

The Honorable Benjamin H. Settle

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

BRIAN JOE COURTER, COURTER AND
SONS LLC, DIANE M. HOOPER, THOMAS
MCGEE, and CANDRA E. EVANS,
Individually and on Behalf of All Others
Similarly Situated,

Plaintiffs,

v.

CYTODYN INC., NADER Z. POURHASSAN,
MICHAEL MULHOLLAND, and SCOTT A.
KELLY,

Defendants.

Case No. 3:21-cv-05190-BHS

**LEAD PLAINTIFF'S MOTION FOR
FINAL APPROVAL OF PROPOSED
SETTLEMENT AND PLAN OF
ALLOCATION**

**NOTE ON MOTION CALENDAR:
November 2, 2026**

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1 Lead Plaintiff Brian Joe Courter and Courter and Sons LLC (“Lead Plaintiff”) respectfully
 2 submits this Motion, pursuant to Federal Rule of Civil Procedure (“Rule”) 23, for: (i) final approval
 3 of the proposed settlement of this securities class action on the terms set forth in the Stipulation
 4 and Agreement of Settlement dated March 18, 2026 (Dkt. 168) (“Stipulation”); (ii) certification of
 5 the Settlement Class for purposes of settlement; and (iii) approval of the proposed plan for
 6 allocating the net Settlement Shares to the Settlement Class (“Plan of Allocation” or “Plan”).¹

7 **I. PRELIMINARY STATEMENT**

8 After four years of litigation and extensive negotiations with help from an experienced
 9 mediator, Lead Plaintiff and its counsel have secured a common-fund recovery—consisting of 49
 10 million shares of CytoDyn Inc. (“CytoDyn”) common stock and \$500,000 in cash—for the benefit
 11 of the Settlement Class. If approved, the Settlement will resolve all claims asserted in the Action
 12 against Defendants CytoDyn, Nader Z. Pourhassan, Michael Mulholland, and Scott A. Kelly.

13 The Settlement delivers a certain, near-term recovery for the Settlement Class in a case that
 14 presented many risks and the potential for years of additional litigation through discovery, class
 15 certification, summary judgment, trial, and post-trial appeals. While Lead Plaintiff and its counsel
 16 fully believe in the merits of their claims and were prepared to continue litigating the Action,
 17 CytoDyn’s financial position and the risk that it would be unable to fund a future resolution greater
 18 than the Settlement Amount was the driving factor for resolving the case at this juncture. Given
 19 this risk and the lack of other reasonably available sources of substantial funding beyond CytoDyn
 20 itself (including the Individual Defendants), Lead Plaintiff and its counsel negotiated a resolution
 21 that they believe is in the Settlement Class’s best interest. Importantly, the Settlement is not

24 ¹ Unless otherwise noted, all citations and internal quotation marks have been omitted and
 25 capitalized terms have the meanings ascribed to them in the Stipulation or in the Declaration of
 26 Joshua E. D’Ancona (“D’Ancona Declaration”), filed herewith. Citations to “¶” herein refer to
 paragraphs in the D’Ancona Declaration and citations to “Ex.” herein refer to exhibits to the
 D’Ancona Declaration.

1 “claims-made” and all proceeds, after deducting Court-approved fees and costs, will be distributed
2 to the Settlement Class.²

3 Aside from funding concerns, had the Action not resolved, Defendants would have
4 continued to aggressively litigate their arguments and defenses at class certification, summary
5 judgment, and trial. There was real risk of an adverse ruling for Lead Plaintiff at any of these
6 stages, which could have precluded a recovery as well. The Settlement also avoids the delay and
7 substantial expense of continued litigation and is designed to provide the Settlement consideration
8 to Settlement Class Members who submit valid Claims as promptly as possible while keeping
9 expenses as low as possible.

10 As detailed in the D’Ancona Declaration, Lead Plaintiff and its counsel were well-informed
11 of the strengths and weaknesses of their case before engaging in settlement discussions with
12 Defendants—and learned important further information in the course of those discussions.³ The
13 Settlement is the product of two separate rounds of arm’s-length negotiations between the Parties
14 (which occurred nearly three years apart). Gregory P. Lindstrom of Phillips ADR Enterprises, P.C.
15 facilitated these negotiations, including briefing and a formal mediation. These negotiations also
16 involved exchanges of significant information about Defendants’ ability to pay and culminated in
17 the Parties’ agreement in principle to resolve the Action for the Settlement Amount in November
18 2025. Over the next several months, the Parties negotiated the specific terms of their agreement
19 and executed the Stipulation on March 18, 2026.

20 On June 2, 2026, the Court held a hearing on Lead Plaintiff’s motion for preliminary
21 approval of the Settlement (“June 2026 Hearing”) at which it asked many questions regarding,
22 *inter alia*, the Settlement terms, the Parties’ negotiations, Defendants’ ability to pay, the proposed

23 ² Lead Counsel advised the Court at preliminary approval that it expects to use the
24 Settlement Cash to pay notice and administration costs and that distributions to eligible Settlement
25 Class Members will be made entirely in Settlement Shares.

26 ³ The D’Ancona Declaration provides additional details regarding the claims asserted, the
procedural history of the Action, the Settlement negotiations, the risks of continued litigation,
compliance with the Court-approved notice plan, and the Plan of Allocation.

1 claims administration process, and the proposed notice materials, and heard argument and
 2 responses from counsel. After the Parties' subsequent submission of written responses to questions
 3 posed by the Court and revisions to certain Settlement documents as instructed by the Court, the
 4 Court preliminarily approved the Settlement, finding it would "likely be able to finally approve
 5 the Settlement . . . subject to further consideration at the Settlement Hearing." Dkt. 179, at ¶ 4.

6 The Settlement has the full support of Lead Plaintiff, who took an active role in supervising
 7 the litigation, and the reaction of the Settlement Class has been positive. While the
 8 exclusion/objection deadline has not yet passed, following the dissemination of over 141,600
 9 notices, publication of the Summary Notice, and the availability of a dedicated website, only four
 10 valid (and two attempted) requests for exclusion and one objection have been received.⁴ As
 11 discussed below, the objection raises questions that were asked by the Court and substantially
 12 answered at the June 2026 Hearing and through the supplemental submission required by the
 13 Court. Dkt. 177. Given the particular challenges in this case, the Court considered the answers
 14 provided on the record at the June 2026 Hearing, and all other materials submitted, before
 15 preliminarily approving the Settlement. Accordingly, the objection should be overruled.⁵

16 As set forth herein, Lead Plaintiff respectfully submits that: (i) the Settlement meets the
 17 standards for final approval under Rule 23, and represents a fair, reasonable, and adequate result
 18 for the Settlement Class; (ii) the Settlement Class warrants final certification for purposes of
 19 settlement; and (iii) the Plan of Allocation is a fair and reasonable method for equitably distributing
 20 the net Settlement Shares among Settlement Class Members who submit valid Claims.

24 ⁴ See Declaration of Josephine Bravata submitted on behalf of the Claims Administrator,
 25 Strategic Claims Services ("SCS") (Ex. 2) ("Bravata Decl."), at ¶¶ 11, 19-20.

26 ⁵ The exclusion/objection deadline is October 12, 2026. Any additional objections or
 requests for exclusion received after this submission will be addressed in Lead Plaintiff's reply to
 be filed on October 26, 2026.

II. THE SETTLEMENT WARRANTS FINAL APPROVAL

Rule 23(e)(2) requires judicial approval of any class action settlement. Whether to grant such approval lies within the district court's sound discretion. *See In re Volkswagen "Clean Diesel" Mktg., Sales Pracs., & Prods. Liab. Litig.*, 895 F.3d 597, 611 (9th Cir. 2018) ("Deciding whether a settlement is fair is ultimately an amalgam of delicate balancing, gross approximations and rough justice, . . . best left to the district judge, who has . . . a firsthand grasp of the claims, the class, the evidence, and the course of the proceedings."). Such discretion should be guided by this Circuit's "strong judicial policy that favors settlements, particularly where complex class action litigation is concerned." *In re Hyundai & Kia Fuel Econ. Litig.*, 926 F.3d 539, 556 (9th Cir. 2019).

"Under [Rule] 23(e)(2), a district court may approve a class action settlement only after finding that the settlement is fair, reasonable, and adequate." *Campbell v. Facebook, Inc.*, 951 F.3d 1106, 1120-21 (9th Cir. 2020); *Rinky Dink Inc. v. Elec. Merch. Sys.*, 2016 U.S. Dist. LX 72915, at *4 (W.D. Wash. Apr. 19, 2016). In making that determination, Rule 23(e)(2) provides that a court should 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 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 attorney's 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.

Consistent with Rule 23(e)(2)'s guidance, the Ninth Circuit has identified similar factors for courts to consider in deciding whether to approve a class action settlement:

(1) the strength of the plaintiffs' case; (2) the risk, expense, complexity, and likely duration of further litigation; (3) the risk of maintaining class action status throughout the trial; (4) the amount offered in settlement; (5) the extent of discovery completed and the 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.

1 *Churchill Vill., L.L.C. v. Gen. Elec.*, 361 F.3d 566, 575 (9th Cir. 2004); *Washburn v. Porsche Cars*
 2 *N. Am., Inc.*, 2025 WL 1017983, at *4 (W.D. Wash. Apr. 4, 2025) (approving settlement after
 3 considering both the Rule 23(e)(2) and *Churchill* factors). Further, this Circuit has found a court’s
 4 review of a settlement should be “limited to the extent necessary to reach a reasoned judgment that
 5 the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating
 6 parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned.”
 7 *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1027 (9th Cir. 1998); *see also In re Alphabet, Inc. Sec.*
 8 *Litig.*, 2024 WL 4354988, at *3 (N.D. Cal. Sep. 30, 2024) (“a court need not address whether the
 9 settlement is ideal or the best outcome, but only whether the settlement is fair, free of collusion,
 10 and consistent with plaintiff’s fiduciary obligations to the class.”).

11 At the preliminary approval stage, this Court considered the Rule 23(e)(2) factors, held a
 12 hearing at which it asked many questions about multiple aspects of the Settlement terms and the
 13 mediation process, required the submission of additional answers, the Supplemental Agreement
 14 (*in camera*), and a revision to the proposed Stipulation and notice materials, and ultimately found
 15 the Settlement to be fair, reasonable, and adequate, subject to further evaluation at the final
 16 approval stage. Dkt. 179, at ¶ 4. Nothing has changed to alter the Court’s rigorous analysis, and
 17 the factors supporting preliminary approval apply equally now. *See, e.g., In re Chrysler-Dodge-*
 18 *Jeep Ecodiesel® Mktg., Sales Pracs., & Prods. Liab. Litig.*, 2019 WL 2554232, at *2 (N.D. Cal.
 19 May 3, 2019) (“[C]onclusions [made in granting preliminary approval] stand and counsel equally
 20 in favor of final approval now.”). Accordingly, the Settlement is fair, reasonable, and adequate and
 21 warrants final approval under the Rule 23(e)(2) factors and Ninth Circuit law.

22 **A. Lead Plaintiff and Its Counsel Have Adequately Represented the**
 23 **Settlement Class**

24 The first Rule 23(e)(2) factor—whether plaintiffs and their counsel “have adequately
 25 represented the class”—favors approval of the Settlement. Rule 23(e)(2)(A). To determine
 26 adequacy, courts consider “two questions: (1) do the named plaintiffs and their counsel have any

1 conflicts of interest with other class members and (2) will the named plaintiffs and their counsel
2 prosecute the action vigorously on behalf of the class?” *Hyundai*, 926 F.3d at 566.

3 Lead Plaintiff’s claims, which are based on a common course of alleged wrongdoing by
4 Defendants, are typical of other Settlement Class Members’ claims, and Lead Plaintiff has no
5 interests antagonistic to the Settlement Class. *See Ellis v. Costco Wholesale Corp.*, 657 F.3d 970,
6 985 (9th Cir. 2011) (adequacy of representation depends on “an absence of antagonism” and “a
7 sharing of interest” between representatives and absent class members). In addition, Lead
8 Plaintiff—like all other Settlement Class Members—has an interest in obtaining the largest
9 possible recovery from Defendants. *See Mild v. PPG Indus., Inc.*, 2019 WL 3345714, at *3 (C.D.
10 Cal. July 25, 2019). Over the past 4+ years, Lead Plaintiff actively participated in the Action—
11 consulting with counsel, reviewing significant filings, and evaluating the Settlement—and worked
12 closely with Lead Counsel to obtain the best possible result for the Settlement Class. *See*
13 Declaration of Brian Joe Courter (Ex. 1), at ¶¶ 5-6.

14 Likewise, Lead Plaintiff retained counsel highly experienced in securities class actions and
15 complex litigation. *See* Exs. 4-C & 5-C (firm resumes). Lead Counsel and Liaison Counsel actively
16 pursued the claims asserted in the Action on behalf of the Settlement Class and negotiated a
17 favorable Settlement through protracted negotiations and challenging funding constraints.

18 **B. The Settlement Was Negotiated at Arm’s Length with the Help of an**
19 **Experienced Mediator**

20 The second Rule 23(e)(2) factor asks whether “the proposal was negotiated at arm’s
21 length.” Rule 23(e)(2)(B). In the Ninth Circuit, a “strong presumption of fairness” attaches to a
22 class action settlement reached through arm’s-length negotiations between “experienced and well-
23 informed counsel.” *de Rommerswael v. Auerbach*, 2018 WL 6003560, at *3 (C.D. Cal. Nov. 5,
24 2018). This presumption is further supported where, as here, a neutral mediator is involved. ¶¶ 33-
25 36; *see Joh v. Am. Income Life Ins. Co.*, 2020 WL 109067, at *7 (N.D. Cal. Jan. 9, 2020) (“The
26 involvement of a neutral mediator is evidence that settlement negotiations were conducted at arm’s

length.”). Moreover, the fact that the Parties did not reach agreement at the initial mediation and required additional negotiations spanning many months two years later demonstrates that the Settlement was the product of arm’s-length negotiations. *See, e.g., Hicks v. Morgan Stanley*, 2005 WL 2757792, at *5 (S.D.N.Y. Oct. 24, 2005) (“A breakdown in settlement negotiations can tend to display the negotiation’s arms-length and non-collusive nature.”).

In addition, Lead Plaintiff and its counsel possessed a thorough understanding of the strengths and weaknesses of the case before reaching the Settlement. Lead Counsel conducted an extensive investigation into the claims asserted, prepared two detailed complaints, opposed Defendants’ motions to dismiss, and reviewed hundreds of thousands of pages of documents produced by Defendants. ¶¶ 6, 17-32. The Parties’ settlement negotiations, in which significant information regarding potential funding sources and the Parties’ potential arguments in later stages of the litigation were exchanged, further informed Lead Plaintiff of the strength of each side’s arguments and the merits of a potential settlement. ¶¶ 7-8, 35.

Finally, the Settlement has none of the indicia of possible collusion identified by the Ninth Circuit, such as a “clear sailing” fee agreement or a provision that would allow settlement proceeds to revert to Defendants.⁶ *In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935, 947 (9th Cir. 2011). In short, the Settlement was reached after arm’s-length negotiations supervised by an experienced mediator and conducted by well-informed counsel, and was not a product of fraud, overreaching, or collusion among the Parties. This factor strongly supports approval.

C. The Settlement Provides Adequate Relief, Considering the Costs, Risks, and Delay of Litigation and the Other Rule 23(e)(2) Factors

The remaining Rule 23(e)(2) factors overlap considerably with those articulated by the Ninth Circuit in *Churchill*, and entail “a ‘substantive’ review of the terms of the proposed

⁶ *See* Stip. at ¶ 17 (“Lead Counsel’s application for attorneys’ fees and/or Litigation Expenses is not the subject of any agreement between Defendants and Lead Plaintiff other than what is set forth in this Stipulation.”); *id.* at ¶ 15 (“The Settlement is not a “claims-made” settlement.”).

1 settlement” that evaluate the fairness of the “relief that the settlement is expected to provide” to
 2 the Settlement Class. Rule 23(e)(2) advisory comm.’s notes to 2018 amendment; *see also*
 3 *Churchill*, 361 F.3d at 575-77. These factors all weigh in favor of the Settlement.

4 **1. The Strength of Lead Plaintiff’s Case and the Risks of Further**
 5 **Litigation**

6 Courts evaluating proposed class action settlements consider the strengths and weaknesses
 7 of the plaintiffs’ case and the risks of continued litigation. *See In re Mego Fin. Corp. Sec. Litig.*,
 8 213 F.3d 454, 458 (9th Cir. 2000). To determine whether the Settlement is fair, reasonable, and
 9 adequate, the Court “must balance the risks of continued litigation, including the strengths and
 10 weaknesses of plaintiff’s case, against the benefits afforded to class members, including the
 11 immediacy and certainty of [a] recovery.” *Knapp v. Art.com, Inc.*, 283 F.Supp.3d 823, 831 (N.D.
 12 Cal. 2017); Rule 23(e)(2)(C)(i). While Lead Plaintiff and Lead Counsel believe that they had
 13 strong claims that should have ultimately prevailed against Defendants, they recognize the many
 14 risks and uncertainties of further litigation, which loom particularly large in this case.

15 **a. Defendants’ Ability to Pay**

16 In addition to the litigation risks inherent in this complex case and with respect to the
 17 alleged claims (as discussed below), Defendants’ ability to fund a future settlement or judgment
 18 larger than the Settlement Amount was a key reason for resolving the Action. Lead Counsel
 19 carefully considered CytoDyn’s public disclosures concerning its then-current financial condition
 20 (including its SEC Form 10-Q for the quarterly period ended August 31, 2025 issued during the
 21 Parties’ settlement negotiations) and endeavored to evaluate its ability to potentially fund a future
 22 judgment or settlement. ¶¶ 35, 45-46. Based on its evaluation, Lead Counsel concluded that there
 23 was significant risk that CytoDyn would be unable to satisfy a future judgment or settlement
 24 exceeding the Settlement Amount and that obtaining some recovery for the Settlement Class now
 25 would serve to protect the Settlement Class’s interest rather than risk obtaining less—or potentially
 26 nothing—after continued litigation, including due to the possibility of CytoDyn’s further financial

deterioration. ¶ 45. *See Rinky Dink v. Elec. Merch. Sys. Inc.*, 2015 WL 11234156, at *5 (W.D. Wash. Dec. 11, 2015) (finding likelihood that defendants would be unable to pay larger settlement weighed in favor of approval). Critically, Lead Counsel also investigated and determined that there were no other reasonably available sources of substantial funding beyond CytoDyn itself (including the Individual Defendants, who provided sworn declarations, or D&O insurance, which was substantially exhausted through criminal proceedings). ¶ 47; *see also* June 2026 Hr’g Tr. (Ex. 3), at 7:7-8:19, 15:20-16:3 7-8, 15-16. *See Tchrs.’ Ret. Sys. of La. v. A.C.L.N., Ltd.*, 2004 WL 1087261, at *4 (S.D.N.Y. May 14, 2004) (limitations on individual defendants’ ability to pay and likely depletion of D&O insurance before trial were the “overriding consideration driving the settlement negotiations” and supported approval).

b. Risks to Establishing Liability and Damages

Were the Action to continue, Lead Plaintiff would also face risks to establishing Defendants’ liability. Throughout the Action, Defendants asserted that the alleged misstatements and omissions were not materially false or misleading as a matter of law, and Lead Plaintiff expected these arguments to continue. Specifically, Defendants argued that the statements were either: (i) statements of corporate optimism expressing excitement about the potential of CytoDyn’s only prospective drug at the time, leronlimab;⁷ (ii) statements of opinion;⁸ and/or (iii) forward-looking statements protected by the PSLRA’s safe harbor⁹ (e.g., statements regarding

⁷ Courts distinguish such corporate “puffing” from actionable misrepresentations because “[w]hen valuing corporations, [] investors do not rely on vague statements of optimism like ‘good,’ ‘well-regarded,’ or other feel good monikers. This mildly optimistic, subjective assessment hardly amounts to a securities violation.” *Or. Pub. Emps. Ret. Fund v. Apollo Grp. Inc.*, 774 F.3d 598, 606 (9th Cir. 2014).

⁸ *See, e.g., Callan v. Motricity Inc.*, 2013 WL 5492957, at *9 (W.D. Wash. Oct. 1, 2013) (“The fact that [a] prediction proves to be wrong in hindsight does not render the statement untrue when made.”).

⁹ If a statement is identified as forward-looking and accompanied by meaningful cautionary language, the statement is insulated from liability. *See Police Ret. Sys. of St. Louis v. Intuitive Surgical, Inc.*, 759 F.3d 1051, 1058 (9th Cir. 2014).

1 CytoDyn’s expectations and predictions regarding the filing of the FDA application, its future
2 interactions with the FDA, and the use of leronlimab as a treatment for COVID-19). ¶ 51.

3 Defendants would also be expected to assert that the alleged misstatements and omissions
4 were not made with an intent to defraud or with deliberate recklessness tantamount to actual intent.
5 ¶ 51; *see also Baron v. HyreCar Inc.*, 2025 WL 3097076, at *6 (C.D. Cal. Mar. 7, 2025) (noting
6 scienter is “complex and difficult to establish at trial”). In support, Defendants would point to
7 CytoDyn’s continued investment in leronlimab for both the HIV and COVID-19 indications—
8 something that would make no sense absent a good-faith belief in the drug. *Id.* Although Lead
9 Plaintiff was able to survive Defendants’ challenges to liability at the motion to dismiss stage, the
10 outcome might be different based on the evidence at summary judgment or trial. *See generally*
11 *Nobles v. MBNA Corp.*, 2009 WL 1854965, at *2 (N.D. Cal. June 29, 2009) (noting although
12 “[p]laintiff’s claim has survived a motion to dismiss, . . . success is not guaranteed if this matter
13 were to proceed to jury trial”).¹⁰ If Defendants convinced the Court or a jury that their statements
14 were inactionable or that they did not act with the requisite scienter, Lead Plaintiff’s Sections 20(a)
15 and 20A claims against the Individual Defendants would be eliminated as well, as these claims
16 require proof of a primary violation of the Exchange Act. ¶ 52.

17 Even if Lead Plaintiff could establish liability for certain or all Defendants, it would still
18 face significant challenges to establishing loss causation and damages, given the myriad pieces of
19 information entering the market regarding CytoDyn during the relevant time period, and the
20 relatively volatile market for its stock. ¶ 53. Lead Plaintiff’s claims would depend heavily on expert
21 testimony about technical economic and statistical concepts, and its expert’s opinions would be
22

23 ¹⁰ *See also, e.g., In re Tesla, Inc. Sec. Litig.*, 2022 WL 1497559, at *16-18 (N.D. Cal. Apr. 1,
24 2022) (granting plaintiff’s motion for summary judgment as to certain statements that were false
25 and recklessly made) and Jury Verdict, *In re Tesla Inc. Sec. Litig.*, No. 18-cv-04865 (N.D. Cal.
26 Feb. 3, 2023), Dkt. 671 (jury verdict in defendants’ favor after lengthy trial and despite court
previously granting summary judgment on certain elements in plaintiff’s favor); *In re Apollo Grp., Inc. Sec. Litig.*, 2010 WL 5927988, at *1 (9th Cir. June 23, 2010) (granting judgment for
defendants and nullifying jury verdict for plaintiff following trial).

1 strenuously countered by Defendants’ experts’ contrary opinions. Because the determination of
 2 loss causation and damages (and the underlying question of whether CytoDyn’s stock traded in an
 3 efficient market) entail a complicated process requiring financial economic expert testimony, these
 4 crucial elements could be reduced to an uncertain “battle of the experts” at summary judgment and
 5 trial. *See In re Celera Corp. Sec. Litig.*, 2015 WL 7351449, at *6 (N.D. Cal. Nov. 20, 2015) (risks
 6 related to “battle of the experts” favored settlement approval). Moreover, any pretrial and trial
 7 rulings on expert damages issues would likely be challenged on appeal. ¶ 53.

8 **2. The Complexity, Expense, and Duration of Continued Litigation**

9 In addition to the risk of continued litigation, in evaluating the fairness of the Settlement,
 10 the “expense, complexity, and likely duration of further litigation,” *Churchill*, 361 F.3d at 576, or
 11 “delay of trial and appeal” should also be taken into account. Rule 23(e)(2)(C)(i). “Generally,
 12 unless the settlement is clearly inadequate, its acceptance and approval are preferable to lengthy
 13 and expensive litigation with uncertain results.” *In re LinkedIn User Priv. Litig.*, 309 F.R.D. 573,
 14 587 (N.D. Cal. 2015). These factors underscore the fairness of the Settlement.

15 Class action litigation is inherently complex. *See Nobles*, 2009 WL 1854965, at *2 (finding
 16 settlement proper “given the inherent difficulty of prevailing in class action litigation”). This
 17 securities fraud class action, prosecuted under the more restrictive provisions of the PSLRA, is no
 18 exception.¹¹ As noted above, continued litigation presented many risks to Lead Plaintiff’s ability
 19 to establish liability and damages. ¶¶ 50-54. Lead Plaintiff would need to complete fact and expert
 20 discovery, class certification briefing, dispositive motion practice, pre-trial preparation, trial, and
 21 post-trial appeals—efforts that would impose substantial additional costs on the Settlement Class
 22 and possibly delay its ability to recover—if at all—for years. In contrast, the Settlement avoids the
 23 risk, expense, and delay of continued litigation while providing a certain, near-term recovery for
 24

25 ¹¹ Indeed, “the heightened pleading requirement of the PSLRA and the application of *Dura*,
 26 544 U.S. 336, which poses significant risks to plaintiffs’ ability to survive ... summary judgment
 and prevailing at trial, suggest that settlement here is prudent.” *In re Portal Software, Inc. Sec.*
Litig., 2007 WL 4171201, at *3 (N.D. Cal. Nov. 26, 2007).

1 the Settlement Class. *See Hartless v. Clorox Co.*, 273 F.R.D. 630, 640 (S.D. Cal. 2011), *aff'd in*
 2 *part*, 473 F. App'x 716 (9th Cir. 2012) ("Considering these risks, expenses and delays, an
 3 immediate and certain recovery for class members . . . favors settlement of this action.").

4 **3. The Risk of Obtaining/Maintaining Class Certification**

5 Given the posture of the case at settlement, Lead Plaintiff had not yet moved for class
 6 certification. Defendants were expected to raise significant challenges to certification (as their
 7 counsel had represented many times in the course of discovery meet-and-confers and other
 8 interactions). ¶ 55. While Lead Plaintiff believes it would have ultimately succeeded at this stage,
 9 the Settlement avoids this uncertainty. *See In re Omnivision Techs., Inc.*, 559 F.Supp.2d 1036,
 10 1041-42 (N.D. Cal 2008) ("If the Court were to refuse certification, the unrepresented potential
 11 plaintiffs would likely lose their chance at recovery entirely. . . . As Defendants agree to the class
 12 certification for the purposes of the Settlement, there is much less risk of anyone who may have
 13 actually been injured going away empty-handed."). This factor supports the Settlement.¹²

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

15 The evaluation of whether a settlement is "reasonable" is not determined by a mathematical
 16 calculation or empirical analysis. Nor is a settlement "to be judged against a hypothetical or
 17 speculative measure of what might have been achieved by the negotiators." *Officers for Just. v.*
 18 *Civil Serv. Comm'n of City & Cnty. of S. F.*, 688 F.2d 615, 625 (9th Cir. 1982). By definition, a
 19 settlement "embodies a compromise; in exchange for the saving of cost and elimination of risk,
 20 the parties each give up something they might have won had they proceeded with litigation." *Id.*
 21 at 624; *Hanlon*, 150 F.3d at 1027 ("Settlement is the offspring of compromise[] the question we
 22 address is not whether the final product could be prettier, smarter or snazzier, but whether it is fair,
 23 adequate and free from collusion.").

24
 25
 26 ¹² Moreover, the Court may exercise its discretion to re-evaluate the appropriateness of class
 certification at any time. Rule 23(c)(1)(C) ("An order that grants or denies class certification may
 be altered or amended before final judgment.").

Here, the Settlement Amount is a favorable result—providing a near-term, tangible recovery for the Settlement Class and eliminating the substantial risk of recovering less, or nothing at all, if the Action continued. Most significantly, CytoDyn’s financial situation was uncertain at the time of settlement and there were no other viable sources of funding other than the Company. ¶¶ 45-48. That fact, in combination with the substantial litigation risks Lead Plaintiff faced in winning class certification and establishing liability, causation and damages, made a near-term settlement a highly positive proposition for the Settlement Class. ¶ 75.¹³

5. The Extent to Which Discovery Had Been Completed and the Stage of Proceedings

In assessing a settlement, courts should consider the stage of the proceedings and the amount of information available to the parties to assess the strengths and weaknesses of their case. *See, e.g., Mego. Fin.*, 213 F. 3d at 459. “A settlement following sufficient discovery and genuine arms-length negotiation is presumed fair.” *Velazquez v. Int’l Marine & Indus. Applicators, LLC*, 2018 WL 828199, at *5 (S.D. Cal. Feb. 9, 2018).

At the time of settlement, Lead Plaintiff had considerable discovery, including over 650,000 pages of documents that Defendants produced as a result of Lead Plaintiff’s successful lift-stay motion. In addition to substantial document review and analysis, Lead Counsel was also well informed by other significant efforts and expenditures of time and resources analyzing and litigating the legal and factual issues of this case. These efforts included: (i) conducting an extensive investigation into the Settlement Class’s claims; (ii) consulting with damages experts; (iii) preparing two detailed complaints; (iv) briefing Defendants’ motions to dismiss; and (v)

¹³ Lead Plaintiff’s damages expert estimated that the Settlement Class’s maximum theoretically possible damages would be approximately \$870 million. This assumes Lead Plaintiff’s complete success in every single phase of the Action, a rare outcome which was not at all assured here. ¶ 54. *See Mego Fin.*, 213 F.3d at 459 (“It is well-settled law that a cash settlement amounting to only a fraction of the potential recovery does not per se render the settlement inadequate or unfair.”).

1 preparing for and engaging in protracted settlement negotiations, which yielded additional
 2 important information. ¶¶ 6, 17-35. As a result, Lead Plaintiff and its counsel were sufficiently
 3 familiar with the strengths and weaknesses of the case and other factors reflecting on the merits of
 4 a settlement to make an informed decision during the Parties' negotiations. This factor supports
 5 final approval.

6 **6. The Experience and Views of Counsel**

7 The Ninth Circuit recognizes that parties "represented by competent counsel are better
 8 positioned than courts to produce a settlement that fairly reflects each party's expected outcome
 9 in litigation." *Rodriguez v. W. Publ'g Corp.*, 563 F.3d 948, 967 (9th Cir. 2009). Courts thus accord
 10 great weight to the recommendations and opinions of experienced counsel. *See In re Stable Rd.*
 11 *Acquisition Corp.*, 2024 WL 3643393, at *9 (C.D. Cal. Apr. 23, 2024) ("The recommendation of
 12 experienced counsel carries significant weight in the court's determination of the reasonableness
 13 of the settlement."). As detailed herein, Lead Counsel had a thorough understanding of the merits
 14 and risks of the Action before reaching the Settlement. Additionally, both Lead Counsel and
 15 Liaison Counsel have extensive experience in litigating securities and other complex class actions.
 16 *See* Exs. 4-C & 5-C (firm resumes). Lead Counsel's belief that the Settlement represents a
 17 favorable outcome for the Settlement Class favors its approval.

18 **7. Existence of a Governmental Investigation**

19 Both the SEC and DOJ conducted investigations into the conduct alleged in the Action—
 20 with the DOJ's investigation ultimately resulting in the conviction of Defendant Pourhassan for
 21 securities fraud and insider trading. While there is the potential for investor recovery as a result of
 22 DOJ and SEC actions, the Settlement provides the *only* certain recovery for the Settlement Class
 23 at this time, and this favors the Settlement.

24 Also, pursuant to the Class Action Fairness Act ("CAFA"), 28 U.S.C. § 1715(b),
 25 Defendants provided notice of the Settlement to appropriate state and federal officials (Dkt. 180)
 26 and, to date, none have raised any concerns regarding the Settlement. *See Flores v. Comput.*

1 *Merch., Ltd.*, 2026 WL 457566, at *15 (S.D. Cal. Feb. 18, 2026) (“Although CAFA does not create
 2 an affirmative duty for either state or federal officials to take any action in response to a class
 3 action settlement, CAFA presumes that, once put on notice, state or federal officials will raise any
 4 concerns that they may have during the normal course of the class action settlement procedures.”).

5 **8. The Reaction of the Settlement Class to Date**

6 “In addition to the enumerated fairness factors of Rule 23(e)(2), courts within the Ninth
 7 Circuit typically consider the reaction of the class members to the proposed settlement.” *In re*
 8 *Google LLC St. View Elec. Commc’ns Litig.*, 611 F.Supp.3d 872, 896 (N.D. Cal. 2020). “When
 9 few class members object, a court may appropriately infer that a class action settlement is fair,
 10 adequate, and reasonable.” *Schneider v. Wilcox Farms, Inc.*, 2009 WL 10726662, at *3 (W.D.
 11 Wash. Jan. 12, 2009). To date, there have been four valid (and two attempted) requests for
 12 exclusion and only one objection. Bravata Decl., at ¶¶ 19-20; Dkt. 181.

13 The objection is from Edward C. Abraham and Maira Abraham (together, the “Abrahams”)
 14 who purchased 65,000 shares of CytoDyn stock during the Class Period. *Id.* at ¶ 3. The Abrahams
 15 do not seek exclusion from the Settlement Class and intend to submit a Claim. *Id.* at 1.

16 Nevertheless, the Abrahams object to “the form of the consideration” and “the disparity
 17 between the protections afforded to Lead Counsel in disposing of its Fee Shares and the complete
 18 absence of any comparable protection for the Settlement Class.” *Id.* Notably, however, each of
 19 their stated concerns was already raised by the Court at the June 2026 Hearing and either answered
 20 by the Parties at the hearing in the colloquy with the Court or in Lead Plaintiff’s supplemental
 21 submission, made in response to the Court’s directive. *See* Ex. 3; Dkt. 177. The Court had all of
 22 these responses and submissions before it when deciding to preliminarily approve the Settlement.

23 *First*, the Abrahams raise certain concerns with respect to the form of Settlement
 24 consideration, i.e., predominantly shares of CytoDyn common stock (Dkt. 181, at ¶¶ 6-16). As
 25 explained in Lead Plaintiff’s preliminary approval papers and addressed explicitly at the June 2026
 26 Hearing, Lead Counsel carefully evaluated CytoDyn’s financial situation during the Parties’

1 settlement discussions and determined that the Company's stock was the only valuable
 2 consideration available to fund a recovery for the Settlement Class. ¶¶ 45-49. There were no other
 3 available sources of substantial funding. ¶ 47. For example, the relevant D&O insurance policy
 4 had been essentially depleted in the related criminal trial against Pourhassen,¹⁴ and there were no
 5 other available assets. *Id.* After extensive negotiations with Defendants, it was clear that the
 6 Settlement Amount was the most consideration that Lead Counsel could recover.

7 The Abrahams further assert that tension exists between the risk of bankruptcy, as an
 8 example of CytoDyn's "financial distress" and "justification for accepting th[e] recovery," and
 9 CytoDyn's representation (Stip. ¶ 42) that "it is not insolvent" nor "the subject of any pending or
 10 threatened bankruptcy." Dkt. 181, at ¶¶ 7-9. In response to this exact concern raised by the Court
 11 at the June 2026 Hearing,¹⁵ CytoDyn's counsel confirmed that CytoDyn was solvent but noted
 12 that "there isn't a large cash reserve at CytoDyn" and advised that CytoDyn continues to fund its
 13 operations by periodically "rais[ing] funds from markets" on an as needed basis. *See* Ex. 3, at 6:6-
 14 16. This representation to the Court, which the Court considered when evaluating whether to
 15 preliminarily approve the Settlement, reinforces the conclusion reached during the Parties'
 16 settlement negotiations that CytoDyn did not have significant available cash with which to fund a
 17 settlement, and was financially at-risk.

18 The Abrahams also criticize that "[t]he valuation presented to the Settlement Class is
 19 pegged to a single day [i.e., March 16, 2026]." Dkt. 181, at ¶¶ 11-12. Lead Counsel based the per
 20 share recovery and de minimis payment amounts (i.e., a threshold of 80 shares, with an equivalent

21
 22 ¹⁴ In order to ensure complete resolution of claims, insurers are typically included in and fully
 23 released from liability in a securities class action settlement, even if they do not contribute to
 funding the settlement.

24 ¹⁵ *See* Ex. 3, 4:22-5:5 ("So I'd like an explanation of how it is determined that the company
 25 would not now be considered insolvent when the liabilities, apparently, are stated at over 112
 26 million in assets -- or it has assets valued at 13-plus million, and the company has a cumulated
 deficit of 893 million. This financial precariousness of the company is alluded to on page 18 of the
 motion, wherein it asserts there is an interest in 'obtaining some present recovery rather than
 risking a future recovery due to financial deterioration.'").

value of \$23.12) on the closing price of CytoDyn common stock on March 16, 2026 because that was the date the Parties signed the Term Sheet setting forth the material deal points of their agreement. CytoDyn's stock price has fluctuated in the months since March 16, 2026 and will likely continue to fluctuate until the Settlement Shares are distributed. The Court raised this same question at the June 2026 Hearing and, as Lead Counsel explained at the hearing, there is already language addressing the Abrahams' concern about the de minimis payment amount in the Plan of Allocation. Ex. 3, 18:14-19:18.¹⁶ Importantly, the threshold dollar amount (\$23.12) was the determining factor for setting the de minimis share amount—not vice versa—and Lead Counsel may propose, at the time of distribution, a different share amount equating to roughly \$23.12 to account for any price fluctuation while still establishing the needed minimum threshold.

Second, the Abrahams object to “the terms on which Lead Counsel will hold and dispose of [the Fee S]hares, as compared with the terms afforded the Settlement Class.” Dkt. 118, at ¶¶ 17-23. The Abrahams contend that, like Lead Counsel, each eligible Settlement Class Member should have limitations placed on the sale of their Settlement Shares and be provided professional trading assistance/monitoring for such shares. *Id.* at ¶ 20. Not only would it be administratively impossible to provide thousands of Settlement Class Members with their own broker/trading specialist, but such cost would reduce the Settlement proceeds available to be distributed to the Settlement Class.

Further, there are currently 1.38 billion shares of CytoDyn common stock outstanding.¹⁷ The 49 million Settlement Shares constitute less than 3.6% of the total float, and their planned issuance for purposes of this case has been known since late 2025, and thus has presumably long been digested and priced-in by the market. Any shares paid to Plaintiffs' Counsel for fees and

¹⁶ See Notice p. 17 n.6 (Based on the closing price of CytoDyn common stock on March 16, 2026, 80 shares of CytoDyn common stock have an aggregate value of roughly \$23.12. Lead Counsel may propose a different de minimis distribution amount (i.e., minimum number of shares) at the time of distribution based on the then-current trading value of CytoDyn common stock; however, the aggregate value of the de minimis number of shares to be distributed per eligible Settlement Class Member will not be less than \$23.12.).

¹⁷ See CytoDyn Inc. (CYDY) Valuation Measures & Financial Statistics, Yahoo Finance, <https://finance.yahoo.com/quote/CYDY/key-statistics/> (last visited September 28, 2026).

1 expenses will be liquidated in a controlled fashion over several months, in accordance with rate-
 2 limiting “guardrail[s]” approved by the Court. Finally, it is speculative to insist that the Settlement
 3 Shares distributed to eligible Settlement Class Members will be liquidated all at once, and that
 4 many Settlement Class Members will not choose to retain their shares. Ex. 3, 9:25-11:22.

5 For all these reasons, the Abrahams’ objection should be rejected by the Court.

6 **D. The Remaining Rule 23(e)(2) Factors Also Support Final Approval**

7 Rule 23(e)(2) instructs courts to also consider: (i) the effectiveness of the proposed method
 8 of distributing the relief provided to the class, including the method of processing class member
 9 claims; (ii) the terms of any proposed award of attorney’s fees, including the timing of payment;
 10 (iii) any other agreement made in connection with the proposed settlement; and (iv) whether class
 11 members are treated equitably relative to each other. Rules 23(e)(2)(C)(ii)-(iv), (e)(2)(D). These
 12 factors also support approval of the Settlement.

13 *First*, the proposed method of distribution and claims processing ensures equitable
 14 treatment of Settlement Class Members. *See* Rules 23(e)(2)(C)(ii), (e)(2)(D). Claims will be
 15 processed and the net Settlement Shares distributed pursuant to a standard allocation method
 16 routinely approved in securities class actions. SCS will process all Claims, provide Claimants with
 17 an opportunity to cure any deficiency or request judicial review of the denial of their Claims, if
 18 applicable, and will ultimately provide Authorized Claimants with their *pro rata* share of the net
 19 Settlement Shares, as calculated under the Plan. *See infra* Section III; ¶¶ 70-71. None of the
 20 Settlement proceeds will revert to Defendants. *See* Stip. at ¶ 15.

21 *Second*, the Settlement Amount remains adequate upon consideration of the proposed
 22 award of attorneys’ fees and expenses, including the timing of any such Court-approved payments.
 23 *See* Rule 23(e)(2)(C)(iii). The 25% fee request (i.e., the Ninth Circuit’s benchmark fee),¹⁸ to be
 24 paid upon award (with certain restrictions on the timing of Fee Share sales), is reasonable in light

25 ¹⁸ *See In re Nat’l Collegiate Athletic Ass’n Athletic Grant-in-Aid Cap Antitrust Litig.*, 768 F.
 26 App’x 651, 653 (9th Cir. 2019) (Ninth Circuit case law “permit[s] awards of attorneys’ fees
 ranging from 20 to 30 percent of settlement funds, with 25 percent as the benchmark award”).

of Plaintiffs’ Counsel’s efforts, the recovery obtained, and the risks in the litigation.¹⁹ *See* Fee and Expense Memorandum § II.C. As noted above, at the June 2026 Hearing, the Court asked pointed questions about how Lead Counsel may dispose of any shares it receives as payment from the Settlement Fund, and reviewed Lead Counsel’s supplemental submission and the Parties’ Addendum to the Stipulation imposing a conservative “guardrail” on the rate at which Lead Counsel may dispose of any such shares. Dkt. 177. Moreover, Lead Counsels’ fee and expense application is separate from the fairness, reasonableness, and adequacy of the Settlement and any Court order awarding attorneys’ fees will not terminate the Settlement or affect the finality or binding nature of the Settlement. *See* Stip. at ¶ 18.

Lastly, as previously disclosed, the confidential Supplemental Agreement is the only agreement in addition to the Term Sheet and Stipulation entered into by the Parties in connection with the Settlement. *See* Stip. at ¶ 38; *see also* Rule 23(e)(2)(C)(iv). The Supplemental Agreement, which the Court received for *in camera* review, provides CytoDyn with the option to terminate the Settlement if requests for exclusion meet certain conditions. Stip. at ¶ 38. This type of agreement is standard in securities class actions and does not negatively impact the fairness of the Settlement. *See, e.g., Hefler v. Wells Fargo & Co.*, 2018 WL 4207245, at *11 (N.D. Cal. Sep. 4, 2018) (“The existence of a termination option triggered by the number of class members who opt out of the Settlement does not by itself render the Settlement unfair.”).

III. THE PLAN OF ALLOCATION IS FAIR AND REASONABLE AND WARRANTS FINAL APPROVAL

A plan for allocating settlement proceeds under Rule 23 is evaluated under the same standard of review applicable to the settlement—the plan must be fair and reasonable. *See, e.g., Class Plaintiffs v. City of Seattle*, 955 F.2d 1268, 1284-85 (9th Cir. 1992); *Rajagopalan v. Fid. & Deposit Co. of Md.*, 2017 U.S. Dist. LX 167290, at *6 (W.D. Wash. Oct. 10, 2017). An allocation

¹⁹ Lead Counsel also seeks payment of Plaintiffs’ Counsel’s expenses in the total amount of \$232,699.19 and reimbursement of Lead Plaintiff’s costs in the amount of \$5,000. ¶ 73. Like Plaintiffs’ Counsel’s fees, both of these amounts will be paid in Settlement Shares. *Id.*

1 formula need only have a “reasonable, rational basis, particularly if recommended by experienced
2 and competent counsel.” *Nguyen v. Radient Pharm. Corp.*, 2014 WL 1802293, at *5 (C.D. Cal.
3 May 6, 2014). Further, a plan of allocation is typically reasonable if it reimburses class members
4 based on the extent of their injuries. *See Rajagopalan*, 2017 U.S. Dist. LX 167290, at *6.

5 Lead Counsel developed the Plan with Lead Plaintiff’s damages expert. ¶ 67. The Plan’s
6 objective is to equitably distribute the Settlement Shares among Settlement Class Members who
7 submit Claims demonstrating economic losses from the alleged securities law violations. *Id.*
8 Computations under the Plan will be used to weigh the claims of Authorized Claimants against
9 one another for purposes of allocating the Settlement Shares. ¶ 65; *see also Hessefort v. Super*
10 *Micro Comput., Inc.*, 2023 WL 7185778, at *7 (N.D. Cal. May 5, 2023) (“disburs[ing] the
11 settlement fund to class members on a pro rata basis based on the relative size of the potential
12 claims that they are compromising” has “frequently been determined to be fair, adequate, and
13 reasonable”).

14 The Plan provides for the calculation of both Section 10(b) and Section 20A losses. A
15 Section 10(b) loss will depend on when the Claimant purchased/acquired/sold their CytoDyn stock
16 during the Class Period and at what price(s), taking into account the PSLRA’s statutory limitation
17 on recoverable damages. For a Section 10(b) recovery, a Claimant’s stock purchases during the
18 Class Period must have been held through at least one of the alleged corrective disclosures which
19 partially removed the alleged artificial inflation from the stock price. To recover under Section
20 20A, a Claimant must have purchased CytoDyn stock contemporaneously with the Individual
21 Defendants’ sales of stock during the periods: (i) April 28, 2020 through May 6, 2020, inclusive;
22 (ii) July 29, 2020 through August 4, 2020, inclusive; and/or (iii) December 15, 2020 through
23 December 24, 2020, inclusive. The Recognized Loss Amount for CytoDyn stock eligible for a
24 recovery under both Sections 10(b) and 20A will be the greater of the two loss calculations. ¶ 69.

25 Authorized Claimants will recover their proportional *pro rata* amount of the available
26 Settlement Shares based on their calculated loss. Each Authorized Claimant’s *pro rata* share of

the net Settlement Shares will be determined by dividing the Authorized Claimant's Recognized Claim (i.e., the sum of a Claimant's Recognized Loss Amounts) by the total Recognized Claims of all Authorized Claimants, multiplied by the total available Settlement Shares. ¶ 70. Following final approval, the Settlement Shares will be distributed to Authorized Claimants in accordance with these calculations. ¶ 65.

As discussed at the June 2026 Hearing, the Plan contains a de minimis distribution amount of 80 shares (based on an aggregate value of roughly \$23.12 using the closing price of CytoDyn stock on March 16, 2026). Lead Counsel may propose a different de minimis amount at the time of distribution based on the then-current trading value of CytoDyn stock; however, the aggregate value of the de minimis number of shares to be distributed per eligible Settlement Class Member will not be less than \$23.12.

The structure of the Plan is similar to plans in other securities class actions.²⁰ The Plan was fully disclosed in the Notice and, to date, no objections to the Plan have been received. ¶ 72 Accordingly, the Plan warrants approval.

IV. THE COURT SHOULD CERTIFY THE SETTLEMENT CLASS

As set forth in the Preliminary Approval Motion, the Settlement Class satisfies all of the requirements of Rules 23(a) and (b)(3). Dkt. 167, at 16-20; Dkt. 179, at ¶ 2 (finding the Court "will likely be able to certify the Settlement Class for purposes of the Settlement"). None of the facts supporting certification have changed. Accordingly, Lead Plaintiff respectfully requests that the Court certify the Settlement Class under Rules 23(a) and (b)(3) for purposes of settlement.

V. NOTICE OF THE SETTLEMENT SATISFIED THE REQUIREMENTS OF RULE 23, DUE PROCESS, AND THE PSLRA

Lead Plaintiff has provided the Settlement Class with adequate notice of the Settlement. Here, notice satisfied both: (i) Rule 23, as it was "the best notice . . . practicable under the

²⁰ See, e.g., *Hefler*, 2018 WL 4207245, at *11; *Radient*, 2014 WL 1802293, at *5; *Ansell v. Laikin*, 2012 WL 13034812, at *9 (C.D. Cal. July 11, 2012).

1 circumstances” and directed “in a reasonable manner to all class members who would be bound
 2 by the” Settlement, Rules 23(c)(2)(B) & (e)(1)(B); *see also Eisen v. Carlisle & Jacquelin*, 417 U.S.
 3 156, 173-75 (1974); and (ii) due process, as it was “reasonably calculated, under all the
 4 circumstances, to apprise interested parties of the pendency of the action and afford them an
 5 opportunity to present their objections,” *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306,
 6 314 (1950); *Silber v. Mabon*, 18 F.3d 1449, 1454 (9th Cir. 1994).

7 On July 8, 2026, SCS began disseminating notice to potential Settlement Class Members
 8 at the addresses in the records provided by CytoDyn, or who otherwise were identified through
 9 further reasonable effort, and nominees who may have purchased CytoDyn common stock during
 10 the Class Period for the beneficial interest of their clients. *See Bravata Decl.*, at ¶ 4-6. To date,
 11 SCS has disseminated over 141,600 notices. *Id.* at ¶ 11. SCS also published the Summary Notice
 12 in *The Wall Street Journal* and transmitted the same over *PR Newswire*. *Id.* at ¶ 13. In addition,
 13 SCS maintains the Settlement Website, www.CytoDynSecuritiesSettlement.com, to provide
 14 information about the Settlement, including downloadable copies of the Notice and Claim Form.
 15 *Id.* at ¶ 15. Defendants also issued CAFA notice. Dkt. 180.

16 Collectively, the notices apprise Settlement Class Members of: (i) the Settlement Amount;
 17 (ii) the reasons for the Settlement; (iii) the Settlement Class definition; (iv) the estimated average
 18 recovery per damaged share of CytoDyn common stock; (v) the maximum amount of fees and
 19 expenses to be sought by Lead Counsel; (vi) the identity and contact information for Lead Counsel;
 20 (vii) the right of Settlement Class Members to object to the Settlement; (viii) the right of Settlement
 21 Class Members to request exclusion from the Settlement Class; (ix) the binding effect of a
 22 judgment; (x) the dates/deadlines for certain Settlement-related events; and (xi) the ways to obtain
 23 additional information. *See Rule 23(c)(2)(B)*; 15 U.S.C. § 78u-4(a)(7). The Notice also contains
 24 the Plan and provides Settlement Class Members with information on how to submit a Claim in
 25 order to be eligible to receive payment. *See Bravata Decl.*, at Ex. C. The content disseminated
 26 through this notice campaign was more than adequate, as it “generally describe[d] the terms of the

1 settlement in sufficient detail to alert those with adverse viewpoints to investigate and to come
2 forward and be heard.” *Young v. LG Chem., Ltd.*, 783 F. App’x 727, 736 (9th Cir. 2019); *see also*
3 *Spann v. J.C. Penney Corp.*, 314 F.R.D. 312, 330 (C.D. Cal. 2016) (“Settlement notices must fairly
4 apprise the prospective members of the class of the terms of the proposed settlement and of the
5 options that are open to them in connection with the proceedings.”).

6 In sum, the notice campaign provided sufficient information for Settlement Class Members
7 to make informed decisions regarding the Settlement, fairly apprised them of their rights with
8 respect to the Settlement, represented the best notice practicable under the circumstances, and
9 complied with the Preliminary Approval Order, Rule 23, the PSLRA, and due process. *See, e.g.*,
10 *Young*, 783 F. App’x at 736; *In re MGM Mirage Sec. Litig.*, 708 F. App’x 894, 896 (9th Cir. 2017).
11 Comparable notice programs are routinely approved in this Circuit. *See, e.g.*, *Yaron v. Intersect*
12 *ENT, Inc.*, 2021 WL 5184290, at *2 (N.D. Cal. Nov. 5, 2021) (finding “dissemination of the
13 Postcard Notice, the online posting of the Notice, and the publication of the Summary Notice . . .
14 constituted the best notice practicable under the circumstances; . . . [and] satisfied the requirements
15 of Rule 23 of the Federal Rules of Civil Procedure, the United States Constitution (including the
16 Due Process Clause), the [PSLRA], and all other applicable law and rules”).

17 VI. CONCLUSION

18 Lead Plaintiff respectfully requests that the Court grant final approval of the Settlement,
19 approve the Plan of Allocation, and certify the Settlement Class for settlement purposes. The
20 proposed Judgment (to be updated following the exclusion/objection deadline) and a proposed
21 Order approving the Plan of Allocation are attached hereto.

1 DATED this 28th day of September, 2026.

3 BYRNES KELLER CROMWELL LLP

5 By /s/ Bradley S. Keller

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18 *Attorneys for Lead Plaintiff Brian Joe Courter*
and Courter and Sons LLC, Named
Plaintiffs Diane M. Hooper, Thomas McGee
and Candara E. Evans and Lead Counsel for
the Putative Class

22 **CERTIFICATION:** The above signature also certifies that this memorandum contains
23 8,396 words, in compliance with the Local Civil Rules.

CERTIFICATE OF SERVICE

The undersigned attorney certifies that on the 28th day of September, 2026, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel on record in the matter.

/s/ Bradley S. Keller

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The Honorable Benjamin H. Settle

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

BRIAN JOE COURTER, COURTER AND
SONS LLC, DIANE M. HOOPER, THOMAS
MCGEE, and CANDRA E. EVANS,
Individually and on Behalf of All Others
Similarly Situated,

Plaintiffs,

v.

CYTODYN INC., NADER Z. POURHASSAN,
MICHAEL MULHOLLAND, and SCOTT A.
KELLY,

Defendants.

No. 3:21-cv-05190-BHS

**[PROPOSED] JUDGMENT
APPROVING CLASS ACTION
SETTLEMENT**

WHEREAS, a securities class action is pending in this Court entitled *Brian Joe Courter, et al. v. CytoDyn Inc., et al.*, Case No. 3:21-cv-05190-BHS (W.D. Wash.) (“Action”);

WHEREAS, Court-appointed Lead Plaintiff Brian Joe Courter and Courter and Sons LLC (“Lead Plaintiff”), on behalf of itself and the Settlement Class (defined below), and defendants CytoDyn Inc. (“CytoDyn”), Nader Z. Pourhassan, Michael Mulholland, and Scott A. Kelly (collectively, “Defendants”) have entered into a Stipulation and Agreement of Settlement dated March 18, 2026 (“Stipulation”), that provides for a complete dismissal with prejudice of the claims asserted against Defendants in the Action, as well as claims against Defendants’ Releasees, on the terms and conditions set forth in the Stipulation, subject to the approval of this Court (“Settlement”);

[PROPOSED] JUDGMENT APPROVING CLASS ACTION
SETTLEMENT (No. 3:21-cv-05190-BHS) - 1

BYRNES ♦ KELLER ♦ CROMWELL LLP
38TH FLOOR
1000 SECOND AVENUE
SEATTLE, WASHINGTON 98104
(206) 622-2000

1 WHEREAS, unless otherwise defined in this Judgment, the capitalized terms herein shall
2 have the same meanings as they have in the Stipulation;

3 WHEREAS, by Orders dated June 18, 2026 (“Preliminary Approval Order”), this Court:
4 (a) found, pursuant to Rule 23(e)(1)(B) of the Federal Rules of Civil Procedure, that it: (i) would
5 likely be able to certify the Settlement Class for purposes of the Settlement and (ii) would likely
6 be able to approve the Settlement as fair, reasonable, and adequate under Rule 23(e)(2); (b)
7 ordered that notice of the Action and proposed Settlement be provided to potential Settlement
8 Class Members; (c) provided Settlement Class Members with the opportunity either to exclude
9 themselves from the Settlement Class or to object to the Settlement; and (d) scheduled a hearing
10 regarding final approval of the Settlement;

11 WHEREAS, due and adequate notice has been given to the Settlement Class;

12 WHEREAS, the Court conducted a hearing on November 2, 2026 (“Settlement Hearing”)
13 to consider, among other things, (a) whether the terms and conditions of the Settlement are fair,
14 reasonable, and adequate to the Settlement Class, and should therefore be approved; (b) whether,
15 for purposes of the Settlement only, the Action should be certified as a class action on behalf of
16 the Settlement Class; and (c) whether a judgment should be entered dismissing the Action with
17 prejudice as against the Defendants and whether the Releases specified and described in the
18 Stipulation should be granted; and

19 WHEREAS, the Court having reviewed and considered the Stipulation, all papers filed
20 and proceedings held herein in connection with the Settlement, all oral and written comments
21 received regarding the Settlement, and the record in the Action, and good cause appearing
22 therefor;

23 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

24 1. **Jurisdiction** – The Court has jurisdiction over the subject matter of the Action,
25 and all matters relating to the Settlement, as well as personal jurisdiction over all of the Parties
26 and each of the Settlement Class Members.

1 2. **Incorporation of Settlement Documents** – This Judgment incorporates and
2 makes a part hereof: (a) the Stipulation filed with the Court on March 18, 2026; and (b) the
3 Postcard Notice, Notice, and Summary Notice, all of which were filed with the Court on
4 September 28, 2026.

5 3. **Class Certification for Settlement Purposes** – The Court hereby certifies for the
6 purposes of the Settlement only, the Action as a class action pursuant to Rules 23(a) and (b)(3) of
7 the Federal Rules of Civil Procedure on behalf of the Settlement Class consisting of all persons
8 and entities that purchased or otherwise acquired the common stock of CytoDyn between March
9 27, 2020 and March 30, 2022, and were damaged thereby. Excluded from the Settlement Class
10 are Defendants, members of Defendants' immediate families (as defined in 17 C.F.R. § 229.404,
11 Instructions (1)(a)(iii) and (1)(b)(ii)), any person, firm, trust, corporation, officer, director, or
12 other individual or entity in which any Defendant has a controlling interest, or which is related to
13 or affiliated with any of the Defendants, and the legal representatives, agents, affiliates, heirs,
14 successors-in-interest, or assigns of any such excluded party. Also excluded from the Settlement
15 Class are any persons and entities listed on Exhibit 1 hereto who or which submitted a request
16 for exclusion from the Settlement Class that was accepted by the Court.

17 4. For purposes of the Settlement only, the Court finds that each element required
18 for certification of the Settlement Class pursuant to Rule 23 of the Federal Rules of Civil
19 Procedure has been met: (a) the members of the Settlement Class are so numerous that their
20 joinder in the Action would be impracticable; (b) there are questions of law and fact common to
21 the Settlement Class which predominate over any individual questions; (c) the claims of Lead
22 Plaintiff in the Action are typical of the claims of the Settlement Class; (d) Lead Plaintiff and
23 Lead Counsel have and will fairly and adequately represent and protect the interests of the
24 Settlement Class; and (e) a class action is superior to other available methods for the fair and
25 efficient adjudication of the Action.
26

1 5. **Adequacy of Representation** – Pursuant to Rule 23 of the Federal Rules of Civil
 2 Procedure, and for the purposes of the Settlement only, the Court hereby appoints Lead Plaintiff
 3 as Class Representative for the Settlement Class and appoints Lead Counsel Kessler Topaz
 4 Meltzer & Check, LLP as Class Counsel for the Settlement Class. Lead Plaintiff and Lead
 5 Counsel have fairly and adequately represented the Settlement Class both in terms of litigating
 6 the Action and for purposes of entering into and implementing the Settlement, and have satisfied
 7 the requirements of Federal Rules of Civil Procedure 23(a)(4) and 23(g), respectively.

8 6. **Notice** – The Court finds that the dissemination and posting of the Postcard
 9 Notice and Notice and the publication of the Summary Notice: (a) were implemented in
 10 accordance with the Preliminary Approval Order; (b) constituted the best notice practicable
 11 under the circumstances; (c) constituted notice that was reasonably calculated, under the
 12 circumstances, to apprise Settlement Class Members of (i) the pendency of the Action; (ii) the
 13 effect of the proposed Settlement (including the Releases to be provided thereunder); (iii) Lead
 14 Counsel’s motion for attorneys’ fees and Litigation Expenses; (iv) their right to object to any
 15 aspect of the Settlement, the Plan of Allocation, and/or Lead Counsel’s motion for attorneys’
 16 fees and Litigation Expenses; (v) their right to exclude themselves from the Settlement Class;
 17 and (vi) their right to appear at the Settlement Hearing; (d) constituted due, adequate, and
 18 sufficient notice to all persons and entities entitled to receive notice of the proposed Settlement;
 19 and (e) satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure, the United
 20 States Constitution (including the Due Process Clause), the Private Securities Litigation Reform
 21 Act of 1995, 15 U.S.C. § 78u-4, as amended, and all other applicable law and rules.

22 7. **CAFA Notice** - The Court finds that the notice requirements set forth in the Class
 23 Action Fairness Act of 2005, 28 U.S.C. § 1715, to the extent applicable to the Action, have been
 24 satisfied. Defendants timely mailed notice of the Settlement pursuant to 28 U.S.C. § 1715(b),
 25 including notices to the Attorney General of the United States of America, and the Attorneys
 26

1 General of all States in which Settlement Class Members reside. The notice contained the
2 documents and information required by 28 U.S.C. § 1715(b)(1)-(8).

3 8. **Objections** - The Court has considered the objection to the Settlement submitted
4 pursuant to Rule 23(e)(5) of the Federal Rules of Civil Procedure. The Court finds and concludes
5 that the objection is without merit, and it is hereby overruled.

6 9. **Final Settlement Approval and Dismissal of Claims** – Pursuant to, and in
7 accordance with, Rule 23(e)(2) of the Federal Rules of Civil Procedure, this Court hereby fully
8 and finally approves the Settlement set forth in the Stipulation in all respects (including, without
9 limitation: the Settlement Amount; the Releases provided for therein; and the dismissal with
10 prejudice of the claims asserted against Defendants in the Action), and finds that the Settlement
11 is, in all respects, fair, reasonable, adequate, and in the best interests of the Settlement Class.
12 Specifically, the Court finds that: (a) Lead Plaintiff and Lead Counsel have adequately
13 represented the Settlement Class; (b) the Settlement was negotiated by the Parties at arm's
14 length; (c) the relief provided for the Settlement Class under the Settlement is adequate taking
15 into account the costs, risks, and delay of trial and appeal; the proposed means of distributing the
16 Settlement Fund to the Settlement Class; and the proposed attorneys' fee award; (d) the terms
17 and conditions of the Settlement are fair to the members of the Settlement Class; and (e) the
18 Settlement treats members of the Settlement Class equitably relative to each other. The Parties
19 are directed to implement, perform, and consummate the Settlement in accordance with the terms
20 and provisions contained in the Stipulation.

21 10. The Action and all of the claims asserted against Defendants in the Action by
22 Lead Plaintiff and the other Settlement Class Members are hereby dismissed in their entirety
23 with prejudice. The Parties shall bear their own costs and expenses, except as otherwise
24 expressly provided in the Stipulation.

25 11. **Binding Effect** – The terms of the Stipulation and of this Judgment shall be
26 forever binding on Defendants, Lead Plaintiff, and all other Settlement Class Members

(regardless of whether or not any individual Settlement Class Member submits a Claim or seeks or obtains a distribution from the Net Settlement Fund), as well as their respective successors and assigns. The persons and entities listed on Exhibit 1 hereto are excluded from the Settlement Class pursuant to request and are not bound by the terms of the Stipulation or this Judgment.

12. **Releases** – The Releases set forth in paragraphs 5 and 6 of the Stipulation, together with the definitions contained in paragraph 1 of the Stipulation relating thereto, are expressly incorporated herein in all respects. The Releases are effective as of the Effective Date. Accordingly, this Court orders that:

(a) Without further action by anyone, and subject to paragraph 13 below, upon the Effective Date of the Settlement, Lead Plaintiff and each of the other Settlement Class Members, on behalf of themselves, and their respective heirs, executors, administrators, predecessors, successors, assigns, representatives, attorneys, and agents, in their capacities as such, shall be deemed to have, and by operation of law and of this Judgment shall have, fully, finally, and forever compromised, settled, released, resolved, relinquished, waived, and discharged each and every Released Plaintiffs' Claim against Defendants and the other Defendants' Releasees, and shall forever be barred and enjoined from prosecuting, commencing, or instituting any or all of the Released Plaintiffs' Claims directly or indirectly against any of the Defendants' Releasees. This release shall not apply to any person or entity listed on Exhibit 1.

(b) Without further action by anyone, and subject to paragraph 13 below, upon the Effective Date of the Settlement, Defendants, on behalf of themselves, and their respective heirs, executors, administrators, predecessors, successors, assigns, representatives, attorneys, and agents, in their capacities as such, shall be deemed to have, and by operation of law and of this Judgment shall have, fully, finally, and forever compromised, settled, released, resolved, relinquished, waived, and discharged each and every Released Defendants' Claim against Lead Plaintiff and the other Plaintiffs' Releasees, and shall forever be barred and enjoined from

1 prosecuting any or all of the Released Defendants' Claims directly or indirectly against any of
2 the Plaintiffs' Releasees.

3 13. Notwithstanding paragraphs 12(a) – (b) above, nothing in this Judgment shall bar
4 any action by any of the Parties to enforce or effectuate the terms of the Stipulation or this
5 Judgment, or any claim by any Defendants for insurance coverage.

6 14. **Rule 11 Findings** – The Court finds and concludes that the Parties and their
7 respective counsel have complied in all respects with the requirements of Rule 11 of the Federal
8 Rules of Civil Procedure in connection with the institution, prosecution, defense, and settlement
9 of the Action.

10 15. **No Admissions** – Neither this Judgment, the Term Sheet, the Stipulation (whether
11 or not consummated), including the exhibits thereto and the Plan of Allocation contained therein
12 (or any other plan of allocation that may be approved by the Court), the Parties' mediation and
13 subsequent Settlement, the communications and/or discussions leading to the execution of the
14 Term Sheet and the Stipulation, nor any proceedings taken pursuant to or in connection with the
15 Term Sheet, the Stipulation, and/or approval of the Settlement (including any arguments
16 proffered in connection therewith):

17 (a) shall be offered against any of the Defendants' Releasees as evidence of,
18 or construed as, or deemed to be evidence of any presumption, concession, or admission by any
19 of the Defendants' Releasees with respect to the truth of any fact alleged by Lead Plaintiff or the
20 validity or infirmity of any claim that was or could have been asserted or the deficiency of any
21 defense that has been or could have been asserted in this Action or in any other litigation, or of
22 any liability, negligence, fault, or other wrongdoing of any kind of any of the Defendants'
23 Releasees, or that any alleged act, statement, omission or conduct by any of the Defendants'
24 Releasees caused injury or damage to Lead Plaintiff or members of the Settlement Class, or in
25 any way referred to for any other reason as against any of the Defendants' Releasees, in any
26

1 arbitration proceeding or other civil, criminal, or administrative action or proceeding, other than
 2 such proceedings as may be necessary to effectuate the provisions of the Stipulation;

3 (b) shall be offered against any of the Plaintiffs' Releasees, as evidence of, or
 4 construed as, or deemed to be evidence of any presumption, concession, or admission by any of
 5 the Plaintiffs' Releasees that any of their claims are without merit, that any of the Defendants'
 6 Releasees had meritorious defenses, or that damages recoverable under the Complaint would not
 7 have exceeded the Settlement Amount or with respect to any liability, negligence, fault, or
 8 wrongdoing of any kind, or in any way referred to for any other reason as against any of the
 9 Plaintiffs' Releasees, in any arbitration proceeding or other civil, criminal, or administrative
 10 action or proceeding, other than such proceedings as may be necessary to effectuate the
 11 provisions of the Stipulation; or

12 (c) shall be construed against any of the Releasees as an admission,
 13 concession, or presumption that the consideration to be given hereunder represents the amount
 14 which could be or would have been recovered after trial;
 15 *provided, however*, that the Parties and the Releasees and their respective counsel may refer to
 16 the Stipulation to effectuate the protections from liability granted hereunder or otherwise to
 17 enforce the terms of the Settlement.

18 16. **Settlement Fund** – The Court finds that Defendants have satisfied their financial
 19 obligations under the Stipulation by CytoDyn paying or causing to be paid the Settlement
 20 Amount (i.e., 49 million shares of CytoDyn common stock and \$500,000 in cash) into the
 21 Escrow Account.

22 17. **Settlement Shares** – The Settlement Shares are freely tradeable, and exempt from
 23 registration under Section 3(a)(10), and CytoDyn may choose to distribute the Settlement Shares
 24 without registration or compliance with the prospectus delivery requirements of the U.S. federal
 25 securities laws based on this Court's findings.
 26

1 18. **Retention of Jurisdiction** – Without affecting the finality of this Judgment in any
 2 way, this Court retains continuing and exclusive jurisdiction over: (a) the Parties for purposes of
 3 the administration, interpretation, implementation, and enforcement of the Settlement; (b) the
 4 disposition of the Settlement Fund; (c) any motion for attorneys’ fees and/or Litigation Expenses
 5 by Lead Counsel in the Action that will be paid from the Settlement Fund; (d) any motion to
 6 approve the Plan of Allocation; (e) any motion to approve the Class Distribution Order; and
 7 (f) the Settlement Class Members for all matters relating to the Action.

8 19. Separate orders shall be entered regarding approval of a plan of allocation and
 9 Lead Counsel’s motion for attorneys’ fees and Litigation Expenses. Neither such orders, nor any
 10 appeal or challenge affecting the approval of the Plan of Allocation and/or Lead Counsel’s
 11 motion for attorneys’ fees and Litigation Expenses, shall in any way affect or delay the finality
 12 of this Judgment and shall not affect or delay the Effective Date of the Settlement.

13 20. **Modification of the Agreement of Settlement** – Without further approval from
 14 the Court, Lead Plaintiff and Defendants are hereby authorized to agree to and adopt such
 15 amendments or modifications of the Stipulation or any exhibits attached thereto to effectuate the
 16 Settlement that: (a) are not materially inconsistent with this Judgment; and (b) do not materially
 17 limit the rights of Settlement Class Members in connection with the Settlement. Without further
 18 order of the Court, Lead Plaintiff and Defendants may agree to reasonable extensions of time to
 19 carry out any provisions of the Settlement.

20 21. **Termination of Settlement** – If the Settlement is terminated as provided in the
 21 Stipulation or the Effective Date of the Settlement otherwise fails to occur, this Judgment shall
 22 be vacated and rendered null and void, and shall be of no further force and effect, except as
 23 otherwise provided by the Stipulation, and this Judgment shall be without prejudice to the rights
 24 of Lead Plaintiff, the other Settlement Class Members, and Defendants, and Lead Plaintiff and
 25 Defendants shall revert to their respective positions in the Action immediately prior to the
 26 execution of the Term Sheet, as provided in the Stipulation.

22. **Entry of Final Judgment** – There is no just reason to delay the entry of this Judgment as a final judgment in this Action. Accordingly, the Clerk of the Court is expressly directed to immediately enter this final judgment in this Action.

IT IS SO ORDERED.

Dated this ____ day of _____, 2026

Honorable Benjamin H. Settle
UNITED STATES DISTRICT JUDGE

Presented by:

BYRNES KELLER CROMWELL LLP

By /s/ Bradley S. Keller

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and Courter and Sons LLC, Named Plaintiffs
Diane M. Hooper, Thomas McGee and
Candara E. Evans and Lead Counsel for the Putative Class*

CERTIFICATE OF SERVICE

The undersigned attorney certifies that on the 28th day of September, 2026, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel on record in the matter.

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The Honorable Benjamin H. Settle

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

BRIAN JOE COURTER, COURTER AND
SONS LLC, DIANE M. HOOPER, THOMAS
MCGEE, and CANDRA E. EVANS,
Individually and on Behalf of All Others
Similarly Situated,

Plaintiffs,

v.

CYTODYN INC., NADER Z. POURHASSAN,
MICHAEL MULHOLLAND, and SCOTT A.
KELLY,

Defendants.

No. 3:21-cv-05190-BHS

**[PROPOSED] ORDER APPROVING
PLAN OF ALLOCATION**

This matter is before the Court on Lead Plaintiff's motion to determine whether the proposed plan for allocating the net Settlement Shares ("Plan of Allocation") obtained through the settlement achieved in the above-captioned securities class action ("Action") should be approved. The Court having considered all matters submitted to it; and it appearing that notice substantially in the form approved by the Court, which advised Settlement Class Members of the Plan of Allocation, was mailed and/or emailed to all Settlement Class Members who or which could be identified with reasonable effort, and that a summary notice substantially in the form approved by the Court was published in *The Wall Street Journal* and transmitted over *PR Newswire* pursuant to the specifications of the Court; and the Court having considered and determined the fairness and reasonableness of the proposed Plan of Allocation,

1 NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

2 1. This Order incorporates by reference the definitions in the Stipulation and
3 Agreement of Settlement dated March 18, 2026 (Dkt. 168) ("Stipulation"), and all capitalized
4 terms not otherwise defined herein shall have the same meanings as set forth in the Stipulation.

5 2. The Court has jurisdiction to enter this Order and over the subject matter of the
6 Action and all Parties to the Action, including all Settlement Class Members.

7 3. Notice of Lead Plaintiff's motion for approval of the Plan of Allocation was given
8 to all Settlement Class Members who or which could be identified with reasonable effort. The
9 form and method of notifying the Settlement Class of the motion for approval of the proposed
10 Plan of Allocation satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure,
11 the United States Constitution (including the Due Process Clause), the Private Securities
12 Litigation Reform Act of 1995, 15 U.S.C. § 78u-4, as amended, and all other applicable law and
13 rules, constituted the best notice practicable under the circumstances, and constituted due and
14 sufficient notice to all persons and entities entitled thereto.

15 4. Over 141,600 notices were mailed and/or emailed to potential Settlement Class
16 Members, and the Notice which included the Plan of Allocation was posted on the Settlement
17 Website, www.CytoDynSecuritiesSettlement.com.

18 5. There were no objections to the Plan of Allocation.

19 6. The Court hereby finds and concludes that the formula for the calculation of the
20 claims of Claimants as set forth in the Plan of Allocation provides a fair and reasonable basis
21 upon which to allocate the net Settlement Shares among eligible Settlement Class Members with
22 due consideration having been given to administrative convenience and necessity.

23 7. The Court hereby finds and concludes that the Plan of Allocation is, in all
24 respects, fair and reasonable to the Settlement Class. Accordingly, the Court hereby approves the
25 Plan of Allocation proposed by Lead Plaintiff.
26

8. Any appeal or any challenge affecting this Court's approval of the Plan of Allocation shall in no way disturb or affect the finality of the Judgment.

9. There is no just reason for delay in the entry of this Order, and immediate entry by the Clerk of the Court is expressly directed.

IT IS SO ORDERED.

Dated this ____ day of _____, 2026

Honorable Benjamin H. Settle
UNITED STATES DISTRICT JUDGE

Presented by:

BYRNES KELLER CROMWELL LLP

By /s/ Bradley S. Keller

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and Courter and Sons LLC, Named Plaintiffs
Diane M. Hooper, Thomas McGee and
Candara E. Evans and Lead Counsel for the Putative Class*

CERTIFICATE OF SERVICE

The undersigned attorney certifies that on the 28th day of September, 2026, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel on record in the matter.

/s/ Bradley S. Keller

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