

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, et al.,)	
)	
Defendants.)	
)	
)	

DECLARATION OF ED ROBISON ON BEHALF OF SHEET METAL WORKERS LOCAL #218(S) 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, Ed Robison, declare as follows:

1. I am the Administrator of the Sheet Metal Workers Local #218(S) Pension Fund (the "Fund"), which is serving as an additional plaintiff and working in connection with the Court-appointed lead plaintiffs in the above-captioned case (the "Litigation").

2. The Fund is a multiemployer defined benefit pension plan maintained by and governed in accordance with the Employee Retirement Income Security Act and the Taft-Hartley Act. The Fund has approximately \$40 million in assets and provides retirement benefits for approximately 140 active participants and 145 retired participants and beneficiaries who are located in Central Illinois.

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 agreeing to be named as an additional plaintiff in the Consolidated Class Action Complaint [ECF No. 56] in November 2010, the Fund understood its duty to serve the interests of Class Members by assisting in the prosecution of the case and working under the direction of the Court-appointed lead plaintiffs, Ironworkers St. Louis District Council Pension Fund and Sheet Metal Workers Local 32 Pension Fund, and lead counsel, Robbins Geller Rudman & Dowd LLP ("Robbins Geller").

5. The Fund worked with lead plaintiffs and Robbins Geller to vigorously prosecute this case on behalf of the Class for nearly 10 years. The Fund understands that the lead plaintiffs

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.

6. The Fund became involved in this Litigation as a result of the Court's Order appointing lead plaintiffs and lead counsel, which instructed lead counsel to expand the class period to specifically encompass a shareholder with standing to assert claims after September 8, 2008. The Fund purchased Terex stock after September 8, 2008, and suffered a loss on those shares, as set forth in its certification previously filed with the Court. With this in mind, the Fund agreed to join the case as an additional named plaintiff and work alongside lead plaintiffs in order to assert claims after September 8, 2008.

7. Thereafter, the Fund and the Fund's counsel was kept fully informed regarding case developments and procedural matters over the course of the Litigation, including engagement with 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 an additional plaintiff, the Fund and the Fund's counsel: (a) engaged in 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.

8. 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.

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

10. 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 supports the lead plaintiffs' decision 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.

11. 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.

12. 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 an additional 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.

13. 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 12 day of June, 2019, in SPRINGFIELD, IL.



Ed Robison