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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

IN RE MYRIAD GENETICS, INC. SECURITIES LITIGATION	Case No. 2:19-cv-00707-JNP-DBP District Judge Jill N. Parrish

DECLARATION OF ABE ALEXANDER IN SUPPORT OF (A) LEAD PLAINTIFF'S MOTION FOR FINAL APPROVAL OF SETTLEMENT AND PLAN OF ALLOCATION AND (B) LEAD COUNSEL'S MOTION FOR AN AWARD OF ATTORNEYS' FEES AND LITIGATION EXPENSES

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ABE ALEXANDER declares as follows:

I. INTRODUCTION

1. I, Abe Alexander, am a member of the bars of the State of New York and Delaware, the U.S. District Courts for the Southern and Eastern Districts of New York, and the District of Delaware, and the U.S. Courts of Appeals for the First Circuit. I am a partner in the law firm of Bernstein Litowitz Berger & Grossmann LLP ("BLB&G" or "Lead Counsel"), the Court-appointed Lead Counsel in the above-captioned action (the "Action").[1] BLB&G represents the Court-appointed Lead Plaintiff and Class Representative, Los Angeles Fire and Police Pensions ("Los Angeles" or "Lead Plaintiff"). I have personal knowledge of the matters stated in this declaration based on my active supervision of and participation in the prosecution and settlement of the Action.

2. I respectfully submit this declaration in support of Los Angeles' motion, under Rule 23(e) of the Federal Rules of Civil Procedure, for final approval of the proposed settlement of the Action for $77.5 million in total settlement value (the "Settlement"), which the Court preliminarily approved by its Order dated August 25, 2023 (the "Preliminary Approval Order"). ECF No. 285.

3. I also respectfully submit this declaration in support of: (i) Los Angeles' motion for approval of the proposed plan for allocating the proceeds of the Net Settlement Fund to eligible Class Members (the "Plan of Allocation" or "Plan") and (ii) Lead Counsel's motion, on behalf of all Plaintiff's Counsel,[2] for an award of attorneys' fees in the amount of 19% of the Settlement

[1] Unless otherwise defined in this declaration, all capitalized terms have the meanings defined in the Stipulation and Agreement of Settlement dated August 3, 2023 (the "Settlement Stipulation" or "Stipulation"), and previously filed with the Court. *See* ECF No. 283-1.

[2] Plaintiff's Counsel are: Lead Counsel BLB&G and Deiss Law PC ("Deiss Law"), Liaison Counsel for Los Angeles and the Class.

Fund; payment of Litigation Expenses incurred by Plaintiff's Counsel's in the amount of $1,488,313.23; and payment of $43,320.41 to Los Angeles in reimbursement of its costs and expenses directly related to its representation of the Class (the "Fee and Expense Application").[3]

4. The proposed Settlement provides for the resolution of all claims in the Action in exchange for a payment of $77.5 million in cash or freely-tradeable Myriad common stock, for the benefit of the Court-certified Class. This highly-favorable Settlement was achieved as a direct result of Los Angeles' and Lead Counsel's efforts to diligently investigate, vigorously prosecute, and aggressively negotiate a settlement of this Action against highly skilled opposing counsel. As discussed in more detail below, Los Angeles' and Lead Counsel's efforts in the Action, included, among other things:

i. Conducting a wide-ranging investigation concerning the allegedly fraudulent misrepresentations and omissions made by Defendants, including consulting with experts and reviewing the voluminous public record;

ii. Drafting and filing the Amended Class Action Complaint (the "Complaint"), filed with the Court on February 21, 2020 (ECF No. 34), which incorporated material from conference call transcripts, press releases, news articles, and other public statements issued by or concerning Defendants; financial analyst research reports concerning the Company and reports and other documents filed publicly by Myriad with the U.S. Securities and Exchange Commission ("SEC"); Myriad's corporate website; interviews with former Myriad employees; and other publicly available information;

iii. Successfully opposing Defendants' motion to dismiss the Complaint (ECF Nos. 51-52) consisting of 1,111 pages of briefing and exhibits, including drafting an extensive brief in opposition to Defendants' wide-ranging motion, as well as filing a motion to strike portions of the voluminous

[3] In conjunction with this declaration, Los Angeles and Lead Counsel are also submitting Lead Plaintiff's Motion for Final Approval of Settlement and Plan of Allocation, and Memorandum of Law in Support Thereof (the "Settlement Motion") and Lead Counsel's Motion for an Award of Attorneys' Fees and Litigation Expenses, and Memorandum of Law Thereof (the "Fee Motion").

appendix to Defendants' motion to dismiss, which Los Angeles filed with the Court on July 3, 2020 (ECF Nos. 57-59);

iv. Successfully moving for class certification (ECF Nos. 82-87), which included extensive briefing and working with an expert financial economist to prepare a report on market efficiency and the availability of class-wide damages methodologies, having a representative of Los Angeles sit for a nearly six-hour deposition, which Lead Counsel defended, and preparing a reply in support of the class certification motion (ECF Nos. 106-111);

v. Conducting more than two years of extensive fact discovery, including serving, and responding to, multiple rounds of discovery requests (including requests for documents, interrogatories, and requests for admission); successfully seeking discovery from 36 third-parties, including the U.S. Food and Drug Administration; reviewing and analyzing the more than half a million documents (totaling 1.7 million pages) produced by Defendants and third parties in response to Los Angeles' requests; engaging with experts to evaluate those documents, including performing statistical analyses involving the thousands of clinical trial data files Defendants produced; deposing 22 fact witnesses, including Defendants Capone, Dechairo, and Riggsbee, other senior Company executives and scientists, and significant third-party witnesses, including the GUIDED trial's principal investigators;

vi. Engaging in expert discovery, including retaining and consulting with five prominent experts in the fields of psychiatry, pharmacogenomics, statistics, financial economics, and accounting, and working with them to prepare expert reports that were fully drafted at the time settlement was reached;

vii. Briefing and arguing multiple discovery motions, including motions to compel testimony from Myriad's corporate representative and documents from a former employee (ECF Nos. 132, 146, 156, 262); a motion concerning the confidentiality of corporate records (ECF Nos. 165, 175) and a motion to strike Defendants' amended Rule 26(a) initial disclosures (ECF No. 179);

viii. Engaging in intensive, arm's-length negotiations with Defendants, including the submission of detailed mediation statements concerning liability and damages, participation in a full-day mediation session before mediators the Hon. Layn R. Phillips (USDJ, Ret.) and Michelle Yoshida, and further discussions with the mediators and between the parties following the mediation session, which ultimately culminated in the mediator's recommendation to settle the Action for $77.5 million in cash and common stock, which the parties accepted; and

ix. Drafting and negotiating the Settlement Stipulation and related settlement documentation.

5. The proposed Settlement represents an outstanding result for the Class, considering the significant risks in the Action and the amount of the potential recovery. The Settlement provides a considerable benefit to the Class by conferring a substantial, certain, and immediate recovery while avoiding the significant risks and expense of continued litigation, including the risk that the Class could recover nothing or substantially less than the Settlement Amount after years of additional litigation and delay. As discussed in more detail below, had litigation continued, there was no guarantee that Los Angeles would have been able to establish Defendants' liability and damages with respect to either Los Angeles' claims under Section 10(b) (for misrepresentation) or Section 20A (for insider trading) of the Securities Exchange Act, each of which presented unique challenges. Moreover, given that Myriad has operated at a combined loss of over $700 million over the past four years, reporting either negative operating cash flow or a net loss in every quarter during that period, there was a substantial risk that even if Los Angeles was successful in establishing liability at trial (and after appeals from any verdict), Myriad would have been forced into bankruptcy rather than be able to pay a judgment.

6. Los Angeles' active involvement and close supervision throughout this case is another factor in favor of the reasonableness of the Settlement. In enacting the Private Securities Litigation Reform Act of 1995 (the "PSLRA"), Congress expressly intended to give control over securities class actions to sophisticated investors, and noted that increasing the role of institutional investors in class actions would ultimately benefit shareholders and assist courts by improving the quality of representation in this type of case. H.R. Conf. Rep. No. 104-369, at *34 (1995), *reprinted in* 1995 U.S.C.C.A.N. 730, 733. Here, Los Angeles is a public pension plan that administers the defined-benefit retirement plan on behalf of the city of Los Angeles' sworn firefighters and police officers. Los Angeles purchased a significant number of shares of Myriad common stock during

the Class Period. Los Angeles' General Manager and dedicated attorneys at the Office of the Los Angeles City Attorney ("City Attorney") were actively involved in overseeing the litigation and settlement negotiations. *See* Declaration of Joseph Salazar, General Manager for Los Angeles, submitted on behalf of Los Angeles (the "Salazar Decl."), attached hereto as Exhibit 1.

7. Los Angeles and Lead Counsel believe that the Settlement is in the best interests of the Class. Due to their substantial efforts, Los Angeles and Lead Counsel are well informed of the strengths and weaknesses of the claims and defenses in the Action, and they believe that the Settlement represents a highly favorable outcome for the Class.

8. In addition to seeking final approval of the Settlement, Los Angeles seeks approval of the proposed Plan of Allocation as fair and reasonable. As discussed in further detail below, Lead Counsel developed the Plan of Allocation in consultation with Los Angeles and an experienced expert for market efficiency, damages, and loss causation, Michael Hartzmark, Ph.D. The Plan provides for the distribution of the Net Settlement Fund on a *pro rata* basis to Class Members who submit Claim Forms that are approved for payment by the Court. Each Claimant's share will be calculated based on his, her, or its losses attributable to the alleged fraud, similar to what likely would have been awarded at trial if the Action had not been settled and had continued to trial following a motion for summary judgment, other pretrial motions, and resulted in a verdict favorable to the Class.

9. Lead Counsel worked diligently and efficiently to achieve the proposed Settlement in the face of significant risk. Lead Counsel prosecuted this case on a fully contingent basis and incurred significant Litigation Expenses and thus bore all the risk of an unfavorable result. For their considerable efforts in prosecuting the case and negotiating the Settlement, Lead Counsel is applying for an award of attorneys' fees for Plaintiff's Counsel of 19% of the Settlement Fund.

The 19% fee request is based on an arms-length negotiation between Los Angeles and Lead Counsel, which was the result of a rigorous RFP process and a negotiated fee reduction sought by Los Angeles' Board during the selection of Lead Counsel. The fee arrangement was entered into between Los Angeles and Lead Counsel at the outset of the litigation and, as discussed in the Fee Motion, is well within the range of fees that courts in this Circuit and elsewhere have awarded in securities and other complex class actions with comparable recoveries on a percentage basis. Moreover, the requested fee represents a "negative" multiplier of approximately 0.93 on Plaintiff's Counsel's lodestar, which means that, if awarded, the requested 19% fee will result in a discount on Plaintiff's Counsel's time, which further supports the reasonableness of the requested fee.

10. Lead Counsel's Fee and Expense Application also seeks payment of Litigation Expenses incurred by Plaintiff's Counsel in connection with the institution, prosecution, and settlement of the Action totaling $1,488,313.23, plus reimbursement of $43,320.41 to Los Angeles for its costs and expenses directly related to its representation of the Class, as authorized by the PSLRA.

11. For all of the reasons discussed in this declaration and in the accompanying memoranda and declarations, including the quality of the result obtained and the numerous significant litigation risks discussed fully below, Los Angeles and Lead Counsel respectfully submit that the Settlement and the Plan of Allocation are "fair, reasonable, and adequate" in all respects, and that the Court should approve them under Federal Rule of Civil Procedure 23(e). For similar reasons, and for the additional reasons discussed below, Los Angeles and Lead Counsel respectfully submit that Lead Counsel's Fee and Expense Application is also fair and reasonable and should be approved.

II. PROSECUTION OF THE ACTION

A. Background

12. At all relevant times, Myriad markets genetic lab tests that screen for the presence of certain traits or diseases, including a "pharmacogenomic" test called GeneSight, which was designed to predict patient response to medication based on genetic variations, including, most significantly, drugs used to treat depression, pain, and ADHD. In addition, Myriad marketed and sold a genetic test to screen for certain hereditary cancers ("HCT"), which accounted for more than half its revenue. This certified securities class action asserts claims under Sections 10(b), 20(a), and 20A of the Securities Exchange Act of 1934 (the "Exchange Act") on behalf of investors who purchased Myriad common stock during the period from August 9, 2017 to February 6, 2020 (the "Class Period") and who were allegedly damaged thereby (the "Class").

13. Los Angeles alleges that Defendants made false and misleading statements concerning GeneSight and the HCT. ***First***, Los Angeles alleges that Defendants made false and misleading statements concerning GeneSight's ability to predict patient response to ADHD medication, including, for example, that GeneSight could "accurately determine which drugs will work best with your (or your child's) genes," and that GeneSight was "clinically proven" to "enhance medication selection" for "ADHD" and "chronic pain." Los Angeles alleges that, in truth and as Myriad scientists privately acknowledged, the Company had "little to no data" supporting these claims at the time the statements were made.

14. ***Second***, Los Angeles alleges that Defendants made false or misleading statements about the results of the GUIDED study, a key clinical trial of GeneSight's supposed ability to predict patient response to depression medication. Myriad told investors that the supposed results of two of the study's secondary endpoints, "response" and "remission," were "highly statistically significant" and demonstrated GeneSight's depression panel was effective. Defendants also touted

the results of certain "post-hoc analyses" as further evidence the depression panel was highly effective. Los Angeles alleges that, in truth, none of the results Defendants touted were "statistically significant" in favor of GeneSight. Among other things, Myriad failed to report GUIDED results in the manner prescribed by both FDA guidance and Myriad's own prespecified clinical trial "protocol." Los Angeles further alleges that as Myriad's own scientists internally recognized, and as a panel of outside experts privately warned, when the results that Defendants misleadingly trumpeted are analyzed in accordance with the methodology that Myriad prespecified in its own GUIDED protocol, they show no statistically significant difference between patients using GeneSight and patients not using the test.

15. Los Angeles further alleges that Defendants misled investors about the publication of the GUIDED results in a reputable, peer-reviewed journal, a milestone that investors and analysts viewed as essential to both securing insurer acceptance of GeneSight. Los Angeles alleges that Defendants concealed that the panel of expert peer-reviewers at the prestigious journal to which Myriad had submitted GUIDED had twice rejected the Company's manuscript because it concluded Myriad's claims were unsupported

16. ***Third***, Los Angeles alleges that Defendants made false or misleading statements concerning the Company's interactions with the FDA concerning GeneSight. In October 2018, the FDA issued a Safety Communication warning doctors and patients against pharmacogenomic tests claiming to "predict patient response to specific medications." Los Angeles alleges that to assuage investor concern, Defendants claimed GUIDED was conducted "consistent with the FDA's guidance" and that Myriad's interactions with the FDA had been benign. Unbeknownst to investors, by no later than May 2019, the FDA informed Myriad that it was planning to issue a Warning Letter to the Company for misleadingly promoting GeneSight and pressed the Company

to remove the test's references to specific drugs. Los Angeles alleges that, as a result, Myriad was forced to withdraw GeneSight's ADHD panel, a move that was devastating to the commercial success of the test.

17. ***Fourth***, Los Angeles alleges that Defendants made false or misleading statements concerning its HCT revenue. On November 4, 2019, Defendants admitted that they had overstated fiscal 2019 HCT revenue by $18 million. More specifically, Los Angeles alleges that Defendants violated GAAP revenue recognition standards by failing to properly account for decreased revenue from known billing code changes that took effect on January 1, 2019. Because of these known but unaccounted for changes, Defendants falsely reported third and fourth quarter 2019 HCT revenue and made numerous other false statements that HCT revenue was "stable."

18. ***Finally***, Los Angeles alleges that Defendants Capone and Riggsbee sold Myriad stock while in possession of material non-public information. In particular, Los Angeles alleges that these Defendants manipulated the flow of information about GeneSight into the market in order to maximize the value of their pre-planned stock sales. For instance, Los Angeles alleges that on August 1, 2019 – after the FDA had privately demanded Myriad make commercially devastating changes to GeneSight and after Myriad withdrew the ADHD Panel – Myriad announced positive news: UnitedHealthcare, one of the country's largest insurers, would cover GeneSight. In response, Myriad stock skyrocketed by 55%. The same day, Capone sold 24% of his Myriad stock and Riggsbee sold 10% of his holdings, reaping more than $6 million and $1 million, respectively. Two weeks later, when Myriad disclosed the adverse facts they withheld until after the highly positive UnitedHealthcare announcement, Myriad's stock price fell by 42%.

B. Appointment of Lead Plaintiff and Lead Counsel, Lead Counsel's Extensive Investigation and Filing of the Complaint, and the Denial of Defendants' Motion to Dismiss

1. Appointment of Lead Plaintiff and Filing of the Complaint

19. On September 27, 2019, this action commenced in this district with the filing of a class action complaint styled *Silverman v. Myriad Genetics, Inc., et al.*, Case No. 2:19-cv-00707-PMW, alleging violations of the federal securities laws. Following, the filing of the initial complaint, Los Angeles' Board resolved to seek appointment as Lead Plaintiff and thereafter issued a Request for Proposal ("RFP") to prospective counsel. At the end of a competitive RFP process in which Los Angeles reviewed multiple submissions and interviewed several law firms, Los Angeles selected Bernstein Litowitz Berger & Grossmann LLP ("BLB&G") to act as Lead Counsel in this Action. On December 23, 2019, the Court appointed Los Angeles as Lead Plaintiff in the Action, approved Los Angeles' selection BLB&G as Lead Counsel for the putative class, and consolidated all related actions. ECF No. 21.

20. On February 21, 2020, Los Angeles filed the 143-page Amended Class Action Complaint (ECF No. 34) (the "Complaint") alleging violations of Sections 10(b), 20(a), and 20A of the Securities Exchange Act of 1934 (the "Exchange Act"), and U.S. Securities and Exchange Commission Rule 10b-5 promulgated thereunder, claiming that Defendants defrauded investors through their misrepresentations about two of Myriad's most significant products during the Class Period, a pharmacogenomic test called GeneSight, and genetic tests for hereditary cancer referred to as HCT.

21. Before the Complaint was filed, Lead Counsel conducted a comprehensive factual investigation and detailed analysis of the potential claims that could be asserted on behalf of investors in Myriad securities. This investigation included, among other things, a detailed review and analysis of the voluminous public record relating to Myriad and its GeneSight and HCT tests,

as well as a lengthy investigation conducted by Lead Counsel's investigate staff, consisting of numerous interviews with former Myriad employees and other relevant individuals. Lead Counsel reviewed, among other things Myriad's SEC filings; transcripts of Myriad's investor conference calls, press releases, and publicly available presentations; medical journals concerning gene therapy and pharmacogenomic tests; and media, news, and analyst reports relating to Myriad.

22. To aid its review of the public record, with Los Angeles' approval, Lead Counsel engaged consulting experts to help analyze certain complicated issues in the case. Lead Counsel worked with a financial economist on loss causation and damages issues, which was particularly important given that there were several different partial corrective disclosures in the case. Lead Counsel also worked with an accounting expert on the claims of overstated revenue stemming from sales of Myriad's HCT products. Lead Counsel also consulted with multiple experts in psychiatry, pharmacogenomics, and statistics in order to evaluate and analyze potential claims relating to Defendants' statements concerning GeneSight and the GUIDED study.

23. Lead Counsel and its in-house investigators also located and interviewed former employees of Myriad, who provided substantial information to Lead Counsel. Specifically, Lead Counsel and its investigators interviewed dozens of individuals in order to corroborate the Complaint's allegations and investigate the Class's potential claims. The Complaint contained information provided by three such former employees, who provided otherwise non-public information concerning Myriad's understanding of the data and science behind its claims concerning GeneSight, the GUIDED study and other clinical trials.

2. Defendants' Motion to Dismiss the Complaint

24. On May 6, 2020, Defendants filed a 48-page motion to dismiss the Complaint and an accompanying declaration attaching 36 exhibits totaling 1,111 pages. ECF Nos. 51 and 52.

Defendants' wide-ranging motion challenged virtually every aspect of Los Angeles' claims. Defendants argued, *inter alia*, that:

- Los Angeles failed to allege that Defendants' statements concerning GeneSight's ability to predict patient response to ADHD medication because the alleged misstatements were immaterial were not directed to investors, and were either not false or did not concern the "ADHD panel";
- Los Angeles failed to allege falsity with respect to Defendants' statements concerning the GUIDED results because none of the results were misstated, Defendants' reporting did not run afoul of either the study protocol or FDA guidance, and Defendants had disclosed the facts about the reporting of results the Complaint alleges were concealed;
- The Complaint's allegations regarding Myriad's misstatement of HCT Test revenue amounted to no more than "fraud by hindsight" and failed to allege that Defendants intended to deceive investors;
- The Complaint failed to allege scienter because, among other things, it relies heavily on "confidential witnesses" and the allegations regarding their reports are not sufficiently particularized;
- Los Angeles also failed to plead scienter because, *inter alia*, there were no allegations that Defendants Capone or Riggsbee knew that the results of the GUDED study did not comply with FDA guidance, or that HCT revenue had been improperly recognized. Moreover, the core operations doctrine, Defendants' insider trades, and Capone's resignation at the end of the Class period did not support an inference of scienter; and
- Los Angeles failed to adequately plead claims for insider trading under section 20A of the Exchange Act because both Capone and Riggsbee sold their stock pursuant to a 10b5-1 trading plan, and that Los Angeles failed to allege that defendants were in possession of material nonpublic information at the time they adopted their trading plans.

25. On July 3, 2020, Los Angeles filed a 60-page opposition to Defendants' motion to dismiss, including 14 exhibits and a motion requesting judicial notice, supporting its responses to Defendants' fact-based arguments. In addition, Los Angeles filed a motion to strike 12 of the 36 exhibits attached to Defendants' motion and filed an opposition to Defendants' motion to dismiss the Complaint. ECF Nos. 57, 58, and 59. Los Angeles' opposition argued, *inter alia*, that:

- Defendants' arguments that their statements regarding GeneSight's ADHD panel were immaterial, largely because they were published on Myriad's website, lacked legal support – courts across the country find such statements actionable;

- Defendants' fact-based arguments concerning the reporting of the GUIDED study were not only improper at the motion to dismiss stage, they were factually incorrect, as Myriad former employees confirmed and as publicly available documents, including Defendants' own exhibits, made clear;

- The Complaint adequately pled scienter based on allegations that (1) Myriad scientists repeatedly raised with senior management, including Dechairo, the fact that the ADHD and analgesic panels were unsupported and senior management, including Dechairo, acknowledged this issue; (2) Dechairo refused to perform testing of the ADHD and analgesic panels urged by Company scientists because he was afraid the results would be negative; (3) Defendants' statements touting the GUIDED results were directly contradicted by the trial protocol and the FDA guidance with which Myriad repeatedly claimed to comply; (4) a panel of experts twice told Myriad that its claims concerning GUIDED were unsupported; (5) Myriad admitted that it knowingly overstated its hereditary cancer revenue; (6) Capone and Riggsbee made suspicious, multi-million dollar insider sales; (7) GeneSight and the hereditary cancer test were of outsized importance to Myriad; (8) there was intense regulatory scrutiny focused on GeneSight; and (9) numerous key executives departed as the truth emerged;

- The Complaint's "confidential witness" allegations are sufficiently particularized under Tenth Circuit law; and

- Defendants Capone and Riggsbee's argument that their insider sales were pre-planned fails because that argument ignores the Complaint's allegations that they circumvented those plans by misleadingly announcing positive news while withholding negative news.

26. On August 3, 2020, Defendants filed an opposition to Plaintiff's motion to strike and a 30-page reply in further support of their motion to dismiss the Fourth Amended Class Action Complaint. ECF Nos. 67, 68. Defendants' reply reiterated the arguments made in their motion to dismiss and responded to the arguments in Los Angeles' opposition brief.

27. On August 17, 2020 Plaintiff filed a reply in support of its motion to strike, responding to the arguments raised in Defendants' opposition. ECF No. 70.

3. The Court Denied Defendants' Motion to Dismiss

28. On March 16, 2021, the Court issued a thorough, 54-page Memorandum Decision and Order in which it denied Defendants' motion to dismiss and granted Plaintiff's motion to strike. ECF No. 73.

29. In its order sustaining Los Angeles' claims, the Court held, among other things, that "Plaintiffs' Amended Complaint clearly and specifically identifies multiple statements of Defendants 'alleged to have been misleading,'" and that "Plaintiffs have alleged facts sufficient to support a cogent and strong inference of scienter," *i.e.* fraudulent intent.

30. With respect to Los Angeles' claims concerning GeneSight's ADHD and analgesic panels, the Court held that in light of reports from former employees that the tests had no supportive clinical data, Myriad's statements that GeneSight was proven to be effective and accurate were false or misleading. The Court further held that Defendants' claims about the GUIDED study were actionable because the Complaint adequately alleged that Defendants misleadingly presented the study's remission and response results, as well as the alleged post-hoc analyses, contrary to FDA guidance and standard clinical practice. In addition, the Court held that Defendants' statements regarding Myriad's HCT revenue were actionable.

31. The Court also held that Los Angeles adequately pled that Defendants acted with scienter. The Court credited statements from two former Myriad Scientists that Defendants were aware that GeneSight's ADHD panel was not supported by adequate evidence and rejected arguments that the Court should give little weight to the former employee's accounts. The Court also credited Plaintiff's arguments, among others, that (i) Myriad's analysis of the GUIDED results failed to follow FDA guidance, (ii) experts and journals warned Defendants that their statements about GUIDED were inaccurate, (iii) Capone's and Riggsbee's insider sales were suspicious, and (iv) Defendants knew that billing code changes would hurt HCT revenue. Finally, the Court

sustained Plaintiff's Section 20A claims for insider trading, rejecting Defendants' argument that their insider trading plans required dismissal as a matter of law.

C. Fact Discovery

32. As explained in detail below, during discovery, Lead Counsel built a strong and extensive record in support of Los Angeles' claims through document and deposition discovery of Defendants and 36 third parties.

1. Case Planning and Early Discovery

33. Under the PSLRA, discovery was stayed while Defendants' motion to dismiss was pending. Immediately following the Court's order sustaining the Complaint, the parties initiated extensive, lengthy, and wide-ranging fact discovery.

34. On March 26, 2021, after exchanging draft case management reports, the Parties conducted a Rule 26(f) planning conference, as well as follow-up conferences in order to attempt to reach agreement on outstanding disputes regarding scheduling and discovery parameters. The Parties successfully resolved their disputes and filed an agreed-upon Rule 26(f) report.

35. The parties also exchanged initial disclosures pursuant to Rule 26(a) on May 7, 2021.

36. Further, the Parties worked diligently to negotiate a Protective Order and an ESI Protocol. On June 21, 2019, after exchanging multiple drafts and holding several conferences, the parties filed a Stipulation and Protective Order, ECF No. 92, and an Electronic Discovery Stipulation and Proposed Order. ECF No. 93. The Court granted the Protective Order and ESI Protocol and Order the next day. ECF Nos. 94, 95.

2. Los Angeles Obtained Extensive Document Discovery from Defendants and Dozens of Key Third Parties

37. Los Angeles obtained significant document discovery from Defendants and dozens of third parties, including the FDA, comprised of over half a million documents, including reams of clinical trial data, as well as text and mobile data from key Myriad personnel. Los Angeles worked diligently to obtain this discovery, including by serving comprehensive discovery requests, and negotiating vigorously with Defendants over a period of several months in order to obtain an agreement to run extensive search terms, search files belonging to multiple custodians (including custodians that were newly proposed based on ongoing document discovery), and review multiple sources of ESI, including mobile data. Moreover, Los Angeles frequently corresponded and conferred with Defendants and third parties to obtain fulsome discovery, including identifying and requesting apparently missing documents and negotiating disputes regarding withheld documents. As discussed below, Los Angeles' efforts to obtain broad discovery in this case were critical to obtaining the recovery here.

38. On April 12, 2021, Los Angeles served requests for the production of documents on Defendants. Los Angeles requested that Defendants produce documents concerning, among other things, GeneSight's efficacy, studies concerning GeneSight, modifications of GeneSight's panels, marketing of GeneSight, revenue generated from Genesight, the GUIDED study, Myriad's communications with third parties and industry experts regarding GUIDED, Myriad's efforts to publish the GUIDED study, Myriad's communications with the FDA and other regulators concerning GeneSight, projections and analyses of HCT revenue, Myriad's billing practices for HCT, reimbursement rates for HCT billing codes, denials or underpayment of HCT claims, Capone's and Riggsbee's insider trades, Capone's resignation, Myriad's allegedly false public statements, Myriad's stock price movement, and Myriad's document retention policies. After

determining that it needed certain documents from prior to the Class Period and after the Class Period to effectively litigate the case, Los Angeles sought documents created during a period of nearly six years, extending from April 1, 2014 through May 6, 2020.

39. On May 19, 2021, Defendants served their Objections and Responses to Lead Plaintiff's First Request for the Production of Documents on Los Angeles. In the months that followed, Lead Counsel engaged in numerous meet-and-confers and extensive negotiations with Defendants' Counsel over the scope and adequacy of Defendants' discovery responses, including relating to search terms to be used, custodians whose documents should be searched, applicable timeframes, and other parameters. Adding to the complexity of these negotiations was the fact that documents from several custodians that Los Angeles believed were relevant to the claims were not produced. Ultimately, after numerous meet-and-confers and several months of negotiations, Los Angeles succeeded in obtaining all the documents it needed to effectively litigate the Action.

40. In total, Lead Counsel obtained and reviewed 1.3 million pages of documents from Defendants.

41. As Lead Counsel continued to receive and review documents from Defendants, Lead Counsel identified several third parties who it determined likely had relevant information. In addition to the FDA and Myriad's outside auditors, Myriad dealt with hundreds of third-party insurance payors that had information on Myriad's efforts to market GeneSight and the reimbursement of its HCT products. Further, Myriad had relationships and contacts with dozens of industry leaders and academics concerning GeneSight, including the principal authors of the GUIDED study. Thus, in addition to seeking discovery from Defendants, Los Angeles served subpoenas on 36 third parties. Lead Counsel held dozens of meet and confers with these third parties—some of which were difficult and contentious—before receiving document productions.

During these meet and confers, Lead Counsel negotiated with each third party the scope of the third party's document production, including the applicable date range, search terms, and custodians.

42. As a result of Los Angeles' efforts in third party document discovery, Los Angeles obtained more than 400,000 pages of documents from third parties, many of which proved important to Los Angeles' prosecution of the action. For example, the documents provided by the FDA—which scrutinized the data supporting Myriad's claims about GeneSight—were highly relevant with respect to Myriad's Class Period statements touting the GUIDED study's results. Documents from Ernst & Young, Myriad's outside auditor during the class period were key in supporting Plaintiff's claims regarding Myriad's misstatement of HCT revenue.

43. The chart below identifies the recipients of the third party subpoenas issued by Los Angeles and a general description of the role of the subpoenaed entity:

Subpoenaed Entity	**Role in Case**
U.S. Food and Drug Administration	Evaluated marketing and claims of GeneSight's efficacy
American Journal of Psychiatry	Myriad's efforts to publish the GUIDED study
Palmetto GBA LLC	Myriad's marketing of GeneSight, promotion of the GUIDED study, HCT claims
INC Research n/k/a Syneos Health, LLC	Myriad's marketing of GeneSight, promotion of the GUIDED study, HCT claims
Dr. John Greden	Principal author of the GUIDED study
Dr. Andrew Nierenburg	Member of Myriad's Scientific Advisory Board
Dr. Erika Nurmi	Member of Myriad's Scientific Advisory Board

Subpoenaed Entity	**Role in Case**
Dr. Boadie Dunlop	Member of Myriad's Scientific Advisory Board
Dr. Lawrence Lesko	Member of Myriad's Scientific Advisory Board
Ernst & Young LLP	Provided accounting consulting and audit services for Myriad's HCT business
American Imaging Management, Inc. d/b/a AIM Specialty Health	Myriad's marketing of GeneSight, promotion of the GUIDED study, HCT claims
Avalon Health Services, LLC d/b/a Avalon Healthcare Solutions	Myriad's marketing of GeneSight, promotion of the GUIDED study, HCT claims
Empire HealthChoice Assurance, Inc. d/b/a Empire BlueCross BlueShield	Myriad's marketing of GeneSight, promotion of the GUIDED study, HCT claims
Highmark Blue Cross Blue Shield of Western New York	Myriad's marketing of GeneSight, promotion of the GUIDED study, HCT claims
Excellus Health Plan, Inc. d/b/a Excellus Blue Cross Blue Shield	Myriad's marketing of GeneSight, promotion of the GUIDED study, HCT claims
Anthem Blue Cross and Blue Shield Ohio d/b/a Community Insurance Company	Myriad's marketing of GeneSight, promotion of the GUIDED study, HCT claims
Blue Cross Blue Shield of Michigan	Myriad's marketing of GeneSight, promotion of the GUIDED study, HCT claims
Horizon Blue Cross Blue Shield of New Jersey	Myriad's marketing of GeneSight, promotion of the GUIDED study, HCT claims
Blue Cross Blue Shield Healthcare Plan of Georgia, Inc.	Myriad's marketing of GeneSight, promotion of the GUIDED study, HCT claims
Blue Cross and Blue Shield of Kansas City	Myriad's marketing of GeneSight, promotion of the GUIDED study, HCT claims
Healthfirst Health Plan, Inc	Myriad's marketing of GeneSight, promotion of the GUIDED study, HCT claims

Subpoenaed Entity	**Role in Case**
Blue Cross Blue Shield Colorado	Myriad's marketing of GeneSight, promotion of the GUIDED study, HCT claims
BlueCross BlueShield of Tennessee	Myriad's marketing of GeneSight, promotion of the GUIDED study, HCT claims
Anthem Blue Cross and Blue Shield Missouri	Myriad's marketing of GeneSight, promotion of the GUIDED study, HCT claims
Sanford Health Plan	Myriad's marketing of GeneSight, promotion of the GUIDED study, HCT claims
Fidelis Care d/b/a Centene	Myriad's marketing of GeneSight, promotion of the GUIDED study, HCT claims
ADVI	Myriad's marketing of GeneSight, promotion of the GUIDED study, HCT claims
MedAvante	Myriad's marketing of GeneSight, promotion of the GUIDED study, HCT claims
Blue Cross Blue Shield Pennsylvania Capital d/b/a Capital Blue Cross	Myriad's marketing of GeneSight, promotion of the GUIDED study, HCT claims
Coventry Health Care of West Virginia, Inc. d/b/a Aetna Better Health of West Virginia	Myriad's marketing of GeneSight, promotion of the GUIDED study, HCT claims
CareFirst BlueCross BlueShield d/b/a Carefirst of Maryland, Inc.	Myriad's marketing of GeneSight, promotion of the GUIDED study, HCT claims
EmblemHealth	Myriad's marketing of GeneSight, promotion of the GUIDED study, HCT claims
Blue Cross Blue Shield of North Carolina	Myriad's marketing of GeneSight, promotion of the GUIDED study, HCT claims
Blue Cross Blue Shield South Carolina	Myriad's marketing of GeneSight, promotion of the GUIDED study, HCT claims
Blue Cross and Blue Shield of Florida, Inc. d/b/a Florida Blue	Myriad's marketing of GeneSight, promotion of the GUIDED study, HCT claims

44. In total, Defendants and third parties together produced approximately 500,000 documents, totaling more than 1.7 million pages, to Los Angeles.

45. As Lead Counsel received documents, it reviewed and analyzed those documents through weekly team meetings, running targeted searches aimed at locating the most relevant documents, analyzing the document trail on several key issues and creating timelines of events germane to the case. The magnitude and complexity of the document production was substantial and included, among other things, numerous clinical trial SAS data files, statistical analysis programs, emails, marketing materials, statistical analyses, presentations of study results, medical literature, regulatory submissions, coverage decisions, reimbursement contracts, financial analyses, payor behavior models, board materials, and text messages. Throughout the litigation, Lead Counsel provided Los Angeles with regular updates about document collection efforts, the document review process, and Lead Counsel's analyses of the documents collected.

46. As part of its discovery efforts, Lead Counsel assembled a team of staff attorneys. This team consisted of many lawyers who have been with the firm for years and have worked on other significant class actions. Their biographies, along with those of all lawyers who worked on this case, are attached hereto in Exhibit 4A. As explained below, this team was integral in helping Lead Counsel review and analyze the documentary record, prepare to take and defend depositions, assist expert witnesses, and compile the strongest evidentiary support for Los Angeles' claims.

47. Throughout this process, Lead Counsel ensured that the review and analysis of documents was conducted efficiently. At the outset of Lead Counsel's document review efforts, Lead Counsel consulted with its in-house litigation support team who provided document-management services, including algorithm-based "technology-assisted review" ("TAR") (also known as "predictive coding"). The TAR software enabled Lead Counsel to efficiently streamline

the review by "learning" the coding of documents as they were reviewed. While Lead Counsel could not rely on this machine algorithm to identify all of the necessary documents to prosecute this Action, it did use the algorithm to assist Lead Counsel in efficiently prioritizing the review of documents most likely to be relevant. Lead Counsel employed Relativity, a sophisticated document review platform to host the documents it collected, to ensure that the documents could be sorted, searched, and reviewed in an efficient and cost-effective manner.

48. Lead Counsel reviewed, analyzed, and categorized the documents in Relativity's electronic database. Lead Counsel developed a search protocol, issue "tags," and guidelines for identifying "hot" documents, as well as a manual and guidelines for the review and "coding" of documents. Using these tools, Lead Counsel tasked its attorneys with reviewing documents, with the documents most likely to be "hot" put into prioritized batches for review. Lead Counsel's review and analysis of those documents included substantive analytical determinations as to the importance and relevance of each document—including whether each document was "hot," "highly relevant," "relevant," or "irrelevant." For documents identified as "hot," attorneys often documented their substantive analysis of the documents' importance by making notations on the document review system, explaining what portions of the documents were hot, how they related to the issues in the case, and why the attorney believed that information to be significant. Attorneys also "tagged" the specific issues that documents related to, such as Myriad's marketing of GeneSight, analyses of the GUIDED study data, communications with the FDA, reimbursement of HCT products, and also "tagged" what witnesses the documents related to, which enabled Lead Counsel to effectively and efficiently collect documents in preparation for depositions. Given the dynamic, evolving nature of discovery, Lead Counsel frequently revised and refined its tools, techniques, and "tags" as it developed its understanding of the issues.

49. Throughout its review, Lead Counsel also analyzed the adequacy and scope of the document productions by Defendants and third parties. For example, attorneys reviewed all privilege redactions and entries in Defendants' privilege logs to assess whether Defendants redacted or withheld potentially non-privileged information. Lead Counsel also reviewed the productions to determine whether they substantively tracked what had been agreed to be produced in response to document requests. Most importantly, Lead Counsel identified apparent gaps in issues and date ranges in the production, which required careful analysis of the record. Where Lead Counsel identified deficiencies—including documents improperly redacted or withheld for privilege—in a document production, Lead Counsel challenged Defendants or the producing party to set forth the basis for privilege or otherwise address and correct the deficiency. These challenges resulted in the production of additional key documents and, in some cases, important motion practice before the Court.

50. In addition to regular communications that occurred throughout the review process, attorneys who primarily focused on the document review participated in weekly meetings with the full litigation team. In advance of these meetings, "hot" documents and documents that raised questions for discussion were compiled and circulated. At the meetings, Lead Counsel discussed those documents, including the reasons they identified them as "hot," and attorneys asked questions and discussed similar documents that had been reviewed. These efforts ensured that the entire litigation team was apprised of the documentary evidence being developed, provided an opportunity for Lead Counsel to further refine its legal and factual theories, focused the document-review team on developing other supporting evidence, and enabled Lead Counsel to ensure that documents were reviewed consistently. Lead Counsel also often conducted follow-up research and drafted memoranda concerning topics of interest that arose at these meetings.

51. In addition, Lead Counsel prepared chronologies of events, and maintained a central repository of key documents organized by issue, which it continually updated and refined as the team's knowledge of issues expanded. This allowed attorneys to quickly and efficiently access critical documents necessary for the preparation for depositions and drafting of evidentiary submissions to the Court.

52. As noted above, the attorney team also prepared and utilized several "issue memoranda" focused on key aspects of the case that Lead Counsel needed to understand to effectively conduct depositions. This included memoranda addressing Myriad's analyses of GUIDED data; Myriad's efforts to market and obtain coverage for GeneSight, payor reimbursement and the average sales price for HCT products; Myriad's document retention policies; and summaries of the work that Ernst & Young and other third parties performed for Myriad.

3. Plaintiff's Interrogatories to Defendants

53. Los Angeles served five sets of interrogatories to Defendants on August 2, 2021, January 24 2022, March 22, 2022, November 21, 2022, and May 10, 2023. Los Angeles' interrogatories focused on (1) the identities of third party payors that reimbursed Myriad for HCT products, (2) the changes in reimbursement rates for HCT products, (3) consultants and advisors in connection with GeneSight and the GUIDED study, (4) identification of data and patient populations used in internal and published analyses of the GUIDED study, (5) description of the models used to evaluate GUIDED data sets, (6) the individuals who were involved in making the alleged misstatements in the Complaint, (7) individuals involved in an internal investigation, and (8) the identification of documents and individuals involved in certain third-party communications.

54. Defendants served Responses and Objections to Los Angeles' first three sets of interrogatories on September 1, 2021, February 25, 2022, and April 21, 2022. Los Angeles

carefully reviewed Defendants' interrogatory responses to tailor its discovery efforts, and engaged in multiple meet confers concerning Defendants' responses. Los Angeles' fourth set of interrogatories were mooted by the outcome of a discovery dispute between the Parties, described below in II.E. Los Angeles' fifth set of interrogatories were mooted by the Parties' agreement to resolve the Action.

4. Defendants' Document Requests and Interrogatories to Los Angeles

55. Defendants served their First Set of Document Requests to Lead Plaintiff, comprising 28 document requests, on May 27, 2021. Los Angeles responded and objected to those Requests on January 5, 2019, and thereafter Los Angeles engaged in extensive meet-and-confers with Defendants to discuss the scope of Los Angeles' responsive document production.

56. In response to Defendants' document requests, Lead Counsel worked with Los Angeles to gather potentially relevant and responsive materials. Lead Counsel then reviewed those documents carefully, and subsequently produced the relevant, responsive, nonprivileged documents in Los Angeles' possession.

57. Los Angeles substantially completed production of documents to Defendants on June 28, 2021. In total, Los Angeles produced approximately 4,134 pages of documents to Defendants.

58. On May 5, 2022, Defendants served a Second Set of Document Requests and a First Set of Interrogatories to Lead Plaintiff, primarily seeking the documents and information related to its internal investigation and communications with witnesses in preparing the Complaint. Los Angeles responded and objected to those discovery requests on June 6, 2022, and thereafter engaged in extensive meet-and-confers with Defendants to discuss the unavailability of non-privileged information responsive to the requests.

5. Lead Counsel Engaged in Extensive Deposition Discovery

59. Lead Counsel took, defended and participated in a total of 24 depositions, which further developed the evidentiary record and informed Lead Counsel's analysis of the claims and defenses in the Action. Those depositions were held at locations across the country, including Ann Arbor, Boston, Cincinnati, New York, Salt Lake City, Denver and other locations. To facilitate the depositions, Lead Counsel solicited bids from a number of court reporters, to provide deposition services such as court reporting, real-time transcripts, remote deposition and exhibit platforms and other services. Lead Counsel ultimately selected Everest Court Reporting, LLC, which provided the lowest bid.

60. Los Angeles believes these depositions were highly successful and were instrumental in achieving the extremely positive recovery here. But these depositions required significant attorney preparation.

61. To build an efficient and effective deposition plan, Lead Counsel constructed "key players" lists compiled from: (i) its investigation in connection with the Complaint; (ii) document searches, including analyses of hot documents; (iii) corporate-organization charts produced by Defendants; and (iv) further interviews with key individuals involved in the events at issue here. This process involved considerable effort given the volume of Defendants' productions and the expansive nature and time period of the alleged fraud.

62. Once deponents were identified, effectively preparing for and conducting those depositions required substantial time, effort, and resources.

63. One of Lead Counsel's most significant projects in preparation for the depositions—both in terms of time and effort as well as substantive importance—was the preparation of detailed "deposition kits." These kits typically consisted of hundreds of documents with an index summary. The kits also included a detailed memorandum analyzing those documents

and the witnesses background and role in the case. In addition, as noted above, the attorney team prepared memoranda concerning several key issues in the case, which were used to prepare for the depositions of each witness who was involved with that issue.

64. Lead Counsel prepared a deposition kit for each witness. Preparing deposition kits required a deep dive into the witnesses materials, including their: (i) custodial documents, i.e., documents the deponent drafted, received, or maintained in their files; (ii) role in the events at issue, including with respect to information in relevant documents they may not have personally reviewed; (iii) prior relevant testimony or interviews; and (iv) information gleaned from public searches. The preparation of each kit required the analysis of myriad documents in the particular context of each witness, as well as the exercise of professional judgment in narrowing down which documents to present to that deponent. As the kits were prepared and refined, the attorneys taking the depositions worked closely with the attorneys tasked with creating the relevant kits.

65. Between March 23, 2022 and May 24, 2023, Los Angeles took 23 fact depositions, accounting for each Rule 30(b)(6) depositions of Myriad, including the depositions of the named executive Defendants, the President of Myriad Neuroscience, Senior Vice President of Biostatistics, Vice President of Medical Affairs, Corporate Controller, Senior Vice President of Investor Relations, the Principal Investigators of the GUIDED study, and several current and former senior finance, medical affairs, and science executives. Throughout the litigation, Lead Counsel provided Los Angeles regular updates on the testimony and evidence developed during these depositions. The chart below lists the depositions in date order.

Deponent	**Role**	**Date**
Christopher Williamson	Chief Information Officer	March 23, 2022

Deponent	Role	Date
Dr. Lisa Brown	Medical Affairs Officer	May 12, 2022
Chris Arnell	Business Intelligence	May 18, 2022
Kim Linthicum	Senior Vice President of Government Affairs	June 7, 2022
Chris Ho	Senior Vice President Payor Strategy and Revenue Cycle	June 15, 2022
Dr. James Li	Head of Neuroscience Biostatistics	June 15, 2022
John Greden, M.D.	Professor Emeritus of Psychiatry and Clinical Neurosciences, University of Michigan	July 14, 2022
Paul Parkinson	Head of Business Strategy and Reimbursement	July 26, 2022
Dr. Michael Jablonski	Vice President of Medical Affairs	August 23, 2022
Scott Gleason	Senior Vice President of Investor Relations	September 1, 2022
Brent Forester, M.D.	Chief of Geriatric Psychiatry, McLean Hospital; Associate Professor of Psychiatry, Harvard Medical School	September 8, 2022
Benjamin Wheeler	Corporate Controller	September 19, 2022
Scott Reitz	Director of Finance	September 29, 2022
Mark Veratti	President Myriad Neurosciences	October 20, 2022
Bryan Dechairo	Executive Vice President of Clinical Development	October 21, 2022
David Lewis	Senior Manager Bioinformatics	January 20, 2023

Deponent	Role	Date
Lindsey Burns	Clinical Program Manager	January 27, 2023
Christopher Williamson	Chief Information Officer	February 23, 2023
Dr. Holly Johnson	Director of Medical Affairs	March 3, 2023
Bryan Riggsbee	Chief Financial Officer	March 16, 2023
Dr. Alexander Gutin	Senior Vice President of Biostatistics	March 17, 2023
Mark Capone	Former Chief Executive Officer	April 6, 2023
Adam Timothy	Director of Information Technology	May 24, 2023

D. Class Certification

66. Shortly after the Court issued its decision on the motion to dismiss and Defendants filed their answer to the Complaint (ECF No. 79), on June 7, 2021, Los Angeles filed its Motion for Class Certification ("Class Certification Motion") (ECF Nos. 82-84, 86-87), requesting that the Court certify a class comprising all persons and entities who purchased or otherwise acquired shares of Myriad common stock between August 9, 2017 and February 6, 2020, inclusive, and were damaged thereby. In addition, Los Angeles moved to be appointed Class Representative and moved for the appointment of BLB&G as Class Counsel.

67. Los Angeles' motion attached and was supported by the expert report of Dr. Michael Hartzmark, Ph. D., who opined that the market for Myriad common stock was efficient throughout the Class Period, and that damages for investors in Myriad common stock could be calculated through a common methodology.

68. In connection with class certification, in addition to serving document requests to Los Angeles, Defendants noticed and took the deposition of Lead Plaintiff's representative, Raymond Ciranna, General Manager of Los Angeles, on July 16, 2021. Lead Counsel carefully reviewed Los Angeles' documents and reviewed those documents with Mr. Ciranna in preparation for his deposition.

69. On August 6, 2021, Defendants opposed Los Angeles' motion for class certification (the "Class Certification Opposition"). ECF Nos. 96-99, 100-101. Among other things, Defendants argued that Los Angeles failed to demonstrate that it would adequately represent the class because it had not adequately supervised the prosecution of the Action. Defendants further argued that if a class was certified, the Class Period should be shortened because the final alleged "corrective disclosure" on February 6, 2020 did not reveal any new information concealed by the alleged fraud.

70. On October 5, 2021, Los Angeles filed its reply in support of its motion for class certification, and in it addressed each of Defendants' arguments, including by citing supporting documents in the both the public and non-public record. ECF Nos. 106-108, 110-111.

71. On December 13, 2021, the Court issued a decision and order granting Los Angeles' motion for class certification (the "Class Certification Order") in full. The Court rejected Defendants' arguments, held that Los Angeles had ably supervised the Action and would adequately represent the class, and held that final disclosure on February 6, 2021 was, as alleged, related to the fraud. In addition, the Court order the Parties to meet and confer on the form and manner of providing notice to the Class, and within 60 days to submit a proposal to the Court for approval.

72. Thereafter, the Parties met and conferred concerning the notice and on February 11, 2022, Los Angeles submitted the proposed notice to the Court for approval. ECF No. 130. On

February 14, 2022, the Court issued and order approving the proposed plan for notifying the Class (the "Class Notice Order"). ECF No. 131. As part of the proposed plan, at the end of a competitive RFP process initiated under Los Angeles' guidance, Lead Counsel selected A.B. Data, Ltd. ("A.B. Data") to provide services to issue the notice.

73. The Class Notice Order approved the proposed form and manner for providing the Notice of Pendency of the Action (the "Class Notice") and the Summary Notice of Pendency of Class Action ("Summary Class Notice"), and appointed A.B. Data to provide notice.

74. Pursuant to the Court's Class Notice Order, A.B. Data mailed over 83,000 copies of the Class Notice to potential Class Members. ECF No. 140. A.B. Data also published the Summary Class Notice in the *Wall Street Journal* and over the PR Newswire, and established a telephone hotline and case website. *Id.*

75. The Class Notice provided Class Members with the opportunity to request exclusion from the Class. Thirty opt-outs were received, all of which were submitted by individual (i.e., non-institutional) investors, and many of whom requested exclusion because they did not believe they were members of the Class. ECF Nos. 140-4, 140-5.

E. Discovery Motions

76. As noted above, discovery in the Action was vigorously litigated. Lead Counsel and Defendants' Counsel exchanged numerous emails and letters and participated in numerous meet-and-confer sessions regarding document production and disputes over the scope of discovery. While most disputes were resolved through negotiation between the parties and without the intervention of the Court, some required presentation of the issues to the Court through letters or motion papers.

77. The first dispute that required the Court's intervention arose while negotiating the set of custodians for Defendants' document production, as Los Angeles learned of a potential

spoliation issue involving Defendants' document retention policies and Myriad's litigation hold practice. As a result, Los Angeles sought a 30(b)(6) witness from Myriad to provide testimony concerning, among other matters, Myriad's retention policies, the identity potential of witnesses whose documents had been destroyed, and the litigation holds Myriad had issued. Defendants refused to allow Myriad's witness to testify to certain topics concerning document preservation, which, Los Angeles believed were important to its ability to understand the scope of Myriad's document production and highly relevant to a potential spoliation motion.

78. On March 9, 2022, Los Angeles filed a short-form motion to compel the information regarding the custodial files and litigation holds Defendants refused to provide. ECF No. 132. Myriad filed its opposition on March 16, 2022. ECF No. 133. While the motion was pending, Los Angeles took the 30(b)(6) deposition on the topics for which Defendants had agreed to provide a witness. However, Los Angeles believed that Myriad's witness was not prepared to answer questions concerning additional subjects, and following the deposition, Los Angeles wrote the Court, adding that topic to its motion to compel. ECF No. 135.

79. The Parties argued the motion on March 29, 2022, and the next day, on March 30, 2022, the Court issued its ruling granting Los Angeles' motion in part and denying the motion in part. ECF No. 137. The Court granted Los Angeles' motion to compel testimony on litigation holds in this matter and ordered Myriad to produce a witness to provide for each hold issued in the case, (i) date the hold was issued; (ii) the identity of all persons who received the hold; (iii) the categories of data targeted for preservation; and (iv) the steps Myriad took to enforce the hold. While the Court denied Plaintiff's motion for the identity of potential witnesses whose documents had been destroyed and information on litigation holds in other matters, during argument the Court indicated

that the denial was without prejudice and encouraged Los Angeles to take depositions and develop a record of documents that may have been destroyed, which Los Angeles did.

80. Towards the end of fact discovery, after conducting fact depositions as instructed by the Court, Los Angeles conducted a further Rule 30(b)(6) deposition on the topics ordered by the Court in its March 30, 2022 order. Los Angeles continued to believe that Myriad had not provided testimony on required topics and filed a motion to compel on June 6, 2023. ECF No. 268. On June 20, 2023, the Court denied the motion to compel without prejudice and ordered Defendants to respond to a list of questions that had not been answered at the prior 30(b)(6) depositions, the Parties to meet and confer, and Los Angeles to renew its motion to compel if the Parties could not resolve their dispute. ECF No. 277. Had litigation continued, Los Angeles would have continued its pursuit of this discovery, which might have culminated in a spoliation motion.

81. The second discovery dispute the parties litigated concerned a subpoena to a former Myriad employee. The subpoena sought communications between the former employee and Myriad's counsel concerning the subpoena, which the third party declined to produce on grounds of privilege. ECF No. 146. While the Court denied the motion without prejudice as premature, it ordered the witness to produce a privilege log describing the documents that were being withheld and the nature of the privilege asserted. ECF No. 162. Thereafter, the witness produced a privilege log and Los Angeles was able to resolve the dispute.

82. Third, the Parties disputed the confidentiality of certain testimony adduced in discovery and, in particular, whether Los Angeles was permitted to share that testimony with the FDA. Thereafter, Los Angeles engaged in extensive email communications and meet and confer conferences with Defendants over the scope of their confidentiality designation and possible solutions to the Parties' dispute. Ultimately, Defendants rejected Los Angeles' offers and sought a

protective order from the Court to maintain the confidentiality of the information at issue. ECF No. 165. Los Angeles opposed Defendants' motion, and its position was supported by affidavits from the GUIDED study's principal authors, Drs. Forester and Greden. ECF Nos. 175, 176.

83. While the Parties were briefing their dispute concerning confidentiality, another dispute arose when Defendants served supplemental Rule 26(a) Initial Disclosures, naming 20 additional potential trial witnesses and identifying several new topics of testimony, four weeks prior to the close of fact discovery. Los Angeles filed a motion to strike the supplemental disclosures as untimely, or, in the alternative, for an extension of the discovery schedule and leave to take additional depositions of the newly identified witnesses. ECF 179. Defendants filed an opposition to the motion on November 2, 2022. ECF No. 218. On November 16, 2022, Los Angeles filed a reply brief in support of its motion to strike. ECF Nos. 235, 236. At the Parties' request, the Court ordered a stay of the case deadlines pending resolution of Los Angeles' motion to strike. ECF No. 222.

84. On November 18, 2022, the Court heard oral argument on both the confidentiality dispute and Los Angeles' motion to strike Defendants' supplemental initial disclosures. ECF No. 242. The Court granted Los Angeles the alternative relief it sought in connection with motion to strike, allowed Los Angeles to take additional depositions of Defendants' newly named witnesses, and ordered the Parties to meet and confer on a case schedule to accommodate the additional depositions. The Court also granted Defendants' motion regarding confidentiality. Thereafter, the parties met and conferred on a new case schedule, and Defendants ultimately agreed to keep only 4 out of the 14 fourteen witnesses that Los Angeles had sought to strike from its supplemental disclosures. On December 5, 2022, the Court granted the Parties proposed schedule, setting the

close of all discovery, including expert discovery, to be August 15, 2023. Los Angeles ultimately deposed every new witness identified in Defendants' revised supplemental Rule 26(a) disclosure.

85. Finally, a dispute arose over the production of certain documents following the close of fact discovery. Los Angeles sought to depose Defendants' counsel regarding those documents and Defendants and its counsel moved to quash Los Angeles' subpoena. ECF No. 259. Had the Parties not reached an agreement to settle the Action, Los Angeles would have continued to pursue the discovery and would have filed an opposition to Defendants' motion to quash.

F. Contention Interrogatories

86. Los Angeles served and responded to contention interrogatories. On December 16, 2022, Los Angeles served its First Set of Contention Interrogatories, seeking Defendants' factual and legal bases for Defendants' affirmative defenses. On February 15, 2023, Defendants served their First Set of Contention Interrogatories, seeking Los Angeles' factual and legal bases for each element of the claims asserted in the Complaint. Given the voluminous record Los Angeles developed during discovery, the Parties agreed to mutually extend the deadlines for their respective responses by 75 days.

87. On March 3, 2023, Defendants served Objections and Responses to Plaintiff's contention interrogatories. Los Angeles carefully reviewed Defendants' 53-page response and incorporated their contentions into its case strategy, particularly with respect to the remaining deposition discovery, Los Angeles' own contention interrogatory responses, and the Parties' meditation.

88. On May 1, 2023, Los Angeles served it Responses and Objections to Defendants' contention interrogatories. Los Angeles' comprehensive, largely single-spaced, 71-page response, drew on nearly all 23 depositions taken by Los Angeles during discovery and the more than 500 hundred exhibits introduced by Los Angeles.

G. Expert Discovery

89. Although, as a formal matter, expert discovery was in its early stages at the time the Parties agreed to settle this case, with Los Angeles' approval, Lead Counsel had retained multiple renowned subject matter experts early in the litigation and had consulted them throughout the prosecution of this Action. Lead Counsel met routinely with these experts to review documents, analyze data, and prepare for depositions.

90. Months before the close of fact discovery, Los Angeles had already begun working with its experts to prepare detailed reports based on the voluminous fact record adduced in the case. At the time the Parties settled the Action, Los Angeles had obtained five fully drafted reports, citing thousands of documents and deposition excerpts, from world-renowned experts on psychiatry, pharmacogenomics, statistics, financial economics (damages and loss causation), and accounting.

III. MEDIATION AND SETTLEMENT

91. In March 2023, the Parties retained Judge Layn Phillips and Michelle Yoshida, both mediators with Phillips ADR, as co-Mediators in order to help them explore a potential resolution of the Action. The parties held a full-day in-person mediation session at Phillips ADR's offices on May 1, 2023—three weeks after the close of fact discovery and before the contemplated deadline for opening expert reports. Los Angeles personally attended this mediation through representatives from Los Angeles City Attorney's Office.

92. In advance of the mediation session, the parties exchanged detailed mediation submissions, including opening briefs and replies, concerning both the liability and damages issues in the case. Despite the exchange of detailed briefs and robust discussion at the in-person mediation session, the Parties were unable to resolve the case.

93. For several weeks following the mediation session, with the continued assistance of Judge Phillips and Ms. Yoshida, the parties continued to attempt to negotiate a resolution of the Action. These negotiations culminated in Judge Phillips and Ms. Yoshida issuing a joint mediator's recommendation to settle the Action for $77.5 million in total settlement value, with at least $20,000,000 paid in cash and the remainder paid in either additional cash or shares of freely-tradeable Myriad common stock, which the Parties accepted. *See* Joint Declaration of The Hon. Layn R. Phillips (Fmr.) and Michelle Yoshida, Esq. in Support of Motion for Final Approval of Settlement, attached hereto as Exhibit 2.

94. Following the agreement in principle to resolve the Action, the Parties negotiated the final terms of the Settlement and drafted the Stipulation and Agreement of Settlement (the "Stipulation") and related settlement papers. On August 3, 2023, the Parties executed the Stipulation, which embodies the final and binding agreement to settle the Action.

95. The Stipulation provides that Myriad will pay or cause to be paid $77.5 million (the "Settlement Amount"), with at least $20 million paid in cash and the remainder of the Settlement Amount paid in either additional cash or shares of freely-tradable Myriad common stock (the "Settlement Shares"). Stipulation ¶ 1(ww). Pursuant to the terms of the Stipulation, on September 7, 2023, Myriad paid $20 million in cash (the "Initial Cash Amount") into an interest-bearing escrow account (the "Escrow Account"). *Id.* ¶ 8(a). Prior to the Settlement Hearing, Myriad is required to disclose to Lead Counsel what proportion of the remaining Settlement Amount will be paid in cash (the "Additional Cash Amount") or shares of Myriad common stock (the "Stock Component"), and Myriad will cause any Additional Cash Amount to be deposited into the Escrow Account no later than three calendar days after the date of the Court's entry of a judgment finally approving the Settlement. *Id.* ¶¶ 8(b)-(c). Also, pursuant to the Stipulation, the Settlement Shares

will be issued and delivered to the Securities Brokerage Account established by Los Angeles no later than three business days after the date of entry of the judgment. *Id.* ¶ 8(e).

96. Pursuant to the terms of the Stipulation, the Settlement Shares may be issued in reliance upon the exemption from registration provided by Section 3(a)(10) of the Securities Act, based on this Court's approval of the Settlement. Also, pursuant to the Stipulation, the number of Settlement Shares that Myriad shall issue will be calculated by dividing the Stock Component by the Volume-Weighted Average Price ("VWAP") of Myriad common stock for the ten consecutive trading days immediately preceding the date of the Settlement Hearing. *See* Stipulation ¶ 8(d).

IV. RISKS OF CONTINUED LITIGATION

97. The Settlement provides an immediate and certain benefit to the Settlement Class in the form of a $77.5 million payment, with at least $20 million in cash and the remainder in freely tradeable Myriad common stock. The Settlement, if approved, represents the largest securities settlement ever in Utah and one of the largest securities in Tenth Circuit history. The recovery also represents a significant portion of the recoverable damages in the Action as determined by Los Angeles' damages expert, particularly after considering Defendants' substantial arguments with respect to liability, loss causation and damages. These arguments created a significant risk that, after years of protracted litigation, Los Angeles and the Settlement Class would have achieved no recovery at all, or a smaller recovery than the Settlement Amount.

A. The Risks of Prosecuting Securities Class Actions

98. In recent years, securities class actions have become riskier and more difficult to prove, given changes in the law, including numerous United States Supreme Court decisions. For example, data from Cornerstone Research show that, in each year between 2013 and 2020, approximately half of all securities class actions filed were dismissed, and concluded that the

dismissal rate for 2020 was "on track to be among the highest on record." *See* Cornerstone Research, *Securities Class Action Filings 2022 Year In Review* (2022), at 2316.

99. Even when they have survived motions to dismiss, securities class actions can be defeated either at the class certification stage, in connection with *Daubert* motions or at summary judgment. For example, class certification has been denied in some recent securities class actions. *See, e.g.*, *Gordon v. Sonar Cap. Mgmt. LLC*, 92 F. Supp. 3d 193, 205 (S.D.N.Y. 2015); *Sicav v. James Jun Wang*, 2015 WL 268855 (S.D.N.Y. Jan. 21, 2015); *IBEW Local 90 Pension Fund v. Deutsche Bank AG*, 2013 WL 5815472 (S.D.N.Y. Oct. 29, 2013); *George v. China Auto. Sys., Inc.*, 2013 WL 3357170 (S.D.N.Y. July 3, 2013); *see also Colman v. Theranos, Inc.*, 325 F.R.D. 629, 651 (N.D. Cal. 2018); *In re Finisar Corp. Sec. Litig.*, 2017 WL 6026244 (N.D. Cal. Dec. 5, 2017), *reconsideration denied*, 2018 WL 3472334 (N.D. Cal. Jan. 18, 2018), *and leave to appeal denied*, *Oklahoma Firefighters Pension & Ret. Sys. v. Finisar Corp.*, 2018 WL 3472714 (9th Cir. July 13, 2018); *Smyth v. China Agritech, Inc.*, 2013 WL 12136605 (C.D. Cal. Sept. 26, 2013); *In re STEC Inc. Sec. Litig.*, 2012 WL 6965372 (C.D. Cal. Mar. 7, 2012).

100. Multiple securities class actions also recently have been dismissed at the summary judgment stage. *See, e.g., Murphy v. Precision Castparts Corp.*, 2021 WL 2080016 (D. Or. May 24, 2021), *aff'd sub nom. AMF Pensionsforsakring AB v. Precision Castparts Corp.*, 2022 WL 2800825 (9th Cir. July 18, 2022); *Fosbre v. Las Vegas Sands Corp.*, 2017 WL 55878 (D. Nev. Jan. 3, 2017), *aff'd sub nom. Pompano Beach Police & Firefighters' Ret. Sys. v. Las Vegas Sands Corp.*, 732 F. App'x 543 (9th Cir. 2018); *In re Barclays Bank PLC Sec. Litig.*, 2017 WL 4082305, (S.D.N.Y. Sept. 13, 2017) (summary judgment granted after eight years of litigation); *In re Omnicom Grp., Inc. Sec. Litig.*, 541 F. Supp. 2d 546, 554-55 (S.D.N.Y. 2008), *aff'd* 597 F.3d 501 (2d Cir. 2010) (summary judgment granted after six years of litigation and millions of dollars spent

by plaintiffs' counsel); *see also In re Xerox Corp. Sec. Litig.*, 935 F. Supp. 2d 448, 496 (D. Conn. 2013), *aff'd* 766 F.3d 172 (2d Cir. 2014); *Perrin v. Sw. Water Co.*, 2014 WL 10979865 (C.D. Cal. July 2, 2014); *In re Novatel Wireless Sec. Litig.*, 830 F. Supp. 2d 996, 1015 (S.D. Cal. 2011); *In re Oracle Corp. Sec. Litig.*, 2009 WL 1709050 (N.D. Cal. June 19, 2009), *aff'd*, 627 F.3d 376 (9th Cir. 2010); *In re REMEC Inc. Sec. Litig.*, 702 F. Supp. 2d 1202, 1211 (S.D. Cal. 2010). And even cases that have survived summary judgment have been dismissed prior to trial in connection with *Daubert* motions. *See, e.g.*, *Bricklayers and Trowel Trades Int'l Pension Fund v. Credit Suisse First Boston*, 853 F. Supp. 2d 181, 197 (D. Mass. 2012), *aff'd*, 752 F.3d 82 (1st Cir. 2014) (granting summary judgment *sua sponte* in favor of defendants after finding that plaintiffs' expert was unreliable).

101. Even when securities class action plaintiffs are successful in certifying a class, prevailing at summary judgment, and overcoming *Daubert* motions, and have gone to trial, there are still very real risks that there will be no recovery or substantially less recovery for class members. For example, in *In re BankAtlantic Bancorp, Inc. Securities Litigation*, a jury rendered a verdict partially in plaintiffs' favor on liability in 2010. 2011 WL 1585605, at *6 (S.D. Fla. Apr. 25, 2011). In 2011, the district court granted defendants' motion for judgment as a matter of law and entered judgment in favor of the defendants on all claims. *Id*. at *38. In 2012, the Eleventh Circuit affirmed the district court's ruling, finding that there was insufficient evidence to support a finding of loss causation. *Hubbard v. BankAtlantic Bancorp, Inc.*, 688 F.3d 713, 725 (11th Cir. 2012).

102. Even when securities class action plaintiffs successfully overcome multiple substantive and procedural hurdles pre-trial, there remain significant risks that a jury will not find the defendants liable or award expected damages. For instance, a jury recently found in In re Tesla

Inc. Securities Litigation that none of the defendants had violated the federal securities laws, even though the plaintiffs had previously obtained summary judgment on the critical elements of falsity and scienter. *See* Verdict Form, *In re Tesla., Inc. Sec. Litig.*, No. 3:18-cv-04865 (N.D. Cal. Feb. 3, 2023), ECF No. 671.

103. There is also the increasing risk that an intervening change in the law can result in the dismissal of a case after significant effort has been expended. For example, in *Precision Castparts*, a district court in Oregon reconsidered its order denying defendants' motion for summary judgment and granted the motion more than a year later based on a new decision by the Ninth Circuit. *See Precision Castparts*, 2021 WL 2080016, at *6. The Supreme Court has heard several securities cases in recent years, often announcing holdings that dramatically changed the law in the midst of long-running cases. *See Goldman Sachs Grp., Inc. v. Arkansas Teacher Ret. Sys.*, 141 S. Ct. 1951 (2021); *Omnicare, Inc. v. Laborers Dist. Council Constr. Indus. Pension Fund*, 135 S. Ct. 1318 (2015); *Halliburton Co. v. Erica P. John Fund, Inc.*, 573 U.S. 258 (2014); *Comcast Corp. v Behrend*, 569 U.S. 27 (2013); *Janus Capital Grp., Inc. v. First Derivative Traders*, 564 U.S. 135 (2011); *Morrison v. Nat'l Austl. Bank Ltd.*, 561 U.S. 247 (2010). As a result, many cases have been lost after thousands of hours have been invested in briefing and discovery. For *example*, in *In re Vivendi Universal, S.A. Securities Litigation*, after a verdict for class plaintiffs finding Vivendi acted recklessly with respect to 57 statements, the district court granted judgment for defendants following a change in the law announced in *Morrison*. 765 F. Supp. 2d 512, 524, 533 (S.D.N.Y. 2011).

104. In sum, securities class actions face serious risks of dismissal and non-recovery at all stages of the litigation.

B. The Substantial Risks of Proving Defendants' Liability and Damages in This Case

105. While Los Angeles believes that its claims have merit, it faced substantial risks that the Class would recover far less than the settlement amount, or even nothing.

1. Risks Associated with Myriad's Ability to Pay

106. Myriad's ability to pay a judgment was one of the most substantial risks to the Class's recovery. Los Angeles' damages expert estimated that maximum damages in this case were approximately $450 million, *assuming* Los Angeles prevailed on all aspects of its claims at trial, the jury accepted all aspects of its damages theory (including awarding full damages for each of five corrective disclosures), and its preferred accounting methodologies were applied. Even if Los Angeles had succeeded in securing a judgment of that size, there was a substantial risk that Myriad would be forced into bankruptcy rather than pay it.

107. Myriad is a "small-cap" life sciences company that has reported either negative operating cash flow or a net loss in every quarter during the last four years, operating at a combined loss of over $700 million. Myriad's operating costs are, and have been, substantial, and the Company has recently relied on asset sales to fund its operations. Indeed, at the time the Parties agreed to settle the case, Myriad had less than $54 million in cash and cash equivalents on its balance sheet, and total current assets (including inventory and accounts receivable) of just over $260 million. Thus, at the time the Parties reached agreement on the settlement of the Action, a complete judgment in Los Angeles' favor would have required Myriad to pay ***more than 8 times*** all of the Company's cash and securities and ***almost twice*** the Company's combined assets. In addition, the Company's financial condition was deteriorating in the months leading up to settlement, including an accelerating cash burn and mounting operating losses, making it even

more likely that, even if Los Angeles had achieved a complete victory at trial, the Class would receive nothing.

108. Given Myriad's financial condition, Los Angeles retained a financial advisor to help it craft a settlement that would maximize the value of the recovery obtained for the Class. As a result of Los Angeles' efforts in this regard, the Settlement recovers a substantial portion of estimated damages by providing that Myriad would pay at least $20 million in cash with the flexibility to pay the balance in cash or freely tradeable common stock. Los Angeles is confident that a recovery of the magnitude comprising the Settlement would not have been possible, but for its commitment to crafting and negotiating a creative solution to Myriad's ability-to-pay issues. Further, Los Angeles is confident that the structure of the Settlement significantly enhances the Class's recovery.

2. Risks to Proving Liability

109. Los Angeles also faced substantial risks in proving Defendants' liability, including with respect to the elements of falsity, scienter, and loss causation.

110. With regard to falsity and scienter, Defendants would have argued that the facts allegedly concealed by Myriad's fraud were all actually fully disclosed to the market and well-known to investors. For instance, Los Angeles alleged that Defendants had falsely claimed that GeneSight's ADHD Panel was "clinically proven to enhance medication selection," and would have attempted to show that Myriad scientists recognized there was a lack of convincing evidence supporting the efficacy of GeneSight's ADHD Panel at all relevant times. Defendants, however, would have argued that the market was well aware that Myriad had never conducted a clinical trial of GeneSight's ADHD Panel and that the available evidence, while not clinical, did support the Company's claims, as demonstrated by the fact that GeneSight was able to bring the ADHD Panel back to the market.

111. Similarly, Los Angeles alleges that Defendants' statements touting the results of the GUIDED trial misleadingly promoted the results of two "secondary endpoints" as demonstrating that GeneSight's depression panel was effective. Defendants will argue, however, that Myriad repeatedly and fully disclosed to investors that GUIDED had failed its primary endpoint and that Defendants were not obligated to characterize any other reported results in a negative light.

112. Defendants would have advanced similar arguments with regard to their statements concerning the HCT Test revenue. For instance, Defendants would argue that many of the facts concerning the reporting of revenue were both fluid and a matter of judgment, and that appropriate disclosures were made as evolving information became available.

113. Defendants would have also argued that their statements concerning the efficacy of the ADHD Panel, the results of the GUIDED study, and their accrual accounting for HCT Test revenue were all matters of scientific or accounting judgment and opinion and were reasonable in light of the available facts. For instance, Defendants will argue that an outside auditor found the Company's judgements concerning revenue reporting for the HCT Test reasonable.

114. While Los Angeles believes it has meritorious responses to each of these arguments, it recognizes that the technical and complex nature of the issues in dispute are difficult to establish at trial and presented unique risks to recovery.

3. Risks Associated with Proving Loss Causation and Damages

115. Los Angeles also faced additional risks with regard to proving loss causation and damages. While Los Angeles' damages expert estimates that maximum damages were approximately $450 million, this assumes that the jury would award damages associated with stock declines on each of five separate "corrective disclosure" dates. However, there were significant risks associated with proving the causal connection between the alleged fraud and the stock price

reaction on each of these dates.

116. Los Angeles' first alleged corrective disclosure occurred on October 31, 2018, when the FDA issued a public Safety Communication that was critical of pharmacogenomic tests generally. Defendants will argue that the Safety Communication did not reveal any information allegedly concealed by their misstatements and, indeed, did not even mention GeneSight.

117. Los Angeles' second alleged corrective disclosure occurred on January 7, 2019, with the publication of the GUIDED study and a concurrent investors' call on which psychiatrist Dr. Charles Nemeroff characterized the GUIDED trial as "a failed study." Defendants would have argued that Dr. Nemeroff's negative characterizations of GUIDED data did not reveal any information allegedly concealed by their misstatements or, indeed, any new non-public information at all.

118. Los Angeles' third alleged corrective disclosure occurred on August 13, 2019, when Myriad announced the withdrawal of the ADHD Panel and that the FDA had requested that the Company make changes to the GeneSight test. Defendants would have argued that the withdrawal of the ADHD Panel was not related to the alleged fraud, was already known to the market months earlier, and, in any event, was largely immaterial. Defendants would have also argued that the Company timely disclosed its discussions with the FDA.

119. Los Angeles' fourth corrective disclosure occurred on November 4, 2019, when Myriad announced an out of period correction to its reported HCT Test revenue and announced further declines in GeneSight revenue. Defendants would have argued that the out of period correction to GeneSight revenue was timely and immaterial, and that GeneSight's revenue performance for a single quarter did not reveal any information concealed by their alleged misstatement from the start of the Class Period.

120. Finally, Los Angeles' fifth corrective disclosure occurred on February 7, 2020, when Myriad announced Defendant Capone's departure from the Company. Defendants, in fact, ***did*** challenge this corrective disclosure at the class certification stage, again arguing that the mere departure of a Company executive did not reveal information that Defendants had allegedly been concealing since the start of the Class Period in 2017. While the Court rejected this argument at the time and on the record before it, there is no guarantee that it would have sustained this disclosure through summary judgment or that the jury would have agreed with Los Angeles that the news was connected to the alleged fraud.

121. Moreover, with regard to each of the corrective disclosures Defendants would have made more technical arguments attacking the sufficiency of Los Angeles' damages model that presented risks at the *Daubert* and summary judgment stages. For instance, Defendants would have argued that many, if not all, of the corrective disclosures were confounded by the disclosure of information unrelated to the alleged fraud, such as unrelated Myriad business performance or news about competitors, such that Los Angeles could not construct a damages model that sufficiently tied the price declines to allegedly fraud-related information.

122. Again, while Plaintiff believes it has meritorious responses to these arguments, each presented real risks at every future stage of litigation such that even if Defendants were only partially successful, Class-wide damages would have been significantly reduced. Indeed, if Defendants prevailed ***just*** with regard to their arguments on the February 7, 2020 disclosure date they previously challenged at the class certification stage – and Los Angeles prevailed ***completely*** on every aspect of every remaining corrective disclosure – recoverable damages would have been as much as ***halved*** – going from approximately $450 million to just over $225 million.

123. The Settlement eliminates those risks and provides a substantial and certain

recovery for the Class. *See Christine Asia Co. v. Yun Ma*, 2019 WL 5257534, at *13 (S.D.N.Y. Oct. 16, 2019) ("The Parties developed and would have presented competing evidence on these issues, including competing expert evidence. While Plaintiffs proceeded as though they had the better arguments, the risk remained that Defendants could have defeated loss causation, or significantly diminished damages[.]"); *see also, e.g.*, *In re Facebook, Inc. IPO Sec. & Derivative Litig*., 2015 WL 6971424, at *5 (S.D.N.Y. Nov. 9, 2015), *aff'd sub nom. In re Facebook, Inc.*, 674 F. App'x 37 (2d Cir. 2016) ("[D]amages would be subject to a battle of the experts, with the possibility that a jury could be swayed by experts for Defendants, who could minimize or eliminate the amount Plaintiffs' losses. Under such circumstances, a settlement is generally favored over continued litigation.").

4. Risks to Proving Insider Trading Claims

124. Los Angeles alleges that Defendants Capone and Riggsbee are liable for their sales of approximately $14 million worth of Myriad stock while they were in possession of material adverse nonpublic information about GeneSight, GUIDED and Myriad's HCT revenue. Defendants, however, will argue that these were all pre-planned sales made pursuant to "Rule 10b5-1 trading plans." While the Court rejected this argument as a basis for dismissing Los Angeles' claim at the motion to dismiss stage, there is no guarantee Los Angeles would prevail at summary judgment or at trial.

5. Risks After Trial

125. Even if Los Angeles and the Class overcame all the above risks and prevailed at trial, Defendants would have appealed any judgment in Los Angeles and the Class's favor. Such an appeal could have taken years, and could have been successful. For example, in *Glickenhaus & Co. v. Household Int'l Inc.*, 787 F.3d 408 (7th Cir. 2015), a securities fraud class action alleging a massive predatory lending scheme, the plaintiffs won a trial verdict. Defendants appealed,

challenging loss causation, as well as a jury instruction about who legally "made" a statement for liability purposes. Defendants prevailed, and the Seventh Circuit put aside the judgment that plaintiffs had won.

126. Moreover, even if a judgment in Los Angeles' favor was affirmed on appeal, Defendants could then have challenged the reliance and damages of each class member, including Los Angeles, in an extended series of individual proceedings. That process could have taken multiple additional years, and could have severely reduced any recovery to the Class as Defendants "picked off" class members. For example, in *In re Vivendi Universal SA Securities Litigation*, 765 F. Supp. 2d 520 (S.D.N.Y. 2011), the district court acknowledged that in any post-trial proceedings, "Vivendi is entitled to rebut the presumption of reliance on an individual basis," and that "any attempt to rebut the presumption of reliance on such grounds would call for separate inquiries into the individual circumstances of particular class members." 765 F. Supp. 2d at 583-584. Over the course of several years, Vivendi indeed successfully challenged several class members' damages in individual proceedings.

127. Thus, even if Los Angeles and the Class were to have prevailed at trial, the subsequent processes of an appeal and challenges to individual class members could have severely limited, or even eliminated, any recovery—and, at minimum, could have added several years of further delay.

V. THE SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE IN LIGHT OF THE POTENTIAL RECOVERY IN THE ACTION

128. The $77.5 million Settlement represents an excellent recovery for the Class, particularly when weighed against the range of potential recoveries following trial and appeal, which included the substantial risk that even if Los Angeles was wholly successful at every stage of litigation that followed, Myriad would be forced into bankruptcy and investors would never

recover on any judgment.

129. As discussed above, the Settlement represents the largest securities fraud recovery in Utah history and is among the top ten largest in the Tenth Circuit. Moreover, the Settlement recovers a highly significant percentage of even maximum estimated damages. Cornerstone Research estimates that the median securities class action settlement amount was 5% of estimated damages for the years 2013 through 2022. *See* Laarni T. Bulan & Laura E. Simmons, *Securities Class Action Settlements: 2022 Review and Analysis*, at 6, fig. 5 (Cornerstone Research 2023). The $77.5 million Settlement represents approximately 17% of maximum estimated damages of $450 million—***more than three times*** the national median recovery. Moreover, as discussed above, the Settlement represents 34% of estimated damages if Defendants prevailed on even just the ***single*** loss causation challenge they previously mounted—more than ***six times*** the national median recovery. By any measure, the Class's recovery is extremely favorable.

130. For all these reasons, Los Angeles and Lead Counsel respectfully submit that the Settlement is fair, reasonable, and adequate, and that it is in the best interests of the Class to accept the immediate and substantial benefit conferred by the Settlement, instead of incurring the significant risk that the Class might recover a lesser amount, or nothing at all, after additional protracted and arduous litigation.

VI. PRELIMINARY APPROVAL OF THE SETTLEMENT

131. On November 23, 2021, Los Angeles filed its unopposed Motion for Preliminary Approval of Class Action Settlement (ECF No. 283) ("Preliminary Approval Motion"), which included a copy of the Stipulation. ECF No. 283-1.

132. On August 25, 2023, the Court entered the Order Preliminarily Approving Settlement and Providing for Notice (ECF No. 285) (the "Preliminary Approval Order"), which among other things: (i) preliminarily approved the Settlement, finding that "pursuant to Rule

23(e)(1)(B)(i) of the Federal Rules of Civil Procedure, that it will likely be able to finally approve the Settlement under Rule 23(e)(2) as being fair, reasonable, and adequate to the Class, subject to further consideration at the Settlement Hearing"; (ii) approved the form of Settlement Notice, Summary Settlement Notice, and Claim Form, and authorized notice to be given to Class Members through mailing of the Settlement Notice and Claim Form, posting of the Settlement Notice and Claim Form on the case website, and publication of the Summary Settlement Notice in *The Wall Street Journal* and over the PR Newswire; (iii) established procedures and deadlines by which Class Members could participate in the Settlement or object to the Settlement, the proposed Plan of Allocation, or the Fee and Expense Application; and (iv) set a schedule for the filing of opening and reply papers in support of the proposed Settlement, Plan of Allocation, and the Fee and Expense Application. The Preliminary Approval Order also set a time and date for the Settlement Hearing, to be conducted by video conference, to determine, among other things, whether the Settlement should be finally approved as fair, reasonable, and adequate.

VII. LOS ANGELES' COMPLIANCE WITH THE PRELIMINARY APPROVAL ORDER

133. The Preliminary Approval Order directed that the Settlement Notice and Claim Form be disseminated to Class Members. The Preliminary Approval Order also set a November 17, 2023 deadline for Class Members to submit objections to the Settlement, the Plan of Allocation, and/or the Fee and Expense Application.

134. In compliance with the Preliminary Approval Order, the Court-approved Claims Administrator A.B. Data, which had previously conducted the mailing of the Class Notice, mailed copies of the Court-approved Settlement Notice and the Claim Form to putative Class Members and nominees, and published the Summary Settlement Notice. The Settlement Notice contains, among other things, a description of the Action, the Settlement, the proposed Plan of Allocation,

and Class Members' rights to participate in the Settlement and/or object to the Settlement, the Plan of Allocation, and/or the Fee and Expense Application. The Settlement Notice also informs Class Members of Lead Counsel's intent to apply for an award of attorneys' fees in an amount not to exceed 19% of the Settlement Fund (in the same proportion of cash and stock as received in the Settlement), and for payment of Litigation Expenses incurred by Plaintiffs' Counsel in an amount not to exceed $1,700,000, including reimbursement of the reasonable costs and expenses incurred by Los Angeles directly related to its representation of the Class, pursuant to the PSLRA. A.B. Data disseminated the Settlement Notice and Claim Form (together, the "Settlement Notice Packet") to all potential Class Members who had previously been identified in the prior mailing of the Class Notice, as well as to any additional potential Class Members who were identified in response to dissemination of the Settlement Notice Packet. *See* Declaration of Jack Ewashko Regarding: (A) Mailing of the Settlement Notice and Claim Form; and (B) Publication of the Summary Settlement Notice ("Ewashko Decl."), attached hereto as Exhibit 3, ¶¶ 4-5.

135. On September 18, 2023, A.B. Data disseminated 83,196 copies of the Settlement Notice Packet to potential Class Members and nominees by first-class mail. *Id*. Through November 2, 2023, A.B. Data had disseminated a total of 104,280 copies of the Settlement Notice Packet. *Id*.

136. In accordance with the Preliminary Approval Order, on October 2, 2023, A.B. Data caused the Summary Settlement Notice to be published in *The Wall Street Journal* and to be transmitted over the *PR Newswire*. *Id.*, ¶ 6.

137. A.B. Data also made copies of the Settlement Notice and Claim Form available on the case website, www.MyriadGeneticsSecuritiesLitigation.com. *Id.*, ¶ 7. A.B. Data also added information concerning the Settlement to that website and provided access to the Stipulation and Preliminary Approval Order. *Id.*

138. As set forth above, the deadline for Class Members to file objections to the Settlement, the Plan of Allocation, and/or the Fee and Expense Allocation, is November 17, 2023. To date, ***no objections*** to the Settlement, the Plan of Allocation, or Lead Counsel's Fee and Expense Application have been received. Lead Counsel will file reply papers on or before December 1, 2023 that will address any objections that are received.

VIII. PROPOSED ALLOCATION OF THE PROCEEDS OF THE SETTLEMENT

139. In accordance with the Preliminary Approval Order, and as provided in the Settlement Notice, all Class Members who want to participate in the distribution of the Net Settlement Fund (*i.e.*, the Settlement Fund less (i) any Taxes, (ii) any Notice and Administration Costs, (iii) any Litigation Expenses awarded by the Court, (iv) any attorneys' fees awarded by the Court, and (v) any other costs or fees approved by the Court) must submit a valid Claim Form with all required information postmarked (if mailed), or submitted online, no later than January 16, 2024. As provided in the Settlement Notice, the Net Settlement Fund will be distributed among Class Members according to the plan of allocation approved by the Court.

140. Lead Counsel developed the proposed Plan of Allocation in consultation with Los Angeles' damages expert. Lead Counsel believes that the Plan of Allocation provides a fair and reasonable method to equitably allocate the Net Settlement Fund among Class Members who suffered losses as a result of the conduct alleged in the Complaint.

141. The Plan of Allocation is included in the mailed Settlement Notice. *See* Settlement Notice, attached as Exhibit A to the Ewashko Decl., at Appendix A. As described in the Settlement Notice, calculations under the Plan of Allocation are not intended to be estimates of, nor indicative of, the amounts that Class Members might have been able to recover after trial or estimates of the amounts that will be paid to Authorized Claimants under the Settlement. Instead, the calculations

under the Plan are only a method to weigh the claims of Class Members against one another for the purposes of making an equitable allocation of the Net Settlement Fund.

142. In developing the Plan of Allocation in conjunction with Lead Counsel, Los Angeles' damages expert determined estimated artificial inflation in Myriad common stock allegedly caused by Defendants' alleged misrepresentations and omissions. In calculating the estimated artificial inflation allegedly caused by Defendants' alleged misrepresentations and omissions, Los Angeles' damages expert considered price changes in Myriad common stock in reaction to certain public announcements allegedly revealing the truth concerning Defendants' alleged misrepresentations and omissions, adjusting for price changes that were attributable to market or industry forces. *See* Settlement Notice ¶ 69.

143. Under the Plan of Allocation, a "Recognized Loss Amount" or "Recognized Gain Amount" will be calculated for each purchase or acquisition of Myriad common stock during the period from August 9, 2017 through and including February 6, 2020 that is listed in the Claim Form and for which adequate documentation is provided. *Id.* ¶ 71. The calculation of Recognized Loss Amounts will depend upon several factors, including: (a) when the shares of Myriad common stock were purchased or otherwise acquired, and at what price; and (b) whether the Myriad common stock shares were sold or held through the end of the Class Period or the 90-day look-back period under the PSLRA, and if the shares were sold, when and for what amounts. *Id.* ¶ 72. In general, the Recognized Loss Amount will be the difference between the estimated artificial inflation on the date of purchase and the estimated artificial inflation on the date of sale, or the difference between the actual purchase price and sales price, whichever is less. *Id*.

144. Claimants who purchased and sold all their shares of Myriad common stock before the first corrective disclosure, or who purchased and sold all their shares between two consecutive

dates on which artificial inflation was allegedly removed from the price of Myriad common stock (that is, they did not hold the shares over a date where artificial inflation was allegedly removed from the stock price), will have no Recognized Loss Amount under the Plan of Allocation with respect to those transactions because any loss they suffered would not have been caused by the disclosure of the alleged fraud. *Id.* ¶ 70.

145. Under the Plan of Allocation, Claimants' Recognized Loss Amounts will be netted against their Recognized Gain Amounts, if any, to determine the Claimants' "Recognized Claims," and the Net Settlement Fund will be allocated *pro rata* to Authorized Claimants based on the relative size of their Recognized Claims. *Id.* ¶¶ 73, 81-82. Once the Claims Administrator has processed all submitted claims it will make the *pro rata* distributions to eligible Class Members, until additional re-distributions are no longer cost effective. *Id.* ¶ 84. At such time, any remaining balance will be contributed to non-sectarian, not-for-profit, 501(c)(3) organization(s) approved by the Court. *Id.*

146. In sum, the Plan of Allocation was designed to fairly and rationally allocate the proceeds of the Net Settlement Fund among Class Members based on the losses they suffered on transactions in Myriad common stock that were attributable to the conduct alleged in the Complaint. Accordingly, Lead Counsel respectfully submits that the Plan of Allocation is fair and reasonable and should be approved by the Court.

147. As noted above, through November 2, 2023, 104,280 copies of the Settlement Notice, which contains the Plan of Allocation and advises Class Members of their right to object to the proposed Plan of Allocation, have been sent to potential Class Members. *See* Ewashko Decl. ¶ 5. To date, no objections to the proposed Plan of Allocation have been received.

IX. THE FEE AND EXPENSE APPLICATION

148. In addition to seeking final approval of the Settlement and Plan of Allocation, Lead Counsel is applying to the Court, on behalf of Plaintiff's Counsel, for an award of attorneys' fees in the amount of 19% of the Settlement Fund (in the same proportion of cash and stock as received in the Settlement) (the "Fee Application"). Lead Counsel also requests payment for expenses that Plaintiff's Counsel incurred in connection with the prosecution of the Action from the Settlement Fund in the amount of $1,488,313.23 and reimbursement to Los Angeles in the amount of $43,320.41 for costs and expenses that it incurred directly related to its representation of the Class, in accordance with the PSLRA (collectively, the "Expense Application").

149. As noted above, Lead Counsel's Fee and Expense Application is consistent with the amounts set forth in the Settlement Notice and, to date, no objections to Lead Counsel's request for attorneys' fees and expenses has been received.

150. Below is a summary of the primary factual bases for Lead Counsel's Fee and Expense Application. A full analysis of the factors considered by courts in this Circuit when evaluating requests for attorneys' fees and expenses from a common fund, as well as the supporting legal authority, is presented in the accompanying Fee Motion.[4]

[4] The Tenth Circuit has stated that in determining the appropriate percentage of attorneys' fees in common fund cases, the Court should consider the factors set forth in the Fifth Circuit's decision in *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714, 717-19 (5th Cir. 1974): "(1) The time and labor required. . . . (2) The novelty and difficulty of the questions. . . . (3) The skill requisite to perform the legal services properly. . . . (4) The preclusion of other employment. . . . (5) The customary fee. . . . (6) Whether the fee is fixed or contingent. . . . (7) Time limitations imposed by the client or the circumstances. . . . (8) The amount involved and results obtained. . . . (9) The experience, reputation, and ability of the attorneys. . . . (10) The "undesirability" of the case. . . . (11) The nature and length of the professional relationship with the client. . . . [and] (12) Awards in similar cases." *See Gottlieb v. Barry*, 43 F.3d 474, 483 (10th Cir. 1994) ("the court must consider the twelve *Johnson* factors" to determine the reasonableness of a common fund fee award).

A. The Fee Application

151. For the efforts of Plaintiff's Counsel on behalf of the Class, Lead Counsel is applying for a fee award to be paid from the Settlement Fund on a percentage basis. As discussed in the accompanying Fee Motion, the percentage method is the appropriate method of fee recovery because it aligns the lawyers' interest in being paid a fair fee with the Class's interest in achieving the maximum recovery in the shortest amount of time required under the circumstances and has been recognized as appropriate by the U.S. Supreme Court and the Tenth Circuit Court of Appeals for cases of this nature.

152. Based on the quality of the result achieved, the extent and quality of the work performed, the significant risks of the litigation, and the fully contingent nature of the representation, Lead Counsel respectfully submits that the requested fee award is reasonable and should be approved. As discussed in the Fee Motion, a 19% fee award, which was the result of arms-length negotiations between Los Angeles and Lead Counsel, is well within the range of percentages awarded in securities class actions in this Circuit and elsewhere in comparable settlements.

1. The Time and Labor Devoted to the Action by Plaintiff's Counsel

153. As defined above, Plaintiff's Counsel are the Court-appointed Lead Counsel BLB&G and Deiss Law, Liaison Counsel for Los Angeles and the Class.

154. As described above in greater detail, the work that Plaintiff's Counsel performed in this Action included, among other things: (i) conducting an extensive pre-suit investigation that included a detailed review and analysis of the voluminous public record and interviews of several former Myriad employees; (ii) preparing and filing a detailed 143-page amended Complaint; (iii) successfully opposing Defendants' motion to dismiss the Complaint; (iv) obtaining certification of the Class through a contested class certification motion; (v) conducting robust

discovery, including obtaining and reviewing over 1.7 million pages of documents produced by Defendants and non-parties, and deposing 22 fact witnesses, including Myriad's top executives and scientists, as well as key third-parties; (vi) extensively consulting with prominent experts in the fields of psychiatry, pharmacogenomics, statistics, financial economics, and accounting, including obtaining expert reports from these individuals outlining their expected trial testimony; (vii) engaging in extensive, arm's-length settlement negotiations to achieve the Settlement, including an all-day, in person mediation session followed by additional discussions between the Parties with the assistance and oversight of the mediators; and (viii) drafting and negotiating the Stipulation and related settlement documentation.

155. Attached hereto as Exhibits 4A and 4B, respectively, are my declaration on behalf of BLB&G and the declaration of Andrew G. Deiss on behalf of Deiss Law, in support of Lead Counsel's motion for an award of attorneys' fees and litigation expenses (the "Fee and Expense Declarations"). Each of the Fee and Expense Declarations includes a schedule summarizing the lodestar of the firm and the litigation expenses it incurred, delineated by category. The Fee and Expense Declarations indicate the amount of time spent on the Action by the attorneys and professional support staff of each firm and the lodestar calculations based on their current hourly rates. The Fee and Expense Declarations were prepared from contemporaneous daily time records regularly maintained and prepared by the respective firms, which are available at the request of the Court. The first page of Exhibit 4 is a chart that summarizes the information set forth in the Fee and Expense Declarations, listing the total hours expended, lodestar amounts, and litigation expenses for each Plaintiff's Counsel's firm, and gives totals for the numbers provided.

156. As set forth in Exhibit 3, Plaintiff's Counsel expended a total of 30,057.80 hours in the investigation, prosecution, and resolution of this Action through October 27, 2023. The

resulting lodestar is $15,861,117.50. The vast majority of the total lodestar—approximately 99.7%—was incurred by Lead Counsel. Lead Counsel has and will continue to invest substantial time and effort in this case after the October 27, 2023 cut-off imposed for their lodestar submissions on this application, including by overseeing the distribution of funds to eligible claimants.

157. The requested fee of 19% of the Settlement Fund represents $14,725,000 (in cash and stock in the same proportion of cash and stock as received in the Settlement, plus interest accrued at the same rate as earned on the cash settlement proceeds) and therefore represents a "negative" multiplier of approximately 0.93 on Plaintiff's Counsel's lodestar. As discussed in further detail in the Fee Motion, the negative multiplier here is far less than the kinds of "positive" multipliers that are routinely approved and awarded in contingent class action litigation in this Circuit and elsewhere.

2. The Experience and Standing of Lead Counsel

158. As demonstrated by the firm résumé attached as Exhibit 4A-3 hereto, BLB&G is among the most experienced and skilled law firms in the securities-litigation field, with a long and successful track record representing investors in cases of this kind, and is consistently ranked among the top plaintiffs' firms in the country. Further, BLB&G has taken complex cases like this to trial, and is among the few firms with experience doing so on behalf of plaintiffs in securities class actions. I believe that this willingness and ability to take cases to trial added valuable leverage during the settlement negotiations.

3. The Standing and Caliber of Defendants' Counsel

159. The quality of the work performed by Lead Counsel in attaining the Settlement should also be evaluated in light of the quality of the opposition. Here, Defendants were represented by counsel that included the law firms of Mintz Levin Cohn Ferris Glovsky and Popeo,

P.C.; O'Melveny & Myers LLP; Greenberg Traurig, LLP; Wilmer Cutler Pickering Hale and Dorr LLP; and Skadden, Arps, Slate, Meagher, and Flom LLP, some of the country's most prestigious and experienced defense firms, which vigorously represented their clients. In the face of this experienced, formidable, and well-financed opposition from some of the nation's top defense firms, Lead Counsel was nonetheless able to persuade Defendants to settle the case on terms that are highly favorable to the Class.

4. The Need to Ensure the Availability of Competent Counsel in High-Risk Contingent Securities Cases

160. The prosecution of these claims was undertaken entirely on a contingent-fee basis, and the considerable risks assumed by Lead Counsel in bringing this Action to a successful conclusion are described above. Those risks are relevant to the Court's evaluation of an award of attorneys' fees. Here, the risks assumed by Lead Counsel, and the time and expenses incurred by Lead Counsel without any payment, were extensive.

161. From the outset of its retention, Lead Counsel understood that it was embarking on a complex, expensive, and lengthy litigation with no guarantee of ever being compensated for the substantial investment of time and money the case would require. In undertaking that responsibility, Lead Counsel was obligated to ensure that sufficient resources were dedicated to the prosecution of the Action and that funds were available to compensate staff and to cover the considerable litigation costs that a case like this requires. With an average lag time of several years for these cases to conclude, the financial burden on contingent-fee counsel is far greater than on a firm that is paid on an ongoing basis. Indeed, Lead Counsel received no compensation during the course of the Action and have incurred over $1,480,000 in expenses in prosecuting the Action for the benefit of the Class.

162. Lead Counsel also bore the risk that no recovery would be achieved. As discussed above, from the outset, this case presented multiple risks and uncertainties that could have prevented any recovery whatsoever. Despite the most vigorous and competent efforts, success in contingent-fee litigation like this is never assured.

163. Lead Counsel knows from experience that the commencement and prosecution of a class action do not guarantee a settlement. To the contrary, it takes hard work and diligence by skilled counsel to develop the facts and legal arguments that are needed to sustain a complaint or win at class certification, summary judgment, and trial, or on appeal, or to cause sophisticated defendants to engage in serious settlement negotiations at meaningful levels.

164. Moreover, courts have repeatedly recognized that it is in the public interest to have experienced and able counsel enforce the securities laws and regulations pertaining to the duties of officers and directors of public companies. As recognized by Congress through the passage of the PSLRA, vigorous private enforcement of the federal securities laws can only occur if private investors, particularly institutional investors, take an active role in protecting the interests of shareholders. If this important public policy is to be carried out, the courts should award fees that adequately compensate plaintiffs' counsel, taking into account the risks undertaken in prosecuting a securities class action.

165. Lead Counsel's extensive and persistent efforts in the face of substantial risks and uncertainties have resulted in a significant recovery for the benefit of the Class. In these circumstances and in consideration of the hard work and the excellent result achieved, I believe that the requested fee is reasonable and should be approved.

5. The Reaction of the Class to the Fee Application

166. As stated above, through November 2, 2023, more than 104,000 Settlement Notice Packets had been mailed to potential Class Members advising them that Lead Counsel would apply

for an award of attorneys' fees in an amount not to exceed 19% of the Settlement Fund (in the same proportion of cash and stock as received in the Settlement). *See* Ewashko Decl. ¶ 5. In addition, the Court-approved Summary Settlement Notice was published in the *Wall Street Journal* and transmitted over the *PR Newswire*. *Id.* ¶ 6. To date, ***no objections*** to the request for attorneys' fees have been received. Should any objections be submitted, they will be addressed in Lead Counsel's reply papers to be filed on December 1, 2023, after the deadline for submitting objections has passed.

167. In sum, Lead Counsel accepted this case on a contingency basis, committed significant resources to it, and prosecuted it without any compensation or guarantee of success. Based on the outstanding result obtained, the quality of the work performed, the risks of the Action, and the fully contingent nature of the representation, Lead Counsel respectfully submits that a fee award of 19% of the Settlement Fund (in the same proportion of cash and stock as received in the Settlement), resulting in a "negative" lodestar multiplier of approximately 0.93, is fair and reasonable, and is supported by the fee awards that courts have granted in other comparable cases.

6. Los Angeles Has Authorized and Supports the Fee Application

168. Los Angeles is a sophisticated institutional investor that closely supervised, monitored, and actively participated in the prosecution and settlement of the Action. *See* Salazar Decl. ¶¶ 2-7. Los Angeles has evaluated the Fee Application and fully supports the fee requested, which is consistent with the engagement agreement entered into by Los Angeles and Lead Counsel at the outset of the litigation after a competitive RFP process and arms-length negotiation. *Id.* at ¶¶ 4, 9. After the agreement to settle the Action was reached, Los Angeles has approved the proposed fee as consistent with the written retainer agreement and believes it is fair and reasonable in light of the quality of the result obtained, the work counsel performed, and the risks of the

litigation. *Id.* at ¶ 9. Los Angeles' endorsement of Lead Counsel's fee request further demonstrates its reasonableness and should be given weight in the Court's consideration of the fee award.

B. The Litigation-Expense Application

169. Lead Counsel also seeks payment from the Settlement Fund of $1,488,313.23 in Litigation Expenses that were reasonably incurred by Plaintiff's Counsel in commencing, litigating, and settling the claims asserted in the Action.

170. From the outset of the Action, Plaintiff's Counsel have been cognizant of the fact that they might not recover any of their expenses, and, further, if there were to be reimbursement of expenses, it would not occur until the Action was successfully resolved, often a period lasting several years. Plaintiff's Counsel also understood that, even assuming that the case was ultimately successful, reimbursement of expenses would not necessarily compensate them for the lost use of funds advanced by them to prosecute the Action. Consequently, counsel were motivated to, and did, take significant steps to minimize expenses whenever practicable without jeopardizing the vigorous and efficient prosecution of the case

171. As shown in Exhibit 4 hereto, Plaintiff's Counsel have incurred a total of $1,488,313.23 in Litigation Expenses in prosecuting the Action. The expenses are summarized in Exhibit 5 hereto, which was prepared based on the Fee and Expense Declarations submitted by each firm and identifies each category of expense. These expense items are incurred separately by Plaintiff's Counsel, and these charges are not duplicated in counsel's hourly rates.

172. Of the total amount of Plaintiffs' Counsel's expenses, $999,353.50, or approximately 67%, was incurred for the retention of experts. As noted above, Lead Counsel consulted extensively with prominent experts in the fields of psychiatry, pharmacogenomics, statistics, financial economics, and accounting, including obtaining expert reports from these individuals outlining their expected trial testimony.

173. The other expenses for which Lead Counsel seek payment are the types of expenses that are necessarily incurred in litigation and routinely passed on to clients billed by the hour. These expenses include, among others, mediation costs, costs of out-of-town travel, service of process expenses, court reporting, copying costs, and postage, express mail, and delivery expenses. At Los Angeles' direction and consistent with its policies, Lead Counsel capped its travel expenses at coach airfares and government approved hotel rates.

174. All of the Litigation Expenses incurred by Plaintiff's Counsel were reasonable and necessary to the successful litigation of the Action and have been approved by Los Angeles. *See* Salazar Decl. ¶ 10.

175. Additionally, Los Angeles seeks reimbursement of the reasonable costs and expenses that it incurred directly in connection with its representation of the Class. Such payments are expressly authorized and anticipated by the PSLRA, as more fully discussed in the Fee Motion. Los Angeles seeks reimbursement of $43,320.41 for time dedicated by its personnel and time spent by attorneys at the Office of the Los Angeles City Attorney ("City Attorney") to furthering and supervising the Action. *See* Salazar Decl. ¶¶11-12. Los Angeles and City Attorney personnel took an active role throughout the entire litigation. Among other things, these individuals spent a substantial amount of time communicating with Lead Counsel regarding the posture and progress of the case and case strategy; reviewing pleadings and briefs filed in the Action; reviewing discovery requests and receiving updates concerning the progress of discovery, including Defendants' and third parties' document productions, depositions, and expert discovery; gathering and producing documents in response to discovery requests; providing deposition testimony; selecting and approving the relevant experts that were retained in the Action; preparing for,

traveling to, and attending the full-day mediation session before Judge Phillips and Ms. Yoshida; and evaluating and approving the proposed Settlement. *See* Salazar Decl. at ¶¶6, 7, 12.

176. The Settlement Notice informed potential Class Members that Lead Counsel would be seeking payment of Litigation Expenses in an amount not to exceed $1,700,000, which might include an application for the reasonable costs and expenses incurred by Los Angeles directly related to its representation of the Class. Settlement Notice ¶¶ 5, 51. The total amount requested, $1,531,633.64, which includes $1,488,313.23 for expenses incurred by Plaintiff's Counsel and $43,320.41 for costs and expenses incurred by Los Angeles, is well below with the total amount that Class Members were advised could be sought. To date, no objection has been raised as to the maximum amount of expenses set forth in the Settlement Notice.

177. The expenses incurred by Plaintiff's Counsel and Los Angeles were reasonable and necessary to represent the Class and achieve the Settlement. Accordingly, Lead Counsel respectfully submits that the Litigation Expenses should be paid in full from the Settlement Fund.

178. Attached to this declaration are true and correct copies of the following documents previously cited in this declaration:

Exhibit 1:	Declaration of Joseph Salazar on Behalf of Los Angeles Fire and Police Pensions in Support of: (A) Lead Plaintiff's Motion for Final Approval of Settlement and Plan of Allocation; and (B) Lead Counsel's Motion for Attorneys' Fees and Litigation Expenses
Exhibit 2:	Joint Declaration of The Hon. Layn R. Phillips (Fmr.) and Michelle Yoshida, Esq. in Support of Motion for Final Approval of Settlement
Exhibit 3:	Declaration of Jack Ewashko Regarding: (A) Mailing of the Settlement Notice and Claim Form; and (B) Publication of the Summary Settlement Notice
Exhibit 4:	Summary of Plaintiff's Counsel's Lodestar and Expenses
Exhibit 4A:	Declaration of Abe Alexander in Support of Lead Counsel's Motion for Attorneys' Fees and Litigation Expenses, Filed on Behalf of Bernstein Litowitz Berger & Grossmann LLP

Exhibit 4B: Declaration of Andrew G. Deiss in Support of Lead Counsel's Motion for Attorneys' Fees and Litigation Expenses, Filed on Behalf of on behalf of Deiss Law PC

Exhibit 5: Breakdown of Plaintiff's Counsel's Expenses by Category.

179. Also attached to this declaration are true and correct copies of the following documents cited in the Fee Motion:

Exhibit 6: *Klein v. Altria Group, Inc.*, No. 3:20cv75 (E.D. Va Mar. 31, 2022), ECF No. 320.

Exhibit 7: *In re Molycorp. Inc. Sec. Litig.*, No. 1:12-cv-00292-RM-KMT (D. Colo. June 16, 2017), ECF No. 263.

Exhibit 8: *San Antonio Fire & Police Pension Fund v. Dole Food Co.*, No. 15-CV-1140 (D. Del. July 18, 2017), ECF No. 100.

Exhibit 9: *Freudenberg v. E*Trade Fin. Corp.*, No. 07-CV-08538 (S.D.N.Y. Oct. 20, 2012), ECF No. 154

Exhibit 10: *In re Merrill Lynch & Co. Sec. Derivative & ERISA Litig*., No. 07-cv-09633 (S.D.N.Y. Aug. 21, 2009), ECF No. 272.

X. CONCLUSION

180. For all the reasons discussed above, Los Angeles and Lead Counsel respectfully submit that the Settlement and the Plan of Allocation should be approved as fair, reasonable, and adequate. Lead Counsel further submits that the requested fee in the amount of 19% of the Settlement Fund (in the same proportion of cash and stock as received in the Settlement) should be approved as fair and reasonable, and the requests for payment of Plaintiff's Counsel's expenses in the amount of $1,488,313.23 and reimbursement of Los Angeles' costs and expenses in the amount of $43,320.41 should also be approved.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief, this 3rd day of November, 2023.

/s/ Abe Alexander
Abe Alexander

Exhibit 1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

IN RE MYRIAD GENETICS, INC. SECURITIES LITIGATION	Case No. 2:19-cv-00707-JNP-DBP District Judge Jill N. Parrish

DECLARATION OF JOSEPH SALAZAR ON BEHALF LOS ANGELES FIRE AND POLICE PENSIONS IN SUPPORT OF: (A) LEAD PLAINTIFF'S MOTION FOR FINAL APPROVAL OF SETTLEMENT AND PLAN OF ALLOCATION; AND (B) LEAD COUNSEL'S MOTION FOR ATTORNEYS' FEES AND LITIGATION EXPENSES

I, Joseph Salazar, hereby declare as follows:

1. I serve as General Manager of Los Angeles Fire and Police Pensions ("Los Angeles" or "Lead Plaintiff"), the Court-appointed Lead Plaintiff and Class Representative in the above-captioned securities class action (the "Action").[1] I submit this declaration in support of (a) Lead Plaintiff's motion for final approval of the proposed Settlement and Plan of Allocation, and (b) Lead Counsel's motion for attorneys' fees and Litigation Expenses, including Los Angeles' application pursuant to Private Securities Litigation Reform Act of 1995 ("PSLRA") for reimbursement of Los Angeles' reasonable costs directly relating its representation of the Class in the Action. I am authorized to make this declaration on behalf of Los Angeles, and I have personal knowledge about the information set forth in this declaration as I, along with other Los Angeles personnel and attorneys at the Office of the Los Angeles City Attorney ("City Attorney") have been directly involved in monitoring and overseeing the prosecution of the Action, as well as the negotiations leading to the Settlement.

[1] Unless otherwise defined herein, all capitalized terms have the meanings set forth in the Stipulation and Agreement of Settlement dated August 3, 2023. ECF No. 283-1.

I. Background

2. Los Angeles is a public pension plan that administers the defined-benefit retirement plan on behalf of the City of Los Angeles' sworn firefighters and police officers.

3. The City Attorney serves as fund counsel to Los Angeles pursuant to the municipal charter of the City of Los Angeles. As counsel for Los Angeles, the City Attorney's Office is responsible for, among other things, providing legal representation to Los Angeles in litigation, including managing Los Angeles' relationship with and supervision of outside counsel.

4. Following the filing of the initial complaint in this Action, Los Angeles' Board of Commissioners ("Board") resolved to seek appointment as Lead Plaintiff in the Action and thereafter issued a Request for Proposal ("RFP") to prospective counsel. At the end of a competitive RFP process in which Los Angeles and the City Attorney's Office reviewed multiple submissions and interviewed several law firms, Los Angeles selected Bernstein Litowitz Berger & Grossmann LLP ("BLB&G") to act as Lead Counsel in this Action. In connection with the RFP process, the Los Angeles Board engaged in arms-length negotiations with BLB&G and negotiated a reduction in the maximum fee request that BLB&G could seek in in the event of a recovery on behalf of the Class.

5. On December 23, 2019, the Court entered an Order appointing Los Angeles as Lead Plaintiff in the Action pursuant to the PSLRA, and approved Lead Plaintiff's selection of BLB&G as Lead Counsel in the Action. On December 13, 2021, the Court entered an Order certifying the Class; appointing Los Angeles as Class Representative for the Class; and appointing BLB&G as Class Counsel for the Class.

II. Los Angeles' Oversight of the Action

6. Los Angeles closely supervised, carefully monitored, and was actively involved in all material aspects of the prosecution and resolution of the Action. On behalf of Los Angeles, I, other Los Angeles personnel, and/or representatives of the City Attorney's Office: (a) regularly communicated with Lead Counsel BLB&G by email, videoconference meetings, telephone calls, and closed session briefings and discussions during Los Angeles' Board meetings, regarding the posture and progress of the case and case strategy; (b) reviewed all significant pleadings and briefs filed in the Action; (c) reviewed discovery requests and received regular updates concerning the progress of discovery, including Defendants' and third parties' document productions, depositions, and expert discovery; (d) gathered and produced documents in response to Defendants' discovery requests; (e) selected and approved the relevant experts that were retained in the Action; (f) participated in and consulted with BLB&G concerning the settlement negotiations that occurred at, and following, the mediation session that ultimately led to the agreement-in-principle to settle the Action; and (g) evaluated and approved the proposed Settlement.

7. In addition, Raymond Ciranna, my predecessor as General Manager of Los Angeles, was deposed in this Action in connection with Los Angeles' motion for class certification, and representatives of the City Attorney's Office personally attended and participated in the mediation session before former U.S. District Court Judge Layn R. Phillips and Michelle Yoshida on May 1, 2023.

III. Los Angeles Strongly Endorses Approval of the Settlement

8. Based on its involvement throughout the prosecution and resolution of the Action, Los Angeles believes that the proposed Settlement is fair, reasonable, and adequate to the Class. Los Angeles believes that the Settlement represents a very favorable recovery for the Class, in light of the substantial risks of continuing to prosecute the claims in this case, including the very

substantial risks to recovering on any larger judgment. Therefore, Los Angeles strongly endorses approval of the Settlement by the Court.

IV. Los Angeles Approves of and Fully Supports Lead Counsel's Motion for Attorneys' Fees and Litigation Expenses

9. Los Angeles takes seriously its role as Class Representative to ensure that the attorneys' fees are fair in light of the result achieved by counsel and reasonably compensate counsel for the work involved and the substantial risk they undertook in litigating the action. At the outset of this litigation, Los Angeles' Board, in its role as a fiduciary for the Class, vigorously negotiated with Lead Counsel on the maximum fee request that Lead Counsel could seek in this Action in the event of a recovery on behalf of the Class. The final fee agreement between the Board and Lead Counsel, which allows for a maximum fee request of 19% of the Class recovery for a resolution of the case following the close of fact discovery, was formalized in Los Angeles' contract with Lead Counsel that was entered into at the beginning of the litigation. After the agreement to settle the Action was reached, Los Angeles agreed that it supported Lead Counsel's fee request because it is consistent with the terms of its written contract with Lead Counsel and because it is fair and reasonable in light of the quality of the result obtained, the extensive time counsel invested in litigating the case through the close of fact discovery to make this Settlement possible, the high-quality work counsel performed, and the risks inherent in the litigation.

10. Los Angeles further believes that Plaintiff's Counsel's Litigation Expenses are reasonable and represent costs and expenses necessary for the prosecution and resolution of the claims in the Action. Based on the foregoing, and consistent with its obligation to the Class to obtain the best result at the most efficient cost, Los Angeles fully supports Lead Counsel's motion for attorneys' fees and Litigation Expenses.

11. Los Angeles understands that reimbursement of a class representative's reasonable costs and expenses is authorized under the PSLRA. For this reason, in connection with Lead Counsel's request for an award of Litigation Expenses, Los Angeles seeks reimbursement for the costs and expenses that Los Angeles incurred directly relating to its representation of the Class.

12. As discussed above, my Los Angeles colleagues and I diligently oversaw the prosecution of the Action, including reviewing pleadings and briefs filed in the Action, reviewing and strategizing on discovery served in the Action, producing documents, selecting and approving the relevant experts that were retained in the Action, providing deposition testimony, and attending the mediation. Below is a table listing the Los Angeles and City Attorney personnel who contributed to the litigation, together with a conservative estimate of the time that they spent and their effective hourly rates.[2]

Personnel	Hours	Rate	Total
Anya Freedman Assistant City Attorney Public Pensions General Counsel Division Office of the Los Angeles City Attorney	58.50	$173.55	$10,152.68
James Napier Deputy City Attorney Public Pensions General Counsel Division Office of the Los Angeles City Attorney	41.00	$190.52	$7,811.32
Miguel Bahamon Deputy City Attorney Public Pensions General Counsel Division Office of the Los Angeles City Attorney	74.75	$166.79	$12,467.55
Gina Di Domenico Deputy City Attorney Public Pensions General Counsel Division Office of the Los Angeles City Attorney	37.75	$145.64	$5,497.91

[2] The hourly rates used for purposes of this request are based on the annual salaries of the respective personnel who worked on this Action and includes the cost of benefits as set by the City of Los Angeles.

Personnel	Hours	Rate	Total
Joeseph Salazar General Manager Los Angeles Fire and Police Pensions	3.00	$247.34	$742.02
Raymond Ciranna General Manager Los Angeles Fire and Police Pensions	22.50	$240.95	$5,421.38
Tom Lopez Chief Investment Officer Los Angeles Fire and Police Pensions	1.00	$221.75	$221.75
Nathaniel Chang Investment Officer Los Angeles Fire and Police Pensions	4.00	$109.29	$437.16
David Liu Senior Systems Analyst Los Angeles Fire and Police Pensions	4.00	$142.16	$568.64
TOTALS	**246.50**		**$43,320.41**

V. Conclusion

13. In conclusion, Los Angeles, which was actively involved throughout the prosecution and settlement of the Action, strongly endorses the Settlement as fair, reasonable, and adequate, and believes it represents a favorable recovery for the Class in light of the risks of continued litigation. Los Angeles further supports Lead Counsel's motion for attorneys' fees and Litigation Expenses and believes that it represents fair and reasonable compensation for counsel in light of the recovery obtained for the Class, the substantial work conducted and time invested in litigating the case through the close of fact discovery to make this resolution possible, and the litigation risks. And finally, Los Angeles requests reimbursement under the PSLRA for the value of time dedicated by its employees and City Attorney personnel to the Action as set forth above. Accordingly, Los Angeles respectfully requests that the Court approve (a) Lead Plaintiff's motion for final approval of the proposed Settlement and Plan of Allocation; and (b) Lead Counsel's motion for attorneys' fees and Litigation Expenses.

I declare under penalty of perjury that the foregoing facts are true and correct to the best of my knowledge, information, and belief, and that I have authority to execute this declaration on behalf of Los Angeles.

Executed this 2nd day of November, 2023.

Joseph Salazar,
General Manager
Los Angeles Fire and Police Pensions

Exhibit 2

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

IN RE MYRIAD GENETICS, INC. SECURITIES LITIGATION	Case No. 2:19-cv-00707-JNP-DBP District Judge Jill N. Parrish

JOINT DECLARATION OF
THE HON. LAYN R. PHILLIPS (FMR.) AND MICHELLE YOSHIDA, ESQ.
IN SUPPORT OF MOTION FOR FINAL APPROVAL OF SETTLEMENT

Layn R. Phillips and Michelle Yoshida declare as follows:

1. I, Layn R. Phillips, submit this declaration in my capacity as the independent mediator in the above-captioned securities class action ("Action") and in connection with the proposed settlement of claims asserted in the Action (the "Settlement").[1]

2. I, Michelle Yoshida, submit this declaration in my capacity as the independent mediator in the Action and in connection with the Settlement.

3. We submit this declaration based on personal knowledge and are competent to so testify. While the mediation process is confidential, the parties to the Settlement (the "Parties") have authorized us to inform the Court of the matters set forth in this declaration in support of final approval of the Settlement. Our statements and those of the Parties during the mediation process are subject to a confidentiality agreement and Federal Rule of Evidence 408, and there is no intention on either our part or the Parties' part to waive the agreement or the protections of Rule 408.

[1] Unless otherwise defined herein, all capitalized terms have the meanings set forth in the Stipulation and Agreement of Settlement dated August 3, 2023 (the "Stipulation"). ECF No. 283-1.

I. BACKGROUND AND QUALIFICATIONS OF JUDGE PHILLIPS

4. I, Layn R. Phillips, am a former United States District Judge, a former United States Attorney, a Fellow in the American College of Trial Lawyers, and a former litigation partner with the firm of Irell & Manella LLP. I currently serve as a mediator and arbitrator with my own alternative dispute resolution company, Phillips ADR Enterprises ("Phillips ADR"), which is based in Corona Del Mar, California. I am a member of the bars of Oklahoma, Texas, California, and the District of Columbia, as well as the United States Courts of Appeals for the Ninth and Tenth Circuits and the Federal Circuit.

5. For over the last 25 years, I have served as a mediator and arbitrator in connection with numerous large, complex cases, including securities cases such as this one.

II. BACKGROUND AND QUALIFICATIONS OF MS. YOSHIDA

6. I, Michelle Yoshida, have worked as a full-time mediator and arbitrator since 2007. I currently work as a mediator and arbirator with Phillips ADR, which I joined at the firm's founding in November 2014.

7. Prior to being a mediator, I was a trial attorney in private practice and prior to joining Phillips ADR, I worked as a mediator, arbitrator and special master with Weinstein Melnick LLC. Over the past 15 years, I have served as a mediator and arbitrator in connection with numerous large, complex cases, including securities cases such as this one.

III. THE PARTIES' ARM'S-LENGTH SETTLEMENT NEGOTIATIONS

8. On May 1, 2023, counsel for Lead Plaintiffs, Defendants, and other interested parties participated in a full-day mediation session before us at the offices of Phillips ADR in Corona Del Mar, California. The participants included: (i) attorneys from Bernstein Litowitz Berger & Grossmann LLP, Lead Counsel for the Class; (ii) representatives of Lead Plaintiff Los

Angeles Fire and Police Pensions; (iii) attorneys from Skadden, Arps, Slate, Meagher, and Flom LLP and Mintz, Levin, Cohn, Ferris, Glovsky, and Popeo, P.C., counsel for Defendants; and (iv) representatives of Defendant Myriad.

9. In advance of the mediation session, the Parties exchanged and submitted detailed opening and reply mediation statements addressing issues of liability and damages.

10. We, along with our staff, participated in pre-mediation calls with the Parties. During the mediation, counsel for the Parties presented arguments regarding their clients' respective positions. The work that went into the mediation submissions and competing presentations and arguments was substantial.

11. During the mediation session, we engaged in extensive discussions with counsel on both sides in an effort to find common ground between the Parties' positions. At the end of the day on May 1, 2023, it was apparent that a negotiated resolution would not be reached at that time. We ended the May 1, 2023 mediation session without a settlement.

12. Over the next several weeks, we engaged in additional communications with counsel in an ongoing effort to resolve the dispute. On June 12, 2023, we issued a "double-blind" joint mediators' recommendation to settle the Action for $77,500,000 in total settlement value, with at least $20,000,000 paid in cash and the remainder paid in either additional cash or shares of freely-tradeable Myriad common stock. On June 19, 2023, the Parties accepted our recommendation. Thereafter, the Parties negotiated and executed the Stipulation now before the Court, which sets forth the final terms and conditions of the Settlement.

13. This was an extremely hard-fought negotiation from beginning until the end and was conducted by experienced and able counsel on both sides. Throughout the mediation process, the negotiations between the Parties were vigorous and conducted at arm's-length and in good

faith. Because the Parties made their mediation submissions and arguments in the context of a confidential mediation process pursuant to Federal Rule of Evidence 408 and the mediation confidentiality agreement, we cannot reveal their content. We can say, however, that the arguments and positions asserted by all involved were the product of detailed analysis and substantial work, they were complex and, while professional, they were highly adversarial.

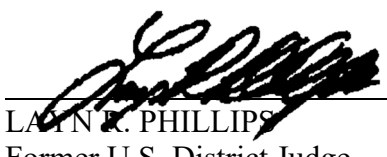
IV. CONCLUSION

14. Based on our experience, we believe that the Settlement represents a recovery and outcome that is reasonable and fair for the Class and all parties involved. We further believe it was in the best interests of the Parties that they avoid the burdens and risks associated with taking a case of this size and complexity to trial. In sum, we support the Court's approval of the Settlement in all respects.

15. Lastly, we found that the advocacy on both sides of this case was outstanding. We have experience with attorneys from the law firms on both sides of this case, which are nationally recognized for their work prosecuting and defending large, complex securities class actions such as this. We are familiar with the effort, creativity, and zeal they put into their work. We expected that they would represent their clients in the same manner here, as they did. All counsel displayed the highest level of professionalism in carrying out their duties on behalf of their respective clients.

We declare under penalty of perjury that the foregoing facts are true and correct and that this declaration was executed this 30th day of October, 2023.

PHILLIPS ADR ENTERPRISES, P.C.



LAYN R. PHILLIPS
Former U.S. District Judge

MICHELLE YOSHIDA, Esq.

Exhibit 3

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

IN RE MYRIAD GENETICS, INC. SECURITIES LITIGATION	Case No. 2:19-cv-00707-JNP-DBP District Judge Jill Parrish CLASS ACTION

DECLARATION OF JACK EWASHKO REGARDING:
(A) MAILING OF THE SETTLEMENT NOTICE AND CLAIM FORM; AND
(B) PUBLICATION OF THE SUMMARY SETTLEMENT NOTICE

I, JACK EWASHKO, declare as follows:

1. I am a Client Service Director of A.B. Data, Ltd.'s Class Action Administration Company ("A.B. Data"), whose Corporate Office is located in Milwaukee, Wisconsin. The following statements are based on my personal knowledge and information provided by other A.B. Data employees working under my supervision, and if called on to do so, I could and would testify competently thereto.

2. Pursuant to the Order Preliminarily Approving Settlement and Providing for Notice dated August 24, 2023 (the "Preliminary Approval Order"), the Court approved the retention of A.B. Data as the Claims Administrator in connection with the Settlement for the above-captioned action (the "Action").[1] I am over 21 years old and am not party to the Action. I have personal knowledge of the facts set forth herein and, if called as a witness, could and would testify competently thereto.

[1] Unless otherwise defined in this declaration, all capitalized terms have the meanings defined in the Stipulation and Agreement of Settlement dated August 3, 2023 (the "Stipulation"), and previously filed with the Court. *See* ECF No. 283-1.

DISSEMINATION OF THE SETTLEMENT NOTICE PACKET

3. Pursuant to the Preliminary Order, A.B. Data mailed the Notice of (I) Proposed Settlement and Plan of Allocation; (II) Settlement Hearing; and (III) Motion for Attorneys' Fees and Litigation Expenses (the "Settlement Notice") and Proof of Claim and Release Form (the "Claim Form" and, collectively with the Settlement Notice, the "Settlement Notice Packet") to potential Class Members and nominees. A copy of the Settlement Notice Packet is attached hereto as Exhibit A.

4. On September 18, 2023, A.B. Data mailed a copy of the Settlement Notice Packet to all persons and entities identified as potential Class Members in connection with the mailing of the Notice of Pendency of Class Action (the "Class Notice") in March 2022. Consistent with the Preliminary Approval Order, nominees who had previously requested copies of the Class Notice in bulk were sent the same number of Settlement Notice Packets.

5. Through November 2, 2023, A.B. Data has mailed a total of 104,280 Settlement Notice Packets to potential members of the Class or nominees, which includes (i) 83,196 Settlement Notice Packets that were mailed to potential Class Members and nominees in the initial mailing on September 18, 2023; (ii) an additional 4,914 Settlement Notice Packets that were mailed to potential Class Members whose names and addresses were received from individuals, entities, or nominees requesting that the packet be mailed to such persons; and (iii) an additional 16,170 Settlement Notice Packets that were requested by nominees for forwarding to their customers. In addition, A.B. Data has promptly re-mailed 136 Settlement Notice Packets to persons whose original mailings were returned by the U.S. Postal Service ("USPS") as undeliverable and for whom an updated address was provided to A.B. Data by the USPS.

PUBLICATION OF THE SUMMARY SETTLEMENT NOTICE

6. Pursuant to the Preliminary Approval Order, A.B. Data caused the Summary Notice of (I) Proposed Settlement and Plan of Allocation; (II) Settlement Hearing; and (III) Motion for Attorneys' Fees and Litigation Expenses (the "Summary Settlement Notice") to be published in *The Wall Street Journal* on October 2, 2023 and to be transmitted over the *PR Newswire* on October 2, 2023. Copies of proof of publication of the Summary Settlement Notice in *The Wall Street Journal* and over the *PR Newswire* are attached to this declaration as Exhibits B and C, respectively.

WEBSITE

7. On September 18, 2023, A.B. Data updated the website previously established for this Action (www.MyriadGeneticsSecuritiesLitigation.com) to provide Class Members with information and documents concerning the proposed Settlement. The website address was set forth in the Settlement Notice and the Summary Settlement Notice. The website provides the deadlines for submitting a Claim or objecting to the Settlement. The website also makes copies of the Settlement Notice and Claim Form, as well as copies of the Stipulation, Preliminary Approval Order, Complaint, and Class Certification Order, among other documents, available for downloading. In addition, the website provides Class Members with the ability to submit their Claim Form through the website and also includes a link to a document with detailed instructions for institutions submitting their claims electronically. A.B. Data will continue operating, maintaining, and updating the case website as appropriate.

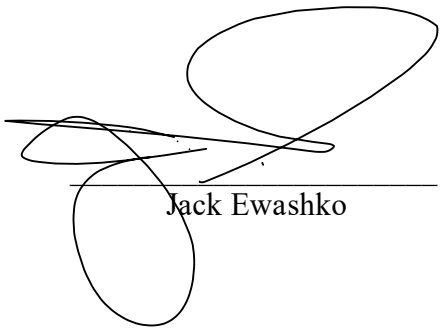
TOLL-FREE TELEPHONE LINE

8. On September 18, 2023, A.B. Data updated the previously established toll-free telephone number for the Action, 1-877-331-0728, to provide information about the proposed

Settlement. The toll-free telephone line connects callers with an Interactive Voice Recording system ("IVR"). The IVR provides callers with pre-recorded information, including a summary of the Action and the option to request a copy of the Settlement Notice. In addition, Monday through Friday from 9 a.m. to 6 p.m. Eastern Time (excluding official holidays), callers to the toll-free telephone line can speak to a live operator regarding the status of the Action and/or obtain answers to questions they may have about the Settlement.

I declare, under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct to the best of my knowledge.

Executed on November 3, 2023.



Jack Ewashko

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

IN RE MYRIAD GENETICS, INC. SECURITIES LITIGATION	Case No. 2:19-cv-00707-JNP-DBP District Judge Jill N. Parrish

NOTICE OF (I) PROPOSED SETTLEMENT AND PLAN OF ALLOCATION; (II) SETTLEMENT HEARING; AND (III) MOTION FOR ATTORNEYS' FEES AND LITIGATION EXPENSES

TO: All persons who purchased or acquired Myriad Genetics, Inc. ("Myriad" or the "Company") common stock from August 9, 2017 until February 6, 2020, inclusive (the "Class Period"), and were damaged thereby (the "Class").

A Federal Court authorized this Notice. This is not a solicitation from a lawyer.

NOTICE OF SETTLEMENT: This Notice has been sent to you pursuant to Rule 23 of the Federal Rules of Civil Procedure and an Order of the United States District Court for the District of Utah (the "Court"). Please be advised that Lead Plaintiff Los Angeles Fire and Police Pensions ("Lead Plaintiff" or "Los Angeles"), on behalf of itself and the Court-certified Class (as defined in ¶ 24 below), has reached a proposed settlement of the Action for $77,500,000 in total settlement value, with at least $20,000,000 paid in cash and the remainder paid in either additional cash or shares of freely-tradeable Myriad common stock (the "Settlement"). The terms and provisions of the Settlement are contained in the Stipulation and Agreement of Settlement dated August 3, 2023 (the "Stipulation").[1]

This Notice is directed to you in the belief that you may be a member of the Class. If you do not meet the Class definition, or if you previously excluded yourself from the Class in connection with the Notice of Pendency of Class Action that was mailed to potential Class Members beginning in March 2022 (the "Class Notice"), this Notice does not apply to you. A list of the persons and entities who requested exclusion from the Class pursuant to the Class Notice is available at www.MyriadGeneticsSecuritiesLitigation.com.

PLEASE READ THIS NOTICE CAREFULLY. This Notice explains important rights you may have, including the possible receipt of a payment from the Settlement. If you are a Class Member, your legal rights will be affected whether or not you act.

If you have any questions about this Notice, the proposed Settlement, or your eligibility to participate in the Settlement, please DO NOT contact the Court, the Clerk's office, Myriad, the other Defendants in the Action, or their counsel. All questions should be directed to Lead Counsel or the Claims Administrator (*see* ¶ 67 below).

1. **Description of the Action and the Class:** This Notice relates to a proposed settlement of claims in a pending securities class action brought by investors alleging, among other things, that Defendants Myriad, Mark C. Capone (Myriad's former President and Chief Executive Officer), Bryan Riggsbee (Myriad's Chief Financial Officer), and Bryan M. Dechairo (Myriad's former Executive Vice President of Clinical Development) (collectively, "Defendants") violated the federal securities laws by making false and misleading statements to investors about certain of Myriad's key products. A more detailed description of the Action is set forth in ¶¶ 11-23 below. The proposed Settlement, if approved by the Court, will settle claims of the Class, as defined in ¶ 24 below.

2. **Statement of the Class's Recovery:** Subject to Court approval, Lead Plaintiff, on behalf of itself and the Class, has agreed to settle the Action in exchange for $77,500,000 in total settlement value (the "Settlement Amount"), with at least $20,000,000 being paid in cash and the remainder paid in either additional cash or shares of freely-tradeable Myriad common stock (the "Settlement Shares" and, together with the total amount paid in cash (the "Cash Settlement Amount"), the "Settlement Amount"). The Net Settlement Fund (*i.e.*, the Settlement Amount plus any and all interest earned thereon (the "Settlement Fund") less (i) any Taxes; (ii) any Notice and Administration Costs; (iii) any Litigation Expenses

[1] All capitalized terms used in this Notice that are not otherwise defined herein shall have the meanings ascribed to them in the Stipulation. The Stipulation is available at www.MyriadGeneticsSecuritiesLitigation.com.

awarded by the Court; (iv) any attorneys' fees awarded by the Court; and (v) any other costs or fees approved by the Court) will be distributed in accordance with a plan of allocation that is approved by the Court. The proposed plan of allocation (the "Plan of Allocation") is set forth in Appendix A at the end of this Notice. The Plan of Allocation will determine how the Net Settlement Fund shall be allocated among eligible Class Members.

3. **Estimate of Average Amount of Recovery Per Share:** Based on Lead Plaintiff's damages expert's estimate of the number of shares of Myriad common stock purchased during the Class Period that may have been affected by the conduct at issue in the Action, and assuming that all Class Members elect to participate in the Settlement, the estimated average recovery (before the deduction of any Court-approved fees, expenses, and costs as described herein) is $1.22 per affected share of Myriad common stock. Class Members should note, however, that the foregoing average recovery is only an estimate. Some Class Members may recover more or less than this estimated amount depending on, among other factors, when and at what prices they purchased/acquired or sold their Myriad shares, and the total number and value of valid Claim Forms submitted. Distributions to Class Members will be made based on the Plan of Allocation set forth in Appendix A or such other plan of allocation as may be ordered by the Court.

4. **Average Amount of Damages Per Share:** The Parties do not agree on the average amount of damages per share that would be recoverable if Lead Plaintiff were to prevail in the Action. Among other things, Defendants do not agree with the assertion that they violated the federal securities laws or that any damages were suffered by any Class Members as a result of their conduct.

5. **Attorneys' Fees and Expenses Sought:** Court-appointed Lead Counsel, Bernstein Litowitz Berger & Grossmann LLP ("BLB&G"), with Liaison Counsel Deiss Law PC (together, "Plaintiff's Counsel"), have been prosecuting the Action on a wholly contingent basis since its inception in 2019, have not received any payment of attorneys' fees for their representation of the Class, and have advanced the funds to pay expenses necessarily incurred to prosecute the Action. Lead Counsel will apply to the Court for an award of attorneys' fees for all Plaintiff's Counsel in an amount not to exceed 19% of the Settlement Fund (in combination of cash and stock in the same proportion that the Cash Settlement Amount and the Settlement Shares comprise the Settlement Amount). In addition, Lead Counsel will apply for payment of Litigation Expenses incurred in connection with the institution, prosecution, and resolution of the Action in an amount not to exceed $1,700,000, which may include an application for reimbursement of the reasonable costs and expenses incurred by Lead Plaintiff directly related to its representation of the Class, pursuant to the Private Securities Litigation Reform Act of 1995 ("PSLRA"). Any fees and expenses awarded by the Court will be paid from the Settlement Fund. The estimated average cost for such fees and expenses, if the Court approves Lead Counsel's fee and expense application, is $0.26 per affected share of Myriad common stock.

6. **Identification of Attorneys' Representative:** Lead Plaintiff and the Class are represented by Abe Alexander of Bernstein Litowitz Berger & Grossmann LLP, 1251 Avenue of the Americas, 44th Floor, New York, NY 10020; 1-800-380-8496; settlements@blbglaw.com. Further information regarding the Action, the Settlement, and this Notice may be obtained by contacting Lead Counsel or the Claims Administrator at: Myriad Genetics Securities Litigation, c/o A.B. Data, Ltd., P.O. Box 170500, Milwaukee, WI 53217; 877-331-0728; info@MyriadGeneticsSecuritiesLitigation.com; www.MyriadGeneticsSecuritiesLitigation.com. **Please do not contact the Court regarding this Notice.**

7. **Reasons for the Settlement:** Lead Plaintiff's principal reason for entering into the Settlement is the substantial and certain recovery that the Settlement provides for the Class without the risk or the delays inherent in further litigation. Moreover, the substantial recovery provided under the Settlement must be considered against the significant risk that a smaller recovery—or indeed no recovery at all—might be achieved after contested motions, a trial of the Action, and the likely appeals that would follow a trial. This process could be expected to last several years. Defendants, who deny that they have committed any act or omission giving rise to liability under the federal securities laws, are entering into the Settlement solely to eliminate the uncertainty, burden, and expense of further litigation.

YOUR LEGAL RIGHTS AND OPTIONS IN THE SETTLEMENT:	
SUBMIT A CLAIM FORM *POSTMARKED* (IF MAILED), OR *SUBMITTED ONLINE*, NO LATER THAN JANUARY 16, 2024.	This is the only way to be eligible to receive a payment from the Settlement Fund. If you are a Class Member, you will be bound by the Settlement as approved by the Court and you will give up any Released Plaintiff's Claims (defined in ¶ 33 below) that you have against Defendants and the other Defendants' Releasees (defined in ¶ 34 below), so it is in your interest to submit a Claim Form.

OBJECT TO THE SETTLEMENT BY SUBMITTING A WRITTEN OBJECTION SO THAT IT IS *RECEIVED* NO LATER THAN NOVEMBER 17, 2023.	If you do not like the proposed Settlement, the proposed Plan of Allocation, or the request for attorneys' fees and Litigation Expenses, you may write to the Court and explain why you do not like them. You cannot object to the Settlement, the Plan of Allocation, or the fee and expense request unless you are a Class Member.
GO TO A HEARING ON DECEMBER 8, 2023, AT 2:00 P.M. MST, AND FILE A NOTICE OF INTENTION TO APPEAR SO THAT IT IS *RECEIVED* NO LATER THAN NOVEMBER 17, 2023.	Filing a written objection and notice of intention to appear by November 17, 2023 allows you to speak in Court, at the discretion of the Court, about the fairness of the proposed Settlement, the Plan of Allocation, and/or the request for attorneys' fees and Litigation Expenses. By Order of the Court, the December 8, 2023 hearing will be conducted by video conference (*see* ¶¶ 53-54 below). If you submit a written objection, you may (but you do not have to) participate in the hearing and, at the discretion of the Court, speak to the Court about your objection.
DO NOTHING.	If you are a Class Member and you do not submit a valid Claim Form, you will not be eligible to receive any payment from the Settlement Fund. You will, however, remain a Class Member, which means that you give up your right to sue about the claims that are resolved by the Settlement and you will be bound by any judgments or orders entered by the Court in the Action.

These rights and options—and the deadlines to exercise them—are further explained in this Notice. Please Note: The date and time of the Settlement Hearing—currently scheduled for December 8, 2023, at 2:00 p.m. MST—is subject to change without further notice to the Class. By Order of the Court, the hearing is scheduled to be conducted by video conference. If you plan to attend the hearing, you should check the case website, www.MyriadGeneticsSecuritiesLitigation.com, or with Lead Counsel as set forth above to confirm that no change to the date and/or time of the hearing has been made.

WHAT THIS NOTICE CONTAINS

WHY DID I GET THIS NOTICE?

8. The Court directed that this Notice be mailed to you because you or someone in your family or an investment account for which you serve as a custodian may have purchased or acquired Myriad common stock during the Class Period. The Court has directed us to send you this Notice because, as a potential Class Member, you have a right to know about your options before the Court rules on the proposed Settlement. If the Court approves the Settlement and the Plan

of Allocation (or some other plan of allocation), the Claims Administrator selected by Lead Plaintiff and approved by the Court will make payments pursuant to the Settlement after any objections and appeals are resolved.

9. The purpose of this Notice is to inform you of the terms of the proposed Settlement of the Action and of a hearing to be held by the Court to consider the fairness, reasonableness, and adequacy of the Settlement, the proposed Plan of Allocation, and the motion by Lead Counsel for an award of attorneys' fees and payment of Litigation Expenses (the "Settlement Hearing"). *See* ¶¶ 53-54 below for details about the Settlement Hearing, including the date and location of the hearing.

10. The issuance of this Notice is not an expression of any opinion by the Court concerning the merits of any claim in the Action, and the Court still must decide whether to approve the Settlement. If the Court approves the Settlement and a plan of allocation, then payments to Authorized Claimants will be made after any appeals are resolved and after the completion of all claims processing. Please be patient, as this process can take some time to complete.

WHAT IS THIS CASE ABOUT?

11. Myriad is a molecular diagnostic company that develops and markets genetic lab tests that screen for the presence of certain traits or diseases. Lead Plaintiff alleged in the Action that Defendants made misstatements and omissions to investors about certain of Myriad's key products, which caused the price of Myriad common stock to be artificially inflated during the Class Period and caused damages to investors when they ultimately learned the truth about Defendants' prior misrepresentations.

12. The Action was commenced on September 27, 2019. On December 23, 2019, the Court appointed Los Angeles Fire and Police Pensions as Lead Plaintiff in the Action and approved Los Angeles's selection of BLB&G as Lead Counsel.

13. On February 21, 2020, Lead Plaintiff filed the Amended Class Action Complaint (the "Complaint") alleging violations of Sections 10(b), 20(a), and 20A of the Securities Exchange Act of 1934 (the "Exchange Act"), and U.S. Securities and Exchange Commission Rule 10b-5 promulgated thereunder, claiming that Defendants defrauded investors in Myriad common stock through their misrepresentations about two of Myriad's most significant products during the Class Period, a pharmacogenomic test called GeneSight and genetic tests for hereditary cancer. The Complaint alleged that Defendants made false and misleading statements concerning GeneSight's efficacy, including concerning: (1) the test's ability to predict patient response to medications used to treat Attention Deficit Disorder ("ADHD") and pain; (2) the results of a clinical study of the GeneSight product in patients with major depressive disorder, called the GUIDED study; (3) the Company's efforts to publish data from the GUIDED study; and (4) Myriad's interactions with the FDA concerning GeneSight. The Complaint also alleged that Defendants materially overstated Myriad's revenue attributable to its hereditary cancer tests. The Complaint further alleged that investors learned the truth about Defendants' misrepresentations through various corrective disclosures, including, without limitation, on August 13, 2019, when Myriad announced the withdrawal of components of GeneSight and that "the FDA [had] requested changes to the GeneSight test offering"; on November 4, 2019, when Myriad revealed that it had overstated revenue attributable to its hereditary cancer tests and announced further declines in GeneSight revenue; and on February 6, 2020, when Myriad announced the resignation of its CEO, Defendant Mark C. Capone, and that Myriad was experiencing challenges in obtaining payor reimbursement for GeneSight.

14. The Complaint further asserted claims under Section 20A of the Exchange Act for insider trading against Defendants Capone and Riggsbee. Specifically, the Complaint asserted that Defendants Capone and Riggsbee sold Myriad stock while in possession of material non-public information concerning GeneSight and the hereditary cancer tests, and that Lead Plaintiff and members of the Class purchased Myriad stock contemporaneously with those sales.

15. On May 5, 2020, Defendants filed a motion to dismiss the Complaint (the "Motion to Dismiss"). On March 16, 2021, the Court entered its Memorandum Decision and Order denying Defendants' Motion to Dismiss. On May 17, 2021, Defendants filed their Answer to the Complaint.

16. Fact Discovery commenced on March 16, 2021. Pursuant to detailed document requests and substantial negotiations, Defendants and third parties produced nearly half a million documents, totaling more than 1.7 million pages, to Lead Plaintiff. Lead Plaintiff produced thousands of pages worth of documents to Defendants. Lead Plaintiff also served subpoenas on and negotiated document discovery with 36 third parties, including the United States Food and Drug Administration. In addition, Lead Plaintiff deposed 22 fact witnesses, including Defendants Capone, Dechairo, and

Riggsbee, other senior Company executives and scientists, and significant third-party witnesses. In addition, Lead Plaintiff's representative appeared for a full-day deposition noticed by Defendants. The Parties also served and responded to interrogatories and requests for admission and exchanged numerous letters, including disputes between the Parties and with nonparties, concerning discovery issues. While the Parties were able to resolve many of those disputes, several were raised to the Court, and in certain instances the Court conducted hearings on those disputes.

17. On June 7, 2021, while discovery was ongoing, Lead Plaintiff filed its motion for class certification (the "Class Certification Motion"). On December 13, 2021, the Court entered its Memorandum Decision and Order granting Lead Plaintiff's Class Certification Motion (the "Class Certification Order"). The Class Certification Order certified the Class as defined under ¶ 24 below; appointed Los Angeles as Class Representative; and appointed BLB&G as Class Counsel in the Action.

18. Beginning on March 15, 2022, the Class Notice was mailed to potential Class Members. The Class Notice provided Class Members with the opportunity to request exclusion from the Class, explained that right, and set forth the deadline and procedures for doing so. The Class Notice informed Class Members that they may not have another opportunity to seek exclusion from the Class at the time of any settlement or judgment in the Action, and the Class Notice may be their only chance to opt out of the lawsuit. The Class Notice also informed Class Members that if they chose to stay in the lawsuit as a member of the Class, they would "be bound by any settlement or judgment in this Action," including "any unfavorable judgment which may be rendered in favor of Defendants." The deadline for requesting exclusion from the Class pursuant to the Class Notice was May 16, 2022. A list of the persons and entities who requested exclusion pursuant to the Class Notice is available at www.MyriadGeneticsSecuritiesLitigation.com.

19. Pursuant to the Court-ordered schedule, the Parties were due to exchange opening expert reports on June 15, 2023. Lead Plaintiff obtained, and was prepared to serve, reports authored by five prominent experts in the fields of psychiatry, pharmacogenomics, statistics, financial economics, and accounting. Defendants also engaged several experts and were prepared to serve an opening report.

20. In February 2023, the Parties agreed to engage in private mediation in an attempt to resolve the Action and retained former United States District Court Judge Layn R. Phillips and Michelle Yoshida to act as mediators (the "Mediators"). On May 1, 2023, Lead Counsel and Defendants' Counsel participated in a full-day mediation session before the Mediators. In advance of that session, the Parties submitted detailed opening and reply mediation statements to the Mediators, together with numerous supporting exhibits, which addressed both liability and damages issues. The session ended without any agreement being reached. The Parties continued discussions with the Mediators following the session exploring the possibility of a settlement.

21. After additional negotiations, the Mediators issued a joint mediators' recommendation to settle the Action, which both Parties accepted on a "double blind" basis on June 19, 2023. The Parties thereafter negotiated a term sheet to memorialize their agreement-in-principle to settle the Action, which was executed by the Parties on July 3, 2023 (the "Term Sheet"). The Term Sheet set forth, among other things, the Parties' agreement to settle and release all claims against Defendants in the Action in return for $77,500,000 in total settlement value—with at least $20,000,000 paid in cash and the remainder paid in either additional cash or shares of freely-tradeable Myriad common stock—subject to certain terms and conditions and the execution of a customary "long form" stipulation and agreement of settlement and related papers.

22. After additional negotiations regarding the specific terms of their agreement, the Parties entered into the Stipulation on August 3, 2023. The Stipulation, which reflects the final and binding agreement between the Parties on the terms and conditions of the Settlement, can be viewed at www.MyriadGeneticsSecuritiesLitigation.com.

23. On August 25, 2023, the Court preliminarily approved the Settlement, authorized this Notice to be disseminated to potential Class Members, and scheduled the Settlement Hearing to consider whether to grant final approval to the Settlement.

HOW DO I KNOW IF I AM AFFECTED BY THE SETTLEMENT? WHO IS INCLUDED IN THE CLASS?

24. If you are a member of the Class, you are subject to the Settlement. The Class means the class certified by the Court's Order dated December 13, 2021. The Class consists:

All persons who purchased or acquired Myriad common stock from August 9, 2017 until February 6, 2020, inclusive (the "Class Period"), and were damaged thereby.

Excluded from the Class by definition are: (a) Defendants; (b) any current or former officers or directors of Myriad; (c) the immediate family members of any Defendant or any current or former officer or director of Myriad; and (d) any entity that any Defendant owns or controls or owned or controlled during the Class Period. Also excluded from the Class are all persons and entities who excluded themselves by submitting a request for exclusion from the Class pursuant to the Class Notice. A list of all persons and entities who submitted a request for exclusion from the Class pursuant to the Class Notice is available at www.MyriadGeneticsSecuritiesLitigation.com.

PLEASE NOTE: Receipt of this Notice does not mean that you are a Class Member or that you will be entitled to a payment from the Settlement.

If you are a Class Member and you wish to be eligible to receive a payment from the Settlement, you are required to submit the Claim Form that is being distributed with this Notice, and the required supporting documentation as set forth in the Claim Form, *postmarked* (if mailed), or *submitted online* through the case website, www.MyriadGeneticsSecuritiesLitigation.com, no later than January 16, 2024.

WHAT ARE LEAD PLAINTIFF'S REASONS FOR THE SETTLEMENT?

25. Lead Plaintiff and Lead Counsel believe that the claims asserted against Defendants have merit. They recognize, however, the expense and length of continued proceedings necessary to pursue their claims against Defendants through summary judgment, trial, and appeals, as well as the very substantial risks they would face in establishing liability and damages. For example, those risks include challenges in establishing that Defendants' statements about GeneSight and its hereditary cancer tests—statements involving complex scientific facts or the application of complex accounting rules—were false or misleading and that the Individual Defendants knew that the statements were false or were reckless in making them. Defendants have contended—and would have contended at summary judgment or trial—that their statements were neither false nor misleading and were supported by contemporaneous facts.

26. Lead Plaintiff also faced further risks relating to proof of loss causation and damages. Defendants would have contended that Lead Plaintiff could not establish a causal connection between the alleged misrepresentations and several of the alleged corrective disclosures that Lead Plaintiff contended caused investors' losses allegedly suffered, as required by law. If Defendants had succeeded on one or more of their loss causation and damages arguments, even if Lead Plaintiff had established liability for its securities fraud claims, the recoverable damages could have been substantially less than the amount provided in the Settlement or even zero.

27. In light of these risks, the amount of the Settlement, and the immediacy of recovery to the Class, Lead Plaintiff and Lead Counsel believe that the proposed Settlement is fair, reasonable, and adequate, and in the best interests of the Class. Lead Plaintiff and Lead Counsel believe that the Settlement provides a substantial benefit to the Class, namely $77,500,000 (in cash and Settlement Shares, less the various deductions described in this Notice), as compared to the risk that the claims in the Action would produce a smaller recovery, or no recovery, and not until after summary judgment, trial, and appeals, possibly years in the future.

28. Defendants have denied the claims asserted against them in the Action and deny that the Class was harmed or suffered any damages as a result of the conduct alleged in the Action. Defendants have agreed to the Settlement solely to eliminate the burden and expense of continued litigation. Accordingly, the Settlement may not be construed as an admission of any wrongdoing by Defendants.

WHAT MIGHT HAPPEN IF THERE WERE NO SETTLEMENT?

29. If there were no Settlement and Lead Plaintiff failed to establish any essential legal or factual element of its claims against Defendants, neither Lead Plaintiff nor the other Class Members would recover anything from Defendants. Also, if Defendants were successful in proving any of their defenses, either at summary judgment, at trial, or on appeal, the Class could recover substantially less than the amount provided in the Settlement, or nothing at all.

HOW ARE CLASS MEMBERS AFFECTED BY THE SETTLEMENT?

30. As a Class Member, you are represented by Lead Plaintiff and Lead Counsel, unless you enter an appearance through counsel of your own choice at your own expense. You are not required to retain your own counsel, but if you choose to do so, such counsel must file a notice of appearance on your behalf as provided in the section entitled, "When And Where Will The Court Decide Whether To Approve The Settlement?," below.

31. If you are a Class Member and you wish to object to the Settlement, the Plan of Allocation, or Lead Counsel's application for attorneys' fees and Litigation Expenses, you may present your objections by following the instructions in the section entitled, "When And Where Will The Court Decide Whether To Approve The Settlement?," below.

32. If you are a Class Member, you will be bound by any orders issued by the Court. If the Settlement is approved, the Court will enter a judgment (the "Judgment"). The Judgment will dismiss with prejudice the claims in the Action against Defendants and will provide that, upon the Effective Date of the Settlement, Lead Plaintiff and each of the other Class Members, on behalf of themselves, and their respective heirs, executors, administrators, trustees, predecessors, successors, and assigns in their capacities as such only, will have, fully, finally, and forever compromised, settled, released, resolved, relinquished, waived, and discharged any or all of the Released Plaintiff's Claims (as defined in ¶ 33 below) against Defendants and the other Defendants' Releasees (as defined in ¶ 34 below), and will forever be barred and enjoined from prosecuting any or all of the Released Plaintiff's Claims against the Defendants' Releasees.

33. "Released Plaintiff's Claims" means, to the fullest extent that the law permits their release, of and from all claims, suits, actions, appeals, causes of action, allegations, damages (including, without limitation, compensatory, punitive, exemplary, rescissory, direct, consequential or special damages, and restitution and disgorgement), demands, rights, debts, penalties, costs, expenses, fees, injunctive relief, attorneys' fees, expert or consulting fees, prejudgment interest, indemnities, duties, liabilities, losses, or obligations of every nature and description whatsoever, whether or not concealed or hidden, fixed or contingent, direct or indirect, anticipated or unanticipated, asserted or that could have been asserted by Plaintiff or all Class Members, whether legal, contractual, rescissory, statutory, or equitable in nature, whether arising under federal, state, common or foreign law, including known claims and Unknown Claims, that are based upon, arise from, or relate to (a) the purchase, acquisition, or trading of any Myriad common stock during the Class Period; and (b) the allegations, transactions, facts, matters or occurrences, representations, or omissions involved, set forth, or referred to in the Complaint or any other complaints filed in this Action. Released Plaintiff's Claims do not cover, include, or release: (i) claims asserted in any ERISA or derivative action, including without limitation the claims asserted in *In re Myriad Genetics, Inc. Stockholder Derivative Litigation*, C.A. No. 2021-0686-SG (Del. Ch.) and *Marcey v. Capone*, 2021-cv-01320 (D. Del.), or any cases consolidated into those actions; (ii) claims by any governmental entity that arise out of any governmental investigation of Defendants relating to the conduct alleged in the Action; (iii) claims relating to the enforcement of the Settlement; or (iv) claims of the persons and entities who submitted a request for exclusion from the Class in connection with the Class Notice (as set forth in Appendix 1 to the Stipulation) ("Excluded Plaintiff's Claims").

34. "Defendants' Releasees" means Defendants and their current and former parents, affiliates, subsidiaries, controlling persons, associates, related or affiliated entities, and each and all of their respective past or present officers, directors, employees, partners, members, principals, agents, representatives, attorneys, auditors, financial or investment advisors, consultants, underwriters, accountants, investment bankers, commercial bankers, entities providing fairness opinions, advisors, insurers, reinsurers, heirs, spouses, executors, trustees, general or limited partners or partnerships, limited liability companies, members, joint ventures, personal or legal representatives, estates, administrators, predecessors, successors or assigns, or any member of their immediate family, marital communities, or any trusts for which any of them are trustees, settlers, or beneficiaries or anyone acting or purporting to act for or on behalf of them or their successors or collectively.

35. "Unknown Claims" means any Released Plaintiff's Claims which Lead Plaintiff or any other Class Member does not know or suspect to exist in his, her, or its favor at the time of the release of such claims, and any Released Defendants' Claims which any Defendant does not know or suspect to exist in his or its favor at the time of the release of such claims, which, if known by him, her, or it, might have affected his, her, or its decision(s) with respect to this Settlement. With respect to any and all Released Claims, the Parties stipulate and agree that, upon the Effective Date of the Settlement, Lead Plaintiff and Defendants shall expressly waive, and each of the other Class Members shall be deemed to have waived, and by operation of the Judgment or, if applicable, the Alternate Judgment, shall have expressly waived, any and

all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law or foreign law, which is similar, comparable, or equivalent to California Civil Code §1542, which provides:

> A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

Lead Plaintiff, any Class Member, or any Defendant may hereafter discover facts, legal theories, or authorities in addition to or different from those which any of them now knows or believes to be true with respect to the subject matter of the Released Plaintiff's Claims and the Released Defendants' Claims, but the Parties shall expressly, fully, finally, and forever waive, compromise, settle, discharge, extinguish, and release, and each Class Member shall be deemed to have waived, compromised, settled, discharged, extinguished, and released, and upon the Effective Date and by operation of the Judgment or, if applicable, the Alternate Judgment, shall have waived, compromised, settled, discharged, extinguished, and released, fully, finally, and forever, any and all Released Plaintiff's Claims and Released Defendants' Claims, as applicable, known or unknown, suspected or unsuspected, contingent or absolute, accrued or unaccrued, apparent or unapparent, which now exist, or heretofore existed, or may hereafter exist, without regard to the subsequent discovery or existence of such different or additional facts, legal theories, or authorities. Lead Plaintiff and Defendants acknowledge, and each of the other Class Members shall be deemed by operation of law to have acknowledged, that the foregoing waiver was separately bargained for and a key element of the Settlement.

36. The Judgment will also provide that, upon the Effective Date of the Settlement, Defendants, on behalf of themselves, and their respective heirs, executors, administrators, trustees, predecessors, successors, and assigns in their capacities as such only, will have, fully, finally, and forever compromised, settled, released, resolved, relinquished, waived, and discharged any or all of the Released Defendants' Claims (as defined in ¶ 37 below) against Lead Plaintiff and the other Plaintiff's Releasees (as defined in ¶ 38 below), and will forever be barred and enjoined from prosecuting any or all of the Released Defendants' Claims against the Plaintiff's Releasees.

37. "Released Defendants' Claims" means all claims and causes of action of every nature and description, whether known claims or Unknown Claims, whether arising under federal, state, common or foreign law, that arise out of or relate in any way to the institution, prosecution, or settlement of the claims asserted in the Action against Defendants. Released Defendants' Claims do not include: (i) claims relating to the enforcement of the Settlement; or (ii) claims against the persons and entities who submitted a request for exclusion from the Class in connection with the Class Notice (as set forth in Appendix 1 to the Stipulation) ("Excluded Defendants' Claims").

38. "Plaintiff's Releasees" means Lead Plaintiff, all other plaintiffs in the Action, all other Class Members, and Plaintiff's Counsel, and their respective current and former parents, affiliates, subsidiaries, controlling persons, associates, related or affiliated entities, and each and all of their respective past or present officers, directors, employees, partners, members, principals, agents, representatives, attorneys, auditors, financial or investment advisors, consultants, underwriters, accountants, investment bankers, commercial bankers, entities providing fairness opinions, advisors, insurers, reinsurers, heirs, spouses, executors, trustees, general or limited partners or partnerships, limited liability companies, members, joint ventures, personal or legal representatives, estates, administrators, predecessors, successors or assigns, or any member of their immediate family, marital communities, or any trusts for which any of them are trustees, settlers, or beneficiaries or anyone acting or purporting to act for or on behalf of them or their successors or collectively.

HOW DO I PARTICIPATE IN THE SETTLEMENT? WHAT DO I NEED TO DO?

39. To be eligible for a payment from the Settlement, you must be a member of the Class and you must timely complete and return the Claim Form with adequate supporting documentation ***postmarked*** **(if mailed), or** ***submitted online*** **at www.MyriadGeneticsSecuritiesLitigation.com, no later than January 16, 2024**. A Claim Form is included with this Notice, or you may obtain one from the case website, www.MyriadGeneticsSecuritiesLitigation.com. You may also request that a Claim Form be mailed to you by calling the Claims Administrator toll free at 877-331-0728 or by emailing the Claims Administrator at info@MyriadGeneticsSecuritiesLitigation.com. **Please retain all records of your ownership of and transactions in Myriad common stock, as they will be needed to document your Claim.** The Parties and Claims Administrator do not have information about your transactions in Myriad common stock. If you do not submit a timely and valid Claim Form, you will not be eligible to share in the Net Settlement Fund.

HOW MUCH WILL MY PAYMENT BE?

40. At this time, it is not possible to make any determination as to how much any individual Class Member may receive from the Settlement.

41. Pursuant to the Settlement, Myriad has agreed to pay or caused to be paid $77,500,000 in total settlement value, with at least $20,000,000 being paid in cash and the remainder being paid either in either additional cash or Settlement Shares.[2]

42. The "Settlement Amount" (that is, the Cash Settlement Amount plus the Settlement Shares), plus any interest earned thereon, is referred to as the "Settlement Fund." If the Settlement is approved by the Court and the Effective Date occurs, the "Net Settlement Fund" (that is, the Settlement Fund (including, as applicable, the net cash proceeds from the sale of any Class Settlement Shares, as well as accrued interest thereon, or the Class Settlement Shares themselves) less: (i) any Taxes; (ii) any Notice and Administration Costs; (iii) any Litigation Expenses awarded by the Court; (iv) any attorneys' fees awarded by the Court; and (v) any other costs or fees approved by the Court) will be distributed to Class Members who submit valid Claim Forms, in accordance with the proposed Plan of Allocation or such other plan of allocation as the Court may approve.

43. The Net Settlement Fund will not be distributed unless and until the Court has approved the Settlement and a plan of allocation, and the time for any petition for rehearing, appeal, or review, whether by *certiorari* or otherwise, has expired.

44. Neither Defendants nor any other person or entity that paid any portion of the Settlement Amount on their behalf are entitled to get back any portion of the Settlement Fund once the Court's order or judgment approving the Settlement becomes Final. Defendants will not have any liability, obligation, or responsibility for the administration of the Settlement, the disbursement of the Net Settlement Fund, or the plan of allocation.

45. Approval of the Settlement is independent from approval of a plan of allocation. Any determination with respect to a plan of allocation will not affect the Settlement, if approved.

46. Unless the Court otherwise orders, any Class Member who or which fails to submit a Claim Form ***postmarked* (if mailed), *or submitted online*, on or before January 16, 2024,** shall be fully and forever barred from receiving payments pursuant to the Settlement but will in all other respects remain a member of the Class and be subject to the provisions of the Stipulation, including the terms of any Judgment entered and the releases given. This means that each Class Member releases, and will be barred and enjoined from prosecuting, the Released Plaintiff's Claims (as defined in ¶ 33 above) against the Defendants' Releasees (as defined in ¶ 34 above) whether or not such Class Member submits a Claim Form.

47. Participants in, and beneficiaries of, a Myriad employee benefit plan covered by ERISA ("ERISA Plan") should NOT include any information relating to their transactions in Myriad common stock held through the ERISA Plan in any Claim Form that they submit in this Action. They should include ONLY those shares that they purchased or acquired outside of the ERISA Plan. Claims based on any ERISA Plan's purchases or acquisitions of Myriad common stock during the Class Period may be made by the plan's trustees.

48. The Court has reserved jurisdiction to allow, disallow, or adjust on equitable grounds the Claim of any Class Member. Each Claimant shall be deemed to have submitted to the jurisdiction of the Court with respect to his, her, their, or its Claim Form.

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[2] The number of Settlement Shares that Myriad will issue will be calculated based on the Volume-Weighted Average Price of Myriad common stock for the ten consecutive trading days immediately preceding the date of the Settlement Hearing. The Settlement Shares, less any Settlement Shares awarded to Plaintiff's Counsel as attorneys' fees, are referred to as the "Class Settlement Shares." Pursuant to the Stipulation, Lead Counsel has the right to decide, in its sole discretion, whether to: (i) distribute the Class Settlement Shares to Class Members who submit Claims that are approved for payment by the Court ("Authorized Claimants") or (ii) sell all or any portion of the Class Settlement Shares and distribute the net cash proceeds from the sale of the shares to Authorized Claimants. Please Note: Once the shares are issued, the value of the Class Settlement Shares may fluctuate. No representation can be made as to what the value of the Class Settlement Shares will be at the time the shares are distributed or, if applicable, sold for the benefit of Class Members.

49. Only Class Members will be eligible to share in the distribution of the Net Settlement Fund. Persons and entities that are excluded from the Class by definition or that previously excluded themselves from the Class pursuant to request will not be eligible for a payment and should not submit Claim Forms. The only security that is included in the Settlement is publicly traded Myriad common stock.

50. **Appendix A to this Notice sets forth the Plan of Allocation for allocating the Net Settlement Fund among Authorized Claimants, as proposed by Lead Plaintiff. At the Settlement Hearing, Lead Plaintiff will request that the Court approve the Plan of Allocation. The Court may modify the Plan of Allocation, or approve a different plan of allocation, without further notice to the Class.**

WHAT PAYMENT ARE THE ATTORNEYS FOR THE CLASS SEEKING? HOW WILL THE LAWYERS BE PAID?

51. Plaintiff's Counsel have not received any payment for their services in pursuing claims against Defendants on behalf of the Class, nor have Plaintiff's Counsel been paid for their litigation expenses. Lead Counsel will apply to the Court for an immediate award of attorneys' fees on behalf of all Plaintiff's Counsel in an amount not to exceed 19% of the Settlement Fund (in combination of cash and stock in the same proportion that the Cash Settlement Amount and the Settlement Shares comprise the Settlement Amount). At the same time, Lead Counsel also intends to apply for payment of Plaintiff's Counsel's Litigation Expenses from the Settlement Fund in an amount not to exceed $1,700,000, which amount may include an application for reimbursement of the reasonable costs and expenses incurred by Lead Plaintiff directly related to its representation of the Class, pursuant to the PSLRA. The Court will determine the amount of any award of attorneys' fees or Litigation Expenses. Any award of attorneys' fees and Litigation Expenses, including any reimbursement of costs and expenses to Lead Plaintiff, will be paid from the Settlement Fund at the time of award by the Court and prior to allocation and payment to Authorized Claimants. ***Class Members are not personally liable for any such fees or expenses.***

WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT? DO I HAVE TO COME TO THE HEARING? MAY I SPEAK AT THE HEARING IF I DON'T LIKE THE SETTLEMENT?

52. **Class Members do not need to attend the Settlement Hearing. The Court will consider any submission made in accordance with the provisions below even if a Class Member does not attend the hearing. You can participate in the Settlement without attending the Settlement Hearing.**

53. **Please Note**: The date and time of the Settlement Hearing may change without further written notice to the Class. By Order of the Court, the Settlement Hearing is scheduled to be conducted by video conference. **It is important that you monitor the Court's docket and the case website, www.MyriadGeneticsSecuritiesLitigation.com. Any updates regarding the Settlement Hearing, including any changes to the date or time of the hearing or updates regarding remote or in-person appearances at the hearing, will be posted to the case website, www.MyriadGeneticsSecuritiesLitigation.com. If the Court requires or allows Class Members to participate in the Settlement Hearing by telephone or video conference, the information for accessing the telephone or video conference will be posted to the case website, www.MyriadGeneticsSecuritiesLitigation.com.**

54. The Settlement Hearing will be held on **December 8, 2023, at 2:00 p.m. MST**, before the Honorable Jill N. Parrish, by video conference, for the following purposes: (a) to determine whether the proposed Settlement on the terms and conditions provided for in the Stipulation is fair, reasonable, and adequate to the Class, and should be finally approved by the Court; (b) to determine whether a Judgment, substantially in the form attached as Exhibit B to the Stipulation, should be entered dismissing the Action with prejudice against Defendants and granting the Releases specified and described in the Stipulation (and in this Notice); (c) to determine whether the terms and conditions of the issuance of the Settlement Shares, which shares are to be issued pursuant to the exemption from registration requirements under Section 3(a)(10) of the Securities Act of 1933, are fair to all persons and entities to whom the shares will be issued; (d) to determine whether the proposed Plan of Allocation for the proceeds of the Settlement is fair and reasonable and should be approved; (e) to determine whether the motion by Lead Counsel for an award of attorneys' fees and Litigation Expenses should be approved; and (f) to consider any other matters that may properly be brought before the Court in connection with the Settlement. The Court reserves the right to approve the Settlement, the Plan of Allocation, and Lead

Counsel's motion for attorneys' fees and Litigation Expenses, and/or consider any other matter related to the Settlement at or after the Settlement Hearing without further notice to Class Members.

55. Any Class Member may object to the Settlement, the proposed Plan of Allocation, or Lead Counsel's motion for attorneys' fees and Litigation Expenses. Objections must be in writing. To object, you must file any written objection, together with copies of all other papers and briefs supporting the objection, with the Clerk's Office at the United States District Court for the District of Utah at the address set forth below **on or before November 17, 2023**. You must also serve the papers on Lead Counsel and on Representative Defendants' Counsel at the addresses set forth below so that the papers are ***received*** **on or before November 17, 2023**.

Clerk's Office:	United States District Court District of Utah Orrin G. Hatch U.S. Courthouse 351 South West Temple Street Salt Lake City, UT 84101
Lead Counsel:	Bernstein Litowitz Berger & Grossmann LLP Abe Alexander 1251 Avenue of the Americas, 44th Floor New York, NY 10020
Representative Defendants' Counsel:	Skadden, Arps, Slate, Meagher, and Flom LLP Scott D. Musoff One Manhattan West New York, NY 10001

56. Any objections, filings, and other submissions by the objecting Class Member must (a) identify the case name and case number, *In re Myriad Genetics, Inc. Securities Litigation*, Case Number 2:19-cv-00707-JNP-DBP (D. Utah); (b) state the name, address, and telephone number of the person or entity objecting; (c) be signed by the objector (even if the objector is represented by counsel); (d) state with specificity the grounds for the Class Member's objection, including any legal and evidentiary support the Class Member wishes to bring to the Court's attention and whether the objection applies only to the objector, to a specific subset of the Class, or to the entire Class; and (e) include documents sufficient to provide membership in the Class, including documents showing the number of shares of Myriad common stock that the objecting Class Member (1) owned as of the opening of trading on August 9, 2017 and (2) purchased/acquired and/or sold during the period from August 9, 2017 until February 6, 2020, inclusive, as well as the dates, number of shares, and prices of each such purchase/acquisition and sale transaction. The documentation establishing membership in the Class must consist of copies of brokerage confirmation slips or monthly brokerage account statements, or an authorized statement from the objector's broker containing the transactional and holding information found in a broker confirmation slip or account statement. Lead Counsel is authorized to request from any objector additional transaction information or documentation regarding his, her, their, or its holdings and trading in Myriad common stock.

57. You may not object to the Settlement, the Plan of Allocation, or Lead Counsel's motion for attorneys' fees and Litigation Expenses if you previously excluded yourself from the Class or if you are not a member of the Class.

58. You may file a written objection without having to appear at the Settlement Hearing. You may not, however, appear at the Settlement Hearing to present your objection unless you first file a written objection in accordance with the procedures described above, unless the Court orders otherwise.

59. If you wish to be heard orally at the hearing in opposition to the approval of the Settlement, the Plan of Allocation, or Lead Counsel's motion for attorneys' fees and Litigation Expenses, assuming you timely file a written objection as described above, you must also file a notice of appearance with the Clerk's Office and serve it on Lead Counsel and on Representative Defendants' Counsel at the addresses set forth in ¶ 55 above so that it is ***received*** **on or before November 17, 2023**. Persons who intend to object and desire to present evidence at the Settlement Hearing must include in their written objection or notice of appearance the identity of any witnesses they may call to testify and exhibits they intend to introduce into evidence at the hearing. Objectors who intend to appear at the Settlement Hearing through counsel must also identify that counsel by name, address, and telephone number. It is within the Court's discretion to allow appearances at the Settlement Hearing either by telephone or videoconference or in person, with or without the filing of written objections.

60. You are not required to hire an attorney to represent you in making written objections or in appearing at the Settlement Hearing. However, if you decide to hire an attorney, it will be at your own expense, and that attorney must file a notice of appearance with the Court and serve it on Lead Counsel and on Representative Defendants' Counsel at the addresses set forth in ¶ 55 above so that the notice is ***received*** **on or before November 17, 2023**.

61. The Settlement Hearing may be adjourned by the Court without further written notice to the Class. If you intend to attend the Settlement Hearing, you should confirm the date and time of the hearing as stated in ¶ 53 above.

62. **Unless the Court orders otherwise, any Class Member who does not object in the manner described above will be deemed to have waived any objection and shall be forever foreclosed from making any objection to the proposed Settlement, the proposed Plan of Allocation, or Lead Counsel's motion for attorneys' fees and Litigation Expenses. Class Members do not need to appear at the Settlement Hearing or take any other action to indicate their approval**.

WHAT IF I BOUGHT MYRIAD COMMON STOCK ON SOMEONE ELSE'S BEHALF?

63. If, in connection with the Class Notice disseminated in or around March 2022, you previously provided the names and addresses of persons and entities on whose behalf you purchased or acquired Myriad common stock during the period from August 9, 2017 until February 6, 2020, inclusive, and (i) those names and addresses remain current and (ii) you have no additional names and addresses for potential Class Members to provide to the Claims Administrator, you need do nothing further at this time. The Claims Administrator will mail a copy of this Settlement Notice and the Claim Form (the "Settlement Notice Packet") to the beneficial owners whose names and addresses were previously provided in connection with the Class Notices.

64. If you elected to mail the Class Notice directly to beneficial owners, you were advised that you must retain the mailing records for use in connection with any further notices that may be provided in the Action. If you elected this option, the Notice Administrator will forward the same number of Settlement Notice Packets to you to send to the beneficial owners. You must mail the Settlement Notice Packets to the beneficial owners no later than seven (7) calendar days after your receipt of them.

65. If you have additional name and address information, the name and address information of certain of your beneficial owners has changed, or if you need additional copies of the Settlement Notice Packet, or have not already provided information regarding persons and entities on whose behalf you purchased or acquired Myriad common stock during the period from August 9, 2017 until February 6, 2020, inclusive, you must, no later seven (7) calendar days after receipt of this Settlement Notice Packet, either: (i) send a list of the names, addresses, and, if available, email addresses of such beneficial owners to the Claims Administrator at Myriad Genetics Securities Litigation, c/o A.B. Data, Ltd., P.O. Box 170500, Milwaukee, WI 53217, in which event the Claims Administrator shall promptly mail the Settlement Notice Packet to such beneficial owners; or (ii) request from the Claims Administrator sufficient copies of the Settlement Notice Packet to forward to all such beneficial owners, which you must then mail to the beneficial owners no later seven (7) calendar days after receipt. As stated above, if you have already provided this information in connection with the Class Notice, unless that information has changed (*e.g.*, the beneficial owner has changed address), it is unnecessary to provide such information again.

66. Upon full and timely compliance with these directions, such nominees may seek reimbursement of their reasonable expenses actually incurred, by providing the Claims Administrator with proper documentation supporting the expenses for which reimbursement is sought. Copies of this Notice and the Claim Form may also be obtained from the case website, www.MyriadGeneticsSecuritiesLitigation.com, by calling the Claims Administrator toll-free at 877-331-0728, or by emailing the Claims Administrator at info@MyriadGeneticsSecuritiesLitigation.com.

CAN I SEE THE COURT FILE? WHOM SHOULD I CONTACT IF I HAVE QUESTIONS?

67. This Notice contains only a summary of the terms of the proposed Settlement. For more detailed information about the matters involved in this Action, you are referred to the papers on file in the Action, including the Stipulation, which may be inspected during regular office hours at the Office of the Clerk, United States District Court for the District of Utah, Orrin G. Hatch United States Courthouse, 351 South West Temple Street, Salt Lake City, UT 84101.

Additionally, copies of the Stipulation and any related orders entered by the Court will be posted on the case website, www.MyriadGeneticsSecuritiesLitigation.com.

All inquiries concerning this Notice and the Claim Form should be directed to:

Myriad Genetics Securities Litigation
c/o A.B. Data, Ltd.
P.O. Box 170500
Milwaukee, WI 53217

877-331-0728
info@MyriadGeneticsSecuritiesLitigation.com
www.MyriadGeneticsSecuritiesLitigation.com

and/or

Abe Alexander
Bernstein Litowitz Berger & Grossmann LLP
1251 Avenue of the Americas, 44th Floor
New York, NY 10020

1-800-380-8496
settlements@blbglaw.com

DO NOT CALL OR WRITE THE COURT, THE OFFICE OF THE CLERK OF THE COURT, DEFENDANTS, OR THEIR COUNSEL REGARDING THIS SETTLEMENT OR THE CLAIM PROCESS.

Dated: September 18, 2023

By Order of the Court
United States District Court
District of Utah

APPENDIX A

PROPOSED PLAN OF ALLOCATION

68. The objective of the Plan of Allocation is to equitably distribute the Net Settlement Fund to those Class Members who had economic losses as a result of the alleged violations of the federal securities laws. The calculations made pursuant to the Plan of Allocation are not intended to be estimates of, nor indicative of, the amounts that Class Members might have been able to recover after a trial. Nor are the calculations pursuant to the Plan of Allocation intended to be estimates of the amounts that will be paid to Authorized Claimants pursuant to the Settlement. The computations under the Plan of Allocation are only a method to weigh the claims of Claimants against one another for the purposes of making *pro rata* allocations of the Net Settlement Fund.

69. In this case, Lead Plaintiff alleges that Defendants made false statements and omitted material facts during the Class Period (i.e., August 9, 2017 until February 6, 2020, inclusive), which had the effect of artificially inflating the price of Myriad common stock. The estimated artificial inflation in Myriad common stock allegedly caused by Defendants' alleged misrepresentations and omissions is stated in Table A below. The estimated artificial inflation takes into account price changes in Myriad common stock in reaction to certain public announcements allegedly revealing the truth concerning Defendants' alleged misrepresentations and omissions, and adjusts for price changes attributable to market or industry factors. Lead Plaintiff alleges that corrective information was released to the market which partially removed the artificial inflation from the price of Myriad common stock on November 1, 2018, January 7, 2019, August 14, 2019, November 5, 2019, and February 7, 2020.

70. Recognized Loss Amounts under the Plan of Allocation are based primarily on the difference in the amount of alleged artificial inflation in the price of Myriad common stock at the time of purchase or acquisition and at the time of sale or the difference between the actual purchase/acquisition price and sale price. Accordingly, in order to have a Recognized Loss Amount under the Plan of Allocation, a Class Member who or which purchased or otherwise acquired Myriad common stock prior to the first corrective disclosure on October 31, 2018, must have held his, her, their, or its shares of Myriad common stock through at least October 31, 2018. A Class Member who or which purchased or otherwise acquired Myriad common stock from November 1, 2018 through February 6, 2020 must have held those shares through at least one of the later dates where new corrective information was released to the market and partially removed the artificial inflation from the price of Myriad common stock.

CALCULATION OF RECOGNIZED LOSS AMOUNTS AND RECOGNIZED GAIN AMOUNTS

71. Based on the formula stated below, a "Recognized Loss Amount" or "Recognized Gain Amount" will be calculated for each purchase or acquisition of Myriad common stock during the period from August 9, 2017 through and including February 6, 2020 that is listed on the Claim Form and for which adequate documentation is provided. If a Recognized Loss Amount or Recognized Gain Amount calculates to a negative number or zero under the formula below, that number will be zero.

72. For each share of Myriad common stock purchased or otherwise acquired during the period from August 9, 2017 through and including February 6, 2020, and:

(i) sold at a loss[3] before November 1, 2018, a Recognized Loss Amount will be calculated, which will be $0.00.

(ii) sold for a gain[4] before November 1, 2018, a Recognized Gain Amount will be calculated, which will be ***the lesser of*****:** (i) the amount of artificial inflation per share on the date of sale as stated in Table A minus the amount of artificial inflation per share on the date of purchase/acquisition as stated in Table A; or (ii) the sale price minus the purchase/acquisition price.

(iii) sold at a loss from November 1, 2018 through and including February 6, 2020, a Recognized Loss Amount will be calculated, which will be ***the lesser of*****:** (i) the amount of artificial inflation per share on

[3] "Sold at a loss" means the purchase/acquisition price is greater than the sale price.

[4] "Sold for a gain" means the purchase/acquisition price is less than or equal to the sale price.

the date of purchase/acquisition as stated in Table A minus the amount of artificial inflation per share on the date of sale as stated in Table A; or (ii) the purchase/acquisition price minus the sale price.

(iv) sold for a gain from November 1, 2018 through and including February 6, 2020, a Recognized Gain Amount will be calculated, which will be ***the lesser of***: (i) the amount of artificial inflation per share on the date of sale as stated in Table A minus the amount of artificial inflation per share on the date of purchase/acquisition as stated in Table A; or (ii) the sale price minus the purchase/acquisition price.

(v) sold from February 7, 2020 through and including May 6, 2020, a Recognized Loss Amount will be calculated, which will be ***the least of***: (i) the amount of artificial inflation per share on the date of purchase/acquisition as stated in Table A; (ii) the purchase/acquisition price minus the average closing price between February 7, 2020 and the date of sale as stated in Table B attached at the end of this Notice; or (iii) the purchase/acquisition price minus the sale price.

(vi) held as of the close of trading on May 6, 2020, a Recognized Loss Amount will be calculated, which will be ***the lesser of***: (i) the amount of artificial inflation per share on the date of purchase/acquisition as stated in Table A; or (ii) the purchase/acquisition price minus $15.56.[5]

ADDITIONAL PROVISIONS

73. **Calculation of Claimant's "Recognized Claim":** A Claimant's "Recognized Claim" will be the sum of his, her, their, or its Recognized Loss Amounts as calculated in ¶ 72 above *minus* the sum of his, her, their, or its Recognized Gain Amounts as calculated in ¶ 72 above. If a Recognized Claim calculates to a negative number or zero, that number will be zero.

74. **LIFO Matching:** If a Class Member made more than one purchase/acquisition or sale of Myriad common stock during the period from August 9, 2017 through and including May 6, 2020, all purchases/acquisitions and sales will be matched on a Last In, First Out ("LIFO") basis. Under the LIFO methodology, sales of Myriad common stock will be matched first against the most recent prior purchases/acquisitions in reverse chronological order, and then against any holdings at the beginning of the Class Period.

75. **"Purchase/Acquisition/Sale" Prices:** For the purposes of calculations in ¶ 72 above, "purchase/acquisition price" means the actual price paid, excluding any fees, commissions, and taxes, and "sale price" means the actual amount received, not deducting any fees, commissions, and taxes.

76. **"Purchase/Acquisition/Sale" Dates:** Purchases or acquisitions and sales of Myriad common stock will be deemed to have occurred on the "contract" or "trade" date as opposed to the "settlement" or "payment" date. The receipt or grant by gift, inheritance, or operation of law of Myriad common stock during the Class Period will not be deemed a purchase, acquisition, or sale of Myriad common stock for the calculation of a Claimant's Recognized Loss Amount or Recognized Gain Amount, nor will the receipt or grant be deemed an assignment of any claim relating to the purchase/acquisition/sale of Myriad common stock unless: (i) the donor or decedent purchased or otherwise acquired or sold such Myriad common stock during the Class Period; (ii) the instrument of gift or assignment specifically provides that it is intended to transfer such rights; and (iii) no Claim was submitted by or on behalf of the donor, on behalf of the decedent, or by anyone else with respect to such shares of Myriad common stock.

77. **Short Sales:** The date of covering a "short sale" is deemed to be the date of purchase or acquisition of the Myriad common stock. The date of a "short sale" is deemed to be the date of sale of the Myriad common stock. In accordance with the Plan of Allocation, however, the Recognized Loss Amount or Recognized Gain Amount on "short sales" and the purchases covering "short sales" is zero.

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[5] Pursuant to Section 21D(e)(1) of the Exchange Act, "in any private action arising under this title in which the plaintiff seeks to establish damages by reference to the market price of a security, the award of damages to the plaintiff shall not exceed the difference between the purchase or sale price paid or received, as appropriate, by the plaintiff for the subject security and the mean trading price of that security during the 90-day period beginning on the date on which the information correcting the misstatement or omission that is the basis for the action is disseminated to the market." Consistent with the requirements of the Exchange Act, Recognized Loss Amounts are reduced to an appropriate extent by taking into account the closing price of Myriad common stock during the "90-day look-back period," February 7, 2020 through and including May 6, 2020. The mean (average) closing price for Myriad common stock during this 90-day look-back period was $15.56.

78. **Common Stock Purchased/Sold Through the Exercise of Options:** Option contracts are not securities eligible to participate in the Settlement. With respect to Myriad common stock purchased or sold through the exercise of an option, the purchase/sale date of the security is the exercise date of the option and the purchase/sale price is the exercise price of the option.

79. **Market Gains and Losses:** The Claims Administrator will determine if the Claimant had a "Market Gain" or a "Market Loss" with respect to his, her, their, or its overall transactions in Myriad common stock during the Class Period. For purposes of making this calculation, the Claims Administrator will determine the difference between: (i) the Claimant's Total Purchase Amount[6] and (ii) the sum of the Claimant's Total Sales Proceeds[7] and the Claimant's Holding Value.[8] If the Claimant's Total Purchase Amount minus the sum of the Claimant's Total Sales Proceeds and the Holding Value is a positive number, that number will be the Claimant's Market Loss; if the number is a negative number or zero, that number will be the Claimant's Market Gain.

80. If a Claimant had a Market Gain with respect to his, her, their, or its overall transactions in Myriad common stock during the Class Period, the value of the Claimant's Recognized Claim will be zero, and the Claimant will in any event be bound by the Settlement. If a Claimant suffered an overall Market Loss with respect to his, her, their, or its overall transactions in Myriad common stock during the Class Period but that Market Loss was less than the Claimant's Recognized Claim, then the Claimant's Recognized Claim will be limited to the amount of the Market Loss.

81. **Determination of Distribution Amount:** If the sum total of Recognized Claims of all Authorized Claimants who are entitled to receive payment out of the Net Settlement Fund is greater than the Net Settlement Fund, each Authorized Claimant will receive his, her, their, or its *pro rata* share of the Net Settlement Fund. The *pro rata* share will be the Authorized Claimant's Recognized Claim divided by the total of Recognized Claims of all Authorized Claimants, multiplied by the total amount in the Net Settlement Fund.

82. If the Net Settlement Fund exceeds the sum total amount of the Recognized Claims of all Authorized Claimants entitled to receive payment out of the Net Settlement Fund, the excess amount in the Net Settlement Fund will be distributed *pro rata* to all Authorized Claimants entitled to receive payment.

83. No cash payments for less than $10.00 will be made. In the event of a distribution of Class Settlement Shares, no fractional Class Settlement Shares will be issued.

84. After the initial distribution of the Net Settlement Fund, the Claims Administrator will make reasonable and diligent efforts to have Authorized Claimants cash their distribution checks (and, as applicable, claim their Class Settlement Shares). To the extent any monies (and/or Class Settlement Shares) remain in the Net Settlement Fund after the initial distribution, if Lead Counsel, in consultation with the Claims Administrator, determines that it is cost-effective to do so, the Claims Administrator, no less than seven (7) months after the initial distribution, will conduct a re-distribution of the funds (and/or Class Settlement Shares) remaining after payment of any unpaid fees and expenses incurred in administering the Settlement, including for such re-distribution, to Authorized Claimants who have cashed their initial distributions (and claimed their initial Class Settlement Shares) and who would receive at least $10.00 from such re-distribution. Additional re-distributions to Authorized Claimants who have cashed their prior checks (and claimed their prior Class Settlement Shares) may occur thereafter if Lead Counsel, in consultation with the Claims Administrator, determines that additional re-distributions, after the deduction of any additional fees and expenses incurred in administering the Settlement, including for such re-distributions, would be cost-effective. At such time as it is determined that the re-distribution of funds (and/or Class Settlement Shares) remaining in the Net Settlement Fund is not cost-effective, the remaining balance will be contributed to non-sectarian, not-for-profit, 501(c)(3) organization(s), to be recommended by Lead Counsel and approved by the Court.

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[6] The "Total Purchase Amount" is the total amount the Claimant paid (excluding any fees, commissions, and taxes) for all shares of Myriad common stock purchased/acquired during the period from August 9, 2017 through and including February 6, 2020.

[7] The "Total Sales Proceeds" will be the total amount received (not deducting any fees, commissions, and taxes) for sales of Myriad common stock that was both purchased and sold by the Claimant during the period from August 9, 2017 through and including February 6, 2020. The LIFO method as described in ¶ 74 above will be applied for matching sales to prior purchases/acquisitions.

[8] The Claims Administrator will ascribe a "Holding Value" of $21.02 to each share of Myriad common stock purchased/acquired during the period from August 9, 2017 through and including February 6, 2020 that was still held as of the close of trading on February 6, 2020.

85. Payment pursuant to the Plan of Allocation, or such other plan of allocation as may be approved by the Court, will be conclusive against all Authorized Claimants. No person shall have any claim against Lead Plaintiff, Plaintiff's Counsel, Lead Plaintiff's damages or consulting experts, Defendants, Defendants' Counsel, or any of the other Plaintiff's Releasees or Defendants' Releasees, or the Claims Administrator or other agent designated by Lead Counsel arising from distributions made substantially in accordance with the Stipulation, the plan of allocation approved by the Court, or further Orders of the Court. Lead Plaintiff, Defendants, and their respective counsel, and all other Defendants' Releasees, shall have no responsibility or liability whatsoever for the investment or distribution of the Settlement Fund or the Net Settlement Fund; the plan of allocation; the determination, administration, calculation, or payment of any Claim or nonperformance of the Claims Administrator; the payment or withholding of Taxes; or any losses incurred in connection therewith. Class Members shall also release any and all claims arising out of, relating to, based upon, or in connection with the issuance, transfer, disposition, sale, or liquidation of the Settlement Shares made in accordance with the terms of the Stipulation.

86. The Plan of Allocation stated herein is the plan that is being proposed to the Court for its approval by Lead Plaintiff after consultation with its damages expert. The Court may approve this plan as proposed or it may modify the Plan of Allocation without further notice to the Class. Any Orders regarding any modification of the Plan of Allocation will be posted on the Settlement website, www.MyriadGeneticsSecuritiesLitigation.com.

TABLE A

Estimated Artificial Inflation in Myriad Common Stock
(August 9, 2017 through February 6, 2020)

Transaction Date Range	Artificial Inflation Per Share
August 9, 2017 through November 1, 2017	$9.20
November 2, 2017 through October 31, 2018	$20.71
November 1, 2018 through January 3, 2019	$13.96
January 4, 2019 – January 6, 2019	$15.03
January 7, 2019 through February 5, 2019	$10.78
February 6, 2019 through May 7, 2019	$14.40
May 8, 2019 through July 31, 2019	$16.10
August 1, 2019 through August 13, 2019	$31.90
August 14, 2019 through November 4, 2019	$12.97
November 5, 2019 through February 6, 2020	$2.37
February 7, 2020 or later	$0.00

TABLE B

90-Day Look-Back Table for Myriad Common Stock
(Average Closing Price: February 7, 2020 – May 6, 2020)

Date	Average Closing Price from February 7, 2020 through Date
2/7/2020	$21.02
2/10/2020	$20.42
2/11/2020	$20.19
2/12/2020	$20.13
2/13/2020	$20.01
2/14/2020	$19.91
2/18/2020	$19.87
2/19/2020	$19.89
2/20/2020	$19.89
2/21/2020	$19.86
2/24/2020	$19.76
2/25/2020	$19.61
2/26/2020	$19.48
2/27/2020	$19.32
2/28/2020	$19.21
3/2/2020	$19.14
3/3/2020	$19.00
3/4/2020	$18.92
3/5/2020	$18.83
3/6/2020	$18.71
3/9/2020	$18.54
3/10/2020	$18.39
3/11/2020	$18.20
3/12/2020	$17.97
3/13/2020	$17.78
3/16/2020	$17.52
3/17/2020	$17.25
3/18/2020	$16.99
3/19/2020	$16.82
3/20/2020	$16.68
3/23/2020	$16.54
3/24/2020	$16.46
3/25/2020	$16.40
3/26/2020	$16.35
3/27/2020	$16.29
3/30/2020	$16.24
3/31/2020	$16.18
4/1/2020	$16.10
4/2/2020	$16.03
4/3/2020	$15.94
4/6/2020	$15.92
4/7/2020	$15.90
4/8/2020	$15.86
4/9/2020	$15.84
4/13/2020	$15.83
4/14/2020	$15.82
4/15/2020	$15.79
4/16/2020	$15.76
4/17/2020	$15.75
4/20/2020	$15.74
4/21/2020	$15.71
4/22/2020	$15.68
4/23/2020	$15.66
4/24/2020	$15.64
4/27/2020	$15.63
4/28/2020	$15.62
4/29/2020	$15.62
4/30/2020	$15.62
5/1/2020	$15.60
5/4/2020	$15.60
5/5/2020	$15.58
5/6/2020	$15.56

Myriad Genetics Securities Litigation
Toll-Free Number: 877-331-0728
Email: info@MyriadGeneticsSecuritiesLitigation.com
Website: www.MyriadGeneticsSecuritiesLitigation.com

PROOF OF CLAIM AND RELEASE FORM

To be eligible to receive a share of the Net Settlement Fund in connection with the Settlement of this Action, you must complete and sign this Proof of Claim and Release Form ("Claim Form") and submit it, together with the required supporting documentation, either by mail or online.

If you choose to submit by mail, you must send the Claim Form, together with the required supporting documentation, by First-Class Mail to the address below, and your mailing must be ***postmarked*** **no later than January 16, 2024**.

Mail to:

Myriad Genetics Securities Litigation
c/o A.B. Data, Ltd.
P.O. Box 170500
Milwaukee, WI 53217

If you chose to submit the Claim Form, together with the required supporting documentation, **online**, you must do so at **www.MyriadGeneticsSecuritiesLitigation.com, no later than January 16, 2024.**

Failure to submit your Claim Form by the date specified will subject your Claim to rejection and may preclude you from being eligible to receive a payment from the Settlement.

Do not mail or deliver your Claim Form to the Court, Lead Counsel, Defendants' Counsel, or any of the Parties to the Action. Submit your Claim Form only to the Claims Administrator at the address set forth above.

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PART I – CLAIMANT INFORMATION

The Claims Administrator will use this information for all communications regarding this Claim Form. If this information changes, you MUST notify the Claims Administrator in writing at the address above. Complete names of all persons must be provided.

Beneficial Owner's Name
First Name

Last Name

Joint Beneficial Owner's Name (*if applicable*)
First Name

Last Name

If this claim is submitted for an IRA, and if you would like any check that you MAY be eligible to receive made payable to the IRA, please include "IRA" in the "Last Name" box above (*e.g., Jones IRA*)

Entity Name (*if the Beneficial Owner is not an individual*)

Name of Representative, if applicable (*executor, administrator, trustee, c/o, etc.*), if different from Beneficial Owner

Last 4 digits of Social Security Number or Taxpayer Identification Number

Street Address

City

State/Province

Zip Code

Foreign Postal Code (*if applicable*)

Foreign Country (*if applicable*)

Telephone Number (*Day*)

Telephone Number (*Evening*)

Email Address (*email address is not required, but if you provide it you authorize the Claims Administrator to use it in providing you with information relevant to this Claim*)

Type of Beneficial Owner

Specify one of the following:

☐ Individual(s) ☐ Corporation ☐ UGMA Custodian ☐ IRA

☐ Partnership ☐ Estate ☐ Trust ☐ Other (*describe*: _____)

PART II GENERAL INSTRUCTIONS

1. It is important that you completely read the Notice of (I) Proposed Settlement and Plan of Allocation; (II) Settlement Hearing; and (III) Motion for an Award of Attorneys' Fees and Litigation Expense (the "Settlement Notice") that accompanies this Claim Form, including the Plan of Allocation of the Net Settlement Fund set forth in the Settlement Notice. The Settlement Notice describes the proposed Settlement, how Class Members are affected by the Settlement, and the manner in which the Net Settlement Fund will be distributed if the Settlement and Plan of Allocation are approved by the Court. The Settlement Notice also contains the definitions of many of the defined terms (which are indicated by initial capital letters) used in this Claim Form. By signing and submitting this Claim Form, you will be certifying that you have read and that you understand the Settlement Notice, including the terms of the releases described therein and provided for herein.

2. By submitting this Claim Form, you will be making a request to share in the proceeds of the Settlement described in the Settlement Notice. If you are not a Class Member (*see* the definition of the Class on pages 5-6 of the Settlement Notice), do not submit a Claim Form. **You may not, directly or indirectly, participate in the Settlement if you are not a Class Member.** Thus, if you are excluded from the Class, any Claim Form that you submit, or that may be submitted on your behalf, will not be accepted.

3. **Submission of this Claim Form does not guarantee that you will share in the proceeds of the Settlement. The distribution of the Net Settlement Fund will be governed by the Plan of Allocation set forth in the Settlement Notice or by such other plan of allocation as the Court approves.**

4. On the Schedule of Transactions in Part III of this Claim Form, provide all of the requested information with respect to your holdings, purchases, acquisitions, and sales of Myriad common stock (including free transfers and deliveries), whether such transactions resulted in a profit or a loss. **Failure to report all transaction and holding information during the requested time periods may result in the rejection of your Claim.**

5. **Please note**: Only purchases or acquisitions of Myriad common stock from August 9, 2017 until February 6, 2020, inclusive, are potentially eligible under the Settlement and the proposed Plan of Allocation set forth in the Settlement Notice. However, under the "90-day look-back period" (described in the Plan of Allocation), sales of Myriad common stock during the period from February 7, 2020 through and including May 6, 2020 will be used for purposes of calculating Recognized Loss Amounts under the Plan of Allocation. Therefore, in order for the Claims Administrator to be able to balance your Claim, the requested purchase/acquisition information during this period must also be provided.

6. You are required to submit genuine and sufficient documentation for all of your transactions in and holdings of Myriad common stock set forth in the Schedule of Transactions in Part III. Documentation may consist of copies of brokerage confirmation slips or monthly brokerage account statements, or an authorized statement from your broker containing the transactional and holding information found in a broker confirmation slip or account statement. The Parties and the Claims Administrator do not independently have information about your investments in Myriad common stock. IF SUCH DOCUMENTS ARE NOT IN YOUR POSSESSION, PLEASE OBTAIN COPIES OF THE DOCUMENTS OR EQUIVALENT DOCUMENTS FROM YOUR BROKER. FAILURE TO SUPPLY THIS DOCUMENTATION MAY RESULT IN THE REJECTION OF YOUR CLAIM. DO NOT SEND ORIGINAL DOCUMENTS.

7. **Please keep a copy of all documents that you send to the Claims Administrator. Also, do not highlight any portion of the Claim Form or any supporting documents.**

8. Use Part I of this Claim Form entitled "CLAIMANT INFORMATION" to identify the beneficial owner(s) of Myriad common stock. The complete name(s) of the beneficial owner(s) must be entered. If you held the Myriad common stock in your own name, you were the beneficial owner as well as the record owner. If, however, your shares of Myriad common stock were registered in the name of a third party, such as a nominee or brokerage firm, you were the beneficial owner of these shares, but the third party was the record owner. The beneficial owner, not the record owner, must sign this Claim Form to be eligible to participate in the Settlement. If there were joint beneficial owners each must sign this Claim Form and their names must appear as "Claimants" in Part I of this Claim Form.

9. **One Claim should be submitted for each separate legal entity or separately managed account.** Separate Claim Forms should be submitted for each separate legal entity (e.g., an individual should not combine his or her

IRA transactions with transactions made solely in the individual's name). Generally, a single Claim Form should be submitted on behalf of one legal entity including all holdings and transactions made by that entity on one Claim Form. However, if a single person or legal entity had multiple accounts that were separately managed, separate Claims may be submitted for each such account. The Claims Administrator reserves the right to request information on all the holdings and transactions in Myriad common stock made on behalf of a single beneficial owner.

10. Agents, executors, administrators, guardians, and trustees must complete and sign the Claim Form on behalf of persons represented by them, and they must:

(a) expressly state the capacity in which they are acting;

(b) identify the name, account number, Social Security Number (or taxpayer identification number), address, and telephone number of the beneficial owner of (or other person or entity on whose behalf they are acting with respect to) the Myriad common stock; and

(c) furnish herewith evidence of their authority to bind to the Claim Form the person or entity on whose behalf they are acting. (Authority to complete and sign a Claim Form cannot be established by stockbrokers demonstrating only that they have discretionary authority to trade securities in another person's accounts.)

11. By submitting a signed Claim Form, you will be swearing that you:

(a) own(ed) the Myriad common stock you have listed in the Claim Form; or

(b) are expressly authorized to act on behalf of the owner thereof.

12. The proceeds of the proposed Settlement, if approved, may include shares of Myriad common stock (the "Settlement Shares"). The Settlement Shares, less any Settlement Shares awarded to Plaintiff's Counsel as attorneys' fees, are referred to as the "Class Settlement Shares." If Settlement Shares are issued, Lead Counsel has the right to decide, in its sole discretion, whether to: (i) sell all or any portion of the Class Settlement Shares and distribute the net cash proceeds from the sale of the shares to Claimants who submit Claims that are approved for payment by the Court ("Authorized Claimants") or (ii) distribute the Class Settlement Shares to Authorized Claimants. If distributed, the Class Settlement Shares will be posted electronically to the accounts of Authorized Claimants on the Direct Registration System ("DRS") maintained by Myriad's transfer agent. A supplemental request for information required to electronically post the Class Settlement Shares to an account on the DRS will be sent to Claimants if shares are to be distributed. Failure to provide the information requested may lead to forfeiture of the Class Settlement Shares to which you might otherwise be eligible.

13. By submitting a signed Claim Form, you will be swearing to the truth of the statements contained therein and the genuineness of the documents attached thereto, subject to penalties of perjury under the laws of the United States of America. The making of false statements, or the submission of forged or fraudulent documentation, will result in the rejection of your Claim and may subject you to civil liability or criminal prosecution.

14. Payments to eligible Authorized Claimants will be made only if the Court approves the Settlement, after any appeals are resolved, and after the completion of all claims processing.

15. **PLEASE NOTE:** As set forth in the Plan of Allocation, each Authorized Claimant shall receive his, her, or its *pro rata* share of the Net Settlement Fund. No cash payments for less than $10.00 will be made. In the event of a distribution of Settlement Shares, no fractional Settlement Shares will be issued.

16. If you have questions concerning the Claim Form, or need additional copies of the Claim Form or the Settlement Notice, you may contact the Claims Administrator, A.B. Data, Ltd., at the above address, by email at info@MyriadGeneticsSecuritiesLitigation.com, or by toll-free phone at 877-331-0728, or you can visit the case website, www.MyriadGeneticsSecuritiesLitigation.com, where copies of the Claim Form and Settlement Notice are available for downloading.

17. NOTICE REGARDING ELECTRONIC FILES: Certain Claimants with large numbers of transactions may request, or may be requested, to submit information regarding their transactions in electronic files. To obtain the ***mandatory*** electronic filing requirements and file layout, you may visit the case website at www.MyriadGeneticsSecuritiesLitigation.com or you may email the Claims Administrator's electronic filing department at info@MyriadGeneticsSecuritiesLitigation.com. **Any file not in accordance with the required electronic filing format will be subject to rejection.** The ***complete*** name of the beneficial owner of the securities must be entered where called for

(*see* ¶ 8 above). No electronic files will be considered to have been submitted unless the Claims Administrator issues an email confirming receipt of your submission. **Do not assume that your file has been received until you receive that email. If you do not receive such an email within 10 days of your submission, you should contact the electronic filing department at info@MyriadGeneticsSecuritiesLitigation.com to inquire about your file and confirm it was received.**

IMPORTANT: PLEASE NOTE

YOUR CLAIM IS NOT DEEMED FILED UNTIL YOU RECEIVE AN ACKNOWLEDGEMENT POSTCARD. THE CLAIMS ADMINISTRATOR WILL ACKNOWLEDGE RECEIPT OF YOUR CLAIM FORM BY MAIL, WITHIN 60 DAYS. IF YOU DO NOT RECEIVE AN ACKNOWLEDGEMENT POSTCARD WITHIN 60 DAYS, CALL THE CLAIMS ADMINISTRATOR TOLL FREE AT 877-331-0728.

PART III – SCHEDULE OF TRANSACTIONS IN MYRIAD COMMON STOCK

The only eligible security is the common stock of Myriad Genetics, Inc. ("Myriad") (**Ticker: NASDAQ: MYGN; CUSIP: 62855J104**). Do not include information regarding securities other than Myriad common stock. Please include proper documentation with your Claim Form as described in detail in Part II – General Instructions, ¶ 6, above.

1. HOLDINGS AS OF AUGUST 9, 2017 – State the total number of shares of Myriad common stock held as of the opening of trading on August 9, 2017. (Must be documented.) If none, write "zero" or "0." _____	Confirm Proof of Position Enclosed ○

2. PURCHASES/ACQUISITIONS FROM AUGUST 9, 2017 THROUGH MAY 6, 2020 – Separately list each and every purchase or acquisition (including free receipts) of Myriad common stock from after the opening of trading on August 9, 2017 through the close of trading on May 6, 2020.[1] (Must be documented.)

Date of Purchase/ Acquisition (List Chronologically) (Month/Day/Year)	Number of Shares Purchased/Acquired	Purchase/Acquisition Price Per Share	Total Purchase/ Acquisition Price (excluding any fees, commissions, and taxes)	Confirm Proof of Purchase/Acquisition Enclosed
/ /		$	$	○
/ /		$	$	○
/ /		$	$	○
/ /		$	$	○

3. SALES FROM AUGUST 9, 2017 THROUGH MAY 6, 2020 – Separately list each and every sale or disposition (including free deliveries) of Myriad common stock from after the opening of trading on August 9, 2017 through the close of trading on May 6, 2020. (Must be documented.)	**IF NONE, CHECK HERE** ○

Date of Sale (List Chronologically) (Month/Day/Year)	Number of Shares Sold	Sale Price Per Share	Total Sale Price (not deducting any fees, commissions, and taxes)	Confirm Proof of Sale Enclosed
/ /		$	$	○
/ /		$	$	○
/ /		$	$	○
/ /		$	$	○

4. HOLDINGS AS OF MAY 6, 2020 – State the total number of shares of Myriad common stock held as of the close of trading on May 6, 2020. (Must be documented.) If none, write "zero" or "0." _____	Confirm Proof of Position Enclosed ○

IF YOU REQUIRE ADDITIONAL SPACE FOR THE SCHEDULE ABOVE, ATTACH EXTRA SCHEDULES IN THE SAME FORMAT. PRINT THE BENEFICIAL OWNER'S FULL NAME AND LAST FOUR DIGITS OF SOCIAL SECURITY/TAXPAYER IDENTIFICATION NUMBER ON EACH ADDITIONAL PAGE. IF YOU DO ATTACH EXTRA SCHEDULES, CHECK THIS BOX. ☐

[1] **Please note**: Information requested with respect to your purchases and acquisitions of Myriad common stock from February 7, 2020 through and including May 6, 2020 is needed in order to calculate your Claim; purchases and acquisitions during this period, however, are not eligible under the Settlement. Only purchases or acquisitions of Myriad common stock from August 9, 2017 through and including February 6, 2020 are eligible under the Settlement and the proposed Plan of Allocation set forth in the Settlement Notice.

PART IV – RELEASE OF CLAIMS AND SIGNATURE

YOU MUST ALSO READ THE RELEASE AND CERTIFICATION BELOW AND SIGN ON PAGE 8 OF THIS CLAIM FORM.

I (we) hereby acknowledge that, pursuant to the terms set forth in the Stipulation and Agreement of Settlement dated August 3, 2023, without further action by anyone, upon the Effective Date of the Settlement, I (we), on behalf of myself (ourselves) and my (our) (the Claimant(s)') heirs, executors, administrators, trustees, predecessors, successors, and assigns in their capacities as such only, shall be deemed to have, and by operation of law and of the judgment shall have, fully, finally, and forever compromised, settled, released, resolved, relinquished, waived, and discharged any or all of the Released Plaintiff's Claims against Defendants and the other Defendants' Releasees, and shall forever be barred and enjoined from prosecuting any or all of the Released Plaintiff's Claims against the Defendants' Releasees.

CERTIFICATION

By signing and submitting this Claim Form, the Claimant(s) or the person(s) who represent(s) the Claimant(s) agree(s) to the release above and certifies (certify) as follows:

1. that I (we) have read and understand the contents of the Settlement Notice and this Claim Form, including the releases provided for under the Settlement, and the terms of the Plan of Allocation;

2. that the Claimant(s) is a (are) Class Member(s), as defined in the Settlement Notice, and is (are) not excluded by definition from the Class as set forth in the Settlement Notice;

3. that I (we) own(ed) the Myriad common stock identified in the Claim Form and have not assigned the claim against any of the Defendants or any of the other Defendants' Releasees to another;

4. that, in signing and submitting this Claim Form, I (we) have the authority to act on behalf of the owner(s) thereof;

5. that the Claimant(s) has (have) not submitted any other Claim covering the same purchases of Myriad common stock and knows (know) of no other person having done so on the Claimant's (Claimants') behalf;

6. that the Claimant(s) submit(s) to the jurisdiction of the Court with respect to Claimant's (Claimants') Claim and for purposes of enforcing the releases set forth herein;

7. that I (we) agree to furnish such additional information with respect to this Claim Form as Lead Counsel, the Claims Administrator, or the Court may require;

8. that the Claimant(s) waive(s) the right to trial by jury, to the extent it exists, and agree(s) to the determination by the Court of the validity or amount of this Claim, and waives any right of appeal or review with respect to such determination;

9. that I (we) acknowledge that the Claimant(s) will be bound by and subject to the terms of any judgment(s) that may be entered in the Action; and

10. that the Claimant(s) is (are) NOT subject to backup withholding under the provisions of Section 3406(a)(1)(C) of the Internal Revenue Code because (i) the Claimant(s) is (are) exempt from backup withholding or (ii) the Claimant(s) has (have) not been notified by the IRS that he, she, or it is subject to backup withholding as a result of a failure to report all interest or dividends or (iii) the IRS has notified the Claimant(s) that he, she, or it is no longer subject to backup withholding. **If the IRS has notified the Claimant(s) that he, she, it, or they is (are) subject to backup withholding, please strike out the language in the preceding sentence indicating that the Claim is not subject to backup withholding in the certification above.**

UNDER THE PENALTIES OF PERJURY, I (WE) CERTIFY THAT ALL OF THE INFORMATION PROVIDED BY ME (US) ON THIS CLAIM FORM IS TRUE, CORRECT, AND COMPLETE, AND THAT THE DOCUMENTS SUBMITTED HEREWITH ARE TRUE AND CORRECT COPIES OF WHAT THEY PURPORT TO BE.

Signature of Claimant Date

Print Claimant name here

Signature of Joint Claimant, if any Date

Print Joint Claimant name here

If the Claimant is other than an individual, or is not the person completing this form, the following also must be provided:

Signature of person signing on behalf of Claimant Date

Print name of person signing on behalf of Claimant here

Capacity of person signing on behalf of Claimant, if other than an individual, e.g., executor, president, trustee, custodian, etc. (Must provide evidence of authority to act on behalf of Claimant – *see* ¶ 10 on page 4 of this Claim Form.)

REMINDER CHECKLIST

1. Sign the above release and certification. If this Claim Form is being made on behalf of Joint Claimants, then both must sign.

2. Attach only ***copies*** of acceptable supporting documentation as these documents will not be returned to you.

3. Do not highlight any portion of the Claim Form or any supporting documents.

4. Keep copies of the completed Claim Form and documentation for your own records.

5. The Claims Administrator will acknowledge receipt of your Claim Form by mail, within 60 days of your submission. Your Claim is not deemed filed until you receive an acknowledgement postcard. **If you do not receive an acknowledgement postcard within 60 days, please call the Claims Administrator toll-free at 877-331-0728.**

6. If your address changes in the future, or if this Claim Form was sent to an old or incorrect address, you must send the Claims Administrator written notification of your new address. If you change your name, inform the Claims Administrator.

7. If you have any questions or concerns regarding your Claim, contact the Claims Administrator at the address below, by email at info@MyriadGeneticsSecuritiesLitigation.com, or by toll-free phone at 877-331-0728, or you may visit www.MyriadGeneticsSecuritiesLitigation.com. DO NOT call Myriad or its counsel with questions regarding your Claim.

THIS CLAIM FORM MUST EITHER BE MAILED TO THE CLAIMS ADMINISTRATOR BY FIRST-CLASS MAIL **POSTMARKED NO LATER THAN JANUARY 16, 2024, OR SUBMITTED ONLINE AT WWW.MYRIADGENETICSSECURITIESLITIGATION.COM NO LATER THAN JANUARY 16, 2024**. IF MAILED, THE CLAIM FORM SHOULD BE ADDRESSED AS FOLLOWS:

Myriad Genetics Securities Litigation
c/o A.B. Data, Ltd.
P.O. Box 170500
Milwaukee, WI 53217

A Claim Form received by the Claims Administrator shall be deemed to have been submitted when posted, if a postmark date on or before January 16, 2024, is indicated on the envelope and it is mailed First Class and addressed in accordance with the above instructions. In all other cases, a Claim Form shall be deemed to have been submitted when actually received by the Claims Administrator.

You should be aware that it will take a significant amount of time to fully process all Claim Forms. Please be patient and notify the Claims Administrator of any change of address.

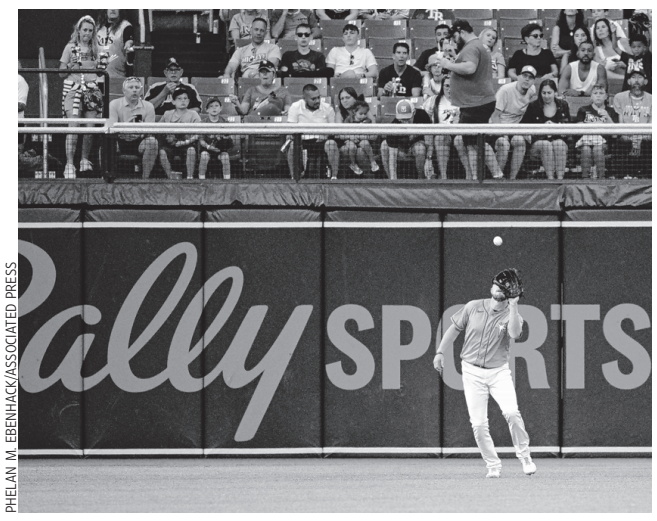
EXHIBIT B

Big Local Sports Broadcaster Fights to Avoid Liquidation

Diamond Sports' survival hinges on renegotiating rights, carriage agreements

The biggest regional sports broadcaster is fighting for its life.

*By **Jessica Toonkel**, **Alexander Gladstone** and **Joe Flint***



PHELAN M. EBENHACK/ASSOCIATED PRESS

Diamond operates Bally Sports-branded networks.

Diamond Sports Group, which carries the games of more than 40 major sports teams and filed for bankruptcy earlier this year, is in negotiations with cable companies and leagues that will collectively help determine whether the company will be liquidated.

Diamond owes rights payments to the National Basketball Association and National Hockey League in a matter of days. Its distribution deal with the cable company **Charter Communications** is up for renewal in several months. Its creditors are divided on whether to attempt to revive the company. And Diamond is mired in a legal spat with parent **Sinclair Broadcast Group**.

Diamond's potential unraveling could have significant implications for leagues and fans, who have seen an ever-growing share of sports content move to streaming platforms.

The threat that Diamond will face liquidation has intensified. Its dilemmas are a sign of how fragile once-lucrative regional sports networks have become as streaming upends how Americans watch TV.

Executives at Diamond, which operates Bally Sports-branded networks, are pressing cable companies including Comcast for multiyear carriage agreements that would keep games on cable and provide a reduced but predictable stream of revenue. Diamond is asking the NBA for a longer-term rights deal than its current year-to-year agreement and is negotiating with representatives from the NBA and the NHL to potentially reduce its payments, people familiar with the discussions said.

Forging such deals is Diamond's best shot at presenting creditors with a plan to exit bankruptcy instead of being wound down, people familiar with the matter said.

Diamond on Friday requested bankruptcy court permission for a two-month extension to file a plan of reorganization.

Earlier this year, Diamond's struggles led Major League Baseball to take over the broadcasts of the San Diego Padres and Arizona Diamondbacks, allowing fans to watch the teams on MLB.TV, the league's streaming platform, instead of cable TV.

Comcast and Diamond are in talks to extend their carriage deal, people familiar with the matter said. The cable giant is reluctant to entertain the longer-term arrangement that the company is seeking. Diamond executives feel a one-year deal is too short and likely a path to liquidation, according to other people close to the talks.

Other such discussions are on the horizon. Diamond's deal with Charter Communications is up at the end of February. The regional sports network operator was able to extend its deal with DirecTV to next September from the end of this year, people familiar with the matter said.

Apple to Address iPhone 15 Overheating in Update

By Joanna Stern

Apple is responding to the heat—the iPhone 15 heat.

After new buyers found the new phones were getting very warm, the company on Saturday said it plans to release an iOS 17 software update to improve the issue. Or at least part of the issue.

"We have identified a few conditions which can cause the iPhone to run warmer than expected," a spokesman said. Those conditions include:

◆ **Typical setup:** Yes, iPhones do typically get warm in the first few days after setting them up as they download data.

◆ **An iOS bug:** Apple says it has found a bug in iOS 17 that "will be addressed in a software update." The software update won't reduce performance, the company said.

◆ **Third-party apps:** The company says updates to recent third-party apps "are causing them to overload the system" and that Apple is "working with these app developers on fixes that are in the process of rolling out."

Some of those apps include Uber and Instagram. Instagram issued a fix earlier this week.

Apple has also been clear on what's *not* causing the issue: titanium. While some analysts and experts suspected that the new material in the frame of the Pro models may be a reason for the heat, Apple says titanium is better for heat dissipation than the previous stainless-steel Pro phones.

These fixes don't mean your new iPhone won't ever get warm. Intensive gaming, wireless charging, streaming high-quality video all may cause your phone to heat up. "These conditions are normal," according to an Apple support page.

Charging your phone with a higher wattage USB-C charger, those above 20 watts, may also make the devices toasty. The company says the new USB-C charging port—included in iPhones for the first time this year—isn't to blame for any excessive heat. And it says the higher temperatures won't affect the long-term performance of the phones because of protections Apple built into the devices.

Still, it wouldn't be an iPhone launch without some hiccups. Last year, we had roller coasters setting off crash detection in the iPhone 14 models, and years ago, there was Bend-Gate and Maps-Gate.

Apple didn't say when it will issue the software update.

Watch a Video

Scan this code for Joanna Stern's video on how heat hurts smartphones.

Ackman May Weigh X Deal

Continued from page B1

prove X's results. His vehicle could give X some much-needed cash to pay down its heavy debt burden.

While Ackman doesn't know Musk well, his foundation made a small investment in X when the **Tesla** chief bought it, and he has occasionally tweeted ideas for the platform. One was adding an opposite button of sorts to certain tweets that would bring the user to the most popular tweet containing a counterargument. Musk responded, "Good idea."

Ackman's 'SPARC'

Ackman is billing his new investment vehicle as an elevated version of the traditional special-purpose acquisition companies whose popularity surged before fizzling last year. While a SPAC raises money from investors before finding a company to merge with and take public, his version, called Pershing Square SPARC Holdings, flips the order. The "r" stands for "rights," signaling investors' rights to buy in after a target is identified.

Ackman has been waiting for the Securities and Exchange Commission to bless his creation for roughly two years, ever since regulatory concerns forced him to walk away from a large SPAC deal he orchestrated with **Universal Music Group**. At the time, he gave his investors their money back and warrants for the SPARC. (His investment firm took a 10% stake in Universal instead.)

The SPARC is expected to have at least $1.5 billion to invest in a deal, the filing says, which can be used by the company or to buy out existing investors. Pershing Square will contribute between $250 million and $3.5 billion.

Rights holders, a mix of retail and institutional investors, would contribute around $1.22 billion, and possibly much more. The rights price is set as part of the deal negotiation and there is no upward limit.

After a deal is announced, holders would get 20 business days to exercise or sell their rights, which will be trading on an over-the-counter market. A deal could close 10 business days later, the filing says.

On Friday, after regulators blessed the SPARC, Ackman took to X: "If your large private growth company wants to go public without the risks and expenses of a typical IPO, with Pershing Square as your anchor shareholder, please call me. We promise a quick yes or no."

In the beginning

Ackman rose to fame on Wall Street by pushing companies to make changes to boost their stock prices. He stepped back from activism—and the spotlight—several years ago after losing billions on a series of bad bets. He has since rehabilitated Pershing Square, which now manages $16.5 billion, by placing friendlier wagers on companies such as **Hilton** and **Chipotle**.

When Ackman joined Twitter in 2017, his tweeting appeared like that of most public figures and companies—a forced exercise to further business interests.

("Eating our own cooking @ChipotleTweets," read one of his first posts, which included a photo of him in line at the burrito joint.)

His account had been dormant for nearly a year when he picked it back up in the early days of Covid-19, tweeting impassioned pleas for swift government action to get the virus under control and later, mass vaccination.

In the years since, his account has morphed into continual reactions to current events and musings on everything from the best exercises for people with back issues to the "karmic quality" of seeing a short seller attack his rival, Carl Icahn.

Ackman says X has become one of his principal ways of keeping track of current events.

"It's like one big brain," Ackman says, referencing the various "takes" on any given topic found on the platform.

Ackman, like many hedge-fund managers, is famous for a contrarian streak when it comes to markets, but on X, he stokes debate in areas far afield from investing.

He took to the platform after he and his wife, the architect Neri Oxman, watched testimony of Kyle Rittenhouse, the teenager charged with killing two people at a Wisconsin protest using an AR-15-style rifle.

"We came away believing that #Kyle is telling the truth and that he acted in self-defense. We found him to be a civic-minded patriot with a history of helping his community," began a more than 300-word missive.

The tweet prompted a reporter to text Ackman asking if his account had been hacked, he tweeted at the time. Rittenhouse was found not guilty.

After FTX founder Sam Bankman-Fried denied knowing what was going on at his $32 billion cryptocurrency exchange soon after its collapse, Ackman tweeted, "Call me crazy, but I think @sbf is telling the truth."

Several X users took him up on it, with one tweeting, "Bill are you currently under duress?"

Election tweet

His changeability has been on full display when it comes to the presidential election.

"I am going to make a bold and early call. @VivekGRamaswamy will run for POTUS and win," he said in February of the Republican candidate. Two months later, he backtracked, saying some of the far-right candidate's views were too extreme.

The following month, he urged **JPMorgan Chase** CEO Jamie Dimon to run in a tweet that spanned over 600 words.

"If you agree that he should be our next POTUS, give him a call, send him an email or go see him, and like and retweet this tweet," it read. While Dimon has briefly considered running before, he has decided against it and said so publicly this summer.

Ackman has since resumed promoting Vivek Ramaswamy and tweeted approvingly of vaccine skeptic Kennedy, which has increased his audience while startling some people close to him.

Alongside his growing popularity on the platform, Ackman has picked up the pace of public appearances, too, stoking speculation he could run for office himself one day.

Last Thursday, during an appearance at CNBC's Delivering Alpha conference, he praised X, crediting the platform for influencing some of his most winning investments. In 2020 and 2021, combing through tweets helped prompt him to place a pair of bets that the market was misjudging Covid-19's toll. They have made him $5.5 billion.

"I've comfortably covered the cost of my blue-check," Ackman says, in reference to the $84 he pays annually for a premium X account.

— David Benoit contributed to this article.

SEAN ZANNI/PATRICK MCMULLAN/GETTY IMAGES

Bill Ackman fancies himself an expert at helping companies shine and could see an opportunity to help X.

EXHIBIT C

Bernstein Litowitz Berger & Grossmann LLP Announces Proposed Settlement of Class Action Involving Persons Who Purchased or Acquired Myriad Genetics, Inc. Common Stock From August 9, 2017 until February 6, 2020, Inclusive, and Were Damaged Thereby

NEWS PROVIDED BY
Bernstein Litowitz Berger & Grossmann LLP →
02 Oct, 2023, 10:00 ET

NEW YORK, Oct. 2, 2023 /PRNewswire/ --

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

IN RE MYRIAD GENETICS, INC. SECURITIES LITIGATION	Case No. 2:19-cv-00707-JNP-DBP District Judge Jill N. Parrish

SUMMARY NOTICE OF (I) PROPOSED SETTLEMENT AND PLAN OF ALLOCATION; (II) SETTLEMENT HEARING; AND (III) MOTION FOR ATTORNEYS' FEES AND LITIGATION EXPENSES

To: All persons who purchased or acquired Myriad Genetics, Inc. ("Myriad") common stock from August 9, 2017 until February 6, 2020, inclusive (the "Class Period"), and were damaged thereby (the "Class").[1]

PLEASE READ THIS NOTICE CAREFULLY; YOUR RIGHTS WILL BE AFFECTED BY THE SETTLEMENT OF A CLASS ACTION LAWSUIT PENDING IN THIS COURT.

YOU ARE HEREBY NOTIFIED, pursuant to Rule 23 of the Federal Rules of Civil Procedure and an Order of the United States District Court for the District of Utah (the "Court"), that Lead Plaintiff Los Angeles Fire and Police Pensions ("Lead Plaintiff" or "Los Angeles"), on behalf of itself and the Court-certified Class in the above-captioned securities class action (the "Action"), and Defendants Myriad, Mark C. Capone, Bryan Riggsbee, and Bryan M. Dechairo (collectively, "Defendants") have reached a proposed settlement of the Action for $77,500,000 in total settlement value, with at least $20,000,000 paid in cash and the remainder paid in either additional cash or shares of freely-tradeable Myriad common stock (the "Settlement"). If approved, the Settlement will resolve all claims in the Action.

A hearing will be held on **December 8, 2023, at 2:00 p.m. MST**, before the Honorable Jill N. Parrish, by video conference, for the following purposes: (a) to determine whether the proposed Settlement on the terms and conditions provided for in the Stipulation and Agreement of Settlement dated August 3, 2023 (the "Stipulation") is fair, reasonable, and adequate to the Class, and should be finally approved by the Court; (b) to determine whether a Judgment, substantially in the form attached as Exhibit B to the Stipulation, should be entered dismissing the Action with prejudice against Defendants and granting the Releases specified and described in the Stipulation (and in the Settlement Notice); (c) to determine whether the terms and conditions of the issuance of the Settlement Shares, which shares are to be issued pursuant to the exemption from registration requirements under Section 3(a)(10) of the Securities Act of 1933, are fair to all persons and entities to whom the shares will be issued; (d) to determine whether the proposed Plan of Allocation for the proceeds of the Settlement is fair and reasonable and should be approved; (e) to

determine whether the motion by Lead Counsel for an award of attorneys' fees and Litigation Expenses should be approved; and (f) to consider any other matters that may properly be brought before the Court in connection with the Settlement.

If you are a member of the Class, your rights will be affected by the Settlement, and you may be entitled to share in the Net Settlement Fund. If you have not yet received the full printed Notice of (I) Proposed Settlement and Plan of Allocation; (II) Settlement Hearing; and (III) Motion for Attorneys' Fees and Litigation Expenses (the "Settlement Notice") and the Proof of Claim and Release Form (the "Claim Form"), you may obtain copies of these documents by contacting the Claims Administrator by mail at Myriad Genetics Securities Litigation, c/o A.B. Data, Ltd., P.O. Box 170500, Milwaukee, WI 53217; by telephone at 877-331-0728; or by email at info@MyriadGeneticsSecuritiesLitigation.com. Copies of the Settlement Notice and Claim Form can also be downloaded from the website for the Action, www.MyriadGeneticsSecuritiesLitigation.com.

If you are a Class Member, in order to be eligible to receive a payment under the proposed Settlement, you must submit a Claim Form ***postmarked*** **(if mailed), or** ***submitted online*** **through the case website, www.MyriadGeneticsSecuritiesLitigation.com, no later than January 16, 2024**. If you are a Class Member and do not submit a proper Claim Form, you will not be eligible to share in the distribution of the net proceeds of the Settlement, but you will nevertheless be bound by any judgments or orders entered by the Court in the Action.

Any objections to the proposed Settlement, the proposed Plan of Allocation, and/or Lead Counsel's application for attorneys' fees and expenses, must be filed with the Court and delivered to Lead Counsel and Representative Defendants' Counsel such that they are ***received*** **no later than November 17, 2023**, in accordance with the instructions set forth in the Settlement Notice.

Please do not contact the Court, the Clerk's office, Myriad, any other Defendants in the Action, or their counsel regarding this notice. All questions about this notice, the proposed Settlement, or your eligibility to participate in the Settlement should be directed to the Claims Administrator or Lead Counsel.

Requests for the Settlement Notice and Claim Form should be made to:

Myriad Genetics Securities Litigation
c/o A.B. Data, Ltd.
P.O. Box 170500
Milwaukee, WI 53217

877-331-0728
info@MyriadGeneticsSecuritiesLitigation.com
www.MyriadGeneticsSecuritiesLitigation.com

Inquiries, other than requests for the Settlement Notice and Claim Form, may be made to Lead Counsel:

Abe Alexander
Bernstein Litowitz Berger & Grossmann LLP
1251 Avenue of the Americas
New York, NY 10020

1-800-380-8496
settlements@blbglaw.com

BY ORDER OF THE COURT
United States District Court
District of Utah

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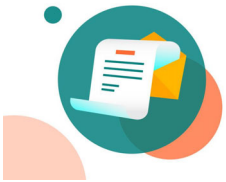
[1] Certain persons and entities are excluded from the Class by definition and others are excluded pursuant to request. The full definition of the Class including a complete description of who is excluded from the Class is set forth in the full Settlement Notice referred to below.

SOURCE Bernstein Litowitz Berger & Grossmann LLP



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Select Country

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Exhibit 4

EXHIBIT 4

In re Myriad Genetics, Inc. Securities Litigation
Case No. 2:19-cv-00707-JNP-DBP

SUMMARY OF PLAINTIFF'S COUNSEL'S LODESTAR AND EXPENSES

Ex.	FIRM	HOURS	LODESTAR	EXPENSES
4A	Bernstein Litowitz Berger & Grossmann LLP	29,957.50	$15,815,050.00	$1,487,147.76
4B	Deiss Law PC	100.30	$46,067.50	$1,165.47
	TOTALS:	**30,057.80**	**$15,861,117.50**	**$1,488,313.23**

Exhibit 4A

Salvatore Graziano (admitted *pro hac vice*)
Hannah Ross (admitted *pro hac vice*)
Adam Wierzbowski (admitted *pro hac vice*)
Abe Alexander (admitted *pro hac vice*)
BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP
1251 Avenue of the Americas
New York, NY 10020
Telephone: (212) 554-1400
Facsimile: (212) 554-1444
salvatore@blbglaw.com
hannah@blbglaw.com
adam@blbglaw.com
abe.alexander@blbglaw.com

Counsel for Lead Plaintiff Los Angeles Fire and Police Pensions and Lead Counsel for the Class

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

IN RE MYRIAD GENETICS, INC. SECURITIES LITIGATION	Case No. 2:19-cv-00707-JNP-DBP District Judge Jill N. Parrish

DECLARATION OF ABE ALEXANDER IN SUPPORT OF LEAD COUNSEL'S MOTION FOR ATTORNEYS' FEES AND LITIGATION EXPENSES, FILED ON BEHALF OF BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP

I, Abe Alexander, declare as follows:

1. I am a partner in the law firm of Bernstein Litowitz Berger & Grossmann LLP ("BLB&G"). My firm serves as Lead Counsel for Lead Plaintiff and the Class in the above-captioned action (the "Action"). I submit this declaration in support of Lead Counsel's application for an award of attorneys' fees in connection with services rendered in the Action, as well as for

payment of expenses incurred by my firm in connection with the Action.[1] I have personal knowledge of the facts stated in this declaration and, if called upon, could and would testify to these facts.

2. My firm, as Court-appointed Lead Counsel in the Action, was involved in all aspects of the prosecution and resolution of the Action, as set forth in the Declaration of Abe Alexander in Support of: (A) Lead Plaintiff's Motion for Final Approval of Settlement and Plan of Allocation; and (B) Lead Counsel's Motion for An Award of Attorneys' Fees and Litigation Expenses, filed herewith.

3. The schedule attached hereto as Exhibit 1 is a summary indicating the amount of time spent by each BLB&G attorney and professional support staff employee involved in this Action who devoted ten (10) or more hours to the Action from its inception through and including October 27, 2023, and the lodestar calculation for those individuals based on their current hourly rates, which are set in accordance with paragraph 7 below. For personnel who are no longer employed by my firm, the lodestar calculation is based upon the hourly rates for such personnel in his or her final year of employment by the firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by BLB&G.

4. A team of BLB&G attorneys working under my supervision and I have reviewed these time and expense records to prepare this declaration. The purpose of this review was to confirm both the accuracy of the time entries and expenses and the necessity for, and reasonableness of, the time and expenses committed to the litigation. As a result of this review, reductions were made in the exercise of counsel's judgment.

[1] Unless otherwise defined in this declaration, all capitalized terms have the meanings set forth in the Stipulation and Agreement of Settlement dated August 3, 2023. ECF No. 283-1.

5. Following this review and the adjustments made, I believe that the time reflected in the firm's lodestar calculation and the expenses for which payment is sought as stated in this declaration are reasonable in amount and were necessary for the effective and efficient prosecution and resolution of the litigation.

6. The hourly rates for the BLB&G attorneys and professional support staff employees included in Exhibit 1 are the same as, or comparable to, the rates submitted by my firm and accepted by courts for lodestar cross-checks in other securities class action litigation fee applications.

7. My firm's rates are set based on a periodic analysis of rates used by firms performing comparable work and that have been approved by courts. Different timekeepers within the same employment category (*e.g.*, partners, associates, paralegals, etc.) may have different rates based on a variety of factors, including years of practice, years at the firm, year in the current position (*e.g.*, years as a partner), relevant experience, relative expertise, and the rates of similarly experienced peers at our firm or other firms.

8. The total number of hours expended on this Action by my firm from inception through and including October 27, 2023 is 29,957.50 hours. The total lodestar for my firm for that period is $15,815,050.00. My firm's lodestar figures are based upon the firm's hourly rates describe above, which do not include charges for expense items. Expense items are recorded separately, and these amounts are not duplicated in my firm's hourly rates.

9. None of the attorneys listed in Exhibit 1 to this declaration and included in my firm's lodestar for the Action are (or were) "contract attorneys." All attorneys and professional support staff listed in the attached schedule work (or worked) as employees of BLB&G. Except for the partners listed in the attached schedule, all the other attorneys and professional support staff

listed in the schedule are (or were) W-2 employees of the firm and were not independent contractors issued Form 1099s. Thus, the firm pays FICA and Medicare taxes on their behalf, along with state and federal unemployment taxes. These employees are (or were) fully supervised by the firm's partners and have (or had) access to secretarial, paralegal, and information technology support. BLB&G also assigns a firm email address to each attorney or other employee it employs, including those listed.

10. As detailed in Exhibit 2 to this declaration, my firm is seeking payment for a total of $1,487,147.76 in expenses incurred in connection with the prosecution of this Action from inception through and including November 2, 2023. The following is additional information regarding certain of the expenses stated in Exhibit 2:

(a) **Experts** ($999,353.50). Lead Counsel consulted extensively with experts in the fields of psychiatry, pharmacogenomics, statistics, financial economics, and accounting.

(b) **Online Legal and Factual Research** ($63,846.21). The charges reflected are for out-of-pocket payments to the vendors such as Westlaw, Lexis/Nexis, and PACER for research done in connection with this litigation. These resources were used to obtain access to court filings, to conduct legal research and cite-checking of briefs, and to obtain factual information regarding the claims asserted through access to various financial databases and other factual databases. These expenses represent the actual expenses incurred by BLB&G for use of these services in connection with this litigation. There are no administrative charges included in these figures. Online research is billed to each case based on actual usage at a charge set by the vendor. When BLB&G utilizes online services provided by a vendor with a flat-rate contract, access to the service is by a billing code

entered for the specific case being litigated. At the end of each billing period, BLB&G's costs for such services are allocated to specific cases based on the percentage of use in connection with that specific case in the billing period.

(c) **Mediation** ($30,727.50). This represents Lead Plaintiff's share of fees paid to Phillips ADRs for the services of the mediators, the Hon. Layn R. Phillips (USDJ, Ret.) and Michelle Yoshida. Judge Phillips and Ms. Yoshida conducted an in-person mediation session on May 1, 2023 and assisted in further settlement negotiations that ultimately lead to the settlement of the Action.

(d) **Witness Counsel** ($252,576.06). BLB&G covered legal fees and expenses of Hach Rose Schirripa & Cheverie LLP, a law firm that was retained by several third-party witnesses deposed in this case, including former Myriad employees and GUIDED study investigators.

(e) **Out-of-Town Travel** ($39,298.06). BLB&G's travel costs are the expenses actually incurred by my firm or reflect "caps" on travel costs based on the following criteria: (i) airfare is capped at coach/economy rates; (ii) hotel charges per night are capped at $350 for "high cost" locations and $250 for "lower cost" locations, as categorized by IRS guidelines (the relevant cities and how they are categorized are reflected on Exhibit 2); and (iii) meals while traveling are capped at $20 per person for breakfast, $25 per person for lunch, and $50 per person for dinner.

(f) **Working Meals** ($1,674.24). Out-of-office meals are capped at $25 per person for lunch and $50 per person for dinner, and in-office working meals are capped at $25 per person for lunch and $40 per person for dinner.

11. The expenses incurred in this Action are reflected in the records of my firm, which are regularly prepared and maintained in the ordinary course of business. These records are prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred. Based on my active involvement and supervision of the prosecution of the Action, I believe these expenses were reasonable and expended for the benefit of the Class in the Action.

12. With respect to the standing of my firm, attached hereto as Exhibit 3 is a brief biography of my firm and the attorneys of the firm involved in this matter.

I declare, under penalty of perjury, that the foregoing facts are true and correct.

Executed on: November 3, 2023.

/s/ Abe Alexander
Abe Alexander

EXHIBIT 1

In re Myriad Genetics, Inc. Securities Litigation
Case No. 2:19-cv-00707-JNP-DBP

BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP

TIME REPORT

Inception through and including October 27, 2023

NAME	HOURS	HOURLY RATE	LODESTAR
Partners			
Abe Alexander	2,945.00	$900	$2,650,500.00
Scott Foglietta	19.00	$900	$17,100.00
Salvatore Graziano	213.00	$1,250	$266,250.00
Hannah Ross	371.75	$1,150	$427,512.50
Gerald Silk	49.00	$1,250	$61,250.00
Adam Wierzbowski	734.25	$975	$715,893.75
Senior Counsel			
David Duncan	22.50	$825	$18,562.50
John Esmay	1,383.75	$825	$1,141,593.75
Catherine Van Kampen	16.75	$775	$12,981.25
John Mills	110.75	$825	$91,368.75
Associates			
Kate Aufses	262.00	$550	$144,100.00
Stephen Boscolo	329.50	$450	$148,275.00
Nicholas Gersh	141.00	$450	$63,450.00
Alex Payne	171.50	$600	$102,900.00
Matthew Traylor	800.75	$500	$400,375.00
Senior Staff Attorneys			
James Briggs	3,214.00	$450	$1,446,300.00
Lawrence Hosmer	1,384.25	$425	$588,306.25
Stephen Imundo	1,460.50	$425	$620,712.50
Damien Puniello	94.25	$450	$42,412.50
Staff Attorneys			
Erik Aldeborgh	2,939.00	$425	$1,249,075.00
Erick Ladson	2,068.00	$425	$878,900.00
Priscilla Pellecchia	3,700.50	$425	$1,572,712.50
Jeff Powell	16.50	$425	$7,012.50
Dianne Rim	2,284.25	$425	$970,806.25

Joanna Tarnawski	3,020.75	$425	$1,283,818.75
Financial Analysts			
Milana Babic	18.50	$425	$7,862.50
Nick DeFilippis	21.00	$650	$13,650.00
Tanjila Sultana	12.25	$475	$5,818.75
Adam Weinschel	28.75	$600	$17,250.00
Investigators			
Amy Bitkower	117.50	$600	$70,500.00
Jacob Foster	76.75	$325	$24,943.75
Jenna Goldin	279.50	$425	$118,787.50
Joelle Sfeir	93.50	$475	$44,412.50
Lisa Williams	12.75	$350	$4,462.50
Litigation Support			
Paul Charlotin	108.00	$400	$43,200.00
Johanna Pitcairn	82.00	$400	$32,800.00
Roberto Santamarina	18.25	$450	$8,212.50
Julio Velazquez	31.00	$400	$12,400.00
Managing Clerk			
Mahiri Buffong	136.00	$425	$57,800.00
Paralegals			
Mary Barbetta	37.75	$300	$11,325.00
Khristine De Leon	28.50	$325	$9,262.50
Janielle Lattimore	92.25	$400	$36,900.00
Michelle Leung	102.75	$375	$38,531.25
Matthew Mahady	51.75	$375	$19,406.25
Desiree Morris	186.00	$375	$69,750.00
Preya Rodriguez	525.50	$375	$197,062.50
Yulia Tsoy	124.75	$325	$40,543.75
Gary Weston	20.00	$400	$8,000.00
TOTALS:	**29,957.50**		**$15,815,050.00**

EXHIBIT 2

In re Myriad Genetics, Inc. Securities Litigation
Case No. 2:19-cv-00707-JNP-DBP

BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP

EXPENSE REPORT

Inception through and including November 2, 2023

CATEGORY	AMOUNT
Service of Process	$8,266.59
On-Line Legal and Factual Research	$63,846.21
Telephone	$436.63
Postage, Express Mail, and Hand Delivery Charges	$6,881.17
Local Transportation	$8,125.86
Internal Copying/Printing	$626.80
Outside Copying	$16,483.37
Out of Town Travel	$39,298.06
Working Meals*	$1,674.24
Court Reporting & Transcripts	$58,851.77
Experts	$999,353.50
Mediation Fees	$30,727.50
Witness Counsel	$252,576.06
TOTAL:	**$1,487,147.76**

* Hotel charges for stays in "higher-cost" cities, i.e., Los Angeles, CA and Boston, MA, are capped at $350 per night and rates for stays in "lower-cost" cities, i.e., Salt Lake City, UT; Cincinnati, OH, Denver, CO; and Detroit, MI, are capped at $250 per night.

EXHIBIT 3

In re Myriad Genetics, Inc. Securities Litigation,
Case No. 2:19-cv-00707-JNP-DBP

BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP

FIRM BIOGRAPHY

BLB&G Bernstein Litowitz Berger & Grossmann LLP

Bernstein Litowitz Berger & Grossmann LLP
Attorneys at Law

Firm Resume

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Since our founding in 1983, Bernstein Litowitz Berger & Grossmann LLP has obtained many of the largest monetary recoveries in history—over $37 billion on behalf of investors. Unique among our peers, the firm has obtained the largest settlements ever agreed to by public companies related to securities fraud, including four of the ten largest in history. Working with our clients, we have also used the litigation process to achieve precedent-setting reforms which have increased market transparency, held wrongdoers accountable and improved corporate business practices in groundbreaking ways.

Firm Overview

Bernstein Litowitz Berger & Grossmann LLP (BLB&G), a national law firm with offices located in New York, California, Delaware, Louisiana, and Illinois, prosecutes class and private actions on behalf of individual and institutional clients. The firm's litigation practice areas include securities class and direct actions in federal and state courts; corporate governance and shareholder rights litigation, including claims for breach of fiduciary duty and proxy violations; mergers and acquisitions and transactional litigation; alternative dispute resolution; and distressed debt and bankruptcy. We also handle, on behalf of major institutional clients and lenders, more general complex commercial litigation involving allegations of breach of contract, accountants' liability, breach of fiduciary duty, fraud, and negligence.

We are the nation's leading firm representing institutional investors in securities fraud class action litigation. The firm's institutional client base includes U.S. public pension funds the New York State Common Retirement Fund; the California Public Employees' Retirement System (CalPERS); the Los Angeles County Employees Retirement Association (LACERA); the Chicago Municipal, Police and Labor Retirement Systems; the Teacher Retirement System of Texas; the Arkansas Teacher Retirement System; the Florida State Board of Administration; the Public Employees' Retirement System of Mississippi; the New York State Teachers' Retirement System; the Ohio Public Employees Retirement System; the State Teachers Retirement System of Ohio; the Oregon Public Employees Retirement System; the Virginia Retirement System; the Louisiana School, State, Teachers and Municipal Police Retirement Systems; the Public School Teachers' Pension and Retirement Fund of Chicago; the New Jersey Division of Investment of the Department of the Treasury; TIAA-CREF and other private institutions; as well as numerous other public and Taft-Hartley pension entities. Our European client base includes APG; Aegon AM; ATP; Blue Sky Group; Hermes IM; Robeco; SEB; Handelsbanken; Nykredit; PGB; and PGGM, among others.

More Top Securities Recoveries

Since its founding in 1983, BLB&G has prosecuted some of the most complex cases in history and has obtained over $37 billion on behalf of investors. Unique among its peers, the firm has negotiated and obtained many of the largest securities class action recoveries in history, including:

- *In re WorldCom, Inc. Securities Litigation – $6.19 billion recovery*
- *In re Cendant Corporation Securities Litigation – $3.3 billion recovery*

- *In re Bank of America Corp. Securities, Derivative, and Employee Retirement Income Security Act (ERISA) Litigation – $2.43 billion recovery*
- *In re Nortel Networks Corporation Securities Litigation (Nortel II) – $1.07 billion recovery*
- *In re Merck & Co., Inc. Securities Litigation – $1.06 billion recovery*
- *In re McKesson HBOC, Inc. Securities Litigation – $1.05 billion recovery*

Based on our record of success, BLB&G has been at the top of the rankings by ISS Securities Class Action Services (ISS-SCAS), a leading industry research publication that provides independent and objective third-party analysis and statistics on securities-litigation law firms, since its inception. In its most recent report, *Top 100 U.S. Class Action Settlements of All-Time*, ISS-SCAS once again ranked BLB&G as the top firm in the field for the eleventh year in a row. BLB&G has served as lead or co-lead counsel in 37 of the ISS-SCAS's top 100 U.S. securities-fraud settlements—more than twice as many as any other firm—and recovered over $26 billion for investors in those cases, nearly $10 billion more than any other plaintiffs' securities firm.

Giving Shareholders a Voice and Changing Business Practices for the Better

BLB&G was among the first law firms ever to obtain meaningful corporate governance reforms through litigation. In courts throughout the country, we prosecute shareholder class and derivative actions, asserting claims for breach of fiduciary duty and proxy violations wherever the conduct of corporate officers and/or directors, or M&A transactions, seek to deprive shareholders of fair value, undermine shareholder voting rights, or allow management to profit at the expense of shareholders.

We have prosecuted seminal cases establishing precedent which has increased market transparency, held wrongdoers accountable, addressed issues in the boardroom and executive suite, challenged unfair deals, and improved corporate business practices in ground-breaking ways.

From setting new standards of director independence, to restructuring board practices in the wake of persistent illegal conduct; from challenging the improper use of defensive measures and deal protections for management's benefit, to confronting stock options backdating abuses and other self-dealing by executives; we have confronted a variety of questionable, unethical and proliferating corporate practices. Seeking to reform faulty management structures and address breaches of fiduciary duty by corporate officers and directors, we have obtained unprecedented victories on behalf of shareholders seeking to improve governance and protect the shareholder franchise.

Practice Areas

Securities Fraud Litigation

Securities fraud litigation is the cornerstone of the firm's litigation practice. Since its founding, the firm has had the distinction of having tried and prosecuted many of the most high-profile securities fraud class actions in history, recovering billions of dollars and obtaining unprecedented corporate governance reforms on behalf of our clients. BLB&G continues to play a leading role in major securities litigation pending in federal and state courts, and the firm remains one of the nation's leaders in representing institutional investors in securities fraud class litigation.

The firm also pursues direct actions in securities fraud cases when appropriate. By selectively opting out of certain securities class actions, we seek to resolve our clients' claims efficiently and for substantial multiples of what they might otherwise recover from related class action settlements.

Our attorneys have extensive experience in the laws that regulate the securities markets and in the disclosure requirements of corporations that issue publicly traded securities. Many also have accounting backgrounds. The group has access to state-of-the-art, online financial wire services and databases, which enable it to instantaneously investigate any potential securities fraud action involving a public company's debt and equity securities. Biographies for our attorneys can be accessed on the firm's website by clicking here.

Corporate Governance and Shareholder Rights

Our Corporate Governance and Shareholder Rights attorneys prosecute derivative actions, claims for breach of fiduciary duty, and proxy violations on behalf of individual and institutional investors in state and federal courts throughout the country. We have prosecuted actions challenging numerous highly publicized corporate transactions which violated fair process, fair price, and the applicability of the business judgment rule, and have also addressed issues of corporate waste, shareholder voting rights claims, and executive compensation.

Our attorneys have prosecuted numerous cases regarding the improper "backdating" of executive stock options which resulted in windfall undisclosed compensation to executives at the direct expense of shareholders—and returned hundreds of millions of dollars to company coffers. We also represent institutional clients in lawsuits seeking to enforce fiduciary obligations in connection with Mergers & Acquisitions and "Going Private" transactions that deprive shareholders of fair value when participants buy companies from their public shareholders "on the cheap." Although enough shareholders accept the consideration offered for the transaction to close, many sophisticated investors correctly recognize and ultimately enjoy the increased returns to be obtained by pursuing appraisal rights and demanding that courts assign a "true value" to the shares taken private in these transactions.

Our attorneys are well versed in changing SEC rules and regulations on corporate governance issues and have a comprehensive understanding of a wide variety of corporate law transactions and both substantive and courtroom expertise in the specific legal areas involved. As a result of the firm's high-profile and widely recognized capabilities, our attorneys are increasingly in demand with institutional investors who are exercising a more assertive voice with corporate boards regarding corporate governance issues and the boards' accountability to shareholders.

Distressed Debt and Bankruptcy

BLB&G has obtained billions of dollars through litigation on behalf of bondholders and creditors of distressed and bankrupt companies, as well as through third-party litigation brought by bankruptcy trustees and creditors' committees against auditors, appraisers, lawyers, officers and directors, and other defendants who may have contributed to client losses. As counsel, we advise institutions and individuals nationwide in developing strategies and tactics to recover assets presumed lost as a result of bankruptcy. Our record in this practice area is characterized by extensive trial experience in addition to successful settlements.

Commercial Litigation

BLB&G provides contingency fee representation in complex business litigation and has obtained substantial recoveries on behalf of investors, corporations, bankruptcy trustees, creditor committees, and other business entities. We have faced down the most powerful and well-funded law firms and defendants in the country—and consistently prevailed. For example, on behalf of the bankruptcy trustee, the firm prosecuted *BFA Liquidation Trust v. Arthur Andersen*, arising from the largest non-profit bankruptcy in U.S. history. After two years of litigation and a week-long trial, the firm obtained a $217 million recovery from Andersen for the Trust. Combined with other recoveries, the total amounted to more than 70 percent of the Trust's losses.

Having obtained huge recoveries with nominal out-of-pocket expenses and fees of less than 20 percent, we have repeatedly demonstrated that valuable claims are best prosecuted by a first-rate litigation firm on a contingent basis at negotiated percentages. Legal representation need not compound the risk and high cost inherent in today's complex and competitive business environment. We are paid only if we (and our clients) win. The result: the highest quality legal representation at a fair price.

Alternative Dispute Resolution

BLB&G offers clients an accomplished team and a creative venue in which to resolve conflicts outside of the litigation process. We have experience in U.S. and international disputes and our attorneys have led complex business-to-business arbitrations and mediations domestically and abroad representing clients before all the major arbitration tribunals, including the American Arbitration Association, FINRA, JAMS, International Chamber of Commerce, and the London Court of International Arbitration.

Our lawyers have successfully arbitrated cases that range from complex business-to-business disputes to individuals' grievances with employers. It is our experience that in some cases, a well-executed arbitration process can resolve disputes faster, with limited appeals and with a higher level of confidentiality than public litigation.

In the wake of the credit crisis, for example, we successfully represented numerous former executives of a major financial institution in arbitrations relating to claims for compensation. We have also assisted clients with disputes involving failure to honor compensation commitments, disputes over the purchase of securities, businesses seeking compensation for uncompleted contracts, and unfulfilled financing commitments.

Feedback from The Courts

Throughout the firm's history, many courts have recognized the professional excellence and diligence of the firm and its members. A few examples are set forth below.

In re WorldCom, Inc. Securities Litigation

- The Honorable Denise Cote of the United States District Court for the Southern District of New York

"I have the utmost confidence in plaintiffs' counsel…they have been doing a superb job…The Class is extraordinarily well represented in this litigation."

"The magnitude of this settlement is attributable in significant part to Lead Counsel's advocacy and energy…The quality of the representation given by Lead Counsel…has been superb…and is unsurpassed in this Court's experience with plaintiffs' counsel in securities litigation."

"Lead Counsel has been energetic and creative…Its negotiations with the Citigroup Defendants have resulted in a settlement of historic proportions."

* * *

In re Clarent Corporation Securities Litigation

- The Honorable Charles R. Breyer of the United States District Court for the Northern District of California

"It was the best tried case I've witnessed in my years on the bench…."

"[A]n extraordinarily civilized way of presenting the issues to you [the jury]…We've all been treated to great civility and the highest professional ethics in the presentation of the case…"

"These trial lawyers are some of the best I've ever seen."

* * *

Landry's Restaurants, Inc. Shareholder Litigation

- Vice Chancellor J. Travis Laster of the Delaware Court of Chancery

"I do want to make a comment again about the excellent efforts…put into this case…This case, I think, shows precisely the type of benefits that you can achieve for stockholders and how representative litigation can be a very important part of our corporate governance system…you hold up this case as an example of what to do."

* * *

McCall V. Scott (Columbia/HCA Derivative Litigation)

- The Honorable Thomas A. Higgins of the United States District Court for the Middle District of Tennessee

"Counsel's excellent qualifications and reputations are well documented in the record, and they have litigated this complex case adeptly and tenaciously throughout the six years it has been pending. They assumed an enormous risk and have shown great patience by taking this case on a contingent basis, and despite an early setback they have persevered and brought about not only a large cash settlement but sweeping corporate reforms that may be invaluable to the beneficiaries."

Significant Recoveries

BLB&G is counsel in many diverse nationwide class and individual actions and has obtained many of the largest and most significant recoveries in history. The firm has successfully identified, investigated, and prosecuted many of the most significant securities and shareholder actions in history, recovering billions of dollars on behalf of defrauded investors and obtaining groundbreaking corporate-governance reforms. These resolutions include six recoveries of over $1 billion, more than any other firm in our field. Examples of cases with our most significant recoveries include:

Securities Class Actions

Case: *In re WorldCom, Inc. Securities Litigation*

Court: United States District Court for the Southern District of New York

Highlights: $6.19 billion securities fraud class action recovery—the second largest in history; unprecedented recoveries from Director Defendants.

Case Summary: Investors suffered massive losses in the wake of the financial fraud and subsequent bankruptcy of former telecom giant WorldCom, Inc. This litigation alleged that WorldCom and others disseminated false and misleading statements to the investing public regarding its earnings and financial condition in violation of the federal securities and other laws. It further alleged a nefarious relationship between Citigroup subsidiary Salomon Smith Barney and WorldCom, carried out primarily by Salomon employees involved in providing investment banking services to WorldCom, and by WorldCom's former CEO and CFO. As Court-appointed Co-Lead Counsel representing Lead Plaintiff the New York State Common Retirement Fund, we obtained unprecedented settlements totaling more than $6 billion from the Investment Bank Defendants who underwrote WorldCom bonds, including a $2.575 billion cash settlement to settle all claims against the Citigroup Defendants. On the eve of trial, the 13 remaining "Underwriter Defendants," including J.P. Morgan Chase, Deutsche Bank and Bank of America, agreed to pay settlements totaling nearly $3.5 billion to resolve all claims against them. Additionally, the day before trial was scheduled to begin, all of the former WorldCom Director Defendants agreed to pay over $60 million to settle the claims against them. An unprecedented first for outside directors, $24.75 million of that amount came out of the pockets of the individuals—20% of their collective net worth. *The Wall Street Journal*, in its coverage, profiled the settlement as having "shaken Wall Street, the audit profession and corporate boardrooms." After four weeks of trial, Arthur Andersen, WorldCom's former auditor, settled for $65 million. Subsequent settlements were reached with the former executives of WorldCom, and then with Andersen, bringing the total obtained for the Class to over $6.19 billion.

Case: *In re Cendant Corporation Securities Litigation*

Court: United States District Court for the District of New Jersey

Highlights: $3.3 billion securities fraud class action recovery – the third largest in history; significant corporate governance reforms obtained.

***Summary*:** The firm was Co-Lead Counsel in this class action against Cendant Corporation, its officers and directors and Ernst & Young (E&Y), its auditors, for their role in disseminating materially false and misleading financial statements concerning the company's revenues, earnings and expenses for its 1997 fiscal year. As a result of company-wide accounting irregularities, Cendant restated its financial results for its 1995, 1996, and 1997 fiscal years and all fiscal quarters therein. Cendant agreed to settle the action for $2.8 billion and to adopt some of the most extensive corporate governance changes in history. E&Y settled for $335 million. These settlements remain the largest sums ever recovered from a public company and a public accounting firm through securities class action litigation. BLB&G represented Lead Plaintiffs CalPERS (the California Public Employees' Retirement System), the New York State Common Retirement Fund and the New York City Pension Funds, the three largest public pension funds in America, in this action.

Case: *In re Bank of America Corp. Securities, Derivative, and Employee Retirement Income Security Act (ERISA) Litigation*

Court: United States District Court for the Southern District of New York

***Highlights*:** $2.425 billion in cash; significant corporate governance reforms to resolve all claims. This recovery is by far the largest shareholder recovery related to the subprime meltdown and credit crisis; the single largest securities class action settlement ever resolving a Section 14(a) claim—the federal securities provision designed to protect investors against misstatements in connection with a proxy solicitation; the largest ever funded by a single corporate defendant for violations of the federal securities laws; the single largest settlement of a securities class action in which there was neither a financial restatement involved nor a criminal conviction related to the alleged misconduct; and one of the 10 largest securities class action recoveries in history.

***Summary*:** The firm represented Co-Lead Plaintiffs the State Teachers Retirement System of Ohio, the Ohio Public Employees Retirement System, and the Teacher Retirement System of Texas in this securities class action filed on behalf of shareholders of Bank of America Corporation (BAC) arising from BAC's 2009 acquisition of Merrill Lynch & Co., Inc. The action alleges that BAC, Merrill Lynch, and certain of the companies' current and former officers and directors violated the federal securities laws by making a series of materially false statements and omissions in connection with the acquisition. These violations included the alleged failure to disclose information regarding billions of dollars of losses which Merrill had suffered before the BAC shareholder vote on the proposed acquisition, as well as an undisclosed agreement allowing Merrill to pay billions in bonuses before the acquisition closed despite these losses. Not privy to these material facts, BAC shareholders voted to approve the acquisition.

Case: *In re Nortel Networks Corporation Securities Litigation (Nortel II)*

Court: United States District Court for the Southern District of New York

Highlights: Over $1.07 billion in cash and common stock recovered for the class.

***Summary*:** This securities fraud class action charged Nortel Networks Corporation and certain of its officers and directors with violations of the Securities Exchange Act of 1934, alleging that the Defendants knowingly or recklessly made false and misleading statements with respect to Nortel's financial results during the relevant period. BLB&G clients the Ontario Teachers' Pension Plan Board and the Treasury of the State of New Jersey and its Division of Investment were appointed as Co-Lead Plaintiffs for the Class in one of two related actions (Nortel II), and BLB&G was appointed Lead Counsel for the Class. In a historic settlement, Nortel agreed to pay $2.4 billion in cash and Nortel common stock to resolve both matters. Nortel later announced that its insurers had agreed to pay $228.5 million toward the settlement, bringing the total amount of the global settlement to approximately $2.7 billion, and the total amount of the Nortel II settlement to over $1.07 billion.

Case: *In re Merck & Co., Inc. Securities Litigation*

Court: United States District Court, District of New Jersey

Highlights: $1.06 billion recovery for the class.

***Summary*:** This case arises out of misrepresentations and omissions concerning life-threatening risks posed by the "blockbuster" COX-2 painkiller Vioxx, which Merck withdrew from the market in 2004. In January 2016, BLB&G achieved a $1.062 billion settlement on the eve of trial after more than 12 years of hard-fought litigation that included a successful decision at the United States Supreme Court. This settlement is the second-largest recovery ever obtained in the Third Circuit, one of the top 11 securities recoveries of all time, and the largest securities recovery ever achieved against a pharmaceutical company. BLB&G represented Lead Plaintiff the Public Employees' Retirement System of Mississippi.

Case: *In re McKesson HBOC, Inc. Securities Litigation*

Court: United States District Court for the Northern District of California

Highlights: $1.05 billion recovery for the class.

***Summary*:** This securities fraud litigation was filed on behalf of purchasers of HBOC, McKesson, and McKesson HBOC securities, alleging that Defendants misled the investing public concerning HBOC's and McKesson HBOC's financial results. On behalf of Lead Plaintiff the New York State Common Retirement Fund, BLB&G obtained a $960 million settlement from the company; $72.5 million in cash from Arthur Andersen; and, on the eve of trial, a $10 million settlement from Bear Stearns & Co. Inc., with total recoveries reaching more than $1 billion.

Case: *HealthSouth Corporation Bondholder Litigation*

Court: United States District Court for the Northern District of Alabama

Highlights: $804.5 million in total recoveries.

***Summary*:** In this litigation, BLB&G was the appointed Co-Lead Counsel for the bond holder class, representing Lead Plaintiff the Retirement Systems of Alabama. This action arose from allegations that Birmingham, Alabama based HealthSouth Corporation overstated its earnings at the direction of its founder and former CEO Richard Scrushy. Subsequent revelations disclosed that the overstatement actually exceeded over $2.4 billion, virtually wiping out all of HealthSouth's reported profits for the prior five years. A total recovery of $804.5 million was obtained in this litigation through a series of settlements, including an approximately $445 million settlement for shareholders and bondholders, a $100 million in cash settlement from UBS AG, UBS Warburg LLC, and individual UBS Defendants, and $33.5 million in cash from the company's auditor. The total settlement for injured HealthSouth bond purchasers exceeded $230 million, recouping over a third of bond purchaser damages.

Case: *In re Washington Public Power Supply System Litigation*

Court: United States District Court for the District of Arizona

Highlights: Over $750 million—the largest securities fraud settlement ever achieved at the time.

***Summary*:** BLB&G was appointed Chair of the Executive Committee responsible for litigating on behalf of the class in this action. The case was litigated for over seven years, and involved an estimated 200 million pages of documents produced in discovery; the depositions of 285 fact witnesses and 34 expert witnesses; more than 25,000 introduced exhibits; six published district court opinions; seven appeals or attempted appeals to the Ninth Circuit; and a three-month jury trial, which resulted in a settlement of over $750 million—then the largest securities fraud settlement ever achieved.

Case: *In re Lehman Brothers Equity/Debt Securities Litigation*

Court: United States District Court for the Southern District of New York

Highlights: $735 million in total recoveries.

***Summary*:** Representing the Government of Guam Retirement Fund, BLB&G successfully prosecuted this securities class action arising from Lehman Brothers Holdings Inc.'s issuance of billions of dollars in offerings of debt and equity securities that were sold using offering materials that contained untrue statements and missing material information.

After four years of intense litigation, Lead Plaintiffs achieved a total of $735 million in recoveries consisting of: a $426 million settlement with underwriters of Lehman securities offerings; a $90 million settlement with former Lehman directors and officers; a $99 million settlement that resolves claims against Ernst & Young, Lehman's former auditor (considered one of the top 10 auditor settlements ever achieved); and a $120 million settlement that resolves claims against UBS Financial

Services, Inc. This recovery is truly remarkable not only because of the difficulty in recovering assets when the issuer defendant is bankrupt, but also because no financial results were restated, and the auditors never disavowed the statements.

Case: *In re Citigroup, Inc. Bond Action Litigation*

Court: United States District Court for the Southern District of New York

Highlights: $730 million cash recovery; second largest recovery in a litigation arising from the financial crisis.

***Summary*:** In the years prior to the collapse of the subprime mortgage market, Citigroup issued 48 offerings of preferred stock and bonds. This securities fraud class action was filed on behalf of purchasers of Citigroup bonds and preferred stock alleging that these offerings contained material misrepresentations and omissions regarding Citigroup's exposure to billions of dollars in mortgage-related assets, the loss reserves for its portfolio of high-risk residential mortgage loans, and the credit quality of the risky assets it held in off-balance sheet entities known as "structured investment vehicles." After protracted litigation lasting four years, we obtained a $730 million cash recovery—the second largest securities class action recovery in a litigation arising from the financial crisis, and the second largest recovery ever in a securities class action brought on behalf of purchasers of debt securities. As Lead Bond Counsel for the Class, BLB&G represented Lead Bond Plaintiffs Minneapolis Firefighters' Relief Association, Louisiana Municipal Police Employees' Retirement System, and Louisiana Sheriffs' Pension and Relief Fund.

Case: *In re Schering-Plough Corporation/Enhance Securities Litigation; In re Merck & Co., Inc. Vytorin/Zetia Securities Litigation*

Court: United States District Court for the District of New Jersey

Highlights: $688 million in combined settlements (Schering-Plough settled for $473 million; Merck settled for $215 million) in this coordinated securities fraud litigations filed on behalf of investors in Merck and Schering-Plough.

***Summary*:** After nearly five years of intense litigation, just days before trial, BLB&G resolved the two actions against Merck and Schering-Plough, which stemmed from claims that Merck and Schering artificially inflated their market value by concealing material information and making false and misleading statements regarding their blockbuster anti-cholesterol drugs Zetia and Vytorin. Specifically, we alleged that the companies knew that their "ENHANCE" clinical trial of Vytorin (a combination of Zetia and a generic) demonstrated that Vytorin was no more effective than the cheaper generic at reducing artery thickness. The companies nonetheless championed the "benefits" of their drugs, attracting billions of dollars of capital. When public pressure to release the results of the ENHANCE trial became too great, the companies reluctantly announced these negative results, which we alleged led to sharp declines in the value of the companies' securities, resulting in significant losses to investors. The combined $688 million in settlements (Schering-Plough settled for $473 million; Merck settled for $215 million) is the second largest securities recovery ever in the Third Circuit, among the top 25

settlements of all time, and among the ten largest recoveries ever in a case where there was no financial restatement. BLB&G represented Lead Plaintiffs Arkansas Teacher Retirement System, the Public Employees' Retirement System of Mississippi, and the Louisiana Municipal Police Employees' Retirement System.

Case: *In re Lucent Technologies, Inc. Securities Litigation*

Court: United States District Court for the District of New Jersey

Highlights: $667 million in total recoveries; the appointment of BLB&G as Co-Lead Counsel is especially noteworthy as it marked the first time since the 1995 passage of the Private Securities Litigation Reform Act that a court reopened the lead plaintiff or lead counsel selection process to account for changed circumstances, new issues, and possible conflicts between new and old allegations.

Summary: BLB&G served as Co-Lead Counsel in this securities class action, representing Lead Plaintiffs the Parnassus Fund, Teamsters Locals 175 & 505 D&P Pension Trust, Anchorage Police and Fire Retirement System, and the Louisiana School Employees' Retirement System. The complaint accused Lucent of making false and misleading statements to the investing public concerning its publicly reported financial results and failing to disclose the serious problems in its optical networking business. When the truth was disclosed, Lucent admitted that it had improperly recognized revenue of nearly $679 million in fiscal 2000. The settlement obtained in this case is valued at approximately $667 million, and is composed of cash, stock, and warrants.

Case: *In re Wachovia Preferred Securities and Bond/Notes Litigation*

Court: United States District Court for the Southern District of New York

Highlights: $627 million recovery—among the largest securities class action recoveries in history; third-largest recovery obtained in an action arising from the subprime mortgage crisis.

Summary: This securities class action was filed on behalf of investors in certain Wachovia bonds and preferred securities against Wachovia Corp., certain former officers and directors, various underwriters, and its auditor, KPMG LLP. The case alleged that Wachovia provided offering materials that misrepresented and omitted material facts concerning the nature and quality of Wachovia's multibillion-dollar option-ARM (adjustable-rate mortgage) "Pick-A-Pay" mortgage loan portfolio, and that Wachovia's loan loss reserves were materially inadequate. According to the Complaint, these undisclosed problems threatened the viability of the financial institution, requiring it to be "bailed out" during the financial crisis before it was acquired by Wells Fargo. The combined $627 million recovery obtained in the action is among the 20 largest securities class action recoveries in history, the largest settlement ever in a class action case asserting only claims under the Securities Act of 1933, and one of a handful of securities class action recoveries obtained where there were no parallel civil or criminal actions brought by government authorities. The firm represented Co-Lead Plaintiffs Orange County Employees Retirement System and Louisiana Sheriffs' Pension and Relief Fund in this action.

Case: *Bear Stearns Mortgage Pass-Through Litigation*

Court: United States District Court for the Southern District of New York

Highlights: $500 million recovery—the largest recovery ever on behalf of purchasers of residential mortgage-backed securities.

***Summary*:** BLB&G served as Co-Lead Counsel in this securities action, representing Lead Plaintiffs the Public Employees' Retirement System of Mississippi. The case alleged that Bear Stearns & Company, Inc. sold mortgage pass-through certificates using false and misleading offering documents. The offering documents contained false and misleading statements related to, among other things, (1) the underwriting guidelines used to originate the mortgage loans underlying the certificates; and (2) the accuracy of the appraisals for the properties underlying the certificates. After six years of hard-fought litigation and extensive arm's-length negotiations, the $500 million recovery is the largest settlement in a U.S. class action against a bank that packaged and sold mortgage securities at the center of the 2008 financial crisis.

Case: *Gary Hefler et al. v. Wells Fargo & Company et al.*

Court: United States District Court for the Northern District of California

Highlights $480 million recovery—the fourth largest securities settlement ever achieved in the Ninth Circuit and the 32nd largest securities settlement ever in the United States.

***Summary*:** BLB&G served as Lead Counsel for the Court-appointed Lead Plaintiff Union Asset Management Holding, AG in this action, which alleged that Wells Fargo and certain current and former officers and directors of Wells Fargo made a series of materially false statements and omissions in connection with Wells Fargo's secret creation of fake or unauthorized client accounts in order to hit performance-based compensation goals. After years of presenting a business driven by legitimate growth prospects, U.S. regulators revealed in September 2016 that Wells Fargo employees were secretly opening millions of potentially unauthorized accounts for existing Wells Fargo customers. The Complaint alleged that these accounts were opened in order to hit performance targets and inflate the "cross-sell" metrics that investors used to measure Wells Fargo's financial health and anticipated growth. When the market learned the truth about Wells Fargo's violation of its customers' trust and failure to disclose reliable information to its investors, the price of Wells Fargo's stock dropped, causing substantial investor losses.

Case: *Ohio Public Employees Retirement System v. Freddie Mac*

Court: United States District Court for the Southern District of Ohio

Highlights: $410 million settlement.

***Summary*:** This securities fraud class action was filed on behalf of the Ohio Public Employees Retirement System and the State Teachers Retirement System of Ohio alleging that Federal Home Loan Mortgage Corporation (Freddie Mac) and certain of its current and former officers issued false and misleading

statements in connection with the company's previously reported financial results. Specifically, the Complaint alleged that the Defendants misrepresented the company's operations and financial results by having engaged in numerous improper transactions and accounting machinations that violated fundamental GAAP precepts in order to artificially smooth the company's earnings and to hide earnings volatility. In connection with these improprieties, Freddie Mac restated more than $5 billion in earnings. A settlement of $410 million was reached in the case just as deposition discovery had begun and document review was complete.

Case: *In re Refco, Inc. Securities Litigation*

Court: United States District Court for the Southern District of New York

Highlights: Over $407 million in total recoveries.

***Summary*:** The lawsuit arises from the revelation that Refco, a once prominent brokerage, had for years secreted hundreds of millions of dollars of uncollectible receivables with a related entity controlled by Phillip Bennett, the company's Chairman and Chief Executive Officer. This revelation caused the stunning collapse of the company a mere two months after its initial public offering of common stock. As a result, Refco filed one of the largest bankruptcies in U.S. history. Settlements have been obtained from multiple company and individual defendants, resulting in a total recovery for the class of over $407 million. BLB&G represented Co-Lead Plaintiff RH Capital Associates LLC.

Case: *In re Allergan, Inc. Proxy Violation Securities Litigation*

Court: United States District Court for the Central District of California

Highlights: Litigation recovered over $250 million for investors while challenging an unprecedented insider trading scheme by billionaire hedge fund manager Bill Ackman.

***Summary*:** As alleged in groundbreaking litigation, billionaire hedge fund manager Bill Ackman and his Pershing Square Capital Management fund secretly acquired a near 10% stake in pharmaceutical concern Allergan, Inc. as part of an unprecedented insider trading scheme by Ackman and Valeant Pharmaceuticals International, Inc. What Ackman knew—but investors did not—was that in the ensuing weeks, Valeant would be launching a hostile bid to acquire Allergan shares at a far higher price. Ackman enjoyed a massive instantaneous profit upon public news of the proposed acquisition, and the scheme worked for both parties as he kicked back hundreds of millions of his insider-trading proceeds to Valeant after Allergan agreed to be bought by a rival bidder. After a ferocious three-year legal battle over this attempt to circumvent the spirit of the U.S. securities laws, BLB&G obtained a $250 million settlement for Allergan investors, and created precedent to prevent similar such schemes in the future. The Plaintiffs in this action were the State Teachers Retirement System of Ohio, the Iowa Public Employees Retirement System, and Patrick T. Johnson.

Corporate Governance and Shareholders' Rights

Case: *City of Monroe Employees' Retirement System, Derivatively on Behalf of Twenty-First Century Fox, Inc. v. Rupert Murdoch, et al.*

Court: Delaware Court of Chancery

Highlights: Landmark derivative litigation established unprecedented, independent Board-level council to ensure employees are protected from workplace harassment while recouping $90 million for the company's coffers.

Summary: Before the birth of the #metoo movement, BLB&G led the prosecution of an unprecedented shareholder derivative litigation against Fox News parent 21st Century Fox, Inc. arising from the systemic sexual and workplace harassment at the embattled network. After nearly 18 months of litigation, discovery and negotiation related to the shocking misconduct and the Board's extensive alleged governance failures, the parties unveil a landmark settlement with two key components: 1) the first ever Board-level watchdog of its kind—the "Fox News Workplace Professionalism and Inclusion Council" of experts (WPIC)—majority independent of the Murdochs, the Company and Board; and 2) one of the largest financial recoveries—$90 million—ever obtained in a pure corporate board oversight dispute. The WPIC serves as a model for public companies in all industries. The firm represented 21st Century Fox shareholder the City of Monroe (Michigan) Employees' Retirement System.

Case: *In re McKesson Corporation Derivative Litigation*

Court: United States District Court, Northern District of California, Oakland Division and Delaware Chancery Court

Highlights: Litigation recovered $175 million and achieved substantial corporate governance reforms.

Summary: BLB&G represented the Police & Fire Retirement System City of Detroit and Amalgamated Bank in this derivative class action arising from the company's role in permitting and exacerbating America's ongoing opioid crisis. The complaint, initially filed in Delaware Chancery Court, alleged that defendants breached their fiduciary duties by failing to adequately oversee McKesson's compliance with provisions of the Controlled Substances Act and a series of settlements with the Drug Enforcement Administration intended to regulate the distribution and misuse of controlled substances such as opioids. Even after paying fines and settlements in the hundreds of millions of dollars, McKesson was sued in the National Opioid Multidistrict Litigation. In May 2018, our clients joined a substantially similar action being litigated in California federal court. Acting as co-lead counsel, BLB&G played a major role in litigating the case, opposing a motion to stay the action by a special litigation committee, and engaging in extensive pretrial discovery. Ultimately, $175 million was recovered for the benefit of McKesson's shareholders in a settlement that also created substantial corporate-governance reforms to prevent a recurrence of McKesson's inadequate legal compliance efforts.

Case: *UnitedHealth Group, Inc. Shareholder Derivative Litigation*

Court: United States District Court for the District of Minnesota

Highlights: Litigation recovered over $920 million in ill-gotten compensation directly from former officers for their roles in illegally backdating stock options, while the company agreed to far-reaching reforms aimed at curbing future executive compensation abuses.

Summary: This shareholder derivative action filed against certain current and former executive officers and members of the Board of Directors of UnitedHealth Group, Inc. alleged that the Defendants obtained, approved and/or acquiesced in the issuance of stock options to senior executives that were unlawfully backdated to provide the recipients with windfall compensation at the direct expense of UnitedHealth and its shareholders. The firm recovered over $920 million in ill-gotten compensation directly from the former officer Defendants—the largest derivative recovery in history. As feature coverage in *The New York Times* indicated, "investors everywhere should applaud [the UnitedHealth settlement]….[T]he recovery sets a standard of behavior for other companies and boards when performance pay is later shown to have been based on ephemeral earnings." The Plaintiffs in this action were the St. Paul Teachers' Retirement Fund Association, the Public Employees' Retirement System of Mississippi, the Jacksonville Police & Fire Pension Fund, the Louisiana Sheriffs' Pension & Relief Fund, the Louisiana Municipal Police Employees' Retirement System and Fire & Police Pension Association of Colorado.

Case: *Caremark Merger Litigation*

Court: Delaware Court of Chancery – New Castle County

Highlights: Landmark Court ruling ordered Caremark's board to disclose previously withheld information, enjoined a shareholder vote on the CVS merger offer, and granted statutory appraisal rights to Caremark shareholders. The litigation ultimately forced CVS to raise its offer by $7.50 per share, equal to more than $3.3 billion in additional consideration to Caremark shareholders.

***Summary*:** Commenced on behalf of the Louisiana Municipal Police Employees' Retirement System and other shareholders of Caremark RX, Inc., this shareholder class action accused the company's directors of violating their fiduciary duties by approving and endorsing a proposed merger with CVS Corporation, all the while refusing to fairly consider an alternative transaction proposed by another bidder. In a landmark decision, the Court ordered the Defendants to disclose material information that had previously been withheld, enjoined the shareholder vote on the CVS transaction until the additional disclosures occurred, and granted statutory appraisal rights to Caremark's shareholders—forcing CVS to increase the consideration offered to shareholders by $7.50 per share in cash (over $3 billion in total).

Case: *In re Pfizer Inc. Shareholder Derivative Litigation*

Court: United States District Court for the Southern District of New York

Highlights: Landmark settlement in which Defendants agreed to create a new Regulatory and Compliance Committee of the Pfizer Board to be supported by a dedicated $75 million fund.

Summary: In the wake of Pfizer's agreement to pay $2.3 billion as part of a settlement with the U.S. Department of Justice to resolve civil and criminal charges relating to the illegal marketing of at least 13 of the company's most important drugs (the largest such fine ever imposed), this shareholder derivative action was filed against Pfizer's senior management and Board alleging they breached their fiduciary duties to Pfizer by, among other things, allowing unlawful promotion of drugs to continue after receiving numerous "red flags" that Pfizer's improper drug marketing was systemic and widespread. The suit was brought by Court-appointed Lead Plaintiffs Louisiana Sheriffs' Pension and Relief Fund and Skandia Life Insurance Company, Ltd. In an unprecedented settlement reached by the parties, the Defendants agreed to create a new Regulatory and Compliance Committee of the Pfizer Board of Directors (the "Regulatory Committee") to oversee and monitor Pfizer's compliance and drug marketing practices and to review the compensation policies for Pfizer's drug sales related employees.

Case: *Miller et al. v. IAC/InterActiveCorp et al.*

Court: Delaware Court of Chancery

Highlights: This litigation shut down efforts by controlling shareholders to obtain "dynastic control" of the company through improper stock class issuances, setting valuable precedent and sending a strong message to boards and management in all sectors that such moves will not go unchallenged.

Summary: BLB&G obtained this landmark victory for shareholder rights against IAC/InterActiveCorp and its controlling shareholder and chairman, Barry Diller. For decades, activist corporate founders and controllers sought ways to entrench their position atop the corporate hierarchy by granting themselves and other insiders "supervoting rights." Diller laid out a proposal to introduce a new class of non-voting stock to entrench "dynastic control" of IAC within the Diller family. BLB&G litigation on behalf of IAC shareholders ended in capitulation with the Defendants effectively conceding the case by abandoning the proposal. This became a critical corporate governance precedent, given the trend of public companies to introduce "low" and "no-vote" share classes, which diminish shareholder rights, insulate management from accountability, and can distort managerial incentives by providing controllers voting power out of line with their actual economic interests in public companies.

Case: *In re News Corp. Shareholder Derivative Litigation*

Court: Delaware Court of Chancery – Kent County

Highlights: An unprecedented settlement in which News Corp. recouped $139 million and enacted significant corporate governance reforms that combat self-dealing in the boardroom.

Summary: Following News Corp.'s 2011 acquisition of a company owned by News Corp. Chairman and CEO Rupert Murdoch's daughter, and the phone-hacking scandal within its British newspaper division, we filed a derivative litigation on behalf of the company because of institutional shareholder concern with the conduct of News Corp.'s management. We ultimately obtained an unprecedented settlement in which News Corp. recouped $139 million for the company coffers, and agreed to enact corporate governance enhancements to strengthen its compliance structure, the independence and functioning of its board, and the compensation and clawback policies for management.

Clients and Fees

We are firm believers in the contingency fee as a socially useful, productive and satisfying basis of compensation for legal services, particularly in litigation. Wherever appropriate, even with our corporate clients, we encourage retentions in which our fee is contingent on the outcome of the litigation. This way, it is not the number of hours worked that will determine our fee, but rather the result achieved for our client. The firm generally negotiates with our clients a contingent fee schedule specific to each litigation, and all fee proposals are approved by the client prior to commencing litigation, and ultimately by the Court.

Our clients include many large and well-known financial and lending institutions and pension funds, as well as privately held companies that are attracted to our firm because of our reputation, expertise, and fee structure. Most of the firm's clients are referred by other clients, law firms and lawyers, bankers, investors, and accountants. A considerable number of clients have been referred to the firm by former adversaries. We have always maintained a high level of independence and discretion in the cases we decide to prosecute. As a result, the level of personal satisfaction and commitment to our work is high.

In The Public Interest

Bernstein Litowitz Berger & Grossmann LLP is guided by two principles: excellence in legal work and a belief that the law should serve a socially useful and dynamic purpose. Attorneys at the firm are active in academic, community and pro bono activities, and regularly participate as speakers and contributors to professional organizations. In addition, the firm endows a public interest law fellowship and sponsors an academic scholarship at Columbia Law School. Highlights of our community contributions include the following:

Bernstein Litowitz Berger & Grossmann Public Interest Law Fellows

BLB&G is committed to fighting discrimination and effecting positive social change. In support of this commitment, the firm donates funds to Columbia Law School to create the Bernstein Litowitz Berger & Grossmann Public Interest Law Fellowship. This fund at Columbia Law School provides Fellows with 100% of the funding needed to make payments on their law school tuition loans so long as such graduates remain in the public interest law field. The BLB&G Fellows are able to begin their careers free of any school debt if they make a long-term commitment to public interest law.

Firm Sponsorship of Her Justice

BLB&G is a sponsor of Her Justice, a not-for-profit organization in New York City dedicated to providing *pro bono* legal representation to indigent women, principally vulnerable women, in connection with the myriad legal problems they face. The organization trains and supports the efforts of New York lawyers who provide *pro bono* counsel to these women. Several members and associates of the firm volunteer their time to help women who need divorces from abusive spouses, or representation on issues such as child support, custody, and visitation. To read more about Her Justice, visit the organization's website at http://www.herjustice.org/.

Firm Sponsorship of City Year New York

BLB&G is also an active supporter of City Year New York, a division of AmeriCorps. The program was founded in 1988 as a means of encouraging young people to devote time to public service and unites a diverse group of volunteers for a demanding year of full-time community service, leadership development and civic engagement. Through their service, corps members experience a rite of passage that can inspire a lifetime of citizenship and build a stronger democracy.

Max W. Berger Pre-Law Program

In order to encourage outstanding minority undergraduates to pursue a meaningful career in the legal profession, the Max W. Berger Pre-Law Program was established at Baruch College. Providing workshops, seminars, counseling and mentoring to Baruch students, the program facilitates and guides them through the law school research and application process, as well as placing them in appropriate internships and other pre-law working environments.

Our Attorneys

BLB&G employs a dedicated team of attorneys, including partners, counsel, associates, and senior staff attorneys. Biographies for each of our attorneys can be found on our website by clicking here. On a case-by-case basis, we also make use of a pool of staff attorneys to supplement our litigation teams. The BLB&G team also includes investigators, financial analysts, paralegals, electronic-discovery specialists, information-technology professionals, and administrative staff. Biographies for our investigative team are available on our website by clicking here, and biographies for the leaders of our administrative departments are viewable here.

Partners

Max Berger, Founding Partner, has grown BLB&G from a partnership of four lawyers in 1983 into what the *Financial Times* described as "one of the most powerful securities class action law firms in the United States" by prosecuting seminal cases which have increased market transparency, held wrongdoers accountable, and improved corporate business practices in groundbreaking ways.

Described by sources quoted in leading industry publication *Chambers USA* as "the smartest, most strategic plaintiffs' lawyer [they have] ever encountered," Max has litigated many of the firm's most high-profile and significant cases and secured some of the largest recoveries ever achieved in securities fraud lawsuits, negotiating seven of the largest securities fraud settlements in history, each in excess of a billion dollars: *Cendant* ($3.3 billion), *Citigroup-WorldCom* ($2.575 billion), *Bank of America/Merrill Lynch* ($2.4 billion), *JPMorgan Chase-WorldCom* ($2 billion), *Nortel* ($1.07 billion), *Merck* ($1.06 billion), and *McKesson* ($1.05 billion). Max's prosecution of the *WorldCom* litigation, which resulted in unprecedented monetary contributions from WorldCom's outside directors (nearly $25 million out of their own pockets on top of their insurance coverage) "shook Wall Street, the audit profession and corporate boardrooms." (*The Wall Street Journal*)

Max's cases have resulted in sweeping corporate governance overhauls, including the creation of an independent task force to oversee and monitor diversity practices (*Texaco* discrimination litigation), establishing an industry-accepted definition of director independence, increasing a board's power and responsibility to oversee internal controls and financial reporting (*Columbia/HCA*), and creating a Healthcare Law Regulatory Committee with dedicated funding to improve the standard for regulatory compliance oversight by a public company board of directors (*Pfizer*). His cases have yielded results which have served as models for public companies going forward.

Most recently, before the #metoo movement came alive, on behalf of an institutional investor client, Max handled the prosecution of an unprecedented shareholder derivative litigation against Fox News parent 21st Century Fox, Inc. arising from the systemic sexual and workplace harassment at the embattled network. After nearly 18 months of litigation, discovery, and negotiation related to the shocking misconduct and the Board's extensive alleged governance failures, the parties unveiled a landmark settlement with two key components: 1) the first ever Board-level watchdog of its kind—the "Fox News Workplace Professionalism and Inclusion Council" of experts (WPIC)—majority independent of the Murdochs, the Company and Board; and 2) one of the largest financial recoveries—$90 million—ever obtained in a pure corporate board oversight dispute. The WPIC is expected to serve as a model for public companies in all industries.

Max's work has garnered him extensive media attention, and he has been the subject of feature articles in a variety of major media publications. *The New York Times* highlighted his remarkable track record in an October 2012 profile entitled "Investors' Billion-Dollar Fraud Fighter," which also discussed his role in the *Bank of America/Merrill Lynch Merger* litigation. In 2011, Max was twice profiled by *The American Lawyer* for his role in negotiating a $627 million recovery on behalf of investors in the *In re Wachovia Corp. Securities Litigation,* and a $516 million recovery in *In re Lehman Brothers Equity/Debt Securities Litigation.* For his outstanding efforts on behalf of WorldCom investors, he was featured in articles in *BusinessWeek* and *The American Lawyer*, and *The National Law Journal* profiled Max (one of only eleven attorneys selected nationwide) in its annual 2005 "Winning Attorneys" section. He was subsequently featured in a 2006 *New York Times* article, "A Class-Action Shuffle," which assessed the evolving landscape of the securities litigation arena.

One of the "100 Most Influential Lawyers in America"

Widely recognized as the "Dean" of the U.S. plaintiff securities bar for his remarkable career and his professional excellence, Max has a distinguished and unparalleled list of honors to his name.

- He was selected as one of the "100 Most Influential Lawyers in America" by *The National Law Journal* for being "front and center" in holding Wall Street banks accountable and obtaining over $5 billion in cases arising from the subprime meltdown, and for his work as a "master negotiator" in obtaining numerous multi-billion dollar recoveries for investors.
- Described as a "standard-bearer" for the profession in a career spanning nearly 50 years, he is the recipient of *Chambers USA's* award for Outstanding Contribution to the Legal Profession. In presenting this prestigious honor, *Chambers* recognized Max's "numerous headline-grabbing successes," as well as his unique stature among colleagues—"warmly lauded by his peers, who are nevertheless loath to find him on the other side of the table." Max has been recognized as a litigation "star" and leading lawyer in his field by *Chambers* since its inception.
- *Benchmark Litigation* recently inducted him into its exclusive "Hall of Fame" and named him a 2021 "Litigation Star" in recognition of his career achievements and impact on the field of securities litigation.
- Upon its tenth anniversary, *Lawdragon* named Max a "Lawdragon Legend" for his accomplishments. He was recently inducted into *Lawdragon's* "Hall of Fame." He is regularly included in the publication's "500 Leading Lawyers in America" and "100 Securities Litigators You Need to Know" lists.
- *Law360* published a special feature discussing his life and career as a "Titan of the Plaintiffs Bar," named him one of only six litigators selected nationally as a "Legal MVP," and selected him as one of "10 Legal Superstars" nationally for his work in securities litigation.
- Max has been regularly named a "leading lawyer" in the *Legal 500 US Guide* where he was also named to their "Hall of Fame" list, as well as *The Best Lawyers in America®* guide.
- Max was honored for his outstanding contribution to the public interest by Trial Lawyers for Public Justice, which named him a "Trial Lawyer of the Year" Finalist in 1997 for his work in *Roberts, et al. v. Texaco*, the celebrated race discrimination case, on behalf of Texaco's African-American employees.

Max has lectured extensively for many professional organizations, and is the author and co-author of numerous articles on developments in the securities laws and their implications for public policy. He was chosen, along with

several of his BLB&G partners, to author the first chapter—"Plaintiffs' Perspective"—of Lexis/Nexis's seminal industry guide *Litigating Securities Class Actions*. An esteemed voice on all sides of the legal and financial markets, in 2008 the SEC and Treasury called on Max to provide guidance on regulatory changes being considered as the accounting profession was experiencing tectonic shifts shortly before the financial crisis.

Max also serves the academic community in numerous capacities. A long-time member of the Board of Trustees of Baruch College, he served as the President of the Baruch College Fund from 2015-2019 and now serves as its Chairman. In May 2006, he was presented with the Distinguished Alumnus Award for his contributions to Baruch College, and in 2019, was awarded an honorary Doctor of Laws degree at Baruch's commencement, the highest honor Baruch College confers upon an individual for non-academic achievement. The award recognized his decades-long dedication to the mission and vision of the College, and in bestowing it, Baruch's President described Max as "one of the most influential individuals in the history of Baruch College." Max established the Max Berger Pre-Law Program at Baruch College in 2007.

A member of the Dean's Council to Columbia Law School as well as the Columbia Law School Public Interest/Public Service Council, Max has taught Profession of Law, an ethics course at Columbia Law School, and serves on the Advisory Board of Columbia Law School's Center on Corporate Governance. In February 2011, Max received Columbia Law School's most prestigious and highest honor, "The Medal for Excellence." This award is presented annually to Columbia Law School alumni who exemplify the qualities of character, intellect, and social and professional responsibility that the Law School seeks to instill in its students. As a recipient of this award, Max was profiled in the Fall 2011 issue of *Columbia Law School Magazine.* Max is a member of the American Law Institute and an Advisor to its Restatement Third: Economic Torts project. Max recently endowed the Max Berger '71 Public Interest/Public Service Fellows Program at Columbia Law School. The program provides support for law students interested in pursuing careers in public service. Max and his wife, Dale, previously endowed the Dale and Max Berger Public Interest Law Fellowship at Columbia Law School and, under Max's leadership, BLB&G also created the Bernstein Litowitz Berger & Grossmann Public Interest Law Fellowship at Columbia.

Among numerous charitable and volunteer works, Max is a significant and long-time contributor to Her Justice, a non-profit organization in New York City dedicated to providing *pro bono* legal representation to indigent women, principally survivors of intimate partner violence, in connection with the many legal problems they face. In recognition of their personal support of the organization, Max and his wife, Dale Berger, were awarded the "Above and Beyond Commitment to Justice Award" by Her Justice in 2021 for being steadfast advocates for women living in poverty in New York City. In addition to his personal support of Her Justice, Max has ensured BLB&G's long-time involvement with the organization. Max is also an active supporter of City Year New York, a division of AmeriCorps, dedicated to encouraging young people to devote time to public service. In July 2005, he was named City Year New York's "Idealist of the Year," for his commitment to, service for, and work in the community. A celebrated photographer, Max has held two successful photography shows that raised hundreds of thousands of dollars for City Year and Her Justice.

Education: Columbia Law School, 1971, J.D., Editor of the *Columbia Survey of Human Rights Law*; Baruch College-City University of New York, 1968, B.B.A., Accounting.

Bar Admissions: New York; United States District Court for the Eastern District of New York; United States District Court for the Southern District of New York; United States Court of Appeals for the Second Circuit; United States

Court of Appeals for the Third Circuit; United States Court of Appeals for the Sixth Circuit; Supreme Court of the United States.

Abe Alexander practices out of the New York office, where he focuses on securities fraud, corporate governance and shareholder rights litigation.

As a principal member of the trial team prosecuting *In re Merck Vioxx Securities Litigation*, Abe helped recover over $1.06 billion on behalf of injured investors. The case, which asserted claims arising out of the Defendants' alleged misrepresentations concerning the safety profile of Merck's pain-killer, VIOXX, was settled shortly before trial and after more than 10 years of litigation, during which time plaintiffs achieved a unanimous and groundbreaking victory for investors at the U.S. Supreme Court. The settlement is the largest securities recovery ever achieved against a pharmaceutical company and among the 15 largest recoveries of all time.

Abe was also a principal member of the trial team that prosecuted *In re Schering-Plough Corp./ENHANCE Securities Litigation* and *In re Merck & Co., Inc. Vytorin/Zetia Securities Litigation*, which settled on the eve of trial for a combined $688 million. This $688 million settlement represents the second largest securities class action recovery against a pharmaceutical company in history and is among the largest securities class action settlements of any kind.

Abe has also obtained several additional significant recoveries on behalf of investors in pharmaceutical and life sciences companies, including a $142 million recovery in *Medina v. Clovis Oncology, Inc.*, a securities fraud class action arising from Defendants' alleged misstatements about the efficacy and safety of its most important drug; a $55 million recovery in *In re HeartWare International, Inc. Securities Litigation*, a case arising from Defendants' alleged misstatements about the device-maker's compliance with FDA regulations and the performance of its key heart pump; and a $44 million recovery in *In re Adeptus Health Inc. Securities Litigation*, a case arising from alleged misstatements concerning the liquidity and cash flow of the country's largest operator of freestanding emergency rooms.

Abe secured a $149 million recovery on behalf of investors in Equifax, Inc., helping to lead a securities class action arising from one of the largest data breaches in American history. Abe also played a lead role in securing a $150 million settlement of investors' claims against JPMorgan Chase arising from alleged misrepresentations concerning the trading activities of the so-called "London Whale," and most recently, in securing a $95 million recovery on behalf of investors in Cognizant Technology Solutions dealing with alleged false statements and illegal payments to Indian governmental officials to secure favorable permits.

He is currently prosecuting *In re The Boeing Company Aircraft Securities Litigation*; *Union Asset Management Holding AG v. The Kraft Heinz Company*; *Tsantes v. BioMarin Pharmaceutical Inc.*; *In re City of Sunrise Firefighters' Pension Fund v. Oracle Corp.*; *In re Myriad Genetics, Inc. Securities Litigation*; and *Cambridge Retirement System v. Amneal Pharmaceuticals, Inc.*, among others.

Prior to joining the firm, Abe represented institutional clients in a number of high-profile securities, corporate governance, and antitrust matters.

Abe was an award-winning member of his law school's national moot court team. Following law school, Abe served as a judicial clerk to Chief Justice Michael L. Bender of the Colorado Supreme Court.

He was recently named a 2022 “Rising Star of the Plaintiff's Bar” by *The National Law Journal,* was recently named a 2021 "Rising Star" by *Law360,* and chosen by *Benchmark Litigation* for its 2021 “40 & Under Hot List.” *Super Lawyers* has also regularly selected Abe as a New York “Rising Star” in recognition of his accomplishments.

Education: University of Colorado Law School, 2008, J.D., Order of the Coif; New York University - The College of Arts and Science, 2003, B.A., *cum laude*, Analytic Philosophy.

Bar Admissions: New York; Delaware; United States District Court for the Southern District of New York; United States District Court for the Eastern District of New York; United States District Court for the District of Delaware; United States Court of Appeals for the First Circuit.

Scott Foglietta prosecutes securities fraud, corporate governance, and shareholder rights litigation on behalf of the firm’s institutional investor clients. As a member of the case development and client advisory group—the firm’s case development and client advisory group—Scott advises Taft-Hartley pension funds, public pension funds, and other institutional investors on potential legal claims.

Scott was an integral member of the team that advised the firm’s clients in numerous matters including in securities class actions against Wells Fargo, which resulted in a $480 million recovery; against Salix, which resulted in a $210 million recovery; and against Equifax, which resulted in a $149 million recovery. Scott was also key part of the teams that evaluated and developed novel case theories or claims in numerous cases, such as Willis Towers Watson, which arose from misrepresentations made in a proxy statement in connection with the merger between Willis Group and Towers Watson and was recently resolved for $75 million (pending court approval), and the ongoing securities class action against Perrigo arising from misrepresentations made in connection with a tender offer for shares trading in both the United States and Israel. Scott was also a member of the team that secured our clients’ appointments as lead plaintiffs in the ongoing securities class actions against Boeing, Kraft Heinz, and Luckin Coffee, among others.

Scott was a member of the litigation teams representing investors in securities class actions against FleetCor Technologies, which resulted in a $50 million recovery, and Lumber Liquidators, which achieved a recovery of $45 million. He is currently part of the team advising one of the firm’s institutional investor clients in a shareholder derivative action against the board of directors of FirstEnergy Corp. arising from the company’s role in an egregious public corruption scandal. For his accomplishments, Scott was recently named a 2022 "Rising Star" by *Law360,* has been regularly named a New York “Rising Star” in the area of securities litigation by Thomson Reuters *Super Lawyers* and in 2021 was chosen as a "Rising Star of the Plaintiffs Bar" by *The National Law Journal* and chosen by *Benchmark Litigation* for its “40 & Under Hot List.”

Before joining the firm, Scott represented institutional and individual clients in a wide variety of complex litigation matters, including securities class actions, commercial litigation, and ERISA litigation. Prior to law school, Scott earned his M.B.A. in finance from Clark University and worked as a capital markets analyst for a boutique investment banking firm.

Education: Brooklyn Law School, 2010, J.D.; Clark University, Graduate School of Management, 2007, M.B.A., Finance; Clark University, 2006, B.A., *cum laude*, Management.

Bar Admissions: New York; New Jersey; United States District Court for the Southern District of New York; United States District Court for the Eastern District of New York; United States District Court for the District of New Jersey.

Sal Graziano is widely recognized as one of the top securities litigators in the country. He has served as lead trial counsel in a wide variety of major securities fraud class actions, recovering billions of dollars on behalf of institutional investors and hedge fund clients.

Over the course of his distinguished career, Sal has successfully litigated many high-profile cases, including: *Merck & Co., Inc. (Vioxx) Sec. Litig.*(D.N.J.); *In re Schering-Plough Corp./ENHANCE Sec. Litig.* (D.N.J.); *New York State Teachers' Retirement System v. General Motors Co*. (E.D. Mich.); *In re MF Global Holdings Limited Sec. Litig.* (S.D.N.Y); *In re Raytheon Sec. Litig.* (D. Mass.); *In re Refco Sec. Litig.* (S.D.N.Y.); *In re MicroStrategy, Inc. Sec. Litig.* (E.D. Va.); *In re Bristol Myers Squibb Co. Sec. Litig.* (S.D.N.Y.); and *In re New Century Sec. Litig.* (C.D. Cal.).

Industry observers, peers and adversaries routinely honor Sal for his accomplishments. He is one of the "Top 100 Trial Lawyers" in the nation and a "Litigation Star" according to *Benchmark Litigation*, which credits him for performing "top quality work." *Chambers USA* continuously ranks Sal as a top litigator, quoting market sources who describe him as "wonderfully talented…a smart, aggressive lawyer who works hard for his clients," and "the go-to for the biggest cases." Sal is also ranked as a top litigator by *Legal 500,* which quotes market sources who praise him as a "highly effective litigator." Heralded multiple times as one of a handful of Securities Litigation and Class Action "MVPs" in the nation by *Law360*, he has also been named a "Litigation Trailblazer" by *The National Law Journal*. Sal is also one of *Lawdragon*'s "500 Leading Lawyers in America," named as a leading mass tort and plaintiff class action litigator by *Best Lawyers®*, and is one of Thomson Reuters' *Super Lawyers*.

A highly esteemed voice on investor rights, regulatory and market issues, in 2008 he was called upon by the Securities and Exchange Commission's Advisory Committee on Improvements to Financial Reporting to give testimony as to the state of the industry and potential impacts of proposed regulatory changes being considered. He is the author and co-author of numerous articles on developments in the securities laws, and was chosen, along with several of his BLB&G partners, to author the first chapter - "Plaintiffs' Perspective" - of Lexis/Nexis's seminal industry guide *Litigating Securities Class Actions*.

A member of the firm's Executive Committee, Sal has previously served as the President of the National Association of Shareholder & Consumer Attorneys, and has served as a member of the Financial Reporting Committee and the Securities Regulation Committee of the Association of the Bar of the City of New York. He regularly speaks on securities fraud litigation and shareholder rights, and has guest lectured at Columbia Law School on the topic.

Prior to entering private practice, Sal served as an Assistant District Attorney in the Manhattan District Attorney's Office.

Education: New York University School of Law, 1991, J.D., *cum laude;* New York University - The College of Arts and Science, 1988, B.A., *cum laude*, Psychology.

Bar Admissions: New York; United States District Court for the Southern District of New York; United States District Court for the Eastern District of New York; United States District Court for the Eastern District of Michigan; United States Court of Appeals for the First Circuit; United States Court of Appeals for the Second Circuit; United States Court of Appeals for the Third Circuit; United States Court of Appeals for the Fourth Circuit; United States Court of Appeals for the Sixth Circuit; United States Court of Appeals for the Ninth Circuit; United States Court of Appeals for the Eleventh Circuit.

Hannah Ross has over two decades of experience as a civil and criminal litigator. A former prosecutor, she has been a key member and leader of trial teams that have recovered billions of dollars for investors.

Hannah is widely recognized by industry observers for her professional achievements, including by the leading industry ranking guide *Chambers USA,* in which she was recognized as a "notable practitioner" in the Nationwide Securities Litigation Plaintiff category. Named a "Litigation Star," a "Top U.S. Woman Litigator" and one of the "Top 250 Women in Litigation" in the nation by *Benchmark Litigation*, she has earned praise as one of the elite in the field. Hannah has been recognized by *The National Law Journal* as a member of the "Elite Women of the Plaintiffs' Bar" list three times and as a "Litigation & Plaintiffs' Lawyer Trailblazer," named a New York "Super Lawyer" by Thomson Reuter's Super Lawyers magazine, honored as a "Titan of the Plaintiffs Bar" by legal newswire *Law360,* and named one of the top female litigators in the country (1 of 9 finalists for its "Best in Litigation" category) by *Euromoney/Legal Media Group*. She has also been named to an exclusive group of notable practitioners by *Legal 500* for her achievements, and included on the lists of the "500 Leading Lawyers in America" and "500 Leading Plaintiff Financial Lawyers" compiled by leading industry publication *Lawdragon*.

Hannah is a member of the firm's Executive Committee. In addition to her direct litigation responsibilities, she is one of the senior partners at the firm responsible for client development and client relations. A significant part of her practice is dedicated to initial case evaluation and counseling the firm's institutional investor clients on potential claims. Hannah is also one of the partners who oversees the firm's Global Securities and Litigation Monitoring Team, which monitors global equities traded in non-U.S. jurisdictions on prospective and pending international securities matters. In that capacity, she advises the firm's institutional investor clients on their options to recover losses incurred on securities purchased in non-U.S. markets. Hannah is the Chair of the firm's Diversity Committee and Co-Chair of the firm's Forum for Institutional Investors and Women's Forum. She serves on the Corporate Leadership Committee of the New York Women's Foundation and recently concluded a three-year term on the Council of Institutional Investors' Market Advisory Council.

Hannah led the BLB&G team that recovered nearly $2 billion for 35 institutions that invested in the Allianz Structured Alpha Funds. She was a senior member of the team that prosecuted *In re Bank of America Securities Litigation*, which resulted in a landmark settlement shortly before trial of $2.425 billion, one of the largest securities recoveries ever obtained, and by far the largest recovery achieved in a litigation arising from the financial crisis. Most recently, she was the lead partner in the securities class action arising from the failure of major mid-Atlantic bank Wilmington Trust, which settled for $210 million. Hannah was also a senior member of the trial team that prosecuted the litigation arising from the collapse of former leading brokerage MF Global, which recovered $234.3 million on behalf of investors. In addition, she led the prosecution against Washington Mutual and certain of its former officers and directors for alleged fraudulent conduct in the thrift's home lending operations, an action which settled for $216.75 million and represents one of the largest settlements achieved in a case related to the fallout of the subprime crisis and the largest recovery ever achieved in a securities class action in the Western District of Washington. Hannah was also a key member of the team prosecuting *In re The Mills Corporation Securities Litigation*, which settled for $202.75 million, one of the largest recovery ever achieved in a securities class action in Virginia and the Fourth Circuit.

She has been a member of the trial teams in numerous other major securities litigations resulting in recoveries for investors in excess of $6 billion. These include securities class actions against Nortel Networks, New Century Financial Corporation, and the Federal Home Loan Mortgage Corporation ("Freddie Mac"), as well as *In re Altisource Portfolio Solutions S.A. Securities Litigation, In re DFC Global Corp. Securities Litigation, In re Tronox Securities Litigation, In re*

Delphi Corporation Securities Litigation, In re Affiliated Computer Services, Inc. Derivative Litigation, *In re OM Group, Inc. Securities Litigation,* and *In re BioScrip, Inc. Securities Litigation.*

Hannah has also served as an adjunct faculty member in the trial advocacy program at the Dickinson School of Law of the Pennsylvania State University. Before joining BLB&G, Hannah was a prosecutor in the Massachusetts Attorney General's Office as well as an Assistant District Attorney in the Middlesex County (Massachusetts) District Attorney's Office.

Education: Penn State Dickinson School of Law, 1998, J.D., Woolsack Honor Society; Comments Editor, Dickinson Law Review; D. Arthur Magaziner Human Services Award; Cornell University, 1995, B.A., *cum laude*.

Bar Admissions: New York; Massachusetts; United States District Court for the Southern District of New York; United States Court of Appeals for the Second Circuit.

Jerry Silk's practice focuses on representing institutional investors on matters involving federal and state securities laws, accountants' liability, and the fiduciary duties of corporate officials, as well as general commercial and corporate litigation. He also advises creditors on their rights with respect to pursuing affirmative claims against officers and directors, as well as professionals both inside and outside the bankruptcy context.

Jerry is a member of the firm's Executive Committee. He also oversees the firm's New Matter department in which he, along with a group of attorneys, financial analysts and investigators, counsels institutional clients on potential legal claims. In December 2014, Jerry was recognized by *The National Law Journal* in its inaugural list of "Litigation Trailblazers & Pioneers" — one of several lawyers in the country who have changed the practice of litigation through the use of innovative legal strategies — in no small part for the critical role he has played in helping the firm's investor clients recover billions of dollars in litigation arising from the financial crisis, among other matters.

In addition, *Lawdragon* magazine, which has named Jerry one of the "100 Securities Litigators You Need to Know," one of the "500 Leading Lawyers in America," and one of America's top 500 "Rising Stars" in the legal profession, also profiled him as part of its "Lawyer Limelight" special series, discussing subprime litigation, his passion for plaintiffs' work and the trends he expects to see in the market. Recognized as one of an elite group of notable practitioners, *Chambers USA*'s ranked Jerry nationally "for his expertise in a range of cases on the plaintiff side." He is also named as a "Litigation Star" by *Benchmark*, is recommended by the *Legal 500 USA* guide in the field of plaintiffs' securities litigation, and has been selected by Thomson Reuters as a *Super Lawyer* every year since 2006.

In the wake of the financial crisis, he advised the firm's institutional investor clients on their rights with respect to claims involving transactions in residential mortgage-backed securities (RMBS) and collateralized debt obligations (CDOs). His work representing Cambridge Place Investment Management Inc. on claims under Massachusetts state law against numerous investment banks arising from the purchase of billions of dollars of RMBS was featured in a 2010 *New York Times* article by Gretchen Morgenson titled, "Mortgage Investors Turn to State Courts for Relief."

Jerry also represented the New York State Teachers' Retirement System in a securities litigation against the General Motors Company arising from a series of misrepresentations concerning the quality, safety, and reliability of the Company's cars, which resulted in a $300 million settlement. He was also a member of the litigation team responsible for the successful prosecution of *In re Cendant Corporation Securities Litigation* in the District of New Jersey, which was resolved for $3.2 billion. In addition, he is actively involved in the firm's prosecution of highly successful M&A litigation, representing shareholders in widely publicized lawsuits, including the litigation arising from the proposed

acquisition of Caremark Rx, Inc. by CVS Corporation — which led to an increase of approximately $3.5 billion in the consideration offered to shareholders.

A graduate of the Wharton School of Business, University of Pennsylvania and Brooklyn Law School, in 1995-96, Jerry served as a law clerk to the Hon. Steven M. Gold, U.S.M.J., in the United States District Court for the Eastern District of New York.

Jerry lectures to institutional investors at conferences throughout the country, and has written or substantially contributed to several articles on developments in securities and corporate law, including his most recent article, "SEC Statement On Emerging Markets Is A Stunning Failure," which was published by *Law360* on April 27, 2020. He has authored numerous additional articles, including: "Improving Multi-Jurisdictional, Merger-Related Litigation," American Bar Association (February 2011); "The Compensation Game," *Lawdragon*, (Fall 2006); "Institutional Investors as Lead Plaintiffs: Is There A New And Changing Landscape?," 75 *St. John's Law Review* 31 (Winter 2001); "The Duty To Supervise, Poser, Broker-Dealer Law and Regulation," 3rd Ed. 2000, Chapter 15; "Derivative Litigation In New York after Marx v. Akers," *New York Business Law Journal*, Vol. 1, No. 1 (Fall 1997).

He has also been a commentator for the business media on television and in print. Among other outlets, he has appeared on NBC's *Today*, and CNBC's *Power Lunch*, *Morning Call*, and *Squawkbox* programs, as well as being featured in *The New York Times*, *Financial Times*, *Bloomberg*, *The National Law Journal*, and the *New York Law Journal.*

Education: Brooklyn Law School, 1995, J.D., *cum laude;* Wharton School of the University of Pennsylvania, 1991, B.S., Economics.

Bar Admissions: New York; United States District Court for the Southern District of New York; United States District Court for the Eastern District of New York; United States Court of Appeals for the Second Circuit.

Adam Wierzbowski has represented shareholders in some of the most significant investor litigations throughout the United States. His work has included successes at the trial and appellate levels in several high-profile class actions. These include the following recoveries on behalf of investors: Adam led the BLB&G trial team that recently achieved a $612 million jury verdict for investors in In re Fannie Mae/Freddie Mac Senior Preferred Stock Purchase Agreement Class Action Litigations. The case arose out of the federal government's decision in 2012 to sweep to the U.S. Treasury all of the net worth of Fannie Mae and Freddie Mac. Adam was a senior member of the team that recovered over $1.06 billion on behalf of investors in In re Merck Vioxx Securities Litigation, which arose out of the Defendants' alleged misrepresentations about the cardiovascular safety of Merck's painkiller Vioxx. The case settled just months before trial and after a unanimous victory for investors at the U.S. Supreme Court. The UnitedHealth Derivative Litigation, which involved executives' illegal backdating of stock options, Adam helped recover in excess of $920 million from the individual Defendants. Adam was also a senior member of the team that achieved total settlements of $688 million on behalf of investors in In re Schering-Plough Corp./ENHANCE Securities Litigation and In re Merck & Co., Inc. Vytorin/Zetia Securities Litigation. The cases related to Schering and Merck's alleged misrepresentations about anti-cholesterol drugs Vytorin and Zetia. In the securities class action against Wells Fargo & Co. related to its fake accounts scandal, Adam was a senior member of the team that obtained $480 million for investors. Adam also represented investors in the $300 million securities litigation settlement against General Motors stemming from GM's delayed recall of vehicles with defective ignition switches. Adam also helped to obtain significant recoveries on behalf of investors in Minneapolis Firefighters' Relief Association v. Medtronic, Inc. et al. ($85 million recovery); In re Myriad

Genetics, Inc. Securities Litigation ($77.5 million recovery pending final approval); and Key West Police & Fire Pension Fund v. Ryder System, Inc. ($45 million recovery pending preliminary approval). He is also currently a member of the teams prosecuting In re EQT Corporation Securities Litigation; Allegheny County Employees' Retirement System, et al. v. Energy Transfer LP, et al.; and In re Celgene Corporation Securities Litigation. © 2022 Bernstein Litowitz Berger & Grossmann LLP All Rights Reserved. - 2 - Adam has been recognized by various publications for his accomplishments in the field. He has been named multiple times over to Benchmark Litigation's "40 & Under Hot List," as one of the "500 Leading Plaintiff Financial Lawyers" by Lawdragon, and to Thomson Reuter's Super Lawyers New York Metro edition, including designations as a New York "Rising Star." No more than 2.5% of the lawyers in New York are selected to receive the "Rising Star" honor each year.

Education: George Washington University Law School, 2003, J.D., with honors, Notes Editor for The George Washington International Law Review; Member of the Moot Court Board; Dartmouth College, 2000, B.A., *magna cum laude*.

Bar Admissions: New York; United States District Court for the Southern District of New York; United States District Court for the Eastern District of New York; United States District Court for the Eastern District of Michigan; United States Court of Appeals for the Second Circuit; United States Court of Appeals for the Third Circuit; United States Court of Appeals for the Fifth Circuit; United States Court of Appeals for the Sixth Circuit; United States Court of Appeals for the Seventh Circuit; United States Court of Appeals for the Eighth Circuit; United States Court of Appeals for the Ninth Circuit; Supreme Court of the United States.

Senior Counsel

David Duncan's practice concentrates on the settlement of class actions and other complex litigation and the administration of class action settlements.

Prior to joining BLB&G, David worked as a litigation associate at Debevoise & Plimpton, where he represented clients in a wide variety of commercial litigation, including contract disputes, antitrust and products liability litigation, and in international arbitration. In addition, he has represented criminal defendants on appeal in New York State courts and has successfully litigated on behalf of victims of torture and political persecution from Sudan, Côte d'Ivoire and Serbia in seeking asylum in the United States.

While in law school, David served as an editor of the *Harvard Law Review*. After law school, he clerked for Judge Amalya L. Kearse of the U.S. Court of Appeals for the Second Circuit.

Education: Harvard Law School, 1997, J.D., *magna cum laude;* Harvard College, 1993, A.B., *magna cum laude*, Social Studies.

Bar Admissions: New York; Connecticut; United States District Court for the Southern District of New York.

John Esmay prosecutes securities fraud and shareholder rights litigation on behalf of the firm's institutional clients. John has worked on federal securities litigations that have returned more than $3 billion to defrauded investors. He has deep experience with complex litigation, and has prepared and participated in trials and hearings in federal and state courtrooms around the country from California to New York. He has also taken part in private arbitration proceedings as well as disciplinary hearings before securities regulatory organizations such as the SEC and FINRA. John graduated *magna cum laude* from Brooklyn Law School, where he served on the Journal of Law and Policy. He

received his Bachelor of Science degree in physics from Pomona College. While attending Brooklyn Law School, John interned for the Honorable Edward R. Korman, and later clerked for the Honorable William H. Pauley III. Prior to attending law school, John worked as a securities broker at the investment banking subsidiary of a prominent bank.

Education: Brooklyn Law School, 2007, J.D., *magna cum laude*; Pomona College, 1998, B.A., Physics.

Bar Admissions: New York; United States District Court for the Southern District of New York; United States District Court for the Eastern District of New York.

Catherine Van Kampen's law practice concentrates on class action settlement administration. She manages the firm's qualified settlement funds and claims administration for settlements achieved by the firm. Catherine is responsible for initiating and managing the claims administration process and working with the Court-appointed claims administrators and investment banks for the benefit of the Classes represented by the firm. Catherine works closely with the firm's partners to apply for Court approval in various jurisdictions throughout the United States for the disbursement of settlement funds. She regularly interfaces with institutional and retail investors to explain the claims administration process and to assist them with filing their claims.

Catherine also has extensive experience in complex litigation and litigation management, having served as a team leader and overseen attorney teams in many of the firm's most high-profile cases during the 2008 Financial Crisis. Catherine has worked on more than two dozen high-value cases. Fluent in Dutch, she has served as the lead investigator and led discovery efforts in actions involving international corporations and financial institutions headquartered in Belgium and the Netherlands. She is certified in E-Discovery and Healthcare Compliance.

Prior to joining BLB&G, Catherine focused on complex litigation initiated by institutional investors and the Federal Government. She has worked on litigation and investigations related to regulatory enforcement actions, corporate governance, and compliance matters as well as conducted extensive discovery in English and Dutch in cross-border litigation.

Since attending law school, Catherine has been deeply committed to public and pro bono service to underserved communities. Through her volunteer work, Catherine has been a champion of social change and justice, particularly for immigrant and refugee women and children. As a member of the New York City Bar Association's United Nations Committee and African Affairs Committee, she spearheaded organizing the highly successful and widely-praised International Law Conference on the Status of Women, Pro Bono Engagement Fair, EPIQ Women Awards and Huntington Her Hero Awards, featuring the Under Secretary and Special Representative to the Secretary General of the United Nations for the Prevention of Violence Against Women, and other prominent, progressive women's advocates from the New York Legal Community. In recognition of her work, Catherine was appointed Co-Chair of the United Nations Committee and a Member of the Council for International Affairs in September of 2021.

A committed humanitarian, Catherine was honored as the 2018 Ambassador Medalist at the New Jersey Governor's Jefferson Awards for Outstanding Public Service for her international humanitarian and pro bono work with refugees. The Jefferson Awards, issued by the Jefferson Awards Foundation that was founded by Jacqueline Kennedy Onassis, are awarded by state governors, and are considered America's highest honor for public service bestowed by the United States Senate. Catherine was also honored in Princeton, New Jersey, by her high school alma mater, Stuart Country Day School, in its 2018 Distinguished Alumnae Gallery for her humanitarian and pro bono efforts on behalf of Yezidi and Christian women and children afflicted by war in Iraq and Syria. In 2020, Catherine was accepted as a *SHESOURCE* legal expert advocating for the needs of immigrant and refugee women by the Women's Media Center,

founded by Gloria Steinem, Jane Fonda, and Robin Morgan. In 2021, Catherine was appointed a Global Goals Ambassador for Clean Water and Sanitation by the United Nations Association of the USA, the sister organization of the United Nations Foundation USA founded by Eleanor Roosevelt. She is a recipient of several honors recognizing her pro bono work and commitment to social issues, including an invitation to attend the 2020 Tory Burch Foundation Embrace Ambition Summit and an appointment to the Advisory Board of the National Center for Girls' Leadership in Princeton, New Jersey, in 2021.

Catherine is an active member of the American Bar Association, New York Bar Association, New York City Bar Association, New Jersey Bar Association, and the National Association of Women Lawyers. In 2020, Catherine was appointed to the New York State Bar Association's President's Leadership Development Committee. In 2021, Catherine was appointed to the New Jersey State Bar Association's Class Actions, International Law and Organizations, and Special Civil Part Committees. In 2022, Catherine was appointed as Co-chair of the American Bar Association's International Law Section — Women's Interest Network. As part of her pro bono legal work, she serves on two Boards of international NGOs serving refugees and internally displaced persons in the Middle East and Africa and rescuing exploited and trafficked women and girls. Closer to home, Catherine serves as an advisor to minority business owners in the New York City area on legal issues impacting their businesses.

Catherine clerked for the Honorable Mary M. McVeigh in the Superior Court of New Jersey where she was trained as a court-certified mediator. While in law school she interned at the Center for Social Justice's Immigration Law Clinic at Seton Hall University School of Law. Catherine is a Graduate of the American Inns of Court.

Education: Seton Hall University School of Law, 1998, J.D., Indiana University, 1988, B.A., Political Science.

Bar Admissions: New York; New Jersey.

John Mills' practice focuses on negotiating, documenting, and obtaining court approval of the firm's securities, merger, and derivative settlements.

Over the past decade, John was actively involved in finalizing the following settlements, among others: *In re Wachovia Preferred Sec. and Bond/Notes Litig.* (S.D.N.Y.) ($627 million settlement); *In re Wilmington Trust Sec. Litig.* (D. Del.) ($210 million settlement); *In re Freeport-McMoRan Copper & Gold Inc. Derivative Litig.* (Del. Ch.) ($153.75 million settlement); *Medina, et al. v. Clovis Oncology, Inc., et al.* (D. Colo.) ($142 million settlement); *In re News Corp. S'holder Litig.* (Del. Ch.) ($139 million recovery and corporate governance enhancements); *In re Mut. Funds Invest. Litig. (MFS, Invesco, and Pilgrim Baxter Sub-Tracks)* (D. Md.) ($127.036 million total recovery); *Fresno County Employees' Ret. Ass'n, et al. v. comScore, Inc., et al.* (S.D.N.Y.) ($110 million settlement); *In re El Paso Corp. S'holder Litig.* (Del. Ch.) ($110 million settlement); *In re Starz Stockholder Litig.* (Del. Ch.) ($92.5 million settlement); *The Dep't of the Treasury of the State of New Jersey and its Div. of Invest. v. Cliffs Natural Res. Inc., et al.* (N.D. Ohio) ($85 million settlement).

Education: Brooklyn Law School, 2000, J.D., *cum laude*, Member of *The Brooklyn Journal of International Law*; Carswell Merit Scholar recipient; Duke University, 1997, B.A.

Bar Admissions: New York; United States District Court for the Southern District of New York; United States District Court for the Eastern District of New York.

Associates

Kate Aufses [Former Associate] prosecuted securities fraud, corporate governance, and shareholder rights litigation out of the firm's New York office. She was a member of the teams prosecuting securities class actions against Facebook, Inc., Frontier Communications Corporation and Volkswagen AG – which recently resulted in a recovery of $48 million for Volkswagen investors, among others.

In addition to her direct litigation responsibilities, Kate was also a member of the firm's Global Securities and Litigation Monitoring Team, which monitors global equities traded in non-U.S. jurisdictions on prospective and pending international securities matters, and provided critical analysis of options to recover losses incurred on securities purchased in non-U.S. markets.

Kate is a member of the New York County Lawyers Association, where she serves on the Supreme Court Joint Task Force.

Prior to joining the firm, Kate was an associate at Hughes Hubbard & Reed, where she worked on complex commercial litigation. Prior to graduating law school, she also served as a judicial intern for the Honorable Jack B. Weinstein.

Education: University of Michigan Law School, 2015, J.D., Managing Symposium Editor, *Michigan Journal of Law Reform*; University of Cambridge, 2010, MPhil, History of Art; University of Cambridge, 2009, MPhil, American Literature; Kenyon College, 2008, B.A., *magna cum laude*, English.

Bar Admissions: New York; US District Courts for the Eastern and Southern Districts of New York; US Bankruptcy Court for the Southern District of New York; US Court of Appeals for the Second Circuit.

Stephen Boscolo practices out of the firm's New York office and prosecutes securities fraud, corporate governance, and shareholder rights litigation on behalf of the firm's institutional investor clients. Stephen received his J.D. from Georgetown University Law Center, graduating *magna cum laude* and serving as Managing Editor for the Food and Drug Law Journal. While in law school, Stephen interned for the Disability Rights Section of the Civil Rights Division of the U.S. Department of Justice and for the Honorable Peter J. Messitte of the U.S. District Court for the District of Maryland. He also worked as a summer associate for Carlton Fields, P.A. After law school, Stephen clerked for the Honorable Matthew J. Fader of the Maryland Court of Special Appeals and the Honorable David Nuffer of the U.S. District Court for the District of Utah. He received his B.A. in both Government and Biology from The College of William & Mary.

Education: Georgetown University Law Center, 2020, J.D., *magna cum laude*, Order of the Coif; The College of William & Mary, 2017, B.A., *magna cum laude*, Government, Biology.

Bar Admissions: Maryland; New York.

Nicholas Gersh [Former Associate] practiced out of the firm's New York office, where he prosecuted securities fraud and shareholder rights litigation on behalf of the firm's institutional investor clients.

He was a member of the teams prosecuting the securities litigation against The Kraft Heinz Company, Venator Materials PLC, Oracle Corporation, and Luckin Coffee Inc.

Prior to joining the firm, Nicholas served as a clerk for The Honorable Judge Janis Graham Jack of the Southern District of Texas.

During law school, he gained considerable experience as an Economic Crimes Division Extern for The United States Attorney's Office in the District of Massachusetts, and as an Enforcement Extern for U.S. Securities and Exchange Commission. He also served as the Lead U.S. Legal Researcher for the Iraqi-Kurdistan Religious Freedom Project.

Education: Harvard Law School, J.D., 2018, *International Law Journal*; The Vis Commercial Arbitration Moot Court Team; Global Anticorruption Blog, Contributor; Johns Hopkins University, B.A., 2014.

Bar Admission: New York.

Alex Payne practices out of the firm's New York Office in the securities litigation group. Previously, he was a Litigation & Dispute Resolution associate at Mayer Brown's New York office where he represented financial institutions and corporations in complex commercial and securities litigations, shareholder derivative and fiduciary duty litigations, and governmental investigations. Alex graduated from the Fordham University School of Law in 2015. While in law school, Alex was a member of the Fordham Law Review and served as a Judicial Intern for the Honorable Loretta A. Preska, while she was Chief Judge of the United States District Court for the Southern District of New York (S.D.N.Y.). He also interned for the Investor Protection Bureau of the New York State Office of the Attorney General where he gained experience investigating and prosecuting securities fraud. In recognition of his academic excellence, he was a recipient of the Henrietta Metcalf Contract Prize for excellence in the study of Contracts and the Fordham University School of Law Legal Writing Award. Prior to entering the legal profession, Alex worked in the field of education policy analysis for the Graduate School of Education and Human Development at The George Washington University in Washington, D.C.

Education: Fordham University School of Law, 2015, J.D., *cum laude*, Fordham Law Review; Henrietta Metcalf Contract Prize for Excellence in the Study of Contracts; Fordham University School of Law Legal Writing Award • The George Washington University, 2006, B.A., *magna cum laude*.

Bar Admissions: New York; United States District Court for the Southern District of New York; United States District Court for the Eastern District of New York; United States Court of Appeals for the Ninth Circuit.

Matthew Traylor [Former Associate] practiced out of the New York office prosecuting securities fraud, corporate governance, and shareholder rights litigation on behalf of the firm's institutional investor clients.

Prior to joining the firm, Matthew was an associate at Cahill Gordon & Reindel where he specialized in complex litigation and investigations, including: securities, antitrust and complex commercial litigation, as well as FCPA compliance and internal investigations.

While attending law school, Matthew served as Vice President of the Black Law Student Association. In addition, he was also a member of the Public Interest Law Union, and a 2L Representative for the American Constitutional Society.

Education: Cornell Law School, J.D., 2017, General Editor, *Cornell Journal of Law and Public Policy*. Binghamton University, B.A., 2014.

Bar Admissions: New York, US Court of Appeals for the Second Circuit.

Senior Staff Attorneys

Jim Briggs is a senior staff attorney practicing out of the New York City office in the securities litigation department. Jim has worked on numerous matters at BLB&G, including Willis Towers Watson, Tile Shop Holdings, Inc., Equifax Inc.

Securities, Adeptus Health Securities, St. Paul Teachers' Retirement Fund Association v. HeartWare International, Inc., Wells Fargo & Company, comScore, Inc., Clovis Oncology, Inc., Salix Pharmaceuticals, Ltd., JPMorgan Chase & Co., and Merck & Co., Inc. He graduated from Fordham University School of Law.

Education: Fordham University School of Law, 2010, J.D; Cornell University, 2007, B.S., *cum laude*, Biological Science.

Bar Admission: New York.

Larry Hosmer is a senior staff attorney in the New York* office, and primarily provides electronic discovery assistance and support in the litigation of securities fraud-related matters.

Prior to joining the firm, Larry had a private litigation practice in Dallas, Texas, and from there went on to focus in the growing electronic discovery field. Larry is a graduate of the SMU School of Law, where he was an Articles Editor of the International Lawyer law review. He was a National Merit Scholar at the University of Texas at Austin, where he graduated with a Bachelor of Arts degree in history.

**Not admitted to practice in New York.*

Education: Southern Methodist University School of Law, 1996, J.D.; University of Texas at Austin, 1993, B.A.

Bar Admission: Texas.

Stephen Imundo is a senior staff attorney in the New York office, and primarily provides electronic discovery assistance and support in litigation of securities fraud-related matters. He has led discovery teams of over 25 attorneys on multiple occasions and worked on some of the firm's most significant cases, including Citigroup and the General Motors litigation. Early in his legal career Stephen joined up with the firm Schoengold, Sporn, Laitman & Lometti where he focused on securities fraud class action litigations, and worked side by side with BLB&G attorneys on the Worldcom case. He graduated from Fordham University School of Law where he was a recipent of the Archibald R. Murray Public Service Award and was the associate editor of the Fordham Environmental Law Journal.

Education: Fordham University School of Law, 2002, J.D., Archibald R. Murray Public Service Award, Associate Editor Fordham Environmental Law Journal; Mercy College, 1996, B.S., *summa cum laude*.

Admissions: New York; Connecticut.

Damian Puniello practices out of the firm's New York office, where he prosecutes securities fraud, corporate governance and shareholder rights litigation on behalf of the firm's institutional clients. Before joining the firm, Damian was an attorney at a smaller plaintiffs' firm, where he represented plaintiffs in complex securities class actions. Prior to joining his previous firm, he worked at the New York County District and Kings County District Attorney's Offices, as well as interned at the New York State Attorney General's Office, Antitrust Division. While at BLB&G, Damian has worked on both securities fraud and Department of Governance cases, which have successfully recovered hundreds of millions of dollars for investors. Some cases of note are Wilmington Trust, Allergan Proxy Violation Litigation,, Wells Fargo & Company, In re Genworth Financial Inc, ComScore Inc., Qualcomm, Inc., Cummings v. Edens (New Senior InvestmentGroup), and In re Xerox Corporation. Damian obtained his B.A. from Rutgers University, majoring in History and Art History, graduating with honors, and his J.D. from Brooklyn Law School.

Education: Brooklyn Law School, 2009, J.D.; Rutgers University, 2000, B.A.

Bar Admissions: New York; New Jersey; Pennsylvania; United States District Court for the District of New Jersey.

Staff Attorneys

Erik Aldeborgh [Former Staff Attorney] worked on numerous matters at BLB&G, including *In re Adeptus Health Securities Litigation; St. Paul Teachers' Retirement Fund Association v. HeartWare International, Inc.; Levy v. Gutierrez, et al. (GTAT Securities Litigation); Fresno County Employees' Retirement Association v. comScore, Inc.; Medina, et al v. Clovis Oncology, Inc., et al.; In re Virtus Investment Partners, Inc. Securities Litigation; In re Wilmington Trust Securities Litigation;* and *Bear Stearns Mortgage Pass-Through Litigation*.

Prior to joining the firm in 2014, Erik was an associate at Goodwin Proctor, LLP, and litigation counsel at Liberty Mutual Insurance Company.

Education: Northeastern University School of Law, J.D., 1987; Union College, B.A., with Honors, 1981.

Bar Admission: Massachusetts.

Erick Ladson [Former Staff Attorney] worked on several matters at BLB&G, including *Felix v. Symantec Corporation et al.; Lord Abbett Affiliated Fund, Inc., et al v. Navient Corporation, et al.;* and *In re Equifax Inc., Securities Litigation*.

Prior to joining the firm, Erick was a staff attorney at Labaton Sucharow LLP, where he worked on various complex securities litigation matters. Erick previously worked as outside trial counsel for MetLife.

Education: New York Law School, J.D., 1998; City College of New York, B.A., 1993.

Bar Admission: New York.

Priscilla Pellecchia has worked on several matters at BLB&G, *including In re Fannie Mae/Freddie Mac Senior Preferred Stock Purchase Agreement Class Action Litigations;* and *In re Equifax Inc., Securities Litigation*.

Prior to joining the firm, Priscilla was a contract attorney at Selendy & Gay PLLC. Previously, Priscilla was an associate at Caruso Smith Edell Picini, PC.

Education: Brooklyn Law School, J.D., 2008; Georgetown University, B.A., 2002.

Bar Admission: New York.

Robert Jeffrey Powell [Former Staff Attorney] worked on numerous matters at BLB&G, *including Hefler et al. v. Wells Fargo & Company et al.; Bach v. Amedisys, Inc., Fernandez, et al. v. UBS AG, et al. ("UBS Puerto Rico Bonds"); In re Salix Pharmaceuticals, Ltd. Securities Litigation; In re Green Mountain Coffee Roasters, Inc. Securities Litigation; In re Genworth Financial Inc. Securities Litigation; In re Bank of New York Mellon Corp. Forex Transactions Litigation; Bear Stearns Mortgage Pass-Through Litigation; Cambridge Place Investment Management Inc. v. Morgan Stanley & Co., Inc., et al.; SMART Technologies, Inc. Shareholder Litigation;* and *In re Citigroup Inc. Bond Litigation*.

Prior to joining the firm in 2011, Jeff was a litigation associate at Pillsbury Winthrop LLP and Constantine Cannon LLP.

Education: Harvard Law School, J.D., 2001; University of the South, B.A., *magna cum laude*, 1992; Phi Beta Kappa.

Bar Admission: New York.

Dianne Rim [Former Staff Attorney] joined the BLB&G Staff Attorney team in April 2022.

Prior to joining the firm, Dianne was a discovery staff attorney with various law firms including Cravath, Swaine & Moore and Arnold & Porter focusing on financial services litigation, securities, antitrust, patent and product liability litigation. Previously, Dianne was a Research Assistant at the Pathology Department with Northwestern University and Neurobiology and Physiology Department and Biomedical Engineering Department.

Education: Temple University School of Law, J.D., 1994; Barnard College Columbia University, B.A. (Biology), 1985.

Bar Admissions: New York, Pennsylvania.

Joanna Tarnawski has worked on numerous matters at BLB&G, including *In re Celgene Corporation Securities Litigation; In re Henry Schein, Inc. Securities Litigation; Hefler et al. v. Wells Fargo & Company et al.; Fresno County Employees' Retirement Association v. comScore, Inc.; Medina et al v. Clovis Oncology, Inc., et al*.; *and San Antonio Fire and Police Pension Fund et al. v. Dole Food Company, Inc., et al*.

Prior to joining the firm in 2016, Joanna worked as a contract attorney on complex litigations. Prior to attending law school, she was a Research Scientist at the Institute for Basic Research in Developmental Disabilities.

Education: Seton Hall University School of Law, J.D., 2008; University of Gdansk, M.S. Polish Academy of Sciences, Poland, Ph.D., 2003.

Bar Admissions: New York; New Jersey.

Exhibit 4B

Salvatore Graziano (admitted *pro hac vice*)
Hannah Ross (admitted *pro hac vice*)
Adam Wierzbowski (admitted *pro hac vice*)
Abe Alexander (admitted *pro hac vice*)
BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP
1251 Avenue of the Americas
New York, NY 10020
Telephone: (212) 554-1400
Facsimile: (212) 554-1444
salvatore@blbglaw.com
hannah@blbglaw.com
adam@blbglaw.com
abe.alexander@blbglaw.com

Counsel for Lead Plaintiff Los Angeles Fire and Police Pensions and Lead Counsel for the Class

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

IN RE MYRIAD GENETICS, INC. SECURITIES LITIGATION	Case No. 2:19-cv-00707-JNP-DBP District Judge Jill N. Parrish

DECLARATION OF ANDREW G. DEISS IN SUPPORT OF LEAD COUNSEL'S MOTION FOR ATTORNEYS' FEES AND LITIGATION EXPENSES, FILED ON BEHALF OF DEISS LAW PC

I, Andrew G. Deiss, declare as follows:

1. I am a partner at the law firm of Deiss Law PC ("Deiss Law"). I submit this declaration in support of Lead Counsel's application for an award of attorneys' fees in connection with services rendered in the above-captioned class action (the "Action"), as well as for payment

of expenses incurred by my firm in connection with the Action.[1] I have personal knowledge of the facts stated in this declaration and, if called upon, could and would testify to these facts.

2. Deiss Law served as Liaison Counsel for Lead Plaintiff Los Angeles Fire and Police Pensions ("Los Angeles") and the Class. In that capacity, my firm worked with Lead Counsel on all aspects of litigation, including drafting pleadings, briefs, and communications with the Court and preparing for and participating in Court conferences and hearings. My firm also participated in discovery conducted in the litigation, including reviewing discovery requests and interrogatories. We also advised Lead Counsel regarding local practice and procedure.

3. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of time spent by each Deiss Law attorney and professional support staff employee involved in this Action who devoted ten or more hours to the Action from its inception through and including October 27, 2023 and the lodestar calculation for those individuals based on their current hourly rates. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by Deiss Law.

4. As the partner responsible for supervising my firm's work on this case, I reviewed these time and expense records to prepare this declaration. The purpose of this review was to confirm both the accuracy of the time entries and expenses and the necessity for, and reasonableness of, the time and expenses committed to the litigation. As a result of this review, reductions were made in the exercise of counsel's judgment. All time expended in preparing this application for fees and expenses has been excluded.

[1] Unless otherwise defined herein, all capitalized terms have the meanings set forth in the Stipulation and Agreement of Settlement dated August 3, 2023. ECF No. 283-1.

5. Following this review and the adjustments made, I believe that the time reflected in the firm's lodestar calculation and the expenses for which payment is sought as stated in this declaration are reasonable in amount and were necessary for the effective and efficient prosecution and resolution of the litigation. The expenses are all of a type that courts have routinely approved in similar class action cases.

6. The hourly rates for the Deiss Law attorneys and professional support staff employees included in Exhibit 1 are consistent with the hourly rates we charge for similar services in non-contingent matters. My firm's rates are set based on periodic analysis of rates charged by firms performing comparable work and have been approved by courts. Different timekeepers within the same employment category (e.g., partners, associates, paralegals, etc.) may have different rates based on a variety of factors, including years of practice, years at the firm, year in the current position (e.g., years as a partner), relevant experience, relative expertise, and the rates of similarly experienced peers at our firm or other firms.

7. The total number of hours expended on this Action by my firm from the inception of the case through and including October 27, 2023, is 100.30 hours. The total lodestar for my firm for that period is $46,067.50. My firm's lodestar figures are based upon the firm's hourly rates describe above, which do not include charges for expense items. Expense items are recorded separately, and these amounts are not duplicated in my firm's hourly rates.

8. None of the attorneys listed in the exhibits to this declaration and included in my firm's lodestar for the Action are (or were) "contract attorneys." All attorneys listed in the attached schedule work (or worked) at Deiss Law's offices at 10 West 100 South, Suite 700, Salt Lake City, Utah 84101. Except for the partner listed in the attached schedule, all of the other attorneys and professional support staff listed in the schedule were W-2 employees of the firm and were not

independent contractors issued Form 1099s. Thus, the firm pays FICA and Medicare taxes on their behalf, along with state and federal unemployment taxes. These employees were fully supervised by the firm's partners and have access to secretarial, paralegal, and information technology support. Deiss Law also assigns a firm email address to each attorney or other employee it employs, including those listed.

9. As detailed in Exhibit 2, my firm is seeking payment for a total of $1,165.47 in expenses incurred in connection with the prosecution of this Action from its inception through and including October 27, 2023.

10. The expenses incurred in this Action are reflected in the records of my firm, which are regularly prepared and maintained in the ordinary course of business. These records are prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred.

11. With respect to the standing of my firm, attached hereto as Exhibit 3 is a brief biography of my firm and the attorneys still employed with the firm and involved in this matter.

I declare, under penalty of perjury, that the foregoing facts are true and correct.

Executed on: November 2, 2023

s/Andrew G. Deiss
Andrew G. Deiss

EXHIBIT 1

In re Myriad Genetics, Inc. Securities Litigation
Case No. 2:19-cv-00707-JNP-DBP

DEISS LAW PC

TIME REPORT

Inception through and including October 27, 2023

NAME	HOURS	HOURLY RATE	LODESTAR
Partner			
Andrew G. Deiss	11.30	$675	$7,627.50
Associate			
Corey Riley	76.00	$475	$36,100.00
Paralegal			
Glorianna Tillemann-Dick	13.00	$180	$2,340.00
TOTALS:	**100.30**		**$46,067.50**

EXHIBIT 2

In re Myriad Genetics, Inc. Securities Litigation
Case No. 2:19-cv-00707-JNP-DBP

DEISS LAW PC

EXPENSE REPORT

Inception through and including October 27, 2023

CATEGORY	AMOUNT
Court Fees	$1,000.00
Deposition Expenses	$165.47
TOTAL:	**$1,165.47**

EXHIBIT 3

In re Myriad Genetics, Inc. Securities Litigation
Case No. 2:19-cv-00707-JNP-DBP

DEISS LAW PC

FIRM BIOGRAPHY

Deiss Law was founded in 2012 and has been recognized as a Best Law Firm by U.S. News and World Reports every year since its inception. Its principal is recognized as a Best Lawyer and one of the top 100 lawyers in Utah, Nevada, Wyoming, Montana, and Idaho.

Andrew Deiss is one of less than one-half percent of attorneys in the U.S. to be listed among America's Top 100 High Stakes Litigators. He has been an adjunct professor at University of Utah for over a decade and has been an instructor and lead speaker at the prestigious National Institute for Trial Advocacy for over 10 years. Deiss has authored publications and scholarship on the science of storytelling in the practice of law. His scholarly work has been cited in hundreds of books, law reviews and multiple times by the U.S. Supreme Court.

Corey Riley has been an attorney at Deiss Law since 2018. Riley represents individuals and organizations in state and federal litigation, under investigation, civil and criminal, trial and appeal. He also represents clients in complex civil, class action, and multi-district cases. He has worked on several of the largest white collar fraud cases in Utah history.

Deiss Law is a small firm that does business litigation, personal injury litigation, and criminal defense, including white collar criminal defense. Our lawyers have litigated scores of securities fraud and related cases representing plaintiffs and defendants. We have obtained settlements and verdicts ranging between 7 and 8 figures and defended matters involving many billions in alleged damages, including recently representing one of the 50 largest companies in the world in the largest case in Utah history.

Exhibit 5

EXHIBIT 5

In re Myriad Genetics, Inc. Securities Litigation
Case No. 2:19-cv-00707-JNP-DBP

BREAKDOWN OF PLAINTIFF'S COUNSEL'S EXPENSES BY CATEGORY

CATEGORY	AMOUNT
Court Fees	$1,000.00
Service of Process	$8,266.59
On-Line Legal and Factual Research	$63,846.21
Telephone	$436.63
Postage, Express Mail, and Hand Delivery Charges	$6,881.17
Local Transportation	$8,125.86
Internal Copying/Printing	$626.80
Outside Copying	$16,483.37
Out of Town Travel	$39,298.06
Working Meals	$1,674.24
Court Reporting, Transcripts, & Deposition Costs	$59,017.24
Experts	$999,353.50
Mediation Fees	$30,727.50
Witness Counsel	$252,576.06
TOTAL:	**$1,488,313.23**

Exhibit 6

IN THE UNITED STATES DISRICT COURT

FOR THE EASTERN DISTRICT OF VIRGINIA

Richmond Division

GABBY KLEIN, *et al.*,
Plaintiffs,

v. Civil No. 3:20cv75 (DJN)

ALTRIA GROUP, INC. *et al.*,
Defendants.

ORDER AND JUDGMENT APPROVING CLASS ACTION SETTLEMENT

This matter comes before the Court on Lead Plaintiffs' Motion for Final Approval of Class Action and Approval of Plan of Allocation of the Net Proceeds of the Settlement (ECF No. 307) and Lead Counsel's Motion for an Award of Attorneys' Fees and Expenses and Awards to Lead Plaintiffs (ECF No. 309). For the reasons stated herein, the Court hereby GRANTS both Motions (ECF Nos. 307, 309.)

WHEREAS, a securities class action is pending in this Court entitled *Klein v. Altria Group, Inc., et al.*, No. 3:20-cv-00075-DJN (the "Action");

WHEREAS, Lead Plaintiffs Donald and Sarah Sherbondy and Construction Laborers Pension Trust of Greater St. Louis ("Plaintiffs"), on behalf of themselves and the other members of the Settlement Class (as defined below), and Defendants Altria Group, Inc. ("Altria"), JUUL Labs, Inc. ("JLI"), Howard A. Willard III, William F. Gifford, Jr., Adam Bowen, James Monsees, Kevin Burns, and K.C. Crosthwaite (collectively, the "Defendants," and, together with Plaintiffs, on behalf of themselves and the other members of the Settlement Class, the "Parties") have entered into the Stipulation and Agreement of Settlement dated December 9, 2021 (the "Stipulation"), that provides for a complete dismissal with prejudice of the claims asserted

against Defendants in the Action on the terms and conditions set forth in the Stipulation, subject to the approval of this Court (the "Settlement");

WHEREAS, unless otherwise defined in this Judgment, the capitalized terms used herein shall have the same meanings as they have in the Stipulation;

WHEREAS, by Order dated December 16, 2021 (the "Preliminary Approval Order"), this Court: (a) preliminarily approved the Settlement; (b) preliminarily certified the Settlement Class for purposes of this Settlement only; (c) directed that notice of the proposed Settlement be provided to Settlement Class Members; (d) provided Settlement Class Members with the opportunity either to exclude themselves from the Settlement Class or to object to the Settlement; and (e) scheduled a hearing regarding final approval of the Settlement;

WHEREAS, due and adequate notice has been given to the Settlement Class;

WHEREAS, the Court conducted a hearing on March 31, 2022 (the "Settlement Fairness Hearing") to consider, among other things, (a) whether the terms and conditions of the Settlement are fair, reasonable, and adequate to the Settlement Class, and should therefore be approved; and (b) whether a judgment should be entered dismissing the Action with prejudice as against the Defendants; and

WHEREAS, the Court, having reviewed and considered the Stipulation, all papers filed and proceedings held herein in connection with the Settlement, all oral and written comments received regarding the Settlement, and the record in the Action, and good cause appearing therefor;

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. **Jurisdiction** – The Court has jurisdiction over the subject matter of the Action, and all matters relating to the Settlement, as well as personal jurisdiction over all of the Parties and each of the Settlement Class Members.

2. **Incorporation of Settlement Documents** – This Judgment incorporates and makes a part hereof: (a) the Stipulation filed with the Court on December 9, 2021; and (b) the Postcard Notice, Notice and Summary Notice, each of which were filed with the Court on December 9, 2021.

3. **Class Certification for Settlement Purposes** – The Court hereby affirms its determinations in the Preliminary Approval Order and finally certifies, for the purposes of the Settlement only, the Action as a class action pursuant to Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure on behalf of the Settlement Class consisting of all persons and entities who purchased or otherwise acquired Altria securities between October 25, 2018 and April 1, 2020, both dates inclusive, and were allegedly damaged thereby. Excluded from the Settlement Class are (i) Defendants, (ii) current and former officers and directors of Altria and JLI; (iii) members of the Immediate Family of each of the Individual Defendants; (iv) all subsidiaries and affiliates of Altria and JLI and the directors and officers of Altria, JLI, and their respective subsidiaries or affiliates; (v) all persons, firms, trusts, corporations, officers, directors, and any other individual or entity in which any Defendant has a controlling interest; and (vi) the legal representatives, agents, affiliates, heirs, successors-in-interest or assigns of all such excluded parties. Also excluded from the Settlement Class are the persons listed on Exhibit 1 hereto, who are excluded from the Settlement Class pursuant to request.

4. **Adequacy of Representation** – Pursuant to Rule 23 of the Federal Rules of Civil Procedure, and for the purposes of the Settlement only, the Court hereby affirms its determinations in the Preliminary Approval Order certifying Plaintiffs as Class Representatives for the Settlement Class and appointing Lead Counsel as Class Counsel for the Settlement Class. Plaintiffs and Lead Counsel have fairly and adequately represented the Settlement Class both in terms of litigating the Action and for purposes of entering into and implementing the Settlement and have satisfied the requirements of Federal Rules of Civil Procedure 23(a)(4) and 23(g), respectively.

5. **Notice** – The Court finds that the dissemination of the Postcard Notice, Notice and the publication of the Summary Notice: (a) were implemented in accordance with the Preliminary Approval Order; (b) constituted the best notice practicable under the circumstances; (c) constituted notice that was reasonably calculated, under the circumstances, to apprise Settlement Class Members of (i) the pendency of the Action; (ii) the effect of the proposed Settlement (including the Releases to be provided thereunder); (iii) Lead Counsel's motion for an award of attorneys' fees, Litigation Expenses and awards to Plaintiffs pursuant to 15 U.S.C. § 78u-4(a)(4); (iv) their right to object to any aspect of the Settlement, the Plan of Allocation, and/or Lead Counsel's motion for attorneys' fees and Litigation Expenses; (v) their right to exclude themselves from the Settlement Class; and (vi) their right to appear at the Settlement Fairness Hearing; (d) constituted due, adequate, and sufficient notice to all persons and entities entitled to receive notice of the proposed Settlement; and (e) satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure, the United States Constitution (including the Due Process Clause), the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4, as amended, and all other applicable laws and rules.

6. **CAFA** – The Court finds that the notice requirements set forth in the Class Action Fairness Act of 2005, 28 U.S.C. § 1715, to the extent applicable to the Action, have been satisfied.

7. **Objections** – The Court has considered each of the objections to the Settlement submitted pursuant to Rule 23(e)(5) of the Federal Rules of Civil Procedure. The Court finds and concludes that each of the objections is without merit, and they are hereby overruled.

8. **Final Settlement Approval and Dismissal of Claims** – Pursuant to, and in accordance with, Rule 23 of the Federal Rules of Civil Procedure, this Court hereby fully and finally approves the Settlement set forth in the Stipulation in all respects (including, without limitation: the amount of the Settlement; the Releases provided for therein; and the dismissal with prejudice of the claims asserted against Defendants in the Action), and finds that the Settlement is, in all respects, fair, reasonable, and adequate to the Settlement Class under Federal Rule of Civil Procedure 23(e)(2), having considered and found that:

a. Plaintiffs and Lead Counsel have adequately represented the Class;

b. the proposal was negotiated at arm's length between experienced counsel;

c. the relief provided for the Settlement Class is adequate, having taken into account:

(1) the costs, risks, and delay of motion practice, trial and appeal;

(2) the effectiveness of any proposed method of distributing relief to the Settlement Class, including the method of processing Settlement Class Member claims; and

(3) the terms of any proposed award of attorney's fees, including timing of payment; and

d. the proposed Plan of Allocation treats Settlement Class Members equitably relative to each other.

9. Accordingly, the Parties are directed to implement, perform, and consummate the Settlement in accordance with the terms and provisions contained in the Stipulation.

10. The Action and all of the claims asserted against Defendants in the Action by Plaintiffs and the other Settlement Class Members are hereby dismissed with prejudice. The Parties shall bear their own costs and expenses, except as otherwise expressly provided in the Stipulation.

11. **Binding Effect** – The terms of the Stipulation and of this Judgment shall be forever binding on Defendants, Plaintiffs, and all other Settlement Class Members (regardless of whether or not any individual Settlement Class Member submits a Claim Form or seeks or obtains a distribution from the Net Settlement Fund), as well as their respective successors and assigns. The persons and entities listed on Exhibit 1 hereto are excluded from the Settlement Class pursuant to request and are not bound by the terms of the Stipulation or this Judgment.

12. **Releases and Bars** – The Releases set forth in paragraphs 4 through 8 of the Stipulation, together with the definitions contained in paragraph 1 of the Stipulation relating thereto, are expressly incorporated herein in all respects. The Releases are effective as of the Effective Date. Accordingly, this Court orders that:

(a) Without further action by anyone, and subject to paragraph 13 below, upon the Effective Date of the Settlement, Plaintiffs' Releasees and each of the other Settlement Class Members (whether or not such person submitted a Claim Form), on behalf of themselves,

and their respective heirs, executors, administrators, predecessors, successors, and assigns in their capacities as such, and on behalf of any other person or entity legally entitled to bring Released Plaintiffs' Claims on behalf of any Settlement Class Member, shall be deemed to have, and by operation of law and of the Judgment shall have, fully, finally, and forever compromised, settled, released, resolved, relinquished, waived, discharged, and dismissed with prejudice each and every one of the Released Plaintiffs' Claims (including, without limitation, any Unknown Claims) against any and all of Defendants' Releasees, and shall forever be barred and enjoined, to the fullest extent permitted by law, from commencing, instituting, maintaining, prosecuting or continuing to prosecute any or all of the Released Plaintiffs' Claims against any of Defendants' Releasees, in this Action or in any other proceeding. This Release shall not apply to any Excluded Plaintiffs' Claims.

(b) Without further action by anyone, and subject to paragraph 13 below, upon the Effective Date of the Settlement, Defendants' Releasees, on behalf of themselves, and their respective heirs, executors, administrators, predecessors, successors and assigns in their capacities as such, and on behalf of any other person or entity legally entitled to bring Released Defendants' Claims on behalf of Defendants, shall be deemed to have, and by operation of law and of the Judgment shall have, fully, finally and forever compromised, settled, released, resolved, relinquished, waived and discharged each and every Released Defendants' Claim (including, without limitation, any Unknown Claims) against Plaintiffs' Releasees, and shall forever be barred and enjoined from commencing, instituting, maintaining, prosecuting or continuing to prosecute any or all of the Released Defendants' Claims against any of Plaintiffs' Releasees, in this Action or in any other proceeding. This Release shall not apply to any Excluded Defendants' Claims.

13. Notwithstanding paragraphs 12(a) – (b) above, nothing in this Judgment shall bar any action by any of the Parties to enforce or effectuate the terms of the Stipulation or this Judgment.

14. **Rule 11 Findings** – The Court finds and concludes that the Parties and their respective counsel have complied in all respects with the requirements of Rule 11 of the Federal Rules of Civil Procedure in connection with the institution, prosecution, defense, and settlement of the Action.

15. **No Admissions** – Neither this Judgment, the MOU, the Stipulation (whether or not consummated), including the exhibits thereto and the Plan of Allocation contained therein (or any other plan of allocation that may be approved by the Court), the negotiations leading to the execution of the Stipulation, nor any proceedings taken pursuant to or in connection with the Stipulation and/or approval of the Settlement (including any arguments proffered in connection therewith):

(a) shall be offered or received against or to the prejudice of any of the Defendants or Defendants' Releasees as evidence of, or construed as, or deemed to be evidence of any presumption, concession, or admission by any of the Defendants or Defendants' Releasees with respect to the truth of any fact alleged by Plaintiffs and the Settlement Class, or the validity of any claim that was or could have been asserted or the deficiency of any defense that has been or could have been asserted in this Action or in any other litigation, or of any liability, negligence, fault, or other wrongdoing of any kind of any of the Defendants or the Defendants' Releasees or in any way referred to for any other reason as against any of the Defendants or the Defendants' Releasees, in any arbitration proceeding or other civil, criminal,

or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of the Stipulation;

(b) shall be offered or received against or to the prejudice of Plaintiffs or any of the Plaintiffs' Releasees, as evidence of, or construed as, or deemed to be evidence of any presumption, concession, or admission by Plaintiffs or any of the Plaintiffs' Releasees that any of their claims are without merit, that any of the Defendants or Defendants' Releasees had meritorious defenses, or that damages recoverable in this Action would not have exceeded the Settlement Amount or with respect to any liability, negligence, fault, or wrongdoing of any kind, or in any way referred to for any other reason as against Plaintiffs or any of the Plaintiffs' Releasees, in any civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of the Stipulation;

(c) shall be offered or received against or to the prejudice of any of the Defendants' Releasees, Plaintiffs, any other member of the Settlement Class, or their respective counsel, as evidence of a presumption, concession, or admission with respect to any liability, damages, negligence, fault, infirmity, or other wrongdoing of any kind, or in any way referred to for any other reason against or to the prejudice of any of the Defendants' Releasees, Plaintiffs, other members of the Settlement Class, or their respective counsel, in any other civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of the Stipulation; or

(d) shall be construed against any of the Releasees as an admission, concession, or presumption that the consideration to be given hereunder represents the amount which could be or would have been recovered after trial; ***provided, however, that if the Stipulation is approved by the Court, the Parties and the Releasees and their respective***

counsel may refer to it to effectuate the protections from liability granted hereunder or otherwise to enforce the terms of the Settlement.

16. **Retention of Jurisdiction** – Without affecting the finality of this Judgment in any way, this Court retains continuing and exclusive jurisdiction over: (a) the Parties for purposes of the administration, interpretation, implementation, and enforcement of the Settlement; (b) the disposition of the Settlement Fund; (c) any motion to approve the Settlement Class Distribution Order; and (d) the Settlement Class Members for all matters relating to the Action.

17. **Modification of the Agreement of Settlement** – Without further approval from the Court, Plaintiffs and Defendants are hereby authorized to agree to and adopt such amendments or modifications of the Stipulation or any exhibits attached thereto to effectuate the Settlement that: (a) are not materially inconsistent with this Judgment; and (b) do not materially limit the rights of Settlement Class Members in connection with the Settlement. Without further order of the Court, Plaintiffs and Defendants may agree to reasonable extensions of time to carry out any of the provisions of the Settlement.

18. **Plan of Allocation** – The Court hereby finds that the proposed Plan of Allocation is a fair and reasonable method to allocate the Net Settlement Fund among Settlement Class Members, and Lead Counsel and the Claims Administrator are directed to administer the Plan of Allocation in accordance with its terms and the terms of the Stipulation.

19. **Attorneys' Fees and Litigation Expenses** – Lead Counsel is awarded attorneys' fees in the amount of $27,000,000, and expenses in the amount of $1,544,748.17, such amounts to be paid out of the Settlement Fund immediately upon entry of this Order. Lead Counsel shall thereafter be solely responsible for allocating the attorneys' fees and expenses among The Schall Law Firm and Cohen Milstein Sellers & Toll PLLC in the manner in which

Lead Counsel in good faith believe reflects the contributions of such counsel to the initiation, prosecution, and resolution of the Action. In the event that this Judgment does not become Final, and any portion of the fee and expense award has already been paid from the Settlement Fund, Lead Counsel and all other counsel to whom Lead Counsel has distributed payments shall within thirty (30) calendar days of (i) entry of the order rendering the Settlement and Judgment non-Final, (ii) notice of the Settlement being terminated, or (iii) the occurrence of any other event that precludes the Effective Date from occurring, refund the Settlement Fund the fee and expense award paid to Lead Counsel and, if applicable, distributed to other counsel.

20. **Awards to Plaintiffs** – Plaintiffs Donald Sherbondy, Sarah Sherbondy and Construction Laborers Pension Trust of Greater St. Louis are awarded $20,000, $20,000 and $28,775, respectively for their reasonable costs and expenses directly relating to the representation of the Settlement Class as provided in 15 U.S.C. § 78u-4(a)(4), with such amounts to be paid from the Settlement Fund upon the Effective Date of the Settlement.

21. **Termination of Settlement** – If the Settlement is terminated as provided in the Stipulation or the Effective Date of the Settlement otherwise fails to occur, including as a result of any appeals, this Judgment shall be vacated, rendered null and void and be of no further force and effect, except as otherwise provided by the Stipulation, and this Judgment shall be without prejudice to the rights of Plaintiffs, Class Members, and Defendants, and the Parties shall be deemed to have reverted *nunc pro tunc* to their respective positions in the Action as of the date immediately prior to the execution of the MOU on October 28, 2021. Except as otherwise provided in the Stipulation, in the event the Settlement is terminated in its entirety or if the Effective Date fails to occur for any reason, the balance of the Settlement Fund including interest accrued therein, less any Notice and Administration Costs actually incurred, paid, or payable and

less any Taxes and Tax Expenses paid, due, or owing, shall be returned to Altria (or such other persons or entities as Altria may direct), in accordance with the Stipulation.

22. **Additional Notice Required Following Disbursement** — Not later than thirty (30) days following the completion of the disbursement of the Settlement Fund, Plaintiffs shall file a notice to the Court listing the exact disbursement of funds for each recipient. Specifically, the notice shall state the exact amount disbursed to (1) the Settlement Class Members collectively (not by individual Class Member); (2) Lead Counsel, distinguishing between fees and expenses; (3) Lead Plaintiffs as awards; (3) the Claims Administrator; and (4) any other individual or entity receiving funds. If any portion of the Settlement Fund remains after disbursement to the Settlement Class Members, Lead Counsel, Lead Plaintiffs and the Claims Administrator, Plaintiffs shall indicate the total funds remaining and whether those funds have been or will be disbursed to a *cy pres* beneficiary, including identification of the *cy pres* beneficiary.

23. **Entry of Final Judgment** – There is no just reason to delay the entry of this Judgment.

Let the Clerk file a copy of this Order and Judgment electronically and notify all counsel of record.

It is so ORDERED.

/s/
David J. Novak
United States District Judge

Richmond, Virginia
Dated: March 31, 2022

EXHIBIT 1

#	NAME/ACCOUNT	CITY	STATE/COUNTRY
1	GERALD A JOHNSON & JODY A GRAMS TR UA 07/17/2014 JOHNSON TRUST	OAKDALE	MN
2	CHUNGHO CHIAO	N/A	N/A
3	RICHARD ENTERLINE JR	PINELLAS PARK	FL
4	WILLARD J SPARKS	ARLINGTON	TX
5	PHYLLIS A SPARKS	ARLINGTON	TX
6	KEVIN J O CONNER	BELLINGHAM	WA
7	MARY ANN E HILDEBRAND	LANSDALE	PA
8	KENNETH C GOTSCH & LYNNE M GOTSCH JT WROS	HIGHLAND PARK	IL
9	JAMES MISTRO & KAREN MISTRO	CRETE	IL
10	SHARON ALCALA	GAHANNA	OH
11	ROSEMARY MCDANIEL	TRENTON	FL
12	PATRICIA A WOMACK	MECHANICSVILLE	VA
13	DEBORAH J KNOWLES	KITCHENER	CAN
14	DAVID BRIAN HOLLAND	SAN ANTONIO	TX
15	JANET V BENSON	GLEN MILLS	PA
16	JAMES W JAPPE	CENTEREACH	NY
17	FOREST A BENSON	GLEN MILLS	PA
18	GEORGE DANIEL ROBBINS	RICHMOND	TX
19	BENJAMIN E & KATHLEEN M RAMP LIVING TRUST U/A 12/17/15	GENESEO	IL
20	RENEE MCCOWN	PORTLAND	OR
21	KATHLEEN F WELLS	PATCHOGUE	NY
22	STEPHANIE CLARK	TELFORD	PA
23	STEPHEN L KRUER & RUTH L KRUER	FLOYDS KNOBS	IN
24	MICHAEL LOCASCIO	FLANDERS	NJ
25	EDNA R SHUEY	LAS VEGAS	NV
26	SANDRA CRUM	LEHIGHTON	PA
27	CLARENCE GREER	SMITHS STATION	AL
28	TERRY A PAGE & CAROLE R PAGE	HILLSBORO	IL
29	MARGARET M SIMPSON	CLARENDON	AR
30	EUGENE KLIMENT	LINCOLN	NE
31	GLENNA CATTERMOLE	SCOTTS VALLEY	CA
32	ELIANA CROOKS	LEOPOLD	AUS

Exhibit 7

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:12-cv-00292-RM-KMT

In re MOLYCORP, INC. SECURITIES LITIGATION

ORDER AWARDING ATTORNEYS' FEES AND EXPENSES

This matter is before the Court on Lead Counsel's Motion for an Award of Attorneys' Fees and Expenses, filed on May 5, 2017 (Dkt. No. 244). All capitalized terms used herein have the meanings set forth in the Stipulation of Settlement, dated October 27, 2016, and filed the same day (Dkt. No. 234). The Court having considered all papers filed and proceedings had herein and otherwise being fully informed of the matters hereto and good cause appearing therefore;

THE COURT HEREBY FINDS AND CONCLUDES that:

1. The Court has jurisdiction to enter this Order awarding attorneys' fees and expenses and over the subject matter of the Litigation and all parties to the Litigation, including all Class Members.

2. Pursuant to and in compliance with Rule 23 of the Federal Rules of Civil Procedure and the Court's Order Preliminarily Approving Settlement, Approving Notice to the Class, and Scheduling a Final Approval Hearing dated March 6, 2017 (Dkt. No. 239) (the "Preliminary Approval Order"), due and adequate notice was directed to all Class Members, including individual notice to those Class Members who could be identified through reasonable effort, advising them of Lead Counsel's requests for attorneys' fees and expenses and reimbursement of costs and expenses to Plaintiffs in connection with their representation of the Class, and of their right to object thereto, and a full and fair opportunity was accorded to Class Members to be heard with respect to the requests for attorneys' fees and expenses.

3. Lead Counsel are awarded attorneys' fees in the amount of 30% of the Settlement Amount and expenses in the amount of $249,327.83, plus interest earned on both amounts at the same rate as earned on the Settlement Fund, which sums the Court finds to be fair and reasonable. The attorneys' fees and expenses awarded will be paid in accordance with the terms of the Stipulation.

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

(a) The Settlement has created a fund of $20,500,000 in cash that has been funded into escrow under the Stipulation, and numerous Class Members who submit acceptable Proofs of Claim will benefit from the Settlement that occurred because of the efforts of Plaintiffs' Counsel;

(b) The fee sought by Lead Counsel has been reviewed and approved as reasonable by Lead Plaintiffs, who were involved in overseeing the prosecution and resolution of the Litigation;

(c) Copies of the Notice were mailed to over 166,000 potential Class Members and nominees stating that Lead Counsel would apply to the Court for attorneys' fees of 30% of the Settlement Amount and expenses not to exceed $600,000, plus interest thereon, to be paid from the Settlement Fund. The Notice advised Class Members of their right to object to Lead Counsel's motion for attorneys' fees and expenses, and a full and fair opportunity was accorded to persons who are Class Members to be heard with respect to the motion. There were two objections to the requested attorneys' fees and expenses which the Court has considered and found to be without merit;

(d) Plaintiffs' Counsel have conducted the Litigation and achieved the Settlement with skill, perseverance, and diligent advocacy;

(e) The Litigation involves complex factual and legal issues, and, in the absence of settlement, would involve further lengthy proceedings with uncertain resolution if the case were to proceed to trial;

(f) Lead Counsel pursued the Litigation on a contingent basis, having received no compensation during the Litigation, and any fee award has been contingent on the result achieved;

(g) Plaintiffs' Counsel have devoted over 7,000 hours to this Litigation, with a lodestar value of $4,257,935.50, to achieve the Settlement;

(h) The amount of attorneys' fees is consistent with awards in similar cases; and

(i) The amount of expenses awarded is fair and reasonable and these expenses were necessary for the prosecution and settlement of the Litigation.

5. The Court awards the following amounts to be paid to Plaintiffs from the fees awarded to Lead Counsel, as reimbursement for the Plaintiffs' reasonable costs and expenses directly related to their representation of the Class: $8,027.44 to Randall Duck; $1,664.25 to Donald E. McAlpin; and $560.00 to Iron Workers Mid-South Pension Fund.

6. Any appeal or any challenge affecting this Court's approval of any attorneys' fee and expense application will in no way disturb or affect the finality of the Judgment entered with respect to the Settlement.

7. The Court retains exclusive jurisdiction over the parties and the Class Members for all matters relating to this Litigation, including the administration, interpretation, effectuation, or enforcement of the Stipulation and this Order.

8. If the Settlement is terminated or the Effective Date of the Settlement otherwise fails to occur, this Order will be rendered null and void to the extent provided by the Stipulation.

SO ORDERED.

DATED this 16th day of June, 2017.

BY THE COURT:

RAYMOND P. MOORE
United States District Judge

Exhibit 8

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SAN ANTONIO FIRE AND POLICE PENSION FUND, FIRE AND POLICE HEALTH CARE FUND, SAN ANTONIO, PROXIMA CAPITAL MASTER FUND LTD., and THE ARBITRAGE FUND, Plaintiffs, v. DOLE FOOD COMPANY, INC., DAVID H. MURDOCK and C. MICHAEL CARTER, Defendants.	Civil Action No. 1:15-cv-1140-LPS

~~[PROPOSED]~~ ORDER AWARDING ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION EXPENSES

This matter came on for hearing on July 18, 2017 (the "Settlement Hearing") on Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses. The Court having considered all matters submitted to it at the Settlement Hearing and otherwise; and it appearing that notice of the Settlement Hearing substantially in the form approved by the Court was mailed to all Settlement Class Members who or which could be identified with reasonable effort, and that a summary notice of the hearing substantially in the form approved by the Court was published in *The Wall Street Journal* and was transmitted over the *PR Newswire* pursuant to the specifications of the Court; and the Court having considered and determined the fairness and reasonableness of the award of attorneys' fees and Litigation Expenses requested,

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. This Order incorporates by reference the definitions in the Amended Stipulation and Agreement of Settlement dated March 29, 2017 (D.I. 88-1) (the "Stipulation") and all capitalized terms not otherwise defined herein shall have the same meanings as set forth in the Stipulation.

2. The Court has jurisdiction to enter this Order and over the subject matter of the Action and all parties to the Action, including all Settlement Class Members.

3. Notice of Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses was given to all Settlement Class Members who could be identified with reasonable effort. The form and method of notifying the Settlement Class of the motion for an award of attorneys' fees and expenses satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure, the Private Securities Litigation Reform Act of 1995 (15 U.S.C. § 78u-4(a)(7)), due process, and all other applicable law and rules, constituted the best notice practicable under the circumstances, and constituted due and sufficient notice to all persons and entities entitled thereto.

4. Plaintiffs' Counsel are hereby awarded attorneys' fees in the amount of 25% of the Settlement Fund and $638,890.06 in reimbursement of Plaintiffs' Counsel's litigation expenses (which fees and expenses shall be paid from the Settlement Fund), which sums the Court finds to be fair and reasonable. Lead Counsel shall allocate the attorneys' fees awarded amongst Plaintiffs' Counsel in a manner which they, in good faith, believe reflects the contributions of such counsel to the institution, prosecution and settlement of the Action.

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

(a) The Settlement has created a fund of $74,000,000 in cash that has been funded into escrow pursuant to the terms of the Stipulation, and that numerous Settlement Class Members who submit acceptable Claim Forms will benefit from the Settlement that occurred because of the efforts of Lead Counsel;

(b) The fee sought by Lead Counsel has been reviewed and approved as reasonable by Lead Plaintiffs, institutional investors that oversaw the prosecution and resolution of the Action;

(c) Copies of the Notice were mailed to over 28,000 potential Settlement Class Members and nominees stating that Lead Counsel would apply for attorneys' fees in an amount not exceed 25% of the Settlement Fund and reimbursement of Litigation Expenses in an amount not to exceed $1,300,000, and no objections to the requested attorneys' fees and expenses were received;

(d) Lead Counsel conducted the litigation and achieved the Settlement with skill, perseverance and diligent advocacy;

(e) The Action raised a number of complex issues;

(f) Had Lead Counsel not achieved the Settlement there would remain a significant risk that Lead Plaintiffs and the other members of the Settlement Class may have recovered less or nothing from Defendants;

(g) Plaintiffs' Counsel devoted over 16,000 hours, with a lodestar value of approximately $8,530,000, to achieve the Settlement; and

(h) The amount of attorneys' fees awarded and expenses to be reimbursed from the Settlement Fund are fair and reasonable and consistent with awards in similar cases.

6. Lead Plaintiff Proxima Capital Master Fund Ltd. is hereby awarded $18,500.00 from the Settlement Fund as reimbursement for its reasonable costs and expenses directly related to its representation of the Settlement Class.

7. Lead Plaintiff San Antonio Fire and Police Pension Fund is hereby awarded $4,058.70 from the Settlement Fund as reimbursement for its reasonable costs and expenses directly

related to its representation of the Settlement Class.

8. Lead Plaintiff The Arbitrage Fund is hereby awarded $32,437.50 from the Settlement Fund as reimbursement for its reasonable costs and expenses directly related to its representation of the Settlement Class.

9. Any appeal or any challenge affecting this Court's approval regarding any attorneys' fees and expense application shall in no way disturb or affect the finality of the Judgment.

10. Exclusive jurisdiction is hereby retained over the parties and the Settlement Class Members for all matters relating to this Action, including the administration, interpretation, effectuation or enforcement of the Stipulation and this Order.

11. In the event that the Settlement is terminated or the Effective Date of the Settlement otherwise fails to occur, this Order shall be rendered null and void to the extent provided by the Stipulation.

12. There is no just reason for delay in the entry of this Order, and immediate entry by the Clerk of the Court is expressly directed.

SO ORDERED this 18th day of July, 2017.

The Honorable Leonard P. Stark
Chief United States District Judge

Exhibit 9

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LARRY FREUDENBERG, Individually and On Behalf of All Others Similarly Situated, Plaintiff, - against - E*TRADE FINANCIAL CORPORATION, MITCHELL H. CAPLAN, ROBERT J. SIMMONS and DENNIS E. WEBB, Defendants.	Civil Action No. 07 Civ. 8538 (JPO) (MHD)

FINAL JUDGMENT AND ORDER OF DISMISSAL

This matter came before the Court for hearing pursuant to this Court's Order Granting Preliminary Approval of Settlement, Granting Conditional Class Certification, and Providing for Notice dated June 12, 2012 ("Preliminary Approval Order"), and the Court having received declarations attesting to the mailing of the Notice and the publication of the Summary Notice in accordance with the Preliminary Approval Order, on the application of the Settling Parties for approval of the settlement ("Settlement") set forth in the Stipulation of Settlement dated as of May 17, 2012 ("Stipulation"), the proposed Plan of Allocation of the Settlement proceeds, Plaintiffs' Counsel's application for an award of attorneys' fees and reimbursement of litigation expenses, and interim reimbursement of notice and administration expenses and, following a hearing on October 11, 2012 before this Court to consider the applications, all supporting papers and arguments of the Settling Parties, the objections, supporting papers and arguments submitted by Paul Liles, Leon Behar, Chris Andrews, and Eldon Ventris, and other proceedings held herein, and good cause appearing therefore,

IT IS HEREBY ADJUDGED, DECREED AND ORDERED:

1. This Final Judgment incorporates by reference the definitions in the Stipulation, and all terms used herein shall have the same meanings as set forth in the Stipulation unless set forth differently herein. The terms of the Stipulation are fully incorporated in this Final Judgment as if set forth fully herein.

2. The Court has jurisdiction over the subject matter of this Action and all parties to the Action, including all Settlement Class Members.

3. This Court finds that due and adequate notice was given of the Settlement, the Plan of Allocation of the Settlement proceeds, and Plaintiffs' Counsel's application for an award of attorneys' fees and/or reimbursement of expenses, as directed by this Court's Preliminary Approval Order, and that the forms and methods for providing such notice to Settlement Class Members:

(a) constituted the best notice practicable under the circumstances, including individual notice to all Settlement Class Members who could be identified through reasonable effort;

(b) was reasonably calculated, under the circumstances, to apprise Settlement Class Members of: (i) the proposed Settlement of this class action and the right to exclude themselves from the Settlement Class; (ii) their right to object to any aspect of the proposed Settlement, including the terms of the Stipulation and the Plan of Allocation; (iii) their right to appear at the Settlement Hearing, either on their own or through counsel hired at their own expense, if they are not excluded from the Settlement Class; and (iv) the binding effect of the proceedings, rulings, orders and judgments in this

Action, whether favorable or unfavorable, on all persons who are not excluded from the Settlement Class;

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

(d) fully satisfied all the applicable requirements of Rule 23 of the Federal Rules of Civil Procedure, due process, and all other applicable laws.

4. Pursuant to Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure, the Court hereby grants final certification of the Settlement Class consisting of all Persons (other than those Persons who timely and validly request exclusion from the Settlement Class) who purchased or otherwise acquired E*TRADE securities between April 19, 2006 and November 9, 2007, inclusive. Excluded from the Settlement Class are Defendants, members of the Individual Defendants' immediate families, the directors, officers, subsidiaries, and affiliates of E*TRADE, any firm, trust, corporation, or other entity in which any Defendant has a controlling interest, and the legal representatives, affiliates, heirs, successors-in-interest or assigns of any such excluded person or entity.

5. The Settlement Class excludes those Persons who timely and validly filed requests for exclusion from the Settlement Class pursuant to the Notice sent to Settlement Class Members as provided in this Court's Preliminary Approval Order. A list of such Persons who filed timely, completed and valid requests for exclusion from the Settlement Class is attached hereto as Exhibit 1. Persons who filed timely, completed and valid requests for exclusion from the Settlement Class are not bound by this Final Judgment or the terms of the Stipulation, and may pursue their own individual remedies against Defendants and the Released Persons. Such

Persons are not entitled to any rights or benefits provided to Settlement Class Members by the terms of the Stipulation.

6. With respect to the Settlement Class, the Court finds that:

(a) the Settlement Class Members satisfy all of the requirements of Rule 23(a) of the Federal Rules of Civil Procedure because:

i. the members of the Settlement Class are so numerous that joinder of all members is impracticable;

ii. there are questions of law and fact common to the Settlement Class;

iii. the claims and defenses of the representative parties are typical of the Settlement Class; and

iv. the representative parties will fairly and adequately protect the interests of the Settlement Class.

(b) In addition, the Court finds that the Action satisfies the requirement of Federal Rule of Civil Procedure 23(b)(3) in that there are questions of law and fact common to the Settlement Class Members that predominate over any questions affecting only individual members, and that a class action is superior to other available methods for the fair and efficient adjudication of the controversy; and

(c) The Court finds that Plaintiffs, Kristen Management Limited, Straxton Properties, Inc., Javed Fiyaz, Ira Newman, Peter Farah and Andrea Frascaroli, possess claims that are typical of the claims of Settlement Class Members and that they have and will adequately represent the interest of Settlement Class Members and appoints them as the representatives of the Settlement Class, and appoints Lead Counsel, Brower Piven, A

Professional Corporation, and Co-Lead Counsel, Levi & Korsinsky, LLP, as counsel for the Settlement Class ("Plaintiffs' Counsel").

7. The Court hereby finds that objectors Liles and Andrews lack standing to object to the Settlement. The Court further finds that the objections of objectors Liles, Behar, and Andrews to the Notice and/or the Settlement are without factual or legal merits and hereby overrules them in their entirety.

8. Pursuant to Fed. R. Civ. P. 23(e), this Court hereby approves the Settlement set forth in the Stipulation and finds that said Settlement, and all transactions preparatory and incident thereto, is, in all respects, fair, reasonable, and adequate to, and is in the best interests of, Plaintiffs and all Settlement Class Members based on, among other things: the Settlement resulted from arm's-length negotiations between the Settling Parties and/or their counsel; the amount of the recovery for Settlement Class Members being within the range of reasonableness given the strengths and weaknesses of the claims and defenses thereto and the risks of non-recovery and/or recovery of a lesser amount than is represented through the Settlement by continued litigation through all pretrial, trial and appellate procedures; the recommendation of the Settling Parties, in particular experienced Plaintiffs' Counsel, and the absence of objections from any Settlement Class Member to the Settlement. All objections to the proposed Settlement, if any, are overruled in their entirety. Accordingly, the Settlement embodied in the Stipulation is hereby approved in all respects and shall be consummated in accordance with its terms and conditions. The Settling Parties are hereby directed to perform the terms of the Stipulation, and the Clerk of the Court is directed to enter and docket this Class Judgment in this Action.

9. The Court hereby finds that objector Andrews lacks standing to object to the Plan of Allocation. The Court further finds that the objections of objectors Behar and Andrews to the Plan of Allocation are without factual or legal merits and hereby overrules them in their entirety.

10. This Court hereby approves the Plan of Allocation as set forth in the Notice as fair and equitable, and overrules all objections to the Plan of Allocation, if any, in their entirety. The Court directs Plaintiffs' Lead Counsel to proceed with the processing of Proofs of Claim and the administration of the Settlement pursuant to the terms of the Plan of Allocation and, upon completion of the claims processing procedure, to present to this Court a proposed final distribution order for the distribution of the Net Settlement Fund to eligible Settlement Class Members, as provided in the Stipulation and Plan of Allocation.

11. The Court hereby finds that objectors Liles and Andrews lack standing to object to Plaintiffs' Counsel's request for an award of attorneys' fees and request for reimbursement of litigation expenses. The Court further finds that the objections of objectors Liles, Behar, and Andrews to the Plaintiffs' request for an award of attorneys' fees and request for reimbursement of litigation expenses are without factual or legal merits and hereby overrules them in their entirety.

12. This Court hereby awards Plaintiffs' Counsel reimbursement of their out-of-pocket expenses in the amount of $ 554,950.23, and attorneys' fees equal to 28 % percent of the balance of the Settlement Fund, with interest to accrue on all such amounts at the same rate and for the same periods as has accrued by the Settlement Fund from the date of this Final Judgment to the date of actual payment of said attorneys' fees and expenses to Plaintiffs' Counsel as provided in the Stipulation. The Court finds the amount of attorneys' fees awarded herein are fair and reasonable based on: (a) the work performed and costs incurred

by Plaintiffs' Counsel; (b) the complexity of the case; (c) the risks undertaken by Plaintiffs' Counsel and the contingent nature of their employment; (d) the quality of the work performed by Plaintiffs' Counsel in this Action and their standing and experience in prosecuting similar class action securities litigation; (e) awards to successful plaintiffs' counsel in other, similar litigation; (f) the benefits achieved for Settlement Class Members through the Settlement; and (g) the absence of a significant number of objections from Settlement Class Members to either the application for an award of attorneys' fees or reimbursement of expenses to Plaintiffs' Counsel. The Court also finds that the requested reimbursement of expenses is proper as the expenses incurred by Plaintiffs' Counsel, including the costs of experts, were reasonable and necessary in the prosecution of this Action on behalf of Settlement Class Members.

13. Based on the foregoing, the Court finds that the objection by Mr. Ventris has been resolved and is moot. The attorneys' fees awarded and expenses reimbursed above shall otherwise be paid to Plaintiffs' Counsel as provided in the Stipulation.

14. Plaintiffs' Counsel may apply, from time to time, for any fees and/or expenses incurred by them solely in connection with the administration of the Settlement and distribution of the Net Settlement Fund to Settlement Class Members.

15. All payments of attorneys' fees and reimbursement of expenses to Plaintiffs' Counsel in the Action shall be made from the Settlement Fund, and the Released Persons shall have no liability or responsibility for the payment of any of Plaintiffs' or Plaintiffs' Counsel's attorneys' fees or expenses except as expressly provided in the Stipulation with respect to the cost of Notice and administration of the Settlement.

16. Pursuant to Federal Rule of Civil Procedure 23(c)(3), all Settlement Class Members who have not filed timely, completed and valid requests for exclusion from the

Settlement Class are thus Settlement Class Members who are bound by this Final Judgment and by the terms of the Stipulation.

17. The Released Persons are hereby released and forever discharged from any and all of the Released Claims. All Settlement Class Members are hereby forever barred and enjoined from asserting, instituting or prosecuting, directly or indirectly, any Released Claim in any court or other forum against any of the Released Persons. All Settlement Class Members are bound by paragraph 4.4 of the Stipulation and are hereby forever barred and enjoined from taking any action in violation of that provision.

18. The Court hereby dismisses with prejudice the Action and all Released Claims against each and all Released Persons and without costs to any of the Settling Parties as against the others.

19. Neither the Stipulation nor the settlement contained therein, nor any act performed or document executed pursuant to or in furtherance of the Stipulation or the settlement: (a) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any Released Claim, or of any wrongdoing or liability of the Defendants; or (b) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any of the Defendants in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal; or (c) is admissible in any proceeding except an action to enforce or interpret the terms of the Stipulation, the settlement contained therein, and any other documents executed in connection with the performance of the agreements embodied therein. Defendants and/or the other Released Persons may file the Stipulation and/or this Final Judgment and Order in any action that may be brought against them in order to support a defense or counterclaim based on the principles of res judicata, collateral estoppel, full faith and credit,

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

20. The Court finds that during the course of the Action, the Settling Parties and their respective counsel at all times complied with the requirements of Federal Rule of Civil Procedure 11.

21. Without affecting the finality of this Final Judgment in any way, this Court hereby reserves and retains continuing jurisdiction over: (a) implementation and enforcement of any award or distribution from the Settlement Fund or Net Settlement Fund; (b) disposition of the Settlement Fund or Net Settlement Fund; (c) determining applications for payment of attorneys' fees and/or expenses incurred by Plaintiffs' Counsel in connection with administration and distribution of the Net Settlement Fund; (d) payment of taxes by the Settlement Fund; (e) all parties hereto for the purpose of construing, enforcing, and administering the Stipulation; and (f) any other matters related to finalizing the Settlement and distribution of the proceeds of the Settlement.

22. Neither appellate review nor modification of the Plan of Allocation set forth in the Notice, nor any action in regard to the motion by Plaintiffs' Counsel for attorneys' fees and/or reimbursement of expenses and the award of costs and expenses to Plaintiffs, shall affect the finality of any other portion of this Final Judgment, nor delay the Effective Date of the Stipulation, and each shall be considered separate for the purposes of appellate review of this Final Judgment.

23. In the event that the Settlement does not become Final in accordance with the terms of the Stipulation or the Effective Date does not occur, or in the event that the Settlement Fund, or any portion thereof, is returned to the Defendants, then this Final Judgment shall be

rendered null and void to the extent provided by and in accordance with the Stipulation and shall be vacated and, in such event, all orders entered and releases delivered in connection herewith shall be null and void to the extent provided by and in accordance with the Stipulation.

24. This Final Judgment and Order is a final judgment in the Action as to all claims asserted. This Court finds, for purposes of Rule 54(b) of the Federal Rules of Civil Procedure, that there is no just reason for delay and expressly directs entry of judgment as set forth herein.

Dated: Oct. 20, 2012

HONORABLE J. PAUL OETKEN
UNITED STATES DISTRICT JUDGE

Exhibit A – Exclusions

1. Robert F Lentes Jr TOD

2. Ronald M Tate, Trustee

3. George Avakian

4. Jaehong Park

5. Kenneth L. Kientz

6. Luis Aragon & Michelle Aragon

Exhibit 10

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE MERRILL LYNCH & CO., INC. SECURITIES, DERIVATIVE AND ERISA LITIGATION	:	Master File No. 07-cv-9633 (JSR)(DFE)
This Document Relates To: ERISA Action, 07-cv-10268 (JSR)(DFE)	:	

ORDER AND FINAL JUDGMENT

This is a case brought under the Employment Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1001 *et seq.* ("ERISA"), claiming breach of fiduciary duty. Named Plaintiffs Carl Esposito, Barbara Boland, Alan Maltzman, and Mary Gidaro filed a Consolidated Supplemental Complaint For Violations of the Employee Retirement Income Security Act (the "Complaint") (Dkt. No. 64) on September 23, 2008. The Stipulation and Agreement of Settlement ERISA Action, dated February 27, 2009 ("Settlement Stipulation"), a copy of which is attached hereto as Exhibit 1, was submitted to the Court on February 27, 2009. Before the Court are: (1) Plaintiffs' Motion For Final Approval of Class Action Settlement and Plan of Allocation ("Final Approval Motion"); and (2) Plaintiffs' Motion for Award of Attorneys' Fees, Expenses, and Case Contribution Awards ("Fee Motion").[1]

[1] All capitalized terms used in this Order and Final Judgment and not defined herein shall have the meanings assigned to them in the Settlement Stipulation.

On March 17, 2009, the Court entered its Order Preliminarily Approving Settlement, Preliminarily Certifying Settlement Class, Approving Notice Plan, and Setting Fairness Hearing Date ("Preliminary Approval Order"). ("Dkt. No. 91). The Court has received the declaration attesting to the mailing of the Notice and publication of the Publication Notice in accordance with the Preliminary Approval Order. *See* Declaration of Jennifer M. Keough re: Notice Dissemination and Publication ("Keough Decl."), attached as Exhibit A to the Joint Declaration of Lynn L. Sarko and Marc I. Machiz in Support of Motion for Final Approval of Class Action Settlement and Plan of Allocation and Motion for Award of Attorneys' Fees, Expenses, and Case Contribution Awards ("Joint Decl."). A hearing was held on July 27, 2009 to: (i) determine whether to grant the Final Approval Motion; (ii) determine whether to grant the Fee Motion; and (iii) rule upon such other matters as the Court might deem appropriate.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. The Court has jurisdiction over the subject matter of this action, all members of the Class, and all Settling Defendants pursuant to 29 U.S.C. § 1132(e).

2. In accordance with Federal Rule of Civil Procedure 23 and the requirements of due process, the Class has been given proper and adequate notice of the Settlement, the Fairness Hearing, and the Plan of Allocation, such notice having been carried out in accordance with the Preliminary Approval Order. The Notice, Publication Notice and notice methodology implemented pursuant to the Settlement Stipulation and the Court's Preliminary Approval Order (a) were appropriate and reasonable and constituted due, adequate, and sufficient notice to all persons entitled to notice; and (b) met all applicable requirements of the Federal Rules of Civil Procedure and any other applicable law.

3. The Settlement was negotiated at arm's-length by experienced counsel who were fully informed of the facts and circumstances of the action and of the strengths and weaknesses of their respective positions. The Settlement was reached after the Parties had fully briefed motions to dismiss and engaged in extensive negotiations. The parties exchanged information during the settlement negotiations, and have engaged in confirmatory discovery. Co-Lead Counsel and Defendants' Counsel are therefore well positioned to evaluate the benefits of the Settlement, taking into account the expense, risk, and uncertainty of protracted litigation over numerous questions of fact and law.

4. The Court finds that the requirements of the United States Constitution, the Federal Rules of Civil Procedure, the Local Rules of the United States District Court for the Southern District of New York, and any other applicable laws have been met as to the "Class" defined below, in that:

a. The Class is cohesive and well defined;

b. The members of the Class are ascertainable from records kept with respect to the Plans, and the members of the Class are so numerous that their joinder before the Court would be impracticable;

c. Based on allegations in the Complaint, the Court preliminarily finds that there are one or more questions of fact and/or law common to the Class;

d. Based on allegations in the Complaint that the Defendants engaged in misconduct affecting members of the Class in a uniform manner, the Court finds that the claims of the Named Plaintiffs are typical of the claims of the Class;

e. The Named Plaintiffs will fairly and adequately protect the interests of the Class in that: (i) the interests of Named Plaintiffs and the nature of their alleged claims are consistent with those of the members of the Class; (ii) there appear to be no conflicts between or among Named Plaintiffs and the Class; and (iii) Named Plaintiffs and the members of the Class are represented by qualified, reputable counsel who are experienced in preparing and prosecuting large, complicated ERISA class actions;

f. The prosecution of separate actions by individual members of the Class would create a risk of (i) inconsistent or varying adjudications as to individual Class members that would establish incompatible standards of conduct for the parties opposing the claims asserted in the ERISA Action or (ii) adjudications as to individual Class members that would, as a practical matter, be dispositive of the interests of the other Class members not parties to the adjudications, or substantially impair or impede the ability of those persons to protect their interests; and

g. Based on allegations in the Complaint that Defendants have acted or refused to act on grounds generally applicable to the Class, final injunctive, declaratory, or other equitable relief is appropriate with respect to the Class as a whole.

5. Based on the findings set out in paragraph 4 above, the Court certifies the following class (the "Class") for settlement purposes under Fed. R. Civ. P. 23(b)(1) and (2):

> (a) All current and former participants and beneficiaries of any of the Plans whose individual Plan account(s) included investments in Merrill Lynch stock at any time between September 30, 2006 and December 31, 2008, inclusive and (b) as to each Person within the scope of

subsection (a) of this Paragraph, his, her or its beneficiaries, alternate payees (including spouses of deceased Persons who were participants of one or more of the Plans), Representatives and Successors-In-Interest, provided, however, that the Class shall not include any Defendant or any of their Immediate Family, beneficiaries, alternate payees (including spouses of deceased Persons who were Plan participants), Representatives or Successors-In-Interest, except for spouses and immediate family members who themselves are or were participants in any of the Plans, who shall be considered members of the Class with respect to their own Plan accounts.

6. The Court confirms the appointment of Named Plaintiffs as class representatives for the Class, and Keller Rohrback L.L.P. and Cohen Milstein Sellers & Toll PLLC as Co-Lead Counsel for the Class.

7. The Settlement warrants final approval pursuant to Federal Rule of Civil Procedure 23(e)(1)(A) and (C) because it is fair, adequate, and reasonable to the Class and others whom it affects based upon (1) the complexity, expense and likely duration of the litigation; (2) the reaction of the Class to the Settlement; (3) the stage of the proceedings and the amount of discovery completed; (4) the risks of establishing liability; (5) the risks of establishing damages; (6) the risks of maintaining a class action through the trial; (7) the ability of the Defendants to withstand a greater judgment; (8) the range of reasonableness of the Settlement Fund in light of the best possible recovery; and (9) the range of reasonableness of the Settlement Fund to a possible recovery in light of all the attendant risks of litigation.

8. The Settlement was intended by the parties thereto to be a contemporaneous exchange of value, and in fact constitutes such a contemporaneous exchange.

9. The Final Approval Motion is GRANTED, and the Settlement hereby is APPROVED as fair, reasonable, adequate to members of the Class, and in the public interest. The settling parties are directed to consummate the Settlement in accordance with the terms of the Settlement Stipulation.

10. The Plan of Allocation, a copy of which is attached hereto as Exhibit 2, is hereby APPROVED as fair, adequate, and reasonable. Upon or after the Effective Date of the Settlement, the Custodian shall, at the direction of Co-Lead Counsel, disburse the Net Settlement Fund to the Plans for distribution by the Plans' trustee(s) in accordance with the Plan of Allocation, subject to any amounts withheld by the Custodian for the payment of taxes and related expenses as authorized in the Settlement Stipulation, and attorneys fees and expenses and case contribution awards to Named Plaintiffs as authorized by this Order. The Court finds payments and distributions made in accordance with such Plan of Allocation to be "restorative payments" as defined in IRS Revenue Ruling 2002-45. Any modification or change in the Plan of Allocation that may hereafter be approved shall in no way disturb or affect this Judgment and shall be considered separate from this Judgment.

11. A case contribution award of $ 5,000.- payable from the Gross Settlement Fund is awarded to each Named Plaintiff. Such award may be distributed to each Named Plaintiff by the Custodian upon the Effective Date of the Settlement.

12. Co-Lead Counsel are hereby awarded attorneys' fees of $ 18,750,000.- and expenses of $ 372,312.94. Such award may be distributed to Co-Lead Counsel by the Custodian only after all other payments and distributions ~~upon the Effective Date of the Settlement.~~ of any kind have been made.

13. The Court retains jurisdiction over this action and the Parties, the Plans, and members of the Class for all matters relating to this action, including (without limitation) the administration, interpretation, effectuation or enforcement of the Settlement Stipulation and this Order and Final Judgment, and including any application for fees and expenses incurred in connection with administering and distributing the Settlement proceeds to members of the Class.

14. Without further order of the Court, the Parties may agree in writing to reasonable extensions of time to carry out any of the provisions of the Settlement Stipulation.

15. Named Plaintiffs and all members of the Class, on behalf of themselves, and the Class, and their personal representatives, heirs, executors, administrators, trustees, successors, and assigns, with respect to each and every Settled Claim, fully, finally and forever release, relinquish and discharge, and are forever enjoined from prosecuting, any Settled Claim against any of the Released Parties, provided that, no Released Party shall seek any remedy for violation of the foregoing injunction by any Class Member other than a Named Plaintiff until at least thirty (30) days after having provided such Class Member with written notice of such injunction and demand to desist from any conduct in violation thereof.

16. The Defendants fully, finally, and forever release, relinquish, and discharge, and are forever enjoined from prosecuting, the Settled Defendants' Claims against Named Plaintiffs, all members of the Class, and their respective counsel.

17. All counts asserted in the ERISA Action are DISMISSED WITH PREJUDICE, without further order of the Court, pursuant to the terms of the Settlement Stipulation.

18. In the event that the Settlement is terminated in accordance with the terms of the Settlement Stipulation, this Judgment shall be null and void and shall be vacated nunc pro tunc, and paragraph 8.5 of the Settlement Stipulation shall govern the rights of the Parties thereto.

SO ORDERED this 21st day of August, 2009.

HONORABLE JED S. RAKOFF
UNITED STATES DISTRICT JUDGE

EXHIBIT 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE MERRILL LYNCH & CO., INC. SECURITIES, DERIVATIVE & ERISA LITIGATION	Master File No. 07-cv-9633 (JSR)(DFE)
This Document Relates To: ERISA Action, 07-cv-10268 (JSR)(DFE)	

STIPULATION AND AGREEMENT OF SETTLEMENT
ERISA ACTION

This Stipulation and Agreement of Settlement – ERISA Action (the "*Stipulation*") is submitted in the above-captioned *In re Merrill Lynch & Co., Inc. Securities, Derivative and ERISA Litigation*, Master File No. 07-cv-9633 (JSR)(DFE), Case No. 07-cv-10268 (JSR)(DFE) (hereinafter, the "*ERISA Action*"), pursuant to Rule 23 of the Federal Rules of Civil Procedure. Subject to the approval of the United States District Court for the Southern District of New York (the "*Court*"), this *Stipulation* is entered into among named plaintiffs Carl Esposito, Barbara Boland, Alan Maltzman, and Mary Gidaro (together, "*Named Plaintiffs*") on behalf of themselves and the *Class* (as defined in Paragraph 1.3), on the one hand, and Merrill Lynch & Co., Inc. ("*Merrill Lynch*"), on the other.

A separate consolidated class action brought under the federal securities laws coordinated in the above-captioned *In re Merrill Lynch & Co., Inc. Securities, Derivative and ERISA Litigation*, Master File No. 07-cv-9633 (JSR)(DFE), identified as *In re Merrill Lynch & Co., Inc. Securities Action*, 07-cv-9633 (JSR)(DFE) (the "*Securities Action*"), is also pending in this *Court*. The

Securities Action is being settled contemporaneously herewith pursuant to a separate stipulation of settlement. It is a condition to the *Settlement* (as defined in Paragraph 1.43) that the *ERISA Action* and the *Securities Action* be settled contemporaneously and that the *Settlement* and the settlement of the *Securities Action* be approved by the *Court*.

WHEREAS:

A. Beginning on November 9, 2007, several putative class actions were filed in the *Court* against *Merrill Lynch* and various other defendants alleging violations of the Employee Retirement Income Security Act ("ERISA"). On March 12, 2008, the *Court* consolidated these actions into the *ERISA Action*, and appointed Keller Rohrback, L.L.P., and Cohen, Milstein, Sellers & Toll, PLLC[1] as interim co-lead counsel ("*Co-Lead Counsel*") to manage the prosecution of the *ERISA Action* on behalf of the putative class.

B. *Named Plaintiffs* filed a Consolidated Amended Complaint for Violations of the Employee Retirement Income Security Act on May 21, 2008, and a Consolidated Supplemental Complaint for Violations of the Employee Retirement Income Security Act (the "*Complaint*") on September 23, 2008. The *Complaint* asserts, on behalf of all persons, other than *Defendants*, who were participants in or beneficiaries of the Merrill Lynch & Co., Inc. 401(k) Savings and Investment Plan, the Merrill Lynch & Co., Inc. Retirement Accumulation Plan, or the Merrill Lynch & Co., Inc. Employee Stock Ownership Plan at any time between September 25, 2006 to the present, and whose accounts included investments in *Merrill Lynch* stock, claims under Sections 502(a)(2) and 502(a)(3) of ERISA, including claims for breaches of the fiduciary duties of prudence and loyalty, failure to monitor and co-fiduciary liability.

C. *Defendants* deny any wrongdoing whatsoever, and this *Stipulation* shall in no event

[1] Known at the time of appointment as Cohen, Milstein, Hausfeld & Toll P.L.L.C.

be construed or deemed to be evidence of or an admission or concession, on the part of any *Defendant* with respect to any claim of any fault or liability or wrongdoing or damage whatsoever, or any infirmity in the defenses that the *Defendants* have asserted or would assert.

D. The parties to this *Stipulation* recognize that the *ERISA Action* has been filed by the *Named Plaintiffs* and defended by the *Defendants* in good faith, that the *ERISA Action* is being voluntarily settled upon advice of counsel, and that the terms of the *Settlement* are fair, reasonable and adequate. This *Stipulation* shall not be construed or deemed to be a concession by *Named Plaintiffs* or any *Class Member* of any infirmity in the claims asserted in the *ERISA Action* or any other action, or deemed to be evidence of any such infirmity.

E. *Co-Lead Counsel* have conducted investigations relating to the claims and the underlying events and transactions alleged in the *ERISA Action*. *Co-Lead Counsel* have analyzed the evidence adduced in connection with the *ERISA Action,* including during confirmatory discovery, and have researched the applicable law with respect to the claims of the *Named Plaintiffs* and the *Class* against the *Defendants* and the potential defenses thereto.

F. *Named Plaintiffs* in the *ERISA Action*, through *Co-Lead Counsel,* conducted personal and telephonic discussions and arm's-length negotiations with *Defendants'* counsel with respect to a compromise and settlement of the *ERISA Action.* These discussions and negotiations resulted in the execution of a Settlement Term Sheet on January 7, 2009 (the "*Term Sheet*"), which set forth the principal terms of the settlement of the *ERISA Action*, subject to confirmatory discovery to assess the adequacy and reasonableness of such settlement.

G. *Merrill Lynch* considers that, in order for it to achieve an end to litigation, it is a necessary condition to the settlement of the *ERISA Action* that the *Court* contemporaneously approve the separate settlement reached with respect to the *Securities Action*.

H. Based upon their investigation as well as informal and confirmatory discovery, *Named Plaintiffs* and *Co-Lead Counsel* have concluded that the terms and conditions of this *Stipulation,* which include the terms contained in the *Term Sheet* together with supplementary terms and conditions set forth herein, are fair, reasonable and adequate to *Named Plaintiffs* and the *Class*, and are in their best interests, and *Named Plaintiffs* have agreed to settle the claims raised in the *ERISA Action* pursuant to the terms and provisions of this *Stipulation*, after considering (a) the substantial benefits that the members of the *Class* will receive from settlement of the *ERISA Action*, (b) the attendant risks of litigation, and (c) the desirability of permitting the *Settlement* to be consummated as provided by the terms of this *Stipulation*.

NOW THEREFORE, without any admission or concession on the part of *Named Plaintiffs* of any lack of merit of the *ERISA Action* whatsoever, and without any admission or concession of any liability or wrongdoing or lack of merit in the defenses whatsoever by *Defendants*, it is hereby STIPULATED AND AGREED, by and between the parties to this *Stipulation*, through their respective counsel, subject to approval of the *Court* pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, in consideration of the benefits flowing to the parties hereto from the *Settlement* herein set forth, that all *Settled Claims* (as defined herein), as against the *Released Parties* (as defined herein), and all *Settled Defendants' Claims* (as defined herein) shall be compromised, settled, released and dismissed with prejudice, upon and subject to the following terms and conditions:

1. Definitions.

As used in this *Stipulation,* italicized and capitalized terms and phrases not otherwise defined herein have the meanings provided below:

1.1 "*Agreement Execution Date*" means the date on which this *Stipulation* is fully executed, as provided in Paragraph 10.19 below.

1.2 "*Alternative Judgment*" has the meaning set forth in Paragraph 8.1.5.

1.3 "*Class*" means, for the purposes of this *Settlement* only, a non-opt-out class consisting of (a) all current and former participants and beneficiaries of any of the *Plans* whose individual *Plan* account(s) included investments in *Merrill Lynch* stock at any time during the *Class Period* and (b) as to each *Person* within the scope of subsection (a) of this Paragraph 1.3, his, her or its beneficiaries, alternate payees (including spouses of deceased *Persons* who were participants of one or more of the Plans), *Representatives* and *Successors-In-Interest*, provided, however, that the *Class* shall not include any *Defendant* or any of their *Immediate Family*, beneficiaries, alternate payees (including spouses of deceased *Persons* who were *Plan* participants), *Representatives* or *Successors-In-Interest*, except for spouses and immediate family members who themselves are or were participants in any of the *Plans*, who shall be considered members of the *Class* with respect to their own *Plan* accounts.

1.4 "*Class Member*" means a member of the *Class*.

1.5 "*Class Notice*" means the forms of notice appended as Exhibits 1 and 2 to the form of *Order for Notice and Hearing*, attached hereto as Exhibit A.

1.6 "*Class Period*" means, for the purposes of this *Settlement* only, the period of time between September 30, 2006 and December 31, 2008, inclusive.

1.7 "*Co-Lead Counsel*" means Keller Rohrback L.L.P. and Cohen Milstein Sellers & Toll, PLLC.

1.8 "*Complaint*" means the Consolidated Supplemental Complaint for Violations of the Employee Retirement Income Security Act in the *ERISA Action*, filed September 23, 2008.

1.9 "*Court*" means the United States District Court for the Southern District of New York.

1.10 "*Custodian*" means (a) two or more individuals, one designated in writing by each *Co-Lead Counsel*, who execute an undertaking to be bound by the provisions of this *Stipulation* pertaining to the duties of the *Custodian*, or (b) a federally-insured financial institution proposed by *Co-Lead Counsel* and acceptable to *Defendants' Counsel*. Either *Co-Lead Counsel* may change its designation at any time (and shall do so in the event the designee ceases to be a member of, partner in, or employee of, said *Co-Lead Counsel*) by executing a written instrument reflecting such change and delivering it to the other *Co-Lead Counsel*, with notice of such change provided to *Defendants' Counsel*.

1.11 "*Defendants*" means (a) *Merrill Lynch* and (b) all persons named as defendants in the *Complaint*, whether named personally or fictitiously, who execute and deliver the *Individual Defendants Letter Agreement*.

1.12 "*Defendants' Counsel*" means the law firm of Skadden, Arps, Slate, Meagher & Flom LLP, and *Individual Defendants' Counsel*.

1.13 "*Derivative Actions*" means all actions consolidated into docket number 07-cv-9696 by order of the *Court* dated March 12, 2008.

1.14 "*Effective Date*" means the date, established pursuant to Paragraph 8.1, on which all of the conditions to settlement set forth in Paragraph 8.1 of this *Stipulation* have been fully satisfied or waived.

1.15 "*Fairness Hearing*" means the hearing to be held by the *Court* to determine, among other things, whether to grant final approval to the *Settlement*, as contemplated by the form of *Order for Notice and Hearing* attached hereto as Exhibit A.

1.16 "*Final*" or "*Finality,*" with respect to any *Judgment* or *Alternative Judgment* (both as defined herein) or any other order or judgment of a court of competent jurisdiction, means: (a) if no appeal is filed, the expiration date of the time provided by the corresponding rules of the applicable court or legislation for filing or noticing of any appeal therefrom; or (b) if there is an appeal therefrom, the date of (i) final dismissal of such appeal, or the final dismissal of any proceeding on certiorari or otherwise to review the *Judgment, Alternative Judgment*, judgment or order; or (ii) the date of final affirmance on an appeal thereof, the expiration of the time to file a petition for a writ of certiorari or other form of review, or the denial of a writ of certiorari or other form of review thereof, and, if certiorari or other form of review is granted, the date of final affirmance thereof following review pursuant to that grant. Any proceeding or order, or any appeal or petition for a writ of certiorari or other form of review pertaining solely to (i) any application for attorneys' fees, costs or expenses, and/or (ii) the *Plan of Allocation*, shall not in any way delay or preclude the *Judgment* or *Alternative Judgment* from becoming *Final*.

1.17 "*Gross Settlement Fund*" shall have the meaning set forth in Paragraph 3.2.

1.18 "*Immediate Family*" means parents, grandparents, children and grandchildren.

1.19 "*Independent Fiduciary*" means a *Person* who may, at the election of *Merrill Lynch*, be appointed by the appropriate named fiduciary of the *Plan* or designated by an amendment to the applicable governing *Plan* document, whose fees and expenses (including the cost of counsel and other advisors) shall be paid by *Merrill Lynch* to consider whether to approve and authorize in writing the *Settlement* in accordance with Department of Labor Prohibited Transaction Class Exemption 2003-39.

1.20 "*Individual Defendants*" means all *Defendants* other than *Merrill Lynch*.

1.21 "*Individual Defendants' Counsel*" means the law firms of Shearman & Sterling LLP and Simpson Thacher & Bartlett LLP.

1.22 "*Individual Defendants Letter Agreement*" or "*Letter Agreement*" means a letter agreement, in a form satisfactory to *Co-Lead Counsel* and *Individual Defendants' Counsel*, to be executed within thirty (30) days of the date the *Court* grants preliminary approval to the *Settlement*, between, on the one hand, *Named Plaintiffs* on behalf of themselves and the *Class*, and on the other, *Individual Defendants*, through counsel for the foregoing, in which the *Individual Defendants* agree to be bound by the provisions of Paragraphs 1.49, 2.3, 5.1, 8.5, 9.1, 10.2, 10.3 and 10.14 of this *Stipulation*; acknowledge that they will be identified as "*Defendants*" (and not by name) in the *Class Notice*; consent that *Co-Lead Counsel* may identify them by name to any *Class Member* upon request, provided, however, that prior to disclosure, *Plaintiffs' Counsel* has obtained written agreement from such *Class Member* to be bound by the terms of confidentiality agreements and orders that are binding on *Named Plaintiffs* and *Co-Lead Counsel*; and consent that they will not be included in the *Class* nor will they participate in any recovery pursuant to the *Settlement*, and in which *Named Plaintiffs*, on behalf of themselves and the *Class*, agree to be bound by Paragraphs 1.49, 2.2, 3.6, 8.5, 9.1, 10.2, 10.3, 10.14 of this *Stipulation*.

1.23 "*Judgment*" shall mean the Judgment contemplated by Paragraph 7.1. A proposed form of the *Judgment* is attached hereto as Exhibit B.

1.24 "*Merrill Lynch*" means Merrill Lynch & Co., Inc.

1.25 "*Named Plaintiffs*" means Plaintiffs Carl Esposito, Barbara Boland, Alan Maltzman, and Mary Gidaro.

1.26 "*Net Settlement Fund*" has the meaning defined in Paragraph 3.3 hereof.

1.27 "*Notice*" means the "Notice of Proposed Settlement With Defendants, Motions for Attorneys' Fees and Reimbursement of Expenses and Fairness Hearing", which is to be sent to members of the *Class* substantially in the form attached hereto as Exhibit 1 to Exhibit A.

1.28 "*Order for Notice and Hearing*" means the order preliminarily approving the *Settlement* and directing notice thereof to the *Class* substantially in the form attached hereto as Exhibit A.

1.29 "*Parties*" means the *Plaintiffs* and the *Defendants*.

1.30 "*Person*" means an individual, partnership, corporation, governmental entity or any other form of entity or organization.

1.31 "*Plaintiffs*" means *Named Plaintiffs* and each member of the *Class*.

1.32 "*Plaintiffs' Counsel*" means *Co-Lead Counsel* and any other counsel representing *Plaintiffs* and *Class Members*.

1.33 "*Plans*" shall mean the Merrill Lynch & Co., Inc. 401(k) Savings and Investment Plan; the Merrill Lynch & Co., Inc. Retirement Accumulation Plan; and the Merrill Lynch & Co., Inc. Employee Stock Ownership Plan, together with their *Predecessors* and *Successors-in-Interest*, and any trust created under such plans.

1.34 "*Plan of Allocation*" means a plan of allocation of the *Net Settlement Fund* as proposed by *Co-Lead Counsel* and approved by the *Court*.

1.35 "*Plan of Allocation Implementation Expenses*" means all expenses of implementing the *Plan of Allocation*, including the costs of gathering required data, performing required calculations and establishment of accounts in the *Plans* to receive allocations made with respect to former participants. *Plan of Allocation Implementation Expenses* will be paid by (or reimbursed

from) the *Gross Settlement Fund* to the extent of the first $350,000 thereof, with any excess above such amount paid promptly by *Merill Lynch*.

1.36 "*Predecessor*" means as to any *Person* (the "Subject Person"), another *Person* as to whom the Subject Person is a *Successor in Interest*.

1.37 "*Publication Notice*" means the summary notice of proposed *Settlement* and hearing for publication substantially in the form attached as Exhibit 2 to Exhibit A.

1.38 "*Released Parties*" means any and all of the *Defendants*, every *Person* who, at any time during the *Class Period*, was a director, officer, employee or agent of *Merrill Lynch* or a trustee or fiduciary of any of the *Plans*, together with, for each of the foregoing, any *Predecessors*, *Successors-In-Interest*, present and former *Representatives*, direct or indirect parents and subsidiaries, affiliates, insurers, co-insurers, re-insurers, consultants, administrators, employee benefit plans, investment advisors, investment bankers, underwriters, and any *Person* that controls, is controlled by, or is under common control with any of the foregoing.

1.39 "*Representatives*" means attorneys, agents, directors, officers, and employees.

1.40 "*Securities Action*" means all actions consolidated into docket number 07-cv-9633 by order of the *Court* dated March 12, 2008.

1.41 "*Settled Claims*" means any and all claims, debts, demands, rights or causes of action, suits, matters, and issues or liabilities whatsoever (including, but not limited to, any claims for damages, interest, attorneys' fees, expert or consulting fees, and any other costs, expenses or liability whatsoever), whether based on federal, state, local, statutory or common law or any other law, rule or regulation, whether fixed or contingent, accrued or unaccrued, liquidated or unliquidated, at law or in equity, matured or unmatured, whether class or individual in nature, including both known claims and *Unknown Claims* (as defined herein), against any of the *Released*

Parties (i) that have been asserted in the *ERISA Action*, or (ii) that could have been asserted in any forum by any *Class Member* or their successors and assigns which arise out of or are based upon the allegations, transactions, facts, matters or occurrences, representations or omissions out of which the claims asserted in the *ERISA Action* arise. Notwithstanding the foregoing, "*Settled Claims*" does not include any claims, rights or causes of action or liabilities whatsoever (i) related to the enforcement of the *Settlement*, including, without limitation, any of the terms of this *Stipulation* or orders or judgments issued by the courts in connection with the *Settlement* or confidentiality obligations; (ii) asserted in the *Securities Action* and not the subject of the settlement of the *ERISA Action*; or (iii) under ERISA Section 502(a)(1)(B) for individual or vested benefits brought by an individual *Plan* participant or beneficiary where such claims are unrelated to any claim, matter or cause of action that has been asserted in the *ERISA Action* or that could have been asserted in the *ERISA Action* or arising out of or based upon the allegations, transactions, facts, matters or occurrences, representations or omissions out of which the claims asserted in the *ERISA Action* arise.

1.42 "*Settled Defendants' Claims*" means any and all claims, rights or causes of action or liabilities whatsoever, whether based on federal, state, local, statutory or common law or any other law, rule or regulation, including both known claims and *Unknown Claims*, that have been or could have been asserted in the *ERISA Action* or any forum by the *Defendants* or any of them or the successors and assigns of any of them against any of the *Named Plaintiffs*, any *Class Member* or their attorneys, which arise out of or relate in any way to the institution, prosecution, or settlement of the *ERISA Action*. *Settled Defendants' Claims* does not include all claims, rights or causes of action or liabilities whatsoever related to the enforcement of the *Settlement*, including, without

limitation, any of the terms of this *Stipulation* or orders or judgments issued by the courts in connection with the *Settlement* or confidentiality obligations.

1.43 "*Settlement*" means the settlement of the *ERISA Action* contemplated by this *Stipulation*.

1.44 "*Settlement Amount*" means $75,000,000.

1.45 "*Settlement Fund*" has the meaning set forth in Paragraph 3.1.

1.46 "*Stipulation*" means this Stipulation and Agreement of Settlement – ERISA Action.

1.47 "*Successor-In-Interest*" means a *Person*'s estate, legal representatives, heirs, successors or assigns, including successors or assigns that result from corporate mergers or other structural changes.

1.48 "*Taxes*" means (i) any and all applicable taxes, duties and similar charges imposed by a government authority (including any estimated taxes, interest or penalties) arising in any jurisdiction, if any, (A) with respect to the income or gains earned by or in respect of the *Gross Settlement Fund*, including, without limitation, any taxes that may be imposed upon *Defendants* or their counsel with respect to any income or gains earned by or in respect of the *Gross Settlement Fund* for any period during which it does not qualify as a Qualified Settlement Fund for federal or state income tax purposes; or (B) by way of withholding as required by applicable law on any distribution by the *Custodian* of any portion of the *Gross Settlement Fund* to any persons entitled thereto pursuant to this *Stipulation*; and (ii) any and all expenses, liabilities and costs incurred in connection with the taxation of the *Gross Settlement Fund* (including without limitation, expenses of tax attorneys and accountants). For the purposes of clause (i)(A) of this paragraph, taxes imposed on *Defendants* shall include amounts equivalent to taxes that would be payable by *Defendants* but for the existence of relief from taxes by virtue of loss carryforwards or other tax

attributes, determined by *Defendants*, acting reasonably, and accepted by the *Custodian*, acting reasonably.

1.49 "*Unknown Claims*" means any and all *Settled Claims* which any of the *Named Plaintiffs* or *Class Members* does not know or suspect to exist in his, her or its favor as of the *Effective Date* and any *Settled Defendants' Claims* which any *Defendant* does not know or suspect to exist in his, her or its favor as of the *Effective Date*, which if known by him, her or it might have affected his, her or its decision(s) with respect to the *Settlement*. With respect to any and all *Settled Claims* and *Settled Defendants' Claims*, the parties hereto, and the *Individual Defendants* in their *Letter Agreement*, stipulate and agree that upon the *Effective Date*, the *Named Plaintiffs* and the *Defendants* shall expressly waive, and each *Class Member* shall be deemed to have waived, and by operation of the *Judgment* shall have expressly waived, any and all provisions, rights and benefits conferred by any law of any state of the United States, or principle of common law or otherwise, which is similar, comparable, or equivalent to California Civil Code § 1542, which provides:

> A general release does not extend to claims which the creditor does not know or suspect to exist in his or her 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.

Named Plaintiffs and *Defendants* (in the case of *Individual Defendants* by the execution of their *Letter Agreement)* acknowledge, and *Class Members* by operation of law shall be deemed to have acknowledged, that the inclusion of "*Unknown Claims*" in the definition of *Settled Claims* and *Settled Defendants' Claims* was separately bargained for and was a key element of the Settlement.

2. **SCOPE AND EFFECT OF SETTLEMENT**

2.1 The obligations incurred pursuant to this *Stipulation* shall be in full and final disposition of the *ERISA Action* as part of the *Settlement* and any and all *Settled Claims* as against all *Released Parties* and any and all *Settled Defendants' Claims*.

2.2 Upon the *Effective Date* of the *Settlement*, *Named Plaintiffs* and all *Class Members* on behalf of themselves, their personal representatives, heirs, executors, administrators, trustees, successors and assigns, with respect to each and every *Settled Claim*, release and forever discharge, and are forever enjoined from prosecuting, any *Settled Claim* against any of the *Released Parties*, and shall not institute, continue, maintain or assert, either directly or indirectly, whether in the United States or elsewhere, on their own behalf or on behalf of any class or any other person or any of the *Plans*, any action, suit, cause of action, claim or demand against any *Released Party* or any other *Person* who may claim any form of contribution or indemnity from any *Released Party* in respect of any *Settled Claim* or any matter related thereto, at any time on or after the *Effective Date*. With respect to the injunction provided for in this Paragraph 2.2, no *Released Party* shall seek any remedy for violation thereof by any *Class Member* other than a *Named Plaintiff* until at least thirty (30) days after providing such *Class Member* with written notice of such injunction and demand to desist from any conduct in violation thereof.

2.3 Upon the *Effective Date* of the *Settlement*, *Merrill Lynch*, on behalf of itself, its trustees, successors and assigns, releases and forever discharges each and every one of the *Settled Defendants' Claims* against *Named Plaintiffs*, all *Class Members* and their respective counsel. Likewise, *Individual Defendants* in their *Letter Agreement* have agreed to release the *Settled Defendants Claims*, as a condition of the *Settlement*.

2.4 Amounts paid under the *Settlement* shall not constitute an offset or credit with respect to amounts to be paid in settlement of the *Securities Action*, nor shall amounts paid in settlement of the *Securities Action* constitute an offset or credit with respect to amounts payable in the *Settlement*.

3. **SETTLEMENT CONSIDERATION**

3.1 In consideration for the release and discharge provided for in Paragraph 2.2 hereof, on or before the tenth (10th) day following the date the *Stipulation* is fully executed, *Merrill Lynch* shall deliver by wire transfer $75,000,000 into an interest-bearing escrow account established by *Co-Lead Counsel* for the *Settlement Amount* (the "*Settlement Fund*").

3.2 The *Settlement Fund*, together with all interest earned from the date of preliminary approval of the *Settlement*, shall constitute the *Gross Settlement Fund.*

3.3 The *Gross Settlement Fund* shall be used to pay (i) all costs of *Notice, Publication Notice*, and administration costs referred to in Paragraph 4.2 hereof; and (ii) the attorneys' fee and expense award referred to in Paragraph 5.1 hereof, and the *Named Plaintiff* case contribution awards, if any, referred to in Paragraph 5.1 hereof. The balance of the *Gross Settlement Fund* (inclusive of interest earned) after the matters described in clauses (i) and (ii) of this Paragraph, and after the payment of any *Taxes* (as defined herein) shall be the *Net Settlement Fund.*

3.4 At a time following the *Effective Date*, the *Net Settlement Fund* shall be transferred by the *Custodian* to the *Plans*, subject to a plan of allocation (the "*Plan of Allocation*") to be proposed by *Co-Lead Counsel* and approved by the *Court*. All funds held by the *Custodian* shall be deemed to be in the custody of the *Court* held exclusively for the purposes described in Paragraphs 3.3 and 3.4 of this *Stipulation* until such time as the funds shall be distributed to the *Plans* or otherwise disbursed pursuant to this *Stipulation* and/or further order of the *Court*. The *Custodian* shall invest any funds in excess of $250,000 in U.S. Treasury securities, securities issued by United States agencies or fully insured by the FDIC, deposits and certificates of deposit fully insured by the FDIC and backed by the full faith and credit of the U.S. Treasury, and short term debt or commercial paper fully guaranteed by the FDIC under the Temporary Liquidity

Guaranty Program and backed by the full faith and credit of the U.S. Treasury, and shall collect and reinvest in the *Net Settlement Fund* all earnings accrued thereon. Any funds held by the *Custodian* in an amount of less than $250,000 may be held in a bank account or Certificates of Deposit insured by the Federal Deposit Insurance Corporation ("FDIC") or may be invested as funds in excess of $250,000 are invested. The parties hereto agree that the *Gross Settlement Fund* is intended to be a Qualified Settlement Fund within the meaning of Treasury Regulation § 1.468B-1, and that the *Custodian* as administrator of the Gross Settlement Fund within the meaning of Treasury Regulation § I.468B-2(k)(3), shall be responsible for filing tax returns and any other tax reporting for or in respect of the *Gross Settlement Fund* and paying from the *Gross Settlement Fund* any *Taxes* owed with respect to the *Gross Settlement Fund*. The parties hereto agree that the *Gross Settlement Fund* shall be treated as a Qualified Settlement Fund from the earliest date possible, and agree to any relation-back election required to treat the *Gross Settlement Fund* as a Qualified Settlement Fund from the earliest date possible. *Merrill Lynch* agrees to provide promptly to the *Custodian* the statement described in Treasury Regulation § I.468B-3(e).

3.5 All *Taxes* (as defined herein) shall be paid out of the *Gross Settlement Fund*, shall be considered to be a cost of administration of the *Settlement* and shall be timely paid by the *Custodian* without prior order of the *Court*. The *Custodian* shall, to the extent required by law, be obligated to withhold from any distributions to any person entitled thereto pursuant to this *Stipulation* any funds necessary to pay *Taxes* including the establishment of adequate reserves for *Taxes* as well as any amount that may be required to be withheld under Treasury Reg. 1.468B-(1)(2) or otherwise under applicable law in respect of such distributions. *Co-Lead Counsel* shall provide to *Defendants' Counsel* copies of all tax returns filed with respect to the *Gross Settlement Fund* promptly upon the filing thereof, and evidence of the payment of *Taxes* as

and when all such payments are made. Further, the *Gross Settlement Fund* shall hold harmless the *Defendants* and their counsel for *Taxes* (including, without limitation, taxes payable by reason of any such indemnification payments).

3.6 None of the *Defendants*, the *Released Parties* or their respective counsel shall have any responsibility for or liability whatsoever with respect to (i) any act, omission or determination of *Co-Lead Counsel* or the *Custodian*, or any of their respective designees or agents, in connection with the administration of the *Settlement* or otherwise; (ii) the management, investment or distribution of the *Gross Settlement Fund*; (iii) the formulation, design or terms of the *Plan of Allocation*; (iv) the determination, administration, calculation or payment of any claims asserted against the *Gross Settlement Fund*; (v) any losses suffered by, or fluctuations in the value of, the *Gross Settlement Fund*; or (vi) the payment or withholding of any *Taxes*, expenses and/or costs incurred in connection with the taxation of the *Gross Settlement Fund* or the filing of any returns.

4. ADMINISTRATION

4.1 The *Custodian*, acting solely in its capacity as *Custodian*, shall be subject to the jurisdiction of the *Court*.

4.2 Following entry of the *Order for Notice and Hearing*, the *Custodian* may pay from the *Gross Settlement Fund*, without further approval from the *Court* or *Defendants*, (a) all reasonable costs and expenses up to the amount of $250,000 associated with identifying and notifying the *Class Members* and effecting mailing of the *Notice* and publication of the *Publication Notice* as ordered by the *Court*, and the administration of the *Settlement*, including without limitation, the actual costs of printing and mailing the *Notice* and publication of the *Publication Notice*, and (b) *Taxes*. Notwithstanding the foregoing, the *Custodian* shall not make

any payment pursuant to clause (a) of the immediately preceding sentence that would cause the aggregate payments made under such clause (a) exceed $150,000 without first providing seven days' prior written notice to *Defendants' Counsel* of each such payment; if *Defendants' Counsel* shall object to any such payment, the *Custodian* shall not make the payment without further approval from the *Court*. In the event that the *Settlement* is terminated as provided for herein, the amounts expended pursuant to the first two sentences of this Paragraph 4.2 shall not be returned to the *Persons* who paid the *Settlement Amount*.

4.3 *Merrill Lynch* shall cooperate with *Co-Lead Counsel* to accomplish the *Notice* in accordance with the *Order for Notice and Hearing*. If *Merrill Lynch* is or its designee is the most cost effective provider of notice to the *Class*, the *Custodian* will utilize *Merrill Lynch* or its designee to provide notice unless there is good cause not to do so. If the mailing of *Notice* is to be performed by a third party vendor, *Merrill Lynch* shall cooperate reasonably to provide address information to such vendor in an electronic format accessible by such vendor, to the extent the address information exists in such a format or otherwise can be readily obtained.

4.4 The *Custodian* may rely upon any notice, certificate, instrument, request, paper or other document reasonably believed by it to be genuine and to have been made, sent or signed by an authorized signatory in accordance with this *Stipulation*, and shall not be liable for (and will be indemnified from the *Gross Settlement Fund* and held harmless from and against) any and all claims, actions, damages, costs (including reasonable attorneys' fees) and expenses claimed against or incurred by the *Custodian* for any action taken or omitted by it, consistent with the terms hereof concerning the *Gross Settlement Amount*, in connection with the performance by it of its duties pursuant to the provisions of this *Stipulation* or order of the courts, except for its gross negligence or willful misconduct. If the *Custodian* is uncertain as to its duties hereunder, the

Custodian may request that *Named Plaintiffs* (and, prior to the *Effective Date, Merrill Lynch*) sign a document which states the action or non-action to be taken by the *Custodian*. In the event the *Settlement* is terminated, as provided for herein, indemnified amounts and expenses incurred by the *Custodian* in connection with this paragraph shall not be returned to the *Persons* who paid the *Settlement Amount*.

4.5 *Plan of Allocation Implementation Expenses* shall be borne as described in Paragraph 1.35.

5. ATTORNEYS' FEES AND EXPENSES

5.1 *Co-Lead Counsel* will apply to the *Court* for an award of attorneys' fees not to exceed 27.5% of the *Gross Settlement Fund*, and reimbursement of expenses payable from the *Gross Settlement Fund*, and shall further provide to the *Court*, as part of the motion for approval of the *Settlement*, all necessary information required by the *Court* concerning the total award of attorneys' fees and reimbursement of expenses to be payable from the *Gross Settlement Fund*. Such application shall be made prior to the deadline for objections to the *Settlement* and in accordance with such schedule as the *Court* may establish. *Co-Lead Counsel* may also apply to the *Court* for case contribution awards to *Named Plaintiffs* in an amount not to exceed $5,000 per *Named Plaintiff*. *Defendants* will take no position with respect to any such applications for attorneys' fees or expenses, or *Named Plaintiffs* case contributions awards. Such amounts as are awarded by the *Court* to *Co-Lead Counsel* from the *Gross Settlement Fund* shall be payable by the *Custodian* immediately upon award, notwithstanding the existence of any timely filed objections thereto, or potential for appeal therefrom, or collateral attack on the *Settlement* or any part thereof, subject to *Plaintiffs' Counsel's* obligations to make appropriate refunds or repayments to the *Gross Settlement Fund* plus accrued interest at the same rate as is earned by the *Gross Settlement Fund*, if

and when, as a result of any appeal and/or further proceedings on remand, or successful collateral attack, the fee or cost award is reduced or reversed or for whatever reason the *Settlement* is terminated pursuant to Paragraphs 8.2 or 8.3 hereof; provided that *Plaintiffs' Counsel* other than *Co-Lead Counsel* shall, as a condition to receiving payment, execute an undertaking in a form satisfactory to *Co-Lead Counsel* and *Defendants' Counsel* acknowledging such refund or repayment obligation and providing adequate security therefor. *Defendants* shall have no obligations whatsoever with respect to any attorneys' fees or expenses incurred by *Plaintiffs' Counsel*, which shall be payable solely from the *Gross Settlement Fund*.

6. TERMS OF ORDER FOR NOTICE AND HEARING

6.1 Promptly after this *Stipulation* has been fully executed, *Co-Lead Counsel* shall apply to the *Court* for entry of the *Order for Notice and Hearing*, substantially in the form annexed hereto as Exhibit A, which Order shall, among other provisions, certify the *Class* for settlement purposes only.

6.2 The mailing or publication of the *Notice* and *Publication Notice* shall not occur until the *Order for Notice and Hearing* has been entered by the *Court*.

7. TERMS OF ORDER AND FINAL JUDGMENT

7.1 If the *Settlement* contemplated by this *Stipulation* is approved by the *Court*, *Co-Lead Counsel* and *Defendants' Counsel* shall request that a *Judgment* be entered substantially in the form annexed hereto as Exhibit B.

8. EFFECTIVE DATE OF SETTLEMENT, WAIVER OR TERMINATION

8.1 The "*Effective Date*" of the *Settlement* shall be the date when all the following conditions of settlement shall have occurred:

8.1.1 deposit into the *Settlement Fund* of the *Settlement Amount* in accordance with the provisions of Paragraph 3.1;

8.1.2 execution of the *Individual Defendants Letter Agreement* in a form acceptable to *Co-Lead Counsel*;

8.1.3 *Co-Lead Counsel's* written confirmation after completion of such additional confirmatory discovery as may be agreed to by the parties that the confirmatory discovery was adequate and that the *Settlement* is fair, reasonable and adequate.

8.1.4 final approval by the *Court* of the *Settlement*, following notice to the *Class* and a hearing, as prescribed by Rule 23 of the Federal Rules of Civil Procedure;

8.1.5 entry by the *Court* of the *Judgment* in all material respects in the form set forth in Exhibit B, and the *Judgment* becoming *Final*, or, in the event that the *Court* enters a judgment in a form other than that provided above ("*Alternative Judgment*") and none of the parties hereto elect to terminate this *Settlement*, the date that such *Alternative Judgment* becomes *Final*;

8.1.6 approval by the *Court* of the settlement in the *Securities Action*, entry of judgment, and such judgment becoming *Final*;

8.1.7 If the circumstances described in Paragraph 8.2 or 8.3 occur, the expiration of the time to exercise the termination rights provided in the applicable Paragraph(s) without the termination right being exercised.

8.2 *Named Plaintiffs* and *Defendants* shall each have the right to terminate the *Settlement* and thereby this *Stipulation* by providing written notice of their election to do so to one another within thirty (30) days of any of the following: (a) the *Court* declining to enter the *Order for Notice and Hearing* in any material respect; (b) the *Court* refusing to approve this *Settlement* as

set forth in this *Stipulation*; (c) the *Court* declining to enter the *Judgment* in any material respect or entering an *Alternative Judgment*; (d) the date upon which the *Judgment* or *Alternative Judgment* is modified or reversed in any material respect by any level of appellate court; or (e) the date upon which the settlement in the *Securities Action* is terminated.

8.3 Notwithstanding anything else in this *Stipulation*, *Merrill Lynch* may, in its sole and unfettered discretion, elect in writing to terminate the *Settlement* and this *Stipulation* on or before the tenth (10th) business day prior to the *Fairness Hearing* if the *Independent Fiduciary* has determined that it does not approve the *Settlement* or that it will not authorize the *Settlement* in writing as contemplated by Department of Labor Prohibited Transaction Class Exemption 2003-39.

8.4 If, prior to the ninety-first (91st) day after the *Effective Date*, a case is commenced by or against *Merrill Lynch* as debtor under Chapters 7 or 11 of Title 11 of the United States Code, then *Named Plaintiffs* shall have the right, exercisable by written notice from *Co-Lead Counsel* to *Defendants' Counsel* within fifteen (15) days after commencement of such case, to terminate the *Settlement*, whereupon the provisions of Paragraph 8.5 shall apply.

8.5 Except as otherwise provided herein, in the event the *Settlement* is terminated, the parties to this Stipulation and all *Released Persons* including *Individual Defendants* as agreed to in their *Letter Agreement* shall be deemed to have reverted to their respective status in the *ERISA Action* as of January 7, 2009, and the parties shall proceed in all respects as if this *Stipulation* and any related orders had not been entered. Furthermore, within ten (10) business days following any termination of this *Settlement*, the *Custodian* shall return to *Merrill Lynch* the *Settlement Amount* previously paid by *Merrill Lynch* together with any interest or other income earned thereon or in respect thereof, less any *Taxes* paid or due with respect to such income, less any amounts required

to be paid to the *Custodian* pursuant to this *Stipulation*, less any reasonable costs of administration and notice actually incurred and paid or payable from the *Settlement Fund* (as described in Paragraph 3.3 hereof), and less any applicable withholding taxes.

9. NO ADMISSION OF WRONGDOING

9.1 This *Stipulation*, whether or not consummated, and any proceedings taken pursuant to it:

9.1.1 shall not be offered or received against any of the *Defendants* as evidence of or construed as or deemed to be evidence of any presumption, concession, or admission by any of those *Defendants* with respect to the truth of any fact alleged by any of the *Plaintiffs* or the validity of any claim that has been or could have been asserted in the *ERISA Action* or in any litigation, or the deficiency of any defense that has been or could have been asserted in the *ERISA Action* or in any litigation, or of any liability, negligence, fault, or wrongdoing of the *Defendants*;

9.1.2 shall not be offered or received against the *Defendants* as evidence of a presumption, concession or admission of any fault, misrepresentation or omission with respect to any statement or written document approved or made by any of the *Defendants*;

9.1.3 shall not be offered or received against the *Defendants* as evidence of a presumption, concession or admission with respect to any liability, negligence, fault or wrongdoing, or in any way referred to for any other reason as against any of the *Defendants*, in any other civil, criminal or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this *Stipulation*; provided, however, that if this *Stipulation* is approved by the *Court*, the *Released Parties* may refer to it to effectuate the liability protection granted them hereunder;

9.1.4 shall not be construed against any of the *Defendants* as an admission or concession that the consideration to be given hereunder represents the amount that could be or would have been recovered after trial; and

9.1.5 shall not be construed as or received in evidence as an admission, concession or presumption against *Named Plaintiffs* or any of the *Class Members* that any of their claims are without merit, or that any defenses asserted by the *Defendants* have any merit, or that damages recoverable under the *ERISA Action* would not have exceeded the *Gross Settlement Fund.*

10. MISCELLANEOUS PROVISIONS

10.1 All of the exhibits attached hereto are hereby incorporated by reference as though fully set forth herein.

10.2 If the *Court* requests or orders *Named Plaintiffs* or *Defendants* to supply non-privileged information in their possession as part of the *Court*'s review of the *Settlement*, the *Named Plaintiffs* and *Merrill Lynch* agree to promptly provide such information to the *Court*. The *Individual Defendants* have agreed to do likewise in their *Letter Agreement.* If *Named Plaintiffs* deem it necessary for the *Defendants* to supply non-privileged information in their possession, and not otherwise available to the *Named Plaintiffs*, in order to respond to any timely filed objection or *Court* request/order, *Merrill Lynch* agrees to promptly provide such non-privileged information that has been reasonably requested. The *Individual Defendants* have agreed to do likewise in their *Letter Agreement.* If *Defendants* deem it necessary for the *Named Plaintiffs* to supply non-privileged information in their possession in order to respond to any objection or any inquiry from the *Independent Fiduciary* or the Department of Labor, the *Named Plaintiffs* agree to promptly provide such non-privileged information that has been reasonably requested.

10.3 The parties to this *Stipulation* intend the *Settlement* to be a final and complete resolution of all disputes asserted or which could be asserted by the *Class Members* against the *Released Parties* with respect to the *Settled Claims*. Accordingly, the *Parties* agree not to assert in any forum that the *ERISA Action* was brought by the *Plaintiffs* or defended by *Defendants* in bad faith or without a reasonable basis. The *Parties* hereto agree, and pursuant to a *Letter Agreement* the *Plaintiffs* and the *Individual Defendants* have also agreed, that they shall assert no claims of any violation of Rule 11 of the Federal Rules of Civil Procedure relating to the prosecution, defense, or settlement of the *ERISA Action*. The *Parties* agree that the amount paid and the other terms of the *Settlement* were negotiated at arm's-length in good faith by the *Parties*, and reflect a settlement that was reached voluntarily after consultation with experienced legal counsel.

10.4 This *Stipulation* may not be modified or amended, nor may any of its provisions be waived, except by a writing signed by all *Parties* or their successors-in-interest.

10.5 The headings herein are used for the purpose of convenience only and are not meant to have legal effect.

10.6 The administration and consummation of the *Settlement* as embodied in this *Stipulation* shall be under the authority of the *Court*, and that *Court* shall retain jurisdiction for the purpose of entering orders providing for awards of attorneys' fees and expenses to *Co-Lead Counsel* and enforcing the terms of this *Stipulation*.

10.7 The waiver by one party of any breach of this *Stipulation* by any other party shall not be deemed a waiver of any other prior or subsequent breach of this *Stipulation*.

10.8 This *Stipulation* and its exhibits, and the *Individual Defendant Letter Agreement* constitute the entire agreement concerning the *Settlement* of the *ERISA Action*, and no

representations, warranties, or inducements have been made by any party hereto concerning this *Stipulation* or its exhibits other than those contained and memorialized in such documents.

10.9 This *Stipulation* may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument.

10.10 This *Stipulation* shall be binding upon, and inure to the benefit of, the successors and assigns of the *Parties*.

10.11 The construction and interpretation of this *Stipulation* shall be governed by the internal laws of the State of New York without regard to conflicts of laws, except to the extent that federal law of the United States requires that federal law governs.

10.12 This *Stipulation* shall not be construed more strictly against one party than another merely by virtue of the fact that it, or any part of it, may have been prepared by counsel for one of the *Parties*, it being recognized that it is the result of arm's-length negotiations between the *Parties* and all *Parties* have contributed substantially and materially to the preparation of this *Stipulation*.

10.13 All counsel and any other person executing this *Stipulation* and any of the exhibits hereto, or any related *Settlement* documents, warrant and represent that they have the full authority to do so and that they have the authority to take appropriate action required or permitted to be taken pursuant to the *Stipulation* to effectuate its terms.

10.14 The parties hereto agree to cooperate fully with one another in seeking *Court* approval of the *Order for Notice and Hearing*, the *Stipulation* and the *Settlement* and to promptly agree upon and execute all such other documentation as may be reasonably required to obtain final approval by the *Court* of the *Settlement*.

10.15 Any notice, demand, or other communication under this *Stipulation* (other than the *Class Notice*, or other notice given at the direction of the *Court*) shall be in writing and shall be

deemed duly given upon receipt if it is addressed to each of the intended recipients as set forth below and personally delivered, sent by registered or certified mail (postage prepaid), sent by confirmed facsimile, or delivered by reputable express overnight courier:

IF TO *NAMED PLAINTIFFS:*

Lynn Sarko
Gary Gotto
Derek Loeser
Erin Riley
Keller Rohrback L.L.P.
1201 Third Avenue, Suite 3200
Seattle, WA 98101
Telephone: (206) 623-1900
Facsimile: (206) 623-3384

Marc I. Machiz
Cohen, Milstein, Sellers & Toll, PLLC
255 South 17th Street
Suite 1307
Philadelphia, PA 19103
Telephone: (267) 773-4682
Facsimile: (267) 773-4690

Michelle C. Yau
Cohen Milstein Sellers & Toll PLLC
1100 New York Avenue NW
Suite 500, West Tower
Washington, D.C. 20005
Telephone: 202.408.4600
Facsimile: 202.408.4699

IF TO *Merrill Lynch:*

Jay B. Kasner
Scott D. Musoff
Skadden, Arps, Meagher & Flom LLP
Four Times Square
New York, New York 10036
Telephone: (212) 735-3000
Facsimile: (212) 735-2000

Any *Party* may change the address at which it is to receive notice by written notice delivered to the other *Parties* in the manner described above.

10.16 This *Stipulation* and the *Individual Defendant Letter Agreement* contain the entire agreement among the *Parties* thereto relating to this *Settlement*, and specifically supersede any settlement terms or settlement agreements relating to the *Defendants* that were previously agreed upon orally or in writing by any of the *Parties*.

10.17 This *Stipulation* may be executed by exchange of faxed or scanned executed signature pages, and any signature thereby transmitted for the purpose of executing this *Stipulation* shall be deemed an original signature for purposes of this *Stipulation*. This *Stipulation* may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same instrument.

10.18 This *Stipulation* binds and inures to the benefit of the *Parties* hereto, their assigns, heirs, administrators, executors, and successors.

10.19 The date on which the final signature is affixed below shall be the *Agreement Execution Date*.

IN WITNESS WHEREOF, the *Parties* have executed this *Stipulation* on the dates set forth below.

FOR THE PLAINTIFFS:

By: FOR [signature] Dated: 2-27-09

Lynn Sarko
Gary Gotto
Derek Loeser
Erin Riley
Keller Rohrback L.L.P.
1201 Third Avenue, Suite 3200
Seattle, WA 98101
Telephone: (206) 623-1900
Facsimile: (206) 623-3384

By: [signature] Dated: February 27, 2009

Marc I. Machiz
Michelle C. Yau
Cohen, Milstein, Sellers & Toll, PLLC
255 South 17th Street
Suite 1307
Philadelphia, PA 19103
Telephone: (267) 773-4680
Facsimile: (267) 773-4690

1100 New York Avenue NW
Suite 500, West Tower
Washington, D.C. 20005
Telephone: 202.408.4600
Facsimile: 202.408.4699

Co-Lead Counsel for the Plaintiffs

SO ORDERED:

[signature]
U.S.D.J.
3-16-09

DEFENDANTS

By: _____ Dated: February 27, 2009

Jay B. Kasner
Scott D. Musoff
Skadden, Arps, Meagher & Flom LLP
Four Times Square
New York, New York 10036
Telephone: (212) 735-3000
Facsimile: (212) 735-2000

Attorneys for Merrill Lynch & Co., Inc.

Acknowledged By:

_____ Dated: February 27, 2009

Adam S. Hakki
Shearman & Sterling LLP
599 Lexington Avenue
New York, New York 10022
Telephone: (212) 848-4000
Facsimile: (212) 848-7179

Attorneys for Individual Defendants Other than E. Stanley O'Neal

Acknowledged By:

_____ Dated: February 27, 2009

Michael J. Chepiga
Simpson, Thacher & Bartlett LLP
425 Lexington Ave
New York, NY 10017-3954
Phone: 212-455-2519
Facsimile: 212-455-2502

Attorneys for E. Stanley O'Neal

EXHIBIT 2

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE MERRILL LYNCH & CO., INC. SECURITIES, DERIVATIVE AND ERISA LITIGATION	Master File No.: 07cv9633 (JSR) (DFE) **CLASS ACTION**
This Document Relates To: ERISA ACTION	Case No.: 07-CV-10268 (JSR) (DFE)

PLAN OF ALLOCATION

I. Definitions.

Capitalized terms used herein shall have the meanings ascribed to them in the Stipulation and Agreement of Settlement– ERISA Action dated February 27, 2009, or in this Plan of Allocation.

II. Amount to Be Distributed.

The total amount to be distributed to the Class Members (the "Distribution Amount") shall be the Net Settlement Fund as defined in ¶ 3.3 of the Stipulation, minus up to $350,000 of Plan of Allocation Implementation Expenses, as provided for in ¶ 1.35 of the Stipulation.

III. Calculation of Each Member's Share of the Distribution Amount.

For each Class Member there shall be calculated a Net Loss, which shall be calculated as follows:

1. Each Class Member's Net Loss shall be equal to A + B – C– D, provided that if A + B – C– D is less than zero for a Class Member, such Class Member's Net Loss will be zero.

A = eighty-four percent (84%) of the dollar amount of the Class Member's Plan account balance invested in the Merrill Lynch common stock at the beginning of the Class Period.

B = the dollar amount added to the Class Member's Plan account balance invested in Merrill Lynch common stock during the Class Period.

C = the dollar amount credited to the Class Member's Plan account balance resulting from dispositions of Merrill Lynch common stock during the Class Period.

D = the dollar amount of the Class Member's account balance invested in Merrill Lynch common stock Fund immediately after the end of the Class Period.

2. To the extent data is not available to determine the account balances of Class Members at the beginning or end of the Class Period, the foregoing calculations may be performed using data as of the nearest date after the beginning or end of the Class Period that is available.

3. There shall be calculated for each Class Member his or her "Preliminary Net Loss Fractional Share" by dividing each Class Member's Net Loss by the aggregate of all Class Members' Net Losses.

4. There shall then be calculated for each Class Member his "Preliminary Dollar Recovery" by multiplying the Class Member's Preliminary Net Loss Fractional Share by the Distribution Amount.

5. All Class Members whose Preliminary Dollar Recovery is less than the De Minimis Amount shall receive an allocation of zero, and the Preliminary Dollar Recovery otherwise allocable to such Class Members shall be reallocated among the other Class Members proportionately in accordance with their Preliminary Dollar Recoveries (the "Reallocation"). As used herein, the "De Minimis Amount" shall be ten dollars ($10.00) in the case of "Current Members" (as defined in Paragraph IV 1 below), and twenty-five dollars ($25.00) in the case of "Former Members" (as defined in Paragraph IV 2 below).

6. The Preliminary Dollar Recoveries shall then be recalculated to take into account the Reallocation, and such recalculation shall produce the "Final Dollar Recovery" for each Class Member. If there is no Reallocation, the Preliminary Fractional Recoveries shall be the Final Dollar Recoveries. The sum of the Final Dollar Recoveries must equal the Distribution Amount.

7. The Final Dollar Recoveries shall be allocated among the Plans by allocating to each Plan the Final Dollar Recoveries of the Class Members who are (or were) participants or beneficiaries in that Plan. As soon as practicable thereafter, the Final Dollar Recoveries allocable to each Plan shall be deposited in that Plan.

8. All calculations required to implement this Plan of Allocation shall be performed by Merrill Lynch, or by such other person who shall be designated to do so by the Court.

IV. Distribution of the Allocated Amounts.

1. Class Members who are current Plan participants ("Current Members"). As soon as practicable after the deposit of the Final Dollar Recoveries into the Plans, there shall be deposited into each Current Member's account his or her Final Dollar Recovery. The deposited amount shall be allocated among the Current Member's investment options in accordance with the existing investment elections for current contributions into the Plan then in effect and treated thereafter for all purposes under the Plan as assets of the Plan properly credited to that Current Member's account.

2. Members who are former Plan participants or beneficiaries thereof ("Former Members"). The Plan Administrator for each Plan shall invest each Former Member's Final Dollar Recovery in a suitable short term investment vehicle, the primary purpose of which is the preservation of assets, pending distribution to the former Member. The deposited amount, plus interest, shall then, as soon as is practical, be distributed to the Former Member in the same manner as a qualified distribution from the Plan pursuant to ERISA and the Internal Revenue Code.

V. Continuing Jurisdiction

The Court will retain jurisdiction over this Plan of Allocation to the extent necessary to ensure that it is fully and fairly implemented.