

1 ROBERT J. STEIN, III (CA Bar No. 212495)
rstein@AlvaradoSmith.com
2 CLAIRE M. SCHMIDT (CA Bar No. 262946)
cschmidt@AlvaradoSmith.com
3 ALVARADO SMITH
A Professional Corporation
4 1 MacArthur Place, Suite 200
Santa Ana, California 92707
5 Tel: (714) 852-6800 Fax: (714) 852-6899

6 STEVEN P. BLONDER, *Pro Hac Vice*.
MUCH SHELIST, P.C.
7 sblonder@muchshelist.com
191 North Wacker Drive, Suite 1800
8 Chicago, Illinois 60606
312-521-2000

9 Attorneys for Plaintiffs CURT SCHLESINGER,
10 PETER LO RE, JAMES ROTH, ADAM RUSSELL, MARYAM
AGHCHAY and The Certified Class
11

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **FOR THE COUNTY OF LOS ANGELES**
14 **CENTRAL CIVIL WEST**

15 CURT SCHLESINGER, PETER LO RE,
16 JAMES ROTH, ADAM RUSSELL, MARYAM
AGHCHAY, on behalf of themselves and The
17 Certified Class,

18 Plaintiffs,

19 v.

20 TICKETMASTER, a Delaware Corporation,

21 Defendants.

CASE NO.: BC 304565

Assigned to: Judge Kenneth R. Freeman

**PLAINTIFFS' AND THE CLASS'
EVIDENTIARY OBJECTIONS TO
DECLARATION OF ERIC S. FULLER
DATED DECEMBER 4, 2014, IN
OPPOSITION TO FINAL APPROVAL OF
CLASS ACTION SETTLEMENT**

DATE: January 13, 2015

TIME: 10:00 a.m.

PLACE: Dept. 310

TRIAL DATE: Vacated

ACTION FILED: October 21, 2003

1 Pursuant to California Rules of Court 3.1352 and 3.1354, Plaintiffs Curt Schlesinger and
 2 Peter Lore and the Certified Class (“Plaintiffs and the Class”) object to and move to strike the
 3 Declaration of Eric S. Fuller in Opposition to Final Approval of Class Action Settlement dated
 4 December 4, 2014 (“Mr. Fuller’s Declaration” or “Declaration”) because (a) the submission attempts
 5 to raise new evidence by way of an Objection to Briefing Submitted by Plaintiffs and Defendants in
 6 Support of Final Approval of Class Action Settlement, in violation of due process and California
 7 law; and (b) several portions of the Declaration are inadmissible, even if they were timely. Plaintiffs
 8 and the Class request that the Court to strike the Declaration in its entirety. In the alternative,
 9 Plaintiffs and the Class request that the portions of the Declaration that are inadmissible be stricken.

10 Plaintiffs and the Class further object to the Declaration since declarant has to establish any
 11 personal knowledge of the content of his declaration. No such personal knowledge has been
 12 established here, rendering declarant’s statements purely conclusory and argumentative. *See Evid.*
 13 Code ¶ 702.

Fuller Declaration Material Objection To:	Grounds for Objection:	Ruling on Objection:
16 1. Paragraph 1, page 2:6-7: “I 17 attended the 2014 National 18 Association of Ticket Brokers 19 World Ticket Conference in Las 20 Vegas Nevada”	relevance	Sustained: _____ Overruled: _____
21 2. Paragraph 2, page 2:8-9: “I 22 attended the Ticketmaster 23 panel where Jody Mulkey, 24 Chief Technology Officer of 25 Ticketmaster was one of the 26 panelists”	Relevance	Sustained: _____ Overruled: _____

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

<p>3. Paragraph 3, page 2:10-11: “Mr. Mulkey gave a detailed explanation during that panel of how Ticketmaster observes spikes in volume as new shows are put on sale”</p>	<p>Hearsay, relevance</p>	<p>Sustained: _____ Overruled: _____</p>
<p>4. Paragraph 4, page 2:12-13: “Mr. Mulkey attributed much of that spike in volume to the effect that ticket buying ‘bots’ have as they rapidly and repeatedly attempt to obtain tickets”</p>	<p>Hearsay, relevance</p>	<p>Sustained: _____ Overruled: _____</p>
<p>5. Paragraph 5, page 2:14-17: “It was clear from the explanation given by Mr. Mulkey that Ticketmaster is perfectly aware of ticket bot software, the effect that bots have on the ability of ordinary consumers to purchase tickets in the face of the bot activity, and the degree to which bot activity restricts other potential purchasers from obtaining tickets”</p>	<p>Conclusory, lack of personal knowledge, relevance, foundation</p>	<p>Sustained: _____ Overruled: _____</p>

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CONCLUSION

For these reasons, Plaintiffs respectfully submit that the Court should OVERRULE Mr. Fuller's objections.

Respectfully submitted,

DATED: December 22, 2014

ALVARADOSMITH
A Professional Corporation

By: 

Robert J. Stein, III
Lead Class Counsel

MUCH SHELIST, P.C.
Steven P. Blonder, Pro Hac Vice.

Attorneys for Plaintiffs
CURT SCHLESINGER, PETER LO RE, JAMES
ROTH, ADAM RUSSELL, MARYAM AGHCHAY
and the Certified Class