulation, but shall in all other respects be bound by all of the terms of this Stipulation and the Settlement, including the terms of the Order and Final Judgment to be entered in the Litigation and the releases provided for herein, and will be barred from bringing any action against the Released Persons concerning the Released Claims. A Proof of Claim and Release shall be deemed to have been submitted when posted, if received with a postmark indicated on the envelope and if mailed by first-class mail and addressed in accordance with the instructions thereon. In all other cases, the Proof of Claim and Release shall be deemed to have been submitted when actually received by the Claims Administrator. Notwithstanding the foregoing, Lead Counsel shall have the discretion (but not the obligation) to accept for processing late-submitted claims so long as the distribution of the Net Settlement Fund to Authorized Claimants is not materially delayed thereby. No Person shall have any claim against Lead Plaintiffs, Lead

Counsel or the Claims Administrator by reason of the decision to exercise or not exercise such discretion;

(c) Each Proof of Claim and Release shall be submitted to and reviewed by the Claims Administrator, who shall determine in accordance with this Stipulation and the approved Plan of Allocation the extent, if any, to which each claim shall be allowed, subject to review by the Court pursuant to subparagraph (e) below;

(d) Proofs of Claim and Releases that do not meet the submission requirements may be rejected;

(e) Prior to rejection of a Proof of Claim and Release, the Claims Administrator shall communicate with the Claimant in order to attempt to remedy the curable deficiencies. The Claims Administrator shall notify, in a timely fashion and in writing, all Claimants whose Proofs of Claim and Releases it proposes to reject in whole or in part, setting forth the reasons therefor, and shall indicate in such notice that the Claimant whose claim is to be rejected has the right to a review by the Court if the Claimant so desires and complies with the requirements of subparagraph (f) below;

(f) If any Claimant whose claim has been rejected in whole or in part desires to contest such rejection, the Claimant must, within twenty (20) days after the date of mailing of the notice required in subparagraph (e) above, serve upon the Claims Administrator a notice and statement of reasons indicating the Claimant's grounds for contesting the rejection, along with any supporting documentation, and requesting a review thereof by the Court. If a dispute concerning a claim cannot be otherwise resolved, Lead Counsel shall thereafter present the request for review to the Court;

(g) Each Claimant who submits a Proof of Claim and Release shall be deemed to have submitted to the jurisdiction of the Court with respect to the Claimant's claim, including, but

not limited to, all releases provided for herein and in the Order and Final Judgment, and the claim will be subject to investigation and discovery under the Federal Rules of Civil Procedure, provided that such investigation and discovery shall be limited to the Claimant's status as a Class Member and the validity and amount of the Claimant's claim. In connection with processing the Proofs of Claim and Releases, no discovery shall be allowed on the merits of the Litigation or the Settlement; and

(h) The Claims Administrator shall calculate the claims of Authorized Claimants in accordance with the Plan of Allocation. Following the Effective Date, the Claims Administrator shall send to each Authorized Claimant his, her or its pro rata share of the Net Settlement Fund. No distributions will be made to Authorized Claimants who would otherwise receive a distribution of less than \$10.00.

5.4 Except for the Company's obligation to pay or cause payment of the Settlement Amount as set forth herein, Defendants and their Related Parties shall have no responsibility for, interest in, or liability whatsoever with respect to the investment or distribution of the Settlement Fund, the Plan of Allocation, the determination, administration, or calculation of claims, the payment or withholding of Taxes or Tax Expenses, or any losses incurred in connection therewith.

5.5 No Person shall have any claim of any kind against the Defendants, their Related Parties, or counsel for Defendants with respect to the matters set forth in this Section 5.

5.6 No Person shall have any claim against Lead Plaintiffs, the Escrow Agent, Plaintiffs' Counsel, Defendants or any Released Persons or their counsel, or any claims administrator based on distributions made substantially in accordance with this Stipulation and the Settlement contained herein, the Plan of Allocation, or further order(s) of the Court.

5.7 Defendants shall not have a reversionary interest in the Net Settlement Fund. The Net Settlement Fund shall be distributed to the Authorized Claimants in accordance with the Plan of Allocation set forth in the Notice and approved by the Court. The Claims Administrator will make

reasonable and diligent efforts to have Class Members who are entitled to participate in the distribution of the Net Settlement Fund cash their distributions. If there is any balance remaining in the Net Settlement Fund after a reasonable period of time after the initial distribution of the Net Settlement Fund (whether by reason of tax refunds, uncashed checks, or otherwise), Lead Counsel, shall, if feasible, reallocate on a pro rata basis among Authorized Claimants who negotiated the checks sent to them in the initial distribution and who would receive a minimum of \$10.00. These reallocations shall be repeated until the balance remaining in the Net Settlement Fund is *de minimis* and any remainder shall thereafter be donated to the Federal Judicial Center Foundation.

5.8 It is understood and agreed by the Settling Parties that any proposed Plan of Allocation of the Net Settlement Fund, including, but not limited to, any adjustments to an Authorized Claimant's claim set forth therein, is not a part of this Stipulation and is to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement set forth in the Stipulation, and any order or proceeding relating to the Plan of Allocation shall not operate to terminate or cancel the Stipulation or affect the finality of the Court's Order and Final Judgment approving the Stipulation and the Settlement set forth therein, or any other orders entered pursuant to the Stipulation.

5.9 Class Members and Defendants shall be bound by the terms of this Stipulation, irrespective of whether the Court disapproves or modifies the Plan of Allocation. The time to appeal from approval of the Settlement shall commence upon the Court's entry of the Order and Final Judgment regardless of whether a Plan of Allocation has been approved.

## **6. Lead Counsel's Attorneys' Fees and Expenses**

6.1 Lead Counsel may submit an application or applications (the "Fee and Expense Application") for: (a) an award of attorneys' fees; and (b) payment of expenses in connection with prosecuting the Litigation; and (c) any interest on such attorneys' fees and expenses at the same rate

and for the same periods as earned by the Settlement Fund (until paid). Any and all such fees, expenses, charges and costs awarded by the Court shall be payable solely out of the Settlement Fund. In addition, Lead Plaintiffs may seek payment from the Settlement Fund pursuant to 15 U.S.C. §78u-4(a)(4) for time and expenses incurred in representing the Class. Lead Counsel reserve the right to make additional applications for fees and expenses incurred, to be paid out of the Settlement Fund.

6.2 The Fee and Expense Award, as awarded by the Court, shall be paid to Lead Counsel from the Settlement Fund, as ordered, immediately upon execution of an order awarding such fees and expenses, notwithstanding the existence of any timely filed objection thereto, any appeal or potential for appeal therefrom, or collateral attack on the Settlement or any part thereof. Lead Counsel may thereafter allocate the attorneys' fees among other Plaintiffs' Counsel, if any, in a manner which they, in good faith, believe reflects the contributions of Plaintiffs' Counsel to the initiation, prosecution, and resolution of the Litigation. Released Persons shall have no responsibility for, or liability whatsoever with respect to, the Fee and Expense Award or its allocation.

6.3 In the event that the Effective Date does not occur, or the Order and Final Judgment or Fee and Expense Award is reversed or modified, or the Stipulation is canceled or terminated for any other reason, and such reversal, modification, cancellation or termination becomes final and not subject to review, and in the event that the Fee and Expense Award has been paid to any extent, then such of Plaintiffs' Counsel who have received any portion of the Fee and Expense Award shall within ten (10) business days from receiving notice from the Defendants' counsel or from a court of appropriate jurisdiction, refund to the Settlement Fund such fees and expenses previously paid to them from the Settlement Fund plus the interest earned thereon at the same rate as earned on the Settlement Fund consistent with such reversal or modification. Any refunds required pursuant to this ¶6.3 shall be the several obligations of Plaintiffs' Counsel receiving fees or expenses to make

appropriate refunds or repayments to the Settlement Fund. Each such Plaintiffs' Counsel's law firm receiving fees and expenses, as a condition of receiving such fees and expenses, on behalf of itself and each partner and/or shareholder of it, agrees that the law firm and its partners and/or shareholders are subject to the jurisdiction of the Court for the purpose of enforcing the provisions of this paragraph.

6.4 The procedure for and the allowance or disallowance by the Court of the Fee and Expense Application, or Lead Plaintiffs' expenses to be paid out of the Settlement Fund, are not part of the Settlement, and are to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement, and any determination by the Court regarding the Fee and Expense Application or Lead Plaintiffs' expenses shall not impact the finality, validity, and enforceability of the Settlement, this Stipulation, or the releases contained herein. Any order or proceeding relating to the Fee and Expense Application or Lead Plaintiffs' expenses or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to terminate or cancel the Settlement, or affect or delay the finality of the Order and Final Judgment approving this Stipulation and the Settlement of the Litigation.

6.5 Any fees and expenses awarded by the Court shall be paid solely from the Settlement Fund. No Released Persons shall have any responsibility for any payment of any kind apart from payment of the Settlement Fund pursuant to ¶2.1.

## **7. Conditions of Settlement, Effect of Disapproval, Cancellation or Termination**

7.1 The Effective Date of the Stipulation shall be conditioned on the occurrence of all of the following events:

(a) Execution of this Stipulation and such other documents as may be required to obtain final Court approval of the Stipulation in a form satisfactory to the Settling Parties;

(b) the Court has entered the Preliminary Approval Order, as required by ¶3.1 hereof;

(c) the Settlement Amount has been deposited in the Escrow Account, as required by ¶2.1 above;

(d) the Defendants have not exercised their option to terminate the Stipulation pursuant to ¶7.4 hereof;

(e) the Court has approved this Stipulation, following notice to the Class Members and the Final Approval Hearing, as prescribed by Rule 23 of the Federal Rules of Civil Procedure;

(f) the Court has entered the Order and Final Judgment in the form of Exhibit B attached hereto; and

(g) the Order and Final Judgment has become Final, as defined in ¶1.16 hereof.

7.2 This is not a claims-made settlement. As of the Effective Date, no Defendant or other Person shall have any right to the return of the Settlement Fund or any portion thereof for any reason. Upon the occurrence of all of the events referenced in ¶7.1 hereof, any and all remaining interest or right of Defendants in or to the Settlement Fund, if any, shall be absolutely and forever extinguished. If all of the conditions specified in ¶7.1 hereof are not met, then this Stipulation shall be cancelled and terminated subject to ¶7.5 hereof unless Lead Counsel and counsel for Defendants mutually agree in writing to proceed with the Settlement.

7.3 The Settling Parties shall have the right to terminate the Settlement and this Stipulation by providing written notice of their election to do so (“Termination Notice”) to all other parties hereto within thirty (30) days of: (a) the Court’s declining to enter a Preliminary Approval Order substantively identical to the Preliminary Approval Order submitted by the parties; (b) the Court’s refusal to approve this Stipulation or a substantively identical Stipulation; (c) the Court’s

declining to enter the Order and Final Judgment, or a substantively identical document; (d) the Order and Final Judgment being modified or reversed by the Seventh Circuit Court of Appeals or the Supreme Court in any manner that results in a document that is not substantively identical to the document submitted by the parties; (e) as otherwise set forth in the Settling Parties' Supplemental Agreement, as provided below; or (f) the Effective Date not otherwise occurring. No order of the Court or modification or reversal on appeal of any order of the Court concerning the Plan of Allocation, or Exhibit A-2, or the amount of any attorneys' fees, costs, expenses, and interest awarded by the Court to Lead Counsel, Liaison Counsel, Lead Plaintiffs or Plaintiffs' Counsel, shall constitute grounds for cancellation or termination of the Settlement.

7.4 Notwithstanding any other provision or paragraph of this Stipulation, Defendants shall have the option (which option is to be exercised by the Company) to terminate the Settlement in the event that a portion of the Class, equal or greater than the portion specified in the separate supplemental agreement between Lead Counsel and Defendants' counsel (the "Supplemental Agreement") delivers timely and valid requests for exclusion from the Class. The Supplemental Agreement, which is being executed concurrently herewith, will not be filed with the Court unless requested by the Court or unless a dispute among the Settling Parties concerning its interpretation or application arises, and in that event, the Settling Parties will use their reasonable best efforts to file the Supplemental Agreement for the Court's in camera review and/or under seal.

7.5 In the event that the Stipulation is not approved by the Court or the Settlement set forth in the Stipulation is terminated or fails to become effective in accordance with its terms, the Settling Parties shall not forfeit or waive any factual or legal defense or contention in the Litigation and shall be restored to their respective positions in the Litigation as of March 14, 2018. In such event, the terms and provisions of the Stipulation, with the exception of ¶¶ 2.7, 2.10, 6.3, 7.5-7.6, 8.1-8.4, and 10.4-10.5 hereof, shall have no further force and effect with respect to the Settling Parties

and shall not be used in the Litigation or in any other proceeding for any purpose, and any judgment or order entered by the Court in accordance with the terms of the Stipulation shall be treated as vacated, *nunc pro tunc*. No order of the Court or modification or reversal on appeal of any order of the Court concerning the Plan of Allocation, or Exhibit A-2, or the amount of any attorneys' fees, costs, expenses, and interest awarded by the Court to Plaintiffs' Counsel shall constitute grounds for cancellation or termination of the Stipulation.

7.6 If the Effective Date does not occur, or if the Stipulation is terminated pursuant to its terms, neither Lead Plaintiffs nor Plaintiffs' Counsel shall have any obligation to repay any amounts actually and properly disbursed from the Settlement Fund for the Notice and Administration Costs of the Settlement pursuant to ¶2.8 hereof. In addition, any expenses already incurred and properly chargeable to the Settlement Fund for the Notice and Administration Costs of the Settlement pursuant to ¶2.8 hereof at the time of such termination or cancellation, but which have not been paid, shall be paid by the Escrow Agent in accordance with the terms of the Stipulation prior to the balance being refunded in accordance with ¶2.10 hereof.

## **8. No Admission of Wrongdoing**

8.1 Defendants' execution of this Stipulation does not constitute an admission by any Defendant or their Related Parties: (i) of any wrongdoing, violation of law, or liability whatsoever; or (ii) that recovery could be had in any amount should the action not be settled. Defendants expressly deny that Lead Plaintiffs have asserted any valid claims as to any of them, and expressly deny any and all allegations of fault, damages, wrongdoing and liability and maintain that their conduct at all times was legal and proper.

8.2 Lead Plaintiffs' execution of this Stipulation does not constitute an admission by Lead Plaintiffs: (i) of the lack of any wrongdoing, violation of law, or liability on behalf of any Defendant whatsoever; or (ii) that recovery could not be had should the action not be settled.

8.3 Neither the Stipulation nor the Settlement, whether or not they are consummated, nor any act performed or document executed pursuant to or in furtherance of the Stipulation or the Settlement:

(a) shall be offered against any of the Defendants or Released Persons as evidence of, or construed as, or deemed to be evidence of any presumption, concession, or admission by any of the Released Persons with respect to the truth of any fact alleged by Lead Plaintiffs, the validity of any claim that was or could have been asserted, or the deficiency of any defense that has been or could have been asserted in this Litigation or in any other litigation, or of any liability, negligence, fault, or other wrongdoing of any kind of any of the Released Persons or in any way referred to for any other reason as against any of the Released Persons, in any civil, criminal or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Stipulation;

(b) shall be offered against Lead Plaintiffs, as evidence of, or construed as, or deemed to be evidence of any presumption, concession or admission by Lead Plaintiffs that any of their claims are without merit, that any of the Released Persons had meritorious defenses, or that damages recoverable in this Litigation would not have exceeded the Settlement Amount or with respect to any liability, negligence, fault or wrongdoing of any kind, or in any way referred to for any other reason as against Lead Plaintiffs, in any civil, criminal or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Stipulation; or

(c) shall be construed against any of the Released Persons or Lead Plaintiffs as an admission, concession, or presumption that the consideration to be given hereunder represents the amount which could be or would have been recovered after trial.

8.4 Any Settling Party may file this Stipulation and/or the Order and Final Judgment in any action that may be brought to enforce the terms of the Stipulation or the Order and Final Judgment and specifically such documents may be filed by Defendants or their Related Parties in any subsequent insurance coverage litigation.

## **9. Stipulation to Certification of the Class for Settlement Purposes Only**

9.1 The Settling Parties agree that certification of the Class, for settlement purposes only, is appropriate in the Litigation. For purposes of this Settlement only, the Class comprises all Members of the Class, as defined in ¶1.5 above. Nothing in this Stipulation shall serve in any fashion, either directly or indirectly, as evidence or support for certification of a class other than for settlement purposes, and the Settling Parties intend that the provisions herein concerning certification of the Class shall have no effect whatsoever in the event the Settlement does not become Final, as defined in ¶1.16 above.

9.2 The Settling Parties therefore stipulate to: (i) certification, for settlement purposes only, of the Class (as defined above), pursuant to Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure; (ii) appointment of Lead Plaintiffs as the class representatives; and (iii) appointment of Lead Counsel as class counsel. Certification of the Class shall be binding only with respect to the Settlement of the Litigation and only if the Order and Final Judgment contemplated by this Stipulation becomes Final and the Effective Date occurs.

## **10. Miscellaneous Provisions**

10.1 The Settling Parties (a) acknowledge that it is their intent to consummate this agreement; and (b) agree to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of the Stipulation, including in seeking Court approval of the Preliminary Approval Order, and to exercise their best efforts to accomplish the foregoing terms and conditions of the Stipulation expeditiously and to obtain final approval by the Court of the Settlement. Joy

Global agrees to cooperate to the extent reasonably necessary to obtain the formal lists of stockholders entitled to vote on the Acquisition, i.e., those stockholders who were holders of record of Joy Global common stock at the close of business on September 1, 2016.

10.2 This Stipulation, the Exhibits attached hereto, and the Supplemental Agreement constitute the entire agreement between the Settling Parties as to the subject matter hereof and supersede any prior or contemporaneous written or oral agreements or understandings between the Settling Parties. No representations, warranties, or inducements have been made to any party concerning the Stipulation, its Exhibits, or the Supplemental Agreement other than the representations, warranties, and covenants contained and memorialized in such documents.

10.3 Except as otherwise provided for herein, each party shall bear his, her or its own costs.

10.4 The Settling Parties intend this Settlement to be a final and complete resolution of all disputes between them with respect to the Litigation. The Settlement compromises all claims that were contested in the Litigation and that could have been asserted in the Litigation and shall not be deemed an admission by any Settling Party as to the merits of any claim or defense. Pursuant to 15 U.S.C. §78u-4(c)(1), the Settling Parties agree and the Order and Final Judgment will contain a statement that, during the course of the Litigation, the Settling Parties and their respective counsel at all times complied with the requirements of Federal Rule of Civil Procedure 11. The Settling Parties agree that the amount paid to the Settlement Fund and the other terms of the Settlement were negotiated in good faith by the Settling Parties, and reflect a settlement that was reached voluntarily after consultation with competent legal counsel. Whether or not the Stipulation is approved by the Court and whether or not the Stipulation is consummated, or the Effective Date occurs, the Settling Parties and their counsel shall use their best efforts to keep all settlement negotiations, settlement discussions and draft documents confidential; provided, however, that this paragraph (i) shall not

prevent the Settling Parties from making disclosures to their insurers, auditors, attorneys, officers, directors or associates, or disclosures to others as may be required by law, and (ii) shall not limit the materials or evidence that may be offered or referred to by the Settling Parties in disputes, actions, or proceedings arising between any Released Person and any insurer. The Settling Parties reserve their right to rebut, in a manner that such party determines to be appropriate, any contention made in any public forum that the Litigation was brought or defended in bad faith or without a reasonable basis.

10.5 Except as otherwise provided for herein, all agreements made and orders entered during the course of the Litigation relating to the confidentiality of information shall survive this Stipulation.

10.6 The Settling Parties agree to take no action in connection with the Settlement that is intended to, or that would reasonably be expected to, harm the reputation of any of the Settling Parties (including a party's officers, directors, employees, agents, or attorneys), or that would reasonably be expected to lead to unfavorable publicity for any of the Settling Parties.

10.7 This Stipulation shall be construed and interpreted to effectuate the intent of the Settling Parties, which is to resolve completely those claims and disputes, including in this Litigation, and as more fully described herein.

10.8 All of the Exhibits to the Stipulation are material and integral parts hereof and are fully incorporated herein by this reference.

10.9 The Stipulation may be amended or modified only by a written instrument signed by or on behalf of all Settling Parties or their respective successors-in-interest.

10.10 Neither the Class Members nor Defendants shall be bound by the Stipulation if the Court modifies any terms thereof, provided, however, that it shall not be a basis for Class Members to terminate the Settlement if the Court modifies any proposed Plan of Allocation or criteria for allocation of the Net Settlement Fund amongst Authorized Claimants, or Exhibit A-2 hereto, or if the

Plan of Allocation is modified on appeal. Nor shall it be a basis to terminate the Stipulation if the Court disapproves of or modifies the terms of this Stipulation with respect to attorneys' fees or expenses, or time or expenses awarded by the Court to Lead Plaintiffs, or interest as may be awarded by the Court, or the distribution of the Net Settlement Fund. Notwithstanding any such modification of the Plan of Allocation, or Exhibit A-2 hereto, or the terms of the Stipulation with respect to fees or expenses or interest, Defendants and their Related Parties shall be entitled to all benefits of the Settlement and shall not, under any circumstances, be called upon to contribute additional funds to the Settlement Fund.

10.11 Lead Plaintiffs and Lead Counsel represent and warrant that none of the Lead Plaintiffs' claims or causes of action referred to in this Litigation or this Stipulation has been assigned, encumbered, or in any manner transferred in whole or in part.

10.12 Each counsel or other Person executing the Stipulation or any of its Exhibits on behalf of any party hereto hereby warrants that such Person has the full authority to do so.

10.13 All notices, requests, demands, claims, and other communications hereunder shall be in writing and shall be deemed duly given: (i) when delivered to the recipient; (ii) five (5) business days after being sent to the recipient by reputable overnight courier service (charges prepaid); or (iii) eight (8) business days after being mailed to the recipient by certified or registered mail, return receipt requested, and postage prepaid, and addressed to the intended recipient as set forth below:

***If to Lead Plaintiffs or to Plaintiffs' Counsel:***

David A. Knotts  
Robbins Geller Rudman & Dowd LLP  
655 West Broadway, Suite 1900  
San Diego, CA 92101-8498  
Telephone: (619) 231-1058  
dknotts@rgrdlaw.com

***If to Defendants or to Defendants' Counsel:***

Vincent A. Sama

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250 West 55<sup>th</sup> Street  
New York, NY 10019-9710  
Telephone: (212) 836-8708  
vincent.sama@arnoldporter.com

Bryan B. House  
Foley & Lardner LLP  
777 East Wisconsin Avenue  
Milwaukee, WI 53202  
Telephone: (414) 271-2400  
bhouse@foley.com

Peter C. Hein  
Wachtell, Lipton, Rosen & Katz  
51 West 52nd Street  
New York, NY 10019  
Telephone: (212) 403-1000  
PCHein@wlrk.com

10.14 The Stipulation may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. A complete set of executed counterparts shall be filed with the Court. Signatures sent by facsimile or PDF via email shall be deemed originals.

10.15 The Stipulation shall be binding upon, and inure to the benefit of, the heirs, successors and assigns of the Settling Parties.

10.16 The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of the Stipulation, and the Settling Parties submit to the jurisdiction of the Court for purposes of implementing and enforcing the Settlement embodied in the Stipulation.

10.17 The waiver by one party of any breach of this Stipulation by any other party shall not be deemed a waiver by any other party or a waiver of any other prior or subsequent breach of this Stipulation.

10.18 Pending approval of the Court of the Stipulation and its Exhibits, all proceedings in this Litigation shall be stayed and all Class Members shall be barred and enjoined from prosecuting any of the Released Claims against any of the Released Persons.

10.19 The Stipulation and the Exhibits attached hereto and the Supplemental Agreement shall be considered to have been negotiated, executed, and delivered, and to be wholly performed, in the State of Wisconsin, and the rights and obligations of the parties to the Stipulation shall be construed and enforced in accordance with, and governed by, the internal, substantive laws of the State of Wisconsin without giving effect to that State's choice-of-law principles.

10.20 The headings herein are used for the purpose of convenience only and are not meant to have legal effect.

10.21 This Stipulation shall not be construed more strictly against one party than another merely by virtue of the fact that it, or any part of it, may have been prepared by counsel for one of the Settling Parties, it being recognized that it is the result of arm's-length negotiations between the Settling Parties and each of the Settling Parties have contributed substantially and materially to the preparation of this Stipulation.

IN WITNESS WHEREOF, the parties hereto have caused the Stipulation to be executed, by their duly authorized attorneys, dated May 22, 2018.

ROBBINS GELLER RUDMAN  
& DOWD LLP  
RANDALL J. BARON  
DAVID T. WISSBROECKER  
DAVID A. KNOTTS



DAVID A. KNOTTS

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Additional Counsel for Plaintiffs

FOLEY & LARDNER LLP  
BRYAN B. HOUSE



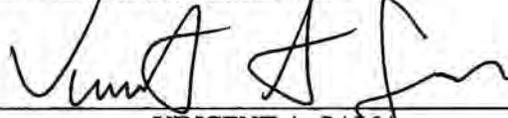
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Attorneys for Defendant Joy Global, Inc.

WACHTELL, LIPTON, ROSEN & KATZ  
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Attorneys for Defendants *Edward L. Doheny II,*  
*Steven L. Gerard, Mark J. Gliebe, John T.*  
*Grempe, John Nils Hanson, Gale E. Klappa,*  
*Richard B. Loynd, P. Eric Siegert and James H.*  
*Tate*

CERTIFICATE OF SERVICE

I hereby certify that on May 23, 2018, 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 e-mail addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I caused to be mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on May 23, 2018.

s/ David A. Knotts

DAVID A. KNOTTS

ROBBINS GELLER RUDMAN  
& DOWD LLP

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E-mail: [dknotts@rgrdlaw.com](mailto:dknotts@rgrdlaw.com)

# Mailing Information for a Case 2:16-cv-01229-PP Duncan v. Joy Global Inc et al

## Electronic Mail Notice List

The following are those who are currently on the list to receive e-mail notices for this case.

- **Michael B Apfeld**  
mbapfeld@gklaw.com,bsweeney@gklaw.com
- **Philip C Babler**  
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- **Eugene Bykhovsky**  
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# **EXHIBIT A**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN  
MILWAUKEE DIVISION

---

STEVEN DUNCAN, et al., Individually and  
on Behalf of All Others Similarly Situated,

Plaintiffs,

Civil No. 2:16-cv-01229-PP

vs.

CLASS ACTION

JOY GLOBAL INC., et al.,

Defendants.

---

[PROPOSED] ORDER PRELIMINARILY APPROVING SETTLEMENT  
AND PROVIDING FOR NOTICE

EXHIBIT A

---

WHEREAS, an action pending before this Court is styled *Steven Duncan, et al. v. Joy Global Inc., et al.*, Civil No. 2:16-cv-01229-PP (the “Litigation”);

WHEREAS, the Court-appointed Lead Plaintiffs Steven Duncan, Peter Cahill and Charles Caparelli (“Lead Plaintiffs”) have made an unopposed motion, pursuant to Federal Rule of Civil Procedure 23(e), for an order preliminarily approving the Settlement of this Litigation, in accordance with a Stipulation of Settlement dated May 22, 2018 (the “Stipulation”), which, together with the Exhibits annexed thereto, sets forth the terms and conditions for a proposed Settlement of the Litigation between the Settling Parties and for dismissal of the Litigation against the Defendants and the Released Persons with prejudice upon the terms and conditions set forth therein;

WHEREAS, the Court having read and considered the Stipulation and the Exhibits annexed thereto;

WHEREAS, the Settling Parties to the Stipulation having consented to entry of this Order; and

WHEREAS, unless otherwise defined, all terms used herein have the same meanings as set forth in the Stipulation.

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The Court has reviewed the Stipulation, finds that the Stipulation resulted from arm’s-length negotiations, and does hereby preliminarily approve the Stipulation and Settlement set forth therein as being fair, reasonable and adequate to Class Members subject to further consideration at the hearing described in ¶5 below.

2. Pursuant to Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure, and for purposes of this Settlement only, the Litigation is hereby preliminarily certified as a class action on behalf of all those who purchased, sold or held Joy Global common stock during the period from and including September 1, 2016, the record date for Joy Global’s special stockholder meeting regarding the acquisition of Joy Global by Komatsu Ltd. and certain of its subsidiaries (the “Acquisition”),

through and including April 5, 2017, the date the Acquisition closed (the “Class”). Excluded from the Class are (i) Defendants; (ii) members of the immediate families of each Defendant; (iii) Joy Global’s subsidiaries and affiliates; (iv) any entity in which any Defendant has a controlling interest; and (v) the legal representatives, heirs, successors, administrators, executors, and assigns of each Defendant. Also excluded from the Class are those Persons who properly exclude themselves by timely and validly requesting exclusion from the Class pursuant to the Notice of Pendency and Proposed Settlement of Class Action to be sent to Class Members pursuant to this Order.

3. The Court finds, for the purposes of the Settlement only, that the prerequisites for a class action under Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure have been satisfied in that: (a) the number of Class Members is so numerous that joinder of all members is impracticable; (b) there are questions of law and fact common to the Class; (c) the claims of Lead Plaintiffs are typical of the claims of the Class they seek to represent; (d) Lead Plaintiffs and Lead Counsel have and will fairly and adequately represent the interests of the Class; (e) the questions of law and fact common to the Members of the Class predominate over any questions affecting only individual Class Members; and (f) a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

4. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, and for the purposes of the Settlement only, Lead Plaintiffs are preliminarily certified as the class representatives and Robbins Geller Rudman & Dowd LLP and Bronstein, Gewirtz & Grossman, LLC are preliminarily certified as Lead Counsel.

5. A hearing shall be held before this Court on \_\_\_\_\_, 2018, at \_\_\_\_\_.m. (a date that is at least 110 calendar days from the date of this Order) (the “Final Approval Hearing”), at the United States District Court for the Eastern District of Wisconsin, Milwaukee Division, United States Federal Building and Courthouse, 517 E. Wisconsin Ave., Milwaukee, WI 53202, to (a) determine whether the proposed Settlement is fair, reasonable, and adequate to the Class and should be approved by the Court; (b) determine whether an Order and Final Judgment as provided in ¶1.26 of the Stipulation should be entered; (c) determine whether the proposed Plan of Allocation

should be approved; (d) determine the amount of fees and expenses that should be awarded to Lead Counsel; (e) determine any award to Lead Plaintiffs pursuant to 15 U.S.C. §78u-4(a)(4); (f) hear any objections by Class Members to: (i) the Settlement or Plan of Allocation; (ii) any award to Lead Plaintiffs; and/or (iii) the award of fees and expenses to Lead Counsel; and (g) consider such other matters the Court deems appropriate. The Court may adjourn the Final Approval Hearing without further notice to the Members of the Class.

6. The Court approves the form, substance, and requirements of the Notice of Pendency and Proposed Settlement of Class Action (“Notice”) and Proof of Claim and Release, substantially in the forms annexed hereto as Exhibits A-1 and A-2, respectively.

7. The Court approves the form of the Summary Notice, substantially in the form annexed hereto as Exhibit A-3.

8. The firm of Gilardi & Co. LLC (“Claims Administrator”) is hereby appointed to supervise and administer the notice procedure as well as the processing of claims as more fully set forth below.

9. The Claims Administrator shall make reasonable efforts to identify all Persons who are Members of the Class and not later than \_\_\_\_\_, 2018 (a date twenty-one (21) calendar days after the Court signs and enters this Order) (the “Notice Date”), the Claims Administrator shall cause a copy of the Notice and Proof of Claim and Release, substantially in the forms annexed hereto, to be mailed by First-Class Mail to all Class Members who can be identified with reasonable effort and to be posted on its website at [www.JoyGlobalSecuritiesLitigation.com](http://www.JoyGlobalSecuritiesLitigation.com).

10. Not later than \_\_\_\_\_, 2018 (a date ten (10) calendar days after the Notice Date), the Claims Administrator shall cause the Summary Notice to be published once in the national edition of *The Wall Street Journal* and once over a national newswire service.

11. Not later than \_\_\_\_\_, 2018 (a date seven (7) business days prior to the Final Approval Hearing), Lead Counsel shall serve on Defendants' Counsel and file with the Court proof, by affidavit or declaration, of such mailing and publishing.

12. Nominees who held, purchased or acquired Joy Global common stock for the benefit of another Person during the Class Period shall be requested to send the Notice and Proof of Claim and Release to such beneficial owners of Joy Global common stock within fifteen (15) calendar days after receipt thereof, or, send a list of the names and addresses of such beneficial owners to the Claims Administrator within fifteen (15) calendar days of receipt thereof, in which event the Claims Administrator shall promptly mail the Notice and Proof of Claim and Release to such beneficial owners.

13. The form and content of the notice program described herein and the methods set forth herein for notifying the Class of the Settlement and its terms and conditions, the Fee and Expense Application, and the Plan of Allocation (a) meets the requirements of Federal Rule of Civil Procedure 23, the United States Constitution (including the Due Process Clause), the Private Securities Litigation Reform Act of 1995, 15 U.S.C. §78u-4(a)(7), 15 U.S.C. §77z-1(a)(7) (the "PSLRA"), and any other applicable law, and is the best notice practicable under the circumstances; (b) constitutes notice that is reasonably calculated, under the circumstances, to apprise the Class Members of the pendency of the Litigation, the effect of the proposed Settlement (including the releases contained therein), and of their right to object to the proposed Settlement, exclude themselves from the Class, and/or appear at the Final Approval Hearing; and (c) constitutes due, adequate, and sufficient notice to all Persons entitled thereto. The date and time of the Final Approval Hearing shall be included in the Notice and Summary Notice before they are mailed and published, respectively. All fees, costs, and expenses incurred in notifying Class Members shall be paid from the Settlement Fund and in no event shall any of the Defendants or Related Parties bear

any responsibility for such fees, costs or expenses. All Members of the Class (except Persons who request exclusion pursuant to ¶19 below) shall be bound by all determinations and judgments in the Litigation concerning the Settlement, including, but not limited to, the releases provided for therein, whether favorable or unfavorable to the Class, regardless of whether such Persons seek or obtain by any means, including, without limitation, by submitting a Proof of Claim and Release or any similar document, any distribution from the Settlement Fund or the Net Settlement Fund.

14. Pending final determination by the Court as to whether the Settlement, as set forth in the Stipulation, is fair, reasonable and adequate and should be finally approved and whether the Order and Final Judgment dismissing the action with prejudice should be approved, neither Lead Plaintiffs nor any Class Member, either directly, representatively or in any other capacity, shall assert, commence, aid or prosecute against any of the Defendants or the Released Persons any of the Released Claims in this Litigation, or in any other proceeding, arbitration, or forum. This injunction is necessary to protect and effectuate the Settlement, this Order, and the Court's flexibility and authority to effectuate the Settlement and to enter judgment when appropriate, and is ordered in aid of the Court's jurisdiction and to protect its judgments.

15. Class Members who wish to participate in the Settlement shall complete and submit the Proof of Claim and Release in accordance with the instructions contained therein. Unless the Court orders otherwise, all Proofs of Claim and Releases must be postmarked or submitted electronically no later than \_\_\_\_\_, 2018 (a date one hundred and twenty (120) calendar days from the Notice Date). Any Class Member who fails to submit a Proof of Claim and Release within the time provided, or whose Proof of Claim and Release is otherwise not approved, shall in all other respects be bound by all of the terms of the Stipulation and the Settlement, including the terms of the Order and Final Judgment and the releases provided for therein, and will be barred from bringing any action against the Released Persons concerning the Released Claims. Notwithstanding the foregoing, Lead Counsel shall have the discretion (but not the obligation) to accept late-submitted

claims for processing by the Claims Administrator so long as distribution of the Net Settlement Fund is not materially delayed thereby. No person shall have any claim against Lead Plaintiffs, Lead Counsel or the Claims Administrator by reason of the decision to exercise or not exercise such discretion.

16. The Proof of Claim and Release submitted by each Class Member must, unless otherwise ordered by the Court: (i) be properly completed, signed and submitted in a timely manner in accordance with the provisions of the preceding paragraph; (ii) be accompanied by adequate supporting documentation for the transactions reported therein, in the form of broker confirmation slips, broker account statements, an authorized statement from the broker containing the transactional information found in a broker confirmation slip, or such other documentation deemed adequate by Lead Counsel or the Claims Administrator; (iii) include in the Proof of Claim and Release a certification of current authority to act on behalf of the Class Member if the person executing the Proof of Claim and Release is acting in a representative capacity; (iv) be complete and contain no material deletions or modifications of any of the printed matter contained therein; and (v) be signed under penalty of perjury.

17. By submitting a Proof of Claim, a Class Member will be deemed to have submitted to the jurisdiction of this Court with respect to the Class Member's claim, including, but not limited to, all releases provided for in the Stipulation and in the Order and Final Judgment.

18. Any Member of the Class may enter an appearance in the Litigation, at his, her, or its own expense, individually or through counsel of their own choice. If they do not enter an appearance, they will be represented by Lead Counsel.

19. Any Person falling within the definition of the Class may, upon request, be excluded or “opt out” from the Class. Any such Person must submit to the Claims Administrator a request for exclusion (“Request for Exclusion”), by First-Class Mail such that it is received no later than

\_\_\_\_\_, 2018 (a date twenty-one (21) calendar days before the Final Approval Hearing). A Request for Exclusion must be signed and state: (a) the name, address, and telephone number of the Person requesting exclusion; (b) the number of shares of Joy Global common stock held, purchased, acquired or sold during the Class Period and the dates held during the Class Period; and (c) that the Person wishes to be excluded from the Class. All Persons who submit valid and timely Requests for Exclusion in the manner set forth in this paragraph shall have no rights under the Stipulation, shall not share in the distribution of the Net Settlement Fund, and shall not be bound by the Stipulation or any final judgment.

20. Lead Counsel shall cause to be provided to Defendants' Counsel copies of all Requests for Exclusion and a list of all Class Members who have requested exclusion, and any written revocation of Requests for Exclusion, as expeditiously as possible and in any event no later than \_\_\_\_\_, 2018 (a date seventeen (17) calendar days prior to the Final Approval Hearing).

21. Any Member of the Class may appear and object if he, she, or it has any reason why the proposed Settlement of the Litigation should not be approved as fair, reasonable and adequate, or why a judgment should not be entered thereon, why the Plan of Allocation should not be approved, why fees and expenses should not be awarded to Lead Counsel or Lead Plaintiffs; provided, however, that no Class Member or any other Person shall be heard or entitled to contest the approval of the terms and conditions of the proposed Settlement, or, if approved, the Order and Final Judgment to be entered thereon approving the same, or the order approving the Plan of Allocation, or any fees and expenses to be awarded to Lead Counsel or Lead Plaintiffs, unless written objections and copies of any papers and briefs are received by Robbins Geller Rudman & Dowd LLP, David A. Knotts, 655 West Broadway, Suite 1900, San Diego, CA 92101; Arnold & Porter Kaye Scholer LLP, Vincent A. Sama, 250 West 55<sup>th</sup> Street, New York, NY 10019; Foley & Lardner LLP, Bryan B. House, 777 East Wisconsin Avenue, Milwaukee, WI 53202; and Wachtell, Lipton, Rosen & Katz, Peter C. Hein, 51 West 52<sup>nd</sup> Street, New York, NY 10019, no later than \_\_\_\_\_, 2018 (a

date twenty-one (21) calendar days before the Final Approval Hearing) and said objections, papers and briefs are filed with the Clerk of the United States District Court for the Eastern District of Wisconsin, Milwaukee Division, United States Federal Building and Courthouse, 517 E. Wisconsin Ave., Milwaukee, WI 53202, no later than \_\_\_\_\_, 2018. Any such objection must: (a) indicate the objector's name, address, and telephone number; (b) specify the reason(s) for the objection; (c) identify the date(s), price(s), and number(s) of shares of Joy Global common stock held, purchased, acquired or sold during the Class Period by the objector; (d) provide documents demonstrating such holding(s), purchase(s), acquisition(s) and/or sale(s); and (e) be signed by the objector. Any Member of the Class who does not make his, her, or its objection in the manner provided for herein shall be deemed to have waived such objection and shall forever be foreclosed from making any objection to the fairness, reasonableness, or adequacy of the proposed Settlement as incorporated in the Stipulation, to the Plan of Allocation, and to the award of fees and expenses to Lead Counsel or Lead Plaintiffs, unless otherwise ordered by the Court. Attendance at the Final Approval Hearing is not necessary. However, Persons wishing to be heard orally in opposition to the approval of the Settlement, the Plan of Allocation, and/or the application for an award of fees and expenses are required to indicate in their written objection their intention to appear at the hearing. Class Members do not need to appear at the Final Approval Hearing or take any other action to indicate their approval of the Settlement.

22. All funds held by the Escrow Agent shall be deemed and considered to be in *custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court, until such time as such funds shall be distributed pursuant to the Stipulation and/or further order(s) of the Court.

23. All papers in support of the Settlement, Plan of Allocation, and any application by Lead Counsel for attorneys' fees and expenses and payment of time and expenses to Lead Plaintiffs shall be filed and served no later than \_\_\_\_\_, 2018 (a date thirty-five (35) calendar days

prior to the Final Approval Hearing) and any reply papers shall be filed and served no later than \_\_\_\_\_, 2018 (a date seven (7) calendar days prior to the Final Approval Hearing).

24. The Released Persons shall have no responsibility for the Plan of Allocation or any application for attorneys' fees and expenses submitted by Lead Counsel or Lead Plaintiffs, and such matters will be considered separately from the fairness, reasonableness, and adequacy of the Settlement.

25. At or after the Final Approval Hearing, the Court shall determine whether the Plan of Allocation proposed by Lead Counsel, and any application for attorneys' fees and expenses, should be approved.

26. All reasonable expenses incurred in identifying and notifying Class Members as well as administering the Settlement Fund shall be paid as set forth in the Stipulation. In the event the Court does not approve the Settlement, or it otherwise fails to become effective, neither Lead Plaintiffs nor any of their counsel shall have any obligation to repay any amounts actually and properly incurred or disbursed pursuant to ¶2.8 of the Stipulation.

27. Neither the Stipulation, nor any of its terms or provisions, nor any of the negotiations, discussions, proceedings connected with it, nor any act performed or document executed pursuant to or in furtherance of the Stipulation or the Settlement may be construed as an admission, concession, or presumption by or against any of the Defendants or any other Released Persons of the truth of any of the allegations in the Litigation, or of any liability, fault, or wrongdoing of any kind; or as a waiver by any of the Parties of any arguments, defenses, or claims he, she, or it may have in the event the Stipulation is terminated; or offered or received in evidence, or otherwise used by any person in the Litigation, or in any other action or proceeding, whether civil, criminal, or administrative, in any court, administrative agency, or other tribunal, except in connection with any proceeding to enforce the terms of the Stipulation. The Released Persons, Lead Plaintiffs, Class

Members, and each of their counsel may file the Stipulation and/or the Order and Final Judgment in any action that may be brought against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

28. All proceedings in the Litigation are stayed until further order of this Court, except as may be necessary to implement the Settlement or comply with the terms of the Stipulation. Pending final determination of whether the Settlement should be approved, neither Lead Plaintiffs nor any Class Member, either directly, representatively, or in any other capacity shall commence or prosecute against any of the Released Persons any action or proceeding in any court or tribunal asserting any of the Released Claims.

29. The Court reserves the right to alter the time or the date of the Final Approval Hearing without further notice to the Members of the Class, provided that the time or the date of the Final Approval Hearing shall not be set at a time or date earlier than the time and date set forth in ¶15 above, and retains jurisdiction to consider all further applications arising out of or connected with the proposed Settlement. The Court may approve the Settlement, with such modifications as may be agreed to by the Settling Parties, if appropriate, without further notice to the Class.

30. If the Settlement fails to become effective as defined in the Stipulation or is terminated, then, in any such event, the Stipulation, including any amendment(s) thereof, except as expressly provided in the Stipulation, and this Order shall be null and void, of no further force or effect, and without prejudice to any Settling Party, and may not be introduced as evidence or used in

any actions or proceedings by any person or entity against the Settling Parties, and they shall be deemed to have reverted to their respective litigation positions in the Litigation as of March 14, 2018.

IT IS SO ORDERED.

DATED: \_\_\_\_\_  
THE HONORABLE PAMELA PEPPER  
UNITED STATES DISTRICT JUDGE

# **EXHIBIT A-1**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN  
MILWAUKEE DIVISION

---

STEVEN DUNCAN, et al., Individually and  
on Behalf of All Others Similarly Situated,

Plaintiffs,

Civil No. 2:16-cv-01229-PP

vs.

CLASS ACTION

JOY GLOBAL INC., et al.,

Defendants.

---

NOTICE OF PENDENCY AND PROPOSED SETTLEMENT OF CLASS ACTION

EXHIBIT A-1

---

**TO: ALL PERSONS WHO PURCHASED, SOLD, OR HELD JOY GLOBAL INC. (“JOY GLOBAL” OR THE “COMPANY”) COMMON STOCK DURING THE PERIOD FROM AND INCLUDING SEPTEMBER 1, 2016, THE RECORD DATE FOR JOY GLOBAL’S SPECIAL STOCKHOLDER MEETING REGARDING THE ACQUISITION OF JOY GLOBAL BY KOMATSU LTD. AND CERTAIN OF ITS SUBSIDIARIES (THE “ACQUISITION”), THROUGH AND INCLUDING APRIL 5, 2017, THE DATE THE ACQUISITION CLOSED (THE “CLASS”)**

PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. YOUR RIGHTS MAY BE AFFECTED BY PROCEEDINGS IN THIS LITIGATION. PLEASE NOTE THAT IF YOU ARE A CLASS MEMBER, YOU MAY BE ENTITLED TO SHARE IN THE PROCEEDS OF THE SETTLEMENT DESCRIBED IN THIS NOTICE. TO CLAIM YOUR SHARE OF THE SETTLEMENT PROCEEDS, YOU MUST SUBMIT A VALID PROOF OF CLAIM AND RELEASE FORM (“PROOF OF CLAIM”) **POSTMARKED OR SUBMITTED ONLINE ON OR BEFORE [INSERT DATE].**

This Notice of Pendency and Proposed Settlement of Class Action (“Notice”) has been sent to you pursuant to Rule 23 of the Federal Rules of Civil Procedure and an Order of the United States District Court for the Eastern District of Wisconsin, Milwaukee Division (the “Court”). The purpose of this Notice is to inform you of the proposed settlement of the Litigation (the “Settlement”) and of the hearing to be held by the Court to consider the fairness, reasonableness, and adequacy of the Settlement and the proposed Plan of Allocation of the settlement proceeds, as well as counsel’s application for fees and expenses. This Notice describes the rights you may have in connection with your participation in the Settlement, what steps you may take in relation to the Settlement and this Litigation, and, alternatively, what steps you must take if you wish to be excluded from the Class and this Litigation.<sup>1</sup>

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<sup>1</sup> All capitalized terms used in this Notice that are not otherwise defined herein shall have the meanings provided in the Stipulation of Settlement, which, along with other important documents, is available on the Settlement website, [www.JoyGlobalSecuritiesLitigation.com](http://www.JoyGlobalSecuritiesLitigation.com).

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
SUBMIT A PROOF OF CLAIM	The only way to receive a payment. Proofs of Claim must be postmarked or submitted online on or before [Insert Date].
EXCLUDE YOURSELF	Receive no payment. This is the only option that allows you to ever be part of any other lawsuit against the Defendants or any other Released Persons about the legal claims related to the issues raised in this Litigation. Exclusions must be received no later than [Insert Date].
OBJECT	Write to the Court about why you oppose the Settlement, the Plan of Allocation, the request for attorneys' fees, and/or the expenses of Lead Plaintiffs. You will still be a Member of the Class. Objections must be received by the Court <i>and</i> counsel on or before [Insert Date].
GO TO A HEARING	Ask to speak in Court about the fairness of the Settlement. Requests to speak must be received by the Court <i>and</i> counsel on or before [Insert Date].
DO NOTHING	Receive no payment from the Settlement. Members of the Class who do nothing remain bound by the terms of the Settlement.

### SUMMARY OF THIS NOTICE

#### Statement of Class Recovery

Pursuant to the Settlement described herein, the Settlement Amount is \$20 million. A Class Member's actual recovery will be a proportion of the Net Settlement Fund determined by that Claimant's claim as compared to the total claims of all Class Members who submit acceptable Proofs of Claim. An individual Class Member may receive more or less than the estimated average amount provided below depending on the number of claims submitted. *See* Plan of Allocation as set forth at pages \_\_\_ below for more information on your claim.

#### Statement of Potential Outcome of Litigation

The parties disagree on both liability and damages and do not agree on the average amount of damages per Joy Global common stock that would be recoverable if the Class prevailed on each claim alleged. The Defendants deny that they are liable to the Class and deny that the Class has suffered any damages.

### **Statement of Attorneys' Fees and Expenses Sought**

Lead Counsel will apply to the Court for an award of attorneys' fees of 25% of the Settlement Amount, plus interest earned from the date the Settlement is funded, at the same rate as earned on the Settlement Fund. Since the Litigation's inception in September 2016, Lead Counsel have expended time and effort in the prosecution of this Litigation on a contingent fee basis and advanced the expenses of the Litigation in the expectation that if they were successful in obtaining a recovery for the Class they would be paid from such recovery. In this type of litigation it is customary for counsel to be awarded a percentage of the common fund recovery as their attorneys' fees. In addition, Lead Plaintiffs may seek reimbursement in accordance with 15 U.S.C. §78u-4(a)(4). The requested fees amount to approximately \$0.05 per damaged share, but the average cost per damaged share will vary depending on the number of acceptable Proofs of Claim submitted.

### **Further Information**

For further information regarding the Litigation, this Notice or to review the Stipulation of Settlement, please contact the Claims Administrator toll-free at 1-866-637-9414, or visit the website [www.JoyGlobalSecuritiesLitigation.com](http://www.JoyGlobalSecuritiesLitigation.com).

You may also contact a representative of Lead Counsel: Rick Nelson, Shareholder Relations, Robbins Geller Rudman & Dowd LLP, 655 West Broadway, Suite 1900, San Diego, CA 92101, 1-800-449-4900, [www.rgrdlaw.com](http://www.rgrdlaw.com).

Please Do Not Call the Court or Defendants with Questions About the Settlement.

### **Reasons for the Settlement**

The principal reason for the Settlement is the benefit to be provided to the Class now. This benefit must be compared to the risk that no recovery might be achieved after a contested trial and likely appeals, possibly years into the future.

## BASIC INFORMATION

### 1. Why did I get this notice package?

You or someone in your family may have purchased, sold or held Joy Global common stock during the time period from and including September 1, 2016, through and including April 5, 2017 (“Class Period”).

The Court directed that this Notice be sent to Class Members because they have a right to know about the proposed Settlement of this class action lawsuit, and about all of their options, before the Court decides whether to approve the Settlement.

This Notice explains the class action lawsuit, the Settlement, Class Members’ legal rights, what benefits are available, who is eligible for them, and how to get them.

The Court in charge of the Litigation is the United States District Court for the Eastern District of Wisconsin, Milwaukee Division, and the case is known as *Steven Duncan, et al. v. Joy Global Inc., et al.*, Civil No. 2:16-cv-01229-PP. The case has been assigned to the Honorable Pamela Pepper. Steven Duncan, Peter Cahill and Charles Caparelli have been appointed by the Court as lead plaintiffs (referred to as “Lead Plaintiffs” in this Notice), and the parties who were sued and who have now settled are called the “Defendants.”

### 2. What is this lawsuit about?

This is a class action alleging violations of the federal securities laws, brought on behalf of all Persons who purchased, sold or held Joy Global common stock during the Class Period against Joy Global, Edward L. Doheny II, Steven L. Gerard, Mark J. Gliebe, John T. Grempp, John Nils Hanson, Gale E. Klappa, Richard B. Loynd, P. Eric Siegert and James H. Tate (referred to collectively as the “Defendants”). The Amended Complaint alleges that Defendants violated §§14(a) and 20(a) of the Securities Exchange Act of 1934 (the “1934 Act”) and U.S. Securities and Exchange Commission (“SEC”) Rule 14a-9 promulgated thereunder by making materially

misleading statements and omissions in the Definitive Proxy Statement on Schedule 14A (the “Proxy”), filed with the SEC on September 2, 2016 and as amended by the “Supplemental Disclosures” filed on September 29, 2016 and October 3, 2016. Defendants deny that they violated any securities laws or SEC rules.

On September 13, 2016, Plaintiff Duncan filed the initial complaint in this matter. Also on September 13, 2016, Plaintiff Duncan’s counsel issued a notice to investors informing them of the right to seek appointment as lead plaintiff by November 7, 2016.

Between August 24, 2016 and September 8, 2016, six other complaints were filed on behalf of Joy Global’s shareholders purportedly arising out of the Acquisition (the “Related Actions”). On October 5, 2016, all plaintiffs in the Related Actions filed a “Stipulation and [Proposed] Order Concerning Plaintiffs’ Voluntary Dismissal of the Above Actions,” stating that plaintiffs Oduntan, Soffer, Gordon, Rote, Tansey and McGregor were dismissing their cases with prejudice as to them only. On October 7, 2016, the Court signed an Order dismissing the Related Actions with prejudice as to those named plaintiffs only.

On November 7, 2016, Lead Plaintiffs filed motions seeking appointment as lead plaintiffs and their selected counsel as lead counsel in this action. More specifically, Plaintiff Cahill and Plaintiff Caparelli filed a motion seeking appointment as lead plaintiffs pursuant to the Private Securities Litigation Reform Act of 1995 (“PSLRA”), 15 U.S.C. §§78u-4(a)(3)(B), and seeking approval of their selection of Bronstein Gewirtz & Grossman, LLC as Lead Counsel and Bykhovsky Law LLC as Liaison Counsel. The same day, Plaintiff Duncan filed a motion seeking appointment as lead plaintiff and for an order appointing his selection of Robbins Geller Rudman & Dowd LLP as lead counsel. Plaintiffs Cahill, Caparelli and Duncan, through counsel, negotiated a resolution of the competing lead plaintiff and lead counsel motions. As a result of those arm’s-length negotiations, on November 22, 2016, Duncan filed a Stipulation and [Proposed] Order

Appointing Lead Plaintiff and Lead Counsel Pursuant to the PSLRA (the “Leadership Stipulation”) stating, *inter alia*, that their “respective counsel, have agreed, subject to this Court’s approval, that Messrs. Cahill, Caparelli and Duncan should be jointly appointed Lead Plaintiff and their counsel approved as Lead Counsel.” Defendants took “no position on the pending motions and reserv[ed] all rights to challenge the Rule 23 requirements at the class certification stage.” On November 28, 2016, the Court approved the Leadership Stipulation and ordered: “Pursuant to 15 U.S.C. §78u-4(a)(3)(B), the court APPOINTS Peter Cahill, Charles Caparelli and Steven Duncan as Lead Plaintiffs”; “Pursuant to 15 U.S.C. §78u-4(a)(3)(B)(v), the court APPROVES the Lead Plaintiffs’ selection of Robbins Geller Rudman & Dowd LLP and Bronstein Gewirtz & Grossman LLC, and APPOINTS those firms as Lead Counsel for the Lead Plaintiffs; and APPROVES the Lead Plaintiffs’ selection of Wagner Law Group, S.C. as Local Counsel, and APPOINTS that firm as Local Counsel for the Lead Plaintiffs.”

On December 27, 2016, Lead Plaintiffs and the then-existing defendants entered into a stipulation stating, *inter alia*, that “the Parties agree that the efficient prosecution of this case and administration of justice favors extending the time for lead plaintiffs to amend the complaint and for the Defendants to respond to the amended complaint until after the transaction closes” and that “Lead Plaintiffs shall file an amended complaint not later than 21 days from the date on which the transaction closes.” The Court approved that stipulation, which also contained a briefing schedule for any subsequent motions to dismiss, on December 27, 2016.

Twenty-one days after the close of the Acquisition, on April 26, 2017, Lead Plaintiffs filed an Amended Complaint for Violations of §§14(a) and 20(a) of the Securities Exchange Act of 1934 (the “Amended Complaint”). Defendants filed an omnibus Motion to Dismiss on June 26, 2017 (the “Motion to Dismiss”). In the Motion to Dismiss, Defendants argued that under Fed. R. Civ. P. 12(b)(6), the Amended Complaint failed to state a claim upon which relief could be granted and

should be dismissed with prejudice. On August 10, 2017, Lead Plaintiffs filed a Memorandum of Law in Opposition to Defendants' Motion to Dismiss the Amended Class Action Complaint. On September 11, 2017, Defendants filed a Reply Memorandum of Law in Support of Defendants' Motion to Dismiss the Amended Class Action Complaint. While the Motion to Dismiss remained pending, the parties filed the following notices, responses, and motions to consider additional authority:

- October 6, 2017: Lead Plaintiffs filed a Notice of Recent Authority calling the Court's attention to a recent "Findings and Recommendations" issued by the Honorable Magistrate Judge Youlee Yim You of the United States District Court for the District of Oregon in *NECA-IBEW Pension Trust Fund v. Precision Castparts Corp.*, No. 3:16-cv-01756-YY (Dist. Or. Oct. 3, 2017) ("*Precision Castparts*");
- October 13, 2017: Defendants responded to Lead Plaintiffs' Notice regarding *Precision Castparts*;
- January 30, 2018: Lead Plaintiffs filed a Supplemental Notice of Recent Authority regarding the district court's adoption of the *Precision Castparts* Findings and Recommendations;
- February 2, 2018: Defendants moved the Court, under Civil Local Rules 7(h) and 7(i), for an order permitting them to file supplemental authority concerning: *City of Hialeah Employees' Retirement Sys. v. FEI Co.*, Case No. 3:16-cv-1792-SI (D. Or. Jan. 25, 2018) ("*FEI*");
- February 9, 2018: Lead Plaintiffs responded to Defendants' motion regarding *FEI*.

In December 2017, the parties' counsel began discussing the potential for resolution of this matter. Arm's-length negotiations took place over the next approximately three months and on March 23, 2018, Defendants filed a Notice of Settlement with the Court stating that "the parties have reached a settlement in principle that would resolve all outstanding issues in this case among all parties."

Defendants expressly have denied and continue to deny that Lead Plaintiffs have asserted any valid claims as to any of them in the Litigation and maintain that their conduct was at all times proper and in compliance with all applicable provisions of law. Defendants expressly have denied

and continue to deny any and all charges of fault, damages, wrongdoing or liability against them arising out of any of the conduct, statements, acts, or omissions alleged, or that could have been alleged, in the Litigation. Defendants also have denied, *inter alia*, the allegations that they made a materially false statement or had any intent to make one, the allegations that Lead Plaintiffs or the Class has suffered damage, that Lead Plaintiffs or the Class were harmed by the conduct that was or could have been alleged in the Litigation, or that Defendants have any liability to the Class. In addition, Defendants maintain that they have meritorious defenses to all claims alleged in the Litigation.

**3. Why is this a class action?**

In a class action, one or more people called a plaintiff sues on behalf of people who have similar claims. All of the people with similar claims are referred to as a Class or Class Members. One court resolves the issues for all Class Members, except for those Class Members who exclude themselves from the Class.

**4. Why is there a settlement?**

The Court has not decided in favor of the Defendants or the Class. Instead, both sides agreed to the Settlement to avoid the costs and risks of further litigation, including trial and post-trial appeals. Lead Plaintiffs agreed to the Settlement in order to ensure that Class Members will receive compensation, and because Lead Plaintiffs (advised by Lead Counsel) considered the Settlement amount to be a favorable recovery compared to the risk-adjusted possibility of recovery after trial and any appeals, in light of Defendants' legal argument that the statements at issue were not actionable at all by the Class, and its factual arguments that Defendants believed the Company was complying with all applicable laws. Lead Plaintiffs and Lead Counsel believe the Settlement is in the best interest of all Class Members in light of the real possibility that continued litigation could result in no recovery at all.

## WHO IS IN THE SETTLEMENT

To see if you will get money from this Settlement, you first have to decide if you are a Class Member.

### 5. **How do I know if I am part of the Settlement?**

The Court directed that everyone who fits this description is a Class Member: all those who purchased, sold or held Joy Global common stock during the period from and including September 1, 2016, the record date for Joy Global's special stockholder meeting regarding the acquisition of Joy Global by Komatsu Ltd. and certain of its subsidiaries, through and including April 5, 2017, the date the Acquisition closed. Under the Plan of Allocation proposed by Plaintiffs' Counsel and described below, only Class Members who were holders of record of Joy Global common stock at the close of business on September 1, 2016, and were thus holders of record entitled to vote on the Acquisition, and who submit a valid Proof of Claim to the Claims Administrator, may share in the recovery – this aligns the recovery with those who have legal standing to bring the claims currently asserted in the Litigation.

### 6. **Are there exceptions to being included?**

Excluded from the Class are (i) Defendants; (ii) members of the immediate families of each Defendant; (iii) Joy Global's subsidiaries and affiliates; (iv) any entity in which any Defendant has a controlling interest; and (v) the legal representatives, heirs, successors, administrators, executors, and assigns of each Defendant. Also excluded from the Class are those Persons who properly exclude themselves by timely and validly requesting exclusion from the Class pursuant to this Notice.

### 7. **What if I am still not sure if I am included?**

If you are still not sure whether you are included, you can ask for free help. You can contact the Claims Administrator toll-free at 1-866-637-9414 or visit the Settlement website

www.JoyGlobalSecuritiesLitigation.com, or you can fill out and return the Proof of Claim enclosed with this Notice package, to see if you qualify.

### **THE SETTLEMENT BENEFITS – WHAT YOU GET**

#### **8. What does the Settlement provide?**

In exchange for the Settlement and the release of the Released Claims (defined below) as well as dismissal of the Litigation, Defendants have agreed that a payment of \$20 million will be made by Defendants (or on their behalf) to be divided, after taxes, fees, and expenses, among all Authorized Claimants.

#### **9. How much will my payment be?**

Pursuant to the Settlement described herein, the Settlement Amount is \$20 million. Under the Plan of Allocation proposed by Plaintiffs' Counsel and described below, only Class Members who were holders of record of Joy Global common stock at the close of business on September 1, 2016, and where thus holders of record entitled to vote on the Acquisition, and who submit a valid Proof of Claim to the Claims Administrator, may share in the recovery – this aligns the recovery with those who have legal standing to bring the claims currently asserted in the Litigation. Lead Plaintiffs estimate that approximately 97.5 million shares of Joy Global are in the Class. Your actual recovery will be a proportion of the Net Settlement Fund determined by your claim as compared to the total claims of all eligible Class Members who submit acceptable Proofs of Claim. You may receive more or less than the estimated average amount provided below depending on the number of claims submitted. If 100% of shares outstanding at the time of the Acquisition submit a claim, each share's average distribution under the Settlement will be approximately \$0.20 per share, before deduction of any Taxes on any income earned on the Settlement Amount, Tax Expenses, Notice and Administration Costs, the attorneys' fee and the expenses of Lead Plaintiffs, as determined by the Court.

The Settlement Fund less taxes, notice and administrative costs, any award of attorneys' fees of Plaintiffs' Counsel, and any award to Lead Plaintiffs made by the Court pursuant to the PSLRA for reasonable costs and expenses ("Net Settlement Fund") will be distributed to Class Members who submit valid, timely Proofs of Claim ("Claimants") on a *pro rata* basis. However, no distributions will be made to Claimants who would otherwise receive a distribution of less than \$10.00.

Defendants expressly deny that any damages were suffered by Lead Plaintiffs or the Class.

Payments shall be conclusive against all Claimants. No Person shall have any claim against Plaintiffs' Counsel, Lead Plaintiffs, the Claims Administrator, Defendants and their Related Parties, or any Person designated by Plaintiffs' Counsel based on distributions made substantially in accordance with the Stipulation and the Settlement contained therein, or further order(s) of the Court. No Class Member shall have any claim against Defendants for any Released Claims. All Class Members who fail to complete and file a valid and timely Proof of Claim shall be barred from participating in distributions from the Net Settlement Fund (unless otherwise ordered by the Court), but otherwise shall be bound by all of the terms of the Stipulation, including the terms of any judgment entered and the releases given.

#### **HOW YOU GET A PAYMENT – SUBMITTING A CLAIM FORM**

<b>10. How can I receive a payment?</b>
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To qualify for a payment, you must submit a Proof of Claim. A Proof of Claim is enclosed with this Notice or it may be downloaded at [www.JoyGlobalSecuritiesLitigation.com](http://www.JoyGlobalSecuritiesLitigation.com). Read the instructions carefully, fill out the Proof of Claim, include all the documents the form asks for, sign it, and return it so that it is postmarked, if mailed, or received, if submitted online, no later than \_\_\_\_\_, 2018. The Proof of Claim may be submitted online at [www.JoyGlobalSecuritiesLitigation.com](http://www.JoyGlobalSecuritiesLitigation.com).

**11. When would I receive my payment?**

The Court will hold a Final Approval Hearing on \_\_\_\_\_, 2018, to decide whether to approve the Settlement. If the Court approves the Settlement after that, there might be appeals. It is always uncertain whether these appeals can be resolved, and resolving them can take time, perhaps more than a year. It also takes time for all the Proofs of Claim to be processed. Please be patient.

**12. What am I giving up to receive a payment or to stay in the Class?**

Unless you exclude yourself, you will remain a Class Member, and that means that, if the Settlement is approved, you will give up all “Released Claims” (as defined below), including “Unknown Claims” (as defined below), against the “Released Persons” (as defined below):

- “Released Claims” means any and all claims that have been asserted, could have been asserted, or could be asserted in the future in this Litigation; and any and all claims, actions, potential actions, demands, losses, rights, causes of action, controversies, costs, damages, liabilities, obligations, judgments, suits, matters and issues of any nature for any remedy, known or unknown, suspected or unsuspected, accrued or unaccrued, whether class, individual, or otherwise, arising under the laws, regulations, or common law of the United States of America, any state or political subdivision thereof, or any foreign country or jurisdiction, in law, in contract, or in equity, and regardless of legal theory, and including claims for indemnification, contribution, or otherwise denominated, that have been asserted, could have been asserted, or could be asserted in the future, by Lead Plaintiffs or any Class Member in his, her or its capacity as a purchaser, seller or holder of Joy Global stock, that have arisen from, could have arisen, or relate in any manner to, in whole or in part, the allegations, conduct, facts, events, transactions, acts, occurrences, statements, representations, omissions or any other matter related to, or arising out of, the Acquisition, the Proxy and the Supplements thereto, the projections and investor presentations referenced in the Amended Complaint, or to the purchase, sale, or holding of Joy Global’s common stock in the period from and including September 1, 2016 through and including April 5, 2017. “Released Claims” includes “Unknown Claims” as defined below. Notwithstanding any other provision to the contrary herein, Released Claims shall not include Defendants’ Insurance Claims. For the avoidance of doubt, nothing in the Stipulation is intended to, nor shall it be deemed to, release any claim that the Defendants have against any of Defendants’ insurers.
- “Released Persons” means each and all of the Defendants and each and all of their Related Parties.

- “Related Parties” means, with respect to each Defendant, any and all of their related parties, including, without limitation, any and all of their past or present parents (direct or indirect), subsidiaries (direct or indirect), affiliates, predecessors, or successors, as well as any and all of its or their current or former officers, directors, employees, associates, members of their immediate families, agents or other persons acting on their behalf, investment banks, including, but not limited to, Goldman Sachs Group, Inc., attorneys, advisors, financial advisors, publicists, independent certified public accountants, auditors, accountants, assigns, creditors, administrators, heirs, estates, or legal representatives. “Related Parties” also means any insurers of Defendants, but solely in the context of, and in respect to, any Released Claims that could be asserted directly against such insurers by Lead Plaintiffs.
- “Settled Defendants’ Released Claims” means any and all claims, actions, potential actions, demands, losses, rights, causes of action, controversies, costs, damages, liabilities, obligations, judgments, suits, matters and issues of any nature for any remedy, known or unknown, suspected or unsuspected, accrued or unaccrued, whether class, individual, or otherwise, arising under the laws, regulations, or common law of the United States of America, any state or political subdivision thereof, or any foreign country or jurisdiction, in law, in contract, or in equity, and regardless of legal theory, and including claims for indemnification, contribution, or otherwise denominated, that have been asserted, could have been asserted, or could be asserted in the future by the Released Persons or any of them against Lead Plaintiffs, Class Members, or Plaintiffs’ Counsel, that arise out of or relate in any way to the institution, prosecution, or settlement of the claims against the Released Persons, except for claims related to the enforcement of the Settlement. In all events, Lead Plaintiffs, Plaintiffs’ Counsel, and all Class Members shall have no liability or responsibility for Defendants’ Insurance Claims.
- “Unknown Claims” means (i) any of the Released Claims which Lead Plaintiffs or any Class Member, or any of their agents or attorneys, does not know or suspect to exist in such Person’s favor at the time of the release of the Released Claims, and (ii) any of the Settled Defendants’ Released Claims that the Released Persons do not know or suspect to exist in his, her or its favor at the time of the release of the Settled Defendants’ Released Claims, which, in the case of both (i) and (ii), if known by such Person, might have affected such Person’s decision with respect to this Settlement, including, without limitation, such Person’s decision not to object to this Settlement or not to exclude himself, herself or itself from the Class. Unknown Claims include those Released Claims in which some or all of the facts comprising the claim may be suspected, or even undisclosed or hidden. With respect to any and all Released Claims and the Settled Defendants’ Released Claims, upon the Effective Date, Lead Plaintiffs and Defendants shall expressly, and each of the Class Members and Released Persons shall be deemed to have, and by operation of the Order and Final Judgment shall have, expressly waived to the fullest extent permitted by law, the provisions, rights, and benefits of California Civil Code §1542, which provides:

**A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release,**

**which if known by him or her must have materially affected his or her settlement with the debtor.**

Lead Plaintiffs and Defendants shall expressly, and each of the Class Members and Released Persons shall be deemed to have, and by operation of the Order and Final Judgment, shall have expressly waived any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law, which is similar, comparable or equivalent to California Civil Code §1542. Lead Plaintiffs, Class Members and the Released Persons may hereafter discover facts in addition to or different from those which such party now knows or believes to be true with respect to the subject matter of the Released Claims and the Settled Defendants' Released Claims, but Lead Plaintiffs and Defendants shall expressly, and each Class Member and Released Persons, upon the Effective Date, shall be deemed to have, and by operation of the Order and Final Judgment shall have fully, finally, and forever settled and released any and all Released Claims, or the Settled Defendants' Released Claims, as the case may be, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct that is negligent, reckless, intentional, with or without malice, or a breach of any duty, law, or rule, without regard to the subsequent discovery or existence of such different or additional facts, whether or not previously or currently asserted in any action. Lead Plaintiffs and Defendants acknowledge, and the Class Members and Released Persons shall be deemed by operation of the Order and Final Judgment to have acknowledged, that the foregoing waiver was separately bargained for and a key element of the Settlement of which this release is a part.

If you remain a Member of the Class, all of the Court's orders will apply to you and legally bind you.

### **EXCLUDING YOURSELF FROM THE CLASS**

If you do not want a payment from this Settlement, and you want to keep the right to sue the Defendants and the other Released Persons, on your own, about the legal issues in this Litigation, then you must take steps to remove yourself from the Settlement. This is called excluding yourself.

<b>13. How do I get out of the proposed Settlement?</b>
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To exclude yourself from the Class, you must send a letter by First-Class Mail stating that you "request exclusion from the Class in the *Joy Global Securities Litigation*." To be valid, your letter must include the number of shares of Joy Global common stock you held during the Class Period and at the close of business on September 1, 2016. In addition, you must include your name,

address, telephone number, and your signature. You must submit your exclusion request so that it is received **no later than [INSERT DATE]** to:

Joy Global Securities Litigation  
c/o Gilardi & Co. LLC  
Claims Administrator  
EXCLUSIONS  
3301 Kerner Blvd.  
San Rafael, CA 94901

If you ask to be excluded, you will not get any payment, and you cannot object to the Settlement. You will not be legally bound by anything that happens in this lawsuit. If you are requesting exclusion because you want to bring your own lawsuit based on the matters alleged in this Litigation, you may want to consult an attorney and discuss whether any individual claim that you wish to pursue would be time-barred by the applicable statutes of limitations or repose.

**14. If I do not exclude myself, can I sue the Defendants and the other Released Persons for the same thing later?**

No. Unless you exclude yourself, you give up any rights to sue the Defendants and the other Released Persons for any and all Released Claims. If you have a pending lawsuit against the Released Persons, speak to your lawyer in that case immediately. You must exclude yourself from this Litigation to continue your own lawsuit. Remember, the exclusion deadline is \_\_\_\_\_, 2018.

**15. If I exclude myself, can I get money from the proposed Settlement?**

No. If you exclude yourself, you may not send in a Proof of Claim to ask for any money. But, you may be able to sue or be part of a different lawsuit against the Defendants and the other Released Persons about the claims raised in this Litigation.

## THE LAWYERS REPRESENTING YOU

### 16. Do I have a lawyer in this case?

The Court ordered that the law firms of Robbins Geller Rudman & Dowd LLP and Bronstein Gewirtz & Grossman LLC represent the Class, including you. These lawyers are called Lead Counsel. They will be paid from the Settlement Fund to the extent the Court approves their application for fees. If you want to be represented by your own lawyer, you may hire one at your own expense.

### 17. How will the lawyers be paid?

Lead Counsel will move the Court for an award of attorneys' fees of 25% of the Settlement Amount, plus interest on such fees at the same rate earned on the Settlement Fund. In addition, Lead Plaintiffs may seek reimbursement for their time and expenses in pursuing the Litigation. Such sums as may be approved by the Court will be paid from the Settlement Fund.

The attorneys' fees requested will be the only payment to Plaintiffs' Counsel for their efforts in achieving this Settlement and for their risk in undertaking this representation on a wholly contingent basis. To date, Plaintiffs' Counsel have not been paid for their services for conducting this Litigation on behalf of Lead Plaintiffs and the Class nor for the litigation expenses Lead Counsel have incurred. The fee requested will compensate Plaintiffs' Counsel for their work in achieving the Settlement Fund and is within the range of fees awarded to class counsel under similar circumstances in other cases of this type.

## OBJECTING TO THE SETTLEMENT

### 18. How do I tell the Court that I object to the proposed Settlement?

If you are a Class Member, you can write to the Court to object to the proposed Settlement, the proposed Plan of Allocation, Lead Counsel's fee application, and/or Lead Plaintiffs' time and expense request. The Court will consider your views. To object, you must send a signed letter

saying that you object to the proposed Settlement, the proposed Plan of Allocation, the application for fees or Lead Plaintiffs’ time and expense request in the *Joy Global Securities Litigation*, and the reasons you object. You must include your name, address, telephone number, and your signature. You must identify the date(s), price(s), and number(s) of shares of Joy Global common stock you held, purchased, acquired or sold during the Class Period, and state the reasons why you object. You must also include copies of documents demonstrating such holding(s), purchase(s), acquisition(s) and/or sale(s). Your objection must be filed with the Court **and** mailed or delivered to each of the following addresses such that it is **received no later than [INSERT DATE]:**

COURT	LEAD COUNSEL	DEFENDANTS’ COUNSEL REPRESENTATIVE
Clerk of the Court United States District Court Eastern District of Wisconsin Milwaukee Division United States Federal Building and Courthouse 517 E. Wisconsin Avenue Milwaukee, WI 53202	David A. Knotts ROBBINS GELLER RUDMAN & DOWD LLP 655 West Broadway Suite 1900 San Diego, CA 92101	Vincent A. Sama ARNOLD & PORTER KAYE SCHOLER LLP 250 West 55 <sup>th</sup> Street New York, NY 10019  Bryan B. House FOLEY & LARDNER LLP 777 East Wisconsin Avenue Milwaukee, WI 53202  Peter C. Hein WACHTELL, LIPTON, ROSEN & KATZ 51 West 52 <sup>nd</sup> Street New York, NY 10019

<b>19. What is the difference between objecting and excluding myself?</b>
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Objecting is simply telling the Court that you do not like something about the proposed Settlement, the Plan of Allocation, the fee application or Lead Plaintiffs’ time and expense request. You can object only if you stay in the Class. Excluding yourself is telling the Court that you do not want to be part of the Class.

**THE COURT’S SETTLEMENT HEARING**

The Court will hold a hearing to decide whether to approve the proposed Settlement. You may attend and you may ask to speak, but you do not have to.

**20. When and where will the Court decide whether to approve the proposed Settlement?**

The Court will hold a Final Approval Hearing at\_\_: \_\_\_\_\_.m., on \_\_\_\_\_ day, \_\_\_\_\_, 2018, at the United States District Court for the Eastern District of Wisconsin, Milwaukee Division, United States Federal Building and Courthouse, 517 E. Wisconsin Ave., Milwaukee, WI 53202. At the hearing the Court will consider whether the Settlement and proposed Plan of Allocation are fair, reasonable, and adequate, and whether Lead Counsel's fee application and Lead Plaintiffs' time and expense request should be granted. If there are objections, the Court will consider them. The Court will listen to people who have asked to speak at the hearing. After the Final Approval Hearing, the Court will decide whether to approve the Settlement, the Plan of Allocation and the amount of fees and expenses. We do not know how long these decisions will take. The Court may change the date and time of the Final Approval Hearing without another notice being sent to Class Members. If you want to attend the hearing, you may wish to check with Lead Counsel or the Settlement website beforehand to be sure that the date and/or time has not changed.

**21. Do I have to come to the hearing?**

No. Lead Counsel will answer questions the Court may have. But, you are welcome to come at your own expense. If you send an objection or statement in support of the Settlement, you are not required to come to Court to discuss it. As long as you mailed your objection on time, the Court will consider it. You may also pay your own lawyer to attend, but you are not required to do so. Class Members do not need to appear at the hearing or take any other action to indicate their approval.

**22. May I speak at the hearing?**

If you object to the Settlement, the Plan of Allocation or the fee, expense and cost application, you may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must include with your objection (*see* Question 18 above) a statement saying that it is your “Notice of Intention to Appear in the *Joy Global Securities Litigation*.” Persons who intend to object to the Settlement, the Plan of Allocation, and/or the application for an award of attorneys’ fees, expenses and costs and desire to present evidence at the Final Approval Hearing must include in their written objections the identity of any witnesses they may call to testify and exhibits they intend to introduce into evidence at the Final Approval Hearing. You cannot speak at the hearing if you exclude yourself.

**IF YOU DO NOTHING**

**23. What happens if I do nothing at all?**

If you do nothing, you will get no money from this Settlement. But, unless you exclude yourself, you will not be able to start a lawsuit or be part of any other lawsuit against the Released Persons about the legal issues in this case ever again.

**GETTING MORE INFORMATION**

**24. Are there more details about the proposed Settlement?**

This Notice summarizes the proposed Settlement. More details are in a Stipulation of Settlement dated May 22, 2018 (the “Stipulation”). You can obtain answers to common questions regarding the proposed Settlement by contacting the Claims Administrator toll-free at 1-866-637-9414. A copy of the Stipulation and other relevant documents are also available on the Settlement website at [www.JoyGlobalSecuritiesLitigation.com](http://www.JoyGlobalSecuritiesLitigation.com).

**25. How do I get more information?**

For even more detailed information concerning the matters involved in this Litigation, reference is made to the pleadings, the Stipulation, the Orders entered by the Court and the other papers filed in the Litigation, which may be inspected at the Office of the Clerk of the United States District Court for the Eastern District of Wisconsin, Milwaukee Division, United States Federal Building and Courthouse, 517 E. Wisconsin Ave., Milwaukee, WI 53202, during regular business hours. For a fee, all papers filed in this Litigation are available at [www.pacer.gov](http://www.pacer.gov).

You can also call 1-800-449-4900 or write to Rick Nelson, Shareholder Relations, Robbins Geller Rudman & Dowd LLP, 655 W. Broadway, Suite 1900, San Diego, CA 92101, or visit [www.JoyGlobalSecuritiesLitigation.com](http://www.JoyGlobalSecuritiesLitigation.com).

**PLAN OF ALLOCATION OF NET SETTLEMENT FUND AMONG CLASS MEMBERS**

Plaintiffs' Counsel have proposed a plan of allocation described below in Question 26, which will be submitted for the Court's approval. The Net Settlement Fund (the Settlement Amount plus interest less taxes, tax expenses, Notice and Administration Costs, attorneys' fees, and Lead Plaintiffs' time and expense payment) will be distributed to Class Members who, in accordance with the terms of the Stipulation, are entitled to a distribution from the Net Settlement Fund pursuant to any plan of allocation or any order of the Court and who submit a valid and timely Proof of Claim under the Plan of Allocation described below.

**26. How will my claim be calculated?**

As discussed above, the Settlement provides \$20 million in cash for the benefit of the Class. The Settlement Amount and any interest it earns constitute the "Settlement Fund." The Settlement Fund, after deduction of Court-approved attorneys' fees, Notice and Administration Costs, Taxes, and any other fees or expenses approved by the Court, is the "Net Settlement Fund." If the Settlement is approved by the Court, the Net Settlement Fund will be distributed to eligible

Claimants – *i.e.*, who were holders of record of Joy Global common stock at the close of business on September 1, 2016 and who submit a valid Proof of Claim to the Claims Administrator – in accordance with this proposed Plan of Allocation (“Plan of Allocation” or “Plan”) or such other plan of allocation as the Court may approve. Only those stockholders holding Joy Global common stock as of the close of business on September 1, 2016 were considered record holders entitled to vote on the Acquisition. Given that the currently pending claims in the litigation challenge statements made in the Proxy related to that vote, Plaintiffs’ Counsel believe that this proposed Plan of Allocation aligns the recovery with those who have legal standing to bring the claims currently asserted in the Litigation. Class Members who do not timely submit valid Proofs of Claim and/or who did not hold Joy Global common stock at the close of business on September 1, 2016 will not share in the Net Settlement Fund, but will otherwise be bound by the Settlement. The Court may approve this proposed Plan of Allocation, or modify it, without additional notice to the Class. Any order modifying the Plan of Allocation will be posted on the Settlement website, [www.JoyGlobalSecuritiesLitigation.com](http://www.JoyGlobalSecuritiesLitigation.com).

The objective of the Plan of Allocation is to distribute the Settlement proceeds equitably among those Class Members who have legal standing to bring the claims currently asserted in the Litigation (as described above). The Plan of Allocation is not a formal damage analysis, and the calculations made in accordance with the Plan of Allocation are not intended to be estimates of, or indicative of, the amounts that Class Members might have been able to recover after a trial.

Pursuant to the Settlement described herein, the Settlement Amount is \$20 million. Lead Plaintiffs estimate that approximately 97.5 million shares of Joy Global are in the Class. A Class Member’s actual recovery will be a proportion of the Net Settlement Fund determined by its claim as compared to the total claims of all eligible Class Members who submit acceptable Proofs of Claim. A Class Member may receive more or less than the estimated average amount provided

below depending on the number of claims submitted. If 100% of shares outstanding at the time of the Acquisition submit a claim, each share's average distribution under the Settlement will be approximately \$0.20 per share, before deduction of any Taxes on any income earned on the Settlement Amount, Tax Expenses, Notice and Administration Costs, the attorneys' fee and the expenses of Lead Plaintiffs, as determined by the Court.

The Net Settlement Fund will be distributed to Authorized Claimants on a *pro rata* basis. However, no distributions will be made to Authorized Claimants who would otherwise receive a distribution of less than \$10.00.

Payments shall be conclusive against all Claimants. No Person shall have any claim against Plaintiffs' Counsel, Lead Plaintiffs, the Claims Administrator, Defendants and their Related Parties, or any Person designated by Plaintiffs' Counsel based on distributions made substantially in accordance with the Stipulation and the Settlement contained therein, or further order(s) of the Court. No Class Member shall have any claim against Defendants for any Released Claims. All Class Members who fail to complete and file a valid and timely Proof of Claim shall be barred from participating in distributions from the Net Settlement Fund (unless otherwise ordered by the Court), but otherwise shall be bound by all of the terms of the Stipulation, including the terms of any judgment entered and the releases given.

#### **SPECIAL NOTICE TO SECURITIES BROKERS AND OTHER NOMINEES**

If you purchased or acquired Joy Global common stock during the Class Period for the beneficial interest of an individual or organization other than yourself, the Court has directed that, **WITHIN FIFTEEN (15) DAYS OF YOUR RECEIPT OF THIS NOTICE**, you either (a) provide to the Claims Administrator the name and last known address of each person or organization for whom or which you purchased or acquired such common stock during such time period, or (b) request additional copies of this Notice and the Proof of Claim, which will be provided to you

free of charge, and within fifteen (15) days mail the Notice and Proof of Claim directly to the beneficial owners of the common stock referred to herein. If you choose to follow alternative procedure (b), upon such mailing, you must send a statement to the Claims Administrator confirming that the mailing was made as directed and retain the names and addresses for any future mailings to Class Members. You are entitled to reimbursement from the Settlement Fund of your reasonable expenses actually incurred in connection with the foregoing, including reimbursement of postage expense and the cost of ascertaining the names and addresses of beneficial owners. Your reasonable expenses will be paid upon request and submission of appropriate supporting documentation. All communications concerning the foregoing should be addressed to the Claims Administrator:

*Joy Global Securities Litigation*  
c/o Gilardi & Co. LLC  
Claims Administrator  
P.O. Box 404067  
Louisville, KY 40233-4067  
1-866-637-9414  
[www.JoyGlobalSecuritiesLitigation.com](http://www.JoyGlobalSecuritiesLitigation.com)

DATED: \_\_\_\_\_

BY ORDER OF THE COURT  
UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN  
MILWAUKEE DIVISION

# **EXHIBIT A-2**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN  
MILWAUKEE DIVISION

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STEVEN DUNCAN, et al., Individually and  
on Behalf of All Others Similarly Situated,

Plaintiffs,

Civil No. 2:16-cv-01229-PP

vs.

CLASS ACTION

JOY GLOBAL INC., et al.,

Defendants.

---

PROOF OF CLAIM AND RELEASE

EXHIBIT A-2

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## I. GENERAL INSTRUCTIONS

1. To recover as a Member of the Class based on your claims in the action entitled *Steven Duncan, et al. v. Joy Global Inc., et al.*, Civil No. 2:16-cv-01229-PP (the “Litigation”), you must complete and, on page \_\_ hereof, sign this Proof of Claim and Release. If you fail to submit a properly addressed (as set forth in paragraph 3 below) Proof of Claim and Release, postmarked or received by the date shown below, your claim may be rejected and you may be precluded from any recovery from the Net Settlement Fund created in connection with the proposed Settlement of the Litigation.

2. Submission of this Proof of Claim and Release, however, does not assure that you will share in the proceeds of the Settlement.

3. YOU MUST MAIL OR SUBMIT ONLINE YOUR COMPLETED AND SIGNED PROOF OF CLAIM AND RELEASE, ACCOMPANIED BY COPIES OF THE DOCUMENTS REQUESTED HEREIN, NO LATER THAN \_\_\_\_\_, 2018, TO THE COURT-APPOINTED CLAIMS ADMINISTRATOR IN THIS CASE, AT THE FOLLOWING ADDRESS:

*Joy Global Securities Litigation*  
Claims Administrator  
c/o Gilardi & Co. LLC  
P.O. Box 404067  
Louisville, KY 40233-4067  
Online Submissions: [www.JoyGlobalSecuritiesLitigation.com](http://www.JoyGlobalSecuritiesLitigation.com)

If you are NOT a Member of the Class (as defined in the Notice of Pendency and Proposed Settlement of Class Action (the “Notice”)), DO NOT submit a Proof of Claim and Release.

4. If you are a Member of the Class and you do not timely request exclusion in connection with the proposed Settlement, you will be bound by the terms of any judgment entered in the Litigation, including the releases provided therein, WHETHER OR NOT YOU SUBMIT A PROOF OF CLAIM AND RELEASE.

## II. CLAIMANT IDENTIFICATION

Pursuant to the Plan of Allocation proposed by Plaintiffs' Counsel, only Class Members who were holders of record of Joy Global common stock at the close of business on September 1, 2016 and who submit a valid Proof of Claim and Release to the Claims Administrator may share in the recovery.

If you purchased, sold, or held Joy Global Inc. ("Joy Global") common stock during the period from and including September 1, 2016, through and including April 5, 2017 (the "Class Period"), and held the shares in your name, you are the beneficial holder, purchaser or acquirer as well as the record purchaser or acquirer. If, however, you held, purchased or acquired Joy Global common stock during the Class Period and the shares were registered in the name of a third party, such as a nominee or brokerage firm, you are the beneficial purchaser or acquirer and the third party is the record purchaser or acquirer.

Use Part I of this form entitled "Claimant Identification" to identify each purchaser or acquirer of record ("nominee"), if different from the beneficial purchaser or acquirer of the common stock which form the basis of this claim. **THIS CLAIM MUST BE FILED BY THE ACTUAL BENEFICIAL PURCHASER(S) OR ACQUIRER(S) OR THE LEGAL REPRESENTATIVE OF SUCH PURCHASER(S) OR ACQUIRER(S) OF THE JOY GLOBAL COMMON STOCK UPON WHICH THIS CLAIM IS BASED.**

All joint purchasers or acquirers must sign this claim. Executors, administrators, guardians, conservators and trustees must complete and sign this claim on behalf of persons represented by them and their authority must accompany this claim and their titles or capacities must be stated. The Social Security (or taxpayer identification) number and telephone number of the beneficial owner may be used in verifying the claim. Failure to provide the foregoing information could delay verification of your claim or result in rejection of the claim.

If you are acting in a representative capacity on behalf of a Class Member (for example, as an executor, administrator, trustee, or other representative), you must submit evidence of your current authority to act on behalf of that Class Member. Such evidence would include, for example, letters testamentary, letters of administration, or a copy of the trust documents.

NOTICE REGARDING ELECTRONIC FILES: Certain Claimants with large numbers of transactions may request to, or may be requested to, submit information regarding their transactions in electronic files. *All Claimants MUST submit a manually signed paper Proof of Claim and Release listing all their transactions whether or not they also submit electronic copies.* If you wish to file your claim electronically, you must contact the Claims Administrator at [edata@gilardi.com](mailto:edata@gilardi.com) to obtain the required file layout. No electronic files will be considered to have been properly submitted unless the Claims Administrator issues to the Claimant a written acknowledgement of receipt and acceptance of electronically submitted data.

### **III. CLAIM FORM**

Use Part II of this form entitled “Holdings in Joy Global Common Stock” to state the number of shares of Joy Global common stock that you held at the close of business on September 1, 2016.

You must provide copies of broker confirmations or other documentation of your holdings in Joy Global common stock as attachments to your claim. If any such documents are not in your possession, please obtain a copy or equivalent documents from your broker because these documents are necessary to prove and process your claim. Failure to provide this documentation could delay verification of your claim or result in rejection of your claim

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WISCONSIN

MILWAUKEE DIVISION

*Steven Duncan, et al. v. Joy Global Inc., et al.*

Civil No. 2:16-cv-01229-PP

PROOF OF CLAIM AND RELEASE

Must Be Postmarked or Received No Later Than:

\_\_\_\_\_, 2018

Please Type or Print

PART I: CLAIMANT IDENTIFICATION

\_\_\_\_\_  
Beneficial Owner's Name (First, Middle, Last)

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State or Province

\_\_\_\_\_  
Zip Code or Postal Code

\_\_\_\_\_  
Country

\_\_\_\_\_  
Social Security Number or  
Taxpayer Identification Number

\_\_\_\_\_  
Individual  
Corporation/Other

\_\_\_\_\_  
Area Code

\_\_\_\_\_  
Telephone Number (work)

\_\_\_\_\_  
Area Code

\_\_\_\_\_  
Telephone Number (home)

\_\_\_\_\_  
Record Owner's Name (if different from beneficial owner listed above)

PART II: HOLDINGS IN JOY GLOBAL COMMON STOCK

A. Number of shares of Joy Global common stock you held at the close of business on September 1, 2016: \_\_\_\_\_

Proof enclosed? \_\_\_\_ yes \_\_\_\_ no

**YOUR SIGNATURE ON PAGE \_\_ WILL CONSTITUTE YOUR  
ACKNOWLEDGMENT OF THE RELEASE DESCRIBED IN PART V BELOW.**

#### **IV. SUBMISSION TO JURISDICTION OF COURT AND ACKNOWLEDGMENTS**

I (We) submit this Proof of Claim and Release under the terms of the Stipulation of Settlement described in the Notice. I (We) also submit to the jurisdiction of the United States District Court for the Eastern District of Wisconsin, Milwaukee Division, with respect to my (our) claim as a Class Member and for purposes of enforcing the release set forth herein. I (We) further acknowledge that I am (we are) bound by and subject to the terms of any judgment that may be entered in the Litigation. I (We) agree to furnish additional information to the Claims Administrator to support this claim if requested to do so. I (We) have not submitted any other claim in connection with the purchase or acquisition of Joy Global common stock during the Class Period and know of no other person having done so on my (our) behalf.

#### **V. RELEASE**

1. I (We) hereby acknowledge full and complete satisfaction of, and do hereby fully, finally and forever release, covenant not to sue, relinquish, and discharge each and all of the Released Persons from the Released Claims as provided in the Stipulation of Settlement.

2. “Related Parties” means, with respect to each Defendant, any and all of their related parties, including, without limitation, any and all of their past or present parents (direct or indirect), subsidiaries (direct or indirect), affiliates, predecessors, or successors, as well as any and all of its or their current or former officers, directors, employees, associates, members of their immediate families, agents or other persons acting on their behalf, investment banks, including, but not limited to, Goldman Sachs Group, Inc., attorneys, advisors, financial advisors, publicists, independent certified public accountants, auditors, accountants, assigns, creditors, administrators, heirs, estates, or legal representatives. “Related Parties” also means any insurers of Defendants, but solely in the context of, and in respect to, any Released Claims that could be asserted directly against such insurers by Lead Plaintiffs.

3. “Released Claims” means any and all claims that have been asserted, could have been asserted, or could be asserted in the future in this Litigation; and any and all claims, actions,

potential actions, demands, losses, rights, causes of action, controversies, costs, damages, liabilities, obligations, judgments, suits, matters and issues of any nature for any remedy, known or unknown, suspected or unsuspected, accrued or unaccrued, whether class, individual, or otherwise, arising under the laws, regulations, or common law of the United States of America, any state or political subdivision thereof, or any foreign country or jurisdiction, in law, in contract, or in equity, and regardless of legal theory, and including claims for indemnification, contribution, or otherwise denominated, that have been asserted, could have been asserted, or could be asserted in the future, by Lead Plaintiffs or any Class Member in his, her or its capacity as a purchaser, seller or holder of Joy Global stock, that have arisen from, could have arisen, or relate in any manner to, in whole or in part, the allegations, conduct, facts, events, transactions, acts, occurrences, statements, representations, omissions or any other matter related to, or arising out of, the Acquisition, the Proxy and the Supplements thereto, the projections and investor presentations referenced in the Amended Complaint, or to the purchase, sale, or holding of Joy Global's common stock in the period from and including September 1, 2016 through and including April 5, 2017. "Released Claims" includes "Unknown Claims" as defined below. Notwithstanding any other provision to the contrary herein, Released Claims shall not include Defendants' Insurance Claims. For the avoidance of doubt, nothing in the Stipulation is intended to, nor shall it be deemed to, release any claim that the Defendants have against any of Defendants' insurers.

4. "Released Persons" means each and all of the Defendants and each and all of their Related Parties.

5. "Settled Defendants' Released Claims" means any and all claims, actions, potential actions, demands, losses, rights, causes of action, controversies, costs, damages, liabilities, obligations, judgments, suits, matters and issues of any nature for any remedy, known or unknown, suspected or unsuspected, accrued or unaccrued, whether class, individual, or otherwise, arising under the laws, regulations, or common law of the United States of America, any state or political subdivision thereof, or any foreign country or jurisdiction, in law, in contract, or in equity, and regardless of legal theory, and including claims for indemnification, contribution, or otherwise

denominated, that have been asserted, could have been asserted, or could be asserted in the future by the Released Persons or any of them against Lead Plaintiffs, Class Members, or Plaintiffs' Counsel, that arise out of or relate in any way to the institution, prosecution, or settlement of the claims against the Released Persons, except for claims related to the enforcement of the Settlement. In all events, Lead Plaintiffs, Plaintiffs' Counsel, and all Class Members shall have no liability or responsibility for Defendants Insurance Claims.

6. "Unknown Claims" means (i) any of the Released Claims which Lead Plaintiffs or any Class Member, or any of their agents or attorneys, does not know or suspect to exist in such Person's favor at the time of the release of the Released Claims, and (ii) any of the Settled Defendants' Released Claims that the Released Persons do not know or suspect to exist in his, her or its favor at the time of the release of the Settled Defendants' Released Claims, which, in the case of both (i) and (ii), if known by such Person, might have affected such Person's decision with respect to this Settlement, including, without limitation, such Person's decision not to object to this Settlement or not to exclude himself, herself or itself from the Class. Unknown Claims include those Released Claims in which some or all of the facts comprising the claim may be suspected, or even undisclosed or hidden. With respect to any and all Released Claims and the Settled Defendants' Released Claims, upon the Effective Date, Lead Plaintiffs and Defendants shall expressly, and each of the Class Members and Released Persons shall be deemed to have, and by operation of the Order and Final Judgment shall have, expressly waived to the fullest extent permitted by law, the provisions, rights, and benefits of California Civil Code §1542, which provides:

**A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.**

Lead Plaintiffs and Defendants shall expressly, and each of the Class Members and Released Persons shall be deemed to have, and by operation of the Order and Final Judgment, shall have expressly waived any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law, which is similar, comparable or equivalent to

California Civil Code §1542. Lead Plaintiffs, Class Members and the Released Persons may hereafter discover facts in addition to or different from those which such party now knows or believes to be true with respect to the subject matter of the Released Claims and the Settled Defendants' Released Claims, but Lead Plaintiffs and Defendants shall expressly, and each Class Member and Released Persons, upon the Effective Date, shall be deemed to have, and by operation of the Order and Final Judgment shall have fully, finally, and forever settled and released any and all Released Claims, or the Settled Defendants' Released Claims, as the case may be, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct that is negligent, reckless, intentional, with or without malice, or a breach of any duty, law, or rule, without regard to the subsequent discovery or existence of such different or additional facts, whether or not previously or currently asserted in any action. Lead Plaintiffs and Defendants acknowledge, and the Class Members and Released Persons shall be deemed by operation of the Order and Final Judgment to have acknowledged, that the foregoing waiver was separately bargained for and a key element of the Settlement of which this release is a part.

7. This release shall be of no force or effect unless and until the Court approves the Stipulation of Settlement and the Settlement becomes effective on the Effective Date.

8. I (We) hereby warrant and represent that I (we) have not assigned or transferred or purported to assign or transfer, voluntarily or involuntarily, any claim or matter released pursuant to this release or any other part or portion thereof.

9. I (We) hereby warrant and represent that I (we) have included information (including supporting documentation) about the number of shares of Joy Global stock held by me (us) at the close of business on September 1, 2016.

10. I (We) hereby warrant and represent that I am (we are) not a Defendant or other person excluded from the Class.

I declare under penalty of perjury under the laws of the United States of America that the foregoing information supplied by the undersigned is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_ (Month/Year)  
in \_\_\_\_\_  
(City) (State/Country)

\_\_\_\_\_  
(Sign your name here)

\_\_\_\_\_  
(Type or print your name here)

\_\_\_\_\_  
(Capacity of person(s) signing,  
*e.g.*, Beneficial Purchaser or Acquirer,  
Executor or Administrator)

**ACCURATE CLAIMS PROCESSING TAKES A  
SIGNIFICANT AMOUNT OF TIME.  
THANK YOU FOR YOUR PATIENCE.**

Reminder Checklist:

1. Please sign the above release and declaration.
2. Remember to attach copies of supporting documentation, if available.
3. Do not send originals of stock certificates or other documentation as they will not be returned.
4. Keep a copy of your Proof of Claim and Release and all supporting documentation for your records.
5. If you desire an acknowledgment of receipt of your Proof of Claim and Release, please send it Certified Mail, Return Receipt Requested.
6. If you move, please send your new address to the address below.

7. Do not use red pen or highlighter on the Proof of Claim and Release or supporting documentation.

THIS PROOF OF CLAIM AND RELEASE MUST BE SUBMITTED ONLINE BY \_\_\_\_\_, OR, IF MAILED, POSTMARKED NO LATER THAN \_\_\_\_\_, ADDRESSED AS FOLLOWS:

*Joy Global Securities Litigation*  
Claims Administrator  
c/o Gilardi & Co. LLC  
P.O. Box 404067  
Louisville, KY 40233-4067  
[www.JoyGlobalSecuritiesLitigation.com](http://www.JoyGlobalSecuritiesLitigation.com)

# **EXHIBIT A-3**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN  
MILWAUKEE DIVISION

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STEVEN DUNCAN, et al., Individually and  
on Behalf of All Others Similarly Situated,

Plaintiffs,

Civil No. 2:16-cv-01229-PP

vs.

CLASS ACTION

JOY GLOBAL INC., et al.,

Defendants.

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SUMMARY NOTICE

EXHIBIT A-3

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**TO: ALL PERSONS WHO PURCHASED, SOLD OR HELD JOY GLOBAL INC. (“JOY GLOBAL”) COMMON STOCK DURING THE PERIOD FROM AND INCLUDING SEPTEMBER 1, 2016, THE RECORD DATE FOR JOY GLOBAL’S SPECIAL STOCKHOLDER MEETING REGARDING THE ACQUISITION OF JOY GLOBAL BY KOMATSU LTD. AND CERTAIN OF ITS SUBSIDIARIES (THE “ACQUISITION”), THROUGH AND INCLUDING APRIL 5, 2017, THE DATE THE ACQUISITION CLOSED.**

YOU ARE HEREBY NOTIFIED, pursuant to an Order of the United States District Court for the Eastern District of Wisconsin, Milwaukee Division, that a hearing will be held on \_\_\_\_\_, 2018, at \_\_\_:\_\_\_ .m., before the Honorable Pamela Pepper at the United States District Court for the Eastern District of Wisconsin, Milwaukee Division, United States Federal Building and Courthouse, 517 E. Wisconsin Ave., Milwaukee, Wisconsin 53202, for the purpose of determining: (1) whether the proposed Settlement of the Litigation for \$20 million should be approved by the Court as fair, reasonable, and adequate; (2) whether a Final Judgment and Order of Dismissal with Prejudice should be entered by the Court dismissing the Litigation with prejudice and releasing the Released Claims; (3) whether the Plan of Allocation for the Net Settlement Fund is fair, reasonable, and adequate and should be approved; and (4) whether the application of Lead Counsel for the payment of attorneys’ fees and any award to Lead Plaintiffs pursuant to 15 U.S.C. §78u-4(a)(4) should be approved.

IF YOU PURCHASED, SOLD OR HELD JOY GLOBAL COMMON STOCK DURING THE PERIOD FROM AND INCLUDING SEPTEMBER 1, 2016 THROUGH AND INCLUDING APRIL 5, 2017 (THE “CLASS PERIOD”), YOUR RIGHTS MAY BE AFFECTED BY THE SETTLEMENT OF THIS LITIGATION, INCLUDING THE RELEASE AND EXTINGUISHMENT OF CLAIMS YOU MAY POSSESS RELATING TO YOUR PURCHASE OR ACQUISITION OF JOY GLOBAL COMMON STOCK DURING THE CLASS PERIOD. If you have not received a detailed Notice of Pendency and Proposed Settlement of Class Action (“Notice”) and a copy of the Proof of Claim and Release form, you may obtain copies by writing to *Joy Global Securities Litigation*, Claims Administrator, c/o Gilardi & Co. LLC, P.O. Box 404067,

Louisville, KY 40233-4067, or on the Internet at [www.JoyGlobalSecuritiesLitigation.com](http://www.JoyGlobalSecuritiesLitigation.com). If you are a Class Member, in order to share in the distribution of the Net Settlement Fund, you must submit a Proof of Claim and Release by mail (*postmarked no later than \_\_\_\_\_, 2018*), or online at [www.JoyGlobalSecuritiesLitigation.com](http://www.JoyGlobalSecuritiesLitigation.com) *no later than \_\_\_\_\_, 2018*, establishing that you are entitled to recovery.

If you purchased or acquired Joy Global common stock during the Class Period and you desire to be excluded from the Class, you must submit a request for exclusion so that it is *received no later than \_\_\_\_\_*, in the manner and form explained in the detailed Notice referred to above. All Members of the Class who do not timely and validly request exclusion from the Class will be bound by any judgment entered in the Litigation pursuant to the Stipulation of Settlement.

Any objection to the Settlement, the Plan of Allocation, Lead Counsel's request for attorneys' fees, and Lead Plaintiff's request for time and expenses must be *received by each* of the following recipients *no later than \_\_\_\_\_*:

CLERK OF THE COURT  
UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN  
MILWAUKEE DIVISION  
United States Federal Building and Courthouse  
517 E. Wisconsin Ave.  
Milwaukee, WI 53202

*Lead Counsel:*

ROBBINS GELLER RUDMAN & DOWD LLP  
David A. Knotts  
655 West Broadway, Suite 1900  
San Diego, CA 92101

*Counsel for Defendants:*

ARNOLD & PORTER KAYE SCHOLER LLP  
Vincent A. Sama  
250 West 55th Street  
New York, NY 10019

FOLEY & LARDNER LLP  
Bryan B. House  
777 East Wisconsin Avenue  
Milwaukee, WI 53202

WACHTELL, LIPTON, ROSEN & KATZ  
Peter C. Hein  
51 West 52nd Street  
New York, NY 10019

**PLEASE DO NOT CONTACT THE COURT OR THE CLERK'S OFFICE**

**REGARDING THIS NOTICE.** If you have any questions about the Settlement, you may contact

Lead Counsel at the address listed above.

DATED: \_\_\_\_\_

BY ORDER OF THE COURT  
UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN  
MILWAUKEE DIVISION

# **EXHIBIT B**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN  
MILWAUKEE DIVISION

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STEVEN DUNCAN, et al., Individually and  
on Behalf of All Others Similarly Situated,

Plaintiffs,

Civil No. 2:16-cv-01229-PP

vs.

CLASS ACTION

JOY GLOBAL INC., et al.,

Defendants.

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[PROPOSED] FINAL JUDGMENT AND ORDER OF DISMISSAL WITH PREJUDICE

EXHIBIT B

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This matter came before the Court for hearing pursuant to the Order Preliminarily Approving Settlement and Providing for Notice (“Preliminary Approval Order”) dated \_\_\_\_\_, 2018, on the application of the Settling Parties for approval of the Settlement set forth in the Stipulation of Settlement dated May 22, 2018 (the “Stipulation”).

WHEREAS, this Order of Dismissal is “with prejudice”;

WHEREAS, due and adequate notice having been given to the Class as required in the Preliminary Approval Order;

WHEREAS, the Court conducted a hearing on \_\_\_\_\_, 2018, to consider, among other things, (i) whether the terms and conditions of the Settlement are fair, reasonable and adequate and should therefore be approved; and (ii) whether a judgment should be entered dismissing the Litigation with prejudice as against the Defendants;

WHEREAS, the Court having considered all papers filed and proceedings herein and otherwise being fully informed in the premises and good cause appearing therefore, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. This Final Judgment and Order of Dismissal with Prejudice (“Order and Final Judgment” or “Judgment”) incorporates by reference the definitions in the Stipulation, and all terms used herein shall have the same meanings as set forth in the Stipulation, unless otherwise set forth herein.

2. This Court has jurisdiction over the subject matter of the Litigation and over all Settling Parties to the Litigation, including all Members of the Class.

3. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, this Court hereby affirms its determinations in the Preliminary Approval Order and finally certifies for purposes of settlement only: (i) a Class defined as all those who purchased, sold or held Joy Global common stock during the period from and including September 1, 2016, the record date for Joy Global’s special

stockholder meeting regarding the acquisition of Joy Global by Komatsu Ltd. and certain of its subsidiaries (the “Acquisition”), through and including April 5, 2017, the date the Acquisition closed; (ii) Robbins Geller Rudman & Dowd LLP and Bronstein, Gewirtz & Grossman, LLC are certified as Lead Counsel; and (iii) Lead Plaintiffs are certified as Class Representatives. Excluded from the Class are (i) Defendants; (ii) members of the immediate families of each Defendant; (iii) Joy Global’s subsidiaries and affiliates; (iv) any entity in which any Defendant has a controlling interest; and (v) the legal representatives, heirs, successors, administrators, executors, and assigns of each Defendant. Also excluded from the Class are those Persons who properly excluded themselves by timely and validly requesting exclusion from the Class pursuant to the Notice of Pendency and Proposed Settlement of Class Action sent to Class Members pursuant to the Preliminary Approval Order.

4. For purposes of settlement only, the Court hereby affirms its determinations in the Preliminary Approval Order and finds that the prerequisites for a class action under Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure have been satisfied in that: (a) the Members of the Class are so numerous that joinder of all Class Members in the class action is impracticable; (b) there are questions of law and fact common to the Class which predominate over any individual question; (c) the claims of the Lead Plaintiffs are typical of the claims of the Class; (d) Lead Plaintiffs and their counsel have fairly and adequately represented and protected the interests of the Class Members; and (e) a class action is superior to other available methods for the fair and efficient adjudication of the controversy, considering: (i) the interests of the Members of the Class in individually controlling the prosecution of the separate actions, (ii) the extent and nature of any litigation concerning the controversy already commenced by Members of the Class, (iii) the desirability or undesirability of concentrating the litigation of these claims in this particular forum, and (iv) the difficulties likely to be encountered in the management of the class action.

5. Pursuant to Federal Rule of Civil Procedure 23, this Court hereby approves the Settlement set forth in the Stipulation and finds that said Settlement is, in all respects, fair, reasonable, and adequate to the Class.

6. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Court finds that the Settlement is fair, reasonable, and adequate as to each of the Settling Parties, and that the Settlement set forth in the Stipulation is hereby finally approved in all respects, and the Settling Parties are hereby directed to perform its terms.

7. Accordingly, the Court authorizes and directs implementation of the terms and provisions of the Stipulation, as well as the terms and provisions hereof. The Court hereby dismisses with prejudice and without costs, the Litigation and all claims contained therein and all of the Released Claims as against the Released Persons.

8. Upon the Effective Date hereof, and as provided in the Stipulation, Lead Plaintiffs and each and all of the Class Members, other than those listed on Exhibit A hereto, and anyone claiming through or on behalf of any of them, including, but not limited to, their predecessors, successors, agents, representatives, attorneys, affiliates, heirs, executors, administrators, and assigns, shall be deemed to have, and by operation of this Order and Final Judgment shall have, fully, finally, and forever resolved, discharged, relinquished, released, waived, settled and dismissed with prejudice any and all Released Claims (including, without limitation, Unknown Claims), as well as any and all claims arising out of, relating to, or in connection with, the defense, settlement, or resolution of the Litigation or the Released Claims, against each and all of the Released Persons, regardless of whether a Class Member executes and delivers a Proof of Claim and Release, except that claims relating to the enforcement of the Settlement shall not be released.

9. Upon the Effective Date hereof, and as provided in the Stipulation, each of the Released Persons shall be deemed to have, and by operation of this Order and Final Judgment shall

have, fully, finally, and forever released, relinquished, and discharged Lead Plaintiffs, each and all of the Class Members, and Lead Counsel from all Settled Defendants' Released Claims, and shall forever be enjoined from prosecuting such claims, except for claims relating to the enforcement of the Settlement.

10. Upon the Effective Date hereof, Lead Plaintiffs, each and all of the Class Members, other than those listed on Exhibit A hereto, and anyone claiming through or on behalf of any of them, including, but not limited to, their predecessors, successors, agents, representatives, attorneys, affiliates, heirs, executors, administrators, and assigns, are and shall be forever barred and enjoined from commencing, instituting, asserting, maintaining, enforcing, aiding, prosecuting, or continuing to prosecute any action or proceeding in any forum (including, but not limited to, any state or federal court of law or equity, any arbitral forum, any tribunal, administrative forum, or the court of any foreign jurisdiction, or any other forum of any kind), any and all of the Released Claims (including, without limitation, Unknown Claims), as well as any and all claims arising out of, relating to, or in connection with, the defense, settlement or resolution of the Litigation or the Released Claims, against each and all of the Released Persons, regardless of whether such Class Member executes and delivers a Proof of Claim and Release, except that claims relating to the enforcement of the Settlement shall not be released.

11. Upon the Effective Date hereof, and as provided in the Stipulation, Lead Plaintiffs and each and every Class Member, for themselves and for any Person claiming now or in the future through or on behalf of them, shall not sue any Released Persons with respect to any and all Released Claims, except to enforce the terms and conditions contained in the Stipulation or this Order and Final Judgment.

12. In accordance with the PSLRA as codified at 15 U.S.C. §78u-4(f)(7)(A), (a) all obligations to any Class Member of any Released Person arising out of the Litigation are discharged,

and (b) any and all claims for contribution arising out of the Litigation or any of the Released Claims (i) by any person or entity against any of the Released Persons, and (ii) by any of the Released Persons against any person or entity, other than as set out in 15 U.S.C. §78u-4(f)(7)(A)(ii), are hereby permanently barred, extinguished, discharged, satisfied and unenforceable.

13. The terms of the Stipulation and of this Order and Final Judgment shall be forever binding on Lead Plaintiffs, all other Class Members, and Defendants (regardless of whether or not any individual Class Member submits a Proof of Claim and Release or seeks or obtains a distribution from the Net Settlement Fund), as well as their respective, heirs, executors, administrators, predecessors, successors, and assigns.

14. The Escrow Agent shall maintain the Settlement Fund in accordance with the requirements set forth in the Stipulation. No Released Person shall have any liability, obligation, or responsibility whatsoever for the administration of the Settlement or disbursement of the Net Settlement Fund.

15. The Notice of Pendency and Proposed Settlement of Class Action given to the Class (a) was implemented in accordance with the Preliminary Approval Order entered on \_\_\_\_\_, (b) was the best notice practicable under the circumstances, to all Persons entitled to such notice, of those proceedings and of the matters set forth therein, including the proposed Settlement set forth in the Stipulation, (c) was reasonably calculated under the circumstances, to apprise Class Members of (i) the pendency of the Litigation: (ii) the effect of the proposed Settlement (including the releases contained therein); and (iii) their right to object to any aspect of the proposed Settlement, exclude themselves from the Class, and/or appear at the Final Approval Hearing; (d) was reasonable and constituted due, adequate, and sufficient notice to all persons and entities entitled to receive notice of the proposed Settlement; and (e) fully satisfied the requirements of Federal Rule of Civil Procedure 23, the requirements of due process, the requirements of the PSLRA, and all other applicable law and rules.

16. Separate orders shall be entered regarding the proposed Plan of Allocation and Lead Counsel's motion for attorneys' fees and expenses as allowed by the Court. Any plan of allocation submitted by Lead Counsel or any order entered regarding any attorneys' fee and expense application shall in no way disturb or affect this Judgment and shall be considered separate from this Judgment.

17. Neither this Order and Final Judgment, the Stipulation, the Supplemental Agreement, nor any of their terms or provisions, nor any of the negotiations, discussions, proceedings connected thereto, nor any act performed or document executed pursuant to or in furtherance of the Stipulation or the Settlement: (a) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any of the allegations in the Litigation or of the validity of any Released Claim, or of any wrongdoing or liability of any Released Persons; or (b) is, or shall be deemed to be, or shall be used as an admission of any fault or omission of any Released Person in any statement, release, or written documents issued, filed, or made; or (c) is or may be deemed to be or may be used as an admission of, or evidence of, any fault, liability, wrongdoing, negligence, or omission of any of the Released Persons in any civil, criminal, or administrative proceeding in any court, arbitration proceeding, administrative agency, or forum or tribunal in which the Released Persons are or become parties; or (d) is or may be deemed to be or may be used as an admission or evidence that any claims asserted by Lead Plaintiffs were not valid or that the amount recoverable was not greater than the Settlement Amount, in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal. The Released Persons, Lead Plaintiffs, Class Members, and their respective counsel may file the Stipulation and/or this Judgment in any action that may be brought against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim. The Settling Parties may file the Stipulation and/or this Judgment in any proceedings that may be necessary to consummate or enforce the Stipulation, the Settlement, or the Judgment.

18. Without affecting the finality of this Judgment in any way, this Court hereby retains continuing exclusive jurisdiction over: (a) implementation of this Settlement and any award or distribution of the Settlement Fund, including interest earned thereon; (b) disposition of the Settlement Fund; (c) hearing and determining applications for attorneys' fees and expenses and interest in the Litigation; and (d) all Settling Parties hereto for the purpose of construing, enforcing, and administering the Stipulation.

19. The Court finds that during the course of the Litigation, the Settling Parties and their respective counsel at all times complied with the requirements of Federal Rule of Civil Procedure 11.

20. In the event that the Settlement does not become effective in accordance with the terms of the Stipulation, or the Effective Date does not occur, or in the event that the Settlement Fund, or any portion thereof, is returned to the Defendants as required under the terms of the Stipulation, then this Judgment shall be rendered null and void to the extent provided by and in accordance with the Stipulation and shall be vacated and, in such event, all orders entered and releases delivered in connection herewith shall be null and void to the extent provided by and in accordance with the Stipulation.

21. Without further approval from the Court, the parties are hereby authorized to agree and to adopt such amendments or modifications of the Stipulation or any exhibits attached thereto to effectuate the Settlement that: (i) are not materially inconsistent with this Order and Final Judgment; and (ii) do not materially limit the rights of Class Members in connection with the Settlement. Without further order of the Court, the Settling Parties may agree to reasonable extensions of time to carry out any of the provisions of the Stipulation.

22. The Court directs immediate entry of this Judgment by the Clerk of the Court.

IT IS SO ORDERED.

DATED: \_\_\_\_\_

\_\_\_\_\_  
THE HONORABLE PAMELA PEPPER  
UNITED STATES DISTRICT JUDGE