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12 *Attorneys for Plaintiffs Chenghsin D.
Hsieh and Wei C. Hsieh*

Attorneys for Plaintiff Joseph Iuso

13
14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 COUNTY OF LOS ANGELES

16 Coordination Proceeding)
Special Title Rule (3.550))
17)
18 SNAP INC. SECURITIES CASES)
_____)
19 This Document Relates To:)
20 ALL ACTIONS.)
21 _____)

Case No. JCCP 4960
DECLARATION OF THEODORE J. PINTAR
IN SUPPORT OF MOTION FOR AN AWARD
OF ATTORNEYS' FEES AND EXPENSES
AND AWARD TO PLAINTIFFS PURSUANT
TO 15 U.S.C. §77z-1(a)(4)
JUDGE: Honorable Elihu M. Berle
DATE: February 25, 2021
TIME: 9:00 a.m.
DEPT: 6

Coordinated Actions:
Hsieh, et al. v. Snap Inc., et al., No. BC669394,
CA Super. Ct., Cnty. of Los Angeles
Iuso v. Snap Inc., et al., No. 17CIV03710,
CA Super. Ct., Cnty. of San Mateo

1 I, THEODORE J. PINTAR, declare as follows:

2 1. I am an attorney duly licensed to practice before all of the courts of the State of
3 California. I am a member of the law firm of Robbins Geller Rudman & Dowd LLP, one of the counsel
4 of record for Plaintiffs Chenghsin D. Hsieh and Wei C. Hsieh, and the proposed Settlement Class in the
5 above-entitled action. I make this declaration in support of Plaintiffs' Counsel's Memorandum of
6 Points and Authorities in Support of Motion for an Award of Attorneys' Fees and Expenses and Award
7 to Plaintiffs Pursuant to 15 U.S.C. §77z-1(a)(4).

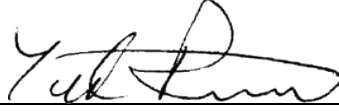
8 2. Attached are true and correct copies of the following exhibits:

- 9 Exhibit 1: *In re Sunrun, Inc. S'holder Litig.*, No. CIV538215, slip op. at 6 (San Mateo
10 Super. Ct. Dec. 14, 2018);
- 11 Exhibit 2: *Beaver Cnty. Empls. Ret. Fund v. Cyan*, No. CGC-14-538355, slip op. at 3
(San Francisco Super. Ct. Aug. 8, 2019);
- 12 Exhibit 3: *In re Avalanche Biotechnologies, Inc. S'holder Litig.*, No. CIV536488, slip
13 op. at 7 (San Mateo Super. Ct. Jan. 19, 2018);
- 14 Exhibit 4: *Brooks v. Capitol Valley Elec. Inc.*, No. CIV 536903, slip op. at 2 (San
15 Mateo Super. Ct. Mar. 7, 2017);
- 16 Exhibit 5: *W. Palm Beach Police Pension Fund v. CardioNet, Inc.*, No. 37-2010-
17 00086836-CU-SL-CTL, slip op. at 7 (San Diego Super. Ct. June 28, 2012);
- 18 Exhibit 6: *Lezin v. Minimed, Inc.*, No. BC251832, slip op. at 1 (Los Angeles Super.
19 Ct. Aug. 10, 2004);
- 20 Exhibit 7: *Lou v. Zenith*, No. BC015017, slip op. at 1 (Los Angeles Super. Ct.
21 Sept. 17, 1993);
- 22 Exhibit 8: *Goldman v. FarWest Fin. Corp.*, No. C-754698, slip op. at 6 (Los Angeles
23 Super. Ct. Nov. 30, 1993);
- 24 Exhibit 9: *In re Onyx Pharms., Inc. S'holder Litig.*, No. CIV523789, slip op. at 7 (San
25 Mateo Super. Ct. Nov. 18, 2016);
- 26 Exhibit 10: *Wiley v. Envivio, Inc.*, No. CIV517185, slip op. at 6 (San Mateo Super. Ct.
27 June 22, 2015);
- 28 Exhibit 11: *In re Pac. Biosciences of Cal., Inc. Sec. Litig.*, No. CIV 509210, slip op. at 7
(San Mateo Super. Ct. Oct. 31, 2013); and

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Exhibit 12: *In re Menlo Therapeutics Inc. Sec. Litig.*, No. 18 CIV06049, slip op. at 6
(San Mateo Super Ct. Aug. 14, 2020)

I declare under penalty of perjury that the foregoing is true and correct. Executed on 24th day of
December, 2020, at San Diego, California.



THEODORE J. PINTAR

EXHIBIT 1

**ENDORSED FILED
SAN MATEO COUNTY**

DEC 14 2018

Clerk of the Superior Court
By TERRI MARAGOULAS
DEPUTY CLERK

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11 Co-Lead Class Counsel for Plaintiffs

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA

13 COUNTY OF SAN MATEO

14 In re SUNRUN INC. SHAREHOLDER)
LITIGATION)

Lead Case No. CIV538215

) CLASS ACTION

16 This Document Relates To:)

Assigned to: Hon. Marie S. Weiner

17 ALL ACTIONS.)

) JUDGMENT AND ORDER GRANTING
FINAL APPROVAL OF CLASS ACTION
18 SETTLEMENT

19 DEPT: 2

20 DATE ACTION FILED: 4/13/16

21
22
23 CIV538215
PJR
Proposed Judgment Received
1540961



SCANNED

FILED BY FAX

1 WHEREAS, the Court is advised that the Parties,¹ through their counsel, have agreed, subject to
2 Court approval following notice to the Class and a hearing, to settle this Action upon the terms and
3 conditions set forth in the Stipulation of Settlement dated August 23, 2018 (the “Stipulation” or
4 “Settlement”); and

5 WHEREAS, on September 14, 2018, the Court entered its Order Preliminarily Approving
6 Settlement and Providing for Notice, which preliminarily approved the Settlement, and approved the
7 form and manner of notice to the Class of the Settlement, and said notice has been made, and the
8 fairness hearing having been held; and

9 NOW, THEREFORE, based upon the Stipulation and all of the filings, records and proceedings
10 herein, and it appearing to the Court upon examination that the Settlement set forth in the Stipulation is
11 fair, reasonable and adequate, and upon a Settlement Fairness Hearing having been held after notice to
12 the Class of the Settlement to determine if the Settlement is fair, reasonable, and adequate and whether
13 the Final Judgment should be entered in this Action;

14 **THE COURT HEREBY FINDS AND CONCLUDES THAT:**

15 A. The provisions of the Stipulation, including definitions of the terms used therein, are
16 hereby incorporated by reference as though fully set forth herein.

17 B. This Court has jurisdiction of the subject matter of this Action and over all of the Parties
18 and all Class Members.

19 C. The form, content, and method of dissemination of notice given to the Class was
20 adequate and reasonable and constituted the best notice practicable under the circumstances, including
21 individual notice to all Class Members who could be identified through reasonable effort.

22 D. Notice, as given, complied with the requirements of California law, satisfied the
23 requirements of due process, and constituted due and sufficient notice of the matters set forth herein.

24
25 _____
26 ¹ As used herein, the term “Parties” means Plaintiffs Jeffrey L. Pytel and Jackie L. Nunez and
27 Defendants Sunrun Inc., Lynn Jurich, Bob Komin, Edward Fenster, Jameson McJunkin, Gerald Risk,
28 Steve Vassallo, Richard Wong, Credit Suisse Securities (USA) LLC, Goldman Sachs & Co. LLC (f/k/a
Goldman, Sachs & Co.), Morgan Stanley & Co. LLC, Merrill Lynch, Pierce Fenner & Smith
Incorporated, RBC Capital Markets, LLC, KeyBanc Capital Markets Inc., SunTrust Robinson
Humphrey, Inc., Foundation Capital VI, L.P. and Foundation Capital Management Co. VI, LLC.

1 E. The Settlement set forth in the Stipulation in the amount of \$32,000,000 is fair,
2 reasonable, and adequate.

3 (i) The Settlement was negotiated at arm's length by Plaintiffs on behalf of the Class
4 and by Defendants, all of whom were represented by highly experienced and skilled counsel. The case
5 settled only after, among other things: (a) a mediation conducted by an experienced mediator who was
6 thoroughly familiar with this Action; (b) the exchange between the Plaintiffs and the Sunrun Defendants
7 of detailed mediation statements prior to the mediation which highlighted the factual and legal issues in
8 dispute; (c) follow-up negotiations between the Plaintiffs and the Sunrun Defendants with the assistance
9 of the mediator; (d) Plaintiffs' Counsel's extensive investigation, which included, among other things, a
10 review of Sunrun's press releases, U.S. Securities and Exchange Commission filings, analyst reports,
11 media reports, and other publicly disclosed reports and information about the Defendants; (e) the
12 drafting and submission of detailed complaints; (f) extensive motion practice; (g) the review and
13 analysis of over one million pages of non-public documents produced by Defendants and third parties;
14 (h) certification of the Class and Subclass; and (i) a number of depositions. Accordingly, both the
15 Plaintiffs and Defendants were well-positioned to evaluate the settlement value of this Action. The
16 Stipulation has been entered into in good faith and is not collusive.

17 (ii) If the Settlement had not been achieved, both Plaintiffs and Defendants faced the
18 expense, risk, and uncertainty of extended litigation. The Court takes no position on the merits of either
19 Plaintiffs' or Defendants' arguments, but notes these arguments as evidence in support of the
20 reasonableness of the Settlement.

21 F. Plaintiffs and Plaintiffs' Counsel have fairly and adequately represented the interest of
22 the Class Members and Subclass Members in connection with the Settlement.

23 G. Plaintiffs, all Class Members, and Defendants are hereby bound by the terms of the
24 Settlement set forth in the Stipulation.

25 **IT IS HEREBY ORDERED THAT:**

26 1. The Settlement on the terms set forth in the Stipulation is finally approved as fair,
27 reasonable, and adequate. The Settlement shall be consummated in accordance with the terms and
28

1 provisions of the Stipulation. The Parties are to bear their own costs, except as otherwise provided in
2 the Stipulation.

3 2. All Released Parties as defined in the Stipulation are released in accordance with, and as
4 defined in, the Stipulation.

5 3. Upon the Effective Date, Plaintiffs and each Class Member and Subclass Member shall
6 be deemed to have, and by operation of this Final Judgment shall have, fully, finally, and forever
7 released, relinquished, and discharged all Settled Claims against the Released Parties, whether or not
8 such Class Member or Subclass Member executes and delivers a Proof of Claim and Release.

9 4. Upon the Effective Date, each of the Released Parties shall be deemed to have, and by
10 operation of this Final Judgment shall have, fully, finally, and forever released Plaintiffs, Plaintiffs'
11 Counsel, and each and all of the Class Members and Subclass Members from all Settled Defendants'
12 Claims.

13 5. All Class Members and Subclass Members who have not made their objections to the
14 Settlement in the manner provided in the Notice of Proposed Settlement of Class Action ("Notice") are
15 deemed to have waived any objections by appeal, collateral attack, or otherwise.

16 6. All Class Members and Subclass Members who have failed to properly submit requests
17 for exclusion (requests to opt out) from the Class are bound by the terms and conditions of the
18 Stipulation and this Final Judgment.

19 7. The requests for exclusion by ~~the persons or entities identified in Exhibit A to this Final~~
20 ~~Judgment~~ are accepted by the Court.

21 8. All other provisions of the Stipulation are incorporated into this Final Judgment as if
22 fully rewritten herein.

23 9. Plaintiffs and all Class Members and Subclass Members are hereby barred and enjoined
24 from instituting, commencing, maintaining, or prosecuting in any court or tribunal any of the Settled
25 Claims against any of the Released Parties.

26 10. Neither the Stipulation nor the Settlement, nor any act performed or document executed
27 pursuant to or in furtherance of the Stipulation or the Settlement:
28

*Peter F. Hovell, Wendy S. Henry,
Srazen Kumar Madadi, Robert & Patricia Komin, Erin Elahi,
Stephen P Kennard Jr., Gregory J. West, Carl L. Quinn, and John Giordano*

1 (a) shall be offered or received against Defendants as evidence of a presumption,
2 concession, or admission with respect to any liability, negligence, fault, or wrongdoing, or in any way
3 referred to for any other reason as against Defendants, in any other civil, criminal, or administrative
4 action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of
5 the Stipulation; however, Defendants may refer to it to effectuate the liability protection granted them
6 hereunder;

7 (b) shall be construed as or received in evidence as an admission, concession, or
8 presumption against Plaintiffs or any of the Class Members or Subclass Members that any of their
9 claims are without merit, or that any defenses asserted by Defendants have any merit, or that damages
10 recoverable in this Action, or any subsequent operative complaint filed in this Action would have
11 exceeded the Settlement Fund; and

12 (c) Notwithstanding the foregoing, Defendants, Plaintiffs, Class Members and/or the
13 Released Parties may file the Stipulation and/or this Final Judgment in any action that may be brought
14 against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral
15 estoppel, release, good faith settlement, judgment bar or reduction or any other theory of claim
16 preclusion or issue preclusion or similar defense or counterclaim.

17 11. The Court hereby finds and concludes that the Action was brought, prosecuted and/or
18 defended in good faith, with a reasonable basis.

19 12. Pursuant to and in full compliance with California law, this Court hereby finds and
20 concludes that due and adequate notice was directed to all Persons and entities who are Class Members
21 and Subclass Members advising them of the Plan of Allocation and of their right to object thereto, and a
22 full and fair opportunity was accorded to all Persons and entities who are Class Members and Subclass
23 Members to be heard with respect to the Plan of Allocation.

24 13. The Court hereby finds and concludes that the formula for the calculation of the claims
25 of Authorized Claimants, which is set forth in the Notice sent to Class Members and Subclass Members,
26 provides a fair and reasonable basis upon which to allocate the proceeds of the Net Settlement Fund
27 established by the Stipulation among Class Members and Subclass Members, with due consideration
28 having been given to administrative convenience and necessity.

1 14. The Court hereby awards Plaintiffs' Counsel attorneys' fees of \$10,656,000, plus Lead
2 Counsel's expenses in the amount of \$473,536.28, together with the interest earned thereon for the same
3 time period and at the same rate as that earned on the Settlement Fund until paid. The Court finds that
4 the amount of fees awarded is appropriate and that the amount of fees awarded is fair and reasonable
5 given the contingent nature of the case and the substantial risks of non-recovery, the time and effort
6 involved, and the result obtained for the Class and Subclass.

7 15. The awarded attorneys' fees and expenses and interest earned thereon shall immediately
8 be paid to Lead Counsel from the Settlement Fund subject to the terms, conditions, and obligations of
9 the Stipulation, which terms, conditions, and obligations are incorporated herein.

10 16. Time and expenses are awarded to Plaintiffs Jeffrey L. Pytel and Jackie L. Nunez, in the
11 amounts of \$16,000 and \$15,000, respectively. Such payment is appropriate considering their active
12 participation as Plaintiffs in this Action, as attested to by the declarations submitted to the Court. Such
13 payment is to be made from the Settlement Fund.

14 17. In the event that the Stipulation is terminated in accordance with its terms: (i) this Final
15 Judgment shall be rendered null and void and shall be vacated *nunc pro tunc*; and (ii) this Action shall
16 proceed as provided in the Stipulation.

17 18. Without affecting the finality of this Final Judgment in any way, this Court retains
18 continuing jurisdiction over: (a) implementation of this Settlement and any award or distribution of the
19 Settlement Fund, including interest earned thereon; (b) disposition of the Settlement Fund; (c) hearing
20 and determining applications for attorneys' fees, interest, and expenses in the Action; and (d) all parties
21 hereto for the purpose of construing, enforcing, and administering the Stipulation.

22 IT IS SO ORDERED.

23 DATED: 12/14/18

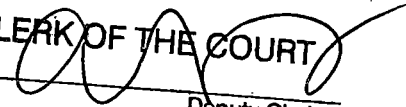


HONORABLE MARIE S. WEINER
JUDGE OF THE SUPERIOR COURT

EXHIBIT 2

FILED
San Francisco County Superior Court

AUG 08 2019

CLERK OF THE COURT
BY: 
Deputy Clerk

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO
DEPARTMENT 304

BEAVER COUNTY EMPLOYEES
RETIREMENT FUND, ET AL.,

Plaintiffs,

v.

CYAN, INC., et al.,

Defendants.

Case No. CGC-14-538355

ORDER GRANTING FINAL APPROVAL
OF CLASS ACTION SETTLEMENT,
APPROVING THE PLAN OF
ALLOCATION, ATTORNEYS' FEES, AND
COSTS

1 Plaintiffs have moved for an order granting final approval of a class action settlement, the
2 plan of allocation, attorneys' fees, and costs. This Court initially held a hearing on the motions on
3 June 5, 2019. No objector appeared at the hearing.

4 Following the initial June 5, 2019 hearing on the motion, this Court issued an order
5 continuing the motion to July 11, 2019, and requiring supplemental briefing. On July 3, 2019,
6 Plaintiffs' counsel submitted said supplemental briefing. In advance of the July 11, 2019 hearing,
7 the Court provided the parties with a tentative ruling. On July 10, 2019, the parties submitted on the
8 tentative ruling, and the Court vacated the July 11, 2019 hearing. The Court then issued an order on
9 July 10, 2019 requiring further additional briefing, and continuing the hearing to August 2, 2019.
10 On July 25, 2019, Plaintiff s' counsel submitted the requested additional briefing. Prior to the
11 August 2, 2019 hearing, the Court provided a tentative ruling, and Plaintiffs' counsel provided
12 supplemental materials on August 1, 2019. On August 2, 2019, the Court held a further hearing,
13 and issued a subsequent order granting the motions.

14 On the basis of the Settlement Agreement submitted to the Court as the parties' Amended
15 Stipulation of Settlement dated December 6, 2018 (the "Stipulation"), and all the filings related to the
16 motion for preliminary and final approval, and the arguments of counsel,

17 **IT IS ORDERED THAT:**

- 18 1. All terms or phrases used in this Order shall have the same meaning as in the
19 Stipulation.
- 20 2. The Court has jurisdiction over the subject matter of this litigation, Plaintiffs, the
21 Class Members, and Defendants.
- 22 3. The Notice approved by this Court was distributed to the Class Members in
23 compliance with this Court's Order Granting Preliminary Approval of Class Action Settlement,
24 dated January 2, 2019. The Notice provided to the Class Members met the requirements of due
25 process and constituted the best notice practicable in the circumstances. Based on evidence and
26 other material submitted in conjunction with the final approval hearing, notice to the class was fair,
27 adequate, and reasonable.

1 4. The Court finds that the Plan of Allocation is fair, reasonable, and adequate. The
2 Plan of Allocation provides monetary recovery in some form, on a pro rata basis, to all Class
3 Members who file a timely, valid claim. The Court hereby orders that the Class Members' claims
4 will be processed according to Paragraphs 6.1-7.12 of the Stipulation. (See also Preliminary
5 Approval of Class Action Settlement, Ex. 4 [Timeline of Events].) The Plan of Allocation is
6 approved.

7 5. No Class Members objected to the Stipulation.

8 6. 13 members of the Class validly requested exclusion from the Stipulation. Those
9 who have requested exclusion are not members of the Class certified below, shall be named in the
10 Judgment as having opted out, shall receive no funds under this Order, and are not bound by the
11 Judgment.

12 7. The reaction of the Class Members to the Stipulation supports the conclusion that the
13 Stipulation is fair, reasonable, and adequate.

14 8. By Order entered May 19, 2015, the Court certified a class as to Class
15 Representatives' claims brought pursuant to the Securities Act of 1933 on behalf of:

16 All persons who purchased or otherwise acquired Cyan common stock from
17 May 9, 2013 to November 4, 2013, except for purchases or acquisitions of non-
18 registered shares in a private transaction. The following persons are excluded from the
19 Class: the Defendants and their respective successors and assigns; past and current
20 officers and directors of Cyan and the Underwriter Defendants; members of the
immediate families of the Individual Defendants; the legal representatives, heirs,
successors or assigns of the Individual Defendants; any entity in which any of the above
excluded persons have or had a majority ownership interest; and any person who validly
requested exclusion from the Class.

21 9. By Order entered May 19, 2015, the Court certified plaintiffs Beaver County
22 Employees Retirement Fund, Retirement Board of Allegheny County, and Delaware County
23 Employees Retirement System as Class Representatives.

24 10. By Order entered May 19, 2015, the Court designated Robbins Geller Rudman &
25 Dow to act as Class Counsel.

26 11. The settlement of the above-captioned action, as set forth in the Stipulation, is
27 approved. The terms of the Stipulation are fair, reasonable, and adequate. Plaintiffs have satisfied

1 the requirements for final approval of this class action settlement. The parties are directed to
2 effectuate the Stipulation according to its terms and this Order.

3 12. Upon the Effective Date as defined in the Stipulation, Plaintiffs and the Class
4 Members release all Settled Claims against the Released Parties. The Released Claims are defined
5 in the Stipulation at Paragraphs 2.1-2.2.

6 13. The only Class Members entitled to payment pursuant to this Order are those Class
7 Members who submitted timely and valid claims.

8 14. Payments to Class Counsel in the amount of \$ 5,000,000 for attorneys' fees, together
9 with the interest earned on that amount for the same time period and at the same rate as that earned
10 on the Settlement Fund, are approved. Payments to Class Counsel in the amount of \$854,771.78 for
11 costs, plus interest on such expenses at the same rate and for the same time period as earned by the
12 Settlement Fund, are also approved.

13 15. Specifically, the attorneys' fees requested are reasonable from the perspective of the
14 percentage-of-recovery method based on the following factors: (1) the results obtained by counsel
15 in this case; (2) the significant risks and complex issues involved in this case, which required a high
16 level of skill and a high quality of work to overcome; (3) the fees' contingency upon success, which
17 meant counsel risked time and effort and advanced costs with no guarantee of compensation; (4) the
18 range of awards made in similar cases; and (5) the notice and opportunity to object available to
19 Class Members and the absence of any compelling objections. As such, the Court finds that the
20 requested fee award comports with the applicable law and is justified by the circumstances of this
21 case. The Court also finds that placing overmuch weight on the lodestar is not in this case
22 appropriate, as it is in the interest of the courts and the parties to encourage early settlement without
23 the felt need to bill a large number of hours in order to justify a lodestar amount. Rather, it is
24 appropriate to place significant weight on the percentage-of-recovery method in order to encourage
25 early settlement, and to encourage suits which result in benefits to the class which would not
26 otherwise have been obtained.

1 16. The awarded attorneys' fees and expenses shall be paid to Lead Counsel from the
2 Settlement Fund immediately after the date this Order is executed subject to the terms and
3 conditions of the Stipulation.

4 17. The awarded attorneys' fees shall be allocated by Lead Counsel among Plaintiffs'
5 Counsel in a manner which they in good faith believe reflects the contribution of counsel to the
6 prosecution and settlement of the Action.

7 18. Payment in the amount of \$108,350.53 to Gilardi & Co. LLC is approved for the
8 costs of administering the settlement. (See Joaquin Dec. (Aug. 1, 2019).)

9 19. Pursuant to C.C.P. § 384, the requested *cy pres* recipient, Bay Area Legal Aid, will
10 use the *cy pres* funds to further the purposes of the claims in this case. The *cy pres* beneficiary is
11 approved. Pursuant to C.C.P. § 384, **on or before October 2020**, the parties will report to the
12 Court the total amount that was actually paid to the Class members, and may provide a proposed
13 amended judgment which directs Defendants to pay the sum of the unpaid residue, plus interest on
14 that sum at the legal rate of interest from the date of entry of the initial judgment, to Bay Area Legal
15 Aid. (See July 25, 2019 Stewart Decl., ¶ 7 & Exs. 25-26; see also Preliminary Approval of Class
16 Action Settlement, Ex. 4 “[p]resent residual break even dollar point for *cy pres* (if any)”].)

17 20. Each of the payments identified above, and the payment of compensation to the
18 Class Members, shall be made in accordance with the terms of the Stipulation.

19 21. **On March 5, 2020 at 9:15 a.m.**, the Court shall hear Class Counsel's motion for
20 distribution, stating the final and complete distribution of all funds in this Order. (See July 25,
21 2019 Stewart Decl., ¶ 7 & Exs. 25-26; see also Order Re: Continued (1) Motion for Final Approval
22 of Class Action Settlement and Approval of Plan of Allocation; (2) Motion for Awards of
23 Attorneys' Fees and Expenses (Aug. 2, 2019).) The motion shall be supported by an admissible
24 declaration. At the August 2, 2019 hearing, Class Counsel represented that, at the time Class
25 Counsel makes its motion for distribution, Class Counsel will (1) submit the Claims Administrators'
26 expenses and invoices paid, and (2) all expenses invoiced but not yet paid to the Claims

1 Administrator.¹ (See *id.*) While the Court understands that additional Claim Administrator fees
2 may be incurred *after* the motion for distribution, if necessary, the Court will address the Claims
3 Administrator's future expenses incurred *after* the motion for distribution at the corresponding
4 motion for distribution hearing. Class Counsel may by stipulation and proposed order advance the
5 March 5, 2020 hearing if an earlier resolution of the motion is appropriate. If an earlier hearing date
6 is necessary, Class Counsel shall contact the clerk for the Complex Litigation Department 304 to
7 ascertain an available date and time for the hearing.

8 22. Notice of final judgment shall be provided to the Class Members by posting this
9 Order and the final judgment on the administrator's website for a period of not less than 60 days
10 from the date the judgment is entered.

11 23. Pursuant to the Stipulation, C.C.P. § 664.6, and C.R.C. 3.769(h), the Court retains
12 jurisdiction over Plaintiffs, all Class Members, and Defendant) for the purposes of supervising the
13 implementation, enforcement, construction, administration, and interpretation of the Stipulation and
14 this Order.

15 24. Except as otherwise provided in the Stipulation and this Order and the Judgment, the
16 parties shall bear their own attorneys' fees, costs, and expenses incurred by them in connection with
17 this action.

18 25. After the Judgment is executed, this Order and the Judgment will be posted on the
19 case-specific website at www.CyanSecuritiesLitigation.com.

20
21 IT IS SO ORDERED.

22 Dated: *August 8, 2019*



Anne-Christine Massullo
Judge of The Superior Court

23
24
25
26 ¹ At the hearing, Class Counsel represented that the distribution motion may be made before the end of
27 2019.

CERTIFICATE OF ELECTRONIC SERVICE
(CCP 1010.6(6) & CRC 2.251)

I, Ericka Larnauti, a Deputy Clerk of the Superior Court of the County of San Francisco, certify that I am not a party to the within action.

On August 8, 2019, I electronically served the attached document via File & ServeXpress on the recipients designated on the Transaction Receipt located on the File & ServeXpress website.

Dated: August 8, 2019

T. Michael Yuen, Clerk

By: 

Ericka Larnauti, Deputy Clerk

EXHIBIT 3

**ENDORSED FILED
SAN MATEO COUNTY**

JAN 19 2018

Clerk of the Superior Court
By TERRI MARAGOULAS
DEPUTY CLERK

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& DOWD LLP
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3 San Francisco, CA 94104
Telephone: 415/288-4545
4 415/288-4534 (fax)

- and -
5 JAMES I. JACONETTE (179565)
SUSANNAH R. CONN (205085)
6 655 West Broadway, Suite 1900
San Diego, CA 92101
7 Telephone: 619/231-1058
619/231-7423 (fax)

RECEIVED
JAN 12 2018
CLERK OF THE SUPERIOR COURT
SAN MATEO COUNTY

8 Lead Counsel for Plaintiffs

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SAN MATEO

11 In re AVALANCHE BIOTECHNOLOGIES,)
12 INC. SHAREHOLDER LITIGATION)

Lead Case No. CIV536488

) CLASS ACTION

13 _____)
14 This Document Relates To:)

JUDGMENT AND ORDER GRANTING
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT

15 ALL ACTIONS.)
16 _____)

Assigned for All Purposes to the
Honorable Marie S. Weiner
Dept. 2
Date Action Filed: 12/07/15

File By Fax

1 WHEREAS, the Court is advised that the Parties,¹ through their counsel, have agreed, subject to
2 Court approval following notice to the Class and a hearing, to determine if the settlement upon the
3 terms and conditions set forth in the Stipulation and Agreement of Settlement dated August 3, 2017 (the
4 “Stipulation” or “Settlement”), which was filed with the Court, is fair, reasonable and adequate to the
5 Class; and

6 WHEREAS, on September 7, 2017, the Court entered its Order Preliminarily Approving
7 Settlement and Providing for Notice, which preliminarily approved the Settlement, and approved the
8 form and manner of notice to the Class of the Settlement, and said notice has been made, and the
9 fairness hearing having been held; and

10 NOW, THEREFORE, based upon the Stipulation and all of the filings, records and proceedings
11 herein, and it appearing to the Court upon examination that the Settlement set forth in the Stipulation is
12 fair, reasonable and adequate, and upon a Settlement Fairness Hearing having been held after notice to
13 the Class of the Settlement to determine if the Settlement is fair, reasonable, and adequate and whether
14 the Final Judgment should be entered in this Action;

15 **THE COURT HEREBY FINDS AND CONCLUDES THAT:**

16 A. The provisions of the Stipulation, including definitions of the terms used therein, are
17 hereby incorporated by reference as though fully set forth herein.

18 B. This Court has jurisdiction of the subject matter of this Action and over all of the Parties
19 and all Class Members.

20 C. With respect to the Class, the Court finds that:

21 (i) The Class Members are so numerous that their joinder in the Action is
22 impracticable. There were more than nine million shares of Avalanche common stock offered through
23 the IPO and the SPO. The Class is, therefore, sufficiently numerous to render joinder impracticable.
24

25 _____
26 ¹ As used herein, the term “Parties” means Plaintiffs Beaver County Employees Retirement Fund,
27 Arpan Bachhawat, and Srikanth Koneru, and Defendants Avalanche Biotechnologies, Inc., Thomas W.
28 Chalberg, Jr., Linda C. Bain, Mark S. Blumenkranz, John P. McLaughlin, Steven D. Schwartz, Paul D.
Wachter, Jefferies LLC, Cowen and Company, LLC, Piper Jaffray & Co., and William Blair &
Company, L.L.C.

1 (ii) There are questions of law and fact common to the Class. Those questions
2 include (a) whether the Defendants violated the Securities Act of 1933, whether the Registration
3 Statements for the IPO and SPO contained misstatements or omissions, whether any misstatements or
4 omissions were material, and whether any misstatements or omissions caused harm to the Class
5 Members; and (b) whether the Issuer Defendants violated the Securities Exchange Act of 1934, whether
6 the statements made during the Class Period were materially false or misleading, whether the Issuer
7 Defendants acted with scienter, and whether the Issuer Defendants' alleged fraud caused harm to the
8 Class Members.

9 (iii) The claims of the Plaintiffs are typical of the claims of the Class Members.
10 Plaintiffs claim to have purchased Avalanche common stock during the Class Period and/or pursuant or
11 traceable to the same Registration Statements as the Class Members. Consequently, Plaintiffs claim
12 that they and the other Class Members sustained damages as a result of the same misconduct by
13 Defendants.

14 (iv) Plaintiffs and Plaintiffs' Counsel have fairly and adequately represented and
15 protected the interests of the Class Members. Plaintiffs have no interests in conflict with absent Class
16 Members. The Court is satisfied that Plaintiffs' Counsel are qualified, experienced, and have
17 represented the Class to the best of their abilities.

18 (v) The questions of law or fact common to the Class Members predominate over
19 any questions affecting only individual members.

20 (vi) A class action is the superior means of resolving the Action.

21 D. The form, content, and method of dissemination of notice given to the Class was
22 adequate and reasonable and constituted the best notice practicable under the circumstances, including
23 individual notice to all Class Members who could be identified through reasonable effort.

24 E. Notice, as given, complied with the requirements of California law, satisfied the
25 requirements of due process, and constituted due and sufficient notice of the matters set forth herein.

26 F. The Settlement set forth in the Stipulation in the amount of \$13,000,000 is fair,
27 reasonable, and adequate.

28

1 (i) The Settlement was negotiated at arm's length by Plaintiffs on behalf of the Class
2 and by Defendants, all of whom were represented by highly experienced and skilled counsel. The case
3 settled only after: (a) a mediation conducted by an experienced mediator who was thoroughly familiar
4 with this Action and the Federal Court Action; (b) the exchange among the State Court Plaintiff and the
5 Issuer Defendants of detailed mediation statements prior to the mediation which highlighted the factual
6 and legal issues in dispute; (c) follow-up negotiations between the Parties to this Action and the Federal
7 Court Action with the assistance of the mediator; (d) Plaintiffs' Counsel's extensive investigation,
8 which included, among other things, a review of Avalanche's press releases, U.S. Securities and
9 Exchange Commission filings, analyst reports, media reports, and other publicly disclosed reports and
10 information about the Defendants; (e) the drafting and submission of detailed complaints; and (f) the
11 review and analysis of non-public documents produced by Defendants. Accordingly, both the Plaintiffs
12 and Defendants were well-positioned to evaluate the settlement value of this Action and the Federal
13 Court Action. The Stipulation has been entered into in good faith and is not collusive.

14 (ii) If the Settlement had not been achieved, both Plaintiffs and Defendants faced the
15 expense, risk, and uncertainty of extended litigation. The Court takes no position on the merits of either
16 Plaintiffs' or Defendants' arguments, but notes these arguments as evidence in support of the
17 reasonableness of the Settlement.

18 G. Plaintiffs and Plaintiffs' Counsel have fairly and adequately represented the interest of
19 the Class Members in connection with the Settlement.

20 H. Plaintiffs, all Class Members, and Defendants are hereby bound by the terms of the
21 Settlement set forth in the Stipulation.

22 **IT IS HEREBY ORDERED THAT:**

23 1. The Class, defined in the Stipulation is finally certified as:

24 All Persons that purchased or otherwise acquired Avalanche common stock between
25 July 30, 2014 and June 15, 2015 (inclusive), including those Persons that purchased or
26 otherwise acquired the Company's common stock pursuant or traceable to the
27 Company's Registration Statement and Prospectus for the Company's IPO and those
28 Persons that purchased or otherwise acquired the Company's common stock pursuant or
traceable to the Company's Registration Statement and Prospectus for the Company's
SPO. Excluded from the Class are: the Defendants; any officers or directors of
Avalanche or the Underwriter Defendants during or after the Class Period; any
corporation, trust or other entity in which any Defendant has a controlling interest; and

1 the members of the immediate families of the Individual Defendants, and the Individual
2 Defendants' successors, heirs, assigns and legal representatives.

3 2. The Settlement on the terms set forth in the Stipulation is finally approved as fair,
4 reasonable, and adequate. The Settlement shall be consummated in accordance with the terms and
5 provisions of the Stipulation. The Parties are to bear their own costs, except as otherwise provided in
6 the Stipulation.

7 3. All Released Parties as defined in the Stipulation are released in accordance with, and as
8 defined in, the Stipulation.

9 4. Upon the Effective Date, Plaintiffs and each Class Member shall be deemed to have, and
10 by operation of this Final Judgment shall have, fully, finally, and forever released, relinquished, and
11 discharged all Settled Claims against the Released Parties, whether or not such Class Member executes
12 and delivers a Proof of Claim and Release.

13 5. Upon the Effective Date, each of the Released Parties shall be deemed to have, and by
14 operation of this Final Judgment shall have, fully, finally, and forever released Plaintiffs, Plaintiffs'
15 Counsel, and each and all of the Class Members from all Settled Defendants' Claims.

16 6. All Class Members who have not made their objections to the Settlement in the manner
17 provided in the Notice of Proposed Settlement of Class Action ("Notice") are deemed to have waived
18 any objections by appeal, collateral attack, or otherwise.

19 7. All Class Members who have failed to properly submit requests for exclusion (requests
20 to opt out) from the Class are bound by the terms and conditions of the Stipulation and this Final
21 Judgment.

22 8. The requests for exclusion by the persons or entities identified in Exhibit A to this Final
23 Judgment are accepted by the Court.

24 9. All other provisions of the Stipulation are incorporated into this Final Judgment as if
25 fully rewritten herein.

26 10. Plaintiffs and all Class Members are hereby barred and enjoined from instituting,
27 commencing, maintaining, or prosecuting in any court or tribunal any of the Settled Claims against any
28 of the Released Parties.

1 11. Neither the Stipulation nor the Settlement, nor any act performed or document executed
2 pursuant to or in furtherance of the Stipulation or the Settlement:

3 (a) shall not be offered or received against Defendants as evidence of a presumption,
4 concession, or admission with respect to any liability, negligence, fault, or wrongdoing, or in any way
5 referred to for any other reason as against Defendants, in any other civil, criminal, or administrative
6 action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of
7 the Stipulation; however, Defendants may refer to it to effectuate the liability protection granted them
8 hereunder;

9 (b) shall not be construed as or received in evidence as an admission, concession, or
10 presumption against Plaintiffs or any of the Class Members that any of their claims are without merit, or
11 that any defenses asserted by Defendants have any merit, or that damages recoverable in this Action, the
12 Federal Court Action, or any subsequent operative complaint filed in this Action or the Federal Court
13 Action would not have exceeded the Settlement Fund; and

14 (c) Notwithstanding the foregoing, Defendants, Plaintiffs, Class Members, and/or the
15 Released Parties may file the Stipulation and/or the Final Judgment in any action that may be brought
16 against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral
17 estoppel, release, good faith settlement, judgment bar or reduction or any other theory of claim
18 preclusion or issue preclusion or similar defense or counterclaim.

19 12. The Court hereby finds and concludes that the Action was brought, prosecuted and/or
20 defended in good faith, with a reasonable basis.

21 13. Pursuant to and in full compliance with California law, this Court hereby finds and
22 concludes that due and adequate notice was directed to all Persons and entities who are Class Members
23 advising them of the Plan of Allocation and of their right to object thereto, and a full and fair
24 opportunity was accorded to all Persons and entities who are Class Members to be heard with respect to
25 the Plan of Allocation.

26 14. The Court hereby finds and concludes that the formula for the calculation of the claims
27 of Authorized Claimants, which is set forth in the Notice sent to Class Members, provides a fair and
28 reasonable basis upon which to allocate the proceeds of the Net Settlement Fund established by the

1 Stipulation among Class Members, with due consideration having been given to administrative
2 convenience and necessity.

3 15. The Court hereby awards Plaintiffs' Counsel attorneys' fees of \$4,290,000, plus Lead
4 Counsel's expenses in the amount of ~~\$155,002.81~~ ^{\$132,502.81}, and Federal Court Counsel's expenses in the amount
5 of \$92,652.63, together with the interest earned thereon for the same time period and at the same rate as
6 that earned on the Settlement Fund until paid. The Court finds that the amount of fees awarded is
7 appropriate and that the amount of fees awarded is fair and reasonable given the contingent nature of
8 the case and the substantial risks of non-recovery, the time and effort involved, and the result obtained
9 for the Class.

10 16. The awarded attorneys' fees and expenses and interest earned thereon shall immediately
11 be paid to Lead Counsel from the Settlement Fund subject to the terms, conditions, and obligations of
12 the Stipulation, which terms, conditions, and obligations are incorporated herein.

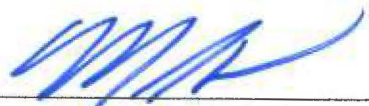
13 17. Time and expenses are awarded to Plaintiffs Beaver County Employees Retirement
14 Fund, Arpan Bachhawat and Srikanth Koneru in the amounts of \$2,500, \$2,500 and \$1,500,
15 respectively. Such payment is appropriate considering their active participation as Plaintiffs in this
16 Action and the Federal Court Action, as attested to by the declarations submitted to the Court. Such
17 payment is to be made from the Settlement Fund.

18 18. In the event that the Stipulation is terminated in accordance with its terms: (i) this Final
19 Judgment shall be rendered null and void and shall be vacated *nunc pro tunc*; and (ii) this Action shall
20 proceed as provided in the Stipulation.

1 19. Without affecting the finality of this Final Judgment in any way, this Court retains
2 continuing jurisdiction over: (a) implementation of this Settlement and any award or distribution of the
3 Settlement Fund, including interest earned thereon; (b) disposition of the Settlement Fund; (c) hearing
4 and determining applications for attorneys' fees, interest, and expenses in the Action; and (d) all parties
5 hereto for the purpose of construing, enforcing, and administrating the Stipulation.

6 IT IS SO ORDERED.

7 DATED: 1/19/18

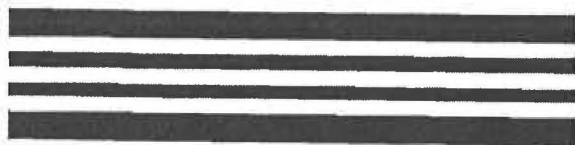


8 HONORABLE MARIE S. WEINER
9 JUDGE OF THE SUPERIOR COURT

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EXHIBIT A

AVI-EXCL00001 *AVI-EXCL00001*



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CLAIMS CENTER

Ag

Exclusion Cover Page

Case Name: In re Avalanche Biotechnologies, INC.

Case Code: AVI

Exclusion Deadline: November 27, 2017 (Postmark Date)

Name of Person Filing Exclusion: Douglas Lawley

November 15, 2017

Avalanche Securities Litigation Settlement
Claims Administrator
c/o Gilardi & Co LLC
EXCLUSIONS
3301 Kerner Blvd.
San Rafael, CA 94901

Douglas Lawley



Ph # [REDACTED]

TO Whom it May Concern:

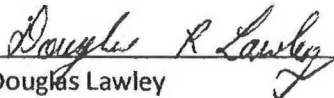
I would like to be EXCLUDED from the Class in the following action: In re Avalanche Biotechnologies, Inc. Shareholder litigation, Lead Case No. CIV536488.

Common Stock purchased or acquired from July 30, 2014 to June 15, 2015 as follows:

| | | |
|------------------|---|-----------|
| October 17, 2014 | 100 Avalanche Biotechnologies Inc COM STP PET | \$30.20US |
| December 5, 2014 | 100 Avalanche Biotechnologies Inc COM STP PET | \$38.55US |
| May 27, 2015 | 50 Avalanche Biotechnologies Inc COM STP PET | \$39.20US |

Consider this as full proof of my EXCLUSION request.

Sincerely,



Douglas Lawley

Signed this 15th Day of November, 2017 [REDACTED]

120



CANADA 120



171152045

3926 T2E

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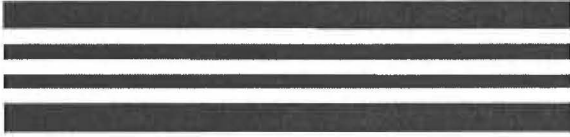
NOV 20 2017

CLAIMS CENTER

AVANCE SECURITIES LITIGATION SETTLEMENT
CLAIMS ADMINISTRATOR
C/O CHARSI & CO. LLC
EXCLUSION
3301 KERNER BLVD.
SAN FRANCISCO CA



AVI-EXCL80001 *AVI-EXCL80001*



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DEC 28 2017

CLAIMS CENTER

mg

Exclusion Cover Page

Case Name: In re Avalanche Biotechnologies, INC.

Case Code: AVI

Exclusion Deadline: November 27, 2017 (Postmark Date)

Name of Person Filing Exclusion: Marcia Knox

Marcia Knox



December 26, 2017

Avalanche Securities Litigation Settlement

Claims Administrator

c/o Gilardi and Co, LLC

EXCLUSIONS

33012 Kerner Blvd.

San Rafael, CA 94901

Dear Claims Administrator or Whom it may Concern,

I, Marcia Knox, want to be excluded from the Class in the following action:

In re: Avalanche Biotechnologies, Inc., Shareholder Litigation, Lead Case No. CIV536488.

Name: Marcia Knox

Address: [Redacted]

Phone: [Redacted]

AAVL Avalanche Biotech Purchased 500 shares in three lots on 8/25/2014, Lot 1 100 shares for 2,969.59, 100 2,968.79, 300 for 8,909.37 for a total of 14,847.75 (these numbers include a commission of approximately 8.95 for the purchase).

and sold 500 shares on 08/29/2014 for 14,591.23 (these numbers include a commission of approximately 8.95 for the purchase) for a loss of 256.52

Please call me if there is any other information you need that I may be able to provide, given more time.

Sincerely,

A handwritten signature in black ink, appearing to read 'Marcia Knox', with a long horizontal flourish extending to the right.

Marcia Knox

Kraig Knudsen
[Redacted]

RENO NV 894
26 DEC 2017 PM 2 L
[Postmark]

RECEIVED **GE**
DEC 28 2017
CLAIMS CENTER

Avalanche Securities Litigation
Claims Administrator Settlement
EXCLUSIONS
33012 Kerner Blvd.
San Rafael CA
94901-3999

[Handwritten Signature]

CERTIFICATE OF SERVICE

I, the undersigned, declare:

1. That declarant is and was, at all times herein mentioned, a citizen of the United States and a resident of the County of San Diego, over the age of 18 years, and not a party to or interested party in the within action; that declarant's business address is 655 West Broadway, Suite 1900, San Diego, California 92101.

2. That on January 12, 2018, declarant served the **JUDGMENT AND ORDER GRANTING FINAL APPROVAL OF CLASS ACTION SETTLEMENT** by depositing a true copy thereof in a United States mailbox at San Diego, California in a sealed envelope with postage thereon fully prepaid and addressed to the parties listed below:

Counsel for Plaintiff Beaver County Employees Retirement Fund:

Robbins Geller Rudman & Dowd LLP

James I. Jaconette..... jamesj@rgrdlaw.com

Susannah R. Conn..... sconn@rgrdlaw.com

655 West Broadway, Suite 1900

San Diego, CA 92101

Telephone: 619/231-1058

619/231-7423 (fax)

Robbins Geller Rudman & Dowd LLP

Shawn A. Williams shawnw@rgrdlaw.com

One Montgomery Street, Suite 1800

San Francisco, CA 94104

Telephone: 415/288-4545

415/288-4534 (fax)

Counsel for Defendants Avalanche Biotechnologies, Inc.; John P. McLaughlin; Steven D. Schwartz, Paul D. Wachter; Mark S. Blumenkranz; Linda C. Bain; and Thomas W. Chalberg, Jr.:

*Munger, Tolles & Olson LLP

Robert L. Dell Angelo..... robert.dellangelo@mto.com

350 South Grand Avenue, 50th Floor

Los Angeles, CA 90071-3426

Telephone: 213/683-9100

213/687-3702 (fax)

*Munger, Tolles & Olson LLP

David H. Fry david.fry@mto.com

Adam I. Kaplan adam.kaplan@mto.com

560 Mission Street, 27th Floor

San Francisco, CA 94105

Telephone: 415/512-4016

415/644-6916 (fax)

Counsel for Defendants Jefferies LLC; Cowen and Company, LLC; Piper Jaffray & Co.; William Blair & Company, L.L.C.:

*Morgan, Lewis & Bockius LLP

Charlene S. Shimada charlene.shimada@morganlewis.com

Lucy Wang lucy.wang@morganlewis.com

One Market, Spear Street Tower

San Francisco, CA 94105

Telephone: 415/442-1000

Facsimile: 415/442-1001

*Denotes service via e-mail and U.S. mail.

3. That there is a regular communication by mail between the place of mailing and the places so addressed.

I declare under penalty of perjury that the foregoing is true and correct. Executed on January 12, 2018, at San Diego, California.


JACLYN STARK

EXHIBIT 4

1 FRANK E. MAYO/State Bar #42972
2 Law Office of Frank E. Mayo
3 4962 El Camino Real, Ste. 104
4 Los Altos, CA 94022

5 (650) 964-8901

6 Attorney for Plaintiffs

RECEIVED

FEB 21 2017

CLERK OF THE SUPERIOR COURT
SAN MATEO COUNTY

FILED
SAN MATEO COUNTY

MAR 07 2017

Clerk of the Superior Court
By JM
DEPUTY CLERK

CIV536903
JUD
Judgment
404836



7
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11 IN THE SUPERIOR COURT OF CALIFORNIA
12 IN AND FOR THE COUNTY OF SAN MATEO

13) Case No. CIV 536903
14 JACOB BROOKS,)
15 Plaintiff,) ~~(PROPOSED)~~ **JUDGMENT AND**
16 vs.) **ORDER GRANTING FINAL**
17) **APPROVAL TO CLASS**
18) **ACTION SETTLEMENT**
19) **AND AWARDING ATTORNEY**
20) **FEES, LITIGATION COSTS,**
21) **SEVICE AWARD AND**
22) **CASE ADMINISTRATORS**
23) **FEES**
24) Assigned to Complex Dept 2 for
25) all purposes

26 Plaintiff's Motion for an Order granting Final
27 Approval to the class action settlement in this matter came on
28 regularly for hearing this seventh day of March 2017. Frank E
Mayo having appeared as class counsel and Larry Kazanjaian having
appeared as counsel for Defendant Capitol Valley Electric, Inc.

The court finds as follows:

1. In accordance with the terms of the Preliminary Approval
Order, Class Members with the exception of Armando BuenaVentura,
have been given notice of the terms of the Settlement, including
~~(PROPOSED) ORDER AWARDING FINAL APPROVAL TO CLASS ACTION SETTLEMENT, AWARDING~~
~~ATTORNEY FEES AND COSTS, AND GRANTING A SERVICE AWARD TO CLASS REPRESENTATIVE~~

1 its provision for Attorney Fees, Costs of Litigation and a
2 Service Award to the Class Representative, and have had the
3 opportunity to comment on or object to the Settlement's
4 provisions for Attorney Fess, Litigation Costs and or the Service
5 Award and case administrators fees.

6 2. The court finds that the class member Armando BuenaVentura,
7 did not receive notice of this class action and therefore he is
8 not bound by any order or judgment entered by this court in this
9 class action proceeding.

10 3 Yaxaya Yang has filed a late claim which was allowed by the
11 case administrator. Said claim is allowed.

12 4. The claims of all class members receiving notice of this
13 class action by the judgment entered in this action release all
14 claims they have for unpaid overtime prejudgment interest and
15 statutory or civil penalties arising out of events during the
16 class period June 12, 2012 through June 12, 2016 are released

17 5. Jacob Brooks by the by the judgment in this action release
18 all claims he has against Capitol Valley Electric from all
19 claims he has, know or unknown as of March 7, 2017.

20 6. The court finds there were no objections made to the
21 settlement and no class member has opted out of the settlement.

22 7. The payment of Attorney Fees in the amount of One Hundred
23 Ten Thousand Eight Hundred Sixty Eight Dollars for all past and
24 remaining work in accordance with the terms of the Settlement is
25 fair and reasonable under the circumstances.

26 8. The amount of the attorney fee award is Thirty Three percent
27 (33%) of the common fund after deduction of cost of litigation
28 and less than Plaintiff's Counsel's lodestar in this case.

9. Plaintiff counsel has incurred litigation costs in excess
~~(PROPOSED) ORDER AWARDDING FINAL APPROVAL² TO CLASS ACTION SETTLEMENT, AWARDDING~~
~~ATTORNEY FEES AND COSTS, AND GRANTING A SERVICE AWARDD TO CLASS REPRESENTATIVE~~

1 of Four Thousand Eight Hundred and Ninety Five Dollars.

2 10. An incentive award Plaintiff in the sum of Fifteen Thousand
3 Dollars is fair and reasonable in view of his work performed in
4 this matter and damages incurred as lead plaintiff in this
5 action.

6 11 CAC Services LLC has earned fees of Ten Thousand Dollars as
7 case administrator.

8 12. The Court approves the Plan of Allocation set forth in the
9 attachment to this Order.

10 IT IS THEREFORE HEREBY ORDERED AS FOLLOWS:

11 The parties shall perform each and every obligation
12 required by them in accordance with the terms of the settlement
13 agreement dated November 7, 2016 and the case administrator shall
14 distribute the net settlement funds in accord pursuant the Plan
15 of Allocation attached to this Order

16 Dated this 24 day of March 2017

17 

18

Hon. Marie Weiner Judge

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PLAN OF ALLOCATION

DEFINED TERMS

For the purpose of this plan of allocation, the following definitions apply to this allocation.

Following definitions are added:

1. Participating Class Members means all electricians, electrician helpers and laborers employed by Capitol Valley Electric at any time between January 12, 2012 and January 12, 2016 who have received notice of the class action in accordance with the Class Certification Orders entered by the Superior Court of California, County of San Mateo in the class action # CIV 536903 Brooks v Capitol Valley Electric Inc. and have submitted a claim claims within the time permitted or have submitted a late claim which has been allowed
2. Settlement means the sum of \$337,500 to be paid by Capitol Valley Electric as a lump sum settlement
3. Lead Plaintiff means Jacob Brooks.
4. Class or Case Administrator means CAC Services Group LLC
5. Net Settlement Fund means the settlement amount less class counsel fees, incentive award to lead plaintiff, CA Service s Group LLC fees and litigation costs as allowed by the Superior Court of California county of San Mateo action.
6. Distribution means payment of the Net Settlement Fund means payment to Participating Class Members and shall be pursuant to this plan of distribution.
7. Distribution Lists means a list containing the names of each Participating Class member and the calculation of the participating class members pro rata share of the Net Settlement Fund before withholding of state, federal and local taxes.

8. Undistributed Funds means distributions to class members by payroll checks not Negotiated by class members within sixty days of mailing

CALCULATIONS

The settlement shall be paid as follows:

| | |
|-------------------------------|-------------|
| A. to lead plaintiff | \$15,000.00 |
| B. to CAC Services LLC | 10,000.00 |
| C. to CLWDA | 7 500.00 |
| D to litigation costs | 4,895.00 |
| E to Class Counsel | 110,868.00 |
| F. to the net settlement fund | 189,237.00 |

The Net Settlement fund shall be distributed to Participating class members as set forth in Attachments A. This allocation results in payment to Participating Class Members of approximately 70% of their unpaid overtime as of the date of distribution , June 15, 2017

All payments made to participating class members shall be allocated 50% to unpaid overtime compensation and 50% to penalties.

Distribution shall be by the Class Administrator subject to the direction and control of The Superior Court of San Mateo County and shall be accomplished within 7 calendar days of receipt of all settlement funds which shall be paid in two installments. The first of which shall be deposited by Capitol Valley Electric on or before March 14, 2017 and the final sum within 90 days of the court granting final approval to the settlement.

Settlement checks shall have applicable Federal State and Local Taxes withheld from that portion of the settlement due as wages to each participating class member.

Any portion of the settlement fund not distributed as class counsel fees, litigation expenses or a incentive award to lead plaintiff shall be distributed on a pro rata basis to participating class members.

Any check sent a participating class member which remains uncashed for a period of sixty days from the date it was issued shall be voided and not re issued.

The net settlement funds shall be distributed by the class administrator in accord with schedule A. attached

| Claim ID | Name | Claim Status | Unpaid Overtime Compensation | Per Diem Adjustment to Unpaid Overtime | Per Diem Adjustment to Paid Overtime | Prudential Interest | Labor Code 226 | Labor Code 201-203 | PAGA | Total Claim | 30 Day Share | Settlement Payment Rate |
|----------|------------------------------|--------------|------------------------------|--|--------------------------------------|---------------------|----------------|--------------------|------------|-------------|--------------|-------------------------|
| 12022399 | BRANDON A. THORP | DNQ | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | 24.920499% |
| 12021874 | FERNANDO M. MEDINA | DNQ | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | |
| 12021517 | JASON M. GUTIERREZ | DNQ | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | |
| 12021118 | LIONELA. BARRERA | DNQ | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | |
| 12022539 | YAXAYA YANG | VALID - LATE | \$57.00 | \$0.00 | \$0.00 | \$10.40 | \$0.00 | \$3,985.00 | \$0.00 | \$4,052.40 | \$1,009.88 | |
| 12022504 | AARON W VOGEL | VALID | \$1,237.50 | \$276.00 | \$0.00 | \$151.00 | \$900.00 | \$0.00 | \$1,000.00 | \$3,564.50 | \$888.29 | |
| 12021720 | ADAM R KNOOP | VALID | \$111.00 | \$8.04 | \$0.00 | \$21.00 | \$0.00 | \$7,676.00 | \$0.00 | \$7,816.04 | \$1,947.80 | |
| 12021979 | ADRIAN C. MURILLO | VALID | \$1,890.00 | \$282.00 | \$36.00 | \$181.00 | \$1,550.00 | \$0.00 | \$1,600.00 | \$5,539.00 | \$1,380.35 | |
| 12021776 | ADRIAN M. LOPEZ | VALID | \$22.00 | \$0.00 | \$0.00 | \$1.32 | \$50.00 | \$2,046.00 | \$100.00 | \$2,219.32 | \$553.07 | |
| 12021335 | ALEKS DUB | VALID | \$182.00 | \$31.80 | \$0.00 | \$66.00 | \$150.00 | \$4,570.00 | \$200.00 | \$5,199.80 | \$1,295.82 | |
| 12022210 | ANDREW J. ROSADO | VALID | \$8,770.00 | \$182.00 | \$0.00 | \$105.00 | \$1,250.00 | \$0.00 | \$1,300.00 | \$11,607.00 | \$2,892.52 | |
| 12022028 | ANDREY PALAMARCHUK | VALID | \$3,500.80 | \$502.39 | \$0.00 | \$731.00 | \$1,350.00 | \$0.00 | \$1,400.00 | \$7,484.19 | \$1,865.10 | |
| 12021419 | ANGELO FURIOSI | VALID | \$6,925.00 | \$1,773.00 | \$226.00 | \$1,773.00 | \$2,350.00 | \$0.00 | \$2,400.00 | \$15,447.00 | \$3,849.47 | |
| 12021027 | ANTONIO D. ALVAREZ | VALID | \$0.00 | \$337.50 | \$77.49 | \$24.75 | \$550.00 | \$0.00 | \$600.00 | \$1,589.74 | \$396.17 | |
| 12021391 | ANTONIO M. FEJERAN | VALID | \$1,296.53 | \$694.00 | \$512.00 | \$41.50 | \$1,950.00 | \$0.00 | \$2,000.00 | \$6,494.03 | \$1,618.34 | |
| 12021881 | ANTONIO MENDEZ | VALID | \$2,423.00 | \$627.00 | \$0.00 | \$201.13 | \$2,450.00 | \$0.00 | \$2,500.00 | \$8,201.13 | \$2,043.76 | |
| 12021209 | BRANDON BUCHER | VALID | \$3,219.00 | \$588.00 | \$567.00 | \$587.00 | \$2,950.00 | \$0.00 | \$3,000.00 | \$10,911.00 | \$2,719.08 | |
| 12021664 | BRANDON L JONES | VALID | \$111.00 | \$15.78 | \$0.00 | \$88.00 | \$50.00 | \$0.00 | \$100.00 | \$364.78 | \$90.90 | |
| 12021762 | BRIAN J. LESTER | VALID | \$4,510.00 | \$1,429.00 | \$396.00 | \$742.00 | \$2,750.00 | \$7,170.00 | \$2,800.00 | \$19,797.00 | \$4,933.51 | |
| 12022343 | CEDRICK J. STONE | VALID | \$578.00 | \$241.00 | \$0.00 | \$68.00 | \$1,450.00 | \$0.00 | \$1,500.00 | \$3,837.00 | \$956.20 | |
| 12021230 | CESAR O. CABRERA-LUCERO | VALID | \$960.00 | \$367.00 | \$0.00 | \$128.00 | \$1,150.00 | \$0.00 | \$1,200.00 | \$3,805.00 | \$948.22 | |
| 12022091 | CHRISTOPHER G. PEYSER | VALID | \$174.00 | \$38.19 | \$0.00 | \$20.90 | \$250.00 | \$3,773.00 | \$300.00 | \$4,556.09 | \$1,135.40 | |
| 12021265 | CHRISTOPHER H. CARROLL | VALID | \$378.00 | \$165.86 | \$0.00 | \$51.30 | \$650.00 | \$7,653.00 | \$700.00 | \$9,598.16 | \$2,391.91 | |
| 12022280 | CHRISTOPHER J. SHERMAN | VALID | \$270.00 | \$164.00 | \$0.00 | \$54.25 | \$350.00 | \$0.00 | \$400.00 | \$1,238.25 | \$308.58 | |
| 12021433 | CHRISTOPHER M. GARCIA | VALID | \$180.00 | \$37.50 | \$0.00 | \$16.31 | \$150.00 | \$3,600.00 | \$200.00 | \$4,183.81 | \$1,042.63 | |
| 12021398 | CRISTIAN E. FERNANDEZ TELLEZ | VALID | \$2,950.00 | \$737.00 | \$0.00 | \$0.00 | \$2,650.00 | \$0.00 | \$2,700.00 | \$9,037.00 | \$2,252.07 | |
| 12021538 | DAMON E. HANSON | VALID | \$38.99 | \$0.00 | \$0.00 | \$10.26 | \$0.00 | \$5,649.00 | \$0.00 | \$5,698.25 | \$1,420.03 | |
| 12021293 | DAMON W. COLLINS | VALID | \$257.90 | \$11.28 | \$0.00 | \$44.14 | \$0.00 | \$5,261.00 | \$0.00 | \$5,574.32 | \$1,389.15 | |
| 12021601 | DANIEL HUBER | VALID | \$2,554.00 | \$1,492.71 | \$855.71 | \$211.93 | \$2,050.00 | \$0.00 | \$2,100.00 | \$9,264.35 | \$2,308.72 | |
| 12021867 | DANIEL J. MCTAGGART | VALID | \$294.00 | \$57.96 | \$0.00 | \$98.00 | \$0.00 | \$4,428.00 | \$0.00 | \$4,877.96 | \$1,215.61 | |
| 12021139 | DANIEL R. BELDEN | VALID | \$2,452.00 | \$606.00 | \$0.00 | \$254.00 | \$2,250.00 | \$0.00 | \$2,300.00 | \$7,862.00 | \$1,959.25 | |
| 12022133 | DAVID S. PUCKET | VALID | \$1,123.00 | \$251.39 | \$0.00 | \$261.00 | \$0.00 | \$5,180.46 | \$0.00 | \$6,815.85 | \$1,698.54 | |
| 12021839 | DELBERT A. MARQUEZ II | VALID | \$1,011.31 | \$145.47 | \$28.75 | \$307.00 | \$0.00 | \$4,149.00 | \$0.00 | \$5,641.53 | \$1,405.90 | |
| 12021671 | DERRICK D. JORDAN | VALID | \$673.00 | \$70.31 | \$0.00 | \$73.00 | \$850.00 | \$4,438.00 | \$900.00 | \$7,004.31 | \$1,745.51 | |
| 12022273 | DUSTIN A SHELL | VALID | \$7,333.10 | \$2,037.93 | \$0.00 | \$971.00 | \$4,000.00 | \$0.00 | \$4,100.00 | \$18,442.03 | \$4,595.85 | |
| 12021622 | EDUARDO IBARRA HERNANDEZ | VALID | \$1,707.00 | \$431.00 | \$0.00 | \$195.00 | \$1,550.00 | \$0.00 | \$1,600.00 | \$5,483.00 | \$1,366.39 | |
| 12022553 | EDUARDO ZESATI | VALID | \$330.00 | \$35.91 | \$0.00 | \$24.00 | \$250.00 | \$0.00 | \$300.00 | \$939.91 | \$234.23 | |
| 12021048 | ERIC A. ANDREOTTI | VALID | \$2,926.00 | \$750.00 | \$0.00 | \$359.00 | \$0.00 | \$0.00 | \$2,300.00 | \$6,335.00 | \$1,578.71 | |
| 12021454 | ERIC S. GOEBEL | VALID | \$3,168.00 | \$1,034.00 | \$0.00 | \$277.00 | \$2,950.00 | \$0.00 | \$3,000.00 | \$10,429.00 | \$2,598.96 | |
| 12021594 | ERIK HOUSE | VALID | \$82.53 | \$0.00 | \$0.00 | \$2.90 | \$0.00 | \$10,890.00 | \$0.00 | \$10,975.43 | \$2,735.13 | |
| 12021853 | EZRA TAJ MAYNARD | VALID | \$613.00 | \$252.00 | \$0.00 | \$242.00 | \$1,150.00 | \$2,661.00 | \$1,200.00 | \$6,118.00 | \$1,524.64 | |
| 12021272 | FERNANDO CERNA | VALID | \$499.20 | \$204.21 | \$0.00 | \$78.00 | \$650.00 | \$4,243.00 | \$700.00 | \$6,374.41 | \$1,588.53 | |
| 12021685 | GARRETT A. KERSEY | VALID | \$4,959.00 | \$1,088.00 | \$44.00 | \$610.00 | \$4,000.00 | \$0.00 | \$4,400.00 | \$15,101.00 | \$3,763.24 | |
| 12021503 | GREGORY A. GRANT | VALID | \$540.00 | \$49.71 | \$0.00 | \$63.00 | \$350.00 | \$3,336.00 | \$400.00 | \$4,738.71 | \$1,190.01 | |

| ID | Name | Status | Compensation | Unpaid Overtime | Paid Overtime | Interes | Code 226 | 201203 | PAGA | Claim | Share | Payment Rate |
|----------|-------------------------|--------|--------------|-----------------|---------------|------------|------------|------------|------------|-------------|------------|--------------|
| 12022294 | GREGORY J. SILVA | VALID | \$1,466.00 | \$552.00 | \$46.87 | \$168.00 | \$3,350.00 | \$0.00 | \$3,400.00 | \$8,982.87 | \$2,238.58 | |
| 12022490 | GUILMERME VICKER | VALID | \$559.00 | \$0.00 | \$0.00 | \$81.00 | \$0.00 | \$6,584.00 | \$0.00 | \$7,224.00 | \$1,800.26 | |
| 12021055 | H. DOUGLAS AREVALO | VALID | \$0.00 | \$281.41 | \$148.00 | \$112.00 | \$0.00 | \$3,546.61 | \$0.00 | \$4,088.02 | \$1,018.75 | |
| 12022154 | INGOMAR A. RAIGOZA-RUIZ | VALID | \$418.00 | \$180.00 | \$0.00 | \$49.81 | \$550.00 | \$0.00 | \$600.00 | \$1,797.81 | \$448.02 | |
| 12021475 | JACOB D. GOMEZ | VALID | \$406.00 | \$14.60 | \$0.00 | \$90.00 | \$0.00 | \$5,229.00 | \$0.00 | \$5,739.60 | \$1,430.34 | |
| 12021181 | JACOB W. BROOKS | VALID | \$1,480.00 | \$408.00 | \$0.00 | \$124.00 | \$1,250.00 | \$0.00 | \$1,300.00 | \$4,562.00 | \$1,136.87 | |
| 12021748 | JAKE D. LEE | VALID | \$2,340.00 | \$648.00 | \$0.00 | \$435.00 | \$2,050.00 | \$0.00 | \$2,100.00 | \$7,573.00 | \$1,887.23 | |
| 12022546 | JAMES D YOUNG | VALID | \$243.00 | \$41.85 | \$0.00 | \$82.78 | \$0.00 | \$5,836.00 | \$0.00 | \$6,203.63 | \$1,545.98 | |
| 12021314 | JAMES D. CUMMINGS | VALID | \$3,135.00 | \$514.00 | \$0.00 | \$568.00 | \$1,450.00 | \$0.00 | \$1,500.00 | \$7,167.00 | \$1,786.05 | |
| 12022329 | JAMES STEPHENS | VALID | \$1,354.00 | \$251.00 | \$260.00 | \$155.00 | \$750.00 | \$0.00 | \$800.00 | \$3,570.00 | \$889.66 | |
| 12021692 | JASON A. KERSEY | VALID | \$975.00 | \$292.00 | \$0.00 | \$115.00 | \$850.00 | \$0.00 | \$900.00 | \$3,132.00 | \$780.51 | |
| 12022385 | JEFFERY W. TASH | VALID | \$1,027.00 | \$286.00 | \$147.93 | \$250.00 | \$0.00 | \$6,705.00 | \$0.00 | \$8,415.93 | \$2,097.29 | |
| 12021412 | JESSIE A. FRIEDMAN | VALID | \$85.00 | \$35.19 | \$0.00 | \$11.00 | \$250.00 | \$2,400.00 | \$300.00 | \$3,081.19 | \$767.85 | |
| 12022056 | JOHN F. PELLEGRINO | VALID | \$56.00 | \$0.00 | \$0.00 | \$5.00 | \$1,050.00 | \$5,124.00 | \$1,100.00 | \$7,335.00 | \$1,827.92 | |
| 12021111 | JOHN MICHAEL BARBOUR | VALID | \$2,735.00 | \$668.00 | \$454.00 | \$2,050.00 | \$0.00 | \$2,100.00 | \$0.00 | \$8,007.00 | \$1,995.38 | |
| 12021153 | JOSEPH E. BENSON | VALID | \$536.00 | \$245.00 | \$71.00 | \$0.00 | \$0.00 | \$1,920.00 | \$0.00 | \$2,772.00 | \$690.80 | |
| 12021258 | JOSUE A. CARRILLO CRUZ | VALID | \$365.71 | \$151.41 | \$0.00 | \$65.00 | \$650.00 | \$0.00 | \$700.00 | \$1,932.12 | \$481.49 | |
| 12021790 | JUAN C. LUNA | VALID | \$1,045.00 | \$208.00 | \$0.00 | \$83.25 | \$750.00 | \$0.00 | \$800.00 | \$2,886.25 | \$719.27 | |
| 12021349 | JUSTIN H. DYRDAHL | VALID | \$973.00 | \$452.21 | \$0.00 | \$283.00 | \$0.00 | \$6,009.81 | \$0.00 | \$7,718.02 | \$1,923.37 | |
| 12021286 | KENNITH J. CLARK | VALID | \$228.00 | \$0.00 | \$0.00 | \$30.39 | \$250.00 | \$5,700.00 | \$300.00 | \$6,508.39 | \$1,621.92 | |
| 12021195 | KEVIN M. BRYANT | VALID | \$931.00 | \$215.00 | \$0.00 | \$100.00 | \$1,050.00 | \$5,379.00 | \$1,100.00 | \$8,775.00 | \$2,186.77 | |
| 12022084 | KODI PETERSON | VALID | \$1,278.00 | \$782.00 | \$0.00 | \$218.00 | \$0.00 | \$2,776.00 | \$0.00 | \$5,054.00 | \$1,259.48 | |
| 12021006 | KYLE E ADAMS | VALID | \$1,443.00 | \$321.00 | \$303.37 | \$234.00 | \$0.00 | \$6,240.00 | \$0.00 | \$8,541.37 | \$2,128.55 | |
| 12022301 | LARRY D SIMMONS JR. | VALID | \$42.00 | \$3.94 | \$71.00 | \$26.00 | \$0.00 | \$4,547.00 | \$0.00 | \$4,689.94 | \$1,168.76 | |
| 12022119 | LARRY E. PORTER | VALID | \$2,651.00 | \$902.00 | \$0.00 | \$363.00 | \$2,050.00 | \$0.00 | \$2,100.00 | \$8,066.00 | \$2,010.09 | |
| 12021328 | LARRY K. DEVONT | VALID | \$30.00 | \$18.00 | \$0.00 | \$4.80 | \$50.00 | \$2,934.00 | \$100.00 | \$3,136.80 | \$781.71 | |
| 12021657 | LAWRENCE C. JOHNSON | VALID | \$2,205.00 | \$589.07 | \$0.00 | \$254.00 | \$0.00 | \$2,900.00 | \$0.00 | \$5,948.07 | \$1,482.29 | |
| 12022049 | LOWEL PATRICK | VALID | \$779.80 | \$372.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$1,151.80 | \$287.03 | |
| 12021972 | LUIS R. MURILLO RAMIREZ | VALID | \$1,518.00 | \$672.00 | \$0.00 | \$182.00 | \$2,250.00 | \$0.00 | \$2,300.00 | \$6,922.00 | \$1,725.00 | |
| 12021090 | MANUEL AVILADIAZ | VALID | \$0.00 | \$746.66 | \$51.00 | \$96.15 | \$950.00 | \$0.00 | \$1,000.00 | \$2,843.81 | \$708.69 | |
| 12022077 | MANUEL J. PERRY | VALID | \$1,312.00 | \$334.00 | \$0.00 | \$299.00 | \$0.00 | \$7,080.00 | \$0.00 | \$9,025.00 | \$2,249.08 | |
| 12021909 | MATTHEW J. MESSANO | VALID | \$3,136.00 | \$1,526.00 | \$723.00 | \$517.00 | \$2,050.00 | \$0.00 | \$2,100.00 | \$10,052.00 | \$2,505.01 | |
| 12022308 | MAURICE C. SMITH | VALID | \$2,600.00 | \$0.00 | \$0.00 | \$216.00 | \$1,450.00 | \$0.00 | \$1,500.00 | \$5,766.00 | \$1,436.92 | |
| 12021566 | MICHAEL D. HAYES | VALID | \$82.61 | \$0.00 | \$0.00 | \$34.74 | \$950.00 | \$9,956.00 | \$1,000.00 | \$12,023.35 | \$2,996.28 | |
| 12022455 | MICHAEL G VALERIO | VALID | \$192.00 | \$6.36 | \$0.00 | \$45.00 | \$0.00 | \$5,532.00 | \$0.00 | \$5,775.36 | \$1,439.25 | |
| 12022378 | MICHAEL J. TALTON | VALID | \$2,855.00 | \$851.00 | \$152.00 | \$967.00 | \$2,450.00 | \$0.00 | \$2,500.00 | \$9,775.00 | \$2,435.98 | |
| 12021741 | MICHAEL LATHOUWERS | VALID | \$2,442.00 | \$411.00 | \$0.00 | \$329.00 | \$1,950.00 | \$0.00 | \$2,000.00 | \$7,132.00 | \$1,777.33 | |
| 12022497 | MIGUEL A. VISAIRO | VALID | \$339.00 | \$237.26 | \$0.00 | \$62.30 | \$850.00 | \$2,126.77 | \$900.00 | \$4,515.33 | \$1,125.24 | |
| 12022350 | NATHANIEL W. STUCKY | VALID | \$18.00 | \$0.00 | \$0.00 | \$3.60 | \$0.00 | \$2,430.00 | \$0.00 | \$2,451.60 | \$610.95 | |
| 12021832 | NICHOLAS L MARION | VALID | \$7,654.58 | \$2,996.00 | \$0.00 | \$212.00 | \$4,000.00 | \$0.00 | \$4,100.00 | \$18,962.58 | \$4,725.57 | |
| 12021727 | NIKOLAY A. KOKHANETS | VALID | \$5,903.00 | \$1,567.00 | \$0.00 | \$821.00 | \$350.00 | \$0.00 | \$400.00 | \$9,041.00 | \$2,253.06 | |
| 12021034 | ODON AMADOR | VALID | \$1,170.00 | \$473.00 | \$0.00 | \$113.00 | \$2,050.00 | \$0.00 | \$2,200.00 | \$6,006.00 | \$1,496.73 | |
| 12022252 | OMAR Z. SANCHEZ | VALID | \$1,116.00 | \$331.00 | \$47.00 | \$127.00 | \$1,350.00 | \$0.00 | \$1,400.00 | \$4,371.00 | \$1,089.28 | |
| 12021783 | OWIN LOPEZ | VALID | \$46.00 | \$5.17 | \$8.52 | \$0.00 | \$0.00 | \$4,002.00 | \$0.00 | \$4,061.69 | \$1,012.19 | |
| 12021930 | PATRICK E MIDDLETON | VALID | \$2,927.00 | \$511.00 | \$18.75 | \$392.00 | \$2,450.00 | \$0.00 | \$2,500.00 | \$8,798.75 | \$2,192.69 | |
| 12022357 | PAUL SUIT | VALID | \$148.00 | \$0.00 | \$0.00 | \$32.00 | \$50.00 | \$2,100.00 | \$0.00 | \$2,330.00 | \$580.65 | |

| ID | Name | Status | Compensation | Unpaid Overtime | Paid Overtime | Interest | Code 226 | 201-203 | PAGA | Claim | Share | Payment Rate |
|----------|-------------------------|--------|--------------|-----------------|---------------|-------------|--------------|--------------|--------------|--------------|--------------|--------------|
| 12021811 | PEDRO J. MACIEL | VALID | \$453.00 | \$364.00 | \$0.00 | \$68.00 | \$850.00 | \$0.00 | \$900.00 | \$2,635.00 | \$656.66 | |
| 12022413 | RENE N. TORRES | VALID | \$1,472.00 | \$399.00 | \$0.00 | \$120.00 | \$1,950.00 | \$0.00 | \$2,000.00 | \$5,941.00 | \$1,480.53 | |
| 12022462 | RENE VALLESTEROS | VALID | \$5,269.00 | \$2,090.00 | \$99.85 | \$1,690.00 | \$4,000.00 | \$0.00 | \$4,500.00 | \$17,648.85 | \$4,398.18 | |
| 12021237 | RICARDO CANALES | VALID | \$392.00 | \$6.25 | \$36.40 | \$350.00 | \$0.00 | \$400.00 | \$0.00 | \$1,184.65 | \$295.22 | |
| 12021251 | RICARDO G. CARDONA | VALID | \$775.83 | \$296.00 | \$454.46 | \$127.00 | \$750.00 | \$0.00 | \$800.00 | \$3,203.29 | \$798.28 | |
| 12021489 | RICARDO M. GONZALEZ | VALID | \$550.00 | \$49.00 | \$0.00 | \$49.00 | \$750.00 | \$0.00 | \$800.00 | \$2,198.00 | \$547.75 | |
| 12021916 | ROBERT J MESSANO | VALID | \$7,329.00 | \$1,217.00 | \$65.80 | \$1,294.00 | \$2,950.00 | \$0.00 | \$3,000.00 | \$15,855.80 | \$3,951.34 | |
| 12022315 | ROBERT SMITH | VALID | \$1,212.00 | \$294.00 | \$0.00 | \$185.00 | \$1,350.00 | \$0.00 | \$1,400.00 | \$4,441.00 | \$1,106.72 | |
| 12022182 | ROBERT W. RICCOBUONO | VALID | \$2,737.00 | \$1,272.00 | \$0.00 | \$381.00 | \$2,350.00 | \$0.00 | \$2,400.00 | \$9,140.00 | \$2,277.73 | |
| 12021062 | ROGELIO ARGUETA VAZQUEZ | VALID | \$726.00 | \$230.00 | \$56.25 | \$75.40 | \$650.00 | \$0.00 | \$700.00 | \$2,437.65 | \$607.47 | |
| 12022511 | RONALD D. WARD | VALID | \$34.00 | \$15.00 | \$0.00 | \$3.67 | \$0.00 | \$2,400.00 | \$0.00 | \$2,452.67 | \$611.22 | |
| 12022175 | RONNIE K. RAYFIELD | VALID | \$104.00 | \$16.90 | \$13.50 | \$36.00 | \$0.00 | \$2,864.00 | \$0.00 | \$3,034.40 | \$756.19 | |
| 12021958 | RUSSELL K. MULLER | VALID | \$2,869.97 | \$1,071.45 | \$0.00 | \$617.00 | \$0.00 | \$3,775.52 | \$0.00 | \$8,333.94 | \$2,076.86 | |
| 12022168 | SERGIO RAMIREZ | VALID | \$2,705.00 | \$0.00 | \$0.00 | \$143.55 | \$1,950.00 | \$0.00 | \$2,000.00 | \$6,798.55 | \$1,694.23 | |
| 12021104 | SHAWN M. BARBER | VALID | \$571.00 | \$44.42 | \$0.00 | \$173.00 | \$0.00 | \$8,586.00 | \$0.00 | \$9,374.42 | \$2,336.15 | |
| 12021132 | SIMON BEDOLLA-GARCIA | VALID | \$619.00 | \$129.54 | \$0.00 | \$51.00 | \$450.00 | \$0.00 | \$500.00 | \$1,749.54 | \$435.99 | |
| 12021580 | STACY A. HINSON | VALID | \$418.00 | \$0.00 | \$0.00 | \$34.88 | \$250.00 | \$8,202.00 | \$300.00 | \$9,204.88 | \$2,293.90 | |
| 12022021 | THOMAS F. OSTATNIK | VALID | \$60.00 | \$281.00 | \$0.00 | \$11.50 | \$250.00 | \$0.00 | \$300.00 | \$902.50 | \$224.91 | |
| 12021160 | THOMAS S BONNER | VALID | \$0.00 | \$391.00 | \$0.00 | \$123.00 | \$0.00 | \$3,985.00 | \$0.00 | \$4,499.00 | \$1,121.17 | |
| 12021167 | WANZA F. BOWMAN | VALID | \$66.00 | \$0.00 | \$26.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$92.00 | \$22.93 | |
| 12021097 | WILLIAM S. BANKS | VALID | \$727.00 | \$178.00 | \$42.18 | \$94.00 | \$0.00 | \$5,577.00 | \$0.00 | \$6,618.18 | \$1,649.28 | |
| 12021125 | WINFRIED BAUER | VALID | \$8,802.00 | \$3,775.00 | \$0.00 | \$1,937.00 | \$0.00 | \$7,693.00 | \$0.00 | \$22,207.00 | \$5,534.10 | |
| 12021426 | ZACHARY J GALLA | VALID | \$1,456.00 | \$457.00 | \$276.35 | \$427.00 | \$50.00 | \$0.00 | \$100.00 | \$2,766.35 | \$689.39 | |
| | | | \$171,900.36 | \$48,690.63 | \$6,316.18 | \$27,541.91 | \$103,050.00 | \$243,348.17 | \$110,000.00 | \$710,847.25 | \$177,146.69 | |

| Fund and Fee Summary | | | | | | | W2 Wages (50%) |
|---|--------------|----------|--|--|--|--|----------------------|
| Settlement Sum | \$337,500.00 | | | | | | \$0.00 |
| Attorney Fees | \$110,868.00 | | | | | | \$0.00 |
| Attorney Costs | \$4,895.00 | | | | | | \$0.00 |
| LWDA (PAGA Penalties) | \$7,500.00 | | | | | | \$0.00 |
| Service Fee | \$15,000.00 | | | | | | \$504.94 |
| Claims Administration Costs | \$10,000.00 | | | | | | \$444.15 |
| Employer Taxes | \$12,090.31 | | | | | | \$973.90 |
| Net Settlement Sum | \$177,146.69 | | | | | | \$690.18 |
| | | | | | | | \$276.54 |
| | | | | | | | \$647.91 |
| Participating Class Member | \$177,146.69 | Column L | | | | | \$1,446.26 |
| Difference | \$0.00 | | | | | | \$932.55 |
| | | | | | | | \$1,924.74 |
| | | | | | | | \$198.09 |
| | | | | | | | \$809.17 |
| Class Participants Summary - Valid Claims | | | | | | | \$809.17 |
| Minimum Payment | \$22.93 | | | | | | \$1,021.88 |
| Maximum Payment | \$5,534.10 | | | | | | \$1,359.54 |
| Average Payment | \$1,625.20 | | | | | | \$45.45 |
| Median Payment | \$1,480.53 | | | | | | \$2,466.76 |
| Total Number of Checks Issued | 109 | | | | | | \$478.10 |
| | | | | | | | \$474.11 |
| | | | | | | | \$567.70 |
| | | | | | | | \$1,195.96 |
| | | | | | | | \$154.29 |
| | | | | | | | \$521.32 |
| | | | | | | | \$1,126.04 |
| | | | | | | | \$710.02 |
| | | | | | | | \$694.58 |
| | | | | | | | \$1,154.36 |
| | | | | | | | \$607.81 |
| | | | | | | | \$979.63 |
| | | | | | | | \$849.27 |
| | | | | | | | \$702.95 |
| | | | | | | | \$872.76 |
| | | | | | | | \$2,297.93 |
| | | | | | | | \$683.20 |
| | | | | | | | \$117.12 |
| | | | | | | | \$789.36 |
| | | | | | | | \$1,299.48 |
| | | | | | | | \$1,367.57 |
| | | | | | | | \$762.32 |
| | | | | | | | \$794.27 |
| | | | | | | | \$1,881.62 |
| | | | | | | | \$590.46 |

EXHIBIT 5

ORIGINAL

F I L E D
Clerk of the Superior Court

JUN 28 2012

By: R. LINDSEY-COOPER, Deputy

JUN 8 12 PM 2012

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

WEST PALM BEACH POLICE PENSION
FUND, Individually and on Behalf of All Others
Similarly Situated,

Plaintiff,

vs.

CARDIONET, INC., ARIE COHEN, JAMES
M. SWEENEY, MARTIN P. GALVAN, FRED
MIDDLETON, WOODROW MYERS JR.,
M.D., ERIC N. PRYSTOWSKY, M.D., HARRY
T. REIN, ROBERT J. RUBIN, M.D., RANDY
H. THURMAN, BARCLAYS CAPITAL, INC.,
CITIGROUP GLOBAL MARKETS INC.,
LEERJNK SWANN LLC, THOMAS WEISEL
PARTNERS LLC, BANC OF AMERICA
SECURITIES LLC and COWEN AND
COMPANY,

Defendants.

Case No. 37-2010-00086836-CU-SL-CTL

~~[PROPOSED]~~ FINAL APPROVAL ORDER
AND JUDGMENT OF DISMISSAL WITH
PREJUDICE

Date: June 22, 2012
Time: 8:30 a.m.
Dept: C-65

Judge: Hon. Joan M. Lewis
Complaint Filed: March 5, 2010
Trial Date: June 15, 2012 [vacated]

1 **FINAL APPROVAL ORDER AND JUDGMENT OF DISMISSAL WITH PREJUDICE**

2 WHEREAS, the Court is advised that the Parties,¹ through their counsel, have agreed, subject
3 to Court approval following notice to the Class and a hearing, to settle this Action (the "Action") upon
4 ~~the terms and conditions set forth in the Stipulation and Agreement of Settlement (the "Stipulation")~~
5 which was filed with the Court; and

6 WHEREAS, the Court entered its Order Preliminarily Approving Settlement and Confirming
7 Final Settlement Hearing which conditionally certified the Settlement Class and preliminarily
8 approved notice to the Class (including notice of the proposed Settlement and of a fairness hearing
9 thereon), and said notice has been made, and the fairness hearing has been held; and

10 NOW, THEREFORE, based upon the Stipulation and all of the filings, records and
11 proceedings herein, and it appearing to the Court upon examination that the Stipulation and Settlement
12 are fair, reasonable and adequate, and upon a Settlement Fairness Hearing having been held after
13 notice to the Class of the proposed Settlement to determine if the Stipulation and Settlement are fair,
14 reasonable and adequate and whether a Final Approval Order and Judgment of Dismissal with
15 Prejudice should be entered in this Action based upon the Stipulation;

16 **THE COURT HEREBY FINDS AND CONCLUDES THAT:**

17 A. The provisions of the Stipulation, including definitions of the terms used therein, are
18 hereby incorporated by reference as though fully set forth herein.

19 B. This Court has jurisdiction of the subject matter of this Action and over all of the
20 Parties and all members of the Class.

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24 ¹ As used herein, the term "Parties" means Plaintiff West Palm Beach Police Pension Fund
25 ("Plaintiff"), on behalf of itself and the Class (as defined herein), and Defendants: CardioNet, Inc.
26 ("CardioNet" or the "Company"); current and former CardioNet officers and/or directors Arie Cohen,
27 James M. Sweeney, Martin P. Galvan, Fred Middleton, Woodrow Myers Jr., M.D., Eric N. Prystowsky,
28 M.D., Harry T. Rein, Robert J. Rubin, M.D., and Randy H. Thurman (the "Individual Defendants"); and
underwriters Citigroup Global Markets Inc., Leerink Swann LLC, Thomas Weisel Partners LLC, Banc
of America Securities LLC, Cowen and Company and Barclays Capital, Inc. (collectively, with the
Individual Defendants and CardioNet, "Defendants").

1 C. All of the requirements for class certification under California law are met, and
2 therefore this Action is properly maintained as a class action for purposes of settlement and the Class
3 is properly certified. The Class is defined as:

4 All Persons who purchased or acquired CardioNet's common stock
5 pursuant or traceable to the Company's registration statements and
6 prospectuses, as amended (collectively, the "Registration Statements"),
7 filed with the Securities and Exchange Commission ("SEC") in
8 connection with CardioNet's March 25, 2008 initial public offering
9 ("IPO") and/or its August 6, 2008 secondary stock offering ("Secondary
10 Offering"), and who claim to have been damaged thereby. Excluded from
11 the Class are Defendants, the officers and directors of the Company, at all
12 relevant times, members of their immediate families and their legal
13 representatives, heirs, successors or assigns and any entity in which
14 Defendants have or had a majority interest. Also excluded from the Class
15 are Persons otherwise meeting the definition of the Class who submit valid
16 and timely requests for exclusion from the Settlement.

17 D. With respect to the Class, the Court finds that:

- 18 i. The members of the Class are so numerous that their joinder in the Action is
19 impracticable. Based on the Company's stock transfer records, the Claims
20 Administrator sent notice to 25,749 putative Class Members. The Class is,
21 therefore, sufficiently numerous to render joinder impracticable. *See, e.g., Int'l*
22 *Molders' and Allied Workers' Local Union No. 164 v. Nelson*, 102 F.R.D. 457,
23 461 (N.D. Cal. 1983) (numerosity generally met if the class consists of more than
24 40 members).
- 25 ii. There are questions of law and fact common to the Class. Those questions
26 include whether the Registration Statements contained misstatements or
27 omissions, whether any misstatements or omissions were material, and whether
28 any misstatements or omissions caused harm to the members of the Class.
- 29 iii. The claims of the Plaintiff are typical of the claims of the Class Members.
30 Plaintiff claims to have acquired CardioNet stock pursuant or traceable to the
31 same Registration Statements as the members of the Class, and it claims that
32 Defendants' conduct with respect to it and the members of the Class was

1 identical. Consequently, Plaintiff claims that it and the other members of the
2 Class sustained damages as a result of the same misconduct by Defendants

3 iv. Plaintiff and Plaintiff's Counsel have fairly and adequately represented and
4 protected the interests of the Class Members. Plaintiff has no interests in

5 conflict with absent members of the Class. The Court is satisfied that Plaintiff's
6 Counsel are qualified, experienced and prepared to represent the Class to the
7 best of their abilities. The law firm of Scott+Scott LLP is hereby appointed
8 Lead Counsel for the Class.

9 v. The questions of law or fact common to the members of the Class predominate
10 over any questions affecting only individual members.

11 E. The form, content and method of dissemination of Notice given to the Class was
12 adequate and reasonable and constituted the best notice practicable under the circumstances, including
13 individual notice to all Class Members who could be identified through reasonable effort.

14 F. Notice, as given, complied with the requirements of California law, satisfied the
15 requirements of due process and constituted due and sufficient notice of the matters set forth herein.

16 G. The Settlement set forth in the Stipulation is fair, reasonable and adequate.

17 i. The Settlement was negotiated vigorously and at arm's-length by the Plaintiff
18 and its experienced counsel on behalf of the Class. The case settled only after:
19 (a) a mediation conducted by a retired U.S. District Court Judge who was
20 thoroughly familiar with this Action; (b) Plaintiff's Counsel conducted an
21 extensive investigation, which included, among other things, a review of
22 CardioNet's press releases, SEC filings, analyst reports, media reports and other
23 publicly disclosed reports and information about the Defendants; (c) the removal
24 of this Action to federal court pursuant to the Securities Litigation Uniform
25 Standards Act and a remand motion to state court (*see West Palm Beach Police*
26 *Pension Fund v. CardioNet, Inc.*, No. 10cv711-L(NLS), 2011 WL 1099815 (S.D.
27 Cal. March 24, 2011)); and (d) the drafting and submission of a highly detailed
28

1 First Amended Complaint ("FAC") that survived a demurrer. Accordingly, both
2 the Plaintiff and Defendants were well positioned to evaluate the settlement
3 value of this Action. The Stipulation has been entered into in good faith and is
4 not collusive.

5 ii. If the Settlement had not been achieved, both Plaintiff and Defendants faced the
6 expense, risk, and uncertainty of extended litigation. The Court takes no
7 position on the merits of either Plaintiff's or Defendants' arguments, but notes
8 these arguments as evidence in support of the reasonableness of the Settlement.

9 H. Plaintiff and Plaintiff's Counsel have fairly and adequately represented the interest of
10 the Class Members in connection with the settlement.

11 I. Plaintiff, all Class Members and Defendants are hereby bound by the terms of the
12 Settlement set forth in the Stipulation.

13 **IT IS HEREBY ORDERED THAT:**

14 1. The Stipulation and the Settlement embodied therein are approved as final, fair,
15 reasonable and adequate. The Settlement shall be consummated in accordance with the terms and
16 provisions of the Stipulation. ~~The Court has duly considered each objection that was filed to the~~
17 ~~proposed Settlement, and each objection is hereby overruled.~~ *JK*

18 2. The Action and all claims that are or have ever been contained therein, as well as all of
19 the Settled Claims, are dismissed with prejudice as to the Plaintiff and the Class Members. The
20 Parties are to bear their own costs, except as otherwise provided in the Stipulation.

21 3. All Released Parties as defined in the Stipulation are released in accordance with, and
22 as defined in, the Stipulation.

23 4. Upon the Effective Date hereof, Plaintiff and all members of the Class shall be deemed
24 to have, and by operation of the judgment shall have, absolutely and unconditionally, fully, finally,
25 and forever released, relinquished, and discharged any and all of the Defendants and any and all of
26 their families, parent entities, subsidiaries, associates, affiliates, or successors and each and all of their
27 respective past, present or future officers, directors, executives, partners, stockholders, representatives,
28

1 employees, principals, trustees, attorneys, financial or investment advisors, consultants, accountants,
2 auditors, banks or investment bankers, commercial bankers, insurers, reinsurers, advisors or agents,
3 heirs, executors, trusts, general or limited partners or partnerships, personal representatives, estates,
4 ~~administrators, predecessors, successors, indemnitors, indemnitees, divisions, joint ventures, related or~~

5 affiliated entities, any entity in which any Defendant has a majority interest, assignees, any trust of
6 which any Individual Defendant is the settlor or which is for the benefit of any Individual Defendant
7 and/or members of his family, and any other representatives of any of these Persons or entities or their
8 successors ("Released Parties") from, and shall forever be enjoined from suing any or all of the Released
9 Parties for, any and all claims, rights, causes of action, damages, or liabilities whatsoever, fixed or
10 contingent, accrued or unaccrued, liquidated or unliquidated, at law or in equity, matured or unmatured,
11 foreseen or unforeseen, whether class or individual in nature, including both known and unknown
12 (including, but not limited to, Unknown Claims, as defined in the Stipulation), that were asserted or
13 could have been asserted in this Action by Plaintiff or members of the Class against the Released Parties
14 under United States federal, state, local, statutory or common law, or any other law, rule or regulation,
15 whether foreign or domestic based upon, arising out of, or relating to, in any way, (i) the facts and
16 circumstances alleged in the complaints filed in this Action, and (ii) the purchase of CardioNet's
17 common stock pursuant or traceable to the Company's IPO and Secondary Offering Registration
18 Statements. "Settled Claims" also includes any and all claims arising out of, relating to, or in connection
19 with the Settlement or resolution of the Action against the Released Parties (including Unknown
20 Claims), except claims to enforce any of the terms of this Stipulation.

21 5. Upon the Effective Date hereof, Defendants shall be deemed to have, and by operation
22 of the judgment shall have, absolutely and unconditionally, fully, finally, and forever released,
23 relinquished, and discharged any and all claims, rights, causes of action, damages, or liabilities
24 whatsoever, whether based on United States federal, state, local, statutory or common law, or any other
25 law, rule or regulation, whether foreign or domestic, fixed or contingent, accrued or unaccrued,
26 liquidated or unliquidated, at law or in equity, matured or unmatured, foreseen or unforeseen, whether
27 class or individual in nature, including both known claims and Unknown Claims (as defined in the
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1 Stipulation), that have been or could have been asserted in the Action or any other forum by any of the
2 Defendants or the successors or assigns of any of them against Plaintiff, Class Members or their
3 attorneys, which arise out of or relate to the institution, prosecution, or settlement of the Action (except
4 for claims to enforce the terms of the Stipulation) ("Settled Defendants' Claims").

5 6. The Releases granted herein shall be effective as a bar to any and all claims within the
6 scope of their express terms and provisions that Plaintiff or any Class Member does not know or suspect
7 to exist in his, her or its favor at the time of the release of the Released Parties, and any Settled
8 Defendants' Claims that Defendants do not know or suspect to exist in their favor, which if known by
9 him, her or it might have affected his, her or its decision(s) with respect to the Settlement. With respect
10 to any and all Settled Claims and Settled Defendants' Claims, the Parties stipulate and agree that by
11 operation of this Final Order and Judgment, upon the Effective Date, the Plaintiff and Defendants shall
12 have expressly waived, and each Class Member shall be deemed to have waived, and by operation of
13 this Final Order and Judgment shall have expressly waived, the provisions, rights and benefits of Cal.
14 Civ. Code §1542, which provides:

15 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS**
16 **WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO**
17 **EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING**
18 **THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST**
19 **HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT**
20 **WITH THE DEBTOR;**

21 and any and all provisions, rights and benefits conferred by any law of any state or territory of the
22 United States, or principle of common law, which is similar, comparable, or equivalent to Cal. Civ.
23 Code §1542. Plaintiff and Defendants acknowledge, and Class Members shall be deemed to have
24 acknowledged, that the inclusion of Unknown Claims in the definitions of Settled Claims and Settled
25 Defendants' Claims was separately bargained for and was a key element of the Settlement.

26 7. All Class Members who have not made their objections to the settlement in the manner
27 provided in the notice are deemed to have waived any objections by appeal, collateral attack or
28 otherwise.

8. All Class Members who have failed to properly file requests for exclusion (requests to
opt out) from the Class are bound by the terms and conditions of the Stipulation and this Final Order

1 and Judgment and release and forever discharge the Released Parties from all Settled Claims as
2 provided in the Stipulation.

3 9. Lead Counsel are hereby awarded $33\frac{1}{3}\%$ of the Gross Settlement Fund in fees, which
4 ~~sum the Court finds to be fair and reasonable, and \$ 84,324.~~ ⁶⁹ in reimbursement of expenses, which
5 fees and expenses shall be paid within five (5) days of entry of this Order to Lead Counsel from the
6 Gross Settlement Fund with interest from the date such Gross Settlement Fund was funded to the date of
7 payment at the same rate earned by the Gross Settlement Fund. The aforementioned attorneys' fees
8 shall be allocated by Lead Counsel in a manner which in its good faith judgment reflects each counsel's
9 contribution to the institution, prosecution, and resolution of the Action.

10 10. In making this award of attorneys' fees and reimbursement of expenses to be paid from
11 the Gross Settlement Fund, the Court has considered and found that:

12 (a) The Settlement has created a fund of \$7,250,000 in cash plus interest thereon and that
13 Class Members who submit acceptable Proofs of Claim will benefit from the Settlement created by
14 Plaintiff's Counsel;

15 (b) Over 25,749 copies of the Notice were disseminated to putative Class Members
16 indicating that Plaintiff's Counsel were moving for attorneys' fees in the amount of up to 33 1/3% of the
17 Gross Settlement Fund and for reimbursement of expenses in an amount of approximately \$100,000 and
18 ~~only~~ (no) objections were filed against the terms of the proposed Settlement or the ceiling on the
19 fees and expenses requested by Plaintiff's Counsel contained in the Notice;

20 (c) Plaintiff's Counsel have conducted the litigation and achieved the Settlement with skill,
21 perseverance and diligent advocacy;

22 (d) The Action involves complex factual and legal issues, was actively prosecuted and, in the
23 absence of a settlement, would involve further lengthy proceedings with uncertain resolution of the
24 complex factual and legal issues;

25 (e) Had Plaintiff's Counsel not achieved the Settlement there would remain a significant risk
26 that Plaintiff and the Class may have recovered less or nothing from the Defendants; and
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1 (f) The amount of attorneys' fees awarded and expenses reimbursed from the Settlement
2 Fund are consistent with awards in similar cases.

3 11. The Court finds that an award to Plaintiff West Palm Beach Police Pension Fund for its
4 ~~reasonable costs and expenses (including lost wages) spent directly in its representation of the~~
5 Settlement Class and prosecution of this action is fair and reasonable, and thus awards Plaintiff West
6 Palm Beach Police Pension Fund \$ 4500 from the Settlement Fund. The facts supporting
7 reimbursement and the amount awarded are set forth in the declaration Plaintiff submitted to the Court
8 in support of its request.

9 12. All other provisions of the Stipulation are incorporated into this Order as if fully rewritten
10 herein. To the extent that the terms of this Order conflict with the terms of the Stipulation, the
11 Stipulation shall control.

12 13. Plaintiff and all Class Members are hereby BARRED AND PERMANENTLY
13 ENJOINED from instituting, commencing, maintaining or prosecuting in any court or tribunal any of the
14 Settled Claims against any of the Released Parties.

15 14. Defendants and their successors or assigns are hereby BARRED AND PERMANENTLY
16 ENJOINED from instituting, commencing, maintaining or prosecuting any of the Settled Defendants'
17 Claims against Plaintiff, Class Members or Plaintiff's Counsel.

18 15. The Plan of Allocation set forth in the Notice is approved as fair and reasonable, and
19 Plaintiff's Counsel are directed to arrange for the administration of the Settlement in accordance with its
20 terms and provisions. Any modification or change in the Plan of Allocation that may hereafter be
21 approved shall in no way disturb or affect this Final Order and Judgment or the releases provided
22 hereunder and shall be considered separate from this Final Order and Judgment.

23 16. The Court hereby decrees that neither the Stipulation nor this Final Order and Judgment
24 nor the fact of the settlement is an admission or concession by the Released Parties, or any of them, of
25 any liability or wrongdoing. This Final Order and Judgment is not a finding of the validity or invalidity
26 of any of the claims asserted or defenses raised in the Action. Neither the Stipulation nor this Final
27 Order and Judgment nor the fact of settlement nor the settlement proceedings nor the settlement
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1 negotiations nor any related documents shall be offered or received in evidence as an admission,
2 concession, presumption or inference against any of the Released Parties in any proceeding, other than
3 such proceedings as may be necessary to consummate or enforce the Stipulation, or in an action or
4 proceeding to determine the availability, scope, or extent of insurance coverage (or reinsurance related
5 to such coverage) for the sums expended for the settlement and defense of this Action.

6 17. The Action is dismissed with prejudice; subject, however, to this Court retaining
7 jurisdiction over compliance with the Stipulation and this Final Order and Judgment.

8 18. The Court hereby bars all future claims for contribution arising out of the Action (i) by
9 any person against the settling Parties; and (ii) by the settling Parties against any person, other than a
10 person whose liability has been extinguished by the settlement of the settling Parties.

11 19. Nothing in this Final Order and Judgment constitutes or reflects a waiver, release or
12 discharge of any rights or claims of Defendants against their insurers, or their insurers' subsidiaries,
13 predecessors, successors, assigns, affiliates, or representatives. Nothing in this Final Order and
14 Judgment constitutes or reflects a waiver or release of any rights or claims relating to indemnification,
15 advancement or any undertakings by an indemnified party to repay amounts advanced or paid by way of
16 indemnification or otherwise.

17 20. In the event that the Stipulation is terminated in accordance with its terms, (i) this
18 Judgment shall be rendered null and void and shall be vacated *nunc pro tunc*, (ii) this Action shall
19 proceed as provided in the Stipulation, (iii) the Defendants shall be permitted to object to the
20 certification of any proposed class in this Action, and (iv) the Defendants shall not be judicially or
21 equitably estopped from arguing against the certification of any class in this Action.

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21. There is no just reason for delay, and this is a final, appealable order as of when it is stamped as received for filing.

22. Final judgment shall be entered herein.
~~23. Distribution Hearing is set for Nov. 30, 2012 @ 8³⁰ AM.~~
So ordered.

Dated: 6/28/12

Joan M. Lewis
HON. JOAN M. LEWIS

Submitted by:

SCOTT+SCOTT LLP

Geoffrey M. Johnson / r.n.k.
Geoffrey M. Johnson
12434 Cedar Road, Suite 12
Cleveland Heights, OH 44106
Tel: 216.229.6088
Fax: 216.229.6092

EXHIBIT 6

ORIGINAL FILED

AUG 10 2004

LOS ANGELES
SUPERIOR COURT

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

CAROL LEZIN, On Behalf of Herself and All
Others Similarly Situated,

Plaintiff,

vs.

MINIMED, INC., et al.,

Defendants.

Case No. BC251832

CLASS ACTION

ASSIGNED TO: Judge Anthony J. Mohr

~~PROPOSED~~ ORDER AWARDING
PLAINTIFF'S COUNSEL'S ATTORNEYS'
FEES AND REIMBURSEMENT OF
EXPENSES

DATE: August 10, 2004
TIME: 10:00 a.m.
DEPT: 309
DATE ACTION FILED: 06/06/01
TRIAL DATE: 08/04/03

1 THIS MATTER having come before the Court on August 10, 2004, on the application of
2 counsel for the plaintiff for an award of attorneys' fees and reimbursement of expenses incurred in the
3 litigation, the Court having considered all papers filed and proceedings conducted herein and having
4 found the settlement of this litigation to be fair, reasonable and adequate and otherwise being fully
5 informed in the premises and good cause appearing therefor, IT IS HEREBY ORDERED, ADJUDGED
6 AND DECREED that:

7 1. All capitalized terms used herein shall have the same meanings as set forth in the
8 Stipulation of Settlement dated as of May 11, 2004 (the "Stipulation").

9 2. This Court has jurisdiction over the subject matter of the application and all matters
10 relating thereto, including all Members of the Settlement Class.

11 3. The Court hereby awards plaintiff's counsel attorneys' fees of one-third of the
12 Settlement Fund, together with the interest earned thereon for the same time period and at the same rate
13 as that earned on the Settlement Fund. The Court also awards plaintiffs' counsel \$85,000.00 in
14 unreimbursed out-of-pocket expenses. The awarded attorneys' fees shall be allocated among plaintiff's
15 counsel in a manner which, in Plaintiff's Settlement Counsel's good-faith judgment, reflects each such
16 counsel's contribution to the institution, prosecution and resolution of the litigation. The Court finds
17 that the fees awarded are fair and reasonable under the percentage-of-recovery method. The Court finds
18 that the amount of fees awarded is fair and reasonable.

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1 4. The awarded attorneys' fees and expenses shall be paid to Plaintiff's Settlement Counsel
2 from the Settlement Fund immediately after the date this Order is executed subject to the terms and
3 conditions of the Stipulation, in particular ¶6.2 thereof.

4 IT IS SO ORDERED.

5 DATED: AUG 10 2004

ANTHONY J. MOHR

THE HONORABLE ANTHONY J. MOHR
JUDGE OF THE SUPERIOR COURT

7 Submitted by:

8 LERACH COUGHLIN STOIA
9 & ROBBINS LLP
10 WILLIAM S. LERACH
11 DARREN J. ROBBINS
12 RANDALL J. BARON
13 ELLEN GUSIKOFF STEWART
14 STEPHEN J. ODDO



ELLEN GUSIKOFF STEWART

14 401 B Street, Suite 1700
15 San Diego, CA 92101
16 Telephone: 619/231-1058
619/231-7423 (fax)

17 GELLER RUDMAN, PLLC
18 PAUL J. GELLER
19 197 S. Federal Highway, Suite 200
Boca Raton, FL 33432
20 Telephone: 561/750-3000
561/750-3364 (fax)

Attorneys for Plaintiff

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EXHIBIT 7

1 ORIGINAL FILED

2 SEP 17 1993

3 LOS ANGELES
4 SUPERIOR COURT

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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF LOS ANGELES

11 A. JACQUES LOU, On Behalf of) Case No. BC015017
12 Herself and Derivatively on Behalf)
13 of ZENITH NATIONAL INSURANCE CORP.,) [Assigned to The Hon.
14 a Delaware corporation,) John H. Leahy]

14 Plaintiff,) (Derivative Action)

15 vs.)

16 STANLEY R. ZAX, et al.,)

17 Defendants,)

18 - and -)

19 ZENITH NATIONAL INSURANCE CORP.,)

20 Nominal Defendant.)

DATE:
TIME:
DEPT: 53

DISCOVERY CUTOFF: None
MOTION CUTOFF: None
TRIAL DATE: None

21
22 ~~DEPOSED~~ ORDER AWARDING PLAINTIFF'S
23 COUNSEL'S FEES AND EXPENSES
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1 THIS MATTER having come before the Court on Sept. 17, 1993
2 on the application of counsel for the named plaintiff for an award
3 of attorneys' fees and reimbursement of expenses incurred in the
4 above-captioned action, the Court, having considered all papers
5 filed and proceedings conducted herein, having found the
6 settlements of this action to be fair, reasonable and adequate and
7 otherwise being fully informed in the premises and good cause
8 appearing therefor, it is hereby ORDERED, ADJUDGED AND DECREED
9 that:

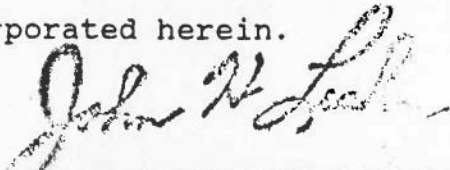
10 1. All of the capitalized terms used herein shall have the
11 same meaning as set forth in the Stipulation and Agreement of
12 Compromise and Settlement dated as of September 15, 1993.

13 2. This Court has jurisdiction over the subject matter of
14 this application and all matters relating thereto.

15 3. Pursuant and subject to the provisions of ¶5 of the
16 Stipulation, the court hereby awards plaintiff's counsel attorneys'
17 fees of 35% of the recovery on the SLCSA Claim, the Drexel Civil
18 Disgorgement Claim and the Settlement Fund plus expenses in the
19 amount of \$327,149.56 and interest earned thereon, if any.

20 4. The awarded attorneys' fees and expenses and interest
21 earned thereon, shall be paid to Plaintiff's Counsel as provided in
22 the Stipulation subject to the terms, conditions and obligations of
23 the Stipulation and in particular ¶5 thereof which terms,
24 conditions and obligations are incorporated herein.

25
26 DATED: SEP 17 1993



THE HONORABLE JOHN H. LEAHY
JUDGE OF THE SUPERIOR COURT

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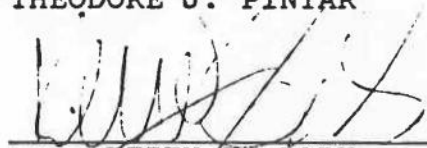
1 Submitted by:

2 MILBERG WEISS BERSHAD
3 HYNES & LERACH
4 WILLIAM S. LERACH
5 KEITH F. PARK
6 THEODORE J. PINTAR

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Attorneys for Plaintiff

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EXHIBIT 8

ORIGINAL FILED

NOV 30 1993

COUNTY CLERK

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

| | | |
|----------------------------------|---|------------------------|
| STEVEN GOLDMAN, et al., |) | Case No. C-754698 |
| |) | |
| Plaintiffs, |) | (Derivative Action) |
| vs. |) | |
| |) | |
| WILLIAM BELZBERG, et al., |) | |
| |) | |
| Defendants, |) | |
| - and - |) | |
| |) | |
| FARWEST FINANCIAL CORPORATION, a |) | |
| Delaware corporation, |) | |
| |) | DISCOVERY CUTOFF: None |
| Nominal Defendant. |) | MOTION CUTOFF: None |
| |) | TRIAL DATE: None |

FINAL JUDGMENT AND APPROVAL OF STIPULATION
AND AGREEMENT OF COMPROMISE AND SETTLEMENT

1 The Court having reviewed and considered the Stipulation and
2 Agreement of Compromise and Settlement and Exhibits thereto, dated
3 as of September 24, 1993 (the "Stipulation") between derivative
4 plaintiffs Steven Goldman, Clinton Krislov, John Paul Decker,
5 Gunther Boden and nominal defendant FarWest Financial Corporation,
6 now known as "Westminster Capital, Inc." ("FarWest"), and the
7 Settling Defendants William Belzberg, Samuel Belzberg, Hyman
8 Belzberg, First City Financial Corporation Ltd., now known as
9 Harrowston Corporation, Gibralt Holdings, Ltd., Padena Holdings,
10 Ltd., Fred Kayne, Kurt C. Kemper, Charles H. Green, Dwight C. Baum,
11 Keenan Behrle, Barbara C. George, Monty Hall, Robert A. Muh, James
12 Nathan, and Lester Ziffren, the Securities Litigation Claims
13 Settlement Agreement entered in the Drexel Burnham Lambert
14 bankruptcy proceeding (the "SLCSA") and the pooling agreements and
15 arrangements set forth therein and the Court having reviewed and
16 considered all oral and written comments regarding same; the Court
17 having reviewed the entire record of the case; and good cause
18 appearing,

19 THE COURT HEREBY ORDERS, ADJUDGES AND DECREES THAT:

20 1. The capitalized terms used in this Judgment shall have
21 the same meaning as defined in the Stipulation except as otherwise
22 specified herein.

23 2. The Stipulation and this Judgment shall be binding on and
24 inure to the benefit of the Settling Parties as set forth in the
25 Stipulation.

26 3. The Court has jurisdiction over the subject matter of the
27 Action and all parties to the Action, except Lambert Brussels
28 Associates Limited Partnership, Groupe Bruxelles Lambert S.A.,

1 Pargesa Holdings S.A., and Saif Limited, as to which personal
2 jurisdiction is a contested issue.

3 4. On or about October 18, 1993, a notice was sent by United
4 States mail to all current holders of FarWest common stock which
5 describes the filing of this Action, the general nature of the
6 allegations of the Complaint, the principle terms of the
7 Stipulation and related matters and Plaintiffs' counsel's intention
8 to dismiss the Action with prejudice as to the Settling Defendants
9 on the terms and conditions set forth in the Stipulation. Upon
10 request, additional copies of the notice were sent to banks,
11 brokerage firms, institutions, and other nominees who are current
12 holders of FarWest common stock for the beneficial interest of
13 other persons. A post office box in the name of "FarWest
14 Shareholders Derivative Litigation" was rented for the purpose of
15 receiving requests for additional copies of the notice from nominee
16 holders of FarWest common stock. All requests for additional
17 copies of the notice were promptly responded to. The Court has
18 determined that the notice given to FarWest shareholders complies
19 fully with the requirements of due process and applicable
20 California law.

21 5. Plaintiffs have agreed to settle the Action pursuant to
22 the terms of this Stipulation after considering: (i) the
23 substantial benefits to FarWest that will be realized as a result
24 of the Settlement; (ii) the risk of protracted litigation absent
25 the Settlement, the outcome of which would be uncertain; and (iii)
26 the conclusion of counsel for Plaintiffs that the Settlement is
27 fair, reasonable and adequate and in the best interests of FarWest.
28 The parties hereto desire to settle the Action, in order to avoid

1 the burden, expense and delay of further litigation against the
2 Settling Parties.

3 6. Settling Defendants vigorously deny all liability with
4 respect to any and all of the purported facts or claims alleged in
5 the Complaint and other papers filed in the Action, and, in
6 particular, deny that they have committed or bear any
7 responsibility for any wrongs, breaches of fiduciary duty or trust,
8 or violations of law, but consider it desirable that the Action be
9 compromised, settled and dismissed on the terms set forth in the
10 Stipulation because such compromise, settlement and dismissal will
11 eliminate the burden and expense of further litigation and the
12 inconvenience and devotion of employee, executive and personal time
13 and effort to this Action.

14 7. The Court grants final approval of the Settlement
15 provided for in the Stipulation and adjudges its terms to be fair,
16 reasonable and adequate to FarWest and its shareholders, directs
17 consummation of the Stipulation according to its terms and
18 provisions, and retains jurisdiction over the Settling Parties for
19 the purpose of effectuating the terms and conditions of the
20 Stipulation.

21 8. (a) The Court dismisses on the merits and with prejudice
22 all claims, rights, causes of action, suits, matters and issues,
23 whether statutory or at common law, whether state or federal, known
24 or unknown, which have or could have been asserted by or on behalf
25 of Plaintiffs or FarWest, their officers, directors, agents,
26 employees, attorneys, accountants, representatives, heirs,
27 executors, administrators, partnerships, partners, predecessors,
28 successors, parents, subsidiaries or affiliates, or any of their

1 predecessors or successors in interest or assigns in any capacity,
2 or by or on behalf of any of FarWest's past, present or future
3 shareholders or their officers, directors, agents, employees,
4 attorneys, accountants, representatives, heirs, executors,
5 administrators, partnerships, partners, predecessors, successors,
6 parents, subsidiaries or affiliates, or any of their predecessors
7 or successors in interest or assigns in any capacity in connection
8 with, arising out of, or in any way, directly or indirectly,
9 related to any acts, facts, transactions, occurrences, omissions or
10 other subject matter alleged or otherwise referred to in the
11 Complaints or other papers filed in this Action against the
12 Settling Defendants, their officers, directors, agents, employees,
13 attorneys, representatives, heirs, executors, administrators,
14 partnerships, partners, predecessors, successors, parents,
15 subsidiaries or affiliates, or any of their predecessors or
16 successors in interest or assigns in any capacity, and each
17 Settling Party does hereby release each other Settling Party, their
18 officers, directors, agents, employees, attorneys, representatives,
19 heirs, executors, administrators, partnerships, partners,
20 predecessors, successors, parents, subsidiaries or affiliates or
21 any of their predecessors or successors in interest or assigns in
22 any capacity (but not including Drexel and its affiliates and the
23 Drexel Defendants) from all Released Claims as that term is defined
24 in ¶1 of the Stipulation and Agreement of Compromise and
25 Settlement.

26 (b) Plaintiffs and FarWest, their officers, directors,
27 agents, employees, attorneys, accountants, representatives, heirs,
28 executors, administrators, partnerships, partners, predecessors,

1 successors, parents, subsidiaries or affiliates, or any of their
2 predecessors or successors in interest or assigns in any capacity
3 or any past, present or future shareholders of FarWest or their
4 officers, directors, agents, employees, attorneys, accountants,
5 representatives, heirs, executors, administrators, partnerships,
6 partners, predecessors, successors, parents, subsidiaries or
7 affiliates, or any of their predecessors or successors in interest
8 or assigns in any capacity are hereby barred and permanently
9 enjoined from prosecuting any Released Claim against the Settling
10 Defendants, and any of their officers, directors, agents,
11 employees, attorneys, representatives, heirs, executors,
12 administrators, partnerships, partners, predecessors, successors,
13 parents, subsidiaries or affiliates, or any of their predecessors
14 or successors in interest or assigns in any capacity (but not
15 including Drexel and its affiliates and the Drexel Defendants).

16 (c) Nothing in this Final Judgment shall constitute or
17 be deemed to constitute a release, waiver or compromise by any of
18 the Settling Defendants or FarWest of any claim (including, without
19 limitation, any claim for contribution, indemnity or otherwise)
20 which any of them may have against any auditor or accountant
21 (including, without limitation, Touche, Ross and Deloitte & Touche
22 or any of their partners, affiliates, shareholders, predecessors,
23 successors or assigns in any capacity) for FarWest, its parents,
24 subsidiaries, affiliates, predecessors or successors.

25 9. Plaintiffs, jointly and severally, and Plaintiffs'
26 counsel, jointly and severally, will provide protection, by
27 judgment reduction or reduction by amounts received by Plaintiffs
28 (or any of them) or Plaintiffs' counsel in settlement to the

1 Settling Defendants against claims over or otherwise made against
2 the Settling Defendants for contribution or indemnity by the Non-
3 Settling Defendants in an amount up to a total of \$1.5 million.

4 10. Nothing contained in the Stipulation or this Judgment
5 shall impair or impede Plaintiffs' or FarWest's ability to pursue,
6 prosecute, resolve and collect for the benefit of FarWest the
7 Derivative or FarWest SLCSA Sub-Class A Claims, the Milken Civil
8 Disgorgement Claim or the Drexel Civil Disgorgement Claim,
9 entitlement to other funds determined to be allocable to the
10 Derivative or FarWest SLCSA Subclass A Claims in the Drexel
11 Bankruptcy Proceedings, including proceeds from the Milken
12 Settlement, and/or from any Non-Settling Defendant, or any Non-
13 Settling Defendant's right to raise any available defense to such
14 claims.

15 11. The provision of the Stipulation to pay plaintiffs and
16 their counsel 35% of any recovery on the SLCSA Claim, the Milken
17 Civil Disgorgement Claim and the Drexel Civil Disgorgement Claim or
18 other funds determined to be allocable to the Derivative SLCSA Sub-
19 Class A Claim (including proceeds obtained from or by reason of the
20 Milken Settlement) and/or the pending actions against Non-Settling
21 Defendants for attorneys' fees plus expenses, if any, as provided
22 for in ¶10 of the Stipulation, is approved.

23 12. The provision of the Stipulation to pay Plaintiffs and
24 their counsel the sum of \$1.5 million, plus interest thereon from
25 March 15, 1992, for their attorneys' fees and expenses in
26 connection with their institution, prosecution and settlement of
27 this Action with respect to the Settling Defendants, as provided
28 for in ¶9 of the Stipulation, is approved.

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13. Without affecting the finality of this Final Judgment in any way, the Court retains jurisdiction over: (a) implementation of the Settlement provided for in the Stipulation; and (b) any other action necessary to conclude this Action and to implement the Stipulation.

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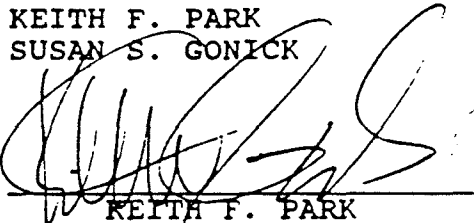
DATED: _____

Madeline I Flier

HONORABLE MADELEINE I. FLIER
JUDGE OF THE SUPERIOR COURT

Submitted by:

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13 FRED LOWENSCHUSS ASSOCIATES
FRED LOWENSCHUSS
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Suite 1550
15 Philadelphia, PA 19103
Telephone: 215/563-0606
16 Attorneys for Plaintiffs
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EXHIBIT 9

**ENDORSED FILED
SAN MATEO COUNTY**

NOV 18 2016

Clerk of the Superior Court
By TERRI MARAGOULAS
DEPUTY CLERK

1 ROBBINS GELLER RUDMAN
& DOWD LLP
2 RANDALL J. BARON (150796)
A. RICK ATWOOD, JR. (156529)
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9 Telephone: 617/398-5600
617/507-6020 (fax)

10 Co-Lead Counsel for Plaintiffs

RECEIVED
NOV 10 2016
CLERK OF THE SUPERIOR COURT
SAN MATEO COUNTY

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF SAN MATEO

13 In re ONYX PHARMACEUTICALS, INC.) Lead Case No. CIV523789
14 SHAREHOLDER LITIGATION)

) CLASS ACTION

15 _____)
16 This Document Relates To:)

) Assigned for All Purposes to Hon. Marie S. Weiner

17 ALL ACTIONS.)

) JUDGMENT AND ORDER GRANTING
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT

18
19 DATE: November 18, 2016
20 TIME: 9:00 a.m.
21 DEPT: 2
DATE ACTION FILED: 08/28/13

1 WHEREAS, the Court having been advised that the Settling Parties,¹ through their counsel,
2 agreed, subject to Court approval following notice to the Class and a hearing, to settle this Litigation
3 upon the terms and conditions set forth in the Stipulation of Settlement dated May 25, 2016 (the
4 “Stipulation”), which was filed with the Court; and

5 WHEREAS, on July 26, 2016, the Court entered its Order Preliminarily Approving Settlement
6 and Providing for Notice (“Preliminary Approval Order”), which preliminarily approved the Settlement,
7 and approved the form and manner of notice to the Class of the Settlement, and said notice having been
8 made, and a fairness hearing having been held; and

9 NOW, THEREFORE, based upon the Stipulation and all of the filings, records and proceedings
10 herein, and it appearing to the Court upon examination that the Settlement set forth in the Stipulation is
11 fair, reasonable and adequate, and upon a Settlement Fairness Hearing having been held after notice to
12 the Class of the Settlement to determine if the Settlement is fair, reasonable, and adequate and whether
13 this Judgment should be entered in this Litigation, **IT IS HEREBY ORDERED, ADJUDGED AND**
14 **DECREED AS FOLLOWS:**

15 1. The provisions of the Stipulation, including definitions of the terms used therein, are
16 incorporated by reference as though fully set forth herein.

17 2. This Court has jurisdiction over the subject matter of this Litigation, and over all of the
18 Defendants, Plaintiffs and all Class Members.

19 3. Pursuant to this Court’s order dated April 10, 2015, this action is a certified class action.
20 The Class is defined as all holders of Onyx common stock who received consideration for their shares
21 in the acquisition of Onyx by Amgen at the price of \$125.00 per share, first announced on August 25,
22 2013. Excluded from the Class are: the Defendants and any person, firm, trust, corporation or other
23 entity related to or affiliated with any Defendant; and any Person who validly requested exclusion from
24 the Class in response to the Notice of Pendency of Class Action sent to Class Members on or about
25

26 ¹ Consistent with the Stipulation, the term “Settling Parties” means (i) Plaintiffs Philip J. Rosen
27 (on behalf of himself and the Class Members) and Louisiana Municipal Police Employees’ Retirement
28 System (collectively, “Plaintiffs”); and (ii) Defendants N. Anthony Coles, Paul Goddard, Antonio J.
Grillo-Lopez, Magnus Lundberg, Corinne H. Nevinny, William R. Ringo, Wendell Wierenga and
Thomas G. Wiggans (collectively, “Defendants”).

1 May 5, 2015. Those Persons who timely submitted valid requests for exclusion are attached as
2 Exhibit 1 hereto. The Persons listed on Exhibit 1 are not bound by the Settlement or this Judgment.
3 However, such Persons also are not entitled to any rights or benefits provided to Class Members by the
4 terms of the Settlement and this Order.

5 4. The Court finds that the form, content, and method of dissemination of the Notice, all
6 implemented in accordance with the Court's Preliminary Approval Order:

7 (a) constituted the best notice practicable under the circumstances;

8 (b) was reasonably calculated, under the circumstances, to apprise Class Members
9 of: (i) the proposed Settlement; (ii) their right to object to any aspect of the proposed Settlement;
10 (iii) their right to appear at the Settlement Fairness Hearing, either on their own or through counsel
11 hired at their own expense, if they were not excluded from the Class; and (iv) the binding effect of this
12 Judgment and all other orders and proceedings in the Litigation on all Class Members;

13 (c) constituted due, adequate and sufficient notice to all persons entitled to be
14 provided with notice; and

15 (d) fully satisfied all applicable requirements of California law, due process and any
16 other applicable law.

17 5. The Court finds that the Plan of Allocation, which is set forth in the Notice to Class
18 Members, provides a fair and reasonable basis upon which to allocate the proceeds of the Net
19 Settlement Fund among Class Members, with due consideration having been given to administrative
20 convenience and necessity.

21 6. The Court hereby finds that the Settlement as set forth in the Stipulation is, in all
22 respects, fair, reasonable, and adequate to the Class and the Settling Parties. Accordingly, the
23 Stipulation and the terms of the Settlement, as described in the Stipulation, are hereby finally approved
24 in their entirety, pursuant to the requirements of §382 of the California Code of Civil Procedure and
25 Rule 3.769 of the California Rules of Court. The Settling Parties are hereby directed to effectuate the
26 Settlement according to the terms of the Stipulation. The Settling Parties and all Class Members are
27 hereby bound by this Judgment and by the terms of the Settlement as set forth in the Stipulation. The
28 Settling Parties are to bear their own costs, except as otherwise provided in the Stipulation.

1 7. The Class Representative and Plaintiffs’ Lead Counsel have fairly and adequately
2 represented the interest of the Class Members in connection with the Settlement, and the Stipulation
3 was entered into by the Settling Parties at arm’s length and in good faith.

4 8. The Settling Parties are to bear their own costs, except as otherwise provided in the
5 Stipulation.

6 9. Consistent with the Stipulation:

7 (a) “Released Defendant Parties” means (i) Defendants and any other past or present
8 defendants in the Litigation (including, but not limited to, Amgen, Arena Acquisition Co. and Onyx),
9 and each of their respective past, present or future direct or indirect parent entities, affiliates,
10 subsidiaries and families, and (ii) with respect to each of the Persons in subsection (i), each and all of
11 their respective past, present or future officers, directors, stockholders, agents, representatives,
12 employees, attorneys, financial or investment advisors (including, for the avoidance of doubt,
13 Centerview Partners LLC), other advisors, consultants, accountants, auditors, investment bankers,
14 entities providing any fairness opinion, non-insurance underwriters, brokers, dealers, lenders,
15 commercial bankers, AIG/National Union Fire Insurance Company of Pittsburgh, Pa. (“AIG”),
16 associates, heirs, executors, trusts, trustees, partners, partnerships, general or limited partners or
17 partnerships, limited liability companies, corporations, parents, subsidiaries, divisions, affiliates,
18 associated entities, principals, managing directors, managing agents, joint ventures, managing members,
19 members, managers, heirs, personal or legal representatives, estates, beneficiaries, distributes,
20 foundations, fiduciaries, administrators, predecessors, predecessors-in-interest, successors and assigns.

21 (b) “Released Defendant Parties’ Claims” means all claims (including Unknown
22 Claims) arising out of or relating to the institution, prosecution, and resolution of the Litigation;
23 provided, however, that the Released Defendant Parties’ Claims shall not include (a) claims to enforce
24 the confidentiality stipulation agreed upon by the Settling Parties, the Settlement and/or this Stipulation;
25 or (b) claims that relate to possible insurance coverage applicable to Plaintiffs’ claims in this Litigation.
26 In all events Plaintiffs, Plaintiffs’ Counsel, and all Class Members shall have no liability or
27 responsibility for any insurance coverage disputes between Amgen, Onyx, Defendants, and/or any of
28 their insurers that arise from Plaintiffs’ claims in the Litigation. Plaintiffs do not waive any claims for

1 indemnification they may have relating to any costs, expense, responsibility or liability for any
2 insurance coverage disputes between Amgen, Onyx, Defendants, and/or any of their insurers that arise
3 from Plaintiffs' claims in this Litigation. The Released Defendant Parties expressly reserve their right
4 to oppose any such claim by Plaintiffs for indemnification.

5 (c) "Released Plaintiff Parties" means Plaintiffs, all Class Members, and Plaintiffs'
6 Counsel.

7 (d) "Released Plaintiff Parties' Claims" means all claims of every nature and
8 description whatsoever (including Unknown Claims) based upon, arising out of or relating to the
9 Litigation and/or the claims or allegations in the Litigation including, but not limited to, claims or
10 allegations based upon, arising out of or relating to the acts, facts, events or disclosures alleged in the
11 Litigation, including, without limitation, the purchase, sale or ownership of Onyx securities in
12 connection with the Merger, all aspects or terms of the Merger (including all aspects or terms of the
13 Merger Agreement), and the obligations of any of the Defendants in connection with the Merger
14 (including, but not limited to, any claims arising under federal or state statutory or common law or any
15 other law, rule or regulation, including the law of any jurisdiction outside the United States and
16 including any and all claims under the Securities Act of 1933, the Securities Exchange Act of 1934 and
17 any other provision of the federal or state securities laws and any rule or regulation issued pursuant
18 thereto, or relating to alleged fraud, breach of care, breach of loyalty, breach of fiduciary duty however
19 labeled, misrepresentation or omission, negligence or gross negligence, quasi-appraisal, breach of
20 contract, breach of trust, corporate waste, ultra vires acts, unjust enrichment, improper personal benefit,
21 aiding and abetting, or otherwise).

22 (e) "Unknown Claims" means (a) any Released Plaintiff Parties' Claims that any
23 Plaintiff or any other Released Plaintiff Party does not know or suspect to exist in his, her or its favor at
24 the time of the Effective Date, including claims which, if known by him, her or it, might have affected
25 his, her or its settlement with and release of the Released Defendant Parties, or might have affected his,
26 her or its decision(s) with respect to the Settlement; and (b) any Released Defendant Parties' Claims
27 that any Defendant or any other Released Defendant Party does not know or suspect to exist in his, her
28 or its favor at the time of the Effective Date, including claims which, if known by him, her or it, might

1 have affected his, her or its settlement with and release of the Released Plaintiff Parties, or might have
2 affected his, her or its decision(s) with respect to the Settlement. With respect to any and all Released
3 Claims, the Settling Parties stipulate and agree that, upon the Effective Date, Plaintiffs and the
4 Defendants shall expressly waive, and each of the Class Members shall be deemed to have waived, and
5 by operation of the Judgment shall have expressly waived, any and all provisions, rights, and benefits
6 conferred by California Civil Code §1542 and any law of any state or territory of the United States, or
7 principle of common law, which is similar, comparable or equivalent to California Civil Code §1542,
8 which provides:

9 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE
10 CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR
11 AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR
12 HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH
13 THE DEBTOR.

14 Plaintiffs and the Released Plaintiff Parties may hereafter discover facts in addition to or different from
15 those that any of them now know or believe to be true related to the subject matter of the Released
16 Plaintiff Parties' Claims, but Plaintiffs shall expressly and each Class Member, upon the Effective Date,
17 shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever settled
18 and released any and all Released Plaintiff Parties' Claims, known or unknown, suspected or
19 unsuspected, contingent or non-contingent, disclosed or undisclosed, matured or unmatured, which now
20 exist, or heretofore have existed upon any theory of law or equity now existing or coming into existence
21 in the future, including, but not limited to, conduct that is negligent, reckless, intentional, with or
22 without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or
23 existence of such different or additional facts. Similarly, the Defendants and Released Defendant
24 Parties may hereafter discover facts in addition to or different from those that any of them now know or
25 believe to be true related to the subject matter of the Released Defendant Parties' Claims, but each
26 Defendant shall expressly and each Released Defendant Party, upon the Effective Date, shall be deemed
27 to have, and by operation of the Judgment shall have, fully, finally, and forever settled and released any
28 and all Released Defendant Parties' Claims, known or unknown, suspected or unsuspected, contingent
or non-contingent, disclosed or undisclosed, matured or unmatured, which now exist, or heretofore have
existed upon any theory of law or equity now existing or coming into existence in the future, including,

1 but not limited to, conduct that is negligent, reckless, intentional, with or without malice, or a breach of
2 any duty, law or rule, without regard to the subsequent discovery or existence of such different or
3 additional facts. The Settling Parties acknowledge, and the Released Plaintiff Parties and the Released
4 Defendant Parties shall be deemed by operation of this Judgment to have acknowledged, that the
5 inclusion of "Unknown Claims" in the definition of Released Claims was separately bargained for and
6 is a key element of the Settlement of which these releases are a part.

7 10. Upon the Effective Date, Plaintiffs and each Class Member, on behalf of themselves and
8 any of their personal representatives, successors and assigns, shall be deemed to have, and by operation
9 of this Judgment shall have, fully, finally, and forever released, relinquished and discharged all
10 Released Plaintiff Parties' Claims against the Released Defendant Parties, regardless of whether or not
11 such Class Member executes and delivers a Proof of Claim.

12 11. Upon the Effective Date, each of the Released Defendant Parties shall be deemed to
13 have, and by operation of this Judgment shall have, fully, finally and forever released all Released
14 Plaintiff Parties from all Released Defendant Parties' Claims. For the avoidance of doubt, nothing in
15 this Judgment shall be deemed to release any claim that the Defendants have, or any other Person has,
16 against any of Defendants' insurers.

17 12. All Class Members who have not made objections to the Settlement in the manner
18 provided in the Notice are deemed to have waived any objections by appeal, collateral attack, or
19 otherwise.

20 13. Neither the Stipulation nor the Settlement, whether or not they are consummated, nor
21 any act performed or document executed pursuant to or in furtherance of the Stipulation or the
22 Settlement: (a) is or may be deemed to be, or may be used as, a presumption, concession, or admission
23 of, or evidence of, the validity of any Released Claim; or (b) is or may be deemed to be, or may be used,
24 as a presumption, concession, or admission of, or evidence of, any fault or omission of any of the
25 Released Defendant Parties in any civil, criminal or administrative proceeding in any court,
26 administrative agency or other tribunal; or (c) is or may be deemed to be an admission or evidence that
27 any claims asserted by Plaintiffs were either valid or not valid in any civil, criminal or administrative
28 proceeding. The Released Defendant Parties may file the Stipulation and/or this Judgment, or refer to

1 them, in any action that may be brought against them in order to support a defense or counterclaim
2 based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or
3 reduction, or any other theory of claim preclusion or issue preclusion or similar defense or
4 counterclaim. Any Settling Party may file the Stipulation and/or this Judgment in any action that may
5 be brought to enforce the terms of the Stipulation or this Judgment and these documents specifically
6 may be filed by any Released Defendant Party in any subsequent insurance coverage litigation.

7 14. In the event that the Stipulation is terminated in accordance with its terms: (i) this
8 Judgment shall be rendered null and void and shall be vacated *nunc pro tunc*; and (ii) the terms of
9 paragraph 7.6 of the Stipulation shall govern.

10 15. The Court hereby awards Plaintiffs' Counsel attorneys' fees of \$9,000,000.00, plus
11 expenses in the amount of \$647,397.29, together with the interest earned thereon for the same time
12 period and at the same rate as that earned on the Settlement Fund until paid. The Court finds that the
13 amount of fees and expenses awarded is fair and reasonable given the contingent nature of the case and
14 the substantial risks of non-recovery, the time and effort involved, and the result obtained for the Class.

15 16. The awarded attorneys' fees and expenses and interest thereon shall immediately be paid
16 to Plaintiffs' Lead Counsel from the Settlement Fund subject to the terms, conditions, and obligations of
17 the Stipulation, which terms, conditions and obligations are incorporated herein.

18 17. A service award is awarded to Class Representative Philip J. Rosen in the amount of
19 \$3,000.00 and shall be paid out of the Settlement Fund. The Court finds that such service award is
20 appropriate in light of Mr. Rosen's representation of the Class and active participation in the Litigation.

21 18. Any order(s) regarding the Plan of Allocation, an award of attorneys' fees or expenses,
22 or a Class Representative award, or any appeal modification or change thereof, shall in no way disturb
23 or affect the finality of this Judgment and shall be considered separate from this Judgment.

24 19. Without affecting the finality of this Judgment in any way, this Court retains continuing
25 jurisdiction over: (a) implementation of this Settlement and any award or distribution of the Settlement
26 Fund, including interest earned thereon; (b) disposition of the Settlement Fund; (c) hearing and
27 determining applications for attorneys' fees, interest and expenses in the Litigation; and (d) all parties
28 hereto for the purpose of construing, enforcing, and administrating the Stipulation.

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20. The Court hereby directs that this Judgment be entered by the Clerk of the Court.

IT IS SO ORDERED.

DATED: 11/18/16



HONORABLE MARIE S. WEINER
JUDGE OF THE SUPERIOR COURT

EXHIBIT 10

ENDORSED FILED
SAN MATEO COUNTY

JUN 22 2015

Clerk of the Superior Court
By TERRI MARAGOULAS
DEPUTY CLERK

1 ROBBINS GELLER RUDMAN
& DOWD LLP
2 SHAWN A. WILLIAMS (213113)
CHRISTOPHER P. SBEFER (201197)
3 EKATERINI M. POLYCHRONOPOULOS (284838)
DAVID W. HALL (274921)
4 Post Montgomery Center
One Montgomery Street, Suite 1800
5 San Francisco, CA 94104
Telephone: 415/288-4545
6 415/288-4534 (fax)
7 Attorneys for Plaintiffs

RECEIVED
JUN 15 2015
CLERK OF THE SUPERIOR COURT
SAN MATEO COUNTY

8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SAN MATEO

11 JOE M. WILEY, Individually and on Behalf of)
All Others Similarly Situated,)
12)
Plaintiff,)
13)
vs.)
14)
ENVIVIO, INC., et al.,)
15)
Defendants.)
16)

Master File No. CIV517185
Assigned for all Purposes to
The Hon. Marie S. Weiner, Dept. 2
CLASS ACTION
DATE: June 22, 2015
TIME: 2:00 p.m.
DEPT: 2
JUDGE: The Honorable Marie S. Wein
Date Action Filed: 10/05/12

17
18
19 [PROPOSED] FINAL JUDGMENT AND ORDER GRANTING FINAL APPROVAL OF CL.
ACTION SETTLEMENT
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1 WHEREAS, the Court is advised that the Parties,¹ through their counsel, have agreed, subject to
2 Court approval following notice to the Class and a hearing, to settle this Action (the “Action”) upon the
3 terms and conditions set forth in the Stipulation of Settlement (the “Stipulation” or “Settlement”) which
4 was filed with the Court on January 23, 2015; and

5 WHEREAS, on February 23, 2015, the Court entered its Order Preliminarily Approving
6 Settlement and Providing for Notice, which preliminarily approved the Settlement, conditionally
7 certified the Class, and preliminarily approved notice to the Class of the Settlement, and said notice has
8 been made, and the fairness hearing having been held; and

9 NOW, THEREFORE, based upon the Stipulation and all of the filings, records, and proceedings
10 herein, and it appearing to the Court upon examination that the Stipulation and Settlement are fair,
11 reasonable and adequate, and upon a Settlement Fairness Hearing having been held after notice to the
12 Class of the Settlement to determine if the Stipulation and Settlement are fair, reasonable, and adequate
13 and whether this Final Judgment should be entered in this Action based upon the Stipulation;

14 **THE COURT HEREBY FINDS AND CONCLUDES THAT:**

15 A. The provisions of the Stipulation, including definitions of the terms used therein, are
16 hereby incorporated by reference as though fully set forth herein.

17 B. This Court has jurisdiction of the subject matter of this Action and over all of the Parties
18 and all Members of the Class.

19 C. The \$8,500,000 Settlement set forth in the Stipulation is fair, reasonable, and adequate.

20 (i) The Settlement was vigorously negotiated at arm’s length by Plaintiffs on
21 behalf of the Class and by Defendants, all of whom were represented by highly experienced and skilled

22 _____
23 ¹ As used herein, the term “Parties” means plaintiffs Joe M. Wiley, Michael Toth, Employees’
24 Retirement System of the Government of the Virgin Islands (“GERS”), Regina Discenza, custodian for
25 Christian Discenza, UTMA (collectively, the “Plaintiffs”), on behalf of themselves and the Class (as
26 defined below), and defendants Envivio, Inc. (“Envivio” or the “Company”), Julien Signés, Erik E.
27 Miller, Gianluca U. Rattazzi, Kevin E. Dillon, Corentin du Roy de Blicquy, R. David Spreng, Clifford
28 B. Meltzer, Marcel Gani, Terry D. Kramer and Edward A. Gilhuly (collectively, the “Envivio
Defendants”) and the underwriters of the Company’s April 24, 2012 initial public offering (“IPO”),
specifically Deutsche Bank Securities Inc., Goldman, Sachs & Co., Stifel, Nicolaus & Company,
Incorporated and William Blair & Company, L.L.C. (collectively, the “Underwriter Defendants”). The
Envivio Defendants and the Underwriter Defendants shall be collectively referred to as the
“Defendants”).

1 counsel. The case settled only after: (a) a mediation conducted by an attorney who was thoroughly
2 familiar with this Action; (b) Plaintiffs' Counsel conducted an extensive investigation, which included,
3 among other things, a review of Envivio's press releases, Securities Exchange Commission filings,
4 analyst reports, media reports and other publicly disclosed reports and information about the
5 Defendants, as well as non-public documents, including documents produced by Defendants and
6 various third parties; (c) the removal of this Action to federal court pursuant to the Securities Litigation
7 Uniform Standards Act and a remand motion to state court; (d) the drafting and submission of a highly
8 detailed Consolidated Amended Class Action Complaint for Violation of §§11, 12(a)(2) and 15 of the
9 Securities Act of 1933 ("Complaint") that survived a demurrer; and (e) the certification of this Action as
10 a class by this Court on September 12, 2014. Accordingly, both the Plaintiffs and Defendants were
11 well-positioned to evaluate the settlement value of this Action. The Stipulation has been entered into in
12 good faith and is not collusive.

13 (ii) If the Settlement had not been achieved, both Plaintiffs and Defendants
14 faced the expense, risk, and uncertainty of extended litigation. The Court takes no position on the
15 merits of either Plaintiffs' or Defendants' arguments, but notes these arguments as evidence in support
16 of the reasonableness of the Settlement.

17 D. Plaintiffs and Plaintiffs' Counsel have fairly and adequately represented the interest of
18 the Class Members in connection with the Settlement.

19 E. Plaintiffs, all Class Members, and Defendants are hereby bound by the terms of the
20 Settlement set forth in the Stipulation.

21 **IT IS HEREBY ORDERED THAT:**

22 1. The Stipulation and the Settlement embodied therein are approved as final, fair,
23 reasonable and adequate. The Settlement shall be consummated in accordance with the terms and
24 provisions of the Stipulation. The Parties are to bear their own costs, except as otherwise provided in
25 the Stipulation.

26 2. All Released Parties as defined in the Stipulation are released in accordance with, and as
27 defined in, the Stipulation.

28

1 3. Upon the Effective Date, Plaintiffs and all Members of the Class shall be deemed to
2 have, and by operation of this Final Judgment shall have, absolutely and unconditionally, fully, finally,
3 and forever released, relinquished, and discharged any and all of the Defendants, their past or present
4 subsidiaries, parents, successors and predecessors, officers, directors, shareholders, partners, agents,
5 employees, attorneys, advisors, and investment advisors, insurers, and any person, firm, trust,
6 corporation, officer, director, or other individual or entity in which any Defendant has a controlling
7 interest or which is related to or affiliated with any of the Defendants, and the legal representatives,
8 heirs, successors in interest or assigns of the Defendants (“Released Parties”) from, and shall forever be
9 enjoined from suing any or all of the Released Parties for, any and all claims, including “Unknown
10 Claims” (as defined in the Stipulation), arising out of, relating to, or in connection with: (i) the facts and
11 circumstances alleged in the Complaint filed in this Action; and (ii) the purchase of Envivio common
12 stock, that were asserted or could have been asserted by any Plaintiff or Member of the Class against
13 the Released Parties. “Settled Claims” also includes any and all claims arising out of, relating to, or in
14 connection with the Settlement or resolution of the Action against the Released Parties (including
15 Unknown Claims), except claims to enforce any of the terms of the Stipulation.

16 4. Upon the Effective Date, all Released Parties, shall be deemed to have, and by operation
17 of this Final Judgment shall have, absolutely and unconditionally, fully, finally, and forever released,
18 relinquished, and discharged any and all claims, including “Unknown Claims” (as defined in the
19 Stipulation), relating to the institution, prosecution or settlement of the Action that have been or could
20 have been asserted in the Action or any other forum by any of the Released Parties against Plaintiffs,
21 Class Members, or their attorneys (except for claims to enforce any of the terms of the Stipulation)
22 (“Settled Defendants’ Claims”).

23 5. The Releases granted herein shall be effective as a bar to any and all claims within the
24 scope of their express terms and provisions that Plaintiffs or any Class Member does not know or
25 suspect to exist in his, her, or its favor as of the Effective Date, and any claims against Plaintiffs which
26 Defendants do not know or suspect to exist in their favor, which if known by him, her, or it might have
27 affected his, her, or its decision(s) with respect to the Settlement. With respect to any and all Settled
28 Claims (including Unknown Claims) and Settled Defendants’ Claims (including Unknown Claims), the

1 Parties stipulate and agree that by operation of this Final Judgment, upon the Effective Date, the
2 Plaintiffs and Defendants shall have expressly waived, and each Class Member shall be deemed to have
3 waived, and by operation of this Final Judgment shall have expressly waived, the provisions, rights and
4 benefits of Cal. Civ. Code §1542, which provides:

5 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH**
6 **THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR**
7 **HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF**
8 **KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR**
9 **HER SETTLEMENT WITH THE DEBTOR;**

10 and any and all provisions, rights and benefits conferred by any law of any state or territory of the
11 United States, or principle of common law, which is similar, comparable, or equivalent to Cal. Civ.
12 Code §1542. Plaintiffs and Class Members may hereafter discover facts in addition to or different from
13 those which he, she, or it now knows or believes to be true with respect to the subject matter of the
14 Settled Claims, but the Plaintiffs shall expressly fully, finally, and forever settle and release, and each
15 Class Member, upon the Effective Date, shall be deemed to have, and by operation of this Final
16 Judgment shall have, fully, finally, and forever settled and released, any and all Settled Claims, known
17 or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or
18 hidden, which now exist, or heretofore have existed, upon any theory of law or equity now existing or
19 coming into existence in the future, including, but not limited to, conduct which is negligent,
20 intentional, with or without malice, or a breach of any duty, law or rule, without regard to the
21 subsequent discovery or existence of such different or additional facts. Plaintiffs and Defendants
22 acknowledge, and Class Members shall be deemed to have acknowledged, that the inclusion of
23 “Unknown Claims” in the definition of Settled Claims and Settled Defendants’ Claims was separately
24 bargained for and was a key element of the Settlement.

25 6. All Class Members who have not made their objections to the Settlement in the manner
26 provided in the notice are deemed to have waived any objections by appeal, collateral attack, or
27 otherwise.

28 7. All Class Members who have failed to properly file requests for exclusion (requests to
opt out) from the Class are bound by the terms and conditions of the Stipulation and this Final
Judgment.

1 8. All other provisions of the Stipulation are incorporated into this Final Judgment as if
2 fully rewritten herein. To the extent that the terms of this Final Judgment conflict with the terms of the
3 Stipulation, the Stipulation shall control.

4 9. Plaintiffs and all Class Members are hereby barred and enjoined from instituting,
5 commencing, maintaining, or prosecuting in any court or tribunal any of the Settled Claims against any
6 of the Released Parties.

7 10. Defendants and their successors or assigns are hereby barred and enjoined from
8 instituting, commencing, maintaining, or prosecuting any of the Settled Defendants' Claims against
9 Plaintiffs, Class Members or Plaintiffs' Counsel. The Court hereby decrees that neither the Stipulation
10 nor this Final Judgment nor the fact of the Settlement is an admission or concession by the Released
11 Parties, or any of them, of any liability or wrongdoing. This Final Judgment is not a finding of the
12 validity or invalidity of any of the claims asserted or defenses raised in the Action. Neither the
13 Stipulation nor this Final Judgment nor the fact of settlement nor the settlement proceedings nor the
14 settlement negotiations nor any related documents shall be offered or received in evidence as an
15 admission, concession, presumption or inference against any of the Released Parties in any proceeding,
16 other than such proceedings as may be necessary to consummate or enforce the Stipulation, or in an
17 action or proceeding to determine the availability, scope, or extent of insurance coverage (or
18 reinsurance related to such coverage) for the sums expended for the settlement and defense of this
19 Action.

20 11. Pursuant to and in full compliance with California law, this Court hereby finds and
21 concludes that due and adequate notice was directed to all Persons and entities who are Class Members
22 advising them of the Plan of Allocation and of their right to object thereto, and a full and fair
23 opportunity was accorded to all Persons and entities who are Class Members to be heard with respect to
24 the Plan of Allocation.

25 12. The Court hereby finds and concludes that the formula for the calculation of the claims
26 of Authorized Claimants, which is set forth in the Notice of Proposed Settlement of Class Action sent to
27 Class Members, provides a fair and reasonable basis upon which to allocate the proceeds of the Net
28

1 Settlement Fund established by the Stipulation among Class Members, with due consideration having
2 been given to administrative convenience and necessity.

3 13. The Court hereby awards Lead Counsel attorneys' fees of \$2,125,000, plus expenses in
4 the amount of \$85,241.47, together with the interest earned thereon for the same time period and at the
5 same rate as that earned on the Settlement Fund until paid. The Court finds that the amount of fees
6 awarded is appropriate and that the amount of fees awarded is fair and reasonable given the contingent
7 nature of the case and the substantial risks of non-recovery, the time and effort involved, and the result
8 obtained for the Class.

9 14. The awarded attorneys' fees and expenses and interest earned thereon shall immediately
10 be paid to Lead Counsel subject to the terms, conditions, and obligations of the Stipulation, and in
11 particular ¶6 thereof, which terms, conditions and obligations are incorporated herein.

12 15. Each Plaintiff shall be awarded \$2,500 for time and expenses in this Action. Such
13 reimbursement is appropriate considering their active participation as Plaintiffs and class
14 representatives in this Action, as attested to by the declarations submitted to the Court.

15 16. In the event that the Stipulation is terminated in accordance with its terms: (i) this Final
16 Judgment shall be rendered null and void and shall be vacated *nunc pro tunc*; (ii) this Action shall
17 proceed as provided in the Stipulation; and (iii) the Defendants shall be permitted to object to the
18 certification of any proposed class in this Action.

19 17. Without affecting the finality of this Final Judgment in any way, this Court retains
20 continuing jurisdiction over: (a) implementation of this Settlement and any award or distribution of the
21 Settlement Fund, including interest earned thereon; (b) disposition of the Settlement Fund; (c) hearing
22 and determining applications for attorneys' fees, interest and expenses in the Action; and (d) all Parties
23 hereto for the purposed of construing, enforcing, and administering the Stipulation.

24 IT IS SO ORDERED.

MARIE S. WEINER

25 DATED: JUN 22 2015

26 THE HONORABLE MARIE S. WEINER
27 JUDGE OF THE SUPERIOR COURT

EXHIBIT 11

RECEIVED

OCT 31 2013

SUPERIOR COURT
CIVIL DIVISION

1 ROBBINS GELLER RUDMAN
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 PHONG L. TRAN (204961)
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 4 Telephone: 619/231-1058
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 6 SCOTT + SCOTT LLP
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 DEBORAH CLARK-WEINTRAUB
 7 The Chrysler Building
 405 Lexington Avenue, 40th Floor
 8 New York, NY 10174
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 9 212/233-6334 (fax)
 - and -
 10 ANNE L. BOX (224354)
 JOHN T. JASNOCH (281605)
 11 707 Broadway, 10th Floor
 San Diego, CA 92101
 12 Telephone: 619/233-4565
 619/233-0508 (fax)

Class Counsel

13
 14
 15 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 16 COUNTY OF SAN MATEO

17 IN RE PACIFIC BIOSCIENCES OF
 18 CALIFORNIA, INC. SECURITIES
 LITIGATION

Master File No. CIV509210

CLASS ACTION

19
 20 This Document Relates To:

21 ALL ACTIONS.

22 ~~PROPOSED~~ FINAL JUDGMENT
 AND ORDER GRANTING FINAL
 DATE: Submitted Matter APPROVAL OF
 TIME: Submitted Matter CLASS ACTION
 DEPT: 2 SETTLEMENT
 JUDGE: The Honorable Marie S. Weiner
 DATE ACTION FILED: 10/21/11

FILE BY FAX

[PROPOSED] FINAL JUDGMENT

1 WHEREAS, the Court is advised that the Parties,¹ through their counsel, have agreed, subject to
2 Court approval following notice to the Class and a hearing, to settle this Action (the "Action") upon the
3 terms and conditions set forth in the Stipulation and Agreement of Settlement (the "Stipulation") which
4 was filed with the Court; and

5 WHEREAS, the Court entered its Order Preliminarily Approving Settlement and Confirming
6 Final Settlement Hearing, which preliminarily approved the settlement, conditionally certified the Class,
7 and preliminarily approved notice to the Class of the settlement, and said notice has been made, and the
8 fairness hearing having been held; and

9 NOW, THEREFORE, based upon the Stipulation and all of the filings, records, and proceedings
10 herein, and it appearing to the Court upon examination that the Stipulation and Settlement are fair,
11 reasonable and adequate, and upon a Settlement Fairness Hearing having been held after notice to the
12 Class of the Settlement to determine if the Stipulation and Settlement are fair, reasonable, and adequate
13 and whether the Final Judgment should be entered in this Action based upon the Stipulation;

14 **THE COURT HEREBY FINDS AND CONCLUDES THAT:**

15 A. The provisions of the Stipulation, including definitions of the terms used therein, are
16 hereby incorporated by reference as though fully set forth herein.

17 B. This Court has jurisdiction of the subject matter of this Action and over all of the Parties
18 and all members of the Class.

19 C. All of the requirements for class certification under California law are met, and therefore
20 this Action is properly maintained as a class action for purposes of settlement and the Class is properly
21 certified. The Class is defined as:

22 _____
23 ¹ As used herein, the term "Parties" means Plaintiffs Greg Young, Mathew Sandnas, Oklahoma
24 Firefighters Pension Fund and Pompano Beach Police & Firefighters' Retirement System (collectively,
25 "Plaintiffs"), on behalf of themselves and the Class (as defined below), and Defendants: Pacific
26 Biosciences of California, Inc. ("Pacific Biosciences," "PACB," or the "Company"); current and former
27 PACB officers and/or directors, Hugh C. Martin, Susan K. Barnes, Brian B. Dow, Brook Byers,
28 William W. Ericson, Michael Hunkapiller, Randall S. Livingston, Susan Siegel, and David B. Singer
(the "Individual Defendants," collectively with PACB, the "Issuer Defendants"), and the underwriters
of the Company's October 27, 2010 initial public offering ("IPO"), specifically J.P. Morgan Securities
LLC, Morgan Stanley & Co. LLC (formerly Morgan Stanley & Co. Incorporated), Deutsche Bank
Securities, Inc., and Piper Jaffray & Co. (the "Underwriter Defendants," collectively with the Issuer
Defendants, "Defendants").

1 All persons or entities ("Persons") that purchased Pacific Biosciences common stock
2 between October 27, 2010 and September 20, 2011 (inclusive), including those Persons
3 that purchased the Company's stock pursuant or traceable to the Company's
4 Registration Statement and Prospectus for the Company's October 27, 2010 IPO.
5 Excluded from the Class are: the Defendants; any officers or directors of Pacific
6 Biosciences or the Underwriter Defendants during or after the Class Period; any
7 corporation, trust or other entity in which any Defendant has a controlling interest; and
8 the members of the immediate families of the Individual Defendants, and the Individual
9 Defendants' successors, heirs, assigns and legal representatives. Also excluded from the
10 Class are Persons otherwise meeting the definition of the Class who submit valid and
11 timely requests for exclusion from the Settlement (*see* paragraph 8 below).

12 D. With respect to the Class, the Court finds that:

13 (i) The members of the Class are so numerous that their joinder in the Action
14 is impracticable. There were approximately 12.5 million shares of Pacific Biosciences stock offered
15 through the IPO. The Class is, therefore, sufficiently numerous to render joinder impracticable.

16 (ii) There are questions of law and fact common to the Class. Those
17 questions include whether the Registration Statement contained misstatements or omissions, whether
18 any misstatements or omissions were material, and whether any misstatements or omissions caused
19 harm to the members of the Class.

20 (iii) The claims of the Plaintiffs are typical of the claims of the Class
21 Members. Plaintiffs claim to have purchased Pacific Biosciences stock between October 27, 2010 and
22 September 20, 2011 pursuant or traceable to the same Registration Statement as the members of the
23 Class. Consequently, Plaintiffs claim that they and the other members of the Class sustained damages
24 as a result of the same misconduct by Defendants.

25 (iv) Plaintiffs and Lead Counsel have fairly and adequately represented and
26 protected the interests of the Class Members. Plaintiffs have no interests in conflict with absent
27 members of the Class. The Court is satisfied that Lead Counsel are qualified, experienced and prepared
28 to represent the Class to the best of their abilities. The law firms of Scott+Scott, Attorneys at Law, LLP
and Robbins Geller Rudman & Dowd LLP are hereby appointed Lead Counsel for the Class.

(v) The questions of law or fact common to the members of the Class
predominate over any questions affecting only individual members.

1 E. The form, content, and method of dissemination of Notice given to the Class was
2 adequate and reasonable and constituted the best notice practicable under the circumstances, including
3 individual notice to all Class Members who could be identified through reasonable effort.

4 F. Notice, as given, complied with the requirements of California law, satisfied the
5 requirements of due process and constituted due and sufficient notice of the matters set forth herein.

6 G. The Settlement set forth in the Stipulation is fair, reasonable, and adequate.

7 (i) The Settlement was vigorously negotiated at arm's length by Plaintiffs on
8 behalf of the Class and by Defendants, all of whom were represented by highly experienced and skilled
9 counsel. The case settled only after: (a) a mediation conducted by a retired U.S. District Court Judge
10 who was thoroughly familiar with this Action; (b) Plaintiffs' Counsel conducted an extensive
11 investigation, which included, among other things, a review of Pacific Biosciences' press releases,
12 Securities Exchange Commission filings, analyst reports, media reports and other publicly disclosed
13 reports and information about the Defendants, as well as non-public documents, including documents
14 produced by certain PACB customers who obtained limited production release versions of the RS
15 System; (c) the removal of this Action to federal court pursuant to the Securities Litigation Uniform
16 Standards Act and a remand motion to state court (*see Young v. Pacific Biosciences of California, Inc.,*
17 *et. al.*, Case Nos. 5:11-cv-05668, 5:11-cv-05669 EJD, 2012 WL 851509 (N.D. Cal. March 13, 2012));
18 and (d) the drafting and submission of a highly detailed First Amended Consolidated Class Action
19 Complaint ("Complaint") that survived a demurrer. Accordingly, both the Plaintiffs and Defendants
20 were well-positioned to evaluate the settlement value of this Action. The Stipulation has been entered
21 into in good faith and is not collusive.

22 (ii) If the Settlement had not been achieved, both Plaintiffs and Defendants
23 faced the expense, risk, and uncertainty of extended litigation. The Court takes no position on the
24 merits of either Plaintiffs' or Defendants' arguments, but notes these arguments as evidence in support
25 of the reasonableness of the Settlement.

26 H. Plaintiffs and Plaintiffs' Counsel have fairly and adequately represented the interest of
27 the Class Members in connection with the settlement.

28

1 I. Plaintiffs, all Class Members, and Defendants are hereby bound by the terms of the
2 Settlement set forth in the Stipulation.

3 **IT IS HEREBY ORDERED THAT:**

4 1. The Stipulation and the Settlement embodied therein are approved as final, fair,
5 reasonable and adequate. The Settlement shall be consummated in accordance with the terms and
6 provisions of the Stipulation. The Parties are to bear their own costs, except as otherwise provided in
7 the Stipulation.

8 2. All Released Parties as defined in the Stipulation are released in accordance with, and as
9 defined in, the Stipulation.

10 3. Upon the Effective Date, Plaintiffs and all members of the Class shall be deemed to
11 have, and by operation of the judgment shall have, absolutely and unconditionally, fully, finally, and
12 forever released, relinquished, and discharged any and all of the Defendants, their past or present
13 subsidiaries, parents, successors and predecessors, officers, directors, shareholders, partners, agents,
14 employees, attorneys, advisors, and investment advisors, insurers, and any person, firm, trust,
15 corporation, officer, director, or other individual or entity in which any Defendant has a controlling
16 interest or which is related to or affiliated with any of the Defendants, and the legal representatives,
17 heirs, successors in interest or assigns of the Defendants ("Released Parties") from, and shall forever be
18 enjoined from suing any or all of the Released Parties for, any and all claims, including "Unknown
19 Claims" (as defined in the Stipulation), arising out of, relating to, or in connection with: (i) the facts
20 and circumstances alleged in the Complaint filed in this Action; and (ii) the purchase of PACB common
21 stock, that were asserted or could have been asserted by any Plaintiff or member of the Class against the
22 Released Parties. "Settled Claims" also includes any and all claims arising out of, relating to, or in
23 connection with the Settlement or resolution of the Action against the Released Parties (including
24 Unknown Claims), except claims to enforce any of the terms of the Stipulation.

25 4. Upon the Effective Date, all Released Parties, shall be deemed to have, and by operation
26 of the judgment shall have, absolutely and unconditionally, fully, finally, and forever released,
27 relinquished, and discharged any and all claims, including "Unknown Claims" (as defined in the
28 Stipulation), relating to the institution, prosecution or settlement of the Action that have been or could

1 have been asserted in the Action or any other forum by any of the Released Parties against Plaintiffs,
2 Class Members, or their attorneys (except for claims to enforce any of the terms of the Stipulation)
3 (“Settled Defendants’ Claims”).

4 5. The Releases granted herein shall be effective as a bar to any and all claims within the
5 scope of their express terms and provisions that Plaintiffs or any Class Member does not know or
6 suspect to exist in his, her, or its favor as of the Effective Date, and any claims against Plaintiffs which
7 Defendants do not know or suspect to exist in their favor, which if known by him, her, or it might have
8 affected his, her, or its decision(s) with respect to the Settlement. With respect to any and all Settled
9 Claims (including Unknown Claims) and Settled Defendants’ Claims (including Unknown Claims), the
10 Parties stipulate and agree that by operation of this Final Judgment, upon the Effective Date, the
11 Plaintiffs and Defendants shall have expressly waived, and each Class Member shall be deemed to have
12 waived, and by operation of the Final Judgment shall have expressly waived, the provisions, rights and
13 benefits of Cal. Civ. Code §1542, which provides:

14 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE**
15 **CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER**
16 **FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN**
 BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER
 SETTLEMENT WITH THE DEBTOR;

17 and any and all provisions, rights and benefits conferred by any law of any state or territory of the
18 United States, or principle of common law, which is similar, comparable, or equivalent to Cal. Civ.
19 Code §1542. Plaintiffs and Class Members may hereafter discover facts in addition to or different from
20 those which he, she, or it now knows or believes to be true with respect to the subject matter of the
21 Settled Claims, but the Plaintiffs shall expressly fully, finally, and forever settle and release, and each
22 Class Member, upon the Effective Date, shall be deemed to have, and by operation of this Final
23 Judgment shall have, fully, finally, and forever settled and released, any and all Settled Claims, known
24 or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or
25 hidden, which now exist, or heretofore have existed, upon any theory of law or equity now existing or
26 coming into existence in the future, including, but not limited to, conduct which is negligent,
27 intentional, with or without malice, or a breach of any duty, law or rule, without regard to the
28 subsequent discovery or existence of such different or additional facts. Plaintiffs and Defendants

1 acknowledge, and Class Members shall be deemed to have acknowledged, that the inclusion of
2 "Unknown Claims" in the definition of Settled Claims and Settled Defendants' Claims was separately
3 bargained for and was a key element of the Settlement.

4 6. All Class Members who have not made their objections to the settlement in the manner
5 provided in the notice are deemed to have waived any objections by appeal, collateral attack, or
6 otherwise.

7 7. All Class Members who have failed to properly file requests for exclusion (requests to
8 opt out) from the Class are bound by the terms and conditions of the Stipulation and this Final
9 Judgment.

10 8. The single request for exclusion, by Mr. Evan A. Powell, is accepted by the Court.

11 9. All other provisions of the Stipulation are incorporated into this Order as if fully
12 rewritten herein. To the extent that the terms of this Order conflict with the terms of the Stipulation, the
13 Stipulation shall control.

14 10. Plaintiffs and all Class Members are hereby barred and enjoined from instituting,
15 commencing, maintaining, or prosecuting in any court or tribunal any of the Settled Claims against any
16 of the Released Parties.

17 11. Defendants and their successors or assigns are hereby barred and enjoined from
18 instituting, commencing, maintaining, or prosecuting any of the Settled Defendants' Claims against
19 Plaintiffs, Class Members or Plaintiffs' Counsel. The Court hereby decrees that neither the Stipulation
20 nor this Final Judgment nor the fact of the settlement is an admission or concession by the Released
21 Parties, or any of them, of any liability or wrongdoing. This Final Judgment is not a finding of the
22 validity or invalidity of any of the claims asserted or defenses raised in the Action. Neither the
23 Stipulation nor this Final Judgment nor the fact of settlement nor the settlement proceedings nor the
24 settlement negotiations nor any related documents shall be offered or received in evidence as an
25 admission, concession, presumption or inference against any of the Released Parties in any proceeding,
26 other than such proceedings as may be necessary to consummate or enforce the Stipulation, or in an
27 action or proceeding to determine the availability, scope, or extent of insurance coverage (or
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1 reinsurance related to such coverage) for the sums expended for the settlement and defense of this
2 Action.

3 12. Pursuant to and in full compliance with California law, this Court hereby finds and
4 concludes that due and adequate notice was directed to all Persons and entities who are Class Members
5 advising them of the Plan of Allocation and of their right to object thereto, and a full and fair
6 opportunity was accorded to all Persons and entities who are Class Members to be heard with respect to
7 the Plan of Allocation.

8 13. The Court hereby finds and concludes that the formula for the calculation of the claims
9 of Authorized Claimants, which is set forth in the Notice of Pendency and Proposed Settlement of Class
10 Action (the "Notice") sent to Class Members, provides a fair and reasonable basis upon which to
11 allocate the proceeds of the Net Settlement Fund established by the Stipulation among Class Members,
12 with due consideration having been given to administrative convenience and necessity.

13 14. The Court hereby awards Lead Counsel attorneys' fees of \$2,260,000.00, plus expenses
14 in the amount of \$113,000.00, together with the interest earned thereon for the same time period and at
15 the same rate as that earned on the Settlement Fund until paid. The Court finds that the amount of fees
16 awarded is appropriate and that the amount of fees awarded is fair and reasonable given the contingent
17 nature of the case and the substantial risks of non-recovery, the time and effort involved, and the result
18 obtained for the Class.

19 15. The awarded attorneys' fees and expenses and interest earned thereon shall immediately
20 be paid to Lead Counsel subject to the terms, conditions, and obligations of the Stipulation, and in
21 particular ¶8 thereof, which terms, conditions and obligations are incorporated herein.

22 16. Time and expenses are awarded to the following Plaintiffs in the amounts indicated:
23 Mathew Sandnas \$2,540.00 and Oklahoma Firefighters Pension and Retirement System \$5,943.36.
24 Such reimbursement is appropriate considering their active participation as Plaintiffs in this action, as
25 attested to by the declarations submitted to the Court.

26 17. In the event that the Stipulation is terminated in accordance with its terms: (i) this
27 Judgment shall be rendered null and void and shall be vacated *nunc pro tunc*; (ii) this Action shall
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1 proceed as provided in the Stipulation; and (iii) the Defendants shall be permitted to object to the
2 certification of any proposed class in this Action.

3 18. Without affecting the finality of this Judgment in any way, this Court retains continuing
4 jurisdiction over: (a) implementation of this settlement and any award or distribution of the Settlement
5 Fund, including interest earned thereon; (b) disposition of the Settlement Fund; (c) hearing and
6 determining applications for attorneys' fees, interest and expenses in the Action; and (d) all parties
7 hereto for the purposed of construing, enforcing, and administrating the Stipulation.

8 19. Final judgment shall be entered herein ^{under the terms of the stipulation of settlement} for the amount of \$7,686,494.82 plus (i) with
9 respect to the \$256,000 held back by the Company's insurer to pay Wilson Sonsini's fees and costs to
10 complete the settlement of this action, 80% of any amount not spent, and (ii) with respect to the
11 \$200,000 held back by the Company's insurer for Wilson Sonsini's fees and costs in connection with
12 the *Primo* Federal Action, 80% of any amount not spent.

13 IT IS SO ORDERED.

14 DATED: OCT 31 2013

15 
16 THE HONORABLE MARIE S. WEINER

EXHIBIT 12

1 ROBBINS GELLER RUDMAN
& DOWD LLP
2 JAMES I. JACONETTE (179565)
655 West Broadway, Suite 1900
3 San Diego, CA 92101
Telephone: 619/231-1058
4 619/231-7423 (fax)

FILED
SAN MATEO COUNTY

AUG 14 2020

Clerk of the Superior Court
By [Signature]
DEPUTY CLERK

5 Lead Counsel for Plaintiffs and the Putative Class

6
7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 COUNTY OF SAN MATEO

9 In re MENLO THERAPEUTICS INC.)
10 SECURITIES LITIGATION)
11 _____)
12 This Document Relates To:)
13 ALL ACTIONS.)
14 _____)

Lead Case No. 18CIV06049
CLASS ACTION
Assigned for All Purposes to Dept. 16
JUDGMENT AND ORDER GRANTING
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT

Judge: Honorable Richard H. DuBois
Dept: 16
Date Action Filed: 11/08/18

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1 WHEREAS, the Court is advised that the Parties,¹ through their counsel, have agreed, subject to
2 Court approval following notice to the Class and a hearing, to settle this Action upon the terms and
3 conditions set forth in the Stipulation of Settlement dated March 26, 2020 (the “Stipulation”); and

4 WHEREAS, on April 24, 2020, the Court entered its Order Preliminarily Approving Settlement
5 and Providing for Notice, which preliminarily approved the Settlement, and approved the form and
6 manner of notice to the Class of the Settlement, and said notice has been made, and the fairness hearing
7 having been held; and

8 NOW, THEREFORE, based upon the Stipulation and all of the filings, records, and proceedings
9 herein, and it appearing to the Court upon examination that the Settlement set forth in the Stipulation is
10 fair, reasonable, and adequate, and upon a Settlement Fairness Hearing having been held after notice to
11 the Class of the Settlement to determine if the Settlement is fair, reasonable, and adequate and whether
12 the Judgment should be entered in this Action;

13 **THE COURT HEREBY FINDS AND CONCLUDES THAT:**

14 A. The provisions of the Stipulation, including definitions of the terms used therein, are
15 hereby incorporated by reference as though fully set forth herein.

16 B. This Court has jurisdiction of the subject matter of this Action and over all of the Parties
17 and all Class Members for purposes of the Settlement.

18 C. The form, content, and method of dissemination of notice given to the Class was
19 adequate and reasonable and constituted the best notice practicable under the circumstances, including
20 individual notice to all Class Members who could be identified through reasonable effort.

21 D. Notice, as given, complied with the requirements of California law, satisfied the
22 requirements of due process, and constituted due and sufficient notice of the matters set forth herein.

23 E. The Settlement, as set forth in the Stipulation, is fair, reasonable, and adequate.
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25 ¹ As used herein, the term “Parties” means Plaintiffs Pavel Silvestrov and Hugh McKay (“Plaintiffs”),
26 on behalf of themselves and the Class (as defined below), and Defendants Menlo Therapeutics Inc.
27 (“Menlo” or the “Company”), Steven Basta, Kristine Ball, Paul Berns, Albert Cha, Ted Ebel, David
28 McGirr, Aaron Royston, and Scott Whitcup (the “Individual Defendants” and with Menlo, the “Menlo
Defendants”), and Jefferies LLC, Piper Sandler & Co. (formerly known as Piper Jaffray & Co.),
Guggenheim Securities, LLC, and JMP Securities LLC (the “Underwriter Defendants”) (all,
collectively, “Defendants”).

1 (i) The Settlement was negotiated at arm's length by Plaintiffs on behalf of the Class
2 and by Defendants, all of whom were represented by highly experienced and skilled counsel. The case
3 settled only after, among other things: (a) a mediation conducted by an experienced mediator who was
4 familiar with this Action; (b) the exchange between the Plaintiffs and the Menlo Defendants of detailed
5 mediation statements prior to the mediation which highlighted the factual and legal issues in dispute;
6 (c) follow-up negotiations between the Plaintiffs and the Menlo Defendants with the assistance of the
7 mediator; (d) Plaintiffs' Counsel's extensive investigation, which included, among other things, a
8 review of Menlo's press releases, U.S. Securities and Exchange Commission filings, analyst reports,
9 media reports, and other publicly disclosed reports and information about the Defendants; (e) the
10 drafting and submission of detailed complaints; (f) motion practice; and (g) the review and analysis of
11 over 2,100,000 pages of non-public documents produced by the Menlo Defendants. Accordingly, both
12 the Plaintiffs and Defendants were well-positioned to evaluate the settlement value of this Action. The
13 Stipulation has been entered into in good faith and is not collusive.

14 (ii) If the Settlement had not been achieved, both Plaintiffs and Defendants faced the
15 expense, risk, and uncertainty of extended litigation. The Court takes no position on the merits of either
16 Plaintiffs' or Defendants' arguments, but notes these arguments as evidence in support of the
17 reasonableness of the Settlement.

18 F. Plaintiffs and Plaintiffs' Counsel have fairly and adequately represented the interest of
19 the Class Members in connection with the Settlement.

20 G. Plaintiffs, all Class Members, and Defendants are hereby bound by the terms of the
21 Settlement set forth in the Stipulation.

22 **IT IS HEREBY ORDERED THAT:**

23 1. The Settlement on the terms set forth in the Stipulation is finally approved as fair,
24 reasonable, and adequate. The Settlement shall be consummated in accordance with the terms and
25 provisions of the Stipulation. The Parties are to bear their own costs, except as otherwise provided in
26 the Stipulation.

27 2. The Court hereby certifies this Action as a class action for purposes of this Settlement
28 only, pursuant to California Code of Civil Procedure §382, on behalf of all persons and entities who

1 purchased or otherwise acquired Menlo common stock pursuant and/or traceable to the Registration
2 Statement and Prospectus issued in connection with Menlo's initial public offering ("IPO") on or about
3 January 29, 2018. For purposes of this Settlement only, the Class includes all Persons who purchased
4 or otherwise acquired Menlo's common stock between January 29, 2018 and July 24, 2018, inclusive.
5 Excluded from the Class are: the Defendants (meaning, Menlo, the Individual Defendants, and the
6 Underwriter Defendants) and their respective successors and assigns; past and current executive officers
7 and directors of Menlo and the Underwriter Defendants; members of the immediate families of the
8 Individual Defendants; the legal representatives, heirs, successors or assigns of the Individual
9 Defendants; any entity in which any of the above excluded persons have or had a majority ownership
10 interest; and any person who validly requests exclusion from the Class. The foregoing exclusion shall
11 not cover "Investment Vehicles," which for these purposes shall mean any investment company or
12 pooled investment fund, including, but not limited to, mutual fund families, exchange-traded funds,
13 fund of funds, private equity funds, real estate funds, and hedge funds, in which any Underwriter
14 Defendant or any of its affiliates has or may have a direct or indirect interest or as to which any
15 Underwriter Defendant or any of its affiliates may act as an investment advisor, general partner,
16 managing member, or in other similar capacity, other than an investment vehicle of which the
17 Underwriter Defendant or any of its affiliates is a majority owner or holds a majority beneficial interest
18 and only to the extent of such Underwriter Defendant's or affiliate's ownership or interest. Also
19 excluded from the Class are those Persons who would otherwise be Class Members but who timely and
20 validly exclude themselves therefrom.

21 3. All Released Persons as defined in the Stipulation are released in accordance with, and
22 as defined in, the Stipulation.

23 4. Upon the Effective Date, Plaintiffs and each Class Member shall be deemed to have, and
24 by operation of this Judgment shall have, fully, finally, and forever released, relinquished, and
25 discharged all Released Claims against the Released Persons, whether or not such Class Member
26 executes and delivers a Proof of Claim.

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1 5. Upon the Effective Date, each of the Defendants shall be deemed to have, and by
2 operation of this Judgment shall have, fully, finally, and forever released Plaintiffs, Plaintiffs' Counsel,
3 and each and all of the Class Members from all Released Defendants' Claims.

4 6. All Class Members who have not objected to the Settlement in the manner provided in
5 the Notice of Proposed Settlement of Class Action ("Notice") are deemed to have waived any
6 objections by appeal, collateral attack, or otherwise.

7 7. All Class Members who have failed to properly submit requests for exclusion (requests
8 to opt out) from the Class are bound by the terms and conditions of the Stipulation and this Judgment.

9 8. All other provisions of the Stipulation are incorporated into this Judgment as if fully
10 rewritten herein.

11 9. Plaintiffs and all Class Members are hereby barred and enjoined from, instituting,
12 commencing, maintaining, or prosecuting in any court or tribunal any of the Released Claims against
13 any of the Released Persons.

14 10. Neither the Stipulation nor the Settlement, nor any act performed or document executed
15 pursuant to or in furtherance of the Stipulation or the Settlement:

16 (a) shall be offered or received against Defendants as evidence of, or evidence in
17 support of, a presumption, concession, or admission with respect to any liability, negligence, fault, or
18 wrongdoing, or in any way referred to for any other reason as against Defendants, in any civil, criminal,
19 or administrative action or proceeding, other than such proceedings as may be necessary to effectuate
20 the provisions of the Stipulation; however, Defendants may refer to it to effectuate the liability
21 protection granted them hereunder;

22 (b) shall be construed as or received in evidence as an admission, concession, or
23 presumption against Plaintiffs or any of the Class Members that any of their claims are without merit, or
24 that any defenses asserted by Defendants have any merit, or that damages recoverable in this Action
25 would have exceeded the Settlement Fund; and

26 (c) Notwithstanding the foregoing, Defendants, Plaintiffs, Class Members and/or the
27 Released Persons may file the Stipulation and/or this Judgment in any action that may be brought
28 against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral

1 estoppel, release, good faith settlement, judgment bar, reduction, or any other theory of claim preclusion
2 or issue preclusion or similar defense or counterclaim.

3 11. The Court hereby finds and concludes that due and adequate notice was directed to all
4 Persons and entities who are Class Members advising them of the Plan of Allocation and of their right
5 to object thereto, and a full and fair opportunity was accorded to all Persons and entities who are Class
6 Members to be heard with respect to the Plan of Allocation.

7 12. The Court hereby finds and concludes that the formula for the calculation of the claims
8 of Authorized Claimants, which is set forth in the Notice sent to Class Members, provides a fair and
9 reasonable basis upon which to allocate the proceeds of the Net Settlement Fund established by the
10 Stipulation among Class Members, with due consideration having been given to administrative
11 convenience and necessity.

12 13. Nothing in the Settlement restricts the ability of any Party to advocate in favor of or
13 against the applicability of any offset to any claims asserted in any other action based on any amount
14 paid to Authorized Claimants through the Settlement.

15 14. The Court hereby awards Plaintiffs' Counsel attorneys' fees in the amount of one-third
16 of the Settlement Amount (or \$3,166,666), plus Plaintiffs' Counsel's expenses in the amount of
17 \$52,421.52, together with the interest earned thereon for the same time period and at the same rate as
18 that earned on the Settlement Fund until paid. The Court finds that the amount of fees awarded is
19 appropriate and that the amount of fees awarded is fair and reasonable given the contingent nature of
20 the case and the substantial risks of non-recovery, the time and effort involved, and the result obtained
21 for the Class.

22 15. The awarded attorneys' fees and expenses and interest earned thereon shall immediately
23 be paid to Lead Counsel from the Settlement Fund subject to the terms, conditions, and obligations of
24 the Stipulation, which terms, conditions, and obligations are incorporated herein.

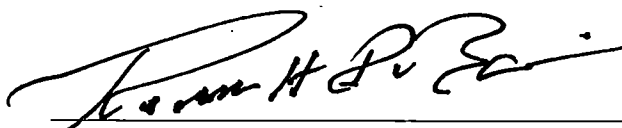
25 16. Payments are awarded to Plaintiffs Pavel Silvestrov and Hugh McKay in the amounts of
26 \$9,500 and \$2,500, respectively. Such payment is appropriate considering their active participation as
27 Plaintiffs in this Action, as attested to by the declarations submitted to the Court. Such payment is to be
28 made from the Settlement Fund.

1 17. In the event that the Stipulation is terminated in accordance with its terms: (i) this
2 Judgment shall be rendered null and void and shall be vacated *nunc pro tunc*; and (ii) this Action shall
3 proceed as provided in the Stipulation.

4 18. Without affecting the finality of this Judgment in any way, this Court retains continuing
5 jurisdiction over: (a) implementation of this Settlement and any award or distribution of the Settlement
6 Fund, including interest earned thereon; (b) disposition of the Settlement Fund; (c) hearing and
7 determining applications for attorneys' fees, interest, and expenses in the Action; and (d) all parties
8 hereto for the purpose of construing, enforcing, and administering the Stipulation.

9 IT IS SO ORDERED.

10 DATED: 8-14-2020



THE HONORABLE RICHARD H. DUBOIS
JUDGE OF THE SUPERIOR COURT

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1 **PROOF OF SERVICE**

2 I, Katie Woods, declare:

3 I am employed in San Diego County, State of California. I am over the age of 18 years and not
4 a party to the within action. My business address is Robbins Geller Rudman & Dowd LLP, 655 West
5 Broadway, Suite 1900, San Diego, CA 92101.

6 On this date, I served:

- 7 • **NOTICE OF MOTION AND MOTION FOR: (1) FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND APPROVAL OF PLAN OF ALLOCATION; AND (2) AN AWARD OF ATTORNEYS' FEES AND EXPENSES AND AWARD TO PLAINTIFFS PURSUANT TO 15 u.s.c. §77z-1(a)(4)**
- 8
- 9 • **PLAINTIFFS' COUNSEL'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR AN AWARD OF ATTORNEYS' FEES AND EXPENSES AND AWARD TO PLAINTIFFS PURSUANT TO 15 U.S.C. §77z-1(a)(4)**
- 10
- 11 • **PLAINTIFFS' MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND APPROVAL OF PLAN OF ALLOCATION**
- 12
- 13 • **DECLARATION OF THEODORE J. PINTAR IN SUPPORT OF MOTION FOR AN AWARD OF ATTORNEYS' FEES AND EXPENSES AND AWARD TO PLAINTIFFS PURSUANT TO 15 U.S.C. §77z-1(a)(4)**
- 14
- 15 • **DECLARATION OF JAMES I. JACONETTE FILED ON BEHALF OF ROBBINS GELLER RUDMAN & DOWD LLP IN SUPPORT OF APPLICATION FOR AWARD OF ATTORNEYS' FEES AND EXPENSES**
- 16
- 17
- 18 • **DECLARATION OF JACOB A. WALKER FILED ON BEHALF OF BLOCK & LEVITON LLP IN SUPPORT OF APPLICATION FOR AWARD OF ATTORNEYS' FEES AND EXPENSES**
- 19
- 20 • **DECLARATION OF FRANCIS A. BOTTINI JR. FILED ON BEHALF OF BOTTINI & BOTTINI, INC. IN SUPPORT OF APPLICATION FOR AWARD OF ATTORNEYS' FEES AND EXPENSES**
- 21
- 22 • **DECLARATION OF JOSEPH IUSO IN SUPPORT OF PLAINTIFFS' MOTION FOR FINAL APPROVAL OF SETTLEMENT AND AWARD OF ATTORNEYS' FEES AND EXPENSES**
- 23
- 24 • **DECLARATION OF WEI C. HSIESH AND CHENGSHIN D. HSIESH IN SUPPORT OF PLAINTIFFS' MOTION FOR FINAL APPROVAL OF SETTLEMENT AND AWARD OF ATTORNEYS' FEES AND EXPENSES**
- 25
- 26 • **DECLARATION OF LUIGGY SEGURA REGARDING (A) DISSEMINATION OF POSTCARD NOTICE, NOTICE AND CLAIM FORM; (B) ESTABLISHMENT OF CALL CENTER SERVICES AND SETTLEMENT WEBSITE; (C) POSTING OF NOTICE AND CLAIM FORM ON SETTLEMENT WEBSITE; (D)**
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PUBLICATION/TRANSMISSION OF SUMMARY NOTICE; AND (E) REPORT ON REQUESTS FOR EXCLUSION RECEIVED TO DATE

[X] By electronic transmission via Case Anywhere LLC to all parties on the electronic service list maintained for this case:

Matthew W. Close
O'Melveny & Myers LLP
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I am readily familiar with Robbin Geller Rudman & Dowd LLP's practice for collection and processing of documents for delivery according to instructions indicated above. In the ordinary course of business, documents would be handled accordingly.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 24th day of December, 2020, at San Diego, California.



KATIE WOODS