

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF TENNESSEE

ROBERT STROUGO, Individually and on	)	Civil Action No. 3:20-cv-00165
Behalf of All Others Similarly Situated,)	
	)	<u>CLASS ACTION</u>
Plaintiff,)	
	)	Judge Waverly D. Crenshaw, Jr.
vs.	)	Magistrate Judge Jeffery S. Frensley
)	
TIVITY HEALTH, INC., et al.,	)	PLAINTIFF'S STATEMENT OF NON-
	)	OPPOSITION IN FURTHER SUPPORT OF
Defendants.	)	MOTIONS FOR: (1) FINAL APPROVAL OF
	)	CLASS ACTION SETTLEMENT AND
	)	APPROVAL OF PLAN OF ALLOCATION;
	)	AND (2) AN AWARD OF ATTORNEYS'
	)	FEES AND EXPENSES AND AWARD TO
	)	PLAINTIFF PURSUANT TO 15 U.S.C. §78u-
	)	4(a)(4)

Pursuant to the Court's June 30, 2025 Order (ECF 446), and as a supplement to the initial filing made on October 8, 2025 (ECF 449-455), Lead Plaintiff Sheet Metal Workers Local No. 33, Cleveland District, Pension Fund ("Plaintiff") respectfully submits this statement of non-opposition in further support of its motion for final approval of the proposed Settlement, approval of the proposed Plan of Allocation, and Lead Counsel's application for an award of attorneys' fees and expenses, including an award to Plaintiff pursuant to 15 U.S.C. §78u-4(a)(4).¹

Here, at the conclusion of an extensive Court-approved notice program, Class Members' response to the Settlement, Plan of Allocation, and counsel's request for an award of attorneys' fees and expenses has been overwhelmingly positive. In accordance with the June 30, 2025 Order, more

¹ Unless otherwise noted, capitalized terms have the meanings ascribed to them in the Stipulation of Settlement dated June 23, 2025 (ECF 445) ("Stipulation").

than 25,700 Postcard Notices were sent to potential Class Members and their nominees.² In addition, the Summary Notice was transmitted over *Business Wire* and published in *The Wall Street Journal* on July 25, 2025. Murray Decl., ¶12. Copies of the Notice, Proof of Claim and Release, Stipulation, June 30, 2025 Order, and other documents in support of the Settlement were also posted on a website dedicated to the Litigation. *Id.*, ¶14. The deadline for submitting objections to any aspect of the Settlement, the Plan of Allocation, and/or Lead Counsel’s request for an award of attorneys’ fees and expenses has passed. To counsel’s knowledge, as of the date of this filing, not a single objection has been filed to any aspect of the relief requested.

The reaction of the Class – no objections – demonstrates that the Class overwhelmingly supports the Settlement, the Plan of Allocation, counsel’s attorneys’ fee and expense request, and the award to Plaintiff, and is the most powerful evidence that the Settlement is fair, reasonable, and adequate and that it should be approved. *See, e.g., Fusion Elite All Stars v. Varsity Brands, LLC*, 2023 WL 6466398, at *5 (W.D. Tenn. Oct. 4, 2023) (“The lack of objections and single opt out also supports approval of the settlement.”); *Moore v. Medical Fin. Servs., Inc.*, 2021 WL 6333304, at *4 (W.D. Tenn. Nov. 30, 2021) (“When there are few objections, that fact is indicative of the adequacy of the settlement.”); *In re Southeastern Milk Antitrust Litig.*, 2013 WL 2155379, at *6 (E.D. Tenn. May 17, 2013) (“The lack of objections by class members in relation to the size of the class highlights the fairness of the settlements to unnamed class members and supports approval of the settlements.”). *See also Andrews v. State Auto Mutual Insurance Co.*, 2023 WL 7018839, at *5 (S.D. Ohio Oct. 25, 2023) (“[A] relatively small number of class members who object is an

² See ¶¶4-11 to the Declaration of Ross D. Murray Regarding Notice Dissemination, Publication, and Requests for Exclusion (“Murray Decl.”) (ECF 453), and ¶¶3-4 to the accompanying Supplemental Declaration of Ross D. Murray Regarding Continued Notice Dissemination and Requests for Exclusion Received (“Supp. Murray Decl.”).

indication of a settlement's fairness.”) (citing *Brotherton v. Cleveland*, 141 F. Supp. 2d 894, 906 (S.D. Ohio 2001)).

For the reasons set forth herein and in previously submitted memoranda and declarations, Plaintiff respectfully submits that the \$17.05 million Settlement is a very favorable result for the Class and that the Plan of Allocation is a fair and equitable method to distribute the Net Settlement Fund. Therefore, both should be approved as fair, reasonable, and adequate. Finally, the attorneys' fees and expenses requested by Lead Counsel and the award to Plaintiff pursuant to 15 U.S.C. §78u-4(a)(4) are reasonable under the circumstances and should be awarded in the amounts sought.

DATED: November 5, 2025

Respectfully submitted,

ROBBINS GELLER RUDMAN
& DOWD LLP
CHRISTOPHER M. WOOD, #032977

s/ Christopher M. Wood
CHRISTOPHER M. WOOD

200 31st Avenue North
Nashville, TN 37203
Telephone: 615/244-2203
615/432-2398 (fax)
cwood@rgrdlaw.com

ROBBINS GELLER RUDMAN
& DOWD LLP
SHAWN A. WILLIAMS (admitted *pro hac vice*)
SNEHEE KHANDESHI (admitted *pro hac vice*)
Post Montgomery Center
One Montgomery Street, Suite 1800
San Francisco, CA 94104
Telephone: 415/288-4545
415/288-4534 (fax)
shawnw@rgrdlaw.com
skhandeshi@rgrdlaw.com

ROBBINS GELLER RUDMAN
& DOWD LLP

DARREN J. ROBBINS (admitted *pro hac vice*)
ELLEN GUSIKOFF STEWART (admitted *pro hac vice*)

JASON A. FORGE (admitted *pro hac vice*)
DEBRA J. WYMAN (admitted *pro hac vice*)
DAVID W. MITCHELL (admitted *pro hac vice*)
SARA B. POLYCHRON (admitted *pro hac vice*)
RACHEL C. BRABY (admitted *pro hac vice*)

655 West Broadway, Suite 1900
San Diego, CA 92101

Telephone: 619/231-1058

619/231-7423 (fax)

darrenr@rgrdlaw.com

elleng@rgrdlaw.com

jforge@rgrdlaw.com

debraw@rgrdlaw.com

davidm@rgrdlaw.com

spolychron@rgrdlaw.com

rbraby@rgrdlaw.com

Lead Counsel for Class Representative

BARRETT JOHNSTON MARTIN
& GARRISON, LLC

JERRY E. MARTIN, #20193

SETH M. HYATT, #031171

200 31st Avenue North

Nashville, TN 37203

Telephone: 615/244-2202

615/252-3798 (fax)

jmartin@barrettjohnston.com

shyatt@barrettjohnston.com

Local Counsel

ALLOTTA FARLEY CO., L.P.A.

MICHAEL E. HEFFERNAN (admitted *pro hac vice*)

2222 Centennial Road

Toledo, OH 43617

Telephone: 419/535-0075

419-535-1935 (fax)

mheffernan@allottafarley.com

Additional Counsel