

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK**

ERIE COUNTY EMPLOYEES' RETIREMENT  
SYSTEM, Individually and on Behalf of All  
Others Similarly Situated,

Plaintiff,

vs.

NN, INC., RICHARD D. HOLDER, THOMAS  
C. BURWELL, JR., ROBERT E. BRUNNER,  
WILLIAM DRIES, DAVID K. FLOYD, DAVID  
L. PUGH, STEVEN T. WARSHAW, J.P.  
MORGAN SECURITIES LLC, ROBERT W.  
BAIRD & CO. INCORPORATED, KEYBANC  
CAPITAL MARKETS INC., SUNTRUST  
ROBINSON HUMPHREY, INC., LAKE  
STREET CAPITAL MARKETS, LLC,  
STEPHENS INC., WILLIAM BLAIR &  
COMPANY, L.L.C., CJS SECURITIES, INC.,  
and REGIONS SECURITIES LLC,

Defendants.

) Index No. 656462/2019

) (Borrok, J.)

) Part 53

) Motion Sequence No. 6 & No. 7

**[REPOSED] JUDGMENT AND ORDER GRANTING FINAL APPROVAL OF  
CLASS ACTION SETTLEMENT, AWARDING ATTORNEYS' FEES AND EXPENSES,  
AND GRANTING SERVICE AWARD TO PLAINTIFF**

WHEREAS, the Court is advised that the Parties, through their counsel, have agreed, subject to Court approval following Notice to the Settlement Class and a hearing, to settle and dismiss with prejudice the Litigation upon the terms and conditions set forth in the Stipulation of Settlement, dated July 25, 2022 (NYSCEF No. 116) (the “Stipulation” or “Settlement”);<sup>1</sup> and

WHEREAS, on September 1, 2022, the Court entered its Order Preliminarily Approving Settlement and Providing for Notice (the “Preliminary Approval Order”), which preliminarily approved the Settlement and approved the form and manner of Notice to the Settlement Class of the Settlement, and said Notice has been made, and the Settlement Fairness Hearing having been held; and

NOW, THEREFORE, based upon the Stipulation and all of the filings, records, and proceedings herein, and it appearing to the Court upon examination that the Settlement set forth in the Stipulation is fair, reasonable, and adequate, and upon a Settlement Fairness Hearing having been held after Notice to the Settlement Class of the Settlement to determine if the Settlement is fair, reasonable, and adequate and whether the Judgment should be entered in the Litigation;

**THE COURT HEREBY FINDS AND CONCLUDES THAT:**

- A. The provisions of the Stipulation, including definitions of the terms used therein, are hereby incorporated by reference as though fully set forth herein.
- B. This Court has jurisdiction of the subject matter of the Litigation and over all of the Parties and all Settlement Class Members for purposes of the Settlement.

<sup>1</sup> As used herein, the term “Parties” collectively means Plaintiff Erie County Employees’ Retirement System (“Erie County” or “Plaintiff”), on behalf of itself and the Settlement Class, and Defendants NN, Inc. (“NN” or the “Company”), Richard D. Holder, Thomas C. Burwell, Jr., Robert E. Brunner, William Dries, David K. Floyd, David L. Pugh, Steven T. Warshaw, J.P. Morgan Securities LLC, Robert W. Baird & Co. Incorporated, KeyBanc Capital Markets Inc., Truist Securities, Inc., f/k/a Suntrust Robinson Humphrey, Inc., Lake Street Capital Markets, LLC, Stephens Inc., William Blair & Company, L.L.C., CJS Securities, Inc., and Regions Securities LLC (collectively, “Defendants”).

C. The form, content, and method of dissemination of Notice given to the Settlement Class was adequate and reasonable and constituted the best notice practicable under the circumstances, including individual Notice to all Settlement Class Members who could be identified through reasonable effort.

D. The form and manner of the Notice is hereby determined to have been the best notice practicable under the circumstances and to have been given in full compliance with each of the requirements of §904 of the New York Civil Practice Law and Rules ("CPLR"), due process, and all other applicable laws and rules, and it is further determined that all members of the Settlement Class are bound by this Judgment.

E. The Court finds, pursuant to CPLR §§901 and 902, as follows, that:

- (i) the Settlement Class is so numerous that joinder of all members is impracticable;
- (ii) there are questions of law and fact common to the Settlement Class;
- (iii) the claims of Plaintiff are typical of the claims of the Settlement Class;
- (iv) Plaintiff and Plaintiff's Counsel have fairly and adequately protected the interests of the Settlement Class;
- (v) the requirements of CPLR §904 have been satisfied;
- (vi) the requirements of the Supreme Court of New York, Commercial Division Rules and due process have been satisfied in connection with the Notice;
- (vii) the Litigation is hereby finally certified (in connection with Settlement only) as a class action pursuant to CPLR §§901 and 902, on behalf of a Settlement Class consisting of all persons and entities who purchased or otherwise acquired NN, Inc.'s common stock in the Company's September

14, 2018 Secondary Public Offering, excluding Defendants and other specified entities and individuals. For purposes of the releases set forth herein, "Settlement Class" and "Settlement Class Members" shall include all persons and entities who purchased or otherwise acquired NN, Inc.'s common stock in the Company's September 14, 2018 Secondary Public Offering. Excluded from the Settlement Class are: (a) Defendants; (b) members of the immediate families of each Individual Defendant; (c) the respective parents and subsidiaries of NN and the Underwriter Defendants; (d) the officers and directors of NN; (e) any entity in which any such excluded party has a direct or indirect majority ownership interest; and (f) the legal representatives, heirs, successors, or assigns of any such excluded party. Notwithstanding any aforementioned exclusions from the definition of "Settlement Class," Investment Vehicles shall not be excluded from the Settlement Class; and

(viii) Plaintiff is hereby certified as the Settlement Class Representative and Plaintiff's Counsel are certified as Settlement Class Counsel.

F. The Settlement, as set forth in the Stipulation, is fair, reasonable, and adequate.

(i) The Settlement was negotiated at arm's-length by Plaintiff on behalf of the Settlement Class and by Defendants, all of whom were represented by highly experienced and skilled counsel. The Litigation settled only after, among other things: (1) a mediation conducted by an experienced mediator who was familiar with the Litigation; (2) the exchange between the Parties of detailed mediation statements before the mediation that highlighted the

factual and legal issues in dispute; (3) Plaintiff's Counsel's extensive investigation, which included, among other things, a review of NN's press releases, U.S. Securities and Exchange Commission filings, analyst reports, domestic and foreign automotive industry reports, media reports, and other publicly disclosed reports and information about the Defendants; (4) the drafting and submission of detailed complaints; (5) motion practice directed to the amended complaint, class certification, and Defendants' appeal of the Court's denial of Defendants' motion to dismiss the amended complaint; and (6) extensive discovery, including multiple productions from each Party, one deposition of Erie County's representative and 10 depositions of Defendants' current and former employees. Accordingly, both Plaintiff and the Defendants were well-positioned to evaluate the settlement value of the Litigation. The Stipulation has been entered into in good faith and is not collusive.

- (ii) If the Settlement had not been achieved, both Plaintiff and Defendants faced the expense, risk, and uncertainty of extended litigation. The Court takes no position on the merits of either Plaintiff's or Defendants' arguments but notes these arguments as evidence in support of the reasonableness of the Settlement.

G. Plaintiff and Plaintiff's Counsel have fairly and adequately represented the interests of Settlement Class Members in connection with the Settlement.

H. Plaintiff, all Settlement Class Members, and Defendants are hereby bound by the terms of the Settlement, as set forth in the Stipulation.

**IT IS HEREBY ORDERED THAT:**

1. The Settlement on the terms set forth in the Stipulation is finally approved as fair, reasonable, and adequate. The Settlement shall be consummated in accordance with the terms and provisions of the Stipulation. The Litigation and all of the claims asserted against the Defendants in the Litigation by Plaintiff are hereby dismissed with prejudice. The Parties are to bear their own costs, except as otherwise provided in the Stipulation.

2. All Released Plaintiff Parties and Released Defendant Parties, as defined in the Stipulation, are released in accordance with, and as defined in, the Stipulation.

3. Upon the Effective Date, Plaintiff and each Settlement Class Member shall be deemed to have, and by operation of this Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims against the Released Defendant Parties, whether or not such Settlement Class Member executes and delivers a Proof of Claim and Release.

4. Upon the Effective Date, each of the Released Defendant Parties shall be deemed to have, and by operation of this Judgment shall have, fully, finally, and forever released all Released Plaintiff Parties from all Released Defendants' Claims.

5. All Settlement Class Members who have not objected to the Settlement in the manner provided in the Notice are deemed to have waived any objections by appeal, collateral attack, or otherwise. No Settlement Class Member will be relieved from the terms and conditions of the Settlement, including the releases provided pursuant thereto, based upon the contention or proof that such Settlement Class Member failed to receive actual or adequate notice.

6. All Settlement Class Members who have failed to properly submit requests for exclusion (requests to opt-out) from the Settlement Class are bound by the terms and conditions of the Stipulation and this Judgment.

7. All other provisions of the Stipulation are incorporated into this Judgment as if fully rewritten herein.

8. Plaintiff and all Settlement Class Members are hereby barred and enjoined from instituting, commencing, maintaining, or prosecuting in any court or tribunal any of the Released Claims against any of the Released Defendant Parties. Claims to enforce the terms of the Stipulation are not released. Notwithstanding the foregoing, nothing in the Stipulation, or its exhibits, shall be construed as limiting, modifying, or otherwise affecting any (a) insurance coverage or policies that may be available to any of the Released Defendant Parties; or (b) rights or obligations between or among Defendants or any combination of Defendants, including claims for indemnification.

9. Neither the Stipulation nor Settlement, nor any act performed, or document executed pursuant to or in furtherance of the Stipulation or Settlement:

- (i) shall be offered or received against Defendants as evidence of, or evidence in support of, a presumption, concession, or admission with respect to any liability, negligence, fault, or wrongdoing, or in any way referred to for any other reason as against Defendants, in any civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of the Stipulation; however, Defendants may refer to it to effectuate the liability protection granted to them hereunder;
- (ii) shall be construed as or received in evidence as an admission, concession, or presumption against Plaintiff or any of the Settlement Class Members that any of their claims are without merit, or that any defenses asserted by

Defendants have any merit, or that damages recoverable in the Litigation would have exceeded the Settlement Fund;

- (iii) notwithstanding the foregoing, Defendants, Plaintiff, Settlement Class Members, and/or the Released Parties may file the Stipulation and/or this Judgment in any action that may be brought against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

11. The Court hereby finds and concludes that due and adequate Notice was directed to all Persons who are Settlement Class Members, advising them of the Plan of Allocation and of their right to object thereto, and a full and fair opportunity was accorded to all Persons who are Settlement Class Members to be heard with respect to the Plan of Allocation.

12. The Court hereby finds that the Plan of Allocation is fair and reasonable, and the Claims Administrator is directed to administer the Settlement in accordance with the Stipulation.

13. The Court hereby finds and concludes that the formula for the calculation of the claims of Authorized Claimants, which is set forth in the Notice sent to Settlement Class Members, provides a fair and reasonable basis upon which to allocate the proceeds of the Net Settlement Fund established by the Stipulation among Settlement Class Members, with due consideration having been given to administrative convenience and necessity.

14. Nothing in the Settlement restricts the ability of any Party to advocate in favor of or against the applicability of any offset to any claims asserted in any other action based on any amount paid to Authorized Claimants through the Settlement.



15. The Court hereby awards Plaintiff's Counsel attorneys' fees of 35.33% of the Settlement Amount, plus Plaintiff's Counsel's expenses in the amount of \$ 170,217.76, together with the interest earned thereon for the same time period and at the same rate as that earned on the Settlement Fund until paid. The Court finds that the amount of fees awarded is appropriate and that the amount of fees awarded is fair and reasonable given the contingent nature of the Litigation and the substantial risks of non-recovery, time and effort involved, and result obtained for the Settlement Class.

16. The Fee and Expense Award and interest earned thereon shall immediately be paid to Plaintiff's Counsel from the Settlement Fund subject to the terms, conditions, and obligations of the Stipulation, which terms, conditions, and obligations are incorporated herein.

17. Plaintiff Erie County is awarded \$ 15,000. Such payment is appropriate considering its active participation as Plaintiff in the Litigation, as attested to by its declaration submitted to the Court. Such payment is to be made from the Settlement Fund.

18. In the event that the Stipulation is terminated in accordance with its terms: (a) this Judgment shall be rendered null and void and shall be vacated *nunc pro tunc*; and (b) the Litigation shall proceed as provided in the Stipulation.

19. The Court finds that during the course of the Litigation, the Parties and their respective counsel at all times complied with the requirements of 22 New York Code, Rules and Regulations §130-1 and all other similar statutes.

20. Without further order of the Court, the Parties may agree in writing to such amendments, modifications, and expansions of the Stipulation and reasonable extensions of time to carry out any of the provisions of the Stipulation, provided that such amendments,

modifications, expansions, and extensions do not materially alter the rights of the Settlement Class Members or the Released Parties under the Stipulation.

21. Without affecting the finality of this Judgment in any way, this Court retains continuing jurisdiction over: (a) implementation of the Settlement and any award or distribution of the Settlement Fund, including interest earned thereon; (b) disposition of the Settlement Fund; (c) hearing and determining applications for attorneys' fees, interest, and expenses in the litigation; and (d) all Parties hereto for the purpose of construing, enforcing, and administering the Stipulation.

IT IS SO ORDERED.

DATED: 12/1/22



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THE HONORABLE ANDREW BORROK, J.S.C.