

1 **SUPERIOR COURT OF ARIZONA**

2 **MARICOPA COUNTY**

3 MARY KAUFOLD, Derivatively on Behalf of
Nominal Defendant FIRST SOLAR, INC.,

4 Plaintiff,

5 v.

6 MICHAEL J. AHEARN; ROBERT J.
7 GILLETTE, MARK R. WIDMAR, JENS
8 MEYERHOFF, JAMES ZHU, BRUCE SOHN,
9 DAVID EAGLESHAM, CRAIG KENNEDY,
10 JAMES F. NOLAN, WILLIAM J. POST, J.
THOMAS PRESBY, PAUL H. STEBBINS,
MICHAEL SWEENEY, JOSE H.
VILLARREAL,

11 Defendants,

12 and

13 FIRST SOLAR, INC.,

14 Nominal Defendant.

Case No. CV2013-009938

**SUMMARY NOTICE OF
PROPOSED DERIVATIVE
SETTLEMENT**

(The Honorable Daniel Martin)

15 **TO: ALL RECORD HOLDERS AND BENEFICIAL OWNERS OF STOCK OF**
16 **FIRST SOLAR, INC. (“FIRST SOLAR” OR THE “COMPANY”) AS OF**
NOVEMBER 6, 2020 (“CURRENT FIRST SOLAR STOCKHOLDERS”).

17 YOU ARE HEREBY NOTIFIED, pursuant to an Order of the Superior Court of
18 Arizona, Maricopa County (the “Court”), that a proposed Settlement has been reached in the
19 above captioned shareholder derivative action brought derivatively on behalf of First Solar
20 (the “Action”), pursuant to a stipulation of settlement filed with the Court (the “Settlement”
21 or the “Stipulation”).

22 The plaintiff in the Action (the “Plaintiff”) asserted claims on behalf of First Solar
23 against certain current and former officers and directors of First Solar. Plaintiff alleged the
24 Individual Defendants breached their fiduciary duties by concealing certain expenses related
25 to manufacturing of the Company’s products, as well as issuing or approving false or
26 misleading statements in filings with the U.S. Securities and Exchange Commission (“SEC”)
27 related to the Company’s cost per watt figures, warranty expenses, and certain manufacturing
28

1 deficiencies. Plaintiff further alleged that the Individual Defendants breached their fiduciary
2 duties by using material non-public information to effectuate sales of First Solar stock at
3 artificially inflated prices. Plaintiff also alleged that certain Individual Defendants, as current
4 and former executive officers of the Company, were unjustly enriched by receipt of
5 unwarranted compensation based on false and misleading reports on improvements in the
6 Company's cost per watt metric. Lastly, Plaintiff alleged that certain other Individual
7 Defendants wasted corporate assets by granting this undeserved compensation to those
8 executives.

9 Under the terms of the Settlement, First Solar shall adopt certain corporate governance
10 changes described in the Stipulation. In addition, First Solar agreed that an award of
11 attorneys' fees and reimbursement of expenses to Plaintiff's counsel in the total amount of
12 \$199,000.00 (the "Fee and Expense Award"), subject to approval of the Court, is fair and
13 reasonable in light of the benefits conferred upon First Solar and the current First Solar
14 stockholders. First Solar believes that the Settlement, including the Fee and Expense Award,
15 is in the best interests of the Company and its stockholders.

16 On December 1, 2020 at 9:00 a.m., the Court will hold a hearing via video or telephone
17 conference (the "Settlement Hearing") before the Honorable Daniel Martin, to determine:
18 (i) whether to enter an order approving the terms of the Settlement as fair, reasonable, and
19 adequate; (ii) whether a final judgment should be entered dismissing the Action with
20 prejudice; (iii) whether the Court should approve the Fee and Expense Award; and (iv) such
21 other matters as may be necessary or proper under the circumstances. The Court may adjourn
22 the Settlement Hearing without further notice to First Solar stockholders. The Court will
23 disseminate dial-in or log-in information for the Settlement Hearing on the business day
24 immediately preceding the date of the Settlement Hearing. **DIAL-IN OR LOG-IN**
25 **INFORMATION WILL ONLY BE PROVIDED TO THOSE CURRENT FIRST**
26 **SOLAR STOCKHOLDERS WHO HAVE COMPLIED WITH THE PROCEDURE**
27 **SPECIFIED HEREIN FOR APPEARING AT THE SETTLEMENT HEARING.**

1 **PLEASE READ THIS SUMMARY NOTICE CAREFULLY AND IN ITS**
2 **ENTIRETY. IF YOU ARE A CURRENT FIRST SOLAR**
3 **STOCKHOLDER, YOUR RIGHTS MAY BE AFFECTED BY THE**
4 **SETTLEMENT OF THE ACTION.**

5 This is a summary notice only. For additional information about the claims asserted
6 in the Action and the terms of the proposed Settlement, please refer to the documents filed in
7 the Action, the Stipulation, and the full-length Notice of Proposed Derivative Settlement (the
8 “Notice”). A copy of the Notice, which includes the procedure for submitting an objection
9 to the Settlement, may be viewed via a [Current Report on Form 8-K filed by First Solar with](#)
10 [the SEC](#), and a description of the Settlement, the date and address for the Settlement Hearing.

11 You have the right to object to the proposed Settlement and you may, but are not
12 required, to appear in person or through counsel at the Settlement Hearing to present such
13 objections to the Settlement or the award of attorneys’ fees and expenses. However, no
14 Current First Solar Stockholder shall be permitted to object or be heard to present such
15 objection to the approval of the proposed Settlement and award of attorneys’ fees and
16 expenses, unless that Current First Solar Stockholder has, *at least fourteen (14) calendar*
17 *days prior to the Settlement Hearing*, filed with the Clerk of Superior Court (1) a written
18 objection to the Settlement setting forth: (a) the stockholder’s name, address, and telephone
19 number; (b) the nature of the objection; (c) proof of current ownership of First Solar stock,
20 including the number of shares of First Solar stock and the date of purchase; and (d) any
21 documentation in support of such objection; and (2) if a Current First Solar Stockholder
22 intends to appear in person, or through counsel, and requests to be heard at the Settlement
23 Hearing, such stockholder must have provided, in addition to the requirements of (1) above,
24 (a) a written notice of such stockholder’s intention to appear; and (b) the identities of any
25 witnesses the stockholder intends to call at the Settlement Hearing and a statement as to the
26 subjects of their testimony, signed as authorized by the objecting stockholder.

27 **YOUR WRITTEN OBJECTIONS MUST BE ON FILE WITH THE CLERK**
28 **OF SUPERIOR COURT NO LATER THAN NOVEMBER 17, 2020.** The Superior
 Court Clerk’s address is:

1
2 CLERK OF SUPERIOR COURT
3 Maricopa Superior Court
4 201 W. Jefferson Street
5 Phoenix, Arizona 85003

6 **YOU ALSO MUST DELIVER COPIES OF THE MATERIALS TO THE**
7 **DESIGNATED COUNSEL FOR THE SETTLING PARTIES (BY HAND,**
8 **OVERNIGHT COURIER, OR FIRST CLASS MAIL).** Counsel's addresses are:

9 Eric L. Zagar
10 KESSLER TOPAZ MELTZER & CHECK, LLP
11 280 King of Prussia Road
12 Radnor, PA 19087

13 *Counsel for Plaintiff*

14 Daniel Slifkin
15 Karin A. DeMasi
16 Lauren M. Rosenberg
17 CRAVATH, SWAINE & MOORE, LLP
18 Worldwide Plaza Residence
19 825 8th Ave
20 New York, NY 10019

21 *Counsel for Defendants*

22 Unless the Court orders otherwise, your objection will not be considered unless it is
23 timely filed with the Court and delivered to counsel identified above. Any person or entity
24 who fails to object or otherwise to request to be heard in the manner prescribed above will
25 be deemed to have waived the right to object to any aspect of the Settlement or otherwise
26 request to be heard (including the right to appeal) and will be forever barred from raising
27 such objection or request to be heard in this or any other action or proceeding.

28 **PLEASE DO NOT TELEPHONE THE COURT REGARDING THIS NOTICE**