

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

IN RE MERCK & CO., INC.  
VYTORIN/ZETIA SECURITIES  
LITIGATION

Civil Action No. 08-2177 (DMC) (JAD)

**[PROPOSED] ORDER PRELIMINARILY  
APPROVING PROPOSED SETTLEMENT AND PROVIDING FOR NOTICE**

WHEREAS, a consolidated class action is pending in this Court entitled *In re Merck & Co., Inc. Vytorin/Zetia Securities Litigation*, Civil Action No. 08-2177 (DMC) (JAD) (D.N.J.) (the “Action”);

WHEREAS, by Order dated September 25, 2012, the Court certified the Action to proceed as a class action on behalf of all persons and entities that purchased or acquired Merck & Co., Inc. (“Merck”) common stock, or call options, and/or sold Merck put options, during the period between December 6, 2006 through and including March 28, 2008 (the “Class Period”), and who did not sell their stock and/or options on or before January 14, 2008, and who were damaged thereby (the “Class”);<sup>1</sup>

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<sup>1</sup> Excluded from the Class by definition are (a) Defendants; (b) members of the Immediate Families of the Individual Defendants; (c) the subsidiaries and affiliates of Defendants, as these terms are defined by the federal securities laws, including the 401(k) plans of Merck and Schering; (d) any person or entity who was a partner, executive officer, director, or controlling person of Merck, M/S-P or Schering (including any of their subsidiaries or affiliates), or any other Defendants; (e) any entity in which any Defendant has a controlling interest; (f) Defendants’ directors’ and officers’ liability insurance carriers, and any affiliates or subsidiaries thereof; and (g) the legal representatives, heirs, successors and assigns of any such excluded party. Also excluded from the Class are any Persons listed in Appendix 1 to the Stipulation and Agreement of Settlement dated June 3, 2013 (the “Stipulation”) who do not opt back into the Class in accordance with the terms set forth in the Stipulation and in the Notice of (I) Proposed Settlement and Plan of Allocation; (II) Settlement Fairness Hearing; and (III) Motion for an Award of Attorneys’ Fees and Reimbursement of Litigation Expenses (the “Settlement Notice”).

WHEREAS, pursuant to this Court's Order entered December 28, 2012, the Notice of Pendency of Class Action (the "Class Notice") was mailed to potential members of the Class to notify them of, among other things: (a) the Action pending against the Defendants; (b) the Court's certification of the Action as a class action on behalf of the Court-certified Class; and (c) the effect of remaining in the Class (including that Class Members will be bound by all past, present, and future orders and judgments in the Action, whether favorable or unfavorable); and (d) the right of Class Members to request exclusion from the Class, the requirements for requesting exclusion, and the effect of exclusion;

WHEREAS, (a) Lead Plaintiffs Stichting Pensioenfonds ABP, International Fund Management, S.A. (Luxemburg), the Jacksonville Police and Fire Retirement System, and the General Retirement System of the City of Detroit (collectively, "Lead Plaintiffs" or "Class Representatives"), on behalf of themselves and the Class; (b) Merck & Co., Inc. ("Merck" as defined in the Stipulation), and (c) Legacy Merck (as defined in the Stipulation), Merck/Schering-Plough Pharmaceuticals, MSP Distribution Services (C) LLC, MSP Singapore Company LLC, Richard T. Clark, and Deepak Khanna (collectively, "Defendants"), have entered into the Stipulation to settle all claims asserted against Defendants in this Action with prejudice on the terms and conditions set forth in the Stipulation, subject to approval of this Court (the "Settlement");

WHEREAS, Lead Plaintiffs have made an application, pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, for an order preliminarily approving the Settlement in accordance with the Stipulation and allowing notice to the Class Members as more fully described herein;

WHEREAS, the Court has read and considered (a) the Second Amended Consolidated Complaint for Violation of the Federal Securities Laws, filed in this Action on February 9, 2012; (b) Lead Plaintiffs' motion for preliminary approval of the Settlement, and the papers filed and arguments made in connection therewith; and (c) the Stipulation and the exhibits attached thereto, including the proposed Settlement Notice, Claim Form, Summary Settlement Notice, and Judgment, and finds substantial and sufficient grounds for entering this Order; and

WHEREAS, unless otherwise defined herein, all capitalized words contained herein shall have the same meanings as they have in the Stipulation;

NOW THEREFORE, IT IS HEREBY ORDERED:

1. **Preliminary Approval of Settlement** – The Court hereby preliminarily approves the Settlement, as embodied in the Stipulation, as being fair, reasonable, and adequate as to Class Members, subject to further consideration at the Settlement Hearing to be conducted as described below.

2. **Settlement Hearing** – The Court will hold a settlement hearing (the “Settlement Hearing”) on OCT 1, 2013 at 10:00 Am. in Courtroom PO 04 of the United States Post Office and Courthouse Building, Newark, NJ 07101, for the following purposes: (a) to determine whether the proposed Settlement on the terms and conditions provided for in the Stipulation is fair, reasonable, and adequate, and should be approved by the Court; (b) to determine whether a Judgment substantially in the form attached as Exhibit B to the Stipulation should be entered dismissing the Action with prejudice against Defendants; (c) to determine whether the proposed Plan of Allocation for the proceeds of the Settlement is fair and reasonable, and should be approved; (d) to determine whether the motion by Co-Lead Counsel for an award of attorneys' fees and reimbursement of Litigation Expenses

should be approved; and (e) to consider any other matters that may properly be brought before the Court in connection with the Settlement. Notice of the Settlement and the Settlement Hearing shall be given to Class Members as set forth in Paragraph 4 of this Order.

3. The Court may adjourn the Settlement Hearing and approve the proposed Settlement with such modifications as the Parties may agree to, if appropriate, without further notice to the Class.

4. **Retention of Claims Administrator and Manner of Notice** – Co-Lead Counsel are hereby authorized to retain Epiq Systems, Inc. (the “Claims Administrator” or “Epiq”), which was previously approved by the Court to be the Notice Administrator, to supervise and administer the notice procedure as well as the processing of Claims. Notice of the Settlement and the Settlement Hearing shall be given by Co-Lead Counsel as follows:

(a) not later than ten (10) business days after entry of this Order (the “Notice Date”), the Claims Administrator shall cause copies of the Settlement Notice and Claim Form, substantially in the forms attached hereto as Exhibits 1 and 2, respectively (the “Notice Packet”), to be mailed by first-class mail to Class Members who were identified in connection with the mailing of the Notice of Pendency of Class Action (the “Class Notice”) or who may otherwise be identified through reasonable effort;

(b) contemporaneously with the mailing of the Notice Packet, the Claims Administrator shall cause copies of the Settlement Notice and Claim Form to be posted on the website designated for the Action, [www.merckvytorinsecuritieslitigation.com](http://www.merckvytorinsecuritieslitigation.com), from which Class Members may download copies of the Settlement Notice and Claim Form;

(c) not later than fourteen (14) calendar days after the Notice Date, the Claims Administrator shall cause the Summary Settlement Notice, substantially in form attached hereto

as Exhibit 3, to be published once in the national edition of *The Wall Street Journal*, and to be transmitted once over the *PR Newswire*; and

(d) not later than seven (7) calendar days prior to the Settlement Hearing, Co-Lead Counsel shall serve on Defendants' Counsel and file with the Court proof, by affidavit or declaration, of such mailing and publication.

5. **Approval of Form and Content of Notice** – The Court (a) approves, as to form and content, the Settlement Notice, the Claim Form, and the Summary Settlement Notice, attached hereto as Exhibits 1, 2, and 3, respectively, and (b) finds that the mailing and distribution of the Notice Packet and the publication of the Summary Settlement Notice in the manner and form set forth in Paragraph 4 of this Order (i) is the best notice practicable under the circumstances, (ii) constitutes notice that is reasonably calculated, under the circumstances, to apprise the Class Members of the proposed Settlement, of the effect of the proposed Settlement (including the Releases contained therein), and of their right to object to any aspect of the proposed Settlement, opt-back into the Class if they previously submitted a request for exclusion in connection with the Class Notice, and appear at the Settlement Hearing; (iii) constitutes due, adequate, and sufficient notice to all persons and entities entitled to receive notice of the proposed Settlement; and (iv) satisfies the requirements of Rule 23(e) of the Federal Rules of Civil Procedure, the United States Constitution (including the Due Process Clause), the Private Securities Litigation Reform Act of 1995 (“PSLRA”), 15 U.S.C. § 78u-4(a)(7), and all other applicable laws and rules. The date and time of the Settlement Hearing shall be included in the Settlement Notice and Summary Settlement Notice before they are mailed and published.

6. **Nominee Procedures** – In the previously disseminated Class Notice, brokers and other nominees (“Nominees”) were advised that if, for the beneficial interest of any person or

entity other than themselves, they purchased or acquired Merck common stock or call options and/or sold Merck put options during the period between December 6, 2006 through and including March 28, 2008, they must either: (a) within seven (7) calendar days of receipt of the Class Notice, request from Epiq sufficient copies of the Class Notice to forward to all such beneficial owners, and within seven (7) calendar days of receipt of the copies of the Class Notice forward them to all such beneficial owners; or (b) within seven (7) calendar days of receipt of the Class Notice, provide a list of the names and addresses of all such beneficial owners to Epiq.

(a) For Nominees who previously chose the first option (*i.e.*, elected to mail the Class Notice directly to beneficial owners), Epiq shall forward the same number of Notice Packets to such Nominees, and the Nominees shall within seven (7) calendar days of receipt of the Notice Packets mail them to the beneficial owners;

(b) For Nominees who previously chose the second option (*i.e.*, provided a list of names and addresses of beneficial holders to Epiq), Epiq shall promptly mail a copy of the Notice Packet to each of the beneficial owners whose names and addresses the Nominee previously supplied. Unless the Nominee purchased or acquired Merck common stock or call options and/or sold Merck put options during the Class Period for beneficial owners whose names and addresses were not previously provided to Epiq, such Nominees need not take any further action;

(c) For Nominees that purchased or acquired Merck common stock or call options and/or sold Merck put options during the Class Period for beneficial owners whose names and addresses were not previously provided to Epiq, such Nominees shall within seven (7) calendar days of receipt of the Notice Packet, provide a list of the names and addresses of all such beneficial owners to Epiq, or shall request from Epiq sufficient copies of the Notice Packet

to forward to all such beneficial owners which the Nominee shall, within seven (7) calendar days of receipt of the Notice Packets from Epiq, mail to the beneficial owners; and

(d) Upon full compliance with this Order, Nominees who mail the Notice Packets to beneficial owners, or who provide additional names and addresses of beneficial owners to the Claims Administrator, may seek reimbursement of their reasonable expenses actually incurred in complying with this Order by providing Epiq with proper documentation supporting the expenses for which reimbursement is sought. Such properly documented expenses incurred by Nominees in compliance with the terms of this Order shall be paid from the Settlement Fund, with any disputes as to the reasonableness or documentation of expenses subject to review by the Court.

7. **Participation in Settlement** – Class Members who wish to participate in the Settlement and receive a distribution from the proceeds of the Net Settlement Fund must complete and submit a Claim Form in accordance with the instructions contained therein. Unless the Court orders otherwise, all Claim Forms must be postmarked no later than one hundred and fifty (150) calendar days after the Notice Date. Notwithstanding the foregoing, Co-Lead Counsel may, at their discretion, accept late Claims for processing provided such acceptance does not delay the distribution of the Net Settlement Fund to the Class. By submitting a Claim, a person or entity shall be deemed to have submitted to the jurisdiction of the Court with respect to his, her, or its Claim and the subject matter of the Settlement.

8. Each Claim Form that is submitted must satisfy the following conditions: (a) it must be properly completed, signed, and submitted in a timely manner in accordance with the provisions of the preceding paragraph; (b) it must be accompanied by adequate supporting documentation for the transactions and holdings reported therein, in the form of broker

confirmation slips, broker account statements, an authorized statement from the broker containing the transactional information found in a broker confirmation slip, or such other documentation as is deemed adequate by Co-Lead Counsel or the Claims Administrator; (c) if the person executing the Claim Form is acting in a representative capacity, a certification of his, her, or its current authority to act on behalf of the Class Member must be included in the Claim Form to the satisfaction of Co-Lead Counsel or the Claims Administrator; (d) the Claim Form must be complete and contain no material deletions or modifications of any of the printed matter contained therein; and (e) it must be signed under penalty of perjury.

9. Any Class Member that does not submit a timely and valid Claim Form, or whose Claim is not otherwise approved by the Court: (a) shall be deemed to have waived his, her, or its right to share in the Net Settlement Fund; (b) shall forever be barred from participating in any distributions therefrom; (c) shall be bound by the provisions of the Stipulation, the Settlement, and all proceedings, determinations, orders and judgments in the Action relating thereto, including, without limitation, the Judgment (or Alternative Judgment, if applicable), and the Releases provided for therein, whether favorable or unfavorable to the Class; and (d) will be barred from commencing, maintaining or prosecuting any of the Released Plaintiffs' Claims against any and all of the Defendants and the other Defendants' Releasees, as more fully described in the Stipulation and the Settlement Notice. Notwithstanding the foregoing, late Claim Forms may be accepted for processing as set forth in paragraph 7 above.

10. **Opting-Back into the Class** – Any Person listed in Appendix 1 to the Stipulation may elect to opt-back into the Class. By opting back into the Class, such Person shall be eligible to receive payment from the Net Settlement Fund, subject to the requirement applicable to all Persons that he, she, or it establish membership in the Class. Any such Person who wishes to



opt-back into the Class must either, individually or through counsel, request to opt-back into the Class in writing to Epiq within the time and in the manner set forth in the Settlement Notice, which provides that any such request to opt-back into the Class must be mailed or delivered such that it is received no later than forty-five (45) calendar days after the Notice Date, at the address set forth in the Settlement Notice. Each request to opt-back into the Class must: (a) provide the name, address and telephone number of the person or entity requesting to opt-back into the Class; (b) state that such person or entity “requests to opt-back into the Class in *In re Merck & Co., Inc. Vytarin/Zetia Securities Litigation*, Civil Action No. 08-2177 (DMC) (JAD)”; and (c) be signed by the person or entity requesting to opt-back into the Class or an authorized representative. A Person may not opt-back into the Class for the purpose of objecting to any aspect of the Settlement, the Plan of Allocation, or Co-Lead Counsel’s request for attorneys’ fees and reimbursement of Litigation Expenses.

11. Any Person listed in Appendix 1 to the Stipulation that does not opt-back into the Class in accordance with the requirements set forth in this Order and the Settlement Notice, shall remain excluded from the Class. Such Person shall not be a Class Member, shall not be bound by the terms of the Settlement, the Stipulation, or any other orders or judgments in the Action, and shall not receive any payment out of the Net Settlement Fund.

12. **No Second Opportunity to Request Exclusion From the Class** – The Court, in the exercise of its discretion, determines and directs that there shall not be a second opportunity for Class Members to exclude themselves from the Class in connection with the Settlement proceedings.

13. **Appearance and Objections at Settlement Hearing** – Any Class Member who did not previously submit a request for exclusion from the Class, *i.e.*, is not listed in Appendix 1

to the Stipulation, may enter an appearance in the Action, at his, her, or its own expense, individually or through counsel of his, her, or its own choice, by filing with the Clerk of Court and delivering a notice of appearance to Co-Lead Counsel and Defendants' Counsel, at the addresses set forth in paragraph 14 below, such that it is received no later than forty-five (45) calendar days after the Notice Date, or as the Court may otherwise direct. Any Class Member who does not enter an appearance will be represented by Co-Lead Counsel.

14. Any Class Member who is not listed in Appendix 1 to the Stipulation may file a written objection to any aspect of the proposed Settlement, the proposed Plan of Allocation, and/or Co-Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses and enter an appearance to show cause (if any can be shown) as to why the proposed Settlement, the proposed Plan of Allocation, and/or Co-Lead Counsel's motion for attorneys' fees and reimbursement of Litigation Expenses should not be approved; provided, however, that no Class Member shall be heard or entitled to contest any aspect of the proposed Settlement, the proposed Plan of Allocation, and/or the motion for attorneys' fees and reimbursement of Litigation Expenses unless that person or entity has filed a written objection with the Court and served copies of such objection on Co-Lead Counsel and Defendants' Counsel at the addresses set forth below such that they are received no later than forty-five (45) calendar days after the Notice Date.

Jay W. Eisenhofer  
Daniel L. Berger  
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485 Lexington Avenue  
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Salvatore J. Graziano  
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1285 Avenue of the Americas  
New York, NY 10019

Daniel J. Kramer  
Paul, Weiss, Rifkind Wharton  
& Garrison LLP  
1285 Avenue of the Americas  
New York, NY 10019

15. Any objections, filings, or other submissions by an objecting Class Member must:  
(a) provide the name, address, telephone number, and signature of the objector; (b) state the

objection(s), and the specific reasons for each objection, including any legal and evidentiary support the Class Member wishes to bring to the Court's attention; and (c) include documents sufficient to prove the objector's membership in the Class, such as the number of shares of Merck common stock, Merck call options, and/or Merck put options purchased, acquired and sold during the Class Period, as well as the dates and prices of each such purchase, acquisition, and sale.

16. Any Class Member who does not make his, her, or its objection in the manner provided herein shall be deemed to have waived his, her, or its right to object to any aspect of the proposed Settlement, the proposed Plan of Allocation, and/or Co-Lead Counsel's motion for attorneys' fees and reimbursement of Litigation Expenses. Such Class Member shall forever be barred and foreclosed from objecting to the fairness, reasonableness, or adequacy of the Settlement, the Plan of Allocation, or the requested attorneys' fees and Litigation Expenses, and otherwise from being heard concerning the Settlement, the Plan of Allocation, or the attorneys' fees and expense request in this or any other proceeding.

17. **Stay** – Until and unless otherwise ordered by the Court, the Court shall continue to stay all proceedings in the Action other than proceedings necessary to carry out or enforce the terms and conditions of the Stipulation. Pending final approval of the Settlement, the Court enjoins Lead Plaintiffs and all other Class Members from commencing or prosecuting any and all of the Released Plaintiffs' Claims against any and all of the Defendants and the other Defendants' Releasees in this or any other court or forum. "Released Plaintiffs' Claims" means:

any and all claims, actions, causes of action, controversies, demands, duties, debts, damages, obligations, contracts, agreements, promises, issues, judgments, liabilities, losses, sums of money, matters, suits, proceedings, and rights of every nature and description, whether known claims or Unknown Claims, suspected or unsuspected, concealed or unconcealed, foreseen or unforeseen, fixed or contingent, matured or unmatured, accrued or unaccrued, liquidated or

unliquidated, whether based on federal, state, local or foreign statutory law, rule, regulation, common law, or equity, and whether direct, representative, class, or individual, to the fullest extent permitted by law, that Class Representatives or any other member of the Class: (i) asserted in the Action, including in the Complaint; or (ii) could have asserted in any forum arising out of, related to, or based in whole or in part upon, in connection with, or in any way involving any of the occurrences, causes, breaches of duty, neglect, error, misstatements, misleading statements, representations, omissions, acts, or facts, circumstances, situations, events, or transactions alleged, involved, set forth, contained, or referred to in the Action, including in the Complaint, and arise out of the purchase, acquisition or holding of Merck common stock or call options, or sale of Merck put options during the Class Period. Released Plaintiffs' Claims do not release, bar, or waive: (i) claims which were asserted in the actions entitled *Cain v. Hassan*, Civil Action No. 2:08-cv-01022 (D.N.J.), *In re Schering-Plough Corp. ENHANCE ERISA Litigation*, Civil Action No. 08-CV-1432 (D.N.J.), *In re Vytorin/Zetia Marketing Sales Practices and Products Liability Litigation*, 08-cv-0285 (DMC) (D.N.J.), *In re Schering-Plough Corporation/ENHANCE Securities Litigation*, 08-cv-0397 (DMC) (D.N.J.), *Local No. 38 International Brotherhood Of Electrical Workers Pension Fund v. Clark, et al.*, 09-cv-05668 (DMC) (D.N.J.), or *In re Merck & Co. Inc. Vytorin ERISA Litigation*, 08-cv-1974 (DMC) (D.N.J.) that are not already released, barred or waived by the orders or judgments therein, or by operation of law; (ii) any claims of any Person listed in Appendix 1 to the Stipulation that submitted a valid or Court-approved request for exclusion and who does not opt back into the Class; or (iii) if and only if the Court affords a second opportunity to request exclusion from the Class, any claims of any Person that submits a valid or Court-approved request for exclusion in connection with the Settlement Notice who does not withdraw his, her or its request for exclusion and whose request is accepted by the Court (collectively, the "Excluded Claims"). Additionally, Released Plaintiffs' Claims do not include claims relating to the enforcement of the Settlement.

18. **Settlement Administration Fees and Expenses** – All reasonable costs incurred in identifying and notifying Class Members, as well as in administering the Settlement Fund, shall be paid as set forth in the Stipulation without further order of the Court.

19. **Settlement Fund** – The contents of the Settlement Fund held by The Huntington National Bank (which the Court approves as the Escrow Agent), shall be deemed and considered to be *in custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court, until such time as they shall be distributed pursuant to the Stipulation and/or further order(s) of the Court.

20. **Taxes** – Co-Lead Counsel are authorized and directed to prepare any tax returns and any other tax reporting form for or in respect of the Settlement Fund, to pay from the Settlement Fund any Taxes owed with respect to the Settlement Fund, and otherwise to perform all obligations with respect to Taxes and any reporting or filings in respect thereof without further order of the Court in a manner consistent with the provisions of the Stipulation.

21. **Termination of Settlement** – If the Stipulation is terminated, the Settlement is not approved, or the Effective Date of the Settlement does not occur, this Order (except for Paragraph 22 below) shall become null and void and be without prejudice to the rights of Lead Plaintiffs, the other Class Members, the Defendants, and the Parties – all of whom shall be restored to their respective positions in the Action immediately prior to February 25, 2013, as provided in the Stipulation. Within fourteen (14) business days after written notification of termination is sent by Merck’s Counsel and Co-Lead Counsel to the Escrow Agent pursuant to the terms of the Escrow Agreement, the Settlement Fund (including accrued interest thereon and any funds received by Co-Lead Counsel consistent with ¶ 19 of the Stipulation), less any expenses and any costs which have either been disbursed or incurred and chargeable to Notice and Administration Costs and less any Taxes paid or due or owing shall be refunded by the Escrow Agent to Merck and/or the entity(ies) that paid any portion of the Settlement Amount in proportion to their contributions pursuant to instructions to be provided by Merck to Co-Lead Counsel. Co-Lead Counsel shall return any attorneys’ fees, as set forth in ¶ 19 of the Stipulation. In the event that the funds received by Co-Lead Counsel consistent with ¶ 19 of the Stipulation have not been refunded to the Settlement Fund within the fourteen (14) business days specified in this paragraph, those funds shall be refunded by the Escrow Agent to Merck and/or the entity(ies) that paid any portion of the Settlement Amount in proportion to their contributions

pursuant to instructions to be provided by Merck to Co-Lead Counsel, immediately upon their deposit into the Escrow Account consistent with ¶ 19 of the Stipulation.

22. **Use of this Order** – Neither this Order, the Term Sheet, the Stipulation (whether or not finally approved or consummated), nor their negotiation or any proceedings taken pursuant to them: (a) shall be offered against any of the Defendants or any of the other Defendants' Releasees as evidence of, or construed as, or deemed to be evidence of any presumption, concession, or admission by any of the Defendants or any of the other Defendants' Releasees with respect to the truth of any fact alleged by Class Representatives or the Class, or the validity of any claim that was or could have been asserted, or the deficiency of any defense that has been or could have been asserted in this Action or in any litigation, or of any liability, negligence, fault, damages, or other wrongdoing of any kind by any of the Defendants or any of the other Defendants' Releasees; (b) shall be offered against any of the Class Representatives, any other Class Members, or any of the other Plaintiffs' Releasees as evidence of, or construed as, or deemed to be evidence of, any presumption, concession or admission with respect to any liability, negligence, fault or wrongdoing of any kind of the Class Representatives, any of the other Class Members, or any of the other Plaintiffs' Releasees; (c) shall be referred to for any reason against the Parties or other Releasees in any other civil, criminal, or administrative action or proceeding; (d) shall be construed against any of the Parties or other Releasees as an admission, concession, or presumption that the consideration to be given represents the amount which could be or would have been recovered after trial; nor (e) shall they be construed against the Class Representatives, other Class Members, or other Plaintiffs' Releasees as an admission, concession, or presumption that any of their claims are without merit, that any of the Defendants


or any of the other Defendants' Releasees had meritorious defenses, or that damages recoverable under the Complaint would not have exceeded the Settlement Amount.

23. Notwithstanding the foregoing, the Parties and other Releasees may file or refer to this Order, the Stipulation, Judgment, and/or any Claim Form: (a) to effectuate the liability protections granted hereunder or thereunder, including without limitation, to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good-faith settlement, judgment bar or reduction, or any theory of claim preclusion or issue preclusion or similar defense or counterclaim; (b) to obtain a judgment reduction under the PSLRA; (c) to enforce any applicable insurance policies and any agreements relating thereto; or (d) to enforce the terms of the Stipulation and/or the Judgment. The Parties and other Releasees submit to the jurisdiction of the Court for purposes of implementing and enforcing the Settlement.

24. **Supporting Papers** – Co-Lead Counsel shall file and serve papers in support of the proposed Settlement, the Plan of Allocation, and Co-Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses no later than twenty-five (25) calendar days after entry of this Order. If reply papers are necessary, they are to be filed and served no later than fifty-three (53) calendar days after the Notice Date.

25. The Court retains jurisdiction to consider all further applications arising out of the proposed Settlement.

SO ORDERED this 6 day of June, 2013.

  
The Honorable Dennis M. Cavanaugh  
United States District Judge