

Felix v. Symantec Corporation et al.

COURT: United States District Court for the Northern District of California
CASE NUMBER: 3:18-cv-02902-WHA
CLASS PERIOD: 05/11/2017 - 08/02/2018
CASE LEADERS: Salvatore J. Graziano, Jeroen van Kwawegen, Jeremy P. Robinson, Rebecca E. Boon
CASE TEAM: Andrew Boruch, Ryan Candee, Ryan McCurdy, Brian Chau

This is a securities fraud class action filed on behalf of all persons or entities who purchased or otherwise acquired publicly-traded common stock of Symantec Corporation (“Symantec” or the “Company”) during the period from May 11, 2017, to August 2, 2018, inclusive (the “Class Period”), and who were damaged thereby (the “Class”). The action alleges claims pursuant to Sections 10(b), 20(a), and 20A of the Securities Exchange Act of 1934 against Symantec, the world’s largest provider of cyber security software and services, and its former Chief Executive Officer, Gregory S. Clark.

Lead Plaintiff Has Settled the Action for \$70 Million

The Court-appointed Lead Plaintiff, SEB Investment Management AB (“SEB” or “Lead Plaintiff”), on behalf of itself and the Class, has settled the Action for \$70,000,000 in cash (the “Settlement”).

On February 10, 2022, the Court held a hearing to consider final approval of the Settlement and related matters. Following the hearing, the Court entered an order finally approving the Settlement, approving the Plan of Allocation for the proceeds of the Settlement, and awarding attorney’s fees and litigation expenses.

You may visit the case website, SymantecSecuritiesLitigation.com, for more information about the Settlement.

The Litigation

Commenced on May 17, 2018, the case arises from an alleged accounting fraud that manipulated Symantec’s reported financial results to trigger compensation awards for its top executives. Specifically, during the Class Period, Symantec represented that it had accurately reported the Company’s non-GAAP financial measures, that it maintained effective internal controls over financial reporting, and that its executive compensation program aligned the interests of management and shareholders. Lead Plaintiff alleges that, in truth, the Company misrepresented its non-GAAP financial measures to meet financial targets used to determine compensation for the Company’s most senior officers.

On May 10, 2018, Symantec announced that the Audit Committee of the Board of Directors had commenced an internal investigation into the Company’s accounting practices due to concerns raised by a whistleblower, that the Company had contacted the Securities and Exchange Commission regarding the matter, and that in light of the pending internal investigation Symantec would not be timely filing its annual report. On this news, Symantec’s stock price plummeted from \$29.18 per share on May 10, 2018 to \$19.52 per share on May 11, 2018, over 33%, erasing roughly \$6 billion of market capitalization. On August 2, 2018, after the market closed, Symantec filed a report with the SEC, disclosing that the Audit Committee’s investigation was “ongoing” and applied specifically to Symantec’s reported fourth quarter of fiscal year 2018 results. On August 3, 2018, Symantec’s share price fell by a further \$1.63, or approximately 8%.

On August 23, 2018, the court appointed SEB as Lead Plaintiff and subsequently approved SEB's selection of BLB&G to serve as Lead Counsel for the Class.

On December 26, 2018, Defendants moved to dismiss the Complaint. After full briefing, the Court heard argument at a hearing in San Francisco on January 31, 2019. On June 14, 2019, the Court dismissed the Complaint, granting Lead Plaintiff leave to file a motion to amend. Lead Plaintiff filed its Motion for Leave to File a First Amended Complaint on July 11, 2019. On July 16, 2019, after Lead Plaintiff filed its Motion, the Court unsealed certain relevant documents in a related derivative action. On July 23, 2019, Lead Plaintiff filed an Amended Motion for Leave to File a First Amended Complaint to include relevant information from said documents and other additional relevant facts uncovered in connection with Lead Plaintiff's further investigation. The Court held a hearing on September 26 and granted Lead Plaintiff's motion on October 2, 2019, sustaining Plaintiffs' claims against Symantec and its former CEO and ordering Defendants to answer those claims. Lead Plaintiff filed its First Amended Complaint on October 11, 2019 to conform the pleading to the Court's October 2 opinion. Defendants answered the complaint on November 7, 2019, and the case proceeded to discovery. Additionally, the parties completed briefing on Plaintiff's motion for class certification on March 13, 2020.

On May 8, 2020, the Court granted Plaintiff's motion for class certification in full, certifying the entire Class for the Class Period. Beginning on June 19, 2020, potential members of the Class were mailed a Notice of Pendency of Class Action and had the opportunity to request exclusion from the Class by August 25, 2020. On September 14, 2020, the parties engaged in a Court-ordered mediation process before the Honorable Donna M. Ryu, which did not result in a settlement at that time. Fact discovery concluded on January 29, 2021, and Plaintiff served its initial expert reports the same day. Expert discovery concluded on March 5, 2021. Defendants filed their motion for summary judgment on March 4, 2021, which was fully briefed on March 25, 2021.

On April 20, 2021, the Court entered an Order that required Class Counsel Bernstein Litowitz Berger & Grossmann LLP and Lead Plaintiff to provide a Supplemental Notice to the Class in order to (a) inform Class Members of the circumstances described in the Order of the Court dated April 20, 2021, including that Class Counsel hired Hans Ek, the former Deputy Chief Executive Officer of Lead Plaintiff; and (b) provide Class Members with a second opportunity to request exclusion from the Class by July 2, 2021.

After the end of fact and expert discovery and following full briefing on Defendants' motion for summary judgment, the Parties scheduled a settlement conference with Magistrate Judge Donna M. Ryu on May 24, 2021. (An earlier settlement conference with Judge Ryu in September 2020 had been unsuccessful.) During the May 24, 2021 settlement conference, the Parties reached an agreement in principle to settle the Action for \$70,000,000.

On June 8, 2021, the Parties entered into the Stipulation and Agreement of Settlement, which sets forth the terms and conditions of the Settlement. On July 6, 2021, Lead Plaintiff moved for preliminary approval of the Settlement, and on September 16, 2021, the Court preliminarily approved the Settlement, authorized that notice of the Settlement be sent to Class Members, and scheduled the final Settlement Fairness Hearing for February 10, 2022.

Following the final approval hearing on February 10, 2022, the Court entered an order finally approving the Settlement, approving the Plan of Allocation for the proceeds of the Settlement, and awarding attorney's fees and litigation expenses.

The claims administration was completed in July 2022. On July 19, 2022 the Motion for Approval of Distribution Plan was filed. On September 28, 2022, the Court entered an Order approving the distribution of the Net

Settlement Fund to eligible claimants. The first distribution of the net settlement fund occurred in October 2022. The second distribution occurred in September 2024.

Case Documents

- Notice of (I) Proposed Settlement and Plan of Allocation; (II) Settlement Fairness Hearing; and (III) Motion for Attorneys' Fees and Litigation Expenses ("Settlement Notice")
- February 16, 2023 - Lead Plaintiff's Status Report Post-Distribution Accounting
- September 28, 2022 - Order Approving Distribution Plan
- July 19, 2022 - Lead Plaintiffs' Unopposed Motion for Approval of Distribution Plan, and Memorandum of Points and Authorities in Support Thereof
- July 19, 2022 - Declaration of Eric J. Miller in Support of Lead Plaintiff's Unopposed Motion for Approval of Distribution Plan
- February 10, 2022 - Order Granting Final Approval of Class Action Settlement and Plan of Allocation and Granting Attorney's Fees and Litigation Expenses
- February 3, 2022 - Reply Memorandum of Law in Further Support of (I) Motion for Final Approval of Settlement, and (II) Motion for Attorneys' Fees & Expenses
- December 30, 2021 - Lead Plaintiff's Motion for Final Approval of Settlement and Plan of Allocation, and Memorandum of Points & Authorities in Support Thereof
- December 30, 2021 - Lead Counsel's Motion for Attorney Fees and Litigation Expenses, and Memorandum of Points & Authorities In Support Thereof
- December 30, 2021 - Declaration of Jeremy P. Robinson in Support of (A) Motion For Final Approval of Settlement and (B) Motion for Attorneys Fees and Expenses
- September 16, 2021 - Order Preliminary Approving Settlement and Providing for Notice
- June 8, 2021 - Stipulation and Agreement of Settlement
- May 7, 2021 - Supplemental Notice of Pendency of Class Action
- April 24, 2021 - Order re Dissemination of Supplemental Class Notice
- April 20, 2021 - Order re Conflict Dispute
- June 26, 2020 - Notice of Pendency of Class Action
- May 29, 2020 - Stipulation & Order Re Dissemination of Class Notice
- May 8, 2020 - Order on Motion for Class Certification
- October 11, 2019 - First Amended Consolidated Class Action Complaint for Violations of the Federal Securities Laws