

1 Kelly M. Dermody (State Bar No. 171716)
Heather H. Wong (State Bar No. 238546)
2 LIEFF, CABRASER, HEIMANN
& BERNSTEIN, LLP
3 275 Battery Street, 30th Floor
San Francisco, CA 94111-3339
4 Telephone: (415) 956-1000
Facsimile: (415) 956-1008
5 email: kdermody@lchb.com
email: hwong@lchb.com

6 Adam T. Klein
7 Piper Hoffman (*pro hac vice*)
Justin M. Swartz (*pro hac vice*)
8 OUTTEN & GOLDEN LLP
3 Park Avenue, 29th Floor
9 New York, New York 10016
Telephone: (212) 245-1000
10 Facsimile: (212) 977-4005

James M. Finberg (State Bar No. 114850)
ALTSHULER BERZON
177 Post Street, Ste. 300
San Francisco, CA 94108
Telephone: (415) 421-7151
Facsimile: (415) 362-8064

11 [Additional counsel listed on signature
page]
12 *Attorneys for Plaintiff*

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN FRANCISCO DIVISION / OAKLAND

17 MARGARET BENAY CURTIS-BAUER,
on behalf of herself and all others similarly
18 situated,

19 Plaintiffs,

20 v.

21 MORGAN STANLEY & CO.
INCORPORATED, f/k/a MORGAN
22 STANLEY DW INC.,

23 Defendant.

Case No. C-06-3903 TEH

**PLAINTIFF'S REPLY IN SUPPORT OF
FINAL SETTLEMENT APPROVAL**

24 Pursuant to the Order granting preliminary approval of the settlement of this matter, the
25 parties moved for final settlement approval on May 12, 2008. (Docket No. 168.) Plaintiff also
26 petitioned for approval of attorneys' fees and reimbursement of costs and approval of a service
27 payment for the named plaintiff at that time. (Docket Nos. 171 and 172.) The deadline for filing
28

1 responses to the parties' motion for final approval of the settlement, plaintiff's petition for
2 attorneys' fees, and plaintiff's petition for approval of a service payment was May 27, 2008. (See
3 Docket No. 158 at 23.) No briefs were filed in response to the parties' motion or plaintiff's
4 petitions.

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6 As set forth in the Supplemental Declaration of Trae Smith, filed herewith, class
7 members have submitted 422 claim forms, for a participation rate of over 30 %. This response by
8 class members favors final approval of the settlement.

9 Since the filing of the motion for final settlement approval, there have been no additional
10 opt outs submitted by class members. In all, twenty-three class members requested that they be
11 excluded from the settlement, and one of those class members, John P. Greer, III, rescinded his
12 request to opt-out, making a final total of twenty-two class members who have opted out of the
13 settlement.

14
15 No objections have been submitted since the parties' motion for final settlement approval
16 was filed on May 12, 2008. The objections submitted previously on April 28, 2008, in response
17 to the parties' motion for preliminary settlement approval, fell into the following two categories:
18 (1) 29 Objections filed by counsel for the Moore Group Objectors (the Moore Group Opt Out
19 Objectors and Supplemental Moore Group Objectors); and (2) one objection filed by an objector,
20 Billy Manning.

21
22 As set forth more fully in Plaintiff's previous brief in support of Plaintiff's motion for
23 final settlement approval, at least 21 of the objections were improperly filed by Moore Group Opt
24 Out Objectors who lack standing to object. Thus, there have been a total of nine objections by
25 class members who have standing to object. Eight of the nine objectors are represented by
26 counsel for the Moore Group Objectors and one, Billy Manning, simply reiterates allegations of
27 the Moore Group Objectors but appears to be unrepresented by Moore counsel. Moreover, the
28

1 objections filed on April 28, 2008 by Moore Group Opt Outs and Supplemental Moore Group
2 Objectors merely rehash prior concerns raised by the Moore Group Objectors that the Court
3 addressed at the preliminary approval hearing and cautioned Moore counsel not to refile in its
4 Order granting preliminary approval. (*See* Docket No. 158 at 1, n.1.) None of the objections has
5 merit.

6
7 For the reasons set forth herein and in Plaintiff's Memorandum of Points and Authorities
8 in Support of Joint Motion for (1) Final Approval of Class Action Settlement; (2) Certification of
9 Settlement Class; (3) Approval and (4) Distribution of Settlement Funds, Plaintiff respectfully
10 requests that the Court grant final approval of the settlement.

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13 Dated: June 3, 2008

Respectfully submitted,

LIEFF, CABRASER, HEIMANN &
BERNSTEIN, LLP

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17 By: /s/ Kelly M. Dermody

Kelly M. Dermody

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19 Kelly M. Dermody (State Bar No. 171716)
Heather H. Wong (State Bar No. 238546)
LIEFF, CABRASER, HEIMANN &
20 BERNSTEIN, LLP
Embarcadero Center West
21 275 Battery Street, 30th Floor
San Francisco, CA 94111-3339
22 Telephone: (415) 956-1000
Facsimile: (415) 956-1008

23
24 Elizabeth A. Alexander (*pro hac vice*)
LIEFF, CABRASER, HEIMANN &
BERNSTEIN, LLP
25 150 Fourth Avenue, North, Suite 1650
Nashville, TN 37219-2423
26 Telephone: (615) 313-9000
27 Facsimile: (615) 313-9965
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Adam T. Klein
Piper Hoffman (*pro hac vice*)
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OUTTEN & GOLDEN LLP
3 Park Avenue, 29th Floor
New York, New York 10016
Telephone: (212) 245-1000
Facsimile: (212) 977-4005

James M. Finberg (State Bar No. 114850)
ALTSCHULER BERZON
177 Post Street, Ste. 300
San Francisco, CA 94108
Telephone: (415) 421-7151
Facsimile: (415) 362-8064

Attorneys for Plaintiff