UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

ISRAEL SANCHEZ, Individually and On Behalf of All Others Similarly Situated, Plaintiff, v. CENTENE CORP., MICHAEL F. NEIDORFF, and JEFFREY A. SCHWANEKE, Defendants.	Case No. 4:17-cv-00806-AGF

MEMORANDUM OF LAW IN SUPPORT OF LEAD PLAINTIFF'S UNOPPOSED MOTION FOR AN ORDER PRELIMINARILY APPROVING CLASS ACTION SETTLEMENT AND AUTHORIZING DISSEMINATION OF NOTICE OF SETTLEMENT

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Lead Plaintiff Louisiana Sheriffs' Pension & Relief Fund ("Lead Plaintiff"), on behalf of itself and the other members of the Settlement Class, respectfully submits this unopposed motion, pursuant to Federal Rule of Civil Procedure 23(e)(1), for preliminary approval of the settlement and authorization to disseminate the Settlement notice.[1]

I. PRELIMINARY STATEMENT

Following more than two years of litigation, Lead Plaintiff reached an agreement with Defendants to settle this action for $7,500,000.00 in cash (the "Settlement"), subject to approval of the Court. The Settlement represents an excellent result for the Settlement Class, particularly when considering the real risks and challenges faced by investors in this action. The Settlement was achieved only after two years of investigation, motion practice, hard-fought litigation and extensive settlement negotiations, which included a full-day mediation session overseen by a neutral with extensive expertise in mediating securities class actions.

Having devoted significant efforts to this Action, Lead Plaintiff and Lead Counsel have a firm grasp of the strengths and weaknesses of the claims. Lead Counsel conducted an extensive investigation into the claims asserted in the Action, drafted a detailed consolidated complaint, consulted with experts in accounting and financial economics, and briefed and argued their opposition to Defendants' motion to dismiss the complaint. Following the Court's motion to dismiss order, which reduced the scope of the case to a two-month Class Period, Lead Counsel and Lead Plaintiff continued to take steps to shore up evidence to support its claims, including by serving 13 subpoenas and 49 document requests to Defendants.

Based on this work, Lead Plaintiff and Lead Counsel had a well-developed understanding of the strengths, weaknesses, and risks of the Action, all of which informed their determination

[1] Unless otherwise defined, all capitalized terms used herein have the meanings given to them in the Stipulation and Agreement of Settlement dated March 5, 2020 (the "Stipulation"), attached as Ex. 1 to the present motion (the "Motion"). The proposed Preliminary Approval Order is attached as Ex. 2 to the Motion.

that the Settlement is fair, reasonable, and adequate. The Settlement appropriately balances the objective of securing the highest possible monetary recovery for the Settlement Class against the risks that the class could receive a smaller recovery—or no recovery at all—if Defendants were to prevail at summary judgment, trial, or on appeal.

In this Motion, Lead Plaintiff requests that the Court grant preliminary approval of the Settlement, so that notice may be provided to the Settlement Class and the Settlement Fairness Hearing can be scheduled. A proposed order preliminarily approving the Settlement is attached hereto as Ex. 2. At the Settlement Fairness Hearing, following additional briefing and addressing any potential objections to the Settlement, the Court will make a final determination as to whether, in accordance with Rule 23(e)(2), the Settlement is fair, reasonable, and adequate.

For the reasons discussed below, Lead Plaintiff submits that the Settlement warrants preliminary approval.

II. OVERVIEW OF THE LITIGATION

On May 1, 2017, the Court appointed Louisiana Sheriffs' Pension & Relief Fund as Lead Plaintiff for the Action. The Court also approved Bernstein Litowitz Berger & Grossmann LLP as Lead Counsel for the proposed class.

On July 17, 2017, Lead Plaintiff filed and served the Consolidated Class Action Complaint (the "Complaint") asserting claims against Defendants under Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") and Rule 10b-5 promulgated thereunder, and against the Individual Defendants under Section 20(a) of the Exchange Act.

On September 15, 2017, Defendants served and filed a motion to dismiss the Complaint, which was accompanied by extensive exhibits. On October 30, 2017, Lead Plaintiff served its memorandum of law in opposition to that motion and, on November 27, 2017, Defendants served their reply papers. The Court held oral argument on the motion of February 22, 2018.

On August 30, 2019, the Court issued its Memorandum Opinion and Order granting in part and denying in part Defendants' motion to dismiss the Complaint. The Court's Order limited the Class Period to a two-month period. ECF No. 89 at 27. Following the Court's motion to dismiss order, Lead Plaintiffs served Defendants with 49 document requests, and the Parties served 16 subpoenas to third parties.

On January 10, 2020, the parties proposed Michelle Yoshida to serve as the mediator of the action. Ms. Yoshida has extensive experience, serving as a mediator in over five hundred disputes and has specialized expertise in mediating securities class actions alleging violations under sections 10(b) and 20(a) of the Securities Exchange Act of 1934. On January 13, 2020, the Court approved Ms. Yoshida as the mediator of the action.

The Parties participated in an in-person mediation on January 29, 2020. In advance of the mediation, the Parties submitted confidential submissions to the mediator. The mediation lasted a full day, concluding late in the evening. At the conclusion of that mediation session, the Parties accepted Ms. Yoshida's mediator's recommendation to settle the Action in return for a cash payment for the benefit of the Settlement Class of $7,500,000.00.

In accordance with the Stipulation, Defendants will cause to be paid $7,500,000.00 in cash (the "Settlement Amount"). *See* Stipulation ¶ 8. The Net Settlement Fund (as defined in the Stipulation) will be distributed to eligible Class Members in accordance with a plan of allocation to be approved by the Court (discussed in more detail below). As is standard in securities class actions, in connection with the Settlement, the Parties have entered into a confidential Supplemental Agreement regarding requests for exclusion from the Settlement Class. *See* Stipulation ¶ 36.[2] This confidential agreement sets forth the conditions under which Defendants can terminate the Settlement if the requests for exclusion exceed an agreed-upon threshold. *Id*.

[2] These termination agreements are standard in securities class actions, customarily remain confidential, and do not impact the fairness of the Settlement. *See, e.g.*, *Thomas v. MagnaChip*

III. THE PROPOSED SETTLEMENT WARRANTS PRELIMINARY APPROVAL

A. Standards Governing Approval Of Class Action Settlements

Courts have long recognized a strong policy and presumption in favor of settlements. *See Petrovic v. Amoco Oil Co.*, 200 F.3d 1140, 1148 (8th Cir. 1999) ("[S]trong public policy favors [settlement] agreements, and courts should approach them with a presumption in their favor."). This policy consideration applies especially to class actions, such as this one. *See, e.g.*, *In re Charter Commc'ns, Inc., Sec. Litig.*, 2005 WL 4045741, at *4 (E.D. Mo. June 30, 2005) ("In the class action context in particular, there is an overriding public interest in favor of settlement. Settlement of the complex disputes often involved in class actions minimizes the litigation expenses of both parties and also reduces the strain such litigation imposes upon already scarce judicial resources.").

Under Federal Rule of Civil Procedure 23(e), judicial approval of a class action settlement involves a two-step process. *First*, the Court performs a preliminary review of the settlement to determine whether to grant preliminary approval and authorize Lead Plaintiff to send notice of the proposed settlement to the members of the Settlement Class. *See* Fed. R. Civ. P. 23(e)(1). Following distribution of the notice, and after a hearing, the Court determines whether to grant final approval of the settlement. *See* Fed. R. Civ. P. 23(e)(2).

The Federal Rules of Civil Procedure instruct that a court should grant preliminary approval to authorize notice of a settlement upon a finding that it "will likely be able" to (i) finally approve the settlement under Rule 23(e)(2), and (ii) certify the class for purposes of the settlement. *See* Fed. R. Civ. P. 23(e)(1)(B). In considering final approval of the Settlement, Federal Rule 23(e)(2) provides that the Court consider whether:

> (A) the class representatives and class counsel have adequately represented the class; (B) the proposal was negotiated at arm's length; (C) the relief provided for

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Semiconductor Corp., 2017 WL 4750628, at *7 (N.D. Cal. Oct. 20, 2017) (an agreement permitting defendant to terminate the settlement if an opt-out threshold is reached "does not render the settlement unfair").

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

Fed. R. Civ. P. 23(e)(2). As detailed below, the Settlement reached here warrants preliminary approval.[3]

B. The Court "Will Likely Be Able To" Approve The Proposed Settlement Under Rule 23(e)(2) Because It Is Fair, Reasonable, and Adequate

1. The Procedural Aspects Of The Settlement Satisfy Rule 23(e)(2)

The Settlement embodies all the hallmarks of a procedurally fair resolution under Rule 23(e)(2). To start, the Parties have been intensely litigating this Action for more than two years. During those two years, Lead Plaintiff and Lead Counsel developed a detailed understanding of the facts and legal issues, including through Lead Counsel's continuous investigation, work on pleadings, discovery, and in the mediation and settlement negotiations.

In addition, the Parties' settlement negotiations were at arm's length. Those negotiations included, among other things, a full-day mediation session facilitated by an experienced private mediator. The Parties' agreement to resolve the Action for $7,500,000.00 was based on a Mediator's recommendation after the extensive negotiations and mediation submissions. During those negotiations, Lead Plaintiff—a sophisticated institutional investor who suffered substantial losses—had an interest in obtaining the largest possible recovery from Defendants, which it successfully did. *See King v. Raineri Const., LLC*, 2015 WL 631253, at *3 (E.D. Mo. Feb. 12,

[3] At final approval, the Court will also consider the Eighth Circuit's long-standing approval factors, which overlap with those in Rule 23(e)(2): "(1) the merits of the plaintiff's case, weighed against the terms of the settlement; (2) the defendant's financial condition; (3) the complexity and expense of further litigation; and (4) the amount of opposition to the settlement." *In re Wireless Tel Fed. Cost Recovery Fees Litig.*, 396 F.3d 922, 932 (8th Cir. 2005). "The single most important factor in determining whether a settlement is fair, reasonable, and adequate is a balancing of the strength of the plaintiff's case against the terms of the settlement." *Rawa v. Monsanto Co.*, 2018 WL 2389040, at *6 (E.D. Mo. May 25, 2018), *aff'd*, 934 F.3d 862 (8th Cir. 2019).

2015) (approving settlement that was "reached by arm's length negotiation," between parties "represented by experienced counsel through the litigation").

In addition, the Parties and their counsel were knowledgeable about the strengths and weaknesses of the case before reaching an agreement to settle. Lead Counsel conducted a detailed, substantive investigation into the alleged fraud by, among other things, reviewing SEC filings, analyst research reports, investor conference calls, press releases, media reports, and conducting dozens of interviews of former Centene and Health Net employees before filing a detailed amended complaint. Lead Counsel also performed extensive legal research in preparing the complaint and briefing the opposition to Defendants' motions to dismiss. Lead Counsel also consulted with two experts regarding accounting and loss causation and damages.

2. The Settlement Is Reasonable In Light of the Costs and Risks of Further Litigation

The proposed Settlement provides for an immediate, cash payment of $7,500,000.00 for the benefit of the Settlement Class. The Settlement is an excellent result for Settlement Class Members, especially considering the significant risks of continued litigation and the expense and length of continued litigation through trial and appeals. Although Lead Plaintiff and Lead Counsel believe that the claims asserted against Defendants have merit, they recognize the very substantial risks they would face in establishing liability and damages.

First, while Lead Plaintiff's allegations were sufficiently supported to survive Defendants' motion to dismiss, proving the claims at trial through admissible evidence was far from certain. Lead Plaintiff faced significant risks that, at either the summary-judgment stage or after a trial, it would not be able to establish that Defendants' statements about Centene's merger with Health Net were actionable under the federal securities laws. Defendants would likely point to the fact that neither the SEC nor any other governmental entity has brought a related action against Centene

and, in addition, the Company has never been required by its auditor to restate any of its financial statements.

Defendants would also continue to argue at summary judgment and trial that their statements were neither false nor misleading. Specifically, Defendants would likely argue that their statements about Health Net's liabilities were accurate to the best of the knowledge at the time they were made and not made with intent to mislead. Defendants would likely further assert that they had no motive to commit fraud, and that the Individual Defendants did not benefit from the alleged fraud by selling shares during the Class Period.

Second, Lead Plaintiff would have faced challenges in proving loss causation and damages. The Court limited the Class Period to two months in its ordering motion to dismiss. ECF No. 89 at 26. Defendants would have contended at summary judgment and trial that Lead Plaintiff could not establish a causal connection between the alleged misrepresentations and the losses investors allegedly suffered, as required by law. In support of this contention, Defendants would likely try to point to the fact that the price of Centene's stock has fully rebounded since the Class Period, and the acquisition of Health Het has proven to be extremely successful for Centene. The resolution of disputed issues regarding damages and loss causation would have boiled down to a "battle of experts," and Defendants would undoubtedly have been able to present a well-qualified expert who would opine that the Class's damages were smaller or nonexistent. If Defendants prevailed on their loss-causation and damages arguments, recoverable damages would be eliminated or significantly reduced.

On all of these issues, Lead Plaintiff would have to prevail at several stages, including at summary judgment and trial, and if it prevailed on those, on the appeals that would likely follow. Each of these stages posed meaningful risks and could take years. The Settlement avoids these risks and will provide a prompt and certain benefit to the Settlement Class. rather than the mere possibility of a recovery after additional years of litigation and appeals.

The Settlement is also reasonable when considered in relation to the range of potential recoveries that might be recovered if Lead Plaintiff prevailed at trial and on any appeals. Lead Plaintiff's expert estimates that the absolute *maximum* potential damages that could be established at trial, assuming complete success in proving liability, were approximately $43 million. As noted, these estimates are the absolute maximum potential damages *before* considering myriad risks to liability and damages – any one of which could have resulted in investors recovering less or nothing. Accordingly, the $7,500,000.00 Settlement represents approximately 17% of *maximum* recoverable damages for the Settlement Class, which far exceeds the normal percentage of recoveries in securities class actions. *See, e.g.*, *Beaver Cty. Emps.' Ret. Fund v. Tile Shop Hldgs., Inc.*, 2017 WL 2574005, at *3 (D. Minn. June 14, 2017) (approving settlement representing "a recovery of approximately 6.8% to 9.5% of . . . Class' maximum provable damages" and noting that it "exceeds the median recovery of estimated damages in similar securities class actions"); Cornerstone Research, *Securities Class Action Settlements: 2019 Review and Analysis* (2020) (Fig. 5), at 6 (from 2010 to 2018, the median settlement recovery in securities fraud class actions with damages estimated between $25 and $74 million was 7.6%); *id.* at 20 (Appdx. 3) (in securities class actions in the Eighth Circuit from 2010 to 2019, the median settlement recovery was 6.1% of estimated damages).[4]

3. The Proposed Settlement Does Not Unjustly Favor Any Class Member

In evaluating a proposed Settlement, the Court also assesses the Settlement's effectiveness in equitably distributing relief to members of the Settlement Class. Fed. R. Civ. P. 23(e)(2)(C)(ii).

[4] Given the complexity of the issues, risks, and range of outcomes, these facts also satisfy the Eighth Circuit's factors, and specifically the Court's focus on "balancing the strength of the plaintiff's case against the terms of the settlement." *Monsanto*, 2018 WL 2389040; *see also Albright v. Bi-State Dev. Agency of Missouri-Illinois Metro. Dist.*, 2013 WL 4855308, at *3 (E.D. Mo. Sept. 11, 2013) (granting final approval of settlement because "even if Plaintiffs had litigated and prevailed on the merits, they might not obtain a better recovery than they have achieved in this Settlement Agreement").

Here too, the Court can readily find that the Settlement will likely earn final approval. The proposed Plan of Allocation treats Settlement Class Members "equitably relative to each other" based on their transactions in publicly-traded Centene common stock. *See* Fed. R. Civ. P. 23(e)(2)(D).

The Plan of Allocation provides for distribution of the Net Settlement Fund to Settlement Class Members demonstrating a loss on their transactions in Centene common stock. The formula to apportion the Net Settlement Fund among Settlement Class Members, which was developed by Lead Plaintiff's damages expert in consultation with Lead Counsel, is based on the estimated amount of artificial price inflation in Centene common stock during the Class Period allegedly caused by Defendants' misconduct.[5] Once the Claims Administrator has processed all submitted claims it will make distributions to eligible Settlement Class Members, until additional redistributions are no longer cost effective. At such time, any remaining balance will be contributed to non-sectarian, not-for-profit, 501(c)(3) organization(s) approved by the Court.

Courts routinely approve plans of allocation like the one contemplated in this case. *See e.g.*, *Charter Commc'ns*, 2005 WL 4045741, at *10.

4. The Anticipated Request For Reimbursement of Expenses and Fees Is Reasonable

The Notice provides that Lead Counsel will apply for an award of attorneys' fees not to exceed 25% of the Settlement Fund and for payment of expenses not to exceed $200,000.00. A fee award of 25% is reasonable and supported by case law in this Circuit. *See, e.g., In re Xcel Energy, Inc. Sec., Derivative & ERISA Litig.*, 364 F. Supp. 2d 980, 998 (D. Minn. 2005) (noting

[5] The calculation of "Recognized Loss Amounts" under the Plan will depend on when the claimant purchased and/or sold the shares, whether the claimant held the shares through the statutory 90-day look-back period, *see* 15 U.S.C. § 78u-4(e), and the value of the shares when the claimant purchased, sold, or held them. Under the Plan, a claimant's "Recognized Claim" will be the sum of the claimant's Recognized Loss Amounts, and the Net Settlement Fund will be allocated to Class Members on a *pro rata* basis based on the relative size of their Recognized Claims.

that "courts in this circuit . . . have frequently awarded attorney fees between twenty-five and thirty-six percent" and awarding 25% of an $80 million settlement). A 25% fee award would also befit the substantial risks that Lead Counsel undertook in expending significant time, effort, and resources over the last two years in pursuing this litigation and obtaining the excellent recovery achieved for the Settlement Class. Lead Counsel's fee and expense application will be fully briefed and justified upon filing of a formal motion pursuant to the schedule set by the Preliminary Approval Order. By granting preliminary approval, the Court does not pass upon the reasonableness of any subsequent fee or expense application, which will be decided at the Settlement Fairness Hearing.

IV. CERTIFICATION OF THE SETTLEMENT CLASS FOR PURPOSES OF THE SETTLEMENT IS APPROPRIATE

At this stage, the Court also determines whether it "will likely be able to" certify the proposed Settlement Class at final approval. Fed. R. Civ. P. 23(e)(1)(B).[6] For the reasons discussed below, Lead Plaintiff submits that the Settlement Class satisfies each of the requirements of Rules 23(a) and 23(b)(3) and, accordingly, should be certified.

A. The Settlement Class Satisfies The Requirements Of Rule 23(a)

Certification of a Settlement Class is proper if: "(1) the class is so numerous that joinder of all members is impracticable; (2) there are questions of law or fact common to the class; (3) the claims or defenses of the representative parties are typical []; and (4) the representative parties will fairly and adequately protect the interests of the class." Fed. R. Civ. P. 23(a).

1. Numerosity Is Established

During the Class Period, Centene common stock was actively traded on the New York Stock Exchange, with more than 170 million shares issued and outstanding and an average weekly

[6] The Settlement Class is defined as: all persons and entities who purchased the common stock of Centene during the period from May 24, 2016 through July 25, 2016, inclusive (the "Class Period") and who were damaged thereby. *See* Stipulation ¶ 1(rr).

trading volume of over 17 million shares. Accordingly, the Settlement Class easily meets the numerosity requirement of Rule 23(a)(1). *See Boswell v. Panera Bread Co.*, 311 F.R.D. 515, 527 (E.D. Mo. 2015), *aff'd*, 879 F.3d 296 (8th Cir. 2018) (finding 61 geographically dispersed class members sufficiently numerous because "a putative class with over forty members meets [the numerosity] requirement"); *Charter Commc'ns*, 2005 WL 4045741, at *11 ("[T]he proposed Settlement Class here consists of several thousand investors who are geographically dispersed, making joinder impracticable.").

2. Commonality Is Established

The commonality requirement of Rule 23(a)(2) is met here. Lead Plaintiff alleges that Defendants issued a series of material misstatements to investors, which artificially inflated the price of Centene common stock. Lead Plaintiff's claims involve the same questions of fact and law as the other class members. *See id*. at *12 (finding commonality where plaintiffs alleged "common questions of law and fact with respect to, *inter alia*, whether the defendants violated securities laws; whether the defendants acted recklessly or intentionally in reporting inflated subscriber numbers and false financial results; whether defendants acted with scienter; and the extent to which the Class members have sustained damages").

3. Typicality Is Established

Under Rule 23(a)(3), a plaintiff must show that his or her claims are "typical of the claims or defenses of the class." "Factual variations in the individual claims will not normally preclude class certification if the claim arises from the same event or course of conduct as the class claims, and gives rise to the same legal or remedial theory." *Alpern v. UtiliCorp. United*, 84 F.3d 1525, 1540 (8th Cir. 1996). As courts have explained, the "requirement is fairly easily met where the other class members' claims are similar to the named plaintiffs'." *Schoenbaum v. E.I. Dupont De Nemours and Co.*, 2009 WL 4782082, at *6 (E.D. Mo. Dec. 8, 2009).

Here, Lead Plaintiff, like all other Settlement Class Members, purchased shares of Centene common stock at prices alleged to have been artificially inflated due to Defendants' alleged material misrepresentations and omissions, with Lead Plaintiff and other Settlement Class Members allegedly suffering damages when the truth was revealed. Accordingly, the typicality requirement of Rule 23(a)(3) is satisfied. *See Alpern*, 84 F.3d at 1540 ("Alpern's grievances are thus typical of the class claims because both challenge Utilicorp's actions and course of conduct . . . as violations of § 10(b) and Rule 10b-5."); *Charter Commc'ns*, 2005 WL 4045741, at *12 (finding typicality when plaintiff "sought to recover damages for losses arising out of the same course of conduct, and uniformly affecting all members of the Class").

4. Adequacy Is Established

Adequacy under Rule 23(a)(4) requires a finding that "the representative parties will fairly and adequately protect the interests of the class." "The focus of Rule 23(a)(4) is whether: (1) the class representatives have common interests with the members of the class, and (2) whether the class representatives will vigorously prosecute the interests of the class through qualified counsel." *Paxton v. Union Nat'l Bank*, 688 F.2d 552, 562-563 (8th Cir. 1982). Adequacy is satisfied here.

The first prong of the "adequacy" requirement largely overlaps with the commonality and typicality requirements of Rule 23(a)(2). As discussed above, Lead Plaintiff's interests are squarely in line with those of the Settlement Class. Lead Plaintiff's claims, like the claims of other class members, arise from the same event and/or course of conduct—namely, Defendants' material misrepresentations and omissions. Lead Plaintiff's claims are also typical because all Settlement Class members seek the same relief.

The second prong is also satisfied. Lead Plaintiff is a sophisticated institutional investor that has represented—and will continue to represent—the interests of the Settlement Class fairly and adequately. There is no antagonism or conflict of interest between Lead Plaintiff and the other

Settlement Class Members. In addition, Lead Counsel is highly experienced in securities litigation and has successfully prosecuted many complex class actions for the benefit of investors.

B. The Settlement Class Satisfies The Requirements Of Rule 23(b)(3)

To certify a Settlement Class under Rule 23(b)(3): (1) questions of law or fact common to the members of the class must "predominate over any questions affecting only individual members," Fed. R. Civ. P. 23(b)(3), and the class action mechanism must be "superior to other available methods for fairly and efficiently adjudicating the controversy." *Id*. Both elements are satisfied here.

1. Common Questions Predominate

As the Supreme Court has found, predominance is a test "readily met" in cases alleging violations of the federal securities laws. *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 625 (1997). Here, the numerous questions of law and fact common to Lead Plaintiff and the proposed Settlement Class predominate over any individual questions. The many common questions include whether Defendants' statements and omissions about Centene's merger with Health Net were false and misleading, whether Defendants acted with scienter, and whether, and to what extent, Settlement Class Members suffered damages.

2. A Class Action Is A Superior Method Of Adjudicating Lead Plaintiff's Claims

The class action mechanism is not only superior here, but it is the only feasible way to litigate efficiently the claims alleged in this action. *See, e.g.*, *Phillips Petroleum Co. v. Shutts*, 472 U.S. 797, 809 (1985) (class action mechanism allows plaintiffs to pool claims that would otherwise be uneconomical to litigate individually). The geographically dispersed nature of the Settlement Class, the inefficiency of multiple lawsuits, and the size of individual recoveries in comparison to the cost of litigation, strongly support a finding of superiority here. By contrast, thousands of separate individual actions would offer no practical recourse for most Settlement Class members and would burden the judicial system. *Monsanto Co.*, 2018 WL 2389040, at *6 ("[C]lass treatment

is superior to other options for resolution of the controversy because the relief sought for each proposed Settlement Class member is small, such that, absent representative litigation, it would be infeasible for members to redress the wrongs done to them.").

In light of the foregoing, all of the requirements of Rules 23(a) and (b) are satisfied, and the Settlement Class should be certified.

V. THE PROPOSED FORM AND METHOD OF NOTICE ARE APPROPRIATE AND SHOULD BE APPROVED

As outlined in the proposed Preliminary Approval Order, if the Court grants preliminary approval, the Claims Administrator will mail the Notice and Claim Form (Exs. 1 and 2 to the Preliminary Approval Order) to all Class Members who can be identified with reasonable effort, including through the records maintained by Centene and/or its stock transfer agent, as well as posting the Notice and Claim Form on a website developed for the Settlement.[7] The Claims Administrator will also utilize a proprietary list of the largest and most common U.S. banks, brokerage firms, and nominees that purchase securities on behalf of beneficial owners to facilitate the dissemination of notice. The Notice will advise Class Members of: (i) the pendency of the class action; (ii) the essential terms of the Settlement; and (iii) information regarding Lead Counsel's fee and application for reimbursement of expenses. The Notice also will provide specifics on the date, time, and place of the Settlement Hearing and set forth the procedures for filing objections and requesting exclusion from the Settlement Class. In addition to the mailing of the Notice and Claim Form, the Summary Notice will be published in *Investor's Business Daily* and transmitted

[7] Lead Plaintiff requests that the Court approve retention of JND as the Claims Administrator for this case. JND has successfully administered numerous complex securities class action settlements, including *Fresno County Empls.' Ret. Ass'n v. comScore*, No: 1:16-cv-01820-JGK (S.D.N.Y. 2018), *San Antonio Fire & Police Pension Fund v. Dole Food Co.*, No. 15-cv-1140-SLR (D. Del. 2017), and *Lloyd v. CVB Fin. Corp.*, No. 10-CV-06256 (C.D. Cal. 2017).

over the *PR Newswire*.[8]

The proposed notice program represents the best notice practicable under the circumstances and satisfies the requirements of due process, Rule 23, and the PSLRA. *See, e.g.*, *Första AP-fonden v. St. Jude Med., Inc.,* 2016 WL 6647931, at *2 (D. Minn. Nov. 9, 2016) (similar notice program "constituted the best notice practicable under the circumstances . . . and constituted due and sufficient notice to all persons and entities entitled thereto"). Accordingly, Lead Plaintiff respectfully submits that the proposed notice and related procedures are appropriate and should be approved.

VI. PROPOSED SCHEDULE OF SETTLEMENT EVENTS

Lead Plaintiff proposes a schedule for Settlement-related events as set forth in Appendix A. As set forth in the proposed schedule, Lead Plaintiff requests that Court schedule the Settlement Hearing for a date 105 calendar days after entry of the Preliminary Approval Order, or at the Court's earliest convenience thereafter. If the Court grants preliminary approval as requested, the only date that the Court needs to schedule is the date for the final Settlement Hearing. The remaining dates will be determined by the date that the Preliminary Approval Order is entered and the date the Settlement Hearing is scheduled.

VII. CONCLUSION

Based on the foregoing, Lead Plaintiff respectfully requests that the Court enter the Parties' agreed-upon proposed Preliminary Approval Order, attached to the Motion as Ex. 2, which will provide for: (i) preliminary approval of the Settlement; (ii) approval of the form and manner of notice to the Class; and (iii) a hearing date and time to consider final approval of the Settlement and related matters.

[8] The Parties have also agreed that, no later than ten calendar days following the filing of the Stipulation with the Court, Defendants shall serve the notice required under the Class Action Fairness Act, 28 U.S.C. § 1715, *et seq*. *See* Stipulation ¶ 20.

Dated: March 12, 2020

Respectfully submitted,

/s/ Michael J. Flannery

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Appendix A

Proposed Schedule of Settlement Events

Event	**Proposed Timing**
Deadline for mailing the Notice and Claim Form to Settlement Class Members (which date shall be the "Notice Date") (Preliminary Approval Order ¶ 7(b))	No later than 15 business days after entry of Preliminary Approval Order
Deadline for publishing the Summary Notice (Preliminary Approval Order ¶ 7(d))	No later than 10 business days after the Notice Date
Deadline for filing of papers in support of final approval of the Settlement, Plan of Allocation, and Lead Counsel's motion for attorneys' fees and expenses (Preliminary Approval Order ¶ 28)	35 calendar days before the date set for the Settlement Hearing
Deadline for receipt of requests for exclusion or objections (Preliminary Approval Order ¶¶ 14, 18)	21 calendar days before the date set for the Settlement Hearing
Deadline for filing reply papers (Preliminary Approval Order ¶ 28)	7 calendar days before the Settlement Hearing
Settlement Hearing (Preliminary Approval Order ¶ 5)	105 calendar days after entry of the Preliminary Approval Order, or at the Court's earliest convenience thereafter
Postmark deadline for submitting Claim Forms (Preliminary Approval Order ¶ 11)	90 calendar days after the Notice Date