



GRANTED WITH MODIFICATIONS

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Transaction ID: 89502976
Case No. 2020-1061-JTL



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

STEWART N. GOLDSTEIN, M.D.,)
individually and on behalf of all others)
similarly situated,)

Plaintiff,)

v.)

C.A. No. 2020-1061-JTL

ALEXANDER J. DENNER, JOHN G.)
COX, ANNA PROTOPAPAS,)
BRIAN S. POSNER, LOUIS J.)
PAGLIA, GENO J. GERMANO,)
JOHN T. GREENE, ANDREA)
DiFABIO, SARISSA CAPITAL)
MANAGEMENT, L.P., SARISSA)
CAPITAL DOMESTIC FUND LP,)
SARISSA CAPITAL OFFSHORE)
MASTER FUND LP, and SARISSA)
CAPITAL MANAGEMENT GP LLC,)

Defendants.)

[PROPOSED] SCHEDULING ORDER

WHEREAS, the parties to the above-captioned action (the “Action”), along with non-parties Bioverativ, Inc. and Sanofi, S.A., have entered into a Stipulation and Agreement of Compromise and Partial Settlement dated April 14, 2023 (the “Stipulation”), which sets forth the terms and conditions for the proposed partial settlement and resolution of certain claims asserted in the Action, subject to review and approval by this Court pursuant to Court of Chancery Rule 23 upon notice to the Class;

NOW, THEREFORE, this ____ day of [*], 2023, upon application of the parties, IT IS HEREBY ORDERED that:

1. Except for terms defined herein, the Court adopts and incorporates the definitions in the Stipulation for purposes of this Scheduling Order.

2. In accordance with the proposed class definition in the Stipulation, for the purposes of settlement only, the Action preliminarily shall be maintained as a non-opt-out class action under Delaware Court of Chancery Rules 23(a), 23(b)(1), and 23(b)(2) on behalf of the following class (the “Class”):

Any and all Persons who held outstanding shares of Bioverativ common stock, either of record or beneficially, at any time during the Class Period, including any and all of their representatives, trustees, executors, administrators, estates, heirs, successors in interest, successors, predecessors in interest, predecessors, transferees, and assigns, immediate and remote, and any Person acting for or on behalf of, or claiming under, any of them, and each of them, together with their respective successors in interest, successors, predecessors in interest, predecessors, transferees, and assigns, but excluding the Excluded Persons.

For purposes of settlement only, the Court preliminarily finds that: (a) the members of the Class (collectively, the “Class Members”) are so numerous that their joinder in the Action would be impracticable; (b) there are questions of law and fact common to the Class; (c) the claims of Plaintiff are typical of the claims of the Class; (d) in connection with the prosecution of the Action and the Settlement, Plaintiff and Plaintiff’s Counsel have and will fairly and adequately represent and protect the interests of the Class; (e) the prosecution of separate actions by individual Class

Members would create a risk of inconsistent adjudications that would establish incompatible standards of conduct for the Settling Defendants, and, as a practical matter, the disposition of the Action would influence the disposition of any pending or future identical suits, actions, or proceedings brought by other Class Members; and (f) the Settling Defendants are alleged to have acted or refused to act on grounds generally applicable to the Class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the Class as a whole.

3. The Court provisionally appoints Plaintiff as representative for the Class and appoints the law firms of Robbins Geller Rudman & Dowd LLP; Prickett, Jones & Elliott, P.A.; Cooch & Taylor, P.A.; and Johnson Fistel LLP as counsel for the Class.

4. A hearing (the “Settlement Hearing”) will be held on _____, 2023, at ___:___ .m., in the Court of Chancery of the State of Delaware, Leonard L. Williams Justice Center, 500 North King Street, Wilmington, Delaware 19801, to: (a) determine whether the Class should be certified for settlement purposes pursuant to Delaware Court of Chancery Rules 23(a), 23(b)(1), and 23(b)(2); (b) determine whether Plaintiff and Plaintiff’s Counsel have adequately represented the interests of the Class in the Action; (c) determine whether the Court should approve the Settlement as fair, reasonable, and adequate and in the best interests of the Class; (d) determine whether the Action should be dismissed with prejudice pursuant to Court

of Chancery Rule 54(b) against (i) the Settling Defendants in full, and (ii) Denner as to Count I of the Complaint only, by entry of the Judgment pursuant to the Stipulation, releasing the Released Plaintiff's Claims and Released Defendants' Claims against the respective released parties, and barring and enjoining prosecution of any and all released claims against any and all respective released parties; (e) consider the application by Plaintiff's Counsel for attorneys' fees, costs, and payment of expenses; (f) hear and determine any objections to the Settlement and/or to the application of Plaintiff's Counsel for an award of attorneys' fees, costs, and expenses; and (g) rule on such other matters as the Court may deem appropriate.

5. The Court may adjourn and reconvene the Settlement Hearing, or any adjournment thereof, including the consideration of the application for attorneys' fees, costs, and expenses, without further notice to Class Members other than oral announcement at the Settlement Hearing or any adjournment thereof or a notation on the docket in the Action, and retains jurisdiction over the Parties and all Class Members to consider all further applications arising out of or connected with the proposed Settlement.

6. The Court may approve the Settlement at or after the Settlement Hearing, according to the terms and conditions of the Stipulation, as it may be modified by the parties, without further notice to Class Members. Further, the Court may render its judgment and order the payment of attorneys' fees and expenses at or

after the Settlement Hearing, with such modifications as may be consented to by the parties and without further notice of any kind.

7. The Court approves, in form and substance, the Notice of Pendency and Proposed Partial Settlement of Class Action (the “Notice”), substantially in the form attached as Exhibit B to the Stipulation.

8. The Court finds that the mailing and publication of the Notice in substantially the manner set forth in this Order (i) constitutes the best notice practicable under the circumstances; (ii) constitutes notice that is reasonably calculated, under the circumstances, to apprise Class Members of the pendency of the Action, of the effect of the proposed Settlement (including the releases to be provided thereunder and the Plan of Allocation), of Plaintiff’s Counsel’s application for an award of attorneys’ fees and litigation expenses, of their right to object to the Settlement, and/or their right to appear at the Settlement Hearing; (iii) constitutes due, adequate, and sufficient notice to all persons and entities entitled to receive notice of the proposed Settlement; and (iv) satisfies the requirements of Court of Chancery Rule 23, the United States Constitution (including the Due Process Clause), and all other applicable law and rules.

9. The Court approves Gilardi & Co. LLC as the Administrator.

10. Within twenty (20) calendar days of entry of this Scheduling Order, the Administrator shall obtain from the Depository Trust Company (“DTC”) a copy of

the allocation report or any similar document or data used by DTC to distribute the Acquisition Consideration and any additional information necessary to identify all DTC Participants who received the Acquisition Consideration in exchange for Bioverativ common stock in connection with the Acquisition, the number of shares as to which each DTC Participant received payment (and/or the amount of consideration each DTC Participant received), and the correct address or other contact information used to communicate with the appropriate representatives of each DTC Participant that received Acquisition Consideration (collectively, the “DTC Information”).

11. Within twenty (20) calendar days of entry of this Scheduling Order, Bioverativ or Sanofi shall use commercially reasonable efforts to provide to the Administrator a copy of Bioverativ’s list of stockholders of record used by Bioverativ or Sanofi to distribute the Acquisition Consideration and any additional information necessary to identify all record holders of Bioverativ common stock who received the Acquisition Consideration in exchange for Bioverativ common stock in connection with the Acquisition, the number of shares as to which each record holder received payment (and/or the amount of consideration each record holder received), and the correct address or other contact information used to communicate with the appropriate representatives of each record holder that received Acquisition Consideration (collectively, the “Record Holder Information”).

12. The Settling Defendants, Bioverativ, Sanofi, and Settling Defendants' Counsel shall make commercially reasonable efforts to cooperate with Plaintiff's Counsel and the Administrator as reasonably necessary to cause DTC to provide the DTC Information. The Administrator and, to the extent they obtain access to the DTC Information and the Record Holder Information, Plaintiff's Counsel, shall use the DTC Information and the Record Holder Information solely for the purpose of administering the Settlement as set forth in this Stipulation, and not for any other purpose, and shall not disclose the DTC Information or the Record Holder Information to any other party except as necessary to administer the Settlement or as required by law.

13. The Settling Defendants, Bioverativ, and Sanofi as to themselves and Settling Defendants' Counsel as to their respective clients shall make commercially reasonable efforts to cooperate with Plaintiff's Counsel and the Administrator to obtain information from the Excluded Persons and, as applicable, the relevant DTC Participants in order to ensure that no portion of the Net Settlement Fund is distributed to any Excluded Person, including information sufficient (a) to identify the number of shares of Bioverativ common stock beneficially owned by each Excluded Person as of closing, (b) to identify the DTC Participant or non-Cede record holder through which such shares were held as of closing, and (c) to enable any relevant DTC Participant to identify and exclude from payment all shares of

Bioverativ common stock beneficially owned by each Excluded Person as of closing (collectively, the “Excluded Person Information”).

14. Within thirty-one (31) calendar days from the date of entry of the Scheduling Order, the Administrator shall cause the Notice, substantially in the form attached as Exhibit B to the Stipulation, to be mailed by first-class mail, to each Person who was a record holder of Bioverativ common stock at any time from May 24, 2017 through and including March 8, 2018 at their last known address appearing in the stock transfer records maintained by or on behalf of Bioverativ. All stockholders of record of Bioverativ who were not also the beneficiary of any shares of common stock held by them of record shall be directed in the Notice to forward promptly the Notice to the beneficial owners of those shares. The Administrator shall use reasonable efforts to give notice to such beneficial owners by (i) making additional copies of the Notice available to any record holder who, prior to the Settlement Hearing, requests the same for distribution to beneficial owners, or (ii) mailing additional copies of the Notice to beneficial owners as reasonably requested by record holders who provide names and addresses for such beneficial owners.

15. The Parties shall provide further notice to the Class Members within fourteen (14) days of the entry of this Scheduling Order by causing the Stipulation and the Notice to be placed on the Administrator’s website.

16. The costs associated with the distribution of the Notice or any additional notice shall be paid in accordance with the Stipulation.

17. At least twenty-eight (28) calendar days before the Settlement Hearing, Plaintiff shall file any opening briefs in support of the proposed Settlement, and Plaintiff's Counsel shall file their application for an award of attorneys' fees, costs, and expenses, including any supporting affidavit(s).

18. At least ten (10) calendar days before the date of the Settlement Hearing, Plaintiff shall file with the Court proof of mailing of the Notice.

19. At the Settlement Hearing, any Class Member who desires to do so may appear personally or by counsel, and show cause, if any, why the Settlement of the Action in accordance with and as set forth in the Stipulation should not be approved as fair, reasonable, and adequate and in the best interests of the Class; why the Judgment should not be entered in accordance with and as set forth in the Stipulation; or why the Court should not grant Plaintiff's Counsel's application for an award of attorneys' fees, costs, and expenses incurred in the Action; provided, however, that unless the Court in its discretion otherwise directs, no Class Member, or any other person, shall be entitled to contest the approval of the terms and conditions of the Settlement or (if approved) the Judgment to be entered thereon, or the allowance of fees, costs, and expenses to Plaintiff's Counsel, and no papers, briefs, pleadings, or other documents submitted by any Class Member or any other person (excluding a

party to the Stipulation) shall be received or considered, except by order of the Court for good cause shown, unless, no later than fourteen (14) calendar days prior to the Settlement Hearing, such person files with the Register in Chancery, the Court of Chancery of the State of Delaware, Leonard L. Williams Justice Center, 500 North King Street, Wilmington, Delaware 19801, and serves upon the attorneys listed below: (a) a written and signed notice of intention to appear, which states the name, address, telephone number, and email address (if available) of the objector and, if represented, his, her, or its counsel; (b) documentation evidencing membership in the Class; (c) a written and detailed statement of objections to any matter before the Court; and (d) the grounds therefor or the reasons for wanting to appear and be heard, as well as all documents or writings the Court shall be asked to consider. These writings must also be served, on or before such filing with the Court, by hand or first-class mail upon the following attorneys:

Kevin H. Davenport (#5327)
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PRICKETT, JONES & ELLIOTT, P.A.
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Brian S. Posner, Louis J. Paglia, and
Geno J. Germano*

Elena C. Norman
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TAYLOR, LLP
Rodney Square, 1000 North King St.
Wilmington, DE 19801

*Counsel for Defendants John G. Cox, Andrea
DiFabio, and John T. Greene*

Counsel for the Parties are directed to promptly furnish each other with copies of any and all objections that might come into their possession.

20. Unless the Court orders otherwise, any Class Member who or which does not make his, her, or its objection in the manner provided herein shall (a) be deemed to have waived and forfeited his, her, or its right to object, including any right of appeal, to any aspect of the proposed Settlement or Plaintiff's Counsel's application for an award of attorneys' fees and litigation expenses; (b) be forever barred and foreclosed from objecting to the fairness, reasonableness, or adequacy of the Settlement, the Judgment to be entered approving the Settlement, or the attorneys' fees and litigation expenses requested or awarded; and (c) be deemed to

have waived and forever barred and foreclosed from being heard, in this or any other proceeding, with respect to any matters concerning the Settlement or the requested or awarded attorneys' fees and litigation expenses.

21. At least five (5) calendar days before the date of the Settlement Hearing, the Parties shall file any reply in response to any objections to the Settlement and Plaintiff's Counsel shall file any reply in response to any objections to their application for an award of attorney's fees, costs, and expenses,

22. If the Settlement is approved by the Court following the Settlement Hearing, the Court shall enter an Order and Final Judgment substantially in the form of Exhibit C to the Stipulation.

23. If the Settlement is terminated as provided in the Stipulation, this Scheduling Order shall be vacated, rendered null and void and be of no further force and effect, except as otherwise provided by the Stipulation, and this Scheduling Order shall be without prejudice to the rights of Plaintiff, the other Class Members, and the Settling Defendants, and Plaintiff, Denner, and the Settling Defendants shall revert to their status before the Settlement, as provided in the Stipulation.

24. If the Administrator does not receive, at least five business days before the scheduled date of the Settlement Hearing, the DTC Information, the Excluded Person Information, and the Record Holder Information, then Plaintiff's Counsel may seek a postponement or adjournment of the Settlement Hearing for a period

reasonably sufficient for the Administrator to obtain the missing information; provided, however, that if the Settlement Hearing has been postponed or adjourned and the Administrator does not receive all of the DTC Information, the Excluded Person Information, and the Record Holder Information within six months of the date of this Stipulation, the Parties shall confer in good faith, including with respect to an alternative plan of allocation of the Settlement Fund to be presented to the Court, and seek to schedule as promptly as practicable the Settlement Hearing and obtain Court approval of the Stipulation and the Settlement.

25. The Court may, for good cause, extend any of the deadlines set forth in this Order without further notice.

Vice Chancellor J. Travis Laster

This document constitutes a ruling of the court and should be treated as such.

Court: DE Court of Chancery Civil Action

Judge: J Travis Laster

File & Serve

Transaction ID: 69784129

Current Date: Apr 26, 2023

Case Number: 2020-1061-JTL

Case Name: CONF ORDER Stewart N. Goldstein, M.D. v. Alexander J. Denner, et al.

Court Authorizer: J Travis Laster

Court Authorizer

Comments:

The settlement hearing on the partial settlement will take place on September 13, 2023, at 1:30 p.m.

/s/ Judge J Travis Laster