UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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IN RE JPMORGAN PRECIOUS METALS SPOOFING LITIGATION

Master Docket No. 1:18-cv-10356 (GHW)

______________________________________X This Document Relates to : All Actions

REPLY IN FURTHER SUPPORT OF MICHAEL COSCIA'S MOTION UNDER FED. R. CIV. P. 59(e) AND LOCAL CIVIL RULE 6.3

Michael Coscia respectfully submits this reply in further support of Dkt. Nos. 135–136.

PRELIMINARY MATTER

Class Counsel filed its opposition on July 31, 2026, one day after the fourteen-day period under Local Civil Rules 6.1(b) and 6.3 expired. No request for an extension or showing of excusable neglect appears on the docket. I preserve that objection but address the merits because the Court may elect to consider the opposition.

I. INTERVENTION DOES NOT JUSTIFY AVOIDING THE MERITS

Class Counsel relies principally on *Williams v. Block.One*, No. 20-cv-2809, 2025 WL 673300 (S.D.N.Y. Mar. 3, 2025), a nonbinding district-court decision involving a class member who first appeared after the distribution order to challenge a cy pres provision. Here, I timely objected to the proposed treatment of late claims, the Court directed responses, and the July 2 Order expressly adjudicated and overruled my objection. Dkt. Nos. 127–133.

The opposition's assertion that I lack "standing" is also too broad. The Supreme Court held that a nonnamed class member bound by a class judgment has an Article III interest and may appeal the rejection of his objection without intervention. *Devlin v. Scardelletti*, 536 U.S. 1, 6–10, 14 (2002). The Second Circuit likewise permitted a nonnamed class member who objected below to appeal. *In re PaineWebber Inc. Ltd. P'ships Litig.*, 94 F.3d 49, 53 (2d Cir. 1996). I seek review only of orders affecting my settlement distribution and rejecting my objection.

Alternatively, if the Court concludes formal intervention is required for reconsideration, I respectfully request that it construe my motion as including a Rule 24 request or permit a prompt motion to intervene. The request is timely because I acted immediately after the June 18 and July 2 Orders. I have a direct interest in the distribution; payment of disputed claims may impair that interest and effective review; and Class Counsel does not adequately represent that interest because it is defending the claims I challenge. Rule 24 does not impose the additional "background, history and qualification" requirement asserted by Class Counsel. Opp. at 2.

Finally, in the event that the Court accepts Class Counsel's position regarding the effect of my motion for reconsideration, I have filed a timely notice of appeal regarding the Orders that are the subject of this motion. Although I understand that the deadline to file this notice should be extended under Federal Rule of Appellate Procedure 4(a)(4)(A) by the filing of the present motion, I have filed this notice as a protective measure to preserve my right to appeal.

II. THE MOTION RELIES ON NEW EVIDENCE AND DOES NOT MERELY REARGUE THE OBJECTION

My original objection expressly challenged acceptance of late claims "absent a specific showing" of fairness, good cause or excusable neglect, lack of material prejudice, and no material delay. Dkt. No. 127. The central issues were therefore presented before the July 2 Order.
More importantly, the Rule 59(e) portion addresses evidence unavailable when the June 18 Order was entered. A.B. Data initially represented that 871 late claims totaling $2.881 billion were accepted. It later disclosed that 547 claims totaling $1.617 billion were miscoded, leaving 324 true late claims totaling $1.264 billion. Dkt. No. 130 ¶¶ 6–9. The correction revealed a material classification failure and facts not previously available, including that the single largest accepted

claim is a true late claim.

Class Counsel says the correction is immaterial because every otherwise eligible claim was recommended for payment. Opp. at 4–5. That assumes the disputed conclusion—whether true late claims were properly approved for payment. The error matters because the June 18 approval rested on an inaccurate classification record and because it creates a legitimate need to verify the remaining administrative conclusions.

Class Counsel also argues that I had no automatic right to reply on July 2, but then states that this reconsideration motion provided the opportunity to address the corrected record. Opp. at 8–9. The Court should therefore consider that response on its merits rather than reject it as impermissibly new.

III. PARAGRAPH 20 OF THE COURT'S FINAL JUDGMENT APPROVING THE CLASS ACTION SETTLEMENT DOES NOT CREATE UNREVIEWABLE OR AUTOMATIC ENTITLEMENT

This Court's Final Judgment Approving Class Action Settlement, at Paragraph 20, states that Class Counsel "may accept for processing" late claims so long as distribution is not materially delayed. Dkt. No. 115 ¶ 20. It does not say every late claim must be paid whenever processing remains open, that "no material delay" is the only consideration permitted, or that Class Counsel's conclusion is immune from judicial review. "May" confers discretion; "for processing" does not guarantee allowance; and the no-delay language limits that discretion.

Dahingo does not establish otherwise. It enforced the settlement's negotiated bar date as a matter of contract. *Dahingo v. Royal Caribbean Cruises, Ltd.*, 312 F. Supp. 2d 440, 445–47 (S.D.N.Y. 2004). Here, enforcing the contract means enforcing Paragraph 20's actual condition and requiring a sufficient basis to find no material delay.

My motion does not depend entirely on making *Pioneer* an independent contractual requirement. But to the extent Class Counsel invokes equitable explanations—such as claimants learning of the settlement indirectly or lacking time and resources—those assertions should be tested rather than accepted categorically. Dkt. No. 130 ¶ 12. Where a clear deadline was missed by months or years, unexplained neglect warrants skepticism, especially for unusually large and apparently sophisticated claimants.

A.B. Data's declaration does not objectively establish no material delay. Timing overlap is not proof that processing 324 claims added no work, recalculation, quality review, cost, or delay. A.B. Data processed every late claim received through April 13, 2026, rejected none solely as late, and then stated that further claims would "necessarily" delay distribution. Dkt. No. 125 ¶¶ 44–45. The requested records would permit the Court to test the condition Paragraph 20 actually imposes.

IV. FLAG TELECOM SUPPORTS REVIEW, NOT BLANKET ACCEPTANCE

In re Flag Telecom Holdings, Ltd. Securities Litigation, 2011 WL 5039776 (S.D.N.Y. Oct. 21, 2011), does not hold that all late claims must be accepted or that size and sophistication are irrelevant to any inquiry. The court expressly stated that it would have enforced the original deadline had counsel and the administrator done so, particularly because the claimant offered no real excuse. *Id.* at *2. It ruled for Knight because the administrator accepted claims through July 2011, Knight submitted shortly thereafter while processing continued, and counsel proposed an arbitrary cutoff that admitted every other comparable claim.

I do not ask the Court to reject Claim No. 84509644 solely because it is large. I ask whether claims submitted over a period extending to April 2026 were similarly situated and whether discretion was exercised on a principled basis. *Flag Telecom* rejected unsupported distinctions and required a revised distribution record. It supports equitable consistency and judicial scrutiny, not automatic payment of every late claim received while administration remained open.

Blank also examined the actual reasons for lateness and whether delay was within the claimant's control. *Blank v. Jacobs*, No. 03-cv-2111, 2013 WL 1310503, at *4–6 (E.D.N.Y. Mar. 27, 2013). Even if Paragraph 20 supplies the controlling standard, these decisions confirm that settlement administration remains subject to reasoned judicial review.

V. A LIMITED RESERVE PRESERVES EFFECTIVE RELIEF

The motion presents serious questions concerning the meaning of Paragraph 20, the $1.617 billion classification error, and the evidentiary basis for "no material delay." Once disputed funds are distributed among late claimants, effective relief may become difficult. A limited reserve would permit undisputed distributions to proceed and would impose substantially less harm than a complete stay. The public interest favors accurate administration of a court-supervised settlement.

Smith v. D'Agostino, 2026 WL 295525 (N.D.N.Y. Feb. 4, 2026), is unrelated. It denied reconsideration of a complaint the court had found frivolous and then denied a stay based on those merits rulings. It does not address preservation of disputed settlement funds after a material claims-classification correction. The opposition also does not show that A.B. Data's existing reserve is sufficient to cover the disputed distributions or preserve effective relief.

CONCLUSION

I respectfully request that the Court grant relief under Rule 59(e) and Local Civil Rule 6.3 or, at minimum:

1. construe my motion as including a Rule 24 request or permit a prompt intervention motion;

2. require the requested verification and supporting records;
3. maintain a limited reserve attributable to the 324 true late claims, or at least Claim Nos. 84509644 and 87948936; and
4. permit undisputed distributions to proceed.

Dated: August 7, 2026

Respectfully submitted,

/s/ Michael Coscia

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CERTIFICATE OF COMPLIANCE

I certify that this memorandum contains 1,405 words, excluding the caption, signature block, and this certificate, as calculated by the word-processing program used to prepare it.

/s/ Michael Coscia