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12 Lead Counsel for Plaintiffs

13 [Additional counsel appear on signature page.]

14 UNITED STATES DISTRICT COURT
 15 NORTHERN DISTRICT OF CALIFORNIA

16	In re ECOTALITY, INC. SECURITIES	)	Master File No. 3:13-cv-03791-SC
17	LITIGATION)	
	_____	)	<u>CLASS ACTION</u>
18	This Document Relates To:	)	LEAD PLAINTIFF’S REPLY AND
19		)	STATEMENT OF NON-OPPOSITION IN
20	ALL ACTIONS.	)	FURTHER SUPPORT OF MOTIONS FOR
	_____	)	(1) FINAL APPROVAL OF CLASS ACTION
21		)	SETTLEMENT AND PLAN OF
22		)	ALLOCATION OF SETTLEMENT
		)	PROCEEDS; AND (2) AN AWARD OF
		)	ATTORNEYS’ FEES AND EXPENSES

DATE: August 21, 2015
 TIME: 10:00 a.m.
 CTRM: The Honorable Samuel Conti

28

1 Lead Plaintiff and his counsel respectfully submit this Reply and Statement of Non-
2 Opposition in Further Support of Motions for (1) Final Approval of Class Action Settlement and
3 Plan of Allocation of Settlement Proceeds; and (2) an Award of Attorneys' Fees and Expenses.
4 After an extensive notice program, the Class' response to the Settlement, the Plan of Allocation, and
5 the request for an award of attorneys' fees and expenses has been overwhelmingly positive.

6 As the Honorable Jeremy Fogel, now director of the Federal Judicial Center, noted: “[T]he
7 reaction of the class to the proffered settlement . . . is perhaps the most significant factor to be
8 weighed in considering its adequacy.” *In re Rambus Inc. Derivative Litig.*, No. C 06-3513 JF
9 (HRL), 2009 U.S. Dist. LEXIS 131845, at *10 (N.D. Cal. Jan. 20, 2009) (citation omitted). Indeed,
10 “[i]t is established that the absence of a large number of objections to a proposed class action
11 settlement raises a strong presumption that the terms of a proposed class settlement action are
12 favorable to the class members.” *In re Omnivision Techs., Inc.*, 559 F. Supp. 2d 1036, 1043 (N.D.
13 Cal. 2007) (citation omitted). “The presence or absence of objections . . . is also a factor in
14 determining the proper fee award.” *In re Heritage Bond Litig. v. U.S. Trust Co. of Tex., N.A.*, No.
15 02-ML-1475-DT(RCx), 2005 U.S. Dist. LEXIS 13627, at *48 (C.D. Cal. June 10, 2005). Where no
16 objection “raised any concern about the amount of the fee . . . [this factor] also supports the
17 requested award of 28% of the Settlement Fund.” *Omnivision*, 559 F. Supp. 2d at 1048.

18 Pursuant to the Court's March 6, 2015 Preliminary Approval Order (Dkt. No. 84), more than
19 10,000 copies of the Notice of Proposed Settlement of Class Action (“Notice”) and Proof of Claim
20 and Release form (“Proof of Claim”) were sent to potential Class Members and nominees.¹ In
21 addition, the Summary Notice was transmitted over the *PR Newswire* and published in *Investor's*
22 *Business Daily* on March 26, 2015. Sylvester Decl., ¶13. The Notice, Proof of Claim, Stipulation of
23 Settlement dated as of December 22, 2015 (“Stipulation”), and Preliminary Approval Order were
24 also posted on a settlement specific website, which was disclosed in the Notice and the Summary
25 Notice. *Id.*, ¶¶12, 13. The May 19, 2015 deadline for objecting to any aspect of the Settlement, the

26 _____
27 ¹ See paragraphs 3 through 10 to the Declaration of Carole K. Sylvester Re A) Mailing of the
28 Notice of Proposed Settlement of Class Action and the Proof of Claim and Release Form, B) Publication of the Summary Notice, and C) Internet Posting (“Sylvester Decl.”) (Dkt. No. 91).

1 Plan of Allocation of settlement proceeds, and/or Lead Counsel's request for an award of attorneys'
 2 fees and expenses has passed and to counsel's knowledge, as of the date of this reply, no objections
 3 have been received to the Settlement, the Plan of Allocation, or Lead Counsel's request for an award
 4 of attorneys' fees and expenses.²

5 Accordingly, the reaction of the Class is significant evidence that the Class supports the
 6 Settlement, Plan of Allocation of settlement proceeds, and Lead Counsel's request for an award of
 7 attorneys' fees and expenses, and thus weighs strongly in favor of approval.

8 For the reasons set forth herein and in previously submitted memoranda and declarations,
 9 Lead Plaintiff respectfully submits that the Settlement is a highly favorable result for the Class, and
 10 the Plan of Allocation of settlement proceeds is a fair and equitable method for distributing the Net
 11 Settlement Fund. Therefore, both should be approved as fair, reasonable, and adequate. Finally, the
 12 attorneys' fees and expenses requested by Lead Counsel are reasonable under the circumstances and
 13 should be awarded in the amounts sought.

14 DATED: July 31, 2015

Respectfully submitted,

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 24 ² In addition, only six requests for exclusion have been received. These requests for exclusion
 25 are attached as Exhibit 1 to the [Proposed] Order Approving the Settlement and Order of Dismissal
 26 with Prejudice. Of these six opt-outs, four of them are institutional investors who purchased at least
 27 3.75 million shares of ECotality common stock during the Class Period. See Declaration of
 28 Christopher P. Seefer in Support of Lead Plaintiff's Motion for Preliminary Approval of Class
 Action Settlement (Dkt. No. 80), ¶38. These opt-outs will allow members of the Class who did not
 opt-out to potentially receive a larger recovery. The other two opt-outs are from individual
 shareholders who do not identify the number of shares they purchased.

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CERTIFICATE OF SERVICE

I hereby certify that on July 31, 2015, 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 July 31, 2015.

s/ Christopher P. Seefer
CHRISTOPHER P. SEEFER

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Mailing Information for a Case 3:13-cv-03791-SC In Re Ecotality, Inc. Securities Litigation

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Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

- (No manual recipients)