

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

SHEET METAL WORKERS LOCAL 32	)	No. 3:09-cv-02083-RNC
PENSION FUND, Individually and on Behalf	)	(Consolidated)
of All Others Similarly Situated,	)	
	)	<u>CLASS ACTION</u>
Plaintiff,	)	
	)	
vs.	)	
	)	
TEREX CORPORATION, <i>et al.</i> ,	)	
	)	
Defendants.	)	
	)	

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**DECLARATION OF TOM GARRETT ON BEHALF OF IRONWORKERS ST. LOUIS  
DISTRICT COUNCIL PENSION FUND IN SUPPORT OF LEAD PLAINTIFFS'  
MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND PLAN  
OF ALLOCATION, AN AWARD OF ATTORNEYS' FEES AND EXPENSES, AND AN  
AWARD TO LEAD PLAINTIFFS AND ADDITIONAL PLAINTIFF PURSUANT TO  
15 U.S.C. §78u-4(a)(4)**

I, Tom Garrett, declare as follows:

1. I am the Chairman of the Board of Trustees of the Ironworkers St. Louis District Council Pension Fund (the "Fund"), which is one of the Court-appointed lead plaintiffs in the above-captioned case (the "Litigation").

2. The Fund is a multiemployer defined benefit pension plan with approximately 1,935 active participants and more than 800 retirees. The Fund is jointly administered by seven union trustees and seven employee trustees from local unions and employer associations located within the geographic area of the Fund.

3. I respectfully submit this declaration in support of Lead Plaintiffs' Motion for Final Approval of Class Action Settlement and Plan of Allocation, an Award of Attorneys' Fees and Expenses, and an Award to the Fund pursuant to 15 U.S.C. §78u-4(a)(4) in the amount of \$2,500 for its time incurred in representing the Class. I have personal knowledge of the statements herein, and, if called as a witness, could and would testify competently thereto.

4. The Fund understands that the Private Securities Litigation Reform Act of 1995 was intended to encourage institutional investors with large losses to manage and direct securities fraud class actions. In seeking appointment as lead plaintiff in February 2010 (*see* ECF No. 19), the Fund understood its duty to serve the interests of Class Members by supervising the management and prosecution of the Litigation. We vigorously prosecuted this case on behalf of the Class for nearly 10 years. Ultimately, we agreed to settle the case only after balancing the risks of a trial and appeal, if we prevailed, against the immediate benefit of a \$10,000,000 recovery that resulted from a mediator's proposal.

5. Following appointment as lead plaintiff, the Fund was kept fully informed regarding case developments and procedural matters over the course of the Litigation, including engagement with Lead Counsel Robbins Geller Rudman & Dowd LLP ("Robbins Geller")

concerning the litigation strategy in connection with the investigation, the motion to dismiss, and the negotiations leading to the mediator's proposal which resulted in the Settlement. In its capacity as Lead Plaintiff, the Fund and the Fund's counsel: (a) engaged in meetings and correspondence with Robbins Geller; (b) reviewed pleadings and briefs; (c) reviewed detailed correspondence concerning the status of the Litigation; (d) identified and provided relevant information concerning the Fund's investments in Terex stock; (e) consulted with Robbins Geller regarding litigation and settlement strategy; and (f) was informed about the settlement negotiations and the mediator's proposal that resulted in the settlement of this Litigation.

6. Had the Litigation proceeded, the Fund was prepared to work closely with Robbins Geller to prepare for and provide deposition testimony on behalf of the Fund and Class Members in connection with class certification.

7. Over the course of many years, the Fund stayed informed regarding the status of the Litigation and received regular updates from Robbins Geller.

8. The Fund has evaluated the significant risks and uncertainties of continuing litigation, including the possibility of a nominal recovery or even no recovery at all, and has authorized Robbins Geller to settle this Litigation for \$10,000,000. The Fund is conscious of the possibility of losing at trial and that, even if it were to prevail, the defendants likely would appeal, rendering any ultimate recovery for Class Members still years away. The Fund believes this Settlement is fair and reasonable, represents a very good recovery, and is in the best interests of Class Members.

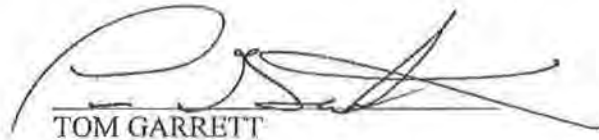
9. While the Fund recognizes that any determination of attorneys' fees and expenses is left to the Court, the Fund believes that Robbins Geller's request for attorneys' fees of 31% of the Settlement Fund and expenses not to exceed \$225,000, plus interest on both amounts, is fair

and reasonable, as this Settlement would not have been possible without Robbins Geller's diligent and aggressive prosecutorial efforts.

10. The Fund has expended time on this Litigation over the course of nine years, which would otherwise have been focused on daily business activities of the Fund. Based upon the length of time involved in its service as Lead Plaintiff in this Litigation, the Fund believes that an award of \$2,500 is reasonable and appropriate for the time it incurred in representing the Class.

11. The Fund respectfully requests that the Court grant final approval of the Settlement, approve Robbins Geller's motion for an award of attorneys' fees and expenses, and award the Fund \$2,500 for its time expended in representing the Class in this Litigation.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this declaration was executed this 14<sup>th</sup> day of June, 2019, in Evansville, IN.

  
TOM GARRETT