

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

**In re GALENA BIOPHARMA, INC.  
SECURITIES LITIGATION,**

Case No. 3:14-cv-367-SI (LEAD)

**ORDER PRELIMINARILY  
APPROVING PROPOSED  
SETTLEMENT, PROVIDING FOR  
NOTICE, AND SCHEDULING  
SETTLEMENT HEARING**

**Michael H. Simon, District Judge.**

In the above-captioned action (the “Action”), Class Representatives Kisuk Cho, Anthony Kim, Pantelis Lavidas, and Joseph Buscema (collectively, “Plaintiffs”), on behalf of themselves and the class, and the DreamTeam Group, LLC, Michael McCarthy, Lidingo Holdings, LLC and Kamilla Bjorlin (collectively “Remaining Defendants”)<sup>1</sup> have agreed to settle all claims asserted in the Action against the Remaining Defendants. A settlement (the “Settlement”) was entered into by the Settling Parties through a Stipulation of Settlement, filed May 17, 2017 (the “Remaining Defendants Settlement Stipulation”) (ECF 221). The Remaining Defendants Settlement Stipulation is subject to review under Rule 23 of the Federal Rules of Civil

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<sup>1</sup> Plaintiffs, on behalf of themselves and the Class, and Remaining Defendants are collectively referred to as the “Settling Parties.”

Procedure. Further, the Remaining Defendants Settlement Stipulation, together with the exhibits thereto, sets forth the terms and conditions for the proposed Settlement of the claims alleged in the Consolidated Class Action Complaint (ECF 59) filed in the Action on the merits and with prejudice. The Court has read and considered the Remaining Defendants Settlement Stipulation, the proposed Notice, the proposed Publication Notice<sup>2</sup>, the proposed Proof of Claim and Release, and the proposed Final Judgment and finds that substantial and sufficient grounds exist for entering this Preliminary Approval Order. Accordingly,

**IT IS HEREBY ORDERED:**

1. This Order hereby incorporates by reference the definitions in the Remaining Defendants Settlement Stipulation, and all terms used herein shall have the same meanings as set forth in the Remaining Defendants Settlement Stipulation, unless otherwise defined herein.

2. The Court hereby preliminarily approves the proposed Settlement, embodied in the Remaining Defendants Settlement Stipulation, as being fair, reasonable and adequate and in the best interests of the Settlement Class, subject to further consideration at a hearing to be conducted as described below.

3. A hearing pursuant to Federal Rule of Civil Procedure 23(e) (the “Settlement Hearing”) is hereby scheduled to be held before this Court on November 17, 2017, at 3:00 p.m., in the United States District Court for the District of Oregon, 1000 S.W. Third Avenue, Portland, OR 97204, for the following purposes:

(a) to determine whether the Settlement, including the Releases set forth therein, is fair, reasonable, and adequate, and should be approved by this Court;

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<sup>2</sup> The Court notes that in the Remaining Defendants Settlement Stipulation, the Summary Notice of Pendency and Proposed Settlement of Action and Settlement Hearing is defined as the “Publication Notice,” but that in briefing and other documents submitted to the Court this notice is also sometimes referred to as the “Summary Notice.”

(b) to determine whether a Final Judgment substantially in the form attached to the Remaining Defendants Settlement Stipulation should be entered, dismissing the Action with prejudice against the Remaining Defendants;

(c) to determine whether Plaintiffs' proposal to distribute proceeds of the Settlement in accordance with the Court-approved Plan of Allocation in connection with the prior settlement (the "Distribution Plan") should be approved as fair and reasonable;

(d) to consider the application of Co-Class Counsel for an award of attorney's fees and expenses; and

(e) to rule upon such other matters as the Court may deem appropriate.

4. The Court reserves the right to approve the Settlement with or without modification and with or without further notice of any kind. The Court further reserves the right to enter its Final Judgment approving the Remaining Defendants Settlement Stipulation and dismissing the claims in the Complaint as to the Remaining Defendants, on the merits and with prejudice, regardless of whether it has approved the Distribution Plan or awarded attorney's fees and expenses to Co-Class Counsel. The Plan of Distribution and application for attorney's fees and expenses will be considered separately from the determination of the fairness, reasonableness, and adequacy of the Settlement. Any appeal from any orders relating solely to the Plan of Distribution or solely to the application for attorney's fees or expenses, or any reversal or modification thereof, shall not operate to terminate, modify, or cancel the Settlement, or affect or delay the validity, effectiveness, or finality of the Settlement or Final Judgment (if entered by the Court). Remaining Defendants shall not have any responsibility for, or liability whatsoever with respect to, the Distribution Plan or any application for reimbursement of litigation expenses to Co-Class Counsel.

5. If the Settlement is approved at the Settlement Hearing and becomes effective, all Class Members who do not properly exclude themselves will be bound by the Settlement provided for in the Remaining Defendants Settlement Stipulation (including the releases) and by all judgments, orders, and determinations of the Court affecting the Class Members, regardless of whether a Class Member seeks or obtains any distribution under the proposed Distribution Plan.

6. The Court approves the form, substance and requirements of: (a) the Notice, (b) the Publication Notice, and (c) the Proof of Claim and Release. The date and time of the Settlement Hearing shall be included in the Notice and Publication Notice before they are mailed and published, respectively.

7. Co-Class Counsel has the authority to enter into the Remaining Defendants Settlement Stipulation on behalf of the Class and is authorized to act on behalf of the members of the Class with respect to all acts or consents required by or that may be given pursuant to Remaining Defendants Settlement Stipulation or such other acts that are reasonably necessary to consummate the Settlement.

8. Co-Class Counsel is hereby authorized to retain KCC Class Action Services to continue serving as the Claims Administrator, to supervise and administer the notice procedures as well as the processing of claims as more fully set forth below and in the Remaining Defendants Settlement Stipulation.

9. All reasonable costs incurred in identifying and notifying Authorized Claimants, as well as in administering the Settlement Fund, shall be paid as set forth in the Remaining Defendants Settlement Stipulation. Immediately after payment of the Settlement Fund to the Settlement Fund Escrow Account, but before the Effective Date, Co-Class Counsel may use up to \$20,000 of the Settlement Fund to pay Notice and Administrative Costs reasonably,

necessarily, and actually incurred, without further approval of the Remaining Defendants or order of the Court.

10. Notice of the Settlement and the Settlement Hearing shall be given by Co-Class Counsel as follows:

(a) not later than fourteen (14) business days after entry of this Preliminary Approval Order (the “Notice Date”), or thirty-one (31) calendar days after entry of an order from this Court approving distribution of the Galena Settlement, whichever is later, the Claims Administrator shall cause a copy of the Notice, substantially in the form filed as ECF 223-1, to be enclosed with the distribution checks being mailed by first-class mail to all Settlement Class Members who submitted valid claims in this Action;

(b) not later than ten (10) business days after the Notice Date (the “Publication Notice Date”), the Claims Administrator shall cause the Publication Notice, substantially in the form attached to the Stipulation as Exhibit A-2, to be published once over the PR Newswire;

(c) not later than three (3) business days after the Notice Date, the Notice, the Publication Notice, and the Stipulation shall be placed on the website created for the Settlement by the Claims Administrator; and

(d) Remaining Defendants’ Counsel shall also ensure that the required notification to appropriate government officials has been provided, which should have occurred not later than 10 days after the filing of Plaintiffs’ motion for preliminary approval of the Settlement.

11. Not later than twenty-one (21) calendar days prior to the Settlement Hearing, Co-Class Counsel shall serve on Remaining Defendants' Counsel and file with the Court proof by affidavit or declaration of such mailing and publishing.

12. The form and method set forth herein of notifying the Class of the Settlement and its terms and conditions meet the requirements of due process and Rule 23 of the Federal Rules of Civil Procedure and Section 21D(a)(7) of the Exchange Act, 15 U.S.C. § 78u-4(a)(7), as amended by the Private Securities Litigation Reform Act of 1995; constitute the best notice practicable under the circumstances; and shall constitute due and sufficient notice to all persons and entities entitled thereto. Under no circumstances shall any Class Member be relieved from the terms of the Settlement, including the releases provided for therein, based upon the contention or proof that such Class Member failed to receive actual or adequate notice.

13. Any Authorized Claimant that has filed a proof of claim with the Claims Administrator in the related Galena Settlement need not file a Proof of Claim in this Settlement, but may rely on their previously filed proof of claim for this Settlement.

14. To share in the net proceeds of the Settlement, any Class Member who did not submit a claim in the Galena Settlement shall take the following action and be subject to the following conditions:

(a) A properly executed Proof of Claim and Release, substantially in the form submitted as Exhibit A-3 to the Remaining Defendants Settlement Stipulation, shall be submitted, by first class mail, postage prepaid, postmarked no later than sixty (60) calendar days from the date of this Order to the Post Office Box address listed in the Notice. Such deadline may be further extended by Order of this Court. Each Proof of Claim and Release shall be deemed to have been submitted when postmarked (if properly addressed and mailed by first-

class mail) provided it is actually received before the filing of a motion for an Order of the Court approving distribution of the Net Settlement Fund. Any Proof of Claim and Release submitted in any other manner shall be deemed to have been submitted when it was actually received at the address designated in the Notice;

(b) The Proof of Claim and Release submitted by the Class Member must:

(i) be fully and properly completed, without any material deletions or modifications of any form provided to the Class Member; (ii) state, for the Class Member, all purchases of Galena shares during the Class Period, including the number and price of the shares purchased and the date of each purchase, the number and price of shares sold during the Class Period; (iii) be accompanied by adequate documentation to demonstrate the transaction(s) 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-Class Counsel or the Claims Administrator; (iv) be executed under penalty of perjury; and (v) be accompanied, if the person executing the Proof of Claim and Release is acting in a representative capacity, by a certification of the executor's current authority to act on behalf of the Class Member;

(c) Once the Claims Administrator has considered a timely submitted Proof of Claim, Co-Class Counsel, through the Claims Administrator, shall determine, based upon the Plan of Allocation, whether such claim is valid, deficient, or rejected. For each claim determined to be either deficient or rejected, the Claims Administrator shall send a deficiency letter or rejection letter as appropriate, describing the basis on which the claim was so determined; and

(d) As part of the Proof of Claim, each Class Member shall submit to the jurisdiction of the Court with respect to the claim submitted.

15. Class Members shall be bound by all determinations and judgments in the Action, regardless of whether they submit a valid and timely Proof of Claim and Release and are thereby entitled to share in the net proceeds of the Settlement, unless such Person(s) request exclusion from the Class in a timely and proper manner, as hereinafter provided:

(a) A person eligible to be a Class Member, but who wishes to be excluded from the Class, may request exclusion by mailing the request in written form, by first class mail, postage prepaid, postmarked no later than twenty-one (21) calendar days before the Settlement Hearing to the Post Office Box address listed in the Notice. A Class Member, however, may submit a written revocation of a Request for Exclusion up until two (2) calendar days prior to the date of the Settlement Hearing and receive payments pursuant to the Remaining Defendants Settlement Stipulation and Settlement, provided the Class Member also timely submits a valid Proof of Claim or submitted a proof of claim in the Galena Settlement;

(b) The request for exclusion shall clearly indicate the name and address of the person seeking exclusion and that the sender specifically requests to be excluded from the Settlement Class;

(c) The request for exclusion shall state, for the Class Member, all purchases of Galena common stock during the Class Period, including the number and price of the shares or options purchased and the date of each purchase, the number and price of shares sold during the Class Period and the date of each sale (or exercise of options); and

(d) It shall also be requested that such persons provide their telephone number or other contact information.

The request for exclusion shall not be effective unless the potential Class Member provides the required information set forth in this ¶ 15, and is made within the time stated above, or the exclusion is otherwise accepted by the Court.

16. Class Members requesting exclusion from the Class shall not be entitled to receive any payment out of the Settlement as described in the Notice.

17. The Court will consider objections by a Class Member to the Settlement, the Distribution Plan, and the request by Co-Class Counsel for an award of attorney's fees and expenses only if the Class Member has timely submitted a complete, executed Proof of Claim and Release, including all documentation required by ¶ 14 of this Order. A potential Class Member who requests to be excluded from the Class shall not be able to submit an objection. Objections, by Class Members or any other authorized person or governmental entities, shall be submitted in accordance with the following procedures:

(a) Objections must be filed with or mailed to the Court at the following address:

Clerk of the Court  
United States District Court for the District of Oregon  
1000 S.W. Third Ave.  
Portland, OR 97204

by no later than fourteen (14) calendar days before the Settlement Hearing and must contain a statement of their, his, her or its objection(s);

(b) Objections must state whether the objector is a Class Member; which part of the Settlement the Class Member objects to; and the specific reason(s), if any, for each such objection, including any legal support the Class Member wishes to bring to the Court's attention and any evidence the Class Member wishes to introduce in support of such objection;

(c) Objections must include a statement by the objector stating whether they, he, she, or it will appear at the Settlement Hearing;

(d) Objections must identify any witnesses the objector intends to call to testify at the Settlement Hearing, and any exhibits the objector intends to introduce into evidence at the Settlement Hearing; and

(e) Objections must include a list of all class actions in which the objector has filed an objection in the last five years, including the case name, the court where it was pending, and the docket number.

18. Any objector, whether a Class Member or any other authorized person or governmental entity, who does not object in the manner prescribed above shall be deemed to have waived all such objections and shall forever be foreclosed from making any objection to the fairness, adequacy, or reasonableness of the Settlement, the Distribution Plan, or the request by Co-Class Counsel for an award of attorney's fees and expenses.

19. The Court reserves the right to continue or adjourn the Settlement Hearing without any further notice other than an announcement before or at the Settlement Hearing, and to approve the Settlement without further notice to the Class.

20. All papers in support of the Settlement, the Distribution Plan, and the request by Co-Class Counsel for an award of attorney's fees and expenses, shall be filed and served no later than thirty (30) calendar days before the Settlement Hearing. Supplemental papers, including, but not limited to, a response to an objection, shall be filed and served by Co-Class Counsel seven (7) calendar days before the Settlement Hearing.

21. 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 Remaining Defendants Settlement Stipulation and/or further order(s) of the Court. Other than as expressly provided for herein or in the Remaining Defendants Settlement Stipulation, there shall be no distributions or payments from the Settlement Fund prior to the Effective Date.

22. Co-Class Counsel is authorized and directed to prepare any tax returns and any other tax reporting forms for or in respect of the Settlement Fund, to pay from the Settlement Fund any Taxes owed with respect to the Settlement Fund, and to otherwise 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.

23. If the Remaining Defendants Settlement Stipulation is terminated, the Settlement is not approved or the Effective Date does not otherwise occur, the Settlement and the Remaining Defendants Settlement Stipulation shall be null and void and without prejudice to, or force and effect to or upon, the rights of the Settling Parties, and none of their terms shall be effective or enforceable except as set out in the Remaining Defendants Settlement Stipulation.

24. The Court retains jurisdiction over the Action to consider matters arising out of, or connected to, the Settlement.

**IT IS SO ORDERED.**

DATED this 27th day of June, 2017.

/s/ Michael H. Simon  
Michael H. Simon  
United States District Judge