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26 **UNITED STATES DISTRICT COURT**  
27 **NORTHERN DISTRICT OF CALIFORNIA**  
28 **SAN FRANCISCO DIVISION**

IN RE BIOMARIN PHARMACEUTICAL  
INC. SECURITIES LITIGATION

Case No. 3:20-cv-06719-WHO

**REPLY MEMORANDUM IN  
FURTHER SUPPORT OF (I) LEAD  
PLAINTIFF'S MOTION FOR FINAL  
APPROVAL OF SETTLEMENT AND  
PLAN OF ALLOCATION, AND  
(II) LEAD COUNSEL'S MOTION FOR  
ATTORNEYS' FEES AND  
LITIGATION EXPENSES**

Dept: Courtroom 2, 17th Floor  
Judge: Hon. William H. Orrick  
Date: November 8, 2023  
Time: 2:00 p.m.

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1 majority of BioMarin common stock during the Class Period—and, even though such investors  
2 have the staff and resources to object if they believe it is warranted, none did so. Further, not a  
3 single institutional investor has requested exclusion from the Settlement Class and only two  
4 requests for exclusion from small investors were received. The persons who requested exclusion  
5 purchased just *nine shares* of BioMarin stock during the Class Period—a miniscule fraction  
6 (roughly 0.00003%) of the total number of damaged shares eligible to participate in the Settlement.

7 As explained below, this overwhelmingly positive reaction of the Settlement Class further  
8 supports a finding that the proposed Settlement, Plan of Allocation, and request for attorneys’ fees  
9 and expenses are all fair and reasonable—and should be approved.

### 10 **ARGUMENT**

11 Lead Plaintiff and Lead Counsel respectfully submit that their opening papers demonstrate  
12 that approval of the Motions is warranted. Now that the time for objecting or requesting exclusion  
13 from the Settlement Class has passed, the reaction of the Settlement Class, including the lack of  
14 any objections by Settlement Class Members, provides additional support for the Court’s approval  
15 of the Motions.

#### 16 **I. The Robust Court-Approved Notice Program**

17 In accordance with the Court’s Preliminary Approval Order (ECF No. 146), the Claims  
18 Administrator, A.B. Data, Ltd. (“A.B. Data”) conducted an extensive notice program under Lead  
19 Counsel’s supervision. The notice program included mailing the Notice and Claim Form  
20 (collectively, the “Notice Packet”) to potential Settlement Class Members and Nominees,  
21 publishing the Summary Notice in *The Wall Street Journal* and over *PR Newswire*, and creating a  
22 Settlement Website, [www.BioMarinSecuritiesLitigation.com](http://www.BioMarinSecuritiesLitigation.com), where copies of the Notice and  
23 Claim Form and other information and documents related to the Settlement could be accessed.

24 A.B. Data began mailing the Notice Packet to potential Settlement Class Members on June  
25 30, 2023. *See* Walter Decl. (ECF No. 149-4), at ¶¶ 2-5. As of October 31, 2023, A.B. Data had  
26 mailed a total of 103,387 Notice Packets to potential Settlement Class Members and Nominees.  
27 *See* Supplemental Declaration of Adam D. Walter (“Supp. Walter Decl.”), attached hereto as  
28 Exhibit 1, at ¶ 2. Of that number, 249, or less than 0.3%, were returned as undeliverable, with no

1 alternative address found. *Id.* ¶ 3. This rate is considerably lower than that of other settlements  
2 with comparable notice programs. *Id.*

3 The Summary Notice, which informed readers of the proposed Settlement, how to obtain  
4 copies of the Notice and Claim Form, and the deadlines for the submission of Claims, objections,  
5 and requests for exclusion, was published in *The Wall Street Journal* and released over *PR*  
6 *Newswire* on July 12, 2023. *See* Walter Decl. ¶ 11.

7 The Notice informed Settlement Class Members of the terms of the proposed Settlement  
8 and that Lead Counsel would apply for an award of attorneys' fees in an amount not to exceed  
9 19% of the Settlement Fund and for Litigation Expenses not to exceed \$650,000. *See* Notice at  
10 p. 2 and ¶ 55. The Notice also advised Settlement Class Members of their right to request exclusion  
11 from the Settlement Class or object to the proposed Settlement, the Plan of Allocation, and/or the  
12 request for attorneys' fees and expenses, and the October 18, 2023 deadline for doing so. *See*  
13 Notice at p. 2 and ¶¶ 57, 64-66.

14 On October 4, 2023, 14 days before the objection and exclusion deadline, Lead Plaintiff  
15 and Lead Counsel filed their detailed opening papers in support of the Settlement, Plan of  
16 Allocation, and fee and expense request. These papers are available on the public docket (ECF  
17 Nos. 147-149), and were promptly posted to the case website, *see* Supp. Walter Decl. ¶ 5.<sup>2</sup>

18 As noted above, following this extensive Court-approved notice program, ***not a single***  
19 ***Settlement Class Member has objected*** to any aspect of the proposed Settlement, the Plan of  
20 Allocation, or Lead Counsel's application for attorneys' fees and expenses. In addition, only two  
21 requests for exclusion from the Settlement Class have been received. *See* Supp. Walter Decl. ¶ 6  
22 & Ex. A. The two requests received were submitted by an individual and by a family trust.  
23 Collectively, the persons requesting exclusion reported purchasing just nine shares of BioMarin  
24 common stock during the Class Period—roughly 0.00003% of the total number of affected shares  
25 as estimated by Lead Plaintiff's damages expert.

26  
27  
28 <sup>2</sup> The Notice informed Settlement Class Members that Lead Counsel would file their papers in  
support of their motion for attorneys' fees and Litigation Expenses by October 4, 2023, and that  
those papers would be made available on the Settlement Website. Notice ¶ 56.

1 **II. The Reaction of the Settlement Class Supports Approval of the Settlement,**  
2 **Plan of Allocation and the Motion for Attorneys’ Fees and Expenses**

3 The Ninth Circuit instructs district courts to consider the reaction of the class in  
4 determining whether to approve a class action settlement. *See Churchill Vill., L.L.C. v. Gen. Elec.*,  
5 361 F.3d 566, 575 (9th Cir. 2004). Moreover, “[i]t is established that the absence of a large number  
6 of objections to a proposed class action settlement raises a strong presumption that the terms of a  
7 proposed class settlement action are favorable to the class members.” *Nat’l Rural Telecomms.*  
8 *Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 529 (C.D. Cal. 2004).

9 Here, the absence of *any* objections along with the low number of requests for exclusion  
10 supports a finding that the proposed Settlement is fair, reasonable, and adequate. *See, e.g., Vataj*  
11 *v. Johnson*, 2021 WL 5161927, at \*7 (N.D. Cal. Nov. 5, 2021) (the “absence of a large number of  
12 objections to a proposed class action settlement raises a strong presumption that the terms of a  
13 proposed class settlement action are favorable to the class members”); *Taafua v. Quantum Glob.*  
14 *Techs., LLC*, 2021 WL 579862, at \*7 (N.D. Cal. Feb. 16, 2021) (“The lack of objections and low  
15 number of requested exclusions . . . indicates support among the class members and weighs in  
16 favor of approving the settlement.”); *Giroux v. Essex Prop. Tr., Inc.*, 2019 WL 2106587, at \*5  
17 (N.D. Cal. May 14, 2019) (“The Court finds that the absence of objections and very small number  
18 of opt-outs indicate overwhelming support among the Class Members and weigh in favor of  
19 approval.”); *Destefano v. Zynga, Inc.*, 2016 WL 537946, at \*13 (N.D. Cal. Feb. 11, 2016) (“By  
20 any standard, the lack of objection of the Class Members favors approval of the Settlement.”); *In*  
21 *re Apollo Grp. Inc. Sec. Litig.*, 2012 WL 1378677, at \*3 (D. Ariz. Apr. 20, 2012) (“There have  
22 been no objections from Class Members or potential class members, which itself is compelling  
23 evidence that the Proposed Settlement is fair, just, reasonable, and adequate.”).

24 Moreover, it is especially significant that no institutional investors—which held the  
25 majority of BioMarin’s publicly traded common stock during the Class Period—have objected to  
26 the Settlement or requested exclusion from the Settlement Class. The absence of objections (and  
27 exclusions) in response to the proposed Settlement from these institutional investors, which have  
28 ample means and incentive to object to the Settlement if they deemed it unsatisfactory, is further



1 evidence of the Settlement’s fairness. *See, e.g., In re Extreme Networks, Inc. Sec. Litig.*, 2019 WL  
2 3290770, at \*9 (N.D. Cal. July 22, 2019) (“Many potential class members are sophisticated  
3 institutional investors; the lack of objections from such institutions indicates that the settlement is  
4 fair and reasonable.”); *In re Facebook, Inc. IPO Sec. & Derivative Litig.*, 343 F. Supp. 3d 394, 410  
5 (S.D.N.Y. 2018) (“That not one sophisticated institutional investor objected to the Proposed  
6 Settlement is indicia of its fairness.”); *In re Cathode Ray Tube (CRT) Antitrust Litig.*, 2017 WL  
7 2481782, at \*4 (N.D. Cal. June 8, 2017) (the absence of any objections from institutions means  
8 that “the inference that the class approves of the settlement is even stronger”); *In re AT&T Corp.*  
9 *Sec. Litig.*, 2005 WL 6716404, at \*4 (D.N.J. Apr. 25, 2005) (the reaction of the class “weigh[ed]  
10 heavily in favor of approval” where “no objections were filed by any institutional investors who  
11 had great financial incentive to object”).

12         The lack of objections from Settlement Class Members also supports approval of the  
13 proposed Plan of Allocation. *See, e.g., In re Heritage Bond Litig.*, 2005 WL 1594403, at \*11 (C.D.  
14 Cal. June 10, 2005) (“The fact that there has been no objection to this plan of allocation favors  
15 approval of the Settlement.”); *Patel v. Axesstel, Inc.*, 2015 WL 6458073, at \*7 (S.D. Cal. Oct. 23,  
16 2015) (approving plan of allocation where “no class members objected”); *In re Veeco Instruments*  
17 *Inc. Sec. Litig.*, 2007 WL 4115809, at \*14 (S.D.N.Y. Nov. 7, 2007) (“not one class member has  
18 objected . . . . This favorable reaction of the Class supports approval of the Plan of Allocation.”).

19         Likewise, the absence of any objections to Lead Counsel’s motion for attorneys’ fees and  
20 expenses supports a finding that the fee and expense request is fair and reasonable. *See, e.g.,*  
21 *Acosta v. Frito-Lay, Inc.*, 2018 WL 2088278, at \*12 (N.D. Cal. May 4, 2018) (“The absence of  
22 objections or disapproval by class members . . . supports the finding that Plaintiffs’ request is  
23 reasonable.”); *Destefano*, 2016 WL 537946, at \*18 (“the lack of objection by any Class Members”  
24 supported the fee requested); *In re Nuvelo, Inc. Sec. Litig.*, 2011 WL 2650592, at \*3 (N.D. Cal.  
25 July 6, 2011) (finding only one objection to the fee request to be “a strong, positive response from  
26 the class, supporting an upward adjustment of the benchmark [fee award]”); *Heritage Bond*, 2005  
27 WL 1594403, at \*21 (“The absence of objections or disapproval by class members to Class  
28 Counsel’s fee request further supports finding the fee request reasonable.”).

1 As with approval of the proposed Settlement, the lack of objections by institutional  
2 investors in particular supports approval of the fee request. *See In re Rite Aid Corp. Sec. Litig.*,  
3 396 F.3d 294, 305 (3d Cir. 2005) (fact that “a significant number of investors in the class were  
4 ‘sophisticated’ institutional investors that had considerable financial incentive to object had they  
5 believed the requested fees were excessive”, but did not do so, supported approval of the fee  
6 request); *In re Bisys Sec. Litig.*, 2007 WL 2049726, at \*1 (S.D.N.Y. July 16, 2007) (noting that  
7 there was only one objection from an individual—and none from any institutions—“even though  
8 the class included numerous institutional investors who presumably had the means, the motive,  
9 and the sophistication to raise objections if they thought the [requested] fee was excessive.”).

### 10 **III. Claims Received to Date**

11 Claims were to be postmarked (if mailed) or submitted online by no later than October 30,  
12 2023. As of October 31, 2023, A.B. Data had received 20,521 Claims, either by mail or submitted  
13 online via the Settlement Website. *See* Supp. Walter Decl. ¶ 7.

14 Based on A.B. Data’s preliminary review of the Claims received, those Claims represent a  
15 total of 27,465,219 damaged BioMarin shares (that is, shares which calculate to a Recognized  
16 Claim under the Plan of Allocation and will be eligible for a portion of the Settlement proceeds).  
17 *See* Supp. Walter Decl. ¶ 8. The damaged shares in the Claims received represent 99% of the total  
18 number of damaged BioMarin shares as estimated by Lead Plaintiff’s damages expert. The  
19 estimated total number of damaged shares is based on Lead Plaintiff’s damages expert’s analysis  
20 in the Action, which is based on the expert’s modeling of trading in BioMarin common stock to  
21 estimate how many shares were purchased in the Class Period and damaged as the result of the  
22 corrective disclosure on August 19, 2020. The same analysis was used in preparing the Plan of  
23 Allocation formula and the per-share recovery estimate provided in the Notice.

24 Because the Claim-filing deadline was just two days ago and a large percentage of Claims  
25 are filed immediately before the deadline, this analysis is necessarily preliminary. The Claims are  
26 still being processed and are subject to further reviews, including of the documentation submitted  
27 with the Claims, and a deficiency process (in which Settlement Class Members will be given the  
28 chance to cure any deficiencies in their Claims), as well as further reviews and audits for quality

1 control and fraud prevention. *See* Supp. Walter Decl. ¶ 9. As a result of these procedures, the  
2 number of damaged shares contained in the Claims received is subject to change. *Id.*

3 In addition, the possible acceptance of additional Claims—either timely Claims  
4 postmarked on or before the October 30, 2023 deadline, but not yet received, or additional late-  
5 filed Claims—may also increase the total number of damaged shares. *See* Supp. Walter Decl.  
6 ¶ 10. Lead Counsel may, in its discretion, accept late Claims for processing provided such  
7 acceptance does not delay the distribution of the Net Settlement Fund to the Settlement Class. *See*  
8 Preliminary Approval Order (ECF No. 146), at ¶ 11. The ultimate acceptance of any such late  
9 Claims would be decided by the Court.

10 **CONCLUSION**

11 For the foregoing reasons and the reasons set forth in their opening papers, Lead Plaintiff  
12 and Lead Counsel respectfully request that the Court approve the Settlement, the Plan of  
13 Allocation, and the motion for attorneys’ fees and litigation expenses. Copies of the (i) proposed  
14 Judgment, (ii) proposed Order Approving Plan of Allocation of Net Settlement Fund, and  
15 (iii) proposed Order Awarding Attorneys’ Fees and Litigation Expenses are attached hereto as  
16 Exhibits 2, 3, and 4, and will be submitted in Word format to Your Honor via email.

17 Dated: November 1, 2023

Respectfully submitted,

18 **BERNSTEIN LITOWITZ BERGER &**  
19 **GROSSMANN LLP**

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*Lead Counsel for Lead Plaintiff  
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# **Exhibit 1**

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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

IN RE BIOMARIN PHARMACEUTICAL  
INC. SECURITIES LITIGATION

Case No. 3:20-cv-06719-WHO

**SUPPLEMENTAL DECLARATION  
OF ADAM D. WALTER REGARDING  
(I) MAILING OF NOTICE AND  
CLAIM FORM; AND (III) REPORT  
ON REQUESTS FOR EXCLUSION  
AND CLAIMS RECEIVED**

Dept: Courtroom 2, 17th Floor  
Judge: Hon. William H. Orrick  
Date: November 8, 2023  
Time: 2:00 p.m.

1 ADAM D. WALTER, declares as follows:

2 1. I am a Client Services Director of A.B. Data, Ltd.’s Class Action Administration  
3 Company (“A.B. Data”). Pursuant to the Court’s June 8, 2023 Order Granting Preliminary  
4 Approval (ECF No. 146) (the “Preliminary Approval Order”), the Court approved the retention of  
5 A.B. Data as the Claims Administrator in connection with the Settlement for the above-captioned  
6 action (the “Action”).<sup>1</sup> I submit this Declaration as a supplement to my earlier declaration, the  
7 Declaration of Adam D. Walter Regarding (I) Mailing of Notice and Claim Form; (II) Publication  
8 of the Summary Notice; and (III) Report on Requests for Exclusion Received to Date (ECF No.  
9 149-4) (the “Initial Mailing Declaration”). The following statements are based on my personal  
10 knowledge and information provided by other A.B. Data employees working under my  
11 supervision, and if called on to do so, I could and would testify competently thereto.

12 **CONTINUED DISSEMINATION OF THE NOTICE PACKET**

13 2. Since the execution of my Initial Mailing Declaration, A.B. Data has continued to  
14 disseminate copies of the Notice and Claim Form (the “Notice Packet”) in response to additional  
15 requests from potential members of the Settlement Class, brokers, and nominees. Through  
16 October 31, 2023, A.B. Data has mailed a total of 103,387 Notice Packets to potential Settlement  
17 Class Members and nominees.

18 3. In addition, A.B. Data has re-mailed a total of 964 Notice Packets to persons whose  
19 original mailing was returned by the U.S. Postal Service and for whom updated addresses were  
20 provided to A.B. Data by the Postal Service. The U.S. Postal Service has returned a total of 249  
21 Notice Packets as undeliverable for which A.B. Data has not been able to obtain an updated  
22 address. This number of undeliverable notices—which represents less than 0.3% of the total  
23 number of Notice Packets mailed—is lower than the rate of undeliverable notices typically seen  
24 in comparable class actions. *See In re Yahoo! Inc. Sec. Litig.*, Case No. 5:17-cv-00373-LHK, Post-  
25 Distribution Accounting (N.D. Cal. Apr. 17, 2020), ECF No. 160 (2.4% of notices were  
26

27  
28 <sup>1</sup> Unless otherwise defined in this declaration, all capitalized terms have the meanings defined in  
the Stipulation and Agreement of Settlement dated April 24, 2023 (ECF No. 139-1) (the  
“Stipulation”).

1 undeliverable); *In re RH, Inc. Sec. Litig.*, Case No. 4:17-00554-YGR, Post-Distribution  
2 Accounting (N.D. Cal. Apr. 2, 2020), ECF No. 131 (1.7% of notices were undeliverable); *In re*  
3 *RH, Inc. Sec. Litig.*, Case No. 4:17-00554-YGR, Suppl. Miller Decl. (N.D. Cal. Oct. 15, 2019),  
4 ECF No. 147-4 (citing three cases in which the undeliverable rate ranged from 2% to 5%).

#### 5 **TELEPHONE HELPLINE AND WEBSITE**

6 4. A.B. Data continues to maintain the toll-free telephone number (1-877-390-3369)  
7 with an interactive voice response system (“IVR”) and live operators during business hours to  
8 accommodate any inquiries from potential members of the Settlement Class. Since the  
9 administration began on June 30, 2023, A.B. Data has received 344 in-bound calls, which included  
10 3 hours and 6 minutes spent by callers interacting with the IVR and 13 hours and 25 minutes  
11 speaking with A.B. Data’s live operators. A.B. Data has made 52 out-bound calls to respond to  
12 messages left or to follow up on earlier communications. A.B. Data has also received 189 emails  
13 sent to [info@BioMarinSecuritiesLitigation.com](mailto:info@BioMarinSecuritiesLitigation.com) and has sent 174 outgoing emails in connection  
14 with this case.

15 5. A.B. Data also continues to maintain the dedicated website for the Action  
16 ([BioMarinSecuritiesLitigation.com](http://BioMarinSecuritiesLitigation.com)) in order to assist potential members of the Settlement Class.  
17 On October 5, 2023, A.B. Data posted to the website copies of the papers filed in support of the  
18 motion for final approval of the Settlement and Plan of Allocation and in support of Lead Counsel’s  
19 motion for attorneys’ fees and expenses. A.B. Data will continue maintaining and, as appropriate,  
20 updating the website and toll-free telephone number until the conclusion of the administration.

#### 21 **REPORT ON REQUESTS FOR EXCLUSION RECEIVED**

22 6. The Notice informed potential Settlement Class Members that requests for  
23 exclusion from the Settlement Class were to be mailed or otherwise delivered, addressed to  
24 *BioMarin Securities Litigation*, EXCLUSIONS, c/o A.B. Data, Ltd., P.O. Box 173001,  
25 Milwaukee, WI 53217, such that they were received by A.B. Data no later than October 18, 2023.  
26 A.B. Data has been monitoring all mail delivered to that post office box. A.B. Data has received  
27 two requests for exclusion, both of which were received before October 18, 2023. Exhibit A  
28 attached hereto lists the names of the persons and entities who requested exclusion from the



1 Settlement Class and their city and state. The requests for exclusion are attached hereto as Exhibits  
2 B and C.<sup>2</sup>

3 **REPORT ON CLAIMS RECEIVED**

4 7. To be eligible for a payment from the Settlement, Settlement Class Members were  
5 required to submit a Claim postmarked, if mailed, or online via the website, by October 30, 2023.  
6 As of October 31, 2023, A.B. Data had received a total of 20,521 Claims. This Claim count may  
7 increase if A.B. Data receives additional timely Claims that were postmarked on or before October  
8 30, 2023, but that have not yet been received due to the time needed for mail delivery. In addition,  
9 the Claim count may increase if late Claims are received during the processing of timely submitted  
10 Claims and the acceptance of these Claims would not delay a future distribution. Lead Counsel  
11 has the discretion to accept late Claims for processing provided such acceptance does not delay  
12 the distribution of the Net Settlement Fund to the Settlement Class, *see* Preliminary Approval  
13 Order, ¶ 11, and the Court will ultimately determine whether to accept such Claims.

14 8. Based on A.B. Data's preliminary review to date, the Claims received represent  
15 approximately 27,465,219 shares of BioMarin common stock that were damaged as a result of the  
16 alleged fraud (*i.e.*, shares which calculate to a Recognized Claim under the Plan of Allocation and  
17 will be eligible for a payment from the Settlement proceeds).

18 9. The above data was obtained through A.B. Data's preliminary review of the Claims  
19 received, based on the information provided by Claimants with their Claims. The complete  
20 processing of these Claims will take additional months. This process will include steps to confirm  
21 the accuracy of the transactions claimed and a review of the Claims for deficiencies, such as  
22 missing or incomplete documentation, duplicate submissions, and claimed transactions that do not  
23 balance (*i.e.*, where the number of shares held at the beginning of the Class Period plus  
24 purchases/acquisitions during the relevant time period do not match the number of shares sold  
25 during the relevant time period plus the number of shares held at the end of the period). A.B. Data  
26 will also provide Claimants with an opportunity to correct any deficiencies in their Claims, will


27 \_\_\_\_\_  
28 <sup>2</sup> In the interest of privacy, the requests for exclusion have been redacted to remove the street  
addresses, email addresses, and telephone numbers of the persons requesting exclusion.

1 conduct thorough quality control and quality assurance processes, and will perform fraud  
2 prevention reviews as part of its normal claims processing procedures in order to ensure the  
3 validity and accuracy of all Claims. As a result of these procedures, the number of damaged shares  
4 for the Claims received and ultimately determined to be eligible for a Settlement payment is subject  
5 to change.

6 10. The possible acceptance of additional timely Claims postmarked on or before the  
7 October 30, 2023 deadline, but not received until after October 30, 2023, or additional late-filed  
8 Claims may also increase the total number of damaged shares. As noted above, Lead Counsel  
9 may, in their discretion, accept for processing late Claims provided such acceptance does not delay  
10 the distribution of the Net Settlement Fund to the Settlement Class, and acceptance of any such  
11 late-filed Claims would be decided by the Court.

12 I declare, under penalty of perjury that the foregoing is true and correct to the best of my  
13 knowledge.

14 Executed on November 1, 2023.

15  
16  
17   
18 ADAM D. WALTER

# EXHIBIT A

**Exhibit A**

1. James C. Collins  
Ramona, CA
2. Benjamin E. and Kathleen M. Ramp Living Trust U/A 12/17/15  
Benjamin E. Ramp & Kathleen M. Ramp, Trustees  
Geneseo, IL

# EXHIBIT B

October 12, 2023

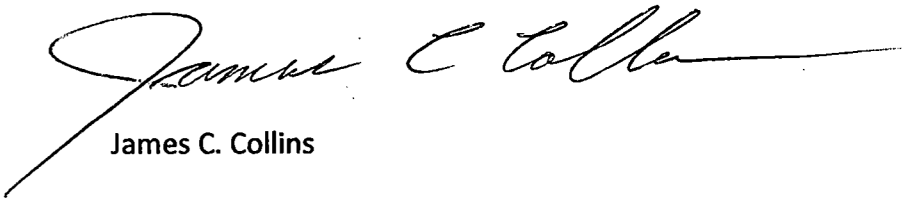
BioMarin Securities Litigation, EXCLUSIONS  
c/o A.B. Data, Ltd  
P.O. Box 173001  
Milwaukee, WI 53217

To whom it may concern,

My name is James C. Collins. My address is [REDACTED], Ramona, CA [REDACTED]. My phone number is [REDACTED].

I request to be excluded from the Settlement Class in *In re BioMarin Pharmaceutical Inc. Securities Litigation*, Case NO. 3:20-cv-06719-WHO (N.D. Cal). This exclusion includes any and all shares of BioMarin common stock that I (A) owned as fo the opening of trading on March 3, 2020 and(B) purchased/acquired and/or sold during the Class Period (i.e. from March 3, 2020 through August 18,2020, inclusive). This is including, but not limited to, 15 shares owned at the opening of trading on March 3, 2020, 6 shares acquired on May 15, 2020, and the 21 total shares owned at the closing of trading on August 18, 2020.

Respectfully,



James C. Collins



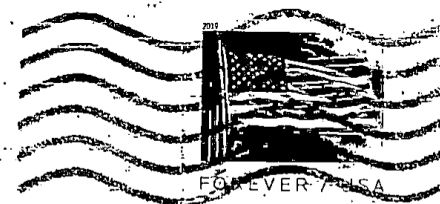
James Collins

Ramona, CA

2022 NATIONAL LAW ENFORCEMENT OFFICERS MEMORIAL SUPPORTER

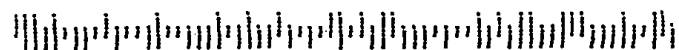
SAN DIEGO CA 920

12 OCT 2023 PM 1 L



BioMarin Securities Litigation, EXCLUSIONS  
c/o A.B. Data, Ltd  
P.O. Box 173001  
Milwaukee, WI 53217

53217-801201



# EXHIBIT C



24 August 2023

BioMarin Securities Litigation, EXCLUSIONS  
c/o A.B. Data, Ltd.  
P.O. Box 173001  
Milwaukee, WI 53217

Dear Sir or Madam,

The Benjamin E and Kathleen M Ramp Living Trust, trustees Kathleen M. Ramp and Benjamin E. Ramp, request exclusion from the Settlement Class in *In re BioMarin Pharmaceutical Inc Securities Litigation*, Case No. 3:20-cv-06719-WHO (N.D. Cal.).

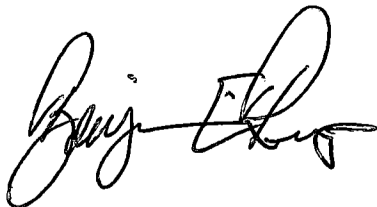
The shares owned within the trust were purchased as follows:

20 March 2020, bought 2 shares @ \$75.812/share, totaling \$151.62  
23 March 2020, bought 1 share @ \$72.59, totaling \$72.59

These shares are no longer held within the trust, they were sold as follows:

2 November 2020, sold 3 shares @ \$74.26, totaling \$222.78.

Sincerely,



Benjamin E Ramp  
Trustee



Kathleen M Ramp  
Trustee

Benjamin E and Kathleen M Ramp Living Trust U/A 12/17/15  
Benjamin and Kathleen Ramp

██████████  
Geneseo, IL. ██████████

Ph. ██████████

Email: ██████████

Email: ██████████

B. RAMP

[REDACTED]

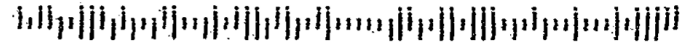
GENESECO, IL [REDACTED]

QUAD CITIES IL PAID  
IL 61321  
IN ALICE 2113 1992



BIO MARIN SECURITIES LITIGATION, EXCLUSIONS  
C/O A.B. DATA, LTD.  
P.O. BOX 173001  
MILWAUKEE, WI 53217

5321738012



# **Exhibit 2**

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**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

IN RE BIOMARIN PHARMACEUTICAL INC.  
SECURITIES LITIGATION

CLASS ACTION

Case No. 3:20-cv-06719-WHO

**[PROPOSED] JUDGMENT APPROVING  
CLASS ACTION SETTLEMENT**

WHEREAS, a securities class action is pending in this Court entitled *In re BioMarin Pharmaceutical Inc. Securities Litigation*, Case No. 3:20-cv-06719-WHO (the “Action”);

WHEREAS, (a) Lead Plaintiff Arbejdsmarkedets Tillægspension (“Lead Plaintiff”), on behalf of itself and the Settlement Class, and (b) Defendants BioMarin Pharmaceutical Inc. (“BioMarin” or the “Company”), Jean-Jacques Bienaimé, and Dr. Henry Fuchs (collectively, the “Individual Defendants” and, together with BioMarin, “Defendants”) have entered into the Stipulation and Agreement of Settlement dated April 24, 2023 (“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 (“Settlement”);

WHEREAS, unless otherwise defined in this Judgment, the capitalized terms herein shall have the same meanings as they have in the Stipulation;

1 WHEREAS, by Order dated June 8, 2023 (“Preliminary Approval Order”), this Court: (a) found,  
2 pursuant to Rule 23(e)(1)(B) of the Federal Rules of Civil Procedure, that it (i) would likely be able to  
3 certify the Settlement Class for purposes of the Settlement and (ii) would likely be able to approve the  
4 Settlement as fair, reasonable, and adequate under Rule 23(e)(2); (b) ordered that notice of the proposed  
5 Settlement be provided to potential Settlement Class Members; (c) provided Settlement Class Members  
6 with the opportunity to exclude themselves from the Settlement Class or to object to the proposed  
7 Settlement; and (d) scheduled a hearing regarding final approval of the Settlement;

8 WHEREAS, due and adequate notice has been given to the Settlement Class;

9 WHEREAS, the Court conducted a hearing on November 8, 2023 (“Settlement Hearing”) to  
10 consider, among other things, (a) whether the terms and conditions of the Settlement are fair, reasonable,  
11 and adequate to the Settlement Class, and should therefore be approved; and (b) whether a judgment should  
12 be entered dismissing the Action with prejudice as against the Defendants; and

13 WHEREAS, the Court having reviewed and considered the Stipulation, all papers filed and  
14 proceedings held herein in connection with the Settlement, all oral and written comments received  
15 regarding the Settlement, and the record in the Action, and good cause appearing therefor;

16 NOW THEREFORE, IT IS HEREBY ORDERED:

17 1. **Jurisdiction** – The Court has jurisdiction over the subject matter of the Action, and all  
18 matters relating to the Settlement, as well as personal jurisdiction over all of the Parties and each of the  
19 Settlement Class Members.

20 2. **Incorporation of Settlement Documents** – This Judgment incorporates and makes a part  
21 hereof: (a) the Stipulation filed with the Court on April 28, 2023; and (b) the Notice and Summary Notice,  
22 both of which were filed with the Court on October 4, 2023.

23 3. **Class Certification for Settlement Purposes** – The Court hereby certifies for the purposes  
24 of the Settlement only, the Action as a class action pursuant to Rules 23(a) and (b)(3) of the Federal Rules  
25 of Civil Procedure on behalf of the Settlement Class consisting of all persons who purchased or otherwise  
26 acquired BioMarin common stock from March 3, 2020 through August 18, 2020, inclusive (“Class  
27 Period”). and were damaged thereby. Excluded from the Settlement Class are: (1) Defendants; (2) any  
28 current or former Officers or directors of BioMarin; (3) the Immediate Family members of any Defendant

1 or any current or former Officer or director of BioMarin; (4) any entity that any Defendant owns or  
2 controls, or owned or controlled during the Class Period; and (5) the plaintiffs in *Alger Capital*  
3 *Appreciation Fund et al. v. BioMarin Pharmaceutical Inc. et al.*, Case 3:23-cv-00826 (N.D. Cal.) and any  
4 of their successors in interest. Also excluded from the Settlement Class are the persons and entities set  
5 forth in Exhibit 1.

6 4. **Adequacy of Representation** – Pursuant to Rule 23 of the Federal Rules of Civil  
7 Procedure, and for the purposes of the Settlement only, the Court hereby appoints Lead Plaintiff as Class  
8 Representative for the Settlement Class and appoints Lead Counsel Bernstein Litowitz Berger &  
9 Grossmann LLP as Class Counsel for the Settlement Class. Lead Plaintiff and Lead Counsel have fairly  
10 and adequately represented the Settlement Class both in terms of litigating the Action and for purposes of  
11 entering into and implementing the Settlement, and have satisfied the requirements of Federal Rules of  
12 Civil Procedure 23(a)(4) and 23(g), respectively.

13 5. **Notice** – The Court finds that the dissemination of the Notice and the publication of the  
14 Summary Notice: (a) were implemented in accordance with the Preliminary Approval Order;  
15 (b) constituted the best notice practicable under the circumstances; (c) constituted notice that was  
16 reasonably calculated, under the circumstances, to apprise Settlement Class Members of (i) the pendency  
17 of the Action; (ii) the effect of the proposed Settlement (including the Releases to be provided thereunder);  
18 (iii) Lead Counsel’s motion for attorneys’ fees and Litigation Expenses; (iv) their right to object to any  
19 aspect of the Settlement, the Plan of Allocation and/or Lead Counsel’s motion for attorneys’ fees and  
20 Litigation Expenses; (v) their right to exclude themselves from the Settlement Class; and (vi) their right to  
21 appear at the Settlement Hearing; (d) constituted due, adequate, and sufficient notice to all persons and  
22 entities entitled to receive notice of the proposed Settlement; and (e) satisfied the requirements of Rule 23  
23 of the Federal Rules of Civil Procedure, the United States Constitution (including the Due Process Clause),  
24 the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4, as amended, and all other  
25 applicable law and rules.

26 6. **CAFA Notice** - The Court finds that the notice requirements set forth in the Class Action  
27 Fairness Act of 2005, 28 U.S.C. § 1715, to the extent applicable to the Action, have been satisfied.  
28

1           7.       **Final Settlement Approval and Dismissal of Claims** – Pursuant to, and in accordance  
2 with, Rule 23(e)(2) of the Federal Rules of Civil Procedure, this Court hereby fully and finally approves  
3 the Settlement set forth in the Stipulation in all respects (including, without limitation, the amount of the  
4 Settlement, the Releases provided for therein, and the dismissal with prejudice of the claims asserted  
5 against Defendants in the Action), and finds that the Settlement is, in all respects, fair, reasonable and  
6 adequate, and in the best interests of the Settlement Class. Specifically, the Court finds that (a) Lead  
7 Plaintiff and Lead Counsel have adequately represented the Settlement Class; (b) the Settlement was  
8 negotiated by the Parties at arm’s length; (c) the relief provided for the Settlement Class under the  
9 Settlement is adequate taking into account the costs, risks, and delay of trial and appeal, the proposed  
10 means of distributing the Settlement Fund to the Settlement Class, and the proposed attorneys’ fee award;  
11 and (d) the Settlement treats members of the Settlement Class equitably relative to each other. The Parties  
12 are directed to implement, perform, and consummate the Settlement in accordance with the terms and  
13 provisions contained in the Stipulation.

14           8.       The Action and all of the claims asserted against Defendants in the Action by Lead Plaintiff  
15 and Settlement Class Members are hereby dismissed with prejudice as to all Defendants. The Parties shall  
16 bear their own costs and expenses, except as otherwise expressly provided in the Stipulation.

17           9.       **Binding Effect** – The terms of the Stipulation and of this Judgment shall be forever binding  
18 on Defendants, Lead Plaintiff, and all Settlement Class Members (regardless of whether or not any  
19 individual Settlement Class Member submits a Claim or seeks or obtains a distribution from the Net  
20 Settlement Fund), as well as their respective successors and assigns. The persons and entities listed on  
21 Exhibit 1 hereto are excluded from the Settlement Class pursuant to request and are not bound by the terms  
22 of the Stipulation or this Judgment.

23           10.       **Releases** – The Releases set forth in paragraphs 5 and 6 of the Stipulation, together with the  
24 definitions contained in paragraph 1 of the Stipulation relating thereto, are expressly incorporated herein.  
25 The Releases are effective as of the Effective Date. Accordingly, this Court orders that:

26                   (a)       Without further action by anyone, and subject to paragraph 11 below, upon the  
27 Effective Date of the Settlement, Lead Plaintiff and each of the other Settlement Class Members, on behalf  
28 of themselves, and their respective heirs, executors, administrators, predecessors, successors, and assigns,

1 in their capacities as such, shall be deemed to have, and by operation of law and this Judgment shall have,  
2 fully, finally, and forever compromised, settled, released, resolved, relinquished, waived, and discharged  
3 each and every Released Plaintiffs' Claim against Defendants and the other Defendants' Releasees, and  
4 shall forever be barred and enjoined from prosecuting any or all of the Released Plaintiffs' Claims against  
5 any of the Defendants' Releasees. This release shall not apply to any person or entity listed on Exhibit 1  
6 hereto.

7 (b) Without further action by anyone, and subject to paragraph 11 below, upon the  
8 Effective Date of the Settlement, Defendants, on behalf of themselves, and their respective heirs, executors,  
9 administrators, predecessors, successors, and assigns, in their capacities as such, shall be deemed to have,  
10 and by operation of law and of this Judgment shall have, fully, finally, and forever compromised, settled,  
11 released, resolved, relinquished, waived, and discharged each and every Released Defendants' Claim  
12 against Lead Plaintiff and the other Plaintiffs' Releasees, and shall forever be barred and enjoined from  
13 prosecuting any or all of the Released Defendants' Claims against any of the Plaintiffs' Releasees. This  
14 release shall not apply to any person or entity listed on Exhibit 1 hereto.

15 11. Notwithstanding paragraphs 10(a) – (b) above, nothing in this Judgment shall bar any action  
16 by any of the Parties to enforce or effectuate the terms of the Stipulation or this Judgment.

17 12. **Rule 11 Findings** – The Court finds and concludes that the Parties and their respective  
18 counsel have complied in all respects with the requirements of Rule 11 of the Federal Rules of Civil  
19 Procedure in connection with the institution, prosecution, defense, and settlement of the Action.

20 13. **No Admissions** – Neither this Judgment, the Term Sheet, the Stipulation (whether or not  
21 consummated), including the exhibits thereto and the Plan of Allocation contained therein (or any other  
22 plan of allocation that may be approved by the Court), the Parties' mediation and subsequent Settlement,  
23 the communications and/or discussions leading to the execution of the Term Sheet and this Stipulation, nor  
24 any proceedings taken pursuant to or in connection with the Term Sheet, the Stipulation, and/or approval  
25 of the Settlement (including any arguments proffered in connection therewith): (a) shall be offered against  
26 any of the Defendants' Releasees as evidence of, or construed as, or deemed to be evidence of any  
27 presumption, concession, or admission by any of the Defendants' Releasees with respect to the truth of any  
28 fact alleged by Lead Plaintiff or the validity of any claim that was or could have been asserted or the



1 deficiency of any defense that has been or could have been asserted in this Action or in any other litigation,  
2 or of any liability, negligence, fault, or other wrongdoing of any kind of any of the Defendants' Releasees  
3 or in any way referred to for any other reason as against any of the Defendants' Releasees, in any arbitration  
4 proceeding or other civil, criminal, or administrative action or proceeding, other than such proceedings as  
5 may be necessary to effectuate the provisions of the Stipulation; (b) shall be offered against any of the  
6 Plaintiffs' Releasees, as evidence of, or construed as, or deemed to be evidence of any presumption,  
7 concession, or admission by any of the Plaintiffs' Releasees that any of their claims are without merit, that  
8 any of the Defendants' Releasees had meritorious defenses, or that damages recoverable under the  
9 Complaint would not have exceeded the Settlement Amount or with respect to any liability, negligence,  
10 fault, or wrongdoing of any kind, or in any way referred to for any other reason as against any of the  
11 Plaintiffs' Releasees, in any arbitration proceeding or other civil, criminal, or administrative action or  
12 proceeding, other than such proceedings as may be necessary to effectuate the provisions of the Stipulation;  
13 or (c) shall be construed against any of the Releasees as an admission, concession, or presumption that the  
14 consideration to be given hereunder represents the amount which could be or would have been recovered  
15 after trial; *provided, however*, that if the Stipulation is approved by the Court, the Parties and the Releasees  
16 and their respective counsel may refer to it to effectuate the protections from liability granted hereunder or  
17 otherwise to enforce the terms of the Settlement.

18       14.     **Retention of Jurisdiction** – Without affecting the finality of this Judgment in any way, this  
19 Court retains continuing and exclusive jurisdiction over: (a) the Parties for purposes of the administration,  
20 interpretation, implementation, and enforcement of the Settlement; (b) the disposition of the Settlement  
21 Fund; (c) any motion for attorneys' fees and/or Litigation Expenses by Lead Counsel in the Action that  
22 will be paid from the Settlement Fund; (d) any motion to approve the Plan of Allocation; (e) any motion  
23 to approve the Class Distribution Order; and (f) the Settlement Class Members for all matters relating to  
24 the Action.

25       15.     Separate orders shall be entered regarding approval of a plan of allocation and the motion  
26 of Lead Counsel for attorneys' fees and Litigation Expenses. Such orders shall in no way affect or delay  
27 the finality of this Judgment and shall not affect or delay the Effective Date of the Settlement.



**Exhibit 1**

**List of Persons and Entities Excluded from the Settlement Class Pursuant to Request**

1. James C. Collins  
Ramona, CA
2. Benjamin E. and Kathleen M. Ramp Living Trust U/A 12/17/15  
Benjamin E. Ramp & Kathleen M. Ramp, Trustees  
Geneseo, IL

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# **Exhibit 3**

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**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

IN RE BIOMARIN PHARMACEUTICAL INC.  
SECURITIES LITIGATION

CLASS ACTION

Case No. 3:20-cv-06719-WHO

**[PROPOSED] ORDER APPROVING  
PLAN OF ALLOCATION OF NET  
SETTLEMENT FUND**

This matter came on for hearing on November 8, 2023 (the “Settlement Hearing”) on Lead Plaintiff’s motion to determine whether the proposed plan of allocation of the Net Settlement Fund (“Plan of Allocation”) created by the Settlement achieved in the above-captioned class action (the “Action”) should be approved. 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 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 proposed Plan of Allocation,

---

ORDER APPROVING  
PLAN OF ALLOCATION  
Case No. 3:20-cv-06719-WHO

1 NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

2 1. This Order approving the proposed Plan of Allocation incorporates by reference the  
3 definitions in the Stipulation and Agreement of Settlement dated April 24, 2023 (ECF No. 139-1) (the  
4 “Stipulation”) and all terms not otherwise defined herein shall have the same meanings as set forth in  
5 the Stipulation.

6 2. The Court has jurisdiction to enter this Order approving the proposed Plan of Allocation,  
7 and over the subject matter of the Action and all parties to the Action, including all Settlement Class  
8 Members.

9 3. Notice of Lead Plaintiff’s motion for approval of the proposed Plan of Allocation and of  
10 the date for the hearing on such motion was given to all Settlement Class Members who could be  
11 identified with reasonable effort. The form and method of notifying the Settlement Class of the motion  
12 for approval of the proposed Plan of Allocation satisfied the requirements of Rule 23 of the Federal  
13 Rules of Civil Procedure, due process, and all other applicable law and rules, constituted the best notice  
14 practicable under the circumstances, and constituted due and sufficient notice to all persons and entities  
15 entitled thereto.

16 4. Copies of the Notice, which included the Plan of Allocation, were mailed to over 103,000  
17 potential Settlement Class Members and nominees and no objections to the proposed Plan of Allocation  
18 were received.

19 5. The Court hereby finds and concludes that the formula for the calculation of the claims  
20 of Claimants as set forth in the Plan of Allocation mailed to Settlement Class Members provides a fair  
21 and reasonable basis upon which to allocate the proceeds of the Net Settlement Fund among Settlement  
22 Class Members with due consideration having been given to administrative convenience and necessity.

23 6. The Court hereby finds and concludes that the Plan of Allocation is, in all respects, fair  
24 and reasonable to the Settlement Class. Accordingly, the Court hereby approves the Plan of Allocation  
25 proposed by Lead Plaintiff

26 7. Any appeal or any challenge affecting this Court’s approval of the Plan of Allocation  
27 shall in no way disturb or affect the finality of the Judgment.



# **Exhibit 4**



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**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

IN RE BIOMARIN PHARMACEUTICAL INC.  
SECURITIES LITIGATION

CLASS ACTION

Case No. 3:20-cv-06719-WHO

**[PROPOSED] ORDER AWARDING  
ATTORNEYS’ FEES AND LITIGATION  
EXPENSES**

This matter came on for hearing on November 8, 2023 (the “Settlement Hearing”) on Lead Counsel’s motion for an award of attorneys’ fees and payment 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,

1 NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

2 1. This Order incorporates by reference the definitions in the Stipulation and Agreement  
3 of Settlement dated April 24, 2023 (ECF No. 139-1) (the “Stipulation”) and all terms not otherwise  
4 defined herein shall have the same meanings as set forth in the Stipulation.

5 2. The Court has jurisdiction to enter this Order and over the subject matter of the Action  
6 and all parties to the Action, including all Settlement Class Members.

7 3. Notice of Lead Counsel’s motion for an award of attorneys’ fees and payment of  
8 Litigation Expenses was given to all Settlement Class Members who could be identified with  
9 reasonable effort. The form and method of notifying the Settlement Class of the motion for an award  
10 of attorneys’ fees and expenses satisfied the requirements of Rule 23 of the Federal Rules of Civil  
11 Procedure, the Private Securities Litigation Reform Act of 1995 (15 U.S.C. § 78u-4(a)(7)), due process,  
12 and all other applicable law and rules, constituted the best notice practicable under the circumstances,  
13 and constituted due and sufficient notice to all persons and entities entitled thereto.

14 4. Lead Counsel is hereby awarded attorneys’ fees in the amount of 19% of the Settlement  
15 Fund (including interest earned at the same rate as the Settlement Fund). Lead Counsel is also hereby  
16 awarded \$397,052.78 for payment of its litigation expenses. These attorneys’ fees and expenses shall  
17 be paid from the Settlement Fund and the Court finds these sums to be fair and reasonable.

18 5. In making this award of attorneys’ fees and reimbursement of expenses to be paid from  
19 the Settlement Fund, the Court has considered and found that:

20 a. The Settlement has created a fund of \$39,000,000 in cash that has been funded  
21 into escrow pursuant to the terms of the Stipulation, and that numerous Settlement Class  
22 Members who submit acceptable Claim Forms will benefit from the Settlement that occurred  
23 because of the efforts of Lead Counsel;

24 b. The fee sought is based on a retainer agreement entered into by Lead Counsel  
25 and Lead Plaintiff at the outset of the litigation and the requested fee has been again reviewed  
26 and approved as reasonable by Lead Plaintiff, a sophisticated institutional investor that actively  
27 supervised the Action, at the conclusion of the Action;

1 c. Copies of the Notice were mailed to over 103,000 potential Settlement Class  
2 Members and nominees stating that Lead Counsel would apply for attorneys' fees in an amount  
3 not to exceed 19% of the Settlement Fund and payment of Litigation Expenses in an amount  
4 not to exceed \$650,000 and no objections to the requested award of attorneys' fees or Litigation  
5 Expenses were submitted;

6 d. Lead Counsel conducted the litigation and achieved the Settlement with skill,  
7 perseverance and diligent advocacy;

8 e. The Action raised a number of complex issues;

9 f. Had Lead Counsel not achieved the Settlement there would remain a significant  
10 risk that Lead Plaintiff and the other members of the Settlement Class may have recovered less  
11 or nothing from Defendants;

12 g. Lead Counsel devoted over 12,500 hours, with a lodestar value of approximately  
13 \$6.7 million, to achieve the Settlement; and

14 h. The amount of attorneys' fees awarded and expenses to be reimbursed from the  
15 Settlement Fund are fair and reasonable and consistent with awards in similar cases.

16 6. Lead Plaintiff Arbejdsmarkedets Tillægspension is hereby awarded \$127,400 from the  
17 Settlement Fund as reimbursement for its reasonable costs and expenses directly related to its  
18 representation of the Settlement Class.

19 7. Any appeal or any challenge affecting this Court's approval regarding any attorneys'  
20 fees and expense application shall in no way disturb or affect the finality of the Judgment.

21 8. Exclusive jurisdiction is hereby retained over the parties and the Settlement Class  
22 Members for all matters relating to this Action, including the administration, interpretation,  
23 effectuation or enforcement of the Stipulation and this Order.

24 9. In the event that the Settlement is terminated or the Effective Date of the Settlement  
25 otherwise fails to occur, this Order shall be rendered null and void to the extent provided by the  
26 Stipulation.

