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8 *and the Settlement Class*

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.,
16 *et al.*,
17 Defendants.

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

**REPLY MEMORANDUM IN FURTHER
SUPPORT OF: (1) LEAD PLAINTIFF'S
MOTION FOR FINAL APPROVAL OF
CLASS ACTION SETTLEMENT AND
PLAN OF ALLOCATION; AND (2) LEAD
COUNSEL'S MOTION FOR AN AWARD
OF ATTORNEYS' FEES AND
REIMBURSEMENT OF LITIGATION
EXPENSES**

Hearing Date: September 27, 2024

Time: 9:00 a.m.

Location: Courtroom 5, 2nd Floor

Judge: Hon. Jeffrey S. White

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1 Court-appointed lead plaintiff Ralph Martinez (“Lead Plaintiff”), and his counsel, Glancy
2 Prongay & Murray LLP (“Lead Counsel”), respectfully submit this memorandum in further
3 support of: (i) Lead Plaintiff’s Motion for Final Approval of Class Action Settlement and Plan of
4 Allocation (ECF No. 133); and (ii) Lead Counsel’s Motion for an Award of Attorneys’ Fees and
5 Reimbursement of Litigation Expenses (ECF No. 134, the “Fee and Expense Application”).¹

6 I. INTRODUCTION

7 Pursuant to the Court’s April 2, 2024, Order Preliminarily Approving Settlement,
8 Providing for Notice, and Setting Final Fairness Hearing (ECF No. 128; the “Preliminary Approval
9 Order”), approximately 30,241 copies of the Court-approved Postcard Notice or Notice and Claim
10 Form were disseminated to potential Settlement Class Members and the largest brokerage firms,
11 banks, institutions, and other nominees.² In addition, the Court-appointed Claims Administrator,
12 Strategic Claims Services, Inc. (“SCS”): (i) caused the Summary Notice to be published in
13 *Investor’s Business Daily* and transmitted over *PR Newswire* on May 13, 2024,³ and (ii) the Notice,
14 Claim Form, Stipulation, Preliminary Approval Order, and the Second Amended Complaint,
15 among other important case-related documents, to be posted on the Settlement Website
16 (www.AdamasSecuritiesSettlement.com). *See* Initial Mailing Decl., ¶11. The Postcard Notice,
17 Notice, Summary Notice, and Settlement Website informed Settlement Class Members of the
18 August 9, 2024, deadline to: (i) submit an objection to the Settlement, Plan of Allocation, and/or

19
20 ¹ Unless otherwise defined herein, all capitalized terms have the meanings set forth in the
21 Stipulation and Agreement of Settlement dated February 29, 2024 (ECF No. 124-1; the
22 “Stipulation”), or the Declaration of Leanne H. Solish in Support of (I) Lead Plaintiff’s Motion for
23 Final Approval of Class Action Settlement and Plan of Allocation, and (II) Lead Counsel’s Motion
24 for an Award of Attorneys’ Fees and Reimbursement of Litigation Expenses (ECF No. 135).

25 ² *See* Supplemental Declaration of Margery Craig Concerning: (A) Mailing/Emailing of Notice;
26 (B) Report on Requests for Exclusion and Objections; and (C) Claims Received to Date (the
27 “Suppl. Mailing Decl.”) (attached as Exhibit 1 hereto), at ¶¶3-4. A total of 726 Postcard Notices
28 remain undeliverable, despite attempts to update mailing addresses. Excluding these undeliverable
Postcard Notices, a total of 29,515 Postcard Notices or Notices and Claim Forms were
disseminated to potential Settlement Class Members. *Id.* at ¶5.

³ *See* ECF No. 135-2 (Declaration of Margery Craig Concerning: (A) Mailing of the Postcard
Notice; (B) Publication of the Summary Notice; and (C) Report on Requests for Exclusion and
Objections (“Initial Mailing Decl.”)), at ¶9 & Ex. D.

1 Fee and Expense Application; or (ii) request exclusion from the Settlement Class. *See id.*, ¶¶12 &
2 13, & Exs. A, C, and D.

3 On June 25, 2024, the Court continued the final Settlement Hearing from August 30, 2024,
4 to September 27, 2024. ECF No. 132. The adjournment extended the deadlines to request
5 exclusion or object from August 9, 2024, to September 6, 2024, because the deadlines were based
6 on the date of the Settlement Hearing. *See* ECF No. 128 (Preliminary Approval Order), ¶¶14 &
7 17 (objections and requests for exclusion due twenty-one calendar days prior to the Settlement
8 Hearing). These changes, along with the Court’s Order adjourning the hearing, were posted to the
9 Settlement Website. *See* Suppl. Mailing Decl., at ¶¶8-9.

10 On July 30, 2024, Lead Plaintiff and Lead Counsel filed their opening papers in support of
11 the Settlement, Plan of Allocation, and request for attorneys’ fees and reimbursement of Litigation
12 Expenses. The motions are supported by the declarations of Lead Plaintiff, Lead Counsel,
13 additional Plaintiff’s Counsel (Robbins Geller Rudman & Dowd LLP), and the Claims
14 Administrator. These papers are available on the public docket and on the Settlement Website.
15 *See* ECF Nos. 133-135; Suppl. Mailing Decl., at ¶7.

16 Following this extensive notice process, **no** Settlement Class Member has objected to the
17 Settlement, the Plan of Allocation, or Lead Counsel’s Fee and Expense Application. Moreover,
18 SCS has not received a single request for exclusion. *See id.*, at ¶8. The absence of any objections
19 or opt-outs by Settlement Class Members provides strong evidence of the fairness and
20 reasonableness of the proposed Settlement, Plan of Allocation, and request for attorneys’ fees and
21 reimbursement of Litigation Expenses. *See In re Signet Jewelers Ltd. Sec. Litig.*, 2020 WL
22 4196468, at *6 (S.D.N.Y. July 21, 2020) (“The absence of any objections and the small number
23 of requests for exclusion support a finding that the Settlement is fair, reasonable, and adequate.”);
24 and at *21 (“The absence of any objections to the requested attorneys’ fees and Litigation Expenses
25 supports a finding that the request is fair and reasonable.”); *Ressler v. Jacobson*, 149 F.R.D. 651,
26 656 (M.D. Fla. Dec. 15, 1992) (“The fact that there are no objections to either the Settlement or to
27
28

1 Petitioners' request for attorney's fees is strong evidence of the propriety and acceptability of that
2 request.").⁴

3 For all the reasons set forth herein, and in the opening papers filed with the Court on July
4 30, 2024, Lead Plaintiff and his counsel respectfully request that the Court approve the Settlement,
5 Plan of Allocation, and request for attorneys' fees and reimbursement of Litigation Expenses.

6 **II. ARGUMENT**

7 **A. The Positive Reaction Of The Settlement Class Supports Approval Of** 8 **The Settlement And Plan Of Allocation**

9 In this Circuit, "the reaction of the class members to the proposed settlement" is one of the
10 factors to consider in analyzing whether a settlement is fair, reasonable, and adequate. *See, e.g.,*
11 *Linney v. Cellular Alaska P'ship*, 151 F.3d 1234, 1242 (9th Cir. 1998); *Hanlon v. Chrysler Corp.*,
12 150 F.3d 1011, 1026 (9th Cir. 1998) (same). "[T]he absence of a large number of objections to a
13 proposed class action settlement raises a strong presumption that the terms of a proposed class
14 settlement action are favorable to the class members." *Nat'l Rural Telecomms Coop. v. DIRECTV,*
15 *Inc.*, 221 F.R.D. 523, 529 (C.D. Cal. 2004); *see also Ching v. Siemens Indus., Inc.*, 2014 WL
16 2926210, at *6 (N.D. Cal. June 27, 2014) ("the Court may appropriately infer that a class action
17 settlement is fair, adequate, and reasonable when few class members object to it.").

18 Here, the lack of a single objection or request for exclusion to the Settlement demonstrates
19 that the proposed Settlement is fundamentally fair, reasonable, and adequate. *See, e.g., In re Apollo*
20 *Grp. Inc. Sec. Litig.*, 2012 WL 1378677, at *3 (D. Ariz. Apr. 20, 2012) ("There have been no
21 objections from Class Members or potential class members, which itself is compelling evidence
22 that the Proposed Settlement is fair, just, reasonable, and adequate."); *In re Omnivision Techs.,*
23 *Inc.*, 559 F. Supp. 2d 1036, 1043 (N.D. Cal. 2008) ("By any standard, the lack of objection of the
24 Class Members favors approval of the Settlement."); *Khoja v. Orexigen Therapeutics, Inc.*, 2021
25 WL 5632673, at *7 (S.D. Cal. Nov. 30, 2021) ("Considering the number of Notice Packets mailed
26 to potential Class Members and the fact that zero objections have been filed, the Court finds that

27 _____
28 ⁴ Unless otherwise indicated, all internal quotations and citations are omitted.

1 the reaction of the Class Members to the Settlement weighs in favor of approving the Settlement.”).

2 Settlement Class Members’ affirmative participation in the Settlement by submitting
 3 claims also indicates a positive reaction to the Settlement. The claims filing deadline was August
 4 28, 2024, and as of September 18, 2024, approximately 12,139 Claims have been submitted by
 5 potential Settlement Class Members seeking to participate in the Settlement. *See* Suppl. Mailing
 6 Decl., ¶10. “Based on SCS’s preliminary review of the 12,139 Claims, 4,143 Claims are
 7 considered valid, 7,956 Claims are considered invalid, and 40 Claims are [currently] deficient
 8 awaiting additional documentation in order to process the claim.” *Id.* SCS is currently conducting
 9 quality assurance reviews of the submitted claims, such as verifying that the claim includes the
 10 required supporting documentation and detecting duplicative claims. Once this audit process is
 11 complete, claimants with incomplete or invalid claims will be given an opportunity to supplement
 12 or complete their claims. With these steps currently outstanding, the number of claims considered
 13 valid has not yet been determined. *See Id.*⁵

14 **B. The Settlement Class’s Reaction Supports Approval Of The Plan Of**
 15 **Allocation**

16 The favorable reaction of the Settlement Class also supports approval of the Plan of
 17 Allocation. *See In re Heritage Bond Litig.*, 2005 WL 1594403, at *12 (C.D. Cal. June 10, 2005)
 18 (“In light of the lack of objectors to the plan of allocation at issue, and the competence, expertise,
 19 and zeal of counsel in bringing and defending this action, the Court finds the plan of allocation as
 20 fair and adequate.”); *Mauss v. NuVasive, Inc.*, 2018 WL 6421623, at *4 (S.D. Cal. Dec. 6, 2018)
 21 (concluding that the proposed plan of allocation was fair and reasonable after noting “[t]he Plan
 22 of Allocation was described in detail in the notice and no class member objected.”); *In re*
 23 *Volkswagen “Clean Diesel” Mktg., Sales Practices, & Prod. Liab. Litig.*, 2019 WL 2077847, at

24 _____
 25 ⁵ Assuming the Court approves the Settlement, and the Effective Date occurs, the number of valid
 26 (and invalid) claims will be presented to the Court in conjunction with Lead Counsel’s Motion for
 27 Class Distribution Order. *See* Stipulation, at ¶27. It is, however, important to note that, given this
 28 is not a claims-made settlement (*see id.*, at ¶13), the entire Net Settlement Fund will be distributed
 to Authorized Claimants regardless of the number of valid Claims if the Settlement is approved by
 the Court and becomes effective. *See id.*, at ¶¶1(d), 9, 27, 32.

1 *3 (N.D. Cal. May 10, 2019) (only one objection and 16 opt outs “supports [conclusion] that the
2 settlement and plan of allocation are fair, reasonable, and adequate.”).

3 **C. The Settlement Class’s Reaction Supports Approval Of The Fee And**
4 **Expense Application**

5 Finally, the reaction of the Settlement Class should be considered with respect to Lead
6 Counsel’s motion for an award of attorneys’ fees and reimbursement of Litigation Expenses,
7 including the request that Lead Plaintiff be reimbursed for the costs incurred as a direct result of
8 his representation of the Settlement Class. *See In re Stable Road Acquisition Corp. Sec. Litig.*,
9 2024 WL 3643393, at *14 (C.D. Cal. Apr. 23, 2024) (“the existence or absence of objectors to the
10 requested attorneys’ fee is a factor is determining the appropriate fee award.”); *Omnivision*, 559
11 F. Supp. 2d at 1048 (“The reaction of the class may also be a determining factor in ... determining
12 the fee award.”).

13 Here, the absence of any objections from Settlement Class Members to the Fee and
14 Expense Motion supports a finding that the request is fair and reasonable. *See In re Immune*
15 *Response Sec. Litig.*, 497 F. Supp. 2d 1166, 1177 (S.D. Cal. May 31, 2007) (“the lack of objection
16 from any Class Member supports the attorneys’ fees award.”); *Khoja*, 2021 WL 5632673, at *9-
17 11 (attorneys’ fee award of 33% of \$4.8 million settlement where “no Class Member has objected
18 to or requested exclusion from the Settlement” and PSLRA award of \$9,230 where “no Class
19 Member has objected to this request.”); *In re K12 Inc. Sec. Litig.*, 2019 WL 3766420, at *1 (N.D.
20 Cal. Oct. 10, 2019) (awarding 33% of \$3.5 million settlement fund where “[t]here were no
21 objections to the requested attorneys’ fees and expenses.”).⁶

22 * * *

23 ⁶ *See also Omnivision*, 559 F. Supp. 2d at 1049 (awarding lead plaintiffs \$29,913.80 from the
24 settlement fund for reimbursement of their costs and expenses (including lost wages) where class
25 members were provided notice and “no one objected.”); *Cheng Jiangchen v. Rentech, Inc.*, 2019
26 WL 5173771, at *9-10 (C.D. Cal. Oct. 10, 2019) (noting “that there have been no objections filed
27 to the requested attorney’s fees ... also supports granting the requested fees” of 33½% of
28 \$2,050,000 settlement fund); *Waldbuesser v. Northrop Grumman Corp.*, 2017 WL 9614818, at *5
(C.D. Cal. Oct. 24, 2017) (finding receipt of only two objections to fee request, after mailing
210,000 notices, was “remarkably small given the wide dissemination of notice,” and
“conclud[ing] that the lack of significant objections to the requested fees justifies an award of one-
third of the settlement fund.”).

1 In sum, the complete absence of objections—together with the almost unheard of absence
2 of requests for exclusion—strongly militates in favor of a finding that the Settlement is fair,
3 reasonable, and adequate, that the proposed Plan of Allocation is fair and equitable, and that Lead
4 Counsel’s fee and expense application is fair and reasonable.

5 **VI. CONCLUSION**

6 Based on the foregoing and the entire record herein, Lead Plaintiff and Lead Counsel
7 respectfully request that the Court: (i) approve the Settlement and Plan of Allocation as fair,
8 reasonable, adequate, and in the best interest of the Settlement Class; (ii) award attorneys’ fees to
9 Lead Counsel in the amount of 33⅓% of the Settlement Fund, plus Plaintiff’s Counsel’s out-of-
10 pocket expenses in the amount of \$79,750.65; and (iii) award \$10,000 to Lead Plaintiff (Ralph
11 Martinez) as reimbursement for time spent representing the Settlement Class.⁷

12 DATED: September 20, 2024

GLANCY PRONGAY & MURRAY LLP

13 By: *s/ Leanne H. Solish*

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*Counsel for Lead Plaintiff Ralph Martinez and
Lead Counsel for the Settlement Class*

26 _____
27 ⁷ The Settlement is conditioned on the entry of the [Proposed] Judgment. See Stipulation, ¶¶31,
28 32(e); Ex. B. A revised version of the [Proposed] Judgment, which incorporates the lack of
objections and requests for exclusion, is submitted concurrently herewith. The [Proposed] Order
Approving Plan of Allocation was previously submitted to the Court, and a revised [Proposed]
Order Awarding Attorneys’ Fees and Reimbursement of Litigation Expenses will be submitted in
conjunction with Lead Counsel’s submission in response to the Court’s request for detailed billing
records by September 24, 2024 (ECF No. 137).

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PROOF OF SERVICE

I hereby certify that on this 20th day of September, 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