

NOTICE OF CLASS ACTION SETTLEMENT
in
NEW ENGLAND BIOLABS, INC.
EMPLOYEE STOCK OWNERSHIP PLAN LITIGATION
New England Biolabs, Inc. v. Miller, Case No. 1:20-cv-11234-RGS (D. Mass.)

Please read this notice carefully and completely.
If you are a member of the Class, the settlement will affect your legal rights.
A federal court has authorized this notice.
This is not a solicitation from a lawyer.
You have not been sued.

The parties to this class action have reached a settlement subject to court approval and the Court has preliminarily approved the Settlement. The Settlement provides for a payment to Class Members who were entitled under the Plan to immediate payment (i.e. a participant or a beneficiary who was entitled to an immediate payment) related to the value of the Cell Signaling Technology (“CST”) stock in the New England Biolabs, Inc. Employee Stock Ownership Plan & Trust (the “Plan”).

This notice summarizes the terms of the Settlement and informs you of your rights under the Settlement. The complete Settlement Agreement, and other information about this lawsuit, are available at NEBClassAction.com or by contacting Class Counsel listed below.

Your settlement payment will be allocated to your Plan account and then distributed to you through the Plan. You can elect a direct rollover of your settlement payment to an IRA or another eligible retirement plan or receive a distribution (less applicable income tax withholding).

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS
<p>OPTION #1: CHOOSE A DISTRIBUTION</p> <p>If you are a Class Member who is either (1) a participant or (2) a beneficiary entitled to an immediate payment under the Plan, then you are entitled to choose the form of distribution. To provide tax favored treatment, your payment will first be transferred to the Plan. You may elect to take a rollover or receive a distribution of your account from the Plan in accordance with the terms of the Plan.</p>
<p>OPTION #2: SUBMIT A CHALLENGE TO THE DATA.</p> <p>If you believe that the data about your Plan account is incorrect OR you believe that you are a Class Member but did not receive personalized notice sent to you, you can submit information explaining why the data needs to be corrected or why you are a Class Member. You need to submit this challenge by January 19, 2023, to the address listed below.</p>
<p>OPTION #3: OBJECT.</p> <p>If you are not satisfied with the terms of the proposed Settlement, then you or your attorney may inform the Court by sending a letter or written statement by January 19, 2023, to the address below.</p>
<p>YOU ARE ABLE TO CHOOSE MORE THAN ONE OPTION: If you object or challenge data, you may still request a distribution.</p>

BASIC INFORMATION

Why did I get this Notice?

You received this Notice because the Court ordered that notice be provided to Class Members as defined by the Court. You were identified from the records of New England Biolabs, Inc. (“NEB”) as a member of the Class. The purpose of this Notice is to provide you with information about the Settlement and your rights, including your right to object to the Settlement before the Court decides whether to approve the Settlement.

Who is a Member of the Class?

The Court certified the Class as follows:

All persons who are former employees of New England Biolabs, Inc. (“NEB”) and who are or were participants in the the New England Biolabs, Inc. Employee Stock Ownership Plan and Trust (the “Plan”) and whose accounts were liquidated on or after September 30, 2016, through October 31, 2019, and the beneficiaries of such participants.

Excluded from the Class are (a) the Third Party Defendants; (b) officers and directors of NEB; (c) beneficiaries of such persons or (d) immediate family members of any of the foregoing excluded persons, and (e) the legal representatives, successors, and assigns of any such excluded persons.

What is this case about?

NEB initially brought a lawsuit against Defendant Ralph T. Miller under the Employee Retirement Income Security Act of 1974 (“ERISA”) alleging that Miller had been overpaid benefits due him under the Plan. In response, Miller brought counterclaims against NEB and also brought claims against other fiduciaries of the Plan—the Committee of New England Biolabs, Inc. Employees’ Stock Ownership Plan, the personal representative of the late Donald Comb, James V. Ellard, Richard Ireland, and Brian Tinger (the “NEB Parties”) alleging that he had been underpaid the benefits due him under the Plan and asserting claims for violations of ERISA.

The only claim certified on behalf of the Class is Count I of the Amended Counterclaim, which alleges that NEB breached its fiduciary duties by making misleading disclosures about how the CST stock held in the accounts of Plan participants (the “Class Claim”) would be valued. This Class Claim alleged that the summary plan descriptions issued by NEB for the Plan from 2003 through 2019 conflicted with the terms of the written instrument of the Plan by representing that CST was company stock that NEB had to repurchase and the SPD did not accurately describe the valuation date for CST stock. The Class Claim further alleged that the valuation firm that provided annual appraisals of NEB stock did not take these facts into account in valuing participants’ CST stock. As a remedy, Count I sought reformation of the Plan consistent with the statements in the SPDs and enforcement of its terms as reformed on behalf of the Class. The NEB Parties deny any wrongdoing or liability. The Court has not ruled on the merits of this Claim.

Miller also asserted other individual claims against NEB and the NEB Parties, which have also been settled conditioned on Court approval of the class claim.

A complete description of the Class Claim is contained in the Amended Counterclaim, which along with other important documents is available on the following website: NEBClassAction.com.

THE PROPOSED SETTLEMENT

What Are the Terms of The Settlement Agreement?

The Settlement requires NEB to pay \$750,000 (the “Settlement Amount”) to resolve the Class Claim. After deduction of any Court-approved expenses, the Net Settlement Amount will be distributed to the Class pursuant to a Court-approved distribution formula called the “plan of allocation.”

Conditioned on this Settlement receiving final court approval, Miller and NEB and the NEB Parties have also agreed to settle their other claims against each other.

What Will Be My Share of the Settlement and How Do I Receive It?

The “Net Settlement Amount”—the Class Settlement Amount minus Court-approved expenses—will be divided among Class Members according to a plan of allocation that is subject to Court approval. Class Counsel’s proposed Plan of Allocation, which the Court has preliminarily approved, provides that the Net Settlement Amount will be divided among Class Members based on the percentage of the aggregate alleged losses attributable to the participant’s Plan account. To calculate each participant’s share of the aggregate alleged losses, the Plan of Allocation compares the actual amounts paid to Class members for their CST stock to the prices as determined by the valuation expert hired by Class Counsel. The Alleged Loss is the difference between the amount that was actually paid to a participant and the amount that would have been paid using the price determined by Class Counsel’s expert. The Alleged Loss for each account is then compared to the aggregate Alleged Loss for all accounts of Class Members to establish the pro rata share of the Net Settlement Fund. Your individualized estimated settlement payment is reflected on the attachment. This estimate may differ somewhat from the final payment, but is Class Counsel’s best estimate of your expected payment under this Plan of Allocation. The full Plan of Allocation as preliminarily approved by the Court can be found at NEBClassAction.com.

If you believe your Plan account balance as of the date when you received the last distribution of your Plan Account was different than the number listed on your individualized addendum to this Notice, or that you qualify as a Class Member (but didn’t receive a personalized notice), you can submit supporting documents to the Settlement Administrator at the address below.

After the Court’s order granting final approval becomes non-appealable, the Net Settlement Amount will be transferred to your restored Plan Account. You will then receive an Election Distribution Packet. If you do not receive an Election Distribution Packet, you may access it at NEBClassAction.com. The Plan Administrator will distribute or rollover your settlement payment based on your election. There will be no charge for you to receive a distribution or rollover of the proceeds from this Settlement **so long as you make this election within 90 days of receiving the Election Distribution Packet. If you failed to make a timely distribution election, you may be charged expenses related to administration of the Plan (but not costs to receive a distribution) that are typically charged to plan participants.**

What Do I Give Up As a Result of the Settlement?

In exchange for the settlement payment, the Class, as participants or beneficiaries in the Plan, will release (i.e. give up) any and all claims against NEB, the NEB Parties, the Plan and the fiduciaries of the Plan from all claims asserted in the Class Claim or other claims based on or arising out of the same factual predicate as the Class Claim. The full terms of the Settlement, including the release, are available at NEBClassAction.com. If the Settlement is finally approved, the Court will enter an order dismissing with prejudice all claims against the NEB Parties and preventing any Class Members from suing the NEB Parties in the future on the released claims.

As part of the Settlement, NEB has agreed to warrant and represent the correctness of the Plan account data provided to Class Counsel by NEB and the NEB Parties for purposes of negotiating and administering the Settlement, including as to each Class Member’s name and contact information, the dates on which their Plan accounts were liquidated, the number of CST shares in their accounts as of their liquidation dates, and the price at which their CST stock was liquidated. This means that as a result of the settlement, you will be protected against any later claim by NEB, the Plan or any Plan fiduciaries that the number of shares of CST stock in your account (as used in calculating your settlement payment) was incorrect or that the amount you received in contributions or distributions related to CST stock was incorrect.

Can the Settlement be Terminated?

The Settlement may be terminated on several grounds, including if the Court does not approve the terms of the Settlement or the Court does not certify the Class. If any of these occurs and one of the parties exercises his/her right to withdraw, the lawsuit will proceed as if the Settlement had not existed. The Settlement will not be final until after the Court has granted final approval of the settlement and any appeals have been resolved or the time for all appeals has ended. The earliest that the Settlement will be final is 30 days after the Final Approval Hearing, but it may be later than that depending on how long after the Final Approval Hearing the Court enters the order and judgment or whether someone files an appeal.

When Can I Get my Money from the Settlement?

No payments can be made to Class Members until after Final Approval has been entered, the time for appeals have expired and certain administrative tasks have taken place including your submission of a distribution election form. The time for payments can be as soon as 30 days after the Final Approval Hearing but could take several months after Final Approval. The Settlement Administrator will update the website when there are updates. Calls and emails to Class Counsel (or the Settlement Administrator) only slow down the progress of distribution. Your patience is appreciated.

Why Did the Parties Reach This Settlement?

In deciding to settle the lawsuit, Class Counsel reviewed relevant documents and retained a valuation expert to analyze the valuation of CST stock and potential monetary remedy. Class Counsel also considered the strength of the claims and defenses and arguments by NEB, the expense, length and likely delay of further litigation, the risks arising from the existence of unresolved questions of law and fact, and the risk of whether all claims would proceed on behalf of the Class.

If the parties had not reached a settlement, the Court may not have certified a Class and/or could have found in favor of NEB. If NEB had prevailed on certain of its defenses, then the Class could have recovered nothing. Even if Miller succeeded in establishing liability, the Court could have found that any losses that NEB caused were less than the amount paid in this Settlement. Of course, if Miller prevailed on the Class Claim, NEB may have been liable for more than the Settlement Amount.

In 2021 and 2022, the parties agreed to participate and did participate in several mediations with a Magistrate Judge. The Settlement was reached as a result of those mediation sessions. The Settlement is a compromise of disputed claims. NEB disputed the Class Claim and asserted various defenses. All parties determined that given the uncertainty and risks inherent in litigation, it is best to settle the case on the terms set forth in the Settlement Agreement.

This is only a summary of the Settlement. For its complete terms, you can view information about the case and the Settlement at NEBClassAction.com, or review the Settlement Agreement on file with the Clerk of the Court. You may also contact Class Counsel at the contact information provided below.

Who Are the Lawyers Representing the Class?

The Court has appointed the following lawyers at the following firms as counsel for the Class. Both of the lawyers have significant experience representing employees/participants in ERISA litigation:

R. Joseph Barton BLOCK & LEVITON LLP 1633 Connecticut Ave. NW, Suite 200 Washington, DC 20009 Telephone: (202) 734-7046 nebclass@blockleviton.com	Jonathan M. Feigenbaum, Esq. 184 High Street, Suite 503 Boston, MA 02110 Tel. No.: (617) 357-9700 Fax No.: (617) 227-2843 Email: jonathan@erisaattorneys.com
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How Will the Lawyers be Paid?

Class Counsel have worked on this case for more than a year and half and have not yet been paid for their time. In prosecuting this case on behalf of the Class, Class Counsel investigated the facts, requested and reviewed thousands of pages of documents produced in discovery, deposed witnesses, prepared legal motions and filings, and participated in mediation sessions and subsequent negotiations. As of October 28, 2022, Class Counsel had expended over 1,295 hours in this case and have advanced over \$277,300.00 in out of pocket expenses, at least \$125,300 was on behalf of the Class.

Class Counsel will apply to the Court for an award from the Settlement Fund of litigation expenses related to the litigation of the Class Claim and expenses related to notice and administration of the Settlement for the Class.

Class Counsel will separately apply to the Court seeking an award of attorneys fees that will be paid by NEB relating to both work on behalf of the Class and work to defend Miller and reimbursement of expenses to defend Miller. The amount of attorneys' fees paid by NEB will be in addition to the amount paid for the Class Settlement Amount. Any award of attorneys' fees will not reduce the amount of the Class Settlement.

Any Class Member who objects to the request by Class Counsel for payment of these attorneys' fees or expenses may state that objection in writing and may appear at the hearing, as set forth below. If you submit a written objection, you are not required to appear at the hearing.

THE COURT'S FAIRNESS HEARING

When Will the Court Hold the Fairness Hearing?

On March 1, 2023, at 2:00 p.m. Eastern Time, Judge Stearns will hold a hearing in his courtroom at the John Joseph Moakley U.S. Courthouse, 1 Courthouse Way, Boston, Massachusetts 02210. The time and date of the hearing may change. It is also possible that this hearing may be held remotely. Any updated information including dial-in or video conference instructions will be posted on the website.

At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate, and whether and in what amount to award Class Counsel attorneys' fees and reimbursement of expenses. If there are objections, the Court will consider them. At or after the hearing, the Court will decide whether to approve the Settlement, and whether and in what amount to award attorneys' fees and reimbursement of expenses. We do not know how long these decisions will take.

The time and date of this hearing may change, so please check NEBClassAction.com, prior to the date of the hearing if you plan to attend. You should also contact Class Counsel if you intend to attend the hearing.

Do I Have to Attend or Can I Attend the Fairness Hearing?

You do not have to attend the hearing. Class Counsel will present the Settlement to the Court and answer any questions the Court may have. If you file a written objection, you do *not* have to attend the hearing in order for it to be considered by the Court.

You may come to the hearing at your own expense. You may also arrange for your own separate counsel to attend on your behalf (and at your own expense). You may also ask the Court for permission to speak at the hearing. To ensure that the Court will allow you to speak, you should send a "Notice of Intention to Appear at Fairness Hearing in *New England Biolabs, Inc. v. Miller*, Case No. 1:20-cv-11234-RGS" to the Clerk of the Court at the addresses above, in advance of the hearing. Be sure to include your name, address, telephone number, and signature.

HOW TO PROCEED

How Do I Tell the Court What I Think About the Settlement?

Any Class member can comment on the Settlement or tell the Court that you do not agree with the Settlement or part of it, including the motion for attorneys' fees and expenses. **Any written objections must be sent to Class Counsel at the addresses listed above and must be postmarked no later than January 19, 2023, and sent to the Court at this address:**

Office of the Clerk
John Joseph Moakley U.S. Courthouse
1 Courthouse Way, Suite 2300
Boston, Massachusetts 02210

Be sure to refer to *New England Biolabs, Inc. v. Miller*, Case No. 1:20-cv-11234-RGS. Include your full name, address, telephone number, signature, and a full explanation of all the reasons you object to the Settlement, including any supporting papers and arguments. You or your attorney must sign the written objection. Do not send your objection to the NEB Parties.

If you have no objection to the Settlement, or the request for attorneys' fees or expenses, then you do not need to send any papers with the Court.

Can I Opt Out of the Class?

No. You do not have the right to exclude yourself from the Class or the benefits of the Settlement. The Lawsuit was certified as a mandatory ("non-opt-out") class action. As a Class Member, you will be bound by any judgments or orders that are entered in the Lawsuit for all claims that were or could have been asserted in the Lawsuit or are otherwise included in the release under the Settlement. Although you cannot opt out of the Settlement, you can object to the Settlement as described above.

GETTING MORE INFORMATION

How Do I Get More Information or Update My Address?

This Notice contains a summary of relevant court papers. Complete copies of public pleadings, Court rulings and other filings are available for review and copying at the Clerk's office. The address is John Joseph Moakley U.S. Courthouse, 1 Courthouse Way, Suite 2300, Boston, Massachusetts 02210. Information is also available at NEBClassAction.com, or by writing to the Settlement Administrator at the following address or telephone number: PO BOX 7208, Orange, CA 92863; (800) 523-5773

Any questions you may have about this Notice or Settlement should be directed to Class Counsel (or your own attorney or advisor if you have one).

If you want to make sure that Class Counsel has your correct contact information, please complete the form below.

PLEASE DO NOT CALL THE COURT, NEB, THE NEB PARTIES OR THE NEB PARTIES' COUNSEL WITH QUESTIONS REGARDING THIS NOTICE OR THE LAWSUIT.