

U.S. District Court
Southern District of New York
(Foley Square)
CIVIL DOCKET FOR CASE #: 1:01-cv-09919-DLC-DCF

In Re: Take-Two Securities, et al v. Take-Two Interactive, et al
Assigned to: Judge Denise L. Cote
Referred to: Magistrate Judge Debra C. Freeman
Demand: \$0

Date Filed: 12/18/2001
Jury Demand: Plaintiff
Nature of Suit: 850
Securities/Commodities
Jurisdiction: Federal Question

Lead case: [1:01-cv-09919-DLC-DCF](#)

Member cases:

[1:01-cv-11666-DLC](#)
[1:01-cv-11809-DLC](#)
[1:01-cv-12770-DLC](#)
[1:02-cv-00046-DLC](#)
[1:02-cv-00270-DLC](#)
[1:02-cv-00372-DLC](#)
[1:02-cv-00691-DLC](#)
[1:02-cv-00800-DLC](#)
[1:02-cv-00996-DLC](#)
[1:02-cv-01245-DLC](#)
[1:02-cv-01303-DLC](#)

Cause: 15:78m(a) Securities Exchange Act

Plaintiff

Peter Fischbein

*on behalf of himself and all others
similarly situated*

represented by **Andrei V. Rado**

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V.

Defendant

Take-Two Interactive Software, Inc.

Defendant

Ryan A. Brant

Defendant

Larry Muller

Defendant

Kelly G. Sumner

Defendant

James H. David, Jr.

Defendant

Paul Eibeler

Movant

Gershon Bassman

Consol Plaintiff

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ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
12/18/2001	1	CLASS ACTION COMPLAINT filed. Summons issued and Notice pursuant to 28 U.S.C. 636(c). FILING FEE \$ 150.00 RECEIPT # 425978. (kkc) (Entered: 12/21/2001)
12/18/2001		Magistrate Judge Debra C. Freeman is so designated. (kkc) (Entered: 12/21/2001)
01/28/2002	2	ORDER RE SCHEDULING AND INITIAL PRETRIAL CONFERENCE: a pretrial conference will be held for 4:00 3/15/02, in courtroom 11B, 500 Pearl Street, New York, NY. (signed by Judge Denise L. Cote) (jco) (Entered: 01/30/2002)
02/19/2002	3	NOTICE OF MOTION (filed on service date) by Stephen Bilsky, Lawrence Larsen and Richard Lettelier for an Order consolidating actions 01cv9919, 01cv11666, 01cv11809, 01cv12770, 02cv46, 02cv270, 02cv372, 02cv691, 02cv800 and 02cv996 appointing Movants as Lead Plaintiff and, approving Movants' selection of the law firms of Milberg Weiss Hynes & Lerach LLP and Schiffrin Barroway LLP to serve as Lead Counsel . Return date not indicated. Proposed Order attached. (yv) Modified on 03/20/2002 (Entered: 02/20/2002)
02/19/2002	4	MEMORANDUM OF LAW by Stephen Bilsky, Lawrence Larsen and Richard Lettelier in support of [3-1] motion for an Order consolidating actions, [3-2] motion appointing Movants as Lead Plaintiff, [3-3] motion approving Movants' selection of the law firms of Milberg Weiss Bershad Hynes & Lerach LLP and Schiffrin Barroway LLP to serve as Lead Counsel. Original entry in 01cv9919 document number 3. (yv) Modified on 02/20/2002 (Entered: 02/20/2002)
02/19/2002	5	DECLARATION of Peter E. Seidman by Stephen Bilsky, Lawrence Larsen and Richard Lettelier in support Re: [3-1] motion for an Order consolidating actions, [3-2] motion appointing Movants as Lead Plaintiff, [3-3] motion approving Movants' selection of the law firms of Milberg Weiss Bershad Hynes & Lerach LLP and Schiffrin Barroway LLP to serve as Lead Counsel . (yv) (Entered: 02/20/2002)
03/06/2002	6	STIPULATION and ORDER, the time for defendants to answer the complaints is extended to sixty days following service on defendants' counsel of the Consolidated Complaint in such action . (signed by Judge Denise L. Cote) (kw) Modified on 03/07/2002 (Entered: 03/07/2002)
03/08/2002	7	AMENDED NOTICE OF MOTION by Tracy Moulton, Jr. and Gershon Bassman pursuant to Section 21D(a)(3)(B) of the Securities Exchange Act of 1934, 15 U.S.C. 78u-4(a)(3)(B), as amended by the Private Securities Litigation Reform Act of 1995, for an Order consolidating actions 01cv9919, 01cv11666, 01cv11809, 01cv12770, 02cv46, 02cv270, 02cv372, 02cv691, 02cv800 and 02cv996 , appointing the Moulton Group lead plaintiff and, approving the Moulton Group's selection of Bernstein Liebhard & Lifshitz, LLP and Cauley Geller Bowman & Coates, LLP to serve as Co-Lead Counsel . Return date not indicated. Proposed Order attached. (yv) Modified on 03/20/2002 (Entered: 03/11/2002)
03/08/2002	8	MEMORANDUM OF LAW in support of [7-1] motion pursuant to Section 21D(a)(3)(B) of the Securities Exchange Act of 1934, 15 U.S.C. 78u-4(a)(3)(B), as

		amended by the Private Securities Litigation Reform Act of 1995, for an Order consolidating actions, [7-2] motion appointing the Moulton Group lead plaintiff, [7-3] motion approving the Moulton Group's selection of Bernstein Liebhard & Lifshitz, LLP and Cauley Geller Bowman & Coates, LLP to serve as Co-Lead Counsel . (yv) (Entered: 03/11/2002)
03/14/2002	9	Memo-Endorsement on letter addressed to Judge Cote from Joseph H. Weiss, dated 3/12/02; denying counsel's request that they be excused from attending the 3/15/02 initial pretrial conference . (signed by Judge Denise L. Cote); Copies mailed. (kkc) (Entered: 03/15/2002)
03/15/2002	10	Memo-Endorsement on letter addressed to Judge Cote from Jeffrey E. Greene, dated 3/14/02. Re: Mr. Greene requests that he be allowed to attend the Initial Pretrial Conference in stead of Mr. Morvillo, who is on vacation. Granted on condition that Mr. Greene is a partner of Mr. Morvillo, fully familiar with the case, and authorized to act for the client . (signed by Judge Denise L. Cote); Copies mailed. (tp) (Entered: 03/19/2002)
03/19/2002	11	Order that case be referred to the Clerk of Court for assignment to a Magistrate Judge for Settlement. Referred to Magistrate Judge Debra C. Freeman (signed by Judge Denise L. Cote) (cd) (Entered: 03/20/2002)
03/19/2002	12	ORDER; the parties shall contact the chambers of Magistrate Judge Freeman immediately in order to pursue settlement discussions under his supervision. Bernstein Liebhard & Liftshitz, LLP shall submit a letter to the Court by 03/20/02 describing notice given to potential class members and describing the adequacy of Joshua Albert or any other party to serve as lead plaintiff. Bernstein Liebhard shall submit a revised proposed Order for appointment of lead plaintiff and approval of selection of lead counsel by 03/22/02 ; Bernstein Liebhard shall file a consolidated complaint for the actions by 04/12/02, and promptly serve it on all defendants ; Defendants shall answer or move with respect to the consolidated complaint by 05/10/02. If a motion is filed, any opposition shall be submitted by 05/31/02; any reply shall be submitted by 06/07/02 ; Within thirty days of the filing of the answer or any opinion by the Court, Bernstein Liebhard shall submit a motion for class certification. Any opposition shall be submitted within three weeks of the submission of the motion. Any reply shall be submitted within one week of the submission of the opposition. At the time any Reply is served, the moving party shall supply two courtesy copies of all motion papers to Chambers by delivering them to the Courthouse Mailroom, 8th floor, United States Courthouse, 500 Pearl Street ; (signed by Judge Denise L. Cote); Copies mailed. (djc) (Entered: 03/20/2002)
03/19/2002	13	ORDER; that actions 01 civ. 9919, 01 civ. 11666, 01 civ. 11809, 01 civ. 12770, 02 civ. 46, 02 civ. 270, 02 civ. 372, 02 civ. 691, 02 civ. 800, 02 civ. 996, 02 civ. 1245, 02 civ. 1303, and 02 civ. 1339 are consolidated for all purposes pursuant to Rule 42(a), FRCP; they shall be referred to collectively as In re Take-Two Interactive Software, Inc. Securities Litigation, Master File No. 01 civ. 9919 (DLC); a Master Docket is established for the consolidated proceedings in the actions consolidated herein and any other actions subsequently consolidated with them either for all purposes or for pretrial purposes; entries in said Master Docket shall be applicable to the consolidated actions, and entries shall be made therein in accordance with the regular procedures of the Clerk of this Court, except as modified by this Order; a

		Master File is established for the consolidated proceedings in the consolidated actions; the Master File shall be Civil Action No. 01 civ. 9919 (DLC); the original of this Order shall be filed by the Clerk in the Master File herein established; the Clerk shall maintain a separate file for each of the consolidated actions and filings shall be made therein in accordance with the regular procedures of the Clerk of this Court except as modified by Section II of this Order; when a case that relates to the same subject matter as the consolidated actions is hereafter filed in or transferred to this Court and assigned to the undersigned, it shall be consolidated with these actions in the same manner as the cases identified; every pleading filed in the consolidated action, and in any separate action included therein, shall bear the caption as set forth in this Order . (signed by Judge Denise L. Cote); Copies mailed. (kkc) (Entered: 03/20/2002)
03/19/2002	14	Memo-Endorsement on letter addressed to Judge Cote from Samuel H. Rudman, dated 03/14/02. Re: counsel informs the Court that Stephen Lawrence Larsen and Richard Lettelier have filed a notice of withdrawal of the lead plaintiff motion filed on 02/19/02; denying for counsel to plaintiff's request that they be excused from attending the status conference currently scheduled for 03/15/02 at 4:00 p.m. ; (signed by Judge Denise L. Cote); Copies mailed. (djc) (Entered: 03/20/2002)
03/19/2002		Consolidated Lead Case. (kkc) (Entered: 03/20/2002)
03/19/2002	15	STIPULATION and ORDER, that the time for all defts to answer, move or otherwise respond to the complaints in Thomas Long v. Take-Two Interactive Software, Inc. et al., Vivian Fancher v. Take-Two Interactive Software, Inc. et al., and Stephen G. Netzel v. Take-Two Interactive Software, Inc. et al. is extended to 30 days following service on defts' counsel of the Consolidation Complaint in such actions. (signed by Judge Denise L. Cote) (sac) (Entered: 03/21/2002)
03/19/2002	16	WAIVER OF SERVICE of Summons and Complaint returned executed as to James H. David Jr.mailed on 1/28/02 . Answer due on 3/29/02 for James H. David Jr. (kkc) (Entered: 03/22/2002)
03/19/2002	17	WAIVER OF SERVICE of Summons and Complaint returned executed as to Larry Muller mailed on 1/28/02. Answer due on 3/29/02 for Larry Muller. (kkc) (Entered: 03/22/2002)
03/19/2002	18	WAIVER OF SERVICE of Summons and Complaint returned executed as to Kelly G. Sumner mailed on 1/28/02. Answer due on 3/29/02 for Kelly G. Sumner. (kkc) (Entered: 03/22/2002)
03/19/2002	19	WAIVER OF SERVICE of Summons and Complaint returned executed as to Ryan A. Brant mailed on 1/28/02. Answer due on 3/29/02 for Ryan A. Brant. (kkc) (Entered: 03/22/2002)
03/19/2002	20	WAIVER OF SERVICE of Summons and Complaint returned executed as to Paul Eibeler mailed on 1/28/02. Answer due on 3/29/02 for Paul Eibeler. (kkc) (Entered: 03/22/2002)
03/19/2002	21	WAIVER OF SERVICE of Summons and Complaint returned executed as to Take-Two Interactive mailed on 1/28/02. Answer due on 3/29/02 for Take-Two Interactive. (kkc) (Entered: 03/22/2002)

03/27/2002	22	ORDER Appointing Lead Plaintiff and Lead Plaintiff's Selection of Counsel; that class member Gershon Bassman is appointed sole lead plaintiff pursuant to Section 21D(a)(3)(B) of the Securities Exchange Act of 1934, 15 U.S.C. 78u-4(a)(3)(b); lead plaintiff's selection of Bernstein Liebhard & Lifshitz LLP to serve as lead counsel for all plaintiffs and the class in this consolidated action is approved; lead counsel is vested by the Court with the following responsibilities and duties in connection with this consolidated action, as further set forth in this Order. (signed by Judge Denise L. Cote); Copies mailed. (kkc) (Entered: 04/01/2002)
04/10/2002	23	NOTICE OF MOTION by James H. David Jr. for an order pursuant to Rule 1.3(c) of the Local Civil Rule permitting Jeffrey E. Greene to appear pro hac vice . Proposed Order attached. No Return date indicated. (db) (Entered: 04/12/2002)
04/12/2002	24	CONSOLIDATED AMENDED CLASS ACTION COMPLAINT by plaintiffs (Answer due 4/25/02 for Paul Eibeler, for James H. David Jr., for Kelly G. Sumner, for Larry Muller, for Ryan A. Brant, for Take-Two Interactive) amending [1-1] complaint. (kw) (Entered: 04/18/2002)
04/23/2002	25	ORDER; that defendants shall answer or move with respect to the consolidated complaint by 6/14/02 ; if a motion is filed, any opposition shall be submitted by 7/3/02; any reply shall be submitted by 7/12/02 . (signed by Judge Denise L. Cote); Copies mailed. (kkc) (Entered: 04/24/2002)
05/02/2002	26	Transcript of record of proceedings before Judge Denise L. Cote for the date(s) of 3/15/02. (moc) (Entered: 05/02/2002)
05/16/2002	27	SEALED DOCUMENT placed in vault. (wv) (Entered: 05/16/2002)
06/10/2002	28	MEMORANDUM OF UNDERSTANDING by Take-Two Interactive, Ryan A. Brant, Kelly G. Sumner, Paul Eibeler. Supplemental Agreement attached. (yv) (Entered: 06/17/2002)
06/19/2002	29	NOTICE OF MOTION by Gershon Bassman for an Order for preliminary approval of the settlement of the captioned action pursuant to the terms of the Stipulation and Agreement of Settlement dated June 5, 2002 . Return Date not indicated. (yv) (Entered: 06/24/2002)
06/19/2002	30	MEMORANDUM OF LAW by Gershon Bassman in support of [29-1] motion for an Order for preliminary approval of the settlement of the captioned action pursuant to the terms of the Stipulation and Agreement of Settlement dated June 5, 2002 . (yv) (Entered: 06/24/2002)
06/19/2002	31	AFFIDAVIT of Jeffrey M. Haber by Gershon Bassman in support of [29-1] motion for an Order for preliminary approval of the settlement of the captioned action pursuant to the terms of the Stipulation and Agreement of Settlement dated June 5, 2002 . (yv) (Entered: 06/24/2002)
07/15/2002	32	RESPONSE by Gershon Bassman Re:issues raised by the Court during the 7/3/02 conference; w/ atch. Proposed Preliminary Approval Order (pl) Modified on 07/17/2002 (Entered: 07/17/2002)
07/19/2002		Memo endorsed on motion; That the Court is granting the [29-1] motion for an Order for preliminary approval of the settlement of the captioned action pursuant to the terms of the Stipulation and Agreement of Settlement dated June 5, 2002. (

		signed by Judge Denise L. Cote); Copies mailed. (tp) (Entered: 07/19/2002)
07/19/2002	33	STIPULATION and ORDER, this stipulation is entered by Lead Plaintiff Gershon Bassman and the Class (as hereinafter defined) and Defendants Take-Two Interactive Software, Inc. ("Take-Two" or the "Company"), Ryan A. Brant, Kelly G. Sumner, James H. David, Jr., Paul Eibeler, and Larry Muller. Upon the Effective Date of this Settlement, each of the Defendants, on behalf of themselves and the Released Parties, shall release and forever discharge each and every one of the Settled Defendants' Claims, and shall forever be enjoined from prosecuting the Settled Defendants' Claims. Defendants shall create a settlement fund consisting of \$7,500,000 as set forth in this document ; all Released Claims as set forth in this document as against the Released Parties as set forth in this document shall be compromised, settled, released, and dismissed with prejudice as set forth in this document. Plaintiffs' Counsel will apply to the Court for an award of attorneys' fees not to exceed 30% of the settlement fund and reimbursement of expenses, plus interest as set forth in this document . (signed by Judge Denise L. Cote) (kw) (Entered: 07/22/2002)
08/30/2002	34	Transcript of record of proceedings before Judge Denise L. Cote for the date(s) of July 3, 2002. (jw) (Entered: 08/30/2002)
09/27/2002	35	MEMORANDUM OF LAW by Gershon Bassman in support of Joint Application for an award of attys' fees and reimbursement of costs and expenses. (sac) (Entered: 10/03/2002)
09/27/2002	36	MEMORANDUM OF LAW by Gershon Bassman in support of approval of the proposed settlement and plan of allocation. (sac) (Entered: 10/03/2002)
09/27/2002	37	DECLARATION of Stanley D. Bernstein by Gershon Bassman in support of proposed settlement, plan of allocation, and joint petition for award of attys' fees and reimbursement of costs and expenses. (sac) (Entered: 10/03/2002)
10/02/2002	38	CORRECTED MEMORANDUM OF LAW by Gershon Bassman in support of [29-1] motion for an Order for preliminary approval of the settlement of the captioned action pursuant to the terms of the Stipulation and Agreement of Settlement dated June 5, 2002. (sac) (Entered: 10/07/2002)
10/09/2002	39	ORDER AND FINAL JUDGMENT: pursuant to FRCP 23, this Court hereby approves the Settlement set forth in the stipulation and finds that said Settlement is, in all respects, fair, just reasonable and adequate to the Class as set forth in this document. Except as to any individual claim of the person (identified in Exhibit 1 hereto) who has validly and timely requested exclusion from the Class, the Action and all claims contained therein, as well as all of the Released Claims, are dismissed with prejudice as to plaintiffs and the other members of the Class, and as against the Released Parties. The Parties are to bear their own costs, except as otherwise provided in the Stipulation. All Class members are forever barred and enjoined from prosecuting any of the Released Claims against any of the Released Parties. The Court hereby awards attorneys' fees of \$1,500,000.00 and the reimbursement of expenses of \$58,205.01, reasonably incurred in connection with the prosecution of the action, to be paid from the Settlement Fund in accordance with the terms of the Stipulation. (signed by Judge Denise L. Cote). Mailed copies and notice of right to appeal. Entered On Docket: 10/15/02. (kw) (Entered: 10/15/2002)

		10/15/2002)
12/06/2002	40	Transcript of record of proceedings before Judge Denise L. Cote for the date(s) of 10/4/02. (dt) (Entered: 12/06/2002)
01/27/2003	41	Memo-Endorsement on letter addressed to Judge Cote from Alan N. Scott, dated 1/22/03. Re: Mr. Scott requests leave to allow the late filing of a proof of claim. Pltffs counsel shall provide its response to this request by 1/31/03 . (signed by Judge Denise L. Cote); Copies Mailed by Chambers.(db) (Entered: 01/31/2003)
02/03/2003	42	AFFIDAVIT OF SERVICE of 3rd party summons and 3rd party complaint on Hanjin Shipping Co. by Jacob Lee on 2/3/03. (sb) (Entered: 02/05/2003)
04/14/2003	43	Memo-Endorsement on letter addressed to Judge Cote from Jeffrey M. Haber, dated 4/10/03. Set Status letter due on 9/10/03 . (signed by Judge Denise L. Cote); Copies forwarded by chambers. (kw) (Entered: 04/15/2003)
09/11/2003	44	Memo-Endorsement on letter addressed to Judge Cote from Timothy J. MacFall, dated 9/4/03: Status letter due 10/24/03 . (signed by Judge Denise L. Cote); Copies mailed by Chambers. (tp) (Entered: 09/15/2003)
11/05/2003	45	Memo-Endorsement on letter addressed to Judge Cote from Timothy J. MacFall, dated 10/31/03. Set status letter due for 12/5/03 . (signed by Judge Denise L. Cote); Copies forwarded by chambers. (kw) Modified on 11/06/2003 (Entered: 11/06/2003)
02/20/2004	46	MOTION for entry of the Proposed Class Distribution Order. Document filed by Joshua Albert, Drimal, Ltd. et al. (cd,) (Entered: 02/24/2004)
02/20/2004	47	DECLARATION of Timothy MacFall in Support re: [46] MOTION the Proposed Class Distribution Order.. Document filed by Joshua Albert, Drimal, Ltd. et al. (cd,) (Entered: 02/24/2004)
03/05/2004	48	SUPPLEMENTAL DECLARATION of Timothy MacFall in Support re: [46] MOTION the Proposed Class Distribution Order Document filed by Joshua Albert et al. (cd,) (Entered: 03/10/2004)
03/15/2004		MEMO ENDORSEMENT (This Document Relates To: All Actions) on re: [46] MOTION the Proposed Class Distribution Order filed by Drimal, Ltd., Joshua Albert. Granted. (Signed by Judge Denise L. Cote on 3/12/04) Copies Mailed by Chambers.(tp,) (Entered: 03/18/2004)
06/22/2004	49	ORDER that the Court having issued an order and Final Judgment on October 4,2002, and a Class Distribution Order on March 12, 2004, it is ordered that the Clerk shall close the above referenced action and all civil consolidated cases.... (Signed by Judge Denise L. Cote on 6/21/04) Filed In Associated Cases: 1:01-cv-09919-DLC-DCF,1:01-cv-11666-DLC,1:01-cv-11809-DLC,1:01-cv-12770-DLC,1:02-cv-00046-DLC,1:02-cv-00270-DLC,1:02-cv-00372-DLC,1:02-cv-00691-DLC,1:02-cv-00800-DLC,1:02-cv-00996-DLC,1:02-cv-01245-DLC,1:02-cv-01303-DLC, and 02-cv-1339(jf,) (Entered: 06/28/2004)

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