

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

IN RE CELGENE CORPORATION
SECURITIES LITIGATION

Case No. 2:18-cv-04772 (MEF) (JBC)

CLASS ACTION

**DECLARATION OF MATTHEW L. MUSTOKOFF IN SUPPORT OF
PLAINTIFF’S UNOPPOSED MOTION FOR PRELIMINARY APPROVAL
OF SETTLEMENT AND AUTHORIZATION TO DISSEMINATE
NOTICE OF SETTLEMENT**

1. I, Matthew L. Mustokoff, hereby declare as follows:
2. I am a member of the Bar of the Commonwealth of Pennsylvania and a partner at the law firm of Kessler Topaz Meltzer & Check, LLP, attorneys of record for Court-appointed Class Representative AMF Tjänstepension AB (“AMF” or “Plaintiff”) in this matter. I am admitted to practice before this Court *pro hac vice*. I make this declaration of my personal and firsthand knowledge and, if called and sworn as a witness, I could and would testify competently hereto.
3. I submit this declaration in support of Plaintiff’s Unopposed Motion for Preliminary Approval of Settlement and Authorization to Disseminate Notice of Settlement, and I have personal knowledge of or information bearing on the facts set forth herein.

Fact and Expert Discovery

4. In connection with Plaintiff's motion for class certification, Class Counsel defended the depositions of AMF representative Anders Grefberg and Plaintiff's economic expert, David I. Tabak, Ph.D., of NERA Economic Consulting. Plaintiff also deposed Defendants' rebuttal expert, Paul Gompers, Ph.D. In addition, Class Counsel reviewed and produced documents on behalf of AMF in response to Defendants' document requests.

5. During the course of fact discovery, Class Counsel served over 60 document requests and multiple sets of interrogatories on Defendants and also served subpoenas on more than ten third parties, including the FDA. Through these requests and subpoenas, Plaintiff ultimately obtained over 4.8 million pages of documents from Defendants and additional documents from the subpoenaed third parties, including over 3,300 pages from the FDA, all of which were reviewed by Class Counsel. Class Counsel also reviewed and analyzed thousands of entries on Defendants' privilege log and successfully challenged Defendants' privilege claims with respect to certain documents. Class Counsel took the depositions of 20 fact witness and then successfully compelled the deposition of an additional witness which Defendants were opposing, for a total of 21 fact witness depositions.

6. During expert discovery, Plaintiff submitted reports from five experts. Plaintiff's experts addressed the subjects of (1) loss causation and economic

damages; (2) FDA customs and practice for clinical pharmacology testing; (3) FDA customs and practice for toxicology testing; (4) psoriasis and psoriatic arthritis comparative treatment options and efficacy; and (5) pharmaceutical sales forecasting. Defendants served reports from five rebuttal experts and Plaintiff then served a reply report from each of its experts. Class Counsel defended the depositions of all five of Plaintiff's experts and deposed all five of Defendants' experts.

AMF's Participation in the Litigation

7. Throughout the course of the litigation, Class Counsel provided AMF with regular updates concerning developments in the litigation and AMF reviewed drafts of pleadings and other filings.

8. During fact discovery, AMF collected and produced over 1,100 pages of documents in response to Defendants' document requests, and produced additional written information in response to multiple interrogatories. AMF's 30(b)(6) representative, Anders Grefberg, prepared for and sat for a deposition.

9. AMF also consulted with Class Counsel during the Parties' settlement negotiations and ultimately approved the Settlement.

Pretrial Submissions

10. Following the Court's decisions on Defendants' motions for summary judgment, the Parties engaged in extensive negotiations regarding the contents of the

pretrial submissions, convening multiple meet-and-confers throughout the fall of 2024.

11. After the December 19, 2024 final pretrial conference, and in accordance with Judge Clark's instruction, the Parties engaged in multiple lengthy meet-and-confers and exchanged several letters setting forth the Parties' respective positions regarding the list of contemplated pretrial motions. The negotiations resulted in detailed agreements regarding the trial evidence and narrowed the list of contemplated pretrial motions.

12. As reflected in the final pretrial order, most of Plaintiff's principal fact witnesses for Ozanimod reside outside of the jurisdiction, beyond the Court's subpoena power. In addition, many of the witnesses who would appear live with respect to both Ozanimod and Otezla were adverse witnesses.

Settlement Negotiations

13. The Parties first discussed a possible resolution of the Action in early 2024, while Defendants' motion for summary judgment was pending.

14. On June 3 and 5, 2024, the Parties participated in a two-day mediation session facilitated by Greg Danilow, Esq., of Phillips ADR Enterprises. Prior to the mediation, the Parties exchanged and submitted to Mr. Danilow detailed mediation statements with numerous exhibits, as well as reply mediation statements. The Parties were unable to resolve the Action during these sessions.

15. In the spring of 2025, the Parties agreed to participate in a second mediation, facilitated by former U.S. District Judge Layn Phillips and David Murphy, Esq., both of Phillips ADR Enterprises. In advance of the September 10, 2025 mediation, the Parties again exchanged and submitted to the mediators comprehensive opening and reply mediation statements with exhibits.

16. The Parties were not able to reach an agreement during the mediation, but they continued their discussions over the following weeks. Judge Phillips and Mr. Murphy ultimately issued a double-blind mediators' proposal to resolve the Action for \$239 million, which both sides accepted on September 25, 2025.

17. Thereafter, the Parties engaged in further negotiations over the specific terms of the agreement and ultimately executed the Stipulation on November 4, 2025.

Estimated Class-wide Damages

18. Plaintiff engaged Dr. Tabak to estimate class-wide damages for the claims at issue in this Action. Dr. Tabak submitted an expert report regarding per-share class-wide damages during merits expert discovery, but has not submitted a report regarding aggregate class-wide damages. Based on his analyses, Dr. Tabak estimates that the total combined class-wide damages for the Ozanimod and Otezla claims are \$2.8 billion. Dr. Tabak further estimates that the class-wide damages for the Otezla claims alone are \$1.1 billion. With respect to the Ozanimod claims, Dr.

Tabak estimates that the class-wide damages based on both of the alleged corrective disclosures are \$1.7 billion, while the class-wide damages based only on the February 27, 2018 disclosure that Celgene had received a refusal to file letter for its Ozanimod NDA are \$1.1 billion. Dr. Tabak computed the foregoing class-wide damages numbers using the last in, first out (or “LIFO”) method of calculation.

Executed on this 4th day of November, 2025 in Radnor, Pennsylvania.



Matthew L. Mustokoff