

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

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CIVIL MINUTES - GENERAL

CASE NO.: CV 13-02939 SJO (JCx) DATE: June 30, 2015

TITLE: In re Hot Topic, Inc. Securities Litigation

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**PRESENT: THE HONORABLE S. JAMES OTERO, UNITED STATES DISTRICT JUDGE**

Victor Paul Cruz Not Present  
Courtroom Clerk Court Reporter

**COUNSEL PRESENT FOR PLAINTIFFS: COUNSEL PRESENT FOR DEFENDANTS:**

Not Present Not Present

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**PROCEEDINGS (in chambers): ORDER GRANTING RENEWED MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT [Docket No. 89]**

This matter is before the Court on Lead Plaintiff City of Livonia Employees' Retirement System's ("Lead Plaintiff") Renewed Motion for Preliminary Approval of Class Action Settlement ("Motion"), filed June 19, 2015. Defendants Hot Topic, Inc. ("Hot Topic" and the "Company") and Lisa M. Harper ("Harper"), Steven R. Becker ("Becker"), Matthew A. Drapkin ("Drapkin"), Evelyn D'an ("D'an"), Terri Funk Graham ("Graham"), John Edward Kyees ("Kyees"), Andrew Schuon ("Schuon"), and Thomas G. Vellios ("Vellios") (collectively, "Individual Defendants") have not opposed the Motion. The Court found this matter suitable for disposition without oral argument and vacated the hearing set for July 20, 2015. See Fed. R. Civ. P. 78(b). For the following reasons, the Court **GRANTS** Lead Plaintiff's Motion.

I. FACTUAL AND PROCEDURAL HISTORY

This case concerns an Agreement and Plan of Merger ("Merger Agreement"), dated March 6, 2013, in which Sycamore Partners agreed to acquire all of Hot Topic's outstanding stock for \$14.00 per share in cash (the "Merger"). (Consolidated Compl. ¶¶ 1, 14, ECF No. 44.) Prior to the Merger, Hot Topic, a California corporation, was a mall and web-based specialty retailer operating Hot Topic, Torrid, and Blackheart stores. (Consolidated Compl. ¶¶ 2, 23.) Hot Topic stores offer apparel, accessories, music, and gift items for young men and women; Torrid retails fashion apparel, lingerie, and accessories designed for young women who wear size 12 and up; and Blackheart is a new test retail concept offering an expanded collection of lingerie, accessories, and beauty products. (Consolidated Compl. ¶ 2.) Before the Merger, Harper served as CEO and Chairman of Hot Topic's Board; the remaining Individual Defendants served as Hot Topic directors. (Consolidated Compl. ¶¶ 24-32.)

Sycamore Partners is a private equity firm based in New York specializing in consumer and retail investments. (Consolidated Compl. ¶ 3.) Sycamore Partners and its affiliates own 212F Holdings, a Delaware limited liability company formed for the purpose of arranging financing transactions

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

## CIVIL MINUTES - GENERAL

CASE NO.: CV 13-02939 SJO (JCx)DATE: June 30, 2015

related to the Merger and owning Hot Topic after the Merger. (Consolidated Compl. ¶¶ 34-35.) 212F Holdings wholly owns HT Merger Sub, a California corporation created for the purpose of completing the Merger. (Consolidated Compl. ¶ 36.)

Starting in September 2010, Hot Topic embarked on a plan to revitalize the company and maximize shareholder value by reducing costs, stabilizing the brand, and increasing the number and efficiency of Torrid stores. (Consolidated Compl. ¶¶ 48-52.) Following these changes, Hot Topic's stock price rose from \$5.33 per share on November 1, 2010, to \$9.50 per share on November 1, 2012. (Consolidated Compl. ¶ 52.) Throughout this time period, Hot Topic consistently met or exceeded its own projections and goals. (Consolidated Compl. ¶ 60(a).) Plaintiff claims that these projections and goals included Hot Topic's long-range, non-United States generally accepted accounting principles financial projections ("LRP Projections"), which were prepared by at least early 2012. (Consolidated Compl. ¶ 59 n.3.)

In late 2012, Sycamore Partners first expressed interest in acquiring Hot Topic. (Consolidated Compl. ¶ 58.) On December 22, 2012, Harper rejected Sycamore Partners' initial \$10-\$12 per share offer; eight days later, Sycamore Partners upped its offer to \$14 per share. (Consolidated Compl. ¶ 61.) Hot Topic retained Guggenheim Securities, LLC ("Guggenheim") as its financial advisor in connection with the proposed merger. (Consolidated Compl. ¶ 10.) As part of this process, between the second week of January and the first week of February 2013, Guggenheim contacted eleven private equity firms, only one of which ("Company A") executed a confidentiality agreement with Hot Topic. (Consolidated Compl. ¶¶ 64, 66.) Company A also offered to purchase Hot Topic for \$13-\$14 per share—a proposal rejected by Hot Topic's Board on March 1, 2013. (Consolidated Compl. ¶¶ 13, 83(b)(ii).) On March 4, 2013, the Board met telephonically with Guggenheim and legal representatives and decided to proceed with Sycamore Partners' proposed merger. (Consolidated Compl. ¶ 71.) On March 6, 2013, Sycamore Partners and Hot Topic signed the Merger Agreement. (Consolidated Compl. ¶ 83(b)(v).) That evening, Hot Topic stock closed at \$10.75 per share. (Consolidated Compl. ¶ 89.) One day later, the Merger was announced. (Consolidated Compl. ¶ 72.)

Plaintiff alleges that after Sycamore Partners first expressed interest in acquiring Hot Topic, some Individual Defendants, including Harper and Drapkin, realized that Hot Topic's LRP Projections "would be problematic in any change-of-control situation." (Consolidated Compl. ¶ 59.) Plaintiff claims that these Individual Defendants therefore worked with Guggenheim between February 8, 2013, and March 4, 2013, to create a revised set of projections ("Revised Projections") that would "give the illusion that the Merger was fair from a financial perspective to Hot Topic's public shareholders." (Consolidated Compl. ¶¶ 70, 78(e).)

Compared to the LRP Projections, the Revised Projections assumed a slower build out of new stores and moderated the growth of outlet stores, gross margin expansion, and revenue and margin contributions from new concepts. (Consolidated Compl. ¶ 70.) The Revised Projections also reduced growth from the Torrid and Blackheart franchises. (Consolidated Compl. ¶ 70.)

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

## CIVIL MINUTES - GENERAL

CASE NO.: CV 13-02939 SJO (JCx)DATE: June 30, 2015

Plaintiff argues that the assumptions and estimates made in the Revised Projections were contradicted by "every public statement made by [Hot Topic] and defendant Harper from 1Q2011 through 4Q2012." (Consolidated Compl. ¶ 70.) Furthermore, Plaintiff alleges that the LRP Projections, and not the Revised Projections, were provided to Sycamore Partners before the Merger. (Consolidated Compl. ¶ 70, 83(b)(i) n.5.) Nonetheless, in evaluating the fairness of the Merger to Hot Topic's shareholders (the "Fairness Opinion"), Hot Topic directed Guggenheim to consider the Revised Projections, and not the LRP Projections. (Consolidated Compl. ¶ 71.)

On May 10, 2013, after the merger was announced, Hot Topic filed a final version of its Proxy Statement with the SEC and disseminated the Proxy Statement to Hot Topic shareholders. (Consolidated Compl. ¶ 16; see *generally* Decl. of Courtney A. Dreibelbis in Supp. of Individual Defs.' Mot. ("First Dreibelbis Declaration") Ex. 1 ("Proxy Statement"), ECF No. 46-1.) The Proxy Statement described the Revised Projections as "better reflect[ing] what management believed the Company would be able to achieve during the next five years compared to the LRP Projections." (Consolidated Compl. ¶ 68; Proxy Statement 36.) The Proxy Statement also included Guggenheim's Fairness Opinion, which was based on the Revised Projections. (Consolidated Compl. ¶ 17; Proxy Statement 36.) Defendants obtained shareholder approval of the Merger on May 31, 2013, and the sale of Hot Topic to Sycamore Partners was completed on June 12, 2013. (Consolidated Compl. ¶¶ 75, 76.)

Plaintiff alleges that the Individual Defendants received special benefits for their role in the Merger. For example, Plaintiff claims that pursuant to a Rollover Letter Agreement, Harper and three other members of Hot Topic's management contributed an aggregate 33,838 shares of Hot Topic stock and approximately \$7.7 million in cash, of which Harper contributed the majority, in exchange for "a preferred return of invested capital, a preferred rate of return on invested capital and [the right] to participate in the residual equity of 212F Holdings." (Consolidated Compl. ¶¶ 24, 83(c)-(d).) Thus, Plaintiff claims that "Harper chose to participate in Hot Topic's future upside as a Company rather than take the mere \$14 in cash, indicating that she thought the Merger consideration offered to Hot Topic's public shareholders was not fair or adequate." (Consolidated Compl. ¶ 83(d)(vi).) In total, Plaintiff estimates that Harper received approximately \$9.4 million in Golden Parachute payments in connection with the Merger, in addition to maintaining her position as Hot Topic's CEO. (Consolidated Compl. ¶ 83(d), (f).) Plaintiff also alleges that Hot Topic's other officers and directors "received millions of dollars in special payments . . . for currently unvested stock options, performance units and restricted shares, all of which became fully vested and exercisable upon completion of the Merger." (Consolidated Compl. ¶ 83(e).) Specifically, Plaintiff claims that each director received a lump sum payment between \$110,000 to \$295,000 in connection with the Merger. (Consolidated Compl. ¶ 83(g).)

On April 25, 2013, the first of three class action complaints was filed in this Court. (Class Action Compl., ECF No. 1.) On July 29, 2013, the Court consolidated the existing cases and any future related cases into a consolidated action for all purposes except for trial. (July 29, 2013 Minute Order, ECF No. 21.) On August 20, 2013, the Court appointed City of Livonia Employees'

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

## CIVIL MINUTES - GENERAL

CASE NO.: CV 13-02939 SJO (JCx)DATE: June 30, 2015

Retirement System as Lead Plaintiff for the class. (ECF No. 38.) Plaintiff filed a Consolidated Complaint on October 3, 2013, alleging the following causes of action: (1) violations of § 14(a) of the Securities Exchange Act of 1934 ("the 1934 Act") and SEC Rule 14a-9 by all Defendants; (2) violations of § 20(a) of the 1934 Act by Individual Defendants and Sycamore Defendants; (3) breach of fiduciary duty by Individual Defendants; and (4) aiding and abetting breach of fiduciary duty by Hot Topic and Sycamore Defendants. (See *generally* Consolidated Compl.) On May 2, 2014, the Court dismissed the claims against the Sycamore Defendants and dismissed the third and fourth counts. Plaintiffs subsequently declined to amend the complaint. On November 3, 2014, the Court granted Plaintiff's Motion to Certify Class. (Order, ECF No. 82.)

II. DISCUSSION

Federal Rule of Civil Procedure 23(e) ("Rule 23(e)") provides that "[t]he claims, issues, or defenses of a . . . class may be settled, voluntarily dismissed, or compromised only with the court's approval." Fed. R. Civ. P. 23(e). "Approval under [Rule] 23(e) involves a two-step process in which the Court first determines whether a proposed class action settlement deserves preliminary approval and then, after notice is given to class members, whether final approval is warranted." *Nat'l Rural Telecomms. Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 525 (C.D. Cal. 2004). The Ninth Circuit has held that there is a "strong judicial policy that favors settlements, particularly where complex class action litigation is concerned." *Class Plaintiffs v. City of Seattle*, 955 F.2d 1268, 1276 (9th Cir. 1992) (citations omitted); see also *Van Bronkhorst v. Safeco Corp.*, 529 F.2d 943, 950 (9th Cir. 1976) (stating that "there is an overriding public interest in settling and quieting litigation," and this "is particularly true in class action suits") (footnote omitted). The Court must evaluate the adequacy of the Settlement Agreement in light of Rule 23(e). See *id.* "Although Rule 23(e) is silent respecting the standard by which a proposed settlement is to be evaluated, the 'universally applied standard is whether the settlement is fundamentally fair, adequate and reasonable.'" *Class Plaintiffs*, 955 F.2d at 1276 (quoting *Officers for Justice v. Civil Serv. Comm'n*, 688 F.2d 615, 625 (9th Cir. 1982), cert. denied, 459 U.S. 1217 (1983)).

Because the purpose of this Order is to adjudicate Lead Plaintiff's Motion for Preliminary Approval of Class Action Settlement, "the court will only determine whether a proposed class action settlement deserves preliminary approval and lay the ground work for a future fairness hearing." *Alberto v. GMRI, Inc.*, 252 F.R.D. 652, 659 (E.D. Cal. 2008) (quoting *DIRECTV*, 221 F.R.D. at 525) (internal quotation marks and original formatting omitted). "At the fairness hearing, after notice is given to putative class members, the court will entertain any of their objections to (1) the treatment of this litigation as a class action and/or (2) the terms of the settlement." *Alberto*, 252 F.R.D. at 659 (citation omitted). "Following the fairness hearing, the court will make a final determination as to whether the parties should be allowed to settle the class action pursuant to the terms agreed upon." *Id.* (citing *DIRECTV, Inc.*, 221 F.R.D. at 525). Overall, "[t]he initial decision to approve or reject a settlement proposal is committed to the sound discretion of the trial judge." *Officers for Justice*, 688 F.2d at 625.

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

CASE NO.: CV 13-02939 SJO (JCx)

DATE: June 30, 2015

A. Certification of the Class

As indicated, "[i]n order to approve a class action settlement, a district court must first make a finding that a class can be certified." *Vasquez v. Coast Valley Roofing, Inc.*, 266 F.R.D. 482, 485-86 (E.D. Cal. 2010) (citing *Molski v. Gleich*, 318 F.3d 937, 943, 946-50 (9th Cir. 2003), *overruled on other grounds by Dukes v. Wal-Mart Stores, Inc.*, 603 F.3d 571, 617 (9th Cir. 2010)). The Court has already certified the following class:

All holders of Hot Topic, Inc. ("Hot Topic") common stock on the record date, May 3, 2013, who were harmed by defendants' violations of §14(a) and §20(a) of the Securities Exchange Act of 1934 in connection with the Merger of Hot Topic and Sycamore Partners as alleged in the litigation (the "Class"). Excluded from the Class are defendants, the officers and directors of the Company at all relevant times, members of their immediate families and their legal representatives, heirs, successors or assigns and any entity in which defendants have or had a controlling interest.

(Order Granting Mot. to Certify Class 4-5, ECF No. 82.) Accordingly, the Court need not address the issue of class certification in detail here.

B. Fairness, Adequacy, and Reasonableness of the Settlement Agreement

In assessing whether a class action settlement agreement is fair, adequate, and reasonable, courts look at several factors, including:

[T]he strength of the plaintiffs' case; the risk, expense, complexity, and likely duration of further litigation; the risk of maintaining class action status throughout the trial; the amount offered in settlement; the extent of discovery completed and the stage of the proceedings; the experience and views of counsel; the presence of a governmental participant; and the reaction of the class members to the proposed settlement.

*Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998) (citing *Torrison v. Tucson Elec. Power Co.*, 8 F.3d 1370, 1375 (9th Cir. 1993)). "Given that some of these factors cannot be fully assessed until the court conducts its fairness hearing, 'a full fairness analysis is unnecessary at th[e] preliminary approval stage.'" *Alberto*, 252 F.R.D. at 665 (quoting *West v. Circle K Stores, Inc.*, No. Civ. S-04-0438 WBS GGH, 2006 WL 1652598, at \*9 (E.D. Cal. June 13, 2006)).



UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

CASE NO.: CV 13-02939 SJO (JCx)

DATE: June 30, 2015

1. Terms of the Settlement Agreement

"Having determined that class treatment appears to be warranted, the [C]ourt must now address whether the terms of the parties' settlement appear fair, adequate, and reasonable." *Alberto*, 252 F.R.D. at 664; see also *Class Plaintiffs*, 955 F.2d at 1276. The parties agree to establish a settlement fund, administered by Plaintiff's law firm, into which Defendants will immediately pay \$14.9 million. (See Stipulation of Settlement ("Agreement") § 2.1, ECF No. 86.) No part of the settlement will revert to Defendants. (See Agreement § 5.3(d).) The Settlement Trust will bear interest and be a "qualified settlement fund" within the meaning of Treas. Reg. § 1.468B-1. (Agreement § 2.7(a).) In addition to Class member awards, it will be used to pay:

- Cost of identifying and locating Members of the Class
- Cost of mailing, printing, and publishing the Notice
- Reimbursement for nominee owners to forward notice to beneficial owners
- Soliciting Class claims
- Assisting with filing of claims
- Processing Proof of Claim and Release forms
- Escrow fees and costs
- Administrative expenses and fees charged by the Claims Administrator
- Taxes and tax expenses
- Lead Plaintiff's expenses, including any lost wages
- Lead Plaintiff's attorney's fees, to be determined in a later motion

(Agreement §§ 2.6, 2.7, 5.2.)

If, after distribution of the Settlement Fund, there is a balance remaining, the remaining balance will be distributed *pro rata* among the claimants, or if the balance is insufficient to cover the cost of another distribution, the remaining balance will be donated to a non-profit organization designated by Lead Counsel. (Agreement § 5.3.)

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

## CIVIL MINUTES - GENERAL

CASE NO.: CV 13-02939 SJO (JCx)DATE: June 30, 20152. Fairness, Adequacy, and Reasonableness

"At th[e] preliminary approval stage, the [C]ourt . . . need only 'determine whether the proposed settlement is within the range of possible approval.'" *Alberto*, 252 F.R.D. at 666 (quoting *Gautreaux v. Pierce*, 690 F.2d 616, 621 n. 3 (7th Cir. 1982)). Thus, at this stage, the Court "is only concerned with 'whether the proposed settlement discloses grounds to doubt its fairness or other obvious deficiencies such as unduly preferential treatment of class representatives or segments of the class, or excessive compensation of attorneys.'" *Alberto*, 252 F.R.D. at 666 (quoting *West*, 2006 WL 1652598, at \*11). "Settlements are afforded a presumption of fairness if (1) the negotiations occurred at arm's length; (2) there was sufficient discovery; (3) the proponents of the settlement are experienced in similar litigation; and (4) only a small fraction of the class objected." *Franco v. Ruiz Food Prods., Inc.*, No. 1:10-cv-2354-SJO, 2012 WL 5941801, at \*10 (citation omitted); see also *In re Tableware Antitrust Litig.*, 484 F. Supp. 2d 1078, 1080-81 (N.D. Cal. 2007).

Here, Lead Plaintiff asserts the following with regard to the fairness, adequacy, and reasonableness considerations. Lead Plaintiff conducted extensive discovery by seeking documentary and testimonial evidence from Defendants and numerous third parties and reviewing over 25,200 records produced by Defendants and third parties. (Mem. 4, 11-12.) This information was adequate to gauge the value of the Class's claims. (Mem. 4, 11-12.) The proposed settlement was the result of arm's length negotiations after a mediation session. (Mem. 13.) Defendants have no reversionary interest in the settlement fund. (Mem. 13.) The settlement has been approved by both parties' experienced counsel. (Mem. 12.)

a. Settlement Amount

Lead Plaintiff calculates that, on the high end, damages could have reached \$2.40 per share, or a total of \$84 million on a class-wide basis. (Supp. Mem. 2-3.) The settlement amount of \$14.9 million is a significant percentage of that total award. Lead Plaintiff provides data to suggest that this is a 700% greater percentage and 2-3 times greater amount than the median securities class action settlement. (See Supp. Mem. 3; Laarni T. Bulan, Ellen M. Ryan & Laura E. Simmons, *Securities Class Action Settlements – 2014 Review & Analysis* 8-9, 19-20, ECF No. 85-1.) In light of these comparable numbers and Lead Plaintiff's calculation of the total potential damage award, a \$14.9 million settlement appears reasonable.

Lead Plaintiff further notes that further depositions were scheduled which could have undermined its allegations and enhanced Defendants' chances of success on summary judgment. (Supp. Mem. 6.) Discovery motions, trial, post-trial appeals, and collection efforts also presented risk for Lead Plaintiff. Given all these factors, the Court finds that the proposed settlement amount is reasonable.

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

## CIVIL MINUTES - GENERAL

CASE NO.: CV 13-02939 SJO (JCx)DATE: June 30, 2015b. Waiver

The Settlement Agreement includes a waiver of unknown claims, including claims that are "concealed or hidden." (Settlement Agreement § 1.27.) These claims are limited to claims relating to "both (a) Hot Topic common stock held on the record date, May 3, 2013 ('Record Date'), and (b) any of the acts, facts, transactions, events, occurrences, disclosures, statements, omissions, or failures to act or matters set forth, referred to, or alleged, or that could have been set forth, referred to, or alleged (whether known or unknown) in the Litigation or the Consolidated State Action." (Supp. Mem. 9; Settlement Agreement §§ 1.20, 1.27.) Plaintiff clearly states that "[o]nly claims, known or unknown, by shareholders on the record date **that relate to the underlying facts of this case** are released." (Supp. Mem. 9 (emphasis added).)

Plaintiff argues that the waiver is reasonable because "Defendants would not have been willing to [settle] . . . without . . . a release of claims, known or unknown." (Supp. Mem. 11.) Indeed, it might have been infeasible to settle this case without a waiver of unknown claims. See *In re Toyota Motor Corp. Unintended Acceleration Mktg., Sales Practices, & Prods. Liab. Litig.*, No. 8:0-ML-02151 JVS (FMOx), 2013 U.S. Dist. LEXIS 123298, at \*279-\*280 (C.D. Cal. July 24, 2013).

"Courts have consistently approved releases in class action settlements that discharge unknown claims relating to the factual issues in the complaint." *In re OCA, Inc.*, No. 05-2165 Section R(3), 2008 U.S. Dist. LEXIS 84869, at \*43-\*44 (E.D. La. Oct. 17, 2008). Here, because according to Plaintiff's own admission the settlement does not release unrelated claims, and because settlement might not have been possible without a similar waiver provision, the Court finds that the waiver provisions in the Settlement Agreement are fair, reasonable, and adequate.

c. Attorney's Fees

"In order for a settlement to be fair and adequate, 'a district court must carefully assess the reasonableness of a fee amount spelled out in a class action settlement agreement.'" *Alberto*, 252 F.R.D. at 667 (quoting *Staton v. Boeing Co.*, 327 F.3d 938, 963 (9th Cir. 2003)). "The district court has discretion to use either the percentage-of-the-fund method or the [lodestar] method in calculating fee awards in common fund cases." *Alberto*, 252 F.R.D. at 667 (citing *In re Wash. Pub. Power Supply Sys. Sec. Litig.*, 19 F.3d 1291, 1295 (9th Cir. 1994); *Six Mexican Workers v. Ariz. Citrus Growers*, 904 F.2d 1301, 1311 (9th Cir. 1990); *Paul, Johnson, Alston & Hunt v. Gaulty*, 886 F.2d 268, 272 (9th Cir. 1989)). In the Ninth Circuit, "no presumption in favor of either the percentage or the lodestar method encumbers the district court's discretion to choose one or the other." *In re Wash. Pub. Power*, 19 F.3d at 1296. Instead, "when determining attorneys' fees, the district court should be guided by the fundamental principle that fee awards out of common funds be reasonable under the circumstances." *Id.* (citation and quotation marks omitted).

The Settlement Agreement does not provide for a specific amount for attorneys' fees. (See Settlement Agreement § 6.) Lead Plaintiff has not yet filed a motion for attorney's fees, but has



UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

## CIVIL MINUTES - GENERAL

CASE NO.: CV 13-02939 SJO (JCx)DATE: June 30, 2015

agreed to make a final application for attorneys' fees within 35 calendar days after the Notice. See, e.g., *Alberto*, 252 F.R.D. at 658. The Court adopts the parties' proposed schedule and will consider the fairness of any award of attorneys' fees at the Final Approval Hearing.

d. Expenses

The Settlement Agreement provides for payment of notice and administration expenses, taxes and tax expenses, and Lead Plaintiff's expenses including lost wages. (Settlement Agreement § 5.2.) These expenses are generally allowable provided their amounts are reasonable. See, e.g., *Alberto*, 252 F.R.D. at 669; *Vasquez*, 266 F.R.D. at 484. The amounts, however, have not yet been determined. The Court shall make a final determination as to the reasonableness of the requested claim administration fee when it adjudicates Plaintiff's motion for attorney's fees and costs.

e. Preliminary Determination Regarding Fairness, Adequacy, and Reasonableness

Based on the foregoing, the Court is satisfied at this juncture that Plaintiff has demonstrated that the Settlement Agreement was reached: (1) after a considerable amount of documentation was produced in discovery; (2) through arm's length negotiations between Plaintiff and Defendant, as facilitated by an impartial mediator; and (3) with the assistance of Counsel experienced in securities class actions. See *Franco*, 2012 WL 5941801, at \*10 (citation omitted); *In re Tableware*, 484 F. Supp. 2d at 1080-81. Further, the proposed Class Notice adequately apprises class members of their options and rights with regard to settlement, including the right to opt-out or object to the terms contained therein. (See generally Settlement Ex. A-1 ("Class Notice").) See *Alberto*, 252 F.R.D. at 666. Finally, the proposed settlement amount appears reasonable in that it accounts for: (1) the uncertainty surrounding Lead Plaintiff's ability to prevail on each of its claims at trial; (2) the time and expense required to go to trial; and (3) Defendant's consistent denial of liability and the risk that evidence developed by future depositions could undermine Lead Plaintiff's claims. (See Mem. 7-9.) Accordingly, the Court finds, as a preliminary matter, that the "proposed settlement is within the range of possible approval," see *Alberto*, 252 F.R.D. at 666, and presumptively fair, reasonable, and adequate. See *Franco*, 2012 WL 5941801, at \*10 (citation omitted); *In re Tableware*, 484 F. Supp. 2d at 1080-81.

C. Conclusion

For the reasons stated above, the Court preliminarily approves the Stipulation and Settlement filed by the parties and finds that it is presumptively fair, reasonable, and adequate. Accordingly, the Court **GRANTS** Lead Plaintiff's Motion for Preliminary Approval of Class Action Settlement.

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

CASE NO.: CV 13-02939 SJO (JCx)

DATE: June 30, 2015

III. RULING

For the foregoing reasons, the Court **GRANTS** the Motion. It is **FURTHER ORDERED** that:

1. A hearing (the "Final Approval Hearing") shall be held before this Court on Monday, October 26, 2015, at 10:00 a.m., at the United States Courthouse, 312 North Spring Street, Los Angeles, CA 90012, to determine whether the proposed Settlement of the Litigation on the terms and conditions provided for in the Stipulation is fair, just, reasonable and adequate to the Class Members and should be approved by the Court; whether a Judgment as provided in ¶1.13 and ¶7.1(d) of the Stipulation should be entered herein; and to determine the amount of attorneys' fees and expenses that should be awarded to Lead Plaintiff's counsel and the amount that Lead Plaintiff should be awarded for its expenses, including lost wages. The Court may continue or adjourn the Final Approval Hearing without further notice to Class Members.
2. The Court approves, as to form and content, the Notice of Pendency and Proposed Settlement of Class Action (the "Notice"), the Proof of Claim and Release form (the "Proof of Claim and Release"), and Summary Notice for publication annexed as Exhibits A-1, A-2 and A-3 hereto and finds that the mailing and distribution of the Notice and publishing of the Summary Notice substantially in the manner and form set forth in Paragraphs 3 and 4 below meet the requirements of Federal Rule of Civil Procedure 23 and due process, and is the best notice practicable under the circumstances and shall constitute due and sufficient notice to all Persons entitled thereto.
3. 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:
  - (a) The Claims Administrator shall make reasonable efforts to identify all Persons who are Members of the Class, and not later than Tuesday, July 14, 2015 (the "Notice Date"), the Claims Administrator shall commence mailing copies of the Notice and the Proof of Claim and Release, substantially in the forms annexed as Exhibits A-1 and A-2 hereto, to all Class Members who can be identified with reasonable effort;
  - (b) Not later than July 24, 2015, the Claims Administrator shall cause the Summary Notice, substantially in the form annexed hereto as Exhibit A-3, to be published once in Investor's Business Daily and transmitted once over a national newswire service;
  - (c) Not later than the Notice Date, the Claims Administrator shall post the Stipulation and all of its Exhibits on a case dedicated website, [www.hottopicsecuritiessettlement.com](http://www.hottopicsecuritiessettlement.com), which will be set forth in the Notice; and

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

CASE NO.: CV 13-02939 SJO (JCx)

DATE: June 30, 2015

- (d) At least seven (7) calendar days prior to the Final Approval Hearing, Lead Counsel shall cause to be served on Defendants' counsel and filed with the Court proof, by affidavit or declaration, of such mailing and publishing.
4. Nominees who purchased the common stock of Hot Topic for the beneficial ownership of Class Members shall send the Notice and the Proof of Claim and Release to all beneficial owners of such securities within ten (10) days after receipt thereof, or send a list of the names and addresses of such beneficial owners to the Claims Administrator within ten (10) 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. Lead Counsel shall, if requested, reimburse nominees solely for their reasonable costs incurred in providing notice to beneficial owners who are Class Members out of the Settlement Fund, which expenses would not have been incurred except for the sending of such notice, subject to further order of this Court with respect to any dispute concerning such compensation.
  5. All Class Members shall be bound by all determinations and judgments in the Litigation concerning the Settlement, whether favorable or unfavorable to the Class.
  6. Any Member of the Class may enter an appearance in the Litigation, at their own expense, individually or through counsel of their own choice. If they do not enter an appearance, they will be represented by Lead Counsel.
  7. Class Members who wish to participate in the Settlement shall complete and submit Proofs of Claim and Release in accordance with the instructions contained therein. Unless the Court orders otherwise, all Proofs of Claim and Release must be submitted no later than ninety (90) days from the Notice Date. Any Class Member who does not timely submit a Proof of Claim and Release within the time provided for shall be barred from sharing in the distribution of the proceeds of the Net Settlement Fund, unless otherwise ordered by the Court, but shall in all respects be bound by the release contained in the Stipulation and Judgment. 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.
  8. Any Class Member may, upon request, be excluded from the Class. Any such Person must submit to the Claims Administrator a request for exclusion ("Request for Exclusion"), postmarked no later than September 7, 2015. A Request for Exclusion must provide the following information to the Claims Administrator: (a) name; (b) address; (c) telephone number; (d) amount of Hot Topic common stock held on the record date, May 3, 2013; and (g) a statement 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 the Judgment entered in the

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

CASE NO.: CV 13-02939 SJO (JCx)

DATE: June 30, 2015

Litigation. Unless otherwise ordered by the Court, any Class Member who does not submit a valid and timely written Request for Exclusion as provided by this paragraph shall be bound by the Stipulation.

9. Any Member of the Class may appear and show cause if he, she or it has any reason why the proposed Settlement of the Litigation should or should not be approved as fair, reasonable, and adequate, why the Judgment should or should not be entered thereon, or why Lead Counsel's request for an award of attorneys' fees and expenses including Lead Plaintiff's expenses as provided for by 15 U.S.C. §78u-4(a)(4) should or should not be awarded; 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 the Judgment to be entered thereon unless that Person has delivered by hand or sent by first class mail written objections and copies of any papers and briefs such that they are received on or before September 7, 2015, by Robbins Geller Rudman & Dowd LLP, Danielle S. Myers, 655 West Broadway, Suite 1900, San Diego, CA 92101; and Gibson, Dunn & Crutcher LLP, Meryl L. Young, 3161 Michelson Drive, Irvine, CA 92612, and filed said objections, papers and briefs with the Clerk of the United States District Court for the Central District of California, Western Division, on or before September 7, 2015. Any Class Member who does not make his, her or its objection in the manner provided shall be deemed to have waived such objection and shall forever be foreclosed from making any objection to the fairness or adequacy of the proposed Settlement as set forth in the Stipulation, or to the award of attorneys' fees and expenses to Lead Counsel, including Lead Plaintiff's expenses, unless otherwise ordered by the Court.
10. 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.
11. All papers in support of the Settlement and any application by Lead Counsel for an award of attorneys' fees or expenses, including Lead Plaintiff's request for payment of its expenses as provided for by 15 U.S.C. §78u-4(a)(4) shall be filed and served on or before August 18, 2015. Any reply briefs and supporting documents shall be filed and served on or before October 19, 2015.
12. The Defendants and their respective Related Parties shall have no responsibility for, interest in, or liability whatsoever with respect to the distribution of the Settlement Fund, any investment or distribution of the Settlement Fund, the determination, administration, or calculation of claims, final awards, the timing, supervision and distribution of the Settlement Fund, any application for attorneys' fees and expenses, the payment or withholding of Taxes, or any losses incurred in connection therewith.

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

CASE NO.: CV 13-02939 SJO (JCx)

DATE: June 30, 2015

13. At or after the Final Approval Hearing, the Court shall determine whether any application for attorneys' fees or expenses, and any application for an award of Lead Plaintiff's expenses, including lost wages pursuant to 15 U.S.C. §78u-4(a)(3)(4), shall be approved.
14. 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 Settlement is not approved by the Court, or otherwise fails to become effective, neither the Plaintiffs nor any of their counsel shall have any obligation to repay any amounts incurred or properly disbursed pursuant to ¶¶2.6 or 2.7 of the Stipulation.
15. Neither the Stipulation, nor any of its terms or provisions, nor any of the negotiations or proceedings connected with it, shall be construed as an admission or concession by Defendants or their Related Parties of the truth of any of the allegations in the Litigation, or of any liability, fault, or wrongdoing of any kind.
16. The Court reserves the right to adjourn the date of the Final Approval Hearing without further notice to the Members of the Class, 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.

IT IS SO ORDERED.



# **EXHIBIT A-1**

1 ROBBINS GELLER RUDMAN  
 & DOWD LLP  
 2 RANDALL J. BARON (150796)  
 A. RICK ATWOOD, JR. (156529)  
 3 DAVID T. WISSBROECKER (243867)  
 EDWARD M. GERGOSIAN (105679)  
 4 DANIELLE S. MYERS (259916)  
 655 West Broadway, Suite 1900  
 5 San Diego, CA 92101-8498  
 Telephone: 619/231-1058  
 6 619/231-7423 (fax)  
 randyb@rgrdlaw.com  
 7 ricka@rgrdlaw.com  
 dwissbroecker@rgrdlaw.com  
 8 egergosian@rgrdlaw.com  
 dmyers@rgrdlaw.com

9 Lead Counsel for Plaintiffs

10  
 11 UNITED STATES DISTRICT COURT  
 12 CENTRAL DISTRICT OF CALIFORNIA  
 13 WESTERN DIVISION

14 In re HOT TOPIC, INC. SECURITIES  
 LITIGATION

) Lead Case No. 2:13-cv-02939-  
 SJO(JCx)

15 \_\_\_\_\_ )  
 16 This Document Relates To:

) CLASS ACTION

17 ALL ACTIONS.  
 18 \_\_\_\_\_ )

) NOTICE OF PENDENCY AND  
 PROPOSED SETTLEMENT OF  
 CLASS ACTION

19 EXHIBIT A-1  
 20  
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1 **IF YOU HELD HOT TOPIC, INC. (“HOT TOPIC”) COMMON STOCK ON**  
2 **THE RECORD DATE, MAY 3, 2013 AND WERE DAMAGED THEREBY**  
3 **(THE “CLASS”), YOU COULD RECEIVE A PAYMENT FROM A CLASS**  
4 **ACTION SETTLEMENT. CERTAIN PERSONS ARE EXCLUDED FROM**  
5 **THE DEFINITION OF THE CLASS AS SET FORTH BELOW IN**  
6 **RESPONSE TO QUESTION 6.<sup>1</sup>**

7 *A federal court authorized this Notice. This is not a solicitation from a*  
8 *lawyer.*

- 9 • The Settlement will provide \$14,900,000 in cash to pay claims of all Class  
10 Members. For an estimate of how much you could receive from this  
11 Settlement, see the discussion at Question 9 of this Notice.
- 12 • The Settlement resolves a lawsuit claiming that Defendants issued a materially  
13 false and misleading Proxy Statement in violation of §14(a) and §20(a) of the  
14 Securities Exchange Act of 1934 (the “Exchange Act”), 15 U.S.C. §78n(a) and  
15 §78t(a), in connection with the proposed acquisition of Hot Topic by  
16 Sycamore.<sup>2</sup> The lawsuit originally asserted additional claims for breach of  
17 fiduciary duty, which were previously dismissed by the Court. The Defendants  
18 deny they did anything wrong. The Settlement avoids the costs and risks  
19 associated with continued litigation (including the danger of no recovery),  
20 provides a monetary benefit to the Class, and releases Defendants from  
21 liability.
- 22 • The proposed Settlement should be compared to the risk of no recovery. The  
23 claims in this case involve numerous complex legal and factual issues that  
24 would require extensive and costly expert testimony. Among the many issues  
25 about which the parties do not agree are: (1) whether any of the Defendants  
26 violated the securities laws or otherwise engaged in any wrongdoing; and  
27 (2) the amount of damages (if any) that could be recovered at trial.
- 28 • For the past two years, Lead Plaintiff’s counsel have not received payment for  
their work investigating the facts, prosecuting this Litigation, and negotiating  
the proposed Settlement on behalf of the Lead Plaintiff and the Class. Lead  
Plaintiff’s counsel will ask the Court to award litigation expenses of no more  
than \$120,000 from the Settlement Amount and an award of attorneys’ fees of  
25% of the Settlement Amount, plus interest earned at the same rate and for the  
same period as earned by the Settlement Fund. Lead Counsel also may apply  
for the reimbursement of the Lead Plaintiff’s expenses pursuant to 15 U.S.C.  
§78u-4(a)(4).
- Your legal rights are affected whether you act or don’t act. Read this Notice  
carefully.

1 This Notice incorporates by reference the definitions in the Stipulation of  
Settlement dated as of April 30, 2015 (“Stipulation”), and all capitalized terms used,  
but not defined herein, shall have the same meanings as in the Stipulation. The  
Stipulation can be obtained at [www.hottopicsecuritiessettlement.com](http://www.hottopicsecuritiessettlement.com).

2 The Defendants include: Hot Topic, Lisa M. Harper, Steven Becker, Matthew  
Drapkin, Evelyn D’an, Terri Funk Graham, John Kyees, Andrew Schuon and Thomas  
Vellios (collectively, the “Individual Defendants”; together with Hot Topic, the  
“Defendants”).

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<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:</b>	
<b>Submit a Proof of Claim and Release Form</b>	The only way to get a payment.
<b>Go to a Hearing</b>	Ask to speak in Court about the fairness of the Settlement.
<b>Do Nothing</b>	Get no payment. Give up your rights.
<b>Exclude Yourself</b>	Get no payment. This is the only option that allows you to ever bring a lawsuit against Defendants concerning the legal claims at issue in this case.
<b>Object</b>	Write to the Court about why you don't like the Settlement.

- The following **deadlines** apply to your rights and options in this Litigation:  
 Submit Claim: \_\_\_\_\_, 2015  
 Request Exclusion: \_\_\_\_\_, 2015  
 File Objection: \_\_\_\_\_, 2015  
 Court Hearing on Fairness of Settlement: \_\_\_\_\_, 2015
- The Court in charge of this case must decide whether to approve the Settlement. Payments will be made if the Court approves the Settlement and, if there are any appeals, after appeals are resolved. Please be patient.

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**WHAT THIS NOTICE CONTAINS**

**Basic Information**

Page \_\_\_

- 1. Why did I receive this notice package?
- 2. What is this lawsuit about?
- 3. Why is this a class action?
- 4. Why is there a settlement?

**Who Is in the Settlement?**

Page \_\_\_

- 5. How do I know if I am part of the Settlement?
- 6. What are the exceptions to being included?
- 7. I'm still not sure if I am included.

**The Settlement Benefits – What You Get**

Page \_\_\_

- 8. What does the Settlement provide?
- 9. How much will my payment be?

**How You Obtain a Payment – Submitting a Proof of Claim and Release**

Page \_\_\_

- 10. How will I obtain a payment?
- 11. When will I receive my payment?
- 12. What am I giving up to receive a payment or stay in the Class?

**Excluding Yourself from the Settlement**

Page \_\_\_

- 13. How do I get out of the Class?
- 14. If I do not exclude myself, can I sue for the same thing later?
- 15. If I exclude myself, can I receive money from this Settlement?

**The Lawyers Representing You**

Page \_\_\_

- 16. Do I have a lawyer in this case?
- 17. How will the lawyers be paid?

**Objecting to the Settlement**

Page \_\_\_

- 18. How do I tell the Court that I do not like the Settlement?
- 19. What's the difference between objecting and excluding?

**The Court's Fairness Hearing**

Page \_\_\_

- 20. When and where will the Court decide whether to approve the Settlement?
- 21. Do I have to come to the hearing?
- 22. May I speak at the hearing?

**If You Do Nothing**

Page \_\_\_

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

**Getting More Information**

Page \_\_\_

- 24. Are there more details about the Settlement?



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25. How do I get more information?

1 **BASIC INFORMATION**

2 **1. Why did I receive this notice package?**

3  
4 You may have held shares of Hot Topic common stock on the record date, May 3, 2013.

5 The Court directed that this Notice be sent to you because you have a right to know  
6 about a proposed Settlement of a class action lawsuit, and about all of your options,  
before the Court decides whether to approve the Settlement.

7 If the Court approves the Settlement, and after any objections or appeals are resolved,  
8 the Claims Administrator appointed by the Court will make the payments that the  
Settlement allows.

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

11 The Court in charge of the case is Judge S. James Otero of the United States District  
12 Court for the Central District of California, Western Division (the "Court"), and the  
case is known as *In re Hot Topic, Inc. Securities Litigation*, Lead Case No. 2:13-cv-  
02939-SJO(JCx).

13 **2. What is this lawsuit about?**

14  
15 The Litigation claims that the Proxy Statement (the "Proxy") disseminated to  
16 shareholders in connection with the merger of Hot Topic and Sycamore contained  
17 materially false and misleading statements and failed to include information  
18 concerning the Company's long-range projections and revised projections in violation  
of §14(a) and §20(b) of the Securities Exchange Act of 1934. All Defendants deny  
they or their Related Parties did anything wrong or that Lead Plaintiff or other  
Members of the Class suffered any damage.

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

20  
21 In a class action, one or more people called plaintiffs (in this case the City of Livonia  
22 Employees' Retirement System, which was appointed by the Court as Lead Plaintiff)  
sue on behalf of people who have similar claims. Here, all these people are called the  
23 Class or Class Members. One court resolves the issues for all Class Members, except  
for those who timely and validly exclude themselves from the Class.

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

25 The Court did not decide in favor of Lead Plaintiff or the Defendants who are  
26 currently part of the case. Instead, all parties agreed to a Settlement. By agreeing to a  
27 Settlement, the parties avoid the cost and uncertainty of further litigation and a  
possible trial (including any appeals) and allow eligible Class Members who submit  
28 valid claims to receive a payment. Lead Plaintiff and its attorneys believe the  
Settlement is in the best interests of the Class.

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**WHO IS IN THE SETTLEMENT?**

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

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

The Class includes all Persons who held Hot Topic common stock on the record date, May 3, 2013, and were damaged thereby.

Defendants do not agree with the characterization that any damages were suffered by Lead Plaintiff or the Class.

**6. What are the exceptions to being included?**

You are not a Class Member if you are a Defendant, an officer or director of Hot Topic at any relevant time, a member of the immediate family, the legal representative, heir, successor or assign of a Defendant, or any entity in which a Defendant has or had a controlling interest. You are also not a Class Member if you timely and validly request exclusion from the Class pursuant to this Notice.

**7. I'm still not sure if I am included.**

If you are still not sure if you are included, you can ask for free help. You can call Rick Nelson of Robbins Geller Rudman & Dowd LLP at 1-800-449-4900 or visit [www.hottopicsecuritiessettlement.com](http://www.hottopicsecuritiessettlement.com) for more information.

**THE SETTLEMENT BENEFITS – WHAT YOU GET**

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

Defendants have agreed to pay \$14,900,000 in cash. The balance of this fund after payment of Court-approved attorneys' fees and expenses, Lead Plaintiff expenses, and the costs of claims administration, including the costs of printing and mailing this Notice and the cost of publishing newspaper notice (the "Net Settlement Fund") will be divided among all eligible Class Members who send in valid claim forms.

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

Your share of the fund will depend on the number of shares of Hot Topic common stock represented by valid claims made by Members of the Class and the amount of those claims and the number of shares of Hot Topic common stock you held on the record date. Assuming that all of the investors (other than Defendants or other excluded Persons) who held Hot Topic common stock on the record date, May 3, 2013, and suffered damages therefrom participate in this Settlement, Lead Plaintiff's counsel estimates that the estimated average distribution will be approximately \$0.42 per share of Hot Topic common stock before the deduction of Court-approved fees and expenses, as described in Question 17 below (estimated to be

1 approximately \$0.0\_ per share), and the cost of notice and claims administration.  
2 Historically, less than all eligible investors submit claims, resulting in higher average  
distributions per share.

3 The Settlement Fund less taxes, notice and administration costs, attorneys' fees,  
4 litigation expenses, and Lead Plaintiff expenses ("Net Settlement Fund") will be  
5 distributed to Class Members who submit valid, timely Proof of Claim and Release  
forms ("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.

6 Payment shall be conclusive against all Claimants. No Person shall have any  
7 claim against Lead Plaintiff's counsel, Lead Plaintiff, the Claims Administrator,  
8 Defendants and their Related Parties, or any Person designated by Lead Plaintiff's  
9 counsel based on distributions made substantially in accordance with the Stipulation  
10 and the Settlement contained therein, or further order(s) of the Court. No Class  
11 Member shall have any claim against any Released Persons for any Released Claims.  
All Class Members who fail to complete and file a valid and timely Proof of Claim  
and Release form 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.

12 **HOW YOU OBTAIN A PAYMENT – SUBMITTING A PROOF OF CLAIM  
AND RELEASE FORM**

13 **10. How will I obtain a payment?**

14  
15 To qualify for payment, you must be an eligible Class Member, send in a valid claim  
16 form, and properly document your claim as requested in the claim form. A claim  
17 form is enclosed with this Notice. You may also obtain a Proof of Claim and Release  
18 form at [www.hottopicsecuritiessettlement.com](http://www.hottopicsecuritiessettlement.com). Read the instructions carefully, fill  
out the form, include all the documents the form asks for, sign it, and mail or submit it  
online no later than \_\_\_\_\_, 2015. The claim form can be submitted online at  
[www.hottopicsecuritiessettlement.com](http://www.hottopicsecuritiessettlement.com).

19 **11. When will I receive my payment?**

20  
21 The Court will hold a hearing on \_\_\_\_\_, 2015 to decide whether to  
22 approve the Settlement. If Judge Otero approves the Settlement, there may be  
23 appeals. It is always uncertain how these appeals will be resolved, and resolving them  
can take time, perhaps several years. Everyone who sends in a claim form will be  
informed of the determination with respect to their claim. Please be patient.

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

25 Unless you timely and validly exclude yourself, you are staying in the Class, and that  
26 means that you cannot sue, continue to sue, or be part of any other lawsuit against the  
27 Released Persons about the Released Claims in this case. It also means that all of the  
28 Court's orders will apply to you and legally bind you and you will release your claims  
in this case against the Released Persons. The terms of the release are included in the  
enclosed claim form.

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**EXCLUDING YOURSELF FROM THE SETTLEMENT**

If you do not want a payment from this Settlement, but you want to keep the right to sue or continue to sue on your own for the Released Claims in this case, then you must take steps to get out of the Class. This is called excluding yourself or is sometimes referred to as opting out of the Class.

**13. How do I get out of the Class?**

To exclude yourself from the Settlement, you must send a letter by mail saying that you want to be excluded from the class in *In re Hot Topic, Inc. Securities Litigation*, Lead Case No. 2:13-cv-02939-SJO(JCx). You must provide the following information: (a) name; (b) address; (c) telephone number; (d) amount of Hot Topic common stock held on the record date, May 3, 2013; and (e) a statement that you wish to be excluded from the Class. **You must mail your exclusion request postmarked no later than \_\_\_\_\_, 2015 to:**

*Hot Topic, Inc. Securities Litigation*  
Claims Administrator  
c/o Gilardi & Co. LLC  
P.O. Box 8040  
San Rafael, CA 94912-8040

You cannot exclude yourself on the phone or by e-mail. If you ask to be excluded, you will not receive any settlement payment, and you cannot object to the Settlement. You will not be legally bound by anything that happens in this lawsuit.

**14. If I do not exclude myself, can I sue for the same thing later?**

No. Unless you timely and validly exclude yourself, you give up any right to sue for the Released Claims in this Settlement. If you have a pending lawsuit against any of the Released Persons, speak to your lawyer in that case immediately. **Remember, the exclusion deadline is \_\_\_\_\_, 2015.**

**15. If I exclude myself, can I receive money from this Settlement?**

No. If you exclude yourself, do not send in a Proof of Claim and Release form. But, you may be able to sue, continue to sue, or be part of a different lawsuit against Defendants.

**THE LAWYERS REPRESENTING YOU**

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

Yes. The Court appointed Robbins Geller Rudman & Dowd LLP to represent you and other Class Members. These lawyers are called Lead Counsel. You will not be charged directly for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.



1 **17. How will the lawyers be paid?**

2  
3 In the two years that this Litigation has been pending, Lead Counsel have not been  
4 paid for their services on behalf of Lead Plaintiff and the Class, nor for their  
5 substantial expenses. The fee requested is to compensate Lead Counsel for their work  
6 investigating the facts, litigating the case over the past two years, and negotiating the  
7 Settlement.

8 Lead Plaintiff’s counsel will ask the Court to award litigation expenses of no more  
9 than \$120,000 and a payment of 25% of the Settlement Amount for attorneys’ fees,  
10 plus interest on both amounts. The fee requested is well within the range of fees  
11 awarded to class counsel in similar cases. Lead Counsel may also seek the Court’s  
12 approval to pay the Lead Plaintiff reasonable costs and expenses directly relating to  
13 the representation of the Class. The Court may award less than these amounts.

14 **OBJECTING TO THE SETTLEMENT OR THE REQUEST FOR  
15 FEES AND EXPENSES**

16 You can tell the Court that you do not agree with the Settlement or the request for fees  
17 and expenses or some part of these matters.

18 **18. How do I tell the Court that I do not like the Settlement?**

19 If you are a Class Member, you can object to the Settlement or the request for fees and  
20 expenses if you do not like any part of these matters. You can state the reasons why  
21 you think the Court should not approve any of the relief sought. The Court will  
22 consider your views. To object, you must send a letter saying that you object to the  
23 Settlement in *In re Hot Topic, Inc. Securities Litigation*, Lead Case No. 2:13-cv-  
24 02939-SJO(JCx). Be sure to include your name, address, telephone number, your  
25 signature, the number of shares of Hot Topic common stock you held on the record  
26 date, May 3, 2013, and the reason(s) why you object to the Settlement or the request  
27 for fees and expenses. **Mail the objection to the Court, Lead Counsel and Defense  
28 Counsel in time for it to be received no later than \_\_\_\_\_, 2015:**

COURT	LEAD COUNSEL	DEFENSE COUNSEL
Clerk of the Court U.S. DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION United States Courthouse 312 North Spring Street Los Angeles, CA 90012	Danielle S. Myers ROBBINS GELLER RUDMAN & DOWD LLP 655 West Broadway Suite 1900 San Diego, CA 92101	Meryl L. Young GIBSON, DUNN & CRUTCHER LLP 3161 Michelson Drive Irvine, CA 92612

19 **19. What’s the difference between objecting and excluding?**

20 Objecting is simply telling the Court that you do not like something about the  
21 Settlement or the fee and expense request. You can object *only* if you stay in the  
22 Class.  
23  
24

1 Excluding yourself is telling the Court that you do not want to be paid and do not want  
2 to release any claims. If you exclude yourself, you cannot object to the Settlement  
because it does not affect you.

3 **THE COURT’S FAIRNESS HEARING**

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

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

6  
7 The Court will hold a fairness hearing at \_\_:\_\_.m., on \_\_\_\_\_, 2015, before  
8 the Honorable S. James Otero at the U.S. District Court for the Central District of  
California, Western Division, United States Courthouse, 312 North Spring Street, Los  
9 Angeles, CA 90012. At this hearing, the Court will consider whether the Settlement is  
fair, reasonable, and adequate. If there are objections, the Court will consider them.  
10 Judge Otero will listen to people who have asked to speak at the hearing. The Court  
will also consider whether to approve the fee and expense requests. The Court may  
11 decide the issues at the hearing or take them under consideration. We do not know  
how long these decisions will take.

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

13  
14 No. Lead Counsel will answer questions Judge Otero may have. But, you are  
welcome to come at your own expense. If you send an objection, you do not have to  
15 come to Court to talk about it. As long as you mailed your written objection on time,  
the Court will consider it. You may also pay your own lawyer to attend, but it is not  
16 necessary.

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

18  
19 You may ask the Court for permission to speak at the fairness hearing. To do so, you  
must send a letter saying that it is your intention to appear in *In re Hot Topic, Inc.*  
20 *Securities Litigation*, Lead Case No. 2:13-cv-02939-SJO(JCx). Be sure to include  
your name, address, telephone number, the number of shares of Hot Topic common  
21 stock you held on the record date, May 3, 2013, and your signature. **Your notice of  
intention to appear must be received no later than \_\_\_\_\_, 2015, by the  
Clerk of the Court, Lead Counsel, and Defendants’ Counsel**, at the addresses listed  
22 above in Question 18.

23 You cannot speak at the hearing if you exclude yourself from the Class.

24 **IF YOU DO NOTHING**

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

26  
27 If you do nothing, you will not receive any money from this Settlement. In addition,  
unless you exclude yourself, you will not be able to start a lawsuit, continue with a  
28 lawsuit, or be part of any other lawsuit about the Released Claims in this case.

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**GETTING MORE INFORMATION**

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

This Notice summarizes the proposed Settlement. More details are in the Stipulation dated as of April 30, 2015. You can obtain a copy of the Stipulation by writing to Rick Nelson, Shareholder Relations, Robbins Geller Rudman & Dowd LLP, 655 West Broadway, Suite 1900, San Diego, CA 92101, or from the Clerk’s office at the United States District Court for the Central District of California, Western Division, 312 North Spring Street, Los Angeles, CA 90012 during regular business hours. The Stipulation may also be downloaded at [www.hotopicsecuritiessettlement.com](http://www.hotopicsecuritiessettlement.com).

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

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

**SPECIAL NOTICE TO NOMINEES**

The Court has ordered that if you held any Hot Topic common stock on the record date, May 3, 2013, as nominee for a beneficial owner, then, within ten (10) days after you receive this Notice, you must either: (1) send a copy of this Notice by first class mail to all such Persons; or (2) provide a list of the names and addresses of such Persons to the Claims Administrator:

*Hot Topic, Inc. Securities Litigation*  
Claims Administrator  
c/o Gilardi & Co. LLC  
P.O. Box 8040  
San Rafael, CA 94912-8040

If you choose to mail the Notice and Proof of Claim and Release yourself, you may obtain from the Claims Administrator (without cost to you) as many additional copies of these documents as you will need to complete the mailing.

Regardless of whether you choose to complete the mailing yourself or elect to have the mailing performed for you, you may obtain reimbursement for or advancement of reasonable administrative costs actually incurred or expected to be incurred in connection with forwarding the Notice and which would not have been incurred but for the obligation to forward the Notice, upon submission of appropriate documentation to the Claims Administrator.

**DO NOT TELEPHONE THE COURT REGARDING THIS NOTICE**

DATED: \_\_\_\_\_, 2015

BY ORDER OF THE COURT  
UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

# **EXHIBIT A-2**

1 ROBBINS GELLER RUDMAN  
 & DOWD LLP  
 2 RANDALL J. BARON (150796)  
 A. RICK ATWOOD, JR. (156529)  
 3 DAVID T. WISSBROECKER (243867)  
 EDWARD M. GERGOSIAN (105679)  
 4 DANIELLE S. MYERS (259916)  
 655 West Broadway, Suite 1900  
 5 San Diego, CA 92101-8498  
 Telephone: 619/231-1058  
 6 619/231-7423 (fax)  
 randyb@rgrdlaw.com  
 7 ricka@rgrdlaw.com  
 dwissbroecker@rgrdlaw.com  
 8 egergosian@rgrdlaw.com  
 dmyers@rgrdlaw.com

9 Lead Counsel for Plaintiffs

10  
 11 UNITED STATES DISTRICT COURT  
 12 CENTRAL DISTRICT OF CALIFORNIA  
 13 WESTERN DIVISION

14 In re HOT TOPIC, INC. SECURITIES )  
 15 LITIGATION )

Lead Case No. 2:13-cv-02939-  
 SJO(JCx)

16 \_\_\_\_\_ )  
 17 This Document Relates To: )  
 18 ALL ACTIONS. )

CLASS ACTION

PROOF OF CLAIM AND RELEASE

EXHIBIT A-2

1 **I. GENERAL INSTRUCTIONS**

2 1. To recover as a Class Member based on your claims in the action entitled  
3 *In re Hot Topic, Inc. Securities Litigation*, Lead Case No. 2:13-cv-02939-SJO(JCx)  
4 (the “Litigation”), you must complete and, on page \_\_\_ hereof, sign this Proof of  
5 Claim and Release. If you fail to file a properly addressed (as set forth in ¶3 below)  
6 Proof of Claim and Release, your claim may be rejected and you may be precluded  
7 from any recovery from the Net Settlement Fund created in connection with the  
8 proposed settlement of the Litigation.

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

11 3. YOU MUST MAIL OR SUBMIT ONLINE YOUR COMPLETED AND  
12 SIGNED PROOF OF CLAIM AND RELEASE NO LATER THAN \_\_\_\_\_,  
13 2015, TO THE COURT-APPOINTED CLAIMS ADMINISTRATOR IN THIS CASE  
14 AT THE FOLLOWING ADDRESS:

15 *Hot Topic, Inc. Securities Litigation*  
16 Claims Administrator  
17 c/o Gilardi & Co. LLC  
18 P.O. Box 8040  
19 San Rafael, CA 94912-8040  
20 (www.hottopicsecuritiessettlement.com)

21 If you are NOT a Class Member, as defined below, DO NOT submit a Proof of Claim  
22 and Release form.

23 4. If you are a Class Member and you do not timely and validly request  
24 exclusion from the Class, you are bound by the terms of any judgment entered in the  
25 Litigation, including the releases provided therein, WHETHER OR NOT YOU  
26 SUBMIT A PROOF OF CLAIM AND RELEASE FORM.

27 **II. DEFINITIONS**

28 1. “Class,” “Class Member,” or “Members of the Class” means all holders  
of Hot Topic common stock on the record date, May 3, 2013. Excluded from the  
Class are Defendants, the officers and directors of the Company at all relevant times,



1 members of their immediate families and their legal representatives, heirs, successors  
2 or assigns and any entity in which Defendants have or had a controlling interest, and  
3 any Person who timely and validly seeks exclusion from the Class.

4 2. “Defendants” means Hot Topic, Lisa M. Harper, Steven Becker, Matthew  
5 Drapkin, Evelyn D’an, Terri Funk Graham, John Kyees, Andrew Schuon and Thomas  
6 Vellios.

7 3. “Hot Topic” means Hot Topic, Inc.

8 4. “Person” means an individual, corporation, partnership, limited  
9 partnership, association, joint stock company, estate, legal representative, trust,  
10 unincorporated association, government or any political subdivision or agency thereof,  
11 and any business or legal entity and their spouses, heirs, predecessors, successors,  
12 representatives, or assignees.

13 5. “Related Parties” means each of a Defendant’s or Sycamore’s past or  
14 present directors, officers, employees, partners, insurers, co-insurers, reinsurers,  
15 principals, controlling shareholders, attorneys, accountants or auditors, financial  
16 advisors, personal or legal representatives, predecessors, successors, parents  
17 (including Sycamore), subsidiaries, divisions, affiliates, joint ventures, assigns,  
18 spouses, heirs, estates, related or affiliated entities, any entity in which a Defendant  
19 has a controlling interest, any members of any Individual Defendant’s immediate  
20 family, or any trust of which any Individual Defendant is the settlor or which is for the  
21 benefit of any Individual Defendant’s family.

22 6. “Released Claims” means any and all claims (including “Unknown  
23 Claims” as defined in ¶8 hereof), causes of action, rights, actions, suits, obligations,  
24 debts, demands, judgments, agreements, promises, liabilities, damages, losses,  
25 controversies, costs, expenses or attorneys’ fees, of every nature and description  
26 whatsoever, whether direct, indirect, now known or unknown, suspected or  
27 unsuspected, accrued or unaccrued, in law or in equity, whether having arisen or yet to  
28 arise, including, without limitation, any claims of violations of federal or state

1 securities laws and any federal or state claims of fraud, intentional misrepresentation,  
2 negligent misrepresentation, negligence, gross negligence, breach of duty of care  
3 and/or breach of duty of loyalty, breach of fiduciary duty, unjust enrichment, abuse of  
4 control, mismanagement, waste of corporate assets, or violations of any state or  
5 federal statutes, rules or regulations, or aiding and abetting any of the foregoing, that  
6 have been or could have been alleged or asserted now or in the future by Lead  
7 Plaintiff or any Class Member against the Released Persons, or any of them in the  
8 Litigation or in any other court action (including, without limitation, the Consolidated  
9 State Action) or before any administrative body, tribunal, arbitration panel, or other  
10 adjudicatory body, arising out of or relating in any way to, or in connection with both  
11 (a) Hot Topic common stock held on the record date, May 3, 2013, and (b) any of the  
12 acts, facts, transactions, events, occurrences, disclosures, statements, omissions, or  
13 failures to act or matters set forth, referred to, or alleged, or that could have been set  
14 forth, referred to, or alleged (whether known or unknown) in the Litigation or the  
15 Consolidated State Action. The Released Claims do not include claims to enforce the  
16 Settlement.

17 7. “Released Persons” means each and all of the Defendants, Sycamore and  
18 each of their respective Related Parties.

19 8. “Unknown Claims” means any Released Claims which the Lead Plaintiff  
20 or any Class Member, as of the Effective Date, does not know or suspect to exist in  
21 his, her or its favor, whether direct, indirect, or derivative, including those which, if  
22 known by him, her or it, might have affected his, her or its settlement with and release  
23 of the Released Persons, or might have affected his, her or its decision not to object to  
24 this Settlement. With respect to any and all Released Claims, the Settling Parties  
25 stipulate and agree that, upon the Effective Date, the Lead Plaintiff shall expressly  
26 waive and each of the Class Members shall be deemed to have, and by operation of  
27 the Judgment shall have, expressly waived, the provisions, rights and benefits of  
28 California Civil Code §1542, which provides:

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

5 The Lead Plaintiff shall expressly waive and each of the Class Members shall be  
6 deemed to have, and by operation of the Judgment shall have, expressly waived, any  
7 and all provisions, rights and benefits conferred by any law of any state or territory of  
8 the United States, or principle of common law that is similar, comparable or  
9 equivalent to California Civil Code §1542, or that might otherwise operate to bar or  
10 limit the release of Unknown Claims. Lead Plaintiff and Class Members may  
11 hereafter discover facts in addition to or different from those which he, she, or it now  
12 knows or believes to be true with respect to the subject matter of the Released Claims,  
13 but the Lead Plaintiff shall expressly release and each Class Member, upon the  
14 Effective Date, shall be deemed to have, and by operation of the Judgment shall have,  
15 expressly, fully, finally, and forever settled and released any and all Released Claims,  
16 known or unknown, suspected or unsuspected, contingent or non-contingent, whether  
17 or not concealed or hidden, which now exist, or heretofore have existed, upon any  
18 theory of law or equity now existing or coming into existence in the future, including,  
19 but not limited to, conduct that is negligent, intentional, with or without malice, or a  
20 breach of any duty, law, or rule, without regard to and notwithstanding the subsequent  
21 discovery or existence of such different or additional facts. The Lead Plaintiff  
22 acknowledges, and the Class Members shall be deemed by operation of the Judgment  
23 to have acknowledged, that the foregoing waiver was separately bargained for and a  
24 key element of the Settlement of which this release is a part.

25 **III. CLAIMANT IDENTIFICATION**

26           1. If you held Hot Topic common stock on the record date, May 3, 2013,  
27 and held the certificate(s) in your name, you are the beneficial purchaser as well as the  
28 record purchaser. If, however, the certificate(s) were registered in the name of a third

1 party, such as a nominee or brokerage firm, you are the beneficial purchaser and the  
2 third party is the record purchaser.

3 2. Use Part I of this form entitled “Claimant Identification” to identify each  
4 share held of record (“nominee”), if different from the beneficial holder of the Hot  
5 Topic common stock that form the basis of this claim. THIS CLAIM MUST BE  
6 FILED BY THE ACTUAL BENEFICIAL HOLDER(S) OR THE LEGAL  
7 REPRESENTATIVE OF SUCH HOLDER(S) OF THE HOT TOPIC COMMON  
8 STOCK UPON WHICH THIS CLAIM IS BASED.

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

16 **IV. CLAIM FORM**

17 1. Use Part II of this form entitled “Holdings in Hot Topic Common Stock”  
18 to state the number of shares of Hot Topic common stock that you held on the record  
19 date, May 3, 2013.

20 2. Copies of broker confirmations or other documentation of your holdings  
21 in Hot Topic common stock should be attached to your claim. Failure to provide this  
22 documentation could delay verification of your claim or result in rejection of your  
23 claim.

24 3. The above requests are designed to provide the minimum amount of  
25 information necessary to process the simplest claims. The Claims Administrator may  
26 request additional information as required to efficiently and reliably calculate your  
27 recovery. In the event the Claims Administrator cannot perform the calculation  
28 accurately or at a reasonable cost to the Class with the information provided, the

1 Claims Administrator may condition acceptance of the claim upon the production of  
2 additional information and/or the claimant's responsibility for any increased costs due  
3 to the nature and/or scope of the claim.

4 UNITED STATES DISTRICT COURT  
5 CENTRAL DISTRICT OF CALIFORNIA  
6 WESTERN DIVISION

7 *In re Hot Topic, Inc. Securities Litigation*

8 Lead Case No. 2:13-cv-02939-SJO(JCx)

9 PROOF OF CLAIM AND RELEASE

10 Must Be Postmarked No Later Than:

11 \_\_\_\_\_, 2015

12 Please Type or Print

13 Do NOT use red ink, pencil, or staples.

14 **PART I: CLAIMANT IDENTIFICATION**

15  
16 \_\_\_\_\_  
Beneficial Owner's Name (Last, Middle Initial, First Name)

17  
18 \_\_\_\_\_  
Co-Beneficial Owner's Name (Last, Middle Initial, First Name)

19  IRA  Joint Tenancy  Employee  Individual  
20  Other: \_\_\_\_\_

21 \_\_\_\_\_  
Trustee/Asset Manager/Nominee/Record Owner's Name (if Different from Beneficial  
22 Owner)

23 \_\_\_\_\_  
Account #/Fund # (Not necessary for individual filers)

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

25  
26 \_\_\_\_\_ Telephone Number (home)  
Telephone Number (work)

27 \_\_\_\_\_  
E-mail Address

28

1 **MAILING INFORMATION**

2 \_\_\_\_\_  
 3 Address

4 \_\_\_\_\_  
 City State Zip Code

5 \_\_\_\_\_  
 6 Foreign Province Foreign Country

7 **PART II: SCHEDULE OF TRANSACTIONS IN HOT TOPIC COMMON**  
 8 **STOCK**

9 A. State how many shares of Hot Topic common stock you held on the  
 10 record date, May 3, 2013: \_\_\_\_\_  
 11 Proof enclosed? \_\_ yes \_\_ no

12 YOU MUST READ AND SIGN THE RELEASE ON PAGE \_\_\_\_\_.  
 13 FAILURE TO SIGN THE RELEASE MAY RESULT IN A DELAY IN  
 14 PROCESSING OR THE REJECTION OF YOUR CLAIM.

15 **V. SUBMISSION TO JURISDICTION OF COURT AND**  
 16 **ACKNOWLEDGMENTS**

17 I (We) submit this Proof of Claim and Release under the terms of the  
 18 Stipulation of Settlement dated as of April 30, 2015 (“Stipulation”) described in the  
 19 Notice. I (We) also submit to the jurisdiction of the United States District Court for  
 20 the Central District of California, with respect to my (our) claim as a Class Member  
 21 (as defined in the Notice) and for purposes of enforcing the release set forth herein. I  
 22 (We) further acknowledge that I am (we are) bound by and subject to the terms of any  
 23 judgment that may be entered in the Litigation. I (we) agree to furnish additional  
 24 information to Lead Counsel and/or the Claims Administrator to support this claim if  
 25 required to do so. I (we) have not submitted any other claim covering the same  
 26 holdings of Hot Topic common stock and know of no other Person having done so on  
 27 my (our) behalf.

28



1 **VI. RELEASE**

2 1. I (We) hereby acknowledge full and complete satisfaction of, and do  
3 hereby fully, finally, and forever settle, release, relinquish, and discharge, all of the  
4 Released Claims (including Unknown Claims) against each and all of the Released  
5 Persons, all as defined herein and in the Notice and Stipulation.

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

8 3. I (We) hereby warrant and represent that I (we) am or are not a Person  
9 excluded from the definition of the Class.

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

13 5. I (We) hereby warrant and represent that I (we) have included all  
14 requested information about all of my (our) holdings of Hot Topic common stock on  
15 the record date, May 3, 2013 requested in this claim form.

16 6. The number(s) shown on this form is (are) the correct SSN/TIN(s).

17 7. I (We) certify that I am (we are) NOT subject to backup withholding  
18 under the provisions of Section 3406(a)(1)(C) of the Internal Revenue Code.

19 (NOTE: If you have been notified by the Internal Revenue Service that you are  
20 subject to backup withholding, you must cross out Item 7 above.)

21 I (We) declare under penalty of perjury under the laws of the United States of  
22 America that the foregoing information supplied by the undersigned is true and  
23 correct.

24 Executed this \_\_\_\_\_ day of \_\_\_\_\_,  
25 (Month/Year)  
26 in \_\_\_\_\_, \_\_\_\_\_.  
(City) (State/Country)

27  
28 \_\_\_\_\_  
(Sign your name here)

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

\_\_\_\_\_  
(Capacity of person(s) signing, *e.g.*,  
Beneficial Purchaser, 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 original stock certificates.
4. Keep a copy of your claim form for your records.
5. If you desire an acknowledgment of receipt of your claim form, please send it Certified Mail, Return Receipt Requested.
6. If you move, please send us your new address.

# **EXHIBIT A-3**

1 ROBBINS GELLER RUDMAN  
 & DOWD LLP  
 2 RANDALL J. BARON (150796)  
 A. RICK ATWOOD, JR. (156529)  
 3 DAVID T. WISSBROECKER (243867)  
 EDWARD M. GERGOSIAN (105679)  
 4 DANIELLE S. MYERS (259916)  
 655 West Broadway, Suite 1900  
 5 San Diego, CA 92101-8498  
 Telephone: 619/231-1058  
 6 619/231-7423 (fax)  
 randyb@rgrdlaw.com  
 7 ricka@rgrdlaw.com  
 dwissbroecker@rgrdlaw.com  
 8 egergosian@rgrdlaw.com  
 dmyers@rgrdlaw.com

9 Lead Counsel for Plaintiffs

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UNITED STATES DISTRICT COURT  
 CENTRAL DISTRICT OF CALIFORNIA  
 WESTERN DIVISION

In re HOT TOPIC, INC. SECURITIES  
LITIGATION

Lead Case No. 2:13-cv-02939-  
SJO(JCx)

\_\_\_\_\_  
 This Document Relates To:  
 ALL ACTIONS.

CLASS ACTION

SUMMARY NOTICE OF PENDENCY  
OF CLASS ACTION AND  
PROPOSED SETTLEMENT

EXHIBIT A-3

1 **IF YOU HELD HOT TOPIC, INC. (“HOT TOPIC”) COMMON STOCK ON**  
2 **THE RECORD DATE, MAY 3, 2013 AND WERE DAMAGED THEREBY**  
3 **(THE “CLASS”), YOU COULD RECEIVE A PAYMENT FROM A CLASS**  
4 **ACTION SETTLEMENT. CERTAIN PERSONS ARE EXCLUDED FROM**  
5 **THE DEFINITION OF THE CLASS AS SET FORTH IN THE STIPULATION**  
6 **OF SETTLEMENT.**

7 PLEASE READ THIS NOTICE CAREFULLY. YOUR RIGHTS MAY BE  
8 AFFECTED BY A CLASS ACTION LAWSUIT PENDING IN THIS COURT.

9 YOU ARE HEREBY NOTIFIED, pursuant to Rule 23 of the Federal Rules of  
10 Civil Procedure and Order of the United States District Court for the Central District  
11 of California, that the above-captioned litigation (the “Litigation”) has been certified  
12 as a class action and that a Settlement has been proposed for \$14,900,000 in cash. A  
13 hearing will be held on \_\_\_\_\_, 2015, at \_\_\_\_\_.m., before the Honorable S. James  
14 Otero at the United States Courthouse, 312 North Spring Street, Los Angeles, CA  
15 90012, for the purpose of determining whether: (1) the proposed Settlement should be  
16 approved by the Court as fair, reasonable and adequate; and (2) the application of  
17 Lead Plaintiff’s counsel for the payment of attorneys’ fees and expenses, including  
18 Lead Plaintiff’s expenses incurred in connection with the Litigation, should be  
19 approved.

20 If you are a Class Member described above, your rights may be affected by the  
21 Settlement of the Litigation and you may be entitled to share in the Settlement Fund. If  
22 you have not received a detailed Notice of Pendency and Proposed Settlement of Class  
23 Action (“Notice”) and a copy of the Proof of Claim and Release, you may obtain a copy  
24 of these documents by contacting the Claims Administrator: *Hot Topic, Inc. Securities*  
25 *Litigation*, c/o Gilardi & Co. LLC, P.O. Box 8040, San Rafael, CA 94912-8040, 1-877-  
26 289-2663. You may also obtain copies of the Stipulation of Settlement, Notice and  
27 Proof of Claim and Release at [www.hottopicsecuritiessettlement.com](http://www.hottopicsecuritiessettlement.com).

28 If you are a Class Member, to be eligible to share in the distribution of the Net  
Settlement Fund, you must submit a Proof of Claim and Release postmarked no later

1 than \_\_\_\_\_, 2015. If you are a Class Member and do not submit a valid Proof  
2 of Claim and Release, you will not be eligible to share in the distribution of the Net  
3 Settlement Fund but you will still be bound by any judgment entered by the Court in  
4 this Litigation (including the releases provided for therein).

5 To exclude yourself from the Class, you must submit a written request for  
6 exclusion postmarked by \_\_\_\_\_, 2015, and in accordance with the instructions  
7 set forth in the Notice. If you are a Class Member and do not exclude yourself from  
8 the Class, you will be bound by any judgment entered by the Court in this Litigation  
9 (including the releases provided for therein), whether or not you submit a Proof of  
10 Claim and Release. If you submit a written request for exclusion, you will have no  
11 right to recover money pursuant to the Settlement.

12 Any objection to the proposed Settlement or the request for attorneys' fees and  
13 expenses must be filed with the Court and delivered such that it is received by each of  
14 the following no later than \_\_\_\_\_, 2015:

15 COURT	LEAD COUNSEL	DEFENSE COUNSEL
16 Clerk of the Court 17 U.S. DISTRICT COURT FOR 18 THE CENTRAL DISTRICT 19 OF CALIFORNIA, 20 WESTERN DIVISION United States Courthouse 312 North Spring Street Los Angeles, CA 90012	Danielle S. Myers ROBBINS GELLER RUDMAN & DOWD LLP 655 West Broadway Suite 1900 San Diego, CA 92101	Meryl L. Young GIBSON, DUNN & CRUTCHER LLP 3161 Michelson Drive Irvine, CA 92612

21 **PLEASE DO NOT CONTACT THE COURT OR THE CLERK'S**  
22 **OFFICE REGARDING THIS NOTICE.** If you have any questions about the  
23 settlement, you may contact Lead Counsel at the address listed above.

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

BY ORDER OF THE COURT  
UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF  
CALIFORNIA  
WESTERN DIVISION