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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Richard Di Donato, Individually and On
Behalf of all Others Similarly Situated,

Plaintiff,

v.

Insys Therapeutics, Inc.; et al.,

Defendants.

No. CV-16-00302-PHX-NVW

**ORDER APPROVING THE FORM
AND MANNER OF CLASS NOTICE**

WHEREAS, by Order dated September 20, 2019 (Doc. 271), the Court certified the above-captioned action (the “Action”) to proceed as a class action on behalf of the following class: all persons and entities who purchased or otherwise acquired Insys Therapeutics, Inc. (“Insys”) common stock during the period from March 3, 2015, through January 25, 2016 (the “Class Period”), and were damaged thereby (the “Class”).¹

WHEREAS, Court-appointed Lead Plaintiff Clark Miller (the “Class Representative”) has moved the Court, pursuant to Rule 23 of the Federal Rules of Civil Procedure (“Rule 23”), for an Order approving the proposed form and content of notices

¹ Excluded from the Class are: (i) Defendants; (ii) present and former directors or executive officers of Insys and members of their immediate families (as defined in 17 C.F.R. § 229.404, Instructions (1)(a)(iii) and (1)(b)(ii)); (iii) any of the foregoing individuals’ or entities’ legal representatives, heirs, successors, or assigns; and (iv) any entity in which any Defendant has or had a controlling interest, or which is related to or affiliated with, any Defendant.

1 to be disseminated to the Class as well as the proposed method for disseminating these
2 notices (the “Motion”);

3 WHEREAS, the Court has reviewed and considered Class Representative’s
4 Motion and is otherwise fully advised in the premises.

5 Accordingly, it is hereby **ORDERED AND ADJUDGED** as follows:

6 1. The Consent Motion to Approve the Form and Manner of Class Notice and
7 Memorandum of Points and Authorities in Support (Doc. 312) is **GRANTED**.

8 2. The Notice of Pendency of Class Action and Pending Motion to
9 Voluntarily Dismiss Insys Therapeutics, Inc. from the Action with Prejudice Based Upon
10 its Bankruptcy (the “Notice”), the Summary Notice of Pendency of Class Action and
11 Pending Motion to Voluntarily Dismiss Insys Therapeutics, Inc. from the Action with
12 Prejudice Based Upon its Bankruptcy (the “Summary Notice”), the Postcard Notice, and
13 the method and schedule for notifying the Class of the pendency of the Action as a class
14 action and Class Representative’s intent to voluntarily dismiss Insys from the Action with
15 prejudice (the “Notice Plan”), submitted as Exhibits A, B, C, and D, respectively, to the
16 December 13, 2019 Declaration of Johnston de F. Whitman, Jr. in Support of Lead 1
17 Excluded from the Class are: (i) Defendants; (ii) present and former directors or
18 executive officers of Insys and members of their immediate families (as defined in 17
19 C.F.R. § 229.404, Instructions (1)(a)(iii) and (1)(b)(ii)); (iii) any of the foregoing
20 individuals’ or entities’ legal representatives, heirs, successors, or assigns; and (iv) any
21 entity in which any Defendant has or had a controlling interest, or which is related to or
22 affiliated with, any Defendant.

23 Plaintiff’s Consent Motion to Approve the Form and Manner of Class Notice (the
24 “Whitman Declaration”), meet the requirements of Rule 23 and of due process, constitute
25 the best notice practicable under the circumstances, and shall constitute due and sufficient
26 notice to all persons and entities entitled thereto.


27 3. Specifically, the proposed form and content of the Notice, Summary
28 Notice, and Postcard Notice meet the requirements of Rule 23(c)(2)(B) as they

1 collectively, clearly and concisely state in plain, easily understood language all of the
2 following: (i) the nature of the Action; (ii) the definition of the Class certified by the
3 Court; (iii) the Class's claims, issues, or defenses; (iv) a Class member's right to enter an
4 appearance through his, her, or its own attorney if the Class member so desires; (v) a
5 Class member's right to be excluded from the Class; (vi) the time and manner for
6 requesting exclusion; (vii) a Class member's right to object to Class Representative's
7 pending motion to voluntarily dismiss the bankrupt entity, Insys from the Action with
8 prejudice; and (viii) the binding effect of a class judgment on Class members under
9 Rule23(c)(3).

10 4. The Court hereby approves the form, substance, and requirements of the
11 Notice, the Summary Notice, and the Postcard Notice, submitted as Exhibits A, B, and C
12 to the Whitman Declaration, and the method for disseminating notice to the Class as set
13 forth in the Notice Plan, attached as Exhibit D to the Whitman Declaration. Accordingly,
14 Class Representative is to provide notice to the Class in substantially the forms submitted
15 as Exhibits A, B, and C to the Whitman Declaration using the methods set forth in
16 Exhibit D to the Whitman Declaration.

17 5. The deadlines for opting out of the class and for objecting to the dismissal
18 of Insys shall be **April 30, 2020**.

19 Dated this 20th day of March, 2020.

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23 Neil V. Wake
24 Senior United States District Judge
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