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9
10 **UNITED STATES DISTRICT COURT**
NORTHERN DISTRICT OF CALIFORNIA
11 **OAKLAND DIVISION**

12 ALI ZAIDI, Individually and on Behalf of
All Others Similarly Situated,
13 Plaintiff,

14 vs.

15 ADAMAS PHARMACEUTICALS, INC., *et*
16 *al.*,
Defendants.

Case No. 4:19-cv-08051-JSW

**LEAD PLAINTIFF’S: (1) NOTICE OF
UNOPPOSED MOTION AND MOTION
FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT AND PLAN OF
ALLOCATION; AND (2) MEMORANDUM
OF LAW IN SUPPORT THEREOF**

Hearing Date: September 27, 2024

Time: 9:00 a.m.

Location: Courtroom 5, 2nd Floor

Judge: Hon. Jeffrey S. White

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TABLE OF AUTHORITIES

CASES

Buettgen v. Harless,
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Carpenters Health & Welfare Fund v. The Coca-Cola Co.,
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Christine Asia Co., Ltd. v. Yun Ma,
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Churchill Village L.L.C. v. Gen. Elec.,
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City of Detroit v. Grinnell Corp.,
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City of Warren Police & Fire Ret. Sys. v. World Wrestling Ent., Inc.,
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Class Pls. v. City of Seattle,
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Dura Pharms., Inc. v. Broudo,
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Eiesen v. Porsche Cars N. Am., Inc.,
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Feyko v. aAD Partners LP,
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Fleming v. Impax Labs. Inc.,
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Garner v. State Farm Mut. Auto. Ins. Co.,
2010 WL 1687832 (N.D. Cal. Apr. 22, 2010) 5

Gross v. GFI Grp., Inc.,
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Hanlon v. Chrysler Corp.,
150 F.3d 1011 (9th Cir. 1998) *passim*

1 *Hefler v. Wells Fargo & Co.*,
 2 2018 WL 6619983 (N.D. Cal. Dec. 18, 2018)..... 6, 10, 19, 21

3 *In re Advanced Battery Techs., Inc. Sec. Litig.*,
 4 298 F.R.D. 171 (S.D.N.Y. 2014) 14, 25

5 *In re Amgen Inc. Sec. litig.*,
 6 2016 WL 10571773 (C.D. Cal. Oct. 25, 2016)..... 21

7 *In re Bluetooth Headset Prods. Liab. Litig.*,
 8 654 F.3d 935 (9th Cir. 2011) 8, 10

9 *In re Carrier IQ, Inc., Consumer Privacy Litig.*,
 10 2016 WL 4474366 (N.D. Cal. Aug. 25, 2016) 16

11 *In re Cendant Corp. Litig.*,
 12 264 F.3d 201 (3d Cir. 2001)..... 13

13 *In re Chrysler-Dodge-Jeep EcoDiesel Mktg., Sales Practices, & Prods. Liab. Litig.*,
 14 2019 WL 2554232 (N.D. Cal. May 3, 2019) 7

15 *In re Flag Telecom Holdings, Ltd. Sec. Litig.*,
 16 574 F.3d 29 (2d Cir. 2009)..... 20

17 *In re GSE Bonds Antitrust Litig.*,
 18 414 F. Supp. 3d 686 (S.D.N.Y. 2019)..... 14

19 *In re Heritage Bond Litig.*,
 20 2005 WL 1594403 (C.D. Cal. June 10, 2005) 9, 18, 19, 24

21 *In re Immune Response Sec. Litig.*,
 22 497 F. Supp. 2d 1166 (S.D. Cal. 2007)..... 12

23 *In re Mego Fin. Corp. Sec. Litig.*,
 24 213 F.3d 454 (9th Cir. 2000) 15, 17

25 *In re Mut. Funds Inv. Litig.*,
 26 2010 WL 2342413 (D. Md. May 19, 2010)..... 25

27 *In re Northern Dynasty Minerals Ltd. Sec. Litig.*,
 28 2024 WL 308242 (E.D.N.Y. Jan. 26, 2024) 10

In re OCA, Inc. Sec. and Deriv. Litig.,
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In re Omnivision Tech., Inc.,
 559 F. Supp. 2d 1035 (N.D. Cal. 2008) 14

1 *In re Omnivision Techs., Inc.*,
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3 *In re Pac. Enters. Sec. Litig.*,
 4 47 F.3d 373 (9th Cir. 1995) 15

5 *In re Polaroid ERISA Litig.*,
 6 240 F.R.D. 65 (S.D.N.Y. 2006) 7

7 *In re Portal Software, Inc. Sec. Litig.*,
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9 *In re Regulus Therapeutics Inc. Sec. Litig.*,
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11 *In re Syncor ERISA Litig.*,
 12 516 F.3d 1095 (9th Cir. 2008) 5

13 *In re Xcel Energy, Inc., Sec., Deriv. & “ERISA” Litig.*,
 14 364 F. Supp. 2d 980 (D. Minn. 2005)..... 11

15 *In re Yahoo! Inc. Customer Data Sec. Breach Litig.*,
 16 2020 WL 4212811 (N.D. Cal. July 22, 2020)..... 14

17 *In re Zynga Inc. Sec. Litig.*,
 18 2015 WL 6471171 (N.D. Cal. Oct. 27, 2015)..... 13

19 *In re: Volkswagen “Clean Diesel” Mktg., Sales Practices, & Prod. Liab. Litig.*,
 20 2016 WL 6248426 (N.D. Cal. Oct. 25, 2016)..... 17

21 *Longo v. OSI Sys., Inc.*,
 22 2022 U.S. Dist. LEXIS 158606 (C.D. Cal. Aug. 31, 2022)..... 9

23 *Mendoza v. Hyundai Motor Co.*,
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25 *Nat’l Rural Telecomm. Coop. v. DirecTV, Inc.*,
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27 *New York State Teachers’ Ret. Sys. v. Gen. Motors Co.*,
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1 *Rodriguez v. Nike Retail Servs., Inc.*,
 2 2022 WL 254349 (N.D. Cal. Jan. 27, 2022) 18

3 *Rodriguez v. W. Publ’g Corp.*,
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5 *Schueneman v. Arena Pharms., Inc.*,
 6 2020 WL 3129566 (S.D. Cal. June 12, 2020)..... 24

7 *Shapiro v. JPMorgan Chase & Co.*,
 8 2014 WL 1224666 (S.D.N.Y. Mar. 24, 2014) 19

9 *Silverman v. Motorola Sols., Inc.*,
 10 739 F.3d 956 (7th Cir. 2013) 20

11 *Smith v. Dominion Bridge Corp.*,
 12 2007 WL 1101272 (E.D. Pa. Apr. 11, 2007) 12

13 *Sudunagunta v. NantKwest, Inc.*,
 14 2019 WL 2183451 (C.D. Cal. May 13, 2019) 9

15 *Torrissi v. Tucson Elec. Power Co.*,
 16 8 F.3d 1370 (9th Cir. 1993) 13

17 *Vaccaro v. New Source Energy Partners L.P.*,
 18 2017 WL 6398636 (S.D.N.Y. Dec. 14, 2017) 18

19 *Vataj v. Johnson*,
 20 2021 WL 1550478 (N.D. Cal. Apr. 20, 2021) 21

21 *Vataj v. Johnson*,
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23 *Vikram v. First Student Mgmt., LLC*,
 24 2019 WL 1084169 (N.D. Cal. March 7, 2019)..... 19

25 *Vinh Nguyen v. Radiant Pharm. Corp.*,
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27 *Wong v. Arlo*,
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Yang v. Focus Media Holding Ltd.,
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1 **NOTICE OF UNOPPOSED MOTION AND MOTION FOR FINAL APPROVAL OF**
2 **CLASS ACTION SETTLEMENT AND PLAN OF ALLOCATION**
3 **TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:**

4 PLEASE TAKE NOTICE that, pursuant to Rule 23(e) of the Federal Rules of Civil Procedure,
5 the Court’s Order Preliminarily Approving Settlement and Providing for Notice (“Preliminary
6 Approval Order,” ECF No. 128), and the Court’s Order to Continue the Final Fairness Hearing (ECF
7 No. 132), on September 27, 2024, at 9:00 a.m., before the Honorable Jeffrey S. White, in Courtroom
8 5, 2nd Floor, at the United States District Court for the Northern District of California, 1301 Clay
9 Street, Oakland, California, lead plaintiff Ralph Martinez (“Lead Plaintiff”) will, and hereby does,
10 respectfully move the Court for entry of a judgment granting final approval of the proposed Settlement
11 and entry of an order granting approval of the proposed Plan of Allocation.¹ This motion is based on
12 the following Memorandum of Law; the Solish Declaration, and all exhibits thereto, including the
13 Declaration of Margery Craig Concerning: (A) Mailing of the Postcard Notice, (B) Publication of the
14 Summary Notice, and (C) Report on Requests for Exclusion and Objections (Ex. 2, “Craig Decl.”);
15 the Stipulation; all prior pleadings and papers filed herein; arguments of counsel; and any other matters
16 properly before the Court. Defendant does not oppose this motion.

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¹ Unless otherwise defined herein, all capitalized terms have the meanings set forth in the Stipulation and Agreement of Settlement dated February 29, 2024 (ECF No. 124-1; the “Stipulation”), or the concurrently filed Declaration of Leanne H. Solish in Support of (I) Lead Plaintiff’s Motion for Final Approval of Class Action Settlement and Plan of Allocation, and (II) Lead Counsel’s Motion for an Award of Attorneys’ Fees and Reimbursement of Litigation Expenses (“Solish Declaration” or “Solish Decl.”). Citations herein to “¶ ___” and “Ex. ___” refer, respectively, to paragraphs in, and exhibits to, the Solish Declaration.

MEMORANDUM OF LAW

In accordance with Rule 23(e)(2) of the Federal Rules of Civil Procedure, Lead Plaintiff, on behalf of himself and all other members of the Settlement Class, respectfully submits this memorandum in support of his motion for: (1) final approval of the proposed settlement resolving the Action in exchange for payment of \$4.65 million in cash for the benefit of the Settlement Class (the “Settlement”); and (2) approval of the proposed plan of allocation of the proceeds of the Settlement.²

I. INTRODUCTION

After over four years of hard-fought litigation, Lead Plaintiff, through his counsel, obtained a \$4.65 million (the “Settlement Amount”) all cash, non-reversionary settlement for the benefit of the Settlement Class. This is an extremely favorable result for the Settlement Class, and it was secured in a procedurally fair manner.

Substantively, the Settlement represents a recovery in the range of approximately 2.8% to 22.03%, of the \$21.1 to \$164.2 million in *maximum* damages *potentially* available in this Action. Such a recovery is consistent with, or significantly higher than, the 2.9%-5.1% median recovery in securities cases with similar damages that settled between January 2014 and December 2023. *See* Ex. 5 (excerpt from Edward Flores and Svetlana Starykh, *Recent Trends in Securities Class Action Litigation: 2023 Full-Year Review* (NERA Jan. 23, 2024), at p. 25 (Fig. 21) (median recovery for securities class actions that settled between January 2014 and December 2023 was 2.9% for cases with estimated damages between \$100-\$199 million, and 5.1% for those with estimated damages of \$20-\$49 million). The recovery is all the more favorable when put in context; the case was fully dismissed once and, following repleading, only one defendant, one cause of action, and one of the alleged misstatements in the Second Amended Class Action Complaint for Violations of the Federal Securities Laws (“SAC”) survived further dismissal efforts. *See* ECF No. 79 (granting motion to dismiss Amended Class Action Complaint for Violations of the Federal Securities Laws (“Amended Complaint”) with leave to amend); *Zaidi v. Adamas Pharms., Inc.*, 650 F. Supp. 3d 848 (N.D. Cal. 2023) (granting motion to dismiss the SAC except for one alleged misstatement by Defendant King);

² The terms of the Settlement are set forth in the Stipulation.

1 ECF No. 103 (dismissing Section 20(a) claim against Defendant King). Had the litigation continued,
2 Lead Plaintiff would have faced numerous hurdles, any one of which could have resulted in a recovery
3 smaller than the Settlement Amount, or no recovery of at all. For these reasons, and as further
4 discussed herein and in the Solish Declaration, the Settlement is substantively fair.

5 Moreover, the process by which the Settlement was obtained evidences a lack of collusion
6 amongst the Parties and supports a finding of procedural fairness. By the time the Settlement was
7 reached, Lead Plaintiff and his counsel were well informed about the strengths and weaknesses of the
8 claims and Defendant's defenses. Prior to reaching the Settlement, Lead Counsel had, *inter alia*:

- 9 • moved for the appointment of Lead Plaintiff pursuant to the PSLRA;
- 10 • conducted a comprehensive investigation of the claims asserted in the Action, which
11 included, among other things: (a) reviewing and analyzing (i) Adamas's filings with the
12 U.S. Securities and Exchange Commission, (ii) public reports, research reports prepared
13 by doctors and securities and financial analysts, and news articles concerning Adamas,
14 GOCOVRI, OSMOLEX, Parkinson's, levodopa induced dyskinesia, and amantadine, (iii)
15 Adamas's investor call transcripts, press releases and other public statements made by the
16 defendants prior to, during, and after the Settlement Class Period, and (iv) other publicly
17 available material related to Adamas, including certain payer formularies and other
18 documents concerning payer coverage decisions with respect to GOCOVRI, OSMOLEX,
19 and amantadine; (b) retaining and working with a private investigator who conducted an
20 investigation that involved, *inter alia*, numerous interviews of former Company employees
21 and other sources of relevant information; and (c) consultation with a damages and loss
22 causation expert;
- 23 • utilized the comprehensive investigation and additional research to draft and file the 106-
24 page (396-paragraph) Amended Complaint, which asserted violations of the Securities
25 Exchange Act of 1934 ("Exchange Act");
- 26 • researched, drafted, and filed an opposition to defendants' motion to dismiss the Amended
27 Complaint, after which the Court granted defendants' motion;
- 28 • conducted additional investigation and analysis, and then filed the 96-page (274-
paragraph) SAC;
- researched, drafted, and filed an opposition to defendants' motion to dismiss the SAC,
after which the Court granted in part, and denied in part, defendants' motion;
- prepared for and participated in a Rule 26(f) Conference;
- negotiated a protective order and ESI protocol, both of which were subsequently entered
by the Court;
- drafted and propounded requests for production on Defendant, as well as a subpoena *duces
tecum* on Adamas;
- engaged in a mediation process overseen by a highly experienced third-party mediator,

1 Robert A. Meyer, Esq., of JAMS, which involved, *inter alia*: (a) an exchange of written
2 submissions concerning the facts of the case, liability and damages; (b) a full-day formal
3 mediation session; (c) extensive consultation with Lead Plaintiff’s expert on damages and
4 loss causation; and (d) a mediator’s recommendation to settle the case for \$4.65 million,
5 which was accepted by the Parties;

- 6 • negotiated a detailed confidential settlement term sheet with Defendant’s Counsel, which
7 was executed on October 27, 2023;
- 8 • drafted and then negotiated the terms of the Stipulation (including the exhibits thereto) and
9 Supplemental Agreement with Defendant’s Counsel;
- 10 • worked with a damages expert to craft a plan of allocation that treats Lead Plaintiff and all
11 other members of the proposed Settlement Class fairly; and
- 12 • drafted the preliminary approval motion and supporting papers. ¶¶12-36.

13 The Settlement is, therefore, the result of arms-length negotiations, conducted by informed and
14 experienced counsel, in conjunction with an experienced neutral.

15 As discussed in greater detail below and in the Solish Declaration, Lead Plaintiff and his
16 counsel believe that the proposed Settlement meets the standards for final approval and is in the best
17 interests of the Settlement Class. Accordingly, Lead Plaintiff respectfully requests that the Court grant
18 the Settlement final approval.

19 Lead Plaintiff also moves for approval of the proposed Plan of Allocation of the Net Settlement
20 Fund. The Plan of Allocation was developed by Lead Counsel, together with Lead Plaintiff’s
21 consulting damages expert, and is designed to distribute the proceeds of the Net Settlement Fund fairly
22 and equitably to Settlement Class Members. No Settlement Class Member is favored over another
23 under the proposed Plan; rather, all Settlement Class Members—including Lead Plaintiff—are treated
24 in the same manner. *See* Ex. 2-C at ¶¶53-71. Therefore, the Plan of Allocation is fair and reasonable
25 and, as such, it too should be approved.

26 **II. PROCEDURAL AND FACTUAL BACKGROUND**

27 The Solish Declaration is an integral part of this submission. For the sake of brevity in this
28 memorandum, the Court is referred to it for a detailed description of, *inter alia*, the factual and
procedural history of the Action (¶¶10-38); the nature of the claims asserted (¶¶4, 10, 15, 19); the
negotiations leading to the Settlement (¶¶28-33); the risks and uncertainties of continued litigation
(¶¶39-56), and the services Lead Counsel provided for the benefit of the Settlement Class (¶¶12-36,

1 79-81).

2 **III. STANDARDS GOVERNING APPROVAL OF CLASS ACTION**
 3 **SETTLEMENTS**

4 **A. Class Certification Remains Appropriate**

5 In granting preliminary approval, the Court found this case appropriate for class certification
 6 for settlement purposes, and appointed Ralph Martinez as class representative and Glancy Prongay &
 7 Murray LLP as class counsel. ECF 128, ¶¶ 1-3. Nothing has changed since preliminary approval that
 8 would undermine the Court’s conclusion, and class certification for settlement purposes remains
 9 appropriate. *See Fleming v. Impax Labs. Inc.*, 2022 WL 2789496, at *4 (N.D. Cal. July 15, 2022).

10 **B. The Settlement Warrants Final Approval**

11 Federal Rule of Civil Procedure 23(e) requires judicial approval for any compromise or
 12 settlement of class action claims and states that a class action settlement should be approved if the
 13 court finds it “fair, reasonable, and adequate.” Fed. R. Civ. P. 23(e)(2). In the Ninth Circuit and
 14 throughout the country, “there is a strong judicial policy that favors settlements particularly where
 15 complex class action litigation is concerned.” *In re Syncor ERISA Litig.*, 516 F.3d 1095, 1101 (9th
 16 Cir. 2008).³ Indeed, class actions readily lend themselves to compromise because of the difficulties
 17 of proof, the uncertainties of the outcome, and the typical length of litigation; the settlement of such
 18 complex cases greatly contributes to the conservation of scarce judicial resources. *See, e.g., Garner*
 19 *v. State Farm Mut. Auto. Ins. Co.*, 2010 WL 1687832, at *10 (N.D. Cal. Apr. 22, 2010) (“Avoiding
 20 such unnecessary and unwarranted expenditure of resources and time would benefit all Parties and the
 21 Court.”).

22 According to Rule 23(e)(2), which governs final approval, courts must determine if a proposed
 23 settlement is fair, reasonable, and adequate after considering whether:

- 24 (A) the class representatives and class counsel have adequately represented the class;
- 25 (B) the proposal was negotiated at arm’s length;
- 26 (C) the relief provided for the class is adequate, taking into account:

27
 28 ³ Unless otherwise indicated, all emphasis is added and all internal citations and quotations are omitted.

- 1 (i) the costs, risks, and delay of trial and appeal;
- 2 (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims;
- 3 (iii) the terms of any proposed award of attorneys' fees, including timing of payment; and
- 4 (iv) any agreement required to be identified under Rule 23(e)(3); and
- 5 (D) the proposal treats class members equitable relative to each other.

6 Fed. R. Civ. P. 23(e)(2).

7 These factors, which went into effect on December 1, 2018, do not “displace” any previously
8 adopted factors, but “focus the court and the lawyers on the core concerns of procedure and substance
9 that should guide the decision whether to approve the proposal.” FED. R. CIV. P. 23(e) advisory
10 committee’s notes to 2018 amendment, 324 F.R.D. 904, 918. “Accordingly, the Court [should] appl[y]
11 the framework set forth in Rule 23, while continuing to draw guidance from the Ninth Circuit’s factors
12 and relevant precedent.” *Hefler v. Wells Fargo & Co.*, 2018 WL 6619983, at *4 (N.D. Cal. Dec. 18,
13 2018).

14 Prior to the Rule 23(e)(2) amendment, courts in the Ninth Circuit considered the following
15 “*Hanlon* factors”:

- 16 (1) the strength of plaintiff’s case; (2) the risk, expense, complexity, and likely duration
17 of further litigation; (3) the risk of maintaining class action status throughout the trial;
18 (4) the amount offered in settlement; (5) the extent of discovery completed, and the
19 stage of the proceedings; (6) the experience and views of counsel; (7) the presence of
a governmental participant; and (8) the reaction of the class members to the proposed
settlement.

20 *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998);⁴ *Churchill Village L.L.C. v. Gen.*
21 *Elec.*, 361 F.3d 566, 575 (9th Cir. 2004).

22 In granting preliminary approval, the Court considered the Rule 23(e)(2) and Ninth Circuit
23 factors when assessing the Settlement and found that it was fair, reasonable, and adequate, subject to
24 further consideration at the final approval hearing. *See* ECF 128, ¶4. The Court’s conclusion on
25 preliminary approval is equally true now as nothing has changed between April 2, 2024 and the
26

27 _____
28 ⁴ “Because there is no governmental entity involved in this litigation, this [seventh] factor is inapplicable.” *Mendoza v. Hyundai Motor Co.*, 2017 WL 342059, at *7 (N.D. Cal. Jan. 23, 2017).

1 present. *See In re Chrysler-Dodge-Jeep EcoDiesel Mktg., Sales Practices, & Prods. Liab. Litig.*, 2019
 2 WL 2554232, at *2 (N.D. Cal. May 3, 2019) (“Those conclusions [drawn at preliminary approval]
 3 stand and counsel equally in favor of final approval now.”).

4 As explained below and in the Solish Declaration, application of each of the four factors
 5 specified in Rule 23(e)(2) and the relevant, non-duplicative *Hanlon* factors demonstrates that the
 6 Settlement warrants final approval.⁵

7 **C. The Proposed Settlement Satisfies The Requirements Of Rule 23(e)(2)**

8 **1. Rule 23(e)(2)(A): Lead Plaintiff and His Counsel Have Adequately**
 9 **Represented the Settlement Class**

10 The Court should consider whether the “class representative[] and class counsel have
 11 adequately represented the class” when determining whether to approve a class action settlement. Fed.
 12 R. Civ. P. 23(e)(2)(A). “Resolution of two questions determines legal adequacy: (1) do the named
 13 plaintiffs and their counsel have any conflicts of interest with other class members and (2) will the
 14 named plaintiffs and their counsel prosecute the action vigorously on behalf of the class?” *Hanlon*,
 15 150 F.3d at 1020.

16 Here, Lead Plaintiff and Lead Counsel have adequately represented the Settlement Class both
 17 during the litigation of this Action and during its settlement. *See generally* Solish Declaration and
 18 Declaration of Ralph Martinez in Support of: (I) Lead Plaintiff’s Motion for Final Approval of Class
 19 Action Settlement and Plan of Allocation; and (II) Lead Counsel’s Motion for an Award of Attorneys’
 20 Fees and Litigation Expenses (Ex. 1, “Martinez Decl.”). The Settlement negotiated on the Settlement
 21 Class’s behalf is the result of the diligent prosecution of this Action for over four years. Lead Plaintiff
 22 has no interests antagonistic to those of other Settlement Class Members; rather, they share the
 23 common interest in obtaining the largest possible recovery from Defendant. *See In re Polaroid ERISA*
 24 *Litig.*, 240 F.R.D. 65, 77 (S.D.N.Y. 2006) (“Where plaintiffs and class members share the common
 25 goal of maximizing recovery, there is no conflict of interest between the class representatives and other

26 _____
 27 ⁵ Fed. R. Civ. P. 23(e)(2)(A)-(B)’s considerations overlap with certain *Hanlon* factors, “such as the
 28 non-collusive nature of negotiations, the extent of discovery completed, and the stage of proceedings.”
Wong v. Arlo, 2021 WL 1146042, at *6 (N.D. Cal. Mar. 25, 2021) (citing *Hanlon*, 150 F.3d at 1026).

1 class members.”). Moreover, Plaintiff’s Counsel are highly qualified and experienced in securities
 2 litigation (*see* Exs. 3-C & 4-C (firm résumés)), actively pursued the claims of Adamas investors in this
 3 Court, and advocated vociferously for the Settlement Class’s best interests throughout this litigation.
 4 ¶¶12-36. Thus, this factor supports final approval.

5 **2. Rule 23(e)(2)(B): The Proposed Settlement Was Negotiated at**
 6 **Arm’s-Length After Mediation With an Experienced Mediator**

7 The Court must also consider whether the settlement was “negotiated at arm’s length” in
 8 weighing approval of a class-action settlement. Fed. R. Civ. P. 23(e)(2)(B). Circumstances related to
 9 this “procedural” fairness determination of a settlement traditionally include: (i) whether counsel has
 10 a thorough understanding of the strength [and weakness] of the plaintiff’s case⁶ based on factors like
 11 “the extent of discovery completed and the stage of the proceedings”;⁷ (ii) the “experience and views
 12 of counsel”;⁸ and (iii) the absence of any indicia of collusion.⁹ Each of these factors supports approval
 13 of the Settlement.

14 The Ninth Circuit, as well as district courts, “put a good deal of stock in the product of an arms-
 15 length, non-collusive, negotiated resolution” in approving a class action settlement. *Rodriguez v. W.*
 16 *Publ’g Corp.*, 563 F.3d 948, 965 (9th Cir. 2009); *see also Eiesen v. Porsche Cars N. Am., Inc.*, 2014
 17 WL 439006, at *4 (C.D. Cal. Jan. 30, 2014) (approving settlement when record established that “all
 18 counsel had ample information and opportunity to assess the strengths and weaknesses of their claims
 19 and defenses”). Courts also recognize that “[s]ettlements reached with the help of a mediator are likely
 20 non-collusive.” *Feyko v. aAD Partners LP*, 2014 WL 12572678, at *7 (C.D. Cal. Mar. 7, 2014).

21 Here, the Settlement is the product of extensive arm’s-length negotiations facilitated by a well-
 22 respected mediator, Robert Meyer, Esq., of JAMS, who has significant experience mediating securities
 23 class actions and other complex litigation. ¶¶28-31; *see also City of Warren Police & Fire Ret. Sys.*
 24 *v. World Wrestling Ent., Inc.*, 2021 WL 911216, at *11 (S.D.N.Y. Mar. 7, 2021) (referring to Mr.

25 _____
⁶ *Hanlon*, 150 F.3d at 1026 (first factor).

26 ⁷ *See id.* (fifth factor).

27 ⁸ *See id.* (sixth factor).

28 ⁹ *In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935, 947 (9th Cir. 2011).

1 Meyer as “a well-respected and experienced mediator”). In fact, the Settlement Amount is the result
2 of a “mediator’s recommendation” by Mr. Meyer following the submission of substantial mediation
3 briefs, and an all-day mediation session with Mr. Meyer in which the Parties’ positions were
4 extensively debated. See ¶¶30-31; see also *Sudunagunta v. NantKwest, Inc.*, 2019 WL 2183451, at *3
5 (C.D. Cal. May 13, 2019) (“The Agreement is the outcome of an arms-length negotiation conducted
6 with the help of an experienced mediator, Robert Meyer, Esq.” and the “assistance of an experienced
7 mediator in the settlement process confirms that the settlement is non-collusive”).

8 Furthermore, courts accord “significant weight” to the recommendations of counsel, who are
9 “most closely acquainted with the facts of the underlying litigation.” *In re Heritage Bond Litig.*, 2005
10 WL 1594403, at *9 (C.D. Cal. June 10, 2005). Such should be the case here, where Plaintiff’s Counsel
11 have a thorough understanding of the strengths and weakness of the claims after more than four years
12 of litigation, extensive prior experience litigating securities class action cases, and strongly believe
13 that the \$4.65 million Settlement is in the best interests of the Settlement Class given the significant
14 risks of continued litigation. ¶¶39-55. As evidenced by the record in this case, and as detailed the
15 Solish Declaration, Plaintiff’s Counsel spent extensive amounts of time investigating the facts of this
16 case, drafting pleadings, opposing two motions to dismiss, including successfully opposing the motion
17 to dismiss the SAC, and have the benefit of the Court’s two motion to dismiss decisions. Under these
18 circumstances, there can be no question that counsel “had a sound basis for measuring the terms of the
19 settlement.” *Longo v. OSI Sys., Inc.*, 2022 U.S. Dist. LEXIS 158606, at *11 (C.D. Cal. Aug. 31, 2022).

20 It is also important to note that the Court-appointed Lead Plaintiff, who was involved in all
21 aspects of the litigation, supports the Settlement. See *Martinez Decl.* at ¶¶7-8. Lead Plaintiff’s support
22 for the Settlement should be afforded “special weight” because a plaintiff “ha[s] a better understanding
23 of the case than most members of the class.” *Nat’l Rural Telecomm. Coop. v. DirecTV, Inc.*, 221
24 F.R.D. 523, 528 (C.D. Cal. 2004); see also *In re Portal Software, Inc. Sec. Litig.*, 2007 WL 4171201,
25 at *5 (N.D. Cal. Nov. 26, 2007) (noting Congress’s intent to foster involvement of lead plaintiff when
26 passing PSLRA and stating that “the role taken by the lead plaintiff in the settlement process supports
27 settlement because lead plaintiff was intimately involved in the settlement negotiations.”).

28 Finally, the Settlement has none of the indicia of collusion identified by the Ninth Circuit. See
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1 *Bluetooth Headset*, 654 F.3d at 947 (“subtle signs” of collusion include a “disproportionate
2 distribution of the settlement” between the class and class counsel, “a ‘clear sailing’ arrangement
3 providing for the payment of attorneys’ fees separate and apart from class funds,” or an agreement for
4 “fees not awarded to revert to defendants rather than be added to the class fund”).¹⁰

5 These facts demonstrate that the Settlement is the result of arm’s-length negotiations and “not
6 the product of fraud or overreaching by, or collusion between, the negotiating parties.” *Officers for*
7 *Just. v. Civil Serv. Comm. of Cnty. of San Francisco*, 688 F.2d 615, 625 (9th Cir. 1982); *see also In re*
8 *Northern Dynasty Minerals Ltd. Sec. Litig.*, 2024 WL 308242, at *9 (E.D.N.Y. Jan. 26, 2024) (finding
9 that all-day mediation session with Mr. Meyer “support[ed] the conclusion that the settlement process
10 was procedurally fair.”).

11 **3. Rule 23(e)(2)(C)(i): The Proposed Settlement is Adequate** 12 **Considering the Costs, Risk and Delay of Trial and Appeal**

13 Pursuant to Rule 23(e)(2)(C), the Court also must consider the substantive adequacy of the
14 proposed Settlement in determining final approval. Rule 23(e)(2)(C)(i) evaluates whether “the relief
15 provided for the class is adequate, taking into account ... the costs, risks, and delay of trial and appeal”
16 along with other relevant factors. Fed. R. Civ. P. 23(e)(2)(C).¹¹ While Lead Plaintiff believes his
17 claims have merit and that the Settlement Class would have prevailed at summary judgment and trial,
18 he nevertheless recognizes the numerous risks and uncertainties inherent in continuing to litigate.
19 Indeed, courts have repeatedly acknowledged that securities class actions “are highly complex and
20 securities class litigation is notably difficult and notoriously uncertain.” *Hefler*, 2018 WL 6619983,
21 at *13; *Carpenters Health & Welfare Fund v. The Coca-Cola Co.*, 2008 WL 11336122, at *9 (N.D.
22 Ga. Oct. 20, 2008) (“Stockholder litigation is notably difficult and notoriously uncertain.”). As
23 discussed below, the benefits conferred on Settlement Class Members by the Settlement outweigh the

24 ¹⁰ This is not a claims-made settlement. If the Settlement is approved, Defendant will not have any
25 right to the return of a portion of the Settlement based on the number or value of the claims submitted.
See Stipulation ¶13.

26 ¹¹ Rule 23(e)(2)(C)(i) essentially incorporates three of the traditional *Hanlon* factors: the strength of
27 plaintiff’s case (first factor); the risk, expense, complexity, and likely duration of further litigation
28 (second factor); and the risks of maintaining class action status through the trial (third factor). *Arlo*,
2021 WL 1146042, at *8 (citing *Hanlon*, 150 F.3d at 1026).

1 costs, risks, and delay of further litigation, and confirm the adequacy and reasonableness of the
2 Settlement.

3 **a. The Strength of Plaintiff’s Case and Risks of Continued**
4 **Litigation**

5 In order to prove liability under the Exchange Act, a plaintiff must demonstrate, *inter alia*, that:
6 (i) defendants were responsible for materially false or misleading statements; (ii) defendants acted
7 with scienter (*i.e.*, that defendants made their misrepresentations knowingly or with deliberate
8 recklessness); (iii) that plaintiffs’ losses were caused by defendants’ misrepresentations (*i.e.*, “loss
9 causation”); and (iv) that plaintiffs and the class members suffered damages. *See Dura Pharms., Inc.*
10 *v. Broudo*, 544 U.S. 336, 341-42 (2005). Lead Plaintiff would be required to prove each of these
11 elements to prevail, whereas Defendant needed only to succeed on one defense to defeat the entire
12 action. Although Lead Plaintiff is confident in the abilities of Lead Counsel to prove the case, he is
13 also cognizant of the fact that the Court already dismissed the entire case once, has dismissed all but
14 one of the defendants from the case, and that it found only one of the alleged false and/or misleading
15 statements actionable. *See In re Xcel Energy, Inc., Sec., Deriv. & “ERISA” Litig.*, 364 F. Supp. 2d
16 980, 1003 (D. Minn. 2005) (“The court needs to look no further than its own order dismissing the
17 shareholder ... litigation to assess the risks involved.”); *see also Redwen v. Sino Clean Energy, Inc.*,
18 2013 WL 12303367, at *6 (C.D. Cal. July 9, 2013) (“Courts experienced with securities fraud
19 litigation routinely recognize that securities class actions present hurdles to proving liability that are
20 difficult for plaintiffs to clear.”).

21 Here, Defendant and the dismissed defendants advanced several plausible arguments disputing
22 both liability and damages. *See Solish Decl.*, ¶¶41-42, 46. For example, Defendant forcefully argued
23 in both motions to dismiss, and undoubtedly would continue to argue at summary judgment and trial,
24 that: (i) Lead Plaintiff would not be able to prove that the sole remaining alleged misstatement was
25 false and/or misleading; (ii) the statement was not actionable because it was forward looking and
26 protected by the PSLRA’s safe harbor provision; (iii) the statement was a materialization of a
27 repeatedly warned of risk; (iv) the statement was King’s opinion based on his interpretation of data
28 available to him at the time; and (v) the statement was not material because it concerned Defendant’s

1 expectations of payers’ reimbursement requirements and, at the time, investors knew that GOCOVRI
2 had not been approved by the FDA, and thus, payers had not completed their evaluation. *Id.*, ¶41.
3 Plaintiff’s Counsel know from painful experience that surviving a motion to dismiss on the issues of
4 materiality and falsity—even under the heightened pleading standard of the PSLRA—does not
5 guarantee a recovery. *See Gross v. GFI Grp., Inc.*, 784 F. App’x. 27, 29 (2d Cir. Sept. 13, 2019)
6 (affirming grant of summary judgment on the alternative ground that Defendant’s “statement did not,
7 as a matter of law, amount to a material misrepresentation or omission actionable under section 10(b),”
8 despite the trial court *twice* finding the statement actionable).

9 In addition to claiming that he did not make a material misstatement, Defendant also disputed
10 that he acted with the requisite scienter. ¶42. This posed a major risk because scienter is notoriously
11 “complex and difficult to establish at trial.” *In re Immune Response Sec. Litig.*, 497 F. Supp. 2d 1166,
12 1172 (S.D. Cal. 2007). Juries cannot read minds and evidence of a mental state is rarely direct;
13 meaning the jurors must infer it. *See, e.g., Smith v. Dominion Bridge Corp.*, 2007 WL 1101272, at *5
14 (E.D. Pa. Apr. 11, 2007) (“Since stockholders normally have little more than circumstantial and
15 accretive evidence to establish the requisite scienter, proving scienter is an uncertain and difficult
16 necessity for plaintiffs.”). Defendant maintained that he was simply sharing his honestly held belief
17 about what payer coverage might look like for GOCOVRI should it be approved by the FDA. ¶42.
18 He also repeatedly asserted that Lead Plaintiff could not point to any evidence, such as stock trading
19 or incentive-based compensation tied to stock price to establish a motive for him to commit securities
20 fraud. *Id.* While the Court found that Lead Plaintiff had sufficiently alleged scienter with respect to
21 Defendant King at the motion to dismiss stage, it also recognized that defendants’ argument against
22 scienter “is reinforced by the lack of any suspicious stock sales, which is not dispositive but does
23 undermine an inference of scienter.” *Adamas Pharms.*, 650 F. Supp. 3d at 864. The facts underlying
24 this negative inference would not have changed had the litigation continued, making scienter all the
25 harder to establish. Accordingly, Lead Plaintiff’s ability to establish scienter was far from a *fait*
26 *accompli*. *See Christine Asia Co., Ltd. v. Yun Ma*, 2019 WL 5257534, at *12 (S.D.N.Y. Oct. 16, 2019)
27 (“Proving scienter is hard to do.”).

28 If Lead Plaintiff succeeded in establishing liability, he would still have to overcome
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1 Defendant’s arguments regarding loss causation and damages. Lead Plaintiff alleged that corrective
2 disclosures removed the artificial inflation from the price of Adamas common stock on October 5,
3 2018, November 2, 2018, and March 5, 2019 (the “Corrective Disclosure Dates”). Defendant,
4 however, would have likely asserted that there was no corrective disclosure at all because the existence
5 of step-therapy requirements was revealed to the market prior to October 5, 2018, and, to the extent
6 there was a corrective disclosure, it occurred in full on October 5, 2018, when Bank of America issued
7 a report revealing the impact of step therapy requirements on physician interest and demand for
8 GOCOVRI. ¶46. Had either of these arguments been accepted by the trier of fact, damages would
9 been eliminated, or significantly reduced. *See infra* § III.D.4.

10 Moreover, the five months between the first and last Corrective Disclosure Dates created a
11 very real risk to proving that the share price declines were solely a result of the disclosures as opposed
12 to other non-fraud related information. *See, e.g., In re Zynga Inc. Sec. Litig.*, 2015 WL 6471171, at
13 *9 (N.D. Cal. Oct. 27, 2015) (“[I]t is difficult for plaintiff to prove loss causation and damages at trial.”
14 (cleaned up)). Lead Plaintiff anticipates Defendant would have engaged a highly respected market
15 efficiency and loss causation expert to support his arguments that the reasons for the stock-price
16 declines on those dates were unrelated to the alleged fraud. This would have led to a “battle of the
17 experts,” and “[o]ne cannot predict which expert’s testimony or methodology a jury would find
18 reliable. If the jury agreed with Defendants, Plaintiffs would have had their damages significantly
19 reduced or their claims fail as a matter of law.” *Buettgen v. Harless*, 2013 WL 12303143, at *8 (N.D.
20 Tex. Nov. 13, 2013); *see also In re Cendant Corp. Litig.*, 264 F.3d 201, 239 (3d Cir. 2001)
21 (“[E]stablishing damages at trial would lead to a battle of experts with each side presenting its figures
22 to the jury and with no guarantee whom the jury would believe.”).

23 For these reasons, as well as many others, success in this case was far from a forgone
24 conclusion.

25 **b. The Proposed Settlement Eliminates the Additional Cost**
26 **and Delay of Continued Litigation**

27 Courts have consistently recognized that “the cost, complexity and time of fully litigating the
28 case” are key factors in evaluating the reasonableness of a settlement. *Torrissi v. Tucson Elec. Power*

1 Co., 8 F.3d 1370, 1376 (9th Cir. 1993); *see also In re Yahoo! Inc. Customer Data Sec. Breach Litig.*,
2 2020 WL 4212811, at *9 (N.D. Cal. July 22, 2020) (“[F]urther litigation would have delayed any
3 potential recovery . . . and would have been costly and risky. By contrast, the Settlement provides . . .
4 timely and certain recovery.”); *Vataj v. Johnson*, 2021 WL 5161927, at *6 (N.D. Cal. Nov. 5, 2021)
5 (“Unless the settlement is clearly inadequate, its acceptance and approval are preferable to lengthy and
6 expensive litigation with uncertain results.”).

7 Here, Lead Plaintiff and his counsel recognize that further litigation of this Action would have
8 presented considerable pre-trial, post-trial and appellate obstacles and delays, and that failure on any
9 of the relevant elements would have been fatal to Lead Plaintiff’s claims. The Settlement, which
10 results in an immediate and substantial \$4.65 million recovery, without the considerable risk, expense
11 and delay of further litigation is a far better option for the Settlement Class. *See In re Advanced Battery*
12 *Techs., Inc. Sec. Litig.*, 298 F.R.D. 171, 176 (S.D.N.Y. 2014) (“The present value of a certain recovery
13 at this time, compared to the slim chance for a greater one down the road, supports approval of a
14 settlement that eliminates the expense and delay of continued litigation, as well as the significant risk
15 that the Class could receive no recovery”).

16 c. Risks of Maintaining Class Action Status

17 While Lead Plaintiff and Lead Counsel are confident that the Settlement Class meets the
18 requirements for certification (*see* ECF No. 130, Sec. V), a class has not yet been certified and Lead
19 Plaintiff is cognizant of the risk that the Court could: (i) disagree with his arguments; or (ii) accept the
20 Defendant’s argument that the Court should end the class period on October 5, 2018—the date of the
21 first alleged corrective disclosure. Even if the Court were to certify the class, there is always a risk
22 that the class could be decertified at a later stage in the proceedings. *See, e.g., In re Omnivision Tech.,*
23 *Inc.*, 559 F. Supp. 2d 1035, 1041 (N.D. Cal. 2008) (even if a class is certified, “there is no guarantee
24 the certification would survive through trial, as Defendant might have sought decertification or
25 modification of the class”). Thus, the risks and uncertainty surrounding class certification also support
26 approval of the Settlement. *See In re GSE Bonds Antitrust Litig.*, 414 F. Supp. 3d 686, 694 (S.D.N.Y.
27 2019) (“Although the risk of maintaining a class through trial is present in [every] class action ... this
28 factor [nevertheless] weighs in favor of settlement where it is likely that defendants would oppose

1 class certification if the case were to be litigated.”).

2 **4. The Rule 23(e)(2)(C)(ii)-(iv) Factors Support Final Approval**

3 Under Rule 23(e)(2)(C)(ii)-(iv), courts also must consider whether the relief provided for the
4 class is adequate in light of “the effectiveness of any proposed method of distributing relief to the
5 class, including the method of processing class-member claims,” “the terms of any proposed award of
6 attorneys’ fees, including timing of payment,” and “any agreement required to be identified under Rule
7 23(e)(2).” Fed. R. Civ. P. 23(e)(2)(C)(ii)-(iv). Each of these factors support the Settlement’s approval
8 or is neutral and thus do not suggest any basis for concluding the Settlement is inadequate.

9 **Rule 23 (e)(2)(C)(ii):** Here, the method for processing Settlement Class Members’ claims and
10 distributing the Net Settlement Fund to eligible claimants is well-established and effective. Strategic
11 Claims Services (“SCS”), the Court-approved Claims Administrator, will process claims under the
12 guidance of Lead Counsel, provide claimants with an opportunity to cure any deficiency in their claim
13 or request review of any denial of their claim, and, ultimately, mail or wire Authorized Claimants their
14 *pro rata* share of the Net Settlement Fund as calculated under the Plan of Allocation, after submission
15 and Court-approval of Lead Plaintiff’s distribution motion. This type of claims processing is standard
16 in securities class action settlements and it is effective, as well as necessary, insofar as neither Lead
17 Plaintiff nor Defendant possess the individual investor trading data required for a claims-free process
18 to distribute the Net Settlement Fund. *See New York State Teachers’ Ret. Sys. v. Gen. Motors Co.*,
19 315 F.R.D. 226, 233-34, 242 (E.D. Mich. 2016) (approving settlement with a nearly identical
20 distribution process), *aff’d*, 2017 WL 6398014 (6th Cir. Nov. 27, 2017).

21 **Rule 23(e)(2)(C)(iii):** The relief provided for the Settlement Class is also adequate when the
22 terms of the proposed award of attorneys’ fees is considered. As detailed in the accompanying fee and
23 expenses memorandum, a proposed attorneys’ fee of 33⅓% of the Settlement Fund (which, by
24 definition, includes interest earned on the Settlement Amount) is reasonable in light of the work
25 performed and the results obtained. The proposed attorneys’ fee is also consistent with awards in
26 similar complex class action cases. *See In re Pac. Enters. Sec. Litig.*, 47 F.3d 373, 379 (9th Cir. 1995)
27 (approving fee equal to 33% percent of a \$12 million settlement fund); *In re Mego Fin. Corp. Sec.*
28 *Litig.*, 213 F.3d 454, 463 (9th Cir. 2000) (upholding fee award of one-third of \$1.725 million
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1 settlement). More importantly, approval of the requested attorneys' fees is separate from approval of
 2 the Settlement, and the Settlement may not be terminated based on any ruling with respect to attorneys'
 3 fees. *See* Stipulation ¶35.

4 **Rule 23(e)(2)(C)(iv):** Finally, in accordance with Rules 23(e)(2)(C)(iv) and 23(e)(3), and as
 5 Lead Plaintiff noted in his preliminary approval papers, the Parties entered into a confidential
 6 agreement that establishes certain conditions pursuant to which Defendant King may terminate the
 7 Settlement if Settlement Class Members who collectively have damages equating to a certain dollar
 8 amount under the Plan of Allocation request exclusion (or "opt out") from the Settlement. "This type
 9 of agreement is standard in securities class action settlements and has no negative impact on the
 10 fairness of the Settlement." *Christine Asia Co.*, 2019 WL 5257534, at *15 *appeal withdrawn sub nom.*
 11 *Tan Chao v. William*, 2020 WL 763277 (2d Cir. Jan. 2, 2020); *see also In re Carrier IQ, Inc.*,
 12 *Consumer Privacy Litig.*, 2016 WL 4474366, at *5 (N.D. Cal. Aug. 25, 2016) (granting final approval
 13 of class action settlement and observing that such "opt-out deals are not uncommon as they are
 14 designed to ensure that an objector cannot try to hijack a settlement in his or her own self-interest.").¹²

15 **5. Rule 23(e)(2)(D): The Proposed Plan of Allocation Treats Class**
 16 **Settlement Members Equitably Relative to Each Other**

17 Rule 23(e)(2)(D) requires courts to evaluate whether the settlement treats class members
 18 equitably relative to one another. Fed. R. Civ. P. 23(e)(2)(D). Under the proposed Plan of Allocation,
 19 each Authorized Claimant will receive his, her, or its *pro rata* share of the Net Settlement Fund.
 20 Specifically, an Authorized Claimant's *pro rata* share shall be the Authorized Claimant's Recognized
 21 Claim divided by the total of Recognized Claims of all Authorized Claimants, multiplied by the total
 22 amount in the Net Settlement Fund. ¶71. Lead Plaintiff will receive the same level of *pro rata*
 23 recovery, based on his Recognized Claim as calculated by the Plan of Allocation, as all other similarly
 24 situated Settlement Class Members. "Moreover, the service award Lead Plaintiff seeks is reasonable
 25 and does not constitute inequitable treatment of class members." *In re Regulus Therapeutics Inc. Sec.*
 26 *Litig.*, 2020 WL 6381898, at *5 (S.D. Cal. Oct. 30, 2020). Accordingly, this factor favors final

27 _____
 28 ¹² The Court requested and was provided the Supplemental Agreement for its *in camera* review. *See*
 ECF 128 at 1.

1 approval of the Settlement. *See Yang v. Focus Media Holding Ltd.*, 2014 WL 4401280, at *10
 2 (S.D.N.Y. Sept. 4, 2014) (“the Plan of Allocation ensures an equitable *pro rata* distribution of the Net
 3 Settlement Fund among all Authorized Claimants based solely on when they purchased and sold
 4 shares, taking into account the relative amounts of artificial inflation prevailing during the Class
 5 Period.”); *Vinh Nguyen v. Radiant Pharm. Corp.*, 2014 WL 1802293, at *5 (C.D. Cal. May 6, 2014).

6 **D. The Remaining *Hanlon* Factors Are Neutral Or Weigh In Favor Of Final
 7 Approval**

8 *Hanlon* also outlined several factors that are not coextensive with Rule 23(e)(2)’s factors.¹³
 9 These factors, viewed in light of the Rule 23(e)(2) factors identified above, either support final
 10 approval or are neutral.

11 **1. Discovery Completed and Stage of the Proceedings**

12 “In the context of class action settlements, formal discovery is not a necessary ticket to the
 13 bargaining table where the parties have sufficient information to make an informed decision about
 14 settlement.” *In re Mego*, 213 F.3d at 459. “Instead, courts look for indications the parties carefully
 15 investigated the claims before reaching a resolution.” *In re: Volkswagen “Clean Diesel” Mktg., Sales
 16 Practices, & Prod. Liab. Litig.*, 2016 WL 6248426, at *13-14 (N.D. Cal. Oct. 25, 2016).

17 Although discovery was in its infancy at the time of the settlement as a result of the PSLRA’s
 18 automatic stay of discovery,¹⁴ Lead Counsel conducted an extensive investigation into the claims
 19 asserted in this Action, which included a far-reaching review of publicly available information,
 20 significant work with a private investigator, and consultation with experts in the fields of financial
 21 analysis, loss causation and damages. ¶¶14, 18, 22. Additionally, Plaintiff’s Counsel drafted the
 22 complaints, opposed defendants’ two motions to dismiss, participated in a mediation process in which
 23 each side put forth their best arguments, and reviewed and analyzed the Court’s decisions. ¶¶14-31,

24 ¹³ Although courts within the Ninth Circuit have recognized that Rule 23(e)(2)(A)-(B)’s considerations
 25 overlap with certain *Hanlon* factors, such as the extent of discovery completed and the experience and
 view of counsel, these factors are briefed below for thoroughness.

26 ¹⁴ *See In re OCA, Inc. Sec. and Deriv. Litig.*, 2009 WL 512081, at *12 (E.D. La. Mar. 2, 2009)
 27 (“Because the PSLRA prohibits formal discovery during the pendency of any motion to dismiss, the
 28 parties were prohibited from engaging in formal discovery until the Court ruled on defendants’ motion
 to dismiss”) (citing 15 U.S.C.A. § 78u-4(b)(3)(B)).

1 79-81. As a result of these efforts, Lead Plaintiff and his counsel had a thorough understanding of the
2 claims and defenses asserted in the Action, and the significant risks to establishing liability and
3 damages. This understanding enabled Lead Plaintiff and Plaintiff’s Counsel to negotiate the
4 Settlement intelligently and responsibly. *See Vaccaro v. New Source Energy Partners L.P.*, 2017 WL
5 6398636, at *5 (S.D.N.Y. Dec. 14, 2017) (“Although the action did not proceed to formal discovery,
6 Lead Plaintiffs (i) reviewed vast amounts of publicly available information, (ii) conducted interviews
7 of numerous individuals, and (iii) consulted experts on the ... industry. The Court finds that Lead
8 Plaintiffs were well-informed to gauge the strengths and weaknesses of their claims and the adequacy
9 of the settlement.”).

10 **2. Experienced Counsel Believe the Settlement is Fair, Reasonable, 11 and Adequate**

12 The Ninth Circuit recognizes that parties “represented by competent counsel are better
13 positioned than courts to produce a settlement that fairly reflects each party’s expected outcome in
14 litigation.” *Rodriguez*, 563 F.3d at 967. Thus, courts grant great weight to the recommendations and
15 opinions of experienced counsel. *See Rodriguez v. Nike Retail Servs., Inc.*, 2022 WL 254349, at *4
16 (N.D. Cal. Jan. 27, 2022) (noting “the experience and views of counsel . . . favors approving the
17 settlement” and highlighting counsel’s “thorough understanding of the strengths and weaknesses of
18 th[e] case and their extensive experience litigation prior . . . class actions cases”).

19 Here, Plaintiff’s Counsel have extensive experience in securities litigation and have obtained
20 a thorough understanding of the merits and risks of the Action. Under such circumstances, Plaintiff’s
21 Counsel’s conclusion that the Settlement is fair and reasonable and in the best interests of the
22 Settlement Class supports final approval. *Heritage Bond*, 2005 WL 1594403, at *9 (“The
23 recommendation of experienced counsel carries significant weight in the court’s determination of the
24 reasonableness of the settlement.”); *In re Omnivision Techs., Inc.*, 559 F. Supp. 2d 1036, 1043 (N.D.
25 Cal. 2007) (finding class counsel’s recommendation in favor of settlement presumptively reasonable
26 because counsel demonstrated knowledge about the case and securities litigation in general).

27 **3. The Reaction of Settlement Class Members to the Settlement**

28 The eighth *Hanlon* factor—the reaction of the Class—overlaps with Rules 23(c)(2)(B)(vi), on

1 the opportunity for exclusion, and 23(e)(5), on the opportunity to object. “[T]he absence of a large
 2 number of objections to a proposed class action settlement raises a strong presumption that the terms
 3 of a proposed class action settlement are favorable to class members.” *Omnivision*, 559 F. Supp. 2d
 4 at 1043; *see also Hanlon*, 150 F.3d at 1027 (that the “overwhelming majority” stayed in the class is
 5 “objective positive commentary as to its fairness”).

6 Here, as required by Rules 23(c)(2)(B)(vi) and 23(e)(5), the Settlement affords Settlement
 7 Class Members the opportunity to request exclusion from, or object to, the Settlement. Ex. 2-C
 8 (Notice) at p.3 & ¶¶73-75, 79-83. In total, as of July 15, 2024, 30,085 potential Settlement Class
 9 Members were either mailed Postcard Notice or emailed a link to the Notice and Claim Form. Ex. 2
 10 (Craig Decl.), ¶¶5-11. To date, not a single request for exclusion has been received, and no objections
 11 have been filed with the Court. *Id.* at 12-13; Solish Decl., ¶67.¹⁵ The Settlement Class’s universally
 12 positive reaction strongly supports final approval of the Settlement. *Omnivision*, 559 F. Supp. 2d at
 13 1043 (“By any standard, the lack of objection of the Class Members favors approval of the
 14 Settlement.”); *Heritage Bond*, 2005 WL 1594403, at *10 (“The Court finds the lack of class members
 15 that have manifested any disapproval of the Settlement further demonstrates the fairness, adequacy
 16 and reasonableness of the Settlement.”).

17 **4. The Amount Offered in Settlement**

18 “To evaluate the adequacy of the settlement amount, courts primarily consider plaintiffs’
 19 expected recovery against the value of the settlement offer.” *Hefler*, 2018 WL 6619983, at *9. “This
 20 determination requires evaluating the relative strengths and weaknesses of the plaintiffs’ case; it may
 21 be reasonable to settle a weak claim for relatively little, while it is not reasonable to settle a strong
 22 claim for the same amount.” *Vikram v. First Student Mgmt., LLC*, 2019 WL 1084169, at *3 (N.D.
 23 Cal. March 7, 2019); *see also Shapiro v. JPMorgan Chase & Co.*, 2014 WL 1224666, at *11 (S.D.N.Y.
 24 Mar. 24, 2014) (settlement amount must be judged “not in comparison with the possible recovery in
 25 the best of all possible worlds, but rather in light of the strengths and weaknesses of plaintiffs’ case”).

26 _____
 27 ¹⁵ The deadline to request exclusion from, or to object to any aspect of, the Settlement is September 6,
 28 2024. If any objections or opt-outs are received after the date of this filing, they will be addressed on
 reply.

1 Indeed, “[t]here is no reason, at least in theory, why a satisfactory settlement could not amount to a
2 hundredth or even a thousandth part of a single percent of the potential recovery.” *City of Detroit v.*
3 *Grinnell Corp.*, 495 F.2d 448, 455 n.2 (2nd Cir. 1974).

4 Here, Lead Plaintiff’s damages expert estimates that if Plaintiff had prevailed on his remaining
5 claim, and if the Court and jury subsequently accepted all of Plaintiff’s liability and damages theories,
6 including proof of loss causation as to each of the *three* alleged stock price drop dates—*i.e.*, Plaintiff’s
7 *best case scenario*—the total *maximum* damages would be approximately \$164.2 million. Under such
8 a scenario, the \$4.65 million recovery represents approximately 2.83% of the estimated maximum
9 damages potentially available in this Action.

10 However, had this litigation continued, Defendant would have raised serious arguments
11 relating to Lead Plaintiff’s loss causation allegations. *See supra* § III.C.3.a. If, for example, the Court
12 or jury found that the truth of the remaining alleged statement was fully disclosed on October 5, 2018,
13 recoverable damages would have been an estimated \$21.1 million—in which case the Settlement
14 Amount equates to a 22.03% recovery. A recovery in the range of 2.83-20.3% is consistent with, or
15 four times higher than, those obtained in securities cases with similarly sized damages. *See Ex. 5*
16 (NERA Report), at p. 25 (Fig. 21) (median recovery for securities class actions that settled between
17 January 2014 and December 2023 was 2.9% for cases with estimated damages between \$100-\$199
18 million and 5.1% for those with estimated damages of \$20-\$49 million). Moreover, the estimated
19 damages for each of these scenarios assumes that Lead Plaintiff is given full credit for each of the
20 respective drops and does not take into account any disaggregation arguments that Defendant may
21 have raised. *See In re Flag Telecom Holdings, Ltd. Sec. Litig.*, 574 F.3d 29, 36 (2d Cir. 2009) (“to
22 establish loss causation, *Dura* requires plaintiffs to disaggregate those losses caused by changed
23 economic circumstances, ‘changed investor expectations, new industry-specific or firm-specific facts,
24 conditions, or other events,’ from disclosures of the truth behind the alleged misstatements.” quoting
25 *Dura Pharms.*, 544 U.S. at 343).

26 Of course, Defendant would have continued to challenge all aspects of the case, and the
27 prospect that Plaintiff would have obtained *any* recovery was far from guaranteed. *See Silverman v.*
28 *Motorola Sols., Inc.*, 739 F.3d 956, 958 (7th Cir. 2013) (observing that “Defendants prevail outright

1 in many securities suits.”); *Hefler*, 2018 WL 6619983, at *13 (“Plaintiffs’ Counsel faced substantial
 2 risks in pursuing this litigation, given the inherent uncertainties of trying securities fraud cases and the
 3 demanding pleading standards of the PLSRA.”). Consequently, the amount recovered, when balanced
 4 against the risks of continued litigation, weighs strongly in favor of preliminary approval.

5 **5. The Presence of a Government Participant**

6 “Because no government entities are participants in this case, this factor is neutral.” *In re*
 7 *Amgen Inc. Sec. litig.*, 2016 WL 10571773, at *4 (C.D. Cal. Oct. 25, 2016).

8 * * *

9 As discussed in detail above, each of the Rule 23(e)(2) and *Hanlon* factors either supports a
 10 finding that the Settlement is fair, reasonable, and adequate, or is neutral. Final approval is, therefore,
 11 appropriate.

12 **IV. THE COURT SHOULD APPROVE THE PLAN OF ALLOCATION**

13 Lead Plaintiff also requests final approval of the Plan of Allocation. A plan of allocation in a
 14 class action “is governed by the same standards of review applicable to approval of the settlement as
 15 a whole: the plan must be fair, reasonable, and adequate.” *Omnivision*, 559 F. Supp. 2d at 1045 (citing
 16 *Class Pls. v. City of Seattle*, 955 F.2d 1268, 1284-85 (9th Cir. 1992)). The allocation formula used in
 17 a plan of allocation “need only have a reasonable, rational basis, particularly if recommended by
 18 experienced and competent counsel.” *Vataj v. Johnson*, 2021 WL 1550478, at *10 (N.D. Cal. Apr. 20,
 19 2021).

20 The proposed Plan of Allocation, developed by one of Lead Plaintiff’s economic expert
 21 consultants working in conjunction with Lead Counsel, is based on an out-of-pocket theory of damages
 22 consistent with Section 10(b) of the Exchange Act, and reflects an assessment of the damages that
 23 Lead Plaintiff contends could have been recovered under the theories of liability and damages asserted
 24 in the Action.¹⁶ More specifically, the Plan of Allocation reflects, and is based on, Lead Plaintiff’s
 25 allegation that the price of Adamas common stock was artificially inflated during the Settlement Class
 26

27 ¹⁶ The proposed Plan of Allocation is set forth in the Notice posted on the Settlement Website. *See*
 28 *Craig Decl., Ex. C (Notice)*, at ¶¶53-71.

1 Period due to Defendant's alleged materially false and misleading statement. Lead Plaintiff alleges
2 that corrective disclosures removed the artificial inflation in the price of Adamas common stock on
3 the following dates: October 5, 2018, November 2, 2018, and March 5, 2019. *See* Craig Decl., Ex. C
4 (Notice), at ¶55.

5 Lead Plaintiff's consulting damages expert reviewed publicly available information regarding
6 Adamas and performed statistical analyses of the price movements of Adamas common stock relative
7 to the price performance of market and peer indices during the Settlement Class Period. From this
8 data, she calculated the alleged artificial inflation by isolating the losses in Adamas common stock
9 that resulted from the alleged violations of the federal securities laws, eliminating losses attributable
10 to market factors, industry factors, or alleged Company-specific factors unrelated to the alleged
11 violations of law. The amount of artificial inflation in Adamas common stock on each day of the
12 Settlement Class Period is set forth in Table 1 in the Notice. *See id.*, at ¶¶54, 56. In order for a
13 Settlement Class Member to have a Recognized Loss under the Plan of Allocation, shares of Adamas
14 common stock must have been purchased or acquired during the Settlement Class Period and held
15 through at least one of the Corrective Disclosure Dates. *Id.* at ¶55.

16 Under the Plan of Allocation, a Recognized Loss will be calculated for each share of Adamas
17 common stock purchased or otherwise acquired during the Settlement Class Period. The calculation
18 of Recognized Loss will depend upon several factors, including when the shares were purchased or
19 otherwise acquired during the Settlement Class Period and in what amounts, and whether those shares
20 were sold, and if sold, when they were sold, and for what amounts. The Recognized Loss is not
21 intended to estimate the amount a Settlement Class Member might have been able to recover after a
22 trial, nor to estimate the amount that will be paid to Authorized Claimants pursuant to the Settlement.
23 *Id.* at ¶53. The Recognized Loss is the basis upon which the Net Settlement Fund will be
24 proportionately allocated to the Authorized Claimants. *Id.*

25 In general, the Recognized Loss for Adamas common stock acquired during the Settlement
26 Class Period will be the difference between the estimated artificial inflation on the date of acquisition
27 and the estimated artificial inflation on the date of sale, or the difference between the actual purchase
28

1 price and sale price, whichever is less.¹⁷ The Recognized Loss calculation also incorporates the “90-
2 day look back” provision of the PSLRA. *See id.* at ¶¶57, 59.

3 The sum of a Claimant’s Recognized Loss is the Claimant’s “Recognized Claim,” and the Net
4 Settlement Fund will be allocated to Authorized Claimants on a *pro rata* basis based on the relative
5 size of their Recognized Claims, subject to a \$10 *de minimis* provision. *See id.* at ¶¶62, 68. More
6 precisely, an Authorized Claimant’s *pro rata* share shall be the Authorized Claimant’s Recognized
7 Claim divided by the total of Recognized Claims of all Authorized Claimants, multiplied by the total
8 amount in the Net Settlement Fund. *Id.* at ¶68. If a Claimant has an overall market *gain* with respect
9 to his, her, or its transactions in Adamas common stock during the relevant period, the Claimant is not
10 entitled to recover under the Plan of Allocation. *Id.* at ¶¶66-67.

11 If any funds remain after an initial distribution to Authorized Claimants, as a result of uncashed
12 or returned checks or other reasons, subsequent distributions will be conducted as long as they are cost
13 effective. Ex. 2-C (Notice) at ¶69. At such time as it is determined that the re-distribution of funds
14 remaining in the Net Settlement Fund is not cost-effective, the remaining balance shall be
15 contributed—subject to Court approval—to the Public Justice Foundation. *See* N.D. Cal. Pro.
16 Guidance for Class Action Settlements, at ¶8. The Public Justice Foundation is a nonsectarian, not-
17 for-profit organization dedicated to, among other things, investor education and advocacy and is an
18 appropriate *cy pres* recipient because of the nature of the securities fraud claims asserted in the Action.
19 Courts in this District and elsewhere have approved it as a *cy pres* recipient in other similar actions.
20 *See Stein v. Eagle Bancorp, Inc. et al.*, No. 1:19-cv-06873-LGS, ECF No. 117 (S.D.N.Y. July 19,
21 2023) (“Applying that standard [that a *cy pres* designee must ‘reasonably approximate’ the interests
22 of the class] here, Public Justice is an appropriate *cy pres* beneficiary, as it is a non-profit organization
23

24 _____
25 ¹⁷ With respect to Adamas publicly traded common stock purchased or sold through the exercise of an
26 option, the purchase/sale date of the stock is the exercise date of the option and the purchase/sale price
27 of the stock is the exercise (strike) price of the option. Any Recognized Loss Amount arising from
28 purchases of Adamas publicly traded common stock acquired during the Settlement Class Period
through the exercise of an option on Adamas publicly traded common stock shall be computed as
provided for other purchases of Adamas publicly traded common stock in the Plan of Allocation. *See*
Craig Decl., Ex. C (Notice), at ¶65.

1 advocating on behalf of investors and consumers pursuing claims under federal and state securities
 2 laws.”) (Ex. 8); *Yaron v. Intersect ENT, Inc., et al.*, No. 4:19-cv-02647-JSW, ECF No. 86, at ¶8 (N.D.
 3 Cal. April 10, 2023) (approving Public Justice Foundation as the *cy pres* beneficiary in a securities
 4 class action) (Ex. 9).

5 Plaintiff’s Counsel believe that the Plan of Allocation will result in a fair and equitable
 6 distribution of the Settlement proceeds among Settlement Class Members who submit valid claims.
 7 *See Schueneman v. Arena Pharms., Inc.*, 2020 WL 3129566, at *6 (S.D. Cal. June 12, 2020)
 8 (approving substantially similar plan of allocation). To date, no objections to the Plan of Allocation
 9 have been filed on this Court’s docket. ¶76. Accordingly, Lead Plaintiff respectfully requests that the
 10 Court approve the proposed Plan of Allocation. *See Heritage Bond*, 2005 WL 1594403, at *12 (“In
 11 light of the lack of objectors to the plan of allocation at issue, and the competence, expertise, and zeal
 12 of counsel in bringing and defending this action, the Court finds the plan of allocation as fair and
 13 adequate.”).

14 **V. THE NOTICE PROGRAM SATISFIES RULE 23 AND DUE PROCESS**

15 The Court approved the proposed notice program in the Preliminary Approval Order, and
 16 Plaintiff’s Counsel executed the notice program in accordance with the provisions therein. ¶¶57-66.
 17 Notice was given to potential Settlement Class Members via mail, email, the Settlement Website
 18 (www.AdamasSecuritiesSettlement.com), and publication.¹⁸ Craig Decl. at ¶¶3-7, 9, 11. As of July
 19 15, 2024, a total of 30,085 potential Settlement Class Members and nominees were either mailed
 20 Postcard Notice or emailed the link to the Notice and Claim Form. *Id.* at ¶71.

21 On May 13, 2024, the Court-approved Summary Notice was published in *Investors’ Business*
 22 *Daily* and transmitted once over the *PR Newswire*. Craig Decl. ¶9 & Ex. D. The published Summary
 23 Notice clearly and concisely provided information concerning the Settlement and the means to obtain
 24 a copy of the Notice. *See id.*

25 Finally, the Claims Administrator posted the Notice, Claim Form, Stipulation, SAC, and other

26 _____
 27 ¹⁸ The Settlement Website was established on April 23, 2024. Ex. 2 (Craig Decl.) at ¶11. From this
 28 website, potential Settlement Class Members can, *inter alia*, download copies of the Notice and Claim
 Form and submit claims online. *Id.*

1 relevant documents online at the Settlement Website, and provided a toll-free telephone number for
2 Settlement Class Members to call with any questions concerning the Settlement. *Id.* at ¶¶10-11.
3 Courts routinely find that comparable notice programs meet the requirements of due process and
4 Rule 23. *See Advanced Battery*, 298 F.R.D. at 182-83 n.3 (collecting cases and stating that “[t]he use
5 of a combination of a mailed post card directing class members to a more detailed online notice has
6 been approved by courts.”); *In re Mut. Funds Inv. Litig.*, 2010 WL 2342413, at *6-7 (D. Md. May 19,
7 2010) (approving combination of postcard notice, summary notice, and detailed notice available online
8 as “the best notice practical”).

9 **VI. CONCLUSION**

10 For the reasons stated in this memorandum and in the Solish Declaration, Lead Plaintiff
11 respectfully requests that the Court grant final approval of the proposed Settlement and approve the
12 proposed Plan of Allocation.

13
14 DATED: July 30, 2024

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PROOF OF SERVICE

I hereby certify that on this 30th day of July, 2024, a true and correct copy of the foregoing document was served by CM/ECF to the parties registered to the Court’s CM/ECF system.

s/ Leanne H. Solish
Leanne H. Solish