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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Derick Larson,

Plaintiff,

v.
Insys Therapeutics Incorporated, et al.,

Defendants.

Hongwei Li,

Lead Plaintiff,

v.
Insys Therapeutics Incorporated, et al.,

Defendants.

Lead Case No. CV-14-01043-PHX-GMS
Consolidated with:
No. CV-14-1077-PHX-GMS

**FINAL JUDGMENT AND
DISMISSAL ORDER**

WHEREAS, the Court has been informed that Hongwei Li, Lead Plaintiff in this action, and defendants Insys Therapeutics, Inc. (“Insys”), Michael L. Babich, Darryl S. Baker, Dr. John N. Kapoor, and Dr. Larry M. Dillaha (collectively, “Defendants”) have reached a mutually agreeable settlement of this Action and have entered into a Stipulation of Settlement, executed on May 28, 2015 (the “Stipulation”);

WHEREAS, this matter came before the Court for hearing on December 4, 2015, pursuant to the Order of this Court dated June 2, 2015, on the application of the parties for approval of the settlement as set forth in the Stipulation;

1 WHEREAS, the Court has heard all persons properly appearing and requesting to
2 be heard, read and considered the motion and supporting papers, and found good cause
3 appearing therefore;

4 **IT IS HEREBY ORDERED:**

5 1. This Order incorporates by reference the definitions in the Stipulation, and
6 all capitalized terms used herein shall have the same meanings as set forth in the
7 Stipulation.

8 2. This Court has the requisite jurisdiction over the subject matter of the
9 Action and over all Parties to the Action, including all Settlement Class Members who
10 did not file, pursuant to the Court’s Preliminary Approval Order dated June 2, 2015, a
11 timely request for exclusion from the Settlement Class by the November 13, 2015
12 deadline.

13 3. The Court finds, for the purposes of the Settlement only, that the
14 prerequisites to a class action under Rules 23(a) and (b)(3) of the Federal Rules of Civil
15 Procedure have been satisfied in that: (a) the number of Settlement Class Members is so
16 numerous that joinder of all members thereof is impracticable; (b) there are questions of
17 law and fact common to the Class; (c) the claims of the Court-appointed Lead Plaintiff
18 Hongwei Li are typical of the claims of the Settlement Class he represents; (d) the Lead
19 Plaintiff has and will continue to fairly and adequately represent the interests of the
20 Settlement Class; (e) the questions of law and fact common to the Settlement Class
21 Members predominate over any questions affecting only individual Settlement Class
22 Members; and (f) a class action is superior to other available methods for the fair and
23 efficient adjudication of the controversy.

24 4. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, and for the
25 purposes of the Settlement only, this action is hereby finally certified as a class action, on
26 behalf of all Persons who purchased or otherwise acquired shares of Insys common stock
27 , between November 12, 2013 through May 14, 2014, inclusive (the “Settlement Class
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1 Period”), and were damaged thereby (the “Settlement Class”). Excluded from the
2 Settlement Class are (a) Defendants; any parent or subsidiary, present or former director,
3 officer, or subsidiary of Insys; any entity in which any excluded person has a controlling
4 interest; their legal representatives, heirs, successors and assigns; any immediate family
5 member of a Settling Individual Defendant; and (b) any putative members of the
6 Settlement Class who timely and validly exclude themselves from the Settlement Class in
7 accordance with the requirements set forth in the Mailed Notice and Rule 23 of the
8 Federal Rules of Civil Procedure.

9 5. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, this Court
10 hereby finds that the Stipulation, the Settlement contained therein, and proposed Plan of
11 Allocation are fair, just, reasonable, and adequate to, and is in the best interests of each of
12 the Parties and the Settlement Class. This Court further finds the Settlement set forth in
13 the Stipulation is the result of arm’s-length negotiations that took over two months to
14 conclude between experienced counsel representing the interests of the Plaintiffs, Class
15 Members and the Defendants that were also held before a third party mediator.
16 Accordingly, the Stipulation, Settlement contained therein, and proposed Plan of
17 Allocation are hereby approved in all respects and shall be consummated in accordance
18 with its terms and provisions. The Settling Parties are hereby directed to perform the
19 terms of the Stipulation.
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21 6. The distribution of the Mailed Notice and the publication of the Summary
22 Notice, as provided for in the Preliminary Approval Order, constituted the best notice
23 practicable under the circumstances, including individual notice to all members of the
24 Class who could be identified through reasonable effort. Said notices (i) provided the best
25 notice practicable under the circumstances of those proceedings and of the matters set
26 forth therein, including the proposed Settlement set forth in the Stipulation of Settlement,
27 to all Persons entitled to such notices; (ii) constitute due, adequate and sufficient notice to
28 all Persons entitled to receive notice and (iii) fully satisfy the requirements of Federal

1 Rule of Civil Procedure 23, Section 21D(a)(7) of the Securities Exchange Act of 1934,
2 the Due Process Clause(s) of the United States Constitution, the rules of this Court and
3 any other applicable law.

4 7. The Litigation and all claims contained therein, including all of the
5 Released Claims, are dismissed with prejudice as to the Plaintiffs and the other Members
6 of the Class, and as against each and all of the Released Persons. The Settling Parties are
7 to bear their own costs, except as otherwise provided in the Stipulation.

8 8. Except as to any individual claims of Persons identified on Exhibit 1, who
9 have timely and validly requested exclusion from the Settlement Class, the Action and all
10 claims contained therein, including the Released Claims and Released Defendants'
11 Claims, as against the Released Parties, are hereby extinguished. Those Persons listed on
12 Exhibit 1 shall not have any rights to receive any distribution from the Net Settlement
13 Fund or otherwise.

14 9. Upon the Effective Date:

15 a. Lead Plaintiff and each of the members of the Settlement Class, on
16 behalf of themselves, and to the extent permitted by law, their heirs, executors,
17 administrators, personal representatives, attorneys, agents, partners, successors and
18 assigns, and any other Person claiming (now or in the future) to have acted
19 through or on behalf of them, shall hereby be deemed to have, and by operation of
20 the Final Judgment shall have, fully, finally, and forever, released, relinquished,
21 settled and discharged the Released Defendants' Parties from the Released Claims,
22 and shall be permanently barred and enjoined from instituting, commencing, or
23 prosecuting any Released Claim against any of them, directly, indirectly, or in any
24 other capacity, whether or not such members of the Settlement Class execute and
25 deliver a Proof of Claim and Release.

26 b. The Defendants, on behalf of themselves, and to the fullest extent
27 permitted by law, their heirs, executors, administrators, personal representatives,
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1 attorneys, agents, partners, successors and assigns, and any other Person claiming
2 (now or in the future) to have acted through or on behalf of them, shall hereby be
3 deemed to have, and by operation of this Order shall have, fully, finally, and
4 forever, released, relinquished, settled and discharged the Lead Plaintiff, the
5 members of the Settlement Class, their attorneys, and the Released Plaintiffs'
6 Parties from the Released Defendants' Claims and shall be permanently barred
7 and enjoined from instituting, commencing, or prosecuting any Released
8 Defendants' Claim against any of them directly, indirectly or in any other
9 capacity.

10 10. In accordance with 15 U.S.C. § 78u-4(f)(7)(A), any and all claims for
11 contribution are hereby permanently barred and discharged if the claim or claims:

- 12 a. Arise out of the Action or any Released Claim; and
- 13 b. Are filed by any Person against any Released Party.

14 11. This Order of Final Judgment and Dismissal is a final judgment in the
15 Action as to all claims, including Unknown Claims, among the Defendants and their
16 Released Parties, on the one hand, and Lead Plaintiff, the members of the Settlement
17 Class, and their Released Parties, on the other hand.

18 12. Neither the Stipulation nor the Settlement, nor any act performed or
19 document executed pursuant to or in furtherance of the Stipulation or the Settlement: (a)
20 is or may be deemed to be or may be used as an admission of, or evidence of, the validity
21 or infirmity of any Released Claim, of any allegation made in the Action, or of any
22 wrongdoing or liability of any of the Released Parties; (b) is or may be deemed to be or
23 may be used as an admission of, or evidence of, any liability, fault or omission of any of
24 the Released Parties in any civil, criminal or administrative proceeding in any court,
25 administrative agency or other tribunal; or (c) is or may be deemed to be or may be used
26 as an admission or evidence that Lead Plaintiff and the Settlement Class Members would
27 have received less than the Settlement Amount had the Action been prosecuted to
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1 conclusion. Neither the Stipulation nor the Settlement, nor any act performed or
2 document executed pursuant to or in furtherance of the Stipulation or the Settlement,
3 shall be admissible in any proceeding for any purpose, except to enforce or interpret the
4 terms of the Settlement, and except that any of the Released Parties may file the
5 Stipulation and/or this Order in any action that may be brought against any of them in
6 order to support a defense or counterclaim based on principles of *res judicata*, collateral
7 estoppel, release, good faith settlement, judgment bar or reduction or any other theory of
8 claim preclusion or issue preclusion or similar defense or counterclaim.

9 13. Without affecting the finality of this Order in any way, this Court hereby
10 retains continuing jurisdiction over: (a) implementation of this Settlement and any award
11 or distribution of the Settlement Fund, including interest earned thereon; (b) disposition
12 of the Settlement Fund; (c) hearing and determining applications for attorneys' fees and
13 expenses, including the reimbursement of expenses to Plaintiffs, in the Litigation; and (d)
14 the Settling Parties hereto for the purpose of construing, enforcing and administering the
15 terms of the Stipulation.

16 14. Pursuant to Section 21D(c)(1) of the Private Securities Litigation Reform
17 Act of 1995, this Court hereby finds that each Party and its respective counsel has
18 complied with each requirement of Rule 11(b) of the Federal Rules of Civil Procedure as
19 to all pleadings and motions related to the Released Claims, and that insofar as it relates
20 to the Released Claims, the Action was not brought for any improper purpose and is not
21 unwarranted by existing law or legally frivolous.

22 15. In the event that the Settlement does not become effective in accordance
23 with the terms of the Stipulation or the Effective Date does not occur, or in the event that
24 the Settlement Fund, or any portion thereof, is returned to the Defendants, then this
25 Judgment shall be rendered null and void to the extent provided by and in accordance
26 with the provisions of Paragraph 6.3 of the Stipulation and shall be vacated and, in such
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1 event, all orders entered and releases delivered in connection herewith shall be null and
2 void to the extent provided by and in accordance with the Stipulation of Settlement.

3 16. Without further order of the Court, the Parties may agree to reasonable
4 extensions of time to carry out any of the provisions of the Stipulation.

5 17. The Court **GRANTS** Lead Counsel's request for attorneys' fees in the
6 amount of 27.5% of the Settlement Fund, and reimbursement of reasonable and necessary
7 expenses incurred in the prosecution of the Action in the amount of \$63,167.15, together
8 with the interest earned thereon for the same time period and at the rate earned by the
9 Settlement Fund until paid. Said fees shall be allocated among Plaintiffs' Counsel in a
10 manner which, in their good-faith judgment, reflects each counsel's contribution to the
11 institution, prosecution and resolution of the Action. The Court finds that the amount of
12 fees awarded is fair and reasonable in light of the time and labor required, the novelty and
13 difficulty of the case, the skill required to prosecute the case, the experience and ability of
14 the attorneys, awards in similar cases, the contingent nature of the representation and the
15 result obtained for the Settlement Class.

16 18. The Court hereby **GRANTS** Lead Plaintiff's reimbursement of his
17 reasonable costs and expenses (including lost wages) directly related to his representation
18 of the Settlement Class in the amount of \$2,500.00.

19 19. Any order approving or modifying the Plan of Allocation, Lead Counsel's
20 application or award of attorneys' fees and expenses, or Lead Plaintiff's application or
21 award for reimbursement of costs and expenses, shall not disturb or affect the finality of
22 this Judgment, the Stipulation, or the Settlement contained therein, nor any act performed
23 or document executed pursuant to or in furtherance of the Stipulation or the Settlement.


24 20. The awarded attorneys' fees and expenses, and interest earned thereon,
25 shall be paid to Lead Counsel from the Settlement Fund immediately after the date this
26 Order is executed subject to the terms, conditions, and obligations of the Stipulation of
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1 Settlement and in particular ¶ 6.2 thereof, which terms, conditions, and obligations are
2 incorporated herein.

3 **IT IS SO ORDERED.**

4 Dated this 7th day of December, 2015.

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6 Honorable G. Murray Snow
7 United States District Judge

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